

Fairness versus Welfare 1st Edition Louis Kaplow



Fairness Versus Welfare

Martijn Willem Hesselink



Fairness Versus Welfare:

Fairness versus Welfare Louis Kaplow, Steven Shavell, 2009-07-01 By what criteria should public policy be evaluated Fairness and justice Or the welfare of individuals Debate over this fundamental question has spanned the ages Fairness versus Welfare poses a bold challenge to contemporary moral philosophy by showing that most moral principles conflict more sharply with welfare than is generally recognized In particular the authors demonstrate that all principles that are not based exclusively on welfare will sometimes favor policies under which literally everyone would be worse off The book draws on the work of moral philosophers economists evolutionary and cognitive psychologists and legal academics to scrutinize a number of particular subjects that have engaged legal scholars and moral philosophers How can the deeply problematic nature of all nonwelfarist principles be reconciled with our moral instincts and intuitions that support them The authors offer a fascinating explanation of the origins of our moral instincts and intuitions developing ideas originally advanced by Hume and Sidgwick and more recently explored by psychologists and evolutionary theorists Their analysis indicates that most moral principles that seem appealing upon examination have a functional explanation one that does not justify their being accorded independent weight in the assessment of public policy Fairness versus Welfare has profound implications for the theory and practice of policy analysis and has already generated considerable debate in academia

Fairness Versus Welfare Louis Kaplow, Steven Shavell, 2003 Summary of and response to criticism of the authors book Fairness versus welfare Harvard University Press 2002

Fairness Versus Welfare Economics in Normative Analysis of Law Louis Kaplow, Steven Shavell, 1997

Why Welfare Depends on Fairness Michael B. Dorff, 2010 Louis Kaplow and Steven Shavell recently argued in their article Fairness Versus Welfare that legal decision makers should exclusively apply welfare economics when determining policy ignoring what they term fairness theories that is everything other than welfare economics This paper argues that Kaplow and Shavell's goal of eliminating non economic discourse from policy debates is not achievable Because the choice of a social welfare function rests on philosophical fairness justifications and because this choice also determines the policy recommendations produced by welfare economics I argue that fairness theories are inevitably at the heart of economic analysis It is therefore impossible to separate the fairness debate from policy analysis and to apply welfare analysis exclusively

Principles of Fairness Versus Human Welfare Louis Kaplow, Steven Shavell, 2000

Fairness Versus Welfare Economics in Normative Analysis of Law Enforcement Louis Kaplow, Steven Shavell, 1999

Well-Being and Fair Distribution Matthew Adler, 2012 A comprehensive philosophically grounded argument for the use of social welfare functions as a framework for governmental policy analysis

The Concept of Abuse in EU Competition Law Pinar Akman, 2012-02-03 The objective s of Article 102 TFEU what exactly makes a practice abusive and the standard of harm under Article 102 TFEU have not yet been settled This lack of clarity creates uncertainty for businesses and coupled with the current state of economics in this area raises an important question of legitimacy Using law and economic approaches this

book inquires into the possible objectives of Article 102 TFEU and proposes a modern approach to interpreting abuse. In doing so, this book establishes an overarching concept of abuse that conforms to the historical roots of the provision, to the text of the provision itself, and to modern economic thinking on unilateral conduct. This book therefore inquires into what Article 102 TFEU is about, what it can be about, and what it should be about regarding both objectives and scope. The book demonstrates that the separation of exploitative abuse from exclusionary abuse is artificial and unsound. It examines the roots of Article 102 TFEU and the historical context of the adoption of the Treaty, the case law, policy, and literature on exploitative abuses and where relevant on exclusionary abuses. The book investigates potential objectives such as fairness and welfare, as well as the potential conflict between such objectives. Finally, it critically assesses the European Commission's modernisation of Article 102 TFEU before proposing a reformed approach to abuse, which is centred on three necessary and sufficient conditions: exploitation, exclusion, and a lack of an increase in efficiency.

Theoretical Foundations of Law and Economics Mark D. White, 2009. A book-length examination of the methodology and philosophy of law and economics.

Law, Economics, and Morality Eyal Zamir, Barak Medina, 2010. This work examines the possibility of combining economic methodology and deontological morality through explicit and direct incorporation of moral constraints into economic models.

A Communitarian Theory of WTO Law Chios Carmody, 2023-12-21. Since 1995, there has been intense debate about whether the WTO Agreement is just. Many observers point to the association of the treaty with intensive interdependence and the disruptive effects of globalization to assert that it is unjust. Nevertheless, justice in sovereign terms is different from justice in human terms. This book puts forward a theory of WTO law to explain the difference and its implications for the international trading system. It details how economic interdependence gives rise to an interdependent view of the relationship between different forms of justice and to interdependent obligations in WTO law. It also suggests how the WTO dispute settlement system might have a residual value as a locus for transformative outcomes despite contemporary concerns about the system's political acceptability. Taken together, such insights may assist in identifying elements of a general theory of law.

Oliver Wendell Holmes, Jr., Legal Theory, and Judicial Restraint Frederic R.

Kellogg, 2006-12-11. Oliver Wendell Holmes Jr. is considered by many to be the most influential American jurist. The voluminous literature devoted to his writings and legal thought, however, is diverse and inconsistent. In this study, Frederic R. Kellogg follows Holmes's intellectual path from his early writings through his judicial career. He offers a fresh perspective that addresses the views of Holmes's leading critics and explains his relevance to the controversy over judicial activism and restraint. Holmes is shown to be an original legal theorist who reconceived common law as a theory of social inquiry and who applied his insights to constitutional law. From his empirical and naturalist perspective on law, with its roots in American pragmatism, emerged Holmes's distinctive judicial and constitutional restraint. Kellogg distinguishes Holmes from analytical legal positivism and contrasts him with a range of thinkers.

The Economic Characteristics of Developing

Jurisdictions Michal S. Gal, Mor Bakhoum, Josef Drexler, Eleanor M. Fox, David J. Gerber, 2015-06-29 There is ongoing debate as to what competition law and policy is most suitable for developing jurisdictions This book argues that the unique characteristics of developing jurisdictions matter when crafting and enforcing competition law and these should

European Competition Law Annual 2007 Claus-Dieter Ehlermann, Mel Marquis, 2008-11-28 This is the twelfth in a series on EU Competition Law and Policy produced by the Robert Schuman Centre of the European University Institute in Florence The volume reproduces the written contributions and transcripts in connection with a roundtable debate which examined the EU's enforcement policy as regards the abuse of a dominant position under Article 82 EC The workshop participants included senior enforcement officials and policy makers from the European Commission from the national competition authorities of certain EU Member States and from the US Department of Justice and Federal Trade Commission and renowned international academics legal practitioners and professional economists In an intense intimate environment this group of experts debated a number of legal and economic issues structured according to three broad lines of discussion 1 comparisons of the concept of monopolization under Section 2 of the Sherman Act with that of abuse of dominance under Article 82 EC 2 a reformed approach to exclusionary unilateral conduct and 3 exploitative unilateral conduct and related remedies Justifying Contract in Europe Martijn Willem Hesselink, 2021 This title uses contemporary political theories to address fundamental questions on European contract law It also places these theories in the context of the current European contract law landscape This book highlights future options for contract law in the EU and how it may need to change

Retributivism Mark D. White, 2011-04-25 In *Retributivism Essays on Theory and Policy* Professor Mark D White and his contributors offer analysis and explanations of new developments in retributivism the philosophical account of punishment that holds that wrongdoers must be punished as a matter of right duty or justice rather than to serve some general social purpose The contemporary debate over retributivist punishment has become particularly vibrant in recent years focusing increasingly on its political and economic as well as its philosophical aspects and also on its practical ramifications in addition to theoretical implications The twelve chapters in this book written by leading legal scholars and philosophers cover the various justifications and conceptions of retributivism its philosophical foundations often questioning conventional understandings and how retributivism informs actual criminal justice procedures and practices Law and Social Economics M. White, 2015-03-04 This edited volume is the first collection of essays exploring the intersection of social economics and the law providing alternatives to neoclassical law and economics and applying them to real world issues Law is a social enterprise concerned with values such as justice dignity and equality as well as efficiency which is the same way that social economists conceive of the economy itself Social economists and legal scholars alike need to acknowledge the interrelationship between the economy and the law in a broader ethical context than enabled by mainstream law and economics The ten chapters in *Law and Social Economics* written by an international assortment of scholars from economics

philosophy and law employ a wide variety of approaches and methods to show how a more ethically nuanced approach to economics and the law can illuminate both fields and open up new avenues for studying social economic behavior policy and outcomes in all their ethical and legal complexity *Law and Economics of Justice* Klaus Mathis, Avishalom Tor, 2024-04-30

While previous volumes have examined specific issues and developments such as the coronavirus crisis or digital transformation from a law and economics perspective the anniversary edition returns to the methodological and philosophical fundament of the discipline of law and economics The present book aims to examine these foundations in general and in particular efficiency reciprocity and meritocracy and their relation to law and justice from an interdisciplinary perspective

Efficiency Traditionally the economic analysis of law has been guided by the goal of efficiency Economists usually define efficiency as Pareto or Kaldor Hicks efficiency Any change that makes one member of society better off without anyone else being worse off is a Pareto improvement A change is a Kaldor Hicks improvement if the gainers value their gains more than the losers value their losses with only hypothetical compensation required

Reciprocity Economists have traditionally based their models on the self interest hypothesis of homo oeconomicus In this model an individual maximises his own utility without being altruistic or jealous Behavioural economics challenges the self interest hypothesis In fact many people deviate from purely self interested behaviour There are also signs that considerations of fairness and mutual benefit are important in bilateral negotiations and in the functioning of markets

Meritocracy The concept of meritocracy refers to a system organisation or society in which people are selected and promoted to positions of success power and influence on the basis of their abilities and merits This means that an individual is able to climb the social ladder through hard work Moreover meritocracy directs the most talented people into the most functionally important positions thereby increasing a society's efficiency However the equalising function of meritocracy has been criticised Rather than reducing inequality meritocracy is seen as the cause of racial economic and social inequality *A Theory of Contract Law* Peter A. Alces, 2011-04-07

In the past few decades scholars have offered positive normative and most recently interpretive theories of contract law These theories have proceeded primarily indeed necessarily from deontological and consequentialist premises In *A Theory of Contract Law* Empirical Insights and Moral Psychology Professor Peter A Alces confronts the leading interpretive theories of contract and demonstrates their doctrinal failures Professor Alces presents the leading canonical cases that inform the extant theories of Contract law in both their historical and transactional contexts and argues that moral psychology provides a better explanation for the contract doctrine than do alternative comprehensive interpretive approaches *The Analytical Failures of Law and Economics* Shawn Bayern, 2023-09-28

This book critiques the law and economics movement by showing that many of its leading arguments fail even on their own terms

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