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Foreword

The UN Guiding Principles on Business and Human Rights, unanimously endorsed by the UN Human Rights Council in 2011, have received a lot of attention, both at the political and academic level. However, for a long time, domestic lawyers have, in European jurisdictions at least, paid them relatively little notice. Moreover, academic discourse seems to have generally been limited to that among Human rights lawyers. All this is in spite of the fact that the Principles are closely linked to national law in their content, and that different national laws have been instrumental in the process leading to the adoption of the Principles.

The Swiss Institute of Comparative Law has started developing an interest in comparative aspects of the UN Guiding Principles over recent years, initially, as part of research commissioned in the context of the political debate on implementing the principles in Switzerland (see Volume 79 in the series). However, the scarcity of discussion in private international law, a core area of research of the Swiss Institute, was striking. For this reason, the Institute organized a conference in 2014 on the implementation of the UN Guiding Principles in the area of private international law. The conference had two aims: first, to illustrate experiences and approaches in other jurisdictions, and second, to start a discussion in Switzerland on the implementation of the Principles and access to remedies under private international law. It gave rise to interesting debates and exchanges.

The proceedings of the conference are published in this volume. They bring together general considerations on the Principles and some of their potentially controversial aspects, analyse relevant case law, and conclude with some future perspectives for Switzerland and the European Union.

We would like to express our gratitude to several people who contributed in one or another way to this publication: First of all, our thanks go to the authors of this volume and to the contributors to the conference held at the Swiss Institute of Comparative Law. Second, we would like to thank Andrea Bonomi, co-organiser of the conference, who, due to other commitments (and a sabbatical abroad) could not participate in the editing of this volume. Finally, we would like to thank all the people who contributed to the formal realisation of this publication, especially Françoise Hinni, secretary, who prepared the final formatted version of this book. The linguistic revisions were carried out by Victoria Garrington. Without the help of all these people, this publication would not have been realized.

Last but not least, we would like to pay tribute to the late Henry S. Dahl who passed away unexpectedly before the publication of this volume was finalized. Henry S. Dahl was a true pioneer in the promotion of access to justice on a worldwide basis and in the field of dispute resolution involving corporate human rights violations. He was also a citizen of the world. His openness and passion for his work will hopefully inspire future research in this area.

Lausanne, 15.10.2016

Francisco J. Zamora Cabot Lukas Heckendorn Urscheler Stéphanie De Dycker

Epilogue

Throughout this book we have had the chance to face various and interesting aspects of the problems linked to the impact on Human Rights of the activities carried out in practice by multinational corporations. The Guiding Principles on Business and Human Rights sponsored by the United Nations illustrate an increased awareness of those setbacks on a global basis.

But evidently we have not been able to develop many other aspects that of course require an in-depth analysis. Among them, we may cite: the definite impact of corruption as well as the necessary measures to tackle it; the control of supply chains and the fight against modern slavery, with a relevant supportive legislative framework, and, for instance, the hopeful Canadian precedent related to the *Nevsun* case; the degree of concern of Human Rights because of climate change and the role played by corporations in this process, with the significant public initiative recently launched to this respect by the Commission on Human Rights (CHR) of the Philippines; environmental pollution, in general, interwoven with business activities; the incidence of measures of privatization over the enjoyment of public goods; the corporate concentration operations brought into line in key sectors such as seeds and fertilizers, serving as an example the recent corporate takeover on Monsanto by Bayer; the central core of issues in connection with land and water grabbings, a real and relevant concern that could give rise to persecution requests according to the position taken and announced by the International Criminal Court (ICC) or, in the same regard, by the initiative operated by Amnesty International and the International Corporate Accountability Roundtable (ICAR) based on a recent and extensive document entitled "The Corporate Crimes Principles"; or, finally, the search for ways of alternative dispute resolutions and the improvements of the judicial mechanisms in the different legal systems, etc.

And all this not forgetting other similar points of interest in relation to the above mentioned increased awareness illustrated by the establishment of a legally binding legislative framework currently under discussion in the United Nations, or the interplay of the problems examined here concerning Sustainable Development aims derived from the truly universal International Organization, or the pressing need for protection of Human Rights defenders and indigenous peoples, a task also assumed by the UN through different means of implementation.

FRANCISCO JAVIER ZAMORA CABOT

In spite of the fact that this agenda is not exhaustive it reveals the size of the challenge we face. It is the real future commitment of Humanity and, of course, I believe it is worthy of a great and continuous effort on the side of the international community as well as on the part of players and stakeholders.

Castellón, 15.10.2016

Francisco Javier Zamora Cabot