

Preface

Teaching the essentials of law and economics – preliminary teaching notes

This book is about teaching essential areas of law and economics. Its chapters examine useful guidance concerning practices in teaching the economic analysis of property rights, nuisance, general torts, contracts, and criminal law. These areas typically crop up in law and economics courses taught in law schools, economics departments, and business schools. Sufficient material is provided to cover the main points, but scope exists in each chapter for students to actively research some of the class subject matter.

The teaching material is based on core economic analysis of law topics drawn from a sister text, the author's *Principles of Law and Economics* (though the current volume can be used with any relevant text), with some additional exercises, simplifications, and cases. Here, the emphasis is on *essentials* and a guide to teaching given alongside the minimum material needed in a law and economics course pitched at university seniors in economics majors, and at law students likely to have only a slight acquaintance with economic analysis. The book does not claim to provide a list of compulsory teaching practices or materials but rather to present coherent approaches that will help students and lecturers alike.

One strong reason for producing the book is that both economics and legal teaching traditions are largely traditional chalk and talk. In colleges and universities, faced with an increasingly less well-prepared student body, administrators are emphasizing student-centered teaching and learning. This book provides material enabling a modernized approach likely to fit in with campus trends.

USING *ESSENTIALS*

The text is a minimal course plus a guide. That is, the lecturer can check planned teaching against the practices advocated in the text and cases that others have found to be useful. It is important to understand the level at which statistics and theoretical modeling can be used, and to learn about policy applications by law and economics practitioners.

Although there is no substantial literature on teaching law and economics, some current resources may be found in the following:

Global Jurist article (Kimakova, 2008) on developing critical thinking at <https://www.degruyter.com/view/j/gj.2008.8.2/gj.2008.8.2.1264/gj.2008.8.2.1264.xml>.

Encyclopedia of Law and Economics, Vol. 10. Methodologies of Law and Economics (Ulen, 2017), Elgar's own handbook on perspectives at <https://www.e-elgar.com/shop/methodologies-of-law-and-economics>.

The Economics Network's teaching resources for university economics at <https://www.economicsnetwork.ac.uk/law>.

The University of Chicago Law School discussion blog at <https://www.law.uchicago.edu/news/future-law-and-economics-essays-ten-law-school-scholars>.

Yale Law & Policy Review (McCluskey, Pasquale, and Taub, 2016), at <https://ylpr.yale.edu/law-and-economics-contemporary-approaches>.

There is no concise guidebook examining practical examples from across the law and economics fields and drawing out the intellectual impact of examples for students. This guide provides such a resource and should be read as complementary to other relevant texts, such as my lengthier and greater scoped *Principles of Law and Economics* (Dnes, 2018, henceforth *Principles*) or Elgar's *Encyclopedia of Law and Economics* (henceforth *Encyclopedia*), which is divided into separate volumes reflecting areas of interest.

FEATURES

The first chapter briefly discusses introducing students to law and economics as a distinct subdiscipline using cases and examples drawn from criminal, contract, tort, and property law. The subsequent chapters examine each of these core areas with selected detailed cases and applied economics results. Key theory points are identified along with simple game theory, and student exercises are provided.

APPROACHES

The underlying intellectual approach uses the tools of economics to study the operation, incentive structures, and improvability of legal theories, institutions – “rules of the game” in the terms of North (1990) – and procedures. The book is based on applied institutional economics. The analytical methodology remains largely that of neoclassical economics, here simplified as far as possible and applied to understand the detailed workings of institutional matters. A unifying theme is the discovery of social cost minimization (the cost of harm plus the cost of controlling harm) in all areas of the law. The guide is based largely on common law jurisdictions, particularly in the US but also in the UK and Commonwealth countries, reflecting the history of law and economics. Some examples are drawn from civilian jurisdictions because there is growing interest in law and economics in Germany, Italy, and France in particular.

Teaching guides to particular areas, class exercises, and examples are encapsulated in boxes throughout the text. These boxes also serve to direct student attention to common difficulties and important examples. The idea is that the text can be both a guide for the lecturer and an essentials text for the student. Each chapter ends with extensive further notes on the literature.

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January 2020