

Inequality: Economic and Tax Policy
Spring 2019
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Syllabus

In this course, we will consider what economic analysis can say about the appropriate legal and policy response to inequality. We will begin with the conventional economic story: law should be “efficient,” with the exception of taxes and transfers, which should redistribute from the rich to the poor. We will review the various efficiency-based reasons for government policymaking (e.g., unemployment insurance, health insurance, regulation, torts, etc.). We then describe the “equity-efficiency tradeoff” long viewed as central to using taxes and transfers to redistribute to the poor. We will then critically examine the conventional script and consider how concerns about inequality should (or should not) affect the law's use of other policy tools (e.g., regulation, common law adjudication, and the provision of public goods and services) in light of factors traditionally not considered, like politics and so-called “behavioral” anomalies. We will also consider the appropriate place of economic analysis in policy discussions.

Books & Economic Policy Websites

No books are assigned. Articles and book excerpts will be scanned and posted on YLS: Inside or will be available on the Web.

Recommended books:

A good public finance textbook:

Gruber, Jonathan. *Public Finance and Public Policy* (2012, 4th Ed.) [referred to below as “Gruber”]

Standard law and economics textbooks:

Posner, Richard A. *Economic Analysis of Law* (2014, 9th Ed.)

Polinsky, A. Mitchell. *An Introduction to Law and Economics* (2011, 4th Ed.)

Shavell, Steven. *Foundations of Economic Analysis of Law* (2004)

Cooter, Robert B., and Thomas Ulen. *Law and Economics* (2011, 6th Ed.)

A good free economics textbook involving some of the issues we will discuss here:

<http://www.core-econ.org/> [referred to below as “Core”]

For staying up-to-date on economic policy discussions in DC, the following are good (among many other good think tanks):

- Washington Center for Equitable Growth (www.equitablegrowth.org)
- Center on Budget and Policy Priorities (www.cbpp.org)
- Tax Policy Center (www.taxpolicycenter.org)
- Economic Policy Institute (www.epi.org)
- Tax Foundation (www.taxfoundation.org)

Readings

Some of the readings are technical. This course is aiming to be at the cutting edge of economics research, and some of this research has not been digested yet. Do not be deterred. The goal is not to understand the technical details, but rather to understand the argument as well as possible without understanding the technical details. Our goal is not to critique the papers as if we were fellow academics, but rather to think about application—which, of course, is affected by the quality of the research, but leads to a different orientation toward the reading nonetheless.

Supplemental readings are purely for those interested in pursuing a topic further.

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Detailed Outline

Part I: Basic Theory

Class 1 – Introduction

- Ashkenas, Jeremy. *Nine New Findings About Inequality in the United States*, New York Times (2016),
 - o <https://www.nytimes.com/interactive/2016/12/16/business/economy/nine-new-findings-about-income-inequality-piketty.html>
- Lowrey, Annie. *The Wealth Gap in America is Growing, Too*, New York Times (2014),
 - o <https://economix.blogs.nytimes.com/2014/04/02/the-wealth-gap-is-growing-too/>
- Leonhardt, David. *The American Dream, Quantified at Last*, New York Times (2016),
 - o <https://www.nytimes.com/2016/12/08/opinion/the-american-dream-quantified-at-last.html>
- Leonhardt, David. *Our Broken Economy, in One Simple Chart*, New York Times (2017),
 - o <https://www.nytimes.com/interactive/2017/08/07/opinion/leonhardt-income-inequality.html>

Supplemental:

- Saez, Emmanuel. *Striking It Richer: The Evolution of Top Incomes in the United States (Update with 2015 preliminary estimates)* (2016)
 - o <http://eml.berkeley.edu/~saez/saez-UStopincomes-2015.pdf>
- Raskolnikov, Alex. *Accepting the Limits of Tax Law and Economics*, Cornell Law Review (2013)
 - o <http://www.lawschool.cornell.edu/research/cornell-law-review/upload/Raskolnikov-final.pdf>
- Scheiber, Noam. *As Americans Take Up Populism, the Supreme Court Embraces Business*, New York Times (2016)
 - o <http://mobile.nytimes.com/2016/03/12/business/as-americans-take-up-populism-the-supreme-court-embraces-business.html?referere>
- Case, Anne, Deaton Angus. *Rising Morbidity and Mortality in Midlife among White Non-Hispanic Americans in the 21st Century*, Proceedings of the National Academy of Sciences (2015)
 - o <http://www.pnas.org/content/112/49/15078.full.pdf>
- Corak, Miles. *Income Inequality, Equality of Opportunity, and Intergenerational Mobility*, Journal of Economic Perspectives (2013)
 - o <https://www.aeaweb.org/articles?id=10.1257/jep.27.3.79>
- Mankiw, N. Gregory. *Defending the One Percent*, Journal of Economic Perspectives (2013)
 - o <https://www.aeaweb.org/articles?id=10.1257/jep.27.3.21>
- Issue of the Journal of Economic Perspectives on Inequality Beyond Income:
 - o <https://www.aeaweb.org/issues/414>
- Alvaredo, Facundo, Anthony B. Atkinson, Thomas Piketty, and Emmanuel Saez. *The Top 1 Percent in International and Historical Perspective*, Journal of Economic Perspectives (2013)

Class 2 – Market Failure and Efficiency

- Gruber. p. 3-5, 121-26, 130-39, 183-89, 294-96, 321-39
- Posner, Richard. *Economic Analysis of Law* (2014, 9th Ed.), 331-40

Class 3 – Welfare and Distribution

- Gruber. Chapter 2 (“Theoretical Tools of Public Finance”), p. 25-57 (skim p. 35-43, except for the details of TANF on p. 37 if you are unfamiliar with them)
- Unger, Roberto Mangabeira. *What Should Legal Analysis Become?* (1996), p. 1-25 (p. 1-10 and p. 22-25 are the important parts; skim the rest)

Class 4 – Optimal Taxation I

- Gruber. Chapter 20 (“Tax Inefficiencies and Their Implications for Optimal Taxation”): p. 589-611 (skip 20.4)
- Mankiw, N. Gregory, Matthew Weinzierl, and Danny Yagan. *Optimal Taxation in Theory and Practice*, Journal of Economic Perspectives (2009)
 - o http://www.jstor.org/stable/27740559?seq=1#page_scan_tab_contents
- Saez, Emmanuel. *Optimal Income Transfer Programs: Intensive versus Extensive Labor Supply Responses*, Quarterly Journal of Economics (2002), p. 1039-42, 1057-66,
 - o <https://eml.berkeley.edu/~saez/botqje.pdf>

Class 5 – Optimal Taxation II

- Diamond, Peter, and Emmanuel Saez. *The Case for a Progressive Tax: From Basic Research to Policy Recommendation*, Journal of Economic Perspectives (2011)
 - o http://pirate.shu.edu/~rotthoku/Liberty/Diamond_Saez.pdf
- Piketty, Thomas, Emmanuel Saez, and Stefanie Stantcheva. *Optimal Taxation of Top Labor Incomes: A Tale of Three Elasticities*, American Economic Journal: Economic Policy (2014) (Focus on the introduction through the top full paragraph on p. 233, Section I.B on p. 238-239, and IV. Policy Implications and Conclusions. These parts summarize the results in the rest of the paper, which are still valuable to read for the details of the empirical analysis. Skip the appendix and skip the math that is interspersed throughout.)
 - o <http://eml.berkeley.edu/~saez/piketty-saez-stantchevaAEJ14.pdf>
- 2019 tax brackets,
 - o <https://taxfoundation.org/2019-tax-brackets/>

Supplemental:

- Core, Chapter 11: Rent-seeking
- Card, David, Ana Rute Cardoso, Jörg Heining, and Patrick Kline. *Firms and Labor Market Inequality: Evidence and Some Theory*, Social Science Research Network (2016)
 - o <http://ftp.iza.org/dp9850.pdf>

Class 6 – Combining Distribution and Efficiency: Economic Analysis of the Law

- Kaplow, Louis. *Why the Legal System Is Less Efficient than the Income Tax in Redistributing Income*, Journal of Legal Studies (1994). (Be sure to read the footnotes and appendix -- much of the most interesting analysis of theirs is located in those places.)
- Cooter, Robert B., and Thomas Ulen. *Law and Economics* (2011), p. 1-8

- Liscow, Zachary. *Reducing Inequality on the Cheap: When Legal Rule Design Should Incorporate Equity as Well as Efficiency*, Yale Law Journal (2014)
 - o http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2438402

Supplemental:

- Introduction to law and economics textbooks:
 - o Posner, Richard A. *Economic Analysis of Law* (2014) p. 1-26, especially 13-17
 - o Shavell, Steven. *Foundations of Economic Analysis of Law* (2004), p. 1-5
 - o Polinsky, A. Mitchell. *An Introduction to Law and Economics* (2011), p. 1-11

Class 7 – Efficiency Reconsidered

- Liscow, Zachary. *Is Efficiency Biased?*, Chicago Law Review (2018) (skip the appendix).
 - o https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3018796
- Liscow, Zachary. *Are Court Orders Sticky? Evidence on Distributional Impacts from School Finance Litigation*, Journal of Empirical Legal Studies (2018) (I. Introduction, p. 22-23 discussing Figure 2, and VII. Implications and Conclusion)
 - o https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2953104
- Liscow, Zachary, and William Giraldo Paez. *Inequality Snowballing* (2019) (Sections 1, 7, and 8)
 - o <http://ssrn.com/abstract=3327460>

Supplemental:

- Adler, Matthew, and Eric Posner. *Rethinking Cost-Benefit Analysis*, Yale Law Journal (1999)
 - o http://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=2755&context=journal_articles
- Adler, Matthew D. *Well-Being and Fair Distribution: Beyond Cost-Benefit Analysis* (2012), p. 560 - 567
- Bronsteen, John, Christopher Buccafusco, and Jonathan S. Masur. *Well-Being Analysis vs. Cost-Benefit Analysis*, Duke Law Journal (2013)
 - o <http://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=3389&context=dlj>
- Fennell, Lee Anne, and Richard H. McAdams. *The Distributive Deficit in Law and Economics*, Minnesota Law Review (2015),
 - o https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2544519

Class 8 – Behavioral Economics

- Jolls, Christine. *Behavioral Economics Analysis of Redistributive Legal Rules*, Vanderbilt Law Review (1998),
 - o https://heinonline.org/HOL/Page?handle=hein.journals/vanlr51&div=51&g_sent=1&casa_token=&collection=journals
- Beshears et al., *How Are Preferences Revealed?*, Journal of Public Economics (2008),
 - o <https://pdfs.semanticscholar.org/fa13/aa4b197dfe064350881992324592c6343aae.pdf>

Class 9 – Equality of What?

- Roemer, John. *A Pragmatic Theory of Responsibility for the Egalitarian Planner*, Philosophy and Public Affairs (1993)
 - o https://www.jstor.org/stable/pdf/2265444.pdf?_=1469296947800 (skip section IV)

- Sen, Amartya. Inequality Reexamined (1-30)

Class 10 - Combining Values, Theory and Evidence: Economic Expertise and Incidence

- Gruber. Chapter 19 (“The Equity Implications of Taxation: Tax Incidence”), p. 557-585
- Friedman, Milton. *The Methodology of Positive Economics*, in Daniel Hausman, *The Philosophy of Economics* (2nd ed., 1994), p. 180-188.
- Chetty, Raj. *Yes, Economics Is a Science*, New York Times (2013)
 - o <http://www.nytimes.com/2013/10/21/opinion/yes-economics-is-a-science.html>
- Wasserstein, Ronald L., and Nicole A. Lazar. *The ASA’s Statement on P-Values: Context, Process, and Purpose*, *The American Statistician* (2016)
 - o <http://amstat.tandfonline.com/doi/pdf/10.1080/00031305.2016.1154108>

Supplemental:

- Greenstone, Michael. *Is There an Energy Efficiency Gap?*, NBER Working Paper Series (2012), <https://www.nber.org/papers/w17766.pdf>
- Rothstein, Jesse. *The Earned Income Tax Credit*, Center for Equitable Growth (2015)
 - o <http://equitablegrowth.org/research-analysis/the-earned-income-tax-credit/>
- Gruber. Chapter 3 (“Empirical Tools of Public Finance”), p. 63-85

Part II: Applications

Class 11 – Political Economy, Inclusive Growth, and Win-Win Economics

- Krugman, Paul. *Challenging the Oligarchy*, *The New York Review of Books* (2015)
 - o <http://www.nybooks.com/articles/2015/12/17/robert-reich-challenging-oligarchy/>
- OECD, *In It Together: Why Less Inequality Benefits All* (2015) (Sections 1.1, 1.3, 1.5-1.7)
 - o <https://www.oecd.org/els/soc/OECD2015-In-It-Together-Chapter1-Overview-Inequality.pdf>
- Gruber. “Arrow’s Impossibility Theorem,” p. 238-239
- Friedman, Benjamin M. *The Moral Consequences of Economic Growth* (2005), p. 3-18

Supplemental:

- Gruber. Section 9.4 (“Public Choice Theory: The Foundations of Government Failure”), p. 251-260
- Ostry et al., *Redistribution, Inequality, and Growth*, IMF (2014)
 - o <http://www.imf.org/external/pubs/ft/sdn/2014/sdn1402.pdf>
- Acemoglu, Daron, Mikhail Golosov, and Aleh Tsyvinski. *Dynamic Mirrlees Taxation under Political Economy Constraints*, *Review of Economic Studies* (2010)
 - o <http://economics.mit.edu/files/5792>
- Scheuer, Florian, Alexander Wolitzky, Florian Scheuer, and Alexander Wolitzky. *Capital Taxation under Political Constraints*, *American Economic Review* (2016)
 - o https://www.aeaweb.org/atypon.php?return_path=/doi/pdfplus/10.1257/aer.20141081&etoc=1
- Dabla-Norris, Era, Kaplana Kochhar, Nujin Suphaphiphat, Frantisek Ricka, and Evridiki Tsounta. *Causes and Consequences of Income Inequality: A Global Perspective*, IMF Staff Discussion Notes (2015)
 - o <https://www.imf.org/external/pubs/cat/longres.aspx?sk=42986.0>

Class 12 – Policies to Address Inequality

- Stiglitz, Joseph E. *Rewriting the Rules of the American Economy: An Agenda for Growth and Shared Prosperity* (2016) (read Introduction & Rewriting the Rules; skim The Current Rules as appropriate)
 - o <http://rooseveltinstitute.org/rewriting-rules-report/>

Supplemental:

- Brink Lindsey, *Low-Hanging Fruit Guarded by Dragons: Reforming Regressive Regulation to Boost U.S. Economic Growth* (2015)
 - o https://object.cato.org/sites/cato.org/files/pubs/pdf/20150622_lindsey_wp_lowhangingfruit.pdf
- American Enterprise Institute-Brookings Institution. *Opportunity, Responsibility and Security* (2015)
 - o <https://www.brookings.edu/wp-content/uploads/2016/07/Full-Report.pdf>
- Atkinson, Anthony B. *Inequality* (2015): (“The Way Forward”) p. 301-308
- Summers, Lawrence, and Ed Balls. *Report of the Commission on Inclusive Prosperity* (2015)
 - o <https://www.americanprogress.org/issues/economy/report/2015/01/15/104266/report-of-the-commission-on-inclusive-prosperity/>

Class 13 – Universal Basic Income, Jobs Subsidies, Jobs Guarantee

- Kasy, Max. *Why a Universal Basic Income Is Better Than Subsidies of Low-Wage Work*,
 - o http://filesforprogress.org/pdfs/UBI_EITC_Kasy_DFP_Working_Paper.pdf
- Hoynes, Hilary, and Jesse Rothstein, *Universal Basic Income in the US and Advanced Countries* (Sections I, II, VII, VIII)
 - o <https://eml.berkeley.edu/~jrothst/workingpapers/w25538.pdf>
- Paul, Mark et al., *The Federal Job Guarantee—A Policy to Achieve Permanent Full Employment*,
 - o <https://www.cbpp.org/sites/default/files/atoms/files/3-9-18fe.pdf>
- Phelps, Edmund, *Low-Wage Employment Subsidies versus the Welfare State*, AER Papers & Proceedings (1994),
 - o <http://www.columbia.edu/~esp2/lowwage.pdf>

Class 14 – Preferences (or Politics?) on Distribution

- Liscow, Zachary. *Moral Commitments and Inequality: A Dilemma* (draft).
- Lester, Gillian. *Can Joe the Plumber Support Redistribution? Law, Social Preferences, and Sustainable Policy Design*, Tax Law Review (2010) (Sections I, IV - VI, VIII - IX)
 - o <http://scholarship.law.berkeley.edu/cgi/viewcontent.cgi?article=2314&context=facpubs>
- Palin endorsement speech of Trump: clips at time 6:18-8:45, 17:00-18:00
 - o <https://www.youtube.com/watch?v=MvIm3LKS1pU>
- Hacker, Jacob. *The Institutional Foundations of Middle-Class Democracy*, Policy Network,
 - o http://www.policy-network.net/pno_detail.aspx?ID=3998&title=The+institutional+foundations+of+middle-class+democracy

Supplemental:

- Post, Robert. *Managing Deliberation: The Quandary of Democratic Dialogue*, Ethics (1993)
- Kamin, David. *Reducing Poverty, Not Inequality: What Changes in the Tax System Can Achieve*, Tax Law Review (2013)
 - o http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2234519
- Saez, Emmanuel, and Stefanie Stantcheva. *Generalized Social Marginal Welfare Weights for Optimal Tax Theory*, American Economic Review (2016)
 - o <http://eml.berkeley.edu/~saez/saez-stantchevaAER16.pdf>
- Fisman, Raymond, Pamela Jakiela, Shachar Kariv, and Daniel Markovits. *The Distributional Preferences of an Elite*, Science (2015)
 - o <http://science.sciencemag.org/content/349/6254/aab0096.full.pdf+html>

Class 15 – [Guest Speaker from Presidential Campaign]

Class 16 – Place-Based Policies

- Autor, David, David Dorn, and Gordon Hanson. *The China Shock: Learning from Labor Market Adjustment to Large Changes in Trade*, NBER Working Paper Series (2016) (introduction and Figure 7 on p. 32. This paper is for context.)
 - o <http://www.ddorn.net/papers/Autor-Dorn-Hanson-ChinaShock.pdf>
- Austin et al., *Jobs for the Heartland: Place-Based Policies in 21st-Century America*, Brookings Papers on Economic Activity (2018)
 - o https://www.brookings.edu/wp-content/uploads/2018/03/AustinEtAl_Text.pdf
- Schleicher, David. *Getting People Where the Jobs Are*, Democracy: A Journal of Ideas
 - o <http://democracyjournal.org/magazine/42/getting-people-where-the-jobs-are/>
- Aldonas, Grant et al., *Succeeding in the Global Economy: An Adjustment Assistance Program for American Workers*,
 - o https://sites.hks.harvard.edu/fs/rlawrence/fsf_adjustment_assistance_plan.pdf

Class 17 – Innovation: Labor and Environment

- Korinek, Anton. *Labor in the Age of Automation and Artificial Intelligence*.
 - o <https://econfp.org/wp-content/uploads/2019/02/6.Labor-in-the-Age-of-Automation-and-Artificial-Intelligence.pdf>
- Acemoglu, Daron. *Directed Technical Change*, Review of Economic Studies (2002) (Introduction and Conclusion)
 - o <https://economics.mit.edu/files/4126>
- Liscow, Zachary & Quentin Karpilow. *Innovation Snowballing and Climate Law*, Washington University Law Review (2017) (p. 395-419)
 - o https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2927441

Class 18 – Capital Income Taxation

- Kleinbard, Edward. *Capital Taxation in an Age of Inequality*, Southern California Law Review (2017)
 - o https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2838532

Class 20 – Guest Speaker: Matthew Weinzierl, Harvard Business School

- Weinzierl, Matthew. *Welfarism's Envy Problem Extends to Popular Judgments*, American Economic Association Papers & Proceedings (2018), <https://www.aeaweb.org/articles?id=10.1257/pandp.20181001>
- Weinzierl, Matthew. *Popular Acceptance of Inequality Due to Innate Brute Luck and Support for Classical Benefit-Based Taxation*, Journal of Public Economics (2017), <https://www.sciencedirect.com/science/article/pii/S0047272717301500>

Class 21 – Growth and Inequality Redux

- Furman, Jason. *Should Policymakers Care Whether Inequality Is Helpful or Harmful for Growth?*, https://www.law.nyu.edu/sites/default/files/upload_documents/Should%20Policymakers%20Care%20Whether%20Inequality%20is%20Helpful%20or%20Harmful%20for%20Growth%20-%20Furman.pdf
- Naidu et al., *Economics After Neoliberalism*: <http://bostonreview.net/forum/suresh-naidu-dani-rodrik-gabriel-zucman-economics-after-neoliberalism>

Class 22 – Economists for Inclusive Prosperity

- Responses to Naidu et al.:
 - o Robin: <http://bostonreview.net/forum/economics-after-neoliberalism/corey-robin-uninstalling-hayek>
 - o Satz: <http://bostonreview.net/forum/economics-after-neoliberalism/debra-satz-markets-are-political>
 - o Easterly: <http://bostonreview.net/forum/economics-after-neoliberalism/william-easterly-defense-neoliberalism>
 - o Steinbaum: <http://bostonreview.net/forum/economics-after-neoliberalism/marshall-steinbaum-empiricism-alone-wont-save-us>
 - o De Mesquita: <http://bostonreview.net/forum/economics-after-neoliberalism/ethan-bueno-de-mesquita-perils-quantification>
 - o Complexity Economists: <http://bostonreview.net/forum/economics-after-neoliberalism/complexity-economists-inclusive-economics-complexity-economics>
- Naidu et al. Response: <http://bostonreview.net/forum/economics-after-neoliberalism/suresh-naidu-dani-rodrik-gabriel-zucman-economics-after>
- Rodrik, Dani. *Towards a More Inclusive Globalization: An Anti-Social Dumping Scheme*. Economists for Inclusive Prosperity eBook, <https://econfp.org/wp-content/uploads/2019/02/9.Toward-a-More-Inclusive-Globalization.pdf>

Classes 23 - 26 – Presentations

- With 1-hour conclusion on last day