

## COURSE OUTLINE

**Course Title:** Business, Government and Law

**Credit:** 1 (20 sessions)

**Area:** Business Policy

**Term:** PGP II, Term I, Slot VII & VIII (June – Aug 2015)

**Instructor:** Anurag K. Agarwal

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### **Course Context:**

Business managers should play by the rules. Over the years direct regulation of business by government has been minimised, however, subtle control exists and at times, it makes all the difference. To keep a tab on the powers of the government, it is essential to have an independent judiciary. Business managers fear getting tangled up with lawyers, lobbyists, and bureaucrats, so they keep their distance from the government and legal matters. This aversion leads many to neglect law as a competitive tool. Once they realise the importance of being a part of rule making process, they try to influence rule making. Thus, they do the business the way they like and still remain on the right side of law. The focus then is to use law as a potent tool in general and as a lethal weapon against competitors. Law, therefore, becomes the true friend, philosopher and guide. The course examines the relationship between government, law and business and how businesses can use law to win legally.

The course is inspired by and borrows a couple of chapters from the following two books:

- a) G. Richard Shell, Wharton: *Make the Rules or Your Rivals Will*, Crown Business, NY, 2004
- b) Constance E. Bagley, HBS: *Winning Legally*, HBS Press, Boston, 2005

### **Course Objective:**

- Provide the business students an opportunity to understand the role of businesses in rule making and how successful businesses in most of the cases make the rules for others.
- To make the students realise the importance of the relationship of law and government and its impact on business.
- Make the students aware of the potency of legal tools, their use and limitations.

### **Pedagogy:**

Emphasis shall be on discussion of contemporary issues, which relate to all the three aspects of the course, viz., business, government and law. As these issues are ultimately related to public in general, they generate greater interest in the media. Both print and electronic media provide substantial information and insight into the current issues. Besides the suggested text, it would be our effort to cull relevant material of topical interest for class discussion. Brief lectures would be delivered to provide an overview and summarise important aspects. However, the course relies heavily on participation, presentation by participants and the ensuing class discussion.

**Number of sessions:** Total number of sessions is 20

### **Prerequisites and Eligibility, if any, and their Justification:**

Basic principles of Business Law as taught in LAB – Legal Aspects of Business.

## Relationship of the Course with the Overall Programme Objective and Related Courses:

It is a general course which is relevant for all businesses and helps the business manager in reaching his goal in a maze of government regulations and legal institutions.

## Bibliography:

### (A) Essential Reading:

- Course Pack: As new developments unfold, the pack may be updated.
- An economic daily: The Economic Times, The Financial Times, etc.
- A national daily: The Times of India, The Hindu, etc.

### (B) Additional Reading:

- An international weekly: The Time, The BusinessWeek, The Economist, etc.
- 'Make the Rules or Your Rivals Will' by G. Richard Shell
- 'Winning Legally' by Constance E. Bagley

## Evaluation Criteria:

Class Participation & attendance:	25%
Quiz:	25%
Exam:	50%

### *Class Participation*

The key ingredient to your class participation grade is impact. This is a qualitative measure of your effective contribution to class discussion. Class sessions involve a mix of case discussions and lectures, for which you are expected to do the pre-assigned readings, and prepare to discuss them in class. You are expected to be alert, original and contextual during discussion. Starting from the 2<sup>nd</sup> session, three students – roll number 1 onwards – shall be on panel and would be responsible for the discussion. **Attendance is compulsory.**

### *Quiz*

One in-class quiz in the 10<sup>th</sup> session. Open-book, open-notes, 20 minutes. You can type the quiz using a laptop/tablet or similar device and immediately submit by email to the instructor and AA.

### *End-Term Exam*

Open-book, open-notes, in-class exam of 1¼ hours. You can type the exam using a laptop/tablet or similar device and immediately submit by email to the instructor and AA.

## News Clippings

An integral part of this course will be updating on important current events which pertain to impact of government and law on businesses and vice-versa in India and abroad. There is a deluge of news and views in the print and electronic media, which makes sifting all the more necessary. My endeavour will be to share with you a couple of selected news clippings. This is in no way meant to supplant your own initiative. You are encouraged to keep yourself abreast with the latest through an economic daily and an international weekly / fortnightly. The more you read the better. The following is an illustrative list: The Times of India, The Hindu, The Economic Times, NYT, The Financial Times, The BusinessWeek, The Time, The Economist, etc.

I will share with you relevant news clippings and you are requested to share with me and the fellow students any news item, article, etc. which you feel is important, interesting and topical. You may send the web link by email or provide the hardcopy to me for distribution to the entire class. I look forward to receiving your suggestions and contributions. Email at \_\_\_\_\_@iimahd.ernet.in with cc to akagarwal@iimahd.ernet.in and the Academic Associate.

## **SESSION-WISE PLAN**

### **Module – I The Rules of the Game**

#### **1. Introduction**

##### *Readings:*

- Introduction, Shell, The First Law of Business
- Some Lessons from the Life and Career of a Visionary: N. R. Narayana Murthy, The Economic Times, May 28, 2007

#### **2. Business and Competition**

##### *Readings:*

- Chapter 1, Shell, Controlling Competition
- Bavarian Baksheesh (Siemens), The Economist, December 17, 2008

#### **3. The Legal Environment**

##### *Readings:*

- India at Sixty: Constitution under Threat, Fali S. Nariman, The Tribune, Aug 15, 2007
- A Question of the Right Balance: Of the Executive, the Legislature and the Judiciary, by Fali S. Nariman, The Hindu, Aug 15, 2007

#### **4. The Rule of Law**

*Case:* Renu and others v. District and Sessions Judge, Tis Hazari, Supreme Court of India, 2014

##### *Readings:*

- Economics and the rule of law: Order in the Jungle, The Economist, March 13, 2008
- PM Manmohan Singh's Reply to Trust Vote Motion, July 22, 2008, The Times of India
- Ratan Tata asks Young Bengal: Jobs or lawlessness? The Telegraph, Oct 17, 2008
- Legal Reform and Development: The law poor, The Economist, June 5, 2008
- Law versus Common Sense, The Economist, January 15, 2009

#### **5. Courts and Judges**

*Case:* Caperton v. Massey, U.S. Supreme Court, 2009

##### *Readings:*

- Studying the U.S. Supreme Court's Working, T.R. Andhyarujina, 1994
- The Supreme Court: Open for Business, The BusinessWeek, July 9, 2007
- The Supreme Court's Group Hug, The Time, July 3, 2008

#### **6. Judicial Activism, Accountability and Restraint**

##### *Readings:*

- New Dimensions of Justice, J. S. Verma, 1997
- Judicial Legislation and Judicial Restraint, Anurag K. Agarwal, Economic and Political Weekly, Jan 1, 2011, pp. 22-24.
- Disturbing Trends in Judicial Activism, T. R. Andhyarujina, The Hindu, August 6, 2012

#### **7. Legislation**

*Case:* Eastern Railroad Presidents Conf. v. Noerr Motor Freight, U.S. Supreme Court, 1961

*Reading:* Chapter 2, Shell, Influence Games: Legislation

#### **8. Lobbying**

*Reading:* ITC and Ordinance

*Movie:* Thank You for Smoking

Discussion: Gift of gab, sense of right and wrong, moral flexibility, confidence, ethics and law, personal choices

#### **9. Judicial Review**

*Cases:* Marbury v. Madison, U.S. Supreme Court, 1803

I. R. Coelho v. State of Tamil Nadu, Supreme Court of India, 2007

*Reading:*

Ninth Schedule: What the Supreme Court Judgment Means, Indira Jaising, Jan 11, 2007

## **Module – II** **Making it Work**

### **10. Business and Government**

#### *Readings:*

- Where Birds Don't Fly, Chapter 1, Hot, Flat and Crowded, Thomas Friedman, 2008
- Siemens Abandoning Nuclear Power Business, NYT, September 18, 2011

*Case:* Pathan Mohammed v. State of Gujarat, Supreme Court of India, 2013

### **11. The Politician**

#### *Readings:*

- The Return of the Rosebud, The Time, January 28, 1966
- Supersarko leaves the podium, The Economist, December 18, 2008
- Our Stupid Politicians by Romesh Thapar, EPW, 1978
- Swiss Face Gadaffi wrath over son, The Times of India, Aug 2009

### **12. Naïve, Luck and Politics**

*Movie:* Mr. Smith Goes to Washington

Discussion: Can the words honesty, integrity, purity of heart, all on one side, and 'politics' on the other side ever go together? Are persons with qualities mentioned not fit for politics?

### **13. Policy, Government and Courts**

*Case:* DaimlerChrysler v. Cuno, U. S. Supreme Court, 2006

### **14. Red-Tape Traps: Regulation**

*Case:* Radio Corporation of America v. United States, *U.S. Supreme Court 1951*

*Readings:* Chapter 3, Shell, Red-Tape Traps: Regulation

Note: Colour Television

### **15. The Bureaucracy in India**

#### *Readings:*

- Bureaucracy at Crossroads, Madhav Godbole, Public Administration: A Reader
- Bureaucracy and Politics in India, Mohit Bhattacharya, Public Administration: A Reader
- Journeys Through Babudom and Netaland, TSR Subramanian, 2004, pp. 332-342

### **16. Role of Individuals, Human Foibles**

*Movie:* Jane Bhi Do Yaron

Discussion: How individuals matter in institutional decision making, hypocrisy, long arm of law, blind law, nefarious goals through legal loopholes

### **17. Infrastructure, Government and Law**

*Case:* DDA v. Skipper Construction Co.

Discussion: PPPs, Model Concession Agreements, the way forward

### **18. Sue First, Ask Questions Later: Litigation**

*Readings:* Chapter 4, Shell, Sue First, Ask Questions Later: Litigation

Note: MITS v. Microsoft

### **19. Healthcare: Government and Law**

*Movie:* Sicko, Michael Moore, 2007

Discussion: New healthcare law in the US (Obamacare), implications for India

### **20. Compliance: Health Business**

*Case:* Smt. Santra v. State of Haryana, Supreme Court of India

*Readings:* Chapter 3, Bagley, Cultivating Compliance for Strategic Strength  
Columbia / HCA Healthcare, *U.S. Department of Justice 2003*

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