

**WORLD LEGAL FORUM, THE HAGUE 7 DECEMBER 2009
"LET 1000 FLOWERS GROW..... BUT NOT MORE!"**

by: HERMAN MULDER

The current financial crisis shows that markets are not automatically efficient and self-correcting, that regulations may not be fit for long term purpose, that compliance and even enforcement thereof is often only assumed, that broader, global interdependencies and impacts are too significant not to be addressed in terms of broader set of governance issues: principles, rules, policies, institutions. At the same time, the role of national governments as guardians of a respectful, fair, responsible society has become more central, but they are i.a. financially overstretched and their national tools too limited.

Global issues (including human rights, extreme poverty, natural resources' depletion, ecosystem degradation, loss of biodiversity, climate change, and their effects on food and health situations) need to be addressed by inclusive, international approaches, but economic protectionism following the recession is returning; we are also struggling with whose norms and standards and which institutions should prevail in our new multi-polar world.

We have entered the "Age of Sustainability, Responsibility & Accountability" in a Triple Context, with equal importance by public and private sectors in their performance targets to economy, nature and humanity. Such Age requires i.a. adoption of "new economics" (based on eg. TEEB for Natural Capital), "market democracy" on rigorous (GRI-style) transparency, governmental policy cohesion and structured (dutch-style Worldconnectors') multistakeholder-cooperation for effective and efficient implementation of national and international principles, rules and policies.

It is in the interest of global as well as SME business that there is a level playing field on fundamental ESG/CSR issues. Nationally this should be addressed in CSR Law for business on the basis of "mandatory self-regulation and public reporting" (comprehensive, performance-oriented, verified; with an explicit reference to human rights, CO2 emissions). It should be recognised that "one size does not fit all", diversity is inherent and to be respected, times and learnings are dynamic and citizens' (incl consumers, employees, investors) engagement of increasingly crucial importance for both compliance and value creation.

Internationally the 2010 Update of the OECD Guidelines for MNE's (with its 42 adhering countries, including eg. Brasil, its comprehensive standards and grievance mechanism) is offering a unique opportunity to improve its scale (to extend to all G20 countries), its scope (nexus, financial sector, parent company responsibility, value chain, "Ruggie-based" human rights approach, disclosure & learning), its importance (much more operating resources and "functional equivalence" across NCP's) and its effect (promotion & learning; more importance attached to mediation results or final statements if such mediation fails). Moreover, it should converge with i.a. ILO Conventions, UN Global Compact, ISO 26000.

The value of the law, whether "hard" or "soft", is achieving its desired effects. In an era of dynamic, transformative change, governments should foremost focus on effective, smart and probably less legislation, and maximize the use of its convening power to get the best results from collaboration with the private sector through codes of conduct and enhanced public disclosure. Likewise, the business sector serves its own purpose best by working towards an as broad as possible level playing field through "principled pragmatism",

recognised in national law or international agreements. The time of unbridled growth of voluntary codes of business conduct is over: we need to convene, converge and effect.

(Independent ESG Advisor & Boardmember of i.a. NCP-NL, Global Compact-NL, GRI, TEEB, Worldconnectors; initiator of the Equator Principles; mrhermanmulder@gmail.com; www.worldconnectors.org)