

Posner Economic Analysis Of Law

Part I describes the promise and premises of economic analysis of law. Covers the scope of the economic approach and analyzes the neoclassical model; the limitations of the welfare concept and draws the distinction between the mainstream position advocated by R.A. Posner and that of its critic Calabresi. Also discusses the application of economic reasoning to the core common law doctrines -- property rights, contracts, torts and procedure. Part II deals with the economics of information and its implications for the economic analysis of law. Discusses the role of information in the economic worldview, both as a commodity and as a capital asset; the terms of the information trade-off; the information problems manifesting in the model -- as those aimed at acquiring information (search) and those designed to reduce the lack of information (risk-bearing). Concludes that information forms a useful refinement for economic analysis of law.

This text for students of law and economics concentrates on the progress of scholarship in the field. Concrete applications are emphasized over abstract theory in the book.

This book is an exemplary multi-disciplinary and multi-institutional study of contemporary Chinese law. A collective effort by a group of European and Chinese scholars, it skillfully tests the relationships between law and economics in the Chinese context. The China Journal This is an extremely valuable collection of essays on modern Chinese law viewed through the lens of the law and economics movement. China is developing very rapidly and law is now understood to provide the essential framework for economic development provided the law itself is economically rational. The essays in this volume are excellent examples of how economics can be used to clarify and guide the law applicable to the essential dimensions of the economy. I recommend it wholeheartedly and without reservations. Richard A. Posner, United States Court of Appeals for the Seventh Circuit and University of Chicago Law School, US This book brings together important applications of law and economics to China and covers a wide range of issues, including such basic concerns as property rights, intellectual property, and taxation, as well as competition law and corporate and securities law. Because of its breadth of coverage, its focus on the particulars of Chinese law, and the expertise of its scholars both Western and Chinese it should serve as a valuable reference work for years to come. Steven Shavell, Harvard Law School, US This book is an important step toward a Chinese scholarship in law and economics, written by leading law and economics researchers from China and Europe. Hans-Bernd Schaefer, Universität Hamburg, Germany In China everything is different, you cannot apply ordinary economics and the legal framework is idiosyncratic. In the course of time, such statements turned out to be prejudices, and the Eger/ Faure/ Zhang volume makes perfectly clear that, for instance, a law and economics approach can shed new light into the intricacies and complexities of Chinese institutional arrangements. Indeed, China creates new puzzles for economic and legal analysis. On the other hand, however, the Chinese need not invent the wheel anew and they do not try it. The book shows instances where a sophisticated law and economics approach can help to develop the legal framework which is appropriate for the transition from a planned into a market economy. The Chinese economic system is not (yet) a normal capitalist market economy, neither is the legal system adapted to a normal private property economy. Nevertheless the chapters of the book apply fruitfully law and economics theories and thus prove their general applicability. One of the outstanding achievements of the volume can be seen in the fact that it recruited more than half of its contributors with a Chinese background. They learn eagerly western approaches and they learn fast. And, of course, they have no problems with understanding Chinese culture and society. So the book combines most profitably the look from the outside and the look from within with a common theoretical framework. Hans-Jürgen Wagener, Europa Universität Viadrina, Germany This book comprises contributions on recent developments in China from a law and economics perspective. For the first time Chinese and European scholars jointly discuss some important attributes of China's legal and economic system, and some recent problems, from this particular viewpoint. The authors apply an economic analysis of law not only to general characteristics of China's social order, such as the specific type of federal competition, the efficiency of taxation and regulation, and the importance of informal institutions (Guanxi), but also to distinct areas of Chinese law such as competition policy, professional regulation, corporate governance and capital markets, oil pollution, intellectual property rights and internet games. The contributors discuss to what extent the law and economic models that have so far been employed within the context of development. When it was first published a quarter of a century ago, Richard Posner's exposition and defense of an economic approach to antitrust law was a jeremiad against the intellectual disarray that then characterized the field. As other perspectives on antitrust law have fallen away, Posner's book has played a major role in transforming the field of antitrust law into a body of economically rational principles largely in accord with the ideas set forth in the first edition. Today's antitrust professionals may disagree on specific practices and rules, but most litigators, prosecutors, judges, and scholars agree that the primary goal of antitrust laws should be to promote economic welfare, and that economic theory should be used to determine how well business practices conform to that goal. In this thoroughly revised edition, Posner explains the economic approach to new generations of lawyers and students. He updates and amplifies his approach as it applies to the developments, both legal and economic, in the antitrust field since 1976. The "new economy," for example, has presented a host of difficult antitrust questions, and in an entirely new chapter, Posner explains how the economic approach can be applied to new industries such as software manufacturers, Internet service providers, and those that provide communications equipment and services. "The antitrust laws are here to stay," Posner writes, "and the practical question is how to administer them better-more rationally, more accurately, more expeditiously, more efficiently." This fully revised classic will continue to be the standard work in the field.

This book takes a fresh look at the most dynamic area of American law today, comprising the fields of copyright, patent, trademark, trade secrecy, publicity rights, and misappropriation. Topics range from copyright in private letters to defensive patenting of business methods, from moral rights in the visual arts to the banking of trademarks, from the impact of the court of patent appeals to the management of Mickey Mouse. The history and political science of intellectual property law, the challenge of digitization, the many statutes and judge-made doctrines, and the interplay with antitrust principles are all examined. The treatment is both positive (oriented toward understanding the law as it is) and normative (oriented to the reform of the law). Previous analyses have tended to overlook the paradox that expanding intellectual property rights can effectively reduce the amount of new intellectual property by raising the creators' input costs. Those analyses have also failed to integrate the fields of intellectual property law. They have failed as well to integrate intellectual property law with the law of physical property, overlooking the many economic and legal-doctrinal parallels. This book demonstrates the fundamental economic rationality of intellectual property law, but is sympathetic to critics who believe that in recent decades Congress and the courts have gone too far in the creation and protection of intellectual property rights. Table of Contents: Introduction 1. The Economic Theory of Property 2. How to Think about Copyright 3. A Formal Model of Copyright 4. Basic Copyright Doctrines 5. Copyright in Unpublished Works 6. Fair Use, Parody, and Burlesque 7. The Economics of Trademark Law 8. The Optimal Duration of Copyrights and Trademarks 9. The Legal Protection of Postmodern Art 10. Moral Rights and the Visual Artists Rights Act 11. The Economics of Patent Law 12. The Patent Court: A Statistical Evaluation 13. The Economics of Trade Secrecy Law 14. Antitrust and Intellectual Property 15. The Political Economy of Intellectual Property Law Conclusion Acknowledgments Index Reviews of this book: Chicago law professor William Landes and his polymath colleague Richard Posner have produced a fascinating new book...[The Economic Structure of Intellectual Property Law] is a broad-ranging analysis of how intellectual property should and does work...Shakespeare's copying from Plutarch, Microsoft's incentives to hide the source code for Windows, and Andy Warhol's right to copyright a Brillo pad box as art are all analyzed, as is the question of the status of the all-bran cereal called 'All-Bran.' --Nicholas Thompson, New York Sun Reviews of this book: Landes and Posner, each widely respected in the intersection of law and economics, investigate the right mix of protection and use of intellectual property (IP)...This volume provides a broad and coherent

approach to the economics and law of IP. The economics is important, understandable, and valuable. --R. A. Miller, Choice Intellectual property is the most important public policy issue that most policymakers don't yet get. It is America's most important export, and affects an increasingly wide range of social and economic life. In this extraordinary work, two of America's leading scholars in the law and economics movement test the pretensions of intellectual property law against the rationality of economics. Their conclusions will surprise advocates from both sides of this increasingly contentious debate. Their analysis will help move the debate beyond the simplistic ideas that now tend to dominate. --Lawrence Lessig, Stanford Law School, author of *The Future of Ideas: The Fate of the Commons in a Connected World* An image from modern mythology depicts the day that Einstein, pondering a blackboard covered with sophisticated calculations, came to the life-defining discovery: $E = mc^2$. Landes and Posner, in the role of that mythological Einstein, reveal at every turn how perceptions of economic efficiency pervade legal doctrine. This is a fascinating and resourceful book. Every page reveals fresh, provocative, and surprising insights into the forces that shape law. --Pierre N. Leval, Judge, U.S. Court of Appeals, Second Circuit The most important book ever written on intellectual property. --William Patry, former copyright counsel to the U.S. House of Representatives, Judiciary Committee Given the immense and growing importance of intellectual property to modern economies, this book should be welcomed, even devoured, by readers who want to understand how the legal system affects the development, protection, use, and profitability of this peculiar form of property. The book is the first to view the whole landscape of the law of intellectual property from a functionalist (economic) perspective. Its examination of the principles and doctrines of patent law, copyright law, trade secret law, and trademark law is unique in scope, highly accessible, and altogether greatly rewarding. --Steven Shavell, Harvard Law School, author of *Foundations of Economic Analysis of Law*

The Law and Economics approach to law dominates the intellectual discussion of nearly every doctrinal area of law in the United States and its influence is growing steadily throughout Europe, Asia, and South America. Numerous academics and practitioners are working in the field with a flow of uninterrupted scholarship that is unprecedented, as is its influence on the law. Academically every major law school in the United States has a Law and Economics program and the emergence of similar programs on other continents continues to accelerate. Despite its phenomenal growth, the area is also the target of an ongoing critique by lawyers, philosophers, psychologists, social scientists, even economists since the late 1970s. While the critique did not seem to impede the development of the field, it certainly has helped it to become more sophisticated, inclusive, and mature. In this volume some of the leading scholars working in the field, as well as a number of those critical of Law and Economics, discuss the foundational issues from various perspectives: philosophical, moral, epistemological, methodological, psychological, political, legal, and social. The philosophical and methodological assumptions of the economic analysis of law are criticized and defended, alternatives are proposed, old and new applications are discussed. The book is ideal for a main or supplementary textbook in courses and seminars on legal theory, philosophy of law, jurisprudence, and (of course) Law and Economics. The economic analysis of legal and regulatory issues need not be limited to the neoclassical economic approach. The expert contributors to this work employ a variety of heterodox legal-economic theories to address a broad range of legal issues. They demonstrate how these various approaches can lead to very different conclusions concerning the role of the law and legal intervention in a wide array of contexts. The schools of thought and methodologies represented here include institutional economics, new institutional economics, socio-economics, social economics, behavioral economics, game theory, feminist economics, Rawlsian economics, radical economics, Austrian economics, and personalist economics. The legal and regulatory issues examined include anti-trust and competition, corporate governance, the environment and natural resources, land use and property rights, unions and collective bargaining, welfare benefits, work-time regulation and standards, sexual harassment in the workplace, obligations of employers and employees to each other, crime, torts, and even the structure of government. Each contributor brings a different emphasis and provides thoughtful, sometimes provocative analysis and conclusions. Together, these heterodox insights will provide valuable supplementary reading for courses in law and economics as well as public policy and business courses at both the graduate and undergraduate levels.

An intellectual history of law and economics : 1793-2003 / Charles K. Rowley -- Methodological debates in law and economics : the changing contours of a discipline / Francesco Parisi -- The fire of truth : a remembrance of law and economics at Chicago, 1932-1970 / edited by Edmund W. Kitch -- The economic way of looking at behavior / Gary S. Becker -- Cost, choice, and catallaxy : an evaluation of two related but divergent Virginia paradigms / James M. Buchanan -- The pointlessness of Pareto : carrying Coase further / Guido Calabresi -- The relevance of transaction costs in the economic analysis of law / Ronald H. Coase -- The confluence of justice and efficiency in the economic analysis of law / Robert D. Cooter -- Toward a theory of property rights II : the competition between private and collective ownership / Harold Demsetz -- The economist in spite of himself / Richard A. Epstein -- The art of law and economics : an autobiographical essay / William M. Landes -- How law and economics was marketed in a hostile world : a very personal history / Henry G. Manne -- The law and economics movement : from Bentham to Becker / Richard A. Posner -- The rise of law and economics : a memoir of the early years / George L. Priest -- Why was the common law efficient? / Paul H. Rubin -- Law versus morality as regulators of conduct / Steven Shavell -- Journeys across the divides / Michael J. Trebilcock -- The case against the common law / Gordon Tullock -- Why law, economics, and organization? / Oliver E. Williamson. The author of more than 50 books and 150 articles, Richard Posner is one of the most cited legal scholars of the 20th century. His sometimes controversial views are incredibly complex, but are unified by the use of economics to analyze law and legal phenomena. This book offers an innovative and highly original guide to Posner's economic analysis of law. Rather than using a traditional structure, this volume guides the reader through Posner's ideas via a series of key themes. Each chapter includes an original introduction written by Alain Marciano and Sophie Harnay, a reprint of a text either written by Posner or about his work, and additional bibliographical references to complete the presentation of Posner's ideas. Themes covered include 9/11, CIA, Altruism, Behavioral law and economics, Capitalism, Coase, Ronald, Common law, Crisis, Darwin, Efficiency, Judicial decision making, Justice, Law and Economics, Liberalism (conservatism), Markets, Morals (law and), Pragmatism, Precedent, Public intellectuals, Rationality, and Wealth, to name just a few. In order to provide an overview of Posner's activities since the end of the 1960s, the book will include scientific articles and book chapters, newspapers, magazines articles, interviews and blog posts. This innovative approach is taken on in order to offer a truly rounded view of Posner's work and opinions. In addition, the volume will include critical texts in order to shed light on the alleged limits of Posner's analyses and how he faced these criticisms. This guidebook will be essential reading for all those working at the intersection of law and economics.

Posner uses economic analysis to probe justice and efficiency, primitive law, privacy, and the constitutional regulation of racial discrimination. What makes a great judge? How are reputations forged? Why do some reputations endure, while others crumble? And how can we know whether a reputation is fairly deserved? In this ambitious book, Richard Posner confronts these questions in the case of Benjamin Cardozo. The result is both a revealing portrait of one of the most influential legal minds of our century and a model for a new kind of study—a balanced, objective, critical assessment of a judicial career. "The present compact and unflaggingly interesting volume . . . is a full-bodied scholarly biography. . . . It is illuminating in itself, and will serve as a significant contribution."—Paul A. Freund, *New York Times Book Review* Ernst-Joachim Mestmacker reviews Richard Posner's and Friedrich A. von Hayek's legal theories. Both are famous for their contributions to law and economics. They are, however, adversaries in their concepts of law and how it is to be informed by economics. Posner finds the only scientific legal theory in the external (economic) analysis of law. With Friedrich von Hayek the role of rules of conduct and legislation is to be determined by the principles that govern a free and competitive order. There are, contrary to Posner, important contributions from legal scholarship, legal history and comparative law.

Economic analysis of law is an interesting and challenging attempt to employ the concepts and reasoning methods of modern economic

theory so as to gain a deeper understanding of legal problems. According to Richard A. Posner it is the role of the law to encourage market competition and, where the market fails because transaction costs are too high, to simulate the result of competitive markets. This would maximize economic efficiency and social wealth. In this work, the lawyer and economist Klaus Mathis critically appraises Posner's normative justification of the efficiency paradigm from the perspective of the philosophy of law. Posner acknowledges the influences of Adam Smith and Jeremy Bentham, whom he views as the founders of normative economics. He subscribes to Smith's faith in the market as an ideal allocation model, and to Bentham's ethical consequentialism. Finally, aligning himself with John Rawls's contract theory, he seeks to legitimize his concept of wealth maximization with a consensus theory approach. In his interdisciplinary study, the author points out the possibilities as well as the limits of economic analysis of law. It provides a method of analysing the law which, while very helpful, is also rather specific. The efficiency arguments therefore need to be incorporated into a process for resolving value conflicts. In a democracy this must take place within the political decision-making process. In this clearly written work, Klaus Mathis succeeds in making even non-economists more aware of the economic aspects of the law.

On December 5, 2004, the still-developing blogosphere took one of its biggest steps toward mainstream credibility, as Nobel Prize-winning economist Gary S. Becker and renowned jurist and legal scholar Richard A. Posner announced the formation of the Becker-Posner Blog. In no time, the blog had established a wide readership and reputation as a reliable source of lively, thought-provoking commentary on current events, its pithy and profound weekly essays highlighting the value of economic reasoning when applied to unexpected topics. Uncommon Sense gathers the most important and innovative entries from the blog, arranged by topic, along with updates and even reconsiderations when subsequent events have shed new light on a question. Whether it's Posner making the economic case for the legalization of gay marriage, Becker arguing in favor of the sale of human organs for transplant, or even the pair of scholars vigorously disagreeing about the utility of collective punishment, the writing is always clear, the interplay energetic, and the resulting discussion deeply informed and intellectually substantial. To have a single thinker of the stature of a Becker or Posner addressing questions of this nature would make for fascinating reading; to have both, writing and responding to each other, is an exceptionally rare treat. With Uncommon Sense, they invite the adventurous reader to join them on a whirlwind intellectual journey. All they ask is that you leave your preconceptions behind.

Examination Thesis from the year 2005 in the subject Law - Comparative Legal Systems, Comparative Law, grade: 1,3, University of Augsburg (Prof. Dr. Möllers), course: Seminar, language: English, abstract: Product liability is a field of law which all in all is economically efficient due to the modifications of the strict liability system, which grants the advantages of the original system, but alleviates some of its disadvantages. Therefore, it must be deemed as generally efficient, although sporadic deviations such as the proliferation of warning, the successful litigation of some plaintiffs despite own negligence and the enormous sums of damage granted will go on occurring.

This book examines the legal accountability associated with government policies in the Indonesian legal system. It explores legal issues with regard to law making and law enforcement, specifically the events that resulted in the unjust charges leveled against several government officials in the aftermath of the 1997 economic meltdown. Using a comparative study of central bank responses during financial crises in Malaysia, the United Kingdom, the United States of America, Germany, and Indonesia, the book offers a solution utilizing the Economic Analysis of Law (EAL) to achieve efficient and just policies. The application of EAL in all levels of the government will assist in analyzing and revealing potential impacts for decision makers. This book is a call to action for the Indonesian government and its people to learn from past experiences and look toward a brighter and prosperous Indonesia through the blending of law and economics to achieve social welfare maximization. "A must read book for those who are interested on how law intertwine with economics by evaluating policies of Government of Indonesia in time of crisis as a case study." —Prof. Hikmahanto Juwana, S.H., LL.M., Ph.D. Professor of Law University of Indonesia "Provocative... The book paved the way for a public debate of the moral limits of capitalism, markets, and regulations." —Denni Puspa Purbasari, M.Sc., Ph.D. Lecturer, Department of Economics, Gadjah Mada University "This book is an enlightening way to comprehend that jurisprudence is an interdependent science which has its variable with other scientific disciplines, particularly economics. By introducing the method of Economic Analysis of Law, this book provides a solution to the legal problems as a groundwork to minimize the impact on society." —Prof. DR. Bintan R. Saragih, S.H., M.H. Professor of Law University Pelita Harapan "In the law making process, EAL can be described as if a sharpened blade to divide rationality, urgency and justification of a regulation. It is the reason for the law maker, EAL becomes a substantial instrument that must be masterly implemented. Certainly, without EAL, the law can potentially become an instrument of speculation." —DR. Henry Soelistyo Budi, S.H., LL.M. Director of the Doctoral Program of the Graduate School of Law at the University Pelita Harapan The aim of the book is to highlight the law and economics issues confronting civil law countries. The following questions are addressed in this volume: to what extent have the existing codes in civil law countries been designed to incorporate economic considerations? Can the modifications made to codified rules over time be explained by a will to react to new economic constraints? Which economic problems are at the root of the revision of codes? And, given that the code is not the only source of law in civil law countries, the volume also explores the relationship between law and economics in the context of both the legislature and the courts.

Surveys tort, property, and contract law, focusing on the works of economists in these areas.

Through original and incisive contributions from leading scholars, this book applies economics and other rational choice methods to an understanding of public international law, providing a bird's eye view of some of its most fundamental elements from the perspective of economics. The chapters cover a range of topics, beginning with the building blocks of the nation state and continuing with the sources and the enforcement of international law and its various applications and extensions. The application of economic analysis to public international law is still in its formative stages and Economic Analysis of International Law provides a useful overview, as well as setting directions for new research. This volume provides a path through recent literature while identifying new areas and issues for research, making it an invaluable resource for scholars of public international law.

How best can the analyses and insights of economics inform legal theory and "improve" legal decision-making? The contribution of the first wave of law and economics scholars was marked by dogmatic adherence to the free market ideals of the Chicago school. Today, the second wave places greater emphasis on empirical data and accepts a much wider range of non-economic values - an approach which offers promise of an objective and balanced reception of law and economics by the courts. This book demonstrates the richness and value of the second wave. The contributors include judges from the High Court of Australia and the Court of Appeal, New Zealand and academics from the Universities of Toronto, Melbourne and Cambridge.

Law and economics can be considered as the most exciting development in legal scholarship in recent decades. This volume is the first all-encompassing bibliography in this area. It lists approximately 7000 publications, covering the whole area of law and economics, including 'old' law and economics (topics such as antitrust law, labor law, tax law, social security, economic regulation, etc.) as well as 'new' law and economics with such topics as tort law, contract law, family law, procedure, criminal law, etc.). The volume also includes the literature on the philosophical foundations and the fundamental concepts of the approach. Part Two gives a special survey of law and economics publications in Europe, written in other languages than English. The Bibliography of Law and Economics is an invaluable reference work for students, scholars, lawyers, economists and other people interested in this field.

