

Fundamentals of Governance—Syllabus

B8575, Winter
Thursday, 3:

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Office Hours: hour before/after class

TA:

Course Description

Topics: The Public Firm, Stewardship, Social Impact and Social Ratings, Gender and Boards, Prison and Public-Private Partnerships, Blockchain Trading Platforms.

Organizations and firms, and how well they are governed, drive the wealth and happiness of a society. The standard view of corporate governance is to posit that governance seeks to make organizations more efficient. This has been the case for the shareholder model of governance. Yet there is more than just efficiency. Governance is also always about power as much as it is sometimes about efficiency and effective leadership. We will study different forms of governance structures to understand how they function and how well they express power and achieve, sometimes, efficient outcomes. To this, we also join the question is the exercise of power fair and just.

A typical presumption has been that governance by the public corporation represents a standard with which to understand the potential of good governance. But the public corporation is besieged—stock exchanges show net de-listings, raiders are challenging venerable corporations, regulatory requirements impose heavy costs on IPOs. Is it true that the public firm, and in particular the American form of it, joins both a just distribution of power and an efficient form of governance?

These questions are lodged in a larger, often political, debate. Are public, or private firms, delivering an economic performance that rewards the many stakeholders: shareholders, employees, society? For whom do corporations serve? What is their performance? Are they betraying national interests by outsourcing or by employing immigrants or by locating overseas, sometimes by inversions for primarily tax benefits?

As this course is short and quick, we focus on the United States and compare across the types of governance, e.g. the public firm, the private firm, the ESOP, the sports league, and the non-profit. The primary institutions discussed will be the board, the shareholders, institutional investors, the stakeholders, and management. However, there will also be plenty of moments to think about the dynamics and personalities of families, CEOs, and directors.

There are a variety of perspectives from which questions of corporate governance can be formulated and addressed but it has been economic analysis that has largely dominated contemporary discussions of the subject. Most theories of governance are preoccupied with the relationship between institutions of governance and economic performance. We expand this perspective to ask ultimately, are there forms of governance that are

competitors to the public corporation? Would they satisfy stakeholders, and the wider public, more than the shareholder governance that is so much under assault today?

It may help you also to understand what the course is not about. Because we are looking comparatively, we will not attempt to 'go deep', instead we 'go wide.' This means, we will not look deeply at the issues of *corporate* governance, the relevance of law and regulation, and the functioning of governance at particular junctures, such as bankruptcy, acquisition, or in a proxy contest. These issues are handled more in depth in other specialized classes.

This time though, I have put more emphasis on both the public firm and on social impact. ESG rated companies and sustainability goals are often in the news and in investment reports. These markets consist of green bonds, social funds, and impact investing. Recently, the largest Private Equity funds have created specialized funds for impact investing. This includes Apollo, Carlyle, TPG, and KKR. Goldman Sachs has launched a Social Impact ETF through a partnership with Just Capital to provide the indexing. This is a new and fast-moving space, and I've allocated two sessions to it.

We will have a session on blockchain platforms and their governance. This is new territory for everyone, from investors to the SEC. Let's rise to the challenge and see what we can figure out on how these platforms should be governed, if they can be governed. Teaching should be on the edge of what we know and have us think about evolutions that may or may not happen. Be open to forward-looking discussions. Not everything is looking backward through a case study....

Your instructor: Bruce Kogut

Taught in many places around the world, lived many years in Europe (primarily France but also Sweden and Germany), was chaired full professor at Wharton, INSEAD, before coming to CBS in 2007. I have served on corporate and non-profit boards primarily outside the US, including 3i Infotech India, the advisory board to chief economist at the EBRD, academic boards to IFMR (Chennai), Skema (France), and Skolkovo (Russia), an NGO in India, and the International School of Paris. I am currently on the advisory board to the Institute for Advanced Study in Berlin. I also founded Insead's Social Enterprise Program, and have run centers for research and curriculum at Wharton and Columbia Business school. I work currently on impact investing and social capital markets, data analytics and performance of firms and micro-finance organizations, among other things including...governance. You can also find a clip of me on the John Stewart Show (John Oliver), trying to explain what ethics is about for MBAs. The Bernstein Center has also produced a film on [financial innovation](#), starring Bruce Greenwald, Robert Solow, Blythe Masters, Peter Stringham, David Abrams, Barney Frank, Edward Conard, Alicia Glen, Wilson Ervin, and others. I encourage you to read some articles that I have written for the more popular press such as HBR, 2010, on social enterprise; and 538, Kogut, on political influence in economic research. Just google the above along with my name. Have a look.

What is expected of you?

I expect that you read the cases before the class starts and the required readings too. The class will fail if you do not read the material, so don't free ride. We need your participation.

All written assignments for prepping for each day should be submitted by sending your responses to me and the TA by 10 pm the night before. Your work for the class day assignment can be done in teams of 4. Make sure to email to us in time.

Before the start of the first class, you are required to go on to this page [ISS Quick Governance Score](#) and to find the score of a company of your choice. Be prepared to explain if you agree with the score. You may have to register the site to gather the data.

The third session is a mock simulation of the decision to remove Travis Kalanick as CEO. You will be assigned randomly to new groups and you will need to access this from Canvas the week before. It is a disaster if you don't come prepared, with case read, and the background chapters too.

We discuss questions that are about governance but are controversial. These conversations are open and give a chance to explore different views and experiences on questions of our times. These discussions are very much appreciated by participants, and I continue this tradition though it bears the risk that you will hear an opinion you don't like, or you may not agree with me in taking, or not taking, a perspective. Be tolerant.

For example, we discuss if you think there should be quotas mandating minimal percentage of women on boards?

And for the brave, do you think prisons can be run fairly and efficiently by private management enterprises?

Polls

You will be asked to answer poll questions for each day, due by 9 pm the night before.

Final Paper

The final exam is a take-home essay answering a specified question that is related to the course materials. A hard copy must be sent to me and the TA before 12:00 pm (midnight) on March 11. Late submissions will not be accepted.

I will read and grade all papers.

Course Grade

Class attendance and assignments are mandatory.

50% of your grade will be the paper.

25% is participation.

25% are the assignments to prep for the classes.

A frank discussion. I have a super high opinion of the ethics among MBAs and for that reason, I have a very harsh policy on any infraction. (See below the School's policy.)

First, remember that citations and references to all quoted and used material are **mandatory**. Please do not overlook this requirement.

Second, you can't miss class without writing me ahead of time (at least the day before). I accept only urgent family matters (sickness and death), babies delivered (photo required). Weddings, parties of any sort, or anything else are not excused absences.

Third, I will submit a random selection of all written work to be checked algorithmically.

Cheating is not CBS compliant: don't do it.

Course Outline

January 31

Session #1: Introduction to Governance

Topic: Overview of Governance

Assignment: See Assignments at the End

Reading: Tricker, chapters 1 & 2 (this is a big print easy read that you will like)

Additional reading: Peter Cornelius (now senior economist at AlInvest/Carlyle) & Bruce Kogut, Governance –first pages may be of interest. Introduction chapter to a book for the World Economic Forum, 2003.

Session #2:

Topic: Strategy and Governance

Case Reading: Governance at Uber, Columbia CaseWorks, ID #100601

Group assignment: A write up answering the questions at the end of the case is due at the beginning of the session.

Questions:

1. How far should the board extend governance into the decisions of management for a private firm?
2. Were there violations of good governance?
3. As a board member, did you have enough information to make a decision regarding the future of Kalancik? What you have liked to know more?
4. What's your vote?

February 7

Session #3:

Topic: Group Behavior and Board Decision-Making

Group assignment: Uber, Reenactment of the Uber board meeting at which question of whether to retain the CEO is made. Each person is assigned one of the key participants in the Uber case: # Uber board members. Two teams of # people will play these roles during the class.

- Attention: You will have to prep especially for this class, so READ the material.
 - The Uber case.

- Read the private information about your character that will be emailed/given to you the day before the case
 - If you were your character going into the {date} board meeting, what would be your objective in that meeting?
1. If you were a member of that board, what would you do?
 2. What actions should the board have taken to arrive at the best decision?

Session #4:

Topic: Why not keep it private?

Guest Speaker: Alan Jones, Managing Director and Head of Global Private Equity, Morgan Stanley

Reading: Morgan Stanley Dean Witter. The Aftermath of the Merger (read pages 9-22)

1. What changes when a partnership becomes a public corporation?
2. Why not reverse the decision and take the firm private?
3. Why would anyone work for a public firm if they could work for a private firm in the same industry?
4. Bonus question: are activist investors in the interest of shareholders and long-term value of the firm?

Bio: Alan Jones is Chairman of Morgan Stanley's Global Private Equity Investment Committee and also serves as a member of the Investment Committees for Morgan Stanley Private Equity Asia, Morgan Stanley Expansion Capital, Morgan Stanley Infrastructure Partners, and Morgan Stanley Credit Partners, and as a member of the Merchant Banking Department Executive Committee and Risk Committee. He currently serves as a Director of HBF, CoAdvantage, Access Cash, and ReachOut Healthcare America. He has previously served as a Director of McKechnie Aerospace, EmployBridge, Creative Circle and Zenith (UK).

February 14

Session #5:

Discussion Topic: Governance and Diversity

Readings: These are short editorials or pop reports -please read.

[The California Mandated Quota for Woman Directors](#)

[Do quotas for corporate boards help women advance?](#)

[Kogut, Bruce: Do Boards Need Mandated Quotas?](#)

Session 6:

Guest: Blackrock...

James Hamilton is a member of the BlackRock Investment Stewardship ("BIS") team based in New York. He is responsible for the evaluation of governance, proxy voting and engagement with boards and management at portfolio companies within the Financials sector in the US and Canada. In addition James helps drive the execution of the team's strategic projects and facilitates the engagement of the regional advisory and global oversight committees.

James joined BlackRock from Standard Chartered, where he spent 12 years in the Financial Markets and Securities business in London, Singapore and New York. After joining on the Analyst program, James joined the Structured derivatives team where he was responsible for pricing, trading and marketing multi-asset derivatives to Corporate and Institutional clients. James then moved to Singapore where he became Business Manager to the Global Structured Products head and helped build the team from 35 to 100 staff. From there, James moved to the Americas Regional COO team where he focused on regulatory issues such as Dodd Frank and Volcker; governance issues such as the management of the securities broker dealer; and various projects related to Audit, Operational risk, BSA/AML and Sanctions, Resolution planning and Training.

He earned a B.Sc. degree in Math and Finance from the University of Leeds (UK) in 2003 and spent his junior year abroad at the University of California, Berkeley.

Reading:

Stanley Fink, CEO Blackrock, Annual letter to CEOs, "[A Sense of Purpose](#)"
Review, Tricker, chapter 2, pages 65-7, on stewardship.

Question to prepare in a team: What exactly does this mean for the selection of portfolio companies and evaluating mutual fund performance?

February 21

Session 7:

Topic: Rating Companies for their Social Impact

Guest:

[Martin Whittaker](#)
CEO, [Just Capital](#)

Reading: Tricker, chapter 9, "Social Corporate Responsibility and Sustainability"

Assignment: Please go on-line and check out the social ratings of the top 100 firms evaluated by [Just Capital](#). You may do this in a group. Please meet.

Question -Discuss in a group: Why is S in ESG so hard to evaluate, how does Just Capital evaluate it, and what do you propose?

Session 8:

Topic: Governing the Purpose-Driven Firm

Guest Speaker:

[Donnel Baird](#), CEO, [BlocPower](#)

Video: see [Tedx](#), Jay Coen Gilbert, co-founder of B Corp, minutes 10 to 19.

Case Reading:

BlocPower. Energizing Urban Neighborhoods

Bob Tricker, *Corporate Governance: Principles, Policies, and Practices*, Ch 9

Preparation: Please review the material on the above web sites.

Questions:

1. Who are the owners and stakeholders of BlocPower?
2. Should debt have a voice?
3. What should be the governance structure of BlocPower for the point of view of investors?
4. Is this in the long-term interest of BlocPower?
5. Does the B-Corp form lead to a better governance structure?

February 28

Session 9:

Topic: Prisons: Why not take them Private?

Reading: [Columbia Trustees Action on Divestment from Prisons Case for Private Prisons -Comment, Politico](#)

For background: [Divesting Prisons](#)

Questions:

1. Why should prisons be privatized?
2. Why not?
3. Is state-ownership the best way to own and govern prisons?
4. Does your argument hold for every country?

Session 10:

Topic: Who Governs Bitcoin and ICOs

Guests:

[Vanessa Grellet, Consensys](#)

Clark Thompson, Consensys

Readings:

[The Brooklyn Project](#)

[Blockchain for Social Impact](#)

In case you want to see the Satoshi original manifesto:

[Bitcoin: A Peer-to-Peer Electronic Cash System](#)

Question to be prepared in team: What are the principles by which you think the governance of a cryptocurrency community should be governed?

Extension: How would you extend this to Facebook?

March 7

Session 11:

Topic: Governing of Professional Sports Leagues: Soccer

Guest Speaker:

[Sunil Gulati](#), Professor of Economics, Columbia; President, United States Soccer Federation

Reading: [US Soccer Association Governance](#)

Background reading: [Governance: How Fifa Works](#)

Questions:

1. What are the challenges of governance for professional sports?
2. For whom should the sports league be governed?
3. Why are there ethical challenges in sports and can good governance help?
4. Should the USSA offer women soccer pays equal pay to the men? What is the argument against this position?

Session 12:

Future of Governance

Five Challenges of Governance

1. Sustainability of Private Property
2. Inclusiveness in an Inegalitarian World
3. Corruption
4. State Capitalism
5. MBAs

Reading:

Note: Bruce Kogut, Five Challenges to Better Governance

Recommended Sources for the Course

Hansmann, Henry, *The ownership of enterprise*. Cambridge, UK: Harvard University Press, 2009.

This book presents the classic law and economics approach to governance of many kinds of enterprises and organizations. The argument relies upon a principle of finding the right governance form that most efficiently organizes the activities of the governed entity.

Bob Tricker, *Corporate Governance: Principles, Policies, and Practices*, Oxford University Press, Oxford, UK: Oxford University Press, 2014.

This book is a broad textbook, informed by comparison between countries and by different ideas of how to govern. While less analytical than the Hansmann book, it is also less dogmatic in favoring a single logic to determine the best governance choice.

Cornelius, Peter, and Bruce Kogut. *Corporate governance and capital flows in a global economy*. Oxford University Press, USA, 2003.

This book was financed by the World Economic Forum, Wharton, and INSEAD, and presented in a day-long series of panels and discussions at the annual meeting in 2002. The book was written just following the passing of the Sarbanes-Oxley Act and the Act was already having an impact on governance around the world. The chapters are written by academics, industry, and government leaders.