



Syllabus
Responsible Business Conduct
Fall Semester 2024

The module Responsible Business Conduct is part of the Master of Law UZH and consists of the course with the same name. The course will be held on Wednesday from 10:15 to 12:00 in room RAI-J-031, commencing on 18 September 2024. The course is taught by Dr Christoph Good and Ron Popper.

Course description

The course will concentrate on the existing and emerging regulations pertaining to responsible business conduct. Following an introductory section that will cover the fundamental instruments in the field of responsible business conduct, including the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct, we will proceed to examine the interactions of business with society in various fields, including human rights and climate change. Furthermore, we will discuss how to conduct business responsibly through risk-based due diligence.

The course will adopt a seminar-style format. It is expected that students will participate actively in discussions and to give presentations.

Literature

BANTEKAS ILLIAS / STEIN MICHAEL ASHLEY (eds.), *The Cambridge Companion to Business and Human Rights Law*, Cambridge 2021

BAUMANN-PAULY DOROTHÉE / NOLAN JUSTINE (eds.), *Business and Human Rights: From Principles to Practice*, London 2016

BONUCCI NICOLE / KESSEDJIAN CATHERINE (eds.), *40 Years of the OECD Guidelines for Multinational Enterprises*, Paris 2018

DEVA SURYA / BIRCHALL DAVID (eds.), *Research Handbook on Human Rights and Business*, Cheltenham 2020

MCCORQUODALE ROBERT, *Business and Human Rights*, Oxford 2024

MUCHLINSKI PETER, *Advanced Introduction to Business and Human Rights*, Cheltenham 2022

MUCHLINSKI PETER, *Multinational Enterprises and the Law*, 3rd ed., Oxford 2021

RUGGIE JOHN, *Just Business: Multinational Corporations and Human Rights*, New York 2013

Course requirements

Active participation is expected. Students will be required to give a short group presentation during the course, which will contribute to the final grade. At the end of the semester an exam (oral or written) will take place and will constitute a portion of the final grade, too. Further details regarding the course requirements will be provided in the first class.

Course administration

Course materials will be uploaded on the platform Moodle via the following link:

<https://moodle-app2.let.ethz.ch/course/view.php?id=13357>

The password will be provided in the first class. Further information can be found on Moodle and on the website of Prof. Kaufmann: www.ivr.uzh.ch/kaufmann

Please make yourself acquainted with the specific programmes and documents uploaded on the website before the first class.

If you have questions, the assistants of the chair are available during the usual office hours:

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Detailed Lecture Plan

Date	Topic	Reading Assignments
18 September	<p>Introduction to Responsible Business Conduct (RBC)</p>	<p><i>Instructions on reading assignments will be given in the first class. All reading assignments are subject to change.</i></p> <p>Readings:</p> <p>BANTEKAS, Business and Human Rights: Foundations and Linkages, in: BANTEKAS/STEIN (eds.), The Cambridge Companion to Business and Human Rights Law, pp. 1-21</p> <p>BAUMANN-PAULY/TRABELSI, The Business Case for Human Rights: Irrelevant or Indispensable?, in: BANTEKAS/STEIN (eds.), The Cambridge Companion to Business and Human Rights Law, pp. 115-144</p> <p>MCCORQUODALE, Business and Human Rights, Chapters 1&2, pp. 1-30</p> <p>MUCHLINSKI, Advanced Introduction to Business and Human Rights, Chapters 1&2, pp. 1-46</p> <p>MUCHLINSKI, Multinational Enterprises and the Law, Chapter 1: Getting to Know Multinationals, pp. 3-41</p> <p>RUGGIE, Just Business, pp. XV-80</p> <p>WETTSTEIN, The history of ‘business and human rights’ and its relationship with corporate social responsibility, in: DEVA/BIRCHALL (eds.), Research Handbook on Human Rights and Business, pp. 23-45.</p> <p>Further reading (optional):</p> <p><i>FRIEDMAN, The Social Responsibility of Business is to Increase its Profits, The New York Times Magazine, 13 September 1970.</i></p> <p><i>KAUFMANN/NIEUWENKAMP, Human rights is an integral part of responsible business conduct, Blog on RBC and UDHR, 2018</i></p> <p><i>PORTER/KRAMER, Creating Shared Value, in: LENSSEN/SMITH (eds.), Managing Sustainable Business, Dordrecht 2019, S. 323-346</i></p>

Date	Topic	Reading Assignments
25 September	RBC in International Law	<p>Documents:</p> <p>UN Guiding Principles on Business and Human Rights</p> <p>UN Global Compact: The Ten Principles of the UN Global Compact</p> <p>FAQs about the UNGPs</p> <p>OECD Guidelines for Multinational Enterprises on Responsible Business Conduct (2023)</p> <p>Updated Revised Draft Treaty on Business and Human Rights</p> <p>Readings:</p> <p>NOLAN ET AL., Chapter 2: Regulatory framework and Guiding Principles, in: BAUMANN-PAULY/NOLAN (eds.), <i>Business and Human Rights – From Principle to Practice</i>, pp. 31-76</p> <p>MCCORQUODALE, <i>Business and Human Rights</i>, Chapter 3, pp. 31-47</p> <p>MUCHLINSKI, <i>Multinational Enterprises and the Law</i>, Chapter 3: Regulating Multinationals, pp. 80-117</p> <p>MUCHLINSKI, <i>Multinational Enterprises and the Law</i>, Chapter 14: Human Rights, pp. 555-605</p> <p>MUCHLINSKI, <i>Advanced Introduction to Business and Human Rights</i>, Chapters 3&4, pp. 47-93</p> <p>CANTÙ RIVERA, <i>National Action Plans on Business and Human Rights: Progress or Mirage?</i>, <i>Business and Human Rights Journal</i> (2019), pp. 1-25</p> <p>Further reading:</p> <p><i>BANTEKAS, Towards a UN Business and Human Rights Treaty</i>, in: BANTEKAS/STEIN (eds.), <i>The Cambridge Companion to Business and Human Rights Law</i>, pp. 583-610</p> <p><i>MCCORQUODALE, Business and Human Rights</i>, Chapter 4, pp. 48-80</p> <p><i>MUCHLINSKI, Multinational Enterprises and the Law</i>, Chapter 13: Labour Relations, pp. 511-554</p> <p><i>RUGGIE, Comment on the “Zero Draft” Treaty on Business and Human Rights</i></p> <p><i>National Action Plans</i></p>

Date	Topic	Reading Assignments
2 October	<p>OECD Guidelines for Multinational Enterprises on Responsible Business Conduct</p>	<p>Documents:</p> <p>OECD Guidelines for Multinational Enterprises on Responsible Business Conduct (2023)</p> <p>OECD Due Diligence Guidance for Responsible Business Conduct</p> <p>Readings:</p> <p>BLANPAIN, The OECD Guidelines for Multinational Enterprises – The Badger Case, Journal of the Royal Society of Arts, 1978.</p> <p>KAUFMANN, OECD MNE Guidelines quo vadis? Making responsible business conduct work for better lives, in OECD, OECD Guidelines for Multinational Enterprises: a Glass Half Full, A Liber Amicorum for Dr. Roel Nieuwenkamp, Chair of the OECD Working Party on Responsible Business Conduct 2013-2018, 2018, pp.29-34</p> <p>KAUFMANN, National Contact Points and Access to Remedy under the UNGP – Why Two Can Make a Dream so Real, in BONUCCI/KESSEDJIAN (eds.), 40 Ans des lignes directives de l’OCDE pour les entreprises multinationales / 40 Years of the OECD Guidelines for Multinational Enterprises, 2018, pp- 175-184.</p> <p>Cases:</p> <ul style="list-style-type: none"> • Canadian NCP, China Gold International Resources Corp. Ltd. • Dutch NCP, Former employees of Bralima vs. Bralima and Heineken <p>Further reading:</p> <p>RASCHE, <i>The UN Global Compact and the OECD Guidelines for Multinational Enterprises and Their Enforcement Mechanisms</i>, in: BANTEKAS/STEIN (eds.), <i>The Cambridge Companion to Business and Human Rights Law</i>, pp. 195-214</p>

Date	Topic	Reading Assignments
9 October	Global Supply Chains and Due Diligence	<p>Documents:</p> <p>General Comment No. 24 (2017) on State obligations under the ICESCR (E/C.12/GC/24)</p> <p>UN Working Group report on human rights and due diligence in practice, A/73/163</p> <p>OECD Due Diligence Guidance for Responsible Business Conduct</p> <p>UNDP Heightened Human Rights Due Diligence for Business in Conflict-Affected Contexts</p> <p>Readings:</p> <p>MCCORQUODALE, Business and Human Rights, Chapter 5, pp. 81-123</p> <p>MCCORQUODALE/SMIT/NEELY/BROOKS, Human Rights Due Diligence in Law and Practice: Good Practices and Challenges for Business Enterprises, Business and Human Rights Journal, Vol. 2(2) 2017, pp. 195-224</p> <p>MUCHLINSKI, Advanced Introduction to Business and Human Rights, Chapter 5, pp. 94-118</p> <p>TAYLOR, Human rights due diligence in theory and practice, in: Deva/Birchall (eds.), Research Handbook on Human Rights and Business, pp. 88-107.</p> <p>SALCITO/WIELGA, What does Human Rights Due Diligence for Business Relationships Really Look Like on the Ground?, Business and Human Rights Journal, Vol. 3(1) 2018, pp. 113-121</p> <p>Cases:</p> <p>Swiss NCP, Society for Threatened Peoples v. BKW Group</p> <p>Further reading:</p> <p>OECD, <i>Is there a role for Blockchain in Responsible Supply Chains?</i>, Paris 2019</p> <p>NOLAN/FRISHLING, Human rights due diligence and the (over) reliance on social auditing, in: DEVA/BIRCHALL (eds.), Research Handbook on Human Rights and Business, pp. 108-129.</p>
16 October	Cancelled	

Date	Topic	Reading Assignments
23 October	Access to Remedy (1/2)	<p>Documents: UN Guiding Principles 25-31</p> <p>Readings: MCCORQUODALE, Business and Human Rights, Chapter 6, pp. 124-156 MUCHLINSKI, Advanced Introduction to Business and Human Rights, Chapter 6, pp. 119-147 ZADEK ET AL., Chapter 6: Accountability and remedy, in: BAUMANN-PAULY/NOLAN (eds.), Business and Human Rights – From Principle to Practice, pp. 239-298 MARES, Liability within corporate groups: parent companies’ accountability for subsidiary human rights abuses, in: DEVA/BIRCHALL (eds.), Research Handbook on Human Rights and Business, pp. 446-470</p> <p>Cases: United States Supreme Court, Kiobel v Royal Dutch Petroleum Co, 133 S. Ct. 1659 (2013) UK Supreme Court, Okpabi v Shell [2021] UKSC 3 Netherlands, The Hague District Court, Judgement Royal Dutch Shell, 26 May 2021</p>

Date	Topic	Reading Assignments
30 October	Access to Remedy (2/2)	<p>Documents:</p> <p>The Hague Rules on Business and Human Rights Arbitration</p> <p>ICSID Convention</p> <p>Readings:</p> <p>VAN HUIJSTEE/WILDE-RAMSING, Remedy is the reason: non-judicial grievance mechanisms and access to remedy, in: DEVA/BIRCHALL (eds.), Research Handbook on Human Rights and Business, pp. 471-491</p> <p>CANTÚ RIVERA, National human rights institutions and their (extended) role in the business and human rights field, in: Deva/Birchall (eds.), Research Handbook on Human Rights and Business, pp. 492-512</p> <p>BAAIJ, The Potential of Arbitration as Effective Remedy in Business and Human Rights: Will the Hague Rules be Enough?, BHRJ 7(2022), pp. 271-290</p> <p>Further reading:</p> <p>LEVINE/CASTLES, <i>The Use of International Arbitration Tribunals for Business and Human Rights Disputes</i>, in Bantekas/Stein (eds.), <i>The Cambridge Companion to Business and Human Rights Law</i>, Chapter 19, pp. 428-454</p>
6 November	RBC in the Garment and Footwear Sector	<p>Documents:</p> <p>The International Accord on Health and Safety in the Textile and Garment Industry (formerly Bangladesh Accord)</p> <p>OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector</p> <p>Readings:</p> <p>JASTRAM/SCHNEIDER, Sustainable Fashion – Governance and New Management Approaches, Cham 2018, pp. 3-8, 11-24, 41-50.</p> <p>Cases:</p>

Date	Topic	Reading Assignments
		<p>Canada, Ontario Superior Court of Justice: Loblaws Companies Ltd., Loblaws Inc.; Joe Fresh Apparel Canada Inc.</p> <p>Germany, Regional Court Dortmund, Baldia Factory Fire As v. KiK</p> <p>German NCP, ECCHR et al v. TÜV Rheinland AG</p> <p>Danish NCP, PWT Group’s role in the Rana Plaza collapse</p> <p>Italian NCP, Ali Enterprise Factory Fire Affectees Assoc v. RINA S.p.A</p>
13 November	RBC in EU and National Law (1/2)	<p>Documents:</p> <p>UK Modern Slavery Act</p> <p>Australia Modern Slavery Act</p> <p>French Loi relative au devoir de vigilance des sociétés mères et des entreprises donneuses d’ordre</p> <p>German Supply Chain Due Diligence Act (Lieferkettensorgfaltspflichtengesetz)</p> <p>Norway Transparency Act</p> <p>Switzerland:</p> <ul style="list-style-type: none"> • Art. 964a-c and 964j-l Code of Obligations • Ordinance on Due Diligence and Transparency in relation to Minerals and Metals from Conflict-Affected Areas and Child Labour (DDTrO) • Ordinance on Reporting on Climate Issues <p>Readings:</p> <p>MARTIN, The use of disclosure-based regulation to advance the state’s duty to protect, in: DEVA/BIRCHALL (eds.), Research Handbook on Human Rights and Business, pp.176-197</p> <p>MCCORQUODALE, Business and Human Rights, Chapter 7, pp. 157-175</p>

Date	Topic	Reading Assignments
		<p>COSSART/CHAPLIER/BEAU DE LOMENIE, The French Law on Duty of Care: A Historic Step Towards Making Globalization Work for All, <i>Business and Human Rights Journal</i>, 2 (2017), pp. 317-323</p> <p>BUENO/KAUFMANN, The Swiss Human Rights Due Diligence Legislation: Between Law and Politics, <i>Business and Human Rights Journal</i>, Vol. 6(3) 2021, pp. 542-549</p> <p>KRAJEWSKI/TONSTAD/WOHLTMANN, Mandatory Human Rights Due Diligence in Germany and Norway: Stepping, or Striding, in the Same Direction?, <i>Business and Human Rights Journal</i>, Vol. 6(3) 2021, pp. 550-558</p> <p>Further reading:</p> <p>CASSEL, <i>State jurisdiction over transnational business activity affecting human rights</i>, in: DEVA/BIRCHALL (eds.), <i>Research Handbook on Human Rights and Business</i>, pp. 198-222</p>
20 November	RBC in EU and National Law (2/2)	<p>Documents:</p> <p>European Union:</p> <ul style="list-style-type: none"> • EU Corporate Sustainability Due Diligence 2024/1760 • EU Corporate Sustainability Reporting Directive 2022/2464 • Proposed EU Forced Labour Regulation <p>US Uyghur Act</p> <p>Readings:</p> <p><i>To be announced</i></p>
27 November	UN Forum on Business and Human Rights (Geneva)	Participation at the UN Forum on Business and Human Rights in Geneva. Information will be given in class.
4 December	RBC and Mega-Sporting Events	<p>Readings:</p> <p>AMIS, Mega-Sporting Events and Human Rights – A Time for More Teamwork?, <i>Business and Human Rights Journal</i>, 2 (2017), pp. 135-141</p>

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		<p>ISHIDA/WADA, The Implementation of the UN Guiding Principles into Daily Business Operations and the 2020 Tokyo Olympic and Paralympic Games, <i>Business and Human Rights Journal</i>, 2 (2017), pp. 143-148</p> <p>SPALDING, The Governance Legacy of Mega-Sporting Events: A Golden Opportunity to Promote Human Rights, <i>Commentary, IHRB</i>, 7 December 2018</p> <p>Mega Sporting Events/IHRB, The Mega-Sporting Event Lifecycle – Embedding Human Rights from Vision to Legacy, <i>Report</i>, 27 April 2018</p>
11 December	RBC and Climate Change (1/2)	<p>Documents:</p> <p>OECD Guidelines for MNEs on RBC, Chapter VI. Environment</p>
18 December	RBC and Climate Change (2/2)	<p>Paris Agreement on Climate Change</p> <p>UN Working Group on BHR, Information Note on Climate Change and the Guiding Principles on Business and Human Rights, June 2023</p> <p>Readings:</p> <p>MUCHLINSKI, <i>Multinational Enterprises and the Law</i>, Chapter 15: Environmental Issues, pp. 606-648</p> <p>OLAWUYI, Corporate Accountability for the Natural Environment and Climate Change, in: BANTEKAS/STEIN (eds.), <i>The Cambridge Companion to Business and Human Rights Law</i>, pp. 234-259</p> <p>WEBER/HÖSLI, Corporate Climate Responsibility – The Rise of a New Governance Issue, <i>sui generis</i> 2021, pp. 83-92</p> <p>Cases:</p> <p>Netherlands, The Hague District Court, Judgement Royal Dutch Shell, 26 May 2021</p> <p>Switzerland, <i>Pari Fishermen v. Holcim</i> (ongoing)</p> <p>ECHR, <i>Verein Klimasenioren Schweiz and others v. Switzerland</i></p>