

Constitutions of Value

Exploratory Workshop

12/13 December 2019 at the University of Würzburg
convened by Isabel Feichtner (Würzburg) and Geoff Gordon (The Hague)

Value talk abounds. Economists express concern that the economy is characterized increasingly by value extraction not value production (Mazzucato 2018); politicians worry that “illiberal democracies” erode the value base of our political communities; international institutions aiming at responsible production and consumption (SDG 12) put forward proposals on “redefining value” to make headway towards the circular economy (IRP 2018). Law figures in such debates and projects as an expression of societal values (Marks 2016), for example in the form of human rights; as a tool for the enforcement of such values; and as regulation, for example of the financial sector in order to steer investments into the “real”/“value producing” economy. In these capacities, law aims to affirm or implement, while deferring to values always already produced and identified elsewhere. The negotiations of an implementation agreement on biodiversity in areas beyond national jurisdiction – as a value to be preserved for current and future generation – provide a recent illustration. Yet, often the notion of value remains vague and the debates on the protection of societal values and economic value production remain disconnected, despite value being their shared reference. While the International Resource Panel promotes the redefinition of value to reduce resource extraction, the International Seabed Authority is drafting regulations for the mining of seabed minerals – with heated debates on valuation and value (e.g. of manganese nodules, ecosystem services and immaterial environmental damage). These law-making projects are not only illustrative of the disconnect between value debates as well as of approaches to value as pre-existent and objective, produced e.g. by scarcity, but also indicate the potential of research into the social construction and co-production of value.

With this symposium we intend to take a view of value *not* as exogenous to law and society, not merely something to be identified, promoted and protected by law. Rather, we begin from a view of value, value production and measurement as endogenous. We propose to engage in an internal or constitutional study of value (Desan 2017) that not only looks to the role of law, but also to the material dimensions of value production. We seek to examine the ways in which value is (co-)constituted, structured and shaped by law, politics, science and technology. We thus hope to advance understanding of the foundational role of value in political economy as well as the law-like effects of values and value measurements so constituted. More specifically, we seek to explore the disconnect between value debates in politics (centering on constitutional values (plural) such as human rights, rule of law and democracy) and value debates in economics (focusing on the production of value (singular) measured by money and expressed through price), to clarify how the two spheres of value are linked and how their separation is sustained.

While we hold that value is not objective but that value is an institution (Orléans 2014), the outcome of institutional engineering and design (Desan 2017), we also intend to draw attention to the effects of that engineering that exceed the design objectives. Value brings into being universes (Graeber 2013), regimes and associations that may include but also surpass the programs underlying their

inception. An inquiry into the internal design of value(s) and value production as well as its (unintended) effects appears key for understanding formations of inequality and modes of economic exploitation (Alessandrini 2016; Soederberg 2014), but also for identifying the potential for transformations of political economy through institutional engagement and change (Unger 2004; Kennedy 2013). The study of value is a necessary complement to and complexification of endeavors seeking to democratize the economy.

Central to the inquiry is an analysis of the legal construction of money and finance (Desan 2017; Pistor 2019; Hockett and Omarova 2017); how it brings into being a unit of account and a measure of value and is determinative of which economic activities have access to capital, credit and legal enforcement. Yet, no less important for an understanding of how value is measured and produced and how it shapes society will be examinations of other institutions, infrastructures and networks of value production, including, for example, the corporation, insurance arrangements, land, labour, artworks, etc.

While in this workshop we hope to illuminate the constitutive role of law in societal formations (Teubner 2010) with their respective modes of value production, we aim at transdisciplinarity and particularly encourage research into the interplay of politics, law and technologies in co-producing imaginaries (Jasanoff 2015), into the ways in which digitalization, accounting and modelling practices participate in value production (Mackenzie, Muniesa and Siu 2007; Omarova 2019). Thus, we invite examinations from different theoretical perspectives -- including but not limited to Marxist value critique, societal constitutionalism, the anthropology of value, and science and technology studies -- on the institutions of value and value production; their legal and technological co-constitution; as well as the metaphors, materialities, networks and ideological dimensions that stabilize notions of value.

Given the exploratory nature of the workshop, we encourage application of such perspectives to case studies. These may include studies on the constitutional design of (existing and utopian) money; the valuation of financial assets, natural resources and (environmental/immaterial) damages; value production through and valuation of the corporation; the role of insurance in value production and protection; rights (of nature) vis-à-vis price as the form value may/should take; international initiatives to contain resource extraction and promote the circular economy, and the concepts of value that inform them. Such case studies may serve to test and nuance the assumptions laid out above and clarify the analytical purchase of a focus on value for the study of law and political economy -- in particular one that is guided by the normative aims of equality and democratization.

We are issuing here a **Call for Papers** and invite lawyers from practice and academia as well as scholars from other disciplines to send an abstract of 500 words. Abstracts should concisely formulate the questions addressed and indicate method and materials employed in the proposed research. The deadline for the abstracts was **12 July 2019**. Draft papers – Think Pieces of 5000-7000 words -- will be expected by **10 November 2019**. Please send abstracts, accompanied by a recent CV in pdf format, to p-oerecht@jura.uni-wuerzburg.de

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The workshop forms part of the research project “Democratization of Money and Credit” in the framework of the research association ForDemocracy (www.fordemocracy.de). It is funded by

Bayerisches Staatsministerium für
Wissenschaft und Kunst

