

*Business and Human Rights: Historical, Legal and Contemporary Perspectives*  
IÉSEG Summer Session, July 22-26, 2019  
Professor Timothy Webster  
Case Western Reserve University School of Law

Over the past two decades, multinational enterprises have grown in power, scope and influence. Many MNEs generate annual revenues larger than the GDPs of developing countries. To be sure, many corporations assist economic development through foreign direct investment, technology transfer and creation of infrastructure. But a growing chorus of scholars, lawyers, and international organizations have called for increased regulation of MNEs. Specifically, the issue of legal liability for international human rights abuses has emerged as after a series of recent events: from the collapse of the Rana Garment Factory in Bangladesh to the displacement of indigenous people in Burma (Myanmar), Congo, Nigeria and Peru. Are corporations liable when they commit human rights violations? Or can they hide behind legal doctrines, tied to territory and jurisdiction, to avoid legal liability?

This short course examines the history of corporate legal liability for violations of international law. It begins with the all-important Nuremberg and Tokyo Tribunals, which forever reconfigured the subjects of international law—from states to individuals. It then picks up with recent efforts from the UN and OECD to introduce norms of corporate liability and corporate social responsibility. Next, it examines the Alien Tort Statute in the United States, and the role of U.S. courts in holding corporations to account. Finally, it investigates contemporary movements, in the East and the West, to hold corporations liable for the events of World War II.

Students will learn about one of the most important legal developments of the 21st century, grasp the historical roots of these developments from cross-cultural perspectives, and evaluate the prospects for future accountability efforts.

There will be a one-hour final examination on Thursday, July 26, as well as a short (5-page) paper due on July 31. Details on the paper will be circulated during the class.

Readings will be distributed one week before classes begins. Students will be expected to complete the readings *before* the start of each class.

**Class 1. Historical Perspectives: Nuremberg and Tokyo**

- Readings: Jonathan Bush, *The Prehistory of Corporations and Conspiracy in International Criminal Law: What Nuremberg Really Said*, 109 Columbia Law Review 1096-1102, 1236-1240 (2010) (10 pages)
- SEYMOUR MORRIS, JR., SUPREME COMMANDER: MACARTHUR'S TRIUMPH IN JAPAN, 230-241 (2014) (11 pages)

**Class 2. Contemporary Perspectives: United Nations and OECD**

- UN Guiding Principles on Business and Human Rights: Implementing the Respect, Protect and Remedy Framework, 1, 3-4, 13-16, 17-18 (9 pages)
- OECD Guidelines on Multinational Enterprises (2015), 17-18, 30-34, 71-74 (10 pages)

**Class 3. Contemporary Perspectives: Alien Tort Statute**

- Harold Koh, Separating Myth from Reality about Corporate Responsibility Litigation, 7 Journal of International Economic Law 263-274 (2004) (11 pages)
- Julian Ku, The Curious Case of Corporate Liability under the Alien Tort Act, 51 Virginia Journal of International Law 364-377 (2010) (13 pages)

**Class 4. Contemporary Perspectives: World War II Litigation East and West**

- Michael Bazzyler, *The Holocaust Restitution Movement*, 20 Berkeley Journal of International Law 14-25 (2002) (11 pages)
- Timothy Webster, *Discursive Justice: Interpreting World War II Litigation in Japan*, 58 Virginia Journal of International Law 184-200 (2018) (16 pages)