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Environmental restorative justice: getting the offending company to the table

La justicia restaurativa medioambiental: sentar a la empresa infractora a la mesa

Ivo Aertsen[1]

Summary

This paper has the objective to approach the role of corporations in dealing with environmental harm that happened in the past and for which they bear a certain responsibility, regardless of the relevance of criminal or civil liability. We put this discussion in the perspective of restorative justice and we will focus on an important challenge when initiating a restorative justice process in such cases: how to get the offending corporation – one of the central stakeholders in many environmental conflicts - to the table of negotiation and a face-to-face dialogue with a group of affected or otherwise involved parties? In light of recent research and practice, concrete steps will be mentioned and assessed.

Keywords

Environment; restorative justice; companies; restorative processes.

Resumen

El objetivo de este artículo es abordar el papel de las empresas a la hora de hacer frente a los daños medioambientales que se produjeron en el pasado y por los que tienen cierta responsabilidad, independientemente de la relevancia de la responsabilidad penal o civil. Situaremos este debate en la perspectiva de la justicia restaurativa y nos centraremos en un reto importante a la hora de iniciar un proceso de justicia restaurativa en estos casos: ¿cómo conseguir que la empresa infractora -una de las principales partes interesadas en muchos conflictos medioambientales- se siente a la mesa de negociación y entable un diálogo cara a cara con un grupo de partes afectadas o, en su caso, implicadas? A la luz de la investigación y la práctica recientes, se mencionarán y evaluarán algunos pasos concretos para lograrlo.

Palabras clave

Medio ambiente; justicia restaurativa; empresas; procesos restaurativos.

1 Prof. Dr. at KU Leuven Institute of Criminology (LINC). Contact: ivo.aertsen@kuleuven.be.

Introduction: about environmental conflict, corporations, harms and victims

Environment and climate are amongst the most important challenges of the 21st century, and probably the most urgent ones. However, that sense of urgency is not yet widely considered if we look at the limited progress, even stagnation, at the level of global policymaking in recent years. There are many players in the field, and responsibilities concern all sectors of society, including individual citizens. At the same time, it cannot be ignored that an explicit movement is developing, strongly propelled by dynamics from within civil society, and supported by growing scientific knowledge. All too often, politics at the highest levels remain powerless because of the determining role of the private corporate world. However, this image must be nuanced as well: awareness of the social responsibility of private and public companies is growing fast, and a mélange of factors makes that the corporate world cannot stay aside. The latter applies both to backward and forward looking strategies: how to deal with harm in the past and for the future?

This article will discuss the role of corporations in dealing with environmental harm that happened in the past and for which they bear a certain responsibility, regardless of the relevance of criminal or civil liability. We put this discussion in the perspective of restorative justice and we will focus on an important challenge when initiating a restorative justice process in such cases: how to get the offending corporation – one of the central stakeholders in many environmental conflicts - to the table of negotiation and a face-to-face dialogue with a group of affected or otherwise involved parties?

Before we start the discussion on why and how, we must define our field: what are we talking about more precisely? For our analysis, *environmental harm* is understood in a broad sense, beyond what can be defined in a legal way. What we address are various forms of human caused 'harms' and 'injustices' to the environment (Aertsen, 2022). Indeed, many forms of harmful environmental behaviour are not subject to legal criminalisation and are regulated in many countries by an extensive corps of civil and administrative law. Moreover, from a restorative justice point of view, defining 'what is harm' cannot exclusively be reserved to the law or a legal context, but should be co-constituted by the needs and experiences of those affected. Legal frameworks are not sufficiently adequate to cover the 'lifeworld' of all affected parties as they tend to reduce the complexity of the issue, to confirm pre-defined understandings of notions such as harm, guilt and responsibility, and to reinforce social and/or economic power constellations.

Environmental *harm*, then, refers to a complex and multi-layered phenomenon. It can be caused by different types of personal or corporate behav-

iour, negligence or omissions. The subject of environmental harm can be wide and diverse: natural resources (private or public propriety, communal propriety such as air, water and forests, and unowned propriety such as light), public infrastructure, heritage, environmental meaning (sense and use of the environment by a community), and impact on future generations. Important characteristics of environmental harms often relate to their *invisibility* in terms of effect in time and causal relationships, the diffuse victimisation of human and non-human beings, the unclear agent's accountability and sometimes cross-border character of their operations, and the underlying structural and cultural issues (Varona, 2020a). Besides harm at the physical, material, financial, psychological and social level for both individuals and communities, there is the harm to nature: to other-than-human beings and the whole ecosystem. Harm to people and the environment can stay *silent* as well during many years until the passage of time reveals its seriousness. The occurrence of environmental harm often appears within a context of systemic injustices, extreme power imbalances and high victim vulnerability. Harm is usually presented by those in power as 'inevitable' or as 'collateral damage' in the pursuit of economic development and progress (Aertsen, 2022).

Environmental harms are often revealed by inhabitants of affected sites. When they express discontent, an *environmental conflict* emerges, taking the form of legal action, but much more frequently appearing through a variety of public demonstrations. 'Environmental conflict' is a broad notion and umbrella term that covers a large variety of conflict processes, patterns and behaviours (Fischer, 2014). Different types of conflict exist, including disputes over the allocation of resources, management of risks, infrastructure arrangements, the design of the environment and landscape, the protection of endangered species, or the elaboration of diverse other procedures and regulations. Environmental conflicts are worldwide documented by environmental groups and by research. An interesting example of the latter is the EJOLT project (Environmental Justice Organisations, Liabilities and Trade project, funded by the EU in the period 2010-2015), which mapped environmental conflicts worldwide and identified the type of industries and practices behind these conflicts: most of them related to 'the extraction of crude oil and gas, the production of nuclear energy, the setting of industrial tree plantations and the grabbing of lands, as well as mining and waste disposal' (Minguet, 2021: 63).

The discussion on interventions or actions can apply to reactive or proactive and preventative measures. Generally speaking, environmental issues are characterized by a complexity at various levels: social and ecological (technical) complexity, scientific uncertainty (related to causes and harms), and complicated legal and procedural frameworks for environmental decision making (Fisher, 2014). For this reason, when looking at solutions, multiple parties or

stakeholders appear, very often with competing interests, goals, and values: government officials at the local, regional or federal level, public interests groups represented by environmental advocates or community residents, private actors such as industry or commercial bodies, and academics, researchers, and technical consultants (Clarke & Peterson, 2017).

This article will mainly focus on the reactive side of the intervention. We are looking at conflicts where the perpetrators are mostly companies and sometimes national administrations, where the 'inhabitants denounce what they believe to be injustices related to the environment, or 'environmental injustices'' (Minguet, 2021: 61-62). For this article, insights on the mechanisms of corporate environmental harm and in particular on the consequences and needs of victims also derived from other research initiatives such as the European research project on Victims and Corporations (Forti et al., 2018). This project focused on the criminal justice context, and the definition of *corporate violence* applied to situations 'when corporations in the course of their legitimate activities commit criminal offences which result in harms to natural person's health, integrity or life'. Although in this article we go beyond the *legal* perspective and the *human* harm dimension, the European project drew the attention to various particularities of the corporate context, as described in literature and observed in empirical research (Boone, Aertsen & Lauwaert, 2017; Visconti, 2018). Specific to corporate crime are often (not always) the low visibility of the crime and the harm, the high degree of complexity of the offence, the (often) unclear distribution of responsibilities, and the diversity of types of victimisation. Specific characteristics of corporate violence victimisation relate (often) to the severity and pervasive impact of the harm, the collective nature and dimension of the victimisation, the complexity of victimisation processes, the vulnerability of victims, the deceitful nature of corporate violence and the persistence over time.

Victims' needs in these specific situations have been summarised as follows: the need for *public recognition* of the wrongful behaviour; *protection* against retaliation and intimidation at the individual level (fear of dismissal by the corporation), to protection from threats of relocating the company resulting in loss of collective employment; additionally, *preventive protection* by public institutions, and protection against repeat victimisation (continuous exposure to harmful effects); *information* on the status of the personal health situation and prognosis, but also on matters about accountability and understanding of the background and reasons of the incident(s), the legal and procedural options, and available mechanisms of financial compensation; and *support* to address the medical harm, as well as the social, psychological, legal and economic consequences. One common need strongly comes to the fore: all victims want to talk to the corporation, and this in a personal way.

Victims' needs have also been studied specifically with respect to white-collar crime, to which corporate crime – together with occupational crime - mostly pertains. These studies have also been undertaken in view of restorative justice practices. Gaddi and Rodríguez Puerta (2022) discuss white-collar crime as possibly resulting in various types of 'supra-individual' victimisation: the victimisation is experienced not by clearly identifiable subjects but by people as abstract entities or as a group. Distinction can then be made between *diffuse* victims (a whole society, e.g. in the case of tax fraud or corruption, but also in the case of air pollution and damages to public health, and harm to future generations) and *collective* victims (place-based or interest-based communities, e.g. in the case of some types of environmental crime). Involving these types of victims in legal procedures is not self-evident, as they do not easily identify with natural or legal persons. But also for restorative justice practices they form a challenge: who can be the spokespersons or representatives of diffuse or collective victims? Often surrogate victims, experts or representatives of (non-)governmental organisations are called upon to 'personalise' the harm and to confront the – in our case corporate - offender's accountability.

The elements presented above form the context for our further analysis. In the following sections we will focus on the role of the offending company and the potential of restorative justice. That the latter faces important challenges, when applied to corporate violence in general and environmental harm in particular, has been touched upon already in the previous paragraphs, and will be further discussed on the following pages. Introducing 'restorative justice' in this article, and for the readers of this journal, is probably not really needed. Suffices to refer to generally accepted definitions and approaches as presented by the United Nations and the European Forum for Restorative Justice:

> 'Restorative justice is an approach that offers offenders, victims and the community an alternative pathway to justice. It promotes the safe participation of victims in resolving the situation and offers people who accept responsibility for the harm caused by their actions an opportunity to make themselves accountable to those they have harmed. It is based on the recognition that criminal behaviour not only violates the law, but also harms victims and the community (UNODC, 2020: 4).

The European Forum for Restorative Justice has elaborated the following definition: restorative justice is …

> 'An approach for addressing harm or the risk of harm through engaging all those affected in coming to a common understanding and agreement on how the harm or wrongdoing can be repaired and justice achieved' (Chapman, Laxminarayan & Vanspauwen, 2021: 11).

These and other institutions, such as the Council of Europe in its Recommendation CM/Rec(2018)8 concerning restorative justice in criminal mat-

ters, have adopted the extension of restorative justice to a broad field of application, not restricted to some types of crime or degrees of seriousness. Although the predominant focus of restorative justice practices in European countries is on relatively minor crimes for which victim-offender mediation applies (Dünkel et al., 2015), there is an ongoing broadening of the scope into the direction of developing restorative justice for different types of (also more serious) crime and in a variety of settings. New models of restorative justice practice beyond victim-offender mediation are being tried out, also addressing the collective or community level. All these restorative justice models share a common set of values, including respect for human dignity, solidarity and responsibility for others, justice and accountability and truth through dialogue. Restorative justice practices are guided by principles related to restoration and reparation, voluntariness, inclusion, participation, commitment and confidentiality (Chapman, Laxminarayan & Vanspauwen, 2021). In short, restorative justice stands for a model of justice (a) that is rooted in an immediate connection to the personal and social life-world of people and that aims at restoring the harm resulting from the crime as completely as possible; (b) that seeks to balance the needs of all involved in by bringing together the victim, the offender, the community and other actors in a common response where the 'justice needs' of all stakeholders are addressed; (c) that considers parties in a conflict as moral subjects who are able to participate in a process of dialogue and to encounter the other, on the condition that there is a mutually respectful environment created and an appropriate space and support provided for the encounter.

This having said, and notwithstanding positive experiences and extensive research evidence, important challenges are noticed with respect to the broad implementation of restorative justice. Besides, the widespread 'under-use' of the potential of restorative justice practices in quantitative terms and its limited impact on criminal justice systems, the community dimension needs much more attention: how can 'the community' (beyond the micro-community of support persons for victim and offender) be involved in a more effective way, and how can socio-economic inequalities be addressed in restorative justice processes? Both community related aspects are not without any importance for the applicability of restorative justice to cases of environmental crime.

Involving the offending company

Environmental conflicts can vary a lot, as we have seen above, as well as approaches and levels of addressing them. In what follows, we will focus on environmental conflicts - criminal or not – that have caused harm. Therefore, as mentioned above, we will first look at the reactive side, after an incident happened.

We do so in order to delineate our subject matter to study, being aware that we deal with the phenomenon only in a partial way. However, we expect that, at the conceptual but also at the practical level, important links will have to be made with preventive and regulatory or legislative aspects. Moreover, we are focusing on one actor: the one who can be kept responsible for the harm - the 'offender' - and we further narrow down our focus on situations where the harm is caused by, or on behalf of, a company or corporation with legal personality, be it public or – mostly – private. Although in complex cases of environmental conflict responsibilities may be attributed to a diversity of stakeholders and corporate responsibilities can differ between various socio-economic sectors and political contexts, we prefer to put our attention on 'the offending company' that has to be involved in a restorative justice process. Finally, we will focus on the initial stage of the process: how to engage the company?

Why is it so important to involve the offending company?

The question above does not need a lot of explanation. Because of the complexity of many environmental issues, in particular with respect to their causes and possible remedies, and the multitude of stakeholders, collaboration among all the actors is deemed necessary. This – now self-evident – insight has grown in particular in the field of alternative dispute resolution (ADR) as its methods were introduced more and more for all kinds of environmental issues since the 1980s, mainly in the USA. A whole new field of 'environmental conflict resolution' (ECR), 'environmental dispute resolution' (EDR) or 'environmental conflict management' (ECM) developed, resulting in 'a wide range of collaborative tools and processes, including facilitated negotiation, joint fact finding, conflict assessment, policy dialogues, early neutral evaluation, collaborative planning, and community-based natural resource management' (O'Leary & Bingham, 2003) (see also Sipe & Stiftel, 1995; Christie, 2008; Clarke & Peterson, 2017; Walker & Daniels, 2019). These EDR practices, aware of the limitations of conventional justice approaches in criminal, civil or administrative law, are based on the assumption that in many cases all stakeholders have to be involved in order to obtain sustainable results. Hence, from this pragmatic, problem-solving approach also the offending company must be involved as far as she can contribute to the treatment or the redress of the consequences of the incident or the prevention of its re-occurrence.

Additional insights come from our understanding of the needs of victims of corporate violence (see above). Victims of corporate violence may have different status: (i) victims internally to the company, such as employees and their personal circles, but also shareholders and investors, and (ii) external victims, who are harmed people with no personal relationship to the company, as well as

institutions, other companies or governmental or public bodies. As mentioned above, in a general way the victims' personal needs include the need of recognition, information, protection and support, including legal, medical, psychological and social assistance. To address some of these needs the collaboration of the offending company is indispensable, for example on providing information on the causes and the circumstances of the incident, offering reassurance with respect to job preservation, and providing various types of support, compensation and restoration. Victims of corporate violence may even put 'greater value on "moral redress", including a reasonable assurance that no further offences and, therefore, no further victimisation, will happen, than on instrumental outcomes' (Visconti, 2018: 171). Nevertheless, a central need, related to the need of recognition for what happened, and in particular its harmful or wrongful character, is indeed about 'having voice': the need of being heard and having the possibility to tell his/her story. To be heard by whom and how? According to what we learnt (Aertsen, 2018), the answer to those questions refer to: (i) to be heard by the offending company (not just by a victim support service or a public authority), (ii) in a personal and direct way (not just through representation by their lawyers), (iii) face-to-face (not just through written communication), and (iv) by a representative of the company at a higher level (CEO or top management) who is authorized to speak and to take decisions on behalf of the company. For some types of victimisation and victims, the possibility to talk to the company must be offered at the individual level and will require a personalised approach, for others this will have to be performed at the group level where delegates of representatives of victims' groups or interest groups represent the various categories of victims.

What makes it so difficult to get the offending company to the table?

Companies recognize their own interest and benefits in dealing with environmental conflicts through alternative dispute resolution mechanisms, such as negotiation, mediation, arbitration and mixed forms. EDR literature summarises the advantages that these collaborative processes based on problem solving and shared responsibility can offer:

> 'they are faster and less costly than litigation; they can build social capital, which in turn serves as a foundation for future conflict resolution; they address the real issues in a conflict rather than just stated positions or issues with legal standing; they are more flexible and more inclusive than traditional methods; and they have a greater likelihood of reaching positive-sum - and thus more stable and mutually acceptable - agreements' (Fischer, 2014: 10).

Early empirical research on the use of mediation in environmental disputes has shown high success rates in terms of reached settlements and parties' satisfaction, while also revealing the main reasons for accepting mediation. These

related to (1°) cost benefits, (2°) not seeing any harm in trying it, and (3°) time savings as compared to other procedures (Sipe & Stiftel, 1995). From an extensive US study on the use of ADR in general (not limited to environmental conflict) it also appeared that more companies prefer mediation, and fewer arbitration as compared to the situation in the 1990s (Stipanowich & Lamare, 2014). In this study, the perceived benefits for using ADR are discussed along the following categories: general efficiency and process control, privacy and confidentiality, control over results, preserving relationships, and neutral expertise.

Notwithstanding clear advantages of using EDR, companies also face hesitations, obstacles and challenges to enter the conversation room, in particular, when they are invited to participate in personal meetings with directly affected victims – as is usually expected in restorative justice processes. Some of the complicating factors that cause resistance relate to the cultural dimension. One of these is the 'normalisation' of environmental harm, as already referred to above: environmental incidents are presented as inevitable for economic activity and growth and for ensuring employment in a local community. Also the nature of the harm may be a hindering factor: environmental harm has often a many-sided or multi-layered and diffuse character, not always easily to circumscribe or to assess, stretching over a longer period of time and sometimes crossing national borders. The causal relationship between acts, behaviour, omissions or negligence on the one hand and harmful consequences on the other hand is not always clear, and therefore liabilities and responsibilities not easily recognized. If clear responsibilities are at stake, it might still be unclear to whom a responsibility must be assigned: to the company as a whole, thus as a legal entity, or rather to its managers or board members personally, or to executive staff personally. In addition, local or national (regulatory or supervising) authorities or other institutions might bear some responsibility.

Obstacles or complications at the structural level – in the case of environmental corporate incidents - may also relate to the existence of outspoken power imbalances and systemic injustices: the (multinational) company with its strong financial, social and political position, having access to important human and legal resources and acting as a 'repeat player' in judicial procedures, versus a personal or unorganised group of victims without any influence in society or politically, and not having the necessary financial and human resources to undertake action, thus remaining a 'one-shooter' in the legal world. This all means that dealing with this type of conflict is also and mainly 'a question of social justice'. Because of the – often - collective or community dimension of victimisation in these cases, and the impersonal, supra-individual or corporate character of responsibility, a specific approach and mindset must be adopted: we must move from the micro-level to the macro-level when looking at causes, consequences and reactions.

A final complication for making a dialogue conceivable relates to the other-than-human character of victimisation in the case of many environmental conflicts. This requires a further change in mindset, also for offending companies, and might hinder direct involvement. Indeed, how to look at, and to face, assess and repair, consequences for flora and fauna, for natural resources such as water, air and forests, for environmental meaning and heritage, and for future generations? This requires a move away from an anthropocentric to an ecocentric perspective. Although technical assessment of these harms and translation into financial, economic and social terms is not impossible, the undetermined, vague or 'amorphous' character of the complex of harm will often withhold companies to engage in negotiations. The long latency or incubation period for many of these consequences – as well as for human health consequences – before they become manifest, together with the applicability of the legal status of limitation, will usually also not stimulate companies to come to the table. And if legal action is still possible, companies are concerned that showing their willingness in meeting the victimised parties can be used against them as a legal admission of guilt in subsequent judicial procedures.

In the context as sketched above, involving a company in conflict resolution processes in a 'voluntary' way – as is usually requested for restorative justice processes – is not self-evident. Many companies will not consider themselves as offenders or as responsible actors, especially when their actions are not violations of the law *stricto sensu*, even if their behaviour is ethically questionable (Minguet, 2021). The company's actions may be technically legal, and in these cases there is no real incentive for companies to alter their behaviour. On the contrary, engaging in alternative resolution processes might come with an extra cost, which may 'include financial burdens, opportunity costs, and the risk of losing legitimacy in their social groups and organizations for compromising issues and positions' (Fischer, 2014: 6). Finally, even when companies accept to participate in negotiated agreements, this is often done under pressure, for example in the framework of a plea bargaining procedure or penal settlement. The victimised parties and the public at large will not necessarily perceive this as a genuine expression of responsibility. In such legal procedures, the incident is being dealt with in an 'objectivated' way, distant from its personal and social context and far from the harm as experienced in daily life by those who feel affected.

If we believe in the possible added value, or even the necessity, of restorative justice as a better and more inclusive, comprehensive, democratic and sustainable approach to environmental harm, what then can provide a more solid basis for companies to make the step to real engagement in a dialogical process? Why would a profit making company be willing to do so? Would the creation of a space for an open, non-defensive communication be thinkable,

where the disconnection between harmer and harmed is lifted, and the corporation's representatives can begin considering their responsibilities as a corporation (Wijdekop, 2019: 92)?

Towards a moral-theoretical foundation of corporate engagement

There are various ways possible to argue for, and to underpin, corporate engagement, both in general and as applied to environmental corporate behaviour. These approaches might come from different disciplinary corners: economic, social, moral, political, esthetical … They may adopt a preventive, reactive or proactive position. As said, we will look at this challenge from a restorative justice perspective, where, from an interdisciplinary and intersectoral approach, we aim at full recognition of victims and harms, looking at opportunities for redress and reparation to persons, communities and their *Umwelt*, and therefore valuing positive and active responsibility too. In what follows, we will develop a few ideas on corporate responsibility, mainly from an ethical or moral obligations approach.

Corporate social responsibility

First, there is the idea of corporate social responsibility (CSR), a theme that emerged in literature and in practice in the 1950s originally in the USA, but then spread to other regions while still continuously developing. The literature on this theme is voluminous and cannot be dealt with here extensively. We will just look at the main characteristics of corporate social responsibility in order to better understand its possible role for the field of environmental harm.

The literature presents many definitions and approaches of CSR. In general, we can say that CSR relates to the responsibility of a corporation with respect to its operation in an ethical and sustainable way, in particular in dealing with its social and environmental impacts. CSR – a form of corporate self-governance – aspires to give full consideration to human rights, the community, the environment and the whole society in which it operates. CSR is highly relevant for issues related to corporate violence: 'As working and production conditions are one of the core topics of a CSR strategy, there is a close connection to corporate violence in the field of workplace safety, product safety and environmental protection' (Giavazzi, 2017: 25). Put in a general way: CSR relates to the whole of practices a company undertakes in order to contribute to society in a positive way, or what responsibilities can reasonably be expected from business people and their firms?

A theory of corporate social responsibility was initially developed and later refined by Caroll (2016). He presented CSR as consisting of four levels or components of responsibility, to be visually presented in a pyramid. The four components are conceptually independent, but empirically interrelated as research has shown. On the basis of the pyramid are the *economic responsibilities* of a company: 'As a fundamental condition or requirement of existence, businesses have an economic responsibility to the society that permitted them to be created and sustained' (Caroll, 2016: 3). A company should ensure that it is profitable enough to survive. The second component, or layer of the pyramid, are the *legal responsibilities*: the minimal ground rules established by society under which businesses are expected to operate and function. These include laws and regulations, and their compliance by corporations is a condition of operating (which explains the growing role of 'compliance officers' in companies and constructions as 'license to operate' – see further for 'social licence to operate'). The third component or layer are the *ethical responsibilities*:

> 'In addition to what is required by laws and regulations, society expects businesses to operate and conduct their affairs in an ethical fashion. Taking on ethical responsibilities implies that organisations will embrace those activities, norms, standards and practices that even though they are not codified into law, are expected nonetheless' (Caroll, 2016: 3).

In short, this means that business has the expectation and obligation, that it will do what is right, just, and fair and to avoid or minimize harm to all the stakeholders with whom it interacts. Fourth, at the top level of the pyramid, are the *philanthropic responsibilities*, that relate to business's voluntary or discretionary activities. A kind of social altruism can play a role here ('giving something back to society'), but often companies want to demonstrate their 'good citizenship', and, by doing so, to establish or enhance their good reputation. This conceptual framework of four types or levels of responsibility shows how corporate responsibilities are respectively required, expected or desired by society. The exact contents or meanings of these four components may evolve over time. Where for a long time it was assumed that efforts made in the field of legal, ethical and philanthropic responsibilities detract from economic profitability, now it is believed that social activities are also leading to economic rewards and that they all together form a 'favourable situation'. The four components of the pyramid form an integrated, unified body, where actions, practices and policies should be carried out simultaneously over a longer period, also in the interest of future generations.

Still, the question for many remains why a company should 'accept and advance the CSR cause'. 'What does the business community and commercial enterprises get out of CSR?'. Caroll (2016: 6) with other authors distinguishes four 'effective arguments', which are related to cost and risk reductions, positive

effects on competitive advantage, company legitimacy and reputation, and the role of CSR in creating win-win situations for the company and society. Other reasons are related to innovation, brand differentiation, employee engagement, and customer engagement. Possible disadvantages for companies to invest in CSR are mentioned too. One of these is a possible perception by consumers and the public at large that voluntary social engagement by a company serves as a 'marketing strategy' or as a shield to hide harmful or risky practices and contributes, for example, to 'green washing'.

While most of the arguments above are thought from the perspective of the company, community interests come more to the fore in the concept and practices in the public policy field of 'social licenses to operate' (Forsyth et al., 2021). The social license to operate is 'unwritten, informal and unregulated'. It is different from mandatory statutory licenses and therefore rather joins the ethical dimension of responsibilities. It is the (local) community that 'delivers' the permission for the company to operate. To enforce the social license informally, social pressure can be exercised in the form of lobbying, activism or boycotts. In this sense, the social license can work complementary, and supportive, to effective corporate social responsibility. Restorative justice can play an important role here by offering a neutral and safe space, both in preparing a social license through a dialogical process with all stakeholders involved including the company, and in executing or preserving the social license in case of disruptions, unclarities or uncertainties for one or more of the parties.

Reflective morality

An utmost interesting perspective on moral obligations of companies, that is highly relevant for restorative justice, is offered by Sweigert (2016). His approach goes back, partly, to what is written above on corporate social responsibility, but adds to this a dimension of 'moral learning'. For Sweigert, a business strategy entails 'business ethics', which, in turn, is 'a matter of justice'. Business have a twofold social obligation to conceive a 'just economy': profit making on the one hand, and contributing to social welfare on the other hand. Sweigert defines this as 'self-interest with a social purpose'. A company has an internal orientation of moral formation, and an external one of public ethical leadership. Sweigert continues wondering 'what is economic justice or injustice' and he is placing this question into a model of moral pluralism: different views exist depending on the framework that is used (legal, philosophical, ethnical, psychological …). The question on economic justice cannot be answered from a legal or governmental regulations perspective alone. Law and official regulation usually comes only after harm happened. Therefore, 'to the extent that law substitutes for moral self-regulation, it displaces a sense of social responsibility and at the

same time cultivates a detrimental pressure toward minimal compliance. Law is not always a good teacher or, too often, it teaches too well the wrong lessons. In the final analysis, dependence on law suffers from all its familiar limits: too broad in reach, too rigid in application, too partial in creating exceptions, too weak in incentives or penalties, too costly to administer and monitor, and unevenly enforced' (Schweigert, 2016: 7). While the law may provide formal procedures, 'moral formation' can be developed and adopted in a much more powerful way from a common, 'reflective morality' perspective. In such perspective, corporate social responsibility is no longer an abstract idea, but finds its operationalisation in the validation of claims (about justice/injustice) in the public arena through critical reflection and public deliberation. In this option, solutions must be elaborated at the lowest level possible, but with the recognition of a higher level of co-decisionmaking: there is, on the one hand, a self-authorising process by the active participation of all stakeholders (pulling), and, on the other hand, an institutionally authorising and facilitating process (pushing).

Sweigert's approach of business ethics-in-practice very much resonates with his earlier work in the 1990s, where he was looking for principles of community-based moral education in restorative justice (Sweigert, 1999). Restorative justice, for him, brings two types of moral authority together in a mutually reinforcing relationship: the morality of personal community-oriented traditions, and the morality of impersonal and universal norms. Here appears the educational principle of complementarity between communal and universal norms. Restorative justice, then, addresses its efforts and processes not that much to individuals or to institutions, but to the space in-between, the space between places, where the 'important social bodies intersect'. From this results a second educational principle, namely that the locus of moral education is situated in the interface of multiple social experience. Restorative justice makes use of resources in the community as much as possible, in order to initiate processes of change for problems that are at the root of crime. There is, thus, not an unilateral focus on the offender, and this results in a third educational principle, namely that the optimal model for moral development is one of community development. By bringing the two types of moral authority together in restorative justice processes, moral learning in its most inclusive and effective way becomes possible. This learning in a restorative justice process takes places when three different levels of participation find a simultaneous application in practice: the affective (by the strengthening of community bonds and trust in institutions), the cognitive (by invoking community norms and values and by demonstrating universal norms of free and equal participation), and the performative (by learning and exercising non-violent methods of problem-solving and public action).

Back to business ethics. Sweigert (2016), also inspired by Braithwaite (1989) (and Braithwaite & Mugford, 1994), discerns three fundamental moral

attitudes when dealing with business: (1) to honour those who excel (towards peers and community), (2) to generate a sense of shame and clearly communicate disapproval, including the possibility of restoration, (3) to show respect for the dignity of all involved. Reflective morality, then, entails an idea of personal integrity that cannot be reduced to introspection or individual conscience. It implies that standards of the own group are not accepted without reflection and that a shared practical reasoning takes place: a process of rational examination and evaluation where moral choices are placed in a larger arena of inquiry. In this way, a 'pragmatic pursuit of the good' can take shape, engaging the community of the workplace as 'moral' community (Sweigert, 2016: 93-95). External accountability is than more than a formal understanding of 'corporate social responsibility': it requires sites of public deliberation, with its own procedures and structures. In this constellation, 'motivated blindness' (the dark side of loyalty to the company) will not have a chance of survival.

Hence, before action can be started, social analysis of the situation is important. This preparation can be done through four stages: a personal analysis (exploring needs, interests, power relations …), a class analysis (looking at involved groups that were harmed or benefitted), a historical analysis (investigating issues over time, including roots of the problem and future consequences), and a structural or thematic analysis (discussing values and arguments). This encompassing analysis should help participants to understand what kind of justice is at stake. For a company, this process of moral attitude formation consists of four components of moral functioning, which can be summarised as follows (based on Rest, 1994, as cited by Sweigert, 2016: 247-248): *moral sensitivity* (interpreting the situation including the impact on people and environment, which allows for changing perceptions of behaviour, harmful consequences, responsibility and victims), *moral judgement* (selecting the most moral action in a concrete and complex situation), *moral motivation* (prioritising moral values relative to other values) and *moral character* (showing the ability – including ego strength, strength of conviction, courage … - to implement values and decisions).

In this context, then, a restorative process can unfold in practice. Restorative justice provides a social space where moral learning is supported. A mediation or a conference 'opens participants to new levels of competency in their established roles, because new demands are made and new skills are introduced. Participants' role effectiveness within the space is enhanced because they are explicitly expected to perform their role as a co-worker as well as a concerned citizen—as though looking at the concern as it would be seen from outside the workplace. This role enhancement can also increase competency outside the space of the conference, not only because each person has learned new skills but also because performance in the conference can shift the way others perceive their co-workers as they see them performing well in different

circumstances. The structure of interaction that defines the space provides the security participants need to openly address difficult and conflictual issues constructively and nonviolently.' (Sweigert, 2016: 235-236).

Moving to practice

Ethical standards or good practices are often not realised spontaneously. This is not different in the field of environmental practices and policies. Their implementation requires a process of awareness raising over time, which is often initiated or stimulated by a variety of factors: the occurrence of large-scale incidents or disasters; emerging scientific knowledge about causes and consequences that reaches and informs the key actors in an effective way; a lot of social pressure by activist and interest groups whose impact is facilitated by (social) media; pioneers and leading examples; and, not at least, a regulatory or normative framework.

The role of regulation

Regulatory frameworks are offered by formal law at national or state level - be it primary or subordinate legislation - in the field of civil, criminal, administrative and company or commercial law. The argument has been brought forward that 'restorative approaches can also be part of an official sanction regime towards corporate crime by a rational actor, where avoidable harms have been created resulting in a violation of private or public trust' (Russell & Gilbert, 1999). There is also a growing body of international law and policy making appealing to the obligations and responsibilities of companies to protect the environment and affected communities. A reference can also be made to the United Nations Decade on Ecosystem Restoration Strategy (2021-2030) and the UN Sustainable Development Goals, where, amongst others, goals 11 (sustainable cities and communities), 16 (peace, justice and strong institutions) and 17 (partnerships for the goals) offer clear entry points for restorative justice action and development (Oliveira, 2021). More recently, efforts have been made to develop integrated approaches of corporate responsibility *and* sustainable development (Rayman-Bacchus & Walsh, 2021).

In many countries, environmental policies are being shaped by a diversity of public, specialised regulatory bodies and procedures through which permissions to operate are granted and control and supervision of corporative behaviour are exercised. The latter offer special opportunities to use restorative justice processes, both at preventative and reactive level (Braithwaite, 2002). It is understandable that corporations will show less resistance and more motivation

to participate in restorative justice processes when they have been able to contribute to the elaboration of regulatory principles and procedures in their domain, and thus when they can feel co-ownership. Forsyth and colleagues (2021: 21) talk about 'distributed environmental management', to indicate 'the practice and philosophy of decentring the state's role in environmental regulatory control through collaborative regulatory mechanisms involving diverse actors'. Where centralised, top-down regulation often faces its limits, now more flexible, risk-based and collaborative approaches become possible, where restorative justice can play an important role. This all witnesses the evolution from 'bipartite' (state/company) to 'tripartite' (state/company/community) regulatory relationships, where the community is mainly represented through civil society organisations. Such framework offers room for 'direct participation', 'distributed accountability' and 'responsive flexibility'. 'Distributed accountability' implies that the offending company must answer not only to the state, as in criminal justice processes, but also to the wider community 'harmed' by their actions. Where these (conceptual) framework was initially developed on the basis of experiences in Australia, very similar ideas have been elaborated in France more recently in the field of environmental crime. An official report formulated the recommendation to establish 'regional committees for the defence of the environment', which should not only improve cooperation between judicial and administrative authorities, but would operate on the basis of active participation by citizens, companies and associations. Also the creation of 'access points' was proposed in order to develop mechanisms of mediation and restorative justice for environmental conflict (Cinotti et al., 2019).

Various regulatory mechanisms should, however, not be isolated from each other, in order to be effective, and – for our topic – to enhance the chance that the company does come to the table. Authors as Braithwaite (2002; Ayres & Braithwaite, 1992) have very much argued in favour of an integrated approach, where diverse regulatory mechanisms can interact and be activated in a flexible way. Their 'regulatory pyramid' is well known in this respect. It resonates with the concept of 'informal-formal dialectics' (Braithwaite & Parker, 1999) and with Sweigert's plea for an interplay between communal and universal norms (supra). The European Forum for Restorative Justice (2021) has joined this line of thinking, when recommending that:

> 'Criminal law provisions related to environmental crime should not operate in an isolated way, but must be conceptually integrated in a more encompassing regulatory and sanctioning framework entailing a broader range of formal and informal justice mechanisms. Restorative justice has to be situated at the bridge between different types of justice mechanisms.'

To manage such integrated regulatory frameworks, public structures are needed, where 'combining conventional and restorative justice' becomes

feasible in a transparent and safe way. In particular for corporate crime, this conjunction is deemed necessary, where effective denouncement by the court can take place and, if needed, restorative sentencing (Wright, 2019). Whereas the role of a local or national court might have a limited effect in cases of cross-border corporate crime, arguments have been developed to apply restorative justice also for *extraterritorial* harmful conduct by multinational companies. In this field, Spalding (2015) has extensively argued for restorative justice as a 'new punishment theory', that goes beyond deterrence approaches that often fail in such international context and where local communities do not benefit at all from sanctions imposed on the company in her home country. The new approach must engage with the broader social and legal environment where the harmful event happened, including communities and official authorities of the host country where the company is active. It must also look beyond the potential offender's cost-benefit analysis, and allow for victims to participate. This all can be offered, according to Spalding, by restorative justice models: corporations prefer restorative outcomes, not only for concerns of reputation, but also 'to restore their relationship to the community to its pre-crime state'. For the US, he argues, public prosecutors and judges are not against, as they find a basis in existing legislation and sentencing guidelines. In this way, multinational companies can contribute 'to heal social wounds'.

Motivating the company

Whereas a strong and effective, integrated regulatory framework can move the company to accept restorative approaches, more will be needed in many cases in order to have them at the table effectively. And here comes the role of persuasion and motivation, which can become effective as more citizens, authorities and corporations share the same underlying vision. Braithwaite (1994: 129) offers again guidance, doing so from a republican philosophy: 'One reason republicans like to deal with problems through dialogue is that they have a preference for dealing with actors as responsible citizens. This extends to corporate actors, which the republican seeks to nurture as responsible corporate citizens. When we are dealing with responsible citizens, shame and pride are seen as having enormous regulatory power. Indeed, reintegrative shaming and the praise of virtue are seen as powerful in constituting responsible citizens (Braithwaite, 1989)' (for a discussion on the role of shaming in corporate environments, see Aertsen, 2018). In line with what was said above, Braithwaite does not opt for a static image or choice between persuasion versus deterrence, but 'a rather dynamic strategy':

> 'First persuasion (…), second, when citizenship fails (as it often will) shift to a deterrent strategy; third, when deterrence fails (as it often will for reasons detailed elsewhere (…), shift to incapacitation (e.g. corporate capital punish-

> ment)' (Braithwaite, 1994: 130). In this approach, 'processes of dialogue with those who suffer from acts of irresponsibility are among the most effective ways of bringing home to us as human beings our obligation to take responsibility for our deeds.'

To motivate companies to accept their responsibilities (and to come to the table), lessons can be learnt from motivational interviewing techniques, as we know from counseling practices (Braithwaite, 2019). These techniques are non-directive, and help people to find their own motivations to change their behaviour. This also applies to corporate environments, where research has shown that three elements are key: confidence or self-efficacy in compliance, importance and readiness (the latter relates to the finding of ambivalence as a dilemma individuals or corporations experience when they consider change). Moreover, fairness with, and respect for those who resist, are important in motivational interviewing. This all implies another way of looking at corporations, 'not only for finding motivations to change bad behaviour but also for finding paths to good behaviour'.

What might motivate corporations further? Let us consult an experienced mediator in this field, Lawrence Kershen (UK):

> 'The fundamental question for me is what would persuade the directing mind(s) of the corporation to engage with a restorative process. It seems that the company needs both 'stick and carrot'. Plainly one 'stick' is the threat of or implementation of the criminal law. The threat of the consequences of a criminal prosecution, or the outcome of such a trial, could be tempered by the offer of a restorative justice process and participation in an restorative process can legitimately be taken into account in mitigating sentence. What of the 'carrots'? It might be that a director has a social conscience and wants to engage with an restorative process of his/her own volition, but I wouldn't rely on it! A factor that might encourage participation in restorative justice are a multinational's Corporate Social Responsibility Department, which might apply some internal pressure. However, such departments are usually less influential - and well-funded - than the Marketing Department, which is inherently concerned with public image and perception. If they believe that the corporation's image is affected by an environmental issue, they are quick to act. I believe the most potent public pressure can be corporate profitability – as reflected in directors' bonuses and its share price. If public concern about environmental harm is mobilized and grows, pressure to engage with a restorative process is increased because it affects the bottom line, profits and the share price. Indirectly the company's pension fund is also affected since it may be a significant shareholder in the company shares. So 'shareholder power' and the possibility of the public and institutions starting to divest themselves of investments in the offending corporation seems to have the greatest potential – as both stick and carrot - for influencing their participation in a restorative justice process' (personal communication to Wijdekop, 2019: 93).

Thus, an important means of persuasion relates to a key consideration for corporations: shareholder value. Kershen (2021: 159) argues that the public mood today – including that of institutional investors – 'is shifting in favour of concern for the environment'. 'Environmental, social and governance (ESG) concerns are increasingly being seen by investors, at least in the developed world, as necessary constituents in making money. So reputational challenges (…) also become financial challenges …'.

Clearly, a company's motivation to participate in restorative processes might go back to a considerable degree of self-interest (which can also be the case in more classic processes of restorative justice, that often start with a somewhat opportunistic motivation on the side of the offender, hoping for a diversionary measure, but then often turns into a more genuine involvement through personal contact with the victim). Rephrasing what was already mentioned above with respect to self-interest:

> 'Corporations do have every reason to maintain trust and right relations with their specific consumer bases and with the societies that contain and enrich them. A proactive approach to corporate social responsibility and the voluntary imposition of high standards upon themselves also supports a positive relationship with governmental bodies' (Chiste, 2008: 112).

A mixed motivation, with a combination of intrinsic and extrinsic aspects may apply in many cases. On the one hand, a form of social, political or judicial pressure will often be needed to bring the corporation to the table, together with the availability of a clear (legal and practical) structure where this can be done in a safe way. On the other hand, self-interest will often play a role, at two levels: restorative processes can result in financial arrangements with the victims or local communities in a relatively quick and – for the company – financially less burdening way; but an even stronger motivational factor remains the preservation or restoration of reputation and public image. Motivations can also develop in time and move along a continuum from self-serving, over mutually beneficial, to altruistic motives (Hamilton, 2022). Before a common interest can be found and defined, interests and values particular to each party must be explored and named. A common interest cannot be considered as a sum of the particular ones. It requires a process of meeting each other: the experience of the dialogue allows each party to gradually enlarge its own 'circle of conscience' (Le Méhauté, 2022: 220-224, with reference to Paolo Freire). Finally, the motivation or willingness to participate can be different depending on the type of corporation, the harmful behaviour and the (immediate) consequences: a supermarket will be quicker motivated than an enterprise that has no personal contact with the public …

Initiating the process

In order to create an opening for a real dialogue, a 'pre-negotiation phase' could be used, as is done in the ADR-field with international conflicts (Stein, 1989). In this 'negotiation about negotiation', conditions and processes are investigated that encourage the parties to consider negotiation. The focus is on: what brings usually parties to the table, what triggers them, not: what are the obstacles? Pre-negotiation is a phase on its own, and is essentially a process where a frame for later negotiation is developed: the topic and the boundaries are discussed, as well as the mutual interests and the agenda of possible talks. Also, keeping in mind what we discussed above, a reflection about common values and 'the common good' can take place. In this pre-negotiation phase it becomes clear whether, when, why and how parties can come to the negotiation table. Pre-negotiation itself develops along different stages, and it is important to be aware of a possible turning point. Finally, pre-negotiation 'may have important consequences even if the participants do not get to the table. Significant learning may occur during the process which permits the parties to reconceive their relationship' (Stein, 1989: 232).

For environmental conflict management, a step-by-step guide is provided by Clarke and Peterson (2017), starting with the phase of initiating ('convening') a collaborative process. The convenor in the case of environmental conflict is often a government agency that has regulatory power or enforcement responsibilities, but it can also be one from the private sector or a NGO. It is for the convenor to evaluate whether a conflict situation is suitable for a collaborative effort and to structure the process to encourage mutual gain. Important for the convenor to consider is that environmental issues never stand in isolation but are usually part of external political processes that influence the likelihood of a successful collaborative project. The authors (2017, Chapter 4) develop a generic framework consisting of four elements, that can be adapted to a variety of environmental conflicts: *assessment* of the conflict ('considering issues, key players and their relations, and the potential for collaboration'), *design* ('development of an effective process for engaging stakeholders', with considerable attention for the incentives they create), *development* ('using communicative and procedural skills designed to foster trust, cultivate creativity, and to enhance the decision-making process'), and *implementation* (discussing how a decision will be carried out and what challenges and opportunities may come as a result, including possible contingency factors and conditions such as timelines, funding sources, political climate, new scientific knowledge, …). Once stakeholders have agreed to start the process, a group charter or memorandum of understanding will be jointly created, to establish more precisely the goals, roles and rules of the collaborative process to come. After that the proper process of conflict management can start, when the convenor is inviting the parties to come to the table.

The relevance of the initial or preparatory phase for effective conflict resolution intervention in the field of environmental issues comes also to the fore in research findings, often related to civil law disputes in this field. A literature review 'suggests that the front-end or preintervention analysis and the coordination skills of a process manager are fundamental (…)' (Fischer, 2014: 14). 'Process managers' are the convenor, mediator and/or facilitator. An effective process manager (or team of managers) will not only focus on facilitation and mediation. He/she must have the competencies to design a just and fair process, to identify stakeholders and to obtain their engagement, and to collect and analyse background information about the issue, including technical knowledge of institutional, legal, and administrative constraints. Often relevant experts will have to be involved as advisors, who are familiar with a particular aspect of the case. Also Le Méhuet (2022: 260-282) differentiates between the roles of the 'chef de projet' and the mediator when initiating a restorative process for environmental conflict.

The initiation of a restorative process for corporate environmental crime can pass into a 'transformation' of the offender, as Judge Preston (Australia) described. The offending company must adopt active responsibility and acceptance, not in a passive way as imposed by the court or a regulatory body. It is through the personal and immediate dialogue with the victims or their surrogates, that the offender gains insight. 'The psychological strategies offenders use to distance themselves from knowledge of their crime and its consequences are penetrated'. While we are familiar with this mechanism for restorative justice applied to conventional crimes, it is 'especially true for corporate offenders': the legal personality of corporations no longer creates 'a barrier which immunises and desensitises the human actors of the corporation', thanks to the personal involvement of the company's leading representatives (Preston, 2011: 21)[2].

Restorative justice experiences in Belgium teach us that, when starting a process of dialogue in the case of corporate violence: (i) a minimal recognition of the facts and responsibility is needed; (ii) the attitude of the offending company is strongly influenced by possible legal and financial consequences and reputational damage; (iii) there is more willingness in case of sudden, collective victimisation, where the victimisation and the link with the corporative behaviour are clear; and (iv) in case of collective victimisation, appropriate group methodologies are needed, possibly inspired through experiences in other fields

2 See also Stark (2017). For setting up conferencing process for environmental crime and their dynamics, based on experiences in New Zealand, see Hamilton (2022). Moreover, for the conditions for environmental corporate offenders to participate in a conference even when they do not accept responsibility, see Al-Alosi & Hamilton (2021).

(peacemaking circles, neighbourhood mediation, 'dialogue groups', …) (Lauwaert, 2019).

Finally, practitioners also warn against possible risks when initiating an alternative conflict resolution process in the case of environmental crime. The presence of extreme power imbalances between the corporation (and her allies) on the one hand, and the victims and local communities on the other hand, is probably the most striking one. According to some, alternative conflict resolution programmes cannot correct systemic injustices, discrimination or violations of human rights (Center for Democracy and Governance, 1998). However, restorative justice theory is aware of these structural challenges and comes with adapted conceptual models (Froestad & Shearing, 2007; see also Varona Martínez, 2020b: 65-82). In practice, it is the role of the convenor or facilitator to watch possible imbalances and to mobilise counter powers (Gaddi, 2021), which in the case of environmental crime will be found amongst activists and civil society organisations.

Conclusion

The topic we have discussed in this article is an unfinished story. During last years, a lot has been written on the relevance of restorative justice to the field of environmental harm and crime. It is an important, but also challenging field, as many citizens and institutions are involved and concerned. At the same time, if offers unique opportunities to further develop our ideas and practices of restorative justice, in a way that many stakeholders and even society at large can be involved. As environmental harm is often caused by corporations – private or public – they form an indispensable actor. However, in the perspective of restorative justice, they also represent a black box in our understandings and practices. In this article, we have tried to make ourselves more familiar with the corporate world, and in particular with what they can drive from an ethical or moral point of view. We have discussed regulatory frameworks and what they can mean in this respect, when they function in an integrated way. But it is our conviction that, at the end of the day, it is a question of socio-ethical culture and behaviour. If we are able to move into the direction of a shared ethical position, then restorative justice can help to make the difference, as it offers the practical space for genuine dialogue to all parties, not just in their own interest, but in a common perspective of care for the wellbeing of others, our world and our future. In this very much needed movement, societal structures will not remain unchanged. Why wouldn't companies want to be part of this?

References

Aertsen, I. (2018). Restorative justice for victims of corporate violence. In: G. Forti, C. Mazzucato, A. Visconti, & S. Giavazzi (eds.), *Victims and Corporations. Legal challenges and empirical findings* (pp. 235-258). Milano: Wolters Kluwer.

Aertsen, I. (2022). Environmental Restorative Justice: Activating Synergies. In B. Pali, M. Forsyth, & F. Tepper (eds.), *The Palgrave Handbook of Environmental Restorative Justice* (pp. 667-691). London: Palgrave Macmillan.

Al-Alosi., & Hamilton, M. (2021). The potential of restorative justice in achieving acceptance of responsibility in the context of environmental crimes. *University of New South Wales Law Journal*, 44(2), 487-512.

Ayres, I., & Braithwaite, J. (1992). *Responsive Regulation: Transcending the Deregulation Debate.* Oxford: Oxford University Press.

Boone, L., Aertsen, I., & Lauwaert, K. (2017). *Needs of Victims of Corporate Violence: Empirical Findings. Comprehensive Report Summary.* Milano: Università Cattolica del Sacro Cuore.

Braithwaite, J. (1989). *Crime, shame, and reintegration*. New York: Cambridge University Press.

Braithwaite, J. (1994). Organizational Crime and Republican Criminological Praxis. *Nikon University Comparative Law Journal*, 11, 123-150.

Braithwaite, J. (2019). Motivational interviewing and restorative justice praxis. In B. Pali, K. Lauwaert, & S. Pleysier (eds.), *The Praxis of Justice* (pp. 33-40). The Hague: Eleven International Publishing.

Braithwaite, J., & Mugford, S. (1994). Conditions of successful reintegration ceremonies: Dealing with juvenile offenders. *British Journal of Criminology,* 34, 139–171.

Braithwaite, J., & Parker, C. (1999). Restorative Justice Is Republican Justice. In G. Bazemore, & L. Walgrave (eds.), *Restorative Juvenile Justice: Repairing the Harm of Youth Crime* (pp. 102-126). Monsey: Criminal Justice Press.

Carroll, A.B. (2016). Carroll's pyramid of CSR: taking another look, *International Journal of Corporate Social Responsibility,* 1(3), 1-8.

Center for Democracy and Governance (1998). *Alternative Dispute Resolution. Practitioners Guide*. Washington: U.S. Agency for International Development.

Chapman, T., Laxminarayan, M., & Vanspauwen, K. (2021). *Manual on Restorative Justice Values and Standards for Practice.* Leuven: European Forum for Restorative Justice. Retrieved from https://www.euforumrj.org/sites/default/files/2021-11/EFRJ_Manual_on_Restorative_Justice_Values_and_Standards_for_Practice.pdf. (last accessed 9 December 2022).

Chiste, K.B. (2008). Retribution, Restoration and White-Collar Crime, *The Dalhousie Law Review,* 31(1), *85-121.*

Christie, E. (2008). *Finding solutions for environmental conflicts: Power and negotiation*. Cheltenham: Edward Elgar.

Cinotti, B., Agoguet, D., Landel, J.-F., Atzenhoffer, D., & Delbos, V. (2019). *Une justice pour l'environnement. Mission d'évaluation des relations entre justice et environnement*. Paris: Ministère de la Transition Écologique et Solidaire & Ministère de la Justice.

Clarke, T., & Peterson, T.R. (2017). *Environmental Conflict Management*. London: SAGE

Dünkel F., Grzywa-Holten J., & Horsfield P. (eds.) (2015). *Restorative Justice and Mediation in Penal Matters. A stock-taking of legal issues, implementation strategies and outcomes in 36 European countries (Vol. 1+2)*. Monchengladbach: Forum Verlag Godesberg.

European Forum for Restorative Justice (2021). *European Forum for Restorative Justice Comments on the EU Directive 2008/99/EC of the European Parliament and of the Council of 19 November 2008 on Improving Environmental Protection through Criminal Law*. Leuven: European Forum for Restorative Justice. Retrieved from https://www.euforumrj.org/sites/default/files/2021-08/EFRJ%20contribution%20EU%20Directive%20Environmental%20Criminal%20Law%203.05.2021%20%281%29.pdf (last accessed 9 December 2022).

Fischer, J. (2014). Managing Environmental Conflict. In: P. T. Coleman, M. Deutsch, & C.E. Marcus (eds.), *The Handbook of Conflict Resolution: Theory and Practice* (3rd Edition). Hoboken: John Wiley & Sons.

Forsyth, M., Cleland, D., Tepper, F., Hollingworth, D., Soares, M., Nairn, A., & Wilkinson, C. (2021). A future agenda for environmental restorative justice? *The International Journal of Restorative Justice*, 4(1), 17-40.

Froestad, J., & Shearing, C. 2007. The Zwelethemba Model - Practicing human rights through dispute resolution. In: S. Parmentier & E. Weitekamp (eds.), *Crime and Human Rights - Part II Human Rights and Justice* (pp. 534-556). Oxford: Elsevier Press.

Gaddi, D. (2021). El papel de la persona encargada de facilitar el proceso restaurativo. In M. García-Arán (ed.), *Justicia Restaurativa y Delincuencia Socioeconómico* (pp. 367-398). Valencia: Tirant lo Blanch.

Gaddi, D., & Rodríguez Puerta, M.J. (2022). Towards a restorative justice approach to white-collar crime and supra-individual victimisation. *The International Journal of Restorative Justice,* 5(2), 215-236.

Giavazzi, S. (ed.) (2017). *Guidelines for Corporations. Preventing Victimization and Dealing with Victims of Corporate Violence*. Milan: Università Cattolica del Sacro Cuore.

Hamilton, M. (2022). Restorative Justice Conferencing in a New Zealand Environmental Offending Context: Two Models. In B. Pali, M. Forsyth, & F. Tepper (eds.), *The Palgrave Handbook of Environmental Restorative Justice* (pp. 593-616). London: Palgrave Macmillan.

Kershen, L. (2021). Restorative approaches to environmental harm: shifting the levers of power. *The International Journal of Restorative Justice*, 4(1), 157-165.

Lauwaert, K. (2019). *Environmental crime. From victims' needs to restorative responses.* Unpublished presentation KU Leuven seminar Environmental Restorative Justice. Leuven: KU Leuven Institute of Criminology.

Le Méhauté, N. (2022). *Médiations environmentales. Pour construire un monde commun*. Toulouse: Editions érès.

Minguet, A. (2021). Environmental restorative justice movements and restorative justice. *The International Journal of Restorative Justice,* 4(1), 60-80.

O 'Leary, R., & Bingham, L. (2003). *The promise and performance of environmental conflict resolution*. Washington, DC: Resources for the Future.

Oliveira, C. (2021). *Entry points for restorative justice - United Nations (SDG)* (unpublished presentation). Working Group on Environmental Restorative Justice. Leuven: European Forum for Restorative Justice.

Preston, B. J. (2011). *The Use of Restorative Justice for Environmental Crime.* Paper presented to EPA Victoria Seminar on Restorative Environmental Justice, Melbourne 22 April 2011.

Rayman-Bacchus, L., & Walsh, P.R. (2021). *Corporate Responsibility and Sustainable Development. An Integrative Perspective.* London: Routledge.

Rest, J.R. (1994). Background: Theory and research. In J.R. Rest, & D. Narváez (eds.), *Moral development in the professions: Psychology and applied ethics* (pp. 1-26). Hillsdale: Lawrence Erlbaum Associates.

Russell, S., & Gilbert, M.J. (1999). Truman's revenge: Social control and corporate crime. C*rime, Law & Social Change,* 32, 59–82.

Schweigert, F.J. (1999). Learning the common good: Principles of community-based moral education in restorative justice. *Journal of Moral Education,* 28(2), 163–183.

Sweigert, F.J. (2016). *Business Ethics Education and the Pragmatic Pursuit of the Good*. Cham: Springer.

Sipe, N.G., & Stiftel, B. (1995). Mediating Environmental Enforcement Disputes: How Well Does it Work? *Environmental Impact Assessment Review,* 15, 139-156.

Spalding, A.B. (2015). Restorative Justice for Multinational Corporations. *Ohio State Law Journal,* 76(2), 357-408.

Stark, A. (2017). Environmental Restorative Justice. *Pepperdine Dispute Resolution Law Journal,* 16(3), 435-462.

Stein, J.G. (1989). Getting to the Table: Process of International Prenegotiation. *International Journal*, 44(2), 231-236.

Stipanowich, T.J., & Lamare, J.R. (2014). Living with ADR: Evolving Perceptions and Use of Mediation, Arbitration and Conflict Management in Fortune 1,000 Corporations. *Harvard Negotiation Law Review*, 19(1), 1-18.

UNODC (2020). *Handbook on Restorative Justice Programmes*. Second Edition. Vienna: United Nations.

Varona Martínez, G. (2020a). Restorative pathways after mass environmental victimization: Walking in the landscapes of past ecocides. *Oñati Socio-Legal Series*, 10, 3, 664-685.

Varona Martínez, G. (2020b). *Victimidad y Violencia Medioambiental contra los Animales: Retos de la Victimología Verde*. Albolote: Comares.

Visconti, A. (2018) Corporate violence: harmful consequences and victims' needs. An overview. In: G. Forti, C. Mazzucato, A. Visconti, & S. Giavazzi (eds.), *Victims and Corporations. Legal challenges and empirical findings* (p. 149-177). Milano: Wolters Kluwer.

Walker, G.B., & Daniels, S.E. (2019). Collaboration in Environmental Conflict Management and Decision-Making: Comparing Best Practices With Insights From Collaborative Learning Work. *Frontiers in Communication*, 4, 1-12.

Wijdekop, F. (2019). *Restorative Justice Responses to Environmental Harm*. Amsterdam: IUCN.

Wright, M. (2022). Restorative justice with corporations: The idea and the practicability. In B. Pali, K. Lauwaert, & S. Pleysier (eds.), *The Praxis of Justice* (pp. 281-292). The Hague: Eleven International Publishing.