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Book Notes: Law in a Market Economy, by Robin Paul Malloy

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LAW IN A MARKET ECONOMY. BY ROBIN PAUL MALLOY. CAMBRIDGE: CAMBRIDGE UNIVERSITY PRESS, 2004. Pp. xix + 260. Sources, index. \$36.25 paper.

BY JENNIFER OOSTERBAAN

Though its title might suggest otherwise, this book neither advocates nor employs a law and economics method of analysis. The book does provide guidance in understanding economic concepts and their importance in legal reasoning, but it does so using a humanities-based approach and is geared to appeal to those interested in law and its relationship to the social, political, and cultural structure of the marketplace. To Robin Paul Malloy, understanding law in a market context means “understanding the various economic consequences associated with legal action, and simultaneously appreciating the market constraints upon law and legal institutions.” The author notes two objectives of this book: First, to provide a framework for depicting the relationship among law, markets, and culture; and second, to introduce key economic terms and concepts commonly employed in legal analysis. He wants readers to understand how these concepts can be used to advance certain socio-legal values in legal reasoning and public policy.

Early in the book, Malloy discusses numerous cases and examples to illustrate the many alternative ways one could frame the issues presented. The author advocates and outlines some of the basic “tools” of an interpretive approach to law and market economy, specifically the approach espoused by Charles Sanders Peirce, the founder of American Pragmatism. This approach is a cultural-interpretive one rooted in semiotics, suggesting that one experiences the intersection of law and the market as an “individualized participant in an interpretive community.” The concepts of framing, referencing, and representing are employed to analyze legal issues using this method. To encourage deeper thought about, and comfort with applying the tools and concepts, the author presents a number of problems following each chapter. He also suggests potentially using these as a basis for discussion or essay topics if the book is incorporated into a course.
