



GEORG-AUGUST-UNIVERSITÄT
GÖTTINGEN

--- Öffentlicher Gastvortrag ---

**Prof. em. Ejan Mackaay, LL.M.,
LL.D.**

(Faculty of Law, Université de Montréal /
Fellow der interdisziplinären DFG-Forscherguppe
Cultural Property, Georg-August-Universität
Göttingen)

**“The Culture of Law & Economics
and
the Law & Economics of Culture”**

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Veranstalter:
Lehrstuhl Prof. Dr. Spindler

Interdisziplinäre DFG-Forschergruppe zu Cultural Property

www.cultural-property.uni-goettingen.de

The culture of law & economics and the law & economics of culture

Public lecture to be given on 21 October 2009, at the Georg-August-Universität Göttingen

Ejan Mackaay

Emeritus Professor of Law, Université de Montréal

Invited Scholar at the Cultural Property Research Group, Georg-August-Universität Göttingen

When I went through law school, law appeared as a collection of rules, procedures and institutions, perhaps with some coherence, as behoves a country with a Civil Code, but mostly to be memorised without too much inquiry into that coherence. Law was foremost black letter law. Where it did not appear altogether fixed, one would reason one's way to new results by reliance on one's sense of justice or fairness. To persons outside the legal community law must have looked like a forbidding black box.

This conception was common to most developed legal systems. But from the 1970s onwards, a new approach was put forth, initially in the USA and from there in other countries as well, proposing to look at the law through the effects legal rules produce amongst persons subject to it. These effects were to be determined by drawing on tools provided by economics, looking at humans as by-and-large rational actors and at law as providing signals affecting the costs and benefits these actors face and to which they adjust their behaviour. This approach strikingly showed a common rationale to wide ranges of legal rules. It made law understandable in an accessible manner.

The approach is known as the *economic analysis of law* or for short *law & economics*. It has triggered what may truly be called a conceptual revolution in legal thinking: law is to be understood not merely as black letter complemented with one's sense of justice, but also through the consequences it produces.

In the first part, the *culture of law & economics*, I will illustrate the approach by looking at the example of Code provisions dealing with the sale of stolen goods ("goods laundering") in civil law.

If law & economics is a powerful engine helping us to make sense of existing and yet to be fashioned legal rules, can it give us handles on how "cultural goods" should be dealt with, some claiming them to be property, others demanding intellectual property rights, and yet others payments for the holders of such goods? The second part of the lecture, the *law & economics of culture*, will tackle that question.