

REVIEW

“INTERNATIONAL RESPONSIBILITY AND PROTECTION OF THE ENVIRONMENT: IN TIMES OF PEACE, DURING ARMED CONFLICTS AND POST-CONFLICT PERIODS”

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The book "International responsibility and protection of the environment: In times of peace, during armed conflicts and post-conflict periods" studies international responsibility in environmental matters, by analyzing actors such as the Colombian State, the private sector and illegal armed groups and identifying subjects of special protection in the context of the armed conflict and the guarantee of their human rights.

The authors also study the responsibility of the State and other parties relevant to the post-conflict and the Peace Agreements. There are two major responsible parties:

Multinationals have become an object of study of public international law, due to their economic capacity and incidence in some territories; sometimes multinationals even have greater purchasing power than a State. However, to hold them legally responsible for environmental damage and for human rights violations caused in the Colombian armed conflict, we must identify their legal personality, the location of their headquarters, their lucrative purpose and character as a legal subject in the territory or state.

The illegal armed groups are not considered belligerents and are thus not responsible for the damages their actions cause. Although the Colombian State is not bound by the Convention of International Law on Environmental Matters, it may be held responsible for environmental degradation before the Inter-American Human Rights System, for failing to act as a guarantor for the protection of the environment. The State is likewise responsible under international humanitarian law when such conduct constitutes a war crime as defined by the Rome Statute (number 2b-IV).

Some of the acts these illegal groups committed against the environment include the blasting of pipelines, indiscriminate logging, contamination of aqueducts, illegal extraction of minerals, alteration of river channels or abrupt changes in land use. Illegal armed groups committed these actions either to finance their illegal activities or to generate fear in the population.

The book also analyzes the impact of these illegal activities on vulnerable populations, such as impoverished children. They have been victims of systematic human rights violations, such as forced recruitment, personal injuries, forced displacement, and homicide.

The authors also consider the case of the “Afro-descendant communities of the Cacarica River vs. Colombia” before the Inter-American Court of Human Rights, in which the Court found Colombia responsible for forced displacement, the failure to provide humanitarian aid and to protect the collective property of the population, and the violation of the rights to life and personal integrity of the Afro-descendant community of the Cacarica River as a result of the military “Operation Genesis” carried out in 1997. In 2013, the Court ordered Colombia to investigate and identify those responsible for the events, repair the victims according to internal law, and restore their use and enjoyment of their collective lands. As of 2017, the State of Colombia had not fully implemented these orders, in part because the State and its agents do not meet the necessary conditions to protect this type of right, nor to provide guarantees of non-repetition.

The authors discuss possible mechanisms for guaranteeing environmental rights, and consider the following among the measures that could be taken in the event of a violation of the environmental rights of a community:

Constitutional control over environmental regulations can provide sufficient guarantees for the protection, management, and care of natural resources as well as a guarantee of reparation to victims and the environment.

Similarly, the book analyzes, describes, and proposes the possibility of creating an International Environmental Tribunal, whose function would be to determine States' responsibility for damages caused to the environment.

Finally, the authors conclude that multinational companies tend to take advantage of the vulnerable situation of war torn countries, and they abuse their dominant position to avoid being held responsible for the damages they cause. The global society has many challenges regarding the respect and protection of human rights; currently, violations of these rights are caused not only by state agents, but also by individuals and companies, especially transnational companies.

Therefore, States have the duty to ensure transnational corporations respect the human rights of all individuals and, where appropriate, must initiate liability procedures against businesses that have failed to do so.

Bibliography

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