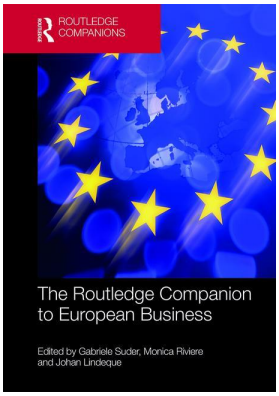

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BUSINESS AND HUMAN RIGHTS IN EUROPE

Insights from the ILVA case

Chiara Macchi and Elisa Giuliani

Introduction

Seen from elsewhere in the world, the European space, with particular reference to Western European countries,[1] has often been perceived as the stronghold of welfare societies. Despite some economic and institutional differences (Hall 2007), most European countries have often been viewed as characterised by an overall high quality of life, an outstanding level of education and strong national insurance systems for health, pensions and other social commodities (Barcevičius et al. 2015). Historically, moreover, most European governments have afforded, as compared to more liberal market economies, an exceptional level of protection for workers' rights, with labour-related issues being negotiated with governments, rather than with companies, and collective interests being frequently pursued through business associations and unions (e.g. Alesina and Glaeser 2006). Also, some European social programmes have usually been highly redistributive, while European tax systems are more progressive than in other contexts and European countries are known for their strong regulatory systems that are meant to protect the poorest and most marginalised component of European society (Alesina et al. 2001; Majone 1994). On these grounds, the business literature often assumes that European countries possess strong institutions, as compared to other contexts, also due to the convergence pressures at the EU level (see e.g. Matten and Moon 2008; Tregaskis and Brewster 2006, among others).

Although European economic crises undeniably put European countries and their welfare systems under severe pressure (e.g. Engström 2016), the European legal system is viewed as relatively advanced, where human rights (see the next section) are formally afforded protection and promotion. This, among other things, means that business enterprises operating in Europe are expected to conduct business in ways that do not lead to gross human rights infringements, while European governments are expected to be effective in preventing business-related human rights violations, and in remedying themwhen they do arise. In this chapter we delve into the intricacies of the relationship between business and human rights and contend, using the case of the ILVA steel plant in Taranto (Italy), that European governments may also encounter significant challenges when exercising their political leverage and their institutional role to hold businesses accountable for the negative impacts of their activities. We discuss in this chapter whether the protection of much-needed investments and the maintenance of political consensus in the context of an economic crisis can sometimes take priority over the states' internationally

and constitutionally sanctioned human rights obligations. As a result, even in Europe, corporate unethical or even criminal conduct, combined with political weakness or irresponsibility, can still lead to cases of blatant disregard for the rights of workers and of local communities, exacerbating social conflict and, ultimately, harming the economic value of the business activities involved. This chapter outlines, in particular, a case in which different values and interests, among which are development, human rights and environmental considerations, appear to have clashed, posing a challenge to all stakeholders involved. The case study aims to open additional research avenues and thereby extend the European business literature towards more thorough investigations into the conflicts that arise and persist in even in the relatively advanced institutional and policy context of EU countries.

Business and human rights

International perspectives

Human rights are understood as inalienable fundamental rights to which a person is inherently entitled simply by virtue of being a human being.[2] The philosophical foundations of human rights are found in the natural rights thinking of the seventeenth century, with antecedents in the writings of ancient philosophers such as Aristotele, Cicero and Seneca (Fagan 2013). However, human rights gained political authority through the 1948 Universal Declaration of Human Rights (UDHR), which was a response to the atrocities of World War II, and became a milestone document in the history of human rights. The UDHR sets out the fundamental rights to be universally protected, and, in its 30 articles, covers the wide range of civil (e.g. right to life, to non-discrimination on grounds such as race, ethnicity, religion, colour, age, etc.) and political rights (e.g. right to a fair trial, right to vote), as well as economic, social and cultural rights (e.g. right to education, to health, to social security, to work, among others).

The UDHR is formally a soft law instrument, but it set the basis for international human rights law to be developed in the form of binding treaties. These include the 1966 International Covenant on Civil and Political Rights (ICCPR) and on Economic, Social and Cultural Rights (ICESCR), and subsequent covenants and treaties covering the protection of other vulnerable groups such as women, children, migrant workers and people with disabilities, indigenous people, and other specific rights, adopted between 1979 and 2007 (Bernaz 2017). Moreover, a set of treaties has been adopted by states from different world regions. States ratifying the treaties are expected to turn the ratified principles into national laws and ensure their respect within their territory and jurisdiction. If they fail to do so, consequences in most cases will only amount to political condemnation and recommendations by the supervisory bodies that monitor the respect of human rights treaties (such as the UN treaty bodies), but can sometimes entail other types of sanction (e.g. the fines that the European Court of Human Rights can inflict on state parties).

International human rights law was primarily designed to address violations by states, which are direct duty bearers of human rights obligations under international law, while other entities, such as individuals or business firms, are in general not directly bound by its norms. This means that it is the primary duty of the state to ensure that private entities, including companies, respect human rights within their jurisdiction. Businesses, while not generally being bearers of direct international human rights obligations, enjoy some human rights – that they can invoke, for instance, before the European Court of Human Rights – and are also holders of extensive rights under international investment law. Recently, as a result of a world order where business firms, particularly multinational enterprises (MNEs), were on occasion reported in

extant literature as enjoying power able to influence and challenge that of states (Barley 2007; Green Cowles 1996; Hillmann et al. 2004; Kapfer 2006; Scherer and Palazzo 2008), a set of initiatives has been promoted to make MNEs and other private firms accountable for human rights violations (Kobrin 2009).[3] To date, the most significant achievement has been reached through a soft law approach, with the adoption of the UN Guiding Principles on Business and Human Rights (UNGPs) and their progressive implementation through national action plans (NAPs). The UNGPs have been adopted in 2011 by the UN Human Rights Council after a long process of elaboration led by the former Secretary General Special Representative on Business and Human Rights, John Ruggie. The UNGPs rest on three pillars. The first is the state duty to protect against human rights abuses by third parties, a well-established principle of international law. The second is the corporate responsibility to *respect* human rights, which means that business enterprises should act with due diligence to avoid infringing on the rights of others and to address adverse impacts linked to their operations. The third is the right of victims to have access to effective remedy, both judicial and non-judicial. While the UNGPs are not legally binding in nature, they have been instrumental in setting an international standard for business practice framed around the 1948 UDHR and subsequent covenants and treaties. The corporate responsibility to respect human rights extends both to the firm's own actions, as well as to its potential 'complicity' in the harmful conduct of its business partners, including governments or suppliers.

The UNGPs have had a significant resonance in the international community. Some states are working to develop NAPs, which will promote the implementation of the UNGPs within their national contexts. Moreover, core elements of the UNGPs were incorporated into the 2011 revision of the OECD Guidelines for Multinational Enterprises (Ruggie and Nelson 2015), while a growing number of MNEs are publicly endorsing the UNGPs as part their corporate social responsibility (CSR) policies.

Business and human rights in the European context

At the European level, the 47 member states of the Council of Europe are bound by the European Convention on Human Rights (entered into force in 1953) and most of them have also ratified the European Social Charter (whose revised version entered into force in 1999). The state parties' compliance with the European Convention, later integrated by several additional protocols, is monitored by the European Court of Human Rights, to which individuals, groups of individuals or other contracting states can lodge applications in cases of alleged violations. As concerns the EU, member states are bound by the Charter of Fundamental Rights of the European Union, which acquired legally binding status with the 2009 Lisbon Treaty. Protection and promotion of human rights are also at the core of the EU's 'relations with the wider world' (Art. 3, Treaty on European Union (TEU), Consolidated version, OJ C 202 (2016)) and of its external action (Art. 21, TEU; Art. 205, Treaty on the Functioning of the European Union (TFEU) Consolidated version, OJ C 202 (2016)).

Concerning business and human rights specifically, the EU, on the one hand, has not endorsed at this stage the project of elaboration of an international binding treaty on business and human rights, currently under discussion at the Human Rights Council (2014). On the other, though, it has actively promoted the UNGPs, calling on member states to swiftly adopt NAPs for their effective implementation (European Commission 2011), an exhortation that has been fully complied with by only eleven EU states at the time of writing (see: Office of the High Commissioner for Human Rights n.d.). Moreover, as detailed by Kornelakis and Veliziotis in Chapter 15 of this book, the EU has put in place an advanced legal framework

for the protection of workers' rights in important domains such as equal opportunities and health and safety standards. It has also been rather active in adopting new pieces of legislation tackling the link between business activities and human rights, the environment and conflict (among others, the 2010 EU Timber Regulation (Regulation (EU) No 995/2010), the 2017 EU Regulation on conflict minerals (Regulation EU 2017/821), and the 2014 Non-Financial Reporting Directive (Directive 2014/95/EU)).

Against this background, one of the potentially relevant contributions of the UNGPs is the human rights due diligence, which entails a company's duty of conduct to identify the risks of negative human rights impacts linked to their operations and business relationships, prioritise the most serious ones, take the necessary steps to avoid or mitigate such risks, and provide redress for the negative impacts caused (UNGPs, Principles 15, 17). For businesses operating in European countries this implies, at a minimum, respecting applicable national and European legislation, but it might entail the adoption of additional measures. When the company does not abide by its duties, it is the primary role of the state to enforce applicable laws and regulations, also in line with its international human rights obligations, to prevent or stop human rights abuses. This obligation is not diminished by competing commitments that the state might have agreed under trade or investment treaties or contracts (UNGPs, Principle 9).

Although extant literature reports on relatively strong legal frameworks in Europe, research also sheds light on business activities in Europe that continue to be at the heart of social conflicts and controversies that reveal challenges in the first two pillars of the UNGPs (the corporate responsibility to respect and the state duty to protect human rights), often with grave consequences for the third pillar (the victim's right to remedy). In the next section we discuss a salient business-related human rights controversy in recent Italian history: the ILVA steel plant of Taranto.

The focal controversy: The ILVA steel plant in Taranto, Italy

The case of the ILVA steel plant in Taranto, in the south of Italy, is an emblematic case in which corporate malpractice and the contradictory conduct of local and national authorities have led to a conundrum in which a number of human rights, protected by international legal instruments as well as by the Italian Constitution, have been seriously put at stake. The case is interesting for scholarship as it questions some of the taken-for-granted assumptions about the well-functioning of institutions in advanced countries, and it is particularly relevant for at least two other reasons. The first is the economic and social importance of the plant founded in 1961, which has long represented the largest steel plant in Europe (Cristofoli et al. 2015, p. 103; Ferrante et al. 2015, p. 433). Initially state-controlled and then sold to the Gruppo Riva (in 1995), ILVA came to account for 40 per cent of Italy's steel production (Struggles in Italy 2016; Vagliasindi and Gerstetter 2015, pp. 6–7). In 2013, it directly employed 12,000 workers – today around 10,000 in an area where the current unemployment rate is 16.5 per cent (*Il Fatto Quotidiano* 2017; ISTAT 2016) – and had business relations with around 8,000 contractors (Vagliasindi and Gerstetter 2015, p. 7).

The second reason concerns the extremely serious consequences of the pollution produced by the plant, which has raised concerns since the 1990s, being declared an 'area at high risk of environmental crisis' by a Resolution of the Council of Ministers on 11 July 1997. The pernicious effects of the plant started to be evident when the business, then called Italsider, was still state controlled, as the installations (such as the blast furnace) necessary for production at high temperatures had been built near inhabited neighbourhoods with a view to reducing the costs of transporting materials from the port to the plant (Demurtas 2012). The first investigation

against the management of Italsider for dust, gas and fumes pollution was initiated by the Italian authorities in 1982 (Demurtas 2012) and in 1991 the area was for the first time declared at high environmental risk (Demurtas 2012). In the following years, a high number of judicial proceedings were initiated against the management, sometimes leading to convictions. For instance, in the 1990s, the process of asbestos removal from the plant started, together with a long legal struggle of the workers that had been exposed to it for years and wished to obtain compensation and the recognition of their right to an early retirement (Casula 2014a; Demurtas 2012). The insufficient measures adopted to protect the workers from the highly noxious substance led in 2014 to the conviction of 27 former managers of the steel plant by an Italian judge of first instance at the Tribunal of Taranto[4] (Casula 2014a).

In 2005, the section of the plant dedicated to steel production at high temperatures was closed, and two of the managers were convicted by the Supreme Court of Cassation for having provoked and failed to prevent constant and permanent spills of dangerous dusts and minerals from the plant (see Riva ed altri (28 September 2005) Supreme Court of Cassation (Italy), section II, Judgment no. 38936). Four managers were found guilty in 2007 of failing to adopt precautions against workplace injury and the polluting emissions produced by the plant (Tribunal of Taranto, no. 408, 20 April 2007). The judge of first instance noted that the management was fully aware of the structural inadequacy of the production plant, and did not accept the company's alleged shortage of funds as a defence for failing to take the necessary measures (Tribunal of Taranto, no. 408, 20 April 2007).

The controversy concerning the polluting effect of the business reached unprecedented levels when the dimension of the problem was highlighted by a study carried out as part of the court proceedings initiated in Taranto in 2010. The Prosecutor of Taranto, who had started an investigation for environmental disaster, presented a dossier linking the toxic gas and fumes produced by ILVA over 13 years to 386 deaths, 237 malignant tumours, 247 hospitalisations for heart disease, and 937 hospitalisations for respiratory disease (Biggeri et al. 2012, p. 219; Vagliasindi and Gerstetter 2015, p. 13). It also highlighted the disproportionate incidence of tumours, heart diseases and neurological diseases among the plant's workers (Biggeri et al. 2012, p. 221). In addition, the judge who ordered in 2012 the partial shutdown of the plant stressed the obnoxious effects of pollution on livestock and, therefore, on the food chain (*ANSA.it* 2012). Underlining the total disregard for human health and the environment that had characterised the plant's management, she issued an arrest warrant for eight people, including Emilio Riva and his son Nicola Riva (*Il Fatto Quotidiano* 2012). Dioxin emissions, even after the court rulings and despite the national and local authorities' commitment to the clean-up of the area with a 336 million budget, were reported at alarming levels (and even reached a peak in 2016) (Marescotti 2014; Ricapito 2016; Vagliasindi and Gerstetter 2015, p. 14). In spite of ILVA's dramatic impacts, which were confirmed by additional studies (Comba et al. 2012; Pirastu et al. 2011; *Repubblica.it* 2016), its social and economic importance remained such in the Taranto area that eight thousands workers protested against its partial shutdown in 2012 (*Il Fatto Quotidiano* 2012).

The state's duty to protect human rights from infringements by third parties (including businesses) is well established under international law and has been reaffirmed by the UNGPs on Business and Human Rights, which also posit the corporate responsibility to exercise 'human rights due diligence' throughout their operations (Principle 17). The ILVA case is largely considered a case of failure by both the private and public sector to abide by those duties (see, for instance, Greco and Chiarello 2014). The company has often tried to justify its inaction vis-à-vis the well-known inadequacy of its production facilities, pointing at its alleged lack of funds, a thesis that has been more than once disproved by the Italian courts and that, in

any case, would not relieve the management from their obligations (Tribunal of Taranto, 2014, p. 203; Tribunal of Taranto, 2007, para 3.2(f)). This inaction – which entailed the failure to stop emissions, but also to inform its own workers, for instance, of the dangers connected to asbestos exposure (Tribunal of Taranto, 2014, p. 205) – is reported in clear contravention to the principle of human rights due diligence, by which the UNGPs mean the corporate duty of conduct to identify the possible negative human rights impacts of their operations and adopt the necessary steps to tackle the risks, prioritising the most serious (UNGPs, Principle 17).

As concerns the state's duty to protect human rights, the Italian government, faced with competing interests – including the rights of the stakeholders involved, but also political consensus and economic considerations –adopted a contradictory attitude that postponed any initiative to stop the polluting emissions. For instance, after the area was declared at high environmental risk in 1991, it took until 1998 to put in place a reclamation plan under the aegis of the Ministry of Environment (Demurtas 2012). After the 2005 final judgment by the Supreme Court of Cassation against the plant's managers, the local authorities decided not to bring a civil action to demand compensation from the company, and instead continued the practice of 'agreement protocols' with ILVA by which the latter repeatedly committed to restoring the safety of the plant, pledges that were regularly disregarded by the company (Crecchi 2012). Given the failure of these agreements, which Judge Todisco defined in 2012 as a 'gross farce' (Repubblica.it 2012), it was nine years after the final judgment that the municipality of Taranto filed a civil lawsuit asking for 3 billion euros in compensation (Casula 2014b). In the meantime, the case had given rise to a clash between state powers, as in 2012 the government issued a decree allowing the plant to temporarily resume operations in spite of the partial shutdown ordered by the court, prompting the prosecutor of Taranto to challenge the constitutionality of the governmental act (Vagliasindi and Gerstetter 2015, p. 14).

Condemnation of the conduct adopted by the Italian public powers throughout the years came both from national and international authorities. The 2014 first instance judgment in the asbestos case underlined the 'inertia of public powers' that failed for decades to exercise their role, directly contributing to the 'disastrous consequences' for the health and life of workers that emerged from the judicial proceedings (Tribunal of Taranto, 2014, p. 206).

The European Commission filed a first infringement procedure against Italy in 2011, which resulted in the finding by the European Court of Justice that Italy had contravened – with regard to ILVA and to other industrial sites – EU norms on integrated pollution prevention and control (Vagliasindi and Gerstetter 2015, p. 11). A new infringement procedure was started in 2013 due to Italy's failure to ensure ILVA's compliance with the EU Directive on industrial emissions (Directive 2010/75/EU), as the company continued to disregard the conditions enshrined in its authorisation to operate issued by public authorities, as required by EU law (European Commission 2014). The Commission noted that dense clouds of industrial dusts and particulate matter continued to be emitted by the plant, causing documented pollution of air, water sources and soil (European Commission 2014). It also found that Italy was failing to respect the 'polluter pays' principle enshrined in the Directive on environmental liability (Directive 2004/35/CE), which prescribes that in the case of dangerous activities (including steel production) a regime of strict liability attaches to the company's conduct, provided that a causal link between the activity and the damage is established (European Commission 2013). Since 2016, the Commission has also been investigating whether the financial support provided by Italy to ILVA is in breach of EU norms on state aid (European Commission 2016), and is closely observing the ongoing process of sale of the plant (*Il Nuovo Quotidiano di Puglia* 2017).

In addition to the controversies linked to environmental and competition legislation, the Italian authorities in the ILVA case seem to have failed to abide by their international

human rights obligations. When faced with a difficult balancing task between rights and values protected at the international and national level, states have a duty to recognise the priority of fundamental rights such as the right to life and the right to health. That, as the Tribunal of Taranto underlined, cannot be sacrificed to the freedom of economic initiative (albeit constitutionally protected) of companies (Tribunal of Taranto, 2007, para. 3.2(f)). The state has an obligation to exercise due diligence to protect those fundamental rights even in the face of the competing need to ensure other human rights, such as the right to work protected by the Italian Constitution and by international instruments (e.g. the International Covenant on Economic, Social and Cultural Rights). It is, therefore, unsurprising that alleged victims of pollution in the Taranto area are raising issues under the European Convention of Human Rights. The recent lawsuit, signed by 182 Taranto residents and communicated to the Italian government in April 2016, revolves around the alleged failure by Italy to adopt the necessary legal and informational measures to protect the health of citizens and their living environment (European Court of Human Rights 2016). Pointing to the fact that the government has allowed the plant to continue its activities by means of a governmental decree in spite of the dangers shown by expert studies, the applicants claim their right to life, to private and family life and to an effective remedy (respectively, articles 2, 8 and 13 of the European Convention of Human Rights) have been violated (European Court of Human Rights 2016).

At the time of writing this chapter, the procedure for the initiation of a bid for the acquisition of ILVA is ongoing, while the plant has remained subject to extraordinary administration since the beginning of 2015 (Palmioti 2017) and the future of its 10,000 workers is uncertain (*Il Fatto Quotidiano* 2017).

Discussion

While some European business literature contends that European countries have long been considered a stronghold of welfare societies, this chapter outlines a case illustrating the challenges some countries may face in ensuring respect and promotion of fundamental rights when economic interests are involved, and the challenge that this poses to the European legislator who relies largely on member states' diligent implementation of rules. We note that our critical analysis is in line with earlier views in political science about the development of clientelism and patronage in particular Western European countries, conceived as strategies for the acquisition and maintenance of power by the political parties and actors, and strategies for the protection and promotion of vested interests by other actors including economic ones (e.g. Piattoni 2001). Our focus on business and human rights does not directly address these issues, but it raises similar concerns about the potential failures of existing formal institutions in European countries, and paves the way for further scientific inquiry into the interplay between business, governments and human rights that needs strengthening at the level of the European Union, where the Italian case discussed in this contribution is not an isolated example. In fact, similar controversies exist elsewhere in Italy, as well as in other European countries. Notable cases include protests against the Skouries gold mine in Greece (Meynen and Poulimeni 2016); the new high-speed railway line in Piedmont, Italy (Della Porta and Piazza 2007); the environmental deterioration involved in the Sivens dam project in France (Neslen 2014); the Rosia Montana open pit mine controversy in Romania (Beyerle and Olteanu 2016); and the Shell/Exxon natural gas extraction linked to earthquakes in Groeningen, the Netherlands (Amin 2015), among many others. Moreover, business-related human rights controversies are affecting European decision-makers at large, which makes a strong case for further research and public policy contributions. A recent case in point is the decision by the European Chemical Agency to judge as safe for public

use glyphosate, a herbicide that the International Agency for Research on Cancer classified, based on extant empirical evidence, as 'probably carcinogenic to humans' in 2015. Similarly, the European Commission's reactions to the 2015 Volkswagen's emission scandal is reported to have been timid, allowing car manufacturers to take a rather long time to adjust their nitrogen oxide emissions to the limits provided by the law, to the extent that emissions are allowed to be 50 per cent higher than the legal limit from 2021 and much higher than that before then. Given the link existing between the human right to health and nitrogen oxide emissions, questions arise about the capacity of the EU and its member states to ensure respect and promotion of human rights when confronted with pressures from big industry players. These questions warrant further research. Economic crises, as shown in Chapter 15 of this book, could cause a setback for the progress of the so-called Lisbon Strategy and might exacerbate the social conflicts linked to big industrial projects and to business practices perceived as neglectful of human rights and environmental protection. At the same time, they might prompt some governments to relax social and environmental standards, giving priority to investment attraction.

This worrying potential scenario connects to the existing intellectual debate about the normative solutions that can be advanced to prevent business-related harm from occurring. Two intellectual positions are currently dominant in the field. On the one hand, scholars from legal disciplines posit that a hard-law solution in international law could help enhance corporate accountability for human rights violations and overcome the weaknesses of domestic laws (Backer 2014; Bernaz 2013; Bilchitz 2016; De Schutter 2010; Deva 2014; Melish 2014). On the other hand, others fear that embarking on the difficult negotiation of a binding instrument would distract resources from a meaningful implementation of the UNGPs by states and corporations (Ruggie 2013, pp. xxii–xxiii; Taylor 2014) and would not lead to an agreement on a single global corporate liability standard (IOE 2014) or produce tangible effects on corporate conduct around the globe (Rhodes 2014). In a similar vein, management scholars have often invoked the need to convince companies to engage in voluntary self-regulation through the endorsement of soft law initiatives like the UNGPs, the development of CSR policies and firm-level codes of conduct (Rivoli and Waddock 2011), given the failure of many world-wide governments to ensure the rule of law, and the reputational pressures MNEs face when they are exposed to risky institutional environments (Fiaschi et al. 2017). Meanwhile, some emphasise the need for both hard law and voluntary solutions to proceed in parallel (Bernaz 2017), although which normative mix is effective in curbing harmful business conducts is still an open question. Cases such as the Volkswagen scandal demonstrate that even the most frontier companies in terms of their CSR policies potentially enact wrongful conduct while operating in solid institutional contexts like the USA and Europe at large, which in turn suggests that hard law – either at the domestic or at the international level – may not be such a magic bullet.

Conclusion

The existing intellectual debate about the human rights responsibilities of business provides important research avenues for future contributions in this field. First, scholars should make efforts to go beyond anecdotal evidence and case study research, and work at the development of large-scale datasets that codify events of business-related human rights controversies throughout Europe and beyond. This will allow a much more comprehensive look at this phenomenon along with a better understanding of it, especially if human rights data are matched with other business-related data (on financial performance, investments, location decisions, etc.). Second, more data availability would be relevant to answer some of the many

open questions in this area of research (for a review and research agenda see Giuliani and Macchi 2014). For instance, we still know very little about the way in which companies' investment strategies contribute to human rights respect or violations, or how these strategies differ depending on the company's country of origin. Are these differences due to their home institutional or cultural context, or to their own internal strategic choices? Do foreign investors in Europe align to European or national standards and, in that case, with what outcomes? How has this changed over time? Does the adoption of voluntary CSR policies across Europe or the endorsement of soft law initiatives contribute to a reduction in business-related human rights controversies? Do European companies sourcing from international suppliers respect human rights of distant constituencies involved in their value chains? How can EU-based approaches strengthen human rights protection and reduce violations in a holistic and comprehensive manner, given the multi-layered nature of multilateral decision-making? These and similar questions are waiting for answers and we hope scholars of different disciplines will contribute further to this research agenda.

Notes

1 We acknowledge that the term Europe is subject to multiple interpretations. In this chapter, we refer to Europe as the European Union (EU), and most of the discussion here is focused on western EU countries, unless otherwise specified.
2 Human rights are understood as universal, indivisible, interdependent and interrelated (Office of the High Commissioner for Human Rights 1993). Our reference here is the 1948 Universal Declaration of Human Rights (UDHR) and subsequent covenants and treaties including the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social, and Cultural Rights.
3 The complexity of this issue is that MNEs are bound by domestic law, and therefore they are legally liable if they infringe a human right that is protected by the national law of the country where they own a production plant or any other property. However, MNEs do often have operations countries where the judiciary system is poor, and access to justice might be very difficult. In such cases, it is currently extremely complex for the plaintiffs to sue a company and obtain justice.
4 Judgment no. 1431 (23 May 2014) Tribunal of Taranto 2014. www.associazioneitalianaespostiamianto.org/wp-content/uploads/2014/09/26-1.09.2014-Ilva-amianto-motivazioni-sentenza.pdf (accessed April 2017).

References

Alesina, A. and Glaeser, E. (2006), 'Why are welfare states in the US and Europe so different?' *Horizons stratégiques*, vol. 2, pp. 51–61.

Alesina, A., Glaeser, E. and Sacerdote, B. (2001), 'Why doesn't the US have a European-style welfare state?' *Brookings Paper on Economics*, pp. 187–278.

Amin, L. (2015), 'Shell and Exxon's €5bn problem: Gas drilling that sets off earthquakes and wrecks homes', 10 October. www.theguardian.com/environment/2015/oct/10/shell-exxon-gas-drilling-sets-off-earthquakes-wrecks-homes (accessed August 2017).

ANSA.it (2012), 'Steelworkers paralyze Taranto over plant shutdown', 27 July. www.ansa.it/web/notizie/rubriche/english/2012/07/27/Steelworkers-paralyze-Taranto-plant-shutdown_7247703.html (accessed April 2017).

Backer, L.C. (2014), 'The Guiding Principles of Business and Human Rights at a crossroads: The state, the enterprise, and the spectre of a treaty to bind them all', Working Paper no. 7(1), Coalition for Peace and Ethics.

Barley, S.R. (2007), 'Corporations, democracy, and the public good', *Journal of Management Inquiry*, vol. 16, no. 3, pp. 201–215.

Bernaz, N. (2013), 'Enhancing corporate accountability for human rights violations: Is extraterritoriality the magic potion?', *Journal of Business Ethics*, vol. 117, p. 493.

Bernaz, N. (2017), *Business and Human Rights. History, Law and Policy: Bridging the accountability gap*, London, Routledge.

Beyerle, S. and Olteanu, T. (2016), 'How Romanian People Power Took On Mining and Corruption', 17 November. http://foreignpolicy.com/2016/11/17/how-romanian-people-power-took-on-mining-and-corruption-rosia-montana/ (accessed August 2017).

Biggeri, A., Forastiere, F. and Triassi, M. (2012), *Conclusions of the Epidemiologic Survey*. www.epiprev.it/materiali/2012/Taranto/Concl-perizia-epidemiol.pdf (accessed March 2017).

Bilchitz, D. (2016), 'The Necessity for a Business and Human Rights Treaty', *Business and Human Rights Journal*, vol. 1, no. 2, pp. 203–227.

Casula, F. (2014a), 'Ilva Taranto, condanna per l'amianto: "Gli operai morti potevano essere salvati"', 9 September. www.ilfattoquotidiano.it/2014/09/09/ilva-taranto-condanna-per-lamianto-gli-operai-morti-potevano-essere-salvati/1114884/ (accessed March 2017).

Casula, F. (2014b), 'Ilva, Taranto chiede 3 miliardi di risarcimento: "Danni da inquinamento"'. 8 March. www.ilfattoquotidiano.it/2014/03/08/ilvatarantochiede3miliardidirisarcimentoperidannidainquinamento/907104/ (accessed March 2017).

Comba, P., Conti, S., Iavarone, I., Marsili, G., Musmeci, L. and Pirastu, R. (2012), *Ambiente e salute a Taranto: Evidenze disponibili e indicazioni di sanità pubblica*. www.salute.gov.it/imgs/c_17_pubblicazioni_1833_allegato.pdf (accessed March 2017).

Crecchi, P. (2012), 'Ilva, i pm: "Ecco le prove"', 30 July. www.ilsecoloxix.it/Facet/comment/Uuid/d8c0e2b2-da0e-11e1-8377-0238be75676d/Ilva_i_pm_Ecco_le_prove_SIMOIlvaprocuravaavanti.xml (accessed March 2017).

Cristofoli, M., Di Pierri, M., Greco, L., Gennari Santori, F. and Greyl, L. (2015), *The Six Legs Dog – An oil corporation under the microscope: The Italian Goliath ENI*. http://cdca.it/wp-content/uploads/2015/03/finalENImarch15_ENG1.pdf (accessed April 2017).

De Schutter, O. (2010), 'La responsabilité des Etats dans le contrôle des sociétés transnationales: Vers une convention internationale sur la lute contre les atteintes aux droits de l'homme commises par les sociétés transnationales', Working paper, UC Louvain. http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2446911 (accessed September 2017).

Della Porta, D. and Piazza, G. (2007), 'Local contention, global framing: The protest campaigns against the TAV in Val Di Susa and the bridge on the Messina Straits', *Environmental Politics*, vol. 16, no. 5, pp. 864–882.

Demurtas, A. (2012), 'Taranto, lavoro e veleni', 27 July. www.lettera43.it/it/articoli/economia/2012/07/27/taranto-lavoro-e-veleni/51187/ (accessed March 2017).

Deva, S. (2014), 'The Human Rights Obligations of Business: Reimagining the Treaty Business'. https://business-humanrights.org/sites/default/files/media/documents/reimagine_int_law_for_bhr.pdf (accessed 23 March 2018).

Engström, V. (2016), 'The political economy of austerity and human rights law', Institute for Human Rights Working Paper, No. 1/2016. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2734659 (accessed 22 March 2018).

European Commission (2014), 'Environment: European Commission urges Italy to address severe pollution issues at Europe's biggest steel plant', 16 October. http://europa.eu/rapid/press-release_IP-14-1151_en.htm (accessed March 2017).

European Commission (2016), 'State aid: Commission opens in-depth investigation into Italian support for steel producer Ilva in Taranto, Italy', 20 January. http://europa.eu/rapid/press-release_IP-16-115_en.htm (accessed March 2017).

European Commission (2011), 'A renewed EU strategy 2011–14 for Corporate Social Responsibility', COM(2011) 681, 25 October.

European Commission (2013), 'Environment: European Commission urges Italy to bring a steel plant in Taranto up to environmental standards', 26 September. http://europa.eu/rapid/press-release_IP-13-866_en.htm (accessed March 2017).

European Court of Human Rights (2016), *Cordella et al. v. Italy* and *Ambrogi Melle et al. v. Italy*, Apps. no. 54414/13 and 54264/15, 27 April. http://hudoc.echr.coe.int/eng/?i=001-163116 (accessed April 2017).

Fagan, A. (2013), 'Philosophical foundations of human rights', in T. Cushman (ed.), *Handbook of Human Rights*, New York, Routledge, pp. 9–22.

Il Fatto Quotidiano (2012), 'Ilva sequestrata: "Disastro ambientale". Taranto paralizzata da 8mila operai', 26 July. www.ilfattoquotidiano.it/2012/07/26/ilva-sequestrata-disastro-ambientale-taranto-paralizzata-da-8mila-operai/306836/ (accessed April 2017).

Il Fatto Quotidiano (2017), 'Ilva, decreto e legge non coincidono. A rischio la vendita del siderurgico ai privati', 12 February. www.ilfattoquotidiano.it/2017/02/12/ilva-decreto-e-legge-non-coincidono-a-rischio-la-vendita-del-siderurgico-ai-privati/3387025/ (accessed April 2017).

Ferrante, M., Fiore, M., Copat, C., Morina, S., Ledda, C., Mauceri, C. and Oliveri Conti, G. (2015), *Air Pollution in High-Risk Sites–Risk analysis and health impact*. http://cdn.intechopen.com/pdfs-wm/49151.pdf (accessed March 2017).

Fiaschi, D., Giuliani, E. and Nieri, F. (2017), 'Overcoming the liability of origin by doing no harm. Assessing emerging country firms' social irresponsibility as they go global', *Journal of World Business*, vol. 52, no. 4, pp. 546–563.

Giuliani, E. and Macchi, C. (2014), 'Multinational Corporations' economic and human rights impacts on developing countries: A review and research agenda', *Cambridge Journal of Economics*, vol. 38, no. 2, pp. 479–517.

Greco, L. and Chiarello, F. (2014), 'The failure of regulation: Work, environment and production at Taranto's ILVA', *Economic and Industrial Democracy*, vol. 37, no. 3: pp. 517–534.

Green Cowles, M. (1996), 'The EU Committee of AmCham: The powerful voice of American firms in Brussels', *Journal of European Public Policy*, vol. 3, no. 3, pp. 339–358.

Hall, P.A. (2007), 'The evolution of varieties of capitalism in Europe', in *Beyond Varieties of Capitalism*, Oxford, Oxford University Press, pp. 39–88.

Hillmann, A.J., Keim, G.D. and Schuler, D. (2004), 'Corporate political activity: A review and research agenda, *Journal of Management*, vol. 30, no. 6, pp. 837–857.

Human Rights Council (2014), 'Elaboration of an international legally binding instrument on transnational corporations and other business enterprises with respect to human rights', UN Doc. A/HRC/RES/26/9.

International Council on Human Rights Policy (2002), 'Beyond voluntarism: Human rights and the developing international legal obligations of companies'. www.ichrp.org/files/reports/7/107_report_en.pdf (accessed September 2017).

IOE (2014), 'IOE Secretary-General questions Ecuador-initiated proposal for new legally binding treaty on business and human rights', 11 March. www.ioe-emp.org/fileadmin/ioe_documents/publications/Policy%20Areas/business_and_human_rights/EN/_2014-03-11__G-463_IOE_SG_questions_proposal_for_new_legally_binding_treaty_on_business_and_human_rights__1_.pdf (accessed September 2017).

ISTAT (2016), *Province of Taranto*. http://dati.istat.it/?queryid=298 (accessed April 2017).

Kapfer, S. (2006), *Multinational Corporations and the Erosion of State Sovereignty* [ebook], Illinois State University.

Kobrin, S.J. (2009), 'Private political authority and public responsibility: Transnational politics, transnational firms, and human rights', *Business Ethics Quarterly*, vol. 19, no. 3, pp. 349–374.

Majone, G. (1994), 'The rise of the regulatory state in Europe', *West European Politics*, vol. 17, no. 3, pp. 77–101.

Marescotti, A. (2014), 'Taranto, la città della diossina', 8 August. www.peacelink.it/ecologia/a/40487.html (accessed April 2017).

Matten, D.A. and Moon J. (2008), 'Implicit and explicit CSR, a conceptual framework for understanding of corporate social responsibility', *Academy of Management Review*, vol. 33, no. 2, pp. 404–424.

Melish, T. (2014), 'Putting "human rights" back into the UN Guiding Principles on Business and Human Rights: Shifting frames and embedding participation rights', Buffalo Legal Studies Research Paper Series, Paper No. 2014–032. http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2475629 (accessed September 2017).

Meynen, N. and Poulimeni, S. (2016), 'The Greek state has nothing to gain but environmental cost from the investment', 21 April. www.mo.be/en/analysis/greek-state-has-nothing-gain-environmental-cost-investment (accessed August 2017).

Neslen, A. (2014), 'EU takes legal action against controversial French dam', 26 November. www.theguardian.com/environment/2014/nov/26/eu-takes-legal-action-against-controversial-french-dam (accessed August 2017).

Il Nuovo Quotidiano di Puglia (2017), 'All'esame dell'Europa il dossier dell'Ilva. Incontri con le cordate', 20 March. www.quotidianodipuglia.it/taranto/taranto_ilva_europa_controlli-2327625.html (accessed March 2017).

Office of the High Commissioner for Human Rights (n.d.), 'State national action plans'. www.ohchr.org/EN/Issues/Business/Pages/NationalActionPlans.aspx (accessed April 2017).

Office of the High Commissioner for Human Rights (1993), 'Vienna Declaration and Programme of Action, Adopted by the World Conference on Human Rights', 25 June. www.ohchr.org/EN/ProfessionalInterest/Pages/Vienna.aspx (accessed 23 March 2018).

Palmioti, D. (2017), 'Processo Ilva: Per i patteggiamenti udienza fissata al 9 giugno', 19 April. www.ilsole24ore.com/art/impresa-e-territori/2017-04-19/processo-ilva-i-patteggiamenti-udienza-fissata-9-giugno-170633.shtml?uuid=AEOwdu7 (accessed April 2017).

Piattoni, S. (ed.) (2001), *Clientelism, Interests, and Democratic Representation: The European experience in historical and comparative perspective*, Cambridge, UK, Cambridge University Press.

Pirastu, R., Iavarone, I., Pasetto, R., Zona, A. and Comba, P. (2011), 'SENTIERI Project – Mortality study of residents in Italian polluted sites: Results', *Epidemiologia e Prevenzione*, vol. 35, no. 5–6, Suppl. 4, pp. 1–204.

Repubblica.it (2012), 'Il gip: "Ilva mossa da logica del profitto sequestro per tutelare la vita umana"', 27 February. http://bari.repubblica.it/cronaca/2012/07/26/news/ilva_il_gip-39795626/ (accessed November 2017).

Repubblica.it (2016), 'Ilva di Taranto, nuovo allarme del ministero: "Rischi neurologici per i bambini"', 8 December. http://bari.repubblica.it/cronaca/2016/12/08/news/taranto_malatti_neurologiche_ilva-153689013/ (accessed April 2017).

Rhodes, A. (2014), 'The False Promise of an International Business and Human Rights Treaty'. www.huffingtonpost.com/aaron-rhodes/the-false-promise-of-an-i_b_5575236.html (accessed September 2017).

Ricapito, V. (2016), 'Taranto, diossina record al rione Tamburi: I Verdi presentano un esposto contro l'Ilva', 17 March. http://bari.repubblica.it/cronaca/2016/03/17/news/taranto_diossina_record_al_tamburi_i_verdi_presentano_un_esposto_contro_l_ilva-135680234/ (accessed April 2017).

Rivoli, P. and Waddock, S. (2011), '"First they ignore you…" The time-context dynamic and corporate social responsibility', *California Management Review*, vol. 53, no. 2, pp. 87–104.

Ruggie, J.G. (2013), *Just Business – Multinational Corporations and Human Rights*, New York and London, W. W. Norton and Company.

Ruggie, J.G. and Nelson, T. (2015), 'Ruggie & Nelson: Human rights and the OECD guidelines for multinational enterprises: Normative innovations and implementation challenges', *International Law Reporter*. http://ilreports.blogspot.it/2015/05/ruggie-nelson-human-rights-and-oecd.html (accessed 23 March 2018).

Scherer, A.G. and Palazzo, G. (2008), 'Globalization and corporate social responsibility', in A. Crane, A. McWilliams, D. Matten, J. Moon and D. Siegel (eds), *The Oxford Handbook of Corporate Social Responsibility*, Oxford, Oxford University Press, pp.413–431.

Struggles in Italy (2016), 'Workers occupy ILVA steel plant in Genoa', 26 January. https://strugglesinitaly.wordpress.com/2016/01/26/en-workers-occupy-ilva-steel-plant-in-genoaen/ (accessed April 2017).

Taylor, M. (2014), 'A Business and Human Rights Treaty? Why Activists Should be Worried', 4 June. www.ihrb.org/other/treaty-on-business-human-rights/a-business-and-human-rights-treaty-why-activists-should-be-worried (accessed September 2017).

Tregaskis, O. and Brewster, C. (2006), 'Converging or diverging? A comparative analysis of trends in contingent employment practice in Europe over a decade', *Journal of International Business Studies,* vol. 37, no. 1, pp. 111–126.

Vagliasindi, G.M. and Gerstetter, C. (2015), *The ILVA Industrial Site in Taranto – In-depth analysis of the ENVI Committee*. www.europarl.europa.eu/RegData/etudes/IDAN/2015/563471/IPOL_IDA(2015)563471_EN.pdf (accessed March 2017).