
TEACHING BUSINESS LAW TO BUSINESS STUDENTS

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In “Legal literacy of the Managers: the Role of Educators”, Cartan and Vilkinas wrote of the demands of making managerial decisions, “*The commercial arena is underpinned, some would say totally dominated by, legal requirements. Few would deny the proliferation of statutory controls into the commercial arena. Most areas of business activity have legal requirements. Almost any decision taken by a manager will or could have some legal dimension..... consider the following everyday managerial activities: advertising, hiring staff, purchasing raw materials, selling goods, writing cheques, reprimanding employees, paying taxes, etc. The legal web embraces all these operations.*”

Hence, law is one of the most important external factors affecting business where knowledge of legal issues that affects business decisions and strategies is gaining prominence. A person’s success as an executive or manager depends heavily upon his ability to operate within the legal frameworks and make confident decisions to compete successfully while safeguarding the organization's reputation and interest. Few however have received formal legal training. This is where business law courses come into the picture. For most educational institution offering this subject, the intended objective of a business law course is to provide students with a foundation for business decision making and the opportunity to study current legal issues and trends affecting business. Areas of focus may include environmental, international, employment and intellectual property law on top of more traditional areas such as business organizations, torts and contracts.

Law is a body of knowledge viewed by many students as arcane. It is considered complex and remote from their own day to day affairs. Business students are often mystified by the use of legal jargon and face difficulty with legal processes and arguments. Thus the baffled reactions of the students when faced with questions like *'What kind of remedies can the plaintiff claim from the defendant as a result of the breach? Could a claim of quantum meruit be made?'* Not to mention the drudgery of having to go through pages of legal reasoning while trying to differentiate ratio decidendi from obiter dicta. As such, though it has always been a consensus across business schools that law should be taught to business students, the consensus ends here. There seems to be a divergence of opinions among academicians as to what aspects of law should be taught and what method should be employed in teaching law to business students so that it would be more relevant and effective to the business students. In this regard two approaches have been taken by academicians, the traditional or 'black letter law' approach and the environmental or 'law in context' approach.

The trademark of the first approach is the retention of legal knowledge and the skills to identify issues and extract authorities from case laws before applying it to a given situation. Approaches to learning are centered on reading cases, attacking and defending arguments and interpreting and applying statutory provision to problems based on the Socrates method. In other words they need to be well versed in the legislation that will have impact on their dealings. This approach mimics what bona fide

legal students are actually doing in their studies.

On the other hand, the environmentalist seeks to provide the student with knowledge of how the legal environment impacts business decisions and to assimilate the understanding of law with the processes in the business environment. This will allow the students to become aware of the legal ramifications that can arise from their decisions and help them formulate policies accordingly. The basis of this approach is not so much on the 'knowledge' but on the 'know how' where legal principles are taught as a series of 'must know rules' to avoid making catastrophic and expensive mistakes for the manager as well as the organization.

The two views are not without critics. Opponents of the first believe that it is a waste of time to drum in all the legal principles into business students as they argue that the managers would not have the time nor the luxury to do all the reasoning and analysis of the law when there is a crucial matter at stake. They believe that such matter is best left to the corporate lawyers employed by the organization. Conversely, critics of the second approach claim that it fails to recognize the importance of providing managers with accurate legal information and take away their independence from the lawyers in making decisions and formulating policies. None of the two approaches seems to fulfill what employers expect from their executives and managers.

A third approach has since been suggested that seems to strike a balance between the two. It is where the law is

presented in the context of the manager's world, both in relevancy and in spirit. This approach involves the extensive use of tutorials rather than lectures, giving prominence to problem-based modules that relates to a realistic view of what the students' will experience in their business dealings. It also builds on students' earlier experiences by alerting them to the legal causes that create rights and obligations. The results may seem to be more environmentalist than traditional but with elements of both where the law is taught according to the functional roles and needs of the manager. This is where students are not only given exposure to knowledge and information about the law but also the skills that will allow them to go searching for legal information over time when the need arises. In a practical way, the business students will then become business people who will be able to regulate their affairs to avoid legal pitfalls.

In conclusion, this article does not intend to imply that the third approach is the best possible approach to teaching business law to business students. Rather it tries to answer the question that most business students are probably asking - 'Is it worth learning?' by conscientiously considering 'Why is learning law worthwhile?' In this way a business student taking the course will hopefully perceive the course as providing them with a valued outcome by fully appreciating the legal significance of their business dealings and to approach the course with enthusiasm recognizing its relevance rather than having to endure a business law course for the sake of getting a business degree.

Reference:

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