Fundamentals of Governance—Syllabus MBA-EMBA
Summer 2023
Blockweek July 10-July 14
9:00 AM-5:00 PM
Kravis 670

Bruce Kogut  
Professor of Governance and Ethics

Nandil Bhatia  
Teaching Assistant

Course Description


The success of organizations and firms in driving the wealth and happiness of a society depends greatly on how well they are governed. In the standard view of the shareholder model of governance, corporate governance seeks to make organizations more efficient. In reality, governance is more complex than that; it is as much about power as it is about efficiency. In this course, we analyze how different governance structures function, express power, and achieve efficient outcomes and sometimes fail.

We will also discuss questions often missed, if not avoided, in classes on governance. If and when is the exercise of power fair and just? In whose interest should governance be exercised? Is it true, as often presumed, that the American public firm balances a just distribution of power with an efficient form of governance? These questions have taken on an unusual salience today and are lodged in a larger, often political, debate. Are public or private firms delivering providing stakeholders, such as shareholders, employees, and society as a whole, with economic benefit? Whom do corporations serve? What is good performance? Are they betraying national interests by outsourcing, by employing immigrants, or by locating overseas to gain tax benefits and maximize profits?

Questions of governance can be formulated and addressed in many ways, but law and economics analysis largely dominates contemporary discussions of the subject. Many theories of governance are preoccupied with the relationship between legal institutions of governance and economic performance from the shareholder perspective. We expand this perspective to ask ultimately, are there alternative forms of governance to the public corporation? Would they satisfy stakeholders, and the wider public, more than the shareholder governance that is so much under assault today?

As this course is short, we focus primarily, though not entirely, on the United States. We compare the governance systems of the public firm, the private firm, the sports league, and the non-profit. We will primarily discuss the board, shareholders, institutional investors, stakeholders, and management. However, there will also be plenty of moments to think about the dynamics and personalities of families, CEOs, and directors. We will analyze issues of corporate governance by drawing on the relevant aspects
law and regulation. However, we will not look deeply at the functioning of governance at particular junctures, such as bankruptcy.

This course also aims to address governance as it relates to currently relevant issues. We study the public firm how to think about its social impact. ESG rated companies and sustainability goals are often in the news. Innovations have created new financial instruments and markets consisting of green bonds, social funds, and impact investing. Recently, the largest private equity funds have created specialized funds for impact investing. These include 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. Be open to forward-looking discussions. Not everything is looking backward through a case study. This is why the final day consists of a discussion, and your presentations, on designing governance for blockchain communities.

Your instructor: Bruce Kogut

I have taught in many places around the world. I lived in Europe (primarily France, but also Sweden and Germany) for many years, and I was a chaired full professor at Wharton and INSEAD, before coming to CBS in 2007. I ran intensive training programs for the ANC soon after the collapse of apartheid and a program for multi-religious dialogue and entrepreneurship financed by the Ariane de Rothschild Foundation. I have served on the boards of corporations and non-profits primarily outside of the US, including the board of 3i Infotech India, the non-profit board of the International School of Paris, the academic boards of IFMR (Chennai), Skema (France), and Skolkovo (Russia), and the advisory boards to chief economist at the EBRD, Unlimited India., and the Institute for Advanced Study in Berlin. I am currently a member on the advisory board to the Institut Polytechnique de Paris.

I also founded INSEAD’s Social Enterprise Program where I worked closely with entrepreneurs in many countries. I have run centers for research and curriculum at Wharton and Columbia Business school and served as the Scientific Director of EIASM located in Belgium. For a decade, I was the Director of the Sanford Bernstein Center on Leadership and Ethics. Currently, I work on applications of data analytics to the virality of fake news, to political bias in economic text, to the effects of AI on the future of work, and to the performance of firms and micro-finance organizations, among other things including...governance.

I currently lead the “hublet” named Business, AI, and Democracy at CBS.

You can possibly still find a clip of me on the John Stewart Show (John Oliver), trying to explain what ethics is about for MBAs. While leading the Bernstein Center, I helped produce a film on financial innovation, starring among others star academics (Nobel prize winner Robert Solow and CBS faculty Bruce Greenwald), business professionals (Blythe Masters, Peter Stringham), politicians (Barney Frank), Journalists (Andrew Sorkin), City government (Alicja Glen). I encourage you to read some articles that I have written for the more popular press such as HBR on social enterprise; 538 on political influence in economic research; Medium on Zombie owners (with Dan Wang) and on the passing of Jacque Chirac; Forbes on the Greening of the Apple. Just google the above along with my name. Have a look.
**General Class Structure**

Every day is broken approximately into four periods. Please consult the calendar and syllabus at the start of the day for updates.

We will have a few speakers. They are remarkable people who are spending valuable time speaking to our class. Let’s be great hosts and come prepared and engaged.

You will be asked to answer poll questions for each day, due by 6 pm the night before. These are done individually. The TA reads these polls, and I review ones that are good, provocative, or solar systemic. Polls constitutes one of the graded elements.

Some sessions require you to submit work. Be attentive to reading the syllabus and to a helpful grid that we will provide.

**Expectations**

I expect that you read the cases and required readings before the class. The class will fail if you do not read the material, so don’t free ride. We need your participation. Because cases are very important and this is a block week course, I recommend strongly that you read the cases before the start of the program.

You will have short-written assignments for each class that you will submit and we will grade. Pay attention to the date it is due, almost always the night before.

Please NOTE: This class, though an elective, follows the policy of the core classes regarding absences. If you don’t know what they are, please look them up. The key things to know consistute an “excusable absence”. Per the rules of CBS for what qualifies for an excused absence, 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.

If you have more than 3 excusable absences (which for a block class means 3 sessions, that is, ⅓ of a day), that will constitute a failing day. I advise you to tell me in advance when you were be absence, be it, excusable or not. Attending class remotely is not allowed, except for unexpected events. Missing class requires a medical validation.

**Heads-Up**

First Assignment: Before the start of the first class, you are required to go on to this page, ISS Quick Governance Score, scroll down and click on “Search Governance QualityScore” (see blue banner), and then find the score of a company of your choice. Be prepared to explain if you agree with the score. You may have to register on the site to gather the data. I will call on you.

The Uber case includes a short mock simulation of the decision to redesign the governance system after the resignation of Travis Kalanick as CEO and his unexpected placement of two new directors on the
board. 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 controversial questions about governance. 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. You may disagree. You may feel you know more about this than others. The point is to learn from each other. Who knows –your influence may be felt after class, so don’t be disappointed if others don’t agree, yet.

Other in-class graded Assignments

There will be in-class graded quizzes at the mid-term and the end of the class. I will provide you with a study sheet ahead of time.

Final Exam

You will be assigned to groups of 3 (max 4) to design a governance solution to a failed Ethereum project. You may also request to do a different company/organization with my approval prior to the final class. The project is due on date TBD by midnight. Each group should submit a 3-5 pages write-up and your final slides no more than 4 pages. All submitted documents need to be in PDF.

Course Grade

Class attendance and assignments are mandatory. I adhere to the grading distribution policy of CBS.

- 30% of your grade will be final exam to develop a governance plan for the blockchain community “The Dao” discussed under final exam.
- 20% In-class quiz on the starts of the third day and and fifth day. I will provide you with study questions.
- 30% is participation.
- 20% are the assignments (e.g., polls, any one-page assignments) to prep for the classes.

Ethics

Some things to know:

Remember that citations and references to all quoted and used material are mandatory. Please do not overlook this requirement.

Finally, I will submit a random selection of all written work to be checked algorithmically. Cheating is not CBS compliant: don’t do it.
Required Sources for the Course

- All primary readings are required. The most important reading will be the case if one is assigned. Don’t wait for the class to start without reading through them. Read the Uber case in detail in particular. The textbook, described below, is very easy to read. You will need to read the assigned pages if you want to come ready to discuss governance. The rest of the readings come from short articles (with a few exceptions). I expect you to read them (you are CBS students!!!).


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 (see below), it is also less dogmatic in favoring a single logic to determine the best governance choice. Sometimes, in particular, it does not cover adequately a topic. The Powerpoint slides are posted every day, and you will be responsible for knowing their contents.

**Recommended:**


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.


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.

**Speakers/Guests:**

We will have 4 speakers to the class. I would like to ask you to read the material assigned for this session carefully so that we may have a deep discussion.
Course Outline

Day 1. July 10th

Morning – Introduction to Governance

Sessions #1/2: Governance and Power

Individual Assignment: Before the start of the first class, you are required to go on to this page, ISS Quick Governance Score, scroll down and click on “Search Governance QualityScore” (see blue banner), and then find the score of a company of your choice. Be prepared to explain if you agree with the score. You may have to register on the site to gather the data. I will call on you.

Case: The East India Company (A). Please read the case even if you are shopping. Focus on pages 4 to 9. BTW, EAC is a wonderful historical case of governance!

Reading:

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

Additional reading:


Questions:

1. What were the key elements of the VOC strategy?
2. Why was changing the charter so important to the directors of the VOC?

What you will learn: Why do firms prefer one governance form to another? What is the role of the state? What is the charter? Why does power matter?

What you should know: What are the duties of the board as presented in class (and found in your power point?)

Afternoon – In whose interest does the board decide?

Session #3: The Private Firm

Individual Assignment: You need to prepare for the next class, in which we will reenact the Uber board meeting. You will receive an email in the morning that assigns you into the role of one of the key participants in the Uber case. One or two teams will play each role during the class.

- Read the Uber case.
• Read the private information about your character that will be emailed/given to you the day of the class.
• Prep questions for your role:
  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?

**Group Assignment:** On July 10th, just before the class meets, you should meet in your assigned groups. (Please be patient and flexible with group assignments, as we won’t know final registration until the first day.)

**Case:** [The Uber Board Deliberates: Is Good Governance Worth the FIRing of an Entrepreneurial Founder?](#), Columbia CaseWorks

Highly Recommended Readings:

- Tricker, chapter 4 (important chapter; make sure to know pages 96-99)
- Tricker, chapter 15 (pages 379-383; bottom page 389-401)

**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. Why is the Softbank investment so important to governance?

**Session #4: Why not keep it private? Value of Principal-Agent Theory**

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

**Reading:**

- Tricker, chapter #3 (read carefully pages 59-64); chapter 11 (don’t miss pages 279-281)

**Questions:**
1. What changes when a partnership becomes a public corporation?
2. Why not reverse the decision and take the firm private?

**What you should know:** Principal-Agent Model of Governance
Day 2. July 11th

Morning – The Law, Activists, and Governance

Session #5: Should Shareholders be governed by their majority?

Case: Cablevision (discussed already in your core class on corporate finance)

Reading:


Questions:
1. What is the tyranny of the majority?
2. Do you think “the majority of the minority” voting procedure satisfactorily resolves the problem in Cablevision?

Session #6: The Public Firm and Watch Dogs

Read newspaper articles to read for this session:

- “SPACs were all the rage. Now, not so much”, The Business Times, June 05, 2022. (archived)

What you should know:

You should know the content of these chapters.
- Tricker, chapter 10, The Governance of Listed Companies (especially 250-256)
- Tricker, chapter 11 (especially pages 268-271)

Afternoon – For whom is Governance?

Session #7: Debate: Hostile and Activist Investors


Readings:
• Activists come to Germany: Thyssenkrupp splits under pressure from activists, Economist, October 6, 2018. (archived)
• Tricker, chapter 4, review again pages 84 to 96; carefully read the description of supervisory board and employees on board. These are elements of the German governance system.

**Questions:**
1. Do you think activists play a positive role in capital markets?

**In-class exercise:** We will provide you with documents on Tejon Canyon. You will meet in groups to decide whether or not you would engage in activism.

**Session #8: Who’s Got the Power?**

**Case:** For Whom do We Play? The Super Football League

**Guest Speaker:** TBA

**Reading:** How the Super League Fell Apart, NYT, May 18, 2021

Background Reading:
- **FIFA Good Governance**
- **Is China’s Soccer Boom Going Bust**

Other Preparation: You will also find podcasts, such as the NYT’s *The Daily*. The NYT article above is an amazing piece of investigative reporting.

**Questions:**
1. What is the primary challenge of governance for the European football teams and UEFA?
2. For whom should the sports league be governed?

**What you should know:**

How the distribution and use of power influence for whom is the entity governed.
Day 3. July 12th

*Quiz #1 (THE FIRST 20 MINUTES):* On governance concepts. Questions are based on main readings (primarily Tricker), power points, class discussion. (9:00 – 9:20 - Exam starts precisely at 9am)

Morning – Stakeholder Governance, Whistle Blowers, and Societal and Government Oversight

Session #9: Facebook and Governance of Social Media Platforms

**Individual Assignment:** *Look up the ISS governance ratings for Facebook*

**Readings:**

- [Sway Podcast](#) interview with whistleblower Frances Haugen (41 minutes)
- [Oversight Board](#), Facebook.
- [Facebook has put growth ahead of governance for too long](#), Fana Faroohar, FT, December 2018. *(archived)*
- [The Metaverse could be a problem](#).

**Recommended Reading:**

- [Privacy concerns could derail unprecedented plan to use Facebook data to study elections](#), Jeff Mervis, ScienceMag, September 2019
- [Privacy Not a Blocker for ‘Meaningful’ Research Access to Platform Data](#), TechCrunch, June 25, 2020
- [Statement from Social Science Research Council President Alondra Nelson on the Social Media and Democracy Research Grants Program](#), SSRC, August 27, 2019.

**Questions:**

1. Should a citizen’s oversight board be independent of shareholders’ preferences and oversight?

**FOR Session #10: ASSIGNMENT DUE NIGHT BEFORE (JULY 11th)**

- 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. One page individual write up, to be handed in July 18, 8 pm.
- Question: why is S in ESG so hard to evaluate, how does Just Capital evaluate it, and what do you propose?

**Session #10: Should Governments have the right to regulate social justice? Mandating Women on Boards.**

**Class Note:** [Board Gender Diversity Around the World](#)
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?**

Questions:
1. Do you think that legislated mandates for female quotas is in contradiction of the right to private property?

**What you should know:**

The arguments for governance as private property or subject to government intervention or to intermediate solutions.

**Afternoon – Social Impact and the Purposed Firm**

**Session #11: Debate: The purposed firm – in whose interest do we govern?**

**Assignment:** Please see instructions given above. Please be prepared. I will call on you.

**Case:** Etsy: The Conflict between Social Values and Financial Discipline

**Readings:**

- Business Roundtable, 1978: The Role and Composition of the Board of Directors of the Large Publicly Owned Corporation
- Larry Fink, CEO Blackrock, Annual letter to CEOs, “A Sense of Purpose”

Highly recommended reading:
- Hart and Zingales: Serving Shareholders Doesn’t Mean Putting Profit Above All Else, HBR

Recommended reading:
- SASB CEO Janine Guillot’s letter on SEC’s Initiative on Climate Change Disclosure.

**Questions:**
1. Why is the concept of materiality relevant to the debate on the question does Blackrock overstep its fiduciary duties to shareholders by pursuing ESG?
2. The jurisprudence in the Delaware state courts appear to hold that boards of directors are bound to promoting the shareholders’ financial interests over environmental (e.g., climate), social (e.g., quality of working life), governance (e.g., diversity and inclusion concerns in
regard to selecting directors to boards). What other types of governance forms do you propose will be more flexible than the corporate form?

Session #12: Stewardship in Practice: Promises and Perils

Guest Speaker: TBA

Background Case: Blackrock: Linking Profit to Purpose

Reading:

- When Larry Fink Met Greta Investors Join In Calls For Corporate Sustainability (archived copy)
- Tricker, section on Stewardship, Ch 2, pages 65-68.
- To be added: SEC and Greenwashing

Questions:
1. Should financial intermediaries act on the behalf of owners in their mutual funds?
2. What are the potential conflicts?
3. What are the risks to Blackrock?

What you should know:

- What does engagement mean for the portfolio selection of companies and for the evaluation of mutual fund performance?
- What does materiality mean to this discussion?
- What is ESG and why it has exploded in asset size and in the public debate?
Day 4. July 13th

Morning – Power, Politics, and the Tepid Relationship of Firms and Governments

Session #13: Should Boards Lobby and Make Campaign Contributions?

Reading:

- Ten things You Should Know about Campaign Finance (Make sure to read #9)

Reading for Discussion:


Recommended Reading:

- Tim Cook pay vote shows ISS should not be judge and jury, Financial Times.

Questions:

1. Should firms have first amendment rights to finance public advertising?
2. What is the corporate governance objection to corporate political contributions?

Session #14: Privatization and Sovereign Risk

Case: Korea First Bank (A)

Readings:


Recommended Reading:


Questions:

1. Do you think Khanna and Palepu are right that there is often a business logic to the formation of large business groups? Why or why not?
2. Why were the negotiations between Newbury and the Korean government on the sale of Korean First Bank so difficult?

What you should know:
How politics changes the power ratio between firms, investors, and the State.

**Afternoon – Governance and Business Groups**

**Session #15: Legal Structures, Families, Business Groups**

**Discussion of one of the most common problems in governance: Dominant Investors and minority shareholders and the division of ownership and control.**

**What you should know:**
- The difference of law in the books and law in the field.
- Good governance is permeated by society.

**Questions:**
1. Which governance form do you favor as a solution to the problems of a dominant owner: activist investors or statutory law.

**Session #16: Your Preparation for Blockchain**

**Preparation:** Make sure to come to class having read the case reading and readings for sessions #17-18.

**In Class:** You will meet in your groups (or if remote, on Zoom) to discuss presentations on Blockchain.
Day 5. July 14th

Morning – Innovative Solutions to the Problem of Governance

Quiz #2: On governance concepts. Questions are based on main readings (primarily Tricker), power points, and class discussion. Study questions will be given earlier in the week. Exam will be 20 minutes (9:00 – 9:20; starts precisely at 9am)

Sessions #17 & #18: Designing Decentralized Autonomous Organizations as Solutions

Case: Governance for Blockchain: The Collapse of the Ethereum Venture Capital Community “The Dao”

Readings: Morley, John, That Book on Blockchain. A One-hour Intro, published by author, 2017; for your purchase. (Price: $7.75). (Read especially chapter on Ethereum that gives you background to our case, and also an introduction to smart contracts.)

Assignment: Design a governance solution for “The DAO”. (Please use words, no code; avoid technical details -you may append if you wish.)

Advice: Governance is power. Governance is efficiency, fairness, accountability, transparency. Who should govern? To whom are they responsible -what powers do they have? What are the decision rules: fiat? Voting? Immutable code? You will need to think about these elements if you want to design a better governance system than that of “the DAO”.

Preparatory questions:
1) Who has the power? Over whom and what?
2) Is there an equivalent to a shareholder?
3) Who has the right to decide?
4) Who has the right to the cash flows?
5) Is there an equivalent to the board?

Suggested readings:

- More on Ethereum...
- In case you want to see the Satoshi original manifesto for Bitcoin: Bitcoin: A Peer-to-Peer Electronic Cash System

What you should know:

The amazing and quickly evolving opportunities for governance innovations in the 21st century.
Afternoon – Global Perspective on Governance

Session # 19: A Perspective on Governance

   Guest: TBA

Session #20: Future of Governance

   Challenges of governance, a lecture by Prof. Kogut:
   1. Inclusiveness in an Inegalitarian World
   2. Sustainability of Private Property
   3. Getting along without Going Along