Global Governance of the Environment and Implications for the Insurance Industry

Accepted for publication in Katarzyna Malinowska, Dorota Maśniak (eds.) 2024. Managing Environmental Risks through Insurance: Legal and Economic Aspects. Springer. Cham.

Chapter 1

Global Governance of the Environment and implications for the Insurance Industry

In K. Malinoska & D. Masniak (Eds) *Managing Environmental Risk Through Insurance* (Springer International, 2024)

Stephen J. Turner – University of Essex – Essex Law School. United Kingdom.
s.j.turner@essex.ac.uk

Claire Bright – University of Lisbon – Nova School of Law. Lisbon. Portugal.
claire.bright@novalaw.unl.pt

(Running Head – 'Global Governance and Insurance')

Abstract

The insurance industry has historically had to respond to risks that corresponded to societal developments, changes in industrial practices and international conflict. Existing challenges for business and industry relating to the risks concerning the environment and society represent a new frontier that requires innovation and strategic assessment.

However, there is another dimension to the challenges faced by the insurance industry which is often overshadowed by the immediate nature of impacts upon the environment and society. This is that global environmental governance itself is changing, as are the responsibilities that businesses have in relation to human rights. The expectations of the international community relating to human rights and the environment, through corporate law, WTO law and international investment law are all changing in ways that will have major implications for the insurance sector.

Therefore, it is arguable that the insurance industry should not only be anticipating physical and commercial risks but engaging more proactively with the processes of change in global governance. The reason for this is due to the pivotal leadership role that the insurance industry can potentially play in the design and development of global governance systems that meet the needs of the international community. This chapter maps out the changes taking place in global governance systems and the important role that the insurance industy can potentially play in those processes.

Key Words

Global Environmental Governance; Insurance; Corporate Responsibility; Human Rights Due Dilligence; Human Rights and the Environment.

1. Introduction

The expectations of the international community are changing in terms of environmental responsibilities and liabilities as the environment itself is changing and in many instances degrading. As a result, environmental governance is evolving at a rapid pace and as part of that, the legal obligations of businesses are undergoing processes of corresponding adaptation and realignment. These developments are inevitably affecting the role of insurance *vis à vis* businesses, individuals and the international community; and this can be forecasted to continue at an increased rate.

The insurance industry has always had challenges in responding to new liabilities whether they be the advent of the motor car (1), times of war (2), or modified expectations in terms of professional negligence (3). Clearly the insurance industry has had to respond to the increased potential of environmental liability faced by business clients resulting from their operations as well as the increased hazards posed to businesses and communities from the changing environment in which they live and work (4). Extreme weather events including heat waves and flooding create risks for communities and businesses alike (5). Increasingly there are also specific risks that can arise where parties that have suffered loss as a result of the impacts of climate change seek compensation from those businesses that they see as being responsible (6). Furthermore, and more broadly businesses need to consider the risks related to the transition to a more environmentally sustainable mode of operation (6). It is therefore understandable that the insurance industry will need to continue to focus on the different types of environmentally related risks that affect their clients as they develop appropriate responses.

Whilst the insurance industry has had the immediate task of responding to these critical challenges, it has to date had less involvement in considering broader global reforms to international economic frameworks that would potentially lead to a revised role for the insurance industry. It can be argued that within an international economy that is putatively in the process of realigning itself towards 'net zero' harm to the environment and 'net zero' greenhouse gas emissions, there is a strong case for the insurance industry to be more integrally involved in the transitions that are taking place within global governance itself.

It is now widely recognised that if major environmental challenges are to be addressed effectively, major actors other than states, whether they be international organisations, businesses and civil society, need to play an integrated part. Indeed, the term 'global environmental governance' has been used in diverse ways (7) (8), but is often used to refer to governance that includes non-state actors as well as state actors (9). Within the context of this chapter primary focus is given to the legal aspects of international economic frameworks that play major roles in determining the liabilities of businesses related to the environment and human rights, over and above those that are imposed by States. The reasons for this approach, rather than focussing on multilateral environmental agreements, is due to the fundamental role those international economic frameworks play in determining the commercial business environment that companies operate in, which in turn affects the way that businesses treat externalities such as the environment and human rights.

Certain key international legal and economic frameworks that govern the way that business and industry operate internationally, established after World War II, arguably need to be redesigned or at least realigned, if challenges relating to the environment and human rights

are to be successfully addressed. In particular this chapter considers international trade law, international investment law and the law relating to the responsibilities of corporations. It focusses on these legal regimes as they form crucial pillars of governance that affect business responsibilities relating to the environment and human rights. As a result they inevitably have a direct effect on the insurance services that businesses ultimately require.

This chapter maps out specific aspects of these international legal and economic frameworks, with regard to the potential that they can have to impact the environment and human rights. It specifically includes the issue of human rights alongside the challenges posed by environmental protection, as human rights are so often implicated when the environment becomes degraded (10). For example, chemicals leaching into a watercourse may create an environmental hazard and a liability but it can simultaneously impact upon the right to life and the right to health of individuals and communities. Similarly, it is now recognised that climate change itself has profound human rights impacts (11) and importantly in 2022, the UN General Assembly recognised through a historic resolution the 'right to a clean, healthy and sustainable environment'.(12) The linkages between protection of the environment and human rights mean that there is often no clear dividing between the two and more importantly for the purposes of this chapter, the responsibilities and liabilities for businesses relating to environmental protection and human rights are in many instances intertwined (13).

In considering the leadership role that the insurance industry could take in progressive realignments that would transition responsibilities more rapidly towards net zero harm to the environment (including greenhouse gas emissions), it takes into account the shifting expectations of the international community relating to human rights obligations in conjunction with the environment itself. Ultimately the chapter indicates the areas where significant adjustments are required. In doing so it also highlights the impacts that such realignments could have on insurance regimes and services. Therefore, the analysis of this chapter is to consider those broad issues within the field of global governance to proceed with the argument that the insurance industry as a whole, could or should take a more prominent role in reform processes due to the unique position that it holds as a stakeholder within global environmental governance.

To carry this out, the chapter conducts three stages of analysis, which are as follows. Firstly, it considers the way that the international economic system and the legal landscape it creates for businesses, impacts the environment and human rights. It considers international trade law (WTO law), international investment law, and corporate law and identifies the legal features of those regimes that can be detrimental to the environment and human rights.

The second section considers the way that liabilities for businesses are shifting in relation to the impacts that they can have on the environment and human rights. It draws on the changing culture that has occurred through the human rights and due diligence (HRDD) framework derived from the UN Guiding Principles on Business and Human Rights for the responsibilities of businesses and was subsequently extended to the environment. It indicates a transition of expectation and practice which is underway and uses this to illustrate the potential for further reforms in the coming decades.

The third and final section considers the two aforementioned sections within the context of the ways that the international community could potentially redesign the international economic system in such a way that net zero harm to the environment and the climate could be achieved. In doing this it illustrates the pivotal role that the insurance industry could potentially, and arguably should, play in those reforms. As such it considers a role for the insurance industry that is not only involved in responding to governance changes but playing a more integral part in the design and implementation of those changes.

Overall, this chapter emphasises that all actors whether they be States, businesses, civil society or international organisations have a role in protecting the environment and human rights. It argues that the insurance industry has a much greater role than it has already assumed – and that this represents not only a major challenge but an important responsibility.

2. The International System Under Which Business Operates

This section provides an overview of key aspects of major global international legal and economic frameworks and the responsibilities that they create for corporate actors primarily *vis-à-vis* protection of the environment but also in relation to human rights too. It does this to demonstrate the ways that they orientate the decision-making of businesses towards commercial maximisation with potential concomitant risks in terms of outcomes for the environment and human rights. It also contextualises these legal and economic frameworks to highlight the changing expectations of the international community relating to them. It is this legal landscape and its relationship with existing business liabilities that paves the way for consideration of the role that the insurance industry can potentially play in the reform of global governance to achieve net zero outcomes for the environment and fully protected human rights.

2.1 The WTO Regime

For decades now concern over the impacts of international trade on the goals of the international community concerning the environment and human rights has led to increased scrutiny of the institutional processes that have been used to achieve trade liberalisation (14). Where companies engage in international trade whether that be through importation, exportation or both, their businesses are inextricably affected by international trading regimes. Trading regimes inevitably affect the levels of competition that businesses face in the market place and this can have an impact on the extent to which businesses can realistically invest in environmental and human rights related concerns if they are to maintain their positions in markets.

When considering the World Trade Organisation (WTO) it is necessary to primarily consider the General Agreement on Tariffs and Trade (15). The core obligations of the GATT of 1947 remain fundamental to the way that the WTO creates duties for member states in their trading relationships with each other (16) (17). It should be noted that those obligations have a strong relationship with regional trade agreements (RTA) and bilateral trade agreements, and these along with international investment law, form what has been described as the 'hard core' of international economic law (17). In essence, the WTO agreements create a set of

principle based legal obligations that member states must observe to be able to access the markets of other member states. The main principles of this system are 'national treatment', 'most-favoured nation status', and the obligation not to impose quantitative restrictions (17).

Although the WTO has not introduced agreements requiring member States to comply with specific environmental or human rights standards to access markets of other members, it has introduced certain agreements that have a relationship with environmental and human rights issues. These include agreements related to technical barriers to trade (18); food, animal and plant safety (19); and intellectual property (20). The argument made by the WTO relating to environmental and human rights issues is that as a regime of trade agreements, it is for other specialist branches of international law to engage with those specific issues and that the WTO does not have the expertise or the remit to do so itself (21). This may of course appear to be a reasonable argument, but it is also arguable that it reflects a position that only partially acknowledges the power discrepancy between the WTO regime in terms of leverage, when compared to regimes of international environmental and human rights law (22). For example, the WTO regime includes its binding Dispute Settlement Body (DSB) that has been called upon regularly to make decisions that affect the trading relationships between States, both large and small (23), but no environmental or human rights regime has that same level of corresponding binding power or authority over member states.

Through the WTO system, a state is able to legally challenge goods being imported into its country on specific grounds. As some of the WTO rules have environmental and human rights implications, those rules and their interpretation have been keenly contested (24). Key to this phenomena have been the issues related to 'process and production methods' (PPMs). In other words, there is a question as to whether a State importing a product can require that it be produced in a manner that meets its own national environmental process and production standards, even if the end product is ultimately no different to those produced domestically (25). This principle can apply to fishing techniques for example and the extent to which they create bycatch in the process. Traditionally WTO rules have maintained that member States cannot use the PPMs of other countries as a basis upon which to restrict associated imports, but there have been some inroads made in this regard (22). Nevertheless, the prospect of environmental governance being left to the policies of importing States can be criticised as being an arbitrary and unfair approach that can be partial to economically more powerful States. (25). Some would argue that the WTO itself should be orientated towards the maintenance of internationally agreed standards of environmental and human rights protection as part of an international trading regime(26).

Whilst it can be understandable from a historical perspective that international trade regimes prioritise access to markets and economic interests above environmental and human rights concerns, the nature of global society in the 21st century arguably requires a more sophisticated and integrated approach. In part this is because the existing paradigm inevitably places commercial pressure on businesses operating in States that are members of the WTO (currently 164 nations) (27) to compete with each other which can create a downward pressure on the maintenance of standards relating to the environment and human rights. Such economic pressure inevitably has an impact on associated outcomes, and also affects national law and policy making accordingly.

For States, there can be legal pressure through the WTO regime related to the environmental or human rights regulations that it introduces. If a member State makes environmental or human rights regulations that could potentially be interpreted as disguised restrictions on international trade, other member states can make legal challenges to the DSB accordingly (23). Therefore the WTO regime in providing a rules based system that is in part designed to deter disguised attempts by states to protect their own national markets from imports, and by avoiding engagement in universal standard setting relating to the environment and human rights, inevitably attracts criticism.

The goal of trade liberalisation can be seen as virtuous in the sense that it can liberate, 'human beings from governmental constraints on their economic freedom' (14). However, it has simultaneously been argued that the quest for that economic freedom should not mean the abandonment of, 'moral and civil progress of the national and international society' (14). Therefore leading authorities have commented that rules to protect the environment and human rights should have kept pace with the rules based system to establish trade liberalisation (28).

Criticism of this framework and the imbalance of priorities that it represents has not been restricted to academia and civil society. Mainstream international actors have recognised this disparity. For example in 2001, the then Secretary General of the United Nations, Kofi Annan remarked that the international community,

> [c]annot take the onward march of free trade and the rule of law for granted. Instead, we must resolve to underpin the free global market with genuinely global values and secure with effective institutions. We must show the same firm leadership in defence of human rights, labour standards, and the environment as we already do in defence of intellectual property (29).

It can be argued that if the WTO system should include rules related to intellectual property as it does through the Agreement Trade-Related Aspects of Intellectual Property Rights (TRIPS) (20), it could also adopt standards relating to the environment and human rights (22). Arguments relating to the proper role and function of the WTO have no doubt affected its capacity to develop further . However, whatever role is appropriate for the WTO in terms of environmental governance, it is clear that its agreements form part of a network of rules that influence the way that businesses operate, and this inevitably has an impact on the risks that businesses need to insure. Therefore potential reform of the obligations that are required of WTO members in relation to the environment and human rights, would inevitably have far-reaching impacts for the insurance industry.

2.2 International Investment Law

Whereas the WTO system was forged from the foundation of the earlier GATT regime with the intention of developing a trade regime that potentially had global applicability , the same type of process has not occurred for international investment law. There is currently no global legal regime for international investment as there is for international trade (30). Instead there is a plethora of investment treaties (often bilateral in nature) and free trade agreements, which can be referred to as international investment agreements (IIA). Those treaties create

rules-based regimes through which investment between host states (those receiving investment) and home states (those states from which investment is sourced whether publicly or privately)(31). The part that these treaties play relating to the responsibilities that businesses have for environmental and human rights issues is significant. This is because they have the potential to affect the degree of regulation and protection that host states require companies to comply with. As with the WTO and RTAs, IIAs are critically important to national economies. Developing countries can be particularly influenced by them as investment is so important to their economies. Prior to the Covid 19 pandemic, levels of foreign direct investment globally were at USD 1.5 trillion in the year of 2019 (32).

IIAs characteristically include two types of rules to maintain regulatory stability. Firstly, rules prohibiting host States from interfering with investments (31). Such interference can amount to 'expropriation' of an investment. The types of clauses used for this purpose include 'stabilisation clauses' that limit the extent to which changes in regulations by host States can be introduced (31). This restraint can include regulations relating to the environment and human rights. Secondly, rules are typically included which prohibit acts or measures amounting to 'unfair treatment' (31). The reason why these types of provisions have become particularly controversial is because they are often accompanied by 'choice of law' and dispute settlement clauses which enables investors to take out litigation against host States in tribunals external to a host State, often through the International Centre for the Settlement of Investment Disputes (ICSID) or the United Nations Commission on International Trade Law (UNCITRAL) (33). As a result host States run the risk, if they make changes to their regulatory regimes, of facing highly costly litigation from the companies that have invested in their country (34).

As such it has been argued that the threat of litigation can act as a disincentive to intervene where human environmental or human rights issues are at stake. Evidence suggests that the very existence of IIA litigation against States, regardless of the results, leads to a loss of aggregate investment which also acts as a disincentive to provoke legal action (34). Some have argued that as a result IIAs can lead to decisions in arbitral tribunals that are contrary to State obligations *vis à vis* international human rights law (30) and as such are counter to the rule of law (35). Ultimately IIAs need to achieve a balance between investor risk reduction and the maintenance of the prerogative of host states to regulate in the interests of the public. For this reason Subedi comments that,

> [t]hese challenges can be addressed by fashioning relations between foreign investors and host countries in such a way that foreign investment law is better equipped to balance public and private interests and to pay adequate attention to other competing principles of international law and overall policy objectives of the international community. (31).

It is clear that the existing frameworks for IIAs, when viewed within the context of global environmental governance as a whole, play an important part in the relationship that companies have with the environment and human rights.

At the time of writing there were 2843 Bilateral Investment Treaties (2290 in force) and 420 Treaties with Investment Provisions (324 in force) (36). Different quarters of the international community have sought to develop a global approach to international investment law that would achieve consistency. The OECD has attempted unsuccessfully to negotiate a Multilateral Investment Agreement (MIA) (37) and the WTO has also made efforts within the sphere of international investment which met with resistance (38). More recently steps have been taken to support developing countries in securing provisions within IIAs that meet the expectations of the UN's Sustainable Development Goals (39). As the governance framework for international investment comes under closer scrutiny the potential for reform that would have an impact on the insurance industry is significant.

2.3 Corporate Law

It can be argued that the influence that international economic law has on the environment and human rights cannot be properly understood without also considering the effect that corporate law also has on business decision-making. Corporate law represents an interesting component within the broader international framework of laws that ultimately influence the way that companies strategise and develop business plans. Whilst corporate law itself is not subject to a globally binding international treaty and is generally determined on a state by state basis, the nature of corporate law internationally is such that all countries of the world have adopted a formula which is generally ubiquitous and which demonstrates a significant degree of homogeneity. The formula includes certain characteristics that have a profound effect on decision-making relating to the environment and human rights. Those characteristics if reformed, would inevitably affect business insurance requirements.

There are four specific characteristics of corporate law, that have a major impact upon governance of the environment and human rights; these are separate legal personality, national registration of companies, limited liability and directors duties. Separate legal personality is fundamental to all companies in whichever jurisdiction they are registered. It is a legal attribute which means that each company is a separate entity in law to all other companies, individuals or organisations, including other companies within a corporate group. Within individual companies, it means that directors and shareholders themselves as individuals are treated as being separate to the companies that they are part of (40). As such when a company incurs liabilities, the directors and shareholders are shielded from personal liability. The only exceptions to this would be if a shareholder had unlimited liability - which is extremely rare, or if a director or a shareholder had made a personal guarantee relating to any of the company's liabilities, or had committed an offence which led to liability. As the principle of separate legal personality also applies to the different companies within corporate groups (41), businesses sometimes develop complex corporate structures, involving a number of companies to manage and compartmentalise commercial risks. In terms of the environment and human rights, it can mean that directors, shareholders and even other companies within a corporate group can end up being legally insulated from specific financial liabilities and this in itself can have the effect of exacerbating risk-taking relating to the environment and human rights (41).

The second of the associated characteristics of corporate law globally is the fact that there is currently no international system of registration for companies (41). As a general rule, with some minor exceptions, where a company seeks to operate in a different country to that in which it is domiciled, it will be required to create and register a new company in that jurisdiction, this often means creating a foreign subsidiary (42). It has been argued that an international system of registration for companies could provide a basis upon which more effective regulation of individual corporations and corporate groups could be effected (11) (43). An international system of registration for companies could potentially provide the basis upon which compliance with international environmental and human rights standards could be founded. Although within specific sectors compliance and reporting systems have been developed, they are generally non-mandatory, and therefore global governance in this respect can still be regarded as being in its infancy.

The third characteristic that is now integrated throughout corporate law globally is that of 'limited liability'. This legal feature is one of the key reasons for the popularity of the corporate form for business people wherever they are located. It means that shareholders of companies are only liable for the debts of a company up to the amount of money that they have agreed to pay for the purchase of their shares (44). In some jurisdictions there is the option to register companies that require shareholders to accept 'unlimited liability' but understandably this option is one that is not particularly popular. The advantage of 'limited liability' is that it provides another legal device through which shareholders are insulated from the debts and liabilities of a company. The problem is that in providing this protection, it can result in corporate decision-making that increases risk-taking relating to environmental and human rights, as the shareholders will have limited exposure to those risks in the event that major liabilities arise. It also means that where a company has insufficient funds to cover liabilities relating to the environment or human rights, adequate compensation may not be available where harm or loss is suffered.

The fourth and final characteristic of company law is that all jurisdictions have laws which require the directors of companies to make decisions which benefit the company that they work for (45) (11). From a commercial perspective these laws are necessary to ensure that the funds that shareholders invest into companies are used for the company's purposes, as the majority of investors seek a return on their investments either through dividends or an increase in share value (11). Therefore what are known in some jurisdictions as 'directors' duties' are incorporated into corporate law (46). These provisions usually create penalties for directors who are in contravention, but serious failures by a director would typically mean that they would lose their job and as such these types of duties are usually self-enforcing (11).

Directors' duties have been the subject of intense scrutiny for many years and this has resulted in reforms in certain jurisdictions that require directors, or companies themselves, to take the environment and human rights into account in the decisions and strategies that they make. The United Kingdom did so through the Companies Act in 2006 (s. 172) (47), India also in 2013 (s. 166) (48), and more recently France introduced its Loi PACTE (49) which leaves it open for companies to have objectives which do not purely relate to commercial success. Reforms relating to directors' duties and the purpose of companies tie in with the introduction of legal responsibilities to conduct due diligence relating to human rights and the environment; those developments are considered further in section 4 of this chapter.

Where changes have been made, there are still questions about their effectiveness and new approaches within the field of corporate responsibility are constantly being considered (50).

What this means in terms of global governance is that corporate law itself is receiving continued attention as a core component within an international legal framework that has a strong relationship with the environment and human rights. Ultimately associated changes in corporate law can have a major impact upon the liabilities that businesses may have relating to environmental and human rights risks; which necessarily has major implications for the insurance industry.

3. The Changing Face of Responsibility for Businesses

The analysis in section 2 illustrated the way that the legal frameworks of international economic law and corporate law can affect businesses outcomes *vis à vis* human rights and the environment. Attention relating to the impacts that businesses can have on human rights and the environment has gradually changed the expectations of the international community relating to corporate decision-making. Scrutiny at local, national and international levels has therefore led to changing business practices that provide a barometric of the direction of travel which arguably will continue to affect responsibilities for businesses. This section therefore draws on initiatives that have taken place, primarily at the international level, which have gained traction and which provide a prism through which an understanding of what businesses are, who they are responsible to and what their liabilities should be, can be viewed. In doing so it considers a key part of the changing face of responsibilities for businesses and provides a lens through which potential future developments can be understood.

Within this sphere, the United Nations has been particularly active. Whereas the UN has traditionally approached responsibilities for environmental protection through the development of treaty regimes, it has directly addressed businesses in terms of their responsibilities through their impacts upon human rights through alternative methods. As the human rights impacts of businesses are often linked to environmental outcomes, this section examines those developments with a view to examining their overall impact upon business liability within global governance.

Various approaches to defining business' responsibility in relation to human rights have been followed in the past few decades (51)(52). In the 90s, following the scandals around the Southeastern Asian 'sweatshops' supplying international brands such as Nike in the footwear and apparel industry and the resulting protests and boycotts, companies started to respond through the adoption of codes of conduct.

In 1999, the UN Secretary-General Kofi Annan initiated the UN Global Compact (53) at the World Economic Forum in Davos as he invited the business leaders to join the UN's compact of shared values and principles aimed at giving a 'human face to the global market'. The UN Global Compact constituted a new standard for companies to benchmark their conduct against prevailing international law (54). Indeed, companies wishing to adhere to the initiative are asked to embrace, support and enact, within their sphere of influence, a set of principles in the areas of human rights, labour standards, the environment and anti-corruption.

However, the voluntary nature of the UN Global Compact means that it has no effect over the companies who do not wish to participate. In addition, it has been criticised for its lack of teeth, meaning that no real sanction can be imposed on companies who violate the principles that they pledged to respect. Against this backdrop, different strategies were subsequently explored at the UN level.

In 2003, the UN Sub-Commission on the Promotion and Protection of Human Rights presented its *Draft Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights* (Draft Norms) (55) which constituted a restatement of existing human rights obligations and aimed to extend them to companies as well as states (54). However, the aspiration to impose direct human rights obligations on companies made the Draft Norms very controversial. In 2004, the UN Commission on Human Rights considered them formally but eventually decided not to approve them.

A year later, one of the architects of the Global Compact and Harvard Professor, John Ruggie, was appointed as the Special Representative of the Secretary General on the issue of Human rights and Transnational Corporations and other Business Enterprises with a mandate, among other things, to identify and clarify the standards of corporate responsibility and accountability with regard to human rights. In 2007, he presented the 'Protect, Respect and Remedy Framework' which articulates the differentiated but complementary responsibilities of States and enterprises in preventing, addressing and remedying business-related human rights harms (56). The Framework is organised around three core principles: (i) the State duty to protect against human rights abuses by third parties, including business enterprises, which derives from the international human rights regime (ii) the corporate responsibility to respect human rights which is grounded on social expectations and is part of a company's social licence to operate, and (iii) the need for more effective access to remedies, which is a shared responsibility between States and companies.

The Framework was subsequently implemented in the UN Guiding Principles on Business and Human Rights (UNGPs) which were unanimously endorsed by the UN Human Rights Council in 2011 and formed the first authoritative global standards on business and human rights (57). The approach chosen was one of a soft law instrument which garnered a substantial consensus. The UNGPs have been extremely influential and have paved the way for the legislative developments that are currently taking place. Many of these developments focus on the concept of human rights due diligence which was introduced in the UNGPs and refers to the positive steps that companies need to take, through policies and processes, to identify, prevent, mitigate, and account for the adverse human rights impacts that they may cause or contribute to through their own activities, or that may be linked to their operations, products or services by their business relationships. This has been recognised as a core practice of responsible business conduct and has been incorporated in several other international instruments such as the OECD Guidelines on Multinational Enterprises, revised in 2011 to align with the UNGPs (58), and the ILO Tripartite Declaration, in its 2017 revision (59). It has also been extended to other areas than human rights, such as the environment and climate change.

Yet, despite these developments, the implementation of human rights due diligence responsibilities has been very poor in practice for the vast majority of companies. In 2020, the

Corporate Human Rights Benchmark assessed the human rights disclosures of 229 global companies across 5 sectors and revealed that nearly half of the companies assessed (46.2%), failed to score any point on the human rights due diligence indicators (60). In Germany, the results of the 2020 monitoring process revealed that only 13-17% of the 455 companies surveyed could show that they adequately met their due diligence obligations as contained in the German National Action Plan for Business and Human Rights (61). In Portugal, the first National Enquiry on Responsible Business Conduct and Human Rights revealed that less than one in five companies had human rights due diligence processes in place (62). At the European level, the European Commission Study on Due Diligence Requirements through the Supply Chain surveyed companies across Europe. Just over one-third of business respondents indicated that their companies undertake due diligence which takes into account all human rights and environmental impacts, and amongst those, a large majority specified that their due diligence exercise was limited to first-tier suppliers (63). The literature has made a connection between the low levels of corporate human rights due diligence practices and the lack of binding legal frameworks at the national or international level (63). Indeed, the soft law character of the international norms on business and human rights entails that the decision to exercise human rights due diligence remains at the companies' discretion, with no sanction in case of non-compliance.

In an attempt to address this gap the corporate human rights and environmental due diligence expectations are gradually transforming into a legally binding standard of conduct in an increasing number of jurisdictions where mandatory human rights due diligence legislation is being introduced (64). For instance, the French Duty of Vigilance law adopted in 2017 (65) requires large French companies to establish, effectively implement and disclose a vigilance plan setting out due diligence measures taken in relation to their own activities, the companies under their control, or from the activities of their subcontractors and suppliers with whom they have an established business relationship (66). In the Netherlands, the Dutch Child Labour Due Diligence Act was adopted in 2019, requiring companies that supply goods or services to Dutch end-users to exercise human rights due diligence in relation to child labour (66). Recent legislation on mandatory due diligence has also been adopted in Germany and in Norway, and has been put forward in several other jurisdictions (68). At the EU level, , the European Parliament adopted a resolution in March 2021, by a vast majority, with recommendations to the European Commission on corporate due diligence and corporate accountability (69). The European Commission's Draft Directive on Corporate Sustainability Due Diligence which was introduced in February 2022 is currently being discussed.

In parallel with these legislative developments, the shift towards the increased recognition of legal responsibilities of businesses in relation to human rights and the environment can also be seen in litigation (70). In particular, cases like the Vedanta case in the UK and the Shell case in the Netherlands have acknowledged that parent companies may, in certain circumstances, owe a duty of care to the workers and local communities affected by the activities of their foreign subsidiaries (71). In another case against Shell in 2021, the District Court of the Hague found that the parent company had a legal obligation to 'contribute to the prevention of dangerous climate change through the corporate policy it determines for the Shell group' which derives from an 'unwritten standard of care' under Dutch tort law (72). On that basis, the court ordered the company to reduce its CO_2 emissions by 45% by 2030 relative to 2019 levels. In reaching this decision, the court made an explicit reference to soft law instruments

such as the UNGPs and the OECD Guidelines for Multinational Enterprises, thereby highlighting their persuasive authority (52). More specifically, the court referred to the UNGPs as a 'universally endorsed' and 'authoritative' soft law instrument 'suitable as a guideline in the interpretation of the unwritten standard of care', regardless of whether or not Shell had committed to them.

The developments in this section are indicative of a response that has occurred through international organisations and national initiatives to the decision-making of companies that to a large extent can be attributed to failure of the legal frameworks of international economic law and corporate law that were described in section 2. Whereas the developments in this section demonstrate the immediate responses of the international community relating to the effects of businesses on human rights and the environment, section 2 addresses some of the seemingly intractable root causes of those issues that are found within systemic frameworks of global governance. Given the expectations of the international community and its priorities these insights can be used to assist in understanding, not only how global environmental governance can be developed to respond effectively but also the role that the insurance industry can play in that process.

4. The Re-design of International Environmental Governance and the Role of the Insurance Industry

When considering global environmental governance and its associated institutions, it is clear that they collectively represent a work in progress. The international community has as yet to adopt a system of global governance that adequately protects the environment or human rights in terms of the practices of business and industry. The foregoing commentary indicates that whereas the priorities of past generations may have been well-served through the design of international economic law and corporate law, contemporary priorities relating to the environment and human rights are often not. It has demonstrated that global governance relating to the environment and human rights are integrally linked to the design of international economic law and also that of corporate law, to the extent that those legal frameworks include design features which can and often do lead to negative human rights and environmental outcomes. Therefore there is a very strong case for those frameworks to be redesigned.

A significant degree of sympathy can be afforded to the original designers and architects of corporate law (in the late 18th and early 19th centuries) and international economic law (at the end of World War II) as they were not to know precisely how globalisation would affect the legal regimes that they were establishing at the time (43). Nor could they anticipate how those legal regimes could impact, yet to be adopted priorities relating to human rights and environment. It is clear now that this generation's priorities continue to change; for example the goal of achieving net zero GHG emissions is a relatively recent addition. What these changing priorities arguably elucidate is the need to redesign extant systems of international economic law and corporate law as part of a renewed system of global governance.

As global governance has evolved it has become increasingly clear that the traditional model of State centred international governance that was heavily reliant on international law treaties has been surpassed by the reality of governance involving a range of different actors

(73). Certain scholars such as Koskenniemi have argued that lawyers should be rethinking the activities of expert institutions where power occurs and consider more carefully the way that different regimes, designed to achieve different objectives, intersect with each other (74). Relevant expertise is found not just within State institutions but within international and private organisations too. These organisations not only represent knowledge bases but they are often key stakeholders in the development of systems of global governance. UN bodies naturally play key roles in global governance, but civil society along with business and industry also will have significant contributions to make. As such when consideration is given to the re-design of systems of global governance related to the obligations of business relating to the environment and human rights, it follows that the insurance industry should have an important role to play in specific respects. Firstly, it can be argued that through the knowledge and expertise that it has relating to industrial and environmental risk it can play a significant role. Secondly, in the understanding that it has in the development of liability regimes and their practical functioning, it can also make a major contribution.

In terms of related research, over a number of years work has been undertaken to systematically analyse global environmental governance with the purpose of redesigning international economic and corporate law frameworks alongside corresponding State law with a view to predisposing business and industry to achieve net zero harm to the environment (75). This approach is reliant on 'macro-legal analysis' that takes into account the different legal frameworks that exist within international economic law and corporate law, for example, to consider what reforms would be necessary to achieve net zero harm (75) (43). What is interesting about this approach and the solutions that it provides, is that it argues not only that it is possible to redesign international legal frameworks to achieve net zero harm to the environment, but also that in doing so a key role for the insurance industry would be required if that were to be achieved.

This section will summarise two types of reform suggestions that fall within this category. Firstly, where a redesign of international legal and economic frameworks integrates responsibilities for businesses or production processes to result in net zero degradation which would necessitate an insurance safeguard in the event of failure to comply. Secondly, where international legal and economic frameworks are reformed to incorporate compulsory liability insurance related to the protection of the environment and human rights.

Under the first type of reform, a redesigned legal and economic framework would be predisposed to achieving net zero degradation to the environment and net zero greenhouse gas emissions. The suggested reform would include certain key features that would upgrade existing international legal and economic frameworks (11). The reform suggestions to achieve this include, the creation of an international registration body for companies, the requirement that all companies achieve net zero degradation of the environment (including greenhouse gas emissions), the associated establishment of an international system of environmental accounting, the establishment of registered suppliers of environmental insurance, and the establishment of registered suppliers of environmental off-sets to enable companies to achieve the net zero requirements (11). Within this framework corresponding legal obligations would be required through reforms of the WTO, and multilateral development banks. As a result the insurance industry would provide a crucial service to

business, industry and also ultimately to the environment to ensure that net zero levels of environmental degradation were achieved (11).

In the second type of reform framework which would be equally applicable to the protection of human rights as to the protection of the environment, an extended role for compulsory liability insurance (CLI) is envisaged (13). Under this model, a standard of environmental protection that may be 'net zero' is required of companies along with a concomitant requirement that human rights are 'fully protected' (13). Whilst it has been recognised that the precise levels of protection that such terms signify would require clarification, the core element of this approach would be to require companies to achieve specific levels of protection of the environment and human rights to protect third party victims and to ensure that the costs of negative impacts would be borne by the companies themselves and not by host governments or the communities affected. CLI has already been implemented effectively in numerous jurisdictions, although it has not extended so far for the protection of human rights. Whilst it does not represent a magic formula and it requires an effective liability regime to be implemented effectively, it represents an approach that a significant number of governments appear to be willing to adopt (13). It does have its critics but certainly there is a strong *prima facie* argument at least, that it could represent a major step forward, especially for individuals, entire communities and regions that suffer environmental degradation and human rights violations without adequate means for redress (13).

The reform suggestions outlined here have commonalities and overlap in certain ways. However, both implicate the insurance industry as a major player in ensuring that business and industry would achieve net zero harm to the environment and have greater direct responsibility for fully protecting human rights. It is possible of course that a hybrid form of both of the above stated models could be envisaged or that a different approach entirely could be adopted. The models act as a basis upon which governance regimes can be reformed and redesigned. However, that reform and design process requires all of the relevant stakeholders to be engaged in the consultation processes. The role of the insurance industry, not only as a stakeholder that would be affected but also as a body whose composite expertise would be crucial in the design process is clear. Therefore engagement of the insurance industry could be said to be a *sine qua non* of effective development and implementation.

5. Conclusion

Changes to the environment and the responsibilities that businesses have in relation to the environment have gradually shifted the need for different types of insurance products as a new range of risks have materialised.

What this chapter has demonstrated is that although, as has been recognised, there is an increasing need for environmental insurance within specific sectors, such as those related to climate change (5), there is a more fundamental change occurring at the global governance level which will have major ramifications for the insurance industry world-wide. This is that existing, international legal and economic frameworks are currently operating in accordance with a post-WWII economic system, that is not responding adequately to the priories of current generations. The international community now expects more from its systems of legal

and economic governance and as such there is pressure to change accordingly. These changes have already started to occur and evidence of them has been seen through the developments that have taken place in the expectations of business, as seen in section 3. However, it is clear that the pace of change is currently inadequate if the international community is to be in a position to safeguard people and the planet in the face of growing human rights and environmental challenges.

Therefore, it can be argued that the insurance industry should not merely be anticipating these changes in order to be ready for them from a commercial perspective, but it should be playing a significant and active role in their framing and development. This is because the insurance industry internationally has unique expertise within most business sectors and therefore if there is to be a reframing of business responsibilities through a re-set in the post WWII systems of international economic governance as it relates to human rights and the environment, the insurance industry should play a leading role in that change and in the associated governance redesign that accompanies it.

Reference List

1. Gürses Ö (2020) The Law of Compulsory Motor Vehicle Insurance, Routledge, Abingdon.
2. Elderton WP (1938) The Impossibility of War Risk Insurance, Cambridge University Press, Cambridge.
3. Hall KR (1988) Mandatory Insurance in Oregon. Compleat Law 5(3): 27-43
4. Surminkski S (2013) The Role of Risk Transfer in Encouraging Climate Investment. In: Dupuy PM & Vinuales JE (eds) Harnessing Foreign Investment to Promote Environmental Protection in Developing Countries, Cambridge University Press, Cambridge, pp 228-253
5. Wouter Botzen, W J (2013) Managing Extreme Climate Change Risks Through Insurance , Cambridge University Press, Cambridge
6. Alexander, K (2019), Principles of Banking Regulation, Cambridge University Press, Cambridge
7. Speth JG & Haas PM (2006) Global Environmental Governance, Pearson / Longman, Delhi.
8. Kanie N, Andresen S, & Haas PM (eds) (2014) Improving Global Environmental Governance, Routledge, Abingdon.
9. Biermann F & Pattberg P (eds) (2012) Global Environmental Governance Reconsidered, MIT Press, Massachusetts
10. Knox JH, Pejan R (eds) (2018) The Human Right to a Healthy Environment, Cambridge University Press, Cambridge
11. Turner SJ (2014) A Global Environmental Right, Earthscan by Routledge, Abingdon
12. UN GA (2022) 'The Human Right to a Clean, Healthy and Sustainable Environment' UNGA Res. A/76/L.75

13. Turner SJ & Bright C (2022) From 'Due Diligence' to 'Adequate Redress'. Towards Compulsory Human Rights and Environmental Insurance for Companies? 24 International Community Law Review 24: 145-165.
14. Francioni, F (2001) Environment, Human Rights and the Limits of Free Trade. In Francioni, F(ed) Environment, Human Rights and International Trade. Hart Publishing, Oxford.
15. General Agreement on Tariffs and Trade 1947
16. General Agreement on Tariffs and Trade 1994
17. Van den Bossche, P & Prévost, D (2021) Essentials of WTO Law, 2nd edn. Cambridge University Press
18. Agreement on Technical Barriers to Trade 1994
19. Agreement on Sanitary and Phytosanitary Measures 1994
20. Trade-Related Aspects of Intellectual Property Rights 1994
21. Sampson G (2005) The WTO and Sustainable Development, United Nations University Press, Tokyo
22. Turner SJ (2009) A Substantive Environmental Right—An Examination of the Legal Obligations of Decision-Makers Towards the Environment, Kluwer Law International Alphen aan den Rijn
23. Herdegen M (2016) Principles of International Economic Law, Oxford University Press, Oxford
24. Esty D (1995) Greening the GATT – Trade, Environment and the Future, Columbia University Press, New York.
25. Cooreman B (2017) Global Environmental Protection through Trade - A Systematic Approach to Extraterritoriality, Edward Elgar, Cheltenham
26. Esty D (2002) The World Trade Organisation's Legitimacy Crisis, World Trade Review 1(1): 7-22
27. WTO Membership. Available via https://www.wto.org/english/thewto_e/whatis_e/tif_e/org6_e.htm Accessed 19 February 2022
28. Ruggie JG (2004) Reconstituting the Global Public Domain—Issues, Actors, and Practices. Eur J Int Relat 10(4): 499-531
29. Annan K (2001). Laying the Foundations of a Fair and Fee World Trade System. In: Sampson GP (ed) The Role of the World Trade Organization in Global Governance. United Nations University Press, Tokyo. pp. 19–27.
30. Van Ho T (2021) Obligations of International Assistance and Cooperation in the Context of Investment Law. In: Gibney M, Erdem Türkelli G, Krajewski M, Vandenhole W (eds) The Routledge Handbook on Extraterritorial Human Rights Obligations, Routledge, Abingdon 325-334.
31. Subedi SP (2020) International Investment Law—Reconciling Policy and Principle, 4th edn, Hart, Oxford
32. UNCTAD - World Investment Report (2021); United Nations Publications, New York.
33. Cutler C (2021) Reclaiming Sovereignty: Resistance to Transnational Authority and the Investor-State Regime. In: Zumbansen P (ed) Oxford Handbook of Transnational Law, Oxford University Press, Oxford. 130.
34. Pelc K (2017) What explains the Low Success Rate of Investor-State Disputes' International Organisation 71(3): 559-583

35. Yilmaz Vastardis A (2020) Investment Treaty Arbitration as Justice Bubbles, in Schultz T & Ortino F (eds) Oxford Handbook of International Arbitration, Oxford University Press, Oxford 617-640
36. UNCTAD - Investment Policy Hub (2021) —International Investment Agreements Navigator. Available via https://investmentpolicy.unctad.org/international-investment-agreements Accessed 26 August 2021
37. OECD (1998). The MAI Draft Consolidated Text' DAFFE/MAI(98)7/REV1. Available via https://www.oecd.org/daf/mai/pdf/ng/ng987r1e.pdf Accessed 26 August 2021).
38. Doha WTO Ministerial Declaration (2001) WT/MIN(01)/DEC/1 (20 Nov. 2001) paras 20-22. Available via: https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S009-DP.aspx?language=E&CatalogueIdList=37246&CurrentCatalogueIdIndex=0&FullTextSearch= Accessed 5 October 2021.
39. UNCTAD (2015) Investment Policy Framework for Sustainable Development. Available via https://unctad.org/en/PublicationsLibrary/diaepcb2015d5_en.pdf Accessed 11 September 2021
40. Roach L (2019) Company Law, Oxford University Press, Oxford
41. Muchlinski PT (2021) Multinational Enterprises and the Law, 3rd edn, Oxford University Press, Oxford
42. Backer LC (2021) The Problem of the Enterprise and the Enterprise of Law: Multinational Enterprises as Polycentric Transnational Regulatory Space. In: Zumbansen P (ed) The Oxford Handbook of Transnational Law, Oxford University Press, Oxford.
43. Turner SJ (2021) Business, Human Rights and the Environment - Using Macro Legal Analysis to Develop a Legal Framework that Coherently Addresses the Root Causes of Corporate Human Rights Violations and Environmental Degradation. Sustainability 2021, 13, 12709. https://doi.org/10.3390/su132212709, 1-31.
44. Hannigan B (2018) Company Law, 5th edn, Oxford University Press, Oxford.
45. Paolini A (ed) (2014) Research Handbook on Directors' Duties, Edward Elgar, Cheltenham
46. Andenas M, Wooldridge F (2009) European Comparative Corporate Law, Cambridge University Press, Cambridge
47. s. 172 Companies Act (United Kingdom). Available via: https://www.legislation.gov.uk/ukpga/2006/46/contents Accessed 5 October 2021
48. s. 166(2) The Companies Act 2013 (India). Available via https://www.mca.gov.in/Ministry/pdf/CompaniesAct2013.pdf Accessed 5 October 2021
49. PACTE Law, Loi no 2019-486 of 22 May 2019. The Plan d'Action Pour la Croissance et la Transformation des Entreprises (Action Plan for Business Growth and Transformation) Available via: https://www.legifrance.gouv.fr/dossierlegislatif/JORFDOLE000037080861/ Accessed 5 October 2021
50. McCorquodale R & Neely S (2022) Directors Duties and Human Rights Impacts: A Comparative Approach, J. Corp. L. Stud. 1-35 10.1080/14735970.2021.2016147
51. Bright C, Marx A, Pineau N, and Wouters J (2020) Towards a Corporate Duty of Lead Companies to Respect Human Rights in their Global Value Chains?. Bus. and Politics, 22(4): 667-697.

52. Bright, C., Buhmann, K. (2020) 'Risk-based Due Diligence, Climate Change, Human Rights and the Just Transition', *Sustainability* 13(18), p. 1-18.
53. United Nations Global Compact. (2005), Available via: https://www.unglobalcompact.org/about/governance Accessed 1 April 2022
54. Ramasastry A (2015) Corporate Social Responsibility Versus Business and Human Rights: Bridging the Gap between Responsibility and Accountability, J. Hum. Rts 14: 237-259
55. United Nations, Commission on Human Rights (26 August 2003) Sub-Commission on the Promotion and Protection of Human Rights (2003) Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights. E/CN.4/Sub.2/2013/12/Rev.2 (Draft Norms).
56. United Nations Human Rights Council. (2008) 'Protect Respect and Remedy: a Framework for Business and Human Rights', Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, John Ruggie, A/HRC/8/5, 7 April 2008.
57. United Nations Human Rights Office of the High Commissioner (OHCHR). (2011) 'Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy' Framework." Available via: https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf Accessed 1 April 2022
58. OECD. (2011), OECD Guidelines on Multinational Enterprises, 2011 edition. OECD Publishing. Available via: https://www.oecd.org/daf/inv/mne/48004323.pdf Accessed 1 April 2022
59. ILO. (2017) 'Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy', Fifth edition, 2017. Available via: https://www.ilo.org/wcmsp5/groups/public/---ed_emp/---emp_ent/---multi/documents/publication/wcms_094386.pdf Acessed 1 April 2022
60. World Benchmarking Alliance. (2020) 'Corporate Human Rights Benchmark - Across sectors: Agricultural products, Apparel, Automotive manufacturing, Extractives & ICT manufacturing, 2020 Key findings'. Available via: https://assets.worldbenchmarkingalliance.org/app/uploads/2020/11/WBA-2020-CHRB-Key-Findings-Report.pdf Acessed 1 April 2022
61. German Federal Foreign Office. (2020) 'Monitoring the National Action Plan for Business and Human Rights (NAP)', 13 October 2020. Available via: https://www.auswaertiges-amt.de/en/aussenpolitik/themen/aussenwirtschaft/wirtschaft-und-menschenrechte/monitoring-nap/2131054 Acessed 1 April 2022
62. Romão AL, Ferreira AP, Cabrita I, Soarez L, Vaz M (2018) Resultados do I° Inquérito Nacional sobre Conduta Empresarial Responsável e Direitos Humanos. Available via: https://www.dgae.gov.pt/servicos/sustentabilidade-empresarial/responsabilidade-social-das-empresas.aspx Accessed 1 April 2022 Accessed 1 April 2022
63. Smit L, Bright C, McCorquodale R, Bauer M, Deringer H, Baeza-Breinbauer D, Torres-Cortés F, Alleweldt F, Kara S, and Salinier C, and Tejero Tobed H (2020) Study on due diligence requirements through the supply chain: Final Report. Study for the European Commission DG Justice and Consumers, 24 February 2020, Available via: https://op.europa.eu/en/publication-detail/-/publication/8ba0a8fd-4c83-11ea-b8b7-01aa75ed71a1/language-en. Accessed 1 April 2022

64. Macchi C & Bright C (2020) Hardening Soft Law: the Implementation of the UNGPs in Domestic Legislations. In: Buscemi M, Lazzerini N, Magi L, and Russo D. (eds) (2020) Legal Sources in Business and Human Rights - Evolving Dynamics in International and European Law. Brill, Leiden. pp 218-247.
65. LOI n 2017-399 du 27 Mars 2017 Relative au Devoir de Vigilance des Sociétés Mères et des Entreprises Donneuses D'ordre (1). Available via: https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000034290626&categorieLien=id Accessed 1 April 2022
66. Savourey E, and Brabant S, (2021) The French Law on the Duty of Vigilance: Theoretical and Practical Challenges Since its Adoption', Bus. and Hum. Rts J. 6(1): 141-152.
67. Enneking L (2019) Putting the Dutch Child Labour Due Diligence Act into Perspective: Assessment of the CLDD Act's Legal and Policy Relevance in the Netherlands and Beyond, Erasmus L. Rev. 12(20): 20-36
68. Krajewski M, Tonstad K, & Wohltmann F, (2021) Mandatory Human Rights Due Diligence in Germany and Norway: Stepping or Striding, in the Same Direction? Bus. and Hum. Rts. J. 6(3): 550-558.
69. European Parliament. (2021) 'European Parliament Resolution with Recommendations to the Commission on Corporate Due Diligence and Corporate Accountability' (2020/2129(INL)), Available via: https://www.europarl.europa.eu/doceo/document/TA-9-2021-0073_EN.html#title2 Accessed 1 April 2022
70. Bueno N, and Bright C, (2020) Implementing Human Rights Due Diligence Through Corporate Civil Liability, Int'l & Comp. L. Q. 69(4): 789-818
71. Chambers R (2021) Parent Company Direct Liability for Overseas Human Rights Violations: Lessons from the U.K. Supreme Court, U. Pa. J. Int'l L. 42: 519-578
72. The Hague District Court, Vereniging Milieudefensie and al. v. Royal Dutch Shell, C/09/571832, 26 May 2021, Available via: https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBDHA:2021:5339 Accessed 1 April 2022
73. Marin JF, and Orsini A (eds) (2013), Insights from Global Environmental Governance Int'l Stud. Rev. 15: 562-589.
74. Koskenniemi, M., (2011) The Politics of International Law, Hart, Oxford.
75. Turner S J (2017) The Use of Macro Legal Analysis in the Understanding and Development of Global Environmental Governance, Transnational. Env. L. 6(2): 237-257