

The Gaps of Environmental Criminal Liability in Armed Conflicts and Its Consequences: An Analysis under Stockholm, Geneva and Rome

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Abstract : Armed conflicts have always meant the ultimate expression of power and at the same time, lack of understanding among nations. Cities were destroyed, people were killed, assets were devastated. But these are not only the loss of a war: the environmental damage comes to be considered immeasurable losses in the short, medium and long term. And this is because no nation wants to bear that cost. They invest in military equipment, training, technical equipment but the environmental account yet finds gaps in international law. Considering such a generalization in rights protection, many nations are at imminent danger in a conflict if the water will be used as a mass weapon, especially if we consider important rivers such as Jordan, Euphrates and Nile. The top three international documents were analyzed on the subject: the Stockholm Convention (1972), Additional Protocol I to the Geneva Convention (1977) and the Rome Statute (1998). Indeed, some references are researched in doctrine, especially scientific articles, to substantiate with consistent data about the extent of the damage, historical factors and decisions which have been successful. However, due to the lack of literature about this subject, the research tends to be exhaustive. From the study of the indicated material, it was noted that international law - humanitarian and environmental - calls in some of its instruments the environmental protection in war conflicts, but they are generic and vague rules that do not define exactly what is the environmental damage, nor sets standards for measure them. Taking into account the main conflicts of the century XX: World War II, the Vietnam War and the Gulf War, one must realize that the environmental consequences were of great rides - never deactivated landmines, buried nuclear weapons, armaments and munitions destroyed in the soil, chemical weapons, not to mention the effects of some weapons when used (uranium, agent Orange, etc). Extending the search for more recent conflicts such as Afghanistan, it is proven that the effects on health of the civilian population were catastrophic: cancer, birth defects, and deformities in newborns. There are few reports of nations that, somehow, repaired the damage caused to the environment as a result of the conflict. In the pitch of contemporary conflicts, many nations fear that water resources are used as weapons of mass destruction, because once contaminated - directly or indirectly - can become a means of disguised genocide side effect of military objective. In conclusion, it appears that the main international treaties governing the subject mention the concern for environmental protection, however leave the normative specifications vacancies necessary to effectively there is a prevention of environmental damage in armed conflict and, should they occur, the repair of the same. Still, it appears that there is no protection mechanism to safeguard natural resources and avoid them to become a mass destruction weapon.

Keywords : armed conflicts, criminal liability, environmental damages, humanitarian law, mass weapon

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