Seminar

Law and Economics and its Criticism as a School of Thought for the Understanding of Law

(KSL Number 466370)

Lecturer: Dr. Stefan Schlegel, Faculty of Law

1. Topic:

This seminar will provide a critical introduction to Law and Economics, arguably the most influential approach to legal studies in the late 20th century. The theory provides a school of thought for the study and the analysis of law.

The seminar is explicitly not about the legal regulation of economic activity but about the utility of economic concepts and methods for the analysis of law – private, public, and criminal law alike.

Requirements:

The seminar, therefore, is open to everybody interested in the study of (legal) institutions, not just law students, but students of economy, sociology, political science, and history, etc. alike. The seminar is open to students both on the Bachelor- and on the Master-level. It requires a substantial commitment by the participants, namely weekly compulsory reading, the requirement to actively participate in the discussions, to prepare a presentation of about 20 minutes during the semester, and to write a seminar paper in English (10-15 p.) at the end of the semester. While your proficiency in English will not influence your grade, an ability to read and to debate in English are required to participate successfully.

Structure of the Seminar:

The seminar will be based on a weekly reading of a classic paper in Law and Economics or its classic critics. Every week will be dedicated to one paper, defining one concept, one core insight, or one fundamental criticism of the theory. The paper will be presented by one or two of the participants and then discussed and challenged as a group. An introductory meeting will provide context and an overview, a concluding session will sum up the learnings and connect the dots. A written paper, assessing the central arguments and insights of the presented paper in the context of its criticism and the context of current-day challenges to regulation will form the written contribution to the seminar.
Learning Outcomes:

The main learning outcome will be the transferability of legal answers to a broad variety of problems. Participants will develop an understanding of cross-cutting problems in law that have to be dealt with in contracts, corporations, and public institutions alike. Examples are externalities, transaction costs, information asymmetries, principal-agent problems, collective action problems, hold out problems, the tragedy of the commons, the tragedy of the anti-commons, and the distribution of risk. Participants will find these very abstractly described concepts applicable to a variety of very practical problems and they will have access to a set of tools from different contexts to deal with these problems.

A second learning outcome will be the understanding of the context, the origins, and the limits of the influential and dynamic Law and Economics movement as well as of its criticism. The goal is to gain an individual assessment of the merits and the limits of this theoretical movement and to be able to assess its value for different legal traditions such as the civil law and the common law tradition.

2. Participation and Registration

The number of participants is limited to 15 students. If you wish to participate, please apply via email no later than Sunday, June 14 (extended to Sunday, August 16). You will be informed about the ability to participate no later than August 20.

Please send your application to Stefan.schlegel@oefre.unibe.ch

With your application, please submit

- Name, address, your subject of study and the number of semesters already completed and whether you are enrolled in a Bachelor- or Master-program;
- A half-page cover letter that sets out your motivation to participate in this particular seminar

The assessment of the applicants will be based on the following criteria

- The quality of the letter of motivation
- An equilibrium in disciplinary backgrounds, gender, more junior, and more advanced students.
3. Schedule

Starting on **Thursday, September 17** with an introduction to the topic, the seminar will be held weekly on Thursdays from 10:15-11:45. The exact room (UniS or Main Building) will be determined. Each week, one or two of the participants will prepare a presentation of a paper and another student will chair the following debate. The assignment of the presentations will be done in the first week of the semester. The last session (wrap up Session) will be held on December 17. Seminar papers will be due on **January 10, 2021**. They will be graded within 4 weeks.

4. Required Contributions by Students

The graded contributions of students consist of:

- A presentation of approx. 20 minutes
- Chairing one of the seminar sessions
- Active participation in the debate
- The submission of a 10-15 page seminar paper.

Oral and written contributions both amount to half of the final grade. Please have a careful look at the rules that apply on the requirements of seminar contributions both on the Bachelor- as on the Master level at the Faculty of Law of the University of Bern:

- [Studienreglement RW](#) [RSL RW](#)
- [Merkblatt Seminararbeit nach Art. 16 RSL 2007](#)
- [Richtlinien der rechtswissenschaftlichen Fakultät über die Anforderungen an Umfang und Form der Falllösungen vom 16. August 2012](#)