Law and Economics

Other Topics in Law

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Overview

Introduction

- This discussion is going to be based on Posner's book: The Economic Analysis of Law (Chapter 5).
  - It was originally published in 1973.
  - There were new editions, but I still feel it's a bit outdated.

Family Law

- Household is an important economic unit.
  - Consumption decisions.
  - Production.
- Advantages of household organization:
  - Economics of scale
  - Specialization.
- These advantages do not explain why marriage is such a common legal arrangement.
  - Business partners/ roommates.

Family Law

- A key aspect is that marriages sometimes produce children.
  - Requires large investments.
  - Requires time.
- This explains why Family Law regulates aspects of the sexual life of participants.
- What is a marriage?
  - Bundle of rights and obligations.
  - Partnership: voluntary association.
- Different than other contracts in that:
  - Terms cannot be set freely by participants.
  - sanctions for breach are more severe.
- "puzzling amalgam of legal intrusiveness and legal hands-off-ness."

Family Law

- Breach of contract (divorce).
  - Parties might not be free to terminate the contract, even with mutual consent.
  - Even if divorce is possible, it is sometimes very restricted.
    - Impossibility of remarry.
  - What is the economic reason behind this?
    - Commitment might have economic benefits.
    - Efficiency of mutually beneficial agreements only holds when no others are affected (children).
    - Divorce might affect incentives to wait for good match in the first place. How?

Family Law

- Breach remedies.
  - Marital assets.
    - How are assets split when a marriage is dissolved?
    - Debt vs equity.
  - Alimony.
    - One of the partners is mandated to pay a fixed sum as long as the other one remains unmarried.
    - One reason might be liquidity constraints when human capital is an important asset.
    - This doesn't explain why to stop payments after remarriage. Unemployment insurance.

Overview

Repugnant Markets

- Term coined by Alvin Roth.
- **Repugnance**: Aversion toward certain transactions, even if the parties engaged in the transaction benefit and there are no other externalities.

- Examples:
  - Organ trade.
  - Life insurance (historically).
  - (Certain) Prediction markets.
  - Prostitution.
  - Surrogacy.
  - Adoption.

Market for Babies

- Adoption is usually a long process in which adoptive parents are screened thoroughly.
- Supply of unwanted babies went down in recent years, also demand.
- However, there is a clear excess of demand.
  - Selling a baby is illegal.
  - Why?

Market for Babies

- Goal is to provide the child with the best home.
  - Not clear that the adoptive parents that are willing to pay the most are the ones that will provide the best home.

- Possible objections:
  - High-paying adopting parents might want the child for the wrong reasons.
    - Screening should work as it does with any other adopting parents.
  - Paying a large amount will deplete the parents' financial ability to support the child.
    - Partial response: Adopting parents will consider this in their decision.
    - Not clear what the legal market price would be.

Market for Babies

- Equality concerns:
  - Rich individuals will end up with all babies. Poor adopting parents will have no chance to compete.
    - This is not clear. Poor applicants might do worse in current adoption law since adoption agencies use income to determine eligibility.

Overview

Law Enforcement

- Why is there a need for **law enforcement**?
  - Tort law and Contract Law enforcement are private.
  - For Criminal Law relies more on public investigation and prosecution.

- Law Enforcement plays a dual role:
  - Catching criminals.
  - Providing deterrence (Becker model we analyzed before).

- These two motives do not explain why police cars patrol with the 'flashers' on.

A Theory of Optimal Random Crackdowns

- Paper: Eeckhout, Persico, and Todd (2010).
- **Crackdowns**: Intermittent periods of high intensity policing.
  - Arbitrary.
  - Publicized.

- Examples:
  - Sobriety checkpoints.
  - Speed controls on certain highways.
  - Crackdown on drug trafficking in particular neighborhoods.

A Theory of Optimal Crackdowns

- Population of 100 citizens.
  - 50 would never commit a crime.
  - 50 would commit a crime unless they knew that they are going to get caught.

- The police has resources so that they can perfectly check $n < 100$ citizens.
  - If they knew the type of citizen, the solution is easy:
    - assign police officers to criminal type first.
    - Total crime: $\max\{50 - n, 0\}$

A Theory of Optimal Crackdowns

- Suppose instead that type is private information.
  - Assigning resources at random, each citizen is checked with probability $n/100$.
  - Total crime: 50.

- Suppose that there is an observable characteristic that is **not** correlated with type.
  - 50 citizens have blue eyes and 50 have brown eyes.
  - Resources are assigned first to blue-eyed citizens.
  - Total expected crime: 50 if $n < 50$ and 25 if $n > 50$.

A Theory of Optimal Crackdowns

- In the previous example, groups were exogenous.

- How would optimal policing work with endogenous groups?
- Homogeneous model
  - Homogeneous individuals.
  - Deterrence threshold: p.
  - Total resources: q.
  - Police want to minimize crime.

A Theory of Optimal Crackdowns

- Solution:
  - $q \geq p$: monitor everyone at the same rate.
  - $q < p$: Make an as-large-as-possible group with police intensity so that they are indifferent between committing crime and not.
  - The other group knows that is not going to be policed at all.

- Convexification argument can be extended to model with heterogeneous individuals.
- We can see this as the second stage in a maximization process (where in the first stage we would decide how much resources to invest.)

A Theory of Optimal Crackdowns

- Authors apply the model to analyze the effectiveness of police resources spent on deterring speeding.
  - Eastern Flanders data from 2000-2003.
  - Announced radar controls affecting 6.5 million cars.
  - Resulting in 206k tickets issued.

- Compare the probability of speeding in the crackdown and non-crackdown groups.
- This makes it possible to measure the effect of increasing the level of resources overall.
  - Close to the marginal cost.