

## **POLITICS, SOCIETY AND SYNERGY AT COMPLEX ENVIRONMENTS**

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### **ABSTRACT**

We know the laws, ordinances, decrees and other normative acts that regulate the community life in contemporary societies, are issued by many state agencies, which generally try to give answers to people's needs. The democratic states produce and issue rules that create rights and obligations for members of a given society. These laws are generated by a number of agencies and institutions, leading to a very complex regulatory environment, where often jurisdictions are overlapped and more than once the same subject is regulated, sometimes coherently and other contradictory.

That is why the main purpose of this paper is to sketch the idea of a tool that provides a holistic point of view for the issuing process regulations and laws to regulate community life.

It is expected that, if this tool is implemented with an appropriate legal instrument, all the draft or proposed legislation should count with a preliminary study on the impact that this rule will have on the environment where will be applied. And here we understand that the meaning of environment as such broad is possible: the natural environment and the social one.

With this proposal, urgently we try to reduce the asymmetries that are currently generated by the current regulations process; even by considering the asymmetries produced by the current economic system.

## INTRODUCTION

The growing dynamism and increased interpersonal relationships, highlights the importance that implies the act of individuals in society. And so we can visualize how just an action as minimal that could be, it can substantially affect the lives of a few or even many.

The effects of this complex web of interrelationships are distinguish by the processes of globalization and globalized, development of communication technologies and ways of accessing information by some sectors of the population.

Another characteristic factor of contemporary societies (at least the occidental ones) is the concentration of wealth in a few individuals, and the consequent deepening of inequalities both economic and social rights. Nevertheless we must recognize that these inequalities are trying to be avoiding through the constitutions or similar instruments, but cannot be avoided at all, due the general ignorance.

The democratic states produce and issue rules that create rights and obligations for members of a given society. These laws are generated by a number of agencies and institutions, leading to a very complex regulatory environment, where often jurisdictions are overlapped and more than once the same subject is regulated, sometimes coherently and other contradictory.

It is understandable this to happen, because human beings, our self, are limited in our ability to understand the world around us with its rapid changes. So we try to generate the most suitable tools in order to generate an adaptability of the society to its rapidly changing environment and to meet the growing demands of the population.

So then, trying to solve some problems, we generate some new others. And the effects of these latter problems are sometimes immediately manifested, sometimes with some delay, and others remain hidden because of the lack of complaints by those that are harmed.

The manifestation of these effects can be realize in many ways, form a simple claim, or a lawsuit or even could produce various kinds of social strike<sup>1</sup>. In many other cases, the effects cause a damage of difficult detection or measurement.

Ultimately, it is necessary to detect early the social effects produced by this kind of problems solution, mostly when the problems take place in a complex and dynamic systems, i.e. our existing communities.

Due the previous exposed ideas, we made this proposal, which is *"to recognize the complex web of relationships that are in social life, and that the rules regulating the rights and obligations produced effects not contemplated at the time of its approval, and that it is necessary to even try to anticipate some of these effects, so we can treat them as an integral part of the problem to be solved by the normative to be issued."*

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<sup>1</sup> For example, when the farmers tried to pressure the argentine government to reduce the tax on exports of soya beans -the country's main crops-. The taxes were applied by Resolution No. 125/2008 of the Ministry of Economy and Production. This subject will be better explained foward.

We are going to start our start our analysis with the working hypothesis, and then characterize the problem, emphasizing the complexity of it. Finally we will ending with the suggestion of a tool that can help address the many variables involved to operate in social systems, with full consciousness that it only aims to be improved guidance for the formulation of regulatory standards for the rights and obligations of individuals within a community.

## **PURPOSE**

We know the laws, ordinances, decrees and other normative acts that regulate the community life in contemporary societies, are issued by many state agencies, which generally try to give answers to people's needs.

At the same time, going on with the increasing complexity of social web, regulatory frameworks have been transformed into sets of rules that try to function as systems, but in real life do not work as such.

That is why the main purpose of this paper is to sketch the idea of a tool that provides a holistic point of view for the issuing process regulations and laws to regulate community life.

It is expected that, if this tool is implemented with an appropriate legal instrument, all the draft or proposed legislation should count with a preliminary study about the impact that this rule will have on the environment where will be applied. And here we understand that the meaning of environment as such broad is possible: the natural environment and the social one.

## **WORKING HYPOTHESIS**

Currently there are so many regulatory institutions issuing of rights and obligations of individuals who live together in society, that the regulatory framework in certain circumstances regulates more than once on the same subject, and sometimes regulates in contradictory ways.

With this action -often unconscious- the institutions often may affect rights or even lifestyles of people who were not considered, when the issued regulation is applied for solving the original problem.

On the other hand, if we make a conscious intellectual effort, we can realize that the problems aforementioned may be detected before the issuance of the rule. And so the solution of the problem could it be more complete and comprehensive.

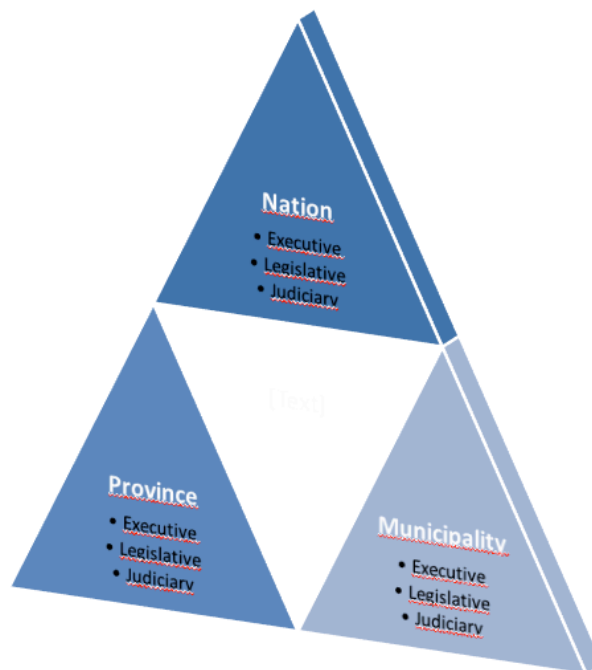
## **THE PROBLEM**

Contemporary democratic states are characterized by the powers division, which somehow points to ensure a balance of forces that in another type of state organization

(monarchies, totalitarian regimes) tend to be concentrated in the hands of a few individuals.

This pattern of division in the executive, legislative and judiciary, it is reproduced at different levels of political or geographical division, and takes place on the majority of countries at present: nation, states or provinces and municipalities or counties.

Throughout time, this pattern of democratic organization has remained more or less stable. So, in Argentina the pattern of democratic organization that has been applied can be described with the following structure:



Each of these state powers, according to their own tasks, promulgate different types and kinds of legislation, wherewith at times achieves a real synergy but other times this do not happen, either by overlapping jurisdictions or due the contradictory positions regarding on the subject regulated. As a result there are strong disorders and even legal loopholes.

In order to give an idea of the complex network of relationships that occurs between the institutions that are in charge of enact legislation, we propose the following table:

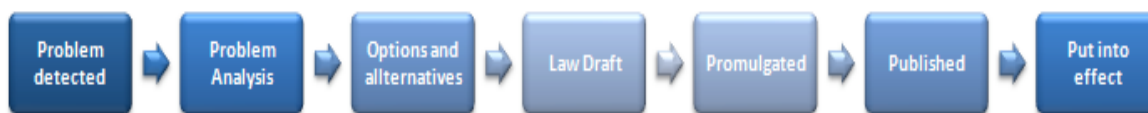
	<b>NATION</b>	<b>PROVINCE</b>	<b>MUNICIPALITY</b>
<b>Executive</b>	President	Governor	Mayor
	Ministers	Ministers	
	Secretaries	Secretaries	Secretaries
	Assistant Secretaries	Assistant Secretaries	Assistant Secretaries
	Decentralized and autarchic entities	Decentralized and autarchic entities	Decentralized and autarchic entities
<b>Legislative</b>	Deputies	Members of Provincial Legislature	Legislative Councils of Deliberation
	Senators		
<b>Judiciary</b>	Supreme Court	Justice Superior Court	Court of Misdemeanors
	Appeals Chamber	Appeals Chamber	
	Federal Courts 1st Instance	Federal Courts 1st Instance	

In turn, the growing complexity of social relations, has sued that these institutions specialize in different areas of their own tasks.

This specialization, reflected by the complexity of the environment, and due the adaptive processes of the institutions, in general, generates forces that drive the differentiation of the different areas that comprise the state system. So we believe that it is necessary to use constantly those tools that lead to the integration of each system part.

In this way, in different cases, authorities found a problem that needed solving, or to fill a social need and so this requires the issuance of a specific rule for this purpose.

So the problem is analyzed, the options and alternatives are evaluated, the draft legislation is formulated, it is promulgated, published and put into effect, both in what could be called a linear process:



In most cases, the issuer of the standard concluded his work there, and then he proceeds to analyze the following problem. The issuer of the standard lacks the necessary mechanisms to generate the feedback about the impact of the entry into force of this legislation, and as a consequence, a narrow vision of the whole situation is undertaken.

Other times, generated claims of social relevance, either because the number of individuals engaged in it or due the particular importance of certain individuals or groups of them in their own community, and that the institutions should attend.

This situation can lead to a new problem, or it may be a delayed effect of other rule issued by the same institution or by any another. In both cases the procedure for dealing the problem it is similar to the process already set out, starting a cycle that sometimes becomes a vicious cycle or a self-reinforcement cycle.

The actors that are mobilized to claim their rights violated, they do it due the magnitude of the effects that are exposed to bear and also because of the social cost, which at that moment is already very high. In other cases, these individuals have a political structure that supports, and that while looking for the common welfare, there are also individual motivations on the part of some of them.

It also presents cases where the claimant have some information previously and acts as a preventive measure, calling on the authorities to provide a legislation to solve the problem in the future.

Of course the situations described are just for giving an example. There are more others that could be describing just looking around us.

Added to this, it is important to highlight the distortions introduced by the behavior of institutional due the corruption, whether from the most obvious to those that generally are accepted by society and therefore are not convicted.

The regulatory body in general, as already discussed, has an evolution time that it is important to note. That is because while time passes, the social interactions also change, and generally the standards enacted are expanded almost exponentially, and so there are accumulate increasingly quickly.

So, the thing that is now consider a problem, yesterday it was not, or vice versa. The normative or regulations that would eventually has fulfilled a purpose in the past, now devoid of meaning, or contribute to an unexplained turbulence within an environment that is itself highly complex. As an example, we can find an old ordinance that is still in effect in the City of Buenos Aires (Ciudad Autónoma now), which prohibits women to travel in public buses after nine o'clock at night.

Faced to these kinds of problems, the institutions have implemented the known as "text ordered laws", which lead to the enactment of new regulations covering one different modification to the original throughout their lifetime, with adding in its final articles of the legend that says:"any other law that is opposed to this law is repealed."

In this way, what seemed a solution has generated many opportunities loopholes that cause unease in the population or are exploited by unscrupulous individuals for their personal benefit, generating spoilage of the common good, which should be protected by the State.

It is important to note that although a large portion of the population suffers the phenomena described here, there are very few situations when they react for demand their rights. We refer here to those social groups that are in poverty situation, extreme poverty or indigence.

The lack of expression by these individuals may respond to various factors. Probably it can be say that this occurs because they are everyday more concerned about procuring livelihoods or food, as well due the ignorance and illiteracy.

And so a marked asymmetry of rights is generated between different social sectors, which tend to deeper in another cycle of self-reinforcement where the right to petition the authorities is exercised by people who have better socioeconomic conditions.

It is therefore imperative that individuals who have awareness of the complex social processes that take place daily in their community, take care for those sectors of the population that have no access to the authorities. Because we believe that one can be achieved present and a better future for whole society.

### **Delayed effects**

Any action of today can have an immediate effect, or in a medium or long term. For humans is an intuitive tendency to lose sight of the origin of the problem while the temporal and physical distance increases.

Living in society implies a complex web of interrelationships, which is highly dynamic and changing. In this context is where those responsible for issuing laws loses sight of the problems that they are trying to solve.

When we add the lack of feedback systems that have issuers of standards in general, we are able to see that the manifestation of the effect becomes evident, and so the social cost generated as far is too important, and sometimes have irreversible results.

### **The social environment and the natural environment:**

The approach presented here considered that any effects arising from the issuance of regulations governing social interaction can take place into two dimensions which are defined as the "social environment" and "natural environment."

In the social environment are considered among other things, all human interactions, distinguishing benefited sectors and harmed sectors due the new law, indicating the limits as social and temporary ones; legal feasibility of the standard, taking into account the state current regulatory framework related to the subject they purport to regulate; agencies and jurisdictions that may overlap; cultural values that could be affected; economic variables involved; and availability of existing technology and technologies required to implement the standard in question.

In the natural environment we consider the ecosystems that are directly and indirectly involved; also the effects that will occur at a short, medium or long term; the impact on the global environment; and the possible emergency plan to prevent future damage.

Of course we must not neglect the importance of involving the relationships between the variables analyzed -the natural and the social-, because these relationships can produce significant effects that might be outside of the studio.

### **The problem and its examples**

We present here two examples for explain and to try to convey the importance of the problem; the first of the issues involve economic and environmental impacts, and the second one is related to social and economic aspects.

**Iguazu Falls:** This natural scene of great beauty and tourist attractions, in 1984 was declared World Heritage Site by the UNESCO, and through a national legislation has been converted into a protected area and national park.

These statements generates strict controls on the use of the land around the falls and hence the activities that can be developed over there, pointing especially to visitors that want to enjoy this show, as an act that prioritize the conservation of the natural environment.

This interesting place is located at the north of the province of Misiones; in the past days, the Legislature of this province passed a law to expropriating some protected lands to become part of the assets of the provincial state.

This enacted law, which apparently did not take into account the national legislation on this issue is generating great interest conflicts, and if we analyze the whole situation we know that this conflict may generates only a great loss for all generalized involved.

**The conflict of the farm sector:** On 10th March of 2008, the State, through the Ministry of Economy and Production issued Resolution No. 125/08, by which it is put into effect a new system of mobile taxes on exports of oilseeds.

The Argentine government, due to the high volatility of international prices of the farm products, but with a strong upward trend in recent years, sought issuing this resolution to curb the rising domestic prices that had been generated due the high international demand on argentine products. And in the other hand, the goverment also tried to reduce inequality of income distribution.

The effective enactment of the resolution was strongly rejected by the rural sector, because they experienced a large increase in export taxes, and of course a significant reduction in their income.

In this way, 18 May, the conflict start with roadblocks made by the farm industry that was directly injured, thus preventing the shipment of products to different parts of the country and indeed to abroad.

In June of that year, joined the protest a group of carriers with the aim of prevent the transit of truckloads of grain that were going to the foreign market, while a federal court declared unconstitutional the resolution.

At that time, began the shortage of farm products for public consumption, with the consequent rise in prices of the few products that could be marketed. And so millions of liters of milk were thrown, and thousands pounds of food were in poor condition due to the impossibility to be transferred to the consumption centers.

After three months of conflict, the middle class of urban areas in the country, were mobilized and were added to the claim by giving a unanimous support for the protest of the field.

Also these new taxes began to create unrest into the Mercosur, because a few years ago all the countries members adopted a Common Customs Code.

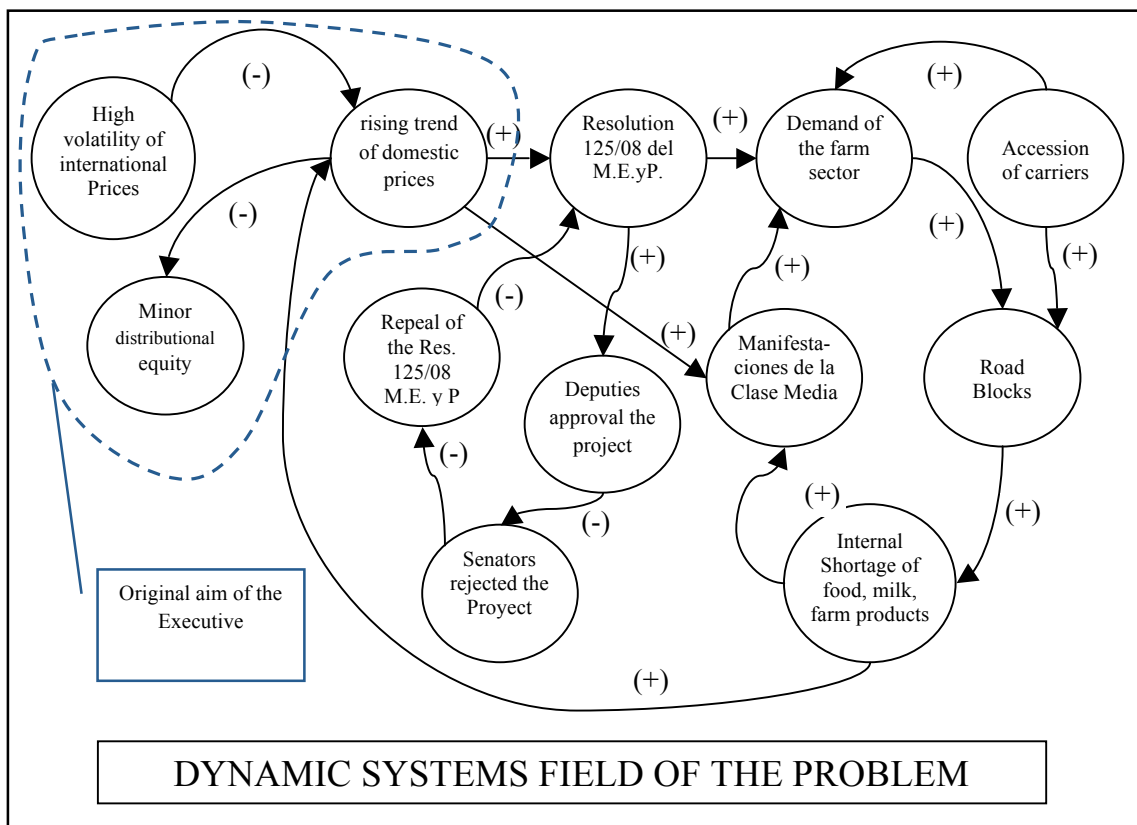


Given this entire conflicting situation, the executive decides to convert the resolution into a law, and so delivered the draft to the Deputies Chamber, which approved it after modification made by the executive itself.

The Senate of the Nation, with the negative vote of the Vice-President rejects the bill, whereupon the Executive repealed the Resolution 125/08 of the Ministry of Economy and Production, and so suspending the implementation of the scheme of mobile taxes, after four months of having been in force.

A little over a month later, the Minister of Economy and Production renounced to his post.

Ultimately, the problem that caused by the enactment of the resolution was deepened by the rise of prices in general; added to this there was a great social unrest during four months; the economic losses arising from the conflict could be counted in billions of dollars; and everything returned to the starting point, but under conditions markedly worse.



## POSSIBLE SOLUTIONS

There may be are many ways to address the problem presented, various ways to solve it; but we want to show at least one of the many possibilities that could be used. Although rather than being a solution, only aims to generate a more comprehensive discussion of the laws before their enactment by the institutions involved, and at the same time we think that order can be achieved on the complex regulatory system of today's societies.

The tool is being proposed is called the "Feasibility Study Environmental Partner" and should be used at the previous stage where the formulation law process start. This report should be together with de law project before the enactment.

The "Feasibility Study Environmental Partner" has five chapters, each with sections, which will be completed only if it is required and according to the type of law you are promoting.

**General Chapter:** shall contain the necessary information to describe and clearly define the problem to be treated, which is the regulated matter, and the reasons for the proposed rule, including:

- - Definition of the problem.
- - Description of the problem.
- - Subject matter.
- - Motivations of the project.
- - Origin of the problem:
  - New, without prior regulatory treatment.
  - Caused by a law that was already promulgated.

**Social Chapter:** here are consider interest groups involved by the norm, those who are directly or indirectly affected, relations with others laws, cultural issues and economic relations involved in the situation, among others.

- Human aspect: groups interested in the law, and those who are directly or indirectly affected.
- Legal aspect: according to the rules related topic.
- Cultural values involved.
- Economic relations.
- Technical aspect and technological development.
- Expected effects.
- Side effects, immediate and delayed, temporary definitions of them.
- Entities related to the purpose of the rule.
- Overlapping jurisdictions.

- Jurisdiction over the subject matter to regulate, the issuing authority and other agencies. Indication of the / s standard / s (up to the highest possible breakdown of the articles) conferred jurisdiction.
- Business or individuals benefiting from the norm.
- Business or individuals harmed by the rule.
- Complementarily, overlap or conflict with other rules of the specific indication.

**Chapter Environmental:** the topics that are considering here should be necessarily included in certain kinds of rules, such as environmental impact studies.

- Natural environment involved.
- Ecosystems directly and indirectly involved.
- Effects on the global environment.
- Current state of the natural environment and ecosystems directly or indirectly involved.
- Future state of the variables of the environment and ecosystems that are directly and indirectly involved, after the entry into force of the law.
- Analysis of physical and temporal effects caused by the enactment of the rule.

**Chapter about the Study of Interlinkages and Alternatives Analysis:** it is very important to recognize the relationships between the items mentioned above, due that the combination of certain situations can lead to unexpected effects, especially in highly complex environments such as those studied here. The analysis of alternatives is crucial and must be expressed as well as it can, because the issuer of the rule will have a more complete picture of the situation and is able to have more information.

- Summary table of the variables involved in the problem.
- Definition of the interrelations between the variables involved.
- Possible effects on the interrelationships between variables.
- Possible alternatives to be taken to avoid the generation of unwanted effects.
- Description of the unintended and unavoidable effects: Projected quantifying of these effects where possible.
- The event horizon of the effects.
- Analysis of possible alternatives to continue to issue the rule produces the least amount of unwanted effects.

**Control chapter:** it is considered to be integrated to the process of issuing rules about social coexistence, feedback procedures, to assist at the issuing entity informing the effects caused in real life due their actions.

- Effects to be monitored.
- Definition of adequate ways to monitor the effects.
- Deadline for verification purposes.
- Procedures to be followed before the detection of unintended effects that generate adverse effects on the systems involved.

## CONCLUSIONS

We are fully aware that the problems described here are highly complex, and that the alternative solution presented is extremely ambitious, and that adopting it would mean a drastic change of paradigm for the people involved in the processes of emission standards.

We also know that the normative social relations system is reaching a crisis point, stemming in part by the increasing complexity of the system itself, and by the other, due the limited capacity that institutions has to address this situation.

We think that is urgently try to reduce the asymmetries that are currently generated by the current regulations process; even by considering the asymmetries produced by the current economic system.

The proposed tool can be absolutely improved, and we invite all interested parties to join and to share this effort of the working group making contributions and criticisms it considers necessary.

We will try to implement this idea by starting an institution of moderate size, such as the City Council of the city of Ushuaia, in the province of Tierra del Fuego, Patagonia Argentina.

It has seven councilmen, and the relationship with the common people is quite fluid, which is considered an advantage because we can access them with a concrete proposal.

So we will start by recommending the adoption of "text ordered laws" about topics already promulgated in other opportunities. From the perspective of the settlement proposal put forward before, on the one hand we stress on describing actual cases and specific problems, and on the other, the feedback on proposed design and generate a much needed experience that will enrich this proposal.

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