

BOOK REVIEW

**Gabriel Webber Ziero, *Business, Compliance and Human Rights Law. The Effectiveness of Transnational Private Regulations for Vulnerable Stakeholders* (New York: Routledge, 2022), 248 pp. ISBN: 9781032026633**

The transnational regulatory landscape has become increasingly complex and multi-faceted, resulting in the rapid emergence of private-led initiatives that defy the traditional state-centred legal paradigm. Within this context, a prominent role is played by normative frameworks that ‘codify, monitor, and in some cases certify firms’ compliance with labour, environmental, human rights, or other standards of accountability’ (p. 1). In academic jargon, they are called transnational private regulations (TPRs) and are the object of this timely study by Gabriel Webber Ziero. TPRs are widespread in our everyday life. For example, their label can be found on the bottle of juice that we buy during our lunch break, on television, and on the fruits that are displayed at the local grocery store. Most importantly, TPRs play a critical role in enabling a plurality of actors, such as states, companies, international organizations, individuals and organized civil society, to collectively build solutions that address pressing environmental, social and governance (ESG) issues. Yet, the emergent legal scholarship addressing TPRs in the field of business and human rights has so far left TPRs’ claim of preventing corporate abuses unaddressed (p. 2). Thus, this book aims to examine the extent to which companies adhering to and complying with TPRs’ normative frameworks can effectively meet the expectations deriving from international human rights standards (p. 4).

The book is organized into six chapters. In chapter 1, the author sets out to provide a clear and accessible overview of TPRs’ characteristics in light of broader debates about the emergence of transnational law. In the next chapter, Webber Ziero adjusts the analytical lens to focus on business and human rights, excluding other aspects of TPR. Here, five prominent TPRs that address a variety of sectors (forestry, manufacturing, private security, mining and agriculture) are introduced. These TPRs have been issued by the following organizations: Forest Stewardship Council (FSC), GoodWeave International (GWI), International Code of Conduct for Private Security Service Providers’ Association (ICoCA), International Council on Mining & Metals (ICMM), and Roundtable on Sustainable Palm Oil (RSPO). Subsequently, chapter 3 outlines an interdisciplinary framework for assessing effective compliance with TPRs in the field of business and human rights. This framework is applied in chapter 4 to the selected five TPRs, identifying common patterns and challenges across four regulatory dimensions: rule-making and revision processes; textual determinacy and adaptation of rules to different contexts; supporting mechanisms and processes; and conformity assessment process. Here, the author suggests that the focus of attention and weighting parameters for effective compliance shall be centred on those individuals and groups in vulnerable positions, typically due to gender, sexual identity and orientation, age, nationality, ethnicity, religion, etc. Hence, chapter 5 assesses vulnerable stakeholders’ participation and legal empowerment in processes related to TPRs in business and human

rights. The author finishes his analysis by reflecting on the role that empowered vulnerable stakeholders' struggle for rights plays in the achievement of effective compliance with TPRs.

The book constitutes a valuable contribution to the conceptualization of compliance in business and human rights TPRs. The novelty of this book is the author's notion of legal effectiveness for TPRs. Adopting a perspective centred on the weakest individuals and groups, often perceived as passive in this regulatory field, the study triggers a re-signification of the whole TPRs' normative design from rule-making to monitoring processes. That being said, the analytical framework, methodology and some of the underlying assumptions presented in the book warrant further discussion and clarification. The aim of this review is to critically highlight these in the hope of provoking new debates and pointing to new research avenues.

First of all, the book draws on an established narrative about the emergence of transnational law as part of the globalization process rooted in regulatory studies.<sup>1</sup> However, I would argue that the author misses the opportunity to update this debate by discussing more recent processes of de-globalization and their implications for business and human rights TPRs. It is worth considering more carefully the impact of de-globalization dynamics – defined as the process of weakening interdependence among nations – on interlegality processes, i.e., the interaction among different national, international and transnational legal systems, which entails coordination and harmonization but also growing conflict and deviation.

In addition, the analysis of compliance with TPRs proposed by Webber Ziero falls into the common pitfall of de-territorializing business and human rights regulation. As noted by Bartley,<sup>2</sup> low- and middle-income countries are too often treated as 'empty spaces' that need to be rescued by the international community in the form of transnational and extraterritorial regulation such as the TPRs. However, beyond this empty-spaces imagery, domestic governance is filled not only by the activism of local communities but primarily by governmental agencies, domestic laws and tribunals, as well as local authorities. This consideration highlights the need for a better understanding of the unique role of the state in pluralist transnational regulatory regimes, such as the TPRs. I would encourage future research to expand on the insights of this study to explore also the spatial and situated power dimension of TPRs, highlighting, for instance, where certain TPRs are more active and why, and which private and public actors drive their regulatory processes.

As noted by the author, there is a need for an interdisciplinary assessment of TPRs. Thus the author ambitiously sets out to bridge law and sociology, seeking not only to comprehend and assess how law is systematized in theoretical terms, but also 'how law works on the ground, in action' (p. 5). As a socio-legal researcher based in a business school, I appreciate the challenges of this endeavour. In effect, the study builds on socio-legal research, particularly from the work of Santos but also Bartley and others. However, I would suggest that the notion of effective compliance outlined in the book could benefit from recent socio-legal studies that promote a more interpretative approach to compliance.

Let us unpack that a bit further. As Parker and Nielsen<sup>3</sup> (p. 3) point out, research on compliance can be divided into two fundamentally different approaches. The objectivist approach tends to focus on the normative, policy-oriented evaluation and critique of regulatory design, implementation and enforcement asking what 'produces' compliance? On the other hand, socio-legal research has advanced an 'interpretative understanding' of organizational responses to regulation, and of the processes by which compliance is socially

<sup>1</sup> J Braithwaite and P Drahos, *Global Business Regulation* (Cambridge: Cambridge University Press, 2000).


<sup>2</sup> T Bartley, *Rules Without Rights: Land, Labor, and Private Authority in the Global Economy* (Oxford: Oxford University Press, 2018).

<sup>3</sup> C Parker and LV Nielsen (eds.), *Explaining Compliance: Business Responses to Regulation* (Edward Elgar, 2011).

constructed. The study takes an objectivist approach to the study of compliance. According to the book, 'compliance focuses on dynamics related to the conduct of actors and how these fulfil regulatory expectations. In short, compliance determines whether a conduct meets a certain rule. Effectiveness, by its turn, assesses whether a regulatory instrument has succeeded when comparing the results it produces with its regulatory goals' (p. 70). A more constructivist approach could have substantially enriched the analysis offered by this study, for instance by problematizing the ambiguous and vague character of TPR; revealing instances in which rules have been captured; and ultimately leading to a different kind of explanatory theory building about compliance.

The objectivist approach adopted by Webber Ziero is also mirrored in methodological choices. The study is entirely based on desk research and legal textual analysis. As acknowledged by the author, 'no direct contact has been made with organizations supporting the TPRs to obtain further information or clarifications' (p. 5 and p. 27). Furthermore, the book avoids any discussion of epistemological and ontological considerations, research design and methods, data collection and analysis. The motivation for this approach is not convincingly outlined. From a methodological perspective, this approach hardly accounts for 'law in action'. Greater methodological rigour would have allowed the author to show more convincingly how TPRs regulation works on the ground, revealing the power struggles and dynamics uncharted in the current study.

In summary, the author makes a timely contribution to the business and human rights literature by focusing on TPRs' effective compliance from the perspective of the most vulnerable individuals and groups. The book provides important insights to understand how effectively TPRs work, adopting a perspective centred on the weakest individuals and groups. Hopefully, this book will trigger the interest of academics in TPRs and spark new interdisciplinary and interpretive research investigating how actors actively engage and construct the meaning of compliance with ambiguous business and human rights normative frameworks.

David Monciardini 

*University of Exeter Business School, Faculty of Environment  
Science and Economy, Sustainable Futures, Penryn Campus, UK*  
[d.monciardini@exeter.ac.uk](mailto:d.monciardini@exeter.ac.uk)  
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