“To me the most interesting aspect of the law and economics movement has been its aspiration to place the study of law on a scientific basis, with coherent theory, precise hypotheses deduced from the theory, and empirical tests of the hypotheses. Law is a social institution of enormous antiquity and importance, and I can see no reason why it should not be amenable to scientific study. Economics is the most advanced of the social sciences, and the legal system contains many parallels to and overlaps with the systems that economists have studied successfully.” Richard Posner

“Once [judges] must deal with scarcity, they must deal with economics. They may discharge this obligation expressly or by implication, well or poorly, but deal with it they will ... Hopes for a better society do not justify unreflective treatment of the tradeoffs we must make in a world of scarcity.” Frank Easterbrook

Law and Economics (L&E), a short name for Economic Analysis of Law, is the field of Economics that analyzes the legal system with two purposes: First, a normative purpose which consists of devising laws that induce an efficient allocation of resources. Second, a positive purpose which consists of analyzing the reaction of consumers and firms to changes in the law. Both approaches use microeconomics as the tool to analyze the legal system.

At the heart of L&E lie two ideas: First, laws generate explicit or implicit prices; and, second, consumers and firms take these laws as given and attempt to maximize their utility or profit. From these two ideas, two other ideas follow: First, a necessary condition for a socially-efficient allocation of resources is the existence of laws that generate “correct” prices; and, second, microeconomics can (and should) be used to analyze the reaction of consumers and firms to changes in the law. In short, L&E plausibly assumes that consumers and firms react to changes in the legal system, and that such reactions must be taken into account in the design of optimal laws, which, in turn, must appropriately balance all costs and benefits.

This 18-hour introductory course analyzes, from an economic point of view, different aspects of four core areas of the law, namely, property, contracts, torts, and crime. As an example, consider the following questions: Why do restaurants have smoking and non-smoking sections? Why do courts should not revoke voluntary but “unfair” contracts? Why are car manufacturers hit from time to time with damages worth hundreds of millions of dollars? Why do many countries have been experimenting with income-based fines? A tentative list of topics to be discussed is outlined below. Knowledge of microeconomics and the legal system are not necessary; the course is self-contained in this respect.
I- INTRODUCTION

♦ Irrelevance of the difference between legal systems
♦ Definition, premises, and implications of L&E
♦ Positive and normative approaches in L&E
♦ Pioneering work in L&E
♦ A preliminary application to current issues

II- PROPERTY

♦ The need for property rights
♦ Allocation of property rights: The Coase theorem
♦ Critiques, extensions, and the modern restatement of the Coase theorem
♦ Remedies: Compensatory damages and injunctions
♦ Cases and applications

III- CONTRACTS

♦ The need for contracts
♦ The economic approach: The perfect contract
♦ Imperfect contracts: Formation defenses and performance excuses
♦ Remedies for breach of contract
♦ Cases and applications

IV- TORTS

♦ The need for liability rules
♦ Differences between liability rules and property rights
♦ Liability rules
♦ The economic approach: Optimal activity and precaution
♦ Cases and applications

V- CRIME

♦ Differential characteristics of criminal law
♦ Economic approach to criminal and social behavior
♦ The economic approach: Criminal behavior, social behavior, and optimal punishment
♦ Empirical evidence, cases, and applications
LAW AND ECONOMICS
REFERENCES

• TEXTBOOKS:

I- INTRODUCTION

♦ Cooter and Ulen (1997), chapter 1.


II- PROPERTY

♦ Cooter and Ulen (1997), chapters 4 and 5.


III- CONTRACTS

♦ Cooter and Ulen (1997), chapters 6 and 7.


IV- TORTS

♦ Cooter and Ulen (1997), chapters 8 and 9.


V- CRIME

♦ Cooter and Ulen (1997), chapters 11 and 12.


