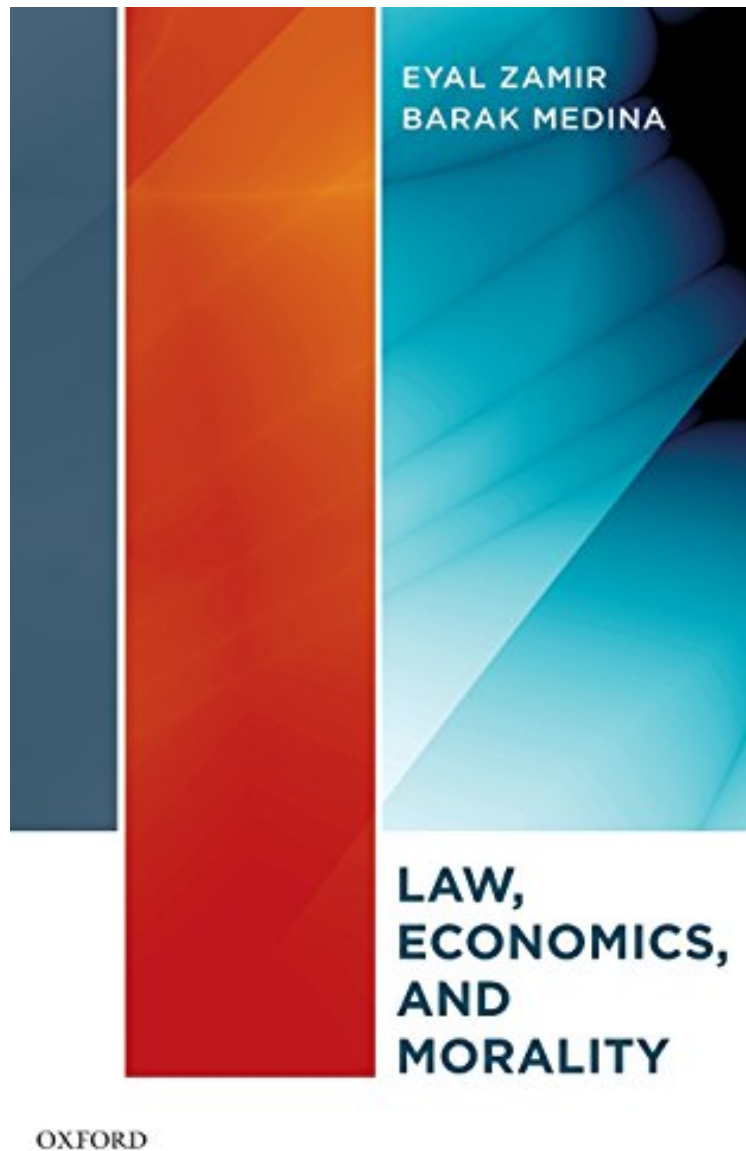


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Law, Economics, and Morality

Eyal Zamir, Barak Medina

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Eyal Zamir, Barak Medina : Law, Economics, and Morality before purchasing it in order to gage whether or not it would be worth my time, and all praised Law, Economics, and Morality:

Law, Economics, and Morality examines the possibility of combining economic methodology and deontological

morality through explicit and direct incorporation of moral constraints into economic models. Economic analysis of law is a powerful analytical methodology. However, as a purely consequentialist approach, which determines the desirability of acts and rules solely by assessing the goodness of their outcomes, standard cost-benefit analysis (CBA) is normatively objectionable. Moderate deontology prioritizes such values as autonomy, basic liberties, truth-telling, and promise-keeping over the promotion of good outcomes. It holds that there are constraints on promoting the good. Such constraints may be overridden only if enough good (or bad) is at stake. While moderate deontology conforms to prevailing moral intuitions and legal doctrines, it is arguably lacking in methodological rigor and precision. Eyal Zamir and Barak Medina argue that the normative flaws of economic analysis can be rectified without relinquishing its methodological advantages and that moral constraints can be formalized so as to make their analysis more rigorous. They discuss various substantive and methodological choices involved in modeling deontological constraints. Zamir and Medina propose to determine the permissibility of any act or rule infringing a deontological constraint by means of mathematical threshold functions. *Law, Economics, and Morality* presents the general structure of threshold functions, analyzes their elements and addresses possible objections to this proposal. It then illustrates the implementation of constrained CBA in several legal fields, including contract law, freedom of speech, antidiscrimination law, the fight against terrorism, and legal paternalism.

"For far too long, normative legal theory has been unable to move beyond unproductive debates. Eyal Zamir and Barak Medina have been at work on another way—an approach to cost benefit analysis that is sensitive to moral constraints and permissions but preserves the rigor and formalization that are among the chief virtues of the economic analysis of law. Transcending the fairness-versus-welfare debate, the authors have written an erudite, careful, and truly original book that must be read by legal economists and their critics." --Lawrence B. Solum Associate Dean for Faculty and Research, John E. Cribbet Professor, University of Illinois College of Law

"This book proposes a rigorous decision procedure for evaluating government projects on the basis of both their impact on public well-being and their consistency with deontological commitments. The authors make their case with meticulous care, and offer the best hope for bridging the divide between cost-benefit analysts and their foes. Everyone interested in that debate should read this book." --Eric Posner Kirkland Ellis Professor of Law, The University of Chicago Law School

"This is a clear, sophisticated, and illuminating defense of threshold deontology, a moral stance as important in practice as it is in theory. The authors manage to be both rigorous and reasonable, itself an unusual feat. Their work deserves to be, and will be, highly influential in legal theory and elsewhere." -- Adrian Vermeule John H. Watson, Jr. Professor of Law, Harvard Law School

"Economists and moral philosophers have long been talking mostly at each other about vital issues of law and public policy. Enter Zamir and Medina, who elegantly integrate philosophical insight with the economists' rigor to create a unified discourse that promises to invigorate and deepen the academic discussion of law and policy in the years to come." -- Meir Dan-Cohen Milo Reese Robbins Professor of Law, UC Berkeley School of Law

About the Author
Eyal Zamir holds an LL.B. (1982) and Dr.Jur. (1989) from the Hebrew University of Jerusalem. He is an Augusto Levi Professor of Commercial Law at the Hebrew University, where he served as Dean of the Faculty of Law from 2002 to 2005. Professor Zamir was a visiting researcher at Harvard Law School (1990-1991), a visiting scholar at Yale Law School (1996-1997), a Senior Global Research Fellow at New York University School of Law (2005-2006), and a visiting professor at Georgetown University Law Center (2008, 2009). Professor Zamir's research interests include contract and commercial law and theory; economic and behavioral analysis of law; law and normative ethics; and proprietary aspects of the Arab-Israeli conflict. He authored or edited ten books and published more than thirty articles in Israeli and American law reviews. Professor Zamir has been awarded numerous fellowships and prizes, including the Fulbright Researcher Award (1990-1991); the Rothschild Fellowship (1990-1991), and the Hebrew University President's Prize for Excellent Young Scholar named after Y. Ben Porat (1994, first recipient).

Barak Medina is Lawrence D. Biele associate professor at the Hebrew University of Jerusalem, and currently serves as the Dean of the Faculty of Law. He holds an LL.B. (1991) from Tel-Aviv University and LL.M. (1996) from Harvard Law School; he also holds a B.A. (1990) and M.A. (1992) in economics from Tel-Aviv University and Ph.D. in economics (1999) from the Hebrew University of Jerusalem. Professor Medina was a visiting professor at Columbia Law School (2006-2007). He served as Co-Editor of the *Israel Law* from 2003 to 2007. He also served as an adviser to the Constitution and Legal Affairs Committee, the Knesset (Israeli Parliament), on drafting a new Constitution for Israel, 2004-2005. Professor Medina's research interests include constitutional law and intolerant democracy, administrative law, economic analysis of law, and game theory and the law. He authored five books, including the latest editions of the most authoritative textbook on Israeli constitutional law, and published more than thirty articles in Israeli and American law journals.