Business Human Rights Journal



Business and Human Rights Journal

The *Business and Human Rights Journal (BHRJ)* provides an authoritative platform for scholarly debate on all issues concerning the intersection of business and human rights in an open, critical and interdisciplinary manner. It seeks to advance the academic discussion on business and human rights as well as promote concern for human rights in business practice.

BHRJ strives for the broadest possible scope, authorship and readership. Its scope encompasses interface of any type of business enterprise with human rights, environmental rights, labour rights and the collective rights of vulnerable groups. The Editors welcome theoretical, empirical and policy / reform-oriented perspectives and encourage submissions from academics and practitioners in all global regions and all relevant disciplines.

A dialogue beyond academia is fostered as peer-reviewed articles are published alongside shorter 'Developments in the Field' items that include policy, legal and regulatory developments, as well as case studies and insight pieces.

Business and Human Rights Journal is included on the Cambridge Core online platform and can be found at cambridge.org/core/journals/business-and-human-rights-journal

ISSN: 2057-0198 E-ISSN: 2057-0201

© Cambridge University Press

Business and Human Rights Journal Editorial Team

Editors-in-Chief

Surya Deva, School of Law, City University of Hong Kong, Hong Kong Anita Ramasastry, University of Washington School of Law, USA Michael Santoro, Santa Clara University, USA Florian Wettstein, University of St Gallen, Switzerland

Book Review Editor

Judith Schrempf-Stirling, University of Geneva, Switzerland

Editorial Board

Michael K Addo, University of Notre Dame. UK Denis G Arnold, University of North Carolina at Charlotte, USA Dorothee Baumann-Pauly, New York University, USA David Bilchitz, University of Johannesburg, South Africa George G Brenkert, Georgetown University, USA Wang Canfa, China University of Political Science and Law, China Larry Catá Backer, Penn State University, USA Humberto Cantú Rivera, Universidad de Monterrey, Mexico Andrew Clapham, Graduate Institute of International and Development Studies, Switzerland Shane Darcy, National University of Ireland Galway, Ireland Thomas Donaldson, University of Pennsylvania, USA Mary Gallagher, University of Michigan, USA Erika George, University of Utah, USA Elisa Giuliani, University of Pisa, Italy Nien-hê Hsieh, Harvard University, USA Sarah Joseph, Monash University, Australia Manoj Kumar Sinha, Indian Law Institute, India Ching Kwan Lee, University of California at Los Angeles, USA

Sheldon Leader, University of Essex, UK Jernej Letnar Černič, Graduate School of Government and European Studies, Slovenia Jeanne M Logsdon, University of New Mexico, USA Robert McCorquodale, University of Nottingham Ken McPhail, University of Manchester, UK Mahdev Mohan, Singapore Management University, Singapore Peter Muchlinski, SOAS, University of London, UK Justine Nolan, University of New South Wales, Australia Ibironke Odumosu-Ayanu, University of Saskatchewan, Canada Guido Palazzo, University of Lausanne, Switzerland Kish Parella, Washington and Lee University, USA César Rodríguez Garavito, University of Los Andes, Colombia Marcelo Saguier, FLACSO - Latin American School of Social Sciences, Argentina Sara Seck, Dalhousie University, Canada Penelope Simons, University of Ottawa, Canada Patricia H Werhane, University of Virginia, USA Mimi Zou, University of Oxford, UK

Advisory Board

Upendra Baxi, Emeritus Professor,	Richard Meeran, Partner, Leigh Day, UK
University of Warwick, UK	Michael Posner, Professor NYU's Stern
Jagdish Bhagwati, Professor, Columbia	School of Business, USA
University, USA	Olivier De Schutter, Professor, University of
Sara Hossain, Lawyer, Supreme Court of	Louvain, Belgium
Bangladesh, Bangladesh	Gillian Triggs, Vice-Chancellor's Fellow,
Rae Lindsay, Partner, Clifford Chance, UK	University of Melbourne, Australia

Developments in the Field Panel

Charles Abrahams, Abrahams Kiewitz, South Africa Sanyu Awori, International Women's Rights Action Watch Asia Pacific, Malaysia Phil Bloomer, Business & Human Rights Resource Centre, UK Flaviana Charles, LHRC Legal and Human Rights Centre, Tanzania Anthony Ewing, Columbia Network on Teaching Business and Human Rights, USA Arvind Ganesan, Human Rights Watch, USA Mariëtte van Huijstee, SOMO (Centre for Research on Multinational Corporations), the Netherlands Hiroshi Ishida, Caux Round Table, Japan Chris Jochnick, Landesa, USA Seema Joshi, Amnesty International, UK Jonathan Kaufman, Advocates for Community Alternatives, USA Juana Kweitel, Conectas Human Rights, Brazil

Carlos Lopez, International Commission of Jurists, Switzerland Anirudha Nagar, Accountability Counsel, India Faris Natour, Haas Business School, UC Berkeley, USA Ron Popper, Global Business Initiative on Human Rights, Switzerland Maria Prandi, Business and Human Rights, Spain Salil Tripathi, Institute for Human Rights and Business, UK Emmanuel Umpula Nkumba, Afrewatch, DRC Fernanda Venzon, Environmental Defender Law Center, USA Chima Williams, Environmental Rights Action/Friends of the Earth, Nigeria Liang Xiaohui, China National Textile and Apparel Council, China Vanessa Zimmerman, Vanessa Zimmerman, Pillar Two. Australia

Blog and Media Editors

David Birchall, School of Law, City University of Hong Kong, Hong Kong Mulesa Lumina, The Human Rights and Governance Consultancy (HURICON)

BHRJ Fellow

Berit Knaak, University of St. Gallen, Switzerland

Business and Human Rights Journal

Table of Contents

SCHOLARLY ARTICLES - SPECIAL ISSUE ON BUSINESS, HUMAN RIGHTS AND SECURITY

Guest Editors: Mary E. Footer and Nigel D. White

- 1 Guest Editorial Business, Human Rights and Security Mary E. Footer and Nigel D. White - Guest Editors
- 7 Security, Business and Human Rights in the Occupied Palestinian Territory Marya Farah and Maha Abdallah
- 33 The Rise of Private Military and Security Companies in European Union Migration Policies: Implications under the UNGPs Daria Davitti
- 55 Certifying Private Security Companies: Effectively Ensuring the Corporate Responsibility to Respect Human Rights?
 Sorcha Macleod and Rebecca Dewinter-Schmitt
- 79 Improving Human Rights in the Private Security Industry: Envisioning the Role of ICoCA in Latin America Cristina Narváez González and Katharine Valencia
- Business, Indigenous Peoples' Rights and Security in the Case Law of the Inter-American Court of Human Rights
 Núria Reguart-Segarra

DEVELOPMENTS IN THE FIELD

- 131 Corporate Liability Under the US Alien Tort Statute: A Comment on Jesner v Arab Bank
 William S. Dodge
- 139 Unlocking the Potential of the New OECD Due Diligence Guidance on Responsible Business Conduct
 Catie Shavin
- 147 Rights Holders' Participation and Access to Remedies: Lessons Learned from the Doce River Dam Disaster
 Joana Nabuco and Leticia Aleixo
- 155 The EU's Export Control of Cyber Surveillance Technology: Human Rights Approaches Machiko Kanetake
- Are Internet Protocols the New Human Rights Protocols? Understanding 'RFC 8280 Research into Human Rights Protocol Considerations'
 Vivek Krishnamurthy
- 171 Does India's Draft Mineral Policy Recognize and Implement Public Trust over Mineral Resources and Intergenerational Equity?
 Kinnari Bhatt

177 Big Tobacco v Australia: Challenges to Plain Packaging Sera Mirzabegian

BOOK REVIEWS

- 185 Lyn K L Tjon Soei Len, Minimum Contract Justice: A Capabilities Perspective on Sweatshops and Consumer Contracts Angie Redecopp
- Jernej Letnar Cernic and Nicolas Carrillo-Santarelli (eds), *The Future of Business and Human Rights* Lorraine Ruffing
- Stefanie Khoury and David Whyte, Corporate Human Rights Violations: Global Prospects for Legal Action
 Kathleen Rehbein

ERRATUM/CORRIGENDUM

- A Book Review of Corporate Human Rights Violations: Global Prospects for Legal Action – CORRIGENDUM
 Kathleen Rehbein
- 199 The Commitment Curve: Global Regulation of Business and Human Rights – ERRATUM
 Tori Loven Kirkebø and Malcolm Langford