

Conflicting Concerns: Addressing possible human rights trade-offs arising in the context of corporate activity

Project Partner: Essex Business and Human Rights Project

Project Overview:

This project will address the potential trade-off between (a) the human rights of individuals and local communities and (b) the State/society at large that arise in the context of corporate activity. For instance, the establishment of a mine may negatively affect the human rights of the local population (as a result of displacement or contamination) while at the same time the revenue generated by the mine may be used for the benefit of society at large (i.e. by providing resources necessary for the realisation of economic, social and cultural rights).

Key inter-related issues arising in this regard are:

- The conflict between individuals' and local communities' rights v. the rights of society at large;
- The concept of 'retrogression' and the requirements of international human rights law in this regard;
- The content of minimum core obligations and the requirements associated with their fulfilment.

A related issue – and one that may also be addressed in the course of this project dependent upon time considerations – is the potential conflict between a corporation's shareholders and human rights compliance. Specifically, to what extent should a corporation consider the possibility of either reduced profit, or of not proceeding with a project, in light of human rights concerns?

Further details regarding the Essex Business and Human Rights Project can be found on the following link: <http://www.essex.ac.uk/ebhr/>.

Project Output:

The Human Rights Centre Clinic team will prepare a memorandum of no more than 20 pages addressing the above identified issues, and the nature of the relationship between competing human rights concerns.

This memorandum will be submitted to the [UN Working Group on the issue of human rights and transnational corporations and other business enterprises](#).

Project Outline:

Phase 1: (November-December)

- Students will acquire basic legal and human rights research skills
- Students will develop a specific understanding of the international human rights law issues arising in relation to this project.
- Students will develop a draft outline setting out the major issues to be addressed for the purposes of this project.
- Students will develop a project completion plan.

Phase 2: (January-May)

- Students will develop a detailed memorandum outline.
- Students will conduct supplementary research.
- Students will prepare a draft memorandum.

Phase 3: (May-June)

- Students will review and revise drafts and prepare final submission.

Project Bibliography:

- Letter dated 16 May 2012 addressed by the Chairperson of the Committee on Economic, Social and Cultural Rights to States parties to the International Covenant on Economic, Social and Cultural Rights.
- Marie Elske C. Gispen, 'Re-visiting the 'principle of balance' from a human rights perspective', Working paper to the 7th Annual Conference of the International Society for the Study of Drug Policy, 2013.
- Office of the High Commissioner for Human Rights, 'Human Rights and Poverty Reduction: A Conceptual Framework', UN Doc. HR/PUB/04/1, 2004.
- 'Report of the Special Rapporteur on the human right to safe drinking water and sanitation, Catarina de Albuquerque', UN Doc. A/HRC/24/44, 11 July 2013.
- UN Committee on Economic, Social and Cultural Rights (CESCR), 'General Comment No. 3: The Nature of States Parties' Obligations (Art. 2, Para. 1, of the Covenant)', UN Doc. E/1991/23, 14 December 1990.
- UN Committee on Economic, Social and Cultural Rights (CESCR), 'General Comment No. 19: The right to social security (Art. 9 of the Covenant)', UN Doc. E/C.12/GC/194, February 2008.

- [Vienna Declaration and Programme of Action](#), Adopted by the World Conference on Human Rights in Vienna on 25 June 1993.
- Ontario Human Rights Commission, '[Policy on Competing Human Rights](#)', 26 January 2012.
- Balancing Competing Human Rights (2010) 8 Canadian Diversity 3.
- 'Balancing Conflicting Rights: Towards an Analytical Framework', Ontario Human Rights Commission, August 2005.
- Jacco Bomhoff, 'Balancing Constitutional Rights: Introduction' (2013) LSE Law, Society and Economy Working Papers 22.