

A Review-Building An Adapted Business Law**Anjuman Usta****Department Of Mercantile Law**

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Abstract

For those who are new to the study of law or may be taking a more general Business course, Business Law is intended to be a clear and simple text. We understand that starting a legal education for the first time can be scary, but if you read this section before you start, you might find things a little easier. For success in law, we offer five useful study skills tips. While some of the advice in this section can be applied to a variety of subjects, others are specifically related to the study of law. We can't guarantee success if you follow our advice; that depends largely on how hard you work, but we think that following a few of our suggestions will make studying law easier and maybe even fun. Every aspect of our lives is impacted by the law; It has an impact on our behavior from the time we are born until the time we die, and it continues to do so even after we pass away. In order to keep an eye on what its members are doing, our society has come up with a complicated set of rules. There are laws that control personal relationships, as well as working conditions (such as establishing minimum health and safety standards), leisure activities (such as prohibiting alcohol on trains and coaches traveling to football games), and personal relationships.

Nature Of Law

Every aspect of our lives is impacted by the law; It has an impact on our behavior from the time we are born until the time we die, and it continues to do so even after we pass away. In order to keep an eye on what its members are doing, our society has come up with a complicated set of rules. There are laws that control personal relationships, as well as working conditions (such as establishing minimum health and safety standards), leisure activities (such as prohibiting alcohol on trains and coaches traveling to football games), and personal relationships. Therefore, what is a "law" and how is it distinct from other types of regulations? The state's government, its citizens, and the relationships between citizens are all governed by a set of rules known as the law, which are enforced by the courts. As individuals, we are subject to numerous "rules." The off-side rule in football, for example, and club rules, on the other hand, are designed to regulate a particular activity. Social conventions, such as refraining from disparaging the dead, may

actually be other forms of rule. In this instance, the "rule" is merely a reflection of what a community considers acceptable conduct. We would not anticipate the rule to have legal force or to be upheld by the courts in either circumstance. We are only interested in one particular area of law in this book: the laws that have an impact on the business world. We'll talk about the requirements for starting a business, the rights and responsibilities that come with doing business, and the consequences of failing a business. It is necessary to first examine some fundamental aspects of our English legal system in order to comprehend the legal implications of business activities. It is essential to keep in mind that the term "English law" refers to the law in force in Wales and England. The legal systems of Scotland and Northern Ireland are distinct from one another.

Law Classification

There are a number of ways to classify the law. The following are the most significant

1 Private And Public Law

Figure 1.1 depicts the distinction between public and private law.

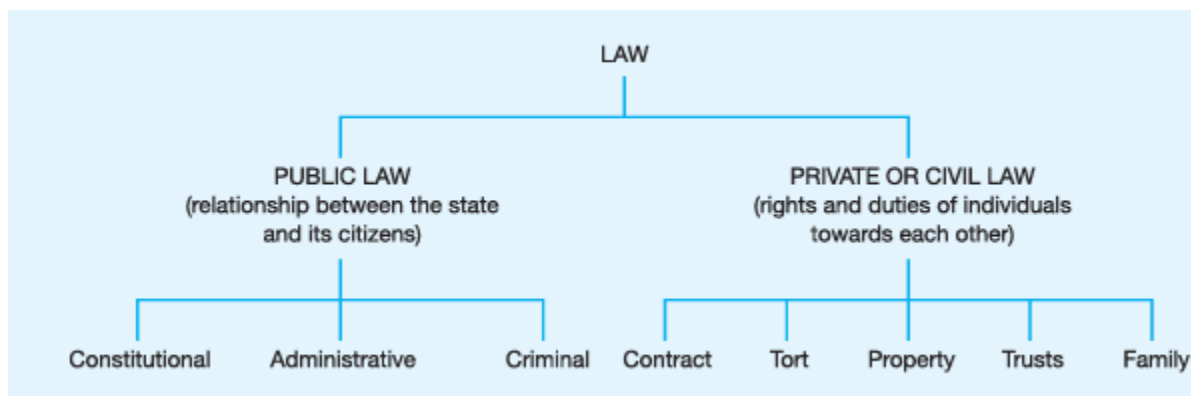


Figure 1: The Distinction Between Public And Private Law

Public Policy

The relationship between the state and its citizens is the focus of public law. This includes a number of specialized fields like:

Constitutional Law

The British constitution's workings are the focus of constitutional law. It discusses the Crown's position, Parliament's composition and procedures, the operation of central and local government, citizenship, and individual citizens' civil liberties.

Governmental Law

Over the past one hundred years, government activities have significantly increased. To assist in ensuring that everyone has a minimum standard of living, plans have been implemented. The

state retirement pension, income support, and child benefit are all provided by government agencies. A body of law known as administrative law has developed to address individual complaints against the decisions of the administering agency because of the large number of disputes that result from the administration of these programs.

Criminal Justice

Some wrongdoings are regarded as crimes against the community as a whole because they pose such a serious threat to society's order. Such antisocial behavior is considered a violation of the law and punishable under the criminal code. The state accepts responsibility for identifying criminals, prosecuting them, and enforcing their sentences.

Private Legality

The primary focus of private law is on the rights and responsibilities of individuals toward one another. The state's role in this area of law is limited to offering a civilized means of resolving the conflict. As a result, the aggrieved citizen initiates the legal process, not the state. Private law, also known as civil law, is frequently compared to criminal law.

Law Both Civil And Criminal

There are generally two types of legal regulations: civil and criminal. Because each branch of law has fundamentally different goals, procedures, and terminology, it is critical to comprehend the division.

Criminal Law

The prohibition of certain types of wrongdoing and the punishment of those who engage in them are the primary goals of the criminal law. Prosecutions are the names given to criminal proceedings that are typically initiated on behalf of the Crown. Under the direction of the Director of Public Prosecutions, a newly established independent Crown Prosecution Service took over responsibility for the prosecution process in 1985 (Prosecution of Offences Act 1985). It should be noted that individuals as well as organizations, such as the local authority's trading standards department, and private entities, such as a store detective pursuing a shoplifter, may pursue prosecutions. A prosecutor is responsible for prosecuting a defendant in criminal proceedings. The standard of proof in criminal cases is higher than in civil cases because the consequences of being found guilty are so severe: Beyond a reasonable doubt, the allegations of criminal behavior must be established. The defendant is found guilty (convicted) and may be punished by the courts if the prosecution is successful. For the first time, the Criminal Justice Act of 2003 specifies the goals of adult sentencing: punishment, crime reduction, offenders' reform

and rehabilitation, and reparation. The court can impose prison time, fines, or community orders, such as an unpaid work requirement, on the offender. The defendant is found not guilty (acquitted) if the prosecution fails. Under laws like the Companies Act of 2006, the Consumer Protection from Unfair Trading Regulations of 2008, and the Health and Safety at Work Act, among others, a businessperson could be breaking the law. Act 1974.

Civil Law

Individuals' private rights and responsibilities are the subject of civil law. Redressing the wrong that has been done is the goal of the action. The individual who has been wronged is responsible for civil law enforcement; The state is responsible for providing the necessary procedure and courts to settle the dispute. A claimant sues a defendant in civil proceedings in civil courts. The claimant will win the case if he can demonstrate that the evidence favors him more than the defendant, or on the balance of probabilities. The defendant is said to be liable if the claimant succeeds in his action, and the court will issue a suitable remedy, such as damages (monetary compensation) or an injunction (an order to do or not do something). The defendant is found not liable if the claimant fails to win. Contract, tort, and property law are among many business-related laws that fall under civil law.

Because the same act may result in both civil and criminal proceedings, the nature of the wrongful act has no bearing on the distinction between civil and criminal law. Take into consideration the outcomes of a typical car accident. Julie is struck by Gordon's car as she crosses the road at a zebra crossing. Julie is transported to a nearby hospital by ambulance, where it is discovered that she has broken her leg. While Gordon is being breathalyzed, the police have arrived at the accident scene. Gordon is charged with a criminal offense based on driving while intoxicated, and the outcome is favorable. He is found guilty when he appears before the local magistrates' court. He is fined £400 and banned from driving for 18 months. The court receives the fine: It does not go toward compensating the criminal act's victim. Under section 130 of the Powers of Criminal Courts (Sentencing) Act 2000, a criminal court has limited authority to order an offender to pay compensation for any "personal injury, loss, or damage" caused to the victim of his offense. To correct the personal harm Julie has suffered, she must file a separate civil lawsuit against Gordon. She seeks compensation for her injuries by filing a tort claim against Gordon. Gordon is found liable in the case, which is heard in the county court. He must

compensate for the damages with £6,000. In most civil actions, the winner bears the costs. Therefore, Gordon is required to cover Julie's legal fees.

The Common Law

The Curia Regis (King's Council) was a group of the land's most influential and powerful men who assisted the Norman kings in rule. This meeting performed a number of tasks, including: It performed administrative duties and exercised certain judicial powers in the manner of a primitive legislature. There were two types of Curia Regis meetings in the end: The barons occasionally attend assemblies, and royal officials meet more frequently but in smaller groups. Departments were established as these officials began to specialize in particular areas of work. This trend eventually resulted in the establishment of courts to hear specific types of cases. By the end of the 13th century, there had been new courts, which were known as the Courts of Common Law and met at Westminster. The Court of Exchequer was the first to appear. It initially dealt with tax-related disputes but later expanded to include other civil cases. The next court to be established was the Court of Common Pleas. Civil disagreements among citizens were heard in this chamber. Due to its close ties to the king, the final court, the Court of King's Bench, rose to prominence as the most important of the three. It developed a supervisory role over the activities of lower courts and covered both civil and criminal cases. By sending royal representatives from Westminster to every part of the country to check on the local government, the Normans exercised central control. At first, these royal commissioners were responsible for the following: They kept records of land and wealth, collected taxes, and resolved disagreements. Their judicial functions gradually took precedence over their other responsibilities. At first, these commissioners (also known as justices) used local customary law during the hearings; however, over time, local customs were replaced by a set of rules that applied to the entire nation. The justices returned to Westminster after their tour of the country, where they discussed the customs they had observed. They established a consistent legal framework throughout England by gradually rejecting those practices that were unreasonable and accepting those that were reasonable. As a result, the common law of England was created by selecting a few customs and applying them to all similar cases in the future. A writ purchased from the offices of the Chancery, a department of the Curia Regis supervised by the Chancellor, was used to initiate a common law civil action. Different writs covered various kinds of actions. The type of trial and

the rules for the procedure varied depending on the writ. The claimant would not be permitted to proceed with his action if the appropriate writ was not selected.

Property Rights And Business Law

The term "property" refers to anything to which a person has legal title, whether or not he has it in his possession. It is the exclusive right to own, use, and dispose of something. There are three types of property: intellectual property, real estate, and personal property. The laws that govern property rights have been a major focus of the legal system for centuries, and they were written to safeguard the interests of both owners and non-owners. Land and anything attached to it, like a building or trees, are considered real property. Real estate ownership is the most complicated of the three types of property because there are different kinds of ownership with different rights.

Laws, regulations, and business entities. Bar and club owners face numerous high-risk liabilities. The atmosphere can become extremely hostile whenever alcohol, people, and sports are combined. Fights may break out, causing injuries to innocent customers and other dangers. As a result, this industry lends itself well to doing business as an LLC. As an LLC, the owners are responsible for any losses or injuries incurred by any manager, member, or other employee of the establishment as a result of their negligence. According to Cheeseman (2010), managers of an LLC are not personally liable for debts, obligations, or liabilities. Owners should concentrate on learning the laws and regulations of starting and operating a sports bar and restaurant after selecting the type of entity for their operations. Both a liquor license and a business license must be obtained by the owners. The owners must be aware of the noise ordinance in their neighborhood. They must also adhere to the guidelines set forth by the U.S. Food and Drug Administration and the alcohol laws in their state. Scenario 2 (Professional Practice): Two recent medical graduates intend to jointly establish a birth clinic. They both intend to obtain a substantial loan to cover the cost of starting their business. A Limited Liability Partnership (LLP) is the ideal business entity for Akiva and Tara to consider. The partnership's debts and obligations that are greater than their capital contribution are not the responsibility of either partner. Each partner can be involved in the day-to-day running of the business.

The tax regulations for an LLP and an LLC are identical. The level of partnership is not taxed. Profits and losses are reported on each person's income tax return (Cheeseman, 2010). Anyone who collaborates with others runs the risk of being held responsible for numerous mishaps. Owners who work in the medical field are highly responsible for the lives of others. An entity

assumes responsibility for multiple lives when they become owners of an organization like a birth clinic. They are held accountable for unsuccessful pregnancies. LLPs are required to carry up to \$1 million in liability insurance by many states. According to Cheeseman (2010), that insurance ought to cover mistakes made by employees as well as partners in the business as well as wrongful acts and conduct. Partners in a birth clinic need a business license or permit that has been approved by the state in which they operate their business. Midwives and other members of the medical staff must hold appropriate licenses, degrees, or qualifications. Akiva and Tara must make certain that the facility they select is made for the patient, the newborn, and the patient's support person. The partners must ensure that they adhere to regulations set forth by the United States Food and Drug Administration and Occupational Safety and Health Administration (OSHA).

Scenario Three: Construction Firm Mei-Lin is in charge of hiring a jackhammer operator for a brand-new construction firm called Surebuild, Inc. According to the job description, successful applicants must possess a high school diploma. Mei-Lin has four applicants from which to choose. Michelle, 35, is one of the applicants. She appears to be pregnant, has a diploma from high school, and she used to work as a jackhammer operator. Eric, the second applicant, is 55 years old and has not completed high school; However, he has worked with jackhammers before. Felipe is the third applicant. Felipe is 38 years old, has no English skills, and he has not completed high school. Nick, 23, is the fourth applicant. Nick has epilepsy as well as a college degree. He has never used a jackhammer before. Mei-Lin is allowed to hire anyone she wants without breaking the law, according to the law. She can legally exclude Felipe and Eric from the position because neither of them meets the requirement, which is that they do not possess a high school diploma. When choosing or dismissing Michelle and Nick, Mei-Lin must exercise caution. By breaking the Disability Discrimination Act and the Pregnancy Discrimination Act, she should make sure that she is not putting the company at risk. According to Cheeseman (2010), Mei-Lin ought to use the defense of Bona fide occupational qualification in order to exclude Michelle and Nick. Because of the kind of work a jackhammer operator does, Michelle and her baby might be a liability for the company if she hires Michelle. Additionally, a person with epilepsy may be affected by a jackhammer. Nick could endanger himself or those around him if he has a seizure, making him a liability for the company. Neither Scratch nor Michelle would have the option to play out the gig securely or effectively. Owners must adhere to a number of rules and regulations in order to avoid penalties, including hiring

employees and starting a business legally. Every day, business owners face numerous liabilities. They must avoid discrimination, breaking rules, and breaking the law. Although opinions on professional pride vary, some would argue that pride comes from within. Officers would realize that mediocrity, laziness, and lack of commitment are unacceptable if they held themselves to a higher standard. Additionally, it is preventing the possibility of misconduct and even criminal activity.

Intent Of Legal Relations

Using NAALC as an illustration once more to illustrate the point made here: The NAALC sets forth a number of goals, responsibilities, and principles that could potentially bind each nation. The following are just a few of the goals outlined in the NAALC: improving working conditions, encouraging collaboration to foster innovation, and encouraging each party to comply with and effectively enforce its own labor law See NAALC. The NAALC states that each nation is also obligated to fulfill a number of other obligations. These responsibilities include: ensuring that its labor laws and regulations provide for high labor standards affirming full report for each party's constitution, promoting public education, and raising public awareness of its own labor laws. Most importantly, the NAALC requires every party to encourage compliance with its labor law and effectively enforce it through appropriate government actions. Last but not least, there are eleven labor principles in the NAALC, one of which is specifically identified as "labor protections for children and young people." Sadly, the NAALC's list of principles was created in place of particular standards. As a result, the NAALC does not contain any specific requirements for the protection of youth and children (or any other laborers). In addition to having standards that are toothless, ambiguous, and difficult to enforce, the NAALC also has powerless enforcement mechanisms, which will be discussed in greater detail below. The NAALC's method of enforcement is a consensus-based dispute resolution system that allows a complaining nation to eventually impose trade sanctions on either the United States or Mexico if the offending nation does not address the issue or pay a monetary enforcement fine. Companies, firms, and organizations constantly strive to be the best in their field, to realize their full potential, and to gain an advantage over rivals. The business world of today is incredibly competitive. To stay ahead, senior executives must constantly adapt to the constantly shifting market. All managers and executives in all branches and departments face the constant challenge of increasing productivity. Although equipment, procedures, system operation, skills, and quality

all play a significant role, the labor component of productivity is crucial to achieving results. As a result, managers must be able to motivate their staff members to perform at or above their potential. Blue-collar workers in the United States have suffered greatly as a result of contractual changes to the employment market. According to a 2009 report from the Bureau of Labor Statistics, the United States saw a net gain of 25 million non-agricultural jobs, primarily in the service sector, between 1994 and 1998. However, in the first 14 years of standardized contract operations for employees, the United States has lost more than three million manufacturing jobs. Given that manufactured goods account for the majority of trade between the United States and other nations, it is reasonable to infer that some, if not all, of these jobs are connected to contractual implementation. According to these figures, low-skilled workers now have limited access to the few manufacturing jobs that are still available in the country, making them worse off than before. Employers can now use the threat of relocation to deter workers' requests for higher wages and benefits, even for industrial workers whose positions have not yet been eliminated. The path of destruction that child labor takes does not end at the ruins of the child laborer's future, contrary to popular belief. Not only does child labor have additional, long-lasting, and far-reaching effects in the host nation where it occurs, but it also has indirect effects on the global community and surrounding nations that conduct business with the host nation. The perpetuation of generational poverty, an extremely uneducated workforce, the exploitation of children, and cheap labor that leads to unfair competition between contracting nations are just some of the devastating and long-term effects. The use of contractual obligations that large corporations all sign promising to refrain from using child labor is one way that this has been reduced in civilized nations.

Contracts Not Enforced By The Court

Gambling

Courts cannot enforce every contract. Even though some of them are legal, the courts will not enforce them in the event of a dispute. Under the Gambling Act of 2005, all gambling contracts now fall into this category; The courts will be able to enforce some gambling contracts. Examples of this include: In *Robertson v. Anderson* (2002), two friends play bingo together and win £100,000. Ms. Anderson claims that the two parties agreed that any winnings would be split equally. Ms. Robertson said that Ms. Anderson couldn't do anything about it because gambling courts wouldn't touch it, so she wouldn't share. The Court of Session decided that the agreement

to divide the winnings was a legally binding contract. The courts will enforce gambling contracts involving bingo, lottery, and other games, but not those involving bookmakers. Because Social Agreement is not a legal obligation, you can't sue or take a friend to court if they don't show up to your planned movie date.

Offers And Acceptance

An offer aims to formalize an agreement between two or more parties, such as an individual or business, regarding a specific deal or object. Offers can cover a wide range of topics, such as employment terms and sales of goods. They can decide whether to accept or decline the offer. A potential offeree must be provided with clear and understandable terms when an offer is explained to them. Verbal or written communications can be used to make an offer to the recipient. Implied terms can also be used to make an offer; This indicates that although no words are exchanged between the parties, the offeree's actions suggest that an offer has been made. In order for an offer to be accepted by the offeree through verbal acceptance or written acceptance, the offeree must express their agreement in writing to the offeror or by speaking directly with the offeror. When the actions of the offeree demonstrate to the offeror that the offer has been accepted, an acceptance can be made to the offer itself. Once both parties agree that they intend to form a legal relationship, such as a contract, an acceptance is established. There must be agreement among both parties before a contract can be made. This means that the terms of the contract must be fully understood and accepted by both parties; if there is no agreement, there is no legally binding contract because it is critical that both parties comprehend all terms.

Interdict

A court order to stop something is called an interdict. Damages is monetary compensation with the goal of putting the party not in breach in the same position as if the contract had been performed. Therefore, damages are intended to compensate the party not in breach rather than punish the wrongdoer. Losses that are anticipated as a result of a contract's termination will constitute normal loss. The innocent party is responsible for these damages. In exceptional circumstances, abnormal loss must be disclosed to the parties at contract formation. Special damages are liable if knowledge was sufficient to make abnormal loss foreseeable. A specific loss occurs when a contract is revoked and the innocent party suffers a specific loss. Because of this, you cannot sue for damages against the innocent party who was disappointed. When one party is not in breach but retains or refuses to deliver the goods of the other party due to

nonpayment, this is called a lien. When a party to a contract is not in breach and withholds performance (including non-payment), such as a customer withholding payment for delivered goods in exchange for damages, this is considered retention. It would be considered theft if it weren't a part of the same contract.

Conclusion

After looking into a lot of different aspects of how contracts are made, it's clear that communication is a big part of the process and helps make the contracts. Negative outcomes, including being sued for breach of contract, can result from failing to communicate with the offeror. The terms and conditions of contracts are now made crystal clear to the offeror and offeree as a result of the various cases cited. As a result, this study suggests that activism, media inclusion, and raising awareness of the issue are the more practical solutions. It is a source of pride for the United States to be a nation with morally upright citizens. Unfortunately, American businesses are based on greed and exploitation, so if they engage in morally questionable behavior behind closed doors, they will not be held accountable. However, if corporate wrongdoing is brought to the public's attention, the public will exert pressure on it to adhere to the morals and virtues of the citizens who sustain it. The most practical and far-reaching first challenge and benefit of group and team communication, collaboration, and conflict management is public pressure on corporations to stop selling products made with child labor. Although this may not be the entire solution to the problem, it is the most practical and far-reaching first challenge.

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