

Corporate Responsibility and Sustainability: A Guide for Lawyers

Career Development





We recently attended the Inside Counsel Think Tank on Corporate Responsibility and Sustainability. This three-day event was organized by Berkeley Law’s Initiative on Corporate Responsibility, founded by Berkeley Law Alumna Amelia Miazad. Berkeley Law worked in close partnership with The

Aspen Institute's Justice and Society Program, The United Nations Global Compact, and Linklaters to plan this seminal event.

The program was organized as a small seminar-style convening, led by sustainability experts from academia and NGOs. This format led to the thoughtful and in-depth exploration of emerging issues in sustainability. Ben Heineman Jr., former GC of GE and author of The Inside Counsel Revolution, led our first session, which inspired us to reflect on the changing role of inside counsel throughout the weekend.

As we were surrounded by thought leaders including general counsel and inside counsel from Nestlé, MasterCard, Patagonia, HP, Varian, and PepsiCo, we had a transformative learning experience, which changed how we now see our role as in-house counsel.

Here are our top takeaways, in no particular order.

Lawyers must be exposed to sustainability early and often

Law schools should teach corporate responsibility and sustainability to ensure future lawyers can represent their corporate clients by being strategic advocates for the long-term sustainability of their business. As Miazad explained, "Lawyers are increasingly asked to provide strategic advice on how their clients and companies can lead in sustainability. Often, this requires lawyers to comply with more than just 'hard law' and includes compliance with international standards, norms, and a company's own corporate responsibility commitments. Law schools must equip lawyers for this important work, which goes far beyond mere legal compliance. At Berkeley Law, we are working with leading companies to develop curriculum in this emerging area."

Legal strategy and sustainability are one and the same

General counsel represent the entire company, not a particular executive. In today's day and age, it is impossible to create a profitable company without advancing sustainability. Implementing corporate responsibility initiatives requires that a company focus on its long-term best interests, and align those with society as a whole. It requires companies to go beyond mere compliance with laws and regulations.

General counsel can and should provide strategic and practical advice about sustainability

According to the "Guide for General Counsel on Corporate Sustainability," written by Linklaters and The United Nations Global Compact, general counsel "are increasingly using corporate sustainability to articulate the value proposition of the in-house lawyer." Specifically, "General counsel are using the language of corporate sustainability to capture the value they are adding across a broader range of business issues."

In addition to ingraining themselves further into the business, sustainability initiatives also allow general counsel to leverage their roles, proactively drive corporate good citizenship, and align with the overall corporate strategy.

Corporate responsibility is also an opportunity for both companies and general counsel to demonstrate their creativity and set an example

To address the growing problem of unequal access to the vast possibilities of big data, the MasterCard Center for Inclusive Growth uses an innovative process of data philanthropy to tackle social inequality, access, and justice problems. There is no reason other companies shouldn't follow suit. General counsel are in a perfect role to drive this effort and highlight the creative thinking in-house legal departments use every day to solve myriad problems quickly and efficiently.

A question of "when," not "if"

Whether related to human rights, diversity and inclusion, corruption, right to water, health and safety, child labor, working conditions, environmental practices, cyber security and privacy, or something else — unquestionably, every company will face a sustainability problem. What often separates those companies who are able to emerge from these problems in triumph versus those who cannot is transparency, and frequently "radical transparency."

Nestlé and Patagonia's efforts to address their supply chain issues are clear examples of such radical transparency. Rather than trying to address the issue through legal compliance, both companies partnered with Verité, an NGO, to disclose the forced labor in their supply chains and commit to implementing a plan to remediate it.

As corporate sustainability and responsibility become increasingly important corporate issues, in-house legal departments are well poised to take charge of these initiatives. Those companies that will rise to become the seminal leaders will, inevitably, shape society. These companies should fully embrace and integrate collaborative, proactive, creative, and transparent sustainability efforts. To support this shift, general counsel must be at the forefront and fully engaged in these initiatives.

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Olga V. Mack is a fellow at CodeX, The Stanford Center for Legal Informatics, and a Generative AI Editor at law.MIT. Mack shares her views in her columns on ACC Docket, Newsweek, Bloomberg, VentureBeat, Above the Law, and many other publications.

Mack is also an award-winning (such as the prestigious ACC 2018 Top 10 30-Somethings and ABA 2022 Women of Legal Tech) general counsel, operations professional, startup advisor, public speaker, adjunct professor, and entrepreneur. She co-founded SunLaw, an organization dedicated to preparing women in-house attorneys to become general counsels and legal leaders, and WISE to help female law firm partners become rainmakers.

She has authored numerous books, including Get on Board: Earning Your Ticket to a Corporate Board Seat, Fundamentals of Smart Contract Security and Blockchain Value: Transforming Business Models, Society, and Communities. She is working on her next books: Visual IQ for Lawyers (ABA 2024), The Rise of Product Lawyers: An Analytical Framework to Systematically Advise Your Clients Throughout the Product Lifecycle (Globe Law and Business 2024), and Legal Operations in the Age of AI and Data (Globe Law and Business 2024).

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