

Ideas Have Consequences: The Impact of Law and Economics on American Justice

Daniel CHEN

Abstract : This paper provides a quantitative analysis of the effects of the law and economics movement on the U.S. judiciary using the universe of recent opinions in U.S. Circuit Courts and 1 million District Court criminal sentencing decisions linked to judge identity. We estimate the effect of attendance in the controversial Manne economics training program that 40% of federal judges attended by 1990. To isolate the effect of judges from the types of cases they face, we exploit random assignment of judges to control for court- and case-level factors, an exogenous seating network from random panel composition to trace the spread of economic reasoning in law, and ordering of cases within Circuit to identify general economic ideas that move across legal topics. We use natural language processing methods to quantify the influence of economics in written judicial opinions. Descriptively, we find that judges who use law and economics language vote for and author conservative verdicts in economics cases and are more opposed to government regulation and criminal appeals. After attending Henry Manne's economics training program, participating judges use more economics language and render conservative verdicts in economics cases, and rule against regulatory agencies, particularly in labor and environmental cases. These results are robust to a large set of judge biographical controls, and do not exist prior to Manne program attendance, suggesting a causal effect of economics training on judicial decisions. Further, Manne economics training is more predictive of these decisions than appointing political party. We further document a number of indirect channels of economics influence on the law beyond the direct effect on Manne program participants. Manne judges also impact criminal appeals verdicts even when not authoring the opinion. Non-Manne judges exposed to Manne peers on previous cases increase their use of economics language in subsequent opinions. Further, some economics concepts are portable across legal contexts: we show that "general-purpose" economics phrases such as "capital", and "efficiency" move across legal topics within a judge. Thus economics reasoning diffused into even non-economic domains such as criminal law. Consistent with this, finally we show that law and economics influenced criminal decisions: Circuit Court judges that attend the Manne program are more likely to reject criminal appeals. Using variation in district court judicial discretion generated by U.S. v. Booker, we find Manne judges render 20% harsher (10 months longer) criminal sentences after this ruling, which allowed more judicial sentencing discretion.