

# Business AND Human Rights Journal

**Special Issue: From Formalism to  
Feminism: Gender, Business and  
Human Rights**

**Guest Editors: Nora Götzmann,  
Joanna Bourke Martignoni,  
Bonita Meyersfeld and Harpreet Kaur**

**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 on the Cambridge Core online platform and can be found at [cambridge.org/core/journals/business-and-human-rights-journal](https://www.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, *Macquarie Law School, Macquarie University, Australia*

Anita Ramasastry, *University of Washington School of Law, USA*

Michael Santoro, *Santa Clara University, USA*

Florian Wettstein, *University of St Gallen, Switzerland*

### Book Review Editors

Nadia Bernaz, *Wageningen University, the Netherlands*

Samantha Goethals, *SKEMA Business School, France*

### Editorial Board

Michael K Addo, *University of Notre Dame  
London Law Centre, UK*

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

Dan Banik, *University of Oslo, Norway*

Tim Bartley, *Stockholm University, Sweden*

Dorothee Baumann-Pauly, *NYU Stern  
School of Business, USA/University of  
Geneva, Switzerland*

Upendra Baxi, *Warwick University, UK*

David Bilchitz, *University of Johannesburg,  
South Africa*

Danny Bradlow, *University of Pretoria,  
South Africa*

Humberto Cantú Rivera, *Universidad de  
Monterrey, Mexico*

Barnali Choudhury, *Osgoode Hall Law  
School, York University, Canada*

Shane Darcy, *National University of Ireland  
Galway, Ireland*

Olivier De Schutter, *University of Louvain,  
Belgium*

Thomas Donaldson, *Wharton School of the  
University of Pennsylvania, USA*

Björn Fasterling, *EDHEC Business School,  
France*

Erika George, *University of Utah, USA*

Elisa Giuliani, *University of Pisa, Italy*

David Hess, *Ross School of Business at the  
University of Michigan, USA*

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

Sarah Joseph, *Griffith University, Australia*

Markus Krajewski, *Friedrich-Alexander-  
Universität, Germany*

Vivek Krishnamurthy, *University of Ottawa,  
Canada*

Genevieve LeBaron, *Simon Fraser  
University, Canada*

Jernej Letnar Cernič, *New University,  
Slovenia*

Jena Martin, *West Virginia University,  
USA*

Robert McCorquodale, *University of  
Nottingham, UK*

Ken McPhail, *University of Manchester, UK*

Peter Muchlinski, *SOAS University of  
London, UK*

Justine Nolan, *University of New South  
Wales, Australia*

Claire Methven O'Brien, *University of  
Dundee, UK*

Ibironke Odumosu-Ayanu, *University of  
Saskatchewan, Canada*

Guido Palazzo, *University of Lausanne,  
Switzerland*

Kish Parella, *Washington and Lee  
University, USA*

Nicolás M Perrone, *Universidad Andrés  
Bello, Chile*

César Rodríguez-Garavito, *New York  
University School of Law, USA*

Marcelo Saguier, *Universidad Nacional de  
San Martín (UNSAM), Argentina*

Judith Schrempf-Stirling, *University of  
Geneva, Switzerland*

Sara Seck, *Dalhousie University, Canada*

Penelope Simons, *University of Ottawa,  
Canada*

Vasanthi Srinivasan, *Indian Institute of Management, Bangalore, India*  
Olena Uvarova, *Yaroslav Mudryi National Law University, Ukraine*  
Tara Van Ho, *University of Essex, UK*

Sandra Waddock, *Carroll School of Management, Boston College, USA*  
Patricia H Werhane, *University of Virginia, USA*  
Wanhong Zhang, *Wuhan University School of Law, China*

### **Developments in the Field Panel**

Charles Abrahams, *Abrahams Kiewitz, South Africa*  
Felogene Anumo, *Thousand Currents, Africa*  
Jelena Arapac, *United Nations Working Group on the Use of Mercenaries*  
Caio Borges, *Instituto Clima e Sociedade, Brazil*  
Flaviana Charles, *Legal and Human Rights Centre, Tanzania*  
Han Dongfang, *China Labour Bulletin, Hong Kong*  
Anthony Ewing, *Teaching Business and Human Rights Forum, Columbia University, USA*  
Beata Faracik, *Polish Institute for Human Rights and Business, Poland*  
Sara Hossain, *Dr Kamal Hossain and Associates, Bangladesh*  
Mariëtte van Huijstee, *Rathenau Instituut, the Netherlands*  
PillKyu Hwang, *Gonggam Human Rights Law Foundation, Republic of Korea*  
Jonathan Kaufman, *Advocates for Community Alternatives, USA*  
Harpreet Kaur, *United Nations Development Programme*  
Juana Kweitel, *Conectas Human Rights, Brazil*  
Rae Lindsay, *Clifford Chance, UK*  
Richard Meeran, *Leigh Day, UK*  
Anirudha Nagar, *Accountability Counsel, India*

Emmanuel Umpula Nkumba, *Afrewatch, DRC*  
Ron Popper, *Global Business Initiative on Human Rights, Switzerland*  
Michael Posner, *NYU Stern Center for Business and Human Rights, USA*  
Paloma Muñoz Quick, *BSR, USA*  
Gabriela Quijano, *Business and Human Rights Consultant, UK*  
Miriam Saage-Maaß, *European Center of Constitutional and Human Rights (ECCHR), Germany*  
Ruwan Subasinghe, *International Transport Workers' Federation, UK*  
Salil Tripathi, *Institute for Human Rights and Business, UK*  
Anneke Van Woudenberg, *Rights and Accountability in Development (RAID), UK*  
Fernanda Venzon, *Environmental Defender Law Center, USA*  
Paul Quayle Watchman, *Glasgow University, UK*  
Joseph Wilde-Ramsing, *SOMO (Centre for Research on Multinational Corporations), the Netherlands*  
Chima Williams, *Environmental Rights Action/Friends of the Earth, Nigeria*  
Liang Xiaohui, *China National Textile and Apparel Council, China*  
Miwa Yamada, *Institute of Developing Economies, Japan*  
Vanessa Zimmerman, *Pillar Two, Australia*

### **Blog and Media Editors**

Sandhya Drew, *City University of London, UK*  
Rajiv Maher, *Egade Business School, Mexico*

### **Social Media Editor**

Akiko Sato, *Human Rights Now, Japan*

### **BHRJ Fellow**

Okwudili Onyenwee Onwurah, *School of Law, City University of Hong Kong, Hong Kong*

# Business and Human Rights Journal

## Table of Contents

### **Special Issue: From Formalism to Feminism: Gender, Business and Human Rights**

**Guest Editors: Nora Götzmann, Joanna Bourke Martignoni, Bonita Meyersfeld and Harpreet Kaur**

#### **EDITORIAL**

- 1 From Formalism to Feminism: Gender, Business and Human Rights  
**Nora Götzmann, Joanna Bourke Martignoni, Bonita Meyersfeld and Harpreet Kaur**

#### **SCHOLARLY ARTICLES**

- 12 Enough of the ‘Snake Oil’: Applying a Business and Human Rights Lens to the Sexual and Reproductive Wellness Industry  
**Clare Patton, Marisa McVey and Ciara Hackett**
- 29 Overcoming Silencing Practices: Indigenous Women Defending Human Rights from Abuses Committed in Connection to Mega-Projects: A Case in Colombia  
**Nancy R Tapias Torrado**
- 45 Fast Fashion for 2030: Using the Pattern of the Sustainable Development Goals (SDGs) to Cut a More Gender-Just Fashion Sector  
**Ramona Vijeyarasa and Mark Liu**
- 67 Informal Mining in Colombia: Gender-Based Challenges for the Implementation of the Business and Human Rights Agenda  
**Lina M Céspedes-Báez, Enrique Prieto-Ríos and Juan P Pontón-Serra**
- 84 Women and the ‘Business’ of Human Rights: The Problem with Women’s Empowerment Projects and the Need for Corporate Reform  
**Roseanne Russell**
- 100 Reframing Corporate Subjectivity: Systemic Inequality and the Company at the Intersection of Race, Gender and Poverty  
**Charmika Samaradiwakera-Wijesundara**
- 117 The United Nations Guiding Principles on Business and Human Rights, Women and Digital ID in Kenya: A Decolonial Perspective  
**Grace Mutung’u**
- 134 Reclaiming the Human Rights Foundations of the UN Standards of Conduct for Business on Tackling Discrimination against LGBTI People  
**Amanda Lyons and Cooper Christiancy**

## DEVELOPMENTS IN THE FIELD

- 157 Selling Stereotypes: Reviewing the Impact of Business Advertisements on Gender Norms and Socialization  
**Bernadette Gutmann, Shreyasi Jha, Emer O'Doherty and Ranjavati Banerji**
- 163 The Human Rights Implications of Not-for-Profit Surrogacy Organizations in Cross-Border Commercial Surrogacy: An Australian Case Study  
**Yingyi Luo, Shelley Marshall and Denise Cuthbert**
- 168 The Implications of the Adoption of a Model Sexual Harassment Policy Within the Flower Sector in Kenya  
**Mary Kuira**
- 175 A Feminist Analysis of the Legal Mechanisms of Protection and Repair in the Context of the Brazilian Extractive Industry: The Doce River Case  
**Juliana Bertholdi and Danielle Anne Pamplona**
- 181 Private Military and Security Companies and Gendered Human Rights Challenges: Oversight or Blatant Disregard?  
**Sorcha MacLeod and Nelleke van Amstel**