The Modern Environment of Business
Chapter 1
The Modern Environment of Business

Chapter Issues

• Key Functions of the Legal Systems
• Sources of Law
• Classifications of Law
• Ethics and Business
September 11, 2001
The Effects of Terrorism in the Modern Business World

Loss of thousands of lives and billions of dollars in assets

- Increase in military and domestic security
- Ripple effect to businesses and legal relationships
- Airlines cut about 100,000 employees, nearly go bankrupt and are bailed out by the federal government
- Companies lose employees through death and economic losses and decide whether or not to invoke force majeure and “acts of war” clauses in contracts
- Some companies pushed over the brink to bankruptcy
- Others are able to reorganize, working creatively and ethically in a significantly changed world
Key functions of the Legal Systems

- **Enhancing social stability** - limit actions that are detrimental to the “public interest” and encourage beneficial actions
- **Conflict resolution** - courts are one mechanism for resolving disputes
- **Social maintenance** - reflect the social values and customs of a society
- **Social change** - effective way to change what is “acceptable” behavior
- See “Chad: A Third-World Country Looks to Create a Legal System”
Classification of Laws

• Common Law vs. Statutory Law
Statutory Law

• Legislatures create statutory law
  – Federal Laws
  – State Laws
  – Municipal Laws

• Judges interpret

• Must pass Constitutional muster
COMMON LAW

- Came from old English system
- Judge usually followed earlier decisions that resolved similar disputes
- Legal principle from cases is called precedent
- Use of this precedent is *Stare Decisis*
- Novel issue? Judge makes new common law
- Common law varies by state
- Provides stability but allows change
Classifications of Law

• **Public and Private**
  
  – *Public*- legal relationships between members of society and the government
    
    • influence behavior; bring about social change.
    • Criminal, constitutional, social security.
  
  – *Private*- legal relationships among members of society
    
    • resolves disputes; primarily common law.
    • Contracts, torts, agency, property.
Classifications of Law

• Civil and Criminal
  • Criminal
    – The guilty can be fined, imprisoned or both
    – Either a felony or a misdemeanor
    – Requirement: “beyond a reasonable doubt”
  • Civil
    – Wrongdoer pays money, but no jail time!
    – Requirement: “preponderance of the evidence”

• Substantive and Procedural
  • Substantive
    – Defines legal rights and regulates behavior
  • Procedural
    – How it is to be enforced (the “nuts and bolts”)

- Stanley, in Army, volunteers to test special clothing
- Instead, Army gives him LSD
- Years later, Stanley, suffering mental problems, finds out and sues Army under Federal Tort Claims Act
- Court says “No Go” - you were in the Army, so government not liable
- Held: Art. I, Sec. 8 of Constitution gives total control over rights of military personnel
- Dissenting Opinion: Re: Medical trials at Nuremberg--Sue the officers, not the gov’t.
Sources of Law

- Common Law
- Constitutions
- Legislatures
- Administrative Agencies
- Judiciary
- Executive
Constitutional Law

- Fundamental law of the land
- Establishes limits and power of government
- U.S. Constitution, the oldest written constitution in force in the world
- Establishes legislative, executive and judicial branches of government
- Each state also has its own constitution
Statutory Law

- Legislatures create statutory law
  - Federal Laws
  - State Laws
  - Municipal Laws
- Judges interpret
- Must pass Constitutional muster
Administrative Regulations

- Congress creates statute
- Statute names administrative agency
- Agency makes regulations
- Chapter 6 will study in depth
International Sources of the Law

• Civil Law Countries
  • France, Germany, Italy, Spain, Japan
• Code Law
• Statutory Interpretation
• Common Law Countries
  • U.S., Britain, Nigeria
• Judge-Made Law
• See “Sources of Law in Japan”

• Religious Law Countries
  • Middle East, India
• Islam, Hinduism,
• Communist Law Tradition
  • China, Cuba
• Political Agenda part of the law
• State ownership
Ethics and Business

• Public perception of business leaders has fallen, probably from increased expectations & big horror stories
• More and more focus is on ethics
• Not to be confused with rules of law
• See Soldano v. O’Daniels
• See also United States v. Stanley
Soldano v. O’Daniels

- Gunman enters saloon - pulls gun and threatens to kill Soldano.
- Patron runs across the street and asks bartender to call police or let him call.
- O’Daniels refuses and Soldano is killed.
- Ethics or legal violation?
- What duties do we have to assist others?

Held: There are enough legal issues to permit the case to go forward for trial.
Cyberlaw: Online Ethics and Legal Compliance

- The evolution of computer and the Internet in relation to the law have created ethical challenges for businesses.
- Invasion of privacy is an issue in ethical discussions by employers and employees.
- Sexual harassment and obscene e-mails are problems in companies.
- How do businesses choose to monitor the company computers?
- Does legal and ethics on-line training for employees have benefits?

- Prison labor is used in China to make export products.
- There are international concerns about US companies who have joint ventures using prisoners.
- Levi Strauss and Timberland have stopped their productions out of ethical considerations.
- One Theory: “Only the rules of law keep state enterprises from riding roughshod over people . . . .”
- See article: “China Fights Corruption With Slogans, Not Rule of Law”