

Business Network Annual Report 2023



Introduction

Companies encounter Rule of Law risks every day. In 2023 we saw a decline in the Rule of Law across many countries. This year's report of the [World Justice Project \(WJP\) Rule of Law Index](#) showed that the Rule of Law continues to deteriorate worldwide in the majority of countries assessed, through the worsening of problems in areas such as constraints on Government powers, fundamental rights, and civil and criminal justice, which directly affect international trade and investment, especially business decision making and capital allocation.

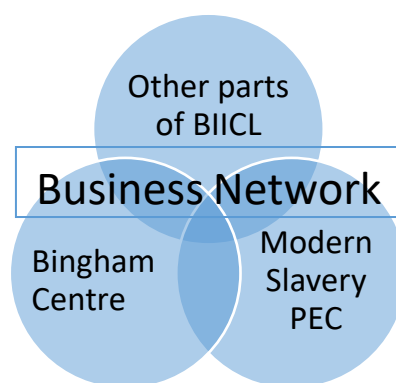


This year, [Anglo American](#), [BP](#), [Centrica](#), [Diageo](#), [HSBC](#), [Rolls-Royce](#), and [Shell International](#), leading listed businesses headquartered in the UK, and members of the [Business Network](#), showed a strong interest and commitment to upholding the Rule of Law in the jurisdictions where they operate. Their General Counsel, legal, human rights, and sustainability teams led and engaged in discussions around key Rule of Law challenges, took leadership in identifying collective action steps, and contributed to co-designing and producing high-quality research undertaken by the Institute (the Bingham Centre for the Rule of Law, the Modern Slavery Policy and Evidence Centre, and other parts of the British Institute of International and Comparative Law (BIICL)).

This year, three key themes stand out that connect the work of the Institute and of the Business Network: i) Artificial Intelligence, ii) the nexus between Environmental and Human Rights issues, and iii) the recession of the Rule of Law.

We are grateful to each of our members for their efforts and commitment this year that have served the overall purpose of the Business Network. That is, to support business best practice and inform better policymaking in respect of Rule of Law.

The leadership of the Business Network Co-Chairs has been instrumental in this. Since March 2023, Mark Gregory, General Counsel at Rolls-Royce, and James Edmunds, General Counsel Corporate and Deputy Company Secretary at Diageo Plc have co-chaired the Business Network, guiding and inspiring the overall work of the Network.





"It has been very rewarding to be able to contribute a business lens to the vital research undertaken by the Bingham Centre [and PEC], and to bring a Rule of Law perspective back into Rolls-Royce...I believe that businesses can take action to build and sustain the Rule of Law in their countries of operation, which is why I'm delighted to be chairing the Bingham Centre's Business Network". **Mark Gregory, Business Network Co-Chair and General Counsel at Rolls-Royce.**

"The BN differentiates from others in that it is more plugged into a non-business framework. It links business to academic and research institutions to influence better policy making, rather than being simply a business lobbying forum". **James Edmunds, Business Network Co-Chair and General Counsel Corporate and Deputy Company Secretary at Diageo Plc.**



We are proud to highlight that this year the Business Network:

- Welcomed Centrica as a new member.
- Launched and implemented a Business Network Strategy 2023-2024.
- Met quarterly to discuss key Rule of Law challenges, shared expertise, and learned from their peers.
- The Business Network Co-Chairs led a stimulating discussion on the implications of the erosion of the Rule of Law for business with ten leading UK multinationals that, while not members of the Network, are interested and committed to upholding the Rule of Law.
- Participated in a BIICL led study exploring the use of Artificial Intelligence in Legal Practice.
- Discussed and agreed to participate in two research projects in 2024: The implications of mandatory human rights due diligence legislation on internal corporate practice (BIICL led), and the role of the legal profession in resisting Rule of Law Backsliding (Bingham Centre led and dependent on awarding of funding).
- Is working on establishing collaborations that can support the purpose of the Network and take further action on specific issues, such as ESG.

In this report, we detail relevant research, events, and other activities undertaken during 2023 of interest to the Business Network members. The report is structured thematically around the key areas of work of the Institute: quarterly Business Network discussion meetings, Business and Human Rights, Competition Law Forum, Relevant Bingham Centre projects, Climate Change, and Modern Slavery Policy and Evidence Centre relevant projects. The report finishes with a forward-looking section.

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Business Network Quarterly Meetings

In 2023, the Business Network held four in-person meetings, according to its quarterly meetings schedule, in which members discussed strategic themes as outlined in the Business Network Strategy 2023-2024.

1. The first meeting of the year was held in March and was hosted by **HSBC**. The members reflected on the work of the Business Network in past years and revisited the purpose of the Network. The members then discussed ESG compliance, reporting frameworks, legislation, materiality for investors and stakeholder engagement among other related issues.
2. **Anglo American** hosted the quarterly meeting in June where the members discussed the Rule of Law as a business imperative, the role it plays in trade and investment, and the long-term business interest to support and uphold the Rule of Law in jurisdictions where they operate. They highlighted the gradual decay in institutions and the increase of systemic risks such as crime, corruption, and conflict. This was followed by a discussion of the Rule of Law Backsliding research project led by Prof Jeff King, Research Director of the Bingham Centre.
3. In September, the members gathered in the offices of **Shell** to discuss the potential of contractual clauses to address Scope 3 emissions in their value chains. A background paper entitled "*Scope 3 Emissions & Contractual Clauses*", produced by the Bingham Centre and with input from other BIICL researchers, was circulated to the members to inform the discussion. The paper discussed relevant regulation (current and forthcoming), practical examples of ESG contractual clauses, and analysed their effectiveness, identifying specific factors that may influence effectiveness. The Business Network members are considering establishing strategic collaborations with a range of relevant organisations and initiatives to take this forward. In a second presentation, Dr Irene Pietropaoli spoke about findings from her research project examining [the use of AI by legal professionals](#).
4. The last meeting of the year was hosted by **Diageo** in November which concluded with a drinks reception, kindly sponsored by Diageo, to close the activities of the Network for 2023. In the meeting, Dr Sofia Gonzalez De Aguinaga presented the findings of a research project exploring the role of investors in addressing modern slavery, for which a business brief was produced and circulated to members in advance. The members also discussed the link between environmental issues and human rights, with Diageo making a presentation on this topic. A background paper on "*the connection between environmental impacts and human rights*" was produced and circulated in advance to inform the discussion. The paper discusses the direct effects of climate change on human rights, the modern slavery-environmental degradation-climate change nexus, the relationship to mandatory human rights due diligence, and the need for a human rights approach to climate change. Dr Irene Pietropaoli and Jasmine Elliott invited the members to participate on their new BIICL project on '[Identifying and comparing impacts of mHREDD legal models on internal corporate practice](#)'.

Business and Human Rights

Human Rights and Environmental Due Diligence Regulation

Laws imposing mandatory human rights and environmental due diligence (mHREDD) are multiplying. While these laws are all based on the UN Guiding Principles on Business and Human Rights (UNGPs), they use different legislative models - including some provisions which limit or contradict UNGPs expectations. In this way, each legal model necessitates slightly different corporate practices. Although these laws are new, companies and their legal advisers are already taking steps towards implementation.

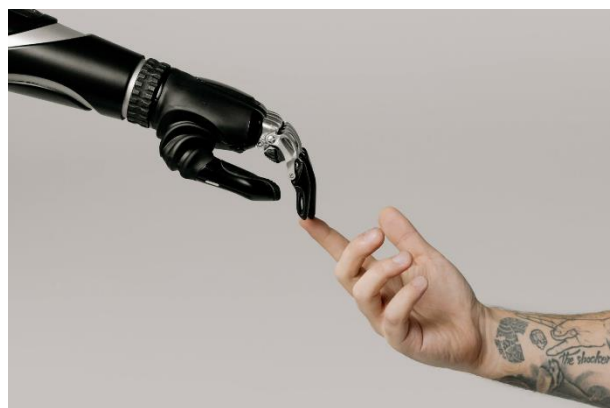
In September 2023, BIICL's Business and Human Rights team started a new project on '[Identifying and comparing impacts of mHREDD legal models on internal corporate practice](#)', funded by the Laudes Foundation. This project is aimed at producing evidence of internal corporate responses to mHREDD legal models, to inform the design and implementation of more effective mHREDD laws. Through desk-based research and anonymous interviews with practitioners, including Business Network members, this project is investigating, comparing, and analysing the effects of the legislative mHREDD models of France, Germany, and the EU on internal corporate behaviour. The research report is expected to be published during the Autumn of 2024.

This project builds on the work of former BIICL Senior Research Fellow, Lise Smit, who was the lead author of a landmark [report](#) on due diligence requirements in supply chains that informed the European Commission Draft Directive on [Corporate Sustainability Due Diligence](#), also known as the mandatory Human Rights and Environmental Due Diligence Directive.

Human Rights Due Diligence Forum

In 2023 the team has also continued hosting roundtable [events for the HRDD Forum](#), a membership-based group, bringing together some of the most expert and experienced lawyers working in the field. In December 2023, we held our last HRDD Forum roundtable of the year focusing on '[Human rights due diligence in contracts](#)'. This topic, along with others discussed in this Forum such as the '[Transnational implications of mHREDD laws](#)', is of great interest to the Business Network members who are regularly updated on these issues.

Artificial Intelligence and Business and Human Rights



With the field of Artificial Intelligence (AI) in rapid development in 2023, the Business and Human Rights team has continued researching the links between the fields of business and human rights and of AI. In October 2023, BIICL launched a report on the '[Use of Artificial Intelligence in Legal Practice](#)'. The research, which was commissioned by Law Notion, a legal technology company, consisted of a combination of literature reviews and interviews with solicitors and barristers. The report describes the

different ways AI can be embedded in legal practice and considers legal and ethical concerns related

to the integrity of the legal system, the duties of lawyers, and protection of the rights of clients. Some of the findings are summarised in [this blog](#).

In the autumn, BIICL with Singapore Management University ran for the second time a course on [Artificial Intelligence, Law and Ethics](#) with a number of sessions focusing on business responsibility. The course was fully booked, and we received very positive feedback from the course participants. The course will run again in 2024.

The Illegal Migration Bill

In March 2023, Dr Jean-Pierre Gauci, Arthur Watts Senior Fellow in Public International Law, provided parliamentary evidence (video and transcript available [here](#)) of the impact of the Illegal Migration Bill on migrants coming to the UK. Speaking before the Joint Committee on Human Rights, he explained how the Bill would affect rights protected under the European Convention on Human Rights.



Dr Jean-Pierre Gauci giving evidence to the Joint Committee on Human Rights.

The Bingham Centre subsequently convened a meeting of the All-Party Parliamentary Group (APPG) on the Rule of Law to discuss the Bill and its implications for international law. The Bingham Centre provides the secretariat of this APPG. Dr Gauci presented his research on the Bill's compatibility with the Refugee Convention, speaking on a panel which included experts on other international law topics, including children's rights and protections against modern slavery and human trafficking. Presentations from this meeting are available [here](#).

After the Bill had reached the House of Lords, Murray Hunt, Director of the Bingham Centre, published a report examining [the Bill's proposal to authorise Ministers not to comply with "interim measures"](#) of the European Court of Human Rights.

Competition Law Forum

This year was the 21st Anniversary of BIICL's [Competition Law Forum](#) (CLF) a platform for the exchange of ideas and cutting-edge research in the field of competition law, policy, and economics that brings together experienced lawyers, economists, business managers, policy advisers, academics, and government officials working in the field of competition law and economics.

Business Network members receive a complimentary membership to CLF, usually £3,500 plus VAT, and with that, the opportunity to participate in an independently run Forum that aims to influence policy, and which provides an arena for on-going and constructive debate with regulators and other decision-makers such as the CMA, HM Treasury, the European Commission, among others.

Members meet regularly to discuss areas requiring debate and analysis and, where appropriate, to develop views on issues of concern to governments and policymakers. In doing so it also produces leading-edge applied research, analysis and recommendations on the content, methodologies, and application of competition policy at all levels of governance - national, European, and global.

In 2023, the CLF held events, which are CPD-accredited, on issues of great relevance for Business Network members, such as [Sustainability, Competition Law and Greenwashing](#), a [BIICL/Linklaters Tech Antitrust Roundtable](#), among others.

Relevant Bingham Centre projects

Independent Commission on UK Public Health Emergency Powers

Our [Independent Commission on UK Public Health Emergency Powers](#), with 13 [members](#) from public health, law, policy and parliamentary backgrounds, has completed evidence-taking and is currently finalising its report. Interim briefings have been well received by the UK and Scottish Covid-19 Inquiries, and the Commission has had productive meetings with health officials from the UK, Scottish, Welsh, and Northern Irish administrations. The Commission will be making proposals for law and policy reform in a report due to be published in early 2024.

National Implementation of Human rights

The implementation of human rights is a priority Rule of Law issue. Better national implementation of human rights will improve the lives of individuals and groups around the world and will support the 2030 Sustainable Development Agenda.

The Bingham Centre for the Rule of Law, the University of Bristol, the Universal Rights Group, and Freshfields Bruckhaus Deringer LLP conducted a [global survey](#) over the course of 2020 to 2023 to understand the systems and processes that States have put in place to implement, report and follow-up on their international human rights commitments. A case study, '[The implementation of human rights recommendations in the United Kingdom](#)', was published in June 2023 and aims to contribute to the conversations about how best to translate international human rights norms into domestic reality. The study concludes that while elements of the UK system provide positive examples of how national systems as a whole can monitor, implement, and report on the UN's human rights recommendations, improvements could be made by adopting a more streamlined and coordinated cross-governmental approach. The increased focus on the role of NMIRFs and comparable mechanisms around the world in recent years, means that there is now a range of real-world experiences and a wealth of expertise for the UK to draw upon.

European Rule of Law

In the Polish elections in October the ruling Law and Justice party failed to secure a majority. Our Maurice Wohl Research Leader in European Rule of Law, Dr Oliver Garner, wrote an [op-ed](#) for the Review of Democracy considering the challenges ahead as opposition parties seek to form a government and reverse democratic backsliding. Oliver recently completed a prestigious [re:constitution Fellowship](#) (bringing together young scholars working on constitutional democracy in Europe) with a paper on "Bridging Brexit and the Values Crisis: From Constitutional Resistance to Deliberation?". He was interviewed about this work by "[in re:tropect](#)" magazine.

Rule of Law Monitoring of Legislation Project

The Bingham Centre's Rule of Law Monitoring of Legislation Project aims to systematically scrutinise Government Bills against recognised Rule of Law standards, and to report on Bills which have significant Rule of Law implications. The goal is to provide independent, high-quality Rule of Law analysis to assist members of both Houses of Parliament with their scrutiny of legislation, and to provide resources empowering civil society to engage directly with Parliament.

In Phase 1 (2020-2022) we analysed a wide range of Bills as documented on the [project webpage](#). As well as being cited regularly in the House of Commons and House of Lords, a number of our reports were discussed by the [All-Party Parliamentary Group \(APPG\) on the Rule of Law](#), for which the Bingham Centre provides the secretariat.



The Project is launching its second phase with two years of funding from the Joseph Rowntree Charitable Trust. In the run-up to the opening of the new parliamentary session, Lucy Moxham, Project Lead and Senior Fellow at the Bingham Centre, published a blog post, '[The King's Speech and the Rule of Law](#)' on issues that could arise during the forthcoming session including the Victims and Prisoners Bill, and plans for legislation to rent prison space abroad, and migration and asylum. The first report of Phase 2 provides a preliminary Rule of Law analysis of the Safety of Rwanda Bill. Our [report](#), authored by Bingham Centre Director, Murray Hunt, draws attention to serious Rule of Law problems arising from the Bill's attempt to prevent courts assessing whether Rwanda is a safe country in terms of the European Convention on Human Rights and other relevant international law.

Contributions to standard-setting by the OSCE

Bingham Centre members contributed to the expert discussions that shaped two recent standard-setting documents of the Organisation for Security and Co-operation in Europe's Office for Democratic Institutions and Human Rights (OSCE-ODIHR):

- The [Warsaw Recommendations on Judicial Independence and Accountability](#) (Jan van Zyl Smit participated).
- A Brief on the on-going initiative to develop [Guiding Principles of Democratic Lawmaking and Better Laws](#) (Murray Hunt and Ronan Cormacain participated).

On the topic of judicial appointments, Jan van Zyl Smit recently participated in the 2023 annual conference of the International Bar Association, speaking in a panel on "[assessing the impact of the judicial appointments process in undermining the rule of law](#)" organised by the IBA Rule of Law Forum.

Rule of Law Backsliding

We have finalised plans for a 2-year research project (2024-2026), on Rule of Law Backsliding: The Role of the Legal Profession, and a funding application has been submitted to the UK Economic and Social Sciences Research Council (decision expected by Q2 2024). The project is a collaboration between political science scholars at UCL (lead applicant), the University of Exeter, and the Bingham Centre for the Rule of Law. It is a comparative empirical study of the role of the legal profession in resisting Rule of Law backsliding in six states and will involve approximately 180 interviews with legal professionals as well as survey research. Included as project partners are distinguished local teams of researchers in Israel, Italy, Hungary, Poland, and Turkey, all of which have experienced episodes of Rule of Law backsliding in recent years. Other project partners include the International Bar Association and the Business Network. While the result of funding applications is always uncertain, UCL Research Services and the Bingham Centre's Research Director, Professor Jeff King, confirmed that the project was exceptionally well designed, good value for money, and feasible. It would also be among the most extensive empirical studies carried out by the Bingham Centre team and represents a methodological training opportunity for its approach to advancing the Rule of Law through leading in-depth research.

Climate Change

Corporate Climate Litigation BIICL's project to create a [Global Toolbox](#) on Corporate Climate Litigation has just reached the end of its first year. The project instructed 17 national rapporteurs from both global north and global south countries to research the state of corporate climate litigation in their regions from the perspective of the causes of action brought, the procedure used, and evidence presented, and the remedies sought. The reports are currently being used as the backbone of an overarching comparative law research exercise which will analyse similarities and disparities across the various legal systems. Ultimately, the analysis will contribute to the design of a set of tools that will assist lawyers and civil society actors in bringing more effective actions against corporations that are contributing to climate change in a way that can be directly linked to impacts on both people and the planet. The tools will also provide precedents for judges so that they can rule appropriately in cases in which corporates have neglected to meet their obligations to contribute to the reduction of greenhouse gas emissions in line with the Paris Agreement. The outcome is intended to produce a corporate change of behaviour, such that potential climate impact is at the forefront of business and economic planning and execution.

The Toolbox will be launched in early 2024 and will be accessible on BIICL's website. Phase two of the project is focussed on an extensive dissemination programme, with events and training for NGOs, government bodies, local communities, other affected groups and individuals, and the lawyers representing them. This dissemination programme has already been initiated, including, an [event](#) in May 2023 which discussed the current state of play and possible future directions for climate litigation, and a new [training course](#) which started in September.

Modern Slavery Policy and Evidence Centre



Lunchtime Seminars

This year the [Modern Slavery and Human Rights Policy and Evidence Centre](#) (Modern Slavery PEC) started a [Lunchtime Seminars Series](#) with the aim of promoting robust and relevant evidence in shorter and more accessible formats (a 15 minutes presentation, followed by questions and discussion). This format is ideal for business stakeholders that need concise and rapid insights based on evidence to inform their thinking, practices, and overall work. The first of these seminars was held in November with Prof Alex Hughes from the University of Newcastle, presenting the findings of a previously PEC funded research project on modern slavery and the procurement of medical supplies in Malaysia. A recording of this seminar can be found [here](#).

Global Commission on Modern Slavery & Human Trafficking

The Modern Slavery PEC welcomed the establishment of the [Global Commission on Modern Slavery and Human Trafficking](#), chaired by former UK Prime Minister Theresa May. The establishment of the Commission was guided by the [scoping study examining the case for establishing such a Commission](#), commissioned by the Office of Theresa May, funded by the UK Foreign, Commonwealth and Development Office, and carried out by the Modern Slavery PEC. In a welcoming [statement](#), Murray Hunt, Director of the Modern Slavery PEC and member of the Global Commission steering group highlighted that the PEC will work with the Global Commission to support the development and mobilisation of the evidence and knowledge base to support the efforts of the Commission to catalyse political action at the global level.

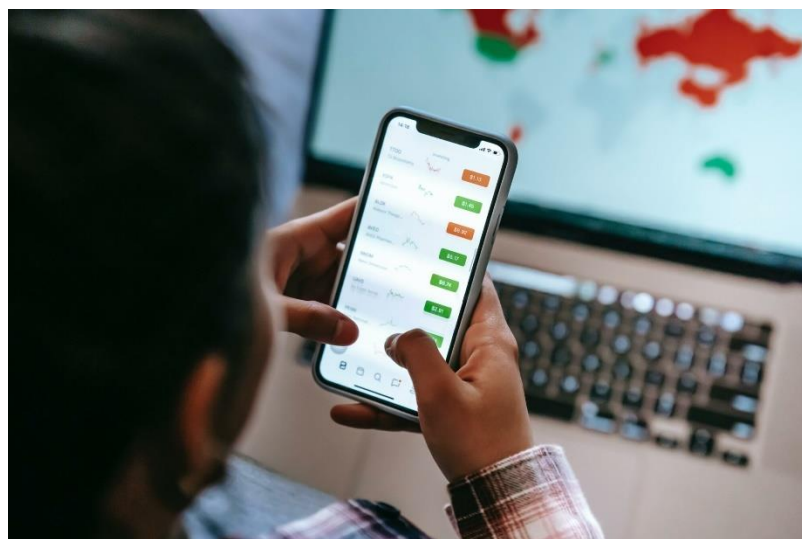
Financial Markets & International Trade

In 2023, the Modern Slavery PEC co-funded, alongside the [UK Foreign, Commonwealth and Development Office](#) (FCDO), a [research project](#) looking at the role of capital markets in addressing

modern slavery. This project was conducted by the Modern Slavery PEC consortium partner, the [Bingham Centre for the Rule of Law](#), in collaboration with the [Finance Against Slavery and Trafficking Initiative \(FAST\)](#) at [UN University Centre for Policy Research \(UNU CPR\)](#), a multi-stakeholder initiative that works to mobilise the financial sector against modern slavery and human trafficking.

The project had four key outputs:

- i) [“Accelerating change: the potential of capital market actors in addressing modern slavery”](#): The final report with a discussion of the key findings from the project and recommendations for capital market actors which were discussed with various investor groups in the UK such as [CCLA](#) and the [Investor Forum](#).
- ii) A [policy brief with recommendations tailored to UK policymakers](#) which was discussed with a cross-governmental Whitehall group.
- iii) [“How effective are investors at addressing modern slavery in supply chains?”](#): A blog discussing the effectiveness of capital market actors leverage to influence change in investee companies and based on an evidence review.
- iv) A [blog with recommendations for businesses](#) which was distributed as a Brief and discussed among the Business Network members in one of the quarterly meetings, with one of the research leads presenting the key findings.



Related to this project, FAST in collaboration with [CCLA Investment Management](#) and the Modern Slavery PEC, produced a brief [“Artificial Intelligence: Addressing or distorting the modern slavery challenge?”](#) discussing the potential of AI to support investors and businesses overcome challenges in assessing modern slavery risks.

Finally, a [research project](#), led by the Rights Lab, University of Nottingham, and funded by the Modern Slavery PEC, is exploring the role of trade and investment policies as levers to address modern slavery risks in the Indo-Pacific region and will provide case studies from Malaysia, China, India, and Thailand. The final research report is expected in early 2024, but a conference *“Harnessing UK trade and Investment to address modern slavery”* was held in late 2022, bringing together researchers, policymakers, businesses, and civil society. A reflection from Professor Dame Sara Thornton on this conference can be found [here](#).

Climate Change and Modern Slavery



This year, the Modern Slavery PEC funded three research projects looking at the nexus between climate change and modern slavery.

- i) A study looking at [climate change and public procurement](#).
- ii) [A study on the mainstreaming of modern slavery and climate change policies](#).
- iii) A research study on [forced labour in green technology](#) for which a [blog](#) with preliminary findings was published.

These projects are envisioned to be published by the end of the year and to be discussed during the quarterly meetings of the Business Network in 2024, with project leads sharing key findings and implications for businesses.

Submission to the Joint Committee on Human Rights (JCHR) inquiry on Human Rights at Work.

[This submission](#) was developed jointly by the Modern Slavery PEC and the Bonavero Institute of Human Rights at the University of Oxford, in response to the Joint Committee on Human Rights (JCHR) inquiry on Human Rights at Work (30 March 2023). It addresses the questions in the section of the inquiry focusing on Labour market exploitation. Whilst recognising the focus of this inquiry is ‘human rights at work’, this response focuses on labour exploitation severe enough to amount to modern slavery.

Looking Ahead

The Rule of Law cannot be taken for granted. In 2024 the Business Network will continue working on upholding and strengthening the Rule of Law. This includes building understanding around the concrete Rule of Law challenges faced by businesses and shaping a programme of business-relevant research. The group has planned to develop core and clear Rule of Law messages that can be deployed consistently based on an agreed understanding of the concept of the Rule of Law and its implications for obligations of the business sector towards society.

The Business Network’s work and collective voice is central to the aims of the Institute. We look forward to continuing working with the Business Network in 2024 and strengthening our partnership. We already have exciting projects coming up next year and others will undoubtedly arise as the year unfolds. The work of the Business Network in 2024 will be guided by the purpose of the Business Network, the Business Network Strategy 2023-2024, and the respective refreshed strategies of the Bingham Centre and BIICL.

If you would like to discuss opportunities for your company or become involved in the work of the Bingham Centre, the Modern Slavery PEC and BIICL, please contact **Dr Sofia Gonzalez De Aguinaga**, Research Fellow in Business, ESG & Modern Slavery on s.deaguina@binghamcentre.biicl.org



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