



Book Review

Economic Methods for Lawyers by Emanuel V Towfigh and Niels Petersen (Edward Elgar Publishing, 2015).

This book consists of eight chapters authored by economists. It is intended for readers familiar with legal studies, but not with economics. Rather than focussing on the economics relevant to a particular area of the law, it discusses the economics relevant to legal issues generally, with examples drawn from different areas of law. The various chapters provide an introduction to the basic theoretical concepts of economics. Overall, the chapters are well written and provide a relatively simple explanation of the relevant economic theory, together with examples of legal applications and references for further reading.

The first chapter is by Petersen and Towfigh and discusses economic methods and legal reasoning. Following a brief discussion of the development of law and economics, some basic aspects of economic reasoning and modelling are discussed. The chapter is rounded out by considering several limitations in relation to the application of economic methods to legal reasoning — the first is the role of efficiency as the objective of economic activity and the second is the often implicit normative element of empirical economic studies. Interestingly, a key source of tension between economics and the law is that the former is based on generalisations, while the latter is concerned with individual outcomes. Despite its significance, this is not discussed.

The following chapter by Towfigh concerns the economic paradigm, that is, the relationship between scarce resources and unlimited consumer wants. This forces consumers (and therefore producers) to make choices as to how resources should be allocated to achieve the best possible outcome. The concept of economic rationality is then introduced as the standard against which economic conduct is assessed, followed by some comments about situations where conduct may be irrational, setting the scene for several of the later chapters. The chapter concludes with a brief, but useful, discussion of the role of welfare as the ultimate objective of economic activity. The discussion links achieving welfare to efficiency and so links back to the previous chapter.

Chapter 3, about demand, supply and markets, is by Alexander Morell. Demand is introduced using indifference curves and building on the discussion of utility in the previous chapter. While simple and well written, for most legal analysis this is not a high priority and although it underlies aggregate demand, is not essential in order to understand that concept. Further, an easier way of introducing readers to indifference curve analysis would have been after the discussion of aggregate demand rather than before it. The concept of consumer surplus is introduced and although its relationship to the demand curve is explained, the reader may not recognise that this is the benefit that the consumer obtains from engaging with the market, especially if that market is competitive. As with the demand curve, the supply curve is built up from a discussion of costs, starting with opportunity cost and moving on to other types of costs. Demand and supply are then combined to discuss

equilibrium outcomes in markets that are perfectly competitive. Discussion of markets that are less competitive is reserved for the next section which introduces the reader to market failure. The chapter is well written. It is ambitious in the range of topics included but acts as an introduction to topics to be dealt with in greater detail in later chapters.

Game theory is being used to analyse a wide range of legal issues. It is a difficult topic to cover briefly and so Chapter 4 by Steffan Magen is one of the longest chapters in the book. It is well written and provides clear, relatively simple explanations suitable for those with little or no prior knowledge. It covers the key concepts and discusses a number of well-known games. The chapter concludes by providing an indication of how game theory may be relevant in a legal setting.

Contracts are the everyday fare of commerce. The initial sections of the chapter titled Contract theory and the economics of contract law by Klaus Schmolke explain why this is the case. It is explained that information deficiencies are a significant hinderance to efficient contracting and issues such as adverse selection, signalling, and screening are discussed. Then in Section V a number of key issues are explained and discussed — moral hazard, the principal-agent problem and opportunism. The explanations in this chapter are clear and the examples well chosen.

Public and social choice theory by Towfigh and Petersen is the focus of chapter 6. The starting point is that while market failures highlight the need for intervention in the operation of markets, this does not mean that government is necessarily the right intervener. The discussion focuses on government decision-making and the political process. This chapter sits a little uncomfortably in the book. It might have been better placed at the start of the book but some of the relevant concepts are not dealt with until later.

As evidence is being central to enforcement of law, the chapter by Goerg and Petersen which discusses empirical research and statistics is likely to be particularly useful for lawyers. The stated aim of the chapter is 'not to enable anybody to conduct his or her own study. However, readers of this chapter should be better able to understand empirical studies that have been conducted by others, and to evaluate the relevancy and the limits of the findings': at 146. The focus is on explaining causal relationships. The chapter begins with a discussion of causality, spurious causality and controlling for external factors. The use of experimental economics which is now well established and of increasing importance as a method for understanding relationships, is discussed as a data source instead of, or as a supplement to, field data. Helpful explanations of basic statistical measures follow, including significance tests and regression analysis.

Behavioural economics is exerting increasing influence in relation to consumer policy, but has not yet had much of an impact in relation to understanding business conduct. The empirical studies that comprise this field have illustrated that standard assumptions underlying economic analysis are often unrealistic, with behaviour deviating systematically from them but in a predictable way. The final chapter of the book, by Markus Englerth, concerns behavioural economics and the law. This chapter is a nice successor to the previous one dealing with empirical methods as it addresses a particular group of empirical studies based on a multi-disciplinary approach — psychology,

sociology, economics and the like. Section III of this chapter discusses insights provided by behavioural economics, including bounded self-interest, bounded rationality, and biases, and comments on how they influence decision-making. There are plenty of references to examples from the various studies, but disappointingly, with only one exception, few examples of where behavioural economics has influenced a legal outcome. However, overall the chapter is well written and the selection of material for inclusion from the vast range already in existence, is good.

The objective of this book, that is, to provide lawyers with an introduction to economics irrespective of their particular area of specialisation, is challenging. The selection of topics for inclusion is appropriate, with the possible exception of the chapter on public and social choice theory. In discussing the economic paradigm, the reader is provided with an understanding of the analytical framework employed by economists, especially the theory of opportunity cost. There is a nice balance between economic theory and empirical methods, as well as between established methodologies and those that have emerged more recently. Effort has been taken to 'dovetail' the chapters, which is important given that there are a number of different authors covering topics that are inter-related in various ways. Many lawyers will find the book a useful reference.

Rhonda L Smith
University of Melbourne