

Seminar: Topics in Behavioral Law and Economics
Christine Jolls and Cass R. Sunstein
Fall 2006

Preliminary Syllabus (note: some readings may change before the course begins)

Background reading: For general background on behavioral law and economics, see Christine Jolls, Cass R. Sunstein, and Richard Thaler, A Behavioral Approach to Law and Economics, *Stanford Law Review*, 50:1471-1550 (1998).

Class 1: Risk I (Cognition and “Psychometrics”)

Some (not all) of the following:

Amos Tversky and Daniel Kahneman, Introduction, in *Judgment Under Uncertainty: Heuristics and Biases* (Daniel Kahneman, Paul Slovic, and Amos Tversky eds., 1982)

Shelley E. Taylor, The Availability Bias in Social Perception and Interaction, in *Judgment Under Uncertainty: Heuristics and Biases* (Daniel Kahneman, Paul Slovic, and Amos Tversky eds., 1982)

Paul Slovic, Baruch Fischhoff, and Sarah Lichtenstein, Facts versus Fears: Understanding Perceived Risk, in *Judgment Under Uncertainty: Heuristics and Biases* (Daniel Kahneman, Paul Slovic, and Amos Tversky eds., 1982)

Paul Slovic, Perception of Risk: Reflections on the Psychometric Paradigm, in *Social Theories of Risk* (Sheldon Krinsky and Dominic Golding eds., 1992)

Yuval Rottenstreich and Christopher K. Hsee, Money, Kisses, and Electric Shocks: On the Affective Psychology of Risk, *Psychological Science*, 12:185-90 (2001)

Paul Slovic, Melissa L. Finucane, Ellen Peters, and Donald G. MacGregor, Risk As Analysis and Risk As Feelings: Some Thoughts about Affect, Reason, Risk, and Rationality, *Risk Analysis*, 24:1-12 (2004)

Howard Margolis, *Dealing with Risk: Why the Public and the Experts Disagree on Environmental Issues* (1996) (excerpts)

Class 2: Risk II (Cognition, Feelings, Culture, and Law)

Some (not all) of the following:

George F. Loewenstein, Christopher K. Hsee, Elke U. Weber, and Ned Welch, Risk as Feelings, *Psychological Bulletin*, 127:267-86 (2001)

Gary H McClelland, William D. Schulze, and Don L. Coursey, Insurance for Low-Probability Hazards: A Bimodal Response to Unlikely Events, *Journal of Risk and Uncertainty*, 7:95-116 (1993)

Daniel Kahneman and Amos Tversky, Prospect Theory: An Analysis of Decision Under Risk, in *Choices, Values, and Frames* (Daniel Kahneman and Amos Tversky eds., 2000)

Shlomo Benartzi and Richard H. Thaler, Myopic Loss Aversion and the Equity Premium Puzzle, in *Choices, Values, and Frames* (Daniel Kahneman and Amos Tversky eds., 2000)

George A. Auerhahn and Amos Tversky, Contrasting Rational and Psychological Analyses of Political Choice, in *Choices, Values, and Frames* (Daniel Kahneman and Amos Tversky eds., 2000)

Dan M. Kahan and Donald Braman, Cultural Cognition and Public Policy, *Yale Law and Policy Review*, 24:149-72 (2006)

Dan M. Kahan, Donald Braman, Paul Slovic, and John Gastil, Fear and Democracy: A Cultural Evaluation of Sunstein on Risk, *Harvard Law Review*, 119:1071-1109 (2006)

Cass R. Sunstein, Beyond the Precautionary Principle, *University of Pennsylvania Law Review*, 151:1003-58 (2003)

David A. Dana, A Behavioral Economic Defense of the Precautionary Principle, *Northwestern University Law Review*, 97:1315-45 (2003)

Jeffrey J. Rachlinski, The Psychology of Global Climate Change, *University of Illinois Law Review*, 200:299-319 (2000)

Class 3: Endowment and Framing Effects I

Amos Tversky and Daniel Kahneman, The Framing of Decisions and the Psychology of Choice, *Science*, January 30, 1981, pp. 453-58

Amos Tversky and Richard Thaler, Anomalies: Preference Reversals, *Journal of Economic Perspectives*, 4(2):201-11 (1990)

Richard Thaler, Toward a Positive Theory of Consumer Choice, *Journal of Economic Behavior and Organization*, 1:39-60 (1980)

Daniel Kahneman, Jack L. Knetsch and Richard Thaler, Experimental Tests of the Endowment Effect and the Coase Theorem, *Journal of Political Economy*, 98:1325-48 (1990)

Class 4: Endowment and Framing Effects II

Charles R. Plott and Kathryn Zeiler, The Willingness to Pay–Willingness to Accept Gap, the ‘Endowment Effect,’ Subject Misconceptions, and Experimental Procedures for Eliciting Valuations, *American Economic Review*, 95:530-45 (2005)

Charles R. Plott and Kathryn Zeiler, Asymmetries in Exchange Behavior Incorrectly Interpreted as Evidence of Prospect Theory, working paper (2005)

Mark Kelman, Consumption Theory, Production Theory, and Ideology in the Coase Theorem, *Southern California Law Review*, 52:669-98 (1979)

Class 5: Fairness I

Amartya Sen, Rational Fools: A Critique of the Behavioural Foundations of Economic Theory, *Philosophy and Public Affairs*, 6:317-44 (1977)

Daniel Kahneman, Jack L. Knetsch, and Richard H. Thaler, Fairness as a Constraint on Profit Seeking: Entitlements in the Market, *American Economic Review*, 76:728-41 (1986)

Elizabeth Hoffman, Kevin McCabe and Vernon L. Smith, Social Distance and Other-Regarding Behavior in Dictator Games, *American Economic Review*, 86:653-60 (1996)

Uri Gneezy and Aldo Rustichini, A Fine is a Price, *Journal of Legal Studies*, 29:1-17 (2000)

Class 6: Fairness II

George Akerlof, Labor Contracts as Partial Gift Exchange, *Quarterly Journal of Economics*, 97:543-69 (1982)

Ernst Fehr, Georg Kirchsteiger and Arno Riedl, Does Fairness Prevent Market Clearing: An Experimental Investigation, *Quarterly Journal of Economics*, 108:437-59 (1993)

Chaim Fershtman and Uri Gneezy, Discrimination in a Segmented Society: An Experimental Approach, *Quarterly Journal of Economics*, 116:351-77 (2001)

Gary Charness and Matthew Rabin, Understanding Social Preferences with Simple Tests, *Quarterly Journal of Economics*, 117:817-69 (2002)

Class 7: Implicit Group-Based Bias

Anthony G. Greenwald, Debbie E. McGhee, and Jordan L.K. Schwartz, Measuring Individual Differences in Implicit Cognition: The Implicit Association Test, *Journal of Personality and Social Psychology*, 74:1464-80 (1998)

Anthony G. Greenwald and Linda Hamilton Krieger, Implicit Bias: Scientific Foundations, *California Law Review* (forthcoming 2006)

Christine Jolls and Cass R. Sunstein, The Law of Implicit Bias, *California Law Review* (forthcoming 2006)

Class 8: Group Decisions

Geoffrey L. Cohen, Party Over Policy: The Dominating Impact of Group Influence on Political Beliefs, *Journal of Personality and Social Psychology*, 85:808-22 (2003)

David Hirshleifer, The Blind Leading the Blind: Social Influence, Fads, and Informational Cascades, in *The New Economics of Human Behaviour* (Mariano Tommasi and Kathryn Ierulli eds., 1995)

Caryn Christensen and Ann S. Abbott, Team Medical Decision Making, in *Decision Making in Health Care: Theory, Psychology, and Applications* (Gretchen B. Chapman and Frank A. Sonnenberg eds., 2000)

Cass R. Sunstein, David Schkade, and Lisa Michelle Ellman, Ideological Voting on Federal Courts of Appeals: A Preliminary Investigation, *Virginia Law Review*, 90:301-54 (2004)

Class 9: Litigation

Gary Blasi and John T. Jost, System Justification Theory and Research: Implications for Legal Advocacy and Social Justice, *California Law Review* (forthcoming 2006)

Linda Babcock, George Loewenstein, Samuel Issacharoff, and Colin Camerer, Biased Judgments of Fairness in Bargaining, *American Economic Review*, 85:1337-43 (1995)

Linda Babcock, Xianghong Wang, and George Loewenstein, Choosing the Wrong Pond: Social Comparisons in Negotiations that Reflect a Self-Serving Bias, *Quarterly Journal of Economics*, 111:1-19 (1996)

Class 10: Damages

Edward J. McCaffery, Daniel J. Kahneman, and Matthew L. Spitzer, Framing the Jury: Cognitive Perspective on Pain and Suffering Awards, *Virginia Law Review*, 81:1341-1420 (1995)

Reid Hastie, David A. Schkade, and John W. Payne, Do Plaintiffs' Requests and Plaintiffs' Identities Matter? in *Punitive Damages : How Juries Decide* (Cass R. Sunstein, Reid Hastie, John W. Payne, David A. Schkade, and W. Kip Viscusi, 2002)

W. Kip Viscusi, Corporate Risk Analysis: A Reckless Act? *Stanford Law Review*, 52:547-97 (2000)

Catherine M. Sharkey, Dissecting Damages: An Empirical Exploration of Sexual Harassment Awards, *Journal of Empirical Legal Studies*, 3:1-45 (2006)

Class 11: Paternalism

Cass R. Sunstein and Richard H. Thaler, Libertarian Paternalism Is Not an Oxymoron, *University of Chicago Law Review*, 70:1159-99 (2003)

Gregory Mitchell, Libertarian Paternalism Is an Oxymoron, *Northwestern University Law Review*, 99:1245-77 (2005)

Edward L. Glaeser, Paternalism and Psychology, *University of Chicago Law Review*, 73:133-56 (2006)

Christine Jolls and Cass R. Sunstein, Debiasing Through Law, *Journal of Legal Studies*, 35:199-241 (2006)

Class 12: Happiness I

Daniel T. Gilbert and Timothy D. Wilson, Miswanting: Some Problems in the Forecasting of Future Affective States, in *Thinking and Feeling: The Role of Affect in Social Cognition* (Joseph P. Forgas ed., 2000)

Daniel Kahneman, New Challenges to the Rationality Assumption, in *Choices, Values, and Frames* (Daniel Kahneman and Amos Tversky eds., 2000)

Daniel Kahneman and Richard H. Thaler, Anomalies: Utility Maximization and Experienced Utility, *Journal of Economic Perspectives*, 12(1):211-34 (2006)

Daniel Kahneman, Alan B. Krueger, David A. Schkade, Norbert Schwarz, and Arthur A. Stone,

A Survey Method for Characterizing Daily Life Experience: The Day Reconstruction Method (DRM), *Science*, December 3, 2004, pp. 1776-80

David A. Schkade and Daniel Kahneman, Does Living in California Make People Happy? A Focusing Illusion in Judgments of Life Satisfaction, *Psychological Science*, 9:340-46 (1998)

Class 13: Happiness II

Robert Frank, *Luxury Fever* (excerpts)