



**RIGA
GRADUATE
SCHOOL OF
LAW**

Course Outline

Course number					
Course title	Human Rights and Business				
Credit points	3 ECTS (2 CP)				
Total hours	80				
Contact hours	24				
Independent studies	56				
Course level	Masters				
Prerequisites	None				
Category	Mandatory		Restricted elective		Free elective

COURSE RESPONSIBLE

<i>Name</i>	<i>Academic degree</i>	<i>Academic position</i>
George Ulrich	PhD	Professor

COURSE TEACHERS

<i>Name</i>	<i>Academic degree</i>	<i>Academic position</i>
George Ulrich	PhD	Professor
Jernej Letnar Čerňič	PhD	Visiting Professor

COURSE ABSTRACT

The course examines international standards and implementation and monitoring activities related to business and human rights, which will be viewed in the wider perspective of attributing responsibilities for compliance with international human rights standards to non-state actors (NSAs). Special attention will be paid to the work of the former UN Special Representative on business and human rights and the UN Working Group on the issue of human rights and multinational corporations (MNC) and the UN Inter-governmental Working Group on the potential UN treaty on business and human rights. We will

examine the legal nature of state and corporate responsibility and accountability for business-related human rights abuses. In addition, it analyses issues of legal personality of MNCs under international law, judicial and quasi-judicial responses to liability of MNCs for human rights violations, and the human rights of companies. The course will end with an examination of possible responsibilities of international financial institutions (IFIs) in relation to human rights and of tensions at the intersection between intellectual property rights and human rights.

GRADING CRITERIA

<i>Criteria</i>	<i>Weighting</i>
Final exam	100%

COURSE REQUIREMENTS

Participation

To fully benefit from this course, students are expected to participate actively in all sessions, part of which will be discussion-led. Students are expected to review the materials assigned by the lecturers before the relevant class.

Whereas input for the lecture sessions is mainly delivered by the course teachers, students are expected to actively participate in the seminar discussions. Seminar sessions will rely heavily on in-class discussion and peer-to-peer learning. It is especially important to read the assigned materials before attending seminars.

Examination

The course will have only one examination component: the final exam (100% of the final grade). The final exam will be a take-home exam assigned after the final course session. It will consist of two equally weighted parts, which comprise theoretical questions and a synoptic case analysis. Students must pass the final exam in order to complete the course.

Camera policy

Six sessions of the course will be delivered in person and six will be held online. When online, the course has a “camera on” policy given the high level of personal interaction required to accomplish the learning outcomes.

COURSE PLAN – MAIN SUBJECTS

<i>No.</i>	<i>Main subjects</i>	<i>Planned hours</i>
1	Globalisation and human rights obligations of non-state actors	2
2	Human rights standards and business	6
3	Business, development and human rights and the role of International Financial Institutions	4
4	International legal responsibility and business	4
5	Corporate social responsibility and the role of courts and international institutions	6
6	Human rights of companies	2

COURSE PLAN – SESSIONS

<i>Session</i>	<i>Session subjects and readings</i>	<i>Lecture/ Seminar</i>
1	Course introduction; human rights and business compliance assessment tools Readings: Andrew Clapham, 'Non-State Actors' (OUP 2018)	Lecture
2	UN Guiding Principles on Business and Human Rights Readings: <ul style="list-style-type: none"> Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework, report of the special representative John Ruggie, A/HRC/17/31, 21 March 2011 http://www.business-humanrights.org/media/documents/ruggie/ruggie-guiding-principles-21-mar-2011.pdf 	Lecture
3	Obligations of States in the context business activities, including extra-territorial obligations Readings: <ul style="list-style-type: none"> CESCR General Comment 24 (UN doc. E/C.12/GC/24) OEIGWG, Legally Binding Instrument to Regulate, in International Human Rights Law, the Activities of Transnational Corporations and Other Business Enterprises, third revised draft August 2021 Jernej Letnar Černič, Christian Bukor, The Potential United Nations Business and Human Rights Treaty Turning of the Tides of Justice?, New Zealand Yearbook of International Law, 2022. David Birchall, Between Apology and Utopia: The Indeterminacy of the Zero Draft Treaty on Business and Human Rights' <i>Suffolk Transnational Law Review</i> (2020) https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3417521 	Lecture
4	Corporate responsibility to respect and protect human rights Readings:	Lecture

<i>Session</i>	<i>Session subjects and readings</i>	<i>Lecture/ Seminar</i>
	<ul style="list-style-type: none"> ▪ David Birchall, 'Corporate Power over Human Rights: An Analytical Framework' <i>Business and Human Rights Journal</i> 2021) https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3566296 ▪ Surya Deva and David Bilchitz (eds.), <i>Human Rights Obligations of Business: Beyond the Corporate Responsibility to Respect?</i> (Cambridge: Cambridge University Press, 2013); 	
5	<p>Human Rights in Global Supply Chains</p> <p>Readings:</p> <ul style="list-style-type: none"> • Caroline Omari Lichuma. 'Mandatory Human Rights Due Diligence (mHRDD) Laws Caught Between Rituals and Ritualism: The Forms and Limits of Business Authority in the Global Governance of Business and Human Rights.' <i>Business and Human Rights Journal</i>. Published online 2024:1-20. • Jernej Letnar Černič, 'Moving Towards Protecting Human Rights in Global Business Supply Chains,' <i>Boston University International Law Journal</i>, 2018, Vol. 35, No. 2, 101-116, https://www.bu.edu/ilj/files/2018/04/Cernic-Final-Version.pdf • OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas, https://www.oecd.org/daf/inv/mne/mining.htm 	Seminar
6	<p>The Concept of Due Dilligence in Business and Human Rights</p> <p>Readings:</p> <ul style="list-style-type: none"> • Nicolas Bueno, 'Mandatory Human Rights Due Diligence Legislation,' <i>Teach BHR</i>, https://teachbhr.org/resources/teaching-bhr-handbook/mandatory-human-rights-due-diligence/ <p>Andrew Clapham, <i>Human Rights Obligations of Non-State Actors</i> (OUP, 2006), pp. 195-211, 218-252 and 263-271</p>	Lecture
7	<p>Access to remedy for business-related human rights abuses</p> <p>Readings:</p> <ul style="list-style-type: none"> • Juan José Álvarez Rubio and Katerina Yiannibas (eds.) <i>Human Rights in Business: Removal of Barriers to Access to Justice in the European Union</i>, Routledge, 2017, https://library.oapen.org/bitstream/id/6d5182f1-4c6a-4272-932d-fece77e810fb/624572.pdf. <p><i>Case-law concerning criminal liability of corporations:</i></p> <ul style="list-style-type: none"> • Special Tribunal for Lebanon, <i>STL-14-05/1/CJ/</i> • International Criminal Tribunal for Rwanda, <i>Prosecutor V. Nahimana, Barayagwiza, & Ngeze. Case No. ICTR 99-52-A</i>. For a summary of the case see Catharine A. MacKinnon, 'Prosecutor V. Nahimana, Barayagwiza, & Ngeze. Case No. ICTR 99-52-A', <i>American Journal of International Law</i> Vol. 103, No. 1 (January 2009), pp. 97-103 <p>US Military Tribunal in Nuremberg, <i>I.G. Farben Trial, Law Reports of Trials of War Criminals</i></p>	Lecture
8	<p>Corporate self-regulation, codes of conduct and internal corporate grievences mechanisms</p> <p>Readings:</p> <ul style="list-style-type: none"> • Claes Lundblad, 'Some Legal Dimensions of Corporate Codes of Conduct' in Ramon Mullerat (ed.), <i>Corporate social responsibility: The corporate governance of the</i> 	Lecture

<i>Session</i>	<i>Session subjects and readings</i>	<i>Lecture/ Seminar</i>
	<p>21st century (Kluwer Law International, 2005), pp. 385-402</p> <ul style="list-style-type: none"> Denise Wallace, <i>Human Rights and Business</i> (Brill Nijhoff, 2015), pp. 285-298 	
9	<p>Seminar and debate on voluntary and judicial enforcement of Business and Human Rights</p> <p>Readings:</p> <ul style="list-style-type: none"> Report 'International Business and Human Rights Arbitration', Claes Cronstedt, Jan Eijsbouts and Robert C. Thompson, February 2017 Vivian Kube, Ernst-Ulrich Petersmann, 'Human rights law in international investment arbitration', <i>Working Paper EUI LAW</i>, 2016/0, pp.1-37 Tomas Königs, Sohail Wahedi, Tjalling Waterbolk, 'The EU Response to the Trade in Conflict Minerals from Central Africa', <i>Dovenschmidt Quarterly</i>, 2014(1), pp. 18-34 ECOWAS Court, SERAP v Federal Republic of Nigeria, 14 December 2012, ECW/CCJ/JUD/18/12 Christine Kaufmann, 'Holding multinational corporations accountable for human rights violations: litigation outside the United States', pp. 253-265 in <i>Business and Human Rights: From Principles to Practice</i>, Dorothee Baumann-Pauly, Justine Nolan (eds.), Routledge, 2016 <i>Lungowe and others v. Vedanta Resources Plc and Konkola Copper Mines Plc</i> [2017] EWCA Civ 1528 	Seminar
10	<p>Business, human rights and development: responsibilities of International Financial Institutions (WB, IMF, WTO)</p> <p>Readings:</p> <p>De Feyter, K., 'The International Financial Institutions and Human Rights: Law and Practice' in Gómez Isa, F., and de Feyter, K. (Eds.), <i>International Protection of Human Rights: Achievements and Challenges</i>, Humanitarian Net, University of Deusto, Bilbao 2006, pp. 561-592</p>	Lecture
11	<p>Intellectual property law and human rights (TRIPS and beyond ...)</p> <p>Readings:</p> <ul style="list-style-type: none"> Article 15 of the International Covenant of Economic, Social and Cultural Rights Report by Anand Grover, UN Special Rapporteur on the right to health, A/HRC/11/12, 31 March 2009 <p>Helfer, L.R. (2003). 'Human Rights and Intellectual Property: Conflict or Coexistence?', <i>Minnesota Intel. Property Review</i> 47</p>	Lecture
12	Recap, study questions and final discussion	

COURSE LEARNING OUTCOMES

This course has the following main learning outcomes:

Knowledge:

By the end of the course, students will be able to:

1. Understand and critically examine the global, regional and national institutions monitoring of business conduct in relation to human rights;

2. Critically examine the fragmented rules on corporate responsibility under different fields of soft law and hard law;
3. Critically examine the legal personality of multinational corporations and the responsibility of companies for human rights abuses and international crimes;
4. Critically assess the role of international financial institutions (notably World Bank, IMf and WTO) in relation to global human rights protection, both generally and in relation to the conduct of business enterprises.

Skills:

Upon successful completion of the course students will acquire:

5. legal research and presentation skills allowing them to engage in independent research and develop a complex argument;
6. skills necessary to apply the knowledge accrued to case studies;
7. analytical skills necessary to apply human rights law and human rights principles in relation to the practice of Non-State Actors, notably multinational corporations.

Competencies:

Upon successful completion of the course students:

8. will be able to use knowledge, analytical skills and and/or methodological abilities they have developed in the fields of international human rights law and corporate social responsibility in work or study situations and in professional and personal development.

By completing the study course and successfully passing examination, the student will be able to:

<i>Learning outcomes</i>	<i>Evaluation criteria</i>		
	<i>(40-69%)</i>	<i>(70-89%)</i>	<i>(90-100%)</i>
<i>Knowledge</i>	The student has acquired only basic knowledge of the course subject. The student lacks understanding of some of the core issues of the course subject.	Overall, the student's knowledge complies with the expectations. However, there are issues that the student does not fully understand.	The student has demonstrated in-depth knowledge and understanding of the issues related to the course subject.
<i>Skills</i>	The student has demonstrated only basic level of skills.	The student has demonstrated good skills.	The student has demonstrated excellent skills.
<i>Competences</i>	The student can apply the knowledge only at a basic level. The student struggles with assessment and evaluation of legal issues. The student can identify the relevant legal norms. However, the	The student can apply the knowledge at a reasonably good level. However, the student does not have the necessary level to be able to fully apply the acquired knowledge independently. The student has some	The student is able to apply the knowledge independently and correctly. The student can assess and evaluate legal issues, identify the relevant legal norms, and correctly apply them.

	student cannot correctly apply them.	problems to correctly apply the legal norms.	
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Please analyse the contribution of defined grading criteria to learning outcomes. Number of grading criteria and learning outcomes should correspond to previously defined one.

Grading criteria	Learning outcomes							
	1.	2.	3.	4.	5.	6.	7.	8.
Final exam	x	x	x	x	x	x	x	x

COURSE LITERATURE

Compulsory literature

No.	Author, year, title, publisher
1	Andrew Clapham, 'Non-State Actors' in <i>International Human Rights Law</i> , 3rd edn, edited by Daniel Moeckli, Sangeeta Shah, and Sandesh Sivakumaran, with David Harris (OUP 2018)
2	Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework, report of the special representative John Ruggie, A/HRC/17/31, 21 March 2011 http://www.business-humanrights.org/media/documents/ruggie/ruggie-guiding-principles-21-mar-2011.pdf
3	OEIGWG, Legally Binding Instrument to Regulate, in International Human Rights Law, the Activities of Transnational Corporations and Other Business Enterprises, third revised draft August 2021 https://www.ohchr.org/Documents/HRBodies/HRCouncil/WGTransCorp/Session6/LBI3rdDRAFT.pdf
4	De Feyter, K., 'The International Financial Institutions and Human Rights: Law and Practice' in Gómez Isa, F., and de Feyter, K. (Eds.), <i>International Protection of Human Rights: Achievements and Challenges</i> , Humanitarian Net, University of Deusto, Bilbao 2006, pp. 561-592
5	Report by Anand Grover, UN Special Rapporteur on the right to health, A/HRC/11/12, 31 March 2009
6	Andrew Clapham, Human Rights Obligations of Non-State Actors (OUP, 2006), pp. 195-211, 218-252 and 263-271
7	Jernej Letnar Čerňič, Moving Towards Protecting Human Rights in Global Business Supply Chains, Boston University International Law Journal, 2018, Vol. 35, No. 2, 101-116, https://www.bu.edu/ilj/files/2018/04/Cernic-Final-Version.pdf
8	Carsten Stahn, <i>Liberals vs. Romantics: Challenges of An Emerging Corporate International Criminal Law</i> , (2018) 50 Case Western Reserve Journal of International Law, 91-125
9	Claes Lundblad, 'Some Legal Dimensions of Corporate Codes of Conduct' in Ramon Mullerat (ed.), <i>Corporate social responsibility: The corporate governance of the 21st century</i> (Kluwer Law International, 2005), pp. 385-402

10	Tomas Königs, Sohail Wahedi, Tjalling Waterbolk, 'The EU Response to the Trade in Conflict Minerals from Central Africa', <i>Dovens Schmidt Quarterly</i> , 2014(1), pp. 18-34
11	ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy
12	OECD Guidelines for Multinational Enterprises, 2011, http://www.oecd.org/corporate/mne/48004323.pdf
13	ECtHR, Case of <i>Barbulescu v. Romania</i> , App no. 61496/08, 2017
14	Jan Wouters & Anna-Luise Chané, 'Multinational Corporation in International Law' Working Paper No.129 (KU Leuven, 2013), p.5-7.

Additional literature and sources

<i>No.</i>	<i>Author, year, title, publisher</i>
1	CESCR General Comments 24 and 25
2	International Criminal Tribunal for Rwanda, Prosecutor V. Nahimana, Barayagwiza, & Ngeze. Case No. ICTR 99-52-A. For a summary of the case see Catharine A. MacKinnon, 'Prosecutor V. Nahimana, Barayagwiza, & Ngeze. Case No. ICTR 99-52-A', <i>American Journal of International Law</i> Vol. 103, No. 1 (January 2009), pp. 97-103
3	US Military Tribunal in Nuremberg, I.G. Farben Trial, <i>Law Reports of Trials of War Criminals</i> (available here: https://www.loc.gov/rr/frd/Military_Law/pdf/Law-Reports_Vol-10.pdf), pp. 1-69
4	Denise Wallace, <i>Human Rights and Business</i> (Brill Nijhoff, 2015), pp. 285-298
5	Steven Ratner, <i>Corporations Suing in Defense of Human Rights? Lessons from Arkansas</i> , EJIL Talk, 13 June 2017
6	Antal Berkes, "Extraterritorial responsibility of the home States for MNCs violations of human rights" in <i>Research Handbook on Human Rights and Investment</i> , Y Radi (ed) (2018 E Elgar)
7	<i>Survival International v WWF</i> , Initial Assessment by National Contact Point Switzerland, 20.12.2016, pp.1-10
8	ILO, Complaint GB.331/INS/13, case against Qatar over its treatment of migrant workers, 31 October 2017