
11. Assessing the contribution of human rights actors to environmental peacebuilding

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1. INTRODUCTION

Scarcity, or, at the opposite end of the spectrum, abundance, of natural resources are recognised potential causes of tension among states and within states.¹ The conflicts in Sudan, Liberia, Sierra Leone, Kenya and the Democratic Republic of Congo (DRC) provide evidence for the notion that competition over natural resources and grievances emanating from the distribution of benefits of natural resource exploitation are possible contributing causes of, or exacerbating conditions for, conflict.² In addition, natural resource extraction and exploitation can provide the resources for the prolongation of conflict, either by delivering the financial means to sustain war-fighting capacities, or incentives for the continuation of conflict.³ As the environmental peacebuilding literature⁴ also establishes, however, during the post-conflict peace-making phase, natural resources may also offer opportunities to promote dialogue and cooperation, create stability, provide peace dividends, and, therefore, help prevent the relapse into conflict.⁵

¹ UN Secretary-General's High-Level Panel on Threats, Challenges and Change, *A More Secure World: Our Shared Responsibility: Report of the High-level Panel on Threats, Challenges and Change*, UN Doc. A/59/565, 2 December 2004; Thomas Homer-Dixon, 'On the Threshold: Environmental Changes as Causes of Acute Conflict' (1991) 16(1) *International Security* 76; Günther Baechler, *Violence Through Environmental Discrimination* (Kluwer Academic Publishers 1999). For more critical perspectives of a direct link between resource scarcity and conflict, see Nils P. Gleditsch, 'Armed Conflict and the Environment: A Critique of the Literature' (1998) 35(3) *Journal of Peace Research* 381; Wenche Hauge and Tanja Ellingsen, 'Beyond Environmental Scarcity: Causal Pathways to Conflict' (1998) 35(3) *Journal of Peace Research* 299.

² *Report of the High-Level Mission on the Situation of Human Rights in Darfur Pursuant to Human Rights Council 4/80*, 9 March 2007 (Darfur Report); *Report of the Truth, Justice and Reconciliation Commission, Kenya, Final Report*, vol 1 (2013), para vii (Kenya Truth Commission Report); Michael Ross, 'A Closer Look at Oil, Diamonds, and Civil War' (2006) 9 *Annual Review of Political Science* 265.

³ General Assembly Resolution 61/28, *The Role of Diamonds in Fuelling Conflict: Breaking the Link Between the Illicit Transaction of Rough Diamonds and Armed Conflict as a Contribution to Prevention and Settlement of Conflicts*, Doc. A/61/28, 4 December 2006; Global Witness, *The Sinews of War: Eliminating the Trade in Conflict Resources* (2006).

⁴ David Jensen and Steve Loneragan (eds), *Assessing and Restoring Natural Resources in Post-Conflict Peacebuilding* (Earthscan 2012); Carl Bruch, Carroll Muffett, Sandra S. Nichols (eds), *Governance, Natural Resources, and Post-Conflict Peacebuilding* (Routledge 2016).

⁵ Ken Conca and Geoffrey D. Dabelko, (eds), *Environmental Peacemaking* (Woodrow Wilson Center Press; Johns Hopkins University Press 2002); United Nations Environment Programme (UNEP), *From Conflict to Peacebuilding: The Role of Natural Resources and the Environment* (UNEP 2009) (UNEP, Peacebuilding).

Environmental peacebuilding is defined for current purposes as ‘the integration of natural resource management and environmental protection in conflict resolution and recovery strategies to prevent conflict relapse and to lay the foundations for sustainable peace and development’. As other contributions in this volume have demonstrated, there is a growing body of social science research analysing the potential mechanisms by which natural resource management and environmental protection can be integrated into existing conflict resolution and peacebuilding approaches.⁶ A key aim of environmental peacebuilding is to ensure the future protection of the environment in the affected state(s), as well as remediation of damaged environments. Environmental peacebuilding may also have the potential to help address long-standing inequalities in post-conflict societies, thus serving as a catalyst to establish the conditions necessary for achieving positive peace.⁷ Furthermore, since human rights and environmental protection are interdependent,⁸ the analysis of human rights machinery and norms is particularly important in attempts to progress the environmental peacebuilding agenda. As this contribution will demonstrate, human rights actors have created a wealth of opportunities to monitor progress in achieving human rights, including environmental human rights, and holding states to account. Working with such bodies, we could gain invaluable avenues for creating a multi-pronged approach to progressing environmental peacebuilding.

The following section briefly outlines existing peacebuilding approaches, and charts where human rights sit within those mechanisms. Since human rights already have a foothold in peacebuilding approaches, Section 3 identifies the main human rights actors and mechanisms by which states are currently held to account – and which continue to operate during the peacebuilding phase. Section 4 narrows down the human rights focus to explore the normative ‘environmental rights’ framework more specifically. Finally, Section 5 will analyse if environmental peacebuilding goals can already be achieved by relying on these existing environmental human rights, bearing in mind their current scope and level of acceptance in international law. As it progresses, the chapter will also tease out any potential drawbacks, tensions and gaps in using human rights in this way to help achieve environmental peacebuilding. Principally, due to the perception that human rights are dominated by Westernised conceptions, and lack real Third World perspectives,⁹ it is arguable that using a human rights platform for environmental peacebuilding could over-politicise the issue of environmental remediation – particularly at a time, notably in the aftermath of conflict, when political tensions will already, undoubtedly, be running high.

⁶ Jensen and Lonergan (n 4); Bruch et al (n 4); Ken Conca and Jennifer Wallace, ‘Environment and Peacebuilding in War-Torn Societies: Lessons from the UN Environment Programme’s Experience with Postconflict Assessment’ (2009) 15(4) *Global Governance* 485.

⁷ Johan Galtung, ‘Violence, Peace, and Peace Research’ (1969) 6(3) *Journal of Peace Research* 167.

⁸ *Framework Principles on Human Rights and the Environment, Report of the Special Rapporteur on the Issue of Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment*, A/HRC/37/59, 24 January 2018 (Knox, January 2018 Report); United Nations Human Rights Council, *Report of the OHCHR on the Relationship Between Climate Change and Human Rights*, UN Doc. A/HRC/10/61, 15 January 2009, para 18.

⁹ B.S. Chimni, ‘Third World Approaches to International Law: A Manifesto’ (2006) 8(1) *International Community Law Review* 3.

2. LOCATING HUMAN RIGHTS WITHIN PEACEBUILDING PROCESSES

After the Second World War, human rights principles were elevated to Article 1 of the 1945 United Nations Charter.¹⁰ Their inclusion, and pre-eminence in the instrument, demonstrated their status as being one of the core goals of the United Nations. Having gained greater normative recognition, as a fundamental international law issue, human rights permeated the war's global peacebuilding context.¹¹ Human rights, therefore, have long sat within the broad spectrum of post-conflict peacebuilding frameworks.

Most notably, peacebuilding processes have often demanded ratification of fundamental human rights treaties by warring states, which bring a wealth of resources, enforcement machinery and oversight bodies. Depending on the scale of any atrocities committed during conflict, the pivotal notion of accountability for human rights violations has also seen a large measure of success through international criminal justice and transitional justice mechanisms. Even on the macro-level, human rights have tended to form a central part of peacebuilding processes, both alongside and as part of approaches emphasising institutional reform and reinstatement of the rule of law.¹²

This is not to say, however, that there is no room for improvement in existing peacebuilding approaches. Indeed, from a human rights perspective, many previously adopted approaches to peacebuilding have proven to be problematic.¹³ The so-called 'liberal peacebuilding agenda', for example, relied too heavily on imposing an off-the-shelf peacebuilding approach incapable of being sufficiently agile to adapt to the local circumstances of a given conflict.¹⁴ While the alternative focus on achieving capitalist or market reforms has been shown to result in the exacerbation of pre-existing social inequalities.¹⁵ The consequence of both approaches has often been the continuation of a concentration of power in political or ethnic elites within

¹⁰ 1945 Charter of the United Nations, (1945) 39 *American Journal of International Law* 190 Supp.

¹¹ See also Art 55, UN Charter, *ibid.*, where a stronger human rights obligation is included to promote human rights.

¹² *Report of the High-level Independent Panel on Peace Operations on Uniting our Strengths for Peace: Politics, Partnership and People*, UNGA Doc. A/70/95, SC Doc. S/2015/446, 17 June 2015 (2015 *High-level Independent Panel Report*); Note the Secretary-General's 2013 *Rights up Front Agenda*.

¹³ Jacob Bercovitch and Richard Jackson, *Conflict Resolution in the Twenty-First Century: Principles, Methods and Approaches* (The University of Michigan Press 2009) 11; *Report of the Secretary-General, The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies*, S/2004/616, 23 August 2004, para 8; Ruti G. Teitel, 'Transitional Justice Genealogy' (2003) 16 *Harvard Human Rights Journal* 69, 69.

¹⁴ Lars Waldorf, 'Anticipating the Past: Transitional Justice and Socio-Economic Wrongs' (2012) *Social & Legal Studies* 1, 3; Hurst Hannum, 'Human Rights in Conflict Resolution: The Role of the Office of the High Commissioner for Human Rights in UN Peacemaking and Peacebuilding' (2006) 28(1) *Human Rights Quarterly* 36, 37; Edward Newman, Roland Paris and Oliver P. Richmond, *New Perspectives on Liberal Peacebuilding* (eds), (UNU Press 2009); Newman suggests that the notion of 'liberal' peacebuilding may be a misnomer, as 'the emphasis upon stability and security seems more akin to the promotion of a strong Hobbesian state than a Lockean liberal contract', see Edward Newman, 'Human Security Peace-Building Agenda' (2011) 32(10) *Third World Quarterly* 1737, 1742.

¹⁵ Dustin N. Sharp, 'Addressing Economic Violence in Times of Transition: Toward A Positive-Peace Paradigm For Transitional Justice' (2012) 35 *Fordham International Law Journal* 780; Scott Leckie (ed), *Housing, Land, and Property Rights in Post-Conflict United Nations and Other Peace Operations*:

society, which in turn leads to the avoidance of any real investigation into the causes of conflict, and, ultimately, the side-lining of broader reform related to economic, social and cultural rights.¹⁶

However, while the political machinations of individual post-conflict settlement processes are, by their nature, different and the complexities are numerous, more recent processes have, indeed, included elements designed to address land reform, reduce poverty and the causes of food and water insecurity, and some have included an environmental chapter.¹⁷ Such developments are a result of what many call ‘bottom-up’ concepts of peacebuilding, or the ‘human security’ approach to peacebuilding, which promotes a focus on addressing the root causes of conflict and addressing inequality, poverty and social grievances.¹⁸ Such processes have, therefore, been able to promote a broader, more inclusive approach to peacebuilding. Ultimately, such approaches aim to achieve greater legitimacy, and to reduce the risk of a relapse into conflict, thus enabling a transition to a longer-lasting conflict settlement (positive peace).¹⁹ Support for realising such a central role for a broader sense of human rights in peacebuilding processes was included in the 2015 *Report of the High-level Independent Panel on Peace Operations on Uniting our Strengths for Peace: Politics, Partnership and People*,²⁰ where in regards to sustaining peace it was recognised that there was a need for ‘rethinking the approach’.²¹ With respect to the role of the United Nations system in sustaining peace, the report stated that:

Inclusive and equitable economic development is a pillar for sustaining peace. The United Nations should take into account economic dimensions, including livelihoods and jobs and transparent and accountable management of natural resources, including revenues, land and, particularly in zones of conflict, basic services.²²

Clearly, human rights already have a central place within peacebuilding. Furthermore, the human security agenda offers additional scope to realise more integration of environmental considerations in the peacebuilding process and settlement itself, and, importantly, on the ground. Poverty, land and resource-related grievances are, after all, both human rights and environmental issues – and so, promotion of the ‘human security’ agenda more broadly within the peacebuilding fora can be used to provide an opportunity to integrate environmental con-

A Comparative Survey and Proposal for Reform (Cambridge University Press 2009) 228; Newman (n 14) 1745.

¹⁶ Shedrack C. Agbakwa, ‘A Path Least Taken: Economic and Social Rights and the Prospects of Conflict Prevention and Peacebuilding in Africa’ (2003) 47 *Journal of African Law* 38, 40; Newman (n 14) 1741.

¹⁷ Simon J.A. Mason, Damiano A. Sguaitamatti and María del Pilar Ramírez Gröbli, ‘Stepping Stones to Peace? Natural Resource Provisions in Peace Agreements’ in Bruch et al (n 4) 76.

¹⁸ Amanda Cahill-Ripley, ‘Reclaiming the Peacebuilding Agenda: Economic and Social Rights as a Legal Framework for Building Positive Peace – A Human Security Plus Approach to Peacebuilding’ (2016) 16 *Human Rights Law Review* 223, 226; Oliver P. Richmond, ‘Emancipatory Forms of Human Security and Liberal Peacebuilding’ (2007) 62 *International Journal* 459.

¹⁹ Galtung (n 7); Geoff Harris ‘The Costs of Armed Conflict in Developing Countries’ in Geoff Harris (ed), *Recovery from Armed Conflict in Developing Countries: An Economic and Political Analysis* (Routledge 1999) 23; Sharp (n 15) 807.

²⁰ 2015, High-level Independent Panel Report (n 12).

²¹ *Ibid.*, Section E, paras 131–141.

²² *Ibid.*, para 148.

siderations into peacebuilding also. Reducing inequality and disputes over natural resources, and even reducing the environmental damage caused by the peacebuilding process itself, could be important ways to help reduce the risk of further conflict and build a more legitimate and sustainable peace.²³

The next section will move to a discussion of the tools open to human rights institutions and actors for progressing the environmental peacebuilding agenda. These mechanisms have developed and been fine-tuned over many years, and, by comparison with other areas of international law, these human rights mechanisms can be very powerful tools.

3. ANALYSING HUMAN RIGHTS MACHINERY AND ACTORS TO HELP DELIVER ENVIRONMENTAL PEACEBUILDING

As a body of law, international human rights law undoubtedly brings with it a very strong moral and normative force, which is engaged at every level of governance. Over the past seven decades the body of human rights law has grown considerably in terms of substance and reach, with several regional human rights systems generating more nuanced, local normative force of their own. As such, the primary benefit of using human rights law in the peacebuilding context is that it provides universally binding norms imposing minimum accepted standards and, most importantly, a legal duty on states to ensure those rights – backed up by a colossal wealth of institutional machinery and civil society to support implementation and monitor compliance.

All human rights mechanisms, including those created by the UN Charter and through the extensive range of multilateral treaties, have analysed and applied human rights obligations in the post-conflict phase. Furthermore, via the mainstreaming of human rights throughout the UN system,²⁴ together with the adoption of the Sustainable Development Goals in 2015, there is now an integration of human rights and environmental protection jointly²⁵ across the work of the UN. The UN Development Programme (UNDP), the UN Human Settlements Programme (UN-habitat) and UN International Children's Fund (UNICEF), for example, all work on conflict and emergency issues and all link with the principal human rights mandate holder within the UN, namely the office of the UN High Commissioner for Human Rights (UN OHCHR). For example, in her 2019 report on the *Situation of Human Rights in Colombia*, a state notably emerging from decades of conflict, the UN High Commissioner for Human Rights emphasised the need for states to guarantee human rights to provide a pathway to peace.²⁶ In that Report, the High Commissioner also raised concerns about the environmental (and health) impacts of illegal gold mining, in particular the concentration of mercury in rivers at concentrations 15–20 times higher than World Health Organization (WHO) limits.²⁷

²³ See Chapter 1 in this volume.

²⁴ United Nations, *Renewing the United Nations: A Programme for Reform*, Report of the United Nations Secretary-General, UN Doc. A/51/950, 14 July 1997, para 79; Gerd Oberleitner, 'A Decade of Mainstreaming Human Rights in the UN: Achievements, Failures, Challenges' (2008) 26(3) *Netherlands Quarterly of Human Rights* 359.

²⁵ General Assembly Resolution, *Transforming our World: The 2030 Agenda for Sustainable Development*, UN Doc. A/RES/70/1, 21 October 2015 (*SDGs, 2015*).

²⁶ A/HRC/40/3/Add.3, 4 February 2019, 3.

²⁷ *Ibid.*, para 62.

Human rights treaties require states to both enshrine human rights obligations in their legal systems and to allow for their enforcement through effective and transparent local processes. However, such domestic complaints processes will frequently be unavailable to individuals in the immediate aftermath of armed conflict, as governments are often faced with a period of instability and confusion and public bodies might be slow to recover the intellectual, financial and technical capacity to address violations. An additional layer of protection and redress is often, therefore, provided by regional mechanisms, which may provide reparation to individuals against the state. Lamentably these regional mechanisms, however, do not cover all states and often entail a very slow and expensive process. Adjudication in the European,²⁸ African²⁹ and Inter-American³⁰ regional systems can, though, entail a binding decision upon the state by a specialised human rights court. Particularly, under the European Convention on Human Rights, there is an extensive body of jurisprudence on the human rights implicated in situations of armed conflict, as well as post-conflict. In a plethora of cases, for example, the European Court of Human Rights (ECtHR) has honed the law on the recovery of property rights following an illegal occupation.³¹ Individuals are also able to raise claims directly against their state under the bodies established to monitor compliance with two international human rights treaties, namely the ‘Human Rights Committee’ for the 1966 International Covenant on Civil and Political Rights (ICCPR)³² and the Committee on Economic, Social and Cultural Rights (CESCR) for the Covenant of the same name.³³ Although not able to render legally-binding judgments, these bodies have created an invaluable, weighty body of jurisprudence of their own, clearly with greater reach than the regional mechanisms.

As usual, in international law, the main treaty compliance monitoring procedures entail state reporting mechanisms. A state reporting process is adopted for each human rights treaty and is generally a much more rigorous accountability tool than those adopted in environmental treaties. Monitoring bodies issue their own ‘Concluding Observations’ as an assessment of state reports, highlighting areas of concern and recommending specific remedial actions. These reports help to serve as an early warning system, flagging areas of human rights concerns within states. At the highest level of the Universal Periodic Review, the UN’s principal human rights body, the Human Rights Council, appraises each state’s record in ensuring its human rights obligations. In its 2016 UPR report, Sri Lanka, for example, stated that the alleviation of poverty is of high priority in the state following the findings of its ‘Lessons Learnt and Reconciliation Commission’,³⁴ and explained how the Sustainable Development Goals³⁵ had shaped its human rights policies.³⁶ Colombia also reported on progress made by

²⁸ (ECHR) 1950 Convention for the Protection of Human Rights and Fundamental Freedoms (as amended), ETS No.005.

²⁹ 1981 African Charter on Human and Peoples’ Rights (1982) 21 International Legal Materials 58.

³⁰ 1969 American Convention on Human Rights (1970) 9 International Legal Materials 673.

³¹ *Loizidou v Turkey* App no 15318/89 (ECHR, 18 December 1996).

³² 999 UNTS 171.

³³ 993 UNTS 3.

³⁴ *National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21, Sri Lanka*, A/HRC/WG.6/28/LKA/1, 24 August 2017, para. 86 (Sri Lanka, UPR Report).

³⁵ SDGs, 2015 (n 25).

³⁶ Sri Lanka, UPR Report (n 34) para 129. See also *National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21, Mali*, A/HRC/WG.6/29/MLI/1, 6 November 2017.

its post-conflict Land Fund and Land Agency in awarding land to families and ethnic groups,³⁷ as well as measures being taken to decrease rural poverty,³⁸ and ensure water³⁹ and food security.⁴⁰ With other states on the Human Rights Council being able to lodge questions with the reporting state, this can be a valuable mechanism for accountability and compliance monitoring. When the UN Human Rights Council is especially concerned about rights observance within a state, it may also dispatch a High-Level Mission to investigate, such as the mission dispatched to assess the conditions in conflict-torn Darfur in 2006.⁴¹

There also exist important opportunities for civil society to monitor and criticise a state's progress towards implementation of its obligations. Through the submission of shadow reports (under all human rights procedures) civil society organisations possess a significant tool for raising issues directly with treaty monitoring bodies that state reports may have evaded or misrepresented, and these shadow reports provide a valuable source of local information or evidence base for monitoring bodies. In this way, human rights advocacy can create a valuable resource within the state's civil society organisations⁴², including monitoring socio-economic conditions within the state that might flag any early warning signs of risks of a relapse into conflict.

Issues raised in any of these reports might also be picked up by the 45 thematic Special Rapporteurs, such as the Special Rapporteurs on the Right to Food, Healthy Environment, Water and Sanitation, Indigenous Peoples, and Extreme Poverty. In particularly problematic situations, such as in post-conflict Sudan, a Special Rapporteur may be created to monitor and report on a specific country.⁴³ Undoubtedly, the expertise of the Special Rapporteurs has greatly advanced the practical application of human rights by allowing for sustained focus on specific rights. Complementing the Special Rapporteurs' work, the Human Rights Committee (of the ICCPR) and CESCR, have ensured the continual development and relevance of the rights contained in the Covenants by issuing authoritative guidance on the interpretation of human rights obligations under the Covenants (known as 'General Comments').

While only a whistle-stop tour could be provided here of the extensive wealth of human rights monitoring mechanisms and bodies, there could be strong benefits in using these tools and actors to help develop and deliver environmental peacebuilding. On a related note, a clear value of human rights obligations is that these continue to apply at all times, even during conflict.⁴⁴ This recognition may be important as peacebuilding processes are often notoriously complex, difficult to negotiate and entail delay. Thus, the conflict-affected state will (or at

³⁷ *National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21, Colombia*, A/HRC/WG.6/30/COL/1, 26 February 2018, para 26 (Colombia, UPR Report).

³⁸ *Ibid.*, paras 105, 111–112.

³⁹ *Ibid.*, para 130.

⁴⁰ *Ibid.*, para 114.

⁴¹ Darfur Report (n 2).

⁴² Christine Bell, 'Peacebuilding, Law and Human Rights', in Roger Mac Ginty (ed), *Routledge Handbook of Peacebuilding* (Routledge 2013) 253.

⁴³ See the *Report of the Independent Expert on the situation of human rights in the Sudan*, A/HRC/39/71, 13 August 2018.

⁴⁴ *Legality of the Threat or Use of Nuclear Weapons* (Advisory Opinion) [1996] I.C.J. Rep. 226, para 25; *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* (Advisory Opinion) [2004] I.C.J. Reports 136, para 106; *Case Concerning Armed Activities on the Territory of the Congo (DRC v Uganda)*, Judgment of 19 December 2005 (Merits) [2005] I.C.J. Reports 168, para 216.

least ‘should’) already have some level of human rights presence and institutional machinery, which is ready for use in the immediate post-conflict phase – and thus, available to be used to deliver aspects of the environmental peacebuilding agenda. Yet, of course, we must also recognise that there may be capacity issues for such human rights institutions during this period, assuming that these were effective, before the conflict.⁴⁵

There is, therefore, a wealth of human rights actors and machinery to be used in the post-conflict peacebuilding setting. Having analysed the human rights picture more broadly, the next section will proceed to a more focused analysis of the range of environmental human rights available for use by these human rights actors in the peacebuilding process.

4. ENVIRONMENTAL HUMAN RIGHTS

The two 1966 international human rights covenants do not contain any reference to the environment. Today, however, it is very clearly accepted that human rights cannot be effectively realised if we do not enjoy a healthy, viable environment.⁴⁶ There is, therefore, an intrinsic link between the environment and human rights. Since their adoption, many human rights in the 1966 Covenants have, thus, developed or evolved a ‘greener’ element, where the environmental component of the human right is emphasised. The right to health, for example, has been interpreted to include ‘access to safe and potable water and adequate sanitation, safe and healthy working conditions, and a *healthy environment*’.⁴⁷ Focusing more specifically on the relationship with a healthy environment, emphasis is also placed on the ‘prevention and reduction of the population’s exposure to harmful substances such as radiation and harmful chemicals *or other detrimental environmental conditions* that directly or indirectly impact upon human health’.⁴⁸ Similarly, the human right to water addresses the need for water to ‘be safe’, including from environmental hazards, such as ‘chemical substances and radiological hazards that constitute a threat to a person’s health’.⁴⁹

⁴⁵ This is especially important within transitional justice to help provide guarantees of non-repetition, Clara Sandoval Villalba ‘Transitional Justice: Key Concepts, Processes and Challenges’ (IDCR Briefing Paper 2010) <https://core.ac.uk/download/pdf/9590211.pdf> accessed 21 March 2023, 9; Earl Conteh-Morgan, ‘Peacebuilding and Human Security: A Constructivist Perspective’ (2005) 10(1) *International Journal of Peace Studies* 69, 70.

⁴⁶ UN HRC, *Report of the OHCHR on the Relationship Between Climate Change and Human Rights*, UN Doc. A/HRC/10/61, 15 January 2009, para 18; *Need to ensure a healthy environment for the well-being of individuals*, General Assembly Resolution 45/94, 14 December 1990. There is a growing body of academic literature analysing the field of environmental human rights, see Anna Grear and Louis Kotze (eds.), *Research Handbook on Human Rights and the Environment* (Edward Elgar 2015); David R. Boyd, *The Environmental Rights Revolution: A Global Study of Constitutions, Human Rights and the Environment* (UBC Press 2012).

⁴⁷ Emphasis added. CESCR, *Substantive Issues Arising in the Implementation of the International Covenant on Economic, Social and Cultural Rights notably on the implementation of the right to health (Article 12)*, UN Doc. E/C.12/2000/4, 11 August 2000, para 4.

⁴⁸ Emphasis added. *ibid.*, para 15.

⁴⁹ ECOSOC, General Comment No.15, ‘The right to water (Arts 11 and 12 of the International Covenant on Economic, Social and Cultural Rights)’ (2002), UN Doc. E/C.12/2002/11, 20 January 2003, para 12(b).

Environmental damage, therefore, has both direct and indirect impacts on the enjoyment of a wide range of human rights.⁵⁰ Indeed, the CESCR in 2002 recognised that, ‘Water and sanitation must be provided in a way that respects the natural environment; *finite resources must be protected and overexploitation cannot occur*’.⁵¹ This approach takes the greening of human rights a step further, to require protection of the environment itself as part of human rights obligations. This approach was more recently mirrored and expanded in the newly-adopted formulation of the right to life under the ICCPR (2018). Here, states are explicitly required to take into account the need to ‘*preserve the environment and protect it against harm, pollution and climate change caused by public and private actors*’.⁵²

Within ‘greened’ rights one can also, therefore, find broader obligations to protect the environment itself, such as can be seen in the CESCR’s Concluding Observations on state reports commending state action on dealing with what might otherwise be seen as merely environmental issues, not necessarily human rights issues, such as deforestation, waste and desertification.⁵³ For a number of states that have populations of indigenous peoples, there is even the very ‘green’ language of ensuring the ‘equilibrium of the ecosystem’.⁵⁴ Consequently, human rights monitoring bodies have adopted a broader environmental rule of law approach, which requires states to respect, protect and fulfil human rights by abiding by relevant environmental standards and processes.⁵⁵ The ECtHR, for example, applies a state’s environmental law obligations in assessing compliance with its obligations under the Convention, which Pedersen refers to as ensuring the environmental rule of law.⁵⁶ In this way, compliance with a state’s own environmental laws can help determine if it has breached its human rights obligations.

Similarly demonstrating the environmental rule of law approach, in the updated General Comment No. 36 on the right to life, the Human Rights Committee of the ICCPR has also recognized the need to use environmental law standards. Here, state parties are specifically directed to:

⁵⁰ See both para 1 and Principle 1 of the 1972 Declaration of the United Nations Conference on the Human Environment (Stockholm) (1972) 26 *Yearbook of the United Nations* 319; *Report on the Situation of Human Rights in Ecuador* (1997), IACHR Country Reports, OEA/Ser.L/V/II.96, Doc. 10 rev. 1, 24 April 1997; *Öneryildiz v Turkey* App no 48939/99 (ECHR, 30 November 2004); *Case of the Yakye Axa Indigenous Community v Paraguay*, Judgment of 17 June 2005, IACtHR Series C, No. 125; Communication 155/96, *The Social and Economic Rights Action Centre (SERAC) and Another v Nigeria* (2001) AHRLR 60; *Sudan Human Rights Organisation & Centre on Housing Rights and Evictions (COHRE) v Sudan* (2009) AHRLR 153.

⁵¹ General Comment No.15 (n 49) para 28.

⁵² *General Comment No. 36 (2019) Article 6: Right to Life, of the International Covenant on Civil and Political Rights*, CCPR/C/GC/36, 3 September 2019, para 62 (General Comment No. 36).

⁵³ *Concluding Observations of the Committee on Economic, Social and Cultural Rights: Paraguay*, 4 January 2008, U.N. Doc. E/C.12/PRY/CO/3, para 10; *Concluding Observations of the Committee on Economic, Social and Cultural Rights: Tunisia*, 14 May 1999, U.N. Doc. E/C.12/1/Add.36, para 8.

⁵⁴ *Report of the Committee on Economic, Social and Cultural Rights for the Thirty-Second and Thirty-Third sessions, Consideration of reports of States parties: Ecuador*, 26 April–14 May 2004, 8–26 November 2004, U.N. Doc. E/C.12/2004/9, para 278 (CESCR, Ecuador).

⁵⁵ See e.g., *Guerra and Others v Italy* App no 116/1996/735/932 (ECHR, 19 February 1998), *SERAC v Nigeria* (n 50).

⁵⁶ Ole W. Pedersen, ‘The Ties That Bind: The Environment, the European Convention on Human Rights and the Rule of Law’ (2010) 4 *European Public Law* 571.

ensure sustainable use of natural resources, develop and implement substantive environmental standards, conduct environmental impact assessments and consult with relevant States about activities likely to have a significant impact on the environment, provide notification to other States concerned about natural disasters and emergencies and cooperate with them, provide appropriate access to information on environmental hazards and pay due regard to the precautionary approach.⁵⁷

Since the greened approach builds on existing human rights, such as the rights to life, health, food and water, these obligations are universal, since those rights are contained in universal instruments.

Complementing and enhancing the greened approach to human rights, a number of regional human rights systems specifically include a human right to a healthy environment.⁵⁸ This specific, environmentally-focused human right is known as a ‘stand-alone’ or ‘substantive’ right to environment. Rather than being simply a greener evolution of existing rights, a substantive environmental right is generally viewed as offering an obligation of broader scope than the greening approach can achieve. This substantive right often aims to achieve an environment of a particular quality, such as a ‘healthy’ environment or a ‘satisfactory’ environment. Naturally, such substantive rights inherently have an environmental focus to them, and so tend to emphasise the promotion of conservation, as well as the prevention of ecological degradation beyond that which has an impact on human health or related property rights.⁵⁹

Using the greening and substantive right to environment approaches human rights actors have provided important protection for soil and water quality, and even the protection of biodiversity in ensuring viable and healthy ecosystems.⁶⁰ Central to both approaches is the final category of ‘procedural’ environmental rights, which are undoubtedly broadly evidenced in state practice.⁶¹ Procedural environmental rights are designed around three pillars: (i) to ensure the provision of information in relation to environmental risks – suggesting the need to complete an environmental impact assessment (EIA); (ii) participation of individuals and

⁵⁷ General Comment 36 (n 52) para 62.

⁵⁸ Four regional systems recognise the right to a ‘healthy’ environment, or similar: Art 11, *Additional Protocol to the American Convention on Human Rights in the areas of Economic, Social and Cultural Rights*, 14 November 1988, 28 *International Legal Materials* (1989) 11; Art 24, *African Charter on Human and Peoples’ Rights* (n 29); Art 38, *Arab Charter on Human Rights*, 22 May 2004, reprinted in 12 *International Human Rights Reports* (2005) 893, and Art 28(f), *ASEAN Human Rights Declaration*, <https://aichr.org/wp-content/uploads/2018/10/ASEAN-Human-Rights-Declaration.pdf> accessed 21 March 2023; Boyd (n 46) lists 92 states that had adopted such a right (by c.2012) 53–57.

⁵⁹ *SERAC v Nigeria* (n 50) para 52; CESCR, *Statement in the Context of the Rio+20 Conference on ‘the Green Economy in the Context of Sustainable Development and Poverty Eradication’*, adopted by the Committee at its forty-eighth session, 30 April–18 May 2012, UN Doc. E/C.12/2012/1, 4 June 2012, para 6(e); CESCR, Ecuador (n 54) para 278.

⁶⁰ See the Indian jurisprudence on the constitutional right to life, *Subhash Kumar v State of Bihar* (1991) 1 SCC 598, and Costa Rican jurisprudence on protecting biodiversity and groundwater, *Luis Arturo Morales Campos, Recurso de amparo*, expediente 11-002110-0007-CO (10 May 2011), and *Caribbean Conservation Corporation and Others v Costa Rica (Green Turtles)* (Decision 01250-99) 15 February 1999. A. Palmer and C. Robb, *International Environmental Law Reports, Volume 4 International Environmental Law in National Courts* (2005) 186–196.

⁶¹ Boyd (n 46) 53–57.

communities in environmental decision-making; and, ultimately, (iii) access to justice in environmental matters.⁶²

When we think of human rights machinery and actors, therefore, we need to conceive of the whole range of rights that human rights bodies have recognised, and which have been developed to encompass a broad and growing range of environmental protections. Of note, in March 2012 the UN Human Rights Council created the three-year post of Independent Expert (later Special Rapporteur) on ‘the issue of human rights obligations *related to* the enjoyment of a safe, clean, healthy and sustainable environment’.⁶³ Only six years later, the Special Rapporteur opined that the right is recognised as a universal one in state practice.⁶⁴ According to Special Rapporteur John Knox, in the Preamble to his 2018 *Framework Principles on Human Rights and the Environment*, ‘explicit recognition’ of a human right to a healthy environment in a global instrument was not necessary.⁶⁵ The report documents wide-scale state acceptance of environmental rights across the full range of human rights, from the rights to water, health and food, all the way to the right to life, and the increasing adoption of environmental rights within domestic constitutions.⁶⁶ Knox calculated that by 2018 more than 155 states had already agreed to a binding legal obligation to provide a substantive right to a healthy environment, thus evidencing strong global support for a universally recognised right.⁶⁷ Agreeing with the Special Rapporteurs’ assessments and building on over 50 years of advocacy in this area, in October 2021 the Human Rights Council formally recognised the right to a clean, healthy and sustainable environment as a human right, which view was later endorsed by the UN General Assembly in July 2022.⁶⁸

Ultimately, human rights actors have played a pivotal part in the evolution of the law to its current position whereby human rights and environmental law are recognised as mutually reinforcing. With such depth and breadth to the scope of environmental human rights, the next section will explore further their value in helping to achieve many of the goals of environmental peacebuilding.

⁶² See 1998 Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (1999) 38 International Legal Materials 517–33; *Taskin v Turkey* App no 46117/99 (ECHR, 10 November 2004); *Case of the Saramaka People v Suriname*, Judgment of 28 November 2007, IACtHR Series C, No. 172, paras 133–154.

⁶³ *Human Rights and the Environment*, A/HRC/RES/19/10, 19 April 2012, para 2 (emphasis added).

⁶⁴ *Report of the Special Rapporteur on the Issue of Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment*, A/73/188, 19 July 2018, para 37 (Knox, July 2018 Report) where he calls on the UN to formally recognise the human right to a healthy environment.

⁶⁵ Knox, *January 2018 Report* (n 8) para 13.

⁶⁶ *The Environment and Human Rights (State Obligations in Relation to the Environment in the Context of the Protection and Guarantee of the Rights to Life and to Personal Integrity – Interpretation and Scope of Articles 4(1) and 5(1) of the American Convention on Human Rights*, Advisory Opinion OC-23/18 of 15 November 2017, IACtHR, Series A, No. 23 www.corteidh.or.cr/docs/opiniones/seriea_23_esp.pdf accessed 21 March 2023 (in Spanish) paras 62–63, and 57–58.

⁶⁷ Knox, July 2018 Report (n 64) para 36; in 2012 approximately three-quarters of states had a constitutional provision related to environmental protection (147 states out of 193), and Boyd (n 46) 47; Knox, January 2018 Report (n 8) para 12.

⁶⁸ The human right to a safe, clean, healthy and sustainable environment, A/HRC/48/L.23/Rev.1, 5 October 2021; GA. Res 76/300; The human right to a clean, healthy and sustainable environment, 28 July 2022, A/RES/76/300. Note the HRC formulation also included the concept of a ‘safe’ environment, which was omitted from the GA formulation.

5. SUGGESTIONS FOR ENHANCING ENVIRONMENTAL PEACEBUILDING THROUGH HUMAN RIGHTS

Building on the literature and contributions in the current volume, environmental peacebuilding can be viewed as relating to the following overlapping goals, namely, to (a) build an environmental focus into the process, (b) use natural resources sustainably to aid in the economic recovery, and (c) reduce future risk of relapse to conflict.⁶⁹ These three approaches undoubtedly overlap and interrelate, but they will help frame this section's analysis of the human rights regime and its value in achieving the ambitions of environmental peacebuilding.

5.1 Build an Environmental Focus into the Process

In the aftermath of conflict, the link between the environment and human rights is especially pertinent. Food and water supplies might be cut off or damaged (often deliberately) in the fighting, livelihoods might be hampered by the level of bomb damage and destruction, health may be affected by pollution from toxic substances released in military attacks or via dangerous weapons debris, the environment may be fragile and biodiversity may be on the verge of collapse.⁷⁰ Degradation and contamination of the environment, therefore, are common post-conflict environmental issues. Consequently, there is a need to build a specific focus on environmental protection into the peacebuilding process. Importantly, the environment needs to be a significant and specific focus not only in the final adopted instrument, but also at the beginning and end of the process, namely the negotiation and drafting phase as well as within the state's legal system moving forward.⁷¹ This sub-section will demonstrate that human rights can be instrumental in achieving this goal.

It is imperative that environmental considerations are built into the peacebuilding process right from the very start, namely at the negotiations stage. The optimum way to ensure environmental protection is to create both a dedicated space for environmental protection in the process, as well as mainstreaming it across the whole peacebuilding process and planning, and subsequent implementation. And here is where human rights could be invaluable because such mainstreaming will clearly be aided through the existing protections for human rights, particularly as human rights law already has a strong foothold in peacebuilding processes. Thus, existing human rights laws, institutions and bodies will be invaluable to help deliver environmental rights – and therefore environmental protection, throughout the peacebuilding process.

In the negotiation phase, human rights can clearly be used to provide a forum to promote broader recognition of environmental rights. In this way, we can ensure the peacebuilding process is built on a firm foundation of environmental protection with greater reach across the peacebuilding process. Importantly, we can also ensure the inclusion of the local voice, through the obligations of consultation and participation of affected groups and communities. A range

⁶⁹ UNEP, Peacebuilding (n 5) 28–29; Conca and Wallace (n 6); Alexander Carius, *Environmental Cooperation as an Instrument of Crisis Prevention and Peacebuilding: Conditions for Success and Constraints*, study commissioned by the German Federal Ministry for Economic Cooperation and Development (BMZ), January 2006.

⁷⁰ UNEP, Peacebuilding (n 5); Karen Hulme, *War Torn Environment: Interpreting the Legal Threshold* (Martinus Nijhoff Publishers 2004).

⁷¹ Recommendations 3 and 4, UNEP Peacebuilding (n 5) 29.

of human rights actors are available to engage with communities to seek their input into the design of the settlement and to achieve local buy-in, including civil society, national human rights commissions, as well as specially-created consultation bodies.⁷² In its UPR report, for example, Sri Lanka refers to the creation of a Consultation Task Force, which included civil society representatives in its membership.⁷³ The Consultation Task Force reportedly carried out nationwide consultations and received 7,000 submissions to input into the design of the reconciliation processes.⁷⁴ A frequently under-represented voice within the peace and security agenda has historically been that of women.⁷⁵ Many recent mechanisms have, however, turned the tide, with peacebuilding processes now actively seeking the input of a very broad range of voices, including indigenous communities, agricultural and migrant workers, for example, as well as people identifying as lesbian, gay, bisexual, transgender and binary.⁷⁶ Since environmental human rights obligations already include a strong participatory rights dimension, their integration within the peacebuilding process, at an early stage, would help ensure that environmental standards are feeding directly into the conflict resolution process.

Clearly, part of the process at the early stage is to assess the level of environmental damage within the state in order to plan remediation and prioritisation of actions. Since environmental human rights already incorporate consultation and planning obligations, particularly requiring states to conduct environmental and social impact assessments, these can help states to identify specific environmental risks on the ground, including to human health, livelihoods and security.⁷⁷ In this way, we can ensure that further environmental damage is not caused as a result of actions identified by the peacebuilding process itself, and that the process is not contributing to the risk of future conflict.

Moving to remediation of environmental damage, this obligation should form a central part of any settlement instrument and environmental peacebuilding initiatives. Carrying out remediation in the post-conflict period will undoubtedly require clear commitments, sufficient allocation of resources, representation of the local voice and a sense of prioritisation of projects – all of which human rights law can help with. Indeed, there are clear benefits in relying on human rights mechanisms as complementary to specific environmental remediation obligations. Human rights monitoring bodies have consistently shown states emerging from conflict that they do not have complete freedom to simply escape their obligations, or to delay implementation indefinitely.⁷⁸ Even in situations of protracted armed conflict, the CESCER has nevertheless required states to fulfil the ‘minimum core obligations’.⁷⁹ In this way, human rights bodies have given the rights some immediate content and the CESCER something on which to bite. For example, such immediate obligations include the need to accord the achieve-

⁷² 2015 *High-level Independent Panel Report* (n 12) paras 250–262.

⁷³ Sri Lanka, UPR Report (n 34) para 40.

⁷⁴ Ibid.

⁷⁵ 2015 *High-level Independent Panel Report* (n 12) paras 257–262.

⁷⁶ On the latter’s inclusion, see Colombia, UPR Report (n 37) para 31.

⁷⁷ See Recommendation 4 for environmental impact assessments within the planning processes, UNEP, *Peacebuilding* (n 5) 29.

⁷⁸ *Second periodic report of Sudan to the CESCER*, submitted 27 July 2012, UN Doc. E/C.12/SDN/2, 18 September 2013, para 275.

⁷⁹ Art 2(1), ICESCR (n 33). See generally Magdalena Sepúlveda, *The Nature of the Obligations under the International Covenant on Economic, Social and Cultural Rights* (Intersentia 2003).

ment of the right the highest priority⁸⁰ and to adopt and implement a national strategy and plan of action addressing the whole population.⁸¹ Therefore, states already have well-articulated obligations in human rights law to issues such as the allocation of resources and prioritisation of actions.

Following this approach, recognising that the armed conflict in Sri Lanka, and the challenges of reconstruction, posed difficulties to the full implementation of Convention obligations,⁸² the Committee on the Rights of the Child (CRC) notably still required that Sri Lanka take immediate action to meet its minimum core obligations.⁸³ The CRC was then able to require that the state *prioritise* the provision of drinking water and sanitation services in reconstruction activities,⁸⁴ and *'strengthen* ongoing efforts to prevent malnutrition, malaria and other mosquito-borne diseases'.⁸⁵ Ensuring environmental hygiene, recognised as an aspect of the right to health under Article 12(2)(b) ICESCR, will also be valuable in requiring states to remedy areas of unsafe and toxic water conditions,⁸⁶ including due to the presence of landmines and other explosive and toxic remnants of war.⁸⁷ Moving beyond the minimum core rights, CESCR has also highlighted the negative impacts of mining operations on the environment and the right to health, requiring state action to assess and remedy the environmental impacts.⁸⁸

Therefore, human rights actors are constantly building on obligations, requiring that states clean-up and decontaminate polluted environments, thus helping local livelihoods to continue and the environment to recover. With the adoption of the new definition of the right to life, the potential scope for such legal arguments has been strengthened, particularly within the hitherto more conservative body of the Human Rights Committee.⁸⁹ The African Commission on Human and Peoples' Rights, similarly, made far-reaching recommendations in post-conflict Sudan, focusing on the requirement that the state ensure the rehabilitation of the economic and social infrastructure in Darfur, including in relation to health, water, and agricultural services.⁹⁰

Moving beyond remediation, a key part of environmental peacebuilding will be to ensure that the process results in enhanced environmental protection within the state moving forward. Again, human rights mechanisms can provide a vehicle to cement broader environmental

⁸⁰ Report of the Special Rapporteur on the human right to safe drinking water and sanitation, Catarina de Albuquerque, 'Common Violations of the Human Rights to Water and Sanitation', UN Doc. A/HRC/27/55, 30 June 2014, paras 49–53; see also Matthew Craven, *The International Covenant on Economic, Social and Cultural Rights: A Perspective on its Development* (Clarendon Press 1995) 131.

⁸¹ General Comment No.15 (n 49) para 37(f).

⁸² Committee on the Rights of the Child, *Concluding Observations: Sri Lanka*, UN Doc. CRC/C/15/Add.207, 2 July 2003, para 5.

⁸³ Ibid.

⁸⁴ Ibid., para 39.b.

⁸⁵ Emphasis added. *ibid.*, para 39.c.

⁸⁶ ECOSOC, General Comment No. 15, *The right to water (arts. 11 and 12 of the International Covenant on Economic, Social and Cultural Rights)*, UN Doc. E/C.12/2002/11, 20 January 2003, para. 8.

⁸⁷ CESCR, *Concluding Observations: Bosnia and Herzegovina*, UN Doc. E/C.12/BIH/CO/2, 16 December 2013, Committee recommendation, para. 30; CESCR, *Concluding Observations: Angola*, UN Doc. E/C.12/AGO/CO/3, 1 December 2008, para. 33.

⁸⁸ CESCR, *Concluding observations on the initial report of Mali*, E/C.12/MLI/CO/1, 6 November 2018, para. 44 [CESCR, Mali 2018].

⁸⁹ General Comment No. 36 (n 52).

⁹⁰ *COHRE v Sudan* (n 50) para 229.

protection obligations for the long term. Thus, rebuilding human rights institutions and legal mechanisms in conflict-affected states should be a complementary part of the environmental peacebuilding approach, so as to provide a more solid footing for domestic implementation and compliance with human rights moving forward. Since most modern constitutions tend to be drafted with a broad interpretation of human rights to include environmental rights,⁹¹ environmental peacebuilding objectives could be implemented partially through this route. Ensuring a strong synergistic relationship between environmental protection and environmental human rights will be especially important for states where the prevailing social and economic conditions are poor, where natural resource use or environmental inequalities contributed to the conflict, or where the state has large numbers of indigenous peoples or groups that rely very heavily on natural resources. This dimension is especially imperative; as evidence suggests that conflicts in resource-dependent regions are more likely to relapse into conflict, and twice as quickly, as those in other regions.⁹²

Moving beyond the minimum core obligations, in ensuring all human rights, states must take 'deliberate, concrete and targeted' steps towards the full realisation of the rights.⁹³ Such steps include the adoption of legislative or other measures, and the creation of monitoring bodies. Human rights actors are again a valuable resource; the work of UN agencies and organs, for example, spans the full spectrum of circumstances from emergency situations, through to peacekeeping and conflict, and both short-term and long-term planning. Furthermore, states are obliged to have plans already in place to ensure a rights-compliant response to emergency situations. This obligation requires the state to be able to respond promptly, and as the highest priority, to provide essential services to affected populations.⁹⁴ It is imperative that environmental protection considerations are, thus, built into such plans. Indeed, certainly with the adoption of the Sustainable Development Goals in 2015, and actions from human rights monitoring bodies, there is strong recognition within the human rights community of the need for the fulfilment of rights, as far as possible, in an environmentally sustainable way.

5.2 Use Natural Resources Sustainably to Aid in the Economic Recovery

Natural resource exploitation has been implicated in the prolongation of many conflicts, for example by delivering the financial means to sustain the war-fighting capacities of insurgents.⁹⁵ The depletion of natural resources is caused in other ways though, most obviously by the ecological footprint of war-fighting itself. The UNEP Afghanistan Report, for example, highlighted the impact over decades of the deforestation of pistachio trees, which had been used as a means of livelihood by much of the population.⁹⁶ Deforestation has also had devastating

⁹¹ James R. May and Erin Daly, *Global Environmental Constitutionalism* (CUP 2015) 2.

⁹² Jon Unruh and Rhodri C. Williams, 'Lessons Learned in Land Tenure and Natural Resource Management in Post-Conflict Societies' in Jon Unruh and Rhodri C. Williams (eds.), *Land and Post-Conflict Peacebuilding* (Earthscan 2013) 535.

⁹³ General Comment No. 3, *The Nature of States Parties' Obligations* (art. 2, para. 1, of the Covenant), UN Doc. E/1991/23 (SUPP), 1 January 1991, para 2.

⁹⁴ *Report of the Special Rapporteur on the Human Right to Safe Drinking Water and Sanitation*, Catarina de Albuquerque, 'Common Violations of the Human Rights to Water and Sanitation', UN Doc. A/HRC/27/55, 30 June 2014, para 53.

⁹⁵ UNEP, *Peacebuilding* (n 5).

⁹⁶ UNEP, *Afghanistan: Post-Conflict Environmental Assessment* (UNEP 2003) 64–66.

impacts across other war-torn states, as well as other methods of natural resource extraction or exploitation.⁹⁷ In conflicts in Syria and Iraq, the so-called ‘Islamic State’ (IS) armed group ignited oil wells, refineries and a sulphur factory contaminating Iraq’s air with toxic particulates,⁹⁸ and, perhaps more worrying, deliberately contaminated rivers and drinking water with crude oil.⁹⁹ Furthermore, in the 2006 Israel–Lebanon war, a 225 km oil slick was caused in the 2006 bombing of the Jiyeh power plant, choking marine life and destroying fishing resources along the Lebanese coastline, including the Palm Islands Nature Reserve and the cultural heritage site of Byblos.¹⁰⁰

The depletion and degradation of natural resources, therefore, can leave a huge and lasting scar on a post-conflict society,¹⁰¹ including on livelihoods, food and water sources, health and, ultimately, on life itself. Yet, there is also no doubt that natural resources can also be an important economic tool to aid in the recovery of the state. The current goal, therefore, recognises the need to include a specific provision in the peace settlement for the legitimate and sustainable exploitation of natural resources so that they may aid in the economic recovery of the state, as so-called ‘peace dividends’. Human rights can again be of invaluable help not only to create legitimate and sustainable exploitation of natural resources, but also, importantly, to ensure the equitable distribution of the benefits of natural resource exploitation.

Building natural resource exploitation into the peacebuilding process will help the state to utilise its full resources and bring much-needed financial rewards, as well as employment opportunities, and, thus, to recover more swiftly following conflict. These so-called ‘peace dividends’ can undoubtedly be a motivating factor in providing both financial and political gains for the state.¹⁰² This approach, however, clearly needs to be based on the rule of law; in the need for legally-regulated and legitimate utilisation of natural resources.

Demonstrating the value of the existing human rights machinery to complement the peacebuilding process, we can see that the CESC has already been very active in requiring states to regulate their natural resource exploitation. For example, in the post-conflict phase in the DRC, the CESC condemned the continued illicit trade in timber resources in the state and ‘abusive exploitation of the country’s forests’,¹⁰³ specifically highlighting the adverse impacts

⁹⁷ Chapter 4, UNEP, *Desk Study on the Environment in Liberia* (UNEP 2004); Chapters 3 and 4, UNEP, *The Democratic Republic of the Congo: Post-Conflict Environmental Assessment, Synthesis for Policy Makers* (UNEP 2011); UNEP, *Rwanda: From Post-Conflict to Environmentally Sustainable Development* (UNEP 2011); Philip Elmer-Dewitt, ‘A Man-Made Hell on Earth’, *Time Magazine*, (18 March 1992) 22, 23.

⁹⁸ UN Environment and the Office for the Coordination of Humanitarian Affairs’ Joint Environment Unit (JEU), *A rapid overview of Environmental and Health Risks Related to Chemical Hazards in the Mosul Humanitarian Response*, 4 November, 2016, www.humanitarianresponse.info/system/files/documents/files/mosul_env_health_hazards_report_final_8nov.pdf accessed 21 March 2023.

⁹⁹ Tobias von Lossow, ‘Water as Weapon: IS on the Euphrates and Tigris: The Systematic Instrumentalisation of Water Entails Conflicting IS Objectives’, SWP Comments 3 January 2016, www.swp-berlin.org/fileadmin/contents/products/comments/2016C03_lsw.pdf accessed 21 March 2023, 2–4.

¹⁰⁰ UNEP, *Lebanon: Post-Conflict Environmental Assessment* (UNEP 2007), 132–43.

¹⁰¹ Note the large volume of post-conflict environmental assessments undertaken by UNEP, and a valuable review of UNEP’s findings in Conca and Wallace (n 6).

¹⁰² Anaïs Dresse, Itay Fischhendler, Jonas Østergaard Nielsen and Dimitrios Zikos, ‘Environmental Peacebuilding: Towards a Theoretical Framework’ (2018) 54(1) *Cooperation and Conflict* 99, 105.

¹⁰³ Emphasis added. CESC, *Concluding Observations: Democratic Republic of the Congo*, UN Doc. E/C.12/COD/CO/4, 16 December 2009, para. 6.

of such illegal exploitation on the ecology and biodiversity, and the human rights of the local indigenous pygmies.¹⁰⁴ The CESCR even went so far as to strongly criticise the continued impunity for human rights violations and illegal exploitation of natural resources by foreign companies, suggesting that these factors constituted ‘major obstacles’ to the enjoyment of economic, social and cultural rights within the DRC.¹⁰⁵ Similarly, in relation to Colombia, the CESCR criticised the uncontrolled use of water by mining activities and pollution of rivers as causing serious violations of the rights to water, food and health, as well as damage to the environment.¹⁰⁶ The CESCR’s recommendations, consequently, included the need for Colombia to ensure its water resources are duly protected.¹⁰⁷

Importantly, within the tripartite obligations of human rights, states are required to ‘respect, protect and fulfil’, with the ‘protect’ dimension being especially pertinent in requiring state action to regulate the activities of private actors and companies – so that actions by those actors do not limit the fulfilment of human rights. Curbing the unlawful exploitation of natural resources is, consequently, already a state obligation where human rights would be negatively impacted, even where it is not the state directly causing the damage. For example, in its Concluding Observations for Mali, the CESCR recommended that the state ‘develop clear guidelines and rules’ for assessing the impact that mining projects may have on human rights and the environment, and ‘demand that mining companies take effective steps to prevent the water and air pollution and soil degradation resulting from their activities and to reclaim the areas that have been damaged by those activities’.¹⁰⁸ The ‘protect’ obligation can clearly, therefore, be used by monitoring bodies to create a valuable accountability tool for state actions. The same also goes for the privatisation of public industries, such as water, where the state is not allowed to divest itself of responsibility to protect and fulfil the right to water, including water of safe quality and in sufficient quantity.¹⁰⁹

Human rights also help to provide additional legitimacy and accountability tools for natural resource exploitation. In its 2009 Report, UNEP advised that states join and comply with industry transparency initiatives, such as the Extractive Industries Transparency Initiative (EITI) and the Kimberley certification regime, among others.¹¹⁰ Also of note is the expanding ‘business and human rights’ agenda,¹¹¹ which requires states to enforce greater human rights accountability within their registered companies, and requires companies to ensure greater observance of human rights within their supply chains.

¹⁰⁴ Ibid.

¹⁰⁵ Ibid.

¹⁰⁶ CESCR, *Concluding observations on the sixth periodic report of Colombia*, E/C.12/COL/CO/6, 19 October 2017, para 59 [CESCR, *Colombia* 2017].

¹⁰⁷ Ibid., para 60.

¹⁰⁸ CESCR, Mali 2018 (n 88) para 44.

¹⁰⁹ *Report of the Special Rapporteur on the Human Right to Safe Drinking Water and Sanitation, Catarina de Albuquerque*, A/HRC/24/44, 11 July 2013, para 41.

¹¹⁰ Recommendation 5, UNEP, *Peacebuilding* (n 5) 29; see <https://eiti.org/homepage>, and <https://www.kimberleyprocess.com/en>, respectively, both accessed 21 March 2023.

¹¹¹ *UN Global Compact*, www.unglobalcompact.org/ accessed 21 March 2023, *UN Guiding Principles on Business and Human Rights*, www.ohchr.org/documents/publications/GuidingprinciplesBusinesshr_eN.pdf accessed 21 March 2023.

Moving to the issue of exploitation sanctioned by the peacebuilding process it is imperative that such exploitation is achieved in an environmentally-sustainable and socially-equitable way, thus promoting the realisation of broader social and environmental justice.¹¹²

Natural resource exploitation implicates the full range of environmental rights, including indigenous rights,¹¹³ and the rights to property, water, development, livelihood, and food. In particular, these rights require the state to ‘respect’ existing access to vital agricultural and other biotic natural resources for those who are dependent upon such resources, and to ensure their quality. In the context of the right to water, for example, the states’ minimum core obligations of immediate effect require the state to provide *access* to an essential level of *safe*, acceptable, physically accessible and affordable water without discrimination.¹¹⁴ Going further, the adoption of the SDGs mandates actions to ensure the sustainable and equitable exploitation of natural resources.¹¹⁵ Environmental peacebuilding goals of ensuring sustainable natural resource exploitation can, therefore, be effectively anchored in existing environmental human rights, including participatory rights. Importantly, promoting better environmental education, integrating the necessity for a prior environmental and social impact assessment into natural resource exploitation activities, and including strong participatory rights for society (as well as environmental rights defenders and civil society) will help deliver an equitable distribution of natural resources which takes into account the local community voice. For example, in the DRC, the CESCER required that the state ensure that future forestry projects were both ‘centred on advancing the rights of forest-dependent peoples’ and ‘conducted only after comprehensive studies are carried out, with the participation of the peoples concerned, to assess the social, spiritual, cultural and environmental impact on them of planned activities’.¹¹⁶ Similarly, in its Concluding Observations for Colombia, the CESCER expressed concerns about the impacts of natural resource exploitation, recommending that the state undertake ‘thorough social and environmental impact studies’ and provide adequate compensation to affected communities.¹¹⁷ Demonstrating the more dynamic environmental protection influence that human rights bodies can have, the CESCER also recommended the state to undertake ‘appropriate measures to ensure the preservation of forests’.¹¹⁸

As stated by Secretary-General Kofi Annan, ‘conflict prevention and sustainable development are mutually reinforcing’.¹¹⁹ By bringing human rights and environmental protection together, therefore, helps to establish a strong platform for sustainable development, and contributes to the broader goal of preventing a relapse into conflict.

¹¹² UNEP, Peacebuilding (n 5) 29.

¹¹³ Note the International Labour Organization (ILO), 1989 Indigenous and Tribal Peoples Convention (C169), www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C169 accessed 21 March 2023; 2007 UN Declaration on the Rights of Indigenous Peoples, UN Doc. A/RES/61/295, October 2007.

¹¹⁴ General Comment No.15 (n 49) para 37(a–c).

¹¹⁵ SDGs, 2015 (n 25), particularly SDG 12, Ensure Sustainable Consumption and Production Patterns.

¹¹⁶ CESCER, *Concluding Observations: Democratic Republic of the Congo*, UN Doc. E/C.12/COD/CO/4, 16 December 2009, para 14.

¹¹⁷ CESCER, Colombia 2017 (n 106) para 16.

¹¹⁸ Ibid.

¹¹⁹ *Prevention of Armed Conflict: Report of the Secretary-General*, UN Doc. A/55/985-S/2001/574, 7 June 2001, para 11.

5.3 Reduce Future Risk of Relapse to Conflict

It is well-recognised that in the aftermath of conflict the environment has all too often been left off the peacebuilding agenda, particularly when the conflict has been protracted and human rights abuses high.¹²⁰ Yet, ignoring environmental issues might also mean overlooking the centrality of the environment as an important resource for rebuilding society and for development. This goal, therefore, recognises that natural resources or the environment might act as spoilers (i.e., environment-related drivers for relapse into conflict or tensions) as well as opportunities for collaboration to create a more successful peacebuilding strategy. While these aspects clearly overlap with the previous two sections they deserve special attention as distinct factors. Consequently, this sub-section will focus on the value of human rights to help both reduce environmental inequalities acting as spoilers in the peacebuilding process, and create opportunities for environmental cooperation and collaboration.

Tensions leading to conflict often include environmental dimensions, whether related to poverty,¹²¹ gross disparities in wealth and resources of populations within a state, unbalanced development policies,¹²² competition for land and water resources, desertification, or environmental degradation.¹²³ Group inequalities in land ownership and access to resources, food insecurity, poverty and social inequality are often combined.¹²⁴ In Kenya, for example, 'historical grievances over land' were found to have constituted the 'single most important driver of conflicts and ethnic tension'.¹²⁵ Collier probably expressed it best when he said that, 'civil war is development in reverse',¹²⁶ recognising that conflict-affected countries often become trapped in the vicious cycle of conflict and poverty. Identifying at the outset such potential hotspots, where natural resources and their use or distribution may create tensions between groups should, consequently, form a crucial step in successful environmental peacebuilding.¹²⁷ Furthermore, with the impacts of climate change increasing in intensity and frequency, it

¹²⁰ Cahill-Ripley (n 18), see also Lisa J. Laplante, 'Transitional Justice and Peace Building: Diagnosing and Addressing the Socioeconomic Roots of Violence through a Human Rights Framework' (2008) 2(3) *International Journal of Transitional Justice* 331; Louise Arbour, 'Economic and Social Justice for Societies in Transition' (2007–2008) 40 *New York University Journal of International Law & Politics* 1.

¹²¹ CESCR observes that poverty constitutes a denial of human rights, CESCR, 'Statement on Poverty and the International Covenant on Economic, Social and Cultural Rights', UN Doc. E/C.12/2001/10, 10 May 2001, para. 1. States in a position to do so are required to provide international assistance to others to help them to fulfil their core obligations and to ensure the eradication of poverty, paras 16–17; see Paul Collier, *The Bottom Billion: Why the Poorest Countries are Failing and What Can be Done About It*, (OUP 2007).

¹²² Darfur Report (n 2) para 54.

¹²³ Ibid., para 55. See also *Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Côte d'Ivoire*, UN Doc. A/HRC/17/49, 14 June 2011, para 52(1)(f).

¹²⁴ David McCoy, 'Rectifying Horizontal Inequalities: Lessons from African Conflict' (2008) 8(1) *African Journal on Conflict Resolution* 105; UN Secretary-General Kofi Annan, *Prevention of Armed Conflict: Report of the Secretary-General*, UN Doc. A/55/985-S/2001/574 (7 June 2001) paras 114–115.

¹²⁵ Kenya Truth Commission Report (n 2), para vii; Paul Gready, 'From Transitional to Transformative Justice: A New Agenda for Practice' (2014) 8(3) *International Journal of Transitional Justice* 339.

¹²⁶ Paul Collier, V.L. Elliott, Håvard Hegre, Anke Hoeffler, Marta Reynal-Querol, and Nicholas Sambanis, *Breaking the Conflict Trap: Civil War and Development Policy, A World Bank Policy Research Report* (The World Bank; OUP 2003); Collier (n 121) 27.

¹²⁷ Note also Recommendation 5, UNEP, *Peacebuilding* (n 5) 29.

is likely that we will witness greater land inequalities, water disputes, food insecurity and resource-dependent livelihoods lost across the globe and so the resource-competition/conflict nexus is only going to increase in importance.¹²⁸

A rather surprising statistic is that, as of 2015, fragile states were reported to account for one-fifth of the world's population.¹²⁹ The lesson-learning dimension of conflict resolution and peacebuilding is, therefore, essential to ensure a thorough assessment of how the three dimensions of poverty, environmental resources, and human rights violations have contributed to past tensions and abuses. Integrating these aspects via environmental peacebuilding approaches could help to stabilise communities through helping to mitigate any feelings of injustice related to the historical unequal distribution of environmental resources.¹³⁰

Human rights bodies, therefore, can certainly help to analyse and address issues such as poverty, lack of access to basic survival needs, as well as land or property related inequalities, or illegal acquisition of land. Human rights laws, mechanisms and practices contain ample examples for states to conduct investigations and reviews, to establish fair and transparent bodies and procedures, to prioritise action, and to ensure sufficient reparation and accountability for past injustices.¹³¹ Land reform and the creation of institutional mechanisms to undertake land titling, and, possibly, equitable redistribution may be necessary in some peacebuilding contexts.¹³² Ensuring a human rights-based approach, human rights actors can work with the state to help create a mechanism dealing with these issues and simultaneously increase food security, improve health conditions and ensure a livelihoods-based approach.¹³³ Environmental human rights can, therefore, again provide invaluable means to help protect vital survival needs.¹³⁴

As highlighted throughout, human rights can also help to emphasise the importance of the local context, in terms of providing rules and processes to ensure local participation and influence on the peacebuilding process. Analysis and recognition of the local conditions are viewed as pivotal in helping to alleviate any issues of structural violence, as well as other inequalities and causes for grievances, and, thus, create a sustainable peace.¹³⁵ Even proponents of the 'liberal' peacebuilding agenda argue that its failure is often down to the inadequacies in adapting the model to the local context.¹³⁶ In creating structural change, therefore, participatory rights must be observed of any communities or groups that were previously marginalised¹³⁷

¹²⁸ See Chapter 5, Human Security, International Panel on Climate Change, *Fifth Assessment Report, Climate Change 2014: Impacts, Adaptation, and Vulnerability, Part A: Global and Sectoral Aspects* (CUP 2014).

¹²⁹ Geneva Declaration Secretariat, *Global Burden of Armed Violence 2011: Lethal Encounters* (CUP 2011).

¹³⁰ Chad Briggs and Inka Weissbecker, 'Salting the Earth: Environmental Health Challenges in Post-Conflict Reconstruction,' in Jensen and Lonergan (n 4) 129.

¹³¹ See CESCR, Concluding Observations: Sri Lanka, UN Doc. E/C.12/LKA/CO/2-4, 9 December 2010, para 29.

¹³² Colombia, UPR Report (n 37) para 26.

¹³³ For more on land tenure issues in the environmental peacebuilding context refer to Unruh and Williams (n 92).

¹³⁴ Note the Saramaka Case (n 62); *Öneryildiz v Turkey* (n 50); *Yakye Axa Case* (n 50).

¹³⁵ Newman (n 14) 1751; Bercovitch (n 13) 12; Cahill-Ripley (n 18) 228.

¹³⁶ Roland Paris, *At War's End: Building Peace after Civil Conflict* (CUP 2004).

¹³⁷ Bercovitch (n 13) 14.

or subjected to rights violations, such as indigenous peoples or certain ethnic or cultural groups – providing an important platform and voice to local civil society organisations.

Consequently, it must be recognised that states emerging from conflict may need to rebuild or remediate their entire economic and social infrastructure, including in relation to education, health, water, and agricultural services.¹³⁸ Importantly, states can also call upon other human rights actors to assist them to achieve their obligations, such as civil society, UN specialised agencies and states, since international assistance is an obligation of all parties to the Economic, Social and Cultural Rights Covenant.¹³⁹ States could also access funding in the same way, to provide training in environmental human rights, including environmental conservation and remediation.¹⁴⁰

In addition to identifying potential hotspots, where natural resources may create tensions between groups, environmental peacebuilding suggests that states also seek to identify issues and opportunities to build cooperation.¹⁴¹ Indeed, some argue that resource scarcity and competition for natural resources is such a common issue for states in peacetime that they are used to dealing with environmental issues on a cooperative basis – and so more often than not environmental scarcity creates opportunities for cooperation rather than tension.¹⁴² The suggestion then argues that environmental protection may be a politically uncontentious issue, and, thus, via conservation negotiations the warring parties can build trust in cooperating with each other in a non-confrontational way.¹⁴³ Building on such cooperation and compromise, the goal would be for such platforms to serve as a catalyst for further dialogue between the warring parties, including on more politicized or contentious issues.¹⁴⁴

A common cooperative platform is often found to be within regional water commissions, where states work towards equitable utilisation of water resources, particularly in water-scarce regions.¹⁴⁵ A dimension for human rights actors could be in encouraging states to use these mechanisms in a valuably persuasive way.¹⁴⁶ For example, in its Concluding Observations for Iraq in 2015, the CESCR expressed concern about the water crisis in Iraq, which it recognised as having a ‘disproportionate effect on the living conditions of Marsh Arabs’ many of whom

¹³⁸ *COHRE v Sudan* (n 50) para 229.

¹³⁹ Art 2(1), ICESCR (n 33).

¹⁴⁰ Second periodic report of Sudan to the CESCR, submitted 27 July 2012, UN Doc. E/C.12/SDN/2, 18 September 2013.

¹⁴¹ Note Recommendation 5, UNEP, *Peacebuilding* (n 5) 29; Lesley Evans Ogden, ‘Environmental Peacebuilding’ (2018) 68(3) *BioScience* 157.

¹⁴² Adrian Martin, ‘Environmental Conflict between Refugee and Host Communities’ (2005) 42(3) *Journal of Peace Research* 329, 330; Ogden, *ibid.*, 157.

¹⁴³ Annette Lanjouw, ‘Building Partnerships in the Face of Political and Armed Crisis’, in Steven V. Price (ed), *War and Tropical Forests: Conservation in Areas of Armed Conflict* (Food Products Press 2003) 109; Karina Barquet, ‘“Yes to Peace”? Environmental Peacemaking and Transboundary Conservation in Central America’ (2015) 63 *Geoforum*, 14, 15, who disputes that peace parks are necessarily successful.

¹⁴⁴ Some are working towards a greater theoretical understanding or framework for assessing the value of environmental peacebuilding initiatives, see Florian Krampe, ‘Toward Sustainable Peace: A New Research Agenda for Post-Conflict Natural Resource Management’ (2017) 17(4) *Global Environmental Politics* 1, 5; Dresse (n 102) 109.

¹⁴⁵ Krampe (n 144) 3; See Chapter 15 by Mara Tignino and Tadesse Kebebew in this volume.

¹⁴⁶ Mara Tignino, ‘The Right to Water and Sanitation in Post-Conflict Legal Mechanisms: An Emerging Regime?’ in Erika Weinthal, Jessica Troell, and Mikiyasu Nakayama (eds), *Water and Post-Conflict Peacebuilding* (Earthscan 2014).

were displaced ‘after having lost their livestock’.¹⁴⁷ Consequently, the CESCR recommended that Iraq and neighbouring states cooperate and intensify efforts for an agreement on a fair and equitable use of Iraq’s rivers.¹⁴⁸

Focusing on the aspect of conservation to build cooperation, the environmental peacebuilding agenda shares goals with the conservation dimension of substantive environmental rights. Notably, the right to a healthy environment, as interpreted in the African and Inter-American regional rights systems, includes an additional dimension of conservation and restoration of ecological spaces, such as nature reserves. For example, the substantive right to a healthy environment has been held to require the state ‘to take reasonable and other measures to prevent pollution and ecological degradation, to promote conservation, and to secure an ecologically sustainable development and use of natural resources’.¹⁴⁹ This conservation dimension of human rights, therefore, links well with the cooperation-building potential of creating transboundary protected areas for shared natural resources, also referred to as ‘peace parks’.¹⁵⁰ Peace parks have a lengthy history, and may be a valuable option to explore to foster collaboration and stability where there are transboundary forests or protected areas rich in biodiversity bordering neighbouring states in conflict.¹⁵¹ The warring neighbours will often have a lengthy history of cooperation over the resource to fall back on, and may see the peace dividends in fostering future tourism revenues.¹⁵² Again, in addition, human rights actors could help ensure local participation in the creation of protected areas, as many environmental spaces have historically been created as a mechanism for continuing repression of groups, by eviction from the lands and natural resources.¹⁵³

6. CONCLUSIONS

Environmental human rights law is now at a very advanced stage in international law, having gained traction both as an element of existing human rights (the greening approach) and as a stand-alone substantive right. Furthermore, with the expansive range of environmental issues that human rights monitoring bodies have brought within their remit, it is very clear that what we previously perceived as falling only within the remit of ‘pure’ environmental protection, has now also gained important, additional enforcement mechanisms. This conclusion is true as regards peacetime monitoring and protections and is equally true of protections afforded in the immediate aftermath of conflict and throughout times of tension. The recognition of minimum

¹⁴⁷ CESCR, *Concluding observations on the fourth periodic report of Iraq*, E/C.12/IRQ/CO/4, 27 October 2015, para 51.

¹⁴⁸ *Ibid.*, para 52.

¹⁴⁹ *SERAC v Nigeria* (n 50) para 52.

¹⁵⁰ Jeffrey A. McNeely, ‘Biodiversity, War, and Tropical Forests’ in Price (n 143) 16–18; Carius (n 69) 7–8.

¹⁵¹ The International Union for the Conservation of Nature (IUCN) promoted the idea of conservation zones in border areas throughout the 1980s and 1990s, see Karina Barquet, Päivi Lujala, Jan Ketil Rød, ‘Transboundary Protected Areas and Militarized Interstate Disputes’ (2014) 42 *Journal of Political Geography* 1, 2; C. Besançon, I. Lysenko, and C.E. Savy, (2007) UNEP-WCMC Transboundary Protected Areas Inventory-2007, <http://tbpa.net/page.php?ndx¼78> accessed 21 March 2023, where the authors found 227 listed parks in 2007.

¹⁵² Dresse et al (n 102) 105.

¹⁵³ Lanjouw (n 143) 99.

core obligations on states as regards their economic, social and cultural rights has meant that states are not allowed to simply ignore their obligations, but must implement priority actions and devise plans for action at minimum. Since environmental rights have more synergy with economic, social and cultural rights, it is no surprise that it is the CESCR where such issues have most frequently arisen. However, it is to the great credit of the CESCR membership that it has drawn its remit so wide and it is to the benefit of communities emerging from conflict that CESCR has continued to demand action by states to remedy situations arising from or causing environmental harm. Consequently, it is arguably essential that environmental peacebuilding recognizes the same synergistic relationship with human rights, partly because human rights laws and machinery bring additional tools.

In conclusion, the value of human rights law and its monitoring bodies is absolutely clear in helping to shape and create an environmental peacebuilding framework. Human rights can, undoubtedly, be a determinant of peace and sustainable development. Building and safeguarding a sustainable and just peace, however, will require states to find ways to ensure that human rights are factored into the peacebuilding process in a mutually-supportive way with environmental protections. This point is a particularly relevant one with regard to any use or exploitation of natural resources proposed in the peacebuilding process and any settlement agreement. Importantly, environmental peacebuilding should not forget that environmental degradation and depletion is often a causative factor in poverty, and vice versa. Thus, environmental peacebuilding needs to emphasise those human rights closest in spirit to environmental rights, namely the human rights to water, food, health, livelihoods, and, of course, ultimately the right to life. Environmental peacebuilding, therefore, could develop a focus on building resilient communities and sustainable resource management. Finally, legitimacy is also an important requirement of peacebuilding processes, and, thus, environmental human rights are important tools in ensuring an approach based on the rule of law, as well as sufficiently broad consultation and participation by affected groups.