

CONCEPTS & METHODS IN LAW & ECONOMICS

Course description

This course introduces students to the field of Law & Economics. The course begins with basic concepts, such as the Coase Theorem, distinctions between types of rules (property vs. liability, mandatory vs. defaults, etc.), and efficiency concepts. Further principles are then introduced through specific applications of the economic analysis of law in different legal areas, mainly focusing on property law and criminal law. Students who complete the course should be able to conduct a basic economic analysis of legal rules.

Teaching team

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Teaching venue

Room 1083a, Von-Melle-Park 5

Notes regarding literature:

- We will follow the following book: Cooter, Robert and Thomas Ulen, *Law and Economics* (6th edition, Addison-Wesley 2016, [online version](#)) (hereinafter: “C&U”)
- The course slides are also [binding material](#). These slides include additional materials that are not covered in the book, but are nonetheless relevant for the exam.
- Suggested readings listed below are directly discussed in the classes and usually referred to in the slides. It is recommended to read these before the class. Most materials can be found online (links are provided when possible). The materials classified as “Optional” are also helpful, but less central to the discussion and are not mandatory reading.
- The order below separates the course by “topics”, which we will follow in the order specified below. It is roughly one topic per session, but there may be divergences (i.e. topics taking less or more than one session)

SYLLABUS

Topic 1

Introduction to L&E as a science

Suggested readings:

- C&U: Chapter 1 (pages 1-10) and Chapter 2, sections I – VI (pages 11-33).

Optional:

- Harris, Ron (2018). "The History and Historical Stance of Law and Economics." *The Oxford Handbook of Legal History*: 23-45.

Topic 2

Primer on Game Theory, Market Failure & Legal intervention I (Market power, externalities)

Suggested readings:

- C&U: Chapter 2, section IX (pp 37-43)

Optional:

- Jackson, Matthew O., A Brief Introduction to the Basics of Game Theory (December 5, 2011). [Link](#).

Topic 3**Market Failure & Legal Intervention II (asymmetric information)***Suggested reading:*

- Akerlof, George A. "The Market for "Lemons": Quality Uncertainty and the Market Mechanism." (1978). *The Quarterly Journal of Economics* 84(3): 488-500.

Optional:

- Emons, Winand (1989). "The theory of warranty contracts." *Journal of Economic Surveys* 3.1: 43-57.

Topic 4**Coase theorem, Transaction costs, Rule types I (Calabresi & Melamed)***Suggested reading:*

- C&U Chapter 4, Sections I – IV (pages 70- 94)
- Dahlman, Carl J. (1972). "The problem of externality." *The Journal of Law and Economics* 22(1): 141-162. [Link](#)
- Calabresi, Guido, and A. Douglas Melamed (1972). "Property rules, liability rules, and inalienability: one view of the cathedral." *Harvard Law Review* 85(6): 1089-1128. [Link](#)

Optional:

- C&U: Chapter 8, Sections I – II (pages 276- 287).
- Williamson, Oliver E. "Transaction cost economics." *Handbook of industrial Organization* 1 (1989): 135-182. [Link](#)

Topic 5**Rule types II (Default vs. mandatory), Property Law: Classifying goods***Suggested Reading:*

- C&U: Chapter 4, Sections V-VIII , (pages 70-109)
- Ayres, Ian (2011). "Regulating opt-out: An economic Theory of Altering rules." *Yale Law Journal* 121: 2032. [Link](#)

Optional:

- Ayres, Ian, and Robert Gertner (1989). "Filling gaps in incomplete contracts: An economic theory of default rules." *Yale Law Journal* 99: 87. [Link](#).
- Ayres, Ian (2005). "Ya-Huh: There Are and Should Be Penalty Defaults." *Florida State University Law Review* 33: 589. [Link](#)
- Mackaay (2013), *Law and Economics for Civil Law Systems* (Edward Elgar Publishing, 2013), pp. 424-429.

Topic 6**Property law: Externality problems, IP law***Suggested readings:*

- C&U: Chapter 5, Section I (pages 112-142)

Optional

- Chamberlain, Craig. "Tailoring Copyright Duration." (2016). *Lewis & Clark Law Review* 20: 303-332. [Link](#).

Topic 7**Criminal Law: Deterrence***Suggested Reading:*

- C&U – Chapters 12 (pp. 454-484) and Chapter 13 (pp. 485-532)
- Becker, G. S. (1968). Crime and Punishment: An Economic Approach. *Journal of Political Economy*, 76(2), 169-217. [Link](#).
- Chalfin, Aaron, and Justin McCrary. "Criminal deterrence: A review of the literature." *Journal of Economic Literature* 55.1 (2017): 5-48. [Link](#).

Optional:

- Andreoni, James. "Reasonable doubt and the optimal magnitude of fines: should the penalty fit the crime?." *The RAND Journal of Economics* (1991): 385-395. [Link](#).
- Craswell, Richard, and John E. Calfee (1986). "Deterrence and uncertain legal standards." *Journal of Law Economics & Organization* 2: 279. [Link](#).
- Donohue, John J., and Steven D. Levitt. *The Impact of Legalized Abortion on Crime over the Last Two Decades*. No. w25863. National Bureau of Economic Research, 2019. [Link](#).
- Epps, Daniel. "The consequences of error in criminal justice." *Harvard Law Review* 128 (2014): 1065. [Link](#).
- Lando, Henrik. "Does wrongful conviction lower deterrence?." *The Journal of Legal Studies* 35.2 (2006): 327-337. [Link](#).
- Rizzolli, Matteo, and Luca Stanca. "Judicial errors and crime deterrence: theory and experimental evidence." *The Journal of Law and Economics* 55.2 (2012): 311-338. [Link](#).

Bonus: Brief introduction to Behavioral Law & Economics

Note: This last part will only be covered if time constraints allow. Note that there may be references to behavioral L&E also in previous parts, and these are included in the material even if this part is not reached.

Suggested Reading:

- Tversky, Amos, and Daniel Kahneman (1974). "Judgment under uncertainty: Heuristics and biases." *Science* 185(4157): 1124-1131.
- Guthrie, Chris, Jeffrey J. Rachlinski, and Andrew J. Wistrich (2000). "Inside the judicial mind." *Cornell Law Review* 86: 777.
- Englich, Birte, Thomas Mussweiler, and Fritz Strack (2006) "Playing dice with criminal sentences: The influence of irrelevant anchors on experts' judicial decision making." *Personality and Social Psychology Bulletin* 32.2: 188-200. [Link](#).

Optional (general background):

- Kahneman, Daniel (2011). *Thinking, fast and slow* (2011). [Link](#).
- Zamir, Eyal, and Doron Teichman (2018). *Behavioral law and economics*. Oxford University Press.