Behavioral Economics Tutorial 5

Economics of Policing, Crime and Punishment

Tasks (1)

- How would a 'rational' economic agent make choices about whether to undertake a criminal activity?

- From a behavioural/evolutionary standpoint, how do you expect choices would get taken about:

  (1) Driving home after a party, having had too much to drink

  (2) Housebreaking

- Policy Implications of the different perspectives?

Orthodox Economics of Crime

- We're all potential criminals; whether we offend is a matter of our opportunity costs, perceived risks of getting caught, and the level of punishment
- View choices in terms of expected utility theory, with outcomes weighted by probabilities (which might not seem too far-fetched for career criminals who get jailed sometimes)
- Criminals will carefully assess risks and payoffs
- Policy needs to focus on changing probabilities of getting caught, or disutility of punishment, or on opportunity costs of being a criminal

Behavoural View of Law-Breakers

- Moral codes and identity may make some kinds of offending 'unthinkable', or not something that would come to mind
- Criminals as lazy opportunists, not rational, expert planners
- Offending resulting from failures to think things through carefully, partly due to shortcomings of cognitive processes, e.g. focus on present situation, with cognitions getting twisted to suit immediate needs; failure to consider options in multiple dimensions or follow through patterns of potential implications; illusions of control, over-confidence bias, etc.
- Use of simple cues to judge chances of getting a satisfactory payoff without undue risk (car in driveway, alarm signs; avoid cul-de-sacs)
- Policy may need to focus on development of values/moral codes and removing advantages of actions that break the law (e.g. social payoff to free, frequent late night public transport, and morning-after transport, so that people don't drive whilst drunk because it seems convenient at the time)
- Mandeep K Dharmi's work is very useful in this area, see her Google Scholar page at https://scholar.google.com.au/citations?user=Gu5pUSkAAAAJ&hl=en

Tasks (2)

- How can the police allocate resources in the face of many claims on their problem solving capacities?

- Is Shackle's theory of choice under uncertainty useful for understanding how jurors reach their verdicts?

- Does 'new behavioural economics' offer any lessons about how lawyers may attempt to manipulate the choices that jurors make?

Resource Allocation by the Police

- A major problem of uncertainty: when crimes will be committed, or who committed them
- Risk of falling into the 'sunk cost fallacy' where resources have been used on an investigation that so far has not delivered results
- Goodwill relationships with trusted informants
- Large samples offer scope for probabilistic assessments and routine allocations of resources based on them, but sometimes the criminal will be very innovative
- Predictability of career/serial criminals: rules/routines = modus operandi of individuals, psychological profiling of criminal types
- Pattern recognition by experienced police officers –> seemingly intuitive choices by then, sometimes at odds with established policies and procedures

Shackle and Courtroom Choices

- Relevant for understanding how jurors form personal constructions of what may have happened, but note we often don't have a 'gain/loss' scale; rather, a binary set of rival possibilities
- Note instructions to jurors about 'beyond reasonable doubt' or 'on the balance of probabilities'
- Consider alibis as bases for deciding whether it is perfectly possible or implausible that a defendant committed the crime
- Note potential reasons for doubting alibis or pieces of evidence presented to suggest particular bounds of possibility, and presentation of counter-reasons

New Behavioural Economics and the Behaviour of Lawyers

Will be more obvious later in the course, e.g.

- Kahneman talks about lawyers misjudging probabilities of success in taking cases to court
- Legal rhetoric as a method for **framing** scenarios about what could have happened, thereby to try to manipulate jurors by taking account of judgmental heuristics and biases

By contrast, as an application of Gigerenzer's work, also note: Mandeep Dharmi has studied the role of 'fast and frugal decision rules' when bail applications are being assessed.