Hunting and Using Causes in Law and Economics

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LONG ABSTRACT

The title of this paper borrows from the well-known 2007 book by philosopher Nancy Cartwright. Her main argument was that, in economics and the social sciences more generally, questions about the nature of causality, the evidence to be used to confirm it, and the uses of causal claims in public policy must go together. The premise for such argument is a strong endorsement of causal pluralism: any causal theory fits well some relations, but not all relations. This is true for probabilistic theories of causality, usually employed in quantitative studies, as well as for invariance tests, usually employed in econometrics. Only if we are able to assess the bounds of the causal systems we are analysing, sound choices can be made about the type of causal theories we should use.

In the almost two decades since the publication of Cartwright's book, arguments supporting causal pluralism gained ground. As suggested by Illari and Russo (2025), today the search for 'The One Theory of Causality' is much discredited. Instead of asking which theory of causality best reflects our intuitions and scientific practices, a mosaic approach is proposed which aims at understanding what the meanings of causal pluralism are and what kind of problems each theory can address. As to the meanings of causal pluralism, Illari and Russo point out that it can refer to the metaphysical dimension (the existence of multiple causes in the world), the conceptual dimension (multiple concepts of cause), the epistemological dimension (different ways of knowing causes), the evidential dimension (more than one type of evidence for causes), and the methodological dimension (multiple methods for finding causes). As to the problems to be addressed by theories of causality, Illari and Russo maintain that the following distinctions should be considered: inferring causes, predicting what will happen, controlling what will happen, explaining how a cause generates an effect, reasoning about causality and the assumptions we might be making. Each of these problems can be further unpacked. For example, inference could refer to: the existence of a causal connection, how a specific cause leads to

a specific effect, why a specific cause leads to a specific effect, what the effects of causes are, what the causes of effects are, what the boundaries of causal systems are.

This paper argues that the broader debate about causal pluralism is highly relevant for Law and Economics, both in its explanatory and normative versions. From *The Problem of Social Cost* onward, both implicit and explicit causal claims have been made to explain the complex interplay between the legal and economic domains. It could be thought that the interdisciplinary exchange favoured by Law and Economics fostered a pluralist understanding of causality. Actually, identifying the structure of causal theories in Law and Economics is by no means easy. To a large extent, those theories were imported from microeconomics and macroeconomics with few or no adaptations. Thus, we should talk about an interdisciplinary monologue more than a dialogue. Many traditional debates within Law and Economics can be read as fundamental disagreements about causality. Discussions on whether tort law really deters, whether efficient breaches are possible, whether distributive goals should only be pursued through the tax system, whether intellectual property rights foster innovation all require strong assumptions about the kind of causal relations and the evidence to confirm them.

The upsurge of empirical Law and Economics studies compounded the difficulties. Each empirical method relies on a specific theory of causality, or can accommodate a limited number of such theories. It is usually said that theories of causality can be classified in four categories: regularity, probabilistic, counterfactual, and mechanistic (Maziarz 2025; Suárez 2025). Quantitative methods rely on probabilistic and counterfactual theories, experimental methods on counterfactual or mechanistic theories, qualitative methods on deterministic and mechanistic theories (Beach and Pedersen 2016, 2019). Interpretive approaches in the social sciences add their own version of constitutive causality.

Any attempt at transferring each of these theories to the policymaking process faces many hurdles. A host of contextual factors become relevant to choose which evidence to consider and how to match the features of the policy tools to be implemented with a specific causal hypothesis. Each phase of the policymaking process, from agenda setting to policy formulation to policy evaluation, could require different understandings of causal claims, mainly because the interactions taking place in each phase shape such claims (Grin 2025). Adding a comparative dimension further reinforces the need for causal pluralism. Depending on the relevance of contextual factors for a theory of causality, each institutional setting might require a more or less comprehensive analysis to support causal claims. Mixed methods are one possible answer, but they do not offer a suitable solution when radically different theories of causality have to be integrated (Beach and Kaas 2020).

The argument proposed in this paper is that the Law and Economics literature should invest more in designing causal theories that fully exploit the ideas put forward in the debate on causal pluralism.

To succeed, this approach should go beyond importing causal theories from economic theory. For both large-N and small-N studies, causality should be understood as a search for connections between institutional contexts and non-institutional factors. Legal concepts and interpretative practices should be included in the inquiry if they shape those connections by enabling or hampering the causal effects. Even though legal studies mainly discuss causality issues with regard to liability judgments, it is clear that any discussion about legal change requires to explore causal nexuses at micro-, meso- and macro-institutional levels.

Several examples of empirical studies will be discussed to show how three fundamental facets of causality need to be accounted for: first, at which level should causality be explored, and how multiple levels can be connected; second, how do we know what counts as 'good quality' data for causal inference in Law and Economics; third, how can we explain the choices made about the weight of causal evidence in regulatory contexts.