

Research Workshop

New public and private pathways towards supply chain accountability

Conveners:

León Castellanos-Jankiewicz (Asser Institute)

&

Tibisay Morgandi (Queen Mary University London)

Asser Institute for International and European Law
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Over the past decade, international regimes supporting global values and normative universalism have been eroded by the populist backlash, a lack of legitimacy and protectionist forces. Instead, disputes and agreements have been increasingly mediated outside the multilateral sphere and closer to national or regional frameworks. Moreover, states increasingly rely on the self-policing of corporations to protect public interests—especially in the technological sector. And social movements are now resorting to cross-border tort litigation and regulation to bring irresponsible industry players into compliance. One of the most salient elements of the new paradigm is the prominence of private law within the public sphere. The problem is not new: in his seminal study *Private Law Sources and Analogies in International Law* of 1927, Hersch Lauterpacht culled from extensive state practice to reveal the influence of private law in the building of international legal frameworks.

More than ever, the private law paradigm is worth using to frame contemporary social challenges. Around the world, an increasing number of private entities are harnessing international legal frameworks to carry out public functions. Corporations often exercise governmental authority on behalf of states to deliver global public goods. Other times, they are tasked by international organizations to provide public services. Although formulated decades ago, the questions underpinning Lauterpacht's enquiry are therefore still relevant: how to negotiate the shifting boundaries between public and private law? Moreover, how do these spheres interact with international law? Finally, can private law become a vehicle for global governance?

This is the first gathering of an informal group of academics with various areas of legal expertise that will meet in person or online at regular intervals to discuss developments related to these shifting dynamics. Topics will include the Corporate Sustainability Due Diligence Directive, ESG indices, Business and Human Rights, and Corporate Social Responsibility, among others. Our motivation to convene this group stems from the fast-paced rate at which these areas are impacting legal frameworks and the need for input from different branches of law to fully understand their significance. In addition to sharing information, we also hope that participants will use this network as a platform to cooperate.

Programme

- 12:00 – 12:30 Walk-in
- 12:30 – 12:45 **Opening remarks: New public and private pathways towards supply chain accountability**
- León Castellanos-Jankiewicz (Asser Institute)
- Tibisay Morgandi (Queen Mary University London)
- 12:45 – 14:15 **Panel 1: International rules and new paradigms**
- Humberto Cantú Rivera (Universidad de Monterrey), ‘Towards Normative Coherence: Some Thoughts on the Business and Human Rights Treaty Process’
- León Castellanos-Jankiewicz (Asser Institute), ‘Protecting Public Interests through Private Law: The End of Human Rights Litigation?’
- Dalia Palombo (Tilburg University), ‘Protecting Corporate Interest: Is Climate Change a Game Changer?’
- 14:15 – 14:45 Coffee and tea
- 14:45 – 16:15 **Panel 2: National laws, enforcement and regulatory frameworks**
- Antoine Duval (Asser Institute), ‘Who guards the CSDDD? Enforcing sustainability due diligence through judicial and/or administrative processes’
- Carsten König (University of Cologne), ‘Human Rights or Private Rights? – Effective Protection for Injured Parties in Global Supply Chains’
- Jason Rudall (Leiden University), ‘Corporate Responsibility for Environmental Damage under International Law: The Good, the Bad and the Ugly’
- 16:15 – 16:45 Coffee and tea
- 16:45 – 18:15 **Panel 3: Business practices and self-regulation: from CSR to ESG**
- Klaas Hendrik Eller (University of Amsterdam) ‘Compliance Practices under the CSDDD’
- Jowita Mieszkowska (Global Rights Compliance), ‘Assessing the Feasibility of the EU CSDDD Directive: what are the unintended consequences?’

Tibisay Morgandi (Queen Mary University London), 'Greenwashing and the Legal Significance of Sustainability Reports'

Sarah Vandenbrouke (Leiden University), 'Effects of the CSDDD Directive on corporate self-regulation for global supply chain labour conditions'

18:15 – 18:30 Closing and takeaways

18:30 – 19:00 Drinks reception

19:00 – 20:30 Dinner