

Title: Intersections of Law, Business, and Human Rights

Type: Law

Credits: 4

Pre-requisite: Company Law 1

Course Overview:

The elective course is built around the role of four main stakeholders-State, Corporations, Consumers, and Investors, across four different industries to explore the relationship between corporate accountability and regulatory (both hard and soft law) mechanisms. A case study approach across four industries-fast fashion, fast moving consumer goods, extractive extraction and information and communication technology, is utilized to understand specific issues like labor, ethical marketing and advertising, environment and community, and misinformation and privacy. Multinational Corporations command significant social, political, and economic influence in today's global economy and are important participants in the international community. However, without state identity a framework for human rights violations cannot be enforced through the existing Bill of Rights regime. Domestic law and its implementation is fragmented across different home and host states and suffers from lack of political will for legislating or implementing and/or extra territorial jurisdiction concerns. The case study method explores an analysis of a range of these issues with discussion on national policy, corporate self-regulation, consumer action, investor awareness as practical means of creating corporate accountability.

The discussion on the four industries is couched between discussion on UN frameworks regarding corporate accountability for human rights, at the beginning, and role of consumers, investors and use of extraterritorial jurisdiction by home states, towards the end of the semester. International Bill of Rights and UN frameworks like the UN Guiding Principles on Business and Human Right 2011 are discussed to frame the conversation regarding the specific industry issues. Critiques and recommendations regarding different frameworks are discussed to better assess industry specific corporate and state action that is currently implemented. The role of consumer boycotts is explored to understand corporate motivations to self-regulate. Consumption in the Millennial and Gen-Z generations is political and social, not just economic. How such motivations can be used to demand more accountability from corporation is an important theme for discussion generally through the case studies, but also specifically toward the end of the course. The rise of ESG rating mechanisms highlights the role of investors in creating more corporate accountability. The course argues that the motivation for embedding human rights principles in business practice is not driven by morality or goodwill but should be based on profit motive to be successful. Both consumers and investors play an important role in achieving the same. The course ends with a discussion on various extra territorial laws that are being developed or used for human rights litigation against corporate action and explore their effectiveness.

The main pedagogical approach for the elective is case study method. The teaching methodology will include lecture style and Socratic method of engagement. The readings will be supplemented and discussed in context of latest news and blog pieces to understand the most contemporary changes. International reports will be relied upon to analyze progress of various regulatory, policy, and self-regulation methods discussed.

Learning outcomes:

The course aims to contextualize the issues pertaining to the development of legal principles around corporate responsibility for human rights violations in absence of binding international framework. Learning outcomes focuses on industry specific mechanisms to tackle issues related to labor, ethical marketing, environment, misinformation and privacy. An understanding of the role of voluntary and self-regulatory mechanisms to compensate for lack of domestic framework in most developing states will be developed through case studies from different industries. The course intends to explore the ingredients of successful consumer boycotts and place consumers in the role of motivators for corporate action. The impact of ESG mechanism in encouraging ethical investments will be explored. Difference in remedy frameworks of home and host states will be assessed to argue for more supervision by home states and extra territorial application to create corporate accountability.

Weekly plan:

Week	Topics
1.	Introduction of the International Human Rights Regime Discussion <ul style="list-style-type: none">• Foundations of Human Rights• Role of State actors• Different stakeholders in Business and Human Rights discussion: (Home State, Host State, Corporations, Workers, Consumers and Investors)
2.	Transnational corporations and human rights Discussion <ul style="list-style-type: none">• Non-State Actors and Human Rights• Business Case for Human Rights• Critique of pre 2011 UN attempts regarding corporate accountability for human rights violations• UN Guiding Principles: Ideal document? Introduction to Fashion Industry Discussion <ul style="list-style-type: none">• Supply chains and global fashion market
3.	Fashion Industry: Best things in life are free=cost of fast fashion is blood Discussion <ul style="list-style-type: none">• Rana plaza case study: Accord• International Accord• Nike case study

	<ul style="list-style-type: none"> • Industry specific reform: self-regulation
4.	<p>Food and Beverage Industry: <i>Bitter end to my sweet tooth cravings</i></p> <p>Discussion:</p> <ul style="list-style-type: none"> • Chocolate Industry and Child labor • Fair Trade
5.	<p>Food and Beverage Industry (contd.)</p> <p>Discussion:</p> <ul style="list-style-type: none"> • Branding and marketing • Nestle infant formula scandal • Beverage industry (Coca Cola and India)
6.	<p>Extractive Industries: <i>Diamonds are forever-so is abuse</i></p> <p>Discussion:</p> <ul style="list-style-type: none"> • Resource curse • Conflict minerals: Diamonds and rebel groups • Kimberley Process • Cobalt case study: is categorization as conflict mineral useful?
7.	<p>Extractive Industries</p> <p>Discussion:</p> <ul style="list-style-type: none"> • Shell case study • Privatization of Human Rights • Environmental impact of Shell and Sustainable development
8.	<p>Extractive Industries</p> <p>Discussion:</p> <ul style="list-style-type: none"> • Shell case study: Private Military Contractors • Voluntary Principles on Security and Human Rights <p>Information and Communication Technology Industry</p> <p>Discussion</p> <ul style="list-style-type: none"> • Censorship and Privacy on the Internet
9.	Information and Communication Technology Industry

	<p>Discussion</p> <ul style="list-style-type: none"> • Censorship and Privacy on the Internet: Free speech and social media • False Information and impact of Pandemic and social media
10.	<p>Information and Communication Technology Industry</p> <p>Discussion</p> <ul style="list-style-type: none"> • AI and Facial Recognition: Ethical concerns • Social media and Algorithmic governance
11.	<p>Ethical investment and consumption: <i>We are what we consume</i></p> <p>Discussion:</p> <ul style="list-style-type: none"> • How can investors influence the behavior of corporations? • Can consumers influence the behavior of corporations? • ESG ratings and effectiveness
12.	<p>Ethical investment and consumption: <i>We are what we consume</i></p> <p>Discussion:</p> <ul style="list-style-type: none"> • ESG ratings and effectiveness
13.	<p>Remedies</p> <p><i>Giving voice to the voiceless</i></p> <p>Discussion:</p> <ul style="list-style-type: none"> • The legal status of corporations under international law • Transnational human rights litigation against corporations • Alien Tort Claims Act • Draft Business and Human Rights Treaty
14.	REVISION WEEK

Ten Essential Readings (this list is not exhaustive):

1. Nigel Davidson, 'Are Conflict Diamonds Forever?: Background to the Problem' in Nigel Davidson (ed), *The Lion that Didn't Roar: Can the Kimberley Process stop the Blood Diamond Trade?* (ANU Press 2016).
2. Jeremy Da Silva, Conflict Implications of Rising Cobalt Demand and the Effects of Classifying Cobalt as a Conflict Mineral on the DRC' (Johns Hopkins Libraries, 2021)
3. I. N. Rezende, 'Facial recognition in police hands: Assessing the 'Clearview case' from a European perspective' (2020) 11(3) *New Journal of European Criminal Law* 375.
4. Shima Baradaran & Stephanie Barclay, 'Fair Trade and Child Labor' (2011) 43 *Colum Hum Rts L Rev* 1

5. Alvin I. Goldman & Daniel Baker, 'Free Speech, Fake News, and Democracy' (2019) 18 *First Amend L Rev* 66
6. Nicola Jägers, *Corporate Human Rights Obligations: In Search of Accountability* (School of Human Rights Research, No 17, Intersentia 2002), 19-44.
7. Sarah Joseph, *Corporations and Transnational Human Rights Litigation*, (Hart Publishing 2004), 1-20.
8. Esther Hennchen, 'Royal Dutch Shell in Nigeria: Where do responsibilities end?', (2014), 129, *Journal of Business Ethics*, 1
9. Colin Boyd, 'Nestle Infant Formula Controversy and a Strange Web of Subsequent Business Scandals', (2012) 106 (3) *Journal of Business Ethics* 283.
10. Erin Leithesier, 'How domestic contexts shape international private governance: The case of the European Accord and American Alliance in Bangladesh' (2021) 15(4) *Regulation and Governance* 1.