A brief survey on law and economics of contract law[1]

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Abstract
Right to own property and freedom of contract are two fundamental rights for the good of society. That's to say – together with property law – contract law is vital for a good functioning economy. Thus, contract is a solid instrument to increase social welfare. Accordingly, a brief description of economic analysis of contract law will be carried out in this essay. As such, the author of the essay attempts to find appropriate answers to certain major questions including the following: Why are contracts good from a societal point of view? What types of risks can arise in a contract? What is a fully specified contract and how will risks be allocated in a fully specified contract? Why is a particular risk allocation in contracts important for both society and contracting parties? What are the consequences of transaction costs for contract law? What is the economic purpose of codification of default rules?

Keynotes: law and economics of contract law, fully specified contract, risk allocation, default rules

JEL Classification: K12

1. Introduction

From an economic point of view, right to own property and freedom of contract are two fundamental rights for the good of society. That's to say - together with property law - contract law is vital for a good functioning economy. It can be alleged that there are two explanations for such statement, based on two different approaches: Pursuant to the philosophical approach, freedom of contract guaranteed under contract law is based on private autonomy. As such, contract is the legal expression of the idea stating that people, as private autonomies, have certain rights with regard to their own wishes and contract provides people with an instrument to express of their own free will. On the other hand, the economic approach justifies the aforementioned statement in a totally different way since

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economics seek efficient outcomes or solutions for every single relevant issue. As to the economic approach, contract is a solid instrument to increase social welfare.

So the very first question to be answered is the following: How do contracts increase social welfare? In economics, two criteria explain how social welfare increases, namely Pareto efficiency and Kaldor-Hicks efficiency. Accordingly, these two criteria should be taken into account respectively when responding to the said question.

2. Contracts & Pareto efficiency

"*If everyone is made better off by the change[3] or no one is made worse off and at least one person is made better off, then the Pareto criterion would say that the change[4] is good.[5]*" Contracts have very often the quality that they make contracting parties better off.

Suppose that a person named X buys a pair of shoes from a shoe – dealer, which means that there is a sales contract between X and the said shoe – dealer. And suppose that such shoe - dealer produces one pair of shoes with a cost of 100 liras, and that the price is 110 liras. Under such circumstances, the shoe – dealer makes a profit of 10 liras, which is the producer surplus. As known, "*firms may receive more for the goods they sell than it costs them to produce those goods[6]*" and "*producer surplus is the largest amount that could be subtracted from a supplier's revenues and yet the supplier would still willingly produce the product.[7]*" As seen, the shoe – dealer is better off since the price of the shoes is higher than the cost of the shoes. On the other hand, X is also better of because his / her willingness to pay is higher than what he / she has to pay. Consumers buy goods only if their willingness to pay is higher than the relevant price. "*Typically, consumers value the goods they purchase above the amount they actually pay for them.[8]*" Accordingly, if one pair of shoes is sold at the price of 110 liras, we may assume that the willingness to pay of X is, say, 130 liras. Then X has a consumer plus of 20 liras. As known, "*consumer surplus is the amount above the price paid that a consumer would willingly spend, if necessary, to consume the units purchased.[9]*" Under such circumstances, we can set forth that both contracting parties are better off. Taking into consideration the fact that "*one common measure of welfare ... is the sum of consumer surplus and producer surplus[10]*", social

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[3] I.e. Contract(s).

[4] I.e. Contract(s).

[5] See W. Kıp Vıscusı, Joseph E. Harrıngton Jr., John M. Vernon, *Economics of Regulation and Antitrust*, fourth edition, The MIT Press, 2005, p. 80.

[6] See Dennis W. Carlton, Jeffrey M. Perloff, *Modern Industrial Organization*, fourth edition, Pearson Addison Wesley, 2005, p. 71.

[7] *Idem*, p. 71.

[8] *Idem*, p. 70.

[9] *Idem*, p. 70.

[10] *Idem*, p. 71.

welfare is stated to be increased provided that no third party is worse off due to the sales contract in question.

3. Contracts & Kaldor - Hicks efficiency

Many economists criticized Pareto efficiency since "*it is hard to argue with this criterion for evaluating public policies.*[11]" For instance, a new airport can never be built based on the Pareto criterion because the truth is that "*in most cases in the real world, at least some people will be harmed.*[12]" As such, "*dissatisfied with the Pareto criterion, economists developed the notion of Kaldor – Hicks efficiency*[13]" which "*allows changes in which there are both gainers and losers but requires that the gainers gain more than the losers lose. If this condition is satisfied, the gainers can, in principle, compensate the losers and still have a surplus left for themselves. For Kaldor – Hicks efficiency, compensation does not actually have to be made, but it must be possible in principle.*[14]" In other words, "*actual compensation of the losers is not required. If it were required, of course, it would satisfy the Pareto criterion.*[15]" "*In essence, this is the technique of cost-benefit analysis. In cost-benefit analysis, a project is undertaken when its benefits exceed costs, which implies that the gainers could compensate the losers.*[16]" So the basic idea of Kaldor – Hicks efficiency is "*choosing policies that yield the highest total economic surplus.*[17]"

There are two major questions that need to be answered with regard to Kaldor – Hicks efficiency. One is that since gainers are able to compensate losers, why doesn't it actually happen? The main reason of the said question is the information problem.

Suppose that a new airport is built in a city. There will surely be people suffering from such new airport project. However, it is very often too difficult to determine who really suffers. Determination of such people might lead to a bureaucratic disaster. Therefore, in principle, actual compensation does not occur.

Nevertheless, there are certain exceptional cases where losers are actually compensated. For instance, a fund is established for the people who live around Heathrow Airport and suffer from the noise arising from aircrafts.[18] Still, it should be noted that such a solution is not always possible.

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[11] See Vıscusı, Harrıngton Jr., Vernon, *op. cit. (Economics of Regulation and Antitrust),* p. 80.

[12] *Idem*, p. 80.

[13] See Robert B. Cooter Jr., Thomas Ulen, *Law and Economics*, sixth edition, Pearson New International Edition, 2014, p. 42.

[14] *Idem*, p. 42.

[15] See Vıscusı, Harrıngton, Jr., Vernon, *op. cit. (Economics of Regulation and Antitrust),* p. 80.

[16] See Cooter Jr., Ulen, *op. cit. (Law and Economics)*, p. 42.

[17] See Vıscusı, Harrıngton Jr., Vernon, *op. cit. (Economics of Regulation and Antitrust)*, p. 80.

[18] See page 17 in particular at https://www.heathrow.com/file_source/HeathrowNoise/Static/a_quieter_heathrow_2013.pdf (date of access: November 9, 2018).

The second question that comes to mind regarding Kaldor – Hicks efficiency is that why should losers agree to a project where gainers will gain more than they lose and even so losers will not be actually compensated? The reason is that not only one project is considered within the context of Kaldor – Hicks efficiency; several projects should be taken into account. As such, some will lose and some will gain in every single project. However, everyone will gain in the long run. When we consider all relevant projects as a whole, it will be seen that Kaldor – Hicks efficiency turns into Pareto efficiency. As Deng Xiao Ping says, "All will be rich, some will be first!"[19]

In order to show how Kaldor – Hicks efficiency is applied to contracts, suppose that a person named Y wants to buy a new car of which the price is 35000 liras under the assumption that the relevant car – dealer produces such car with a cost of 25000 liras and that the willingness to pay of Y is 70000 liras. Under such circumstance, a sales contract between Y and the car dealer would lead to a Pareto improvement. Now assume that there has been an increase in the production cost of the car due to an unexpected event after the execution of sales contract but before delivery of the car to Y, and the cost is now 40000 liras. In accordance with Kaldor – Hicks rule, such sales agreement should not be breached since it is still a wealth – increasing contract due to the fact that total surplus is still positive. Y gains and the car dealer loses in such case. However, there is still an improvement in social welfare since Y gains more than what the car dealer loses, and Y is able to compensate the loss of the car dealer in principle.

Another issue to be discussed with regard to the relation between social welfare and contracts is the following: Do contracts which are in the interest of both contracting parties always guarantee that third parties will have no disadvantages? In other words, are there any fair contracts which make contracting parties better off but third parties worse off?

Invention of computer may help us answer this question. People wrote everything on type-writers before computer was invented. However, launch of computers onto the market and allowing people to buy as many computers as they wanted led to the death of type-writer industry. Freedom of contract led to buy more and more computers and as a consequence the type-writer industry simply collapsed. The workers in such industry were dismissed and the relevant companies were bankrupted. The inventors of computer made huge profits but those who bought computers made also considerable consumer surpluses; and the sum of such producer surplus and consumer surplus is actually much higher than what is lost due to the collapse of type-writer industry. Therefore, this change is a Kaldor-Hicks improvement since those who gained from the computer industry including users gain more than what others lose.

As such, freedom of contract does not always lead to Pareto improvement especially when freedom of contract leads to changes where we have losers. So basically, there is a consensus according to which freedom of contract should not

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[19] See https://en.wikiquote.org/wiki/Deng_Xiaoping (date of access: November 9, 2018).

be limited provided that contracts are fair and that contracts lead to efficiency gain within the context of Kaldor-Hicks improvement or Pareto improvement. This is a very well-established idea for today.

Notwithstanding the above, sometimes we may come across certain contracts that make contracting parties better off, third parties worse off, and those contracts do not lead to an efficiency gain according to the Pareto criterion as well as the Kaldor-Hicks criterion. Cartel contracts are good examples for such case. A cartel contract makes both contracting parties better off whereas it makes many relevant third parties worse off. Since somebody is worse off, Pareto improvement is not in question. In addition, what is interesting with regard to cartel contracts is that if the sum of all losses incurred by third parties due to cartel contracts are compared to the sum of all gains of contracting parties of cartel contracts, it comes out that cartel contracts are inefficient in the sense that damages which are inflicted upon third parties are much higher than the gains of contracting parties. This means that Kaldor-Hicks improvement is not in question either. So cartel contracts are inefficient contracts from an economic point of view. This is the reason why cartel contracts are usually forbidden and lead to certain criminal sanctions, administrative sanctions or damage compensation. Freedom of contract does not apply in such case.

One last remark regarding the relation of fair contracts and social welfare is that the sum of consumer surplus and producer surplus is maximized if the relevant market is competitive and in equilibrium. Because in competitive markets, the price mechanism reduces prices down to the marginal and average cost. Thus more contracts are concluded in the relevant markets between producers and consumers. Such situation leads to an increase in – mostly - mutual gain, accordingly an increase in social welfare. However, a monopoly may sell goods and services for a price which is much higher than the cost. A monopoly, as a company which produces for the whole market, may determine higher prices than the equilibrium price since it has market power. Such higher price may become the equilibrium price since there is no *attracto* in such a case. As a result of the deadweight loss[20] to come out, the sum of consumer surplus and producer surplus is less in case of a monopoly than it is in case of a competitive market. This statement shows us that mutual advantages, and so social welfare are maximized only in a competitive market.

We have revealed above that fair contracts are efficient instruments for maintenance of an increase in social welfare. So the next questions to be answered are the following: What kind of a contract law should we have for maximizing mutual advantages and social welfare? As such, what should be the main purpose of contract law?

The very first purpose of contract law should be allocation of risks. As known, if there is a time span with regard to a contract, there are always risks since

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[20] "*The cost to society of a market's not operating efficiently is called deadweight loss. It is the welfare loss – the sum of the consumer surplus and producer surplus lost – from a deviation from the competitive equilibrium.*" See Carlton, Perloff, *op. cit.* (*Modern Industrial Organization*), p. 71.

"*the contracting parties do not know how the environment will change during the life of the contract[21]*", and such risks must be allocated to contracting parties. Before explaining how to allocate such risks, it will be better to describe the concept of risk within the contractual settings with relevant examples.

4. Risks

Contracting parties may face two major types of risks: Firstly, contracting parties may face certain risks imposed by factors which they can not influence. Strikes, natural catastrophes and accidents are good examples of such first category of risks. And secondly, a contracting party may face unfair behavior of the other contracting party, namely the opportunistic behavior. Such opportunistic behaviors may come out before or after the relevant contract is concluded. Pre-contractual opportunistic behavior is a hidden information whereas post-contractual opportunistic behavior is a hidden action.

A hidden information is in question where a contracting party does not inform the other contracting party of a vital information[22]. A good example may be "*the case of the seller of a farmhouse who does not inform the buyer that the property is not connected to the public water mains with the result that the buyer is prepared to pay too much for the property.[23]*"

As to a hidden action, it occurs when a contracting party does not do what he / she is expected to do within the framework of the contract concluded[24]. "*For example, unbeknown to the creditor, a debtor uses his credit for an extremely risky project. Had the creditor (e.g. a bank) known this, the contractually agreed interest rate would have been different. If the venture works out, the creditor will have lost nothing; if things do not work out and the debtor becomes insolvent, then the creditor will have made a loss.[25]*"

5. Allocation of risks

Allocation of risks under contract law[26] differs depending on how high transaction costs are. "*Transaction costs are the expenses of trading with others*

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[21] See Hans-Bernd Schäfer, Claus Ott, *The Economic Analysis of Civil Law*, Edward Elgar Publishing, 2005, p. 276.

[22] Under Turkish law, we have a very similar provision which bans fraud. Pursuant to Article 36 of the Turkish Obligations Code, in case a contracting party (X) concludes a contract due to a fraud of the other contracting party (Y), then such contracting party (X) is not bound by the contract.

[23] See Schäfer, Ott, *op. cit. (The Economic Analysis of Civil Law)*, p. 276.

[24] Under Turkish law, we have a similar provision which sets forth liability arising from undue performance. Pursuant to Article 112 of the Turkish Obligations Code, in case a contracting party (X) does not fulfill an obligation properly, such contracting party (X) shall have to pay the damage compensation for the loss of the other contracting party (Y) arising from such undue performance provided that such contracting party (X) can not prove that it is not in fault.

[25] See Schäfer, Ott, *op. cit. (The Economic Analysis of Civil Law)*, p. 276.

[26] Contract law is a set of rules which contracting parties make themselves and it is also what we find in the relevant codifications. Two types of rules can be found in codifications: Mandatory rules and

above and beyond the price, such as the cost of writing and enforcing contracts.[27][28] When we mention that transaction costs are low (or zero), it means that such transaction costs are very low (even close to zero) as compared to the value of the relevant transaction itself. Precisely speaking, transaction costs are (not actually zero but) negligible in a high-valued transaction.

Suppose that a well-known airline company decides to buy 20 large passenger aircrafts. The said airline company would have to pay at least 4 billion euros to the relevant producer, which indicates that it really is a big deal! In such case, under normal circumstances, rational contracting parties will always prefer to set aside the relevant default rules and make a fully specified contract instead in order to ensure a perfect and efficient allocation of all possible (and even impossible) risks. Rational contracting parties will most probably prefer to hire attorneys at law of highest caliber for legal advice and preparation of the said fully specified contract, and the hourly rate of such attorneys at law will be around 600 euros per person. Therefore, the cost for legal advice (i.e. transaction cost) may reach up to 1 million euros at the closing date. Even so, we can say that the transaction cost is low or even zero in such transaction. Actually, 1 million euros may be considered "zero" as compared to 4 billion euros. That's why rational contracting parties will prefer to conclude fully specified contracts in high-valued transactions. This statement is actually the application of the Coase Theorem[29] to contracts because "*according to the Coase Theorem, given zero transaction costs, rational parties will allocate legal entitlements efficiently.*[30]" Actually, "*the contract is a perfect instrument for exchange when transaction costs are zero.*[31]"

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default rules. In principle, mandatory rules are binding rules which can not be amended by contracting parties since the aim of such rules is protecting the weak contracting party; whereas, default rules are binding only if contracting parties do not decide otherwise. In other words, default rules can be amended by contracting parties.

[27] See Carlton, Perloff, *op. cit. (Modern Industrial Organization)*, p. 5.

[28] Precisely speaking, "*transaction costs are the costs of exchange. An exchange has three steps. First, an exchange partner has to be located. This involves finding someone who wants to buy what you are selling or sell what you are buying. Second, a bargain must be struck between the exchange partners. A bargain is reached by successful negotiation, which may include the drafting of an agreement. Third, after a bargain has been reached, it must be enforced. Enforcement involves monitoring performance of the parties and punishing violations of the agreement. We may call the three forms of transaction costs corresponding to these three steps of an exchange: (1) search costs, (2) bargaining costs, and (3) enforcement costs.*" See Cooter Jr., Ulen, *op. cit. (Law and Economics)*, p. 74.

[29] According to Cooter and Landa, "*Coase Theorem ... asserts that efficiency will be achieved, regardless of the rule of liability, providing that the parties affected by a legal right can bargain costlessly.*" See Robert D. Cooter, Janet T. Landa, *Personal Versus Impersonal Trade: The Size of Trading Groups and Contract Law*, „International Review of Law and Economics", 1984, p.18. This article is available at: http://works.bepress.com/cgi/viewcontent.cgi?article=1132 &context=robert_cooter (access date: September 15, 2014) For more information on the Coase Theorem, please see http://en.wikipedia.org/wiki/Coase_theorem (access date: September 15, 2014).

[30] See Cooter Jr., Ulen, *op. cit. (Law and Economics)*, p. 283.

[31] *Idem*, p. 283.

Transaction costs are (considered) zero in high-valued transactions. However, what we need as a perfect instrument for exchange in such transactions is not an ordinary contract but a fully specified contract which "*contains a provision for each and every contingency.*[32]" "*A fully specified contract is a contract in which the parties have agreed on the allocation of all risks associated with the execution of the contract.*[33]" In other words, a fully specified contract is a tailor-made contract in which "*every contingency is anticipated; every risk is internalized; all relevant information is communicated; no gaps remain for courts to fill; no one needs the court's protection from deceit or abuse; nothing can go wrong.*[34]" As such, contracting parties do not need default rules in high-valued transactions. In other words, default rules of national contract law codifications are not determinant for (usually international) high-valued transactions and accordingly such default rules are in principle set aside by rational contracting parties.

Allocation of risks in a fully specified contract should be determined as follows: From an economic point of view, it should be kept in mind that risks are allocated in a fully specified contract in a cost-justified or cost-efficient manner. As such, "*under the assumption of rational behavior, the contract will be worth more to both parties if the risks are distributed in such a way that each risk is allocated to the party that can absorb the risk at the lowest cost*[35]" "*(i.e. the cheapest cost avoider) given that the cost of precaution is lower than that of expected value of the risk.*[36]" "*It is easy to see that such an arrangement is advantageous to both parties because the effect on the price is minimized. For instance, if a buyer were to absorb the risk of damage associated with defective wares but could not do anything to reduce the risk of loss, he would demand a significant reduction in the price for absorbing this risk. Given that the seller is in a better position to reduce the risk, it would pay for the risk to be transferred to him. Thus in a fully specified contract it is generally more efficient if the seller absorbs the risk of defective wares than it to be absorbed by the buyer.*[37]" Furthermore, in case the risk is allocated to the cheapest cost avoider as stated above, it is obvious that such allocation is also good for society since resources are efficiently used due to low costs.

On the other hand, "*it is quite clearly rational not to take precaution against the damage*[38]" in cases where "*a risk ... can not be influenced by any of the contractual parties (e.g. damage by storm) or can only be prevented at a cost way*

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[32] See Steven Shavell, *Foundations of Economic Analysis of Law*, The Belknap Press of Harvard University Press, 2004, p. 339. Please note that Shavell calls such contracts as "completely specified contracts" instead of "fully specified contracts".

[33] See Schäfer, Ott, *op. cit. (The Economic Analysis of Civil Law),* p. 278.

[34] See Cooter Jr., Ulen, *op. cit. (Law and Economics),* p. 283, 284. Please note that Cooter Jr. & Ulen call such contracts as "perfect contracts" instead of "fully specified contracts".

[35] See Schäfer, Ott, *op. cit. (The Economic Analysis of Civil Law)*, p. 279.

[36] *Idem*, p. 283.

[37] *Idem*, p. 279.

[38] *Idem*, p. 283.

above the expected value of the risk.[39]" However, in such case, "*the total social cost that occurs can be reduced by insurance*[40]" provided that "*there exists an insurance market for the relevant risk.*[41]" Accordingly, if the risk is insurable, it should be insured by the contracting party that "*can do so at the cheapest cost. That is, the cheapest insurer should be held liable.*[42]"

The aforementioned explanations are made for the cases where transaction costs are low or zero. In such cases, rational contracting parties would prefer concluding fully specified contracts in order to allocate all risks and therefore they can set aside the relevant default rules since a high-valued transaction is in question. So the last question to be answered is the following: What will happen in case transaction costs are high?

In case transaction costs are high, this means that a high-valued transaction is not in question. Accordingly, rational contracting parties would never prefer to make fully specified contracts since the cost of concluding such contracts (i.e. transaction costs) would exceed the transaction value.

As such, in cases where transaction values are (relatively) low but risks are high, market forces usually allocate risks in an efficient manner. Suppose that a person named Z buys a new car of good quality from a well-known car manufacturing company. Under normal circumstances, market forces will allocate the risks arising from corrosion to the car manufacturing company (but not to Z) since the said company is the cheapest cost avoider in this case. On the other hand, in cases where both transaction values and risks are low or not high, market forces don't work. As such, legal structure must allocate risks itself.

As known, "*trade is anonymous because buyers and sellers are indifferent as to the identity of their trading partners.*[43]" However, "*in reality, trade often occurs between people who know each other personally. Personal knowledge is important because trade often involves contracts, rather than the simultaneous exchange of goods and money. A contract always involves a promise: a good is given in exchange for a promise to pay, money is given in exchange for a promise to deliver a good, or one promise is exchanged for another. The reliability of a person's promise is important when considering whether to contract with him, especially if contract law is weak or undeveloped.*[44]" Accordingly, contract law has to be developed and strengthened since improvements in contract law facilitate exchange among strangers "*by developing a legal structure in which anonymous exchange is not so risky*[45]".

Contract law's default rules turn out to be determinant in this respect. Thus, default rules should particularly be developed and strengthened so that they

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[39] *Idem*, p. 283.
[40] *Idem*, p. 283.
[41] *Idem*, p. 289.
[42] *Idem*, p. 283.
[43] See Cooter, Landa, *op. cit. (Personal Versus Impersonal Trade)*, p. 15.
[44] *Idem*, p.15.
[45] *Idem*, p.22.

may have the capacity to render potential opportunistic behaviors of contracting parties unprofitable under circumstances in which both transaction values and risks are low or not so high. Efficient default rules are those which mimic provisions in fully specified contracts, and the main rationale for designing default rules in contract law is to able contracting parties to save transaction costs. In other words, it is like a service for contracting parties to save transaction costs.

6. Conclusion

In order for society to reach welfare, sophisticated contract law including efficient default rules is required. Only then legal structure will help contracting parties make efficient fair contracts. And only then contracting parties will be sure that contract law will solve problems with regard to opportunistic behaviors, and ensure anonymous transactions and anonymous exchanges occurring between anonymous partners. This is a must for economic development[46].

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[46] Cooter & Landa state that "*in underdeveloped countries, personal trading relations often take the form of ethnically homogenous trading groups, such as the East Indians in East Africa, the Syrians in West Africa, the Chinese in Southeast Asia, and the Jews in medieval Europe.*" Actually, "*successful trading groups in underdeveloped countries monopolize trade by erecting barriers to entry into the businesses which they control. These entry barriers may take the form of membership criteria such as ethnic identity, dietary restrictions, and religious rituals. These practices prevent entry by outsiders or raise its cost, and also lower the cost of identifying members and enforcing contracts among insiders.*" According to the authors, this is because "*private trading groups are a substitute for public laws regulating contracts.*" Notwithstanding that, the authors mention that "*if the group expands, then members gain the advantage of a more extensive internal market. The advantage of a more extensive internal market is that it permits greater diversity of trade within the group. On the other hand, as the group expands, personal relations become attenuated. Personal relations enable the group to rely upon informal means of enforcement of contracts. If the group becomes quite large, formal methods of enforcement, which are more costly than informal methods, will have to be adopted to enforce contracts. In other words, for a given level of expenditure by the group on enforcement, the probability of breach will increase as the group becomes larger.*" Because the authors believe that "*if the group must freely admit everyone who applies, then it will be too large relative to the social optimum.*" According to the authors, there is a simple explanation for this: "*Free entry results in too large a group because new entrants treat the pool of trust as a free resource. Thus the argument that free entry results in too large a group is analogous to the conclusion that free entry into a public facility results in excessive congestion.*" So "*there will be a tradeoff between diversity of trade within the group and security of contracts.*" Additionally, the authors set forth that "*an economy will be inefficient if trading groups are unrestricted or if they are forced to accept everyone.*" Following the aforementioned arguments, the authors underline that "*improvements in contract law reduce the equilibrium size of trading groups by facilitating exchange among strangers. In brief, competitive conditions can be created by developing a legal structure in which anonymous exchange is not so risky.*" As stated earlier, social welfare is maximized in case the relevant market is competitive. Accordingly, developing and strengthening contract law will directly contribute to the maximization of social welfare since competitive conditions will be created by improvements in contract law. For further information, please see Cooter, Landa, *op. cit. (Personal Versus Impersonal Trade)*, pp. 15-22.

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