

Building the Case: How Lawyers are Leading on Sustainability

Andrew McLaughlin & Conor Chell (eds.)
(Springer, 2025)

Reviewed by: Thomas J Timmins¹

In an era characterized by urgent environmental crises, expanding social inequality, rapid geopolitical change, the emergence of ‘green-hushing’², and a concurrent pullback of corporate Environmental, Social, and Governance (“ESG”) policies, the legal profession is facing a crucial juncture. *Building the Case: How Lawyers are Leading on Sustainability* (“*Building the Case*”), an insightful compilation edited by Andrew McLaughlin and Conor Chell, offers a timely and compelling examination of the critical role that lawyers—particularly in-house counsel—play in advancing global sustainability. This volume, featuring essays predominantly from in-house legal professionals at prominent North American corporations, distinguishes itself by providing an uncommon, frank, and pragmatic perspective on how legal experts are not merely reacting to, but frequently influencing, the evolving landscape of corporate sustainability.

The book’s core objective, as articulated by co-editor Andrew McLaughlin, is to inspire and guide aspiring and mid-career lawyers toward engagement in the sustainability domain by presenting real-world examples of legal practitioners who have achieved significant impact. It endeavors to delineate potential career trajectories, thereby encouraging a new generation of “impact-focused lawyers” to address the crucial issues of our time, such as climate change, human rights, and corporate transparency. This aim is largely accomplished through a series of deeply personal and professional accounts, providing a valuable insider’s view into the successes and challenges encountered by these lawyers, alongside insights into their daily professional demands.

¹ Thomas J Timmins leads Gowling WLG’s Energy Practice in Canada. His practice focuses on major renewable energy project development and finance matters and the global energy transition.

² Green-hushing refers to the practice where companies deliberately underreport, downplay, or completely withhold information about their environmental and sustainability efforts and achievements, even when those efforts are genuine.

I. An Insider's View

A key strength of *Building the Case* is its unparalleled access to the perspectives of in-house counsel. In contrast to many academic or external analyses, this publication provides firsthand narratives from lawyers who work directly with intricate corporate ESG challenges. This viewpoint yields insights into the practical considerations, inherent limitations and conflicts, and emergent opportunities for implementing sustainability initiatives from an internal corporate position. Contributors, including Andrew McLaughlin, Conor Chell, Michael Torrance, Jonathan Drimmer, and Shenandoah Johns, convey their professional experiences, illustrating how their extensive legal experience has been strategically applied to develop and operationalize ESG frameworks, human rights programs, and sustainable finance strategies within their respective organizations.

The volume also effectively underscores the evolution of the lawyer's role from a purely reactive, compliance-oriented function to a proactive, strategic advisory capacity. Michael Torrance, Chief Sustainability Officer at BMO Financial Group, persuasively refutes the assertion that "sustainability has nothing to do with law," contending that sustainability standards are increasingly being incorporated into regulatory expectations, contractual agreements, and due diligence procedures. Jonathan Drimmer's chapter, which meticulously outlines the historic establishment of a global human rights program at Barrick Gold Corporation based on the United Nations Guiding Principles on Business and Human Rights, provides a detailed operational blueprint for such historically complex programs, emphasizing robust governance, diligent due diligence, comprehensive training, and effective remediation mechanisms.

Furthermore, the collection benefits from the inclusion of diverse perspectives, notably those with extensive public policy and political backgrounds, such as Bob Rae and Erin O'Toole. Bob Rae, Canada's Ambassador to the United Nations, provides a highly engaging examination of environmental and labour advocacy. He draws connections from early influences like Rachel Carson's *Silent Spring* to contemporary global issues such as climate change and biodiversity loss. Erin O'Toole, former leader of Canada's Conservative Party, offers a critical assessment of ESG amidst escalating global polarization, proposing practical recommendations for adapting ESG practices to geopolitical realities and integrating Indigenous reconciliation within Canadian frameworks. These contributions broaden the scope of the text beyond exclusively corporate legal functions, furnishing valuable context regarding the societal implications of the work undertaken by legal professionals.

The book further distinguishes itself through its emphasis on practical application. Contributors present concrete examples of programs, policies, and strategies they have devised, offering actionable guidance for legal professionals. For instance, McLaughlin discusses the formalization of an ESG framework, encompassing policy development, a global committee, a repository for metrics, and communication strategies. Conor Chell details the establishment of a sustainability-focused legal practice, stressing client-centric, holistic solutions that integrate advisory, technical, and legal services. This pragmatic methodology renders the book pertinent for practitioners seeking to effect meaningful change.

A particular strength of this volume is its willingness to engage with the complexities and critiques surrounding the term “ESG” itself. While the term has achieved widespread adoption, some authors within the collection articulate reservations regarding its excessively broad scope and potential for misinterpretation or misuse. O’Toole, for example, highlights concerns about “ESG becoming politicized” and cautions against “purely virtue signaling” at the expense of substantive action. Similarly, the underlying narratives of lawyers striving for genuine impact, rather than simply fulfilling checkboxes, implicitly convey a desire to transcend a simplistic understanding of ESG. This introspective approach contributes a valuable layer of critical analysis, acknowledging that the overarching term “ESG” may not always fully encapsulate the multifaceted, profoundly intricate, and ethics-driven nature of the required professional work.

Crucially, several authors explicitly or implicitly challenge the notion that legal compliance should constitute the ultimate vision or goal for lawyers operating in the sustainability domain. Michael Torrance, while recognizing the importance of legal “hooks” for sustainability, advocates for a broader, more strategic role that extends beyond mere adherence to regulations. He asserts that lawyers must be “engaged in the strategic direction of the enterprise,” not solely in “compliance with current laws”—a crucial point for emerging legal professionals to understand. Jonathan Drimmer’s detailed account of establishing a proactive human rights program at Barrick Gold, which goes “beyond legal requirements” and aligns with the United Nations Guiding Principles, further exemplifies this guiding principle.

II. Other Voices

A notable characteristic of this collection, while comprehensible given its stated focus, is the absence of contributions from external intellectual leaders or prominent plaintiff’s counsel. The volume’s primary strength lies in its insider perspective derived from in-house corporate lawyers; however, this inherently omits the viewpoints of those who frequently,

from outside the corporate sphere, fundamentally challenge and expand the boundaries of corporate conduct through litigation, advocacy, and critical scholarship. It is often from within this segment of the bar that the most significant advancements in jurisprudence and human progress are initiated. While in-house counsel play an indispensable role in operationalizing and integrating these changes, the initial impetus for profound shifts in areas such as environmental protection, product liability, and human rights frequently originates from these external pressures and the visionary, occasionally highly adversarial, sometimes underappreciated, efforts of plaintiff's counsel and non-governmental organizations. Their omission from this collection means that the reader gains a comprehensive understanding of internal corporate navigation but less insight into the external forces and legal innovators who often establish the benchmarks for corporate accountability. This is not a flaw in the book's execution of its stated purpose, but rather an observation about the inherent scope limitation of a collection focused primarily on the internal legal function.

III. Target Readers

This book represents an indispensable resource for aspiring and mid-career lawyers with an interest in ESG and corporate sustainability. It functions as an inspirational guide, illustrating practical pathways into a field that might otherwise appear formidable or abstract.

Beyond this primary demographic, *Building the Case* also holds significant relevance for:

- **Existing in-house counsel and corporate legal departments:** It offers actionable strategies and insights for developing and implementing robust ESG programs, managing emerging legal and reputational risks, and fostering collaboration across internal functions.
- **Academics and law students** specializing in environmental law, corporate governance, human rights law, and business ethics. The theoretical discussions, particularly concerning the interplay of voluntary standards and “hard law,” prove highly valuable.
- **ESG and sustainability professionals** in other disciplines (e.g., finance, public relations, engineering) seeking to comprehend the legal dimensions of their work and optimize collaboration with legal teams.

- **Corporate executives and board members** who require an understanding of the evolving legal risks and opportunities presented by ESG, as well as the strategic importance of their legal departments in navigating this landscape.
- **Policymakers and regulators** who can benefit from discerning how current and proposed legislation influences corporate behavior and how companies are responding to increasing demands for sustainability.

IV. Comparison to Similar Works

Building the Case distinguishes itself from comparable works within the broader field of corporate social responsibility and ESG due to its specific emphasis on the legal profession, particularly the in-house counsel perspective. Many existing texts on ESG typically fall into one of two categories: theoretical academic treatises on corporate social responsibility, or general guides for investors and businesses concerning ESG reporting and strategy from a purely commercial viewpoint.

In contrast to purely academic works that may analyze ESG through an economic, ethical, or sociological lens, *Building the Case* provides a practitioner-driven narrative. While it addresses theoretical underpinnings (e.g., in Carlos Escoto Carranza’s essay where he provides a critical examination of the sustainability discourse³), its fundamental strength lies in its practical applicability. It transcends high-level discussions of “why” ESG is important to illuminate “how” it is being implemented, managed, and legally navigated by those at the operational forefront.

Compared to more general “how-to” guides for businesses on ESG, this book’s unique selling proposition is its emphasis on the legal function. It delves into the specific legal challenges, instruments, and strategies employed by lawyers, rendering it more specialized and directly applicable for legal professionals. The book also differentiates itself from works focusing exclusively on environmental law by integrating the “Social” and “Governance” aspects of ESG with comparable weight. Chapters on human rights, Indigenous rights, workplace law, and healthcare sustainability demonstrate a holistic comprehension of ESG that extends beyond traditional environmental compliance—a breadth that can challenge many senior and more specialized practitioners. This

³ Carlos Escoto Carranza, “Dissecting Sustainability: A Critical Approach to the Sustainable Development Discourse” in Andrew McLaughlin & Conor Chell, eds, *Building the Case: How Lawyers are Leading on Sustainability* (Springer, 2025) 157.

comprehensive scope establishes it as a more thorough resource for understanding the complexities of contemporary corporate sustainability.

V. The Crucial Role of In-house Counsel

The essays within this collection offer a timely and particularly insightful perspective into the evolving landscape of ESG, viewed from the vantage point of in-house counsel within major corporations at the present juncture. These contributions illuminate the compelling and often challenging role undertaken by corporate lawyers, who find themselves positioned at the nexus of burgeoning legal and societal expectations regarding environmental, social, and governance issues, alongside the perpetual mandate to safeguard their client's immediate and long-term interests.

It becomes evident throughout these pieces that in-house counsel function not merely as reactive compliance officers, but as active participants in shaping the future trajectory of corporate engagement with critical issues. Their proximity to strategic decision-making places them in a powerful, albeit frequently constrained, position to influence corporate behavior and, by extension, the practical application and development of ESG-related law. They are tasked with interpreting ambiguous regulations, providing counsel on emerging best practices, mitigating litigation risk, and, crucially, assisting in defining what “responsible” corporate conduct entails in an era of heightened scrutiny.

Nevertheless, this influential role is inextricably linked to significant inherent tension and, at times, a delicate balance of self-justification. These lawyers operate within a system where a key primary ethical obligation is to the corporation as their client, and their professional livelihood remains tied to the corporation's commercial success. This creates an inherent dynamic wherein advancing progressive ESG agendas—which may necessitate substantial investment, operational adjustments, or even divestment from certain activities—must be meticulously framed (and justified) through the lens of risk management, reputational protection, and long-term shareholder value.

The element of self-justification evident in some of these narratives reflects the daily ethical tightrope navigated by these professionals. Recommendations for enhanced due diligence, supply chain transparency, or robust climate disclosures, for instance, are frequently presented not exclusively as ethical imperatives, but as essential mechanisms to avert future litigation, avoid regulatory penalties, bolster brand reputation, or attract ESG-focused investment. While these justifications are strategically sound, they can inadvertently, or perhaps necessarily, reframe fundamental

moral obligations as tactical business advantages. This pragmatic approach, though understandable given their mandate, underscores the constant negotiation between what *should* be done and what *can* be done within the commercial realities and fiduciary duties of a large corporation. The collection effectively captures how in-house counsel navigate this intricate terrain, often advocating for more progressive stances by demonstrating their tangible benefits to the corporate bottom line and long-term viability, even when such positions might appear to conflict with short-term profit maximization or established operational norms. The essays reveal the complex process of identifying legal exposures, guiding corporate policy, and endeavoring to advance ESG issues while simultaneously upholding their primary responsibility to protect their client's financial health and ensure their own continued employment.

Conclusion

Building the Case: How Lawyers are Leading on Sustainability represents a valuable contribution to the expanding body of literature on ESG and the evolving role of the legal profession. Its principal strength lies in its candid, practitioner-oriented methodology, which offers concrete examples and personal insights that bridge the divide between theoretical ideals and operational realities. The collection's willingness to critically examine the complexities of the "ESG" term itself and to challenge a mere compliance-driven mindset for lawyers adds considerable intellectual depth. While the absence of external, adversarial perspectives limits the scope to internal corporate action, the book's in-depth exploration of the North American experience, particularly within Canada, provides a robust understanding of the challenges and opportunities confronting in-house counsel.

For anyone seeking to understand the dynamic and increasingly crucial role of lawyers in addressing major ESG issues—from climate change and pollution to human rights and Indigenous rights—while navigating the intricate balance of corporate interests and personal ethics, this book offers profound value. It is not merely a collection of essays; it is a call to action and a testament to the fact that legal minds, through their strategic acumen and ethical conviction, are indeed building the case for a more sustainable future. As Carlos Escoto Carranza puts it in the very last line of his essay, "[m]ake no mistake, this is the stuff that lawyers are made for."⁴

⁴ *Ibid* at 171.