

**REVIEW OF FOUNDATIONS OF HUMAN SOCIALITY:  
ECONOMIC EXPERIMENTS AND ETHNOGRAPHIC  
EVIDENCE FROM FIFTEEN SMALL-SCALE SOCIETIES<sup>†</sup>**

ANITA JOWITT\*

This book is not written by lawyers or written with legal policy development in mind. Instead it is a collection of papers written primarily by anthropologists. However, the book does help to shed light on the relationship between social norms, cooperative behaviour and the use of law, and is methodologically interesting. It is therefore worth being brought to the attention of a wider audience. As this is not a legal text, this review will not provide a detailed description of each chapter. Instead, the review begins by describing the background to the project which led to the production of the book. It then turns to the methodology used, before turning to some of the key findings from the project. Finally, the significance of this research for deepening our understanding of legal decision making and the interaction of Pacific people with each other and with law is discussed.

These papers were produced as phase one of the ‘The Roots of Human Sociality: An Ethno-Experimental Exploration of the Foundations of Economic Norms’ project.<sup>1</sup> This project, funded by the MacArthur Foundation’s Norms and Preferences Research Network,<sup>2</sup> aims to examine the extent to which people from different cultures around the world adhere to rational self interest or selfishness in their behaviour. Part of the agenda of the research is a reaction to the economic assumption that when people act their preference is to maximise gains for themselves. However, both “common sense”, based upon personal reflections of one’s own behaviour, and research in a variety of fields suggest that people are not so self-regarding in all of their actions.

In order to explore people’s preferences, the Norms and Preferences Research Network favours experimental economics, a methodology which has largely involved using undergraduate university students as subjects to play economic games. In these games, subjects are given money and asked to make various decisions which will affect how much they and their game partners receive. Upon hearing of this body of experimental economics research, a graduate student duplicated these experimental games with the Machiguenga in Peru, a “family-level society”<sup>3</sup> that ‘subsist[s] on a combination of

---

<sup>†</sup> Editors, Joseph Henrich, Robert Boyd, Samuel Bowles, Colin Camerer, Ernst Fehr and Herbert Gintis; published by Oxford University Press; pp 451 plus xiii.

\* Lecturer in Law, University of the South Pacific.

<sup>1</sup> The website for this project, which includes excellent documentation of the research design, is available at <http://www.hss.caltech.edu/roots-of-sociality> (Accessed 23 June 2008).

<sup>2</sup> The homepage of this research network is <http://www.umass.edu/preferen/> (Accessed 23 June 2008). The website usefully publishes a number of papers on issues related to the relationship between customary norms and the notion of rational individualism.

<sup>3</sup> This anthropological classification is defined as societies that ‘consist of economically independent families that lack any stable governing institutions or organizational decision-making structures beyond the

hunting, fishing, gathering and manioc swidden-based agriculture<sup>4</sup> and that is only integrated into the cash economy in fairly limited ways. The results of the Machiguenga experiments demonstrated that the culture apparently acted more selfishly, or with less concern for “fairness”, than undergraduate students from western market societies. ‘This result was especially surprising because the Machiguenga live in small villages in which people rarely interact with strangers – an environment in which many of [the network members] thought would lead to *more* concerns for fairness and reciprocity, not less.’<sup>5</sup> This led to the questions, ‘Were the Machiguenga results anomalous in some fashion? Or, were they an indication of some substantial amount of cultural variation lurking outside the student-subject pools of the world’s universities?’<sup>6</sup> Out of these questions the Roots of Human Sociality project was established.

This project conducted the same experiments in 15 small-scale societies around the world. The Pacific region was included, with two villages in Papua New Guinea, Au and Gnau, being studied. As cross cultural comparison was an important part of the project, data on cultural characteristics were gathered. First, societies were classified using generally accepted anthropological classifications on each society’s economic base, residence, language family and complexity.<sup>7</sup> These classifications are of interest to legal researchers in the Pacific who engage in cross-cultural research and are seeking frameworks with which to compare general societal characteristics. At the University of the South Pacific, which has twelve member countries, the teaching of law is necessarily comparative and research is also, often, cross-cultural, so any tools to help strengthen such research are particularly useful and welcome. Project specific classifications on: payoffs to cooperation, or the degree to which well-being depends upon cooperation with non- family members; market integration, or the degree of reliance on the cash economy; anonymity, or the extent to which transactions with strangers occur; privacy, or the degree to which things can be kept secret; sociopolitical complexity, or the extent of centralised decision making above family level that occurs; and settlement size were also used.<sup>8</sup> Again these classifications are of potential interest to legal researchers in the Pacific who are examining questions as to why the uptake of the state legal system varies amongst different communities. It is reasonable to hypothesise that societies who are more integrated into the western cash economy would be more likely to use the (western-style) state legal system, or that societies who place more value on cooperation would be

---

family.’ (Joseph Henrich, Robert Boyd, Samuel Bowles, Colin F. Camerer, Ernest Fehr, Herbert Gintis and Robert McElreath, ‘Overview and Synthesis’ in Joseph Henrich, Robert Boyd, Samuel Bowles, Colin F. Camerer, Ernest Fehr and Herbert Gintis, *Foundations of Human Sociality* (2004) 8, 17.)

<sup>4</sup> Joseph Henrich and Natalie Smith, ‘Comparative Experimental Evidence from Machiguenga, Mapuche, Huinca and American Populations’ in Joseph Henrich, Robert Boyd, Samuel Bowles, Colin F. Camerer, Ernest Fehr and Herbert Gintis, *Foundations of Human Sociality* (2004) 125, 126.

<sup>5</sup> Joseph Henrich, Robert Boyd, Samuel Bowles, Colin F. Camerer, Ernest Fehr and Herbert Gintis, ‘Introduction and Guide to the Volume’ in Joseph Henrich, Robert Boyd, Samuel Bowles, Colin F. Camerer, Ernest Fehr and Herbert Gintis, *Foundations of Human Sociality* (2004) 1, 3.

<sup>6</sup> *Ibid.*

<sup>7</sup> Joseph Henrich *et al.*, above n 3, 13 – 18.

<sup>8</sup> Joseph Henrich *et al.*, above n 3, 28 – 29.

less likely to use the adversarial legal system,<sup>9</sup> and the instruments developed by the Roots of Human Sociality project would be of help in conducting research into such hypotheses.<sup>10</sup> Data on the individual characteristics of participants, including education level, age, wealth and gender were also collected.

Three different types of experimental games were used: dictator games, ultimatum games and public goods games. In dictator games, which aim to test a “sense of fairness,” one person, the proposer, is given an amount of money, “the pie”, and is asked to share it with a second person, the responder. Both players get to keep their share of the pie. The theory is that “more fair” people will divide the pie equally, whereas “more selfish” people will keep a larger share of the pie for themselves. In ultimatum games, which aim to determine if a fear of rejection will alter offers and the extent to which someone is willing to punish someone else for “unfairness” at their own expense, the proposer divides up the pie, but the responder can choose to either accept or reject the division of the pie. If the division is rejected then neither player gets anything. Two variations of public goods games were played. In the first, the player is given a sum of money and can contribute as much of it as he or she likes to the common pool. Once all players have contributed to the common pool, the pool money is increased by 50% or doubled and then shared equally amongst all players. In the second all money begins in the common pool and players can make limited withdrawals. After withdrawals are made the pool money is again increased and shared equally. These games ‘investigate how people behave when individual and group interests conflict.’<sup>11</sup> In these experiments, no one knew who they were paired with, or how much others contributed or withdrew from the common pool. Chapter 3 goes into more detail about the underlying theories of each game and discusses some previous experiments, providing a very accessible introduction to game theory and experimental economics.

Chapters 4 to 14 each discuss the conduct of the experiments in the different societies and the results in those societies. These are interesting to read for several reasons. First, each elaborates briefly on the theoretical framework, which helps readers to better understand the methodology material in chapter 3. As the authors come from a variety of disciplines, there are different perspectives on the theoretical framework, which also helps to add depth. Second, each provides a rich ethnographic description of the society or societies being studied. Such descriptions provide a detailed context that could well be emulated by legal researchers who are examining small communities. Third, each discusses methodological issues that were encountered in conducting experimental games in non-university settings. Variations in methodology that were developed in order to respond to these issues are also discussed. For researchers who are interested in conducting similar experiments this discussion is very useful. Indeed, appendixes to some of the chapters

---

<sup>9</sup> It should be noted that on closer examination these hypotheses may conflict somewhat, as participation in the western cash economy involves cooperation with strangers. This in itself is one of the interesting issues raised by the experiments in the book.

<sup>10</sup> The book under review provides useful descriptions of the classifications. In addition, documentation for phase 2 of the project is published at <http://www.hss.caltech.edu/roots-of-sociality/phase-ii/docs> (Accessed 4 November 2008). This documentation includes a very useful cultural context checklist for collecting data on these, and other, matters.

<sup>11</sup> Joseph Henrich *et al*, above n 3, 12.

provide the scripts for the experiments, which allows other researchers to duplicate various games. Finally, each chapter presents and discusses the results of the experiments.

I myself was most interested in the cross-cultural comparison, which is contained in chapter 2, so found myself beginning with this, and then reading parts of the specific country chapters to find more detail about individual societies and their experimental results. This chapter largely describes the findings, and ‘draws[s] two lessons from the experimental results: first, there is no society in which experimental behaviour is even roughly consistent with the canonical model of purely self interested actions; second, there is much more variation between groups than has previously been reported, and this variation correlates with differences in patterns of interaction found in everyday life.’<sup>12</sup> Whilst there are numerous implications of the research, these were not discussed for the reason that the ‘results are relevant to a wide range of disciplines... [and] a proper scholarly treatment of the many connections between [this] research and that of [other disciplines] would be both far too lengthy, and well beyond the competence of the present editors.’<sup>13</sup>

Whilst I have no doubt that the editors are being too modest as to their competence, presenting the data and allowing the reader to draw his or her own conclusions and connections does help to stimulate readers to do this. The final part of this review begins to articulate some of the potential connections between the research presented in this book and the study of law and society in the Pacific region, and some of the avenues for research that the methodology and findings in the book opens up.

One valuable contribution of this volume, and the accompanying project website, as noted above, is that they provide frameworks for collecting cross-cultural ethnographic data which are potentially useful for comparative legal studies in the region. It also provides exemplars of ethnographic description. These contributions are not unique to this volume, and it is not the intention of the book to be a text on ethnographic research, but readers who are seeking some guidance in ethnographic research may well find the content in this area to be both clear and easy to replicate.

Another valuable contribution, again noted above, is that the project-specific classifications that were developed, and the accompanying instruments on the website, are potentially useful for exploring why the uptake of the state legal system varies amongst different communities.

I will not enter into a theoretical discussion concerning the way in which payoffs to cooperation, market integration, anonymity, privacy, sociopolitical complexity and settlement size may help to understand varying degrees of use of state law, and/or “respect for the rule of law.” However, research to establish the relationships between these classifications and the uptake of state law might help to illuminate the complexities of situating state law in post-colonial, customary law oriented, societies. Indeed, there is

---

<sup>12</sup> Joseph Henrich *et al*, above n 5, 5.

<sup>13</sup> *Ibid*.

something tantalising about these classifications and their possible implications for law. Some of the possible connections that arose in my mind were: adversarial state law is not cooperative, so maybe more cooperative societies are less likely to use state law; and state law removes decision making from group members and gives it to an independent judge, so maybe societies with less sociopolitical complexity would be less trusting of state law.

The experimental methodology for testing concepts such as “altruism”, “fairness” or “selfishness” and the degree to which group interests override individual interests is also interesting. First, a sense of grievance or being treated “unfairly” is an underlying motivator for seeking a legal remedy in a dispute. As noted in the introduction to this book, there are assumptions that small group societies, and individuals living in them, are inherently more fair, or more concerned about group interests, and this may help to explain non-use of law. However, as the experiments in this book indicate, these assumptions are not necessarily accurate. Further, an examination of these assumptions may help to deepen our understanding of why particular behaviours, which are both “unfair” and unlawful, occur. For instance, corruption is a notable problem in many Pacific countries, and culture is often one of the explanators of this behaviour. Examination of the degree to which group interests override individual interests may provide a deeper understanding of the cultural dimension of corruption. Further, examination of the degree to which one person is willing to punish another for unfairness, at a cost to him or herself, may help to explain willingness or unwillingness to complain about corruption.

Finally, if similar experiments were conducted in the Pacific region they may provide insight into explaining “the Pacific Paradox”, ‘a popular way of describing the PICs’ economic performance – the existence of slow growth despite favourable levels of natural and human resources, high levels of public investment and aid, and reasonably prudent economic management.’<sup>14</sup> Explanations for this paradox have largely focused on state institutions.<sup>15</sup> Institutions are, however, broader, and include a country’s ‘social system, its educational system, its culture and so on.’<sup>16</sup> The extent to which people prefer to maximise gains for themselves, if it can be linked with culture and social systems, may provide further institutional explanations for the “Pacific Paradox”. If significant departures from neoclassical economic assumptions about preferences are found to exist, this may contribute to explanations as to why policies that are based upon neoclassical economic theory and are aimed at encouraging economic development are not completely successful. This is not only significant for economists, but also for people who are involved in legal policy work, which often has an explicit or implicit economic development focus.

---

<sup>14</sup> Teuea Toatu, ‘Unravelling the Pacific Paradox’ (Working Paper 02-2, Asia Pacific School of Economics and Government 2002) 2.

<sup>15</sup> *Ibid.*

<sup>16</sup> Ronald H. Coase, ‘The New Institutional Economics’ in Claude Menard (ed) *Institutions, Contracts and Organizations* (2000) 5.

No doubt others who read this book looking to make connections between it and law and society in the Pacific will make different connections, and may well see flaws in the tentative connections that I am drawing. Nevertheless, I am confident that this book will stimulate thinking about how this research may relate to understanding law and society in the Pacific. As such, it is a book that deserves to be read.