

**Business and Human Rights Clinic
Fall 2015, Spring 2016**

Investment Chain Analysis and Human Rights Advocacy

Class meeting time: Fridays 11 am – 1:50 pm¹

Jointly sponsored by:

School of International and Public Affairs
Institute for the Study of Human Rights
Columbia University

Faculty: Joanne Bauer, Adjunct Professor, SIPA, jjb71@columbia.edu

About the Business and Human Rights Clinic

Since the 1990s, the subject of business and human rights has evolved from a critique of “corporate social responsibility,”² to a movement³ and a field of study.⁴ As the field has grown, so too has the demand for professionals with a sophisticated understanding of the factors that lead corporations to “exploit workers and communities for profit”⁵ and the steps that corporations, governments, and civil society need to take to halt and reverse that trend, and remedy abuses when they occur.

The Business and Human Rights Clinic is a year-long class offered in the fall and spring that provides a space for students to deepen their knowledge and experience of business and human rights. Combining seminars, guest lectures, group work, and site visits, it is an interdisciplinary space for testing innovative models of business and human rights work, carried out in partnership with NGOs and other business and human rights practitioners.

Our subject for 2015-2016, investment chain mapping, described in detail below, is a cutting edge, highly technical skill taught nowhere else and with strong career potential. Through direct contact with the Client, Inclusive Development International, and its international and local partners, and through possible site visits, the Clinic will provide a unique opportunity for students to help pioneer and then put into practice an innovative and timely advocacy approach

¹ We will not meet every Friday nor always for the full three hours. As noted in outline of the course presented here, the course combines seminars with project work. During the start of the Clinic when we will be largely in seminar mode, the Clinic will meet every Friday for two hours. As we move into our project work, we will meet every other Friday for the 2.5 -3 hour block.

² Joanne Bauer, “The Problem with Corporate Social Responsibility,” Open Democracy, December 17, 2014: <https://www.opendemocracy.net/joanne-bauer/problem-with-corporate-social-responsibility>

³ Mark Taylor, “The Movement and the IGWiG” Institute for Human Rights and Business, July 3, 2015: <http://www.ihrb.org/commentary/the-movement-and-the-igwig.html>

⁴ In November 2015, Cambridge University Press will release the inaugural issue of *the Business and Human Rights Journal*: <http://journals.cambridge.org/action/displaySpecialPage?pageId=6480>

⁵ In a 2008 report, Oxfam researchers Kate Raworth, Sumi Dhanarajan and Liam Wren-Lewis make the distinction between business practices that amount to “exploiting for profit” and those that amount to “investing for profit”. Kate Raworth, Sumi Dhanarajan and Liam Wren-Lewis, “The Private Sector and Poverty Reduction,” Oxfam International, June 2008: <http://policy-practice.oxfam.org.uk/publications/the-private-sector-and-poverty-reduction-112467>

to holding transnational corporations and development finance institutions accountable for human rights harms. This expertise will position students strongly to become leaders in the field. In future years, the Clinic will continue to engage in projects at the cutting edge of the evolving business and human rights field, as it aims to establish successful long-term relationships with clients.

In addition to regular class sessions, beginning in mid-October Clinic students will work in small 2-3 person teams on Clinic Projects. (See Appendix for a list of potential projects.) Clinic Projects are designed to enable students, supported by the Clinic professor and client, to produce research with broader applicability to the business and human rights field – in the case of this inaugural year, related to Investment Chain Mapping and Human Rights Advocacy. Through active engagement and leadership on Clinic Projects, students directly and collectively implement, test, and reflect upon the trainings of the seminar sessions. Students are expected to be active partners in institutionalizing lessons learned for future Clinic students and will complete an interim and final report that reflects this objective.

The Clinic is taught by Joanne Bauer, Adjunct Professor, SIPA. Professor Bauer teaches U6041 and has served as Faculty Advisor to human rights Capstones in 2013 and 2015. She is also Senior Researcher with the Business and Human Rights Program at the Institute for the Study of Human Rights (ISHR), and has taught Human Rights and Business in ISHR's Human Rights Certificate Program since its inception in 2008. The Business and Human Rights Clinic builds on the introduction to the subject offered through the SIPA course "Corporate Social Responsibility, A Human Rights Approach (U6041)" taught by Professor Bauer since 2009.

2015-2016 Clinic Project:

Investment Chain Mapping and Human Rights Advocacy

Every year more than 15 million people are forcibly displaced from their land, housing and natural resources in the name of development. To meet global demand, the international financial system is fueling this crisis with its relentless pursuit of natural resources and investment markets, and in so doing capitalize on weak governance structures that deny people their human rights to water, housing and freedom from forcible displacement. The recent dramatic shift from public to private financing for development, and the rise of China as a dominant financier, has compounded the problem. As global capital becomes more interconnected, decisions made in boardrooms in New York, London and Beijing are increasingly harming vulnerable communities in the Global South.

Behind many harmful land deals is an invisible web of actors including transnational corporations and their subsidiaries, commodity traders, retailers, private equity and debt investors, and development finance institutions. These actors are typically bound by rules that require them to do no harm and respect human rights and the environment. Others are global brands that are highly susceptible to negative publicity. Yet because of the opaque nature of these investments, communities often don't know who is backing harmful projects. As such, they are unable to devise successful strategies to defend their rights.

The Clinic will partner with Inclusive Development International (IDI), an international NGO based in the United States that specializes in land and natural resource rights, and works to make the international economic system more just and inclusive. IDI supports and builds the capacity of local organizations and affected communities to defend their land and human rights

in the face of harmful investment, trade and development. Through research, casework and policy advocacy, IDI works to strengthen the human rights regulation and accountability of corporations, financial institutions and development agencies. As part of its strategic plan, beginning in late 2015 investment chain mapping will be the primary focus of IDI's work under the name "Pathways to Justice." For more information on IDI, see:

<http://www.inclusivedevelopment.net/>

IDI has developed a strategy to map investment chains and place critical information in the hands of communities affected by forced eviction. IDI recently used financial databases to uncover two dozen cases in which the World Bank's International Finance Corporation (IFC) had used financial intermediaries, such as commercial banks, private equity funds and hedge funds, to invest millions in projects implicated in land grabs and other abuses. IDI will train Clinic students⁶ to use these databases; after becoming familiar with the available tools, they will contribute to advancing the methodology for investment chain mapping, pressure point analysis, and advocacy. In doing so, Clinic students will support communities and NGOs in the Global South to hold development finance institutions and companies accountable for the human rights impacts of their investment and procurement decisions.

In their project work students will systematically identify links between global financial institutions/corporations and projects in developing countries that are known to have violated or threatened community land rights. The research will target financial institutions and corporations that claim to adhere to strong environmental and social standards. When students have identified links, they will write reports describing the facts of each case and prepare pressure point analyses. For cases that offer the potential for redress, participants will work with IDI to alert affected communities and provide advice on pursuing remedies.

Specifically clinic students will:

- conduct investment chain mapping using Thomson One, Fact Set and Zephyr, LexisNexus Corporate Affiliations, and other financial databases;
- conduct research on specific contexts where business investment threatens to impact the human rights of communities;
- undertake one or more projects for the client – for example, expanding the Follow the Money Guide to include sectors other than agriculture and develop a plan to translate that into a web-based platform*;
- develop and support advocacy strategies based on data uncovered;
- write a final report on the findings of their research and outcomes to date of their advocacy work, and lessons for future research and advocacy;
- present their final report to the Columbia community at a student-organized symposium at the end of the academic year.

*See Appendix 1 for a list of projects students may be assigned to.

For a 5 minute video on investment chain mapping and pressure point identification in the agricultural sector, see: <https://www.youtube.com/watch?v=FK15DHzfDmc>

⁶ Once the project work begins, IDI staff will be available between 2-4 hours per month, in person or by Skype, to train and work with Clinic students.

Project Assignments

As students acquire the mapping and pressure point analysis skills and begin work on their cases, the project work will evolve. Some student teams will extend their research and analysis to working with communities on strategy. Other teams, whose cases do not end up leading to advocacy work, may either move to other cases or get involved in one of a number of projects. (See Appendix 1 for a list of potential projects.)

Final report: In addition to assigned project work, Clinic students will be responsible for delivering a year-end report and analysis of the work in the form of a report for the Client to which all Clinic students must contribute. The report should be self-reflective about the year's work and provide guidance for the Client's future work and the work of future Clinic students who work with IDI.

Clinic Student Team

Eight to ten students will form the Clinic team.

Students are required to enroll for both fall and spring semesters. SIPA and MA students will receive 3 credits per semester. Students may also be asked to devote time during their winter and spring breaks to Clinic work. Students who leave the Clinic after the first semester will not be entitled to a letter grade; instead they will receive a pass/fail grade.

While there are no pre-requisites for the Clinic, students who have taken U6041 (Corporate Social Responsibility: A Human Rights Approach) or are taking it concurrently with the Clinic will be at an advantage. The following skills and experiences are also desired:

- Knowledge/experience in finance
- Legal training
- Knowledge or experience in corporate human rights accountability
- Foreign language skills, in particular Spanish, Vietnamese, Hindi and Chinese

For SIPA students:

- Priority will be given to second year students, though first year students are welcome to apply.
- The Clinic will satisfy the SIPA graduation requirement of a Capstone. Because of the high intensity and level of commitment expected of Clinic and Capstone students, students enrolled in the Clinic are not permitted to also enroll in a Capstone.

Time commitment

The time Clinic students' are expected to devote to the Clinic will vary over the course of the academic year. As noted above, for the first five weeks are strictly seminar; students are expected to come to class having read the material and ready to engage in class discussion. Once the projects begin after Week 5, students will be expected to devote 8-10 hours per week to the Clinic for the fall semester, including class time. During the spring semester, students will

be expected to devote a minimum of 10 hours to the Clinic in addition to class time. This time commitment aligns with Capstone expectations.

Student Assessment

Students will receive a letter grade at the end of each semester. The grading rubric is as follows:

- Quality of participation in class, including evidence of preparation (20%)
- Overall professionalism, including timeliness, ability to work with clinic peers, ethics, engagement with the client, etc. (20%)
- Quality of written work and briefings to client (60%)

I will hold individual conferences with students mid-semester and end-semester. Sign-up sheets for time slots will be available the week prior. The Course Outline, below, indicates the dates for mid-semester and end-semester conferences.

Structure and Timeline

Clinic sessions will last two to three hours and combine lecture with discussion, presentations and group work by students.⁷ Students are expected to have read the assigned readings before each class and come prepared to participate actively.

Seminar readings are drawn from a variety of sources and disciplines, and readings are accompanied by Guiding Questions and written assignments, to facilitate focused preparation for class.

We will begin the year meeting weekly; as students get deeper into their project work, scheduled sessions will meet every other week. In between sessions, student will meet in their work group on their projects and with the Clinic professor.

Course outline

Fall 2015

Class 1 (Sept 11): **Introduction to the Clinic**

Class Description

⁷ At the start of the year when the Clinic is purely seminar, Clinic sessions will be weekly and are likely to last two hours. Once the project work begins we will meet twice per month with sessions lasting up to three hours.

This class will introduce the Clinic and outline the work and expectations. The class will also provide an introduction to relevant international human rights law, addressing the following questions:

- What are human rights and what is their legal status?
- Which international human rights law documents will form the touchstone for your advocacy strategies in this course?

Readings:

Blackmore E., Bugalski N., Pred D. (2015) *Following the Money: An advocate's guide to securing accountability in agricultural investments*. IIED, London.
<http://www.inclusivedevelopment.net/new-idi-resource-following-the-money-an-advocates-guide-to-securing-accountability-in-agricultural-investments/> Also available in the "Readings" folder under "Files and Resources". It's fine to skim this for today, as we will be returning to it in future weeks.

David Kinley, "Making Power Responsible: Regulating the Relationship Between Corporations and Human Rights," Submission to the Joint Committee on Human Rights: Call for Evidence, 6 March 2009
<http://www.publications.parliament.uk/pa/jt200910/jtselect/jtrights/5/5we23.htm>

Skim OHCHR, IBLF, UN Global Compact & Castan Centre for Human Rights Law at Faculty of Law, Monash University, "Human Rights Translated: A Business Reference Guide" http://human-rights.unglobalcompact.org/doc/human_rights_translated.pdf

Class 2 (Sept 18): Development –Induced Displacement: Land, Housing, and Natural Resource Tenure Rights

Class Description

This class will explore the issue of development-induced displacement, the current legal and normative standards around land, housing and natural resource rights, the exercise of eminent domain powers, "willing buyer willing seller" (voluntary) land transactions, the situation of "squatters" and the process and impacts of resettlement. We will examine case studies of best and worst policies and practices in relation to land rights.

On this day we will have our first meeting with IDI, which will take place with Co-Founder and Legal Director, Natalie Bugalski, via Skype. During the call students will have the opportunity to ask questions about IDI and its advocacy approach and, learn about a selection of its ongoing case work.

Readings

Saturnino M. Borrás, Jr. & Jennifer C. Franco (2010). "From Threat to Opportunity? Problems with the idea of a "Code of Conduct" for Land-grabbing," *Yale Human Rights &*

Development Vol. 13, p. 507-523.

https://www.tni.org/files/Yale%20April%202010%20Borras_Franco%20CoC%20paper.pdf

Michael Cernea, "Reforming the Foundations of Involuntary Resettlement," in Michael Cernea and Hari Mohan Mathur, eds, *Can Compensation Prevent Impoverishment? Reforming Resettlement through Investments and Benefit-Sharing*, New York: Oxford University Press, pp1-10. (See "Readings" file in "Files & Resources" on Courseworks)

Principles for Responsible Investment in Agriculture and Food Systems, adopted 2014 by the Committee on World Food Security. <http://www.fao.org/3/a-au866e.pdf>

Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security
<http://www.fao.org/docrep/016/i2801e/i2801e.pdf>

UN CESCR General Comment 7: Forced Evictions and the Right to Adequate Housing (1997): <https://www1.umn.edu/humanrts/gencomm/escgencom7.htm>

IFC Performance Standard 5: Land Acquisition and Involuntary Resettlement
http://www.ifc.org/wps/wcm/connect/3d82c70049a79073b82cfaa8c6a8312a/PS5_English_2012.pdf?MOD=AJPERES

Class 3 (Sept 25): **Corporate Human Rights Responsibilities**

Class Description

During this class we will introduce human rights standards for business, with special attention to the UN Guiding Principles on Business and Human Rights which was unanimously endorsed by the UN Human Rights Council in 2011 and serves as the most authoritative standard. We will consider the relationship between the UNGPs and other standards, including the IFC performance standards, with an eye towards understanding the potential for making these standards binding on companies.

Readings

"The Corporate Responsibility to Respect: An Interpretive Guide" Office of High Commissioner for Human Rights
http://www.ohchr.org/Documents/Publications/HR.PUB.12.2_En.pdf

Optional

David Kinley and Sarah Joseph, "Multinational Corporations and Human Rights: Questions about their Relationship," 2002. Available in "Readings" file in "Files & Resources".

Joanne Bauer, "The Problem with Corporate Social Responsibility," *Open Democracy*, December 17, 2014: <https://www.opendemocracy.net/joanne-bauer/problem-with-corporate-social-responsibility>

John Ruggie, Interim Report of the Special Representative of the Secretary-General on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises, U.N. Doc. E/CN.4/2006/97 (2006). Read paragraphs 9-30:
<http://www1.umn.edu/humanrts/business/RuggieReport2006.html>

Class 4 (Oct 2): **Multilateral Development Banks and Human Rights Obligations**

Class Description

This class will introduce multilateral development banks (MDB), their human rights obligations, legal immunity and the types of projects they finance that impact land rights. The class will also introduce safeguard policies and standards as part of the range of accountability mechanisms available to groups harmed by MDB investments.

Readings

Eisuke Suzuki and Suresh Nanwani, "Responsibility of International Organizations: The Accountability Mechanisms of Multilateral Development Banks" *Michigan Journal of International Law*, Vol 27, pp177-225 <http://www.forum-adb.org/pdf/Suzuki-Nanwani-Responsibility-of-Intl-Orgs-MJIL-27-177.pdf>

Suresh Nanwani, "Directions in Reshaping Accountability Mechanisms in Multilateral Development Banks and Other Organizations," (2014) 5/2 *Global Policy*, pp 242-251. Available on e-reserves.

D.D. Bradlow and A. Naudé Fourie, "The Operational Policies of the World Bank and the International Finance Corporation: Creating Law-Making and Law-Governed Institutions," (2014) 10 *International Organizations Law Review*, pp 3-80 Available on e-reserves.

International Finance Corporation: Performance Standards,
http://www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/ifc+sustainability/our+approach/risk+management/performance+standards/environmental+and+social+performance+standards+and+guidance+notes

Class 5 (Oct 9) **Investment Chain Mapping I**

Class Description

This class marks the beginning of the practical part of the clinic. We will take a deep dive into investment chains, how to map the actors in an investment chain, including by using financial databases, and how to identify pressure points. IDI's "Follow the Money Guide" (forthcoming) will be used as a resource.

During this class, IDI's Dustin Roasa, Mekong Researcher, and Mark Grimsditch, China Researcher, will join us via Skype to walk us through a financial data base, such as Thomson One, and how to do investment chain mapping. Students will map and analyze an investment chain of a real case as an example.

The session will introduce the assignment due on October. Working in pairs, students will conduct follow up investigation on two cases where IDI has done preliminary work. (See the “Assignments” section of Courseworks for instructions for this assignment.)

Readings

Blackmore E., Bugalski N., Pred D. (2015) *Following the Money: An advocate’s guide to securing accountability in agricultural investments*. IIED, London. Chapters 1-3.

Kate Geary, “The Suffering of Others: The human cost of the International Finance Corporation’s lending through financial intermediaries,” Oxfam Issue Briefing, April 2015, https://www.oxfam.org/sites/www.oxfam.org/files/file_attachments/ib-suffering-of-others-international-finance-corporation-020415-en.pdf

Office of the Compliance Advisor Ombudsman (CAO), “CAO Audit of a Sample of IFC Investments,” Oct 10, 2012 http://www.cao-ombudsman.org/documents/Audit_Report_C-I-R9-Y10-135.pdf

International Finance Corporation, Interpretation Note on Financial Intermediaries, January 1, 2012 http://www.ifc.org/wps/wcm/connect/38d1a68049ddf966af3cbfda80c2ddf3/InterpretationNote_FIs_2012.pdf?MOD=AJPERES

Narmada Valley Dam memo, Emily Goldman for IDI. This is a sample memo of the kind of work we will be doing to start. (Files & Resources, Courseworks) *Note: This publication is for the Clinic use only and should not be shared outside the Clinic.*

Dustin Roasa, IFC Financial Intermediary Investments Research: Connecting the Dots Between the IFC and Land Grabs, Phase 1 (Files & Resources, Courseworks) *Note: This publication is for the Clinic use only and should not be shared outside the Clinic.*

Class 6 (Oct 16) **Working Session**

During this session we will meet with Fadi Dagher of Lehman Library and Kathleen Dryer of the Watson Library of Business and Economics, who will make explain the relevant available resources at Columbia for investment chain mapping. Students will report out on project work, and plan for the first report out to IDI scheduled for the next session.

Class 7 (Oct 23): **Investment Chan Mapping II**

Assignment Due:

Students will come to class having completed investment chain mapping and analysis on their cases. During class next steps for research on the most promising cases will be determined.

Next steps could include: researching the standards, company structures, and conduct of key actors along the chain (e.g. human rights policies, grievance mechanisms, vulnerability to reputational risk, involvement in other harmful projects); undertaking human rights, legal, and policy analysis of the case; devising the most effective advocacy strategy taking into account

pressure points; contacting affected communities and local NGO supporters to explain their findings and discuss whether the communities are interested in pursuing the strategies with the support of IDI and the students.

Oct 30 **Working Session**

Nov 5 **Extra Q&A Session with Professor Norman Bartczak, Columbia Law School** on reading financial spreadsheets. (Room 409 IAB)

Class 8 (Nov 6): **The Role of Chinese Corporations and Development Finance Institutions**

Class Description

This session will explore the rising role of Chinese development finance actors and companies. It is highly likely that in at least one of the Clinic cases, a Chinese actor will be a pivotal player along the investment chain. We will examine the emerging environmental and social standards of these actors and the nature of advocacy strategies that may be successful in influencing them. IDI's Mekong Coordinator, who has expertise on Chinese development actors, will be invited as guest speaker (via Skype).

Readings

Li-Wen Lin and Curtis Milhaupt. "We are the (National) Champions: Understanding the Mechanisms of State Capitalism in China," *Columbia Law and Economics Working Paper*, No. 409, http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1952623

Nancy Alexander and Francis Kornegay, "New Battlegrounds in Development Finance," *Project Syndicate*, October 15, 2014 <https://www.project-syndicate.org/commentary/infrastructure-financing-and-emerging-economies-by-nancy-alexander-and-francis-a-kornegay-2014-10>

Nancy Alexander, "The Age of Megaprojects," *Project Syndicate*, July 10, 2015 <http://www.project-syndicate.org/commentary/g20-infrastructure-investment-by-nancy-alexander-2015-07>

Lowell Chow, "Signs human rights are moving slowly up the agenda in corporate China," *The Guardian*, September 17, 2014, <http://www.theguardian.com/sustainable-business/2014/sep/17/human-rights-china-corporate-responsibility-taiwan-hong-kong>

Lowell Chow and Annabel Short, "China: Intense scrutiny on AIIB should spur it to fulfil its social and environmental mission" *South China Morning Post*, July 27, 2015 <http://www.scmp.com/comment/insight-opinion/article/1843470/intense-scrutiny-aiib-should-spur-it-fulfil-its-social-and>

Ma Jun and Simon Zadek, "Greening China's Financial System" *Project Syndicate*, May 11, 2015. <http://www.project-syndicate.org/commentary/china-sustainable-development-finance-by-ma-jun-and-simon-zadek-2015-05>

“China’s Mining Industry at Home and Overseas: Development, Impacts and Regulation,” Greenovation Hub, 2014, Chaps 3-5: http://www.ghub.org/cfc_en/wp-content/uploads/sites/2/2014/11/China-Mining-at-Home-and-Overseas_Main-report2_EN.pdf

Nov 5 and 6: **Mid-term Assessments**

Clinic students meet individually with me to discuss class performance. Sign-up sheet for afternoon meeting times will be provided the week before.

Class 9 (Nov 20): **Investment Chain Mapping III**

Class description

Students report back on their research progress. Discussion will center on the benefits and drawbacks of proposed strategies, with special attention to techniques, styles and challenges of working with local communities and NGOs.

From this point forward, under supervision, teams will be responsible for their assigned cases. Some cases will only involve investment chain mapping, while on select cases, where requested by communities and IDI, student teams will follow through with other types of research, advice and advocacy support to communities. Students will also work on other projects, as assigned.

Nov 27 **Thanksgiving Break**, no class

Dec 16: **All fall projects due.**

Dec 17-18: **Individual meetings** with Clinic students. Check out for the semester.

*****Optional Winter Break Travel*****

IDI and its partners will hold an Inception Workshop in Cambodia in either December or early January. The Workshop will provide community training on the “Follow the Money to Justice” concepts and tools to develop community engagement strategies in each country where the project will be piloted. Two to four students may be invited to assist in the training, pending funding.

Students may instead request to be part of a team that will travel during spring break. (See below for that travel option.) Every effort will be made to enable students to participate in their trip of choice, although final determination will be based on the needs of the projects. Students who did not wish to travel are not required to so.

Spring 2016

In the fall semester, the seminars focused on the context for the work while our practice was focused on cutting our teeth on ICM. This semester the aim of both the Clinic and IDI is to delve deeper into our case work, as we will be taking on those cases with the strongest demand from communities. In some cases this may mean going deeper with some of the cases from the fall. Students can also expect to undertake new cases where community demand for ICM is strong. Therefore, as with Angkor Gold and likely also our new case, Mega First, students can expect opportunities to work with the communities to develop advocacy strategies. For this reason the focus of the seminar work will be on building understanding of existing standards of responsibility for financial investors and of the working of accountability mechanisms, as well as exploring and crafting the most effective advocacy strategies for target communities. As with the fall semester, class sessions in the spring semester will combine discussion, guidance and supervision, and in depth exploration of pertinent topics as well as Clinic work planning.

Most sessions will also include a guest speaker. Clinic students are invited to participate in identifying speakers, inviting speakers, preparing the Clinic for a speaker, and moderating discussions with a speaker.

Written work will include:

- Investment chain mapping memos
- Group work on drafting a complaint to the IFC (assigned on Feb 22; due March 25)
- Final report (First draft due to Joanne April 25, Final draft due May 13)
- Individual research, as assigned

Other work:

- Organize seminar sessions
- Moderate seminar sessions
- Lead seminar discussions
- Organize panel presentation to the Columbia Community
- Participate in panel presentation to the Columbia Community
- Write short articles for Columbia websites/newsletters

Noteworthy dates (excluding ICM dates and website due dates):

- Feb 12: No seminar. Students meet during class time work on projects
- March 11: No seminar. Students not travelling meet to work on projects.
- Mar 14-18: Spring break travel
- Week of Apr 11: Panel presentation to the Columbia community
- April 22: No seminar. Students welcome to attend Development Finance and Accountability Landscape Brainstorming Workshop or work on projects
- Apr 25: First draft of final report due
- May 13: Final draft of final report due
- May 16-17: Individual meetings; Clinic check out

The following is an outline of meeting dates and seminar topics. In addition to the seminar subject, each session will also include a discussion of issues coming up in ICM work, Clinic planning, and time permitting, group work. Clinic students will have an opportunity to contribute to the outline on the first day of class, by suggesting topics and guests for weeks that are still undetermined.

Seminar Topics

Jan 22 **Debrief from the Break**

Jan 29 **Due Diligence in the Financial Sector**

Class description

Our seminar topic is the OECD's guidance on the application of the OECD Guidelines for Multinational Enterprises to the financial sector and its implications for our work.

Reading:

OECD, "Due Diligence in the Financial Sector: Adverse Impacts Directly Linked to Financial Sector Operations, Products or Services by a Business Relationship," Global Forum on Responsible Business Conduct, June 2014:

<https://mneguidelines.oecd.org/globalforumonresponsiblebusinessconduct/GFRBC-2014-financial-sector-document-1.pdf>

BSR, What the OECD Guidelines mean for investors: Interview with Roel Nieuwenkamp, Dec 2014: <http://www.bsr.org/en/our-insights/blog-view/what-the-oecd-guidelines-mean-for-investors>

Click on the hyperlink "how NGOs pressured investors" in the above article or click here: <http://www.wwf.org.uk/?6030>

(Optional)

Margaret Wachenfeld, "Recent Decisions Clarify Investor Responsibility to Address Human Rights Concerns," Responsible Investor, Oct 2013 https://www.responsible-investor.com/home/article/ncp_decision_analysis/

Feb 5 **ICM for other Purposes / The Human Rights Responsibility of Business with Respect to M&A**

Class description

This class will be divided into two parts. During the first part we will discuss the reading below on the responsibility of companies with respect to M & A, in order to have a better sense of the human rights due diligence companies should be doing. During the second half of class we will have guests for the Columbia community and beyond whose work intersects with ICM come to hear about our work and comment upon it from the perspective of what they do.

Reading:

Anna Triponel, "What Do Human Rights Have to Do with Mergers and Acquisitions?"
Shift, January 2016 <http://www.shiftproject.org/publication/what-do-human-rights-have-do-mergers-and-acquisitions>

Feb 12 **No seminar.** Students meet to work in groups on their projects in preparation for the meeting with IDI.

Topics for Clinic planning and decision making:

- 1) Debrief on the Feb 5 experience to share insights and general lessons.
- 2) Ideas for an event open to the Columbia/New York community in April to showcase the Clinic and its work.
- 3) How best to take advantage of the time with Dan Adler and come up with an agenda for him Feb 26.

Feb 19 **Drafting a Complaint / Meeting with IDI**

Class description

This class will study various complaints drafted and submitted to IFIs in order to understand how to prepare a strong complaint. David and Natalie will participate in this discussion. Students will also present and discuss their work to date on priority cases; students travelling during spring break will meet separately with IDI for planning those trips.

Assignment: Students will work on a draft complaint, likely to the IFC. The case will be assigned during class and is due on February 16.

Guests: David Pred, Dustin Roasa, Natalie Bugalski, IDI

Reading:

- (Review and skim) Oxfam, et al. The Suffering of Others
<https://www.oxfam.org/en/research/suffering-others>
- IFC response to The Suffering of Others
http://www.ifc.org/wps/wcm/connect/1259050048004ba99154f5299ede9589/IFC_response_toCSO_report_on_FIs.pdf?MOD=AJPERES
- The Clinic's EVN memo
- IDI HAGL complaint to the CAO <http://www.inclusivedevelopment.net/wp-content/uploads/2014/02/Complaint-to-CAO-re-Dragon-Capital-HAGL-.pdf>
- CAO Financial Intermediary Audit: <http://www.cao-ombudsman.org/newsroom/documents/FIAUDIT.htm> (Click on link from this page.)
- IFC Action Plan: <http://www.cao-ombudsman.org/documents/IFCpresentationforCODE-ESRMforFIs-final.pdf>

Optional:

- Complaint to the Compliance Review Panel, ADB, re: Cambodia Railways Project: <http://compliance.adb.org/dir0035p.nsf/alldocs/RDIA-8XT5DA?OpenDocument> (Click on link provided under "Filing of Request")

- Complaint to the Australian National Contact Point, re: ANZ bank loans to Phnom Penh Sugar: <http://www.inclusivedevelopment.net/wp-content/uploads/2014/10/Specific-Instance-against-ANZ-FINAL.pdf>

Feb 26 **Development Finance and Corporate Accountability II**

Class description:

This class will explore development finance and corporate accountability in more detail, with students now able to bring their own experiences to the discussion, including from site visits. The class will allow students to step back from their cases and discuss the ethical and legal responsibilities of these transnational actors, considering the implications of their decisions and actions on vulnerable communities in developing countries. We will look more closely at the human rights framework vis-a-vis business and institutions such as the World Bank.

Guest: Dan Adler, Compliance Specialist, Compliance Advisor Ombudsman, IFC

Reading:

Complete reading of anything you did not get a chance to read in the readings above for last week.

Optional reading:

“Glass Half Full: The State of Accountability in Development Finance,” Jan 2016, pp 17-77, and Annex 12 on the CAO. This just-released report was spearheaded by SOMO and co-authored by SOMO, IDI, Accountability Counsel, Natural Justice, and others. <http://www.inclusivedevelopment.net/wp-content/uploads/2016/01/GlassHalfFull.pdf>

Taylor Fulton, et al, “What is Remedy for Corporate Human Rights Abuses? Listening to Community Voices: A Field Report,” Dec 2015 This is the report of a 2015 SIPA Capstone <http://accessfacility.org/Columbia-University-Student-Case-Story>

Mar 4 **Preparations for Cambodia Trip/ Case updates/ Planning for the rest of the semester**

Exchange with CCSI and Sabin Climate Center, Columbia Law School on other uses for ICM

Mar 11 **No Class**

Due to travel for spring break there will be no formal seminar. Students not traveling are encouraged to use the seminar room to work on projects.

*****March 14-18 Spring break*****

Cambodia trip: Hengfu, Megafirst, Lower Sesan2

March 23 **Skype call with Ryan Brightwell, Banktrack**

11 am – 12 pm, Room 405 IAB

March 25 **Report out on Spring break travel**

Class description

This class will be devoted to the following subjects:

1. A report out on March Cambodia trip
2. Update on cases
3. Clinic self-reflection work
4. Planning/discussion for the Columbia presentation
5. Discussion of final report

April 1 **Advocacy Strategies**

Class description

This class will explore complementary advocacy strategies, such as media, consumer and shareholder advocacy. The first part of class will be dedicated to group discussion and support on ongoing investment chain mapping cases as well as planning for the presentation on April 7.

Guest: Irit Tamir, Oxfam America

Reading:

Behind the Brands, Oxfam Chris Jochnick, "Attack Equivocate Engage: How Big Food Responds to a Tough New Campaign" <https://oxfamblogs.org/fp2p/attack-equivocate-engage-how-big-food-responds-to-a-tough-new-campaign/>

Erinch Sahan "Behind the Brands: Progress One Year On" (Feb 2013) <http://policy-practice.oxfam.org.uk/blog/2014/02/behind-the-brands-what-progress-is-there-one-year-on>

Become familiar with the campaign: <https://www.oxfam.org/en/campaigns/behind-brands>

Joanne Bauer, "The Coalition of Immokalee Workers and the Campaign for Fair Food: The Evolution of a Business and Human Rights Campaign," in Dorothee Baumann-Pauly and Justine Nolan, eds, *Business and Human Rights: From Principles to Practice*, Routledge, forthcoming. (See Readings folder in "Files & Resources")

April 7 Presentation **to the Columbia Community**

2:30- 4:00 pm Lindsay Rodgers Room, 7th floor

April 8 **Working Session**

We will begin with a working session at a coffee shop downtown (TBD) and then visit the offices of Domini Social Investors to meet with Adam Kanzner, Managing Director and Director of

Corporate Engagement and Public Policy for Domini Social Investments and a Vice President of the Domini Funds.

April 15 Litigation and Causes of Action

Class description:

The first half of class will explore possible causes of action for litigation and how this might fit into an advocacy strategy should that fallback be necessary. Work to date on trends in transnational litigation across jurisdiction will be presented, and guests specializing in transnational litigation may be invited to comment. The second half of class will be dedicated to sharing group work on cases.

April 22 No seminar

Students to attend the Future Development Finance and Accountability Workshop hosted by the Institute for the Study of Human Rights.

April 29 Clinic Debrief

This class will be devoted in part to a reflection on the Clinic, and lessons learned in terms of both the subject matter (ICM) and the management of the Clinic.

May 13 Final Clinic report due to client and to SIPA

May 16-17 Individual check out meetings with Clinic students. Clinic check out.

Appendix 1: Clinic Projects

All students will undertake the following assignment at the start of and possibly for the duration of the Clinic:

- Systematically identify links between target financial institutions, such as the International Finance Corporation, the Asian Development Bank, an Equator Bank and a pension fund that claims to adhere to strong environmental and social standards, and projects on the ground that are known to have violated or threaten community land rights. When these linkages are identified, conduct further research on the facts of each case and conduct a pressure point analysis. Work with IDI to alert affected communities about the information and provide advice on the opportunities presented for pursuing remedies.

Depending on the direction the cases take, the interests of the students, and the needs of IDI, student teams may be assigned to one of the following projects in addition to or in place of investment chain mapping work (as described above):

- Based on the experience conducting investment chain mapping and pressure point analysis prepare a guide for internal IDI and clinic use on how to conduct such research and analysis and a template for presenting the information to affected communities and local NGOs in an accessible form.
- Draft the Pathways to Justice website text by adapting IDI's Guide, *Following the Money: An advocate's guide to securing accountability in agricultural investments*. The text should be expanded to apply to other sectors, including extractives, hydropower, and other large-scale infrastructure and adapted for web application.
- Research and prepare a guide for internal use by IDI and other clinic students on the range of databases and other sources of information that can be used to conduct global investment chain mapping, including parent companies, investors and financiers ("upstream" actors) and buyers such as traders, retailers and processors ("downstream" actors).
- Research and prepare memo for internal use by IDI on possible pressure points and strategies for influencing Chinese overseas investment (specifics to be determined). For example, conduct mapping of Chinese state owned enterprises that have listed subsidiaries in Hong Kong (and possibly Shanghai). Assess whether these subsidiaries are being used for outbound investment, and who has shares in them. Assess whether this generates leverage points for cases.
- For LLM students: Research and prepare memo for internal use by IDI on possible causes of action in 3-4 jurisdictions (to be determined) for taking legal action in theoretical cases against:
 - Equator Principle banks that are exposed to companies that have profited from land dispossession leading to material losses suffered by affected communities.
 - Buyers of commodities from companies that have cultivated the product on land taken involuntarily from communities in violation of local and /or customary laws.