

# Business AND Human Rights Journal



CAMBRIDGE  
UNIVERSITY PRESS

# 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 in the Cambridge Journals Online service and can be found at <http://journals.cambridge.org/bhrj>.

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, *Rutgers Business School, USA*

Florian Wettstein, *University of St Gallen, Switzerland*

### Book Review Editor

Karin Buhmann, *Copenhagen Business School, Denmark*

### Editorial Board

Michael K Addo, *University of Exeter, UK*

Denis G Arnold, *University of North Carolina at Charlotte, USA*

Dorothee Baumann-Pauly, *NYU's Stern School of Business, USA*

David Bilchitz, *University of Johannesburg, South Africa*

George G Brenkert, *Georgetown University, USA*

Tom Campbell, *Charles Sturt University, Australia*

Wang Canfa, *China University of Political Science and Law, China*

Larry Catá Backer, *Penn State University, USA*

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*

Nien-hê Hsieh, *Harvard Business School, USA*

Sarah Joseph, *Monash University, Australia*

David Kinley, *Sydney Law School, Australia*

Ching Kwan Lee, *University of California at Los Angeles, USA*

Sheldon Leader, *University of Essex, UK*

Jeanne M Logsdon, *University of New Mexico, USA*

Robert McCorquodale, *British Institute of International & Comparative Law, UK*

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*

Guido Palazzo, *University of Lausanne, Switzerland*

Thomas Pogge, *Yale University, USA*

César Rodríguez Garavito, *University of Los Andes, Colombia*

Marcelo Saguier, *FLACSO - Latin American School of Social Sciences, Argentina*

Sara Seck, *Western University, Canada*

Penelope Simons, *University of Ottawa, Canada*

Patricia H Werhane, *University of Virginia, USA*

## Advisory Board

Upendra Baxi, *Emeritus Professor, University of Warwick, UK*  
Jagdish Bhagwati, *Professor, Columbia University, USA*  
Sara Hossain, *Lawyer, Supreme Court of Bangladesh, Bangladesh*  
Rae Lindsay, *Partner, Clifford Chance, UK*

Richard Meeran, *Partner, Leigh Day, UK*  
Michael Posner, *Professor NYU's Stern School of Business, USA*  
Olivier De Schutter, *Professor, University of Louvain, Belgium*  
Gillian Triggs, *President, Australian Human Rights Commission, Australia*

## Developments in the Field Panel

Joanne Bauer, *Columbia Network on Teaching Business and Human Rights, USA*  
Phil Bloomer, *Business & Human Rights Resource Centre, UK*  
Flaviana Charles, *LHRC Legal and Human Rights Centre, Tanzania*  
Arvind Ganesan, *Human Rights Watch, USA*  
Alexandra Guaqueta, *Flinders University, Australia*  
Mark Hodge, *Global Business Initiative on Human Rights, UK*  
Hiroshi Ishida, *Caux Round Table, Japan*  
Chris Jochnick, *Landesa, USA*  
Seema Joshi, *Amnesty International, UK*  
Jonathan Kaufman, *Earthrights International, USA*  
Juana Kweitel, *Conectas Human Rights, Brazil*

Liang Xiaohui, *China National Textile and Apparel Council, China*  
Carlos Lopez, *International Commission of Jurists, Switzerland*  
Rebecca MacKinnon, *New American Foundation, USA*  
Faris Natour, *Haas Business School, UC Berkeley, USA*  
Ron Popper, *ABB, Switzerland*  
Maria Prandi, *Business and Human Rights, Spain*  
Salil Tripathi, *Institute for Human Rights and Business, UK*  
Anna Triponel, *Triponel Consulting, UK*  
Emmanuel Umpula Nkumba, *Afrewatch, DRC*  
Shankar Venkateswaran, *Tata Sustainability Group, India*  
Vanessa Zimmerman, *Independent Consultant, Australia*

# Business and Human Rights Journal

## Table of Contents

### ARTICLES

- 179 Outlining the Case for a Common Law Duty of Care of Business to Exercise Human Rights Due Diligence  
**Doug Cassel**
- 203 The Necessity for a Business and Human Rights Treaty  
**David Bilchitz**
- 229 'Is Fox News a Breach of Human Rights?': The News Media's Immunity from the Guiding Principles on Business and Human Rights  
**Sarah Joseph**
- 255 Corporations and Human Rights Obligations  
**Denis G Arnold**
- 277 Business Ethics and Human Rights: An Overview  
**George G Brenkert**

### DEVELOPMENTS IN THE FIELD

- 307 The World Economic Forum and Nike: Emerging 'Shared Responsibility' and Institutional Control Models for Achieving a Socially Responsible Global Supply Chain?  
**Thomas A Hemphill and George O White III**
- 315 Respecting Human Rights in the On-Demand Economy: Closing the New Governance Gap  
**Faris Natour**
- 321 Mapping Recent Developments in Transparency of Extractive Industries  
**Zorka Milin**
- 327 The Record of International Financial Institutions on Business and Human Rights  
**Jessica Evans**
- 333 Extraterritorial Detention Contracting in Australia and the UN Guiding Principles on Business and Human Rights  
**Brynn O'Brien**
- 341 Myanmar Centre for Responsible Business—A Pioneering Country-Based Initiative  
**Donna Jean Guest**
- 349 Binding Corporate Human Rights Obligations: A Few Observations from the South African Legal Framework  
**Lise Smit**
- 357 Integrating Business and Human Rights in the Inter-American Human Rights System  
**Alejandra Gonza**

## BOOK REVIEWS

- 367 Hin-Yan Liu, *Law's Impunity: Responsibility and the Modern Private Military Company*  
**Shane Darcy**
- 371 Madhev Mohan and Cynthia Morel (eds.), *Business and Human Rights in Southeast Asia: Risk and the Regulatory Turn*  
**Farzana Aslam**
- 375 Daniel Berliner, Anne Regan Greenleaf, Milli Lake, Margaret Levi and Jennifer Noveck, *Labour Standards in International Supply Chains: Aligning Rights and Incentives*  
**Aurora Voiculescu**
- 379 A Review of a Classic Book: Andrew Clapham, *Human Rights Obligations of Non-State Actors*  
**Radu Mares**