

Corporate Social Responsibility –
Sustainable Business

Environmental, Social and Governance
Frameworks for the 21st Century

Edited by

Rae Lindsay

Roger Martella



Published by:

Kluwer Law International B.V.
PO Box 316
2400 AH Alphen aan den Rijn
The Netherlands
E-mail: international-sales@wolterskluwer.com
Website: lrus.wolterskluwer.com

Sold and distributed in North, Central and South America by:

Wolters Kluwer Legal & Regulatory U.S.
7201 McKinney Circle
Frederick, MD 21704
United States of America
Email: customer.service@wolterskluwer.com

Sold and distributed in all other countries by:

Air Business Subscriptions
Rockwood House
Haywards Heath
West Sussex
RH16 3DH
United Kingdom
Email: international-customerservice@wolterskluwer.com

Printed on acid-free paper.

ISBN 978-94-035-2222-7

e-Book: ISBN 978-94-035-2230-2
web-PDF: ISBN 978-94-035-2234-0

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Printed in the United Kingdom.

Editors

Rae Lindsay is a partner in the Litigation & Dispute Resolution practice at Clifford Chance LLP. She co-heads the firm's public international law and business and human rights groups. Rae has been admitted to the bars of Alberta, California, New York and Washington D.C., and as a solicitor in England and Wales. Rae's focus on business and human rights began in the early 2000s when she practised in the firm's New York office, and defended multinational corporations in litigation under the US Alien Tort Claims Act, involving allegations of violations of international law, including international human rights and humanitarian law. Clifford Chance provided pro bono support to the mandate of Professor John Ruggie, the UN Secretary General's Special Representative on the issue of human rights and transnational corporations and other business enterprises (2005–2011); and was among the first law firms to establish a business and human rights practice, recognizing the important role of lawyers in implementation of the UN Guiding Principles on Business and Human Rights, endorsed by the UN Human Rights Council in 2011. Rae is recognized by Chambers Global as a leading practitioner in business and human rights law. She advises clients on a broad range of business and human rights-related matters including policy development and implementation, risk management and due diligence, contracts and reporting, impact assessment and investigations, dispute avoidance and resolution, and crisis management. Her client engagements often involve advising on the intersection between soft law standards such as the UN Guiding Principles and principles of public and private international law, and domestic laws. Rae served as Co-Chair of the International Bar Association's Business Human Rights Committee in 2018 and 2019. She is now a member of the Committee's Advisory Board. Rae also serves as Treasurer of the British Branch of the International Law Association, as Co-Chair of trustees and International Advisory Council member of the Institute for Human Rights and Business and is a director of the Centre for Sports and Human Rights.

Roger Martella is Director and General Counsel for General Electric's Environment, Health and Safety operations worldwide. Prior to GE, Roger co-led Sidley Austin LLP's global environmental and climate change law practices. Prior to joining Sidley Austin,

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Martella was General Counsel of the U.S. Environmental Protection Agency, a position for which he was unanimously confirmed by the United States Senate, and the Principal Counsel for Complex Litigation for the Justice Department's Natural Resources Section. Roger's passion is to improve environmental protections and rule of law for vulnerable populations around the world. He is Co-Chair of the International Bar Association's Climate Change Justice and Human Rights Model Statute working group, vice-chair of the American Bar Association's environmental rule of law initiative, which builds upon a treatise on international environmental law he co-edited, and founder of the China-EPA Environmental Law Initiative. Roger is a board member of the Environmental Law Institute and other environmental and climate change advocacy organizations and serves on the council of both the IBA's and ABA's environmental sections. Various legal publications have awarded Roger their top recognitions and halls of fame globally and domestically in the areas of environmental law, energy law, and climate change law. Roger graduated from Vanderbilt Law School, where he was editor in chief of the Vanderbilt Law Review, and Cornell University, where he studied environmental science. Roger participated in this project in his personal capacity, and the views expressed herein are not intended to reflect the views of any current or former employers and clients.

Contributors

Motoko Aizawa is an expert on environmental, social and economic dimensions of sustainability, focusing on policy and legal initiatives that help governments and companies improve their sustainability performance. Ms. Aizawa is President of the Observatory for Sustainable Infrastructure, a research organization that pursues sustainable infrastructure and responsible investment. She served as Managing Director USA of the Institute for Human Rights and Business from 2014 to 2016, following more than two decades at the World Bank Group, serving in various capacities: Sustainability Advisor to the World Bank's Sustainable Development Network (2012-2013); IFC's environmental and social policy advisor (2000-2012); and project finance lawyer at the IFC Legal Department (1991-2000). While at IFC, Ms. Aizawa authored the 2006 IFC Performance Standards, and the human rights provisions in the 2012 version of these Standards. She was also instrumental in the creation, dissemination and implementation of the Equator Principles, and collaborated closely with Chinese financial and environmental agencies tasked with the implementation of China's Green Credit Policy. Ms. Aizawa began her career as a mergers and acquisitions lawyer at Baker & McKenzie, followed by project financing of infrastructure projects at IFC. She is a Japanese national, residing in the United States.

Michael Burger is the Executive Director of the Sabin Center for Climate Change Law, and a senior research scholar at Columbia Law School, New York. His research and advocacy focus on legal strategies to reduce greenhouse gas emissions and promote climate change adaptation through pollution control, resource management, land use planning and green finance. Burger frequently collaborates with researchers across Columbia's Earth Institute, and with local and national environmental groups, government representatives and international organizations. He is a widely published scholar, a frequent speaker at conferences and symposiums and a regular source for media outlets. Prior to joining the Sabin Center in 2015, Burger was an associate professor at Roger Williams University School of Law, Bristol, Rhode Island, an assistant professor in the Lawyering Program at New York University School of Law, New York, and an environmental attorney for New York City's Office of the Corporation Counsel. He is a

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graduate of Columbia Law School, New York, and of Brown University, Providence, Rhode Island, and holds a Master's in Fine Arts from the Creative Writing programme at NYU, New York.

Leopoldo Burguete-Stanek is a Partner at González Calvillo in charge of the firm's Environmental Excellence and Natural Resources Practice Group. With over 30 years of experience in the field, Mr Burguete has acquired expertise in all aspects of environmental and natural resource law with particular strengths in regulatory, due diligence and project development while advising clients in sophisticated cross-border transactions. He has been consistently ranked as a foremost practitioner in his fields of practice by recognized international publications such as Chambers & Partners, Who's Who and Latin Lawyer.

Mr. Burguete-Stanek obtained his law degree from Universidad La Salle, Mexico (1983). Leopoldo is a member of the eighth cohort of the Leadership for Environment and Sustainable Development Program (LEAD) of the Rockefeller Foundation. He holds a Masters in Comparative Law as a visiting scholar at the University of Illinois (1985) and a master's in international law from Southern Methodist University (1986), where he started understanding of the importance of Corporate Governance and Compliance. Mr. Burguete-Stanek has also obtained several postgraduate diplomas in economic, corporate and environmental law from such academic institutions as *Universidad Panamericana, Instituto Tecnológico Autónomo de México*, among others.

Brian Burkett is Counsel to the international law firm, Fasken Martineau DuMoulin. He has practised in the area of management labour relations and employment law since 1978. His law practice on behalf of employers and employer associations has focused on strategic advice, advocacy and good counsel in connection with a wide range of workplace issues at the provincial, federal and international levels. The Fasken contribution to this Labour chapter represents a collaborative effort involving Christopher Pigott (Partner) and Gillian Round (Associate) in the Toronto office of the Labour, Employment and Human Rights practice group at the law firm.

Hannah Clayton is Manager in the Social and Economic Development Programme, International Council on Mining and Metals. Hannah joined ICMM in February 2016 as a manager in the Social and Economic Development Programme. Hannah leads ICMM's work on communities and human rights and supports projects on mine closure, economic development, responsible sourcing and security. Prior to joining ICMM, Hannah was a human rights adviser in the UK Foreign and Commonwealth Office, with a focus on policy relating to business and human rights, including the implementation of the UK national action plan on business and human rights. Before this, she worked as a consultant on human rights and social responsibility to clients in the oil and gas and financial sectors. She started her career in the voluntary sector, working for a range of organizations including Save the Children and Amnesty International. Hannah has a BA in Law and Anthropology and an MSc in Human Rights from the London School of Economics, London, England.

Ann E. Condon is a visiting scholar at the Environmental Law Institute. Ann has long been a leader in global environmental and social governance. During her thirty-four-year career with General Electric Company (GE), she built robust global compliance programmes focused on the environment, health and safety (EHS), supply chain ethics, sustainability and chemical and product stewardship. Her team worked closely with GE's businesses on resource efficiency and life cycle management, showing how reducing GE's environmental impact could bring business value, demonstrate GE technology and put GE in a leadership position. The team supported GE's Ecomagination initiative with regulatory, technical and life cycle expertise; setting and achieving the Ecomagination operating goals; and coordinating climate and chemical management policy. The team enabled GE surpass its Ecomagination operating goals by being both aspirational and deeply tactical.

Ann is a graduate of the University of Connecticut, Mansfield, Connecticut, and George Washington University's National Law Center, Washington, D.C., United States.

Felise Cooper is a senior counsel at Allen & Overy LLP in New York and the head of the firm's global Producer Responsibility and Product Stewardship team, which comprises attorneys across fifteen international offices. She advises US and multinational clients on environmental issues in business transactions and counsels on compliance requirements, including compliance with global substance disclosure, control and product take-back programmes. Felise routinely advises leading manufacturers on requirements for placing products on the market, managing supply chains, negotiating with customers, distributors and suppliers, mitigating compliance risks and interacting with government authorities around the world. She also regularly speaks on producer compliance and product stewardship issues at industry events, government meetings and client seminars. Felise has extensive experience advising on environmental risk in transactions, managing due diligence and coordinating work by technical consultants. Previously, Felise was an associate at Cravath, Swaine & Moore LLP in New York, an intern at New York Lawyers for the Public Interest, Inc. and, prior to law school, a legal assistant in the environmental group at Cravath, Swaine & Moore LLP.

Hans Corell was Under-Secretary-General for Legal Affairs and the Legal Counsel of the United Nations from March 1994 to March 2004. Having received his law degree from the University of Uppsala, Uppsala, Sweden, in 1962, he served first as a court clerk and later as a judge until 1972. That year, he joined the Ministry of Justice, where he was engaged in legislative work on real estate, company law, maritime law, administrative law and constitutional law. He became Director of the Division for Constitutional Law in 1979 and Head of the Legal Department in 1981. From 1984 to March 1994, he served as Ambassador and Head of the Department for Legal and Consular Affairs in the Ministry for Foreign Affairs. He was a member of Sweden's delegation to the United Nations General Assembly (1985–1993) and had several assignments related to the Council of Europe, OECD and the CSCE (now OSCE). Together with two other rapporteurs, he was the author of the OSCE proposal for the establishment of the International Tribunal for the former Yugoslavia, transmitted to

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the UN in February 1993. In 1998, he was the Secretary General's representative at the Rome Conference on the International Criminal Court. Since his retirement from public service in 2004, he is engaged in many different activities in the legal field, *inter alia* as legal adviser, lecturer and member of different boards. Among others, he is involved in the work of the International Bar Association, where he was Co-Chair of the Council of the Human Rights Institute 2015–2018. He is Chairman of the Stockholm Centre for International Law and Justice at Stockholm University, Sweden. Hans Corell holds honorary Doctor of Laws degrees at Stockholm University, Sweden (1997), and Lund University, Sweden (2007).

Claes Cronstedt is a member of the Swedish Bar (1975-) and a member of the board of the Stockholm Bar (1993–1998). He was an international partner of Baker & McKenzie and the head of its Stockholm Corporate Practice Group and the founder of the CSR Practice Group. Cronstedt advised international corporate clients on a wide range of corporate law issues, including major M&A transactions. He served as an arbitrator and as counsel in international arbitrations. He has been involved in international Human Rights litigation, in particular, the Raoul Wallenberg Case against USSR. During 1999–2006, he was a trustee of International Alert, London, working with peaceful transformation of violent conflicts. During 2002–2014, he was a member of the CSR Committee of the Council of Bars and Law Societies of Europe in Brussels (CCBE). During 2001–2004, he was a member of the Swedish Committee of the International Chamber of Commerce (ICC) Commission on Business in Society. During 2006–2008, he was a member of the International Commission of Jurists' Expert Legal Panel on Corporate Complicity in International Crimes. He is the founder and the former chairman of Raoul Wallenberg Academy for Young Leaders (2001–2007). Cronstedt is one of the founders of Business and Human Rights Arbitration (2013 to present).

Javier de Cendra is Dean Faculty of Law and Business, University Francisco de Vitoria, immediate past President of the Law Schools Global League, immediate past member of the governing board of the International Association of Law Schools, legal expert at the Sustainability College Brugge, founder of IE LegalTech Innovation Farm and member of the international advisory board of several universities, research centers and think tanks.

Jonathan Drimmer is a partner in the Washington, D.C. office of Paul Hastings LLP, where he focuses on cross-border compliance, enforcement and disputes. He is a recognized international expert in anti-corruption compliance, as well as business and human rights. He most recently was the Deputy General Counsel and Chief Compliance Officer at Barrick Gold Corporation, the world's largest gold mining company, where he helped oversee the company's anti-corruption and human rights programmes, global investigations and major disputes. Before working with Barrick, he was a partner at Steptoe & Johnson LLP and Deputy Director in the U.S. Justice Department's Office of Special Investigations. He is a former Bristow Fellow in the Office of the U.S. Solicitor General and a judicial clerk on the U.S. Court of Appeals for the Ninth Circuit. He graduated from Stanford University, Stanford, California, and UCLA Law School, Los Angeles, California.

A. Jan A.J. Eijsbouts is Professor of Corporate Social Responsibility and Professorial Fellow at the Institute for Corporate Law, Governance and Innovation Policies (ICGI) of the Law Faculty of Maastricht University, Maastricht, the Netherlands. He is also a member of the Ius Commune Research School (a cooperation between the law schools of the Universiteit Maastricht, the Katholieke Universiteit Leuven, the Universiteit Utrecht and the Universiteit van Amsterdam). He is former Group General Counsel and Legal Director of AkzoNobel (1999-2008), a Dutch multinational, in which capacity he also chaired the Corporate Disclosure and Compliance Committees. He was Co-Chair of the Chief Legal Officers Round Tables Europe and North America (2008-2011). At the IBA, he served as Co-Chair of the Corporate Counsel Forum (2003-2006) and of the CSR Committee (2007-2008) as well as Member of the Council of the Legal Practice Division (2004-2008). As Chairman (2009-2017) of the World Legal Forum Foundation, he was co-founder of the P.R.I.M.E Finance Foundation and the ACCESS Facility Foundation, dispute resolution institutions in complex financial products and human rights respectively, all at The Hague. Jan Eijsbouts is a member of the Gaemo Group Corporate Social Responsibility International, of the Academic Network for the OECD Guidelines for Multinational Enterprises, of the BHRights Initiative at CBS - Copenhagen Business School, Frederiksberg, Denmark, and of Het Groene Brein, the Academic Support Group of De Groene Zaak, the Dutch coalition of sustainable businesses. Jan Eijsbouts is Chair of the International Advisory Board of the Mentor Group (Boston, MA), which organizes the Forum for EU-US Legal-Economic Affairs, and Member of the Board of the Pantheon Performance Foundation, active in sustainability in the building and construction industries. He is Project Manager and Member of the Drafting Team of the Hague Rules on Business and Human Rights Arbitration Project. He is a certified mediator at CEDR, ACB and P.R.I.M.E Finance. In 2007, he was appointed as Officer in the Order of Oranje Nassau.

Elise Groulx-Diggs is an internationally recognized legal practitioner and opinion leader in the fields of international criminal law and international human rights law. She advises corporations on human rights due diligence and other aspects of the nexus between private business and public international law. She is also a recognized expert in assisting businesses assessing the legal risks of operating in fragile states and conflict zones.

With a career as criminal defence attorney now based in Washington D.C., she is an associate tenant at Doughty Street Chambers in London and admitted to practise law at the Paris Bar enabling her to advise business and institutional clients in Europe. She is an international mediator, certified in France and certified by the IMI in The Hague.

Elise has been ranked for the last four years among the top lawyers, worldwide, by the Chambers & Partners Global Guide (London) to the legal profession, which *identifies the leading practitioners* in the field of Business and Human Rights law.

Elise is assisting business enterprises, risk consultancy firms, and law firms to assess human rights risks in their strategic projects and supply chains. Her practice is varied: training business lawyers in the field of Business and Human Rights (UNGPs); training bank CSR officers on Free Prior and Informed Consent (FPIC) in project finance; advising French corporations on their 'duty of vigilance'; advising on supply

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chain due diligence for conflict minerals; providing guidance on respect for human rights guidance in pipeline security (VPSHR).

Elise has also organized international conferences and given many lectures on human rights and international law in countries around the world, addressing audiences of legal practitioners, corporate decision-makers, NGOs, and governments.

Elise convenes the Advisory Board of the Business and Human Rights project of the American Bar Association Center for Human Rights and is Chair of the Business and Human Rights Committee of the International Bar Association (IBA/London). She has spoken more than one hundred times on these issues for the last ten years and published several articles in the field both in France and in the US and was recently interviewed by the BBC.

J. Brett Grosko is a senior trial attorney in the Department of Justice's Environment and Natural Resources Division. Brett practices appellate and trial court litigation under the federal wildlife and marine resources statutes. He also teaches as an adjunct faculty member at the University of Maryland Francis King Carey School of Law, Baltimore, Maryland, and the George Washington University Law School, Washington, D.C., United States. Brett was formerly an attorney-advisor at the National Oceanic and Atmospheric Administration's Office of General Counsel, a commercial litigation associate at a large law firm and a federal law clerk at the U.S. Court of International Trade. Before attending law school, he received a Fulbright fellowship to research environmental and natural resources law enforcement in Costa Rica. In 2014, the ABA published *International Environmental Law: The Practitioner's Guide to the Laws of the Planet*, which he co-edited.

Brett graduated from Georgetown University, Washington, D.C., United States, *cum laude* with a BA in Government and received a joint J.D./M.A. in International Affairs from George Washington University Law School Washington, D.C., United States, and the Johns Hopkins University School of Advanced International Studies, Washington, D.C., United States.

Alan S. Gutterman is the Founding Director of the Sustainable Entrepreneurship Project (www.seproject.org). In addition, Alan's prolific output of practical guidance and tools for legal and financial professionals, managers, entrepreneurs and investors has made him one of the best-selling individual authors in the global legal publishing marketplace. His cornerstone work, *Business Transactions Solution*, is an online-only product available and featured on Thomson Reuters' Westlaw, the world's largest legal content platform, which includes almost 200 book-length modules covering the entire life cycle of a business. Alan has also authored or edited over eighty books on sustainable entrepreneurship, management, business law and transactions, international law business and technology management for a number of publishers including Thomson Reuters, Practical Law, Kluwer, Aspatore, Oxford, Quorum, ABA Press, Aspen, Sweet & Maxwell, Euromoney, Business Expert Press, Harvard Business Publishing, CCH and BNA. Alan has over three decades of experience as a partner and senior counsel with internationally recognized law firms counselling small and large business enterprises in the areas of general corporate and securities matters, venture

capital, mergers and acquisitions, international law and transactions, strategic business alliances, technology transfers and intellectual property and has also held senior management positions with several technology-based businesses including service as the chief legal officer of a leading international distributor of IT products headquartered in Silicon Valley and as the chief operating officer of an emerging broadband media company. He has been an adjunct faculty member at several colleges and universities, including University of California, Berkeley, Golden Gate University, San Francisco, California, Hastings College of Law, San Francisco, California, Santa Clara University, Santa Clara, California, and the University of San Francisco, San Francisco, California, teaching classes on a diverse range of topics including corporate finance, venture capital, corporate law, Japanese business law and law and economic development. He received his A.B., M.B.A. and J.D. from the University of California at Berkeley, a D.B.A. from Golden Gate University, San Francisco, California, and a Ph. D. from the University of Cambridge, Cambridge, England. For more information about Alan and his activities, please contact him directly at alangutterman@gmail.com, follow him on LinkedIn (<https://www.linkedin.com/in/alangutterman/>) and visit his website at alangutterman.com, which includes an extensive collection of links to his books and other publications and resource materials for students and practitioners of sustainable entrepreneurship.

Stacey Sublett Halliday is Founder and Principal of Global Environmental Solutions Consulting (GESC), LLC, based in Washington, D.C. Halliday currently serves as an environmental consultant to the environmental law firm of Beveridge & Diamond, P.C., where she offers firm clients guidance on matters concerning global product stewardship, circular economy strategy, sustainability reporting, corporate environmental governance and criminal enforcement. Prior to founding GESC, Halliday was a principal in the Washington, D.C. office of Beveridge & Diamond, P.C., where her practice involved advising clients regarding: internal investigations and environmental enforcement; global product stewardship, including electronics right to repair, planned obsolescence and transboundary movement of used electronics; and social corporate responsibility strategy, sustainability reporting and environmental justice policy implementation. From 2015 to 2017, Halliday briefly left the firm to serve in the Obama Administration as Special Counsel for the U.S. Environmental Protection Agency (EPA)'s Office of General Counsel. While at EPA, Halliday's portfolio included congressional oversight, federal and state shareholder engagement, and crisis management during the Flint drinking water crisis, the Gold King Mine spill and the legal defence of the Clean Power Plan.

Beyond her legal practice, Halliday has spoken and written on topics involving sustainability, environmental justice and EPA enforcement, as well as held leadership roles in the American Bar Association, Environmental Law Institute and National Bar Association. Halliday received her undergraduate degree from Harvard College, Cambridge, Massachusetts, United States, and her JD from the Howard University School of Law, Washington D.C., United States.

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Joan MacLeod Heminway is the Rick Rose Distinguished Professor of Law at The University of Tennessee (UT) College of Law, Knoxville, Tennessee. She also serves The University of Tennessee, Knoxville, Tennessee, as a member of the faculty of the Professional MBA program and Neel Center for Corporate Governance in the Haslam College of Business, Knoxville, Tennessee, and as a fellow at the Center for the Study of Social Justice in the College of Arts & Sciences. When she joined the UT College of Law faculty in 2000, Professor Heminway brought nearly fifteen years of corporate transactional legal practice experience, having worked on public offerings, private placements, mergers, acquisitions, dispositions and restructurings in the Boston office of Skadden, Arps, Slate, Meagher & Flom LLP since 1985. Professor Heminway's scholarship focuses on securities disclosure law and policy (especially under Rule 10b-5, including insider trading), corporate governance issues under federal and state law, and the legal aspects of corporate finance (including crowdfunding). She co-authored (with Douglas M. Branson, Mark J. Loewenstein, Marc I. Steinberg & Manning G. Warren, III) a business law text entitled *Business Enterprises: Legal Structures, Governance, and Policy* (Carolina Academic Press, 4th ed. forthcoming 2020). In addition, her edited/co-authored book, *Martha Stewart's Legal Troubles*, was released in 2007 (Carolina Academic Press). Other works authored and co-authored by Professor Heminway have appeared in various law reviews, journals and books. She is a member of the American Law Institute and is licensed to practise in Tennessee (where she currently serves as Chair of the Business Law Section of the Tennessee Bar Association) and Massachusetts (inactive).

Peter Herbel is regarded by his peers as a pioneer in the integration of human rights in business. Until 2014, Peter was General Counsel of Total S.A. where he created one of the first human rights departments of a large company, as well as its compliance department. Understanding that social and human rights concerns were not only a risk management issue but also a source of new opportunities for the company, Peter succeeded in making CSR and human rights a strategic axis at Total. Peter participated in the elaboration process of the UNGPs, the UNGP Reporting Framework, as well as the UNGP Assurance Framework. Together with Elodie Herbel, Peter co-founded the Paris-based law firm Herbel Avocats. Based on experience and an analysis of regulations, markets and stakeholder expectations, they work with companies on taking practical actions to operationalize human rights in business, including data protection.

Elodie Herbel is an attorney admitted in New York where she spent a large part of her career practising as a litigator and later as a senior trial consultant and an e-discovery expert specializing in data management and privacy issues. She also previously worked as a business development and marketing manager for a law firm in Phnom Penh, Cambodia. Elodie teaches at the universities Paris-Dauphine, Panthéon-Assas and SciencesPo, as well as French business school HEC on the French duty of vigilance law, CSR, data privacy and artificial intelligence. Together with Peter Herbel, Elodie co-founded the Paris-based law firm Herbel Avocats. Based on experience and an

analysis of regulations, markets and stakeholder expectations, they work with companies on taking practical actions to operationalize human rights in business, including data protection.

Dr Michael Hopkins is CEO of MHC International Ltd (MHCi: London, Washington D.C. and Geneva), a research and service company on corporate social responsibility and labour market (see <https://www.csrfi.com/>), Director of CSR Doctoral Programmes at Geneva Business School (Geneva Switz. <https://gbsge.com/doctorate-program/doctorate-in-corporate-social-responsibility/>) and Visiting Professor of CSR/Sustainability at the Management University of Africa (Nairobi, Kenya) and also Indian Institute of Technology (New Delhi). He is also Co-Founder of the Institute for Responsible Leadership based in London, UK (see <https://responsible-leadership.org/>).

Previously, he was Professor of Corporate and Social Research at Middlesex University Business School, London, UK, and Director of CSR at the University of Geneva, Geneva, Switzerland. In both institutions, he founded and directed Executive and Research Programmes on CSR. He holds a doctorate in Labour Economics from the University of Geneva, Geneva, Switzerland, an Honorary doctorate from London Metropolitan University, London, England, and is a fellow of the Royal Society of Arts (FRSA).

Michael has worked and advised on strategic CSR with World Bank, UNDP, Glaxo-Wellcome, BT, BAT, BP, Nestle, Manpower, O2, SGS, Addax Petroleum, Cargill, Air Mauritius, UEFA, etc. Previously he also led the Jewellery Ethical Trading System (JETS) which aims to reduce dependence on blood diamonds; initiated the USD 100 million Qatar Youth Employment project with Sheikha Mouzah; was Senior Adviser to the US Chamber of Commerce's corporate citizenship program; revised the World Bank's online CSR courses.

Michael worked in the HQ of ITT in London, was Research Fellow at IDS, University of Sussex, Brighton, England, and Senior Economist at the ILO's HQ in Geneva, and was Secretary of all UN agencies' Panel of Econometricians. He was Visiting Professor at the Universities of Uniandes and Valle in Colombia where he directed its socio-economic plan that initiated today's vibrant tourist market in Curacao. He has also worked on human resources and labour market issues in over 120 countries around the world, *inter alia*, Colombia, Brazil, Egypt, Jordan, Qatar, Dubai, South Africa, Malaysia, China, Philippines, Vietnam, Portugal and Azerbaijan and written many works on CSR and other topics. He has written or co-authored fourteen books his last three being on CSR and Sustainability. His new book is on big issues and CSR/sustainability where he widens the 'corporate responsibility' concept to all 'bodies' both private and public.

Travis Hunt is an attorney with the law firm Osborn Maledon, P.A., in Phoenix, Arizona. His practice focuses on complex civil litigation, appeals, administrative law and environmental law. Travis also advises clients on sustainability and corporate social responsibility issues. Before joining Osborn Maledon, Travis worked as an associate attorney at Vinson & Elkins and as a law clerk to two US federal judges.

Nkiruka Chidia Maduekwe is an energy and environment policy specialist, with over ten years' experience in research and training relating to energy, environment and climate change. Nkiruka has several publications, including granting interviews on National television, aimed at educating the public on climate change, its impact on Nigeria, requisite adaptive and mitigation strategies. Nkiruka is a solicitor and barrister of the Supreme Court of Nigeria. She has a PhD in Law and a PgDip in Research Training, both from the University of Hull, Hull, England. She has an LLM in Environmental Law and Policy and an MSc in International Oil and Gas Management. Both LLM and MSc were undertaken at the specialist Centre for Energy, Petroleum, Mineral Law and Policy (CEPMLP), University of Dundee, Dundee, Scotland. She has LLB (Hons.) from the University of Abuja, Abuja, Nigeria.

Nkiruka is currently a research fellow with the Nigerian Institute of Advanced Legal Studies (NIALS), Abuja, Nigeria. She served as a member of the Nigerian Bar Association (NBA) Niger Delta Task Force Committee. She also served as the International Bar Association (IBA) Environment, Health, and Safety Law (EHS) Committee African Regional representative. In this capacity, Nkiruka proposed and coordinated a treatise on African environmental laws and policies based on the African Union's Agenda 2063 and the IBA African Regional Conference on the Environment which was held in November 2018. Both projects are the very first of their kind. The book was published in July 2019 by LexisNexis. Nkiruka is presently the IBA EHS Committee Communications officer. She is also a member of the Society of Petroleum Engineers (SPE) and Energy Institute (EI).

Michelle Mendlewicz helps companies use their power and scale to drive a positive change in the world through transparency and accountability. Originally from Brazil, she has a diverse set of experiences and skills having worked with businesses, non-profits, governments and academic institutions on environmental issues for the past ten years. An environmental lawyer with a passion for storytelling and stakeholder engagement, she is committed to applying her policy and corporate sustainability training to accelerate the transition to a low carbon economy and circular future.

Michelle received her Master of Environmental Management, Business & Environment, from the Yale School of Forestry & Environmental Studies. She holds a JD and a post-graduate degree in Environmental Law from Pontificia Universidade Catolica of Rio de Janeiro.

Dacia (Dacie) Meng is an associate in the Washington, D.C. office of Beveridge & Diamond, P.C. Meng counsels clients on circular economy, sustainability and extended producer responsibility initiatives, including global matters involving end-of-life management of plastics, electronics, pharmaceuticals and other products. Within her practice, she regularly advises on requirements governing transboundary shipments of products for reuse, repair and recycling and supports the development of product stewardship programmes across the country in compliance with extended producer responsibility requirements.

Meng also has experience counselling a diverse set of clients on compliance and enforcement issues under: the Resource Conservation and Recovery Act (RCRA);

federal and state energy efficiency standards; the Emergency Planning and Community Right-to-Know Act (EPCRA) and related state programmes; state medical and infectious waste programmes; and various regulatory regimes affecting emerging contaminants. *Read More:* <https://www.bdlaw.com/dacia-t-meng/>.

Akinwumi Ogunranti is a PhD candidate at the Schulich School of Law, Dalhousie University, Canada. He is a Nigerian lawyer and an expert in private international law, international arbitration and business and human rights and has published in these areas.

Margaret Peloso practices on climate change risk management and environmental litigation. She advises energy companies, financial institutions and funds on climate risk analysis and disclosure. The other significant component of Margaret's practice focuses on translational science. She advises clients on a broad range of litigation and regulatory matters in which there are significant scientific or technical issues that require the use of outside experts.

Prior to joining Vinson & Elkins, Margaret completed her Ph.D. in Environment at Duke University, Durham, North Carolina, where she wrote her doctoral dissertation on legal and policy issues associated with sea-level rise adaptation. Margaret frequently authors articles on climate change, environmental law and environmental shareholder activism, including a recently published book titled *Adapting to Rising Sea Levels: Legal Challenges and Opportunities*.

Mitt Regan is McDevitt Professor of Jurisprudence, Co-Director, Program on Lawyers, Business and Human Rights; and Director, Center on Ethics and the Legal Profession, Georgetown University Law Center, Washington, D.C., United States. His work focuses on the intersection of international human rights with international law, business operations, and national security, and on the ethics of the professions.

Ken Rivlin is a partner at Allen & Overy LLP in New York, the head of the firm's Global Environmental Law Group, Global Co-Head of its International Trade and Regulatory Law Group, and a member of the firm's Partnership Selection Committee. He and his team advise on environmental and regulatory risk in M&A, projects, capital markets, lending and real estate transactions, compliance with US and EU environmental and regulatory requirements, conflict minerals, emissions trading and climate change, environmental disputes, toxic tort risk, SEC disclosure requirements and corporate governance issues. Ken and his team also advise on the US Foreign Corrupt Practices Act, US and international economic sanctions, Exon-Florio and similar matters. Ken has served on numerous bar committees, is Chair of the Advisory Council for the Institute at Brown (University) for Environment and Society, President of the Board of Trustees for the Human Needs Food Pantry, Inc., a member of the editorial board of 'Environmental Liability', and a lecturer in Law at Columbia University School of Law, New York. He writes and speaks frequently on environmental and regulatory matters.

Prof. Dr. R. (Roel) Nieuwenkamp Roel studied Economics, Law and Philosophy at the Erasmus University Rotterdam, Rotterdam, the Netherlands. He worked at the European Commission and was a consultant in New Zealand. He worked for several years as Management Consultant at Arthur Andersen.

In 1998, he became Interim Manager at the Ministry of Education of The Netherlands. From 2001 until August 2006, he was managing director of the Entrepreneurship Department of the Ministry of Economic Affairs.

From September 2006 until May 2013, he was managing director of the International Trade Policy & Economic Governance Department at the Ministry of Foreign Affairs of The Netherlands. His responsibilities concerned trade policy (WTO), investment policy, corporate responsibility and the regulation of trade in weapons and strategic goods.

In addition to his job, he wrote his PhD dissertation about the interaction between ministers and top civil servants. From 2010 to 2014, he was part-time Professor of Public Administration at the University of Amsterdam, Amsterdam, the Netherlands. He still teaches at several universities.

Roel was Chair of the OECD Working Party on International Investment and in that capacity chaired the sensitive negotiations on the 2011 revision of the OECD Guidelines for Multinational Enterprises on RBC. He chaired the Voluntary Principles for Security & Human Rights in the Extractives Industries in 2009 and 2013.

From June 2013 until June 2018, Roel served as Chair of the OECD Working Party on RBC, the intergovernmental committee overseeing the implementation of the OECD Guidelines for Multinational Enterprises. As such, he led the body of governments in charge of the OECD corporate responsibility work, including the sectoral programmes for the financial, mining, garment and agricultural sectors. In this capacity, he also chaired the Network of National Contact Points (NCPs) on RBC, which represents the unique grievance mechanism under the OECD Guidelines.

Currently, he is Ambassador of the Kingdom of The Netherlands to Argentina, Uruguay and Paraguay.

Irma S. Russell is the Edward A. Smith/Missouri Chair in Law, the Constitution, and Society at the University of Missouri – Kansas City School of Law, Kansas City, Missouri. Prior to her instalment at UMKC, she served as Dean of the University of Montana School of Law, Missoula, Montana, and as the NELPO Professor and Director of the National Energy-Environment Law & Policy Institute at the University of Tulsa College of Law, Tulsa, Oklahoma. Professor Russell served as chair of the ABA Section of Environment, Energy and Resources. She has also chaired the AALS Section of Natural Resources and Energy Law, the Professionalism Committee of the ABA Section of Legal Education and Admission to the Bar, and the AALS Sections of Professional Responsibility and Socio-Economics. She has also been a member of various professional and academic committees, including the ABA Dispute Resolution Publications Board, Dividing the Waters (an organization of judges and lawyers focused on issues of water adjudication in the Western United States), the Editorial Board of Natural Resources and Energy and the ABA Standing Committees on Professionalism and

Ethics and Professional Responsibility. Professor Russell's practice involved representation of potentially responsible parties, government entities, lenders and others on issues arising under the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) and the National Environmental Policy Act (NEPA) and environmental issues such as wetlands designation and site mitigation. She was a founding chair of the Memphis Bar Association Environmental Law Section and served as Chair of the Tennessee Bar Association Environmental Section. Professor Russell earned her J.D. from the University of Kansas, Lawrence, Kansas, after which she clerked for the Honourable James K. Logan, United States Court of Appeals for the Tenth Circuit. She was engaged in private practice in Kansas, Missouri and Tennessee.

Martijn Scheltema is a partner in Pels Rijcken & Droogleevers Fortuijn and member of the Dutch Supreme Court Bar since 1997. He is involved in international disputes. He is specialized in business and human rights issues. He has been involved in several landmark international human rights cases before the Dutch Supreme Court (e.g., *Srebrenica*, *SNS expropriation*, *Urgenda*).

As a professor at Erasmus University Rotterdam (The Netherlands), he is part of the Responsible Business Conduct Research Platform which is an initiative of the Erasmus School of Law, Rotterdam, The Netherlands, and the Rotterdam School of Management, Rotterdam, The Netherlands. He researches, among other things, effectiveness of multi-stakeholder initiatives (including their ADR capabilities) in the business and human rights and broader responsible business conduct arena.

Further related positions:

Chair of the independent binding dispute resolution mechanism of the Dutch and German Garment Industry Accords (concluded between the industry, NGOs and the government).

Co-Chair of the academic network of the OECD Guidelines for Multinational Enterprises connected with the Working Party for Responsible Business Conduct of the OECD.

Founding board member of ACCESS (www.accessfacility.org), an international institute based in the Hague focussing on non-judicial remedies.

Member of the American Bar Association Business and Human Rights Project.

His academic work includes over 100 publications.

Sara L. Seck, PhD, is an associate professor of law and Associate Dean, Research, at the Schulich School of Law, Dalhousie University, Canada. She is particularly interested in the relationship between international human rights law, environment and business law, with a focus on the rights of local and indigenous communities, and global south perspectives on sustainable development. She researches and publishes extensively on home state duties and business responsibilities in the extractive industries context.

John F. Sherman is a US citizen and is General Counsel and Senior Advisor of Shift, an independent non-profit that is the leading global centre of expertise on the UN Guiding Principles on Business and Human Rights (UNGPs). He has worked with global Fortune 500 companies, their legal departments, major international law firms and bar associations, on aligning their policies, processes and practices with the UNGPs.

Contributors

John was Senior Legal Adviser to the former Special Representative of the UN Secretary General for Business and Human Rights, Professor John Ruggie (who is Shift's chair).

John has been deeply involved in the International Bar Association's numerous business and human rights initiatives. He has authored many publications on the role of corporate lawyers in implementing the UNGPs.

John is a senior program fellow of the Corporate Responsibility Initiative of the Harvard Kennedy School of Government and an executive fellow at the Hoffman Center of Business Ethics at Bentley University, Waltham, Massachusetts. He is a former deputy general counsel of National Grid and a graduate of Harvard Law School, Cambridge, Massachusetts, and Dartmouth College, Hanover, New Hampshire.

Suzanne Spears is a partner in the International Arbitration Group at Allen & Overy and Co-Head of the firm's Global Business and Human Rights ('BHR') Law Practice. Her international disputes practice focuses on investment treaty and commercial arbitration, and transnational litigation before United States courts and the courts of England and Wales. Suzanne is recognized globally for her expertise in BHR law and serves as a trusted advisor to corporate clients facing BHR-related regulatory and litigation risks and financial institutions with respect to environmental, social and governance ('ESG') issues. Suzanne has held positions with international human rights and foreign relations organizations, including the UN, the Inter-American Institute for Human Rights and the Council on Foreign Relations. She is an adjunct associate professor of Law at University of Notre Dame (U.S.A) in London, where she teaches International Arbitration. Suzanne holds a Juris Doctor from Columbia University School of Law, New York, a Master in International Affairs from Columbia University School of International and Public Affairs, New York, and a Bachelor of Arts in International Relations from Tufts University, Massachusetts. She was a U.S. Fulbright Scholar in Spain.

Eugene K.B. Tan is Associate Professor of Law and Lee Kong Chian Fellow (2019-2020) at the School of Law, Singapore Management University (SMU), Singapore. At the SMU, Eugene developed the ethics and social responsibility module for the university undergraduate core curriculum module and was responsible for MBA and EMBA modules on corporate governance, responsible business and ethics. Between 2015 and 2019, he served as an adjunct faculty teaching Ethics and Social Responsibility at the Singapore University of Technology and Design, Singapore. He had also taught in the summer of 2013 and 2014, as a visiting professor, at the Yonsei University Law School in Seoul, South Korea. An advocate and solicitor of the Supreme Court of Singapore, Eugene was educated at the National University of Singapore, Singapore, the London School of Economics and Political Science, London, England, and Stanford University, Stanford, California, where he was a Fulbright Fellow.

Rosamund Thomas is Director of Centre for Business and Public Sector Ethics, Cambridge, UK: see www.ethicscentre.org. She is an expert in CSR, business ethics and business management. Dr Thomas read these subjects at the University of Birmingham (UK); Harvard University to doctoral and postdoctoral levels (US); and taught at the

London School of Economics and Political Science, London, England (1978-1983). In 1983, she accepted a senior research fellowship in the Faculty of Law of the University of Cambridge, before becoming Director of the Centre for Business and Public Sector Ethics in 1988. She was the Gourlay Visiting Professor in Ethics in Business, Trinity College, University of Melbourne, Australia, in 2014. Dr Thomas has given evidence and Conference assignments to distinguished bodies and is also a well-known author and editor. Her published books include *The British Philosophy of Administration; Espionage and Secrecy: The Official Secrets Act 1911-1989 of the United Kingdom; Government Ethics*; and *Environmental Ethics*. Dr. Thomas has originated five Modules on 'Ethics and Anti-Corruption', published by Centre for Business and Public Sector for Ethics, 2009 (2nd edition) and is listed in 'Who's Who in the World' 2004–2019 for her contribution to the betterment of contemporary society.

Robert C. Thompson is a retired lawyer living in New York. He graduated from Harvard College (AB 1963) and Harvard Law School (LLB 1967). He was formerly an associate general counsel of the U.S. Environmental Protection Agency and a partner in the international law firm of LeBouef, Lamb, Greene & MacRae, where he was the chairman of the environment, health and safety group. Following his retirement in 2000, he has devoted his time to international human rights matters. He is the co-author of:

Robert C. Thompson, Anita Ramasastry & Mark B. Taylor, *Translating Unocal: The Expanding Web of Liability for International Crimes*, 40 *George Washington International Law Review* 841 (2009), available at: <http://docs.law.gwu.edu/stdg/gwlr/PDFs/40-4/40-4-1-Thompson.pdf>

Claes Cronstedt, Jan Eijsbouts & Robert C. Thompson, *International Business and Human Rights Arbitration* (2018), available at: <https://www.cilc.nl/cms/wp-content/uploads/2018/03/INTERNATIONAL-ARBITRATION-TO-RESOLVE-HUMAN-RIGHTS-DISPUTES-INVOLVING-BUSINESS-PROPOSAL-MAY-2017.pdf>.

Thomas played an integral role in the set-up of ASEAN Corporate Social Responsibility Network (ACN) in 2010 and as CEO, continues to provide oversight and strategic direction for the organization. ACN was established to promote and enable responsible business conduct in ASEAN Member States.

Thomas was the lead writer of the baseline study on CSR and human rights in ASEAN for the ASEAN Intergovernmental Commission on Human Rights (AICHR) in 2014. Thomas has extensive experience in CSR, serving on various initiatives in the region and globally, including the Steering Committee of the ILO's Global Business Network on Forced Labour. He was also involved in the drafting of the ISO 26000, International Social Responsibility Guidance Standard.

Prior to ACN, he was the founding Executive Director of the Singapore Compact for Corporate Social Responsibility (CSR), the national CSR society in Singapore, now operating as the Global Compact Network Singapore. He was the Co-Chair of the National Tripartite Initiative for CSR, formed in 2004 and initiated the formation of Singapore Compact for CSR. He was the Singapore focal point for UN Global Compact.

Contributors

Thomas had been active with trade unions, cooperatives, the consumer movement and social enterprises and also served as a nominated member of Parliament in Singapore.

Michael Torrance is Chief Sustainability Officer of BMO Financial Group, leading strategy and implementation of sustainability governance, disclosure, engagement and innovation at BMO Financial Group. Before joining BMO, Michael was a partner at the international law firm Norton Rose Fulbright LLP where he spearheaded the development of a global environmental, social and sustainability governance risk advisory practice. His experience includes application of international standards of environmental and social risk management and human rights due diligence in the corporate and banking contexts. Michael has authored widely used texts and guides on international environmental and social governance frameworks including the Equator Principles and IFC Performance Standards on Environmental and Social Sustainability.

Lene Wendland is Chief of the Business and Human Rights Unit in UN Human Rights. From 2005 to 2011, she was part of the team of former Special Representative of the UN Secretary General on Business and Human Rights, Professor John Ruggie, and contributed to the development and drafting of the UN Guiding Principles on Business and Human Rights. Lene directs the UN Human Rights' Corporate Accountability and Remedy Project, which aims to enhance accountability and access to remedy in cases of business involvement in human rights abuses. She also directs a new initiative by UN Human Rights – the B-Tech Project – applying the UN Guiding Principles on Business and Human Rights to key human rights challenges related to digital technologies. Lene is a member of the FIFA Independent Human Rights Advisory Board and represents UN Human Rights in the Governance Committee of the Centre for Sport and Human Rights.

Lene holds a Master's in Law from the University of Copenhagen, Copenhagen, Denmark.

Lene holds a Master's in Law from the University of Copenhagen.

Jessica Wentz is an affiliate of the Sabin Center for Climate Change Law, where she previously served as a senior fellow and staff attorney. Her work at the Sabin Center has spanned a variety of topics related to climate change mitigation and adaptation, sustainable development and environmental justice. She is also the Business Operations Manager at Remote Sensing Systems, a scientific research firm that specializes in microwave remote sensing of climate and earth systems. She has a J.D. from Columbia Law School, New York, where she was awarded the Alfred S. Forsyth Prize for 'dedication to the advancement of environmental law', and has a B.A. in International Development from the University of California, Los Angeles.

Elizabeth Wild worked on CSR issues in the oil and gas industry for many years, most recently in BP, where she led its central social responsibility and human rights team. This team created BP's standards and strategies on key social and human rights topics; provided technical support to businesses and functions; monitored external expectations on CSR performance; contributed to sustainability reporting; and provided expertise and recommendations to executives and board members. The team worked

extensively with other companies and IPIECA, the industry's environmental and social industry association, to develop and promote good CSR practice in the industry. Elizabeth led IPIECA's social working group for three years. She is now an independent consultant. She recently chaired an independent panel of social, human rights, environmental, climate change and investment specialists who provided feedback on the oil and gas industry's revision of its sustainability reporting guidance.

Elizabeth has a degree in French & German, a postgraduate diploma in interpreting & translation, and a master's degree from the Cambridge Institute for Sustainability Leadership, Cambridge, England. She is a conservation volunteer with the Surrey Wildlife Trust.

Jennifer Wills is the founder of J. Wills Career Coaching, a career coaching firm for environmental and sustainability professionals. Jennifer was an attorney with the U.S. Environmental Protection Agency where she spent fifteen years advising and problem-solving with clients. In addition, she has served as a Brookings Institution Fellow in the U.S. Senate where she advised on energy and environment issues and worked with constituents to improve their living and work environments. In addition, Jennifer is faculty with Virginia Tech's Center for Leadership in Global Sustainability where she advises executive masters students on career transitions and teaches International Environmental Law and Policy.

Jennifer has an M.A. in Natural Resources with a focus on global sustainability from Virginia Tech, a J.D. from the University of Kentucky, Lexington, Kentucky, and a B.A. in Biology from the University of Louisville, Louisville, Kentucky.

Rosalie Winn is an Attorney, at the Environmental Defense Fund. Rosalie advocates for strong climate and clean air protections at the federal and state level through participation in regulatory processes and strategic litigation. Rosalie's work focuses on reducing harmful emissions from the oil and gas sector. Prior to joining EDF, Rosalie was a litigation attorney in private practice. Rosalie has an undergraduate degree from Cornell University, Ithaca, New York, and a law degree from Georgetown University Law Center, Washington, D.C., United States.

Dr Cheri Young is an attorney of the High Court in South Africa, practising in banking and finance law. She obtained her LLB and PhD from the University of Cape Town, Cape Town, South Africa, and has completed a postdoctoral research fellowship at the University of Cape Town, Cape Town, South Africa, furthering her research interests in natural resources law and governance, and property law and theory. His Prior experience includes: AW Mellon Fellow, UCT (2011-2012); Reviewer, African Mining Legislation Atlas (2015); UCT Future Water Institute (2016-2018); and Chair of Mineral Law in Africa(2015-2018).

Peter Zalzal is Special Projects Director and Lead Attorney, at the Environmental Defense Fund. Peter has worked to help design and defend climate and air quality policies at the federal and state level, including the first generation of federal climate policies adopted in the wake of the Supreme Court's decision in *Massachusetts v. EPA* – the Endangerment Finding and Clean Car standards. Peter's work has also focused on

Contributors

advocating for and defending policies to reduce pollution from major sources in the transportation and oil and gas sector. This work has had a strong focus on partnership and innovation, including collaboration with a wide range of stakeholders to pursue effective climate and air quality solutions. Peter has an undergraduate degree from the University of North Carolina, Chapel Hill, and a law degree from Boston University, Boston, Massachusetts.

Dr Jennifer Zerk is a freelance writer, researcher and analyst specializing in law and corporate social responsibility. She holds an LLM in international economic law from the University of London and a PhD in International Law from the University of Cambridge. She is a regular contributor and adviser in relation to UK and EU policy initiatives and consultations. Internationally, she is a respected and sought after consultant, commentator and speaker. She has advised on a number of significant law reform and policy initiatives in the business and human rights field including, most recently, as lead legal consultant on the Accountability and Remedy Project of the Office of the UN High Commissioner for Human Rights. She is an associate fellow in the International law Programme at the Royal Institute of International Affairs (Chatham House).

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CHAPTER 14

The Global Compact

Hans Corell

The chapter begins by explaining that the purpose of the Global Compact, announced by then UN Secretary-General Kofi Annan in January 1999, is to convince the actors on the global markets that they should rally around shared values. This should be done by mainstreaming ten principles in business activities around the world. The principles are taken from the areas of human rights, labour, the environment and anti-corruption. The purpose of the Compact is to involve all actors concerned, among them governments, business, labour, civil society and the United Nations itself. The question of how one participates is then addressed, focussing on policy dialogues, learning, partnership projects and local networks. The administration of the Compact is also described, as is the relationship between the Compact and Corporate Social Responsibility. Specific attention is given to the tenth principle – the one against corruption – which was added to the Compact in 2004 after the signing of the United Nations Convention Against Corruption in 2003. Following this is a section on the role of lawyers in relation to the Compact, and in particular those who serve as corporate counsel, since they have an important role to play here. Finally, there is reference to material available to assist all interested.

§14.01 THE BEGINNING

At the World Economic Forum in Davos on 31 January 1999, United Nations Secretary-General Kofi Annan advocated the Global Compact. As a point of departure, he proposed nine universal principles in the areas of human rights, labour and environment. Referring to these principles, he asked business leaders to contribute to a

sustainable and inclusive global market. The actual launch of the Compact took place in July 2000.

After the signing of the United Nations Convention Against Corruption in 2003, a tenth principle – against corruption – was added in June 2004.

Much has happened since then, and today the Compact encompasses several thousand companies, other stakeholders and business organizations, both national and international, from all regions of the world. It includes international trade unions or union bodies, civil society entities at the global level, business schools and UN agencies.

Furthermore, participation in the Compact is open to all academic institutions committed to aligning with the ten principles through the Principles for Responsible Management Education,¹ and there is even a Global Compact Cities Programme. In this context, it is of particular importance to note that the Compact also includes Corporate Social Responsibility (CSR) organizations.

§14.02 THE PURPOSE

The purpose of the Compact is to convince the actors on the global markets that they should rally around shared values. In order to achieve more sustainable and inclusive global markets, special attention should be paid to the world's poorest people. The Compact has two objectives: mainstreaming the ten principles in business activities around the world and catalysing actions in support of broader UN goals, including the Sustainable Development Goals that have now replaced the Millennium Development Goals.² The Compact attempts to achieve two complementary goals. The first, which is of particular interest to all lawyers advising business, is to make the Compact and its principles *part of the internal strategy and operations of business*. The second goal is to engage different stakeholders and facilitate cooperation among them, in particular, when there are common problems that must be solved.

Within the Compact, four key mechanisms have been developed to accomplish these goals, namely: policy dialogues, learning, local networks and partnership projects.

§14.03 THE PRINCIPLES

The principles upon which the Global Compact is based are taken from the areas of human rights, labour, the environment and anti-corruption. These principles are derived from four documents that enjoy universal support, namely:

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1. United Nations, Global Compact, *Principles for Responsible Management Education*, <https://www.unglobalcompact.org/take-action/action/management-education> (accessed 12 Oct. 2019).
 2. United Nations, *Sustainable development goals*, <https://www.un.org/sustainabledevelopment/> (accessed 12 Oct. 2019).

- (1) The Universal Declaration of Human Rights (UDHR).³
- (2) The International Labour Organization's Declaration on Fundamental Principles and Rights at Work.⁴
- (3) The Rio Declaration on Environment and Development.⁵
- (4) The United Nations Convention Against Corruption.⁶

The Global Compact asks companies to embrace, support and enact, within their sphere of influence, a set of core values within these four areas. A business should follow the following principles:⁷

- (i) Human Rights:
 - *Principle 1*: support and respect the protection of internationally proclaimed human rights; and
 - *Principle 2*: make sure that they are not complicit in human rights abuses.
- (ii) Labour Standards:
 - *Principle 3*: uphold the freedom of association and the effective recognition of the right to collective bargaining;
 - *Principle 4*: the elimination of all forms of forced and compulsory labour;
 - *Principle 5*: the effective abolition of child labour; and
 - *Principle 6*: the elimination of discrimination in respect of employment and occupation.
- (iii) Environment:
 - *Principle 7*: support a precautionary approach to environmental challenges;
 - *Principle 8*: undertake initiatives to promote greater environmental responsibility; and
 - *Principle 9*: encourage the development and diffusion of environmentally friendly technologies.
- (iv) Anti-corruption:
 - *Principle 10*: work against corruption in all its forms, including extortion and bribery.

For the purposes of the present brief overview, it is not necessary, nor is it possible, to go into detail about the contents of the principles. In section §14.10, below,

3. United Nations, *Universal Declaration of Human Rights* (December 1948) https://www.ohchr.org/EN/UDHR/Documents/UDHR_Translations/eng.pdf (accessed 12 Oct. 2019).

4. International Labour Organization, *ILO Declaration on Fundamental Principles and Rights at Work*, <https://www.ilo.org/declaration/lang-en/index.htm> (accessed 12 Oct. 2019).

5. United Nations Conference on Environment and Development, *The Rio Declaration on Environment and Development* (1992), http://www.unesco.org/education/pdf/RIO_E.PDF (accessed 12 Oct. 2019).

6. UNODC, *United Nations Convention Against Corruption* (United Nations, 2004) <http://www.unodc.org/unodc/en/treaties/CAC/index.html> (accessed 12 Oct. 2019).

7. United Nations, *The Ten Principles of the UN Global Compact*, <https://www.unglobalcompact.org/what-is-gc/mission/principles> (accessed 12 Oct. 2019).

reference is made to material that contains extensive explanations of what these principles represent and the reasons why they are included in the Compact.

§14.04 THE ACTORS

The purpose of the Compact is to involve all actors concerned. First and foremost, governments are concerned, since they are the ones who define and adopt the principles on which the Compact is founded. Next comes business, since the purpose of the Compact is to influence business. Another obvious actor is labour since labour is the focus of several of the principles and is engaged in the process of global production. Civil society and the United Nations itself are other important actors.

[A] Governments

The Global Compact is sometimes criticized for attempting to shift the responsibility for the observation of international commitments from governments to business. It is, therefore, important to stress at the outset that the primary responsibility for the principles rests with governments. First, governments provide the necessary legitimacy and universality to the principles of the Compact. All of the underlying documents have been adopted under the auspices of intergovernmental organizations. Consequently, implementation of the principles must be based on and take place within the standard legal framework at the national level. There may be special situations where it is appropriate to encourage businesses to adopt or advocate for the higher international standard, but ultimately it is for governments to support the implementation of the Compact at the global and national levels.

As the system has developed, governments seek to support the Compact at the national level, in particular, in the formation of networks. They are also encouraged to establish policies to advance the purposes of the Compact.

At the global level, governments engage with the Secretary-General to develop the Compact and to engage other actors in the work. The Compact also enjoys the support of the UN General Assembly which, on 20 December 2018, renewed and expanded the mandate of the Global Compact Office and the UN Office that supports the initiative in its resolution ‘Towards global partnerships: a principle-based approach to enhanced cooperation between the United Nations and all relevant partners’.⁸ The Compact is also recognized in a number of other intergovernmental contexts.

[B] Business

With respect to business, it is important to stress that the Compact is a voluntary initiative with the purpose of promoting responsible global corporate citizenship. One of the fundamental ideas is that business leaders should be brought together to build a

8. UN General Assembly Resolution 73/254 of 20 Dec. 2018, A/RES/73/254 (16 Jan. 2019), <https://www.undocs.org/en/A/RES/73/254> (accessed 12 Oct. 2019).

movement that is strong enough to support the ideals of the Compact. *Therefore, a crucial precondition for a successful work within the Compact framework is that the Chief Executive Officer and the Board of Directors are behind the Compact.* It is from them that the initiative to join the Compact must emanate.

In the words of the Global Compact Office, the company that has committed itself to the Compact and its principles:

- must set in motion changes to business operations so that the Global Compact and its principles become part of strategy, culture and day-to-day operations;
- is expected to publicly advocate the Global Compact and its principles via communication vehicles such as press releases, speeches, etc.;
- is required to annually communicate on progress in implementing the ten UN Global Compact principles through a public corporate report (e.g., sustainability or annual report).

To the author, the last item is of particular interest, since this was an idea that he advocated already in June 1998 when he was asked to challenge a workshop on the topic ‘Is the Business of Human Rights Also the Business of Business’.⁹

One of the explicit commitments that a company makes when it joins the Compact is to produce an annual Communication on Progress which serves several important purposes: to instil accountability; to drive continuous improvement; to safeguard the integrity of the Compact as a whole; and to contribute to the development of a repository of corporate practices. It is vital that great attention is paid to this communication, which should be mainstreamed in the company’s existing communication methods.

[C] Labour

As it appears, internationally recognized labour standards, including the fundamental rights are part of the ten principles of the Compact. These standards are developed in a process in which business and labour play critical and central roles. However, labour plays a role that is different from those of business and other elements of civil society. This is the reason why labour is treated as a separate actor in the Compact. Of particular interest here is that labour has a distinct role in International Labour Organization’s (ILO’s) supervisory procedures designed to ensure that agreed labour standards are implemented at the national level. Furthermore, it is important in this context to refer to the practice of solving issues of interest to the Compact through collective bargaining agreements. This is common practice in many countries and is now also expanding at the global level. A number of framework agreements have been concluded between major companies and the international trade union bodies.

9. Hans Corell, *Address by the Legal Counsel to the 1998 Tallberg Workshop: Human Rights and the Free Market – Is the Business of Human Rights also the Business of Business? (‘The meaning and role of the Universal Declaration of Human Rights’)*, 26 June 1998 http://legal.un.org/ola/legal_counsel10.aspx (accessed 12 Oct. 2019).

[D] Civil Society

Important actors in the Global Compact are also organizations from civil society. They provide valuable assistance by lending credibility and social legitimacy to the efforts, and they can often help by solving problems and explaining the Compact's operations in more general contexts. These organizations participate both in the dialogue and as project partners. However, equally important is their advocating the ten principles to larger audiences and challenging business both locally and at the global level to take a stand on the issues that the Compact is concerned with.

[E] Others

There are also institutions with expertise in the areas of human rights, labour, the environment and anti-corruption that can contribute to the activities of the Compact. Many such institutions have also made important contributions. Academic institutions and think tanks are among the participants, and there is an academic network that plays a catalytic role in the Compact's operation by preparing business case studies and commentaries on examples, and by undertaking research on global corporate citizenship. The Global Compact Cities Programme, dedicated to the promotion and adoption of the Compact's ten principles by cities and to translating them into day-to-day urban governance and management, should also be mentioned.

§14.05 HOW DOES ONE PARTICIPATE?

First, reference should be made to the extensive information on participation in the Global Compact which is available on the Compact's website.¹⁰ The information is directed not only to business but also to non-governmental organizations and other non-business participants.

With respect to substance, as previously said, the Compact and its principles must be translated into business strategies and operations. Obviously, the responsibility for this activity rests with each participating company. But in order to further advance the goals of the Compact, the actors are encouraged to work together through dialogue, learning and projects at all levels.

[A] Policy Dialogues

The Global Compact Office stresses that Policy Dialogues are central in order to achieve mutual understanding and joint efforts among business, labour and non-governmental organizations in solving key challenges of globalization. The Office maintains that in this effort to influence policymaking and the behaviour of all stakeholders, the outcome is threefold: products that can engender changes in policy frameworks, encompassing

10. UN Global Compact, <https://www.unglobalcompact.org/> (accessed 12 Oct. 2019).

both incentive structures and regulatory mechanisms; products that can influence the actual behaviour of participants; and collective action by like-minded actors working together.

[B] Learning

The Compact's Learning Forum has three specific goals: (i) to identify critical knowledge gaps and to disseminate information; (ii) to communicate good practices and cutting-edge knowledge to participants; and (iii) to foster accountability and transparency through its web portal that should both facilitate dialogue and enable web links to relevant public documents. An important ingredient is the sharing of experiences in the form of presentations, examples or case studies both at meetings and on the Compact's website.

Here reference should be made to the UN Global Compact Academy, which is designed to provide participating companies of the UN Global Compact with the knowledge and skills they need to meet their sustainability objectives and achieve long-term growth by contributing to the 2030 Agenda for Sustainable Development.¹¹

[C] Partnership Projects

As already emphasized, an important goal of the Compact is to take action and engage in partnerships to advance the broader UN goals, such as the Sustainable Development Goals, among them ending poverty and hunger.¹² A means to this end is Partnership Projects. The Compact's website is therefore open to participating companies, labour and civil society organizations who want to share such experiences with others. According to the Global Compact Office, there are three broad types of partnerships: (i) advocacy and awareness-raising partnerships; (ii) social investment and philanthropy partnerships; and (iii) core business partnerships.

The Compact is working on a number of levels to facilitate partnerships between stakeholder groups and has inspired numerous development-related projects and partnerships at the local level. The Global Compact Office can function as an entry-point for companies that want to partner with the United Nations system.

[D] Local Networks

An important element in the work of the Global Compact is the development of networks at the regional, national and local levels. Such networks perform increasingly important roles in rooting the Compact within different national, cultural and language contexts. Their role is to facilitate the progress of companies (both local firms and

11. UN Global Compact, *UN Global Compact Academy*, <https://www.unglobalcompact.org/academy> (accessed 12 Oct. 2019).

12. See *supra* n. 2 and UN Global Compact, *The SDGS*, <https://www.unglobalcompact.org/sdgs> (accessed 12 Oct. 2019).

subsidiaries of foreign corporations) engaged in the Compact with respect to implementation of the ten principles. They also create opportunities for multi-stakeholder engagement and collective action.

§14.06 THE ADMINISTRATION OF THE GLOBAL COMPACT

As mentioned, the Global Compact was launched at the initiative of the Secretary-General of the United Nations. To administer the initiative, a Global Compact Office was established at the UN Headquarters in 2000. It is financed by governments and is working within the framework of the United Nations and in accordance with its goals. It also receives funds from business and other foundations through the Foundation for the Global Compact.¹³

There is also the Global Compact Board, first appointed by the UN Secretary-General in 2006, to provide ongoing strategic and policy advice for the initiative as a whole and make recommendations to the Global Compact Office, participants and other stakeholders.¹⁴ The Board is comprised of four constituency groups – business, civil society, labour and the United Nations.

The Compact is furthermore supported by six UN core agencies, namely the Office of the High Commissioner for Human Rights, the International Labour Organization, the United Nations Environment Programme, the United Nations Development Programme, the United Nations Industrial Development Organization and the United Nations Office on Drugs and Crime. However, this does not mean that other UN agencies are excluded from participation. Further information about the administration of the Compact appears on its website.

§14.07 THE GLOBAL COMPACT AND CSR

One question that is often asked is why a company that has already established its own code of conduct should participate in the Global Compact. The answer is very simple: such codes are extremely important. And companies that have demonstrated leadership and made changes in their policies should be commended. However, such codes are typically quite narrow in focus, often leaving out important issues such as human rights. The purpose of the Global Compact is different: it seeks to add new dimensions to good corporate citizenship by creating a platform – based on universally accepted principles – to encourage innovation, in particular, through new initiatives and partnerships with civil society and other organizations.

So, basically, the Global Compact is a voluntary corporate citizenship initiative with two main objectives: (i) to mainstream the ten principles in business activities around the world and (ii) to catalyse actions in support of United Nations goals, in particular the Sustainable Development Goals.

13. UN Global Compact, *The Foundation for the Global Compact*, <http://www.unglobalcompact.org/about/foundation> (accessed 12 Oct. 2019).

14. UN Global Compact, *The UN Global Compact board*, <https://www.unglobalcompact.org/about/governance/board> (accessed 12 Oct. 2019).

In this context, it is also important to refer to the Guiding Principles on Business and Human Rights (UNGPs), endorsed by the UN Human Rights Council in its resolution 17/4 of 16 June 2011.¹⁵ The UNGPs are directly aligned with the Compact's principles on human rights.¹⁶

The Global Compact is also urging business to promote gender equality by endorsing the Women's Empowerment Principles, launched on International Women's Day in March 2010.¹⁷

The obvious conclusion is that those who advise companies and, in particular, transnational companies must have a clear understanding of these interrelationships and that the business community has an important role to play here. To be sure, lawyers within companies and firms are increasingly being asked to provide advice on how the UNGPs and CSR generally relate to business. The Compact has provided guidance for lawyers in advancing corporate sustainability.¹⁸

§14.08 THE GLOBAL COMPACT AND ANTI-CORRUPTION

As already mentioned, a tenth principle – against corruption – was added to the Compact in 2004. The need for a principle-based approach to fighting corruption within the framework of the Global Compact was actually raised already at the outset. The subject matter was revived after the signing of the United Nations Convention Against Corruption in Merida, Mexico, on 9 December 2003.¹⁹

Against this background, the Secretary-General started in January 2004 consultations with participating companies to solicit their views regarding a potential introduction of a tenth principle against corruption. A formal letter was sent to all participants seeking their views. The Secretary-General stressed that the adoption of such a principle would only occur if there was broad-based support and that such an addition would be exceptional in nature. The consultation process concluded on 7 May 2004.

Based on the results of the consultation process, the Secretary-General formally proposed to a Global Compact Leaders Summit, held in New York on 24 June 2004, the principle against corruption that now appears in the Compact. With the Secretary-General's announcement to the Summit, this tenth principle was adopted.²⁰

15. Human Rights Council Resolution 17/4 of 16 Jun. 2011, A/HRC/RES/17/4 (6 Jul.2011), endorsing the *Guiding Principles on Business and Human Rights*, available at: https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf (accessed 12 Oct. 2019).

16. UN Global Compact, *Guiding Principles and the Global Compact's Human Rights Principles* (2014), <https://www.unglobalcompact.org/library/1461> (accessed 12 Oct. 2019).

17. UN Global Compact, *Endorse the Women's Empowerment Principles*, <https://www.unglobalcompact.org/take-action/action/womens-principles> (accessed 12 Oct. 2019).

18. UN Global Compact, *Guide for General Counsel on Corporate Sustainability* (UN Global Compact, June 2015) <https://www.unglobalcompact.org/library/1351> (accessed 12 Oct. 2019).

19. *Supra* n. 6.

20. UN Global Compact, *Principle ten: Anti-Corruption*, <https://www.unglobalcompact.org/what-is-gc/mission/principles/principle-10>. In his closing remarks at the Summit, the Secretary-General said: 'Today we added a tenth principle to the Compact, to combat corruption. The

The importance of combating corruption cannot be stressed enough. As Secretary-General Kofi Annan said in his message at the opening of the Conference for the signing of the UN Convention against Corruption:

[i]t is now widely understood that corruption undermines economic performance, weakens democratic institutions and the rule of law, disrupts social order and destroys public trust, thus allowing organized crime, terrorism, and other threats to human security to flourish. No country – rich or poor – is immune to this evil phenomenon. Both public and private sectors are involved. And it is always the public good that suffers. But corruption hurts poor people in developing countries disproportionately. It affects their daily life in many different ways, and tends to make them even poorer, by denying them their rightful share of economic resources or life-saving aid.²¹

§14.09 THE ROLE OF THE LAWYER

Needless to say, lawyers, and in particular those who serve as corporate counsel, have an important role to play in relation to the Compact. One can take human rights as a point of departure even if the argument could be made equally for labour, environment and anti-corruption. Lawyers also have a special responsibility in society. It is of particular importance that they are familiar with the international obligations that their country has undertaken at the international level, that is vis-à-vis other states, and contribute to the fulfilment of such obligations.

Naturally, a corporate counsel's main responsibility is to his or her client. But the two responsibilities may not necessarily conflict. On the contrary, the matters that the Compact focuses on are often given prominent attention in the media and public discussion. Ultimately, companies will be assessed by public opinion, and, as we know, in public debate the agenda is often set by non-governmental organizations. It is therefore important that companies are proactive in the fields that the Compact encompasses also in their own interest. Against this background, the International Bar Association has prepared guidance on how the UNGPs relate directly to the role of the lawyer both in-house and in firms.²²

It is said that corporate lawyers are concerned that by joining the Global Compact, companies might be held accountable if they do not meet the standards. The author does not believe that this is so since the Compact is not a legally binding

extensive consultation that you went through to arrive at this amendment not only showed that an overwhelming majority of participants wanted to strengthen the Compact in this way; it also was an exemplary deliberative process. As a result, the Compact is now better positioned to address one of the most pernicious obstacles to growth and development, and to cooperate more intensively with groups such as Transparency International.'

21. UN Global Compact, The Secretary-General, *Message at the Opening of the High-Level Political Conference for the Purpose of Signing the United Nations Convention Against Corruption*, 9 Dec. 2003, http://legal.un.org/ola/media/info_from_lc/corruption_message.pdf (accessed 12 Oct. 2019).
22. International Bar Association, *Training Lawyers on Business and Human Rights: Importance of Business and Human Rights for Corporate Lawyers*, <https://www.ibanet.org/LPRU/Business-and-Human-Rights-for-the-Legal-Profession.aspx> (accessed 12 Oct. 2019).

instrument. Rather, the principles are aspirational in nature. We should also remember that human rights protection is an obligation mainly for governments vis-à-vis their citizens and those who reside in their countries. This now also follows from the endorsement of the UNGPs according to which governments have the ‘duty to protect’ human rights. However, businesses also now have a ‘duty to respect’ and indeed governments are increasingly enacting legislation to reflect this.

This focus on governments has resulted in a debate where some argue that a transnational company cannot raise human rights issues because that would have detrimental effects on the possibilities of the company to do business in the country in question. This is of course an argument that cannot be swept aside completely. But there are ways to address this dilemma also. We should remember that there are multinational companies that have been severely criticized and probably also suffered economically because of lack of observation of human rights, labour and environmental standards as well as for not taking effective action against corruption.

Another concern expressed by corporate lawyers is that companies might be held liable for the behaviour of their contractors and subcontractors. In the author’s view, this is not so, at least not because of the Global Compact. Furthermore, and more importantly, there should be means of dealing also with this problem. In particular, one could stipulate in the contracts (where appropriate also with reference to subcontractors) standards that the companies engaged must honour. Indeed, more and more companies are considering their supply chains in the broadest sense and asking their business partners to uphold similar principles. It is also worth noting that the UNGPs ‘duty to respect’ includes Principle 13(b) which requires that business enterprises ‘seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts’.

§14.10 MATERIAL AVAILABLE

As already mentioned, there is a very elaborate website to assist all interested.²³ It is strongly recommended that corporate lawyers and others interested visit this website, which contains extensive material which is constantly updated. Specifically, the Compact has dedicated resources for corporate lawyers – within both companies and firms – that emphasize the critical role of the legal profession in advancing corporate sustainability.²⁴ In this context, special reference is made to the ‘Guide for General Counsel on Corporate Sustainability’ and to ‘Business for the Rule of Law Framework’.²⁵

23. See *supra* n. 10.

24. UN Global Compact, *Involve Lawyers in Sustainability solutions: Engaging the Legal Profession*, <https://www.unglobalcompact.org/take-action/leadership/integrate-sustainability/general-counsel> (accessed 12 Oct. 2019).

25. See *supra* n. 18 and; UN Global Compact, *Business for the Rule of Law Framework* (UN Global Compact, United Nations, June 2015) <https://www.unglobalcompact.org/library/1341> (accessed 12 Oct. 2019).

