

**The role of the UN Security Council in protecting the natural environment**

ZAADI Mohamed Djelloul, Department of public law, Faculty of law and political sciences, university of Bouira 10000, Algeria

Law and Human Security Laboratory, Faculty of law and political sciences, Hassiba Ben Bouali University of Chlef, Ouled Fares Chlef 02180 Chlef, Algeria. [mohameddjelloul86@yahoo.fr](mailto:mohameddjelloul86@yahoo.fr)



<https://orcid.org/0009-0005-5373-5187>

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**Abstract:**

The UN Security Council represents one of the most important organs dedicated to maintaining international peace and security, which has been put to the test in recent years due to the multiplication of sources of threats to human safety so that the latter has not become limited to those in which people have a hand, as is the case with armed conflicts, but rather It also extends to include natural disasters that affect the world in various parts of the world. On this basis, members of the international community cannot ignore the risks posed by the natural environment, as it is a new source of risks that may affect the safety of individuals.

This study aims to explore the various possibilities through which it is possible to raise the competence of the UN Security Council to respond to urgent cases that affect the safety of individuals as a result of natural disasters that affect the world in its various forms.

**Keywords:** UN Security Council; Natural environment; International peace and security; International Court of Justice.

**\*ZAADI MOHAMED DJELLOUL**

## **1.Introduction:**

The issue of serious damage to the natural environment, whether in peacetime or during armed conflicts, has captured the attention of the international community due to the dire repercussions that such practices have, which are often not limited to the natural environment only. Indeed, it has been observed in recent years that the damage to the natural environment and the scarcity of some natural resources, such as water, are no longer considered factors only affecting the well-being and stability of individuals, but rather have become viewed as a threat to international peace and security.

The developments in this field have led to calls to reconsider the traditional concept of “security” and re-evaluate it to include, in addition to issues related to the safety of individuals, such as severe damage to the natural environment and the scarcity of some natural resources as key elements for achieving human security. Ensuring a safe environment by excluding all relevant risks and threats makes it possible to exercise the right to life, without restricting it in any way. Thus, environmental security cannot be achieved unless two variables are reconciled; On the one hand, the rational exploitation of human resources to the extent necessary to respond to the requirements of life, and on the other hand, making the necessary efforts to prevent the outbreak of conflicts, the main cause of which is the scarcity of natural resources.

It is noted from the above that environmental security is no longer limited to the national scope, but rather has acquired an international character that can be discerned from the various definitions attributed to the concept as noted by Professor (King), who believes that environmental security is a system for responding effectively to the conditions created by climate change which would reduce peace and stability in the world<sup>1</sup>.

## **Importance of the study:**

We can deduce the importance of research from a number of elements, perhaps the most important of which are:

-The damage to the natural environment, whether in times of peace or war, represents one of the most important challenges that members of the international community must address due to its direct impact on the lives of individuals at various levels, especially in the economic and social fields. -The transboundary effects of damages affecting the natural environment, so that the damages

affecting the natural environment, whether voluntary or involuntary, are not limited to the borders of the territory of a particular country, but rather their effects extend to include various individuals, whatever their nationality, and whatever their location;

-The UN Security Council represents one of the most important effective mechanisms at the international level in confronting various types of threats to international peace and security, and in view of the nature of the severe damages to the natural environment referred to above, it was logical for this body's jurisdiction to be raised regarding them.

### **Objectives of the study:**

The current research paper seeks to achieve a number of goals, perhaps the most important of which are:

-Shedding light on the nature of the powers of the UN Security Council, and the extent of their compatibility with environmental challenges; The powers of the UN Security Council are programmed to respond to situations that often involve armed conflicts of various types, but the repercussions of this type of phenomenon put the severe damage to the natural environment on an equal footing with the latter.

- Revealing the effectiveness of the measures taken by the member states of the UN Security Council regarding initiatives involving damage to the natural environment, especially through analyzing the decisions that the UN body has previously issued in the various issues presented to it in this field.

### **The problematic:**

The international dimension of the consequences of violations related to this concept requires the intervention of the UN Security Council as the internationally competent mechanism to deal with situations that entail a threat to international peace and security, and at the same time raises the following problematic: **Can the UN Security Council respond to the risks facing the natural environment?**

### **Scientific methodology:**

In preparing this study, we relied on a group of scientific methods, mainly represented by: the descriptive method that is compatible with the theoretical part of the study, especially with regard to listing the means put in the service of the

member States of the UN Security Council, or even the attempts made by representative of the international doctrine in order to define the concept of threat to international peace and security, in addition to the analytical method regarding projecting the theoretical aspect onto the applied aspect, and rather studying the extent to which the methods resorted to are compatible with the threats to international peace and security with the current environmental challenges.

### **Division of study:**

The current study is divided into two complementary sections, where the first deals with the powers possessed by the UN Security Council, and the extent of their compatibility with the challenges posed by environmental damage, as for the second section, we examine in its context the extent to which the means placed at the disposal of the UN body match the moral endeavor embodied in protecting the natural environment.

### **2.Competence in looking into violations of the natural environment:**

The dramatic degradation of the natural environment is gradually being attributed to an unusual concept of insecurity. Indeed, taking into account that the risks resulting from environmental insecurity are not limited in scope, such as those resulting from certain weapons, for example, this led the international community to change its approach to confronting this type of risk, as its members were convinced that the most effective way to address such challenges necessarily involves a common answer.

Most specialists in this field agree that the UN Security Council represents the best international mechanism for responding to situations involving the deterioration of environmental security, given that it has the necessary powers to address them (2.1), especially since the wide scope of its effects prompts various parties to consider it a threat to international peace and security (2.2).

#### **2.1.In the competences of the UN Security Council:**

Since the inception of the United Nations, the activity of the United Nations Security Council has been limited to dealing with situations of armed conflicts that exploded around the world, with the aim of establishing peace in the regions concerned or maintaining it in the stages following the end of the armed conflict. Given the importance and size of the mission entrusted to the UN Security Council, the drafters of the Charter granted the UN mechanism powers that allow it to best implement its responsibility for maintaining international peace and

security, especially by granting it broad authority to assess the facts and oblige States to comply with the decisions it issues (2.1.1). In this regard, the repercussions resulting from compromising environmental security, which are characterized by their cross-border nature, leave no room for doubt about the competence of the UN Security Council as the primary body to address this type of challenges (2.1.2).

### **2.1.1. The general competences of the UN Security Council:**

At the international level, there is one body that has the legal authority to bind countries to the decisions it issues, and this body also has the necessary authority to enforce the implementation of its decisions coercively.

In carrying out the tasks entrusted to it, the UN Security Council is required to adopt measures, and even if some of them raise controversy at the international level, they are mentioned each time in accordance with the soft meaning of the text of Article 39 of the United Nations Charter, according to which it has the authority to assess the facts that constitute a threat to the peace, a breach of it, or an act of aggression, and the measures that must be taken to confront it, not to ensure respect for the law, but to maintain international peace and security, without imposing any significant restrictions on this authority<sup>2</sup>.

The expanded authority granted to the UN Security Council under Article 39 is due to the desire of the framers of the UN Charter to free it from any obstacles that would prevent it from performing its security duties at the international level. They intended not to confine concepts such as threats to the peace or breaches of peace within a narrow scope such as that defined by a definition emanating from an international organization, and at the same time they made the authority to estimate such cases unlimited<sup>3</sup>. The same can be said about the authority of the UN Security Council to adopt the first measures to contain and end them if we take into account that the latter is not obligated to explain the content of its decisions<sup>4</sup>, especially since states, whether members or non-members of the United Nations, are obligated to comply with them without being able to justify this position on the basis of the principle of non-interference in its internal affairs, in accordance with the text of Article 2(7), which categorically denies this in its last part<sup>5</sup>.

Despite the breadth of the UN Security Council's authority to assess the facts, this cannot in any way be understood as synonymous with violating the law. Rather, on the contrary, this discretionary authority is founded on the law, and is exercised

within the limits exercised by the latter<sup>6</sup> in some way it suggests by article 24(2) of the United Nations Charter, which states the following: “In discharging these duties the Security Council shall act in accordance with the Purposes and Principles of the United Nations. The specific powers granted to the Security Council for the discharge of these duties are laid down in Chapters VI, VII, VIII, and XII”.

### **2.1.2. The UN Security Council competence to consider violations of the natural environment**

Most jurists and specialists in the field of international humanitarian law agree that the UN Security Council primarily deals with situations involving international or non-international armed conflict<sup>7</sup>. However, the period following the end of the Cold War revealed a fundamental expansion in the scope of issues considered by the UN Security Council to include issues such as those related to human security, humanitarian health crises, and even issues related to damage to the natural environment<sup>8</sup>.

The UN Security Council has established the relationship between violations of the natural environment and human security in more than one place. In 1992, the President of the UN Security Council stated that the absence of war and armed conflicts between states does not alone guarantee international peace and security<sup>9</sup>, rather, non-military sources of instability in the economic, social, humanitarian and ecological fields have in turn threatened peace and security. He also took the same step within the framework of the Secretary-General's report adopted by the summit meeting of the UN Security Council, in which he acknowledged that ecological damage is related to the dangers that threaten stability<sup>10</sup>.

The UN Security Council addressed the issue of violations against the natural environment, in addition to that, in the resolutions it adopted on various issues that were considered in the form of the conflict that brought together Iraq and its neighbor Kuwait at the end of the eighties of the last century, where the UN body ruled in Resolution No. 687 (1991) that Iraq : “Reaffirms that Iraq, without prejudice to its debts and obligations arising prior to 2 August 1990, which will be addressed through the normal mechanisms, 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 its unlawful invasion and occupation of Kuwait;”<sup>11</sup> and thus

acknowledge the negative impact that the depletion of natural resources has on international peace and security, which is the same position that was affirmed in the case of the Democratic Republic of the Congo; In Resolution 1376 (2001), which it adopted in this regard, it stipulated the disadvantages of using the State's natural resources for purposes other than those for satisfying the needs of its individuals, such as using them, for example, to finance the military activities undertaken<sup>12</sup>; The Council condemns in Resolution 1376 (2001) above "...all illegal exploitation of the natural resources of the Democratic Republic of the Congo, demands that such exploitation cease and stresses that the natural resources of the Democratic Republic of the Congo should not be exploited to finance the conflict in that country;"<sup>13</sup>.

On another level, and in the context of dealing with the State of occupation that affected the Golan Heights, the West Bank, and the Gaza Strip, the UN Security Council once again addressed the issue of violations against the natural environment, as it established in 1979 a committee composed of 3 members of the UN Security Council who were concerned with analyzing the methods of resolving the conflict in the Arab territories occupied since 1967, and starting in 1980, it was included in the committee's authorization of issues related to water resources, and authorized it to investigate the depletion of natural resources, especially water resources, and how to protect these important resources in the occupied territories<sup>14</sup>.

The issue of the UN Security Council's competence over issues related to the natural environment witnessed reservations from a limited group of representatives of international doctrine, given the limited interest of the UN body in this subject. These scholars as Professor TIGNINO Mara, base their views on the idea that protecting natural resources is considered the prerogative of the General Assembly and the Economic and Social Council, rather than the usual prerogative of the UN Security Council, given that the two aforementioned bodies have a democratic nature appropriate for dealing with environmental and economic, and social issues<sup>15</sup>.

## **2.2. Violations of the natural environment as a threat to international peace and security:**

The era of globalization coincided with the concept of international peace and security gradually losing its traditional meaning, inspired by the Westphalia Agreements of 1648, and becoming more complex. It has not become limited to



armed conflicts, whatever form they are embodied in, but has extended to include various fields such as the political, economic, and social fields, and even the environmental field, the latter of which the risks resulting from its deterioration have come to be viewed with the same caution with which it views those arising from Military activities due to the relationship that exists between the impact of environmental security and its repercussions on the well-being and even the safety of individuals on the one hand (2.2.1), and on the other hand the wide scope of these effects, such that it leads the competent authorities to consider them a threat to international peace and security (2.2.2).

### **2.2.1. The relationship between violations of the natural environment and human security:**

Contemporary environmental challenges include a wide list of risks, including, for example, water and air pollution of various kinds, desertification, extinction of certain animal species, lack of biodiversity, depletion of the ozone layer, destabilization of terrestrial and marine ecosystems...etc. Whatever the scope of these risks, there is no doubt that their effects are directly reflected on individuals<sup>16</sup>, whether they come from climate change or natural disasters, the facts of which have proven to have negative effects on development and the well-being of individuals, and even on their safety as a result of sea waters, for example, gradually invading some islands, making life therein an impossible matter<sup>17</sup> as observed in the Carteret Islands in the Papua New Guinea region, where the local authorities were forced to evacuate the area of about 2,000 citizens, after the island sank under sea water<sup>18</sup>. Whether its source is human, as is the case with armed conflicts that cause severe damage to the natural environment and the ecosystem of various environmental resources, especially water resources, as recorded by facts, for example, during the conflict in the province of Kosovo in 1999, when air bombing operations were directed against factories located near the Danube river, and caused the dangerous chemicals pollution of the river<sup>19</sup>.

The Darfur region has witnessed accelerated desertification in recent decades, which has led to a shrinkage of the area of fertile agricultural land, and thus the region's ability to respond to the food needs of its citizens. The current situation in turn led to environmental migration towards South Sudan, which created tensions between migrants and residents of the areas to which they migrated over issues of land exploitation and sharing of environmental resources, leading to violent conflict in Sudan since February 2003<sup>20</sup>.

Members of the international community were also aware of this relationship in the various international documents and regulations they issued in this regard,

perhaps the most prominent of which is the 1976 agreement prohibiting any military or other hostile use of environmental modification technologies, which was issued as a result of the tragic experience of the war in Vietnam and the environmental disaster that resulted from the use of weapons of mass destruction such as napalm bombs and phosphorous bombs that were used by American aircraft to bomb the Vietnamese resistance. This agreement aims to eliminate the phenomenon of using environmental modification technologies because of their negative repercussions on all of humanity<sup>21</sup>. Article 1(1) thereof stipulates that: “1. 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”.

An example is also given in this regard by the relevant legal texts included in the First Additional Protocol to the Four Geneva Conventions of 1977, the drafters of which chose to adopt a preventive approach to protecting the environment, which is evident, for example, from the text of Article 35 (3) thereof, where it states the following: “3. It is prohibited to employ methods or means of warfare which are intended, or may be expected, to cause widespread, long-term and severe damage to the natural environment”.

### **2.2.2. Conditioning violations of the natural environment as a threat to international peace and security:**

Rational management of natural resources can provide a solid foundation for achieving community well-being and economic growth. This can also help provide significant revenues for governments to build States, provide social services, and reduce the phenomenon of poverty. Despite the benefits it brings to society, its misuse will not only have dire effects on the communities concerned, but will extend to include the entire international community due to its cross-border nature.

Moreover, the relationship has repeatedly been established between violations committed against the natural environment and the threat to international peace and security. In this regard, the facts showed that terrorist groups and criminal networks rely on environmental crime to finance their activities around the world. These entities exploit environmental resources such as minerals, including gold and diamonds, in areas experiencing security instability, and in turn finance other terrorist groups in a way that threatens international peace and security. This is

confirmed by various international reports that prove that at least 40% of internal conflicts are related to natural resources, and that international terrorist groups and organizations such as Al-Qaeda, the Islamic State in Iraq and the Levant, the Taliban, and rebel groups in the Democratic Republic of Congo finances its activity from trafficking in illicit goods, including those related to the natural environment such as chemical waste, wood, charcoal, fish...etc<sup>22</sup>.

This relationship can be clearly discerned from the resolutions issued by the UN Security Council on the various issues presented to it, perhaps the most prominent of which is the one adopted by the UN body on December 19, 2014 under the title “Threats to international peace and security”; The preamble of the resolution begins by emphasizing that terrorism constitutes one of the most serious threats to international peace and security<sup>23</sup>, and that cutting off its sources of funding represents the most effective means of combating it, including those it derives from “...the trafficking of arms, persons, drugs, and artefacts and from the illicit trade in natural resources including gold and other precious metals and stones, minerals, wildlife, charcoal and oil...”<sup>24</sup>. What is said about Resolution 2195 (2014) also applies to Resolution No. 1857 (2008) on the issue in the Democratic Republic of the Congo, in which this relationship is clearly indicated, as the resolution states: “Recognizing the linkage between the illegal exploitation of natural resources, illicit trade in such resources and the proliferation and trafficking of arms as one of the major factors fuelling and exacerbating conflicts in the Great Lakes region of Africa”<sup>25</sup>.

Former Secretary-General of the United Nations, Kofi Annan, acknowledged this description of the deterioration of the environment. He believes that the threat to international peace and security is not limited to new forms of terrorism and the spread of weapons of mass destruction, but rather extends to include, among some, the use of limited-range weapons in civil wars, and continuation of poverty in its most severe forms, income disparity between individuals in different societies, the spread of infectious diseases, or climate change and environmental degradation. He also stressed that the United Nations must confront all these threats without discrimination, and at the same pace, as they affect the common interests of all societies<sup>26</sup>.

The International Court of Justice also addressed the relationship between damage to the natural environment and the threat to international peace and security in its judgement issued on April 20, 2010 in the case of “Pulp Paper Mills around the Uruguay River”, where it recalled the duty of “Argentina” and “Uruguay” to take

the necessary measures to avoid any change in the ecological balance of the river, given that the results of these steps reflect the common interest of the two countries, especially in the areas of sustainable management and protection of the natural environment<sup>27</sup>.

### **3.Measures available to the UN Security Council to address violations of the natural environment:**

Today, environmental problems have become at the forefront of the concerns of international politicians and specialists, just like international terrorism or illegal immigration, given the close relationship they have with the economic interests of countries around the world and national security, as well as the multiplicity of forms in which the concept of environmental security is embodied and the difficulty of containing them all in different international legal texts, and thus finding the most appropriate solutions to address them. Indeed, the threats resulting from violations of the natural environment are no longer viewed as local challenges that individual countries must deal with, but rather as comprehensive threats that require the cooperation of all countries to respond to them effectively.

The nature of these challenges in this regard requires resorting to the United Nations Security Council, to which the member States of the United Nations have entrusted the responsibility for maintaining international peace and security, and which does so in accordance with what the United Nations Charter has authorized it to do through peaceful methods (3.1), or coercive methods (3.2).

#### **3.1.Measures that do not involve the use of force:**

The principle of peaceful resolution of international disputes represents one of the basic axes on which the structure of the United Nations Charter is based. So that the authors of the latter ruled out the use of force in international relations in favor of methods aimed at bringing the viewpoints of the opposing parties closer together.

This method is based on granting the concerned parties absolute freedom, provided that each party proves its good faith in the success of the international systems implementing this goal (3.1.1), which makes this method the most compatible with environmental challenges due to its limited effects on the natural environment compared to other methods which is characterized by its coercive nature (3.1.2).

##### **3.1.1.The scope of measures that do not involve the use of force:**

Without it being the basic element of the peacekeeping system in the United Nations Charter, placing an obligation on States to resolve any disputes that may arise between them peacefully would have radically affected the form of international relations and constituted a tangible development of the international perception in this field<sup>28</sup>.

The entire legal structure of the United Nations Charter revolves around this logic; The system established by the latter enshrines the principle of the general prohibition of resorting to force, and places an obligation on states to resolve disputes that may arise between them through peaceful means as a logical corollary to this prohibition. It can even be said that it represents an alternative to the principle of resorting to force in a way that can be extrapolated from the text. Article 2(4) of the United Nations Charter stipulates that: “All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations”.

This principle means that states adhere to the framework of settling their disputes through one of the known peaceful means, by employing the methods prepared for this matter in Article 33 (1) of the United Nations Charter, and refraining from using military force in these cases<sup>29</sup>.

An extrapolation of the text of Article 33 (1) above shows that it establishes a clear gradation between the methods of peaceful settlement, as the article states the following: “Any Member of the United Nations which is not a member of the Security Council may participate, without vote, in the discussion of any question brought before the Security Council whenever the latter considers that the interests of that Member are specially affected”.

### **3.1.2.Measures consistent with violations affecting environmental security:**

It is the duty of the UN Security Council, before activating any measures under Chapter VII, to attempt to find a solution to the dispute before it by relying on the means placed at its disposal under Chapter VI of the Charter of the United Nations; It can investigate issues that could constitute a threat to international peace and security in the future<sup>30</sup>, call on the conflicting parties to resolve the dispute that brings them together by amicable means such as arbitration for example, or make recommendations to resolve the dispute<sup>31</sup>.

Even if violations of the natural environment constitute a threat to international peace and security, the UN Security Council can adopt a number of measures that would mitigate the deterioration of the environmental situation without necessarily resorting to force, such as calling on the concerned parties to comply with temporary measures that it has adopted with the aim of avoiding to exacerbate the situation<sup>32</sup>, these measures usually involve calling on the conflicting parties to withdraw their forces, respect a ceasefire, or suspend combat operations<sup>33</sup>. As for environmental issues in general, the UN Security Council can rely on the text of Article 40 referred to above, according to Professor Warren, to call on States to ratify some international conventions, or to comply with the obligations imposed on them under international conventions they have already ratified<sup>34</sup>.

The UN Security Council can also, on another level, adopt a resolution condemning the behavior of the countries concerned that violate the rules that protect the natural environment, but such a step is usually useless due to its absolute lack of compulsory force that forces the concerned parties to comply<sup>35</sup>. This also applies to the assumption that the UN Security Council requests an advisory opinion from the International Court of Justice to determine the extent of a State's violation of its international obligation under a specific international convention. However, the low probability of States complying with such a measure takes it outside the scope of effectiveness<sup>36</sup>.

### **3.2.Measures involving the use of force:**

The United Nations Charter requires the exhaustion of all peaceful means to resolve international disputes for consideration, and once this has actually been achieved, it is permissible to use armed force. Given the danger of such a method, the drafters of the Charter intended to restrict this authority to the narrowest limits.

The issue of using force to address violations affecting environmental security has raised widespread controversy, both at the legal and doctrinal levels **(3.2.1)** in light of the paradox posed by the possibility of implementing this idea in itself **(3.2.2)**.

#### **3.2.1.Coercive measures that the UN Security Council could take:**

The coercive measures that the UN Security Council can take to put an end to violations of the natural environment are also subject to a hierarchy determined by Articles 41 and 42 of the United Nations Charter, the first of which stipulates

that, in the event that the UN Security Council qualifies a situation as constituting a threat to international peace and security, ultimately, it must impose economic and diplomatic sanctions that would force the party or parties concerned to comply with its relevant obligations<sup>37</sup>. Economic sanctions, for their part, take various forms, such as severing or narrowing economic relations, or stopping exports and imports...etc. The number of sanctions imposed by the UN Security Council against private individuals has also increased in recent years, considering that targeting entities that pose a threat to the natural environment is the most effective means to protect it, and that imposing economic sanctions on companies that are the source of the threat will have the same results as if it were not more effective than government aggression<sup>38</sup>. However, such practices have not achieved consensus at the international level, but have been criticized on more than one occasion, especially with regard to the effects resulting from the imposition of these sanctions, which would harm the most vulnerable groups in the societies concerned, as well as the sacrifice of governments concerned with environmental issues to account for other issues due to the limited funding sources under its service, which would further harm the natural environment<sup>39</sup>.

Article 42 of the United Nations Charter permits the UN Security Council, in the event that diplomatic or economic measures prove ineffective, “it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security”. In the event that it is proven that intentional harm to an aspect of the natural environment is established, and that this behavior constitutes a threat to international peace and security, the Security Council is authorized to use force to put an end to this behavior. In this regard, Professor Knight believes that the use of military coercion in such a situation is not absolute, but is subject to limits inspired by the report of the High-Level Panel on Threats, Challenges and Change, in which the UN Security Council’s resort to such means depends on the fulfillment of 5 conditions as follows:

### **3.2.1.1. The severity and seriousness of the damage**

The deterioration resulting from damage to the natural environment represents a threat to the State concerned and to human security in general, such that it is of a sufficient degree of clarity and seriousness to justify the possible use of military force. In this regard, the repercussions that this deterioration will have on public health and the scope of its impact on living conditions are taken as criteria for assessing the seriousness of Threat or not;

**3.2.1.2. The use of military force must have a clear purpose:**

The UN Security Council must establish the causal relationship between the source of the alleged threat and the negative effects on public health and individuals' living conditions, such that the source is identified without casting doubt on the effectiveness and purpose of the military measures adopted, whether to neutralize or prevent these effects;

**3.2.1.3. All other non-military means must have been exhausted:**

It is known in this regard that resorting to military force is only a last option when all other peaceful means have been exhausted.

**3.2.1.4. Coercive measures are proportionate to the alleged threat:**

Coercive measures adopted by the UN Security Council must be proportional to the threat it seeks to address, measured by their scope, pace, size, and extension in time;

**3.2.1.5. Balancing the harms resulting from the use of military force and not using it:**

If the use of military force would result in damage greater than the damage likely to occur if the UN Security Council refrained from doing so, then this option must be excluded from its scope of activity<sup>40</sup>.

**3.2.2. Differing opinions on the legitimacy of the use of force to address violations of the natural environment:**

The issue of the use of force in order to protect the natural environment from the violations that may befall it has witnessed a sharp division in the opinions expressed in this regard by jurists and specialists on the subject, between those who support the idea and those who restrict this possibility.

It should be noted at the outset that the issue met with strong opposition at the doctrinal level, and an example in this regard is the position expressed by Professor VOIGT Christina in her article titled: (Security in "Warming world": Competences of the UN security council for preventing dangerous climate change), which is considered one of the most important references in this regard, in which the possibility of resorting to force is excluded to preserve the safety of the natural environment, relying exclusively on peaceful means and on the measures included in Chapter Seven, which do not include the use of armed



force<sup>41</sup>. The same position can be seen with Professor ELLIOTT Lorraine, who believes that it would be illogical to acknowledge that environmental policy has a military character<sup>42</sup>.

Another side of doctrine believes that the use of military force to protect the environment is acceptable provided that it is strictly framed, given the permanent effects that the use of weapons has on the natural environment. Professor Knight believes that the use of such means is considered inappropriate and unproductive, based on the conclusions of the authors of the document emanating from the Rio Declaration on Environment and Development, especially in Principle 24 of it, which stipulates that war has a devastating impact on sustainable development, while it was indicated in Principle 25 that peace, development and environmental protection are interconnected and indivisible, as well as the principle 26, which requires countries to resolve disputes that arise between them peacefully in the environmental field in accordance with what is required by the United Nations Charter<sup>43</sup>. It also believes that the balance between the various forms of intervention to confront environmental threats rarely favors military intervention, given that military operations destroy lands and pollute water, especially when they use chemical weapons, and increase carbon releases into the air<sup>44</sup>.

While Professor V. SCOTT Shirley believes that it is difficult to imagine circumstances in which the use of armed force is the most effective means of confronting threats related to the protection of the natural environment, given the arbitrary employment that this means may be subject to, whether within the framework of a collective security system or the individual use of force; There is nothing preventing States from claiming to use their natural right in legitimate defense against environmental harm<sup>45</sup>.

#### **4. Conclusion:**

It appears from the above that various international entities, whether local or international, cause varying amounts of damage to the natural environment across the world, and although the source of the damage varies, the effects of such behavior are reflected in the entire world.

The relationship between protection of the natural environment, human security, public health and the well-being of society clearly presents challenges for the international community to address; Indeed, the necessity of responding quickly to the risks resulting from violations of the natural environment and the duty to maintain democratic and responsible forms of government prevailing in countries,

raised the issue of resorting to the United Nations Security Council, which has the necessary jurisdiction and sufficient powers to deal with these variables, whether in a state of peace or during armed conflicts.

Resorting to the UN Security Council constitutes an inevitable step, especially if we take into account the reluctance of States to implement the provisions of relevant international conventions, given that the resolutions issued by it have sufficient binding force to ensure States' compliance with their international obligations in the environmental field.

Based on what was mentioned above, we were able to extract a set of results, perhaps the most important of which are:

-The gross lack of legal texts dedicated to protecting the natural environment during armed conflicts in general, and in cases of military occupation in particular, and this deficiency is highlighted in view of the severity of the circumstances imposed by such an exceptional situation;

-Environmental risks resulting from natural phenomena, or man-made, have become a threat to international peace and security, given that the effects resulting from them are no less serious compared to those that occur during international and non-international armed conflicts ;

- The UN Security Council has sufficient powers that allow it to confront the challenges resulting from environmental fluctuations, which endanger the lives of individuals, such as environmental pollution in its various forms.

Despite the hopes that can be placed on the UN Security Council to respond effectively to violations of the natural environment, the scarcity of its mention of environmental issues in the various resolutions it has adopted reconsiders the effectiveness of the role played by the UN body in this field, and prompts us to make a set of recommendations to fill in the gaps surrounding the topic as follows:

-Determine precisely the violations affecting environmental security within the framework of an international convention prepared for this purpose;

-The necessity of establishing a specialized international body to look into environmental issues, authorized to investigate alleged violations of the natural environment, and to impose sanctions appropriate to the nature of the violations, in view of the criticism directed at the Security Council in this area;

-The necessity of imposing criminal penalties for violations affecting the natural environment, imposed on private individuals and international entities alike.

### Footnotes:

<sup>1</sup>-Cited in: M. Lanicci John, D. Ramsay James and Hope Murray Elisabeth, “Re-conceptualizing environmental security as resilience: Strategic planning for human and national security”, *Journal of Human Security and Human Resiliense*, Vol.01.N°01, 2017, p 7.

<sup>2</sup>-Kelsen Hans, *The law of the United Nations: A critical analysis of its fundamental problems*, Stevens & Sons Limited, London, 1951, p 294; See also: Article 39 from the United Nations Charter adopted in San Francisco in 24 October 1945.

<sup>3</sup>-Gaggioli Gloria, “Le rôle du droit international humanitaire et des droits de l’Homme dans l’exercice des pouvoirs de maintien de la paix du Conseil de sécurité”, mémoire de diplôme, Centre Universitaire de Droit International Humanitaire, Genève, Février 2005, p 13.

<sup>4</sup>-Sorel Jean-Marc, “Le caractère discrétionnaire des pouvoirs du Conseil de sécurité: Remarques sur quelques incertitudes partielles”, *Revue Belge de Droit International*, N°02, 2004, p 469.

<sup>5</sup>-Gaggioli Gloria, “Le rôle du droit international humanitaire et des droits de l’Homme dans l’exercice des pouvoirs de maintien de la paix du Conseil de sécurité”, *Op.Cit*, pp, 13-14; See also: Article 2(7) from the United Nations Charter adopted in San Francisco in 24 October 1945.

<sup>6</sup>-Zambelli Marko, “La constatation de l’article 39 de la Charte des nations Unies par le Conseil de sécurité”, thèse soutenue publiquement pour l’obtention de grade de docteur, faculté de droit de l’université de Lausanne, Genève, 5 mars 2002, p 100.

<sup>7</sup>-M. Vradenburgh Anna, “The chapter VII powers of the United Nations charter: Do they trump human rights law”, *Loyola of Los Angeles International and Comparative Law Review*, Vol.14. N°1, 1991, pp, 175-176; De La Serena Galvan Monica Lourdes, “Interpretation of article 39 of the UBN charter (threat to the peace) by the security council. Is the security council a legislator for the entire international community?”, *Anuario Mexicano de Derecho Internacional*, Vol.XI, 2011, pp, 148-149.

<sup>8</sup> -Warren Dane, “Climate change and international peace and security: Possible roles for the U.N security council in addressing climate change”, *Columbia Law School, Sabin Center for Climate change law*, July 2015, p 8.

<sup>9</sup>-Cited in: V. Scott Shirley, “Climate change and peak oil as threats to international peace and security: Is it time for the security council to legislate?”, *Melbourne Journal of International Law*, Vol.9, 2008, pp, 8-9.

<sup>10</sup>-General assembly/Security council, *An agenda for peace, preventive diplomacy, peacemaking and peace-keeping, report of the secretary –General pursuant to the statement adopted by the summit meeting of the Security council on 31 January 1992. Doc. (A/47/277)-(S-24111), forty-seventh of the General Assembly and forty-seventh year, 17 June 1992, Para.12, p 4.*

<sup>11</sup>-Active Para.16 from the UN Security council 687(1991) concerning the situation between Iraq and Kuwait. Ref: S/RES/687(1991) of April 3rd, 1991.

<sup>12</sup>-Knight Alexandra, “Global environmental threats: Can the security council protect our earth?”, *New York University Law Review*, Vol. 80, N° 1549, November 2005, p 1566.

<sup>13</sup>-Active Para.8 from the UN Security council 1376 (2001) concerning the situation in Democratic Republic of the Congo. Ref: S/RES/1376(2001) of November 9th, 2001.

<sup>14</sup>-For more information, see: Tagnino Mara, “Water, international peace, and security”, *International Review of the Red Cross*, Vol. 92.N° 879, September 2010, p 656; See also: Preambular Para.7 from the UN Security Council Resolution 465(1980) concerning the territories occupied by Israel. Ref: S/RES/465(1980 of March 1st, 1980.

<sup>15</sup>-Tagnino Mara, “Water, international peace, and security”, *Op. Cit*, p 657.

<sup>16</sup>-Maruma Mrema Elizabeth, “Understanding environmental security”, in, Lewis Melissa and Couzens Ed and Honkonen Tuula (editors), *international environmental law-making and diplomacy review*, UNEP course series 14, 2015, pp, 17-18.

<sup>17</sup>-Kostakos Georgios, Zhang Ting and Veeing Wouter, “Climate security and justice for small island developing States, an agenda for action”, the Hague institute for global justice, Policy brief 9, March 2014, p 7.

<sup>18</sup>-Pecourt Sophie, “Protection des déplacés et refugies climatiques, migration forcées, droits de l'Homme et changement climatique”, *certificat de formation continue en droit de l'Homme*, Université de Genève, Décembre 2008, pp, 7-8.

<sup>19</sup>-UNEP/UNCHS, *The Kosovo conflict, consequences for the environment & human settlements*, Nairobi, Kenya, 1999, pp, 4-5.

<sup>20</sup>-Ranjan Biswas Niloy, “Is the environment a security threat? Environmental security beyond securization”, *International Affairs Review*, Vol.XX. N°01, Winter 2011, p 7.

<sup>21</sup>-Afriansyah Arie, “State responsibility for environmental protection during international armed conflict”, thesis submitted for the degree of doctor of philosophy at the university of Otago, Dunedin, New Zealand, August 2012, p 26.

<sup>22</sup>-Interpol/UNEP, *Environment, peace and security, a convergence of threats*, strategic report, December 2016, p 65.

<sup>23</sup>-Preambular Para. 2 from the UN Security Council Resolution 2195 (2014) on threats to international peace and security. Ref: S/RES/2195(2014) of December 19, 2014.

<sup>24</sup>-Preambular Para. 7 from the UN Security Council Resolution 2195 (2014) on threats to international peace and security. Ref: S/RES/2195(2014) of December 19, 2014.

<sup>25</sup>-Preambular Para. 10 from UN Security Council Resolution 1857 (2008) on the situation in the Democratic Republic of the Congo [Arms-related measures]. Ref.: S/RES/1857(2008) of December 22, 2008.

<sup>26</sup>-The full text of the Secretary-General's statement is available in: United Nations/General Assembly, The secretary-General address to the General assembly, New-York, 23 September 2003, in, <<https://www.un.org/webcast/ga/58/statements/sg2eng030923>>, consulted in: 18/04/2024.

<sup>27</sup>-CIJ, *Affaire relative à des usines de pate à papier sur le fleuve Uruguay (Argentine c. Uruguay)*, Arrêt du 20 Avril 2010, 2010, Paras. 183-184, p 66, in, <<http://www.icj.cij.org>>.

<sup>28</sup>-GHEBALI Victor-Yves, “La gestion des conflits internationaux par la Société des Nations: Rétrospective critique”, *Etudes Internationales*, Vol. 31.N° 04, 2000, p 687.

<sup>29</sup>-Igor Anisimov and Elena Gulyaeva, *Evolution and content of the principle of peaceful settlement of international disputes in international law*, *Justica do direito*, Vol.34, N°03, 2020, p 170; See also: Article 33(1) from the United Nations Charter adopted in San Francisco in 24 October 1945.

<sup>30</sup>-Article 34 from the United Nations Charter adopted in San Francisco in 24 October 1945.

<sup>31</sup>-Article 38 from the United Nations Charter adopted in San Francisco in 24 October 1945.

<sup>32</sup>-Article 40 from the United Nations Charter states that: “In order to prevent an aggravation of the situation, the Security Council may, before making the recommendations or deciding upon the measures provided for in Article 39, call upon the parties concerned to comply with

such provisional measures as it deems necessary or desirable. Such provisional measures shall be without prejudice to the rights, claims, or position of the parties concerned. The Security Council shall duly take account of failure to comply with such provisional measures”.

<sup>33</sup>-WARREN Dan, “Climate change and international peace and security: Possible roles for the U.N security council in addressing climate change”, Op.Cit, p 10.

<sup>34</sup>-WARREN Dan, “Climate change and international peace and security: Possible roles for the U.N security council in addressing climate change”, Op.Cit, p 10.

<sup>35</sup>-WARREN Dan, “Climate change and international peace and security: Possible roles for the U.N security council in addressing climate change”, Op.Cit, p 10.

<sup>36</sup>-See:Article 36(3) from the United Nations Charter adopted in San Francisco in 24 October 1945.

<sup>37</sup>-See:Article 41 from the United Nations Charter adopted in San Francisco in 24 October 1945.

<sup>38</sup>-Warren Dan, “Climate change and international peace and security: Possible roles for the U.N security council in addressing climate change”, Op.Cit, p 11.

<sup>39</sup>-Von Burgsdorff Sven Kuhn, “The effectiveness of economic sanctions: The case of Cuba”, Intercultural Human Rights Law Review, Vol.04, 2009, pp, 33-35.

<sup>40</sup>-See: Knight Alexandra, “Global environmental threats: Can the security council protect our earth?”, Op.Cit, pp, 1573-1582.

<sup>41</sup>-Voigt Christina, “Security in a “Worming world”: Competence of the UN security council for preventing dangerous climate change”, University of Oslo, Faculty of law legal studies, research paper series, N° 27, 2015, pp, 306-312.

<sup>42</sup>-Cité in: V. Scott Shirley, “Climate change and peak oil as threats to international peace and security: Is it time for the security council to legislate?”, Op.Cit, p 12.

<sup>43</sup>-Principles 24-25-26 from Rio Declaration on Environment and Development, held in Rio de Janeiro from June 3 to 14, 1992.

<sup>44</sup>-Knight Alexandra, “Global environmental threats: Can the security council protect our earth?”, Op.Cit, p 1563.

<sup>45</sup>-V. Scott, “Climate change and peak oil as threats to international peace and security: Is it time for the security council to legislate?”, Op.Cit, pp, 12-13.

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