



Call for Submissions to the *University of New South Wales Law Journal* Issue 45(3)

### **‘Law and Economics’**

The *UNSW Law Journal* is currently welcoming submissions for Issue 45(3). The Issue will comprise of both a thematic component and a general component. The topic for the thematic component is ‘Law and Economics’.

Despite being lauded by Professor Bruce Ackerman of the Yale Law School as ‘the most important development in legal scholarship of the twentieth century’,<sup>1</sup> the law and economics movement in Australia has not flourished beyond the traditionally accepted fields of antitrust, corporate, and taxation law. This is regrettable given that the impact of an economic analysis of law extends beyond academia to the practice of law and implementation of public policy. The fact that law and economics provided the intellectual foundations to the deregulation movements in the 1970s and reforms to criminal sentencing in the United States federal courts attests to the significance of this methodological paradigm.

The value an economic analysis offers is to provide a scientific theory that can predict the effects of legal sanctions on behaviour.<sup>2</sup> To achieve this, economists have developed empirically sound methodologies (statistics and econometrics) and mathematically precise theories (price theory and game theory) to provide a quantitative assessment.<sup>3</sup> Recent advances in behavioural economics and cognitive sciences have also offered a theory as to how people respond to changes in law. Importantly, economics specifies a normative standard for evaluating law and policy: efficiency. Research into fields like nudge theory and search heuristics can provide insights to policymakers about how to encourage and discourage a range of behaviours to achieve economically efficient outcomes. Quantitative reasoning and empirical research are the bread and butter of an economist and tools which lawyers can learn from to enrich their understandings of the behavioural consequences of the law. Issue 45(3) thus aims to enliven discussions in the Australian legal landscape about the value of law and economics.

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<sup>1</sup> Thomas Ulen and Robert Cooter, *Law and Economics* (Addison-Wesley, 3<sup>rd</sup> ed, 2000) 2.

<sup>2</sup> *Ibid* 3.

<sup>3</sup> *Ibid*.

Issue 45(3) of the *Journal* welcomes thematic submissions that demonstrate a substantial connection to Australian law and may fit under one of the three broad categories:

1. Positive law and economics which aims to predict the effects of various legal rules and explains the development of legal rules in terms of their economic efficiency;
2. Normative law and economics which considers whether legal rules support economic growth and the implications on public policy; and
3. Critiques of law and economics.

In writing submissions, authors may wish to examine the following issues. **However, authors are not limited to these areas of law and are encouraged to draw on their own areas of expertise.**

#### Policy

- The economic efficiency of recent Australian legislation such as (but not limited to): anti-association laws, anti-terrorism laws, lock-out laws, and the decriminalisation of illicit drugs; and
- Whether mandatory vaccinations are economically efficient and increase compliancy with vaccine intake.

#### Public Law

- The observations public choice theory can offer about the landscape of Australian political lobbying,
  - This may also include an analysis of recent High Court judgments for *Unions NSW v New South Wales* (2019) and *Spence v Queensland* (2019) where the constitutionality of new political financing legislation was challenged; and
- Australian constitutional design from an economics perspective.

#### Human Rights

- The economic implications of Australia's modern slavery regime. This may include a comparative approach to foreign jurisdictions; and
- The economics of international refugee law and its repercussions on Australia's offshore processing regime.

#### Employment Law

- How insights from labour economics may demonstrate the impact of changing work conditions due to COVID-19; and
- The interactions between feminist economics and law on areas such as unpaid domestic labour, maternity leave and workplace discrimination.

#### Civil Litigation

- An economic analysis of how the introduction of contingency fees in Victoria will affect Australia's class action landscape; and
- The consequences of merging the Federal Circuit and Family Court of Australia.

#### Corporate Law

- The economic effects on recent regulatory changes that include Australian Securities and Investments Commission's update of the fees and costs disclosure regime; and
- An analysis of the Australian Competition and Consumer Commission's recent cartel contravention proceedings involving NQCranes Pty Ltd.

The submission deadline for the thematic Issue 45(3) is **4 February 2022**. Publication of Issue 45(3) is set for late September 2022. Articles for print publication in the *Journal* must be between 7,000 and 13,000 words in length (excluding footnotes). The style guide for the *Journal* is the current edition of the *Australian Guide to Legal Citation*, available online, and as supplemented by the latest edition of the *Journal's* 'Additions'.

The *Journal* is an independent, peer-reviewed publication. Although all submissions received are subject to peer review, decisions as to publication remain at the discretion of the Editor, in counsel with the Executive Committee of the *Journal*. The *Journal* does not publish articles that have been, or will be, published elsewhere, either in identical or substantially similar form. If you are interested in, or have any queries about, submitting for Issue 45(3), please contact the *Journal* at [law.journal@unsw.edu.au](mailto:law.journal@unsw.edu.au).

If you intend to submit an article, it would be greatly appreciated if you could provide some early indication of your proposed topic or area of research. We strongly encourage you to pass on this call for submissions to any colleagues, research networks or organisations who may be interested in making a submission.

Yours sincerely,

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