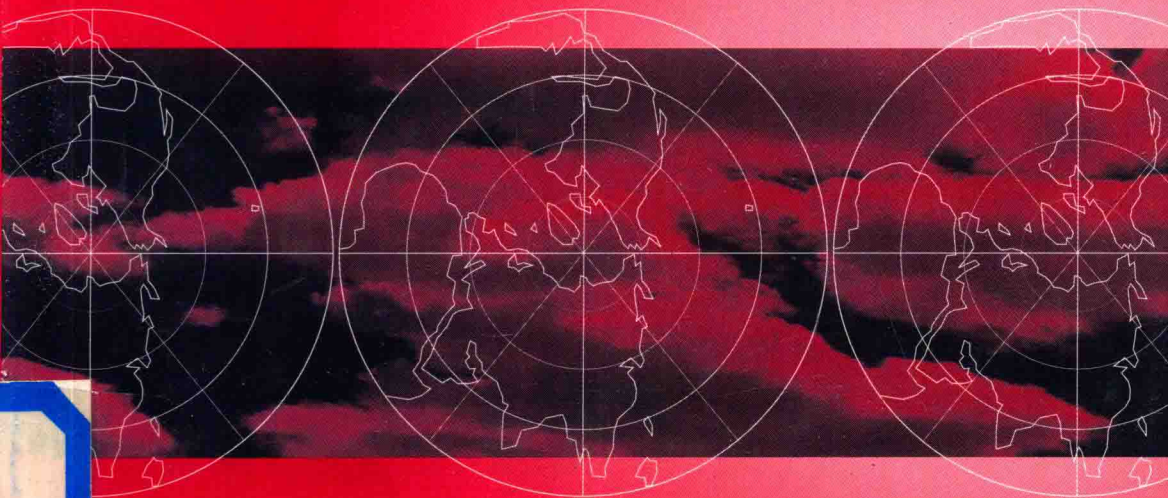


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Multinationals and Corporate Social Responsibility

Limitations and Opportunities in International Law



JENNIFER A. ZERK

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Multinationals and Corporate Social Responsibility

The 'corporate social responsibility' ('CSR') movement has been described as one of the most important social movements of our time. This book looks at what the CSR movement means for multinationals, for states and for international law. International law is often criticised for being too 'state-centred', and ill-equipped to deal with the challenges of globalisation. However, drawing from many and varied examples of state, NGO and corporate practice, this book argues that, while international law has its limitations, it presents more opportunities for the CSR regulation of multinationals than many people assume. The main obstacles to better regulation are, therefore, not legal, but political. Essential reading for anyone who wants to understand how international law works and how it can be used to further international CSR objectives.

JENNIFER A. ZERK was admitted as a solicitor in Australia in 1991 and in England and Wales in 1993. She holds law degrees from the University of Adelaide and the University of London, and a PhD in law from the University of Cambridge. Formerly an energy law specialist with a major London firm, she now works as an independent researcher and consultant, advising on the legal and regulatory aspects of 'corporate social responsibility'.

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Preface

It was while working as an energy lawyer in a busy London firm that I first became aware of corporate social responsibility (CSR). Like many lawyers, I expect, I wasn't sure what to make of it at first. How might CSR and the law inter-relate? Were there legal implications I should be aware of? And where was this all heading? Here, some years later, I have attempted to answer these questions, from the perspective of international law. During the course of my research, I found that the prevailing negativity about the capacity of international law to address contemporary problems of 'globalisation' often flowed through into discussions about CSR law and policy. But while this volume began as a critique of international law, I now believe that, while international law certainly has its limitations, it also presents more opportunities for the international regulation of multinationals than many people assume. In this book, I have tried to explain why.

This volume is a revised, expanded and updated version of a thesis submitted for the degree of PhD from the University of Cambridge in 2002. Writing first the thesis, and then this book has been quite a challenge – not least because CSR is such a new and fast-moving area – and there are many people I would like to thank. First of all, I was extremely fortunate to have had the chance to work with Dr Christine Gray at the thesis-writing stage. As a PhD supervisor she was first-rate, and approached the task in such a generous, light-handed and constructive way. I have been grateful for her interest and support. I have also been grateful for the financial support provided by the Arts and Humanities Board of the British Academy and also the Master and Fellows of Magdalene College, Cambridge, in the form of two Leslie Wilson Scholarships (minor) and the Donaldson Bye-Fellowship in 2000–1.

Many more people have given up their time to answer my questions, and share their thoughts and experiences with me. Nick Coppin at the FCO (Global Social Responsibility Unit), Paul Hawker at the DTI, Ben Mellor and Lucia Wilde at the DFID, and Dave Allwood at the ECGD all provided useful background material on aspects of UK government CSR policy. I am most grateful to them. Of those people from further afield, I would like to thank, in particular, Imar Doornbos and Maurice Sikkel of the Netherlands Ministry of Economic Affairs, Paola Pinoargote, Joost Koojimans and Monica Evans of the ILO, Marta Seoane of the WHO's Tobacco Free Initiative, Scott Jerbi at the Office of the UN High Commissioner for Human Rights, Greg Maggio of OPIC, Sheila Logan of the FAO, Joerg Weber of UNCTAD and Richard Howitt MEP. Gabrielle Russell of the Australian Democrats was a great help to me in researching the Australian Corporate Code of Conduct Bill. I am grateful to Richard Meeran of Leigh Day and Co. for taking the time to talk to me about the *Lubbe v. Cape* litigation. Iain McGee and Paul Scott of Corporate Register provided some useful data on CSR reporting history and current practice. From NGOs, special thanks are due to Anne von Schaik of the Clean Clothes Campaign, Duncan McLaren of Friends of the Earth, Peter Frankenthal of Amnesty International, Mark Brownlie of the GRI, Natacha Thys of the International Labor Rights Fund, Marco Simons of EarthRights International and Halina Ward of the International Institute for Environment and Development. Many other colleagues have provided additional help, advice, insight and guidance along the way, in particular John Collier, Simon Deakin, Janet Dine, Martin Dixon, Richard Fentiman, Charles Gibson, QC, Michael Hopkins, Paul Hunt, Rob McCorquodale, Susan Marks, Peter Muchlinski, Richard Nolan, David Oliver, Ken Peattie, Phillip Rudolph, Colin Warbrick, Angela Ward. I am most grateful to all of them. I am also indebted to Anna Kirk for her comments on earlier drafts of chapters for this book.

On the home front, I would like to thank my husband, Phil Rawlins, and our daughter, Anna, for their fortitude and patience with me, especially over recent months. Phil, in particular, has lived with this project for a long time and the fact that this book was written at all is a testament to his generosity, kindness and support. Finally, I would like to pay a special tribute to three people of tremendous courage, compassion and decency. They are my parents, Melvyn and Linda, and my late grandfather, Frank. Their values and example have provided both the inspiration and purpose behind this book. This book is dedicated to them, with my admiration and thanks.

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