

Corporate Social Responsibility: A Human Rights Perspective

Summer Session, July 7-August 15 2008

Columbia University

Class Hours:

Tuesdays and Thursdays, 9:00 am -12:10 pm

608 Schermerhorn

Office Hours:

Tuesday, 12:00-2:00 pm

1309 IAB

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Course Description

While conventional wisdom has long been that the social responsibility of business is merely to increase its profits and provide employment, the idea that business has human rights responsibilities – moral and/or legal – is steadily gaining acceptance.

Major international organizations, such as the United Nations, the International Labor Organization and the OECD, have adopted standards and principles outlining the social responsibilities of business. Three years ago a Special Representative of the UN Secretary-General on Business and Human Rights was appointed, and in June his mandate was extended an additional three years. Major human rights organizations, such as Amnesty International and Human Rights Watch, have launched business and human rights campaigns and monitor and report on human rights abuses by companies. Consultancies and law firm practices have started to appear advising business how to improve their human rights performance. A growing number of multinational corporations have introduced human rights policies and training programs, have begun reporting on their human rights performance and have hired experts in corporate social responsibility (CSR) and human rights. Some companies even find themselves being sued for their involvement in human rights violations.

This course is designed to provide students the opportunity to learn about the growing importance of human rights and their impact in the world today. Through an in-depth examination of the field of business and human rights students will gain an understanding of the existing and emerging international human rights framework relevant to business, learn ways in which business and human rights intersect, and be exposed to the range of methods and tactics being employed by human rights advocates and businesses to address their human rights impacts. By the end of the course, the student will have a firm grasp of the current business and human rights debates, and be familiar with the major governmental and nongovernmental organizations that are focused on the issues and with the major literature and policy documents.

Classroom discussion will include a review of trends in human rights; the development of human rights principles or standards relevant to corporations; human rights issues facing business operations abroad; the growing public demand for greater accountability; strategies of civil society advocacy around business and human rights; collaborative efforts between business and non-profit organizations; and other issues managers must deal with.

Through guest lectures, students will have the opportunity to engage first hand with business managers and advocacy professionals dealing with these issues.

Course Requirements:

Students will be expected to follow current events relating to the course, read required texts, participate in and, at least twice, lead a class discussion – one on a current business and human rights event/development, and the other an oral presentation based on the final paper. Each student will choose a research topic/case study which critically examines and evaluates how a corporation or advocacy group has managed or is managing a human rights issue. Individually, or as part of a small group with fellow classmates, students will collaborate on and present to the class the case study. A final paper based on the case study or another example will also be required.

Grading

Grades will be based on the final paper and in-class contributions and presentations.

- 1) 50% class participation, effort, and preparation, including at least two in-class presentations.
- 2) 10% “Memo to the CEO”
- 3) 40% final paper

Regular website check-in

In addition to the readings listed for each session, students are encouraged to check regularly the website of the Business & Human Rights Resource Centre, www.business-humanrights.org for the latest developments in business and human rights. Each student is also required to sign up for the Resource Centre’s Weekly Update: <http://www.business-humanrights.org/Updates>

Other websites to be familiar with include:

Special Representative on Business and Human Rights <http://www.business-humanrights.org/Gettingstarted/UNSpecialRepresentative>
Amnesty International USA: http://www.amnestyusa.org/Our_Issues/Business_and_Human_Rights/page.do?id=1011004&n1=3&n2=26
Human Rights Watch (hrw.org) <http://hrw.org/doc/?t=corporations>
Business Leader’s Initiative on Human Rights (BLIHR): <http://www.blihr.org/>
International Business Leaders Forum <http://www.iblf.org/>
Global Compact (human rights): http://www.unglobalcompact.org/Issues/human_rights/index.html

Realizing Rights: The Ethical Globalization Initiative: www.realizingrights.org
United Nations High Commission for Human Rights
<http://www2.ohchr.org/english/issues/globalization/business/>
Business for Social Responsibility www.bsr.org
Ethical Corporation www.ethicalcorp.org
National Labor Committee, <http://www.nlcnet.org/>
Corp Watch, <http://www.corpwatch.org/>

Session 1 July 8

Introduction to the Course

Review of objectives, assignments, readings (and guest lectures, field visits, films) and expectations. Assignment of student presentations.

Introductory lecture: Why do human rights matter for business? What is the difference between “corporate social responsibility and “business and human rights”?

Film viewing: When Silence is Golden, directed by Alexandra Sicotte-Lévesque

Readings:

Read The International Bill of Rights (UDHR, ICCPR and IESCR) at <http://www2.ohchr.org/english/law/> and be ready to comment on how businesses can impact (positively or negatively) on the rights and freedoms they seek to protect:

To supplement these, it may also be helpful to read two selections from Henry J. Steiner & Philip Alston, *International Human Rights in Context*, 2nd Ed.:
Civil and Political Rights, chapter 3, pages 136-146
Economic and Social Rights, chapter 4, pages 237-238, 242-249.

John Ruggie, “Protect, Respect and Remedy: A Framework for Business and Human Rights,” Report of the UN Special Representative on Business and Human Rights to the Human Rights Council, April 2008. <http://www.business-humanrights.org/Documents/RuggieHRC2008> (If you have time, read through some of the commentary on the report; we will be revisiting this report several times throughout the course.)

Christopher Avery, Director, Business & Human Rights Resource Centre, in Corporate Citizenship Briefing, Aug-Sep 2006 [[PDF](#)] [The difference between CSR and human rights](#)

Deborah Spar, Creating Corporate Social Responsibility, Democratic Leadership Council, June 1, 2000
http://www.ppionline.org/ndol/ndol_ci.cfm?contentid=964&kaid=115&subid=900026

“Are Transnationals Bigger Than Countries?” UNCTAD press release, 12 August 2002, at: <http://www.unctad.org/Templates/webflyer.asp?docid=2426&intlItemID=2079&lang=1>

“In-house lawyers get a wider role” Financial Times, 14 July 2005.

http://www.ft.com/cms/s/0/0aae85d8-f405-11d9-af32-00000e2511c8.html?nclick_check=1

Corporate Accountability Project measurement of countries and companies:
<http://www.corporations.org/system/top100.html>

Sane, Pierre. "Why Human Rights Should Matter to the Business World," *Earth Times News* January 8, 2001: www.globalpolicy.org/reform/2001/0108ps.htm

Two Amnesty International Publications:

Human Rights Principles for Companies, Amnesty International publication,
<http://www.amnesty.org/en/library/asset/ACT70/001/1998/en/dom-ACT700011998en.pdf>

Human Rights are Everybody's Business, (Amnesty International brochure on business and human rights.)
<http://www.amnesty.org/en/library/asset/POL34/008/2002/en/dom-POL340082002en.pdf>

Schulz, William F. *In Our Own Best Interest: How Defending Human Rights Benefits Us All*. Boston, 2001. (See especially the Introduction, Chapters 1 and 3. This is an optional, but really good read about the "case" for human rights.)

Session 2 July 10

The Role of the Corporation and the Question of Corporate Social Responsibility

Does business have, or should it have, have responsibilities beyond maximizing profit for its shareholders. Different theories on the role of the corporation in society will be considered and the theoretical arguments for businesses taking on human rights responsibilities as well as the principal challenges to that idea will be discussed.

Presentation One: One student will present Milton Friedman's perspective on whether business has social responsibilities.

Presentation Two: One student will present an example from the past six months in which a business has been implicated in human rights violations. The presentation should include the following

- A brief overview of the nature of the problem/controversy
- What types of human rights issues are involved?
- What, if any, international conventions or treaties being referred to as a basis for alleged human rights violations?
- What is the corporate defense?
- How did this particular issue or event get publicized?
- What is the proposed solution or has there been an outcome?
- What is your position on the case? If the corporation is denying any part of the allegations, is its position justified?

Guest Speaker: Rohit Malpani, Policy Advisor, Oxfam America speaking on pharmaceutical companies and their responsibility for ensuring access to medicines

Readings:

Milton Friedman, "The Social Responsibility of Business is to Increase its Profits", The New York Times Magazine, September 13, 1970.

<http://www.colorado.edu/studentgroups/libertarians/issues/friedman-soc-resp-business.html>

Samuel J. Palmisano "The Globally Integrated Enterprise" Foreign Affairs, Volume 85 No. 3, pages 127-136.

Robert Reich, "The New Meaning of Corporate Social Responsibility," California Management Review, Winter 1996, p 48.

"In Search of the Good Company", The Economist, 6 September 2007,

http://www.economist.com/business/displaystory.cfm?story_id=9767615

Alexei M. Marcoux, "Business Ethics Gone Wrong," Cato Policy Report, July 24, 2000

http://www.cato.org/pub_display.php?pub_id=4641

Christopher Avery, "Challenging traditional business thinking about human rights,"

Chapter 1, section 2 of *Business and Human Rights in a Time of Change*, November 1999, <http://www.reports-and-materials.org/Chapter3.htm#3.2>

Session 3 July 15

Perspectives on the Conduct of Businesses in Global Markets

Although globalization has presented companies with unique business opportunities, many companies have been completely unprepared for the challenges posed by new markets, in particular the pressures of operating in countries where governance is limited, the rule of law is lacking and there is little respect for human rights. This has gone in hand with increased awareness and interest of consumers and investors in the relationship between business and human rights, which has brought new pressures and created new opportunities for businesses.

This session is devoted to a study of the history of corporate social responsibility, some actual examples of major human rights challenges that companies have faced in recent years and how businesses have reacted to this new environment. While the previous class examined theoretical arguments for and against corporate responsibility for human rights, this class will take the debate to the level of companies and consider the factors that might motivate a company to address human rights risks and integrate social concerns into its operations.

Presentations: One student will present the business case for human rights and the other will present the human rights case for imposing such responsibilities on business.

Guest lecture: David Schilling, Human Rights Program Director, Interfaith Center for Corporate Responsibility

Readings:

Familiarize yourself with these major case studies/Issues:

- Shell Oil in Nigeria:
Summary profile of the case:
<http://www.business-humanrights.org/Categories/Lawlawsuits/Lawsuitsregulatoryaction/LawsuitsSelectedcases/ShellawsuitreNigeria>
“Special Report Nigeria, Nigeria’s Deadly Days”, Time, May 22, 2006.
<http://www.time.com/time/nation/article/0,8599,1193987,00.html>
- Union Carbide chemical factory explosion in Bhopal:
http://news.bbc.co.uk/onthisday/hi/dates/stories/december/3/newsid_2698000/2698709.stm
<http://www.business-humanrights.org/Categories/Lawlawsuits/Lawsuitsregulatoryaction/LawsuitsSelectedcases/UnionCarbideDowlawsuitreBhopal>
- Companies operating in Myanmar
Tobacco Giant Withdraws from Burma After Pressure from Government, at:
Investment in Burma:
www.commondreams.org/headlines03/1107-07.htm
Burma Campaign’s Dirty List:
<http://www.burmacampaign.org.uk/pm/weblog.php?id=P366>
US, British Oil Corporations Tied to Myanmar Human Rights Abuses
www.commondreams.org/headlines/052200-01.htm

Geoffrey Chandler, “Business and Human Rights: A Personal Account from the Frontline” in *Ethical Corporation*, Feb 11, 2008,
<http://www.ethicalcorp.com/content.asp?ContentID=5695>

Corporate Social Responsibility: Just Good Business, *The Economist*, Jan 17, 2008.
http://www.economist.com/specialreports/displaystory.cfm?story_id=10491077
(Deals with reasons why businesses seek to respect social responsibilities.)

Geoffrey Heal, “When Principals Pay: Corporate Responsibility and the Bottom Line,” talk at the Carnegie Council, May 21, 2008,
<http://www.cceia.org/resources/transcripts/0044.html>

CSR’s Impact on Brand Grows, Carol Holding, Policy Innovations, August 23, 2007
http://www.policyinnovations.org/ideas/commentary/data/csr_brand_impact

Jared Diamond, *Collapse: How Societies Choose to Fail or Succeed*, New York: Viking, 2004. For the business case on human rights read pages 441-452.

ISO Advisory Group on Social Responsibility, *Working Report on Social Responsibility*, 30 April 2004, chapter 1.1. pages 1-22, at:

http://inni.pacinst.org/inni/corporate_social_responsibility/WorkingReportonSR.pdf

David Coles, "What is the attitude of investment markets to corporate performance on human rights", chapter 7 (especially pages 96-98) in *Business and Human Rights: Dilemmas and Solutions*.

Human Rights Watch, "Corporations and Human Rights",
www.hrw.org/about/initiatives/corp.html.

Amnesty International, "Human Rights Principles for Companies", on other arguments for respecting human rights read at least pages 1-3, available at

[http://web.amnesty.org/library/pdf/ACT700011998ENGLISH/\\$File/ACT7000198.pdf](http://web.amnesty.org/library/pdf/ACT700011998ENGLISH/$File/ACT7000198.pdf)

Session 4 July 17

**Final paper topics due.

**CEO memos due

The Business and Human Rights Framework – Existing International Instruments

A number of international instruments are relevant to and are a potential source of business' human rights responsibilities. In this session we will explore the legal and normative framework set by the UN, ILO and the OECD with respect of businesses. The focus will be on introducing the human rights aspects of these instruments and discussing their respective contributions to the field.

For this class, each student will be asked to specialize in a certain standard or code and participate on a panel that will discuss the nature, core content, advantages and disadvantages, impact to date and likely future relevance of the standard/code. There will be two panels (see below under "Readings.")

On the first panel, students will serve as "experts" on the principal international norms/standards relevant to the social responsibility of corporations:

Panel one:

- UN Global Compact: www.unglobalcompact.org
- Draft Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights, available at: [www.unhchr.ch/huridocda/huridoca.nsf/\(Symbol\)/E.CN.4.Sub.2.2003.12.Rev.2.En?OpenDocument](http://www.unhchr.ch/huridocda/huridoca.nsf/(Symbol)/E.CN.4.Sub.2.2003.12.Rev.2.En?OpenDocument) & www1.umn.edu/humanrts/links/norms-Aug2003.html
- International Labor Organization Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, available at: www.ilo.org/public/english/employment/multi/
- OECD Guidelines for Multinational Enterprises, available at www.oecd.org/daf/investment/guidelines

On the second panel, students will serve as "experts" on selected verification or

certification schemes that serve to inform companies or the market about the performance of businesses in meeting corporate social responsibility standards.

Panel two:

- Global Reporting Initiative: www.globalreporting.org
- The Fair Trade International Certification System
- FTSE4Good Index, at:
http://www.ftse.com/Indices/FTSE4Good_Index_Series/index.jsp

Guest speaker: Ursula Wynhoven, Head, Policy and Legal, United Nations Global Compact

Readings:

Report of the United Nations High Commissioner on Human Rights on the responsibilities of transnational corporations and related business enterprises with regard to human rights, E/CN.4/2005/91, 15 February 2005:
<http://www.ohchr.org/english/bodies/chr/sessions/61/lisdocs.htm>.

Harold Hongju Koh "Separating Myth from Reality about Corporate Responsibility Litigation" *Journal of International Economic Law*, June 2004, 7, 263-274.

Optional Readings:

Business and Human Rights: Dilemmas and Solutions edited by Rory Sullivan, Insight Investment, UK Nov. 2003. See especially chapters 2, 3.

Report of the UNHCHR on the responsibilities of transnational corporations and related business enterprises with regard to human rights, E/CN.4/2005/91, 15 February 2005 (considers the scope and legal status of existing initiatives and standards on business responsibilities for human rights)
<http://www.ohchr.org/english/bodies/chr/sessions/61/lisdocs.htm>

Sub-Commission on the Promotion and Protection of Human rights, "Commentary on the Norms on the responsibilities of transnational corporations and other business enterprises with regards to human rights" (E/CN.4/Sub.2/2003/38/Rev.2), 26 August 2004, can be found at: http://ap.ohchr.org/documents/dpage_e.aspx?s=58

Upendra Baxi, "Market Fundamentalism: Business Ethics at the Altar of Human Rights," downloadable from: <http://hrlr.oxfordjournals.org/cgi/content/abstract/5/1/1>

ILO, "Follow-up to the Symposium on the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy and related multilateral initiatives" (GB.291/MNE/1), Geneva, November 2004.

International Council on Human Rights, "Beyond Voluntarism: Human rights and the developing international legal obligations of companies", chapter IV pages 45-55 and VIII, pages 143-155

ISO Advisory Group on Social Responsibility, *Working Report on Social Responsibility*, 30 April 2004, chapter 1.8, available at:

http://inni.pacinst.org/inni/corporate_social_responsibility/WorkingReportonSR.pdf

The Global Compact, *Embedding Human Rights in Business Practice*, chapter on Understanding the Global Compact Human Rights Principles, and chapter on Implementing the Global Compact Human Rights Principles, A.P. Ewing, at: <http://www.ohchr.org/english/about/publications/docs/EHRBP.pdf>; "[Embedding Human Rights in Business Practice II](#)", UN Global Compact & OHCHR

OECD and Global Compact Office, "Complementarities and Distinctive Contributions of the OECD Guidelines and UN Global Compact", 2005.

Commission on Human Rights, resolution 2005/69
<http://www.derechos.org/nizkor/econ/corporations.html>

John Ruggie "Business and Human Rights: The Evolving International Agenda" Corporate Social Responsibility Initiative, Working Paper No. 38, Cambridge MA: John F. Kennedy School of Government, Harvard University, June 2007.
http://www.hks.harvard.edu/m-rcbg/CSRI/publications/workingpaper_38_ruggie.pdf

David Kinley, Justine Nolan and Natalie Zerial "The politics of corporate social responsibility: Reflections on the United Nations Human Rights Norms for Corporations" (2007) 25 C & SLJ 30.

Human Rights Standards and the Responsibility of Transnational Corporations, M.K. Addo (ed.), Springer, 1999.

Session 5 July 22

Business and Labor Rights

Are labor rights human rights? This session will explore in greater depth the human rights responsibilities of business with respect to their workforce and consider some of the dilemmas that arise for business in this context. The class will also look at how labor-related human rights issues may arise in companies' supply chains.

Guest speaker: Marcela Manubens, Senior Vice President, Global Human Rights & Social Responsibility Programs

Readings:

Denis G Arnold, "Human Rights and business: an ethical analysis," Chapter 5, *Business and Human Rights: Dilemmas and Solutions*.

Nicholas Kristoff and Sheryl WuDunn, "Two Cheers for Sweatshops," New York Times Magazine. <http://www.nytimes.com/library/magazine/home/20000924mag-sweatshops.html>

Philip Alston "Labour Rights as Human Rights: The Not So Happy State of the Art" ch. 1

in Philip Alston (ed), *Labour rights as Human Rights*, Oxford University Press 2005.

Corporations and Human Rights: Freedom of Association in Maquila, Human Rights Watch Report, <http://www.hrw.org/reports/1997/guat2/>

David Kinley & Junko Tadaki, "From Talk to Walk: The Emergence of Human Rights Responsibilities for Corporations at International Law", *Virginia Journal of International Law*, pages 973-983.

B.A. Kazmi and M. Macfarlane, "Elimination of child labor: business and local communities" ch. 14, in Rory Sullivan (ed.), *Business and Human Rights: Dilemmas and Solutions*, Greenleaf Publishing, pages 181-196.

D. Leipziger and E Kaufman, "SA 8000: Human rights in the workplace" ch. 15 in Rory Sullivan (ed.), *Business and Human Rights: Dilemmas and Solutions*, Greenleaf Publishing, 2003, pages 197-206.

Janet Williamson, "Labour Rights are Human Rights" *New Academy Review* Volume 2, No. 1, Spring 2003, pages 15-17.

Jedrzej George Frynas "The Transnational Garment Industry in South and South-East Asia: a Focus on Labor Rights, ch. 8 in Jedrzej Georg Frynas and Scott Pegg (eds), *Transnational Corporations and Human Rights*, Palgrave Macmillan, 2003.

Raul C. Pangalangan, *Sweatshops and International Labor Standards: Globalizing Markets, Localizing Norms*, ch. 5 in Alison Brysk, *Globalization and Human Rights*, California University Press, 2002.

Human Rights Watch "Blood, Sweat, and Fear: Workers' Rights in U.S. Meat and Poultry Plants" January 2005, Executive Summary, available at http://www.hrw.org/doc/?t=corporations_briefings

ICFTU, Annual Survey of Violations of Trade Union Rights, 2005 available at <http://www.icftu.org/survey2005.asp?language=EN>

International Council on Human Rights Policy, *Beyond Voluntarism*, 2002, pages 28-34 available at: http://www.ichrp.org/paper_files/107_p_01.pdf

Websites: www.fairlabor.org; www.workersrights.org; www.ilo.org; www.hrw.org/labor/

Session 6 July 24

The Business and Human Rights Framework – Regulatory vs. Voluntary Approaches

In reaction to growing pressure to integrate social responsibilities, independent businesses (e.g. Levi Strauss, Shell and Nike) and certain business sectors (e.g. financial institutions, the diamond industry, the chocolate industry) have adopted corporate codes of conduct. Such codes usually being voluntary in nature have spurred

a debate about their effectiveness in ensuring respect for human rights and whether binding social obligations should be imposed on businesses. The key theme for this class is to explore the respective roles of regulatory and voluntary approaches in enhancing corporate respect for and promotion of human rights.

Presentations/Debate topic: “Voluntary business codes are sufficient to ensure businesses promote human rights. International regulations are unnecessary.” One student will present the case for a regulatory approach to business and human rights including the case for binding international law imposing responsibilities on business. Another student will present the case for voluntary approaches to business and human rights, explaining their contribution to businesses integrating social concerns into their business practices.

Readings:

“Who Can Protect Workers' Rights? The Workplace Codes of Conduct Debates” *Human Rights Dialogue*, Series 2, No. 4 (Fall 2000) See especially essays by Trinh Duong, Medea Benjamin, and Thomas Donaldson.

http://www.cceia.org/resources/publications/dialogue/2_04/index.html

ISO Advisory Group on Social Responsibility, *Working Report on Social Responsibility*, 30 April 2004, chapter 1.9, pages 44-47, available at:

http://inni.pacinst.org/inni/corporate_social_responsibility/WorkingReportonSR.pdf

International Council on Human Rights “Beyond Voluntarism: Human rights and the developing international legal obligations of companies”, read section on The Importance and Relevance of International Law, pages 7-19, at:

http://www.ichrp.org/paper_files/107_p_01.pdf

David Kinley & Junko Tadaki, “From Talk to Walk: The Emergence of Human Rights Responsibilities for Corporations at International Law”, 931 *Virginia Journal of International Law* vol. 44 (2004), pages 952-960.

Statement of the US mission in Geneva, September 2004, arguing against any legally binding effects of the UN Norms, at:

<http://www.ohchr.org/english/issues/globalization/business/docs/us.pdf>, you may also want to check out Amnesty International’s discussions of the US response and the UN Norms in this context, at: http://www.amnestyusa.org/business/un_norms.html

Arvind Ganesan “Is 2007 the End for Voluntary Standards? December 2006.

<http://hrw.org/english/docs/2006/12/12/global14872.htm>

Lisa Misol, “Private Companies and the Public Interest: Why Corporations Should Welcome Global Human Rights Rules,” Human Rights Watch:

<http://hrw.org/wr2k6/corporations/>

Penelope Simons, “Corporate Voluntarism and Human Rights: The Adequacy and Effectiveness of Voluntary Self-Regulation Regimes,” *Relation Industrielles*, Winter 2004 (59,1), pages 101-139.

<http://www.erudit.org/revue/ri/2004/v59/n1/009129ar.html>

S. P. Sethi, "Corporate Codes of Conduct and the Success of Globalization", in Andrew Kuper (ed.), *Global Responsibilities: Who Must Deliver on Human Rights?* New York: Routledge, 2005.

Legal Issues in Corporate Citizenship, pages 1-5 at:
<http://www.iied.org/pubs/pdf/full/16000IIED.pdf>

Amartya Sen, "Human Rights and the Limits of Law" 27 *Cardozo Law Review* 2913 (2006).

Session 7 July 29

Business in Failing States – Conflict and Corruption

Doing business in failed or failing states raises intricate business and human rights questions, especially where there is rampant corruption and civil conflict. This session will explore some of these issues focusing on the issue of bribery and the potential for companies to contribute to peace-building or, conversely, exacerbate the conflict.

Presentation: One or two students will give a presentation on a conflict zone and discuss whether and how businesses are implicated. Should the business remain in the region? What criteria are relevant to making such a decision?

Readings:

Jessica Banfield, "From fuelling conflict to oiling the peace: harnessing the peace-building potential of extractive sector companies operating in conflict zones", chapter 17 in Rory Sullivan, *Business and Human Rights: Dilemmas and Solutions*.

Global Compact Business Guide for Conflict Impact Assessment and Risk Management, http://www.unglobalcompact.org/docs/issues_doc/7.2.3/BusinessGuide.pdf

The Voluntary Principles on Security & Human Rights, www.state.gov/g/drl/rls/2931.htm.

David Hess and Thomas Dunfee, "Taking responsibility for bribery: the multinational corporation's role in combating corruption, chapter 20 *Business and Human Rights: Dilemmas and Solutions*, pages 260-271.

Human Rights Watch "The curse of gold" report June 2005 and Ashanti's response.

A. Wawryk, "Corporate Responsibility for Preventing Human Rights Abuses in Conflict Areas", chapter 4 in *Transnational Corporations and Human Rights*, J.G. Frynas and S. Pegg (eds).

J.G. Frynas, "The Oil Industry in Nigeria: Conflict between Oil Companies and Local People", *Transnational Corporations and Human Rights*, J.G. Frynas and S. Pegg (eds), UNHCR Report, Promotion and Protection of Human Rights, E/CN.4/2006/92, available at: <http://www.ohchr.org/english/bodies/chr/sessions/62/listdocs.htm>.

Global Compact, *Embedding Human Rights in Business Practice*, case study on Total in Burma.

John R. Boatright, *Ethics and the Conduct of Business*, 4th edition, pages 427-431 (on bribery).

International Council on Human Rights “Beyond Voluntarism: Human rights and the developing international legal obligations of companies”, chapter VIII, pages 143-155 (on standard setting, conflict diamonds etc.)

S. Handelsman, “Mining in Conflict Zones”, chapter 10 in *Business and Human Rights: Dilemmas and Solutions*.

G. MacDonald and T. MacLaughlin, “Extracting conflict”, chapter 18 in *Business and Human Rights: Dilemmas and Solutions*.

B. Freeman, “Managing risk and building trust: the challenge of implementing the Voluntary Principles on Security and Human Rights”, chapter 19 in *Business and Human Rights: Dilemmas and Solutions*.

UN Global Compact Office, *Enabling Economies of Peace: Public Policy for Conflict-Sensitive Business*, 2004.

International Alert, *Conflict-Sensitive Business Practice: Guidance for Extractive Industries*, 2004.

Margaret Jungk, “Deciding Whether to do Business in States with Bad Governments”, at <http://rru.worldbank.org/documents/PapersLinks/6387.pdf> (Lays down criteria for determining to engage with a bad government).

Exxon-Mobil in Aceh, John Doe 1, et al. v. Exxon Mobil Corp., et al., No. 01CV01357 (D.D.C. filed June 19, 2001). Complaint at: <http://www.laborrights.org/projects/corporate/exxon/index.html>

International Alert, *Transnational Corporations in Conflict Prone Zones: Public Policy Responses and a Framework for Action*, 2003, at: <http://www.international-alert.org/publications/55.php>

International Alert, *Conflict-Sensitive Business Practice: Guidance for Extractive Industries*, at: http://www.international-alert.org/pdfs/conflict_sensitive_business_practice_all.pdf

Angelina Terry, “The Impact of oil Companies on the Conflict in Sudan”, *New Academy Review*, Spring 2003, Vol 2(1)

International Alert, *Red Flags: Liability Risks for Companies Operating in High Risk Zones*, <http://www.redflags.info/>

Salil Tripathi, *Trade and Security Trump Democracy in Burma*, *Yale Global*, October 4, 2007 <http://yaleglobal.yale.edu/display.article?id=9764>

Session 8 July 31

The Concepts of Sphere of Influence and Corporate Complicity in Human Rights abuse: What are the Boundaries of Business' Human Rights Responsibilities?

If we accept that businesses have some responsibilities for human rights (whether legal and/or moral), how far should those responsibilities extend and whose human rights should business be concerned about? The concept of complicity (whether legal and/or moral) is central to the evolving debate about the nature and scope of business' human rights obligations. It relates to the situation where a company contributes to or benefits from or is silent in the face of human rights abuse that someone else (a government, another company, a rebel group etc) is committing. This class explores the latest thinking on what the concept means in a business and human rights context.

This class looks at the concepts of "sphere of influence" and corporate complicity – to help understand where government responsibility leaves off and business responsibility kicks in.

Presentation: One student will make a presentation exploring the circumstances under which it might be appropriate for a business to raise with the government of a country in which it is operating human rights concerns.

Readings:

Promotion and Protection of All Human Rights, civil, political, economic, social and cultural rights, including the right to development: Clarifying the Concepts of "Sphere of influence" and "Complicity," Report of the Special Representative of the Secretary-General on the Issue of Human Rights and Transnational Corporations and other Business Enterprises, John Ruggie <http://www.reports-and-materials.org/Ruggie-companion-report-15-May-2008.pdf>

OHCHR, The Global Compact and Human Rights: Understanding Sphere of Influence and Complicity, 2004, available at:
http://www.unglobalcompact.org/Issues/human_rights/gc_and_human_rights.pdf

David Kinley & Junko Tadaki, "From Talk to Walk: The Emergence of Human Rights Responsibilities for Corporations at International Law", Virginia Journal of International Law, pages 960-972.

Report of the UNHCHR on Human Rights on the responsibilities of transnational corporations and related business enterprises with regard to human rights, pages.13-14 available at
<http://www.ohchr.org/english/bodies/chr/docs/61chr/E.CN.4.2005.12.pdf>

Defining the Scope of Business Responsibility for Human Rights Abroad, at:
http://www.humanrightsbusiness.org/pdf_files/Defining%20the%20Scope%20of%20Business%20Responsibility%20.pdf

“Business and Human Rights: Mapping International Standards of Responsibility and Accountability for Corporate Acts” Report of the Special Representative of the Secretary-General (SRSG) on the issue of human rights and transnational corporations and other business enterprises, A/HRC/4/035, 9 February 2007, <http://www.business-humanrights.org/Documents/SRSG-report-Human-Rights-Council-19-Feb-2007.pdf>, para 87.

“Corporate Responsibility to Respect Human Rights”, Meeting report, Geneva 4-5 December 2007, pages 6-7, <http://www.reports-and-materials.org/Ruggie-Geneva-4-5-Dec-2007.pdf>

International Council on Human Rights Policy, *Beyond Voluntarism*, 2002, pages 45-75 available at: http://www.ichrp.org/paper_files/107_p_01.pdf

Frans-Paul van der Putten, Gemma Crijns and Harry Hummels “The ability of corporations to protect human rights in developing countries” ch. 6 in Rory Sullivan (ed.), *Business and Human Rights, Dilemmas and Solutions*, Greenleaf Publishing, 2003, pages 82-91.

Wilton Park conference report on Business and Human Rights: Advancing the Agenda available at www.wiltonpark.org.uk/themes/economic/pastconference.aspx?confref=WPS05/33

Spheres of Influence: Understanding Human Rights in Business, the 2004 Business and Human Rights Seminar Report, 9 December 2004, at: <http://www.bhrseminar.org/2004%20Documents.htm>

Complicity -

OHCHR, *The Global Compact and Human Rights: Understanding Sphere of Influence and Complicity*, 2004 available at: http://www.unglobalcompact.org/Issues/human_rights/gc_and_human_rights.pdf

A. Clapham and S. Jerbi, “Categories of Corporate Complicity in Human Rights Abuses”, at: <http://198.170.85.29/Clapham-Jerbi-paper.htm>

John G. Ruggie, Business & Human Rights Seminar, London Dec. 2005 at: <http://www.business-humanrights.org/Links/Repository/987023>

Paul Watchman, “Complicity: Charting a Path Through the Conceptual Minefield,” Business & Human Rights Seminar, London Dec. 2005 at: <http://www.bhrseminar.org/Paul%20Watchman%20-%20Business%20and%20Human%20Rights%20Conference%208%20Dec%202005.DOC>

“Corporate Responsibility to Respect Human Rights”, Meeting report, Geneva 4-5 December 2007, pages 7-8, <http://www.reports-and-materials.org/Ruggie-Geneva-4-5-Dec-2007.pdf>

“Yahoo! Risks Abusing Rights in China”, available at: www.hrw.org/press/2002/08/yahoo080902.htm

“Caterpillar should suspend bulldozer sales” available at:
<http://hrw.org/english/docs/2004/11/22/isrlpa9711.htm>

Exploring Responsibility and Complicity: Understanding Human Rights in Business, the 2005 Business and Human Rights Seminar Report, 8 December 2005, at:
<http://www.bhrseminar.org>

Margaret Jungk, the Human Rights & Business Project “Complicity in Human Rights Violations: A Responsible Business Approach to Suppliers” 2006, available at:
http://www.humanrightsbusiness.org/pdf_files/Complicity%20in%20HR%20Violations_working%20paper.pdf

Andrew Clapham “Corporate Complicity in Violations of International law: Beyond Unocal” in W.P. Heere (ed.), *From Government to Governance: The Growing Impact of Non-State Actors on the International and European Legal System*, The Hague, TMC Asser Press 2004, pages 227-238.

Wilton Park conference report on Business and Human Rights: Advancing the Agenda available at
www.wiltonpark.org.uk/themes/economic/pastconference.aspx?confref=WPS05/33

Andrew Clapham “State Responsibility, corporate responsibility and complicity in human rights violations” in L. Boman-Larsen and O. Wiggen (eds), *Responsibility in World Business: Managing Harmful Side-effects of Corporate Activity*, Tokyo, UN University Press 2004, 50-81

Session 9 August 5

Managing Human Rights Risk: The Business Perspective

Earlier classes have explored why human rights are or should be a business issue. The class will explore what business can do, from a management perspective, to minimize the risk of impinging on human rights in their business operations, activities and sphere of influence.

Presentation: Based on an analysis of a variety of companies’ human rights policies, one student will make a presentation describing the typical components of such a policy, highlighting any particularly innovative or interesting provisions that some policies contain. Another student will present the concept of human rights risk and impact assessment and introduce some of the tools and resources that companies can use to help identify the human rights risks that they face and the human rights impacts that their business has or may have.

Readings:

Toby Webb, “Essay: Governance and institutions – Big brands’ capacity-building success” in Ethical Corporation, June 16, 2008.
<http://www.ethicalcorp.com/content.asp?ContentID=5962>

Guide for Implementing Human Rights in Business Practice, available on the home page of www.blihr.org under “Reports & Tools.”

R. Sullivan, From the inside looking out: a management perspective on human rights, Business and Human Rights, ch. 8 in Rory Sullivan (ed.), *Business and Human Rights, Dilemmas and Solutions*, Greenleaf Publishing, 2003.

Case studies in GCO/OHCHR, *Embedding Human Rights in Business Practice*, November 2004.

Companies with human rights policies section of Business & Human Rights Resource Centre: <http://www.business-humanrights.org/Categories/Company policysteps>

Consider how country reports prepared by organizations like Human Rights Watch (*World Report 2006* available for download at <http://hrw.org/wr2k6/>), Amnesty International (*Report 2005: the State of the World's Human Rights*, parts of which are available for download for free at <http://www.amnesty.org/ailib/aireport/index.html>), the US Government Department of State (*Country Report on Human Rights Practices* available for download at <http://www.state.gov/g/drl/rls/hrrpt/2004/index.htm>), the Danish Institute for Human Rights Country Risk Assessment Reports, executive summaries of which are available for download at http://www.humanrightsbusiness.org/070_country_risk.htm) could be used by companies in assessing their exposure to the risk of human rights abuse and complicity in human rights abuse by others.

“Business recognition of human rights: Global patterns, regional and sectoral variations” Addendum to the Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, available at <http://www.ohchr.org/english/bodies/hrcouncil/docs/4session/A.HRC.4.35.Add.4.pdf>

“Human rights policies and management practices: results from questionnaire surveys of Governments and the Fortune Global 500 firms” available at <http://www.ohchr.org/english/bodies/hrcouncil/docs/4session/A.HRC.4.35.Add.3.pdf>

Raising the Bar, Creating Value with the UN Global Compact, Greenleaf 2004 (on reserve in the library).

“Human rights impact assessments - resolving key methodological questions” available at <http://www.business-humanrights.org/Documents/Ruggie-report-human-rts-impact-assessment-5-Feb-2007.doc>

Halina Ward, Legal Issues in Corporate Citizenship, February 2003, pages 27-30 available at: <http://www.iied.org/pubs/pdf/full/16000IIED.pdf>

Read about the Danish Institute for Human Rights compliance assessment tool: www.humanrightsbusiness.org

IBLF and Amnesty International, Human Rights: Is it any of your business? at: <http://www.iblf.org/resources/general.jsp?id=81>

IBLF, Human Rights: It is Your Business at:
<http://www.iblf.org/resources/general.jsp?id=123709>

Session 10 August 7

Corporate Accountability: Legal and non-legal means of seeking redress against businesses

This session will canvas the available means to seek redress against businesses and their executives for human rights abuse. Most countries have domestic law imposing some human rights responsibilities on business operating within their jurisdiction: key examples are occupational health and safety law, anti-discrimination and equal opportunity law and laws proscribing the employment of children under a certain age. While a number of countries have introduced criminal law making it a crime to bribe foreign public officials, many countries do not yet have laws that purport to have extraterritorial application that would enable holding to account a business for human rights abuse committed abroad. Yet, the number of jurisdictions in which charges of international crimes may be brought against corporations is increasing as countries ratify the Statute of the International Criminal Court and incorporate its definitions into domestic law, where that domestic law already provides for criminal liability for companies.

The application of the United States Alien Tort Claims Act and other means of seeking civil redress for human rights abuse in which business is involved will also be discussed. The class will also reference the soft law follow up mechanisms of voluntary initiatives, such as the OECD Guidelines for Multinational Enterprises and the ILO Tripartite Declaration.

Presentations: Four students will pick a case from the Resource Centre's Corporate Legal Accountability Portal, explain the case and why it is a human rights case. Drawing upon oral arguments based on pleadings at a particular point in the case, one student will be the corporate counsel on the case and the other student can be the victim's counsel. The rest of us will be the judge.

Guest Speaker: Caroline Rees, Research Fellow, Corporate Social Responsibility Initiative, Mossavar-Rahmani Center for Business and Government, Harvard University speaking on non-legal means of redress.

Readings:

Business & Human Rights Resource Centre, Corporate Accountability Portal (in progress).

"Business and Human Rights: Mapping International Standards of Responsibility and Accountability for Corporate Acts" Report of the Special Representative of the Secretary-General (SRSG) on the issue of human rights and transnational corporations and other business enterprises, 9 February 2007, available at <http://www.business-humanrights.org/Documents/SRSG-report-Human-Rights->

Council-19-Feb-2007.pdf

Olivier De Schutter "The Accountability of Multinationals for Human Rights Violations in European Law, ch. 7 in P. Alston (ed.), *Non-State Actors and Human Rights*, Oxford, 2005, pages 262-294.

Sarah Joseph, *Corporations and Transnational Human Rights Litigation*, Hart Publishing 2004, pages 8-20.

Peter T. Muchlinski, *Multinational Enterprises & the Law*, Second edition, 2007, pages 525-536.

Elliot Schrage "Emerging Threat: Human Rights Claims" Harvard Business Review, August 2003, 1-3.

Halina Ward, Legal Issues in Corporate Citizenship, February 2003, pages 7-24, at: <http://www.iied.org/pubs/pdf/full/16000IIED.pdf>

Sarah Joseph, *Corporations and Transnational Human Rights Litigation*, Hart Publishing 2004, remainder of the book.

Marisa Anne Pagnattaro, "Enforcing International Labor Standards: The potential of the ATCA" Vanderbilt Journal of Transnational Law, Vol 37 (1), January 2004, 203-63.

Stefan Kirchner "From Government to Governance? The Growing Impact of Non-State Actors on the International and European Legal System" - 6th ASIL / NVIR / T.M.C. Asser Institute Joint Conference in The Hague, 3-5 July 2003, pages 833-38 available at: http://www.germanlawjournal.com/pdf/Vol04No08/PDF_Vol_04_No_08_827-850_legalcult_Kirchner.pdf

Beth Stephens "Upsetting Checks and Balances: The Bush Administration's Effort to Limit Human Rights Litigation" Harvard Human Rights Journal 17, 2004, 169-205 available at www.law.harvard.edu/students/orgs/hri/iss17/stephens.shtml

Review the follow up mechanisms of the OECD Guidelines for Multinational Enterprises: www.oecd.org/daf/investment/guidelines and the International Labour Organization's Tripartite Declaration: <http://www.ilo.org/public/english/employment/multi/>

Global Exchange "Most Wanted Corporate Human Rights Violators of 2005" available at www.globalexchange.org/getInvolved/corporateHRviolators.html

B. Stephens and M. Ratner, *International Human Rights Litigation in U.S. Courts*, 1996.

International Council on Human Rights Policy, *Beyond Voluntarism*, 2002, chapters 4-6, pages 77-117 available at: http://www.ichrp.org/paper_files/107_p_01.pdf

David Kinley & Junko Tadaki, "From Talk to Walk: The Emergence of Human Rights Responsibilities for Corporations at International Law," *Virginia Journal of International Law*, pages 993-1020.

Benjamin Berkowitz, “*Sosa v. Alvarez-Machain*: United States Courts as Forums for Human Rights Cases and the New Incorporation Debate” Harvard Civil Rights – Civil Liberties Law Review, Vol 40(1), 2005 available at:
http://www.law.harvard.edu/students/orgs/crcl/vol40_1/berkowitz.php

FAFO and International Peace Academy “Business and International Crimes: Assessing the Liability of Business Entities for Grave Violations of International Law” available at www.fafo.no/liabilities

Optional:

“In Justice, Corporate Deals Replace Trials,” Eric Lichtblau, The New York Times, April 9, 2008.
<http://www.nytimes.com/2008/04/09/washington/09justice.html?scp=2&sq=deferred+prosecutions&st=nyt>

Session 11 August 12

The Positive Impact of Business on Human Rights and Development

This session looks at the positive contribution that business can make to development and human rights in developing countries. Among other things, business can generate much needed employment and wealth. They can also contribute to development through adhering to high standards of corporate governance and citizenship. They have human, technical and organizational capacities with direct applications to many aspects of development. They can engage in corporate philanthropy and public-private partnerships for development. Finally, they can advocate for the Millennium Development Goals (MDGs) and contribute to policy design.

Presentation: One student will present the MDGs and explain their relevance for human rights, as well as offer a few concrete examples of how some companies are helping to advance economic, social and cultural rights in developing countries, whether alone or in partnership with other organizations.

Guest Speaker: Christine Bader, Special Assistant to the UN Special Rapporteur on Business and Human Rights and BP

Readings:

The Millennium Development Goals available at <http://www.un.org/millenniumgoals/>

Mary Robinson “The MDGs and human rights – A role for business” Sustainable Development International, 15, August 2005, pages 67-8 available at:
<http://www.sustdev.org/getfile.php?id=203>

“Interview with Mary Robinson and Heather Grady, Getting the Private Sector to do its bit” Alliance magazine, Vol. 10, No 3, September 2005 available at:
<http://www.allavida.org/alliance/sep05l.html>

Secretary-General's address to a meeting on "The Business Contribution to the Millennium Development Goals", Paris, 14 June 2005, available at <http://www.un.org/apps/sg/sgstats.asp?nid=1508>

UN Millennium Project, *A Practical Plan to Implement the Millennium Development Goals*, ch. 9 on Contributions of the Private Sector, January 2005, available at <http://www.unmillenniumproject.org/reports/fullreport.htm>

Skim Shell Foundation, *Enterprise solutions to poverty: Opportunities and Challenges for the International Development Community and Big Business*, March 2005 available at [http://www.shellfoundation.org/download/pdfs/Shell Foundation Enterprise Solutions to Poverty.pdf](http://www.shellfoundation.org/download/pdfs/Shell_Foundation_Enterprise_Solutions_to_Poverty.pdf)

UNDP & IBLF, *Business and the MDGs: A Framework for Action*, 2005 available at <http://www.iblf.org/docs/MDG32pp.pdf>

WBCSD, *Business for Development – Business Solutions in Support of the Millennium Development Goals*, September 2005, available at <http://www.wbcd.org/templates/TemplateWBCSD2/layout.asp?type=p&MenuId=MTY2&doOpen=1&ClickMenu=LeftMenu>

Recommendations from Conference Participants to Governments, UN Global Compact Conference: The Business Contribution to the Millennium Development Goals available at http://www.unglobalcompact.org/docs/issues_doc/7.3/7.3.1/mdg_paris.pdf

Human Rights in Development website: www.unhchr.ch/development/

Business Action for Development, Report from a symposium, 24-25 May 2005,

Confederation of Indian Industry, Tata Steel and the Indian Global Compact Society, Corporate Responsibility in South Asia: Building Corporate Citizenship into Business Ethics, 2005, pages 5-7 (available at http://www.unglobalcompact.org/docs/issues_doc/7.6/mdg_jamshed.pdf or in hardcopy on reserve in the library).

Nestle, the community and the United Nations Millennium Development Goals available at [http://www.nestle.com/Our Responsibility/Nestle Community/Nestle%20Community%20and%20the%20Community.htm](http://www.nestle.com/Our_Responsibility/Nestle_Community/Nestle%20Community%20and%20the%20Community.htm)

World Economic Forum, Global Governance Initiative, Annual Report 2006 available at: www.weforum.org/pdf/Initiatives/GGI_Report06.pdf

Session 12 August 14

This session will be decided as the class proceeds, depending on student interests either for further exploration of a topic addressed above or a new topic that the class had not yet addressed.