

# Function and role of law in business and society

Law



Functions and Roles of Law in Business and Society Patricia Hackley LAW 421  
April 15, 2013 C. J. Hughes Abstract A review of the Constitution, the Bill of Rights and the Code of Conduct will be discussed for a better understanding of its role in business. Businesses have operated for years but the interest lies in the development of and reasons for code of conduct; with the Constitution and Bill of Rights identifying the rights of the companies and the people.

According to CFA Institute, “ Code of Ethics were first created in the 1960’s”.

It is the result of the Civil Rights Act of 1964 that promoted businesses to hire equal opportunity officers, to ensure compliance with the new law (“ A History of Business Ethics”, 2012). The U. S. Occupational Safety and Health Act of 1970 enforced the mandates and the Environmental Protection Act forced businesses to internalize the cost of discharging toxic effluent (Ibid). In 1977, The U. S. Government enacted the Foreign Corrupt Practices Act to control actions of U. S. corporations overseas as a result of a series of scandals involving bribery. In an attempt to address public outcry to get out of South Africa, a group of U.

S. companies adopted the Sullivan Principles. It was also hoped that South Africa would change due to these principles. By 1980, most companies in South Africa had started adopting ethical codes and training their employees (Ibid). The Responsible Care was developed as a result of a chemical disaster in India in 1984 and in 1986, the Defense Industry Initiative on Business Ethics and Conduct had written code of ethics, provided training to employees, established monitoring systems, shared best practices and became accountable to the public, due to defense contract irregularities.

The 1991 U. S, Federal Sentencing Guidelines for Corporations provided incentives to corporation that incorporated ethical structures. If the company could show they had taken steps to address the ethical behavior of the company, the fines would be reduced, if found guilty. The most significant legislation to date is the 2002 Sarbanes-Oxley Act which was initiated as a result of scandals involving Enron, Arthur Andersen and other corporations.

It requires CEO and CFO to certify fairness and accuracy of financial statements and code of ethics for senior financial officers along with public disclosure. The United States developed a voluntary Global Compact for Corporations, with over 1, 500 companies worldwide joining, have nine guiding principles including labor standards, human rights and environmental protection. The Community Services Bureau, where I worked as a Site Supervisor, were governed by Federal, State and local laws, along with guidelines from our funding sources.

We had annual Code of Conduct training and signing of a new amendment. Middle management and staff were members of the local union that provided arbitration, in the event of employee dispute, or ratify a new contract. Now we are acquainted with the development of business ethical conduct, we can make a correlation with the Constitution and Bill of Rights in the puzzle of function and role in business and society. The Constitution's Bill of Rights, which include the first ten articles in the Constitution, brings us to the established boundaries of jurisdiction.

Congress, under Article I of the Constitution, has the power to regulate commerce, tax the citizens and commercial entities and the spending government funds, bankruptcy, patents, and copyrights and make all laws

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necessary to carry out its powers under the Constitution. (Melvin, 2011). Under the Executive branch, the President carries out laws, the commander in chief to the armed forces and enters into treaties, pending Senate approval, and appoint federal officers and judges, also requiring Senate approval.

Under the Judiciary branch, cases and controversies are decided under federal jurisdiction. The Judicial Review is the ultimate judge of federal constitutional law under the U. S. Supreme Court. (Melvin, 2011). In 1803, the Court ruled that the Constitution was higher than federal and state statutes, the conflicts between the Constitution and federal or state law, the Court has the authority to strike it down as unconstitutional. This authority can be found under Article III, Section 2 of the Constitution.

The standards established classifies these actions in three categories: rational basis, intermediate-level scrutiny or strict scrutiny (Melvin, 2011). The Commerce Clause enables Congress to regulate Commerce among several states. It channels interstate commerce such as railways, vehicles used in shipping and articles moved in interstate commerce. The Bill of Rights First, Fourth, Fifth and Eighth Amendments are directly addressing businesses. The First Amendment guarantees the freedom of speech, press and the right to peacefully assemble.

In business, the first amendment provides partial protection provided the speech is truthful and concerned a lawful activity; State cannot limit the free flow of information to consumers. To address these concerns and others, a four-part test framework was created to decide if certain regulations were constitutional: commercial speech in advertising, with no political

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implications. If regulations were constitutional, they passed all four parts of the test. Political speech has full First Amendment protection. The Fourth Amendment protects citizen rights to be secure in their person's, houses, papers and effects.

To secure a search warrant they must demonstrate probable cause or if they have cause for administrative violations they must have an administrative warrant to gain access to worksites for compliance inspections. The Fifth Amendment protects individuals from being compelled to be a witness against themselves. The business aspect of the Fifth Amendment allows individuals to remain silent during investigations and court proceedings. The Fourteenth Amendment protects individuals from being deprived of life, liberty or property without due process of law and includes restrictions and actions by state governments.

The Due Process Clause has certain procedural requirements and that laws passed must be published for inspection by the public and be specific so the individual understands how the law applies. The Equal Protection Clause prohibits government from denying citizens' equal protection of the law. It is interesting that the Bill of Rights has not been amended since it was established in 1866 and it continues to provide citizens with the rights, due process and establishment of laws to govern the ever increasing industry of business.

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