

2-1-2004

Introduction: Teaching Socioeconomics

June Carbone

Follow this and additional works at: <https://digital.sandiego.edu/sdlr>



Part of the [Law Commons](#)

Recommended Citation

June Carbone, *Introduction: Teaching Socioeconomics*, 41 SAN DIEGO L. REV. 1 (2004).

Available at: <https://digital.sandiego.edu/sdlr/vol41/iss1/2>

This Symposium Article is brought to you for free and open access by the Law School Journals at Digital USD. It has been accepted for inclusion in *San Diego Law Review* by an authorized editor of Digital USD. For more information, please contact digital@sandiego.edu.

Introduction: Teaching Socioeconomics

JUNE CARBONE*

Socioeconomics, as an interdisciplinary approach, a perspective, or simply an alternative to the standard law and economics regime, is finding its way into an increasing number of law courses. I found in teaching a course on women, law, and technology, for example, that my students started with simplistic assumptions about the relationship between law, government, and society. Give them a problem—new reproductive technologies, the glass ceiling in Silicon Valley—and they reflexively assume that government intervention would provide a solution. Conversely, present the same issue to colleagues or other students steeped in law and economics, and they assume almost automatically that markets provide outcomes that are either normatively appropriate or inevitable. To unpack these assumptions, indeed, to have a class discussion that goes beyond polarized responses, requires a framework for analysis.

Socioeconomics provides that. Law and economics, based on the rational actor model, provided a relatively simple (so long as one eschewed the math) analysis that could be incorporated into almost every law course. Today, however, the law and economics paradigm includes a variety of different approaches that incorporate increasingly complex debates about the role of institutions in mediating individual responses and the use of cognitive psychology and game theory to provide more robust models of human behavior. Socioeconomics goes

* Professor of Law and Presidential Professor of Ethics and the Common Good, Santa Clara University. I would like to thank Lynne Dallas for initiating and planning this Symposium, Robert Ashford and Bill Black for their support and suggestions, Maggie Sachs for many rich and wonderful discussions about teaching socioeconomics, Armando Pastran, Jr. for his research assistance, and all of the participants in the Symposium for their many contributions to realizing this project.

beyond the limits of economics itself to recognize not only these heterodox economic approaches, but also the value of a broad range of other disciplines in explaining, predicting, and evaluating human institutions and behavior.

This Symposium provides examples of how the insights provided by socioeconomics can be incorporated into courses across the curriculum. It begins with Robert Ashford's overview of socioeconomics. The Symposium continues with Lynne Dallas's explanation of the role of socioeconomics in the course she has developed to teach law and public policy from a socioeconomics perspective. Dallas's course, which parallels the law and economics courses offered elsewhere, introduces socioeconomic perspectives on concepts of fairness and well-being, and then applies them to a broad range of issues from discrimination to globalization, from family law to corporate regulation. Dallas's article is paired with Tom Ulen's article, *A Crowded House*. Ulen argues that as law and economics has become more influential and pervasive, the popularity of separate courses has declined, and the difficulty of fitting more into the curriculum has increased. Dallas, in contrast, explains how a separate course in socioeconomics may be essential to underscore its importance as a distinct methodological approach.

The second group of papers in the Symposium addresses the incorporation of socioeconomic perspective into existing courses. Ed Rubin, Jeffrey Stake, and Ken Dau-Schmidt apply socioeconomics to basic courses in Contracts and Property. Stake uses two socioeconomic concepts to introduce students to property. First, he has an exercise that uses the allocation of property rights in whales to illustrate the concept of "rent seeking" or the possibility that a competitive market may induce investors to spend more collectively than they can hope to recover. Second, he uses cognitive psychology to analyze adverse possession. Rubin discusses the failure of standard contracts courses to discuss contracts—or contracting behavior—at all, and he explains how socioeconomics can provide a way to bring these issues home for first year students. Dau-Schmidt, in the second half of his paper with Stake, describes innovative exercises he used in courses in labor and employment to illustrate employer-employee relationships.

Professors in upper class courses have even greater flexibility to incorporate socioeconomic principles, and many feel it is essential to do so. Ellen Dannin contends that labor law presents an ideal subject for teaching within a socioeconomic framework, because issues of law, power, economics, and social ordering have always existed within the employment relationship, and the National Labor Relations Act's express purpose is to alter every aspect of those relationships. Katherine Stone, Tim Canova, and Claire Dickerson examine this imbalance of

power in the even more complex arena of globalization. Concern for the rights of labor, and efforts to counter employee power, must now take into account an international arena where the employer threat to relocate carries disproportionate power. Robert Ashford advances an even stronger position, arguing that socioeconomics is essential to understanding the lawyer's duties of competence and candor, and the duty to improve the law, and is thus critical to law teaching not only in professional responsibility courses but also in any course in which economic issues have substantial legal significance.

In contrast, Peg Brinig and Richard Gershon use socioeconomics to explore areas where they believe it is essential to examine motivations that cannot be explained in terms of traditional economic incentives. Brinig teaches family law, and she uses empirical analyses to provide a richer understanding of divorce, cultural differences, and adoption. She emphasizes that empirical work, rigorously undertaken and introduced to students, can confront stereotypes and increase acceptance of counterintuitive findings. More surprisingly, Gershon uses socioeconomics to explore the motivations underlying the tax code. He illustrates the role of irrational hostility to taxes in influencing taxpayer behavior and the congressional assumptions about cheating that sometimes produce counterproductive tax measures.

The next two articles by Charles Pouncy and Bill Black illustrate the difficulties and importance of socioeconomics. Pouncy describes his efforts to introduce socioeconomics into his business associations, banking, and corporate finance courses and the hostility it met from students. He attributes students' resistance and their failure to support his efforts to institutional racism, reinforcing his conviction that only through more pervasive exploration of socioeconomics can we understand the social construction of race, power, and inequality. Black, who teaches microeconomics and financial regulation at the LBJ School of Public Affairs at the University of Texas, underscores the importance of socioeconomics as a critical component of modern economic reasoning. Black, who was a government regulator at the height of the savings and loan crisis, argues that knowledge of economics is critical to those who would influence public policy, and socioeconomists should not cede "economics" to the Chicago school.

At the end of the Symposium, Jeffrey Harrison takes on the role of analyst, reviewing the papers as a whole and adding his own challenges to socioeconomics. He concludes that socioeconomics provides a framework

that can be used in disparate ways for law professors of varying perspectives, but the challenge that remains is for it to become methodologically indispensable to rigorous analysis irrespective of ideology.