

# CONTEMPORARY CHALLENGES OF SUSTAINABLE DEVELOPMENT: ARMED CONFLICT & THE ENVIRONMENT

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The paper focuses on the sustainable use of natural resources in light of an armed conflict. It states, that throughout the past two decades, the rise of recognition of sustainable use of natural resources in conflict prevention and post-conflict environment can be tracked. Moreover, the law of occupation is transforming towards the recognition of an obligation to use resources on the occupied territory in accordance with the principle of sustainable development.

**Key words:** sustainable development; sustainable use of natural resources; armed conflict; international environmental law; international humanitarian law; United Nations Security Council; United Nations Environment Programme.

The interconnection of International Environmental Law and an Armed Conflict exists in two dimensions: natural resources are considered as a possible trigger of an armed conflict; environment is considered as an unlawful object of an attack during an armed conflict. Accordingly, the principle of sustainable development is becoming a matter of concern in pre-conflict, conflict and post-conflict environments.

## WIDER CONTEXT OF CONFLICT

The main focus shall be put on the principle of sustainable development and use of natural resources in context of conflict prevention and post-conflict environment. More than 40% of internal armed conflicts over the last 60 years have been related to natural resources [1]. These conflicts are often conditioned by ethnic or religious distinction, that overlaps with different geographic characteristics of inhabited territories and creates unequal access to natural resources among local communities. Civil wars over various resources took place in Afghanistan, Burma, Iraq, Libya, Congo, Sudan [2]. On the contrary, there are examples of states rich with valuable resources, such as Botswana with diamonds, that managed to ensure equal access to natural resources by which precluded any ground for a dispute [3]. Natural resources play a key role in the broader political economy, which explains the frequency of wars over natural resources on the international level, such as the Darfur conflict [4].

Indeed, principles of prohibition of the use of force, non-interference and sovereign equality are aimed at preventing states from engaging in armed conflicts, including those over resources. The environmental law principle of the sovereignty of the state over natural resources located on its territory is also designed to preclude any ambitions to obtain control over foreign resources. However, natural resources might still trigger an armed conflict in case they are not used in a sustainable manner. In order to address this issue from a legal point of view, there is a need to establish a link between the law of international security and the concept of sustainable development. The sustainable development approach emphasizes the importance of equity within the economic system. It includes intra-generational equity, that seeks to redress the imbalance in wealth and economic development, which is frequently dependent on natural resources.

We witness a positive trend in including the issues of sustainable use of natural resources in the context of conflict. For example, UNEA in its 2016 Resolution (EA.2/Res.15) «Protection of the environment in areas affected by armed conflict» recognizes the role of sustainably managed resources in reducing the risk of armed conflict and underlines its commitment to the full implementation of the Sustainable Development Goals (A/RES/70/1). The UN Security Council tends to address environmental issues and considers sustainable development to be a key element of peace and security. The UNSC adopted several resolutions addressing the Kimberley Process (A/RES/55/56), particularly on Côte d'Ivoire (S/RES/1643, S/RES/1893), and Liberia (S/RES/1903), where it recognized that proper distribution of diamonds will serve as a stabilizing factor in a regional conflict. As Deputy Secretary-General Eliasson reaffirmed during the UNSC 6982 meeting, UNSC had a crucial role to play in a situations where resource extraction was fueling conflict, as «managed wisely, extractive resources could, and should, be the foundation for sustainable development and lasting peace». UNEP played a crucial role on several relevant occasions: it was an asset in guiding Afghan National Environmental Protection Agency on laws for the recovery and sustainable management of natural resources; as well as in assisting governments of Nigeria and Sudan on post-conflict environmental assessment. On the regional level, questions of resource management were incorporated into peace-agreements in Timor-Leste, Indonesia and Papua New Guinea, Declaration of Goma between Rwanda, DRC and Uganda [5].

## **SITUATION OF AN ARMED CONFLICT**

Tracking the influence of the sustainable development principle on the international environmental law within the issue of its preservation during an

armed conflict, special attention shall be drawn to the 2019 Report of the International Law Commission on the Work of its 71st Session (UN Doc. A/74/10), Chapter VI «Protection of the environment in relation to armed conflicts»[6]. This is the first, and so far the only document, that refers to «sustainable use» in the context of an occupation as a form of an international armed conflict under Article 2 of the Geneva Conventions 1949. The central principle embodied in the report is Principle 21 «Sustainable use of natural resources» that states: «To the extent that an Occupying Power is permitted to administer and use the natural resources in an occupied territory, for the benefit of the population of the occupied territory and for other lawful purposes under the law of armed conflict, it shall do so in a way that ensures their sustainable use and minimizes environmental harm». Principle 21 sets the obligations of an Occupying Power with respect to the sustainable use of natural resources that coincide with rules on exploitation of the wealth and natural resources of the occupied territory prescribed by Article 55 of the Hague Convention (IV). Such administration and use of resources may only be «for the benefit of the population of the occupied territory and for other lawful purposes under the law of armed conflict» [6, p. 214]. Occupying Power has to ensure the sustainable use of such resources and minimize environmental harm. ILC underlines: «In the light of the development of the international legal framework for the exploitation and conservation of natural resources, environmental considerations and sustainability are to be seen as integral elements of the duty to safeguard the capital». Accordingly, the Occupying Power should be cautious in exploiting non-renewable resources and exploit renewable resources in a way that ensures their long-term use [7].

Even though the report was published quite recently, there is a State Practice on the matter. «Conflict and Environment Observatory» NGO outlines the United Kingdom's practice on the protection of the environment in relation to armed conflicts, namely paragraph 15.20 of the Manual of the Law of Armed Conflict (UK Ministry of Defence, 2004), that states: «Regard must be had to the natural environment in the conduct of all military operations». Certain provisions of the UK Law of Armed Conflict Manual are of relevance to the principles presented in the ILC 2019 Report. For instance, article 11.86 states: «The occupying power is the administrator, user, and, in a sense, guardian of the property. It must not waste, neglect, or abusively exploit these assets so as to decrease their value». Even though it might seem speculative until the UK reveals its official position, the provision can be considered as endorsing the notion of the «sustainable use of natural resources» [8].

## CONCLUSIONS

Undoubtedly, environmental degradation and resources mismanagement threatens peace and security, as provokes ethnic, religious and class division. Thus, UNEA, UNGA and UNSC tend to include sustainable development concept in resolutions and reports related to an armed conflict, conflict prevention and management of post-conflict environments. The causal link between unsustainable use of natural resources and the conflict is simple – peace and security relies on healthy environment, just as environmental protection relies on peaceful societies [9]. However, sustainable management of natural resources is not yet duly incorporated into universal legal instruments on conflict-prevention and management. The steps to be taken towards enhancing legal regulation are: analyzing UNSC, UNEP and regional best practices; developing guidelines on conflict-related resource management; emphasizing the issues of resource management in UNSC; incorporating relevant practices in UN Peace Operations; establishing new mechanisms of control following the example of Kimberley process; facilitating the conclusion of regional agreements in areas of a special concern.

Moreover, once the conflict is inevitable, all possible measures shall be taken in order to prevent excessive damage to the environment. ILC had drawn attention to the Occupying Power obligations under IHL as implying for sustainable development in a pragmatic sense. It was followed by supportive reaction from the expert community, which called upon the states to interpret military manuals in light of the principle of sustainable development.

Thus, we can determine a trend in the development of the international environmental law in its interconnection with the notion of conflict in general, the law of international security and IHL. Sustainable development is the key not only to a long-term profit, but to the survival of nations.

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