

Syllabus

Behavioural law and economics

Instructor: Prof. Dr. Eva Leora van der Zee

Language of instruction: English

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Outline

This course provides an advanced survey and discussion of a number of current topics and debates in behavioural law and economics. We will read and analyse recent scholarly contributions by legal scholars and behavioural scientists. The aim is threefold. First, students will become familiar with the basic notions in behavioural law and economics. Second, students will learn to analyse law through the lens of behavioural science. Third, students will improve their understanding of scholarly contributions by legal scholars, behavioural economists, and behavioural scientists. Example topics include the interaction between standard setting and international and EU law, how to incorporate behavioural science in legal interpretation and application, and the role of the freedom of expression in the disclosure paradigm.

Practical information

The summer school will be on Zoom. If your personal situation permits, please turn on your camera so that the experience will be close to an in-class lecture.

I will conduct a few experiments in class. As the class is online the experiments will be conducted through [PollEv.com/evavanderzee412](https://poll-ev.com/evavanderzee412). Although the website is very intuitive, it would be great if you could already try to get yourselves familiar with it and answer the question that is now live (just click the link [PollEv.com/evavanderzee412](https://poll-ev.com/evavanderzee412)).

Prerequisites

Basic knowledge of law, sufficient English language skills.

Learning objectives

This course aims to achieve the following learning objectives:

1. Students will become familiar with the basic notions on behavioural law and economics;
2. Students will learn to analyse law through the lens of behavioural science

Core themes and literature

| Day | | Content |
|---|--|--|
| 1 | Introduction to behavioural law and economics | In this theme the basic themes underlying economic analysis of law will be explored. Thereafter, the relevance of behavioural science in the economic analysis of law will be discussed. |
| <p>Mandatory reading: Jolls, Christine and Sunstein, Cass R. and Thaler, Richard H., "A Behavioral Approach to Law and Economics." <i>Stanford Law Review</i> (1998). Available at SSRN: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2292029</p> <p>Recommended reading: Zamir and Teichman, <i>Behavioral Law and Economics</i> (Oxford University Press 2018), chapter 1 and 2</p> | | |
| 2 | Behavioural analysis of contract law | In this theme we will discuss the behavioural analysis of contract law. |
| <p>Mandatory reading: Deakin, Simon, Christel Lane, and Frank Wilkinson. "'Trust' or Law? Towards an Integrated Theory of Contractual Relations between Firms." <i>Journal of Law and Society</i> 21 (1994): 329-49.</p> <p>Recommended reading: Zamir and Teichman, <i>Behavioral Law and Economics</i> (Oxford University Press 2018), chapter 7 and 8</p> | | |
| 3 | Behavioural law analysis of commercial law | In this theme we will discuss the behavioural analysis of commercial law. |
| <p>Mandatory reading: Bronsteen, John and Buccafusco, Christopher J. and Masur, Jonathan S., "Well-Being Analysis vs. Cost-Benefit Analysis" <i>Duke Law Journal</i> 62 (2013)</p> <p>Recommended reading: Zamir and Teichman, <i>Behavioral Law and Economics</i> (Oxford University Press 2018), chapter 10</p> | | |
| 4 | Behavioural analysis of international law | In this theme we will discuss the behavioural analysis of international law. |
| <p>Mandatory reading: Teichman, Doron and Zamir, Eyal, "Behavioral Analysis of International Law: On Lawmaking and Nudging" (2018). Hebrew University of Jerusalem Legal Research Paper No. 18-8. Available at SSRN: https://ssrn.com/abstract=3110367</p> <p>Recommended reading: Zamir and Teichman, <i>Behavioral Law and Economics</i> (Oxford University Press 2018), chapter 11.</p> | | |

Further recommended reading

- Kahneman, Daniel. 2011. *Thinking, Fast and Slow*. New York: Farrar, Straus and Giroux
- Zamir, Eyal, and Doron Teichman. 2018. *Behavioral law and economics*. New York, NY: Oxford University Press
- Thaler, Richard H., and Cass R. Sunstein. 2019. *Nudge: Improving Decisions About Health, Wealth, and Happiness*. New York: Penguin Books.