

Reflexivity and Responsiveness in Law

Welfare Law and Social Change – Abstract

Facing methodological choices: Professional discretion and regulation concerning priority setting in health care

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Law needs to work in practice, and the state should guarantee fundamental rights with active measures. Legal research should support this by contributing knowledge on the functioning and practical impact of regulation on social rights: This presentation discusses methodological questions in researching the interplay of professional discretion and law in priority setting in health care.

I aim to find avenues for steering priority setting through a new mix of regulatory approaches, spanning beyond acts of law. My assumption is that some approaches work better than others, whereas some approaches yield unwanted results.

Physicians have a wide scope of discretion in setting priorities, and the legal framework for health care relies on medical standards defined by professional knowledge: How do physicians exercise professional discretion in setting priorities?

This empirical question requires choosing an appropriate method of data collection and analysis. In this presentation, I explore the methodological options for legal research on professional discretion and the impact of existing regulation on the physician's decision-making.