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Basu, Kaushik. 2018. *The Republic of Beliefs: A New Approach to Law and Economics*. Princeton: Princeton University Press, 238.

In the words of former UK Prime Minister Gordon Brown, “In establishing the rule of law, the first five centuries are always the hardest.” (p.5) How and why does “the law of the books” transpose into real-life practices? How can simple “ink on the paper” explain change in human behavior?

Intuitively and without reading extensive legal scholarship on this matter, underpinned by contributions from other fields such as philosophy, sociology, and economics, the answer is straightforward. It is the threat of sanction with a certain probability that induces people to abide by the rules. Kaushik Basu, former chief economist at the World Bank, calls into question this trivial conjecture, inspired by numerous examples of excellent policies that did not produce the desired effects: from food subsidies for the poor to anti-corruption laws. In his latest book, Basu promises to offer new methodological underpinnings to the study of law effectiveness and implementation, which he denotes as the “focal point approach with behavioral features”. Abstract as it may appear, it is only towards the end of the book that the reader is able to fully grasp the multifaceted meaning of this term. The underlying idea, which the author develops through different game theory models, is that the difference between laws that are followed and those overlooked lies in the beliefs of ordinary people and their expectations about the beliefs of other members of society.

The structure of the book can be divided into two parts. In the first several chapters the author develops a new methodological approach within law and economics, followed by a discussion of potential avenues of application. In the second part, he explores how the new approach interacts with some of the closely interconnected concepts of social norms, politics, and legitimacy.

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Despite high regard for the law and economics as a discipline, Basu has skeptical views on “neoclassical law and economics”. Before diving into its flaws and inconsistencies, the author offers a primer on standard models of game theory to cater to readers with limited background in economics. Using mainly the prisoner’s dilemma as an example, the author explains the concepts of interactive rationality and the Nash equilibrium – a situation in which no single individual can do better by unilaterally deviating to a different behavior i.e. strategy, given the set of feasible strategies. Such an equilibrium may nevertheless be inferior from society’s point of view – all individuals may be better off if they decide to cooperate. This is where the law steps in, by punishing those individuals who defect, changing individual payoffs, and steering society towards better outcomes. In other words, the law makes cooperation in everyone’s best interest.

At this point, the author introduces, in his view, the major fault line in conventional law and economics thinking. He takes for granted that enforcers of the law are “robots who will automatically do what the law asks them to do” (p. 35). If everybody ignores “the ink on the paper” and continues behaving in the same way after the enactment of the law, their payoffs will remain the same. For this reason, the author emphasizes the need to include enforcers of the law, i.e. the police, the magistrate, the government, into existing game-theoretical models as players. From there, the author derives the central thesis of the book: once the game is fully described, once all players are taken into account, the law itself cannot change payoffs; it can merely guide individual behavior to one of the preexisting equilibria. This striking and, at first glance, counterintuitive conjecture is further developed through the concept of the law as the focal point.

The idea behind the focal point is that once people face the problem of selecting one among multiple equilibria, they need some sort of guidance that directs their behavior to a superior equilibrium. The author illustrates this again using the framework of the prisoner’s dilemma, with the “tweak” of introducing the law enforcer as the third player. The enforcer decides whether to enforce the law against the other two players, i.e. the citizens, who can cooperate or defect. In the example that the author uses, there are two equilibria: one in which the two players defect and the law enforcer chooses not to enforce the law, and other one in which the two players cooperate and the law enforcer chooses to enforce the law. The main argument used here is that the enactment of the law merely changes people’s expectations of how others will behave, including the law enforcer, leading the players to choose the superior equilibrium (in the example at hand, the cooperation). From there, the author advances an argument as to why some laws are not implemented in real life: they

simply direct players to a non-equilibrium point, in which at least one of the players, the citizens or the law enforcer, is better off not behaving in the way recommended. At a more intuitive level, what the author tries to argue is that a law will be followed only if citizens hold expectations that the law will be enforced against them in the case of non-compliance, and this usually holds in societies in which state agents bear consequences if they choose not to act on an infringement of the law. When arguing that the law itself does not change the payoffs of players, the author claims that, at least theoretically, a society can punish individuals who defect even in the absence of the law. The law merely makes such expectations more salient.

There are several inconsistencies in this approach. It is counterintuitive that, in the game that Basu uses as an example, the enforcer of the law (e.g. the police officer) has lower payoff if they choose enforcement as opposed to non-enforcement. Presumably, this is because enforcement creates costs. However, it is unclear what may incentivize the police officer to choose to enforce the law. If it is the threat that they will be punished by someone higher in the hierarchy, as the author suggests (p. 52), there should be costs associated with non-enforcement, which are not presented in Basu's model. If one would consider such costs, it is difficult to contemplate how they can exist in the absence of the law. To use one of Basu's real-life examples, while it may be theoretically possible for a police officer to punish someone who exceeds the speed limit of 70 m/h even without the law, it is unclear why the police officer would face negative consequences if they omit to do so. Put differently, only the law can change the incentives of the police officer, and thus, the expectations of potential infringers, which implies that the law has to change the payoffs of players, contrary to what the author claims. Alternatively, if the incentives of the police officer are perfectly aligned with the interests of society as a whole, and therefore they are inherently inclined to behave in society's best interest, the question is how is such an interest articulated. If one nevertheless supports Basu's proposal that the game theoretical models looking into law effectiveness should be expanded to include the law enforcer, it is unclear why the model does not include several players each representing a different level of enforcement, including judges, the government and the constituency. This is partially addressed in the subsequent chapter when the author discusses an extensive-form game in which in period three there is another game played between the policeman and the magistrate. Complexity appears to be an obvious drawback when one tries to offer a full account of why laws are obeyed.

There is another related question that the author tries to answer in the subsequent chapter. If all the outcomes and associated payoffs of the

game were available even before passing the law, how can the law make any difference? Isn't that just a "cheap talk", to use the jargon of game theorists? If the enactment of the law is a costless announcement, it is expected to be inconsequential. The author argues that the enactment of the law might not be costless for the individuals engaged in the process. Once the lawmaker is included in the game, the costs that the lawmaker incurs produce the "burning money" effect, i.e. it serves as a signal what they intend to do, again directing society to one of the equilibria. After reading this chapter, the reader is likely to remain puzzled by the question as to who is the lawmaker: the constituency, which is also subject to the same law, or an abstract ruler with some exogenously given preferences.

In an attempt to further address potential controversies of his approach, Basu discusses the distinction between laws and social norms. Here, he reiterates the main thesis of the book that, in a well-defined game, any outcome that can be achieved by the use of laws, can be achieved without laws. In the author's view, social norms, similar to laws, are "nothing but a convention that helps you guess what the other is likely to do" (p.93). He uses three interesting examples in which societies can settle in different equilibria: (un)punctuality, discrimination, and child labor. In the first example, he explains how less punctual societies are caught in an unpunctual equilibrium: if one expects that the other person will be late, one is better off being late, too. As to societies with widespread discrimination in labor markets, the author claims this is rational behavior in markets with a strategic complementarity. If other members of society discriminate in favor of a certain group, hiring a member of this group leads to higher productivity. In other words, one may discriminate simply because a certain race, gender or caste matters to others. However, they might be reasoning in the same way. Along similar lines, Basu offers an interesting explanation as to why child labor might be prevalent in some societies, as a consequence of a rational behavior. In his view, this is a cooperation game between parents, i.e. low-skilled workers who settle in a bad equilibrium of sending children to work and themselves earning low wages, instead of withdrawing children from the labor market, which in turn would increase adult wages. From there, the author claims that the fundamental difference between social norms and laws is that the former is self-enforcing, whereas the latter requires the involvement of functionaries of the state taking certain actions. There are two issues with this reasoning that are unclear. Firstly, social norms, in contrast to morals, are not self-enforcing; they simply require a less formal mechanism of enforcement by society in comparison to laws. Secondly, Basu does not discuss how issues in the society that are addressed by social norms are different from those that require legal intervention. One potential avenue of thinking is that these are essentially different games played. In the first two examples (relating to punctuality

and discrimination), the interests of the players are not conflicting. This is essentially a coordination problem that can be overcome with a social norm. The issue of child labor can be modeled as a cooperation game in which the outcome of children not working is not an equilibrium. Thus, a legal “nudge” may be more necessary.

Furthermore, the author discusses how the focal point approach may explain some issues relating to politics and corruption. First, he makes interesting observations on how different forms of dictatorships and non-democratic regimes can be maintained without the need or capacity of the regime to hurt anyone directly. It is the common expectation or fear of punishment and ostracism from other citizens, in the event that one is disloyal to the regime, that allows the dictator to stay in power. As the author puts it. “If you believe that others do not want to be disloyal, you will not want to be disloyal; and this behavior is the Nash equilibrium” (p. 127). Along similar lines of reasoning, Basu explains how freedom of speech is curtailed in different societies despite being entrenched in the laws and the constitution. However, this holds only if a citizen’s gain from being disloyal is not substantial, which explains different forms of rebellion against undemocratic systems. Finally, the author explains the prevalence of corruption in some societies. Once again, the root cause is “a shared belief that using public office to benefit oneself [...] is widespread, expected and tolerated” (p. 142). This is how society gets caught in an equilibrium in which everyone is corrupt.

The last central idea that the author develops in the book is the relation between the focal point approach and the concept of legitimacy. Surprisingly, Basu makes an abrupt disconnection from the rational choice assumption embraced throughout the book. In line with behavioral economics findings that individual preferences are not always exogenous and immutable, what he proposes here is “the focal point approach with behavioral features”. In sharp contrast to what he argued previously, he admits the possibility that the law may change the game played. However, the change in outcomes comes from changed preferences and values of people who, once the law is enacted, “feel pangs of conscience” (p. 163) to choose a strategy that is not law-abiding. The author then turns to the discussion of why law-abiding outcomes do not always reside in the idea of the legitimacy of laws, as widely debated among legal scholars. In his view, individuals may abide by the law because it is in their best interest, despite feeling resentful about the law. Here again, one may find contradictory how the law can legitimize certain behavior in one context, and at the same time influence behavior despite a lack of legitimacy in another context, as explained by the author.

Overall, the reader of the book is likely to remain unconvinced that the new approach elaborated in this book has the potential to revolutionize

how law and economics addresses the problem of law implementation. Regardless of several caveats discussed earlier, Basu puts forward several convincing ideas and insightful lessons for countries struggling to establish rule of law. The law acts as a socially self-enforcing mechanism if people hold the belief that others will behave in accordance with the law. Therefore, it may take a long time before a new law replaces the old focal points (customs or social norms) and becomes the most salient coordinator of behavior. Similarly, societies that are generally more law-abiding are those in which civil servants, i.e. functionaries of the state, will punish one another for not doing their job. Once such behavior becomes a common belief, an entire set of different laws will be enforced.

No doubt that this book will be intellectually stimulating for anyone interested in the issue of law enforcement, even those readers with little prior knowledge of game theory concepts. Its elegant and engaging style makes it a pleasant read.