

Andrzej Czajowski

University of Wrocław

ESSAY**■ ON POLITICA (POLITICS AND POLICY) ONCE AGAIN**

DOI: 10.2478/ppsr-2019-0016

Author

Andrzej Czajowski, a professor of social sciences working at the Politics Theory Department, Institute of Political Science of University of Wrocław, specialising on the issue of political decisions and decision-making processes, the role of politics in the process of satisfying human needs, dependencies between politics and political phenomena, political transformations in former Soviet Union countries.

ORCID no. 0000-0001-7464-6259**e-mail:** a.czajowski@interia.pl**Abstract**

Though the term “policy” has already been discussed extensively before, it appears to be in need of a critical review in meaning and context. In this essay, the criticism stems from the term “policy of the law”, which was introduced into the political science literature over 120 years ago by Leon Petrażycki, the outstanding creator of psychological theory of the law and the only world-known Polish lawyer. The term itself is false and incorrect as it's equal to the term “policy of the policy”. Law is a political phenomenon cocreating policy. In addition, the concept of policy of the law is characterised by idealism bordering on naivety. Because of the place of L. Petrażycki in Polish tradition of the theory of law, references to his concept of policy of the law are made constantly in an attempt to apply this concept in scientific and practical considerations. It is time to leave it to the domain of history of legal theory.

Another criticism was brought about by the title of the third chapter of Polish Energy Law Act – “Energy Policy”. This entire act and a number of other legal acts regulating the acquisition of energy sources and energy management comprise energy policy. The energy policy also includes various types of programs, actions and decisions of the participants of energy policy. The criticism of the incompetent use of the term “energy policy” is an opportunity to stress the role of policy in the process of meeting human needs.

Thirdly, the term “policy” is determined by discussing an element of its structure: political thought. The essay presents the role of political thought in relation to economy, culture, independence, systems and other domains of human activity. The understanding of political thought as a reflection on policy or views on policy is questioned here. Political thought is not a reflection about the policy. Instead, political thought is a political decision which cocreates policy. It is a postulative decision resulting from scientific or common reflection on policy.

Keywords: policy of the law, legal policy, energy policy, political thoughts**Introduction**

“Apparently – at least my friends say so – some people have already written or talked about sex. Possible. But do not let this discourage us”. Leszek Kołakowski (2009, 158) started one of his lectures with these words. A lot has also been written and said as to what policy and

politics are, why it is there and what it is all about. There are, however, other reasons that make us return to this issue. One of them includes the eagerness to share a new finding, idea or reflection, or the need to disseminate, enhance and adapt someone else's views and the need to respond to something that raises doubts or objections. In this paper, I question the sense of the term "policy of the law", I question the "Energy Policy" chapter in the Polish Energy Law Act and I maintain that political thought is a political decision belonging to the type of postulative decisions.

The fallacy of the term of "policy of the law"

The term "policy of the law" is unfortunate because law is part of policy and, therefore, is the policy. The term "policy of law" is, to some extent, equal to the term of "policy of policy". The binding law is *par excellence* a political phenomenon. Political phenomena do not exist next to policy, but cocreate it instead. The binding law is an integral component of policy and thus the relations between law and policy should be perceived as a relation of a part to the whole. Law being a materialised element of policy (as a public policy) is interconnected with its other segments and, namely, other policies and the effects of their collisions, i.e. with dynamic present politics. The autonomy of the law in relation to policy can be discussed only as an intra-political phenomenon, meaning a relation between the law and other policy elements, including political conflict, political interests rather than a relation between the law and policy *en bloc*, or policy as something external to the law. I oppose this view with a position defined by Tadeusz Biernat (2007) in his highly recommendable book as being "within the scope of a specific canon strongly associated with a philosophical and theoretical concept of the law." Biernat (2007, 104) quotes Mauro Zamboni who said that "law and policy are usually presented as two different phenomena, which are, however, to a smaller or higher degree interconnected" (Zamboni 2006; Biernat 2007, 104). Boudewijn Bouckaert (2015), who published a paper titled *Law is politics and often also policy*, is one of the few supporters of breaking out of this canon. I do not fully agree with this statement and believe that law is policy and also the goal and element of politics.

However, the term "policy of law" is one question, while the other concerns the actual meaning of this term. "Policy of law" was introduced in literature about 120 years ago by Leon Petrażycki. The concept of policy of law is idealistic, even naive and the attempts of its utilisation were and still are doomed to fail. There is no rationale behind policy of law, over-optimistically postulated by Krzysztof Pałeczki (2008) as applied science and, similarly, there is no rationale behind the creation of policy of law departments at the universities¹.

Petrażycki (1959), the creator of the psychological theory of law and the state, was guided by the idea of the need to supplement the legal science system – limited to "historical and practical-dogmatic studies on the binding positive law" – with the science of "policy of law" (legislative policy), which was supposed to be a separate discipline and a practical

1 A student Policy of Law Scientific Group was created in 2013 at Gdańsk University. See the Statute dated 1 October 2013 of the Policy of Law Scientific Group, http://arch.prawo.ug.edu.pl/pdf/KNaukowe/KN_Pol_Prawa_statut.pdf, (accessed on 24.03.2019). The Policy of Law Department was created at Łódź University, <https://www.wpia.uni.lodz.pl/struktura/katedry-zaklady/zaklad-polityki-prawa.html> (accessed on 24.03.2019).

science “serving the purpose of progress and improvement of legal regime through scientific, methodological and systematic development of respective issues” (Petrażycki 1959, 11). He added that “the mission of the future science of policy of law concerns conscious leading of humanity in the same direction it has been going to date by unconscious empirical adaptation and appropriate acceleration and improvement of the aspiration towards a great and bright ideal of the future” and stressed that “the aforementioned statements indicate that the policy of law is a psychological science” (Petrażycki 1959, 16).

The achievement of Petrażycki’s idea required the revival of natural law, a school of thought that Petrażycki claimed fell and disappeared in the early 19th century. As a result, jurisprudence, state science and political economy “were deprived of the governance rules and ideas and were either locked in the detailed historical and dogmatic studies or took a shallow utilitarian direction...” (Petrażycki 1959, 12). He resolved that this “has a disastrous impact on legislative and public policy in general and on the justice system, it poisons and demoralises in general the social life and social mentality” (Petrażycki 1959, 12). In Petrażycki’s (1959, 13) opinion, the main drawback of the current natural law school concerned the absence of the system of premises and the scientific method necessary to “determine the scientifically justified political-legal statements”. The revival of natural law should occur without relying on premises which were guiding the current representatives of the natural law school, without using their thinking methods, without sticking to their specific political-legal views and postulates (Petrażycki 1959, 13). Therefore, he was postulating the policy of law to be a science based on premises “recognised under the method of scientific deliberations as proper grounds for the settlement of political-legal issues, application of deliberately scientific thinking methods and for building the system of scientifically justified theorems” (Petrażycki 1959, 13).

Policy of law was supposed to concern “scientifically justified anticipation of consequences which should be expected if specific legal regulations are implemented and development of the rules, whose implementation into the legal regime [...] would have specific desired consequences...” (Petrażycki 1959, 13–14). Petrażycki (1959, 14) defined these “desired consequences” as the aim of the law to “stimulate and suppress various acts and omissions”² and to strengthen and develop “specific inclinations and traits of human nature and to weaken and eradicate the other...”. The policy of law as defined by Petrażycki (1959, 14), would concern “1) leading, in a rational way, the mass and individual behaviour using appropriate legal motivation and the 2) improvement of human mentality, cleaning from bad, antisocial tendencies and introducing and strengthening opposite tendencies”. Petrażycki (1959, 14–15) further stressed that “a system of legal norms binding at any given point of time was a temporary stage of social education and as the educative function is fulfilled, it should be replaced with another system of legal, incentive and educative influence, adapted to the already achieved level of social mentality”, and until “the perfectly socialised character” is achieved and “active love among people rules completely”.

If so defined, policy of law is shared by many politicians, ideologists, doctrinarians and academics who have their views on “the condition of human mentality”, their own visions of leading human behaviours in a rational way, their ideas regarding legal motivations, their ideals of human mentality and their evaluations of good and bad inclinations. Is a collision of opposite statements on reality and the visions and evaluations of the

2 At present we should use the term “actions” instead of “acts”, because an act is regarded both as entailing an action and omission.

law-making process a collision of many “policies of law” or “sciences of policies of law” as defined by Petrażycki? No. This collision co-creates policy and various sciences, both legal and history, economy, sociology, political science, psychology and anthropology also play a role in this collision.

The earlier terms of policy of the law and politics of law were soon followed by the appearance of the terms of legal policy and legal politics. Most likely this is the result of different translations of the terms used by Petrażycki from Russian and later on from Polish into English (Biernat 2007, 83). Both of these terms even appeared in the title of one book edited by Tadeusz Biernat and Marek Zirk-Sadowski: *Politics of Law & Legal Policy* (2008). The term “legal policy” appears quite rarely and mainly in Russian literature (Nerseyants 2006). While policy of law in accordance with Petrażycki’s intentions is regarded as a science, legal policy is regarded as the activity of state authorities. Legal policy, the same as policy of law, is an incorrect and false term.

Can Petrażycki’s term “policy of law” be replaced with another term? Did he intend for the term “legislative policy” to be a synonym to policy of law? The definition of legislative policy does not support this hypothesis, because the creation of law is a policy. Biernat (2007, 84) states that “it is difficult to replace the term ‘policy of law’, however equivocal it is in the Polish language [...] when we consider the operation of the law from the side of the set of decisions accompanying it”.

What set of decisions accompanying the law did Biernat have in mind? Perhaps it concerns the decisions which make the legislative process “politicised” and which was a subject of his paper (Biernat 2017). He observed that “consideration of ‘politicisation’ of law creation causes many problems and the basic one concerns the construction itself of the term ‘politicisation’ and its application to assessment of law-making activities, which have a mainly political character” (Biernat 2017, 115). Something which is by nature political cannot be politicised. Therefore, I consider it risky to look for the politicisation of legislation in going “beyond the legitimisation field, with a very strong justification of the legislative decision” (Biernat 2017, 121). Going beyond the legitimisation field and a very strong justification of a legislative decision is the purest policy. The term “legislative policy” has sense only when the term “policy” is used in its colloquial meaning of an art, craft, with the esteemed lawyers and others working to improve it.

Regardless of Petrażycki’s intentions and the intentions of others who use and support the term “policy of law”, policy of law brings a linguistic association that the law has some sort of policy. In the same way, we could distinguish morality and custom policy. This could also mean that morality and customs have some sort of policy, which – as is the case with the policy of law – is nonsense. We could also look at it from another side and assume that the policy of law is the opposite of the policy of lawlessness, while the policy of morality and customs is the opposite of the policy of corruption and decline. Continuing this convention, we could go even further and distinguish the policy of honesty against the policy of mendacity or the policy of circumlocution against the policy of constructive discussion. This actually has sense in “colloquial language” if we use term “policy” in the meaning of any method of operation of any kind. In science, however, such terms would become justified only when someone would start demanding a legal regulation of a constructive discussion, when legal regulations of constructive discussion would be created and adopted by respective state authorities or when the *Ministry of Constructive Discussion* would eventually be established. All this would be tantamount to the emergence of

a public policy of constructive discussion. Maybe the *constructive discussion institutes* would even be created at universities and respective majors would be created. I would like to reference the sketch on the Ministry of Silly Walks from the Monty Python's Flying Circus series to stress the origins and nature of policy. Any policy could occur and continue only when policy requires intervention of state authorities regulating the objectives of that policy. Establishing the rules and procedures of these policies and protecting their enforcement under the sanction of using physical coercion, if such rules and procedures are broken, would be required as well.

Policy and politics and other types of human activity

Secondly, I would like to return to the terms of policy and politics and specifically to the criteria of separating policy and politics from areas of human activity, which are the objectives of policy and politics. The incorrectly defined title of third chapter of the Energy Law Act of 10 April, 1997 (Dz.U. 1997 no. 54 item 348) provides an opportunity to discuss this issue. The title is as follows: "Energy policy". However, energy policy and politics is created by this entire act and a number of other acts and regulations, program documents and actions and decisions of various participants of politics aimed at the formulation of legal regulations regarding the energy domain. However, for some reason this was omitted by the authors of the act and, consequently, we have energy policy in energy policy. None of these public policies, not only energy ones, regulate public policy. Public policy is just a policy. It is, however, the objective and result of policies of various participants of politics in the process of its development. The public energy policy regulates energy management and administration. This applies to other public policies. The public educational policy regulates education and educational administration; the public cultural policy regulates the culture and culture management. The economy, education, science and culture are nearly impossible to manage and regulate without public policy. Similarly impossible is the administration of these areas of human activity without public policy. Public policy partially regulates politics, i.e. a part of relations between the participants of politics in the process of fighting for power in the country and in the process of creation of various public policies. These public policies should be called "system policies" (Czajowski 2015, 84–87). It is created by the norms of the constitution, rules and regulations of legislative authorities, electoral laws, acts on mass media, political parties, trade unions and other social organisations participating in political life.

What is contained in the "Energy Policy" chapter of the Energy Law Act? It lists the tasks of the minister competent for energy matters, establishes the procedure of the appointment of government representative for Strategic Energy Infrastructure, lists the objectives and rules of public energy policy, stipulates that the government adopts a public energy policy at the request of a minister competent for energy matters and that the minister competent for energy matters announces that policy. The chapter further defines the obligations of the minister competent for energy matters in respect to the development of reports from monitoring energy safety, the cooperation between the President of the Energy Regulation Office and the President of the Consumers and Competition Protection Office, the cooperation between the minister competent for energy matters and the European Commission and authorities of other EU Member States in respect to energy issues. It also defines the tasks of energy utility companies and the operators of gas and electrical

energy transmission and distribution systems and defines the tasks of local government units in respect to energy management and administration. Giving a title “Energy Policy” to a chapter of the Energy Law Act, whose content comprises the tasks, obligations and powers as well as the objectives and rules guiding their activities and decisions is a misunderstanding on part of the legislators.

Here I would like to underline the primary criterion of separating the activities and decisions in the area of economy, economic policy and economic administration. The same criterion applies to the differences between any other domains of life, applicable policy and its administration. My extensive academic experience makes me aware of the difficulties students and PhD students of political sciences have with giving examples of decisions made in these areas of human activity. For example, papers dedicated to a given public policy frequently mix sport, sport policy and sport administration. Thus, I would like to point out that the separating criterion concerns mainly the type of entity making these decisions. The activities and decisions in the area of economic policy are made by the participants (entities) of the policy. The economic activities and decisions are made by economic entities. The administration activities and decisions regarding the economy are made by entities administering the economy, i.e. organising and managing the economy. Sometimes the same persons, authorities, institutions or organisations act in two or three of these roles. The minister can act in three roles: as a participant of the policy creating the draft act and issuing a regulation, as an administrator organising the operation and managing the ministry and as an economic entity representing the State Treasury in a company with the share of state capital.

Political thought as a political decision

The third issue referred to at the beginning of this essay is the relation between policy as a social phenomenon and political phenomena creating it. Political thought is one such phenomenon. Everything which is binding under the state's physical coercion and everything leading to this enforcement intentionally and publicly (such as the development of the personal composition of public authorities and development of decisions of these authorities) has an embedded political attribute. When someone creates a draft political thought in the comfort of their office or discusses it among family or friends, then neither the draft political thought nor its creation is a political phenomenon because they are not present in the policy. Interpretation of political thought by a researcher and, therefore, the interpretation itself can be a non-political phenomenon. Being non-political, however, such an interpretation can be a politicised phenomenon or of political relevance. Finally, political thought could be a political phenomenon, too. The same also refers to the dissemination of political thought, which can be carried out exclusively for research purposes, transferring knowledge on this political thought and also to shape political attitudes in order to affect political decisions and activities.

Political thought is an abstract term which does not mean anything and does not contain anything until its subject is identified. The subjects of political thought, the same as of policy in general, which is co-created by it, concern individual domains of human activity such as self-protection, the economy, conquest, exploration, science, education, art, administration, fighting for and holding power in a country and fighting for independence of the country from others.

The aforementioned areas can occur within a limited scope without policy and therefore without political thought. Both policy and administration would not exist if people did not care about safety, did not attack others, run businesses, fight for power in a country and hold that power. Policy and administration are serving all other domains of human activity. That's why, depending on the subject thereof, policy is divided into security, economic, cultural, educational, system, administration and independence policies.

Political thought is divided according to the same pattern. Therefore, we distinguish, for example, system, independent thought, political thought regarding administration, political thought regarding the economy, social protection, culture, education and sport. These classifications are omitted in textbooks where political thought is divided according to a few other criteria. At the same time, this classification results from some definitions of political doctrines and programs and is found to a various degree in individual ideologies, doctrines and political programs.

I would like to stress here that I haven't used the term "political thought regarding a system" and "political thought regarding independence" only in relation to system and independence thought. In other cases, these definitions result from the need to separate political thought regarding the economy from economic thought, for example. This is the consequence of separating the economic policy from the economy. The similar duality does not affect the state system and state independence as everything regarding the state system is political and everything concerning state independence is political.

I underline this because I have seen thoughtless uses of the aforementioned categories. For example, the Academic Student-PhD Group "Phroneses" in Kraków has organised a scientific conference entitled *Political and system thought of the Second Polish Republic* (*Myśl polityczna...* 2015). "One may try to imagine what was understood by the term of 'system thought' and 'political' thought following the trail of a stereotypical common thinking about policy and politicisation."

Another comment refers to the term "political thought". Without going deeper into this issue, I would like to present the position which was provoked by statements in literature to date. I don't share the opinion that political thought is a reflection and even any reflection about policy or that it is a set of views on life of a given society. The reflection about policy is a scientific thought about policy and primarily the common thought about policy is a reflection about policy. Political thought is, however, a function of the reflection. Political thought is the result and fruit of reflection about the policy that is an ideal, directive postulate of activities serving the achievement of the objective being the subject thereof. Political thought is therefore a type of political decision which should be defined as a "postulative" decision because it is the choice of the activities postulated as desired or the choice of activities postulated as undesired and whose performance should be abstained from. A postulative decision which includes a political thought occurs next to an ordering, forbidding and admitting decision.

Such understanding of political thought can be illustrated by independence thought of Polish Independence Party and specifically of Romuald Szeremietiew. Its content is as follows. In order to be free of the burden of Soviet occupation, the power of Polish agencies of the Soviet regime should be overthrown. This should be done by coordinating a general strike in the whole country. If this does not bring the anticipated result in as short of timeframe as possible, this strike should be immediately transformed into an armed insurrection and the communist regime should be overthrown by force (Obrębska 2015).

Obviously, thus defined political thought cannot be regarded as a pure form as a final decision. Water in nature is not just in the form of pure H₂O – it contains some other dissolved ingredients. Political thought is similar to any other types of decisions and embeds their authors, their actions, partial decisions and decisions implementing their thoughts, knowledge, values, needs and emotions. All of this determines the process of creation of the thought – the process of making the decision independently from external factors.

The comments regarding reflection apply also when considering political thought as a set of views. I would like to add a note here that the views on policy should be separated from political views. The former is present in scientific and common statements on policy while the latter co-create the policy. The scientific or common views on the policy become political views when they acquire the nature of political values or, in other words, when they are transformed into the subjects of political decisions and activities.

The creators of political thought should be called “the participants of the policy”. Political thought does not arise outside the policy. The theory of policy is created within the scope of science; a reflection on policy is created within the scope of common knowledge outside the policy. This is a non-political phenomenon which can, however, become politicised, be of political relevance or be motivated politically. As we know, science is divided inter alia into fundamental, (or theoretical) and applied (or practical) sciences. The differences between fundamental (theoretical) or common knowledge and applied (practical) science or the postulates originating from the common knowledge can be defined as follows: the fundamental studies and elementary observation of life are brought about by the need to learn the reality and its assessment, while the applied studies and postulates resulting from elementary observation of life are brought about by the need to shape the learnt and assessed reality in accordance with the formulated preferences.

Scientific reflection on policy and its creator can assume three positions in policy. Firstly, when they conduct fundamental studies and describe and assess the studied reality, their role is to disseminate the acquired knowledge on society. Persons aspiring to the role of participants of the policy can, on this basis, draw conclusions and formulate and present the proposals of changes to reality in the form of ideology, doctrine, political program or occasional statements. Participation of the authors of scientific reflection on policy is in this case indirect in the policy and can be unintentional.

Secondly, knowledge gained from fundamental studies can provoke and stimulate applied studies, which by their nature aim at presenting the postulates of changes to reality and the methods of making these changes. Their authors may limit themselves to disseminate their postulates which can take a form of a theory as well as doctrines – counting on the fact that the participants of the policy will take them on board. In this place, as well the participation of scientific (in this case applied), reflection about policy is indirect, though intentional.

Thirdly, the authors of these proposals may transform them into political programs, target their ideas at other participants of the policy, and may provide the assistance of advisors and experts in order to have their postulates implemented in the policy. In that case they are the participants of policy in direct and intentional manner and their postulates acquire the attribute of political thought.

Conclusion

Concluding, I would like to present ten theses about *politica*³ which form the grounds of the above critical analysis of the understanding of the phenomenon and term of *politica*.

1. *Politica* is an area (or a kind of) human activity directed at satisfying human needs, including: protection against threats, exploration, conquest, manufacturing, trade, consumption, services, culture, science, education, religion, treatment, sport, recreation, information, administration and the fight for and the exercise of power.
2. *Politica* is based on meeting human needs solely through state bodies, local authorities and international governmental organisations when it is impossible or perceived as impossible without the operation of these structures.
3. *Politica* is formed by state authorities, local government and international government organisations and all human individuals and social groups that participate in shaping their composition and projects.
4. There are three types of related components which form *politica*:
 - actions of entities seeking to achieve their intended goals in accordance with their preferences,
 - social relations that have emerged from a collision of actions that at least two entities intend to pursue,
 - actions-methods or a means to achieve an intended goal.
5. The main factors dynamizing *politica* are the struggle for power in the state, local government, international organisations, government and exercising this power and troubleshooting for the satisfaction of human needs.
6. There are 12 types of political actions that create *politica*, undertaken by political actors.
7. *Politica* is created also by politically important actions, by actions deriving from political motives, by politicised action and *circum-political* (nearly-political) actions.
8. *Politica*, apart from actors and actions, is created also by objects, or political decisions.
9. *Politica* is assessed as effective and ineffective, rational and irrational, smart and ill, successful and abortive, corrective and progressive, moral and amoral, aimed at the welfare of some people and penalisation of others, characterised by altruism, kindness, kindness and concern on the one hand and selfishness, hostility, anger, hatred and meanness on the other.
10. *Politica* is the object of non-political actions: information, scientific, educational and cultural. When information, scientific undertakings and other actions are political, then information, science, and others co-create the *politica*. This remark also applies to the actions of a non-political nature, which are politically important, for political and politicised reasons (Czajowski 2015, 13–15).

References

Biernat T., „Między polityką a prawem. Problem upolitycznienia tworzenia prawa”, *Acta Universitatis Wratislaviensis No 3791, Przegląd Prawa i Administracji CX*, Wrocław 2017.

3 I use the ancient Greek word *politica*, which means both politics and policy.

- Biernat T., „Polityka prawa a model edukacji prawniczej”, Kraków 2007.
- Biernat T., M. Zirk-Sadowski (ed.), „Politics of Law & Legal Policy. Between Modern and Post-Modern Jurisprudence”, Wolters Kluwer Polska 2008.
- Bouckaert B., “Law is politics and often also policy”, <https://biblio.ugent.be/publication/7196687/file/7197288.pdf>.
- Czajowski A., „X twierdzeń o polityce”, Toruń 2015.
- Kołodziejczyk L., „Mini wykłady o maxi sprawach”, Kraków 2009.
- „Myśl polityczna i ustrojowa II Rzeczypospolitej”, <http://upjp2.edu.pl/konferencje-sesje/konferencja-my%C5%9Bl-polityczna-i-ustrojowa-ii-rzeczypospolitej-28-29-v-2015-0>.
- Nerseyants V.S., „Pravovaya politika Rossiyskoy Federatsii: osnovnye napravleniya i zadachi”, [in:] „Pravovaya politika i puti sovershenstvovaniya pravotvorcheskoy deyatelnosti v Rossiyskoy Federatsii”, ed. N. S. Sokolov, 2006.
- Obrębska J., „Niepodległościowa myśl polityczna w okresie poprzedzającym transformację ustrojową w Polsce na podstawie dokumentów programowych Polskiej Partii Niepodległościowej”, *Humanities and Social Sciences* 22 (3/2015) s. 91–102.
- Pałeczki K., “Legal Policy. The Attempt of Reinterpretation and New Legislative Fields”, [in:] Petrażycki L., „Wstęp do nauki prawa i moralności. Podstawy psychologii emocjonalnej”, Warszawa 1959.
- Zamboni M., “Law and Legal Politics: Vilhelm Lundstedt and the Law-Maker Function”, <https://ssrn.com/abstract=927070>.