### Mode of Delivery

On campus. The pass course consists of two one-hour lectures and a one-hour tutorial per week. Tutorial meetings start in week 2 and times will be announced in week 1. There is an extra lecture each week for the graduate/honours component. The lectures and tutorials will be recorded and the powerpoint slides placed on Wattle after each lecture. Attendance at lectures and tutorials is expected. Students are responsible for all material and announcements they miss through absence.

### Prerequisites

To enrol in this course you must have completed ECON1101 Microeconomics 1 or ECON1100 Economics 1 (H). Graduate students must have completed intermediate microeconomics (e.g. ECON 2101 Microeconomics 2 or ECON 8025 Diploma Microeconomics).

### Course Convener

Mark Harrison, Room 1023, Arndt Blg 25A.
Phone: (02) 612 55180
Email: mark.harrison@anu.edu

Office hours for student consultation: T.B.A. on course wattle site.

Research Interests: Law and economics, project evaluation, urban economics, taxation

### Course administrator

Karissa Carkeet, Room 1013, Arndt Blg, 25A.
Phone: (02) 612 50384
Email: Karissa.carkeet@anu.edu

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**http://programsandcourses.anu.edu.au/course/ECON2120**  
**http://programsandcourses.anu.edu.au/course/ECON2139**  
**http://programsandcourses.anu.edu.au/course/ECON8047**
COURSE OVERVIEW

Course Description

Law and Economics applies the concepts and techniques of microeconomics to the law itself, focusing on the doctrines, rules and remedies of the common law: the dominant source of legal rules in Australia. The course does not assume any prior legal knowledge, nor does it provide any legal training.

The Course employs basic price theory – rational maximization, the law of demand, opportunity costs, and the idea that voluntary exchange allows resources to gravitate toward their highest-valued uses – to predict the consequences of legal rules: how they affect the behaviour of individuals and groups; and uses welfare economics to evaluate legal rules, especially their efficiency effects. Legal issues examined in the course include property rights, tort law, contract law, criminal law, law enforcement and punishment, litigation and settlement, product liability, pollution control, the interaction of tort law and insurance, principal-agent liability, and regulation vs. tort law as ways to control externalities. The approach is non-technical, using the tools of Micro 1 to introduce one of the most exciting and vibrant fields of legal scholarship and applied economics. The emphasis in this course is on “thinking like an economist” to understand legal issues from an economic perspective, with a focus on a clear understanding of the logic and underlying economic intuition rather than just the results.

Law and Economics is designed for both economics and law students. For economics students, it is an interesting application of the economic way of thinking to real world problems and policy issues. Examining actual legal cases gives students experience in relating abstract economic models to practical problems and demonstrates their direct relevance.

Although economics can help explain law, the influence of the law on the economy is far more important. Legal and political foundations underlie economic performance. The law is an important social institution and incentive structure that provides a foundation for the economic order and plays a central role in determining social outcomes, yet economists often take it for granted.

Understanding law helps us better understand the workings of the economic system. Economic analysis rests on a bedrock of legal relations that law and economics explicitly analyses. Free markets do not exist within a vacuum, but need a legal framework that protects property, enforces contracts and allows free exchange to flourish. Law provides the framework in which firms and individuals decide on their actions in the economic sphere.

For law students, Judge Richard Posner (one of the founders of law and economics) explains the benefits of law and economics well: “The law is divided into numerous fields, each of which has a complex structure of rules. The fields are traditionally studied in isolation from one another, and within each field the rules tend also to be studied as a separate, often self-enclosed body of thought. Yet it turns out that a relative handful of economic doctrines – such as decision under uncertainty, transactions costs, cost benefit analysis, risk aversion, and positive and negative externalities – can, by repeated application across fields of law and legal rules, describe a great deal of the legal system and enable the student to develop a more coherent sense of the system – to grasp the relation of its parts and understand its essential unity.”
The ‘economic approach’ to law provides a unified vision of the law, tying together diverse areas of law into a common theoretical structure. The logic of the problems the law exists to solve is the same across all the standard fields, making it possible to understand a wide variety of legal issues in terms of one central set of interrelated concepts. Understanding the economics of property helps you understand torts and contracts, rather than treating them as isolated fields.

The important interdependencies between law and economics mean understanding law improves economic analysis and economic analysis is a useful tool for understanding law and for devising laws that improve society and economic performance.

**Learning Outcomes**

On satisfying the requirements for this course, students should have the knowledge and skills to:

- Recognise the economic issues in a legal problem and apply the economic way of thinking to analyse it.
- Assess the efficiency effects of legal rules and policies

**Prescribed Text**


Although the textbook forms the core of the course, and all but one chapter will be included in the course, I will go into deeper in topics, and into more topics, than the textbook does, especially in the graduate/honours part of the course. Extra readings will be set from other textbooks and journal articles and copies will be placed on the course Wattle web site. Copies of the textbook are on the 2 hour reserve desk at the Law Library.

**COURSE OUTLINE**

A rough course outline is set out below. It includes the relevant chapters in Polinsky for each topic. A detailed outline and reading list for each topic will be placed on the course Wattle web site before the topic's lectures. PdFs of the supplementary readings will also be placed on Wattle. The course outline is also set out week by week on Wattle.

**TOPIC 1: INTRODUCTION: ECONOMICS AND THE LAW (Week 1)**

Polinsky ch. 1.

**TOPIC 2: TOOLS OF ECONOMIC ANALYSIS (Weeks 1-4)**

The economic approach to understanding behaviour

- Price theory
- Efficiency
- Market success
- Market failure
- The Coase theorem
- Game theory

Polinsky chs. 2, 12, 18, 3

**Topic 3: PROPERTY (Weeks 4 - 7)**

Property rights
Types of property and their incentive effects: private and common property
Insecure property rights: theft
Rent-seeking and the law
Nuisance, trespass and eminent domain
Property v liability rules
Polinsky ch.4

**Topic 4: TORTS (Weeks 8 – 10)**
Accident law
Pollution control
Risk and insurance
Polinsky chs.6, 13, 7, 9

**Topic 5 CONTRACTS (Weeks 10-11)**
Reasons for contracts
The role of contract law
Breach remedies
Polinsky chs. 5, 8

**Topic 6: SUIT, SETTLEMENT AND TRIAL – LITIGATION COSTS (Week 11)**
Incentive to bring suit
Settlement v trial
Optimal damages taking account of litigation costs
Polinsky ch. 16

**Topic 7: CRIMINAL LAW, PUBLIC LAW ENFORCEMENT AND PUNISHMENT (Week 12)**
The economic approach to crime
Law enforcement using fines
Law enforcement using imprisonment
Optimal punishment
Polinsky chs. 10, 11

**Topic 8: PRODUCTS LIABILITY (Week 12-13)**
Polinsky ch. 14

**Topic 9: REGULATION V TORT LAW (Week 13)**
Polinsky ch. 17

**SUMMING UP (Week 13)**
Polinsky ch. 19
Honours and graduate students (ECON 2139 and ECON 8047)
For graduate students and those doing the course at the honours level, extra lectures covering additional topics will be offered. All graduate students enrolled in ECON 8047 must do the course at Graduate level. Undergraduate students can enroll in ECON 2139. It is recommended for those who are doing, or have done, Micro 3 and for good Micro 2 students.

The Graduate/Honours lectures start in Week 2. As the lecture time is on a Monday and that time will be used for the Pass course mid-semester exams and there are a number of public holidays, there will be nine honours lectures on topics drawn from:
- Exchange and the two fundamental theorems of welfare economics
- Competition and the core.
- The hold out problem and the anti-commons
- Enclosing the commons
- Intellectual property
- Choice under uncertainty
- Non-pecuniary losses and the value of life
- Principal-agent liability
- Advanced analysis of accidents
- Advanced analysis of contracts

Workload

Students taking this course are expected to commit at least 10 hours a week to completing the work, including:
- 2-3 hours a week: lectures
- 1 hour a week: tutorial
- 7 hours a week: reading, research, writing and tutorial preparation

Tutorial exercises are designed to apply and reinforce the economic principles and models taught in lectures. Tutorial questions for the following week will be available on Wattle. It is expected that students prepare for tutorials and come ready with answers to the problems assigned for each week's tutorial. I emphasise that you should attempt the tutorial problems before attending the tutorial. The final exam questions will be tutorial style problems. You will only learn problem solving skills (necessary to pass the final exam) through practice, NOT by simply writing down the answers given in tutorials. You learn by doing and practicing.

Assessment Summary

Assessment for this course will consist of two in-class tests (1 hour each) and a final exam.
The in-class tests will be one hour each and will take place probably in Weeks 7 and 11 during the Monday lecture time. The in-class tests will cover material done in the weeks prior to the test and since the last one (e.g. Test 1 covers Weeks 1-6, Test 2 Weeks 7-10). Students will be advised at a later date, in class and on Wattle, of the time of, and material covered in, the in class tests.
The final exam will cover all material in the course and will be three hours long, plus thirty minutes reading time.
One in class test is worth 10 per cent of the final mark, the other 30 per cent (with the test that counts more being chosen to maximize your mark).
The final exam is worth 60 per cent of the total mark.
The Graduate and Honours students will sit a different final exam which includes some questions on the honours material.

<table>
<thead>
<tr>
<th>Assessment Task</th>
<th>Value</th>
<th>Due Date</th>
<th>Topics examined</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. First mid-semester exam</td>
<td>10 or 30 per cent</td>
<td>2-3 pm Monday March 30</td>
<td>Weeks 1-6</td>
</tr>
<tr>
<td>2. Second mid-semester exam</td>
<td>10 or 30 per cent</td>
<td>2-3 pm Monday May 11</td>
<td>Weeks 7-10</td>
</tr>
<tr>
<td>3. Final exam</td>
<td>60 per cent</td>
<td>T.B.A.</td>
<td>Entire course</td>
</tr>
</tbody>
</table>

**Other useful references (some free on the web)**

There is a voluminous law and economics literature, including a number of specialised field journals and (expensive) collections of classic readings.

Alternative textbooks include:


Posner, Richard *An economic analysis of law* Boston Little Brown Now in its 8th edition 2010. One of the first textbooks in the field, a treatise that applies economics to almost all areas of the law. Contains a cornucopia of applications. The author is now a US Federal Court of Appeals judge.


Veljanovski and Stephen use English case law, which Australian courts tend to follow (rather than US case law).


Wittman, Donald *Economic Foundations of Law and Organization*. A pdf of the first 4 chapters is available at [http://people.ucsc.edu/~wittman/econ169.chap1to4.pdf](http://people.ucsc.edu/~wittman/econ169.chap1to4.pdf). It is not in the Law Library, but some of it can be read on google books.


There are a number of very useful encyclopaedic collections of articles:


A freely available collection of readings is:


Some classic books on tort law and property rights are


A number of leading figures in the field keep blogs (although they are not confined to law and economics):

David Friedman [http://daviddfriedman.blogspot.com/](http://daviddfriedman.blogspot.com/)

Steven Landsburg [http://www.thebigquestions.com/blog/](http://www.thebigquestions.com/blog/)
Feedback

Staff Feedback
I will go over the answers to each mid-semester exam in the tutorial following the exam. Students will be graded on their exam.

Student Feedback
ANU is committed to the demonstration of educational excellence and regularly seeks feedback from students. One of the key formal ways students have to provide feedback is through Student Experience of Learning Support (SELS) surveys. The feedback given in these surveys is anonymous and provides the Colleges, University Education Committee and Academic Board with opportunities to recognise excellent teaching, and opportunities for improvement.

For more information on student surveys at ANU and reports on the feedback provided on ANU courses, go to
http://unistats.anu.edu.au/surveys/selt/students/ and
http://unistats.anu.edu.au/surveys/selt/results/learning/

Policies
ANU has educational policies, procedures and guidelines, which are designed to ensure that staff and students are aware of the University’s academic standards, and implement them. You can find the University’s education policies and an explanatory glossary at:
http://policies.anu.edu.au/

Students are expected to have read the Student Academic Integrity Policy before the commencement of their course.

Other key policies include:
• Student Assessment (Coursework)
• Student Surveys and Evaluations

SUPPORT FOR STUDENTS
The University offers a number of support services for students. Information on these is available online from http://students.anu.edu.au/studentlife/

Examination material or equipment
Permitted materials: Non-programmable Calculators, dictionaries