

Syllabus

1. The Basics of Law&Economics 1

What is efficiency and how can we use the economic concepts in law? Should courts only enforce the written law, or can they consider also economic arguments to search for an efficient solution? Efficiency vs. Justice. R.Coase and Transaction Costs. Rational Choice Theory versus Behavioral Law&Economics. Expected utility = damages, fines and jail sentences as an expected price for certain behavior.

2. The Basics of Law&Economics 2

Market failures = need for regulation (Free riding: intellectual property rights. Assymmetric information: regulating banks and insurance). Problem of Commons. Social Costs. Negative Externalities. How do we construct an efficient regulation? Regulating the market for emissions: The auction. Compensation and indifference curve. Posner: Should legal rights be assigned to the person with the highest willingness to pay? Methods of L&E, Cost-Benefit Analysis.

3. Criminal Law&Economics

Deterrence theory: Cost of crime = Expected Punishment x Probability of Enforcement. Does harsher sanction, more policemen or more prison sentences reduce the crime rate? Efficient crime. Efficient punishment: First year in prison deters much more than eleventh. Elasticity of crime deterrence. Economics of sex crime.

4. Contract Law&Economics

Efficient breach of contract. Should courts always enforce the contract, or can they approve a breach? Default rules. Risk allocation. Does everything have to be written in the contract? Who pays for unforeseeable events? Compensation. Expectation damages. Punitive damage and court decisions.

5. Tort Law&Economics

Liability rules. When is strict liability the most efficient? How to avoid liability in case of negligence? Which kind of liability rules can help to achieve which goals? How do we calculate damages – for example the value of a lost life? How does law help to prevent damages? Case of a farmer and livestock owner. Judge Learned Hand Rule.

6. Competition L&E

Market failure: need for regulation. Economic arguments behind Monopoly and Antitrust. Market power: Deadweight loss, reduction in output. How much concentration on the market is enough? HHI – index to calculate the market power. Antimonopoly authorities and markets.

7. Corporate and Property Law&Economics

Corporate governance. Is corporation just a nexus of contracts? Which set of rules is the most efficient to regulate relations and liability of managers and shareholders? American shareholder model versus German stakeholder model. Limited liability of a firm. Economic theory of property law. When is it efficient to limit property rights? Case of regulating aesthetics of houses.

8. Behavioral Law&Economics 1

Human errors, biases and behavioral theory. Do criminals calculate expected utility, the cost of crime and probability of punishment? Bounded rationality.

9. Behavioral Law&Economics 2

Thaler and Libertarian Paternalism: Nudging people by the right default rules. Opting out. Nudge Units. Examples. How to create a rule.

10. Media Law&Economics

Two-sided media markets and competition law. Media ownership regulation. Punitive damages as a threat for the press freedom. The chilling effect. Regulating the Internet? Regulating Advertising as signalling.

11. Moot Court

A case in which students have to use economic arguments to represent a party at simulated court.

12. Application of Law&Economics. Repetition and discussion before the exam

Nudging units. Discussion with chief of analytics at Ministry of Finance SR or Value for Money Unit. Discussion on the exam content. Questions.

Compulsory reading (will be specified during lectures):

Cooter, R. D. Ulen, T. 2000. *Law and Economics*. 3rd Edition. Berkeley Law Books. Book 2.

Thaler. R., Sunstein, C. R. 2008. *Nudge. Improving Decisions About Health, Wealth and Happiness*. New Haven, CT, US: Yale University Press.

Winter, Harold. 2017. *Issues in Law and Economics*. Chicago University Press. Chicago.

Lecture 1:

Cooter, R. D. Ulen, T. 2016. *Law and Economics*. Pages: 1 – 8 (Chapter 1)

Lecture 2:

Winter, Harold. 2017. *Issues in Law and Economics*. Chicago University Press. Chicago. Pages 1–10.

Lecture 3:

Cooter, R. D. Ulen, T. 2016. *Law and Economics*. Chapters 12 and 13.

Lecture 4:

Cooter, R. D. Ulen, T. 2016. *Law and Economics*. Chapters 8 and 9.

Lecture 5:

Cooter, R. D. Ulen, T. 2016. *Law and Economics*. Chapters 6 and 7.

Lecture 6:

Edelman, Benjamin G. and Geradin, Damien. *An Introduction to the Competition Law and Economics of 'Free'* (August 23, 2018). Antitrust Chronicle, Competition Policy International . Available at SSRN: <https://ssrn.com/abstract=3238719>

Lecture 7:

Cooter, R. D. Ulen, T. 2016. *Law and Economics*. Chapters 4 and 5.

Lecture 8:

Dan Ariely. Beer and Free Lunches. What is Behavioral Economics, and Where Are the Free Lunches. Chapter 13 in: *Predictably Irrational*. 2008. Harper Collins. Page 231 – 245.

Lecture 9:

Richard Thaler, Cass Sunstein: Libertarian Paternalism. *The American Economic Review*, Vol. 93, No. 2. Pages 175 – 179.

Lecture 10:

No compulsory reading.

Lecture 11:

No compulsory reading.

Lecture 12:

No compulsory reading.

Optional/Supplementary materials:**Lecture 1:**

Becker, G. *The Economic Way of Looking at Life*. Nobel Lecture. Online:
<https://www.nobelprize.org/prizes/economic-sciences/1992/becker/lecture/>

Micheal Sandel, Harvard University: Putting a price tag on life:
<https://www.youtube.com/watch?v=0O2Rq4HJBxw&list=PL30C13C91CFFFEFA6>

Explaining Law&Economics:

Clayton Gillette. The Forum: The Method Behind the Madness (1): Explaining Law and Economics. New York School of Law. Youtube video: <https://www.youtube.com/watch?v=2cFTiSeM4cA>

Polinsky, A. M. Shavell S. 2005. *Economic Analysis of Law*. Working paper/Discussion paper. Harvard Law School. Stanford Law School. Page 2 + pages 32 – 34. Available online:
https://papers.ssrn.com/sol3/papers.cfm?abstract_id=859406

Lecture 2:

Pindyck, R. S. Rubinfeld, D. L. 2011. *Ways of Correcting a Market Failure: Emission Standard*. In: Microeconomics. 8th Edition. Pearson Publishing. p. 667 – 674.

Žižek, Slavoj. Democracy And Capitalism Are Designed To Split Up, Youtube video, online:
https://www.youtube.com/watch?v=AXVEnxtZe_w

Gay Rights and Economics:

How Equal Rights Can Boost Economic Growth. The Economist, 2. 1. 2019:
<https://www.economist.com/democracy-in-america/2019/01/02/how-equal-rights-can-boost-economic-growth>

Do we want armed robbers to kill their victims? Forget justice, think about efficiency:
David Friedman - Application of Economic Analysis to the Law. Video interview:
<https://www.youtube.com/watch?v=zHTj0iccdVM>

Lecture 3:

Economics of Sex Crime. Stephen J. Dubner: Making Sex Offenders Pay – and Pay and Pay and Pay: A New Freakonomics Radio Podcast. Online: <http://freakonomics.com/podcast/making-sex-offenders-pay-and-pay-and-pay-and-pay-a-new-freakonomics-radio-podcast/>

Sex offenders serve their prison sentence twice. They are forced to live on an island. VICE News video: <https://www.facebook.com/vicenews/videos/1227097900783491/>

Cowboys catching criminals?

Stephen J. Dubner. Freakonomics Radio: *The Economics of Bounty Hunting*. Online:

<http://freakonomics.com/podcast/freakonomics-radio-the-economics-of-bounty-hunting/>

Restorative Justice and Restorative Economics:

Deanna Van Buren – What a world without prisons could look like, TED Talk:

https://www.ted.com/talks/deanna_van_buren_what_a_world_without_prisons_could_look_like

Abortion reducing crime?

Levitt, S. Dubner, S. 2005. *Where have all the criminals gone?* In: Freakonomics. Harper Collins. (Chapter 4)

Psychology of cheating, probability of getting caught. Daniel Ariely:

Our buggy moral code. TED talk:

https://www.ted.com/talks/dan_ariely_on_our_buggy_moral_code

Winter, Harold. 2017. *Issues in Law and Economics*. Chicago University Press. Chicago.

Chapter 10. Are Criminals Rational? Gerry Becker and the Dawn of Rational Crime Analysis.

Polinsky, A. M. Shavell S. 2005. *Economic Analysis of Law*. Working paper/Discussion paper.

Harvard Law School. Stanford Law School. Page 26 – 31. Available online:

https://papers.ssrn.com/sol3/papers.cfm?abstract_id=859406

Lecture 4:

Efficient breach of contract and expectation damages:

Seth Oranburg lecture: *Contract Remedies 3: Efficient Breach*. Youtube video:

<https://www.youtube.com/watch?v=U7yBEpsijt>

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Debora Threedy and Terry Kogan. *Contracts: Expectation Damages*:

<https://www.youtube.com/watch?>

[v=q89hWQI7Q3U&list=PLpbtRdN7xWUfKfRXfbgaPdQZBQSS1n2Vr&index=32](https://www.youtube.com/watch?v=q89hWQI7Q3U&list=PLpbtRdN7xWUfKfRXfbgaPdQZBQSS1n2Vr&index=32)

Winter, Harold. 2017. *Issues in Law and Economics*. Chicago University Press. Chicago.

Chapter 5: Should the Courts Encourage Contractual Breach? *Acme Mills & Elevator Co. v. J.C. Johnson* (1911) and the Economics of Breaking Promises.

Polinsky, A. M. Shavell S. 2005. *Economic Analysis of Law*. Working paper/Discussion paper.

Harvard Law School. Stanford Law School. Page 13 – 21. Available online:

https://papers.ssrn.com/sol3/papers.cfm?abstract_id=859406

Lecture 5:

Dubner, Stephen. Freakonomics Radio Podcast: *Who Decides How Much a Life is Worth?*

Online: <http://freakonomics.com/podcast/kenneth-feinberg/>

Guido Calabresi: *The Place of Torts in Law and Economics: The Significance of the Liability*

Rule. Youtube video: <https://www.youtube.com/watch?v=lGnHgn3rvus>

Torts and Liability: Lindsay Wiley from American University Washington College of Law.

Episode 1.2: *An Overview of Tort Law – Intentional Torts, Negligence, and Strict Liability*.

<https://www.youtube.com/watch?v=f6TUiejBILE> (from 3.56)

Polinsky, A. M. Shavell S. 2005. *Economic Analysis of Law*. Working paper/Discussion paper.

Harvard Law School. Stanford Law School. Page 8 – 13. Available online:

https://papers.ssrn.com/sol3/papers.cfm?abstract_id=859406

Winter, Harold. 2017. *Issues in Law and Economics*. Chicago University Press. Chicago. Chapter 9. Does Malpractice Liability Induce Physicians to Provide *Too Much* Health Care? *Heiling vs. Carey* (1974) and the Economics of Medical Malpractice Law.

Lecture 6:

Crash Course Economics 25: Monopolies and Anti-Competitive Markets:

<https://www.youtube.com/watch?v=Sb-wfmJnHA>

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Crash Course Economics 26: Game Theory and Oligopoly:

<https://www.youtube.com/watch?v=PCcVODWm-oY>

Luís M. B. Cabrall. *Introduction to Industrial Organization*. The MIT Press. Cambridge, Massachusetts. London, England. Chapter 13: *Advertising*. Pages 223 – 236.

Lecture 7:

Polinsky, A. M. Shavell S. 2005. *Economic Analysis of Law*. Working paper/Discussion paper. Harvard Law School. Stanford Law School. Page 2 – 8. Available online: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=859406

Corporate Governance with Professor Jesse Fried, Harvard Law School:

<https://www.youtube.com/watch?v=YIvuCWGPzOI>

Ugly Belgian Houses, Facebook page: <https://www.facebook.com/uglybelgianhouses/>

Winter, Harold. 2017. *Issues in Law and Economics*. Chicago University Press. Chicago. Chapter 1. Should Body Parts be Sellable? *Moore vs. Regents of the University of California* (1990) and the Market for Human Tissue.

Lecture 8:

Thaler. R., Sunstein, C. R. 2008. *Nudge. Improving Decisions About Health, Wealth and Happiness*. New Haven, CT, US: Yale University Press. 20 pages of your own choice.

Thaler, Richard. Nobel Speech 2017, The Sveriges Riskbank Prize in Economic Science:

<https://www.youtube.com/watch?v=ej6cygeB2X0> Kahneman, Daniel: *Why We Make Bad Decisions About Money*. Youtube video:

<https://www.youtube.com/watch?v=Kpev-Lb0EAg>

Stephen J. Dubner: *People aren't dumb. The world is hard*. Freakonomics Radio Podcast. Online:

<http://freakonomics.com/podcast/thaler-rebroadcast/>

Two psychologists that changed the way we look at Economics. Stephen J. Dubner: *The men who started a Thinking Revolution*. Freakonomics Radio Podcast. Online:

<http://freakonomics.com/podcast/men-started-thinking-revolution/>

Expected value means nothing. Errors. Dan Gilbert: *Why we make bad decisions*, TED Talk:

https://www.ted.com/talks/dan_gilbert_researches_happiness

Crash Course Economics 27: Behavioral Economics:

<https://www.youtube.com/watch?v=dqxQ3E1bubI>

Default rules and human choices. Choices that nobody wants matter. Dan Ariely: *Are we control of our own decisions?* TED Talk:

https://www.ted.com/talks/dan_ariely_asks_are_we_in_control_of_our_own_decisions#t-

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Lecture 9:

Nudge and Libertarian Paternalism:

Cass Sunstein: Libertarian Paternalism: *Mental Nudges That Help You Save Time, Lives, and Money*.

<https://www.youtube.com/watch?v=1jrrY2otrJk>

Thaler, R., Sunstein, C. R. 2008. *Nudge. Improving Decisions About Health, Wealth and Happiness*. New Haven, CT, US: Yale University Press. 20 pages of your own choice.

Thaler, Richard. Interview, Youtube video online:

<https://www.youtube.com/watch?v=BWUtLSfb9zs>

A Brief History of Nudge — Learn the power of nudge to win at behavioral change:

<https://www.youtube.com/watch?v=jVTg3ZsNTTY>

David Brooks. *The Nudge Debate*. The New York Times, 8. 8. 2013. Online: <https://www.nytimes.com/2013/08/09/opinion/brooks-the-nudge-debate.html>

Lecture 10:

Naughton, John, The Guardian: *How a 1930s theory explains the economics of the Internet* (R. Coase obituary). Online: <https://www.theguardian.com/technology/2013/sep/08/1930s-theory-explains-economics-internet>

Edelman, Benjamin G. and Geradin, Damien. *An Introduction to the Competition Law and Economics of 'Free'* (August 23, 2018). Forthcoming, Antitrust Chronicle, Competition Policy International . Available at SSRN: <https://ssrn.com/abstract=3238719>

Advertising:

Luis M. B. Cabral. *Introduction to Industrial Organization*. The MIT Press. Cambridge, Massachusetts. London, England. Chapter 13: *Advertising*. Pages 223 – 236.

Winter, Harold. 2017. *Issues in Law and Economics*. Chicago University Press. Chicago. Chapter 4. *Will file-sharing ruin the music industry? AM Records vs. Napster (2001) and the Economics of Copyright Protection*.

Lecture 11:

Any additional readings from Lectures 8 or 9. Student chooses a material that he or she had not chosen before.

Lecture 12:

Any additional readings from Lectures 8 or 9. Student chooses a material that he or she had not chosen before.