

ENT-2039

Law and Lawyerly Thinking: An Introduction for Entrepreneurs and Beyond

Spring 2024

4 credits

Course description:

So you don't want to be a lawyer. Or maybe you do. Who knows, and who cares, because either way, a general understanding of key legal concepts – and the ability to think like a lawyer – will add invaluable to your arsenal as you step out into the real world. This knowledge and skillset will make you a distinctly sharper leader in the business world, because legal issues routinely – and increasingly – strike at the heart of business risks and opportunities, and are integral to overall corporate strategy. And so not just lawyers but a wide range of business executives (including C-suite executives) and their advisors routinely work on legal issues alongside lawyers. Legal roles are increasingly business roles, and vice versa. Therefore, the knowledge and skills this course provides will make you a sharper entrepreneur, or a sharper business executive, or a sharper consultant to businesses across sectors. But that's not all. The benefits extend to countless roles even beyond the business world: you'll be a sharper problem-solver regardless of field. To this end, the course will explore key concepts across several fundamental areas of law including contracts, torts, constitutional, criminal, administrative, competition, and procedural – each of which is applicable across a wide range of professional fields. The course will explore these concepts in two jurisdictions: India and the U.S. The course will also introduce students to thinking (and related) skills fundamental to not just the legal profession but also to the many professional roles (discussed above) that require frequent engagement with the law or with lawyers. These skills include: contract construction and interpretation; analyzing and applying a case; textual interpretation more broadly; analytical writing; persuasive writing; persuasive verbal argument; and highly analytical thinking with unrelenting precision, agility, and creativity.

About the faculty – Nikhil Sud:

Nikhil Sud is a seasoned global lawyer and policy practitioner, and has been a leading voice in high-profile, cutting-edge law and policy debates – and in crafting and executing innovative, high-impact strategies to shape outcomes on these issues. In doing so, he has worked extensively with governments and businesses around the world. At Ashoka, Nikhil leverages his deep and specialized leadership experience in the practice of law and policy to teach (1) Tech Law and Policy: A New Frontier for Business and Society, and (2) Law and Lawyerly Thinking: An Introduction for Entrepreneurs and Beyond – and oversees associated strategic initiatives. Before joining Ashoka, Nikhil spent about a decade in Washington DC as a senior lawyer and policy practitioner, working across jurisdictions including India, the U.S., and Europe, and across a variety of pressing topics. Nikhil has been quoted and published extensively, and his work has played a key role in informing government and business thinking. Nikhil received a J.D. from Yale Law School, where he served as Senior Editor of the Yale Journal on Regulation, and Senior Editor of the Yale Law and Policy Review. He clerked for the Supreme Court of India during a summer at Yale Law School. He received his B.A., *magna cum laude*, from Yale University, where he majored in Economics. At Yale, Nikhil was an early inductee into

the academic honors society *Phi Beta Kappa*, and named Senior Class Marshal (awarded to top-ranking graduating students). At Yale, Nikhil also founded the Yale Hindi Debate, a U.S.-based national-level Hindi language debate that received widespread media coverage and just entered its 16th year.

Learning outcomes:

- Students will become knowledgeable in key legal concepts applicable to a wide range of professional roles in the business world and beyond. These concepts relate to various fundamental areas of law including contracts, constitutional, torts, criminal, administrative, competition, procedural, and others.
- Students will adopt a comparative lens juxtaposing these concepts in mainly two jurisdictions – India and the U.S. – and draw relevant insights from that comparison.
- In addition to becoming knowledgeable in these concepts, students will learn how to analyze these concepts and their implications on businesses and other often related stakeholders, including the government and consumers.
- Students will also learn how businesses and others can strategize in response to those implications.
- To this end, the course will help instill and sharpen the specialized thinking and communication skills – both analytical and persuasive – required to deftly engage with the legal issues confronting the business world and beyond.

Prerequisites: None

Grading rubric:

- 25 percent of the grade will be based on class participation. Students are expected to engage actively in class discussion throughout the course. Discussion will be low-stress but important – it will not require heavy memorization, nor will it involve harsh questioning (no “grilling” of any kind), but will focus on fun, collaborative interactions aimed at bringing key concepts alive. This will help students develop and refine their understanding of these concepts, and the analytical and communication skills relevant to the field.
- 30 percent of the grade will be based on a mid-semester examination.
- 45 percent of the grade will be based on the final examination.

Attendance policy:

- Attendance is important particularly because of how significantly the course will rely on class discussion. If a student needs to miss a class (beyond the university level 2-day allowance for absence without documentation), the student must discuss the matter with me beforehand.

Tentative calendar:

Note: For each week below that has assigned readings, students are expected to read the materials in a manner that cultivates general familiarity with the materials' key aspects – students are NOT expected to memorize all the details in the readings. Further, the readings provide only a general, non-comprehensive sense of the issues that will be discussed in class.

Week 1: Introduction. Assigned readings: none. Students are not expected to read materials in preparation for this lecture.

Week 2: Legal structures, processes, and methods. Assigned readings:

- Supreme Court of India, *Constitution*, available at: <https://main.sci.gov.in/constitution>
- U.S. Department of Justice, *Trial*, available at: <https://www.justice.gov/usao/justice-101/trial>

Week 3: Legal structures, processes, and methods (contd.). Assigned readings:

- [Optional] India Code, *The Indian Evidence Act*, available at: https://www.indiacode.nic.in/bitstream/123456789/15351/1/iea_1872.pdf
- [Optional] U.S. Courts, *Federal Rules of Civil Procedure*, available at: https://www.uscourts.gov/sites/default/files/federal_rules_of_civil_procedure_-_december_2020_0.pdf

Week 4: Constitutional law. Assigned readings:

- [Pages 1-30; the rest optional] Ministry of Law and Justice, Government of India, *The Constitution of India*, available at: <https://cdnbbsr.s3waas.gov.in/s380537a945c7aaa788ccfcdf1b99b5d8f/uploads/2023/05/2023050195.pdf>
- [Optional] United States Code, *Constitution of the United States of America*, available at: <https://uscode.house.gov/static/constitution.pdf>

Week 5: Administrative law. Assigned readings:

- *Chevron U.S.A., Inc. v. NRDC*, 467 U.S. 837 (1984), available at: <https://supreme.justia.com/cases/federal/us/467/837/#tab-opinion-1955635>
- India Code, *The Telecom Regulatory Authority of India Act, 1997*, available at: https://www.indiacode.nic.in/bitstream/123456789/1929/1/AA1997_24tele.pdf

Week 6: In-class mid-semester examination. The exam will not require heavy memorization. It will instead focus on analytical and communication skills, and include questions similar to those featuring in class discussion.

Week 7: Contract law. Assigned reading:

- India Code, *The Indian Contract Act, 1872*, available at:
<https://www.indiacode.nic.in/bitstream/123456789/2187/2/A187209.pdf>

Week 8: Contract law (contd.). Assigned reading:

- *Hadley & Anor v Baxendale & Ors, Exchequer Court (1854)*, available at:
<http://www.bailii.org/ew/cases/EWHC/Exch/1854/J70.html>

Week 9: Criminal law. Assigned readings:

- *State v. Christy Pontiac-GMC, Inc.*, 354 N.W.2d 17 (Minn. 1984), available at:
<https://www.casemine.com/judgement/us/59148ef9add7b0493455d6d5>
- [Optional] India Code, *The Indian Penal Code*, available at:
<https://www.indiacode.nic.in/bitstream/123456789/2263/1/aA1860-45.pdf>
- [Optional] India Code, *The Code of Criminal Procedure*, available at:
https://www.indiacode.nic.in/bitstream/123456789/15272/1/the_code_of_criminal_procedure%2C_1973.pdf

Week 10: Tort law. Assigned readings:

- The Guardian, *Why America's coffee drinkers can't resist a shot of civil litigation*, Jun 27, 2016, available at:
<https://www.theguardian.com/lifeandstyle/shortcuts/2016/jun/27/starbucks-mcdonalds-coffee-court-battles-america>
- [Optional] *Greenman v. Yuba Power Products, Inc.*, 59 Cal.2d 57 (1963), available at:
<https://socal.stanford.edu/opinion/greenman-v-yuba-power-products-inc-27186>
- *M.C. Mehta v. Union of India (UOI) and Ors.*, 1987 SCR (1) 819, available at:
<https://indiankanoon.org/doc/1486949/>

Week 11: Competition law. Assigned readings:

- *The Sherman Antitrust Act (1890)*, available at:
http://neconomides.stern.nyu.edu/networks/ShermanClaytonFTC_Acts.pdf

- [Optional] India's *Competition Act* (2002), available at:
<https://www.cci.gov.in/images/legalframeworkact/en/the-competition-act-20021652103427.pdf>

Week 12: Other issues. Assigned readings: none.

- Students are not expected to read materials in preparation for this lecture. The lecture will explore key concepts in various additional areas of law including, for example, intellectual property law and environmental law.

Week 13: In-class final examination. The exam will not require heavy memorization. It will instead focus on analytical and communication skills, and include questions similar to those featuring in class discussion.