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*Law and Economics:  
definition*

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# Definition

- Law and...
- Born in US
- Diffusion in Europa
- Economic Analysis of Law in Italy
- Many Schools (see Parisi article)



# Many Schools

- Positive School (Chicago University)
- Normative School (Yale University)
- Functional School
- A new approach: Behavioural Law and Economics



# Different implementations

- In the American Jurisprudence
- In the making of the European Law
- Civil Law (accident law)
- Public Law (antitrust)
- Other implementations



# The importance of Law and Economics

- Contribution in the study of Law
- Academic importance
- Associations
- Journals
- Phd Programs



# The EFFICIENCY concept

- The choice between different economic policies following a criterion of economic efficiency
- Economic models of first best
- At the end the economic policies are interventions in the market to correct the market failures



# Market FAILURES

- Public Goods
- Externalities
- Monopoly
- Asymmetric Information

# PUBLIC GOODS

- The word “public” does not concern the possibility to use the good for free; not even the legal feature (public or private) of the institution that distribute the good
- PUBLIC means the availability without limits to everybody, so to the public



# PUBLIC GOODS

- Public goods (in the economic sense): goods and services characterized by non-rivalry in consumption
- $\Rightarrow$  once the good has been produced, there are no additional costs connected to consumption by others;
- non-excludability: it is not possible to exclude someone from consumption
- $\Rightarrow$  agents have no incentive to bear the cost of a good that can not be excluded in the belief that others will do so, thus having the opportunity to consume it anyway (free-riding problem).

# THE DIFFERENCE BETWEEN PUBLIC GOODS AND “COMMONS”

The common goods are not public goods, but are hybrids: as private goods are "rival" in consumption (if I fish in the pond, you will have less fish available), as public goods are "non-excludable" in consumption (everyone can fish in the pond).

		Degree of rivalry	
		High	Low
Degree of excludability	High	Private goods <i>(Smartphone)</i>	Club goods <i>(Copyrighted computer software)</i>
	Low	Commons goods <i>(Radio spectrum)</i>	Public goods <i>(National defense)</i>

# THE TRAGEDY OF THE COMMONS

## THE PROBLEM OF THE TRAGEDY OF THE COMMONS

### Free-riding

- The solution of Elinor Ostrom: she found a very important third way alternative between State and Market.



*Elinor Ostrom  
(1933-2012)*



*Nobel Memorial Prize  
in Economics 2009*

# LIMITS TO THE THEORY OF COMMONS

- The nature of the good and the regulation of its use must not be confused.
- The crucial question is not whether good is common or not; the crucial question is what should be the institutional arrangement that regulates its use
- The market? (Someone buys the pond and sells fishing rights)
- The state? (With rules, controls and sanctions, which regulate access to the lake).
- The self-organization of users? (The local community of fishermen gives rules, not necessarily formalized).

# COMMONS BY OSTROM

- Thanks to the work of Elinor Ostrom we finally got rid of the idea that the commons are "a tragedy".
- Traditionally if the use of a good is free then that good sooner or later will be exhausted; the solution is the privatization of common goods.
- But later it is stated that the tragedy is not of the commons as such, but of the "unmanaged commons" (the problem is not the property but the management).
- Ostrom's work solved this criticism: for the management of the common goods there are not only the State and the market, there is also the self-organization of the users.