

Law and Economics

Masaryk University

Fall 2014

Josef Montag

josef.montag@mendelu.cz

sites.google.com/site/josefmontag

1. Course description

Law and Economics is---from the economist's point of view---microeconomics applied to legal phenomena, i.e. it analyzes incentives and behavior under alternative legal rules. This is a narrow definition but captures a lot of the essence of what the field is about. Put more broadly, it is a study of rules and institutions from the efficiency and social welfare point of view. It seems that Law and Economics is a dominating theory of law, at least in the US. There is also a vibrant community in Europe with main centers being Hamburg, Rotterdam, and Bologna.

The course will cover basic concepts and models of economic analysis of law with main focus on three core areas: property, accidents, and crime. Apart from textbook material, we will discuss some seminal papers as well as more recent (mostly empirical) ones.

2. Course objectives

Students will obtain a general overview of the field of Law and Economics. They will learn basic concepts and theories, read seminal papers, learn about influential authors, as well as receive a sample of more recent research papers in the field. Most importantly, students should be able to apply those concepts to real problems and use them in analyzing rules and cases.

3. Prerequisites

Working knowledge of intermediate-level microeconomics and related technical tools (constrained optimization) level is assumed. Wherever necessary, micro tools may be re-introduced so that no-one is left behind. All literature is in English, so you should have

appropriate reading skills (and time, if you are a slow reader like me). No prior training in law is required; relevant legal concepts will be introduced and discussed in class or covered in reading material. Some acquaintance with econometrics may be helpful, but is not essential.

Course material should be accessible to MA-level students. PhD students are welcome as well as advanced BA students, especially those considering writing their thesis on a related topic.

4. Methods

a. Classes

Concepts and basic theory will be introduced in lectures and we will then look at more specific topics during seminars. Active participation in lectures as well as seminars is encouraged.

b. Readings

Lectures and seminars complement assigned literature, not *vice versa*. That is, reading material beyond what was explicitly covered in class may be assigned. For seminars, knowledge of lectured material and assigned reading will be assumed.

The textbook is Cooter and Ulen (2013, henceforth CU). Older editions can be used. If necessary, relevant sections will be distributed. A big book is Posner, Richard A., 2010, *Economic Analysis of Law*, 8th ed., Aspen Publishers and you may find it useful for a reference. Other readings are available on the Internet or via library databases (e.g. JSTOR), else they will be distributed.

c. Problem sets

There will be two take-home problem sets. Working in groups is encouraged, but everyone turns in his/her own solution. We will then work the solutions out in class.

d. Court case analysis

We will create groups of about three students. The task will be to find an interesting court case and analyze it as economists. This will require some background research of the relevant literature. The group should produce a short paper containing summary of the case and the analysis. This paper will be read by another group, which should provide you with feedback. We will then discuss your case in class.

5. Evaluation

a. Class participation - 20 points

b. Problem sets (take home) - 20 points

c. Court case analysis - 20 points

Equal number of points will be assigned to each group member unless the group indicates each member's contribution.

d. Final test - 40 points

A 90-minute open-book test containing, couple questions requiring short answer and 2 to 3 questions requiring a short essay-like answer.

You can bring any material as long as it on paper---that is no electronic devices are allowed.

Problem sets should give you a general idea of what to expect in the exam.

e. Final grade will be given based on student's relative performance.

6. Notes on participation and course flexibility

Class participation is most welcome and encouraged. If you feel something is not clear to you, it is very likely you are not the only one. You should know what Prisoners' dilemma is, so try not to fit it's predictions. Just ask the question.

Learning is thinking. Nothing said in class (or written in the textbook) is to be taken as dogma. If you have doubts, raise them.

The course is for you. Suggestions are welcome and I will try accommodate them.

7. Course outline

(Class-time spent on each topic in parentheses: 1 equals 90 minutes)

The textbook chapters should be complementary to classroom notes. Asterisked readings are those discussed in class.

1. Economics and law -- the relationship (2)

CU chap. 1.

*Coase, Ronald. 1960. "The Problem of Social Cost." *Journal of Law and Economics* 3: 1--44.

*Calabresi, Guido, and A. Douglas Melamed. 1971. "Property Rules, Liability Rules, and Inalienability: One View of the Cathedral." *Harvard Law Review* 85: 1089--1128.

Posner, Richard A. 1998. "Values and Consequences: An Introduction to Economic Analysis of Law." John M. Olin Law & Economics Working Paper no. 53. Law School, University of Chicago.

2. Accidents (4)

CU chap. 6 and 7.

*Alberini, Anna, Milan Scasny, Marketa Braun Kohlova, and Jan Melichar. 2006. "The Value of a Statistical Life in the Czech Republic: Evidence from a Contingent Valuation Study." In *Valuation of Mortality Risk Attributable to Climate Change: Investigating the Effect of Survey Administration Modes on a VSL*, ed. Bettina Menne and Kristie L. Ebi. Darmstadt, Germany: Steinkopff. Available at <http://alturl.com/pwhja>.

Brown, J. P. 1973. "Toward an Economic Theory of Liability." *Journal of Legal Studies* 2: 323--349.

Elinder, Mikael, and Oscar Erixson. 2012. "Gender, Social Norms, and Survival in Maritime Disasters." *Proceedings of the National Academy of Sciences* 109: 13133--13466.

Kaplow, Louis, and Steven Shavell. 1996. "Property Rules versus Liability Rules: An Economic Analysis." *Harvard Law Review* 109: 713--790

*Lavetti, Kurt. 2013. "The Estimation of Compensating Differentials and Preferences for Occupational Fatality Risk". Working paper, Ohio State University. Available at http://www.kurtlavetti.com/DLS_vc.pdf.

*Schaefer, Hans-Bernd. "Compensation for Pain and Suffering" (distributed internally).

Shavell, Steven. 1980. "Strict Liability Versus Negligence." *Journal of Legal Studies* 9: 1--25.

*Shavell, Steven. 1984. "Liability for Harm versus Regulation of Safety." *Journal of Legal Studies* 13: 357--374.

3. Solving the problem set (1)

4. Property (3)

CU chap. 4 and 5.

*Acemoglu, Daron, Simon Johnson, and James A. Robinson. "The Colonial Origins of Comparative Development: An Empirical Investigation." *American Economic Review* 91: 1369--1401.

*Galiani, Sebastian, Paul Gertler, and Ernesto Schargrotsky. 2005. "Water for Life: The Impact of the Privatization of Water Services on Child Mortality." *Journal of Political Economy* 113: 83--120.

*Demsetz, H. 1967. "Toward a Theory of Property Rights." *American Economic Review* 57: 347--359.

*Hardin, Garrett. 1968. "The Tragedy of the Commons." *Science* 162: 1243--1248.

5. Crime and punishment (1)

CU chap 12 and 13.

Becker, Gary S. 1968. "Crime and Punishment: An Economic Approach." *Journal of Political Economy* 76: 169—217.

Di Tella, Rafael, and Ernesto Schargrotsky. 2004. "Do Police Reduce Crime? Estimates Using the Allocation of Police Forces after a Terrorist Attack." *American Economic Review* 94: 115--133.

Donohue III, John J., and Steven D. Levitt. 2001. "The Impact of Legalized Abortion on Crime." *Quarterly Journal of Economics* 116: 379--420.

Kahan, D. M. "What Do Alternative Sanctions Mean?" *The University of Chicago Law Review* 63: 591--653.

*Montag, J. 2013. "A Radical Change in Traffic Law: Effects on Road Safety in the Czech Republic." CERGE-EI Working Paper no. 484, The Center for Economic Research and Graduate Education - Economic Institute, Prague.

*Montag, Josef, and Tomáš Sobek. 2013. "Should Paris Hilton Receive a Lighter Prison Sentence Because She's Rich? Evidence from a Survey Experiment." Available at <http://ssrn.com/abstract=2329379>.

*Montag, Josef. A model of traffic law enforcement. (distributed internally).

Piff, Paul K., Daniel M. Stancato, Stéphane Côté, Rodolfo Mendoza-Denton, and Dacher Keltner. 2012. "Higher Social Class Predicts Increased Unethical Behavior." *Proceedings of the National Academy of Sciences* 109: 4086--409.

Posner, Richard A. "An Economic Theory of the Criminal Law." *Columbia Law Review* 85: 1193—1231.

Tsebelis, George. 1989. "The Abuse of Probability in Political Analysis: The Robinson Crusoe Fallacy." *American Political Science Review* 83: 77--91.

6. Students' cases presentation and discussion (1)