

**UNIVERSITY OF PENNSYLVANIA**  
**The Wharton School**  
**Spring 2009**

**LGST 224 -- Human Rights and Globalization**

**Professor Janice R. Bellace**

Office: 672 Jon M Huntsman Hall (672 JMHH / 6340)  
Class times: Mondays and Wednesdays 3:00 – 4:30 pm  
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**Course Objectives**

This course is primarily designed to familiarize students with human rights issues they may encounter once they are working for companies that engage in business across national borders. This includes both direct engagement and with supply chain management. As the scope of human rights law is vast, the purpose of this course dictates a selection of topics that excludes for the most part political rights and those rights typically violated only by states. The course will focus on those principles internationally recognized as “human rights.” Differences between hard law, soft law, custom and generally recognized principles of law will be explored.

The course aims to provide students with the background to think critically about both the legal and policy implications of requiring business to comply with international human rights law. Students should come away from this course with a grasp of relevant international human rights principles, be familiar with typical scenarios where issues of human rights and globalization have been raised and the particular problems that these have presented. Students should also understand the historical context that shapes perceptions of these problems, and the programs of institutions and groups that are pressuring companies to adhere to international human rights law.

**Course Format**

A combination of lectures and discussions will be used. In the latter part of the course, student teams will work on a project and will make a project presentation to the class. [Topics will be suggested but teams can seek approval of a topic not on the list.]

**Course Materials**

The assigned readings will be found in the course pack, available at Wharton Reprographics. [URLs will be given when material on websites is assigned.] During the term, short “handouts” will be distributed via Webcafe or distributed in class.

## Grading

The final grade will be calculated on the basis of the following:

Midterm	35%	<i>In-class exam</i>
Final Assessment	35%	<i>The final assessment is a take home assignment.</i>
Student project	20%	
Class participation	10%	

The professor is strongly committed to upholding Penn's Code of Academic Integrity and that any breaches will be referred to the Penn Committee on Student Conduct. The professor will state when collaboration is permitted on graded assignments and when it is not permitted. The professor not only expects, but encourages, students to cite works consulted when submitting written work.

## Topics and Assignments

### **Wednesday, January 14**

#### *Introduction*

Concept of “Human Rights”

Globalization – a recent phenomenon?

International Law in Historical and Contemporary Perspective

Introductory case

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### **Wednesday, January 21**

#### *Colonialism and the relationship between the West and the developing world*

Historical background of discussion on the relationship of the West with the developing world. Western imperialism and its historical legacy.

Readings:

Adam Hochschild, King Leopold’s Ghost: A Story of Greed, Terror, and Heroism in Colonial Africa (Boston: Houghton Mifflin, 1998): 115-23, 167-81, 209-13, 235-65, 300-306.

Niall Ferguson, Empire (London, Penguin Books, 2004): 221-241.

Xin Chunying, Can the Pluralistic World Have a Unified Concept of Human Rights? in Human Rights: Chinese and Dutch Perspectives, Peter van Baehr, et al., eds. (The Hague: Kluwer Law International, 1996): 43-56. Liu Nanlai, Developing Countries and Human Rights in Human Rights: Chinese and Dutch Perspectives: 103-17.

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### **Monday, January 26**

### **Wednesday, January 28**

#### *Introduction to international law regarding human rights*

Introduction to international human rights concepts and frameworks that will be applied to future case studies. Topics will include: emerging custom and soft law; laws concerning business operations; distinguishing between civil and political rights, the so-called first generation rights, and second and third generation rights, such as economic, social and cultural rights and the right to development.

Readings:

Universal Declaration of Human Rights (1948)

Jack Donnelly, Universal Human Rights in Theory and Practice (Ithaca: Cornell University Press, 1989): 9-19, 23-27.

Louis Henkin, The Universal Declaration at 50 and the Challenge of Global Markets, 25 Brooklyn Journal of International Law (1999): 17-25.

Peter Malanczuk, Akehurst's Modern Introduction to International Law, 7<sup>th</sup> ed (New York: Routledge, 1997): 1-8, 35-39, 42-44, 48-62.

Anthony D'Amato, ed. International Law Anthology (Anderson Publishing, 1994): 73-75, 81-84, 93-94, 148-54.

Henry Steiner and Philip Alston, International Human Rights in Context: Law, Politics, Morals (Oxford: Clarendon Press: 2000): 237-257.

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**Monday, February 2**

**Wednesday, February 4**

*Fundamental Human Rights and Rights at Work*

The International Labor Organization and its "standard" setting role in establishing how rights connected to work are guaranteed. The mandate of the ILO and the ILO conventions affecting human rights.

Readings:

Matthew Craven, International Covenant on Economic, Social and Cultural Rights, in An Introduction to the International Protection of Human Rights, eds. Raija Hanski and Markku Suksi (Turku/Abo, 1997) 101-123.

ILO Declaration on Fundamental Principles and Rights at Work



Janice R. Bellace, ILO Declaration on Fundamental Principles and Rights at Work, 17 *International Journal of Comparative Labour Law and Industrial Relations* 269 (2001).

International Labor Organization, in Edward Lawson, *Encyclopedia of Human Rights*, 2d ed. (Taylor & Francis: Washington DC, 1996): 853-866.

Harry Arthurs, Reinventing Labor Law for the Global Economy, 22 *Berkeley Journal of Employment and Labor Law* 271 (2001).

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## **Monday, February 9**

### *Child labor and cultural relativism*

Who is a child? Differing notions of the age at which a person can work and types of work thought appropriate for young persons. Relevance of work prohibitions when schooling is not present. Religious views on appropriate activity for children. Family enterprises and parental direction of a young person's activity. Stages of economic development and mandated years of education.

#### Readings:

ILO Convention No. 138, Minimum Age (1973)

ILO Convention No. 182, Worst Forms of Child Labour (1999)

Statistical Information and Monitoring Project on Child Labour

<http://www.ilo.org/ipecc/ChildlabourstatisticsSIMPOC/lang--en/index.htm>

William E. Myers, The Right Rights? Child Labor in a Globalizing World, 575 *The Annals* (May 2001): 38-55

Geeta Chowdhry and Mark Beeman, Challenging Child Labor: Transnational Activism and India's Carpet Industry, 575 *The Annals* (May 2001): 158-175

Rachel Baker and Rachel Hinton, Approaches to Children's Work and Rights in Nepal, 575 *The Annals* (May 2001): 176-193.

Michael J. Sullivan, Developmentalism and China's Human Rights Policy in *Debating Human Rights: Critical Essays from the United States and Asia*, Peter Van Ness, ed. (New York: Routledge, 1999): 120-143.

Child beggars thrive on Muslim holy season in Gulf states (Oct. 12, 2007)

Chinese Brick Child Labor: Ideals and reality conflict on Chinese child labor

<http://www.iht.com/articles/2007/06/18/news/china.php>

CEACR Observation under Convention No. 182, Mauritania (December 2007).

CEACR Observation under Convention No. 182, United States (December 2001, December 2002).

Karen Engle, Culture and Human Rights: The Asian Values Debate in Context, 32 New York University Journal of International Law and Politics (2000): 291-94, 303-333.

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### **Wednesday, February 11**

#### *Class project*

TAs will introduce the class project: subjects, guidelines, and deadlines.

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### **Monday, February 23**

#### *Freedom of Association*

ILO Conventions No. 87, Freedom of Association and Protection of the Right to Organise (1948)

Gladys W. Gruenberg, Papal Pronouncements on labor unions and workplace democracy, 25 International Journal of Social Economics (1998) 1711-1726.

Josiah Bartlett Lambert, If the Workers Took a Notion, (Ithaca: ILR Press/Cornell, 2005) 20-28, 43-49.

Harold Dunning, The Origins of Convention No. 87, 137 International Labour Review (1998) 149-167.

Virginia A. Leary, The Paradox of Workers' Rights as Human Rights, in Lance A. Compa and Stephen F. Diamond, eds. Human Rights, Labor Rights, and International Trade (Philadelphia: University of Pennsylvania Press, 1996) 22-47.

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**Wednesday, February 25**

**Monday, March 2**

*Sexual equality and discrimination*

In what ways do the problems of women's and children's human rights warrant separate consideration? How do standards protecting their human rights relate to problems relating to the conduct of business in an era of globalization?

Readings:

UN Convention on the Elimination of all Forms of Discrimination against Women (CEDAW)

ILO Convention No. 100, Equal Remuneration (1951)

ILO Convention No. 111, Discrimination (1958)

US Civil Rights Law:

Policies on equal pay: <http://www.eeoc.gov/types/epa.html>

Sexual discrimination: <http://www.eeoc.gov/policy/vii.html>

Christine Chinkin, Gender and Globalization, United Nations Chronicle, Online Edition, vol. 37, no. 2, 2000

<http://www.un.org/Pubs/chronicle/2000/issue2/0200p69.htm>

International Labour Office, Gender Inequalities in the Labour Market, in Time for Equality at Work, 91<sup>st</sup> Session Rept. I(B). (Geneva: ILO, 2003) 41-57.

ILO CEACR, Observation on C. 111, Afghanistan (2000)

ILO CEACR, Observation on C. 100, Sweden (2001)

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**Wednesday, March 4**

*Other Forms of Discrimination*

Race, color, religion, political opinion, national extraction, social origin.

March 9 and 11: Spring break (no class)
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**Monday, March 16**

**Wednesday, March 18**

*Forced Labor and Human Trafficking*

Readings:

State Department Definition

<http://www.state.gov/documents/organization/33216.pdf>

ILO Convention No. 29, Forced Labour (1930)

ILO Convention No. 105, Abolition of Forced Labour (1957)

Diane F. Frey, An Institutional Approach to Compliance: The Case of Forced Labour in Central America and the Dominican Republic, *unpublished paper* 9 Nov 2008.

A. Yasmine Rassam, Contemporary Forms of Slavery and the Evolution of the Prohibition of Slavery and the Slave Trade under Customary International Law, 39 Virginia Journal of International Law (1999): 303-09, 316-37.

Selections from Sun, Sex, and Gold: Tourism and Sex Work in the Caribbean, Kamala Kempadoo, ed. (Lanham, Md.: Rowman and Littlefield, 1999): Beverly Mullings, Globalization, Tourism, and the International Sex Trade, 55-80; Joan L. Phillips, Tourist-Oriented Prostitution in Barbados, 183-200.

Nancie Caraway, Human Rights and Existing Contradictions in Asia-Pacific Human Trafficking Politics and Discourse. 14 Tulane Journal of International & Comparative Law 295 (2006).

Human Trafficking in Cambodia video

<http://hub.witness.org/en/node/11155>

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\*\*\*\* **Midterm: Monday, March 23** \*\*\*\*

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**Wednesday, March 25**

*Companies and Human Rights Issues*



Supranational norms regarding company best practices with regard to human rights issues.

Readings:

2000 UN Global Compact and the 2003 UN Norms on the Responsibilities of Transnational Corporations  
OECD Guidelines for Multinational Corporations

Unocal  
Hershey Chocolate case

Corporate complicity materials

UN Sub-Commission on the Promotion and Protection of Human Rights, Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights, E/CN.4/Sub.2/2003/12/Rev.2 2003.  
<http://www1.umn.edu/humanrts/links/norms-Aug2003.html>

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**Monday, March 30**

**Wednesday, April 1**

*Corporate Stance with regard to Human Rights issues*

The rise of the Corporate Social Responsibility movement. Debate on whether the protection of human rights can and should be the sole responsibility of governments. Questions of whether imposing responsibility for protecting human rights on companies involves fundamental distortions of their functions.

Readings:

Milton Friedman, The Social Responsibility of Business is to Increase its Profits.  
[Originally published in The New York Times Magazine, September 13, 1970, 32, this famous essay has been reprinted in many publications subsequently.]

Milton Friedman, Economic Freedom, Human Freedom, Political Freedom, lecture delivered at the Smith Center, November 1, 1991, from  
[www.sbe.csu Hayward.edu/~sbesc/frlect.html](http://www.sbe.csu Hayward.edu/~sbesc/frlect.html)

Robert L. Heilbroner, The Road to Selfdom [review of Free to Choose: A Personal Statement by Milton and Rose Friedman], The New York Review of Books, 27 no. 6, April 17, 1980.

Chris Marsden, Dealing with Joel Bakan's Pathological Corporation: A strategy for campaigning human rights and environmental NGOs, Global Policy Forum July 2004 from

<http://www.globalpolicy.org/socecon/tncs/2004/07pathological.htm>

Noreena Hertz, New ethic: Just do it right – Smart firms know acting socially helps the bottom line, May 15, 2005 [http://www.business-humanrights.org/Categories/Individualcompanies/U/UnocalpartofChevron?&&&batch\\_start=31](http://www.business-humanrights.org/Categories/Individualcompanies/U/UnocalpartofChevron?&&&batch_start=31)

Mark A.A. Warner, Globalization and Human Rights: An Economic Model, 25 Brooklyn Journal of International Law (1999): 99-112.

Capitalism and Ethics. A series of articles taken from The Economist, January 20, 2005.

Globalization and Human Rights, a speech given by Amnesty International Secretary General Pierre Sané, February 2, 2000.

Amartya Sen, An enduring insight into the purpose of prosperity, Financial Times, September 21, 2004.

Nike Code of Conduct

[http://www.nikebiz.com/nikeresponsibility/tools/Nike\\_Code\\_of\\_Conduct.pdf](http://www.nikebiz.com/nikeresponsibility/tools/Nike_Code_of_Conduct.pdf)

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## **Monday, April 6**

### *National Sovereignty versus Supranational Norms*

Debate on whether, at a time when globalization is weakening states and enhancing the power of multinational companies, companies are being pressed to take on responsibilities that many claim are inherently governmental and/or that infringe national sovereignty.

#### Readings:

David J. Saari, Global Corporations and Sovereign Nations: Collision or Cooperation? (Quorum: Westport, CT: 1999): 46-65.

Louis Henkin, That "S" Word: Sovereignty and Globalization and Human Rights, Et Cetera, 68 Fordham Law Review (1999): 1-14.

## **Wednesday, April 8**

### *Enforcing Human Rights: the use of national courts*

What are TNCs' current levels of exposure to legal liability in courts of countries like the USA for human rights violations in their overseas operations? What obstacles stand in the way of persons wanting to sue recover for injuries caused by the overseas activities of TNCs that violate human rights law? Where does international law stand on the question of whether or when TNCs can be held liable for human rights violations?

#### Readings:

Ronen Shamir, Between Self-Regulation and the Alien Tort Claims Act, 38 Law & Society Review (2004) 635-661.

Rachel Chambers, The Unocal Settlement: Implications for the Developing Law on Corporate Complicity in Human Rights Abuses 13 Human Rights Brief 14 (Fall, 2005).

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## **Monday, April 13**

### *Promoting human rights: the role of NGOs*

How non-governmental organizations came to play a central role in the human rights domain and in the monitoring of TNCs' compliance with international human rights law. Debates on the roles they can/should they play in regulating the conduct of international business.

#### Readings:

Selections from NGOs and Human Rights: Promise and Performance, Claude E. Welch, ed. (Philadelphia: University of Pennsylvania Press, 2001): Claude E. Welch, Amnesty International and Human Rights Watch: A Comparison, 85-118; Makau Mutua, Human Rights International NGOs: A Critical Evaluation, 151-163; Claude E. Welch, Conclusion, 261-280.

Samples of Internet materials on the controversy sparked by the Human Rights Watch report charging Enron with complicity in human rights violations in its Dabhol plant in India, Report links Enron to abuses, etc.

Lauren Bartlett, NGO Update, 12 Human Rights Brief (2005): 40-41.



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## Wednesday, April 15

### *Mechanisms for promoting corporate adherence to human rights: Corporate Codes of Conduct*

Pros and cons of using corporate codes of conduct and/or national legislation with extraterritorial reach to promote compliance with human rights.

What is the range of options for promoting TNCs' compliance with human rights? For making non-compliance costly? What can past experience tell us about the utility of non-binding guidelines designed to promote TNCs' compliance with human rights standards? Can TNCs' internal codes of conduct steer them away from involvement in human rights abuses or operations that make them complicit in others' human rights violations? Are other mechanisms more effective?

#### Readings:

Robert J. Liubicic, Corporate Codes of Conduct and Product Labeling Schemes: The Limits and Possibilities of Promoting International Labor Rights Through Private Initiatives, 30 Law and Policy in International Business (1998): 111-58.

Robin Broad and John Cavanaugh, The Corporate Accountability Movement: Lessons and Opportunities, 23 The Fletcher Forum of World Affairs (1999): 151-69.

Amnesty International, Human Rights Principles for Companies: A Checklist.

Levi Strauss, Social Responsibility/Global Sourcing & Operating Guidelines.

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## Monday, April 20

### *Rights of Indigenous Peoples*

\*\*\* Student Presentations \*\*\*

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## Wednesday, April 22

### *Rights of Migrant workers*



Readings:

UN Resolution

<http://www.ohchr.org/Documents/Publications/FactSheet24rev.1en.pdf>

Montero V. INS – Union Rights of Undocumented Workers

<http://lw.bna.com/lw/19970916/964130.htm>

Migrant Domestic workers in Singapore

<http://news.bbc.co.uk/2/hi/asia-pacific/4502046.stm>

\*\*\* Student Presentations \*\*\*

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**Monday, April 27**

*Moving beyond the Universal Declaration on Human Rights*

More recent notions of rights that should be protected, such as sexual preference, transgender status, HIV/Aids status, disability, age

\*\*\* Student Presentations \*\*\*