**Business and Human Rights (BHR)**

**Fall, 2016**

**Prof. Meghan McCormack**

**Mondays (rm. 221) and Wednesdays (rm. 450), 16:00 – 18:30**

**Course Description:** This course will provide a basic introduction to the topic of business and human rights. Building from the UN "Protect, Respect, and Remedy Framework" and 2011 UN Guiding Principles for Business and Human Rights, we will explore legal standards and controversies surrounding corporate liability, home state responsibility, and extraterritorial jurisdiction. Major case law will be covered, with an additional exploration on the sub topic of labor rights and/or environmental protection. Time willing, we will also discuss remedies for human rights violations once found. This is a 3-credit course, entailing 18 hours of in-class instruction.

**Grading:** Grading will be based on (1) in-class participation (25%), (2) a midterm exam on the basic framework for business and human rights under international law (25%), and (3) a final paper of at least 5 double-spaced pages (~1,250 words) that focuses on BHR in Kyrgyzstan (50%). Additional details on the final paper assignment will be provided during the first week of class.

**Course Materials:** Links to all readings are provided below.

**Additional Resources:**

* Business & Human Rights Resource Centre ([www.business-humanrights.org](http://www.business-humanrights.org)). Keeps a running tab on companies that have adopted a human rights policy and provides free weekly updates, including of allegations against companies and company responses.
* Institute for Human Rights and Business ([www.ihrb.org](http://www.ihrb.org))
* Shift (www.shiftproject.org)
* Human Rights and Business Dilemmas Forum (<http://human-rights.unglobalcompact.org>)

**Class Schedule and Readings:**

**October 22, 9:00 – 12:00: Introduction**

* In class we’ll be discussing basic business principles, international human rights norms, and the history of business and human rights (BHR) as a field. This 3-hour session will introduce all of the basic principles of the course, such as the notions of corporate and state responsibilities to protect human rights.

Follow-up readings:

**November 2, 16:00 – 18:30: State responsibility and BHR in Central Asia**

* In class we’ll begin by reviewing the material covered on October 22. After everyone is onboard with the basic concepts, we’ll begin exploring them in more depth by discussing BHR issues in Central Asia with a special focus on Kumtor Gold & KyrgyzAltyn. When reading, pay attention to the Kyrgyzstani government’s actions related to: (1) the environmental impact of mining, and (2) the local community’s and activists’ anti-mining actions. Consider in which ways the Kyrgyzstani government is and is not fulfilling its state responsibility to protect its citizens’ human rights. More difficult: given that Centerra Gold, Kumtor’s parent company, is headquartered in Canada, what responsibilities if any does *Canada* have in relation to alleged human rights violations committed by Kumtor? Be ready to discuss in class.

Reading for class:

* Business & Human Rights Resource Center: Business & Human Rights Challenges in Eastern Europe & Central Asia (2015). <https://business-humanrights.org/sites/default/files/documents/eeca-regional-briefing-february-2016_0.pdf>
  + Russian version: <https://business-humanrights.org/ru/брифинг-вызовы-соблюдению-прав-человека-в-сфере-бизнеса-в-восточной-европе-и-центральной-азии-сокращение-пространства-для-гражданского-общества-угрожает-активистам-занимающимся>
* Bankwatch: Briefing on Centerra Gold (2015). <http://bankwatch.org/sites/default/files/BW_briefing_Centerra-14Dec15.pdf>

**November 9, 16:00 – 18:30: BHR in Kyrgyzstan – 2 cases (gold mining and uranium tailings)**

* We’ll begin class by reviewing the concept of state responsibility especially as it is presented in the UN Guiding Principles on Business and Human Rights. We’ll then discuss the case of Kumtor Gold. For this first part of class, please read:

Readings for 1st half of class:

* Al-Jazeera: Conflict continues at Kyrgyzstan’s massive gold mine (2016). <http://www.aljazeera.com/indepth/features/2016/01/conflict-continues-kyrgyzstan-massive-gold-160128071445334.html>
* David Gullette and Asel Kalybekova, “Agreement Under Pressure: Gold Mining and Protests in the Kyrgyz Republic” (2014). <http://library.fes.de/pdf-files/id-moe/10927.pdf>
* Time willing, we’ll be working with a second case study, that of uranium tailings in Kyrgyzstan left over from the Soviet period. When reading, please focus on the issue of which human rights are implicated by environmental degradation and specifically uranium tailings (the Guardian article may offer a few surprising and unexpected leads). In class we’ll debate who should be responsible for ‘fixing’ environmental damage when the polluter-companies/states are either bankrupt or no longer existent.

Readings for 2nd half of class:

* The Guardian: “’Everyone associates the dumps with death:’ the Kyrgyz town built on nuclear waste.” <https://www.theguardian.com/world/2015/aug/03/kyrgyzstan-nuclear-waste-health-pollution>
* NTI: “Uranium Tailings in Central Asia: The Case of the Kyrgyz Republic.” <http://www.nti.org/analysis/articles/uranium-tailings-kyrgyz-republic/>
* “Assessment and Proposals for Uranium Production Legacy Sites in Central Asia.” <http://www.nti.org/analysis/articles/uranium-tailings-kyrgyz-republic/> [*Read only the section on Kyrgyzstan*]
* “Uranium in Kyrgyzstan”: <http://www.world-nuclear.org/information-library/country-profiles/countries-g-n/kyrgyzstan.aspx>
* OPTIONAL: UNHCR: “Report … on the adverse effects of the movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights … Mission to Kyrgyzstan.” <http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/15/22/Add.2&Lang=E>

**November 14, 16:00 – 18:30: Kyrgyzstani legislation relevant to BHR**

* In this class we’ll go over some of the basic provisions in Kyrgyzstani law regarding citizens’ human rights, especially as they relate to business entities. This will include a review of relevant parts of the Constitution of the Kyrgyz Republic, the Labor Code, and laws related to environmental protection. Specific statutes to be read for class will be provided on November 9.

**November 16, 16:00 – 18:30: EXAM**

* Class will entail a 1.5 hour pre-exam review session; the exam will be administered during the second half of class.

**November 21, 16:00 – 18:30:** **Remedies, extraterritorial jurisdiction**

* We’ll review the UN Guiding Principles’ content on remedies and addressing the thorny topic of extraterritorial jurisdiction.

Readings for class:

* “Frequently asked questions about the guiding principles on business and human rights”, pp. 34 – 39 (
* Goldhaber, “Corporate Human Rights Litigation in Non-U.S. Courts: A Comparative Scorecard,” *UC Irvine Law Review,* 3 (February 2013):127-149 ()
* Ruggie, “A UN Business and Human Rights Treaty? An Issues Brief,” available at (http://business-humanrights.org/media/documents/ruggie-on-un-business-human-rights-treaty-jan-2014.pdf)

**November 23, 16:00 – 18:30: BHR and lawyers – what this means for you and your practice**

Readings for class:

* IBA Practical Guide on Business and Human Rights for Business Lawyers (<http://www.ibanet.org/Document/Default.aspx?DocumentUid=d6306c84-e2f8-4c82-a86f-93940d6736c4>)

Additional information on the final paper will be distributed in-class on November 16. Students are required to submit their final papers by 17:00 on December 9.