

UNIVERSIDADE DE SÃO PAULO - USP
FACULDADE DE FILOSOFIA, LETRAS E CIÊNCIAS HUMANAS - FFLCH
DEPARTAMENTO DE CIÊNCIA POLÍTICA - DCP

Course: Business and Human Rights – Graduate Program in Political Science, First Semester – 2022

Professor: João Paulo Cândia Veiga

Course content:

The rise of globalization has changed traditional discussions on the duties of businesses to increasingly being framed in terms of human rights and in a transnational and global order. Yet, in spite of growing support for the idea that businesses should respect human rights, it is still far from having global acceptance and recognition. This course addresses recent developments in linking business practices and human rights (including corporate social responsibility, ESG agenda and sustainable development) within the UN and in other international organizations, and focuses on the efforts in making human rights an important normative framework for the conduct of business in different societal and political contexts. It offers arguments in favor of and against extending human rights to the corporate sector, and discusses legal developments, including normative and remedial mechanisms. It examines strengths and weaknesses of the CSR movement and the scope for making human rights regulatory measures for corporate behavior. The students will study practical cases of corporate policies, programs and actions of selected Brazilian and foreign companies in a variety of contexts – social, cultural, economic and political.

The course aims to give an overview and understanding of the new emerging mandatory or voluntary (soft law) in the BHRs agenda, and give students the ability to make practical analyses of concrete situations based on theoretical understanding. The course is based on public international law and covers international legally binding rules within the area, the emergence of non-binding instruments (soft law), governmental and private initiatives as well as business practices. The course will bring corporate representatives to speak up about the challenges of implementing human rights policies and programs at local level.

The course also will give the opportunity to studying the Guiding Principles on Business and Human Rights, endorsed by the United Nations Human Rights Council in June 2011. Students will examine the different types of human rights violations that different industries tend to make and the challenges each faces in implementing human rights. Major North America (US and Canada), European and some Latinas corporations have

adopted the Guiding Principles and are now in the process of implementing them across all of their operations, including vendors and suppliers. Companies that have begun to implement the Guiding Principles include Anglo American, Petrobras, Chevron, Shell, Coca-Cola, De Beers, Diageo, Flextronics, General Electric, HP, A.P. Moller-Maersk, Vale, Siemens, Sime Darby, Syngenta, Totalfina, Unilever, and Nestle.

Knowledge

- Good knowledge of the links between business practices and human rights, including corporate social responsibility (CSR) as defined by the UN and other international organisations
- Good knowledge of practical experiences in making human rights a normative framework for the conduct of business in different societal and political contexts
- Good knowledge of the arguments in favour of and against extending human rights to the corporate sector and the scope for making human rights regulatory measures for corporate behaviour
- Good knowledge of legal developments, including normative and remedial mechanisms

Skills

- Analyze and identify relevant human rights issues in the ESG debate and understand how these are of practical importance to transnational businesses
- Locate applicable source material and identify and interpret the relevant substantive rules and principles on the duties of companies to respect human rights as they arise in case law
- Understand the obstacles and challenges of integrating human rights in the conduct of business
- Be able to critically evaluate existing human rights treaties, and existing guiding principles, on human rights and business behaviour

General competence

The graduate students will be able to:

- Carry out case studies of the ESG policies of selected companies in different social, economic and political contexts
- Assess the impact of human rights on corporate behavior
- Address issues of consumer rights and behaviour from the position of human rights ethics
- Assess the practices and impact of different strategies of remedy and compensation

- Analyze empirical cases of business conduct in light of human rights law

Examination

Examination consists of a written assignment with a maximum of 5000 words delivered 30 days after the last class. The examination of the written assignment can be given in English, Portuguese, Spanish or French.

Grading scale

Grades are awarded on a scale from A to D, where A is the best grade and D is a fail.

Main goals

- Explore multidisciplinary perspectives and theoretical approaches on BHRs agenda.
- Describe the evolution of human rights over the centuries noting steps forward and the opposition.
- Identify the nine international conventions that have played a critical role in the advancement of human rights.
- Analyze the Guiding Principles on Business and Human Rights.
- Select and describe the human rights work of a NGO or company.
- Analyze the compliance of international human rights standards in your community and in businesses.
- Identify and describe the current actions the business community is taking in implementing the Guiding Principles on Business and Human Rights across their operations.
- State commitment; policy development and implementation (states and companies); analysis of scenario (cost benefit analysis and risk mitigation);

Class schedule

Class 1 – 04, April 2022 – Course Presentation

Class 2 – 18, April 2022 – Overview of Human Rights from Different Perspectives

Different theoretical approaches will be exploring core concepts: 1. Sovereignty; 2. Authority; 3. Legitimacy; and 4. International Public Law.

Lecturer: Prof. Alberto do Amaral Junior (USP Law School)

Buergenthal, Thomas. 1997. "The Normative and Institutional Evolution of International Human Rights." *Human Rights Quarterly* 19(4), pp. 703-723.

Simmons, Beth. 2009. *Mobilizing for Human Rights: International Law in Domestic Politics*. Cambridge University Press. Chapter 2.

Complementary:

Moyn, Samuel. 2012. *The Last Utopia – Human Rights in History*. Cambridge, M.A.: Harvard University Press.

Lafer, Celso (1988). *A Reconstrução dos Direitos Humanos – Um Diálogo com o Pensamento de Hannah Arendt*, Companhia das Letras, São Paulo, 406 pages.

Backer, Larry Catá (2016). "Fractured Territories and Abstracted Terrains: Human Rights Governance Regimes Within and Beyond the State," *Indiana Journal of Global Legal Studies*: Vol. 23 : Issue 1, Article 4.

Hurd, I. (1999). Legitimacy and Authority in International Politics. *International Organization*, 53(2), pp. 379–408.

Webinar

<https://www.youtube.com/watch?v=F-R9DKU9nGk>

HLS in the World – How does International Human Rights Make a Difference in the World?

Class 3 – 25, April 2022 – The Institutionalization of Human Rights and the Question of Compliance

The concept of Compliance considered in the multiple epistemological aspects crossing International Law, Political Science and International Relations, and Economics (Management).

Lecturer: Prof(a). Cristiane Lucena (Institute of International Relations – IRI/USP)

Hafner-Burton, Emilie. 2013. *Making Human Rights a Reality*. Princeton University Press. Introduction.

Simmons, B. A. 2009. *Mobilizing for Human Rights: International Law in Domestic Politics*. Cambridge University Press. Chapter 4.

Hafner-Burton, E. M. and Tsutsui, K. 2007. "Justice Lost! The Failure of International Human Rights Law to Matter Where Needed Most." *Journal of Peace Research*, 44(4), pp. 407-425.

Complementary

Koremenos, Barbara. 2016. *The Continent of International Law*.

Creamer, Cosette and Beth Simmons (2020). "The Proof is in the Process: Self-Reporting Under International Human Rights Treaties." *American Journal of International Law* 114(2), p. 352.

Hillebrecht, Courtney (2021). "Progress and Pushback in the Judicialization of Human Rights." *Saving the International Justice Regime: Beyond Backlash Against International Courts*. Chapter 1. Cambridge University Press.

Giovanini, Wagner (2014). *Compliance – A Excelência na Prática*, editora do autor, 501 pages.

Class 4 – 02, May 2022 – The Emergence of Business and Human Rights Institutional Framework: the United Nations Guiding Principles (UNGPs) and their critics.

https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf

Ruggie, John Gerard (2014). Quando Negócios Não São Apenas Negócios – As Corporações Multinacionais e os Direitos Humanos, Planeta Sustentável, Editora Abril, 315 pages.

Deva, Surya (2011). "Protect, Respect and Remedy': A Critique of the SRSG's Framework for Business and Human Rights" in Karin Buhmann and Lynn Roseberry (eds.) *Corporate Social and Human Rights Responsibilities Global Legal and Management Perspectives*, Palgrave Macmillan p. 108-128.

Christopher Albin-Lackey, Human Rights Watch: "Without Rules - A Failed Approach to Corporate Accountability", February 2013,
<http://www.hrw.org/world-report/2013/essays/112459>

[response] John Ruggie, former UN Special Representative on business & human rights: "Progress in Corporate Accountability", February 2013,
<http://www.ihrb.org/commentary/board/progress-in-corporate-accountability.html> (Links to an external site.)

"Joint Civil Society Statement on the draft Guiding Principles on Business and Human Rights" [PDF], 14 January 2011
http://www.fidh.org/IMG/pdf/Joint_CSJ_Statement_on_GPs.pdf (Links to an external site.)

Human Rights Council: Resolution on International Business Needs Strengthening, Joint Civil Society Statement on Business and Human Rights to the 17th Session of the UN Human Rights Council, June 15, 2011

<http://www.hrw.org/news/2011/06/15/human-rights-council-resolution-international-business-needs-strengthening>

Complementary

Karp, David Jason (2020). Fixing meanings in global governance? "Respect" and "Protect" in the UN guiding principles on business and human rights. *Global Governance: A Review of Multilateralism and International Organizations*, 26 (4). pp. 628-649.

Karp, David Jason (2020). What is the responsibility to respect human rights? Reconsidering the 'respect, protect, and fulfill' framework. *International Theory*, 12 (1). pp. 83-108.

Karp, David Jason (2014). *Responsibility for Human Rights: Transnational Corporations in Imperfect States*. *Cambridge Studies in International Relations*. Cambridge University Press, Cambridge. Introduction and Chapter 1.

Webinars:

<https://www.youtube.com/watch?v=vtaBK9c6GDw>

10 years on: The United Nations Guiding Principles on Business and Human Rights – An Interview with John Ruggie, Bochum, June 21, 2021.

<https://www.youtube.com/watch?v=SWCPpkZ6iC0>

BHRJ Webinar – Assessing the UN Guiding Principles at 10 and a Tribute to Professor John Ruggie, Cambridge, December 3, 2021.

<https://www.youtube.com/watch?v=jwIZlvNwFWE>

Prof. Dr. John Ruggie's – Lecture on the UN Guiding Principles on Business and Human Rights

Class 5 – 09, May 2022 – United Nations Guiding Principles - National Action Plans on BHRs

Simmons, Beth (2002). "Why Commit? Explaining State Acceptance of International Human Rights Obligations", 38 pages, available

https://wcfia.harvard.edu/files/wcfia/files/752_simmonswhycommit.pdf

Moravcsik, Andrew (1998). "Explaining the Emergence of Human Rights Regimes: Liberal Democracy and Political Uncertainty in Postwar Europe", 35 pages, available

<https://www.princeton.edu/~amoravcs/library/emergence.pdf>

Bordignon, Marta. (2016). State Commitment in Implementing the UNGPs and the Emerging Regime of National Action Action Plans. A Comparative Analysis. *Human Rights & International Legal Discourse*, pp. 117-138.

Website: <https://globalnaps.org/>

Class 6 – 16, May 2022 – United Nations Guiding Principles – Corporate Implementation (actions, programs and policies). How do corporations are integrating and implementing the UN Guiding Principles?

Lecturer: Fabio Abdala (Alcoa)

Webinars:

<https://www.youtube.com/watch?v=46xT08SJ5QU>

Corporate Governance and the Un Guiding Principles – UN Forum on Business and Human Rights (2013).

Class 7 – 23, May 2022 – United Nations Guiding Principles – Reparation (Accountability)

Class 8 – 30, May 2022 – Multistakeholder Initiatives (MSIs) and Governance in the Protection of the Human Rights

Gleckman, H. (2018). *Multistakeholder Governance and Democracy: A Global Challenge* (1st ed.). Routledge.

Van Aaken, Anne and Betül Simsek. 2021. “Rewarding in International Law.” *American Journal of International Law* 115(2), p. 195.

Case studies

Webinars

<https://www.youtube.com/watch?v=5Nwo7jttBc4>

Multistakeholder initiatives and the UN Guiding Principles – UN Forum on Business and Human Rights (2013)

Class 9 – 06, June 2022 – Negotiation a Treaty on Business and Human Rights: Lessons from International Law and International Relations (and Political Science Approach). The international coalitions (and veto power) pro and against the International Treaty (interest groups), the role of NGOs, the political influence of corporations and international business associations, the call for action - the Business and Human Rights Forum.

De Schutter, Olivier (2017). "Towards a New Treaty on Business and Human Rights". *Business and Human Rights Journal*. Vol. 2(2), 2017.

Deva, Surya and David Bilchitz (eds.) (2017). *Building a Treaty on Business and Human Rights: Context and Contours*, Cambridge University Press.

Cassell, Douglass and Ramasastry, Anita (2016). "White Paper: Options for a Treaty on Business and Human Rights," *Notre Dame Journal of International & Comparative Law*. Vol. 6: Issue 1, Article 4.

Webinar

<https://www.youtube.com/watch?v=0Alq9dtbkXI>

Does the World Need a Treaty on Business and Human Rights? Weighing the Pros and Cons (2014)

Class 10 – 13, June 2022 – BHRs: Governance and regulation Theoretical Approaches. New governance and regulation theoretical approaches are analyzed under the concepts of enforcement, legitimacy, accountability, effectiveness and transparency.

Buhmann, Karin (2013). *Power, Procedure, Participation and Legitimacy in Global Sustainability Norms – A Theory of Collaborative Regulation*, Routledge Taylor and Francis Group, 207 pages.

Cardia A., Ana Cláudia Ruy. *Transterritorialidade: uma teoria de responsabilização de empresas por violações aos direitos humanos*. Rio de Janeiro: Lumen Juris, 2020

Deva, Surya. Bilchitz, David (eds.). *Human Rights Obligations of Business: Beyond the Corporate Responsibility to Respect?* Cambridge: Cambridge University Press, 2013.

Class 11 – 20, June 2022 – The implementation of Due Diligence Obligations in International Human Rights (mandatory and voluntary) in the developed and developing economies from the practical case studies.

Monnheimer, Maria (2021). *Due Diligence Obligations in International Human Rights Law*, Cambridge University Press.

Mccorquodale, Robert et al. (2017). Human Rights Due Diligence in Law and Practice: Good Practices and Challenges for Business Enterprises. *Business and Human Rights Journal*. Vol. 2(2).

Case Studies:

Marconi, Claudia e Rafael Miranda (2020). “Direitos Humanos, empresas e a Agenda 2030: Considerações tempo-espaciais do *norm-making* internacional à luz do caso Shell na Nigéria” in *Meridiano - Journal of Global Studies*, Volume 21, 18 pages.

Tuncak, Baskut (2019). Lessons from the Samarco Disaster. *Business and Human Rights Journal*. Vol. 2(1).

Moraes, Patrícia Almeida de. Pamplona, Danielle Anne (2019). Os significados dos casos Kiobel e Vedanta para a proteção de direitos humanos. *Revista de Direito Internacional*, v. 16, n. 3, p. 9-22.

Website:

Choose companies evaluated by the Corporate Human Rights Benchmark Alliance (<https://www.worldbenchmarkingalliance.org/publication/chrbrankings/type/ungp/>)

Class 12 – 27, June 2022 – Corporate ‘Social Innovation’ in Human Rights?

The concept of Social Innovation in multinational companies is presented and applied in different case studies (developed and developing countries all over the world (Brazil, Canada, Mexico, Netherlands, and UK).

Lecturer: Murray Gregor – Professor of Industrial Relations at University of Montreal (15/20 minutes) and Director of CRIMT

Transatlantic Platform – Social Innovation (2020). Research Project, 35 pages.

Saka-Helmhout, Ayse, Maryse Chappin and Suzana B. Rodrigues (2022). CORPORATE SOCIAL INNOVATION IN DEVELOPING COUNTRIES, *Journal of Business Ethics*, forthcoming.

Recommended Additional Bibliography:

Anthea Roberts, Paul B. Stephan, Pierre-Hugues Verdier & Mila Versteeg (2018). *Comparative International Law*, Oxford University Press.

Buhmann, Karin (2022). *Human Rights: A Key Idea for Business and Society*, Routledge.

Dorothee Baumann-Pauly & Justine Nolan (eds), *Business and Human Right - From Principle to Practice*, 2016, Routledge (350 pages).

Dunoff, Jeffrey L. and Mark A. Pollack, Eds. 2013. *Interdisciplinary Perspectives on International Law and International Relations. The State of the Art*. Cambridge, M.A.: Cambridge University.

Goldsmith, Jack and Eric Posner. 2005. *The Limits of International Law*. New York, NY: Oxford University Press.

Hafner-Burton, Emilie. 2013. *Making Human Rights a Reality*. Princeton, N.J. : Princeton University Press.

Hafner-Burton, Emilie. 2009. *Forced to Be Good: Why Trade Agreements Boost Human Rights*. Ithaca, N.Y: Cornell University Press.

Joseph, Sarah L. Castan, M. 2013. *The International Covenant on Civil and Political Rights*. Oxford, U.K.: Oxford University Press.

Koremenos, Barbara. 2016. *The Continent of International Law*.

Landman, Todd. 2005. *Protecting Human Rights: A Comparative Study, Advancing Human Rights*.

Simmons, Beth A. 2009. *Mobilizing for Human Rights: International Law in Domestic Politics*. Cambridge, UK: Cambridge University Press.

Ramos, André de Carvalho (2019). *Teoria Geral dos Direitos Humanos na Ordem Internacional*, Editora Saraiva, sétima edição, 381 pages.

Ramos, André de Carvalho (2021). *Curso de Direitos Humanos*, Editora Saraiva, oitava edição, 1.143 pages.

Websites

<https://www.worldbenchmarkingalliance.org/publication/chrb/rankings/type/ungp/>

Ranking Report which summarizes what the company already does to address human rights and which aspects were negatively evaluated.

<https://www.businessrespecthumanrights.org/>

Analyze and discuss what the company could improve in their approach to human rights. For this purpose, you read the 3rd chapter of the Guide to “Doing Business with Respect for Human Rights” as practical examples from other companies in this industry.

<http://www.business-humanrights.org/Home>

Analyze and describe which human rights issues are specifically relevant for the industry of the company.

<https://www.ohchr.org/EN/Issues/Business/Forum/Pages/2020ForumBHR.aspx>

Official website of the High Commissioner with information of all Business and Human Rights Forum created in 2013 (last virtual edition in 2020).

<http://www.unglobalcompact.org/>

<http://plato.stanford.edu/archives/spr2009/entries/rights-human>

<http://www.humanrightsadvocates.org>

<http://www.globallabourrights.org/>

<http://www.srsqconsultation.org/index.php>

<http://www.slideshare.net/compartuser/business-human-rights-an-introduction-to-the-protect-respect-and-remedy-framework-and-its-draft-guiding-principles>

<http://www.mnadvocates.org>

<http://nzbpw.wordpress.com/2013/02/06/the-2012-top-ten-list-of-business-human-rights-issues/>

http://www.ihrb.org/top10/business_human_rights_issues/2013.html

<http://www.hrw.org/>

Corporate policies, programs and actions on Human Rights:

AngloAmerican:

[Http://www.angloamerican.com/development/approach-and-policies/human-rights/approach](http://www.angloamerican.com/development/approach-and-policies/human-rights/approach)

Chevon:

<Http://www.chevron.com/globalissues/humanrights/>

Coca-Cola:

<http://www.coca-colacompany.com/sustainabilityreport/we/human-and-workplace-rights.html>

Coca-Cola – Principles adressed to suppliers

<http://www.coca-colacompany.com/our-company/supplier-guiding-principles>

De Beers:

http://www.debeersgroup.com/ImageVaultFiles/id_555/cf_5/DBG_Employee_Human_Rights_Policy.PDF

HP:

<Http://www.hp.com/hpinfo/globalcitizenship/society/ethics.html> de Ciudadania Global

Maersk:

<http://www.maersk.com/Sustainability/SocialResponsibility/Pages/SocialResponsibility.aspx>

Nokia Siemens:

<http://www.nokiasiemensnetworks.com/about-us/sustainability/ethics-and-human-rights>

Siemens - guidelines

internacionais <http://www.siemens.com/sustainability/en/understanding-of-sustainability/international-guidelines/index.php>