



Oltre il mainstream della global governance socio-ambientale.

► Conflitti, diritti e imprese

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Trieste 13th Dec 2019

1. Environmental Human Rights: definition, scope and context

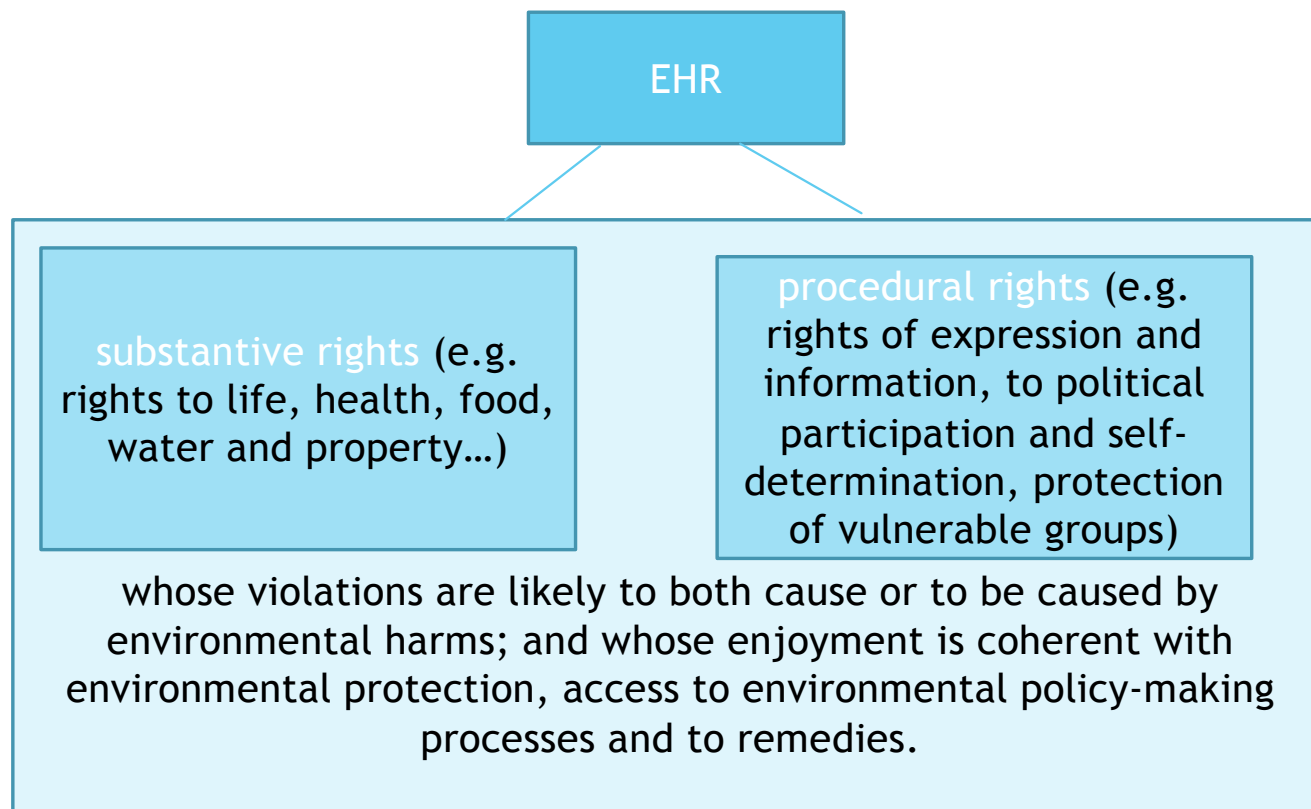
a. Human Right and the Environment frame

- ▶ Mainstreaming of environmental issues in global politics (green regimes): Environmental concerns as (almost exclusive) matters of nature (i.e. ecosystems) protection.

b. Environmental Human Rights (EHR)

(2012 John Knox - 2018 David Boyle Expert and Special Rapporteurs on HR and the Environment)

- ▶ EHR as a unique set of provision because: “HR 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” (OHCHR, 2014)



2. Innovations introduced by EHR in the HR & the Environment frame

1. Attention for the procedural aspects (ex.)



Substantive rights



Procedural rights



Environmental Rights Database

About the database ...

BROWSE BY

Category

Sub-Category

Implementing Actor

Location

Tag

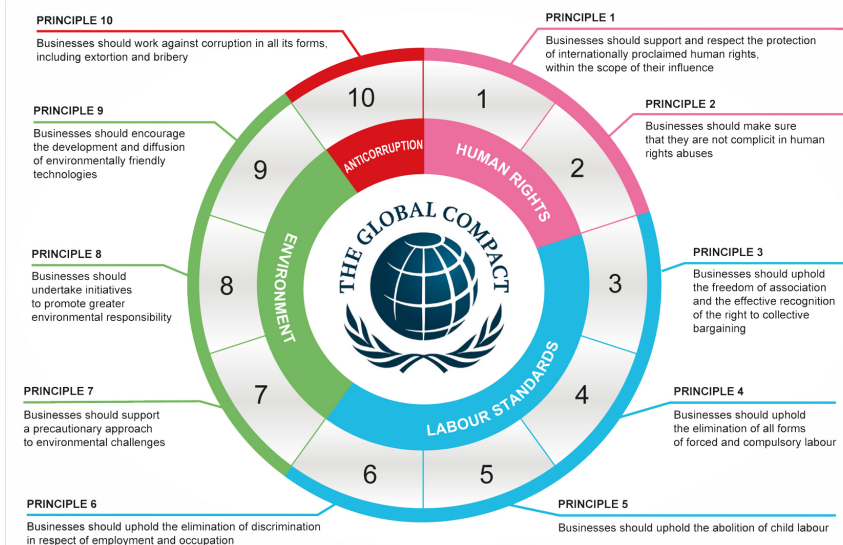
View all practices ...

Categories

- Obligation to Facilitate Public Participation in Environmental Decision-Making (12)
- Obligation to Make Environmental Information Public (22)
- Obligation to Protect Rights of Expression and Association (8)
- Obligation to Provide Access to Legal Remedies (31)
- Obligations Relating to Non-State Actors (6)
- Obligations Relating to Those in Vulnerable Situations (14)
- Obligations Relating to Transboundary Environmental Harm (11)
- Procedural Obligations (7)
- Substantive Obligations (9)

3. Relation of EHR statements and local struggles by HR defenders and environmental groups = recognition that EHR definition has been largely anticipated by the work of environmental CSOs, NGOs

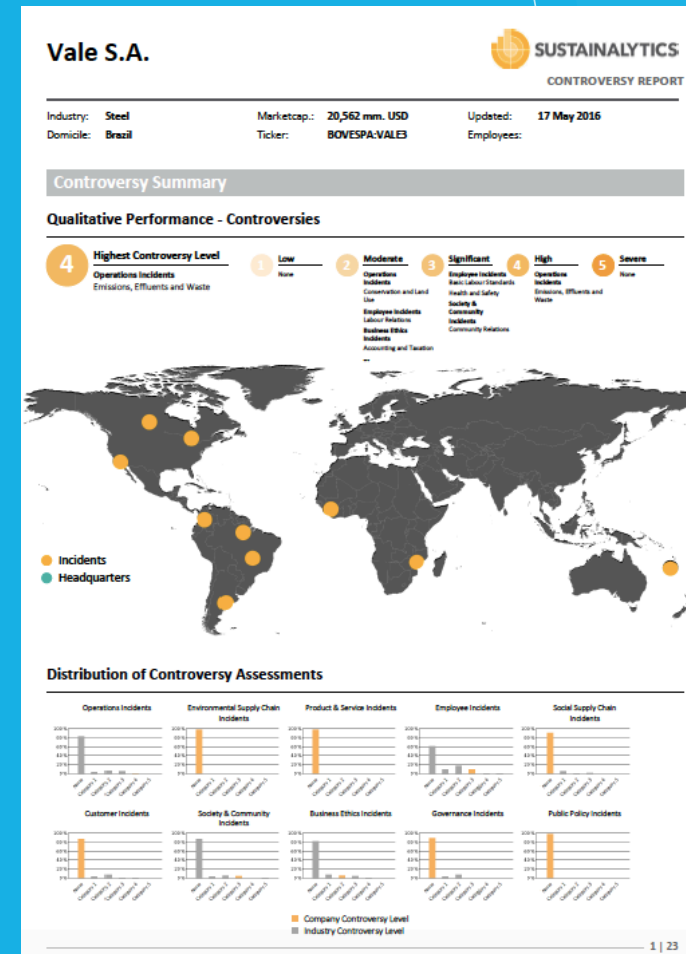
4. Explicit affirmation of the role and responsibility of non-state actors:
“business enterprises have a responsibility to respect internationally recognized human rights and . . . this responsibility is independent of State obligations”
(A/HRC/24/41, para. 52)



- U.N. has no authority to control or regulate private companies' behaviors
- Voluntary codes of conduct, environmental standards (EMSs or ISO 14000 standards), sector-specific programs, multi-stakeholder partnership (Johannesburg 2002), e.g. Global Compact (soft law)

► RQ:

can we claim that business companies' (including MNEs and NEs) involvement in environmental conflicts, disputes and controversies, in many cases (despite not all of the cases) is not just a matter of disagreement upon development trajectories (as suggested by most of business ethics literature), but rather a matter of EHR (alleged) violations business companies can be liable of?



4. Pathway for the analysis

business companies taking advantage of the possibilities offered by their operating at the global level also need to take the burden of socio-environmental mismanagement, and to be held liable for the consequences these might generate

Research hypotheses

such a responsibility seems to be poorly guaranteed by the voluntary codes of conducts and certification standards, as companies' misbehaviors are still pointed as the source of discontents' raise worldwide

inadequate or absent application of (procedural) EHR trigger environmental conflicts, in situations where State or non-state actors are threatening the enjoyment of the substantive component of these very rights by abuses or violations

the emergence of socio-environmental conflicts can be assumed as an indicator of actual or potential violations of EHR

Theoretical background

If we want to use EC as indicators of actual or potential violations of EHR we need to :

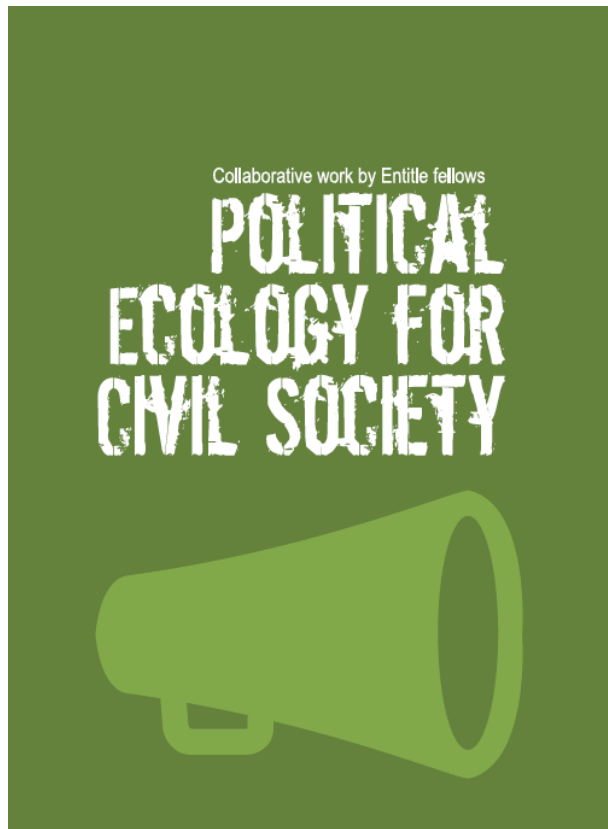
- a. Discuss the relationship between EHR, Political Ecology and Environmental Justice (as the frame for Environmental Conflicts)

$EP \leftrightarrow EHR$

$EC < EJ < EP$

- b. Establish a relationship between (a subset of) EC and the (alleged) violation of EHR due to national and MNEs' misconduct

$EHR \leftrightarrow EC$



a. EHR and Environmental Politics & Justice

EHR focus on **procedures and democracy conditions** that makes it possible to achieve desired standard of environmental and HR protection →

- ▶ issues of **political participation** in decision-making processes
- ▶ deconstruction of mainstream liberal perspective to explain how environmental challenges are permeated with issues of power circulation and social justice
- ▶ pointing out the mutual influence of environmental degradation and economic, social and cultural poverty

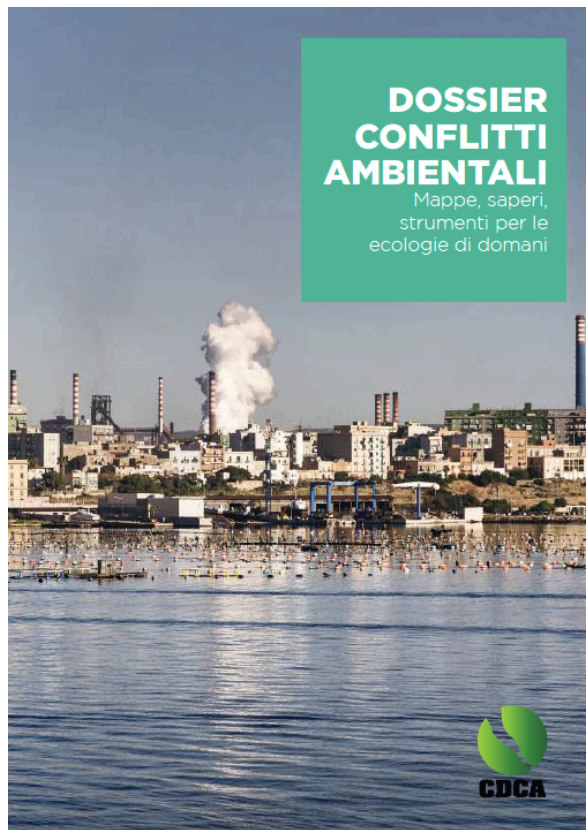
→ These makes EHR fine-tuned with Political Ecology frame



EHR reports officially recognised that grassroots movements and local struggles have had an impact in the definition on the UN work

FoE's categorisation of environmental human right

- the right to a sustainable livelihood
- the right to a clean and healthy environment
- the right to water
- the right to food safety and security
- the collective rights
- the right to know
- the right to decide
- the right to resist
- the right for environmental refugees
- the right to claim ecological debt
- the right to environmental justice



b. Environmental Conflicts and EHR

The involvement in conflicts can be considered as a sign of non-compliance with EHR provision, because at a fine-scale analysis, it becomes apparent that most of the conflicts originate from the disregard of procedural rights, such as the right to participation in environmental decision-making processes, the right to information and to redress for environmental harm - which are exactly those procedural right innovatively introduced by Knox in the list of environmentally-relevant HR.

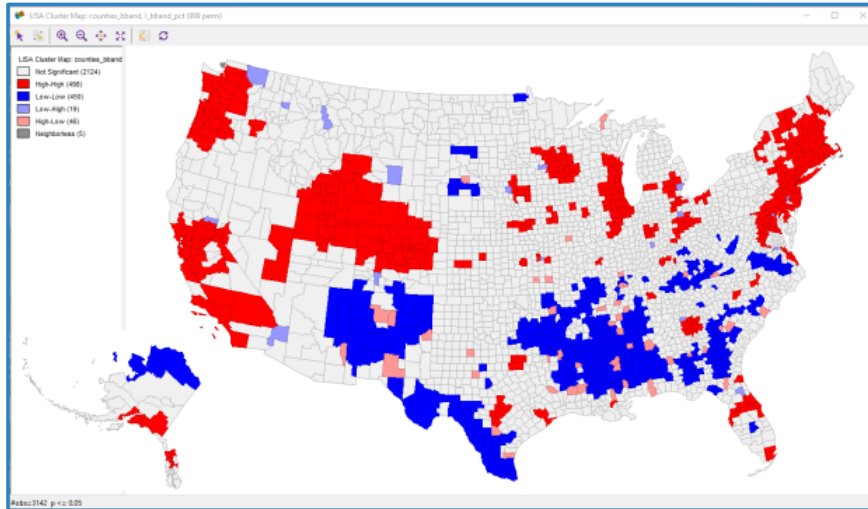
→ Defining the conditions under which EC can be considered as proxies of EHR violations (including cases where the conflict issue was not presented by involved actors as a matter or rights violations).

1. Systematic mining of existing data-bases of EHR-related EC conflicts : *Environmental Justice Atlas*



<https://ejatlas.org/>

2. Data processing and analysis

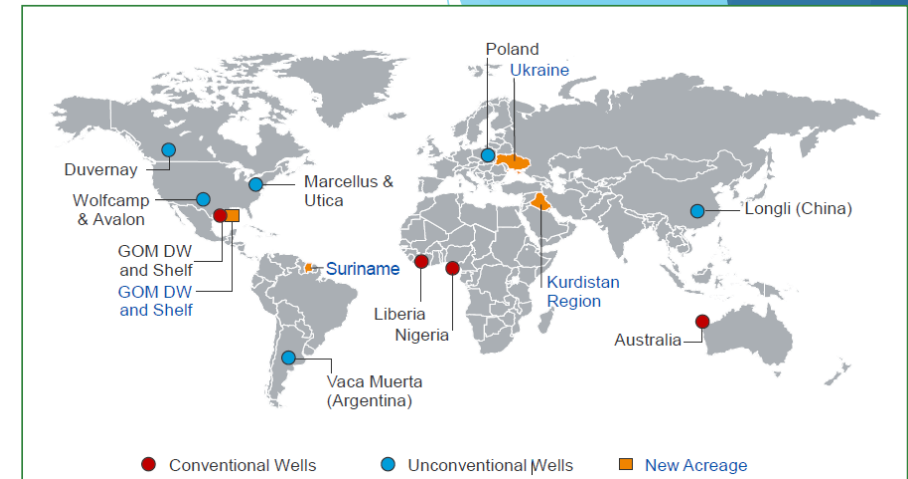


Clustering analysis, e.g.:

- Spatial Autocorrelation (Moran)
- Local Identifier Spatial Association
- Hot/Cold spot analysis (Getis)
- GWR Geographically Weighted Regression
- PCA and isodata clustering methods

1.

2.



Understand, explore and make emerge latent connections by investigating the network through network analysis



3. Cross coupling the subscribers of the Global Compact Framework with actors in the Ejolt Atlas

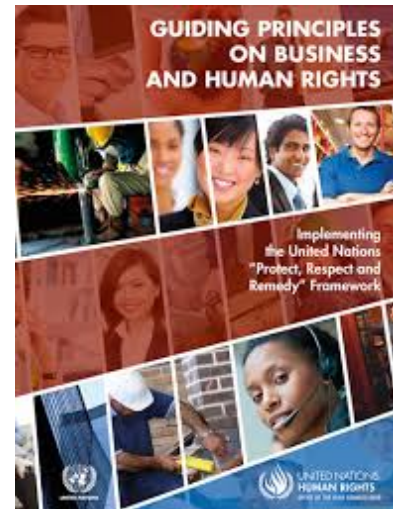
6. Discussing data and results

Purposes:

- ▶ to provide a space-based analysis of EHR-related EC conflicts
(e.g. what kind of conflicts amongst those that can be associated with EHR violation are mainly present in different geographical areas)
- ▶ to retrieve commonalities and differences in order to elaborate general findings
(i.e. to offer a socio-political/spatial conditions under which specific forms of violations are likely to occur; identify what EHR are more likely to be violated in different part of the world etc.)

7. (Provisional) conclusions

- ▶ EHR poses a new challenges for non-State actors that benefit to operate in different States subject to different regulatory regimes and should be accompanied with the “responsibility to respect” HR law;
- ▶ Possibility to turn the voluntary GC initiative and the *Guiding Principles on Business and Human Rights* into a more binding instrument for business operating at global level;
- ▶ Complemented them with control instruments and juridical procedures (e.g. *International Court for Environmental Crimes*)



ICC widens remit to include environmental destruction cases

In change of focus, Hague court will prosecute government and individuals for environmental crimes such as landgrabs

