

Environmental law essay sample

[Environment](#)



INTERNATIONAL ENVIRONMENTAL LAW DURING ARMED CONFLICTS:

Introduction

International environmental law has been described variously by different people. Professor Boyle has described the law as the aggregate principles which are aimed at protecting the global environment and controlling the activities within the national jurisdiction that may affect another state's environment or areas beyond national jurisdiction. (Sonja, 1996)

The international environmental of armed conflict has been in existence for many centuries. This is because, dating back to early civilization, many nations have attempted to use the force of nature in order to gain military advantage over their foes, some with remarkable success. Recent conflicts have highlighted the role of oil as targets during conflicts. Examples include 2nd World War in which British forces destroyed Rumanian oil fields in order to deny the Axis powers access to them. The Israel-Egypt conflict in which Israel destroyed the latter's oil fields and the 1980-1988 Iran-Iraq war are other examples. Another example is the 1990-1991 Gulf War in which some 600 oil wells were burnt.

As such, there have been attempts prescribe the limits to which mankind can go in event of armed conflict. The recent conflicts that have taken place have raised a fundamental concern about the adequacy of the international environmental law in times of armed conflicts.(Sonja, 1996) This is especially so for maritime environments.

This paper seeks to analyze the various laws pertaining to protection of the environment during conflict and the role of various international organizations in formulating and enforcing environmental law. The Lebanon oil spill is used as a case study. It also discusses Israel's liability in the oil spill, inefficacy of the international law and suggests the policy changes required to address the problem.

Geneva (ENMOD)

Although the environmental laws governing warfare have been there for a long time, the depth and concern over the effects of war on the environment emerged after the 2nd World War. The modern international environmental law is widely believed to have been formulated during the late 1960s and early 1970s. (Sonja, 2006)

United Nations general Assembly adopted the Convention on the prohibition of Military or any other Hostile use of Environmental Modification Techniques (ENMOD) The Geneva convention was signed on May, 18, 1977 and came into effect in October 5, 1978. The convention was concluded under the backdrop of the Vietnam War, in which the United States of America used massive amounts of herbicides against Vietnam. Article I of the treaty states that:

“ Each State Party to this Convention undertakes not to engage in military or any other hostile use of environmental modification techniques having widespread, long-lasting or severe effects as the means of destruction, damage or injury to any other State Party.” (United Nations, 1977)

Article II reads as such:

“ The term “ environmental modification techniques” refers to any technique for changing—through the deliberate manipulation of natural processes—the dynamics, composition or structure of the Earth, including its biota, lithosphere, hydrosphere and atmosphere, or of outer space.” (United Nations, 1977)

However, ENMOD has been considered to be limited use for protection of the environment during conflict, largely because it a disarmament treaty which does not actually focus on damage to the environment, but rather points out to use of certain uses of the forces of nature as actions of war in armed conflict. The threshold of the damage is also high, if one is to consider terms such as “ widespread, long-lasting and severe” (Sonja, 1996)

It is also criticized for being rather strained; raising doubts on whether the authors really intended to cover the concept of environmental damage at all.

It also focuses on damage inflicted on land, while the effects on the sea are not adequately addressed.

This became apparent after Iraq set the Kuwaiti oil well on fire, with some claiming that these were deliberate acts, even though they were low-tech and Iran should pay. However, other quarters claimed that ENMOD was only intended to ban use of advanced technology, so Iraq could not be held liable. The controversy has never been resolved. (Sonja, 1996)

It is also apparent that the convention’s remedial measures have never been used and that its enforcement mechanisms are at best unsatisfactory.

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ICLC

The International Convention on civil Liability for Oil Pollution Damage was signed on November 29, 1969 and enforced on June 19, 1975. It was adopted to ensure that person's who received any form of damage as a result of oil pollution from oil carrying ship was adequately compensated. (<http://www.imo.org/conventions>) However, this convention excludes oil spills resulting from warship or any other ship not used for commercial services. It does not also address the aspects of marine pollution and other related damage. An example is the 1983 Iraq attack on Iranian Norwuz oil fields which led to major environmental damage, but for which Iran was never compensated.

The Role of International Organizations

UNEP

UNEP was established in 1972 to act as the coordinator of environmental issues within the United Nations. The program has been instrumental in the international environmental matters and has carried out various environmental impact assessment studies in areas affected by conflict like Iraq, Palestine, Sudan, and Lebanon among others. (Malviya. 1999)

UNCC

The United Nations Compensation Commission (UNCC) was created in 1991 after the Gulf War to act as a branch of the United Nations Security Council. Its mandate was to process claims and to pay compensation to the victims Iraq's invasion into Kuwait. In one of its resolutions it stated that:

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“ Iraq... is liable under international law for any direct loss, damage, including environmental damage and the depletion of natural resources, or injury to foreign Governments, nationals and corporations, as a result of Iraq’s unlawful invasion of Kuwait”(http://www2.unog.ch/uncc/introduc.htm)

PCAD

The Post Conflict and Disaster Management Branch (PCAD) is a subsidiary of the United Nations Environmental Programme which works in post conflict settings where there has been environmental damage due to war. It has many programs like the environmental assessment, which has carried out various assessments in conflict regions. It also works with governments to in institution development, regional cooperation, provides technical legal support and assistance. (http://postconflict.unep.ch)

The Lebanon Oil Spills

On 21 July 2006, a war erupted between Israel and Lebanon in what came to be known as the Second Lebanon War, the first one having taken place in 1982. This was a 34-day conflict that involved the Hezbollah faction from Lebanon and the Israeli military. War broke out after Hezbollah launched a series of rocket attacks towards Israel’s territory, then crossing the border into Israel and killing three soldiers and capturing two others. Israel retaliated by launching massive aerial and ground bombardments against selected targets in Lebanon. (Daily Star. (2006))

In one of the attacks, Israeli bombed the Jiyeh power station located near the Mediterranean Sea, causing a massive oil spill around the area in one of the largest oil spills to ever occur in the area.

An environmental assessment study was carried out by UNEP between September 30 and October 21 following the Israel-Lebanon conflict. It indicated that the massive oil spill from the Jiyeh power plant had polluted the coastline along Lebanon and some of its neighbors including Turkey, Syria and Cyprus. (UNEP 45)

It is estimated that between 10, 000 and 35, 000 metric tons of oil were released into the Mediterranean Sea. The spill affected approximately 150 kilometers of the Lebanese coastline, including the beaches, ports and the marinas. Furthermore, the spill resulted in significant pollution of both the surface and ground water, in addition to polluting the rocks under the plant. (UNEP 45)

The bombardment of the plant also caused large fires, which burnt for an estimated 27 days. The fire released smoke into the atmosphere laden with pollutants in form of soot, particulate matter, carbon monoxide and methane. (Shevtsov, 2007)

The Jiyeh oil spill had many implications on the environment. First of all, the pollution of the sea threatened marine life, especially the green sea turtle and the blue fin tuna found in this part of the sea. Contamination of the ground water wells rendered the water unfit for human consumption. Furthermore, the combination of the respiratory pollutants from the smoke was a potential health problem to the local people (UNEP, 45)

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Israel's Liability and Impotence of International Law

It would be assumed that since Israel was liable for the damage to Lebanon's environment, it would be held accountable for its action. However, up to date, no action has been taken against it. This is because of the weaknesses in the international environmental laws. The ENMOD convention, for example, provides only limited protection to the environment because of the conditions it imposes. Terms like wide spread, long term and severe limit the ability of the law to offer adequate protection in cases like Lebanon.

Policy Recommendations

In the face of the glaring inadequacies of the International Environmental Laws for Armed Conflict, it is imperative for the United Nations to undertake policy changes that would ensure that the environment is adequately protected from war destruction.

The following recommendations should be considered to achieve this goal:

- The United Nations should adopt a relative standard, taking into consideration a state's surface, so that smaller countries are considered.
- The laws should also define the permissible class of weapons, to remove the ambiguity of the terms "modification techniques"
- The laws should be clear on the objects and areas that are supposed to be protected, to give them more weight and lend them to less interpretations in case of disputes.

- The laws should also be reformed to add environmental value to them, than is currently the case
- The threshold for the damage should be lowered
- The mandate of the United Nations Security Council during armed conflicts should be given more power to deal with threats in times of conflict.
- There is also need to form a world environmental court with legal experts in it to try such cases so that countries are held accountable for their actions during war.

This therefore calls for the formulation of a new convention altogether that would address these issues.

Conclusion

If appropriate structures are put in place in order to enforce the environmental law during armed conflict, major strides can be made to protect countries engaged in from wanton environmental destruction by the other parties in the conflict.

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