



**Sant'Anna**  
Scuola Universitaria Superiore Pisa

Classe accademica di Scienze sociali

Settore di Scienze Politiche

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From grassroots environmental conflicts to international  
organizations: the introduction of Environmental Human Rights  
and the issue of their effective application

Roberto Sciarelli

Relatrice: Dott.ssa Chiara Certomà

Tutor: Prof.ssa Eloisa Cristiani

*“Be’, è il tuo ultimo esame, presto ti laureerai, cosa pensi di fare dopo?”*

*“Oh, dopo aver studiato io... Voglio imparare a surfare!”*

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## Introduction

This work has been developed in the framework of the environmental political theory, within the specific field of political ecology. Its main background is provided by the theory of environmental justice and by the different analytical models of environmental conflicts.

The first issue that this research aimed to clarify regards the relation between this corpus of theories and the current trends of evolution of international human rights law. The focus is on the innovative concept of Environmental Human Rights, which is an important point of arrival in the juridical doctrine, reached through the efforts of the different Special Rapporteurs of the United Nations which had the duty to analyze the relation between human rights and environment. Such innovations appear to have been influenced by the claims promoted by social activism on environmental field, both by great non-governmental organizations and by grassroots social movements, as this work seek to verify.

In particular, an important point of analysis is related to the connection between environmental conflicts and environmental human rights. The increasing insurgence of social conflict and strife caused by environmental issues is already considered as one of the many symptoms of the ecological crisis. The idea of considering this political phenomenon also as a symptom of environmental human rights violations is worth to be considered too, since this set of rights includes both “substantive” rights related to the physical qualities of inhabited territories and “procedural” rights, connected to the processes of political participation by citizens.

A crucial role in environmental conflicts (and in environmental human rights violations, as argued by the special rapporteurs) is played by transnational corporations and by their polluting economic activities. Since a long time, the United Nations are trying to include corporations within regulating frameworks of soft law, and the most important of them is the Global Compact. The ultimate aim of this work is to evaluate the effectiveness of such legal instrument to ensure protection of environmental human rights.

The text is divided in two main parts. The first is dedicated in the first place to the review of the existing literature on environmental justice and environmental conflicts. Secondly, the chapter

explains the ways in which this theoretical framework have influenced human rights law, retracing the development of the concept of environmental human rights and showing their consistence and coherence with political ecology.

The second part of the text deals with the role of transnational corporation in environmental protection, analyzing the mechanism of the Global Compact and its criticalities. The evaluation of its effectiveness will be realized by crossing the data relative to the companies' participation to the Compact with the data provided by the Environmental Justice Atlas, a global map of environmental conflicts.

## **1. Political ecology and the introduction of Environmental Human Rights**

### **1.1 The environmental justice framework**

The concept of environmental justice has been developed by social movements and civil society organizations committed in the struggle against the consequences of cases of hazardous pollution and environmental degradation. It addresses concrete, material problems faced by countless communities on Earth, and it is now commonly used by NGO's and international institutions, contributing to shape their policies and campaigns on environmental matters.

The idea of justice to which the idea of environmental justice refer is backed on distributive justice, connected to the political recognition of all groups in a determined society and absence of discrimination. A situation can be considered characterized by environmental *injustice* when:

members of disadvantaged, ethnic, minority or other groups suffer disproportionately at the local, regional (sub-national), or national levels from environmental risks or hazards, and/or suffer disproportionately from violations of fundamental human rights as a result of environmental factors, and/or denied access to environmental investments, benefits, and/or

natural resources, and/or are denied access to information; and/or participation in decision-making; and/or access to justice in environment-related matters.<sup>1</sup>

On the other hand, the objective of environmental justice is realized when:

when environmental risks, hazards, investments and benefits are equally distributed without direct or indirect discrimination at all jurisdictional levels and when access to environmental investments, benefits, and natural resources are equally distributed; and when access to information, participation in decision-making, and access to justice in environment-related matters are enjoyed by all.

In this sense, since environmental degradation and hazards manifest themselves in localized forms, the claim for environmental justice is often shaped in a struggle toward equity between groups which inhabits different territories. The implicit idea is that political participation and recognition shall be substantially assured for every social group, and that mobilizations can aim at changing consensus over redistribution of environmental harm and benefits<sup>2</sup>.

## **1.2 The colonial legacy on environmental issues: environmental racism**

The most important form of environmental injustice is environmental racism. This concept has been firstly formulated in the United States, in order to describe a situation in which environmental harm and the hazards coming from ecological degradation differently affect social groups on racial basis. In Northern America, Afro-American and Latino populations, as well as other minorities, are characterized by lower income and mostly live in urban peripheries with worse public services and infrastructures, suffering as well from unfavorable housing

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<sup>1</sup> Ceu Center for Environmental Policy and Law; The Health and Environment Alliance; The Coalition for Environmental Justice, Making the case for environmental justice in Central and Eastern Europe, March 2007, p. 10

<sup>2</sup> On the other hand, It has been argued that the “tendency to reduce justice to the application of representational/consensual politics” is inadequate to describe current reality of social struggle in environmental matters, as “insurgent and ongoing demands for equality that go beyond requests for recognition, participation and redistribution”. In this view, environmental justice has to be re-imagined, in order to comprehend more radical mobilizations, which are not simply interested in building consensus around redistribution. For a discussion on these themes, see Velicu, I. et al. (2015 (in press)) Undoing environmental justice: Re-imagining equality in the Rosia Montana anti-mining movement. Geoforum doi:10.1016/j.geoforum.2015.10.012. Nonetheless, as a descriptive concept, the environmental justice framework still holds a great value.

patters, abandoned waste sites<sup>3</sup>, dirty air and polluted drinking water, noxious facilities such as municipal landfills, incinerators, storage, and disposal facilities<sup>4</sup>.

Alongside communities of immigrants and people of color, another social group which is disproportionately affected by environmental hazards is that of Native Americans. Their territories are systematically targeted by toxic or nuclear waste sites, causing a situation which has been defined as “toxic invasion” and “radioactive colonialism”<sup>5</sup>.

This mechanism of environmental racism within country borders has been described as a form of internal colonialism<sup>6</sup>, but the legacy of the classical colonial phenomenon in environmental issues is clearly seen in different practices<sup>7</sup> of Western-based multinational corporations, allowed by national policies and regulations. In the first place, European and North-American companies are used to apply radically different environmental standards in their home countries and abroad, in the poorer country of the Global South where they extract resources, often entertaining obscure relations with local, authoritarian governments.

The most representative of the countless cases of such instances is probably the one related to oil extraction in Nigeria, where the Ogoni people, which inhabits the oil-rich Niger delta, are struggling to resist to a real “ecological war”<sup>8</sup>. It has been moved against them by several multinational companies – by Shell<sup>9</sup> in particular – and consists in the numerous incidences of

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<sup>3</sup> Bullard R., *Poverty, Pollution and Environmental Racism: strategies for building healthy and sustainable community*, Clark Atlanta University, 2010

<sup>4</sup> Westra L., Wentz P., *Faces of Environmental Racism: Confronting Issues in Global Justice* (1995) cit. in Robert D. Bullard, *Poverty, Pollution and Environmental Racism: strategies for building healthy and sustainable community*, Clark Atlanta University, 2010.

<sup>5</sup> Bullard, quoted work, p.10. For instance, environmental racism can be clearly seen in the recent case of the North Dakota Access Pipeline, in which a pipeline is projected to pass through a sacred territory of the Sioux tribe, after having moved from an area inhabited by white people, exactly because of the excessive risk for the environment and the health of the community.

<sup>6</sup> The concept was used for the first time in Leo Marquard, *South Africa's Colonial Policy*, 1957

<sup>7</sup> The practice which exemplifies with greater clarity the continuity of the colonial phenomenon is easily the aggression on territories recently defined as “land grabbing”. A very interesting attempt to map such practice is made by activists and researchers which cooperates in the project of the Land Matrix.

<http://www.landmatrix.org/en/about/>

<sup>8</sup> Temper L., *Crude Justice & Ecocide in the Niger Delta*

<http://www.ejolt.org/2013/04/crude-justice-ecocide-in-the-niger-delta/>

<sup>9</sup> Omoweh D., *Shell. The Petroleum Development Company, the State and Underdevelopment of Nigeria's Niger Delta - A Study in Environmental Degradation*, Africa Research & Publications, 2006

oil spills, which pollute and destroy farmlands and water courses, so the concrete means of living and production of the population composed mostly by peasants and fishermen<sup>10</sup>.

Another important situation of environmental racism is represented by the massive transfer of hazardous and toxic wastes from Western states to poorer countries (also using gaps in European or Northern American legislation), “as corporations and entire industries actively seek sites with fewer environmental regulations”<sup>11</sup>.

### **1.3 The three “generations” of environmental conflicts**

#### **a) A struggle over degraded and exhausted resources**

One of the first environmental issues which has been widely recognized refers to the depletion of natural resources, caused by their overuse, exhaustion and bio-physical degradation. The reduction of the amount of available resources for populations and states has been considered likely to trigger new conflicts over the distribution of the remaining parts of the cake.

The focus is in this case connected to security and strategic issues. Thomas Homer-Dixon provided a precious model, which explains the processes which connect human economic activities to the environment and then again to human populations, potentially causing conflicts<sup>12</sup>:

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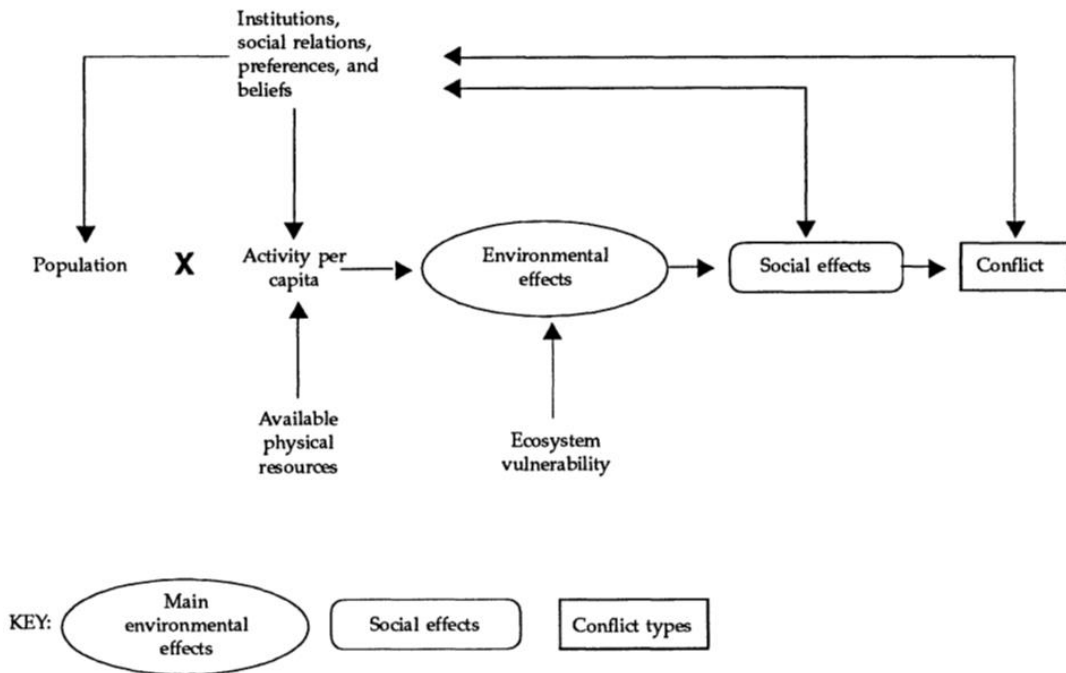
<sup>10</sup> Greyl L. et al., Ejolt Report n. 9, Digging Deep into Corporate Liability - Environmental Justice strategies in the world of oil, 2013  
<http://www.ejolt.org/2013/10/digging-deep-corporate-liability-environmental-justice-strategies-in-the-world-of-oil/>

<sup>11</sup> Ceu Center for Environmental Policy and Law; The Health and Environment Alliance; The Coalition for Environmental Justice, Making the case for environmental justice in Central and Eastern Europe, March 2007, p.16. Another source on the matter is the detailed report *The toxic ships, the Italian hub, the Mediterranean area and Africa*, Greenpeace, 2010  
<http://www.greenpeace.org/italy/Global/italy/report/2010/inquinamento/Report-The-toxic-ship.pdf>

<sup>12</sup> Homer-Dixon T., On the Threshold: Environmental Changes as Causes of Acute Conflict, *International Security*, Vol. 16, No. 2, 1991, p.86



**Figure 1. Environmental Change and Acute Conflict.**

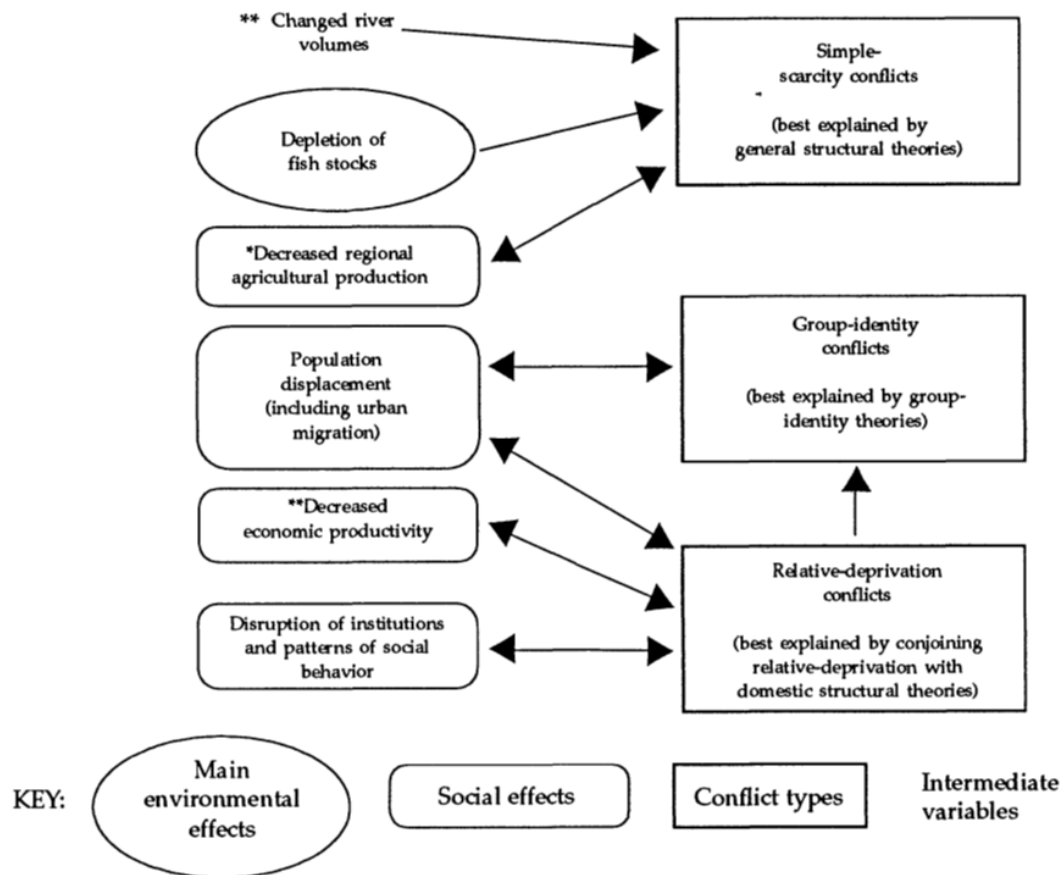


The path taken by the arrows should not be interpreted as mechanic or deterministic, since it is not possible to clearly foresee the ways in which the activity per capita of the population would cause environmental effects, and how those would produce potentially conflictual social effects.

It is possible, on the other hand, to observe the patterns of causes and effects produced by the environmental impacts of human activities, as resumed by the following scheme<sup>13</sup>:

<sup>13</sup> Ibidem, p.107

**Figure 4. Types of Conflict likely to Arise from Environmental Change in the Developing World.**



The model of “simple scarcity conflicts” derives from the classic realist approach, and it is perhaps the most simple description of environmental conflicts. In general, what really matters in this kind of description of environmental conflict is the possibility to avoid conflict, or to preserve institutions from the insurgence of mobilization. A radically different point of view is adopted by political ecology.

**b) The “poor’s” conflicts over environmental distribution**

While conflict over depleting resources are likely to continue in the next decades, a new form of conflict on environmental issues is emerged, which does not simply follows the previously described type of environmental conflict on chronological basis, but surpass it logically, in the

sense that the focus is not on competition over resources but on their management and distribution, on the very base of how the economic system works. The difference lays, in other words, in the point of view: security studies on environment adopt the point of view of the State, which has to defend itself from social strife. A radically different approach is to adopt the point of view of the groups which suffer from environmental degradation in situations of environmental injustice, which may need to engage in social struggles in order to protect their rights, territories and lives.

The insurgence of this kind of grassroots mobilizations has been defined as *environmentalism of the poor*, which manifest itself in the form of social conflicts with a prevailing ecological element. They usually include social justice claims too, and are aimed at resisting against the threats to livelihoods, culture and autonomy moved by multinational corporations and states<sup>14</sup>. This type of conflicts are studied by the discipline of political ecology, which defines them as *ecological distribution conflicts*:

Political ecology studies ecological distribution conflicts. By ecological distribution is meant the social, spatial and intertemporal patterns of access to the benefits obtainable from natural resources and from the environment as a life support system, including its 'cleaning up' properties. The determinants of ecological distribution are in some respects natural (climate, topography, rainfall patterns, minerals, soil quality and so on). They are clearly, in other respects, social, cultural, economic, political and technological<sup>15</sup>.

This kinds of conflicts have to be interpreted as attempt of self-empowerment of local communities, neighborhoods or indigenous groups against the political and economic actors which cause the ecological crisis, both with inadequate policies and with polluting, extracting activities. In this sense, they can be interpreted as symptoms of the ecological crisis itself, as directly measured by human reactions against it.

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<sup>14</sup> Ejolt, Environmentalism of the poor  
<http://www.ejolt.org/2012/12/environmentalism-of-the-poor/>

<sup>15</sup> Martinez-Alier J., *The Environmentalism of the Poors*, Edward Elgar Publishing, Inc., 2002, p. 73

### **c) The attempt to prevent pollution and disasters**

The more recently emerged kind of environmental conflict is the preventive one. It fits within the description provided by political ecology and environmentalism of the poor, but with more adherence to the current reality of numerous environmental conflicts, especially in western countries. When this type of environmental conflict manifest itself, usually regard the democratic involvement of the citizens in the development of impacting policies and projects:

In practice, an environmental conflict manifests itself when project of public or private works (energetic, infrastructural, productive or related to waste disposal) or national or international policies with relevant environmental impacts meet – or, better, they clash with – the opposition of civil society.<sup>16</sup>

One interesting matter here is the reference to “projects”, instead of already finished works or already ongoing economic activities. The reason is that in several cases the environmental conflicts starts before the environmental degradation or injustice verify, in order to prevent it, instead of seeking reparation and compensations. These elements will be of particular importance to comprehend the political dimension of environmental human rights.

#### **1.4 Mainstreaming of environmental justice on the path toward a “just sustainability”**

The frameworks of distributive, environmental justice and environmental racism both point in the direction of a wider understanding of ecologist theory and practices, in which the environment is not abstracted from the political and economic relations of power and inequality

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<sup>16</sup>Marica di Pierri, Introduction to: *I nuovi conflitti ambientali come fenomeno globale*. In *Conflitti Ambientali, biodiversità e democrazia della terra*, a cura del CDCA, Edizioni Ambiente, 2011, Translated from the italian: *“Nella pratica, un conflitto ambientale si manifesta quando progetti di opere pubbliche o private (energetiche, infrastrutturali, produttive o di smaltimento) oppure politiche nazionali o sovranazionali con rilevanti impatti ambientali incontrano – o meglio si scontrano con – l’opposizione della società civile: residenti, associazioni, comitati ecc. Nel nostro caso, precisando ulteriormente il quadro di riferimento, quando parliamo di conflitti ambientali intendiamo tutte quelle situazioni che vedono la concorrenza di due elementi:*  
- *riduzione qualitativa e/o quantitativa delle risorse naturali o beni comuni presenti su un dato territorio (terre coltivabili, acqua, biodiversità, flora o fauna, minerali o altre materie prime di carattere finito);*  
- *presenza di opposizione /resistenza da parte della società civile (comunità coinvolte, organizzazioni sociali o ambientaliste, comitati locali, gruppi di stakeholders) che si organizzano e si mobilitano in difesa dei propri diritti o del proprio territorio.”*

which characterize the human societies which are living within it. This point is relevant, especially considering that, until recent times at least, environmental matters have been considered as separated from struggles toward social justice and equality:

While researching a BBC TV program in the early 1990s, I asked a Greenpeace U.K. staffer if she felt that her organization's employees reflected the diversity of multicultural Britain. She replied calmly, "Equity, that's not an issue for us. We're here to save the world". I can understand what she means. She thinks as her organization is saving the world, the environment, for everyone, this is an inherently equitable act, so there's no need to look at, for instance who's at the Greenpeace table in terms of the workforce and who's setting the agenda.<sup>17</sup>

The idea expressed by the Greenpeace staffer in the quoted interview is that "saving the world" from the ecological crisis is not connected to social struggle between classes, but rather to the commitment toward a different model of development shared by all humanity, considered as homogeneous in terms of interests and distribution of power. A view with similar implications is connected to the paradigm of sustainability and green economy, in which the solution to environmental degradation is considered as a technical and managerial matter, ultimately more strictly economic than political.

Political ecology has developed a strong critique to this view, as it understands the environment only within a web of interconnections between ecosystems and societies, territories and communities, where the relation of class, race and gender are determinant in understanding the mechanism of environmental injustice. The point is not, of course, to oppose the concept of sustainable development itself, but to remember that no sustainability will be possible without social justice and democracy<sup>18</sup>.

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<sup>17</sup> Agyeman J., Equity? "That's not an issue for us, we're here to save the world" August 24, 2011, personal website <http://julianagyeman.com/2011/08/equity-%E2%80%9Cthat%E2%80%99s-not-an-issue-for-us-we%E2%80%99re-here-to-save-the-world%E2%80%9D/>

<sup>18</sup> Agyeman J., Evans B., *Just Sustainability: The Emerging Discourse of Environmental Justice in Britain?*, The Geographical Journal, Vol. 170, No. 2, Environment and Development in the UK (Jun., 2004), pp. 155-164

Step by step, this more comprehensive and politicized interpretation of ecological issues have reached a certain level of influence into the mainstream of NGOs and international institutions. Even if it is still far to be dominant, it showed great usefulness especially on the field on international human rights law.

### **1.5 From environmental justice to environmental human rights: the work of NGOs and civil society organizations**

Besides the scientific community, which had and keeps having a key role in raising awareness about climate change and contributing to define policies to implement, it is evident from the history of environmental treaty law that civil society organizations, Non-Governmental Organizations and social movements managed to have a great role in influencing States and exerting pressures on institutional policy choices. The political power of these other actors is showed in many different ways, the most evident of them is the participation of NGOs and civil society organizations to the various Earth summits and UNFCCC Conferences of the parties. This is one of the ways in which concepts and claims of environmental justice and political ecology have acquired juridical and political value within institutions, but it is not the only one.

Activists and institutions successfully cooperated at the grassroots level, where the differences between political militants, protesters and human rights defenders start to fade. Here new political understanding and practices start taking the form of legal claims. The dialectic between the struggles against violations of already established human rights and the campaign for the establishment of new rights is particularly dynamic in environmental issues, and the history of environmental conflicts has contributed to codify jurisprudence and to produce doctrine on the relation between human rights and the environment:

We must recognize that existing enshrined rights are the fruit of the efforts of communities that have historically resisted violations and demanded their rights, and that we can only move further if we join the resistance of those whose rights are being violated today. For this reason, our alliances with social movements, both on the ethical and political levels, must form a basis for our campaigns. We plan to debate, define and promote national and international legal

instruments in order to support the enforcement and protection of our rights, and we will strive for environmental justice in all that we do.<sup>19</sup>

In the very same document produced by the NGO Friends of the Earth, it is possible to find a concept which is crucial for its innovative value, the idea of “environmental rights”, which can challenge existing international human rights law on different levels, being related to all of the three “generations” of human rights, (i.e. civil and political, economic and social and collective). It suggests a way to rethink, adapt and improve existing law in the context of the ecological crisis:

environmental rights include political rights like rights for indigenous peoples and other collectivities, the right to information and participation in decision-making, freedom of opinion and expression, and the right to resist unwanted developments. We also believe in the right to claim reparations for violated rights, including rights for climate refugees and others displaced by environmental destruction, the right to claim ecological debt, and the right to environmental justice<sup>20</sup>.

The function that both social movement and civil society organizations have in shaping the current development of Human Rights law with regards to environmental matters is recognized, of course, by the institutions that they manage to influence and enrich with a contribution from the bottom up. Not incidentally, in fact, when the Human Rights Council requested a report from professor John Knox on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment (Resolution 19/10 adopted on 22 March 2012), the new Special Rapporteur has been requested to take into account not only the views of “Governments, International bodies, national human rights institutions”, but also to consult “civil society organizations, the private sector and academic institutions”<sup>21</sup>. The resolution

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<sup>19</sup> Friends of the Earth International, *Our environment, our rights - standing up for people and the planet*, August 2004, p.4

<sup>20</sup> *Ibidem*, p.5

<sup>21</sup> UNHRC Resolution A/HRC/22/43 Report of the Independent Expert on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, John H. Knox, Preliminary Report,

explicitly states that “This diversity of perspectives demonstrates the importance that international organizations, States, civil society organizations and scholars place on these issues and their relevance to a wide range of actors in the fields of human rights and environmental policymaking”<sup>22</sup>.

## **1.6 The work of the Special Rapporteur on Human Rights and environment and the introduction of Environmental Human Rights**

### **1.6.1 The first understanding of “environmental rights” and the ecological dimension of human rights**

As already observed, the point in which the differences between environmental activists and human rights defenders start to be blurred is the grassroots one. Here claims are articulated and assume a juridical content. This is also the context where human rights defenders may discover the harsh face of environmental injustice, in the form of violence exercised by the state or non-state actors. As a matter of fact, one of the firsts references to environmental rights can be found not on a report of the Special Rapporteur on the relation between human rights and the environment, but instead in a report on the risks faced by human rights defenders. Environmental injustice and environmental racism exist also because of governmental policies, and the state authorities can be and often are the first enemy of the group which mobilize in order to see new rights be recognized on environmental issues:

The Special Rapporteur receives information every year about disputes between human rights defenders and Government authorities or other parts of society. Typically, conflicts involve local governance issues, including land and environmental rights, as well as labour conditions and workers’ rights.<sup>23</sup>

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2012, paragraph 2

[http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A-HRC-22-43\\_en.pdf](http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A-HRC-22-43_en.pdf)

<sup>22</sup> Ibidem, paragraph 37.

<sup>23</sup> Sekaggya M., Report of the Special Rapporteur on the situation of human rights defenders, Human Rights Council, 16/01/2013, para. 106

[http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A.HRC.22.47\\_en.pdf](http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A.HRC.22.47_en.pdf)



The ecological sensibility within the different levels of the United Nations were clearly living a key moment of changing: on April 2012 the Human Rights Council decided “to appoint, for a period of three years, an independent expert on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment”<sup>24</sup> . The role have been performed by John Knox, the first Independent Expert on human rights and the environment.

Its personal view seems to be mostly coherent with the first of the three approaches listed above about the relation on human rights and environment, with an influence also from the second one. As it can be read on its official webpage:

All human beings depend on the environment in which we live. A safe, clean, healthy and sustainable environment is integral to the full enjoyment of a wide range of human rights, including the rights to life, health, food, water and sanitation. Without a healthy environment, we are unable to fulfil our aspirations or even live at a level commensurate with minimum standards of human dignity. At the same time, protecting human rights helps to protect the environment. When people are able to learn about, and participate in, the decisions that affect them, they can help to ensure that those decisions respect their need for a sustainable environment.<sup>25</sup>

During his mandate, he has produced three reports: a “Scoping report” in 2013, a “Mapping report in 2014” and a “Good practices report” in 2015<sup>26</sup> . These works perfectly summarize the whole discussion about the relation between human rights and environment, representing the

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<sup>24</sup> UNHRC resolution 19/10 Human rights and the environment, p. 2  
<http://srenvironment.org/wp-content/uploads/2013/05/1910-PDF.pdf>

<sup>25</sup> Special Rapporteur on human rights and the environment (former Independent Expert on human rights and the environment), OHCHR webpage  
<http://www.ohchr.org/EN/Issues/Environment/SREnvironment/Pages/SREnvironmentIndex.aspx>

<sup>26</sup> United Nations Mandate on Human Rights and the Environment John H. Knox, UN Special Rapporteur  
<http://srenvironment.org/>

points of arrival reached by human rights law's jurisprudence and doctrine on the whole question.

### **1.6.2 The doctrine emerging from the three reports of the Special Rapporteur on the relation between human rights and the environment**

The first Report places the mandate in a historical context, presenting the most important issues relevant to the relationship between human rights and the environment, noting that even if the matter has been widely discussed by many different forums, there are still points needing clarification<sup>27</sup>. It adds relevant insights to the right to a healthy environment, and the discussion of human rights vulnerable to environmental harm and of those vital to environmental policymaking.

On the existence of such a right to a healthy environment, the Report take notice of the 90 States which have adopted similar rights in their national constitutions, adding to the list the already mentioned regional charters from the African and American continent, admitting nonetheless that no "global agreement sets out an explicit right to a healthy (or satisfactory, safe or sustainable) environment", and that the most similar provisions contained in international treaty law have to be searched in the Stockholm and Rio declarations. The path taken has been the study of the relationship between environment and existing human rights.

Summing up the conclusions of the great number of documents and statements analyzed, the special rapporteur argues that there are

...two sets of rights closely related to the environment: (a) rights whose enjoyment is particularly vulnerable to environmental degradation; and (b) rights whose exercise supports better environmental policymaking. At the risk of oversimplification, many of the rights in the first category – that is, those at risk from environmental harm – are often characterized as substantive rights, while many of the rights in the second category – those whose

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<sup>27</sup> UNHRC Resolution A/HRC/22/43 Report of the Independent Expert on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, John H. Knox Preliminary report <http://www.ohchr.org/EN/Issues/Environment/SREnvironment/Pages/Annualreports.aspx>

implementation supports stronger environmental policies – are often considered procedural rights.<sup>28</sup>

In particular, some rights are recognized as especially relevant for environmental policy-making, like “rights of freedom of expression, freedom of peaceful assembly and association, participation in government and effective remedies for violations of rights”, all recognized by many human rights instruments, starting from the Universal Declaration. These rights can evidently have an environmental dimension when deciding for State policies. This is also coherent with the Rio Declaration which, in its article 10, promotes participation of all concerned citizens, in order to handle environmental issues. Of course, the protection of these procedural rights is particularly crucial when vulnerable groups are involved, since their civil and political rights are already threatened independently from the environmental dimension of policy-making.

The fact that the procedural rights of information, participation and access to remedy can “benefit environmental policymaking, resulting in better environmental protection and, as a consequence, greater protection of the human rights that may be threatened by environmental degradation” is one of the firm points established regarding the relation between human rights and environment. The other one is simply that environmental degradation, in its different forms and appearances, especially threaten the enjoyment of a certain set of rights, consisting in the right to life, health, food and safe drinking water.

In conclusion, the best way to respect the set of substantive rights is actually to respect procedural rights, which means, to increase the quality<sup>29</sup> of democratic political participation on environmental issues. Furthermore...

Making this connection can create a kind of virtuous circle: strong compliance with procedural duties produces a healthier environment, which in turn contributes to a higher degree of compliance with substantive rights such as rights to life, health, property and privacy. The

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<sup>28</sup> Ibidem

<sup>29</sup> For a wider understanding of the “quality” of democracy, see Diamond L., Morlino L, *Assessing the Quality of Democracy*, The Johns Hopkins University Press, 2013

converse is also true. Failure to meet procedural obligations can result in a degraded environment, which interferes with the full enjoyment of other human rights.<sup>30</sup>

The fact that some fundamental aspects of the relationship between human rights and environment are firmly established is made clear also by the Mapping report completed in December 2013, which supports the Statements of the scoping one.

Specifications are added regarding the most vulnerable groups, like children, women and indigenous peoples, which may suffer more serious harm from environmental due to their stricter relationship of dependence from nature.

States have a duty to recognize the rights of indigenous peoples with respect to the territory that they have traditionally occupied, including the natural resources on which they rely. Secondly, States are obliged to facilitate the participation of indigenous peoples in decisions that concern them. The Special Rapporteur has stated that the general rule is that “extractive activities should not take place within the territories of indigenous peoples without their free, prior and informed consent,”<sup>31</sup>

Regarding the procedural obligations of States, it is observed that regional bodies have stated multiple times “that in order to protect human rights from infringement through environmental harm, States should provide access to environmental information and provide for the assessment of environmental impacts that may interfere with the enjoyment of human rights”, as a necessary precondition for public participation. States should not limit to the “do not violate procedural rights” principle, but they must also actively intervene to protect the life, liberty and security of single individuals and activists exercising those rights. In particular, a

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<sup>30</sup> Ibidem, para.42

<sup>31</sup> UNHRC Resolution A/HRC/25/53 Report of the Independent Expert on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, John H. Knox, Mapping report 2013  
<http://www.ohchr.org/EN/Issues/Environment/SREnvironment/Pages/MappingReport.aspx>

disproportionate burden is sustained by women, which also face greater difficulties to access to information and to participate to decision-making processes.

In relation to the duty to provide access to legal remedies, but also with broader implications, States have an obligation to adopt adequate legal frameworks “that protect against, and respond to, environmental harm that may or does interfere with the enjoyment of human rights”. In general on this aspect, State have a very strong duty to protect their citizens by the environmental harm caused by the economic activities of extractive industries or other business enterprises and non-State actors.

The last report, submitted in 2015, consists in a list of good practices, applied by some governments or regional organizations in order to intervene in environmental issues protecting human rights (or vice versa) following the areas of connection between human rights and environment identified in the former two reports. The best practices adopted by authorities to protect the environment are consistent the safeguard of minorities and in the greater application of democratic principles of information and political participation<sup>32</sup>: in conclusion, the defense of the environment proves to be equivalent to the protection of people from arbitrary powers and from the excessive exploitation of their means of survival, which means, in a sense, to prevent and to subvert situations of environmental injustice.

### **1.6.3 The comprehensive concept of Environmental Human Rights**

It is now the case to resume to point of arrival reached by the Special Rapporteurs in his investigation on the relation between human rights and environment.

John Knox, instead of referring to human rights related to environmental issues, he speaks directly of *environmental human rights*, as a unique set of provisions. He did so in its 2015 Report on the issue of human rights obligations relating to the enjoyment of a safe, clean,

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<sup>32</sup> UNHRC Resolution A/HRC/28/61 Report of the Independent Expert on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, John H. Knox, Compilation of good practices, 2015  
<http://srenvironment.org/good-practices-report-2015/>

healthy and sustainable environment, where he compiled the relative good practices. In particular, he referred to “environmental human rights defenders”<sup>33</sup>.

Also his latest 2016 Report on the relationship between climate change and human rights contains the expression of environmental human rights: referring to the fact that states are required to protect citizens against human rights violations within their territory, Knox qualifies such breaches of legal obligations as “environmental human rights abuses”, including also to the violations caused by or related to the phenomenon of climate change.

Of course, using this expression he refers to the mix of substantive rights related to the rights to life, health, food, water and property, civil and political (“procedural”) rights as the rights of expression and information, to political participation and self-determination, together with specific provisions related to the protection of vulnerable groups. These are the rights he specifically linked to environmental issues in its reports. In particular, he resumed all the passages of its analysis on the relation between human rights and environment in this way:

Duties to provide information and to facilitate public participation in decision-making are often considered to correspond to civil and political rights, such as the right to freedom of expression and the right to take part in the government of one’s country. But in the environmental context, these duties have been derived from the full range of human rights whose enjoyment is threatened by environmental harm, including rights to health, food, and water. In other words, human rights bodies have said that in order to protect rights to a healthy environment, to life, to health, to property, to an adequate standard of living, it is necessary to protect the environment; and to protect the environment, it is necessary to provide rights of access to information about the environment, to participation in environmental decision-making, and to remedies for environmental harm. Human rights law thus recognizes that human rights and environmental protection depend on each other.<sup>34</sup>

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<sup>33</sup> John Knox, 2015 Report, Compilation of good practices, op cit. Paragraphs 6, 7, 15, 51, 52, 53, 107.

<sup>34</sup> Statement by John H. Knox, Independent Expert on Human Rights and the Environment at “The Development of Environmental Human Rights”, Fourth meeting of the focal points appointed by the Governments of the signatory countries of the Declaration on the application of Principle 10 of the Rio Declaration on Environment and Development in Latin America and the Caribbean, Santiago, Chile, 6 November 2014  
<http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=15274&LangID=E#sthash.ifhlCn7U.dpuf>

So that, the set of environmental human rights consists of those substantive and procedural rights whose violations are likely to both cause or to be caused by environmental harm. On the other hand, the respect for environmental human rights is coherent with environmental protection, with democratic access to environmental policy-making and with the relative access to remedies.

## **2. The role of private actors in environmental protection: attempting to regulate multinational corporations**

### **2.1 The recognition of firms' key role in the ecological crisis by international organizations**

International institutions committed in the protection of the environment are starting to include in different ways the private sector in their policies, recognizing to firms and corporations a key role to play on ecological matter. The principal reason is that, most commonly, violations of human rights in situations related to environmental harm and degradation are connected to the activities of extractive industries, or to constructions and development process. "The main context in which these violations occurred was ongoing land disputes with both States and non-States actors, including multinational corporations and private security companies"<sup>35</sup>.

This is a matter of fact, and international human rights law is adapting to the situation. The protection of human rights is primarily an obligation for states, because of their specific "duty to protect" individuals who are entitled of fundamental rights. But the activities of transnational corporations are really pervasive in environmental matters, and these actors are often very powerful if confronted with some of the states of the Global South in which they may operate. For these reasons, corporations have consequently been involved in environmental governance.

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<sup>35</sup> UNHRC resolution A/HRC/19/55, Report of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya, 2011 para.66.  
[http://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/RES/21/17](http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/21/17)

The legal framework in which transnational corporations are involved comprehends the figure of the “responsibility to respect”, brought to attention in the reports of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, for example when he affirms that “corporations themselves have a responsibility to respect human rights”.<sup>36</sup> John Knox based this statement on the a United Nations document, the Guiding Principles on Business and Human Rights, emanated in 2011.

It states, for instance, that “Business enterprises should respect human rights. This means that they should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved”<sup>37</sup>. The respect of human rights is considered as a global standard of business conduct.

To address human rights impacts means taking measures to prevent them and effective means of remediation, when it is the case. This is very coherent with the precautionary principle stated by environmental international treaties, as well as with the necessity of access to effective remedy in case of environmental damages suffered by communities or vulnerable groups, emphasized by the Special Rapporteurs themselves.

## **2.2 Who defends the defenders? Dangerous relationships between non-state actors and Human Rights defenders**

It may be useful to note that transnational corporations showed little concerns in opposing the activity of social movements and civil society organizations, also by using violent means. In its 2011 report, in fact, the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya, identified activists and defenders working on land and environmental issues

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<sup>36</sup> UNHRC Resolution A/HRC/25/53 Report of the Independent Expert on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, John H. Knox, Mapping report 2013, para. 5  
<http://www.ohchr.org/EN/Issues/Environment/SREnvironment/Pages/MappingReport.aspx>

<sup>37</sup> United Nations, Office of the High Commissioner on Human Rights, Guiding Principles on Business and Human Rights, 2011, para. 11  
[http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf)



as a specifically threatened group of human rights defenders, together with journalists, media workers and youth and students defenders. Referring to the 2007 report of the Special Representative of the Secretary-General on human rights defenders dedicated to defenders working on economic, social and cultural rights (A/HRC/4/37), she specifies that “not only are the rights upheld by this group an inalienable part of the international human rights framework, but also that their activities are fully protected by the Declaration on Human Rights Defenders”<sup>38</sup>.

The human rights defenders active on environmental issues present some peculiar traits, as their commitment is devoted to contrast certain types of economic activities. For this reason, they face non-state actors more often than states, and it influences the way they are threatened:

The Special Rapporteur is aware of the particular risks that these defenders face, often at the hands of non-State actors or unknown individuals acting in collusion with them. She has received, and continues to receive, allegations indicating that security guards employed by oil and mining companies allegedly use death threats, acts of intimidation and attacks against defenders who denounce the perceived negative impact of the companies’ activities on the enjoyment of human rights by local communities (A/65/223, paras. 9–12).<sup>39</sup>

Extractive industries, construction and development projects are perhaps the most striking examples of economic activities with a great environmental impact and they are also especially opposed by human rights defenders working for the rights of indigenous peoples and minority communities. According to the information collected by the Special rapporteur, defenders working on such issues are threatened by a high risk of violations, “such as death threats, attacks, attempted killings, intimidation, harassment, as well as stigmatization and discrediting campaigns”.

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<sup>38</sup> UNHRC resolution A/HRC/19/55, Report of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya, 2011 para.22.  
[http://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/RES/21/17](http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/21/17)

<sup>39</sup> Ibidem, para 63.

### **2.3 UN instruments dealing with transnational corporations environmental accountability: partnership with business**

The internationalization of production of goods and services by transnational corporations is recognized as a threat, since it can increase the likelihood of environmental damage both in specific countries and in the global environment<sup>40</sup>. Adding the recognition of this fact to the reasons stated above, the United Nations have started processes of partnerships with private, non-State actors in order to better address environmental issues. Only the most recent developments will be analyzed here, especially since past approaches, like the UN Draft Code of Conduct for Transnational Corporations, have ended in failures.

From 1990, due to political and more general historical circumstances related to the fall of the Berlin Wall and to the crisis of the Soviet Union's economic model, in the international community and also within the United Nations, the attitude towards transnational corporations and generally toward business changed fast: state control over resources and over economic operations was no more considered a viable option, and international institutions like the World Bank and World Trade Organization started to live years of complete world-wide acknowledgement of their views, considerably increasing their influence<sup>41</sup>. This fact, of course, had consequences on UN approach toward corporate accountability in respecting and protecting human rights.

A new trend of promoting UN–business partnerships developed to become an ‘integral part’ of the work of the UN, which seems increasingly relevant for the environmental sector. UN partnership initiatives with corporations are characterized by a multi-stakeholder model, in

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<sup>40</sup> United Nations Conference on Trade and Development (UNCTAD), Environment, UNCTAD Series on International Investment Agreements (UNCTAD/ITE/IIT/23, 2001), at 7.  
<http://unctad.org/en/Docs/psiteiitd23.en.pdf>

<sup>41</sup> A.A. Fatouros, ‘Looking for an International Legal Framework for Transnational Corporations’, quoted in Morgera E., ‘Significant Trends in Corporate Environmental Accountability: The New Performance Standards of the International Finance Corporate’ (2006) 18 Colorado Journal of International Environmental Law and Policy 147.

which also NGOs and business sector as a whole could be included. States cannot be the only interlocutors for international institutions, considering that "traditional power relationships are changing within an increasingly complex system of governance, where non-State actors play a more and more decisive role"<sup>42</sup>.

## **2.4 The Global Compact**

The Global Compact is the most important project of partnership launched by United Nations with the business sector. Its aim is to realize an organizational framework to assist companies in the development and promotion of a management globally based on values instead that only on profits.

From an environmental point of view, which also encompasses other related issues, its aspirations are definitely high. On its official webpage, the Compact is defined as "The world's largest corporate sustainability initiative. A call to companies to align strategies and operations with universal principles on human rights, labour, environment and anti-corruption, and take actions that advance societal goals"<sup>43</sup>.

The Compact foresees a set of partnerships between the United Nations and the private sector based on basic principles of corporate citizenship: respect for human rights and labor standards, commitment toward sustainable development and contrast to corruption. It was firstly proposed in 1999, in Davos, by the United Nations Secretary-General of the time, Kofi Annan. It was to be official launched the following year within the United Nations Economic and Social Council.

Specifically, the GC builds on ten principles which companies are expected to integrate in their core business. The ten principles are the following:

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<sup>42</sup> Morgera E., 'Significant Trends in Corporate Environmental Accountability: The New Performance Standards of the International Finance Corporate' (2006) 18 Colorado Journal of International Environmental Law and Policy 147, p. 6

<sup>43</sup> Global Compact website  
<https://www.unglobalcompact.org/what-is-gc>

1. Businesses should support and respect the protection of internationally proclaimed human rights; and
2. make sure that they are not complicit in human rights abuses.
3. Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining;
4. the elimination of all forms of forced and compulsory labour;
5. the effective abolition of child labour; and
6. the elimination of discrimination in respect of employment and occupation.
7. Businesses should support a precautionary approach to environmental challenges;
8. undertake initiatives to promote greater environmental responsibility; and
9. encourage the development and diffusion of environmentally friendly technologies.
10. Businesses should work against corruption in all its forms, including extortion and bribery.<sup>44</sup>

These principles took inspiration from UN documents, namely the Universal Declaration of Human Rights; the International Labour Organization's Declaration on Fundamental Principles and Rights at Work; the Rio Declaration on Environment and Development; and the UN Convention against Corruption.

Nonetheless, they are spelled in extremely vague terms, not referring to any specific provision. Companies are expected to pursue concrete initiatives that advance their implementation of such principles. Adhering companies have a duty to provide a balance sheet, at least one every year, on the Global Compact website, in the form of a Communication on Progress, in which they explain the measures taken to respect the ten principles and what they have learned about the way to apply them. They also have to work transparently, not hiding any of their data and activities from the eventual monitoring activities of states and NGOs.

Once these conditions are met, companies are allowed to publicize their participation to the program. Initially, no mechanism for monitoring or assessing performance was in place. The

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<sup>44</sup> Ibidem, The ten principles  
<https://www.unglobalcompact.org/what-is-gc/mission/principles>

mechanism of the Global Compact has been criticized, especially by groups of environmental activists. From their perspective, the Compact is an ideal “greenwash instrument”<sup>45</sup>. A positive step taken in response to these concerns is the collaboration undertaken by United Nations with the Global Reporting Initiative<sup>46</sup>, made in order to make corporations’ commitment more credible. Moreover, a renewed governance structure envisages now the possibility to submit complaints of ‘systematic or egregious abuses’ against the principles of the GC to the GC Office. If the interested company is the object of a complaint, then it must provide information on the actions taken to address the situation. If it does not, it can be labeled as “inactive” in the Compact’s website, or even removed by it.

This structure of corporate social responsibility initiatives has multiple environmental implications:

The Compact contains important indicators for the delineation of the environmental responsibility of businesses, by implying the direct applicability of international environmental principles to private enterprises. Its most prominent feature is the application of the precautionary principle to adhering companies<sup>47</sup>

In this context, companies are expected to implement certain measures, like carrying out assessments of their environmental impacts, or invest in environment-friendly products and technologies. They also have to undertake a serious multi-stakeholder dialogue with the groups affected by their activities or with NGOs defending their human rights.

## **2.5 Accountability and procedural obligations**

The Global Compact can be considered as the widest and most comprehensive instrument in the field of corporate social responsibility: the way it is structured consents it to address very

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<sup>45</sup> Morgera, E. op. cit. pp. 8

<sup>46</sup> The Global Reporting Initiative (GRI) was founded in Boston in 1997. Its roots lie in the US non-profit organizations the Coalition for Environmentally Responsible Economies (CERES) and the Tellus Institute. <https://www.globalreporting.org/Pages/default.aspx>

<sup>47</sup> Morgera, E. op. cit. pp. 13.

different human rights law issues and to include all private companies in its list of well-behaving enterprises.

This of course came at the cost of immediate effectiveness, since it is no more than an instrument of soft law, and also a particularly soft one. Nonetheless, it may contribute to the construction of environmental legal standards, a sort of benchmark, that the international community and other actors may use to critically appraise corporate conduct<sup>48</sup>.

From the observation of the non-compulsory code of conduct which makes for environmental accountability, seems to emerge the need of more open monitoring activities of governmental and non-governmental actors, coupled with a higher transparency, in order to make this monitoring possible in the first place:

Accountability has been defined as a 'system of power control', as a means to furnish substantial reasons or a convincing explanation of one's actions, a system of 'quasi-judicial' answerability based on standards that are internationally defined and implemented [...] In a nutshell, corporate environmental accountability refers to a pragmatic approach to ensure that private companies be more transparent, participatory, and proactive in their efforts to contribute to the protection of the environment, thus responding to the expectations of the international community in this direction.<sup>49</sup>

It is now the case to define the content of this accountability, in order to avoid confusion in making concluding observations. The environmental measures that corporations have to follow, if they decide to comply with these standards of soft law, are:

- Provide for environmental impact assessment, taking into account environmental concerns before and during their operations.

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<sup>48</sup> Morgera E., *Corporate Accountability in International Environmental Law*, OUP 2009, Conclusions <http://www.oxfordscholarship.com/view/10.1093/acprof:oso/9780199558018.001.0001/acprof-9780199558018>

<sup>49</sup> Morgera E., *Human Rights Dimensions of Corporate Environmental Accountability*, 2011, in Dupuy P., Petersmann E., Francioni F., *Human Rights in International Investment Law and Arbitration*, Oxford Scholarship Online

- Respect the precautionary principle.
- Disclose of environmental information, particularly if related to hazardous products and processes or emergency situations.
- Realizing public consultations: private companies are expected to properly assess environmental concerns and integrate them in their operation management and decision-making processes.
- Use resources coherently with sustainability principles.<sup>50</sup>

Taking these considerations in mind, appears possible to draw a parallel between the points of arrival reached by this field of international law and the conclusions reached by John Knox on the relation between human rights and environment.

More specifically, from a concluding observation appears that a surprising coherence exists between the contents of corporate environmental accountability and the civil and political human rights which, in Knox's opinion, have to be respected in order to protect people and groups from environmental harm and risks which would end up in violating human rights.

This is because the measures that enterprises are expected to take in order to respect accountability principles are based on their transparency regarding the technologies and materials they use, their impacts on the enjoyment of human rights and of a decent environment, as well as on their willingness to be monitored by States, NGOs, Unions and Environmental Justice Organizations, during all phases of their activities. This is the same of what is required to States, which must respect the rights to information of all citizens and groups, in order to make transparent their environmental policies, letting everyone to participate in the decision-making processes which could affect the environment.

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<sup>50</sup> Morgera, 2009, op. cit.

### **3. An evaluation of transnational corporations commitment toward environmental human rights protection: confronting data from the Environmental Justice Atlas with transnational corporations' participation to the Global Compact**

#### **3.1 Objectives of the analysis**

From the analysis conducted here on environmental conflicts theory and practice, and on their conceptual relation with environmental human rights, it is possible to conclude that the insurgence of this kind of social struggles could be considered not only a political symptom of the ecological crisis, but also an indication of environmental human rights violations.

It is clear that corporations play a key role in causing environmental conflicts, producing situations of widespread environmental harm and degradation, which threatens the rights to life, health, property, food and water of the populations which inhabits the territories interested by their operations.

Both big, medium and small sized companies can join the Global Compact, the so called “world's largest corporate sustainability initiative”.<sup>51</sup> When a company joins the Compact, it is supposed to start integrating corporate sustainability into its strategies and operations, and to meet reporting requirements in this sense.

The content of this corporate sustainability is defined by the Global Compact ten principles. Among them, the first two<sup>52</sup> are inspired by the 1948 Universal Declaration on Human Rights, and substantially declare that companies should comply with human rights provisions and not commit violations. Of course, it is now recognized that the corpus of human rights law regards

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<sup>51</sup> Global Compact official website  
<https://www.unglobalcompact.org/what-is-gc>

<sup>52</sup> Principle 1: Businesses should support and respect the protection of internationally proclaimed human rights; and

Principle 2: make sure that they are not complicit in human rights abuses.



environmental issues. Nonetheless, other three principles<sup>53</sup> of the Global Compact, based on the 1992 Rio Declaration on Environment and Development, are especially aimed at ensuring environmental protection commitments by companies.

The efficiency of this UN instrument, the Global Compact, can be questioned, on the basis on its capability to prevent the insurgence of conflicts related to environmental issues. Which means, considering the relation between human rights and environmental conflicts, that the Global Compact may not show to be useful in providing higher respect for environmental human rights.

### **3.2 Methodology: data crossing with the Environmental Justice Atlas. Limits and opportunities**

In order to make assessments on this question a data crossing will be used, extracting information from the Global Compact website and the Environmental Justice Atlas<sup>54</sup> realized by Ejolt, that is “a global research project bringing science and society together to catalogue and analyze ecological distribution conflicts and confront environmental injustice”<sup>55</sup>.

More specifically, the data crossing will verify if the companies inserted within the global map of environmental conflicts have joined the Global Compact or not. In this way, it will be possible to evaluate the seriousness of their commitment and the efficiency of the Global Compact instrument to avoid conflicts triggered by the environmental degradation caused by companies.

Of course, the Ejatlas map has several limits and biases:

- Geographic coverage: Ejatlas have not a homologous coverage for all States and regions of the world. This is caused by the fact that its global map of environmental conflict is

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<sup>53</sup> Principle 7: Businesses should support a precautionary approach to environmental challenges;

Principle 8: undertake initiatives to promote greater environmental responsibility; and

Principle 9: encourage the development and diffusion of environmentally friendly technologies.

<sup>54</sup> <http://ejatlas.org/>

<sup>55</sup> <http://ejolt.org/>

the result of a social mapping project realized by scholars, activists, organizations, journalists, which are not equally distributed on Earth, and have also very different material capacities to work and contribute to the map. This means, for example, that the difference between the 54 environmental conflicts reported in Spain and the 12 reported within the Russian Federation could be caused by an higher number of Spanish-speaking people among environmental activists and scholars, and not by the fact that Spanish environmental policies are much worse than Russian ones. This problem of over or under-representation could be also relative to different regions of a single country.

- Data are not normalized: it must be remembered that the map is produced by many different minds, whose ideas in terms of what shall be reported may differ. The way in which reported cases are organized can differ too, as some contributor may decide to resume a regional conflict in a single voice of the map, while others could decide to report all the single local protests.
- Uncomplete data: the map reports 1705 cases of environmental conflicts. This is a very good result, but of course the existing environmental conflicts are much more numerous than the reported ones. Researchers and activists are not everywhere, as already noted, and only a part of them participates to Eجاتlas. Also, in many countries, civil society organizations which defends human rights are victims of abuses and violence committed by the local authorities. Paramilitary forces, organized criminality and multinational corporations use to put obstacles to the diffusion of news and information on environmental conflicts.
- Not generalizable data: a company involved in more than ten cases of environmental conflicts may appear particularly carefree about the environmental harm produced by its operations but, depending of its size, the reported cases could not be representative of the real behavior of the firm, which may perhaps show compliance with environmental standards in the great majority of its plants and activities. Of course, the opposite is also true.

In short, the database of Ejatlas is limited, and limited are the conclusions which can be drawn from it too. Nonetheless, the whole project of a global map of environmental conflicts has a value, and it was projected to be a research tool in the first place. The social character of the mapping activity is what makes it especially effective, as it permits the cooperation of multiple points of observations, operating on the field. A centralized agency could not show the same readiness in reporting the developments of the different local situations, and could not have the same level of specific knowledge of the single cases.

Also, the environmental justice atlas is the first and only one global map of environmental conflicts. National maps of this kind existed already<sup>56</sup>, but the type of data crossing realized here was possible only with an atlas of the whole planet.

### **3.3 Results**

In the following table, the first column comprehends the list of selected companies. The second column provides the number of environmental conflicts registered in the Environmental Justice Atlas in which the company is involved, followed by the data regarding participation (signed as “P” in the table) or non-participation (“N”) to the UN Global Compact. The last column contains the date in which the interested company joined the Global Compact, if it did so. Some companies considered by the Environmental Justice Atlas are actually part of greater holdings, or belong to multinational groups composed by a parent company and many controlled firms. These cases are signed by a note, and the joining date is relative to the main company.

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<sup>56</sup> One good example is provided by the Italian CDCA – Centro di Documentazione dei Conflitti Ambientali, which also cooperated with Ejolt in producing Ejatlas. Before this cooperation took place, it had already produced an Italian map of environmental conflicts, now included in the global Atlas: <http://atlanteitaliano.cdca.it/>

<b>Company</b>	<b>Documented environmental conflicts in the Environmental Justice Atlas</b>	<b>Participation to the Global Compact</b>	<b>Joining date</b>
Nigerian National Petroleum Corporation	41	N	
Royal Dutch Shell	40	P	2000-7-26
Shell Petroleum Development Company	27	P	2006-06-12
Chevron Corporation	24	N	
Nigeria Agip Oil Company	21	N	
Vale S.A	21	N	
Monsanto Corporation	20	P	2009-09-17
Rio Tinto Alcan	18	N	
AngloGold Ashanti Colombia	17	P	2011-04-13
ExxonMobil Corporation	15	N	
BHP Billiton <sup>57</sup>	14	P	2003-07-21
Sacyr	12	P	2007-12-14
ENEL Group	12	P	2004-03-12
Barrick Gold Corporation	12	P	2005-06-02
Total	11	N	
Sinohydro Corporation Limited	10	N	
Glencore International AG	10	P	2014-06-30
Dow Chemical Company	10	P	2007-05-24
Endesa <sup>58</sup>	10	P	2002-06-24

<sup>57</sup> 2 companies

[https://www.unglobalcompact.org/what-is-gc/participants/search?utf8=%E2%9C%93&search%5Bkeywords%5D=bhp+billiton&button=&search%5Bper\\_page%5D=10&search%5Bsort\\_field%5D=&search%5Bsort\\_direction%5D=asc](https://www.unglobalcompact.org/what-is-gc/participants/search?utf8=%E2%9C%93&search%5Bkeywords%5D=bhp+billiton&button=&search%5Bper_page%5D=10&search%5Bsort_field%5D=&search%5Bsort_direction%5D=asc)

<sup>58</sup> 5 companies

[https://www.unglobalcompact.org/what-is-gc/participants/search?utf8=%E2%9C%93&search%5Bkeywords%5D=endesa&button=&search%5Bper\\_page%5D=10&search%5Bsort\\_field%5D=&search%5Bsort\\_direction%5D=asc](https://www.unglobalcompact.org/what-is-gc/participants/search?utf8=%E2%9C%93&search%5Bkeywords%5D=endesa&button=&search%5Bper_page%5D=10&search%5Bsort_field%5D=&search%5Bsort_direction%5D=asc)

Anglo American	9	P	2015-01-09
Iberdrola	9	P	2002-06-24
Goldcorp Inc	9	P	2009-06-09
Agip Group	8	N	
Petroecuador	8	N	
Petrobras <sup>59</sup>	8	P	*
National Thermal Power Corporation	7	N	
Newmont Mining Corporation	7	P	2004-06-09
Vattenfall	7	P	2008-07-16
Wilmar International	7	P	2008-07-25
Union Fenosa	7	P	2002-03-22
Jaypee Group	7	N	
Corporacion Minera de Bolivia	6	N	
GDF Suez	6	P	2008-11-27
Siemens <sup>60</sup>	6	P	2003-11-26
Repsol <sup>61</sup>	6	P	2002-11-01
Chevron Nigeria Limited	6	N	
Coca Cola Company <sup>62</sup>	6	P	2002-08-31

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<sup>59</sup> 6 companies

[https://www.unglobalcompact.org/what-is-gc/participants/search?utf8=%E2%9C%93&search%5Bkeywords%5D=petrobras&button=&search%5Bper\\_page%5D=10&search%5Bsort\\_field%5D=&search%5Bsort\\_direction%5D=asc](https://www.unglobalcompact.org/what-is-gc/participants/search?utf8=%E2%9C%93&search%5Bkeywords%5D=petrobras&button=&search%5Bper_page%5D=10&search%5Bsort_field%5D=&search%5Bsort_direction%5D=asc)

<sup>60</sup> 9 companies

[https://www.unglobalcompact.org/what-is-gc/participants/search?button=&page=1&search%5Bkeywords%5D=Siemens&search%5Bper\\_page%5D=10&search%5Bsort\\_direction%5D=asc&search%5Bsort\\_field%5D=&utf8=%E2%9C%93](https://www.unglobalcompact.org/what-is-gc/participants/search?button=&page=1&search%5Bkeywords%5D=Siemens&search%5Bper_page%5D=10&search%5Bsort_direction%5D=asc&search%5Bsort_field%5D=&utf8=%E2%9C%93)

<sup>61</sup> 3 companies

[https://www.unglobalcompact.org/what-is-gc/participants/search?utf8=%E2%9C%93&search%5Bkeywords%5D=Repsol&button=&search%5Bper\\_page%5D=10&search%5Bsort\\_field%5D=&search%5Bsort\\_direction%5D=asc](https://www.unglobalcompact.org/what-is-gc/participants/search?utf8=%E2%9C%93&search%5Bkeywords%5D=Repsol&button=&search%5Bper_page%5D=10&search%5Bsort_field%5D=&search%5Bsort_direction%5D=asc)

<sup>62</sup> 21 companies

B2 GOLD Corp	6	N	
Odebrecht <sup>63</sup>	6	P	2015-03-31
Ecopetrol	6	P	2009-05-13
Eni Group	6	P	2001-07-01
Lukoil	5	P	2008-06-17
Alcoa	5	P	2009-09-23
Rosatom	5	N	
Ecopetrol Corporate Group	5	P	2009-05-13
Damodar Valley Corporation	5	N	
Vinci Group	5	P	2003-04-03
Vedanta <sup>64</sup>	5	P	2008-07-24
Areva	5	P	2003-03-20
Statoil	5	P	2000-07-26
Alstom	5	P	2008-03-18
Halliburton	5	N	
National Hydroelectric Power Corporation of India	5	N	

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[https://www.unglobalcompact.org/what-is-gc/participants/search?button=&page=1&search%5Bkeywords%5D=coca+cola&search%5Bper\\_page%5D=10&search%5Bsort\\_direction%5D=asc&search%5Bsort\\_field%5D=&utf8=%E2%9C%93](https://www.unglobalcompact.org/what-is-gc/participants/search?button=&page=1&search%5Bkeywords%5D=coca+cola&search%5Bper_page%5D=10&search%5Bsort_direction%5D=asc&search%5Bsort_field%5D=&utf8=%E2%9C%93)

<sup>63</sup> 5 companies which take part to the Odebrecht group have joined the Global Compact. Ejatlas is not completely clear on this, but it seems that environmental conflicts are mostly related to Odebrecht Ambiental, a Brazilian company, whose joining date has been inserted in the table

[https://www.unglobalcompact.org/what-is-gc/participants/search?utf8=%E2%9C%93&search%5Bkeywords%5D=Odebrecht++&button=&search%5Bper\\_page%5D=10&search%5Bsort\\_field%5D=&search%5Bsort\\_direction%5D=asc](https://www.unglobalcompact.org/what-is-gc/participants/search?utf8=%E2%9C%93&search%5Bkeywords%5D=Odebrecht++&button=&search%5Bper_page%5D=10&search%5Bsort_field%5D=&search%5Bsort_direction%5D=asc)

<sup>64</sup> 2 companies

[https://www.unglobalcompact.org/what-is-gc/participants/search?utf8=%E2%9C%93&search%5Bkeywords%5D=Vedanta&button=&search%5Bper\\_page%5D=10&search%5Bsort\\_field%5D=&search%5Bsort\\_direction%5D=asc](https://www.unglobalcompact.org/what-is-gc/participants/search?utf8=%E2%9C%93&search%5Bkeywords%5D=Vedanta&button=&search%5Bper_page%5D=10&search%5Bsort_field%5D=&search%5Bsort_direction%5D=asc)

### **3.4 Conclusions on Global Compact and Environmental Conflicts**

Out of 53 companies included in this dataset, 33 participate to the Global Compact (around 62%). The size of the companies, the number of environmental conflicts related to them and participation to the Global Compact do not seem to influence each other. All the interested companies are registered as active in the Global Compact website.

So, always considering all the limits that the selected dataset have, it is possible to conclude that participation to the UN Global Compact does not prevent companies to cause social conflicts for environmental issues, and that the Compact appears as a very weak instrument to ensure compliance with environmental human rights.

The best example of the Compact's inefficiency is perhaps provided by the Royal Dutch Shell, which declared to undertake a path toward the adaptation of its business strategy to the ten principles of corporate sustainability on 26 July 2000. This same company, as showed by empirical evidence and international trials<sup>65</sup>, has committed serious human rights violations after that date, and environmental activists consider it to be amongst the worst polluters in the world.

## **Conclusions**

The development of this work allowed to emphasize the coherence between environmental justice theories and political ecology with the latest innovations of human rights law in its relation with environmental issues. The concept of environmental injustice, is based on discrimination, in terms of disproportionate suffering from environmental harm and hazards. This is clearly contrary to the principles of human rights law, especially if related to the enjoyment of the rights to life, health, to access to food and water, to information, association

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<sup>65</sup> See, for example, Court of Justice of the Economic Community of West African States (ECOWAS), SERAP v. Federal Republic of Nigeria, 14<sup>th</sup> December 2012  
[http://www.courtecowas.org/site2012/pdf\\_files/decisions/judgements/2012/SERAP\\_V\\_FEDERAL\\_REPUBLIC\\_OF\\_NIGERIA.pdf](http://www.courtecowas.org/site2012/pdf_files/decisions/judgements/2012/SERAP_V_FEDERAL_REPUBLIC_OF_NIGERIA.pdf)

and political participation, which are the rights especially connected to environmental issues, according to John Knox's reports.

More specifically, the interrelation of class conditions, gender and race with environmental injustice is clearly connected to Knox's warnings about the fact the groups of persons already recognized as vulnerable by international human rights law, are also especially threatened by violations of their environmental human rights in situations of environmental risk. Internal colonialism, in particular, as a form of institutionalized environmental discrimination, is connected to the violations of the "procedural" rights of information and political participation which are comprehended within the set of environmental human rights.

The political content of environmental human rights connects them with the political phenomenon of environmental conflicts. If the "procedural" rights to expression, information and participation to decision-making processes related to the environment were fully guaranteed, the people of the territories affected by environmental harm would be free to decide on the environmental policies that would impact them. In such situation, environmental conflicts would manifest themselves in different ways, or would not occur at all, since their causes could have been already removed by effective democratic processes.

For these reasons, considering that the activities of transnational corporations are the most relevant cause of environmental conflicts at the global level, the presence of a company within the list provided by the Environmental Justice Atlas has been interpreted as a signal of at least partially inadequate commitment toward environmental protection and compliance with human rights provisions. Since almost two thirds of the companies whose activities have triggered environmental conflicts are also part of the Global Compact, this soft law instrument does not appear sufficient to ensure protection of environmental human rights.



## Bibliography

Agyeman J., Evans B., *Just Sustainability': The Emerging Discourse of Environmental Justice in Britain?*, The Geographical Journal, Vol. 170, No. 2, Environment and Development in the UK (Jun., 2004), pp. 155-164

Agyeman J., Personal website

<http://julianagyeman.com/>

Atlante Italiano dei Conflitti Ambientali, CDCA

<http://atlanteitaliano.cdca.it/>

Bullard R., *Poverty, Pollution and Environmental Racism: strategies for building healthy and sustainable community*, Clark Atlanta University, 2010

Ceu Center for Environmental Policy and Law; The Health and Environment Alliance; The Coalition for Environmental Justice, *Making the case for environmental justice in Central and Eastern Europe*, March 2007.

Conflitti Ambientali, biodiversità e democrazia della terra, a cura del CDCA, Edizioni Ambiente, 2011

Court of Justice of the Economic Community of West African States (ECOWAS), SERAP v. Federal Republic of Nigeria, 14<sup>th</sup> December 2012

[http://www.courtecowas.org/site2012/pdf\\_files/decisions/judgements/2012/SERAP\\_V\\_FEDERAL\\_REPUBLIC\\_OF\\_NIGERIA.pdf](http://www.courtecowas.org/site2012/pdf_files/decisions/judgements/2012/SERAP_V_FEDERAL_REPUBLIC_OF_NIGERIA.pdf)

Diamond L., Morlino L, *Assessing the Quality of Democracy*, The Johns Hopkins University Press, 2013

Ejolt, *Environmentalism of the poor*

<http://www.ejolt.org/2012/12/environmentalism-of-the-poor/>

Ejolt, official website

<http://ejolt.org/>

Friends of the Earth International, *Our environment, our rights - standing up for people and the planet*, August 2004

Global Compact website

<https://www.unglobalcompact.org/what-is-gc>

Greyl L., Ojo G., Ejolt Report n. 9, Digging Deep into Corporate Liability - Environmental Justice strategies in the world of oil, 2013

<http://www.ejolt.org/2013/10/digging-deep-corporate-liability-environmental-justice-strategies-in-the-world-of-oil/>

Homer-Dixon T., *On the Threshold: Environmental Changes as Causes of Acute Conflict*, International Security, Vol. 16, No. 2, 1991

Land Matrix

<http://www.landmatrix.org/en/about/>

Marquard L., South Africa's Colonial Policy, 1957

Martinez-Alier J., *The Environmentalism of the Poors*, Edward Elgar Publishing, Inc., 2002

Morgera E., *Corporate Accountability in International Environmental Law*, OUP 2009, Conclusions

<http://www.oxfordscholarship.com/view/10.1093/acprof:oso/9780199558018.001.0001/acprof-9780199558018>

Morgera E., Human Rights Dimensions of Corporate Environmental Accountability, 2011, in Dupuy P., Petersmann E., Francioni F., *Human Rights in International Investment Law and Arbitration*, Oxford Scholarship Online.

Morgera E., 'Significant Trends in Corporate Environmental Accountability: The New Performance Standards of the International Finance Corporate' (2006) 18 *Colorado Journal of International Environmental Law and Policy* 147.

Omoweh D., *Shell. The Petroleum Development Company, the State and Underdevelopment of Nigeria's Niger Delta - A Study in Environmental Degradation*, Africa Research & Publications, 2006

Sekaggya M., Report of the Special Rapporteur on the situation of human rights defenders, Human Rights Council, 16/01/2013

[http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A.HRC.22.47\\_en.pdf](http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A.HRC.22.47_en.pdf)

Special Rapporteur on human rights and the environment (former Independent Expert on human rights and the environment), OHCHR webpage

<http://www.ohchr.org/EN/Issues/Environment/SREnvironment/Pages/SREnvironmentIndex.aspx>

The Social and Economic Rights Action Center and the Center for Economic and Social Rights v. Nigeria, African Commission on Human and Peoples' Rights, Comm. No. 155/96 (2001).

[http://www.achpr.org/files/sessions/30th/comunications/155.96/achpr30\\_155\\_96\\_eng.pdf](http://www.achpr.org/files/sessions/30th/comunications/155.96/achpr30_155_96_eng.pdf)

The toxic ships, the Italian hub, the Mediterranean area and Africa, Greenpeace, 2010

<http://www.greenpeace.org/italy/Global/italy/report/2010/inquinamento/Report-The-toxic-ship.pdf>

Temper L., *Crude Justice & Ecocide in the Niger Delta*

<http://www.ejolt.org/2013/04/crude-justice-ecocide-in-the-niger-delta/>

UNHRC Resolution A/HRC/22/43 Report of the Independent Expert on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, John H. Knox, Preliminary Report, 2012

[http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A-HRC-22-43\\_en.pdf](http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A-HRC-22-43_en.pdf)

UNHRC resolution 19/10 Human rights and the environment, p. 2

<http://srenvironment.org/wp-content/uploads/2013/05/1910-PDF.pdf>

UNHRC resolution A/HRC/19/55, Report of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya, 2011

[http://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/RES/21/17](http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/21/17)

UNHRC Resolution A/HRC/22/43 Report of the Independent Expert on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, John H. Knox Preliminary report

<http://www.ohchr.org/EN/Issues/Environment/SREnvironment/Pages/Annualreports.aspx>

UNHRC Resolution A/HRC/25/53 Report of the Independent Expert on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, John H. Knox, Mapping report 2013

<http://www.ohchr.org/EN/Issues/Environment/SREnvironment/Pages/MappingReport.aspx>

United Nations Conference on Trade and Development (UNCTAD), Environment, UNCTAD Series on International Investment Agreements (UNCTAD/ITE/IIT/23, 2001).

<http://unctad.org/en/Docs/psiteiitd23.en.pdf>

United Nations Mandate on Human Rights and the Environment John H. Knox, UN Special Rapporteur

<http://srenvironment.org/>

United Nations, Office of the High Commissioner on Human Rights, Guiding Principles on Business and Human Rights, 2011

[http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf)

Velicu, I. and M. Kaika (2015 (in press)) *Undoing environmental justice: Re-imagining equality in the Rosia Montana anti-mining movement*. Geoforum doi:10.1016/j.geoforum.2015.10.012.