

ECONOMIC ANALYSIS OF LAW

Responsible Faculty Instructor:

Aleksei Vorona [92438]

Assistant Professor

Credits: 4

Credits Type: Law

Cross-registration: Allowed

Pre-requisites: No

COURSE DESCRIPTION (COURSE VISION):

In this course, students are initiated into the realm of Law&Economics. We commence with foundational principles, delving into essential concepts like the Coase Theorem, and exploring distinctions between various types of norms such as rules versus standards, property versus liability, mandatory versus defaults, and more. Additionally, we navigate through efficiency concepts to establish a robust understanding.

Subsequently, we advance our exploration by applying economic analysis to diverse legal domains, with a primary emphasis on property law, contract law, and criminal law. Through these applications, students gain insight into the practical implications of economic reasoning within legal frameworks.

By the course's conclusion, students will possess the skills to undertake a basic economic assessment of legal regulations, equipping them with the tools necessary to evaluate legal rules through an economic lens.

Thus, the course aims are:

- a. Develop an appreciation of economic analysis of law among students
- b. Familiarize students with basic economic principles and tools that will help them perform scientific analysis of legal rules
- c. Introduce the terminology, syntax and understanding of often-employed economic principles in the study of various areas in law
- d. Help students identify economic viewpoints in a case or legal doctrine
- e. Enable students to challenge traditional legal solutions of law through application of principles taught in the course
- f. Create an environment of interdisciplinary perspectives to study law
- g. Sensitize students towards competing theories and arguments of efficiency and equity
- h. Introduce statistical, graphical and illustrative studies in the study of law and legal principles, helping students to predict optimal legal solutions to legal problems of property, tort, contract, corporation and competition issues
- i. Help students analyse, formulate and structure their substantive arguments for cases using economic principles
- j. Foster a culture of research by advancing newer concepts in traditional settings
- i. Encourage students in their study of law to delve deeper into matters of social cost and benefit, as well as setting social standards
- l. Help understand formation and selection of optimality in human behavior

- m. Undertake comparative assessment of tort principles across jurisdictions and societies
- n. Equip students with tools to undertake a more rigorous policy analysis and regulatory impact assessment
- o. Develop critical thinking and diverse rational thought to aid informed judgment

This course can be offered to final-year students of the B.A. in Legal Studies – they have taken it in the past and have successfully passed the exams.

TEACHING METHODOLOGY:

As an educator, I believe in creating a learning environment that empowers students to think critically, engage deeply with course material, and develop skills that will serve them throughout their lives. My teaching philosophy is rooted in the principles of active learning, critical thinking, the importance of self-learning, and feedback-driven growth.

This course follows the famous formula of prominent academician Richard P Feynman: “The goal of teaching should not be to help the students learn how to memorise and spit out information under academic pressure. The purpose of teaching is to inspire the desire for learning in students and make them able to think, understand, and question.”

Teaching methods:

1. Socratic method.
2. Active learning methods.
3. Debate methods and techniques.

Suitability to Teach the Course:

I have been interested in Law&Economics since my undergraduate studies, wrote course papers and three master theses on Law&Economics topics. I have a master degree “European Master in Law&Economics” from the University of Hamburg, Ghent University and LUMSA University (Rome). Finally, I have already taught this course twice at JGU.

INTENDED LEARNING OUTCOMES:

Course Intended Learning Outcomes	Weightage in %	Teaching and Learning Activities	Assessment Tasks/ Activities
Analytically and critically describe, explain, and take positions in the main Law&Economics	33.33%	Reading of course texts and other materials, and Research: 1. Students will acquire knowledge	End-of course examination (30% of marks): Students’ ability to join issues in the

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<p>debates pertained to the topics to be covered in this manual.</p>		<p>of the Law&Economics debates, their motivations and implications, pertained to the topics to be covered in this manual (from the core readings and readings students found themselves when doing research).</p> <p>2. Students will be given guidance on their reading and research.</p>	<p>Law&Economics debates; critically engage with the debate, and suggest (not in a comprehensive manner, however) novel approaches to the issues at hand will be tested.</p> <p>Internals (70% of marks for items such as class participation, essays and research papers, presentations, etc.):</p>
<p>Develop proficiency in utilizing economic terminology, principles, and research methods to predict and formulate optimal legal solutions across various legal domains such as property, tort, contract, corporate, and competition law. This includes undertaking rigorous policy analysis and regulatory impact assessments.</p>	<p>33.33%</p>	<p>Students will give presentations and participate in debates on selected topics in which they will scrutinize, analyse and evaluate issues and concerns.</p>	<p>Students will be required to write essays, make presentations on problems / reading materials allotted to them and all students will be required to contribute to in-class discussions whether they are making a presentation or not.</p>
<p>Develop advanced critical thinking abilities, enabling them to conduct comparative assessments of legal principles across different jurisdictions and</p>	<p>33.33%</p>	<p>Responses to instructor’s and classmates questions and performing instructor’s exercises:</p> <p>Students will, by responding to questions and performing exercises given by instructor,</p>	<p>Students’ ability to research, analyze and resolve problems, and communicate solutions orally will be tested.</p>

Course Intended Learning Outcomes	Weightage in %	Teaching and Learning Activities	Assessment Tasks/ Activities
societies. They will be sensitive to and able to evaluate competing theories of efficiency and equity, contributing to a culture of informed judgment and innovative research in the field of law.		develop their analytical and critical capabilities.	

READING LIST (upto 10 select readings):

1. Cooter, Robert and Thomas Ulen, Law and Economics, Pearson Education, 2016 [Selected Chapters]
2. Mathis, Klaus, Efficiency Instead Of Justice? Searching for the Philosophical Foundations of the Economic Analysis of Law. Law and Philosophy Library 84. Springer Science+Business Media B.V. 2009. [Selected Pages]
3. Korobkin, Russell / Ulen, Thomas, Law and Behavioral Science: Removing the Rationality Assumption from Law and Economics. California Law Review. Vol. 88. 2000.
4. John Bronsteen, Christopher Buccafusco, and Jonathan S. Masur, Well-Being Analysis vs. Cost-Benefit Analysis, 62 Duke Law Journal 1603-1689 (2013).
5. Klick, Jonathan / Mitchell, Gregory, Government Regulation of Irrationality: Moral and Cognitive Hazards. 90 Minnesota Law Review. 2005–2006.
6. Akerlof, George A. "The Market for" Lemons": Quality Uncertainty and the Market Mechanism." (1978). The Quarterly Journal of Economics 84(3): 488-500.
7. Dahlman, Carl J. (1972). "The problem of externality." The Journal of Law and Economics 22(1): 141-162.
8. 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.
9. Louis Kaplow, Rules Versus Standards: An Economic Analysis, 42 Duke L.J. 557 (1992).
10. Demsetz, Harold (1967) "Towards a Theory of Property Rights," American Economic Review 57: 347-359

WEEKLY READING PLAN (WEEKLY OUTLINE):

A weekly plan is provided below:

MODULES	WEEK(S)
MODULE 1: INTRODUCTION TO L&E AS A SCIENCE	1

<p>Module Description: Intro to economic analysis of law and its importance in contemporary scholarship of both law and economics:</p> <ol style="list-style-type: none"> a. Why do we need to study this subject? b. What has been its contribution to the development and growth of legal structures around the world? c. How economic principles have frequently intervened in legal theories, principles, and judgments? <p>Readings:</p> <ul style="list-style-type: none"> - Cooter, Robert and Thomas Ulen Law and Economics, Pearson Education: Chapter 1 (pages 1-10) and Chapter 2, sections I – VI (pages 11-33). - Mathis, Klaus, Efficiency Instead Of Justice? Searching for the Philosophical Foundations of the Economic Analysis of Law. Law and Philosophy Library 84. Springer Science+Business Media B.V. 2009. [Selected Pages] 	
<p>MODULE 2: CORE CONCEPTS</p> <p>Module Description:</p> <ul style="list-style-type: none"> - Theories of economic efficiency - Rational choice theories - Differences in approaches: Behavioral vs Classic Law&Economics <p>Readings:</p> <ul style="list-style-type: none"> - Korobkin, Russell / Ulen, Thomas, Law and Behavioral Science: Removing the Rationality Assumption from Law and Economics. California Law Review. Vol. 88. 2000. [Selected Pages] - Mitchell, Gregory, "Why Law and Economics' Perfect Rationality Should Not Be Traded for Behavioral Law and Economics' Equal Incompetence." Georgetown Law Journal, vol. 91, no. 1, November 2002, p. 67-90. HeinOnline. 	<p>2</p>
<p>MODULE 3: CORE METHODS</p> <p>Module Description:</p> <ul style="list-style-type: none"> - Cost-Benefit analysis - Well-Being analysis - Welfare analysis - Risks and hazards of regulation <p>Readings:</p> <ul style="list-style-type: none"> - John Bronsteen, Christopher Buccafusco, and Jonathan S. Masur, Well-Being Analysis vs. Cost-Benefit Analysis, 62 Duke Law Journal 1603-1625 (2013). - Klick, Jonathan / Mitchell, Gregory, Government Regulation of Irrationality: Moral and Cognitive Hazards. 90 Minnesota Law Review. 2005–2006. [Selected Pages] 	<p>3</p>

<ul style="list-style-type: none"> - Akerlof, George A. "The Market for" Lemons": Quality Uncertainty and the Market Mechanism." (1978). The Quarterly Journal of Economics 84(3): 488-500. 	
<p>MODULE 4: Game Theory, Market Failure & Legal intervention</p> <p>Module Description:</p> <ul style="list-style-type: none"> - What constitutes market power? - How to deal with externalities? - Information asymmetry: any way out? <p>Readings:</p> <ul style="list-style-type: none"> - Cooter, Robert and Thomas Ulen Law and Economics, Pearson Education: Chapter 2, section IX (pp 37-43) - Jackson, Matthew O., A Brief Introduction to the Basics of Game Theory (December 5, 2011). - Dahlman, Carl J. (1972). "The problem of externality." The Journal of Law and Economics 22(1): 141-162. 	4
<p>MODULE 5: CORE CONCEPTS</p> <p>Module Description:</p> <ul style="list-style-type: none"> - The theory of social costs - The concept of transaction costs - Rules vs standarts - Property vs liability rules - Altering rules <p>Readings:</p> <ul style="list-style-type: none"> - Cooter, Robert and Thomas Ulen Law and Economics, Pearson Education: Chapter 4, Sections I – IV (pages 70 - 94), Chapter 8, Sections I – II (pages 276 - 287). - 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. - Louis Kaplow, Rules Versus Standards: An Economic Analysis, 42 Duke L.J. 557 (1992). [Selected Pages] - Ayres, Ian (2011). "Regulating opt-out: An Economic Theory of Altering rules." Yale Law Journal 121: 2032. [Selected Pages] 	5-6
<p>MODULE 6: ECONOMIC ANALYSIS OF PROPERTY LAW</p> <p>Module Description:</p> <ul style="list-style-type: none"> - Classyfing goods - Dealing with externalities - Theory of property rights - Copyrights and their optimal duration - Adverse possession <p>Readings:</p>	7-8

<ul style="list-style-type: none"> - Cooter, Robert and Thomas Ulen Law and Economics, Pearson Education: Chapter 4, Sections V-VIII, (pages 70-109), Chapter 5, Section I (pages 112-142). - Demsetz, Harold (1967) "Towards a Theory of Property Rights," American Economic Review 57: 347-359 - Bouckaert, Boudewijn and Ben W.F. Depoorter "Adverse Possession: Title System" Encyclopedia of Law and Economics [Selected Pages] - Chamberlain, Craig. "Tailoring Copyright Duration." (2016). Lewis & Clark Law Review 20: 303-332. 	
<p>MODULE 7: ECONOMIC ANALYSIS OF TORT LAW</p> <p>Module Description:</p> <ul style="list-style-type: none"> - Basic Model - Strict Liability v. Negligence - Untaken Precaution and Efficient Standard Formation - Causation - Liability of Firms - Insurance <p>Readings:</p> <ul style="list-style-type: none"> - Cooter, Robert and Thomas Ulen Law and Economics, Pearson Education [Ch 8,9 selected pages] - Shavell, Steven "Economic Analysis of Accident Law," NBER Working Paper 9694; part of Foundations of Economic Analysis of Law: Part One – Accident Law; Ch. 6. - Kahan, Marcel (1989) "Causation and Incentives to Take Care under the Negligence Rule," Journal of Legal Studies, 18: 427-447 - Grady, Mark F. (1989) "Untaken Precautions," Journal of Legal Studies, 18: 139-156 	<p>9-10</p>
<p>MODULE 8: ECONOMIC ANALYSIS OF CONTRACT LAW</p> <p>Module Description:</p> <ul style="list-style-type: none"> - Law and Economic Approach to Contract Theory - Long term and relational contracts - Franchise Contracts - Filling the gaps - Default Rules - Information Scope Liability <p>Readings:</p> <ul style="list-style-type: none"> - Cooter, Robert and Thomas Ulen Law and Economics, Pearson Education [Ch 6,7 selected pages] - Ayres, Ian and Robert Gertner (1989) "Filling Gaps in Incomplete Contracts: An Economic Theory of Default Rules", Yale Law Journal, 99: 87-130 - Hviid, Morten "Long Term Contracts and Relational Contracts", Encyclopedia of Law and Economics 	<p>11-13</p>

<ul style="list-style-type: none">- Williamson, Oliver E. (1979) "Transaction Cost-Economics: The Governance of Contractual Relations," <i>Journal of Law and Economics</i>, 22: 233-261- Shavell, Steven "Economic Analysis of Contract Law," Discussion Paper 403 – 02/2003, Harvard Law School, part of <i>Foundations of Economic Analysis of Law: Part Three</i> [selected pages]- Collins, Hugh, <i>Distributive Justice Through Contracts</i>, 45 <i>CURRENT LEGAL PROBS.</i> 1992. [selected pages]	
REVISION WEEK	Week 14