



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

FLS 6489 – EMPRESAS MULTINACIONAIS E DIREITOS HUMANOS

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

PROFESSOR: João Paulo Cândia Veiga

CONTENT

The rise of globalization has changed traditional discussions on the duties of businesses to increasingly being framed in terms of human rights and in a transnational and global order. Yet, in spite of growing support for the idea that businesses should respect human rights, it is still far from having global acceptance and recognition. This course addresses recent developments in linking business practices and human rights within the UN and in other international organizations, and focuses on the efforts in making human rights an important normative framework for the conduct of business in different societal and political contexts. It offers arguments in favor of and against extending human rights to the corporate sector, and discusses this agenda legal and political developments.

The course covers international legally binding rules within the area, the emergence of non-binding instruments (soft law), governmental as well as business practices. The course will bring corporate representatives to speak up about the challenges of implementing human rights policies and programs at local level. The students will study practical cases of corporate policies, programs and actions of selected Brazilian and foreign companies in a variety of contexts – social, cultural, economic and political.

The course will also promote the study of the United Nations Guiding Principles on Business and Human Rights, endorsed by the United Nations Human Rights Council in June 2011, from different perspectives. Students will examine the different types of human rights violations that different industries tend to make and the challenges of implementation international norms and regulate the issue, bridging the gap between theory and practice.

MAIN GOALS

- Describe the evolution of human rights international regime over the centuries noting steps forward and the opposition.
- Analyze the compliance of international human rights standards from the state and businesses perspectives.
- Explore multidisciplinary perspectives and theoretical approaches on the BHRs agenda.
- Analyze the Guiding Principles on Business and Human Rights.
- Identify and analyze the current actions/policies the business community is taking in implementing the Business and Human Rights agenda across their operations.
- State commitment; policy development and implementation (states and companies); analysis of scenario (cost benefit analysis and risk mitigation);

EXAMINATION



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

GRADING SCALE

Grades are awarded on a scale from A to D, where A being the highest and D being lowest.

COMPETENCES AND SKILLS

The graduate students will be able to:

- Understand the international human rights regime and its institutionalization.
- Carry out human rights/sustainability policies from corporate or state perspectives in different social, economic and political contexts
- Assess the impact of corporate behavior on human rights
- Locate applicable source material and identify and interpret the relevant substantive rules and principles on the duties of companies to respect human rights
- Understand the obstacles and challenges of integrating human rights in the conduct of business
- Assess the practices and impact of different strategies of remedy and compensation
- Analyze empirical cases of business conduct in light of human rights perspective
- Be able to critically evaluate existing business and human rights framework, guiding principles, treaties and other norms.

CLASS SCHEDULE

Class 1 – 04, April 2022 – Course Presentation

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

Lecturer: Professor Alberto do Amaral Júnior (Faculty of Law – University of São Paulo)

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

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

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

Amaral Júnior, Alberto do (2011). *Teoria Geral dos Direitos Humanos – Da Utopia à Realidade*, Editora Revista dos Tribunais, São Paulo.

Complementary:

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



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

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

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

Webinar

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

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

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

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

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

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

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

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

Complementary

Koremenos, Barbara. 2016. *The Continent of International Law*. Cambridge University Press.

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

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

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

Class 4 – 02, May 2022 - Emerging Business and Human Rights Institutional Agenda
The Emergence of the International Institutional Framework for the Business and Human Rights Agenda – States, NGOs and Corporations



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Lecturer: Prof(a). Cláudia Alvarenga Marconi (FECAP Business School)

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

Buhmann, K., Roseberry, L., & Morsing, M. (Eds.) (2010). *Corporate social and human rights responsibilities: global legal and management perspectives*. Palgrave Macmillan. Introduction.

Class 5 - 09, May 2022 – The United Nations Guiding Principles (UNGPs) and their critics.
UNGPs – Practical Implications for global authoritative standards to prevent, mitigate and remediate business-related adverse human rights impacts

Lecturer: Prof. Surya Deva (UN Working Group on Business and Human Rights)

United Nations Guiding Principles on Business and Human Rights

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

Ruggie, John Gerard (2014). *Quando Negócios Não São Apenas Negócios – As Corporações Multinacionais e os Direitos Humanos*, Planeta Sustentável, Editora Abril. Introdução, p. 17-55

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

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

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

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

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

Complementary

Deva, Surya. Bilchitz, David (eds.). *Human Rights Obligations of Business: Beyond the Corporate Responsibility to Respect?* Cambridge: Cambridge University Press, 2013. p. 1-27.



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

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

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

Webinars:

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

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

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

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

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

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

Class 6 – 16, May 2022 – The role of States on Business and Human Rights Agenda – The National Action Plans on BHRs

National Action Plans in Action: Challenges, Outcomes and Impact Assessment instruments.

Lecturer: Prof. Rafael de Souza Nascimento Miranda (FECAP Business School)

O'Brien, C.M., Ferguson, J. & McVey, M. (2021). National Action Plans on Business and Human Rights: an Experimentalist Governance Analysis. *Human Rights Revue*.

Rivera, Humberto Cantú (2019). National Action Plans on Business and Human Rights: Progress or Mirage? *Business and Human Rights Journal*, 0(0), p. 1-25.

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

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

Complementary

Moravcsik, Andrew (1998). "Explaining the Emergence of Human Rights Regimes: Liberal Democracy and Political Uncertainty in Postwar Europe", 35 pages, available
<https://www.princeton.edu/~amoravcs/library/emergence.pdf>



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

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

Class 7 – 23, May 2022 – The Corporate Implementation (actions, programs and policies) of the UN Guiding Principles?

Why is so difficult to develop actions, programs and policies on BHRs? How does business consider the UNGPs?

Lecturer: Fabio Abdala (Diretor de Sustentabilidade da Alcoa)

McCORQUODALE, R., SMIT, L., NEELY, S., & BROOKS, R. (2017). Human Rights Due Diligence in Law and Practice: Good Practices and Challenges for Business Enterprises. *Business and Human Rights Journal*, 2(2), 195-224.

Complementary

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

Webinars:

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

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

Class 8 – 30, May 2022 – United Nations Guiding Principles – Reparation (Accountability)

Stakeholder Engagement at Local Level and Knowledge Gaps

Lecturer: Ana Cláudia Ruy Cardia Atchabahian (Mackenzie Presbyterian University)

Ana Cláudia Ruy Cardia Atchabahian (Coord.) Izabela Zonato Villas Boas (Org.) (2021). *Quanto vale? Uma análise interdisciplinar do direito sobre as tragédias de Mariana e Brumadinho*. – Londrina, PR: Thoth.

Class 9 – 06, June 2022 – Multistakeholder Initiatives (MSIs) and Governance in the Protection of the Human Rights

Different Modes to Promote Governance and Democracy

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

MSI-Integrity (2020). "Not Fit-for-Purpose: The Grand Experiment of Multi-Stakeholder Initiatives in Corporate Accountability, Human Rights and Global Governance", available at <https://www.msi-integrity.org/not-fit-for-purpose/>

Complementary



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Baumann-Pauly, Dorothée and Trabelsi, Lilach, Complementing Mandatory Human Rights Due Diligence: Using Multi-Stakeholder Initiatives to Define Human Rights Standards (January 22, 2021). NYU Stern School of Business.

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

Webinars

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

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

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

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

Class 10 – 13, June 2022 – Negotiation a Treaty on Business and Human Rights: Lessons from International Law and International Relations (and Political Science Approach).

The international coalitions (and veto power) pro and against the International Treaty (interest groups), the role of NGOs, the political influence of corporations and international business associations, the call for action - the Business and Human Rights Forum.

Lecturer: Manoela Roland (Federal University of Juiz de Fora – MG)

Roland, M. C. et al. Analysis of the Second Revised Draft of the legally binding instrument on transnational corporations and other business enterprises with respect to human rights. HOMA PUBLICA: REVISTA INTERNACIONAL DE DIREITOS HUMANOS E EMPRESAS, v. 05, p. 1-28, 2021.

Roland, M. et al. Statement of States at the 6th Negotiation Session of the Legally Binding Instrument on Transnational Corporations and Other Business Enterprises with Respect to Human Rights. HOMA PUBLICA: REVISTA INTERNACIONAL DE DIREITOS HUMANOS E EMPRESAS, v. 05, p. 1, 2021.

Complementary

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



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

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

Webinar

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

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

Class 11 – 20, June 2022 – BHRs: Governance and regulation Theoretical Approaches.

New governance and regulation theoretical approaches are analyzed under the concepts of enforcement, legitimacy, accountability, effectiveness and transparency.

Lecturer: Profa(a). Karin Buhmann (Copenhagen Business School)

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

Complementary

Cardia A., Ana Cláudia Ruy. *Transterritorialidade: Uma Teoria de Responsabilização de Empresas por Violações aos Direitos Humanos*. Rio de Janeiro: Lumen Juris, 2020

Class 12 – 27, June 2022 – Practical case studies on Business and Human Rights

Domestic and International Case Studies: A Preliminary Comparative Analysis

Lecturer: Danielle Anne Pamplona (Human Rights Clinic, PUC-PR)

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

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

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

Website:

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



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RECOMMENDED ADDITIONAL BIBLIOGRAPHY:

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

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

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

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

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

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

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

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

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

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

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

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

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