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Introduction

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INTRODUCTION

CLAIRE A. HILL

Law and economics has been an important, if not dominant, paradigm in legal scholarship for some time. Its view of human nature has, however, become increasingly controversial. The caricature befits something the “dismal science” of economics would come up with: people are exclusively motivated by their self-interest, where self-interest often translates into money or power. And they pursue their self-interest “rationally,” with impressive (albeit often unconscious) reasoning prowess.

To some scholars, the difficulty with law and economics’ view of human nature is a reason to shun the approach altogether; to others, the paradigm can be salvaged and, indeed, improved if a more realistic view of human nature is incorporated. But realism can’t sacrifice too much in the way of tractability. It isn’t properly the province of economics to get people exactly right.

This symposium considers rationality from many different perspectives. Participants include legal scholars with broad interdisciplinary interests, as well as those with sub-specializations in philosophy and law and biology. Participants also include economists, psychologists, and neuroscientists. Some contributions more directly address what rationality means. Others consider particular behaviors or beliefs that are not readily accounted for using the traditional rational actor paradigm.

One aim of the symposium is to broaden the dialogue between legal scholars and others in the academy as to rationality. The starting point for psychology’s challenge to the economics paradigm was to point out defects in people’s reasoning and logical prowess. People sometimes made mistakes, believing, for instance, that an event that had occurred was likelier than it actually was, especially if the event was particularly memorable. That people do make mistakes is now firmly established, although the extent and importance of those mistakes is still very much under debate. But legal scholars are now looking beyond the direct challenges to the traditional self-interest model to various other fields that can inform a richer model of human nature. It is my hope that this symposium can contribute to this endeavor, helping to clarify what rationality is, and what role the concept properly can and should play in legal scholarship.

