**Proceedings of the**

**2022 Annual Conference**

**Great Lakes Academy**

**of Legal Studies in Business**

**October 21, 2022**

**The University of Akron**

**Great Lakes Academy of Legal Studies in Business**

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**2022 Conference Schedule**

**Thursday, October 20, 2022 – Welcome Reception**

**LOCATION:**

**5:30pm - Barley House**

 Park in University of Akron Polsky parking deck and walk two blocks

 222 Main Street

 Akron, OH 44325

 Appetizers and one drink provided

 Dinner on own

 Casual dress

**Friday, October 21, 2022**

**LOCATION:**

**The University of Akron**

**College of Business, Goodyear Classroom 286**

**259 South Broadway Ave.**

**Akron, OH 44325**

**7:15am – 7:45am Breakfast and check-in, SPONSORED BY MCGRAW HILL**

 University of Akron

 College of Business

 Goodyear classroom 286

**7:45am – 7:55am Welcome: Dr. James Thomson, Associate Dean**

**7:55am – 8:00am A word from our sponsor: McGraw Hill**

**FIRST SESSION: 8:00am – 10:00am**

**Jill Bisco, Illinois State University**

**Suzanne Gradisher, University of Akron**

**Jinjing Wang, University of Akron**

*LIFE INSURANCE BENEFICIARIES – PER CAPITA VS PER STIRPES: IS IT REALLY THAT CLEAR?*

Abstract:

Life insurance is a non-probate contract which allows for a gratuitous transfer of funds to designated beneficiaries who receive the payment at the death of the insured. Given the importance of life insurance to replace income or to create an inheritance for heirs, ambiguity regarding beneficiary advice can cause catastrophic results which can result in unintended consequences and a failure to meet objectives. Source material available to financial services professionals and consumers are vague and are easy to misinterpret, specifically the “per capita” beneficiary option. A consumer guide may be appropriate to clarify the option and provide consumer protection.

**Leigh Anenson, University of Maryland**

*Stare Decisis and the Status of California's Super Pension Contract*

Abstract:

This Article presents an original inquiry into stare decisis in the context of California’s constitutional contract law. While there is debate about stare decisis in federal law, our study extends that conversation to state law for the first time. We develop a new decision-making framework to analyze whether the Supreme Court of California should retain or repudiate its super pension contract. This contract—commonly called the California Rule—is the primary obstacle to pension reform under the Contract Clause. The rule has contributed to the state’s pension crisis by granting protection of future accruals on the first day of government employment. Because California’s law has been adopted in other jurisdictions that are similarly struggling to manage pension debt, the evaluation of precedent’s durability has important implications.

**Marc McAllister, Coastal Carolina University**

*Bostock’s Impact on Sex-Differentiated Employee Appearance Standards and Dress Codes*

Abstract:

In Bostock v. Clayton County, Georgia, 140 S. Ct. 1731 (2020), the United States Supreme Court ruled that when an employer discriminates against an individual because of their sexual orientation or gender identity, the employer necessarily discriminates against that individual on the basis of sex as well, thereby violating Title VII. Bostock based its decision on the but-for causation standard implicit in the text of Title VII. This but-for test, the Court explained, “directs us to change one thing at a time,” such as an individual’s sex, “and . . . if the outcome changes . . . we have found a but-for cause.” Given Bostock’s expansive view of sex discrimination, this decision has opened the door for other sex discrimination claims previously rejected by courts. This Article considers one of those issues by examining whether Bostock spells the end of sex-differentiated employee appearance standards and dress codes.

**Joseph J. Galante, Millersville University of Pennsylvania**

*"Deductibility of Business Expenses – Clear Language or Convoluted Meaning?*

*A Teaching Moment in an Undergraduate Federal Tax Course"*

Abstract:

In general, federal taxation and its various components may seem to be applied uniformly. However, there are key qualitative issues that can impact business decisions, and operational strategies. These issues cannot be quantified nor proscribed. Nonetheless, reading the Internal Revenue Code (“Code”) and the Unites States Treasury Regulations (“Regs”) may appear to be clear and to the point. However, there are hidden concerns and subtle nuances that cannot be ignored.

These concerns and nuances surface in the practical and operational function of tax planning. This difference or gap found in the Code and Regs, becomes evident in operational practices. This “operational expectation gap” provides an excellent scenario for analysis, discussion, and critical thinking in an undergraduate federal taxation course. The course professor has a wide breadth of topical tax, legal, and accounting-related issues to discuss and bring into the classroom conversation.

**10:00am – 10:30am Break**

**SECOND SESSION: 10:30am – 12:00pm**

**Samuel Bailey, Student, Millersville University of Pennsylvania**

*Bootleg Records: Learning to Live with Illegal Music Recordings "*

Abstract:

This article covers the history, present, and future of “bootleg” music recordings, primarily those in the medium of vinyl records. Enforcement of laws and regulations regarding the production and enjoyment of possibly illegal recordings of both studio-produced and live music are so relaxed that it seems today that there is no care put towards the matter. Still, it is important to know how far society has come since the laws originally regulating these actions were written and put into place. Today, music enjoyers can buy “bootleg” records of their favorite albums or listen to recordings of concerts they went to long after they happened. This phenomenon warrants explanation, analysis, and commentary so that a music fan can understand the origins of their new, “illegal” hobby.

**Leah Miksa, Student, Millersville University of Pennsylvania**

*INTERNATIONAL LAW AND THE VALUE OF COMPLIANCE*

Abstract:

This paper seeks to discuss the history and need for international law within a globalizing world, while addressing the idea of compliance as a major enforcement technique. The areas of analysis include the origin of international law, as well as the establishment of the International Court of Justice, followed by incorporated techniques used to enforce such laws without the aid of an enforcing body through organizations such as the UN and IMF. The final point of review seeks to understand the complications that arise, while keeping justice and morality present, in times of global crisis. As globalization continues to change world order, international law must adapt in order to keep world peace at the forefront of global efforts.

**Annette E. Redmon, University of Cincinnati – UC Blue Ash College**

**Patrick Redmon, Berkeley Group, LLC**

*Trends in Racial and Ethnic Disparities in Emergency Room Use since the Implementation of a Statewide CMMI Demonstration Model*

Abstract:

The Maryland Total Cost of Care (TCOC) Model is a demonstration model with the Centers for Medicare and Medicaid Services, designed to slow the growth in the total costs of patient care while improving quality. The model is designed to alter economic incentives that hospitals face from increasing volume to providing care within a fixed annual revenue. Successful hospitals manage by coordinating with other providers across the continuum of care. Because hospitals treat populations with differing characteristics, these differences may result in disparities in the use of services across groups with differing access to healthcare resources. This study examines racial and ethnic disparities for emergency room visits for fiscal years 2013 – 2019. All patients receiving services at Maryland acute care hospitals are included in the analysis.

**12:00pm – 1:30pm Lunch, SPONSORED BY CENGAGE**

**Peter Prescott announce Best Paper: Professor**

**Joseph Galante announce Best Paper: Student**

Grab your lunch and Casey Barton will share with us Cengage product for legal environment and business law

**THIRD SESSION: 1:30pm – 3:00pm**

**Peter Prescott, Butler University**

**Kathy Paulson Gjerde, Butler University**

*The Impact of State Fiscal Policy on States’ Resilience Exiting the Great Recession*

Abstract:

This study employs a state-level model of recovery and a comprehensive set of tax- and expenditure-related variables to explore the effect that the states’ fiscal policy decisions had on their recoveries after the Great Recession in the United States. In addition, we combine those findings with our resistance results from two earlier studies to identify the structural and fiscal-policy factors that consistently strengthened or weakened the states’ economic resilience entering, during, and exiting that recession. Although our analysis indicates that resistance and recovery are distinctly different economic resilience phenomena, states that avoided sales and corporate income taxes, and that committed a greater share of their resources to public welfare expenditures, fared better than others throughout. This knowledge may aid state governments’ fiscal policy decision making as they prepare for future recessionary shocks.

**Catherine G. Jones-Rikkers, Seidman College of Business, Grand Valley State University**

**James P. Sanford, Seidman College of Business, Grand Valley State University**

*THE INCREASED NEED FOR SOFT SKILL DEVELOPMENT POST COVID-19 AND WHAT LEGAL ENVIRONMENT OF BUSINESS PROFESSORS CAN DO TO HELP*

Abstract:

Covid-19 pandemic has left its mark on many aspects of our lives. Young people who never experienced a “normal” high school education are or will soon be entering our business programs. As the world returns to the “new normal” the business community demands that these students matriculate with the skills needed to successfully function in this new and relatively uncharted landscape. While technical skills are often assumed, also highly in demand are soft skills. This article explores what can be done in business classrooms to develop these highly desired skills.

**Vijay Gondhalekar, Grand Valley State University**

**Lara Kessler, Grand Valley State University**

**Antonia Picard, Student, Grand Valley State University**

*Income Inequality and Right-to-Work Laws*

The purpose of this study is to shed light on the effect of Right-To-Work (RTW) laws in the United States on income inequality. It does so by focusing on the RTW enactments by Michigan and Indiana in 2012. Difference-in-difference regressions indicate that, on average, after the RTW enactments, the increase in income per capita in the two states did not increase more than in states with or without RTW laws. Income inequality, however, increased compared to the benchmarks of states with and without RTW laws and so did the proportion of population below the poverty threshold. Thus, the findings suggests that the Michigan and Indiana RTW laws had a detrimental effect on income disparity and on the most vulnerable segment of the population.

**3:00pm – 3:30pm Break**

**3:30pm – 4:30pm BUSINESS MEETING**

**6:00pm For those that are staying Dinner:**

**LOCATION:**

Belgrade Gardens

401 East State Street

Barberton, OH 44203

Great Lakes Academy of Legal Studies in Business

Papers Published in the Proceedings

**Bootleg Records:**

**Learning to Live with Illegal Music Recordings**

**By**

**Samuel Bailey**

**Student of Accounting at Millersville University**

**Lombardo College of Business**

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**ABSTRACT**

This article covers the history, present, and future of “bootleg” music recordings, primarily those in the medium of vinyl records. Enforcement of laws and regulations regarding the production and enjoyment of possibly illegal recordings of both studio-produced and live music are so relaxed that it seems today that there is no care put towards the matter. Still, it is important to know how far society has come since the laws originally regulating these actions were written and put into place. Today, music enjoyers can buy “bootleg” records of their favorite albums or listen to recordings of concerts they went to long after they happened. This phenomenon warrants explanation, analysis, and commentary so that a music fan can understand the origins of their new, “illegal” hobby.

**Introduction**

On September 6th, 2022, I drove from Millersville University down to Baltimore, Maryland, which was about an hour and a half drive, and I went to go see two bands I enjoy, Black Midi and Black Country, New Road. It was a high-energy workout of a show, from the dancing to keeping up with Black Midi’s auctioneer-pace lyrics, and as such I went home quite satisfied with the experience. The day after the show, I remembered that months ago Black Midi had done a show and had professionally recorded it so that they could put it on the website Bandcamp, and I was curious if that would happen with the Baltimore show. Hours passed, and it looked like they had moved on from their fleeting night in Maryland while I wanted to experience the show over and over again. So, I cut my losses and went about my day. Later on, I returned to my computer to check if anything needed to be tended to, and to my surprise, someone in a Black Midi fan group had posted MP3 files of every song from the show I had gone to the night before, and in decent quality, no less.

While this recording was a labor of love, meant for those who wanted to hear the songs as they were played at that exact moment in time, it is likely that it was done illegally. Still, there is a moral gray area surrounding bootlegging and quite possibly illegal recordings of live music; people still record at concerts, either to sell the content or enjoy it with a small circle of friends. What happens to people who get caught doing this, and how much does the government care about it? Does it harm the bands who get recorded without their knowledge?

**The Vinyl Community and Bootlegging**

**What is Bootlegging in the Vinyl Community?**

Bootlegging is best and most simply described as selling, making, or distributing of a physical item that is illegal, mostly used for alcohol during the Prohibition Era. Today, and more recently in general, “bootlegging” can be used for about any illegal good and its selling, making, or distributing, meaning music in a physical format that is sold, made, or distributed illegally can be lumped into this category. Bootleg music comes in many forms, from cassettes, vinyl records, and the actual recording itself, and one landmark period in which bootlegging was not only tolerated, but encouraged, was in the Grateful Dead’s “Tapers’ City” which was an area specifically designed in their concert venues for concertgoers to freely record the show.[[1]](#endnote-1)

Nowadays, bootleg recordings of both live shows and preexisting albums in mediums ranging from cassette tapes to vinyl records can be found on the internet or at local record stores that buy them from the online dealers who distribute them at a lower price to brick and mortar stores. While this is usually done to benefit the record collector community, it can affect the original artist and their collaborator, the act itself usually residing within a moral and legal gray area. Why doesn’t the vinyl community crack down on this theft of art, and why has it been so rampant, especially with the newest revolution of vinyl collectors?

**Important Pressings of Bootleg Vinyl**

The bootleg vinyl community has its fair share of notable subjects, ranging from out-of-press albums with a decorated history to more recent, but hard to come by exclusive pressings. While the music community at large may not want the artist to lose out on any due royalties or revenue because of bootleg pressings, for some fans, bootleg vinyl is the only way of collecting a full discography of their favorite artists. One instance of this kind of “full discography” bootlegging style is with reclusive R&B artist Frank Ocean. Frank Ocean has a long history of releasing minimal amounts of his critically acclaimed albums, and only 2 of them (“Endless” and “Blond”) have seen official release at this small scale.[[2]](#endnote-2) “Blond” specifically, ranking 79 on Rolling Stone’s list of 500 greatest albums of all time, was only available for 24 hours on November 25, 2016, making it one of the most collectible, expensive, and in-demand albums in a physical format of the 2010s.[[3]](#endnote-3) Circumstances like this usually only lead to one thing, which is for fans to seek out a bootleg copy of “Blond”, unless they have the exorbitant amount of money at their disposal to buy a real copy.[[4]](#endnote-4) These bootlegs come in many colors and with alternate album covers to denote that they are in fact not real, the original having an inverted black-and-white color scheme and regular black vinyl.[[5]](#endnote-5) Due to Frank Ocean and his team’s business decisions, the demand for bootleg copies of most of his albums has only risen over the years, only to fall when they eventually make a repressing.

No artist is safe from this treatment, no matter their cultural importance and influence, especially if the albums they create become cultural touchstones themselves. Kanye West is no stranger to this experience himself, since having so much unreleased music can also result in having vinyl bootlegs created of his albums. One example of this happening is in the sequel to his mold-breaking 2013 album “Yeezus”, intended to be followed by “Yandhi”, an album teased for years to his fans.[[6]](#endnote-6) While vinyl bootlegs exist of “Yeezus”, the unreleased project “Yandhi” has seen various releases on small, sometimes made-to-order scales for individual consumers with a specifically ordered tracklist made of the snippets of songs that Kanye has either released voluntarily or has had leaked by fans.[[7]](#endnote-7) Unreleased music is sometimes the target of bootleg vinyl producers, which from an outside perspective may seem odd, but for some fans as stated earlier, the only way to have a full vinyl discography of an artist involves purchasing bootlegs of unreleased products.

**Bootleg Vinyl and the Reasons They Exist**

As previously mentioned, bootleg vinyl records can be created primarily for one of two reasons: a supply-demand inefficiency that is better handled by smaller, independent parties, or to release previously less widespread or formally unreleased pieces of musical media. Both issues do not entirely justify the means by which those niches are filled, but they are ends that many vinyl enthusiasts are satisfied with, no matter how they get their hands on the music they love.

This practice is problematic for a variety of reasons, most of which are based on copyright issues and payment issues that directly affect the artist as well as their representatives. Another less-considered effect is gross sales of an album, an example being Tyler, The Creator’s 2021 album “Call Me If You Get Lost”, which was produced on vinyl during a time of supply chain turmoil, despite bootleggers making their own copies before the official release was ever even announced.[[8]](#endnote-8) This distribution of bootleg records has and will continue to affect the number of sales Tyler, The Creator makes on the album, since sales count streaming, download purchases, vinyl, and other mediums that are comparable to a sale in total.

**Bootleg Vinyl and the Law**

**The Federal Anti-Bootlegging Law in Action**

In 2003, Jean Martignon was arrested for selling bootleg recordings of performances through his store Midnight Records.[[9]](#endnote-9) The case went to trial in a District Court in New York that, on September 24, 2004, decided to let Martignon go free, despite the ramifications that the Federal Anti-Bootlegging Law provided and outlined for what counts as bootlegging in the music community.[[10]](#endnote-10) This decision was based primarily on the judge’s belief that Congress did not hold enough power to make legislation that affects copyright law as deeply as the law in question did.[[11]](#endnote-11)

When the Copyright Act was originally enacted, it was done so through the Copyright Clause, which in a nutshell, is intended to “promote the progress of science and useful arts.”[[12]](#endnote-12) For relevant contrast, the Trademark Act was enacted under the Commerce Clause, which is intended to help regulate commerce as the name suggests.[[13]](#endnote-13) Later in 1994, the Federal Anti-Bootlegging Law was created as an off-shoot of the Agreement on Trade-Related Intellectual Property Rights, or TRIPs for short.[[14]](#endnote-14) The court in this case had the unexpected decision in deciding which of the two clauses the Federal Anti-Bootlegging Law was enacted under, and this decision would also determine if Martignon was guilty of bootlegging or not under the Federal Anti-Bootlegging Law.[[15]](#endnote-15) When they decided that Martignon was innocent, the decision was explained in 4 steps outlined in Billboard’s article detailing the case:

1. Congress enacted the Federal Anti-Bootlegging Law under the Copyright Clause, not the Commerce Clause.
2. The Federal Anti-Bootlegging Law is therefore unconstitutional because it aims to protect live performances, which are not protected by copyright law.
3. The Federal Anti-Bootlegging Law does not have a limit on duration, which is necessary under the Copyright Clause.
4. The law also could not be enacted under the Commerce Clause because Congress’ power to make copyright laws is limited.[[16]](#endnote-16)

Under this framework, there is no constitutional way that the Federal Anti-Bootlegging Law can exist, meaning that Martignon could not be guilty of bootlegging because there was no constitutional statute that supported the opposition’s case against him.[[17]](#endnote-17) Still, this means that the law must have been enacted under the Copyright Clause, but the implications of this become even more complicated as one goes along.[[18]](#endnote-18)

Since the Copyright Clause protects “writings” specifically, the intellectual work must be tangible to be considered for copyright protection.[[19]](#endnote-19) TRIPs, mentioned earlier, is used primarily for protected intellectual property that is used by outside parties, who are then prosecuted for their illegal misuse of the intellectual property.[[20]](#endnote-20)

**17 US Code § 1101**

17 US Code § 1101 is a piece of legislation titled “Unauthorized fixation and trafficking in sound recordings and music videos”, which is easily summarized down to a few parts:

1. One cannot put the music or pictures from a concert into any medium that is then reproduced.
2. One cannot give other people the product they reproduced from a concert.
3. One cannot sell (in any form) these products in the United States, no matter where the original performance was.[[21]](#endnote-21)

In the case presented above, it is obvious that 17 US Code § 1101 was not entirely adhered by, instead sat down to the side to give center stage to the argument about how the Federal Anti-Bootlegging Law was formed. 17 US Code § 1101 aims to protect the integrity of performers who make music and play it live to their fans at concerts, but it is rarely ever enforced. At concerts, many attendees regularly take videos and pictures to share with friends without any consequences, which would be breaking the first two summarized parts above of 17 US Code § 1101. Why are concert attendees not being put under scrutiny for breaking this rule of legislature? The answer lies in Fair Use, the part of copyright law that extends to teaching, commenting, criticizing, and otherwise using media from somebody else in small snippets.[[22]](#endnote-22) Since many governmental and legislative positions in general have bigger things to worry about than a concertgoer’s memento of time well spent, it is unlikely that, unless occurring on a large/lucrative scale, recording concerts to enjoy later at home once the night is over is unlikely to be criminalized any time soon.

**Bootleg Music Recordings in the Future**

Bootleg music recordings are not going away, they have been around forever, and they will stay around forever so long as the relaxed enforcement of their production remains the same. According to Jay Balfour from the record company Vinyl Me, Please, bootleg vinyl and illegal music recording in general is just something we must come “to terms with.”[[23]](#endnote-23) The benefits for the fans of the music, at least from a personal perspective, greatly outweigh the downsides. The people who go out of their way to buy bootleg records of their favorite album when it is not available regularly go to show that their love of music is above everything else. Music is a deeply personal experience for many people, and while the law can regulate and legislate as much as it wants, it is unable to quell the human spirit and its desire for joy through the music it uses as a means to go on.

**References**

Unauthorized fixation and trafficking in sound recordings and music videos, 17 U.S.C. § 1101 (1994). <https://www.law.cornell.edu/uscode/text/17/1101>

Balfour, J. (2016). *Just like the real thing: Coming to terms with bootleg vinyl*. Vinyl Me, Please. Retrieved December 15, 2021, from <https://www.vinylmeplease.com/blogs/magazine/just-like-the-real-thing-coming-to-terms-with-bootleg-vinyl>

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*Frank Ocean – Blond (2016, vinyl)*. Discogs. (2021, January 1). Retrieved December 15, 2021, from <https://www.discogs.com/release/9412062-Frank-Ocean-Blond>

*Kanye West – Yandhi (2020, pink, vinyl)*. Discogs. (2021, January 1). Retrieved December 15, 2021, from <https://www.discogs.com/release/16032257-Kanye-West-Yandhi>

*Kanye West – Yeezus (2013, clear, vinyl)*. Discogs. (2021, January 1). Retrieved December 15, 2021, from <https://www.discogs.com/release/4842692-Kanye-West-Yeezus>

Rolling Stone. (2021, August 13). *The 500 greatest albums of all time*. Rolling Stone. Retrieved December 15, 2021, from <https://www.rollingstone.com/music/music-lists/best-albums-of-all-time-1062063/>

*Tyler, The Creator – Call Me If You Get Lost (2021, vinyl).* Discogs. (2021, January 1). Retrieved September 9, 2022, from <https://www.discogs.com/master/2192617-TylerCreator-Call-Me-If-You-Get-Lost>

Zaslow, J. (1986, July 11). *It doesn't disturb the dead at all that tapers abound*. The Wall Street Journal. Retrieved December 15, 2021, from <https://www.wsj.com/articles/SB10001424052970204795304577223790025303140>

**Deductibility of Business Expenses – Clear Language or Convoluted Meaning?**

A Teaching Moment in an Undergraduate Federal Tax Course

By

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**ABSTRACT**

In general, federal taxation and its various components may seem to be applied uniformly. However, there are key qualitative issues that can impact business decisions, and operational strategies. These issues cannot be quantified nor proscribed. Nonetheless, reading the Internal Revenue Code (“Code”) and the Unites States Treasury Regulations (“Regs”) may appear to be clear and to the point. However, there are hidden concerns and subtle nuances that cannot be ignored.

These concerns and nuances surface in the practical and operational function of tax planning. This difference or gap found in the Code and Regs, becomes evident in operational practices. This “operational expectation gap” provides an excellent scenario for analysis, discussion, and critical thinking in an undergraduate federal taxation course. The course professor has a wide breadth of topical tax, legal, and accounting-related issues to discuss and bring into the classroom conversation.

Similar to other non-tax laws found in various settings, there is ample discretion for having a different perspective on certain federal tax issues. The discretion addressed in this paper is comes from the Internal Revenue Agent’s (“Revenue Agent”) perspective in the scope of an Internal Revenue Service (“IRS”) tax examination – i.e., the tax audit.

Once such topical area concerns the deductibility of business expenses. The following scenario is adapted from a tax examination conducted by the author when employed by the IRS as a Revenue Agent in the Manhattan District Office in New York City.

This scenario addresses the operational expectation gap between what the law reads and how it is applied (or applied differently) in practice. While qualitative in nature, this scenario illustrates the importance of understanding and appreciating how and when the tax preparer and/or representative exercises judicial use of an interpretative reading of the Code and Regs.

The basic law school “IRAC” methodology shall be used in the classroom analysis and discussion. The scenario has been simplified for classroom purposes; it includes the pertinent information relative to the issue at hand.

**ISSUE**: Are the taxpayer’s claimed business expenses deductible?

**RULE of LAW**: An individual, corporation, partnership, trust, or estate generally may deduct from gross income the ordinary and necessary expenses of carrying on a trade or business that are paid or incurred during the tax year (Code Sec. 162; Reg. §1.162-1).

**APPLICATION**: Requires researching the meaning of “ordinary and necessary” in the examination process based upon the specifics of the taxpayer’s filed return.

**CONCLUSION**: The deductibility is dependent, in part, upon whether the Revenue Agent applies a strict constructionist viewpoint a more flexible/liberal interpretation of the Code and Regs?

**A. FACT PATTERN**:

* A medical professional corporation owned and operated by three highly regarded board-certified ophthalmologists (all medical doctors) in an upscale suburban (New York City) location.
* The corporation’s two prior years’ tax returns are under examination.
* Neither the corporation nor the individual doctors have ever been audited by the IRS.
* The corporate stock is equally divided; 33% for each doctor with 1% to a neutral-detached third party in case of any decisions resulting in stalemates, deadlocks, etc.
* The corporation owns the following major assets:
1. Medical building and parking lot
2. Medical equipment including furniture and fixtures
3. Three (3) Maserati automobiles (coupes; top of the line models)
4. 70-foot yacht moored and docked at a local marina in Long Island Sound used exclusively for patient recuperation. The vessel has a captain, limited crew, medical personnel (RNs) fully galley, furniture, etc. The vessel does not leave its mooring as it is used strictly for patients’ use while recovering from varying degrees of medical procedures (there are fees associated with patients recuperating on the vessel post-surgery). The marina is located approximately five miles from the medical building.
* The corporation’s tax representative prepared the corporate returns as well as the three doctors’ individual tax returns (federal, New York State, and New York City individual tax returns). The representative is a licensed Certified Public Accountant (“CPA”) in New York, New Jersey, and Connecticut.

**B**. **REVENUE AGENT’S PERSPECTIVE**

* The Revenue Agent’s first impression of the corporate tax returns and the individual tax returns (federal, state, and city) is professional skepticism and “controlled disbelief.”
* The bookkeeping and recordkeeping for both the corporation and individuals are adequate and appear to be reliable.
* The computational aspects of the various tax returns including the depreciation schedules appear to be fine and in order.
* Other potential and collateral issues in this case?
1. Disguised compensation
2. Reclassification of expenses as a nondeductible dividend
3. Possible badge/indicator for civil fraud

**C. ISSUES**

* Is the yacht and all deductions related to its operation including depreciation, an ordinary, necessary, and reasonable expense in this scenario?
* Are the three Maserati automobiles ordinary, necessary, and reasonable expenses?
* Whether to reclassify potential disallowed expenses as compensation or equity contributions?

**D**. **RULE OF LAW (STATUTORY AND – PRIMARY SOURCES ANALYSIS)**

* While the ordinary and necessary requirements per Code Sec. 162; Reg. §1.162-1 are easy-to-read and seemingly straightforward, the courts have held, however, that reasonableness is implied in the phrase “ordinary and necessary.”(See *Lincoln Electric* *Co*., 49-2 USTC ¶9388, 176 F.2d 815 (CA-6 1949), *cert.* denied, 338 U.S. 949, 70 S.Ct.488). Reasonableness is applicable in determining the deductibility of all types of expenditures (capital or revenue).
* Revenue Agent’s discretionary latitude in assessing the reasonableness (or lack thereof) of the claimed business deductions.
1. Nature and level of claimed deductions
2. Truth and veracity of the proffered explanations and reasoning by the taxpayer’s representative.
3. Are comparable business entities claiming and deducting similar amounts and sources? If so, then the reasonableness of the deductions may seem more in line with business standards.
4. Interpersonal relationship between the Revenue Agent and taxpayer representative. This includes a “give and take” negotiating concept.
5. Is the taxpayer’s representative steadfast in the deductibility of the claimed business expenses? How has the introduction of reasonableness impacted the Revenue Agent’s approach to the tax examination?

**E. APPLICATION – REVENUE AGENT’S DISCRETION**

* The Revenue Agent can allow or disallow in whole, or in part, the claimed deductions.
* If disallowed (whole, or in part) then the disallowed deductions can be characterized as compensation, or as a nondeductible dividend. Compensation is treated as ordinary income subject to income and employment taxes. A nondeductible dividend is not ordinary income and is not subject to employment taxes.
* Interest and perhaps, penalties can be assessed in addition to a recalculation of additional income taxes.
* Depending upon the totality of the tax examination, if there is sufficient substantive material, the audit can be suspended and recommended for criminal fraud investigation. If not, the IRS can pursue civil fraud against the taxpayer entity.

**F. CONCLUSION**

The deductibility of business expenses is only one area wherein the seemingly clear language of the Code and Regs can become a major issue for both practitioners and tax law enforcement. There are examples where Congress is purposely vague in the Code’s wording. The scenario in this example is a simple illustration of how the outcome of a case hinges on the interpretation of a word or phrase – i.e., ordinary, necessary, and reasonable.

This wording is a treasure trove for the taxation and law professor. Students can begin to appreciate the importance of words and their peculiar meanings. This will help their critical thinking skills, their communication skills, and make the taxation course more relevant and “hands on” for the fledging accounting major.

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**INCOME INEQUALITY AND RIGHT-TO-WORK LAWS**

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**Abstract**

The purpose of this study is to shed light on the effect of Right-To-Work (RTW) laws in the United States on income inequality. It does so by focusing on the RTW enactments by Michigan and Indiana in 2012. Difference-in-difference regressions indicate that, on average, after the RTW enactments, the increase in income per capita in the two states did not increase more than in states with or without RTW laws. Income inequality, however, increased compared to the benchmarks of states with and without RTW laws and so did the proportion of population below the poverty threshold. Thus, the findings suggests that the Michigan and Indiana RTW laws had a detrimental effect on income disparity and on the most vulnerable segment of the population.

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**INCOME INEQUALITY AND RIGHT-TO-WORK LAWS**

**1. Introduction**

Currently, twenty-seven states have enacted the Right-To-Work (RTW) laws in the US. These laws provide legal freedom to the workers of a unionized organization from having to join the union or pay union dues as a requirement for employment in the organization, but they require unions to protect even non-members against discrimination. Those that support RTW laws claim that they are beneficial for economic growth, while those against these laws claim that they weaken unions and thereby dampen wage growth and disadvantage workers. These laws are therefore expected to increase income inequality. Even though there is substantial prior research on RTW laws, studies that have directly examined the effect of these laws on income inequality are few (review of extant literature is in the next section). This study uses the RTW laws enacted by Michigan (MI) and Indiana (IN) in 2012 for examining whether RTW laws affect income inequality and update the current understanding on this topic. The evidence from the study would be helpful to various stakeholders as the proposed Protecting the Right to Organize PRO Act (2021), which intends to nullify state RTW laws, starts receiving regulatory attention.

The study focuses on RTW laws enacted by MI and IN because they are recent in time and so the evidence from the study would be recent in time. Plus, the MI and IN enactments happen to fall between the systemic disruptions associated with the Global Financial Crisis of 2007-2008 and the Global Covid 2019 pandemic and so they provide a largely uncontaminated time frame for making a before and after comparison of income inequality relative to the enactments. Additionally, because these two states enacted the laws in the same year, it provides a bigger and more diverse sample and that would help statistical robustness (all other cases over the last fifty years involve only one state having passed RTW law during a calendar year).

The study uses the difference in difference regressions for assessing the pre- and post-enactment difference in income per capita and income inequality in MI and IN compared to the benchmark of all other states without RTW laws. This is repeated using all other states with RTW laws as a separate benchmark. County level data for the study on income per capita, income inequality (Gini Index), and proportion of population below the poverty level are from the US Census Bureau. This is supplemented by using data from the Bureau of Labor Statistics, the Bureau of Economic Analysis, and the National Bureau of Economic Research.

In the difference in difference regressions, price level differences across states, state income tax rates, state population, and state unemployment rates are used as control variables (state GDP and GDP per Capita do not turn out to be significant in conjunction with these control variables and so are dropped from the regressions). Findings from these regressions indicate that, on average, before the RTW enactments, income per capita was about the same in MI and IN compared to states with RTW laws but significantly lower than in states without RTW laws, and after the enactments it increased by less than the increases in states with and without RTW laws. Income disparity, on average, was significantly lower in MI and IN before their RTW enactments compared to states with or without RTW laws, but after the enactments it increased by more than in states with as well without RTW laws. Furthermore, the proportion of population in the two states below the poverty level increased after the enactments compared to the two benchmark groups of states. Thus, the findings suggest that RTW laws had a detrimental effect on income inequality and especially on the most vulnerable segment of the population.

The next section covers review of relevant literature. Section 3 covers details about the data and methodology while section 4 covers the findings of my analyses. Conclusions of this study are in section 5.

**2. Literature Review**

Right-To-Work-Laws were first introduced in 1947. RTW laws free workers from unionized organizations being required to join unions or to become a union member, while requiring the unions to prevent discrimination even against non-members. RTW laws encourage “free riding” for those that want the benefits of unionization but do not want the costs.[[24]](#footnote-1) This free riding reduces union membership and therefore reduces the probability of union organization in the state. The proposed Protecting the Right to Organize (PRO) Act (2021-2022) intends to nullify all state RTW laws.

A large body of research has shown that union membership has declined overtime and inequality has increased (see Farber, 1990, Riddell, 1992; Western and Rosenfeld, 2011; and Blanchflower and Bryson, 2021). Bruce Western and Jake Rosenfeld’s study showed that there was no difference in income before and after RTW laws. What they find is the trend of falling wages at the bottom and rising wages at the top causing inequality to increase.[[25]](#footnote-2)

From 1973 to 2007 the private sector membership in the US declined from 34% to 8% for men and 16% to 6% for women. This is believed to be a result of RTW laws since about half of the states in the US have RTW laws. During this period, inequality in hourly wages increased by over 40%.[[26]](#footnote-3) Relative union membership is defined as the proportion of workers belonging to unions divided by the predicted proportion of workers in unions based on a stat’s industrial composition.[[27]](#footnote-4) Thomas Carroll argues that RTW laws do not reduce union membership because the organized labor must have been weak at the time that RTW laws were enacted.[[28]](#footnote-5) Western and Rosenfeld’s study, however, indicates that RTW is the cause for the decline in union membership and therefore the decline of union dues.

Research done so far regarding wage gaps and nonunion and onion organization has had mixed results. Henry S. Farber, from Cornell University conducted research to determine the extent to which the threat of union organization increases nonunion wages and reduces wage differential.[[29]](#footnote-6) Bruno, Zullo, Manzo, and Dickson contend that RTW laws are likely to hurt the hourly wages of females, African Americans, Latino/as, and will contribute to rising income inequality. Their data also lead them to believe that it causes harm on the economy and lowers its capacity to provide essential public services as well as the condition and quality of the state’s labor force.[[30]](#footnote-7) Therefore we examine the impact of RTW laws on the population below the poverty threshold.

**3. Data and Methodology**

The study uses county level data on population, Gini Index (a widely used measure of income inequality), and population below the poverty level are from the US Census Bureau, while county level data on price parity, GDP per capita, and aggregate income are from the Bureau of Economic Analysis. The data on state unemployment rate The data on county level unemployment rate and state level mandated minimum hourly wage rate are from the Bureau of Labor Statistics. State level personal income tax rate is from the National Bureau of Economic Analysis. The study uses the Gini Index (a widely used measure of disparity in the distribution of resources) computed based on family income as the measure of income inequality. It is quantity calculated from the Lorenz curve which summarizes how much the Lorenz curve deviates from the perfect equitability.[[31]](#footnote-8) The scale is between 0 and 1. 0 is where everyone has the same share and 1 is where one person has everything. The Lorenz curve for a resource Q is y = L (p), where the Q-poorest fraction p of the population has a fraction L (p) of the whole.[[32]](#footnote-9) Ratio of the area between the Lorenz curve L (p) and the 45-degree line to the area under the 45-degree line. The area between the Lorenz curve and the straight line is the area of concentration.[[33]](#footnote-10)

Difference in difference regression model used in the study is given by the following equation,

Dependent Variable = β0 + β1 Dummy-State + β2 Dummy-Post + β3 Dummy-State \* Dummy-Post

 + Control Variables + €

The above regression covers the period 2009–2015 (excluding 2012 the year in which MI and IN passed RTW laws). The three years 2009–2011 are taken as the period before the RTW enactment by MI and IN (i.e., the pre-enactment period), while the three years 2013 – 2015 are taken to represent the period after the enactment (i.e., the post-enactment period). Dependent variable is county level data for either income per capita for a county, Gini Index, or the proportion of population below the poverty threshold. Dummy-State takes a value of one if the county is in Michigan or Indiana and zero if it is in a state that belongs to the benchmark group being used (states with existing RTW laws or states without RTW laws). Dummy-Post takes a value of one if the year belongs to the after-enactment period and zero for the before-enactment period. Dummy-State \* Dummy-Post represents the interaction dummy. The control variables used in the study are price parity (price level of goods and services), state mandated minimum hourly wage rate, state income tax rate, state unemployment rate, and natural log of population. We use these variables to proxy and control for differences across states that may impact the dependent variable. GDP, GDP per capita, aggregate wages, and per capita consumption exhibit strong correlation with the included control variables and hence are dropped for not being significant in all or most regressions). Epsilon (€) represents random error in the model.

 In the above model, β0 represents the base level of the dependent variable (accounting for the effect of control variables) for states in the benchmark group (either all the states with existing RTW laws or those without RTW laws) during the pre-enactment period. β1 represents by how much MI and IN differed from the base level during the pre-enactment compared to the benchmark group, while β2 represents the difference in the dependent variable for the benchmark group during the post-enactment period as compared to the pre-enactment period. β3 is the coefficient most relevant for the study because it captures the change in the dependent variable for Michigan and Indiana after their RTW enactment controlling for the level before the enactments as well as the change exhibited by states in the benchmark group after Michigan and Indiana enacted RTW laws.

**4. Findings**

Table 1, Panel A, provides a list of US states that enacted RTW laws and the year of enactment, while Panel B provides a list of states that have not enacted RTW laws. Panel A indicates that several states had enacted RTW laws in the 1940s (11 states) and 1950s (6 states) and then it was one state per decade over the next five decades. The laws again started receiving increased attention only since MI and IN enacted them in 2012 (three states passed RTW laws after this). MI and IN thus provide a unique opportunity in the recent years where two states passed RTW laws in the same year. The combination of two states provides better sample size than using only one state for analysis and if we combine states that have enacted RTW laws in different years then it may bring in the influence of factors that differ with varying degrees across time (there are econometric techniques to handle such situation, but the joint case of MI and IN provides a serendipitous situation appropriate for analyses done in this study. The lists of states that have and have not enacted RTW laws show that these laws are geographically concentrated mainly in the South and the inner Mid-West, while the two coasts are most free of these laws.

Table 2 presents findings from the difference in difference regressions that use states without RTW laws as the benchmark group, while Table 3 covers findings from the diff-in-diff regressions that use states that had passed RTW laws prior to 2012 as the benchmark group. As indicated in the previous section, the regressions control for differences across states in population, unemployment rate, state income tax rate, state mandated minimum hourly rate, and price parity (price level of goods and services). Regressions 1, 3, and 5 of these tables examine whether the control variables (that are intended to control for differences in size, policy, and economic conditions across states) are significantly related to the three dependent variables used in the analysis (namely income per capita, Gini Index, and the Proportion of population below the poverty threshold).

Regression (2) in Table 2 indicates that, on average, the income per capita in MI and IN before they passed RTW laws was significantly lower than in other states without RTW laws (Dummy-MIIN is significantly negative). This suggests that the RTW laws may have been enacted to spur income per capita. During the three years after the laws were enacted, the income per capita in states without RTW laws increased significantly (Dummy-Post is significantly positive), but that in MI and IN increased significantly less (Dummy-Interaction is significantly negative). The coefficient for Dummy-Interaction (-0.00899) is much smaller than the coefficient for Dummy-MIIN (-0.04848) suggesting that the income per capita in MI and IN than is starting to catch up with that in other states without RTW laws. Regression (4) examines the impact of MI and IN RTW laws on the Gini Index by using states without RTW laws as the backdrop. Recall that the Gini index takes a value of zero for no inequality of income and one for maximum inequality. Regression (4) in Table 2 indicates that before the RTW enactment by MI and IN, the income inequality (Gini index) in the two states was lower (Dummy-MIIN is negative and although it is not significant at the conventional level of ten precent or lower, the t-statistics of -1.6 indicates that this is very close to the accepted norm) and during the three years after enactment the income inequality increased significantly in states without RTW laws (Dummy-Post is positive and significant) and that in the two states stayed on par with the increase (Dummy-Interaction is not different from zero). In other words, the income inequality increased after the RTW enactments to become on par with other states that did not have RTW laws. Lastly, in Table 2, regression indicates that before MI and IN enacted RTW laws, the dependent variable Poverty (which stands for the proportion of population below the poverty threshold) was significantly lower than in other states without RTW laws. After the enactment, this proportion increased significantly in states without RTW laws (Dummy-Post is positive and significant) but by even more in MI and IN (Dummy-Interaction is positive and significant). Thus, compared to states without RTW laws, on average the income per capita in MI and IN after the enactment was still lower (but catching up), but by comparison the most vulnerable segment of the population increased significantly.

Table 3 provides findings on assessing the impact of RTW laws enacted by MI and IN relative to the benchmark of all other states that had passed RTW laws. Regression (2) indicates that before the RTW enactments by MI and IN the per capita income in the two states was on average no different than in other states that had passed such laws (Dummy-MIIN is not different from zero). During the period after the enactments by MI and IN, the per capita income in other states increased significantly compared to the pre-enactment time-period (Dummy-Post is positive and significant) and that in MI and IN increased by about the same as in these other states (Dummy-Interaction is not different from zero). Thus, the MI and IN laws did not have any beneficial impact on the per capita income in the two states. Regression (4) indicates that before the two states enacted RTW laws the Gini index i.e., income inequality was, on average, significantly lower than in states with existing RTW laws (Dummy-MIIN is negative and significant) and after the income inequality in the states with RTW laws increased significantly (Dummy-Post in positive and significant) but that in MI and IN increased even more (Dummy-Interaction is positive and significant). Regression (6) indicates that same is the case with the proportion of population below the poverty level in MI and IN i.e., before the laws were passed it was significantly compared to states with existing RTW laws but after the enactment this segment of the population increased significantly more than in states with RTW laws.

**5. Conclusions**

This study examines the impact of RTW laws passed by MI and IN in 2012 on the per capita income, income inequality, and the proportion of population below the poverty threshold in the two states. The findings indicate that the laws did not have a beneficial impact on income per capita because on average it stayed either on par or was significantly lower than in other states with and without existing RTW laws as reference groups. The income inequality, however, increased in the two states after the enactments and so did their proportion of population below the poverty level when viewed against the backdrops of states with or without RTW laws. Simply put, the evidence suggests that the laws had a detrimental effect on income inequality and the most vulnerable segment of the population.

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**Table 1**

Panel A: List of States That Have Passed RTW Laws

|  |  |  |  |
| --- | --- | --- | --- |
| Number | State Name | State Abbreviation | Enactment Year |
| 1 | Arkansas | AR | 1944 |
| 2 | Florida | FL | 1944 |
| 3 | Arizona | AZ | 1946 |
| 4 | Nebraska | NE | 1946 |
| 5 | Georgia | GA | 1947 |
| 6 | Iowa | IA | 1947 |
| 7 | North Carolina | NC | 1947 |
| 8 | South Dakota | SD | 1947 |
| 9 | Tennessee | TN | 1947 |
| 10 | Virginia | VA | 1947 |
| 11 | North Dakota | ND | 1948 |
| 12 | Nevada | NV | 1952 |
| 13 | Alabama | AL | 1953 |
| 14 | Mississippi | MS | 1954 |
| 15 | South Carolina | SC | 1954 |
| 16 | Utah | UT | 1955 |
| 17 | Kansas | KS | 1958 |
| 18 | Wyoming | WY | 1963 |
| 19 | Louisiana | LA | 1976 |
| 20 | Idaho | ID | 1985 |
| 21 | Texas | TX | 1993 |
| 22 | Oklahoma | OK | 2001 |
| 23 | Indiana | IN | 2012 |
| 24 | Michigan | MI | 2012 |
| 25 | Wisconsin | WI | 2015 |
| 26 | West Virginia | WV | 2016 |
| 27 | Kentucky | KY | 2017 |

Panel B: List of States Without RTW Laws

|  |  |  |
| --- | --- | --- |
| Number | State Name | State Abbreviation |
| 1 | Alaska | AK |
| 2 | California | CA |
| 3 | Colorado | CO |
| 4 | Connecticut | CT |
| 5 | Delaware | DE |
| 6 | Hawaii | HI |
| 7 | Illinois | IL |
| 8 | Maine | ME |
| 9 | Maryland | MD |
| 10 | Massachusetts | MA |
| 11 | Minnesota | MN |
| 12 | Missouri | MO |
| 13 | Montana | MT |
| 14 | New Hampshire | NH |
| 15 | New Jersey | NJ |
| 16 | New Mexico | NM |
| 17 | New York | NY |
| 18 | Ohio | OH |
| 19 | Oregon | OR |
| 20 | Pennsylvania | PA |
| 21 | Rhode Island | RI |
| 22 | Vermont | VT |
| 23 | Washington | WA |

**Table 2**

Benchmark Group: States Without RTW laws

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|   | **1** | **2** | **3** | **4** | **5** | **6** |
|  | **ln(Income)** | **ln(Income)** | **Gini** | **Gini** | **Poverty** | **Poverty** |
| Price-Parity | 0.01704\*\*\* | 0.01747\*\*\* | 0.00041\*\* | 0.00040\*\* | -0.00207\*\*\* | -0.00208\*\*\* |
|  | (42.45) | (49.07) | (2.29) | (2.09) | (-10.29) | (-9.69) |
| Mini-Wage | 0.03030\*\*\* | -0.00720\*\*\* | 0.00740\*\*\* | 0.00564\*\*\* | 0.01246\*\*\* | 0.00535\*\*\* |
|  | (12.50) | (-3.38) | (7.95) | (5.38) | (12.82) | (5.00) |
| Income-Tax | -0.00465\*\*\* | -0.00689\*\*\* | 0.00125\*\*\* | 0.00111\*\*\* | 0.00100\*\*\* | 0.00047 |
|  | (-5.63) | (-11.68) | (4.79) | (4.12) | (3.12) | (1.48) |
| Unemployment | -0.01799\*\*\* | -0.00735\*\*\* | -0.00044\* | 0.00009 | 0.00442\*\*\* | 0.00671\*\*\* |
|  | (-16.98) | (-9.27) | (-1.92) | (0.31) | (13.16) | (16.32) |
| Ln(population) | 0.01142\*\*\* | 0.00830\*\*\* | 0.00073 | 0.00064 | -0.00054 | -0.00106 |
|  | (3.52) | (3.50) | (0.78) | (0.67) | (-0.41) | (-0.83) |
| Dummy-MIIN |  | -0.04848\*\*\* |  | -0.00418 |  | -0.02084\*\*\* |
|  |  | (-15.91) |  | (-1.60) |  | (-7.63) |
| Dummy-Post |  | 0.12673\*\*\* |  | 0.00566\*\*\* |  | 0.02221\*\*\* |
|  |  | (42.25) |  | (4.86) |  | (14.39) |
| Dummy-Inter |  | -0.00899\*\*\* |  | 0.00096 |  | 0.01349\*\*\* |
|  |  | (-4.84) |  | (0.71) |  | (8.13) |
| Intercept | 8.75417\*\*\* | 8.91972\*\*\* | 0.31531\*\*\* | 0.32509\*\*\* | 0.17649\*\*\* | 0.21568\*\*\* |
|  | (208.91) | (250.37) | (17.38) | (17.21) | (7.33) | (8.90) |
| Observations | 6,778 | 6,778 | 6,770 | 6,770 | 6,770 | 6,770 |
| Adjusted R2 | 0.652 | 0.781 | 0.062 | 0.068 | 0.160 | 0.223 |

|  |
| --- |
| Robust t-statistics in parentheses,  |
| \*\*\* p<0.01, \*\* p<0.05, \* p<0.1 |  |

**Table 3**

Benchmark Group: States with RTW laws

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|   | **1** | **2** | **3** | **4** | **5** | **6** |
|  | **ln(Income)** | **ln(Income)** | **Gini** | **Gini** | **Poverty** | **Poverty** |
| Price-Parity | 0.01712\*\*\* | 0.01719\*\*\* | -0.00178\*\*\* | -0.00200\*\*\* | -0.00345\*\*\* | -0.00374\*\*\* |
|  | (27.13) | (28.16) | (-7.54) | (-8.53) | (-12.68) | (-13.86) |
| Mini-Wage | 0.01160\*\*\* | 0.00309\*\*\* | 0.00034 | 0.00047 | -0.00148 | -0.00290\*\*\* |
|  | (8.59) | (2.77) | (0.43) | (0.59) | (-1.44) | (-2.99) |
| Income-Tax | -0.00529\*\*\* | -0.00668\*\*\* | -0.00168\*\*\* | -0.00203\*\*\* | -0.00150\*\*\* | -0.00231\*\*\* |
|  | (-9.13) | (-12.18) | (-6.43) | (-7.71) | (-3.50) | (-5.43) |
| Unemployment | -0.02150\*\*\* | -0.01622\*\*\* | 0.00164\*\*\* | 0.00320\*\*\* | 0.00788\*\*\* | 0.01134\*\*\* |
|  | (-43.77) | (-32.39) | (8.04) | (14.05) | (22.14) | (29.40) |
| Ln(population) | -0.03261\*\*\* | -0.03915\*\*\* | 0.00717\*\*\* | 0.00718\*\*\* | 0.01019\*\*\* | 0.00882\*\*\* |
|  | (-11.24) | (-14.28) | (6.89) | (6.73) | (6.79) | (5.75) |
| Dummy-MIIN |  | -0.00027 |  | -0.03349\*\*\* |  | -0.05777\*\*\* |
|  |  | (-0.08) |  | (-14.09) |  | (-22.14) |
| Dummy-Post |  | 0.07798\*\*\* |  | 0.01733\*\*\* |  | 0.04058\*\*\* |
|  |  | (54.73) |  | (21.26) |  | (34.88) |
| Dummy-Inter |  | -0.00080 |  | 0.00296\*\* |  | 0.01659\*\*\* |
|  |  | (-0.34) |  | (2.10) |  | (8.55) |
| Intercept | 9.59591\*\*\* | 9.67665\*\*\* | 0.48809\*\*\* | 0.49135\*\*\* | 0.25086\*\*\* | 0.27020\*\*\* |
|  | (254.56) | (259.48) | (25.75) | (26.03) | (8.99) | (10.11) |
| Observations | 13,110 | 13,110 | 13,105 | 13,105 | 13,105 | 13,105 |
| Adjusted R2 | 0.606 | 0.676 | 0.075 | 0.167 | 0.256 | 0.397 |

|  |
| --- |
| Robust t-statistics in parentheses,  |
| \*\*\* p<0.01, \*\* p<0.05, \* p<0.1 |  |

1. Zaslow [↑](#endnote-ref-1)
2. Frank Ocean [↑](#endnote-ref-2)
3. Rolling Stone [↑](#endnote-ref-3)
4. Ibid. [↑](#endnote-ref-4)
5. Ibid. [↑](#endnote-ref-5)
6. Kanye West [↑](#endnote-ref-6)
7. Ibid. [↑](#endnote-ref-7)
8. Tyler, The Creator [↑](#endnote-ref-8)
9. Billboard Staff [↑](#endnote-ref-9)
10. Ibid. [↑](#endnote-ref-10)
11. Ibid. [↑](#endnote-ref-11)
12. Ibid. [↑](#endnote-ref-12)
13. Ibid. [↑](#endnote-ref-13)
14. Ibid. [↑](#endnote-ref-14)
15. Ibid. [↑](#endnote-ref-15)
16. Ibid. [↑](#endnote-ref-16)
17. Ibid. [↑](#endnote-ref-17)
18. Ibid. [↑](#endnote-ref-18)
19. Ibid. [↑](#endnote-ref-19)
20. Ibid. [↑](#endnote-ref-20)
21. 17 US Code § 1101 [↑](#endnote-ref-21)
22. Copyright Alliance [↑](#endnote-ref-22)
23. Balfour

THE INCREASED NEED FOR SOFT SKILL DEVELOPMENT POST COVID-19 AND WHAT LEGAL ENVIRONMENT OF BUSINESS PROFESSORS CAN DO TO HELP

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**Abstract**

The Covid-19 pandemic has left its mark on many aspects of our lives. Young people who never experienced a “normal” high school education are or will soon be entering our business programs. As the world returns to the “new normal” the business community demands that these students matriculate with the skills needed to successfully function in this new and relatively uncharted landscape. While technical skills are often assumed, also highly in demand are soft skills. This article explores what can be done in business classrooms to develop these highly desired skills.

**Introduction**

 Recently, the “State of Skills 2021: Endangered” report from Degreed, predicted that the need for social skills (also known as soft skills) such as communication skills will skyrocket in coming years, as employers seek to rebuild and out-build their teams with well-rounded workers and leaders (Bauer, 2022). Post-Covid-19 employers specifically seek out workers who possess these skills and if unable to find them, negative consequences could carry over to employee retention and economic recovery. One need only check current headline news to deduce that intercultural and interpersonal communication competence is not only an individual need, but a business and societal one as well.

 While employers laud these soft skills, in many of our classrooms some of us still tend to focus primarily on academic rather than professional preparation of our students. This “teacher-centric” or “liberal arts” model persists in many of the nation’s post-secondary business programs despite the demands of employers, who increasingly note that new hires lack the “soft” skills needed to compete successfully in the modern business environment (Crawford, 2021). As stated above, the Covid-19 pandemic has only served to escalate the need for these skills and highlight the lack of such skill development in our classrooms (Volkov et. al., 2022). In recent publications, the *Association to Advance Collegiate Schools of Business* (AACSB) draws attention to this deficiency as a matter of concern (Crawford, 2021). The fear is that the generation of Covid-19 students may be fated to further lag in the development of intercultural, interpersonal, and nonverbal communication exacerbated by the increased use of social media and the isolation experienced during the pandemic (Bauer, 2021). Employees who do not have excellent “soft skills” may not experience success in obtaining and sustaining employment (Blaszczynski & Green, 2012). Business experts assert that as companies settle into post-Covid customs, skills related to interpersonal connection, communications and informed and confident decision making such as: 1. Flexibility and Adaptability, 2. Critical Thinking, 3. Technology Prowess, 4. Emotional Intelligence, 5. Creativity, 6. Digital Engagement and 7. Cultural Competence may be seriously lacking (Crawford, 2021).

 While businesses are searching for new hires that are competent in the “soft” skills, the modern business student exists in an academic and social environment where face-to-face communication, conflict management, motivation etc. are increasingly rare. These factors point to a disconnect between the needs of employers and the skillset possessed by our students who are the future’s employees. We as business educators are called upon to fill this gap. This article has two objectives: First, to suggest what we might do in our legal environment / business law classrooms to help support the acquisition of the above described “soft skills” to meet the demands of both employers and the AACSB. Next, this article will provide insights into how assignments and exercises that emphasize soft skill competency can thrive in an environment dominated by not only social media but the aftereffects of the Covid-19 pandemic.

**Features of Successful Soft Skill Training in the Legal Environment Classroom:**

 Upon studying the existing literature examining successful soft skill training in college programs, several features come to light. These features include: 1. Work-based learning with clear goals, 2. Mentorships and 3. Reflection and assessment.

 The first component of successful soft skill development includes opportunities for work-based learning. Work-based learning can be achieved through many different activities including, actual employment, internships, job shadowing opportunities, case studies and roleplaying (Kuchinke, 2007). These sorts of experiences allow students to integrate classroom learning with the employment environment.

 Regardless of the form that the work-based learning portion of soft skill training may take, the exercise should include a clear set of goals that the student seeks to achieve. These goals should include the acquisition of not only professional skills, such as “increase my knowledge of employment law concepts applicable to a human resource office” but soft skills as well such as, “increase my ability to communicate effectively with my co-workers and future clients.”

 The legal environment / business law course is probably best suited for case studies and roleplaying exercises to increase this work-based learning. This common approach, which is already used in many of our classes, could easily be taken to the next level by adding the soft skill goals to already existing discussions around professional skills. Students should both understand legal concepts and be able to communicate with others about these concepts. Students should be called upon to explain the concept to others and ultimately turn concepts into policies and practices that can be used to resolve real world problems.

 A second feature of productive soft skill training in our classrooms is the opportunity for students to be mentored by business professionals who are employed in the student’s specific area of business interest. Ideally, students are matched with people in the business world who can discuss the business environment with them and explain how soft skill acquisition enhances business success. Much has been written about mentor relationships and their importance to business students. These relationships are especially important for women and other individuals who are underrepresented in our nation’s companies (Anderson, 2005).

 While mentorships with business experts are probably the most desirable, peer mentorships can also work well in assisting students with soft skill acquisition. Pairing students who work with those who do not or more experienced junior and senior level students with less experienced freshmen and sophomores can result in positive learning as students share what they have learned as they participate in the work-based portion of the soft skill training exercise. In the legal environment / business law class, this aspect of soft skill training can also be achieved with guest speakers including those from the legal and business community. Again, the key is to assure that the visit by the speaker include specific goals and reflection on how the speaker’s lessons can be integrated into the students’ professional lives.

 Last, but not least among the qualities of successful soft skill training exercises is an opportunity for students to reflect on and assess their experiences and learning in the work-based and mentorship portions of the program. Assessment and reflection can take many forms, classroom reports and presentations, discussion groups and journaling are among the typical approaches. Regardless of the form the reflection / assessment part of the exercise or assignment takes, it must allow opportunities for students to not only reflect on and assess their own experiences but to also gain feedback from their peers and their instructor (Blaszczynski & Green, 2012).

**Opportunities to Combine Online Resources and Professional Development in the Post-Covid-19 Era:**

 Soft skill training exercises and assignments can help to bridge the gap that can sometimes exist between the teacher-centric or liberal arts classroom approach discussed earlier and the modern student and employer. In fact, features of social networking can be utilized in each of the three areas of a successful classroom to teach soft skills.

 Social media sites such as Youtube can be used to create work-based experiences, especially in creating case studies and roleplaying opportunities. Bringing these exercises into the classroom creates a deeper level of interactivity between the student and the instructor (Thomas & Thomas, 2012). The interactive nature of social media sites keeps students more engaged and provides current real-world examples for them to critique and learn from. These resources can also be customized to fit the specific goals of the student within their classes.

 On-line sites such as Facetime, Skype and Zoom can be used to enhance the mentorship portion of professional development programs. By using these or similar sites, business and legal experts can actually “come into” the class- or dorm- room. The mentor relationship can easily be achieved conveniently and instantaneously. While face-to-face meetings can play an important role as well, by using online sites, busy business professionals could reach out to and connect with numerous students simultaneously saving time, money, and other resources.

 Additionally, through the use of social networking sites such as LinkedIn, Twitter and Facebook, students can connect with mentors in various industries and professional positions. While some students might be certain about their career paths, many undergraduate students remain curious about the options that are open to them within the business disciplines. Making professional connections through social networking sites can help to clarify these choices and lead to the development of the specific soft skills needed to excel within these specific positions.

 The on-line environment also provides exceptional opportunities for students to reflect on and assess their experiences with professional development. Podcasts, chat rooms, discussion boards and other similar forums allow students ample opportunities to reflect and connect. Instructors and mentors can also easily access these sites. This ease of access allows them to provide students with feedback and suggestions on developing their soft skills and enhancing their employment opportunities.

**Conclusion**

 During the pandemic, students lost in-person and hands-on learning and the opportunity for peer-driven social-emotional development (Heider, 2021). This in turn has led to a loss of crucial soft skills. At the same time, our stakeholders in the business community are letting us know that these soft skills are more important than ever (Padurean, 2021). There are tools that can be utilized in our classrooms to build these key skills. As legal environment / business law professors, we are uniquely placed to provide such exercises and opportunities to our students. Case studies, guest speakers and mentorships can all be fairly easily implemented into our classes. We should build upon this opportunity to not only enhance student learning but also our position within our various institutions.

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INTERNATIONAL LAW AND THE VALUE OF COMPLAINCE

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**ABSTRACT**

This paper seeks to discuss the history and need for international law within a globalizing world, while addressing the idea of compliance as a major enforcement technique. The areas of analysis include the origin of international law, as well as the establishment of the International Court of Justice, followed by incorporated techniques used to enforce such laws without the aid of an enforcing body through organizations such as the UN and IMF. The final point of review seeks to understand the complications that arise, while keeping justice and morality present, in times of global crisis. As globalization continues to change world order, international law must adapt in order to keep world peace at the forefront of global efforts.

**Background**

International Law- considered one of the greatest achievements of the United Nation (UN) - embodies the rules and practices to promote world peace and safety. In an ever-growing world of international communication and relations, it is becoming increasingly paramount to avoid or address arising issues, as powerful people have the ability to create monumental impacts. What first began as the League of Nations, founded in 1920, then expanded into the UN in 1945, brought about after the destruction during WWII. History clearly displays the need for world order, as law aims to settle disputes “through negotiation and arbitration rather than conflict”. The word ‘aims’ is the indicator that this ideology has not yet taken a concrete grasp in all countries, however, has proven to be successful in avoiding feuds as grotesque as those of the past.

International Law encompasses many parties and deals with a variety of situations. These situations have been grouped together and divided international law into different categories. In the broader sense, there is both public and private International Law. Public law deals with the rights between one or more nations whereas private law deals with the rights of individuals from different nations. However, as an article from Cornell law explains, the “Issues of private international law may also implicate issues of public international law, and many matters of private international law have substantial international significance”. Therefore, one is led to believe that it is sometimes difficult to distinguish these two types of law from each other. At the same time, it is important to be well versed in these two approaches considering a situation may call for both set of rules to be put into motion. This leads one to understand that an individual does not exactly represent their country in court, however if a certain national law conflicts with other nations, that country becomes a subject of the case in order to equitably determine a verdict. Situations such as these lead to the use of both public and private international law.

International law is then further divided similar to how national law is divided into tort law, property law, etc. In terms of international law, some of the major areas include economic law, security law, criminal law, diplomatic law, environmental law, humanitarian law, and human rights law. All these categories are also topics discussed within national law; however, international law focuses on them in terms of issues that arise between countries. For example, humanitarian law can also be referred to as the law regarding war. After major destruction and crime brought about during world wars, international humanitarian law was created to protect the rights of those caught in battle between different countries. This is different from international human rights law which creates a body of rights that any individual is guaranteed regardless of their nationality. While international human rights law was also built upon the effects of war, human rights law focuses on the individual rather than the acts of those who are representing their country during war. Many of the international law categories follow similar patterns as those seen in national law, as one can concur that preexisting national laws were most likely a point of reference for the creation of international laws.

**International Court of Justice**

If one were to travel to the Netherlands, they would find the International Court of Justice, also known as the World Court, where judges strive to make difficult global decisions. A set of laws is only as good as the facilities that enforce them. Since international law focuses on issues that could have overwhelming impacts, it is important that the assigned courts are well versed in the varying regulations that different countries follow. Furthermore, they must be able to interpret issues, national laws, and provide unbiased solutions.

 The World Court, located at Peace Palace in Hauge, Netherlands was “established in 1945 by the UN’s [Charter](https://www.law.cornell.edu/wex/United_Nations_Charter), and it’s the only organ of the UN not located in New York City”. As this is the judicial function for the UN, the judges are elected for nine years at a time by both the UN General Assembly and Security Council. The General Assembly is another essential organ based on discussing international issues, whereas the Security Council is focused on the real time security and enforcement of international laws. It then follows that the two bodies of the UN primarily tasked within the international arena would have a say in the choosing of judges for the World Court.

The World Court, in addition to the previously explained sections of law, have two overlooking functions. Nations can come to the World Court with either a Contentious case or for Advisory Proceedings. Contentious cases are only for those who are part of the United Nations, or states that are subject to the court’s jurisdiction. These cases are brought with the hopes of having an issue between nations resolved, and similar to the United States Supreme Court, the verdict of the World Court is final without option for appeal. Verdicts are made upon the evidence brought through a variety of documents and historical facts including national laws, treaties, customs, as well as *stare decisis* (translated from Latin to “to stand by things decided” which follows that the verdict of previous cases can provide guidelines for a current case.

 A case is brought to the World Court in two ways, either through notification or application. Notification is when the UN has identified an issue that they believe needs to be addressed and therefore ask all parties to be present in court. On the other hand, an application can be voluntarily sent to the court by either party, where there is an applicant and a respondent, and both are brought to court over the specified issue. The following is an example of a contentious case started in 2013 and ended in 2018 titled [Obligation to Negotiate Access to the Pacific Ocean (Bolivia v. Chile)](https://www.icj-cij.org/en/case/153) (Obligation to Negotiate Access to the Pacific Ocean (Bolivia v. Chile), 2013). The case summary explained that this case involved “Chile’s obligation to negotiate in good faith and effectively with Bolivia in order to reach an agreement granting Bolivia a fully sovereign access to the Pacific Ocean”. One can see that this falls within the function of contentious case because there is an issue/dispute between two nations, Chile and Bolivia, as well as a decision to be made that is equitable to both nations. In this case the court found that Chile did not properly discuss with Bolivia over the access to the Pacific Ocean. Therefore, Chile would be asked to then go back and act according to the verdict, meaning they would have to discuss the matter with Bolivia to the standards of the World Court verdict.

The second type of case that may be admitted by the World Court is Advisory Proceedings. As is in the name, an advisory proceeding is one where nations may request legal advice or opinion from the judges. Unlike the contentious cases, advisory meetings are not open to every nation, even those that are in the UN. Those who are allowed to ask for such advice consist of “five organs of the United Nations and 16 specialized agencies of the United Nations family or affiliated organizations”. While this proceeding is only open to those specified nations, other may request advice as it applies to the scope of the activities already taking place. Seeing as this is only a case for advice, the court’s decision is non-binding, it is simply a decision made based on the accumulation of information that was compiled before the case. After a decision has been made, there will be an oral public announcement of the advisory meeting. Although the decision is not binding, considering the prestige and knowledge available from the judges of the World Court, one would most likely be inclined to take the advice and act upon it.

An example of an advisory case where the advisee nation acted upon the resolution provided was during 2017 within the case Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965. Within this case the court considered two questions, (a) whether the decolonization of Martius from the Archipelago was done in a lawful process and (b) what the appropriate legal consequences were based on the administration from the United Kingdom and North Ireland over the Archipelago. As on can see from this case, the preceeding is based on past events, that will then determine future actions. If the court rules that the process of decolonization was not lawful, then the Archipelago, and affiliated nations, could take actions based on the advice from the court. Unlike the contentious cases, there is not necessarily one nation against another nation, instead in this example it is a group of states that are affected by past events. Research the court compiled before the advisory proceeding included data from 32 written statements as well as comments on the written statements, followed by 21 states which were present at the oral proceedings. The advice that the World Court provides can have monumental impacts if the advisee nation decides to act upon the verdict, therefore making the research portion of the proceedings a vital contribution to the final decision. The court ruled that the decolonization of Martius was not lawful and found that administration of the United Kingdom over the Archipelago best come to an end. While this is simply an advisory case, the court is still tasked with determining if they have jurisdiction over the case. An interesting note about advisory cases that further differentiate them from contentious cases, are the number of nations or states that are able to participate in the proceedings. From this case alone, written statements were provided from many different countries including Germany, Netherlands, and Serbia. This extensive list of participants allows for the court to hear multiple versions of the same story as well as different opinions on what should be done. This is all taken into consideration as one would assume that the court is not only attempting to determine the lawfulness of the question at hand, but also provide advice that would result in the most peaceful settlement.

**Compliance**

Justice, as defined by Cornell Law, is “a legal structure or system that is designed to judge in a general sense who should be accorded a benefit or burden when the law is applied to a person’s factual circumstances”. The legal system uses history, as well as morals, to define rules that society can follow in order to better distinguish between those who “should be accorded a benefit or burden”. With this description one understands that society creates consensus on ideals of right versus wrong, and in order keep people from taking the wrong actions, law implements consequences. This cause and effect is also visible within the application of international law. Similar to how a state court may rule monetary damages against another individual, international law can ask one nation to follow provided verdict guidelines as well as damages. For example, in the case beginning 2013, Alleged Violations of Sovereign Rights and Maritime Spaces in the Caribbean Sea (Nicaragua v. Colombia), the verdict clearly states the rights offered to Columbia. The ending decision allowed for Columbia to exercise their power with maritime space, and the opposing nation must oblige. This example of case and verdict system is rather effective, withstanding that both parties are willing to act according to the verdict delivered. Yet, what would happen if a country denied the proposed verdict, and acts outside the guidelines provided? This is an interesting question as one is reminded that law is really only as good as its effects, and whether its consequences are indisputable.

This would then lead one to understand that without such consequences, society would only be left with the idea of right and wrong with no way to enforce such ideas. With no way to enforce such rules, we would be left to hope, and assume, that people would choose the right course of action. Unfortunately, history shows that a) people are not always inclined to take the action that is generally consider ‘right’ and b) that society changes its views regarding topics that were once considered right or wrong. Without enforcement of these standards that provide such consequences, law is simply an ideal. Following this logic, one could argue that law is only as good as its enforcement.

However, if law is only as good as its enforcement, and there is no one way to enforce International Law, what does that mean in terms of its efficacy? According to the American Society of International Law, this is almost always the first and most frequently asked question to international lawyers. It is true that there is no exact international counterpart to an enforcement body such as the police, “nor is there strong political support for creating such a body”. One would figure that an international enforcement group would be the simplest way of solving the consequence issue at hand, but when looking deeper, the topic becomes too political. For example, if there was an international enforcement agency, individuals would be in charge of enforcing laws that may go against their home country. It then becomes a question of nationalism that may prove to be ineffective if people from around the world do not choose to view this enforcement agency as a true ‘be all end all’. However, this is not to say that international law is left powerless.

The UN has found ways to deal with the issue of enforcement, one of these methods being compliance. Compliance, or perhaps conforming, generally occurs when a group forces an outlying nation to adopt certain actions at the consequence of many varying damages. Examples of methods that are used to force compliance include:sanctions, trade embargos or military action. The UN may use partnering nations to create difficulties to the revolting states by making any action that would further go against the verdict hurt that county more than it would help. In essence, it becomes the country’s best interest to go along with the guidance of international law.

Forcing compliance, while it sounds reasonable and effective, is actually much more complicated and unattainable than it is made to sound. Per the previous description on how the UN asks nations to take actions to force compliance, one realizes that this is simply a request, without binding effect. This means that no nation is obligated to perform such requests, including placing trade embargos, military actions, sanctions, and more. This would be especially true if a country is asked to act alone. In this case, the country faces possible economic harm, with no partnership to back them up. It is instances like these that have left certain nations to do as they please because compliance was not only unattainable, but not even ventured. An example of when a nation was not met with the consequences of compliance due to lack of motive on part of other nations was in 2016. After the Philippines brought up the issue of islands in the South China Sea being taken over by China, the UN tribunal ruled against China and asked the islands to be turned over to the Philippines. However, China did not follow the verdict and continued to claim the islands as theirs, as well as keep military action present. In response the UN asked for countries to impose sanctions and trade embargos against China to force compliance and move them out of the islands. This of course was to no avail as seldom does any country wish to hurt their own economy by taking such actions against an economic superpower such as China.

 Compliance, while not always the most effective, is not the only method of enforcement. The terms of compliance that were discussed previously were based on the idea that nations themselves employed strategies to force the conformation of outlying nations. However, in an attempt to avoid economic and political destruction to assisting nations, the UN has found ways to enforce compliance from a sole entity instead of a nation.

 For example, The American Society of International Law answers this question of enforcement and compliance by explaining that organizations such as “The International Monetary Fund and the World Bank are the obvious cases in point, but other organizations upon which states depend for assistance can exert some leverage over members conduct as well”. It becomes increasingly clear that economic and monetary damages are the most targeted remedies to enforcement. This may be because in order for a nation to willfully disobey international law, one assumes it has enough power to ostracize itself from the rest of society. This power may come from the rebelling nation possessing economic confidence to go without the aid of others. A nation lacking economic power would crumble at the first signs of sanctions and trade embargos. Therefore, with this knowledge, the UN may use organizations and funds, such as the International Monetary Fund and World Bank, to diminish this power, making the enforcement techniques used by aiding nations more effective. If the World Bank stops providing a rebelling nation with monetary support, the nation may lose economic power, making it more vulnerable to sanctions and embargos from allying nations later on. Together, this combined effect creates a very stable method of forcing compliance.

It is important in this situation to understand the purpose and mission of the International Monetary Fund (IMF) in order to understand how they can be useful in terms of compliance. As stated on the IMF website, their mission statement has three parts, which are “furthering international monetary cooperation, encouraging the expansion of trade and economic growth, and discouraging policies that would harm prosperity”. The first two statements are slightly more related as they both deal with ‘monetary’ and ‘economic’ situations. The third statement, however, differs as it outlines a consequence instead of an action. The third policy uses the word ‘discouraging’ to explain that the IMF holds the power to make decisions and take actions that are sometimes not economically forgiving if an asking nation is taking part in certain policies that the IMF deems to be harmful to prosperity. A key point in this phrase is that there is no specified possession of prosperity. The mission does not state that the IMF only discourages policies that are harmful to the asking nations, but instead to all of prosperity, which includes the rest of the world. With this in mind, one can hypothesize how the United Nations and IMF can work together to leverage certain results.

An example of when the IMF used its economic power to influence the decisions and actions of certain nations was during the 2022 Pakistan agreement. This meeting was put in place to review the Pakistan’s Extended Fund Facility (EFF). This type of fund is put in place through the IMF in order to help nations in need, such as Pakistan who asked the IMF to extend their monetary aid to 2023 instead of 2022. The issue that made this review and agreement special was the IMF’s initial reluctance to agree due to several policies that Pakistan would not follow, some of which were not monetary related. As an article outlines, “the 7th and 8th reviews of Pakistan EFF program was initially scheduled in March 2022 and June 2022 but Pakistan was not able to reach Staff level agreement with IMF due to delay in proposed policy actions like removal of petroleum subsidies, imposition of Petroleum Levy (PDL), energy tariff rationalization and increased tax measures”. In this case, the policies that IMF deemed to be harmful to prosperity were the removal of petroleum subsidies, petroleum Levy, energy tariffs and tax measures. One can see that some of these policies are not necessarily harmful to Pakistan, but other countries that rely on Pakistan for economic trade. The policies are unfavorable to other countries; thus, allowing the IMF to deem them harmful and therefore, leverage the monetary need of Pakistan in order to change the policies. This, of course, is just one example of the compliance power of the IMF and also a perfect description of why words matter in legal affairs.

**Analyzing Origins**

When analyzing international law, or any law for that matter, it is important to return to its origin. As previously stated, society has traded its freedom for order, hoping to create a system that provides a safe and equitable life for everyone. Within the foundation come the words justice and morals. The term ‘justice’ was previously defined, however, that is not say that there is only one way of describing it. Unlike a hard science, law is based on both facts and emotional constructs. The system is designed around the notion of having emotional human beings judge and creating laws for other emotional human beings. Unlike a science experiment, there are many different outcomes to the same question or argument. Justice brings about a sense of security, as the right thing has been done. Another term that follows is morality, this being the secureness that the right action has been taken for the right reasons. This then brings us to the repeating question of what is ‘right’. We saw previously, right, and wrong are constructs of society, which follow the norms of daily life. But even these constructs and norms may differ from country to country or region to region. This is then what makes international law a complicated system.

International Law strives to produce justice and morality out of different norms using emotional beings. Therefore, verdicts and conclusions that were drawn from international law are subject to much criticism as it proves difficult to create the perfect outcome with many variables.

To extend this idea, one can reflect whether the tools used, and consequences shown from enforcing compliance are judicially and morally sound. International Law strives to create peace between nations; therefore, it would follow that the intent in compliance is not to cause harm, but to create consensus. At the same time, many of the tools used to force compliance can be quite destructive to both a country’s economy and people. The question then is whether the consequences were just, and whether the means to get to the conclusion were done so morally. Which is more moral, using military force to create a desired outcome, or crumbling an economy to force compliance? Both have large effects on numerous groups of people, but do both reach the same conclusion to secure justice, and if so, are the actions taken moral? Perhaps there is no right or wrong answer; one may say it depends on the circumstance. However, these are questions that must be asked during all international decisions, as it is important to remember that the World Court deems its focus to be on peace, and not conflict. Simply because the World Court and international law hope to settle disputes through negotiation, does not mean that all of its fundamentals are invalid simply because conflict was unavoidable. The outcome to any international dilemma should align with the judicial and moral views of the laws themselves.

It is clear that while considered the greatest achievement of the UN, International Law is still at its foundation. The complexity that is involved with creating and enforcing worldwide rules and regulations is no small task and requires support from everyone. In an age of ever-expanding international affairs, commerce, and communication, it is essential to create a legal foundation in order to sustain peace. History shows that international law functions quite differently from a local or state system, therefore requiring people to form modern solutions. Compliance, the act of following guidelines, has become an effective tool added within this legal foundation. States, systems, and nations can come together to enforce these guidelines and work towards the end goal of compliance. Current events, such as the ongoing situation with Russian and Ukraine have demanded analyzing these methods of compliance and will certainly play major roles in accomplishing the goals of the World Court, including world peace.

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