



Master of Professional Studies in
APPLIED ECONOMICS

Econ 674: Economic Analysis of Law
Course Information and Syllabus
Spring 2018

Michael Barry, J.D., LL.M., Ph.D.

E-mail: barry@umd.edu

Office: Morrill 1102C

Office Hours: Tuesdays 5:30-6:15, and by appointment

Lecture: Thursdays 6:30-9:15 p.m. (Note, there will a break midway through class each week)

Class Location: Tydings 0101

Teaching Assistant: Burak Turkgulu Turkgulu@econ.umd.edu

Teaching Assistant Office/Hours: Morrill 1102D Wednesday and Thursday 5:15-6:30

Program coordinator: Hardeep Chowdhary. (CPmasters@econ.umd.edu)

A. Overview

This course applies standard microeconomic theory and concepts to understand the law and the legal system. In particular, we will focus on the following areas of law: property, contracts, torts, crime, antitrust, and intellectual property. After taking the course, the student should have the ability to anticipate the consequences of legal decisions. Students will also improve their skills at applying microeconomic theories to policy and legal discussions, and communicating economic ideas to non-economists.

B. Course Objectives

Our program has 7 general learning outcomes for students. The learning outcomes that pertain to this course primarily are 5 and 6. Students will also get to develop outcomes 2 and 3 when we study certain applications.

The learning outcomes:

1. Ability to understand, evaluate and analyze economic data
2. Ability to understand and interpret statistical evidence from economic data
3. Ability to apply empirical evidence to assessing economic arguments
4. Ability to apply macroeconomic theories to policy discussions
5. Ability to apply microeconomic theories to policy discussions
6. Ability to communicate economic ideas to a broader audience
7. Ability to evaluate the effectiveness of policy programs using sound economic techniques

Our course will use both economic theory (especially microeconomic theory) and empirical tools to look at legal concepts. These are used to explain the effects of laws, to assess which legal rules are economically efficient, and to predict which legal rules will be promulgated in society. Because ours is a program of applied economics, the class will include many examples of empirical studies in the literature.

C. Required Text and Supplemental Materials

The Robert Cooter and Thomas Ulen's *Law and Economics* is the textbook. Any recent edition should suffice. Students will be expected to read assigned articles and cases. There will be additional readings (mostly academic articles and legal cases) that are electronically available. The book can be purchased, but is also online: <http://scholarship.law.berkeley.edu/books/2/>. Extra notes are here

http://wps.aw.com/aw_cooterulen_lawecon_6/178/45815/11728880.cw/index.html. Other readings and texts are cited in the syllabus. Links are provided, and I will also post the files on ELMS.

D. Prerequisites

ECON 641 and ECON 644 (ECON 644 can be taken concurrently).

E. Course Requirements

The course grade will be averaged together with the following weights:

Problem Sets	20%
Midterm	20%
Final	30%
Quantitative Paper	20%
Participation/Presentations	10%

Problem Sets. There will be 3 problem sets due over the course of the semester. These will be problems or questions based on the readings and lectures. They will be designed to prepare you for the exams.

Exams. There will be two exams: one a midterm and the other a final. The exams will look similar in many ways to the problem sets, so successfully completing the problem sets will greatly assist you in studying for exams. If you feel you have not mastered a problem from the problem sets, please let me know and we can help you understand the concepts covered. This is good preparation for exams.

Quantitative Paper. Each student will be asked to write an empirical paper, using simple regression analysis. The topic can be any issue relevant to the field of law and economics. We will read a large number of example papers, and will spend time together, looking at available datasets and methods. Students will identify an issue and find data to perform simple regressions on. The paper will discuss the issue in qualitative terms, show empirical results, and summarize the meaning of the findings. I will help students identify ideas for papers. You are asked to use STATA for your quantitative analysis.

Participation/Presentations This material in this class is especially good for class discussion. In addition, students will be asked to prepare a 5-8 minute presentation of their final paper plan and preliminary results. Participation in all discussions and activities will count as 10% of the grade.

F. Letter Grades

Letter grades will be determined with the following cut-offs: 93 for A, 90 for A-, 80 for B+, 70 for B, 60 for B-, 50 for C+, 40 for C, 30 for C-, 20 for D+, 10 for a D, and F for anything below a 10.

G. Late Penalty

All homework, assignments and discussions are subject to late penalties. The penalties are as follows: 20% for first day, 25% for second day, 30% for third day, 35% for fourth day, 40% for fifth day, 45% for sixth day, 50% for seventh day and so on. Late penalties apply except when prior approval is obtained.

H. University and Program Policies and Procedures

1. **Course Website:** Copies of the course syllabus, your grades, and other relevant links and documents will be posted on the course's ELMS/Canvas website. You can access the site via www.elms.umd.edu. You will need to use your University of Maryland "directory ID" and password.
2. **Email:** Email is the primary means of communication outside the classroom, and I will use it to inform you of important announcements. Students are responsible for updating their current email

address via <http://www.testudo.umd.edu/apps/saddr/> AND for paying attention to messages I send to the class via ELMS. Failure to check email, errors in forwarding email, and returned email due to “mailbox full” or “user unknown” will not excuse a student from missing announcements or deadlines. I will do my best to respond to email within 36 hours.

3. **Work Load:** Mastering the material covered in this course requires a significant amount of work outside of class. Students should expect to spend more time outside of class than in class – typically at least twice as much time.
4. **Academic Integrity:** The University of Maryland has a nationally recognized Code of Academic Integrity, administered by the Student Honor Council. This Code sets standards applicable to all undergraduate and graduate students, and you are responsible for upholding these standards as you complete assignments and take exams in this course. Please make yourself aware of the consequences of cheating, fabrication, facilitation, and plagiarism. For more information see www.studenthonorcouncil.umd.edu
5. **Student Conduct:** Students are expected to treat each other with respect. Disruptive behavior of any kind will not be tolerated. Students who are unable to show civility to one another or myself will be referred to the Office of Student Conduct. You are expected to adhere to the Code of Student Conduct.
6. **Excused Absences:** The University of Maryland’s policy on excused absences is posted here: <http://www.president.umd.edu/administration/policies/section-v-student-affairs/v-100g>. Please note:
 - a. If you miss any class meetings for any reason, you are still responsible for all material covered during the meeting you missed. It is your responsibility – not the instructor’s – to make sure you catch up on missed material. Instructors routinely facilitate things by posting lecture notes, etc.
 - b. If you need to miss an exam or other graded course requirement because of illness, injury, or some other emergency: Follow doctor's orders and get documentation. Get in touch with the instructor as soon as you’re able – preferably prior to missing the exam or deadline. Communicate with the instructor to make up the course requirement as soon as possible. You are entitled to recover before you make up the course requirement, but you are not entitled to extra days to study beyond the time the doctor's note says you’re incapacitated. If you are incapacitated for more than a week or so beyond the end of the term, your grade in the course will be an “Incomplete”. In such cases you must negotiate a plan with your instructor for completing the course requirements. Once you make up the course requirement the instructor will change your "I" to the appropriate letter grade.
7. **School Closings and Delays:** Information regarding official University closing and delays can be found on the campus website and the snow phone line: (301) 405-SNOW (405-7669) The program director will also announce cancellation information to the program as an announcement on the program’s ELMS/Canvas site. This will generally be done by 1:00 p.m. on days when weather or other factors are an issue. If classes need to be cancelled during the semester, it may be necessary to move the final exam back a week so missed classes can be made up.
8. **UMD Counseling Center:** Sometimes students experience academic, personal and/or emotional distress. The UMD Counseling Center in Shoemaker Hall provides comprehensive support services that promote personal, social, and academic success. The cost of these services is covered by the fees you already paid when you registered for classes, and there is no additional charge if you use the services. Proactively explore the range of services available, including the Counseling Service, Accessibility and Disability Service, Learning Assistance Service, and the Testing Office, all described at <http://www.counseling.umd.edu/>

- 9. Students with Disabilities:** The University of Maryland does not discriminate based on differences in age, race, ethnicity, sex, religion, disability, sexual orientation, class, political affiliation, or national origin. Reasonable accommodations will be arranged for students with documented disabilities. Students who have an accommodations letter from the Accessibility and Disability Service (ADS) should meet with me during the first few weeks of the semester to discuss and plan for the implementation of your accommodations. If you require reasonable accommodations but have not yet registered with ADS, please contact the Accessibility and Disability Service at 301-314-7682 or adsfrontdesk@umd.edu.
- 10. Academic Progress:** The graduate school requires that students maintain a GPA of at least 3.0. Students whose cumulative GPA falls below 3.0 will be placed on academic probation by the graduate school. Students on academic probation must ask the program's director to petition the graduate school if they want to remain in the program. The petition must include a plan for getting the student's GPA up to at least 3.0. Students who do not live up to their plan can be forced to leave the program without having earned the degree. Note: a grade of "B" corresponds to a GPA of 3.0. A grade of "B-" corresponds to a GPA of 2.7.
- 11. Access to Morrill Hall and Morrill 1102:** Morrill Hall is locked every day from 7:00 p.m. - 7:00 a.m. Your university ID gives you swipe access to the back door of the building.
- 12. Laptop Computer Requirement:** Completing some of this course's requirements will require a laptop computer (not a notebook or a tablet!) with at least 1 GB of RAM and at least 5 GB of free space available on the hard-drive. We recommend laptops with at least a 15-inch screen. Screens smaller than 13 inches are probably not practical.
- 13. Purchasing Stata:** Students in our program must purchase Stata. Stata offers different "flavors" and different lengths of licensing. Price varies according to these two factors. We do not recommend Small Stata since it is too limited for the coursework in our program. Stata/IC is the least expensive and sufficient version for your coursework. With a single-user license, you can install Stata on up to three computers. Description of all the flavors are given here:
- <http://www.stata.com/products/which-stata-is-right-for-me/>
You can obtain Stata at discounted rates through the Campus GradPlan, in which University of Maryland, College Park is a participating institution. To benefit from the discounted prices, click on the link below and pick the Stata version you would like to buy. (Note: Disregard the warning at the top which states that you must be a faculty or staff member. That is not correct.)
 - <http://www.stata.com/order/new/edu/gradplans/campus-gradplan/>
Through the Campus GradPlan you can buy either an annual (\$125 for Stata/IC) or a perpetual license (\$198 for Stata/IC). The perpetual license does not expire and is the most cost effective option assuming that you will stay in the program for at least 15 months. There are also upgrade discounts provided to perpetual license holders. During the checkout process you will be asked to verify your "@umd.edu" email address.
 - If you wish to buy a 6-month license (\$75 for Stata/IC), you need to order it as a regular student using the following link: <http://www.stata.com/order/new/edu/gradplans/student-pricing/> During the checkout process you will be asked to upload a copy of your student ID or another document as a proof of your enrollment.

CLASS CALENDAR / LIST OF DUE DATES

You are asked to come to each class having already read the readings listed for that class day. And assignments are due in class in hard copy form. Normally, work is submitted electronically via ELMS. If you are interested in learning how to do that, the TA can help you.

I. INTRODUCTORY MATERIAL

A. Week 1: January 25

- a. Course overview
- b. Some history (the Common and Civil Law traditions)
- c. U.S. Legal System
- d. Readings for the Week
 - i. *Cooter and Ulen ch 3
 - ii. Robert Ellickson (1989), "A Hypothesis of Wealth-Maximizing Norms: Evidence from the Whaling Industry," *Journal of Law, Economics and Organization* 83.
<http://orientation.uchicagolawandecon.org/readings/Ellickson%20on%20Whaling.pdf>

B. Week 2: February 1

- a. Efficiency, and should the law be efficient?
 - i. *Cooter and Ulen ch 1
 - ii. *Richard Posner (1980), "The Ethical and Political Basis of Efficiency Norm in Common Law Adjudication," *Hofstra Law Review* 8.
http://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=2847&context=journal_articles
 - iii. Howard Chang (2000) "A Liberal Theory of Social Welfare: Fairness, Utility, and the Pareto Principle. (I can provide article)
 - iv. Nice blog post by Steven Landsburg giving a more moderate view of efficiency as a normative policy goal: <http://www.thebigquestions.com/2010/08/30/efficiency-experts/>

C. Week 3: February 8

- a. Review of Microeconomic Theory; Introduction to Theory of Static Games
 - i. *Cooter and Ulen ch 2
 - ii. Game Theory 101. Website: <http://gametheory101.com/>
 - iii. Varian ch 28.1 – 28.4

II. ECONOMICS OF PROPERTY LAW

A. Week 4: February 15

- a. Economic Theory of Property
 - i. *Cooter and Ulen ch 4
 - ii. *Ronald H. Coase (1960), "The Problem of Social Cost," *Journal of Law and Economics* 3 <http://www2.econ.iastate.edu/classes/tsc220/hallam/Coase.pdf>
 - iii. *Harold Demsetz (1967), "Toward a Theory of Property Rights," *Am. Econ. Review* http://econ.ucsb.edu/~tedb/Courses/Ec100C/Readings/Demsetz_Property_Rights.pdf

B. Week 5: February 22

- a. PROBLEM SET 1 DUE**
- b. Topics in the Economics of Property Law

- iv. *Cooter and Ulen ch 5
- v. Garrett Hardin (1968), “The Tragedy of the Commons,” Science 162
http://www.geo.mtu.edu/~asmayer/rural_sustain/governance/Hardin%201968.pdf
- vi. *Guido Calabresi and A. Douglas Melamed (1972), “Property Rules, Liability Rules, and Inalienability: One View of the Cathedral,” Harvard Law Review 85
http://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=3043&context=fss_papers
- vii. Lawrence Blume and Daniel Rubinfeld (1984), “Compensation for Takings: An Economic Analysis,” California Law Review 72
<http://scholarship.law.berkeley.edu/facpubs/1427/>
- viii. Selected property law-related articles:
 - 1. Amputated leg
<http://www.nbcnews.com/id/21088150/?GT1=10450#.WHBiUIMrLIU>
 - 2. Goats on the roof
<http://www.wsj.com/articles/SB10001424052748704285104575492650336813506>
 - 3. Squatter’s rights
<http://standardspeaker.com/news/couple-loses-land-to-squatter-s-rights-law-1.308398>

III. ECONOMICS OF TORT LAW

A. Week 6: March 1

- a. An Economic Theory of Tort Law
 - i. *Cooter and Ulen ch 6
 - ii. *Cooter and Ulen ch 6 Appendix
 - iii. *Steven Shavell (1980), “Strict Liability versus Negligence,” Journal of Legal Studies 9
http://www.law.harvard.edu/faculty/shavell/pdf/14_Strict.pdf)
 - iv. Gary Schwartz (1994), “Reality in the Economic Analysis of Tort Law: Does Tort Law Really Deter?” UCLA Law Review 42
<https://illinoislawreview.org/wp-content/ilr-content/articles/2002/4/Schwartz.pdf>)

B. Week 7: March 8

- a. Topics in the Economics of Tort Liability
 - i. *Cooter and Ulen ch 7
 - ii. W. Kip Viscusi (1993), “The Value of Risks to Life and Health,” Journal of Economic Literature 31
<http://discoverarchive.vanderbilt.edu/bitstream/handle/1803/6270/Value%20of%20Risks%20to%20Life.pdf?sequence=1&isAllowed=y>)

V. A FOCUS ON EMPIRICAL LAW AND ECONOMICS

A. Week 8: March 15

b. PROBLEM SET 2 DUE

- c. Historical Perspective of Empirical Studies in Law and Economics

- i. Landes, William, Empirical Side of Law and Economics, University of Chicago (2003). http://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=10725&context=journal_articles
- d. Survey of Useful Data Sources
- e. Examples / Review of Selected Empirical Papers from the NBER
 - i. Howard Bodenhorn, Blind Tigers and Red-Tape Cocktails: Liquor Control and Homicide in Late-Nineteenth-Century South Carolina, NBER Working Paper No. 22980 (<http://www.nber.org/papers/w22980>) (<http://economics.rutgers.edu/downloads-hidden-menu/news-and-events/workshops/empirical-microeconomics/1363-howardbodenhorn2/file>)
 - ii. Alberto Galasso, Hong Luo. Tort Reform and Innovation, NBER Working Paper No. 22712 (<http://www.nber.org/papers/w22712>) (http://www.law.northwestern.edu/research-faculty/searlecenter/events/innovation/documents/GalassoLuo_10June16.pdf)
 - iii. Manudeep Bhuller, Gordon B. Dahl, Katrine V. Løken, Magne Mogstad. Incarceration, Recidivism and Employment, NBER Working Paper No. 22648 (<http://www.nber.org/papers/w22648>) (<http://econweb.ucsd.edu/~gdahl/papers/incarceration-recidivism-employment.pdf>)
 - iv. Ozkan Eren, Naci Mocan. Emotional Judges and Unlucky Juveniles. NBER Working Paper No. 22611 (<http://www.nber.org/papers/w22611>) (https://editorialexpress.com/cgi-bin/conference/download.cgi?db_name=EEAESEM2016&paper_id=398)
 - v. Anna Choi, Dhaval Dave, Joseph J. Sabia. Smoke Gets in Your Eyes: Medical Marijuana Laws and Tobacco Use. NBER Working Paper No. 22554. (<http://www.nber.org/papers/w22554>) (<http://www.nber.org.proxy-bc.researchport.umd.edu/papers/w22554.pdf?>)
 - vi. Shamena Anwar, Patrick Bayer, Randi Hjalmarsson. A Jury of Her Peers: The Impact of the First Female Jurors on Criminal Convictions. NBER Working Paper No. 21960 (<http://www.nber.org/papers/w21960>) (https://gupea.ub.gu.se/bitstream/2077/41910/1/gupea_2077_41910_1.pdf)

D. Week 9: March 22 NO CLASS (SPRING BREAK)

IV. ECONOMICS OF TORT LAW

A. Week 10: March 29

a. MID-TERM EXAM

- b. Economic Theory of Contract Law
 - i. *Cooter and Ulen ch 8
 - ii. *Ian Ayres and Robert Gertner (1989), “Filling Gaps in Incomplete Contracts: An Economic Theory of Default Rules,” Yale Law Journal 99 http://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=2544&context=fss_papers
 - iii. Hadley v Baxendale decision <http://www.bailii.org/ew/cases/EWHC/Exch/1854/J70.html>
 - iv. A contract-related article: British company buying up souls <http://www.foxnews.com/tech/2010/04/15/online-shoppers-unknowingly-sold-souls.html>

B. Week 11: April 5

- a. Topics in the Economics of Contract Law
 - i. *Cooter and Ulen ch 9
 - ii. *Cooter and Ulen ch 9 Appendix

V. THE LEGAL PROCESS AND CRIMINAL LAW

A. Week 12: April 12

- a. Economics of The Legal Process
 - i. * Cooter and Ulen ch 10
 - ii. Kathryn Spier (1994), “Pretrial Bargaining and the Design of Fee-Shifting Rules,” RAND Journal of Economics 25
(https://dash.harvard.edu/bitstream/handle/1/12187120/Spier_PretrialBargaining.pdf?sequence=2)
- b. Topics in the Economics of the Legal Process
 - i. * Cooter and Ulen ch 11
 - ii. * David Friedman (2000), “Law’s Order,” Princeton University Press – chapter 15
(link to online ebook: http://www.daviddfriedman.com/laws_order/)

B. Week 13: April 19

- a. Economic Theory of Crime and Punishment
 - i. * Cooter and Ulen ch 12
 - ii. * Gary Becker (1968), “Crime and Punishment: An Economic Approach,” Journal of Political Economy 76
(<http://www.ppge.ufrgs.br/Giacomo/arquivos/dirp162/becker-1968.pdf>)
 - iii. Isaac Ehrlich (1996), “Crime, Punishment, and the Market for Offenses,” Journal of Economic Perspectives 10
(<http://pubs.aeaweb.org/doi/pdfplus/10.1257/jep.10.1.43>)
 - iv. Richard Craswell and John Calfee (1986), “Deterrence and Uncertain Legal Standards,” Journal of Law, Economics and Organisation 2
(<https://www.ftc.gov/sites/default/files/documents/reports/incentives-comply-uncertain-legal-standards/wp123.pdf>)

C. Week 14: April 26

a. **PROBLEM SET 3 DUE**

- b. Topics in the Economic Theory of Crime and Punishment
 - i. * Cooter and Ulen ch 13
 - ii. John Knowles, Nicola Persico and Petra Todd (2001), “Racial Bias in Motor Vehicle Searches: Theory and Evidence,” Journal of Political Economy 109
(<http://public.econ.duke.edu/~hf14/teaching/povertydisc/readings/knowles-persico-todd2001.pdf>)
 - iii. Ethan Cohen-Cole, Steven Durlauf, Jeffrey Fagan, and Daniel Nagin (2009), “Model Uncertainty and the Deterrent Effect of Capital Punishment,” American Law and Economics Review 11
(<https://pdfs.semanticscholar.org/dbdd/309e481d6f154e4beeba317affed6e211cf6.pdf>)
 - iv. One example of efficient punishment leading to an incentive for abuse: traffic cameras
(<http://www.thenewspaper.com/news/20/2068.asp>)

VI. Research Paper Presentations

A. Week 15: May 3

- a. Student Presentations of Preliminary Research
- b. (Students asked to give 5-8 minute presentations of preliminary results, model)

VII. FINAL EXAM

A. EXAM Week: May 10

- a. Final Exam

VIII. EXTRA MATERIALS (NOT REQUIRED)

(I will suggest you read; I will hope to discuss in classes over the semester)

- a. Peter Leeson, "Ordeals," forthcoming, Journal of Law and Economics (<http://www.peterleeson.com/Ordeals.pdf>)
- b. Christine Jolls, Cass Sunstein, and Richard Thaler (1998), "A Behavioral Approach to Law and Economics," Stanford Law Review 50
http://www.law.harvard.edu/programs/olin_center/papers/pdf/236.pdf
- c. Tim Wu, "American Lawbreaking," Slate 10/14/2007
(http://www.slate.com/articles/news_and_politics/jurisprudence/features/2007/american_lawbreaking/introduction.html)
- d. Robert Ellickson (1989), "A Hypothesis of Wealth-Maximizing Norms: Evidence from the Whaling Industry," Journal of Law, Economics and Organization 83.
<http://orientation.uchicagolawandecon.org/readings/Ellickson%20on%20Whaling.pdf>
- e. * Gillian Hadfield (1992), "Bias in the Evolution of Legal Rules," Georgetown Law Journal 80