

UNIVERSITY OF PENNSYLVANIA
The Wharton School
Department of Legal Studies and Business Ethics

LGST 224 – 401 Syllabus
Spring 2014

Human Rights and Globalization

Mondays & Wednesdays 1:30 – 3:00 pm
270 JMHH

Professor Janice R. Bellace

Office: 672 Jon M Huntsman Hall (672 JMHH / 6340)
Class times: Mondays and Wednesdays 1:30– 3:00 pm
Office Hours: Wednesdays 3:00 – 5:00 or call/e-mail to arrange a convenient time*
Office Phone: 215-898-6820 (for appointments, call Laretta Tomasco at 215-898-1166)
E-mail: bellace@wharton.upenn.edu (*use LGST 224 in the subject line*)

* I suggest arranging a time because it is difficult to predict when I may be in my office. You are encouraged to call me during the day or to email me at any “normal” time. Also, in the interests of family harmony, please do not send me an email after 9 pm with the expectation that I will respond before 9 am the next morning.

Substantive Scope of the Course

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 it cannot be covered in a semester. The purpose of this course and the semester time constraint 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.”

Goals of the Course

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.] For certain classes, the instructor will work with 2 -3 students to co-present the material.

Readings

The assigned readings will be found in the course pack on Study.net.

URLs will be given when material on websites is assigned.

During the term, short “handouts” may be distributed via Canvas or distributed in class.

Grading

Final grades will be done on a curve, based on the 100 point total that it is possible to achieve. The final grade will be calculated as follows:

- 30 points -- Two in-class exams
- 10 points -- Two one-page written assignments.
- 20 points -- Student team project
- 20 points -- Final Paper
- 20 points -- Class participation *based on peer feedback rankings*

Two in-class exams. There will be two in-class exams worth 15 points each. The exams will be mostly short-answer questions based on readings, lectures, class discussions. We will not have time to discuss all the readings in class, but this does mean they are not important as they provide significant conceptual knowledge and more detailed analysis of issues. A “hypothetical” fact situation will be presented to test whether you can recognize a human rights issue in a real life setting.

Two one-page written assignments. 5 points each.

Final Paper (20 points): -- 8 to 10 pages, double-spaced, 12 pt font) due on April 29, submitted on Canvas. See page 3 of the syllabus for an explanation of this requirement.

Peer Feedback Rankings. Twenty points will be awarded based on peer ratings given at the end of the term. Each student will rate each other student on a 1(lowest) to 10 (highest) scale based on that peer’s overall, demonstrated contribution to the class’s learning and development.

In addition, each student will identify the students with whom they worked on the team project and will score them from 10 (top) to 6 (bottom).

Then, the resulting rankings will be combined and averaged. The class will be divided into top, middle, and bottom-ranked groups. The top group will receive 20 points. The middle group will receive between 15 – 19 points and the lower group between 10 - 15 points. An individual's point totals will be reduced for each unexcused class.

Final Analytical Paper (20 points: -- 8 to 10 pages, double-spaced, 12 pt font).

Turn in your topic by March 5 (just before spring break) and the actual paper by noon on April 29. Also, you must submit your paper on Canvas.

The text of the paper should be a maximum of 10 pages. You can exceed this with pages that contain footnotes (endnotes) and reference pages (e.g., bibliography and charts).

Grading is based on

- thorough research with complete citations
- explicit connection of your topic to the scope of the course
- in-depth analysis with commentary relating it to material in the course
- excellence in writing, editing, and proofing
- thoughtful and clear organization (hint: make an outline, use headings)

Researching your topic

The final paper is a research paper assignment. Although the required paper is 10 pages maximum, this does not mean there should be little research. While the internet can be used in your research, it is no substitute for conventional research methods. There are various academic journals, reports and books that can be consulted. The research librarians at the Lippincott Library can be immensely helpful in identifying relevant information sources.

A bibliography of sources is expected. Footnotes should be used where appropriate. Do not rely heavily on websites as sources, although there will be instances where you should cite a website as the source of the information you have put in the text. [Most definitely do not use Wikipedia as a major source – it's a starting point.]

Plagiarism and paraphrasing without footnoting the source violates the Code of Academic Responsibility which the instructor takes very seriously). If you have any question about whether something needs a footnote, ask the instructor or err on the side of caution and footnote! Finally, collaboration is not permitted. The work should be yours (not your classmate's, friend's, or family member's).

Topics and Assignments

Wednesday, January 15

Introduction

Concept of “Human Rights”

Globalization – a recent phenomenon?

International Law in Historical and Contemporary Perspective

Introductory case

Monday, January 20 – MLK holiday. No class.

Wednesday, January 22

*** Showing of the film “The Pianist” *****

Class will not end until 6 pm. Students who cannot make this class must arrange to see this film at another time.

Monday, January 27

Wednesday, January 29

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.

Hand-in List of Wladyslaw Szpilman’s human rights that were violated 1939-1945.

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.

Monday, February 3

Labor Standards vs. Human Rights

What do people mean when they use the term “human rights”? Does it cover safety and health issues, or basic working conditions such as the length of the work day?

Readings:

The Triangle Fire, pages 11 – 21.

Rana Plaza collapse

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, February 5

Approaches to Regulating Working Conditions

Fair Labor Standards Act (USA)

ILO Conventions

Hand-in one page listing when your home country first regulated the length of the working day for factory workers *OR* when your country first mandated that the working women receive a paid maternity leave (that is, not risk being fired for being absent) and note the length of the leave.

Monday, February 10

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

Wednesday, February 12

Children and Work

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)

UN Convention on the Rights of the Child

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

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

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

Monday, February 17

Wednesday, February 19

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.

Reading:

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

Hand-in One paragraph stating the minimum school leaving age in your country. State when that age was set (if there was a lower age previously, state what the lower age was).

Class activity: Debate on a proposed international convention that would make 14 the minimum age for any type of paid work. (Students will be assigned a country and a role: representative of government, employers or workers.)

Monday, February 24

Wednesday, February 26

Sexual equality and discrimination

In what ways do the problems of women'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. 111, Discrimination (1958)

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

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

Monday, March 3

Gender Pay Equity and Human Rights

In what ways do the patterns of female labor force participation disfavor them with regard to pay? Is this impermissible "discrimination"? How do employers set wage rates for average rank-and-file information age workers?

ILO Convention No. 100, Equal Remuneration (1951)
Equal Pay Act, 1963 (USA)
EU Equal Pay Directive, 1975.

Hand-in labor force participation rates for men and women in 1960, 1980 and 2012 for the USA. [You may choose another country if you wish.]

Class activity: Debate

Wednesday, March 5

***** In-class exam *****

Proposed topic for final paper due (submit on Canvas)

March 10 and 12: Spring break (no class)
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Monday, March 17

Forced Labor and Human Trafficking

What constitutes work not done voluntarily? How do companies confront the issue of meeting tight production deadlines or having work performed in a harsh environment?

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)

Wednesday, March 19

Forced Labor

How do companies meet labor needs? At what level are decisions taken?

Bloomberg Business Week: Apple in Malaysia
Oil pipeline in Myanmar

*** Showing of the film “Conspiracy” ****

Monday, March 24
Wednesday, March 26

Companies and Human Rights Issues

What responsibilities do companies have with regard to human rights issues?

Readings:

2000 UN Global Compact

2011 UN Guiding Principles on Business and Human Rights

Hand-in one page written statement on the Wansee Conference. What was the “business goal” articulated by the chairman of the conference? Who disagreed with the goal itself and on what grounds? Who had major disagreement with the feasibility of being able to achieve the goal?

Unocal materials

Chocolate materials

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

Monday, April 7

Corporate Stance with regard to Human Rights issues

The rise of the Corporate Social Responsibility movement. Questions of whether imposing responsibility for protecting human rights on companies involves fundamental distortions of their functions.

Class activity: Debate whether the protection of human rights can and should be the sole responsibility of governments.

Readings:

Corporate complicity materials

The Burma Connection, SJ 13 Oct 2007

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

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

Wednesday, April 9

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

Monday, April 14

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

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, April 16

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)

Monday, April 21

Concepts of Sovereignty
Rights of Indigenous Peoples

National Sovereignty versus Supranational Norms: 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.

Rights: whether the modern state controls those within its borders or whether persons who historically were present and had autonomy within an area have rights separate from those granted by the state.

Readings:

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

Clyde Summers, The Battle in Seattle: Free Trade, Labor Rights, and Societal Values, 22 Univ. of Pennsylvania Journal of International Economic Law 61 (2001).

Class Activity: debate a proposal whereby native Americans (those registered in tribes) will be financially compensated by the United States for the territory that was seized from them through military action.

Readings:

Lee Swepston
Ecuador case

Wednesday, April 23

*** Student Presentations ***

Monday, April 28

Rights of Migrant workers

*** Student Presentations ***

Readings:

UN Resolution

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

Migrant Domestic workers in Singapore

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

→ **Final paper due Tuesday, April 29**

Wednesday, April 30

***** In-class exam *****

