

Содержание:

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Law for Economics. Essay

Law and economics interact in many ways. While private law helps individuals and groups who wish to enter into free market agreements, public law tries to correct the results of the free market system through economic and social regulation. Economists themselves should be informed about the legal environment in which economic activity should be carried out, and lawyers should be aware of the economic consequences of existing legal norms and the expected results under a different legal regime. Law and economics combine the two main social structures of society into one subject, which allows a complicated study of the significant problems that exist in each subject.

The economic analysis of law is the application of economic theories to the legal system. This leads to declarations about the impact of certain legal norms. In addition, at the next stage, the results gotten as a result of a positive analysis are normatively using the concept of effectiveness. In addition to sociological, philosophical and philological methods, economic analysis is another analytical method of law.

The origins of the economic analysis of law go back to modern economic classics: Adam Smith described the stimulating effect of laws in «An Inquiry of the Nature and Causes of the Wealth of Nations». His contemporary, David Hume, viewed laws in a world of limited resources as a set of principles that economic agents follow to help collaboration. Jeremy Bentham also studied how subjects behave in the presence of legal motivations. However, all these investigations did not lead to a systematic legal analysis using economic behavioral assumptions.

Since the 19th century, special legal considerations based on the preparatory work of the classics have become increasingly important. Marx, in particular, has criticized the dominant view that natural rights do not touch property rights. His method has led to the realization that property rights are given to economic and social realities in accordance with the individual and, therefore, can be changed by developing a law.

The breakthrough in research, also known as the legal and economic method, was successful only with the “second wave” in the 1960s. The second wave was presented in Coase's essay “The Problem of Social Costs”.

Methodologically, an economic analysis of the law of an economic behavior model serves as a tool for determining the consequences, and criteria for the effectiveness of the welfare economy as a tool for calculating the consequences.

The economic model of behavior describes a rational and selfish model of a person, the so-called homo economicus. This behavioral model is based on neoclassicism and means that economic agents are rational, fully informed, that the property is fully defined.

The main advantage of a model of economic behavior is that it makes behavior predictable. Therefore, predicting individual behavior, we can determine the consequences of changing the law. In the next step, this change in law will be calculated.

A later method to the economic analysis of law considers the law from the point of view of a behavioral economy, which no longer begins with an infinitely rational concept of man. An important area from the beginning of the 21st century has been the discussion about the justification and design of libertarian paternalism.

The law and economic movement apply economic theory and method to legal practice. It argues that the tools of economic reasoning provide the best opportunity for sound and consistent legal practice. Perhaps this is one of the dominant theories of jurisprudence. The legal and economic movement offers a general theory of law, as well as conceptual tools to clarify and improve its practice. The general theory is that law is best viewed as a social tool that promotes economic efficiency, and economic analysis and efficiency as an ideal can guide legal practice. It also addresses how legislation should be used to improve market conditions. The combination of legal theory and economic reasoning has also created new research programs in the field of behavioral economics: how rationality affects people's behavior in legal scenarios; the theory of public choice and how collective behavior should influence legislation; and game theory: an understanding of strategic action in a legal context.

Essential to an understanding of the law and economics movement is a set of fundamental concepts. The main theory is that people are rational maximizers of their individual satisfaction. They select the means to achieve goals in the most effective way. It is important to understand that the economy, as understood here, is not limited to the analysis of monetary funds. Each potential satisfaction is involved in the calculation of economic satisfaction and, therefore, can be investigated in accordance with the

economic rationality or rationality of the final result and a compromise of costs and benefits. As a rule, a business case is aimed at increasing efficiency.

Since someone values the money more than the other one, and he estimates the owned thing more than the asking price, the exchange gives a net gain in economic goods. Everybody thinks that he has profit. Some economists have gone so far as to argue that such a contractual exchange is morally optimal. It is justice for everybody.

Economists have many terms to describe the possible effects of economic exchanges. For example, Pareto optimality is defined as the point at which resources are already distributed so nobody wants to trade further. Pareto optimality is the endpoint of a series of excellent Pareto actions. Pareto excellence makes at least one person better without making anyone worse. Since no one is in a worse position after the deal, there are no losers in the Pareto improvement.

But some types of market failures are less obvious. One of the problems of market transactions is, for example, that the value obviously is not reflected in the market price of the goods. Usually, a factory may not have to consider the costs that it damages the environment in the selling price of its goods. In this case, the market price of the goods will not reflect its real value. There are different ideas about this case: Pigou, Coase, and others. Thus, the law can be used to promote economic efficiency. But is it better to describe all the laws from an economic point of view?

The law is often used to encourage effective exchanges. But it seems difficult to argue that the law as an institution is best described economically. It seems illogical to consider the whole law as based on market principles. However, an economic analysis of the law manages to see that separate areas such as contract, civil and criminal law are based on economic goals, which gives the law a more consistent basis than other theories can offer.

Although analytically incomplete, economic analysis models the actual results of legal institutions better than any other theory. This, however, does not mean that the law should be consciously used for this purpose. Wouldn't it be better to use the law to deal with issues related to justice, duties and the like? Advocates of law and economics opposed such a conclusion. Arguments are usually of two types. First, it is argued that the meanings of words, such as justice or duty, are so unclear and debatable that the use of such concepts to substantiate court decisions provides no indication. It is argued that although such concepts are uselessly complex, the tools of economic analysis and the concept of economic efficiency are clear enough to provide the judge with a solid and

predictable basis for a decision. The law is better able to make decisions in accordance with efficiency rather than justice or responsibilities due to limitations in institutional competence. This may be so if the issues of justice are so complex that they include information that the courts cannot structurally process. Secondly, it was argued that since the justice paradigm is a freely concluded contract, law is best viewed as a tool for optimizing contractual mechanisms.

Another argument in favor of the fruitfulness of the economic analysis of law is that it helps to understand legal institutions. Three of the most important of these theories are behavioral economics, game theory, and social choice theory.

The list of sources

1. <https://www.iep.utm.edu/law-econ/>

2. <https://emle.org/law-economics/>

3. https://www.economicconcepts.com/nature_of_economic_laws.htm