

UNIVERSITY OF PENNSYLVANIA
The Wharton School
Fall 2010

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

Office Hours: After class 4:30 – 5:30 or call/e-mail to arrange a convenient time

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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. The scope of human rights law is vast, and cannot be covered in a semester unless a selection is made. The purpose of this course dictates a selection of topics that excludes for the most part civil and political rights and those rights typically violated only by states. Rather, it focuses on certain economic, social and cultural rights. In addition, this course focuses on those principles *internationally* recognized as “human rights.”

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. Differences between hard law, soft law, custom and generally recognized principles of law will be explored.

Course Format

A combination of lectures and discussions will be used. In a given class, students may be assigned to represent a certain side or debate a certain issue. 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.]

In many class sessions, some students will be designated “on deck” – that is, ready to answer questions about the readings if the student called upon cannot carry the discussion. This is designed to enhance the robustness of the discussion.

Course Materials

The assigned readings will be found in the course pack, on Study.net (available in hard copy at Wharton Reprographics). URLs will be given when material on websites is assigned.] During the term, short “handouts” may be distributed via Webcafé or distributed in class.

**** Note:** All students must have a Wharton computing account in order to access Webcafé. To obtain an account, go to <http://accounts.wharton.upenn.edu>

Grading

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

Midterm	25%	<i>In-class exam</i>
Final Assessment	35%	<i>The final assessment is a take home assignment.</i>
Student project	20%	
Class participation	20%	

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, September 8

Introduction

Concept of “Human Rights”

Globalization – a recent phenomenon?

International Law in Historical and Contemporary Perspective

Introductory case

Monday, September 13

Colonialism and the relationship between the West and the developing world

Historical background for 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.

Niall Ferguson, The Ascent of Money (London, Penguin Books, 2009): 20-24.

Wednesday, September 15

Monday, September 20 *Guest Lecturer:* Dr. Ann Elizabeth Mayer

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, 7th ed (New York: Routledge, 1997): 1-8, 35-39, 42-44.

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

Wednesday, September 22

*** Showing of the film "The Pianist" ****

Class will not end until after 5 pm. Students who cannot make this class must arrange to see this film at another time.

Monday, September 27

Economic, Social and Cultural 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.

Wednesday, September 29

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:

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.

Monday, October 4

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)

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

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).

Wednesday, October 6

→ Fall Break -- Monday, Oct 11

Wednesday, October 13

Child labor and cultural relativism

Challenges in monitoring child labor and in taking measures to reduce the amount of child labor. Differing views on the ages at which young persons can work and in what types of work. Discussion of whether views are based on culture or whether views relate to the stages of economic development.

Statistical Information and Monitoring Project on Child Labour
<http://www.ilo.org/ipecc/ChildlabourstatisticsSIMPOC/lang--en/index.htm>

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.

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.

Monday, October 18
Wednesday, October 20

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, 91st 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)

Monday, October 25

Wednesday, October 27

Forced Labor and Human Trafficking

Readings:

US State Department Definition

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

Eradication of forced labour, CEACR General Survey

ILO Convention No. 29, Forced Labour (1930)

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

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

Monday, November 1

Other Forms of Discrimination

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

Readings:

ILO CEACR, Observation on C. 111, (Dec 2008)

Democratic Republic of the Congo
Islamic Republic of Iran
Kuwait
Latvia
Mauritania
Nepal

****** Midterm: Wednesday, November 3 ******

Monday, November 8

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.

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.

ILO CEACR, Observation on C. 87, United Kingdom (2009)

Wednesday, November 10

Companies and Human Rights Issues

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

Readings:

2000 UN Global Compact

2003 UN Norms on the Responsibilities of Transnational Corporations

OECD Guidelines for Multinational Corporations

Materials re Observance by Myanmar of Convention No. 29, Forced Labour

Unocal materials

Chocolate materials

Global Compact – Principle Two

Monday, November 15

Wednesday, November 17

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:

Corporate complicity materials

The Burma Connection, WSJ 13 Oct 2007

Congressional news conference re Chocolate and Slave Labor (2005)

Milton Friedman, The Social Responsibility of Business is to Increase its Profits.
[Originally published in The New York Times Magazine, September 13, 1970, 32]

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

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

Monday, November 22

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:

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/soecon/tncs/2004/07pathological.htm>

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

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

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.

Wednesday, November 24

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:

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

Constance Thomas, Martin Oelz and Xavier Beaudonnet, The use of international labour law in domestic courts: Theory, recent jurisprudence, and practical implications in Mélanges Nicolas Valticos 249-285

Curacao Dry Dock case materials (including Licea vs. Cuaraco Dry Dock, S.D. Fla 2008)

Thanksgiving

Monday, November 29

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:

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

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

Nike Code of Conduct

http://www.nikebiz.com/nikeresponsibility/tools/Nike_Code_of_Conduct.pdf

US Dept of Labor, The Apparel Industry and Codes of Conduct

Wednesday, December 1

Rights of Indigenous Peoples

Readings:

Lee Swepston

Ecuador case

*** Student Presentations ***

Monday, December 6

Wednesday, December 8

*** Student Presentations ***

→ *Take Home Final deadline: Wednesday, December 15 at 5 pm*