

Foreword

The intricacies of law and economics were first studied by the economist Ronald Coase in his now classic article “The Theory of Social Cost” (1960). The importance of law and legislation as imposing constraints that structure incentives and limit choices is not a novel point. But the idea that law and legislation are themselves the outcomes of the optimizing choice of individuals is a profound one. It is all the more so for the idea admits to neither the fatalistic determinism of historicism nor the tautologous emptiness of structural functionalism.

Coase’s idea can be integrated with the Austrian economic view of history as an open ended process being the outcome of optimizing individuals interacting spontaneously with each other and with the environment they are in. Friedrich von Hayek has for example viewed law and legislation as as a form of institutional arrangement created through these spontaneous interactions. Similarly, Edward Levi saw law and legislation as a moving classification system that is at the same time both permanent and transitional in nature. It is permanent in so far as the legal institutions are perceived to be external and immutable to the individual. It is transitional because as human action drives the historical process and begins to modify the power structure then the institutions of law and legislation will also have to change to accommodate the demands of the community. Law, economics and history can therefore be joined to form a coherent interpretation of the analytical aspects and evolutionary process of human action.

Dr. Barry Hsu’s study of the regulatory framework of banking and finance in Hong Kong have components of law, economics and history weaved together. When the issues are presented in such a way it is intellectual engaging to the reader. Their relevance for the future development of Hong Kong as an international banking and financial centre becomes both relevant and transparent. Dr. Hsu has performed an important service in so doing for he lays bare what happened, why it happened, and what has yet to happen. If Hong Kong aspire to be the international financial centre of Asia then there is much work to be done according to this study. And the further development of a transparent and efficient regulatory framework is certainly one of the most important tasks.

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