“Environmental protection by International Organisations in wartime”

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I. Introduction.- II. Existing Law.- III. Role of International Organisations: A) UNCC; B) Cooperation between UNCC and UNEP; C) Post-Conflict Assessment Unit (PCAU).- IV. Some tentative conclusions.-

1. Introduction:

This paper is concerned with the role of international organizations in the protection of the natural environment during armed conflict.

First of all we shall identify the problem, which is how war damages the environment. Even if throughout human history the environment has been one of war’s victims\(^1\), it was not until 1990-1991, when Iraq released enormous quantities of oil into Kuwait and the Persian Gulf as a part of its tactics in the Gulf War, that the protection of environment during armed conflict is an issue that attracted the world’s attention.

The environmental destruction caused by the two world wars was also considerable. During World War II, the Germans intentionally destroyed 17% of Duch agricultural lands through salt-water inundation. Oil fields and oil tankers were common targets on both sides. British forces destroyed the Romanian oil fields to hinder the German military effort, and 15% of Allied bombing was directed against oil facilities to which Germany had access. Conversely, oil tankers comprised about 25% of the ships lost by the United States\(^2\).

While armed conflict have historically tended to cause acute and localized environmental damage, modern weapons and their potential industrial targets have the potential to cause destruction on a much vaster scale.

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\(^1\) As SCHMITT once stated: “that war damages the environment is a truism” in Schmitt, M. N. “Green War: An Assessment of the Environmental Law of International Armed Conflict”.

In the theatre of the war environmental disruption can be either incidental or intentional, an in either case is often quite severe. In this case, even if the main propose is not to damage natural resources, environmental damage is instead a by-product of the growing destructiveness of modern weaponry and the more hazardous character of industrial targets, these are the known as “collateral damages”.

Furthermore, in some cases belligerents may purposefully harm the environment. In recent times, the most dramatic example was, as we mentioned before, the destruction of oil wells and the international release of oil by Iraq during the 1990-91 Gulf War. But it was the Vietnam War the first war in which environmental disruption was a substantial intentional component of the strategy of one of the belligerent powers. The US bombing campaign caused significant collateral damage to the environment, creating craters, destroying vegetation and killing wildlife^3.

Add to the warfare environmental damages, we must also bear in mind that sometimes forces of nature serve as a powerful weapon during war. For instance, in the seventeenth century the Dutch destroyed dikes to flood their lowlands and stem the advance of their enemies, thereby devastating vast tracts of farmland. Thucydides records the scorched earth tactics used by the Greeks during the Peloponnesian Wars.

Military activities can damage the environment in a variety of ways: peacetime training and operations can cause pollution and disrupt wildlife, and the remnants of war such as land mines can have continuing consequences for both humans and wildlife. Land mines make land unfit for agriculture, and create a hazard not only for humans but also for large animals. Warfare can also damage the environment more indirectly, through the disruption domestic environmental institutions and mechanisms, as we could see through recent conflicts as the one in Angola, the former Yugoslavia, and in the Congo^4.

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^3 BODANSKY, D., Legal Regulation of the Effects of Military Activity on the Environment, School of Law, University of Georgia, Publisher: Federal Environmental Agency., pag. 12.

^4 “For example, the conflict in the Congo has caused the collapse of government management of protected areas. In addition, the destruction of water and fuel sources during war, and the creation of refugee flows, tends to put additional human stresses on the environment”. Ibidem pag. 11 y 17.
II. Existing Law:

As we have already seen, environment results always damaged after a war. Now we are going to examine how the existing law provides protection of the environment during an armed conflict.

The law of armed conflict includes provisions that may afford protection to the environment both directly and indirectly. Since 1977 the law of armed conflict has included provisions that expressly address the impact of military operations on the environment, these are the articles 35 (3) and 55 (1) of the 1977 Additional Protocol I to the Geneva Conventions, and the 1977 ENMOD Convention (United Nations Convention on the Prohibition of Military or Any Other Hostile use of Environmental Modification Techniques).

Although these dispositions were a significant step forward, they proved to be insufficient providing limited protection against the contemporary threats posed by war to the environment.

Protocol I has expanded the traditional rules regarding the protection of the civilian population and civilian objects in the conduct of military operations. This instrument is meant to protect not only the population of the countries at war, but also the environment as such. Article 35 (3) represents a conceptual innovation in the law of war, by recognizing not only anthropocentric values but also importance of the natural environment itself. However, its practical effect is likely to be minimal, for many reasons, the most important one is that it establishes a high threshold by requiring three conditions that need to meet cumulative. Consequently, the means and methods of warfare intended or expected to cause damage have to be widespread, long-term and severe.

Moreover, even to the extent that both articles do provide additional environmental protection, they are not universally considered to reflect customary international law and hence may apply only between parties.5

5 The International Court of Justice (ICJ) recognized that: “that Articles 35, paragraph 3, and 55 of Additional Protocol I provide additional protection for the environment. Taken together, these provisions embody a general obligation to protect the natural environment against widespread, long-term and severe
ENMOD Convention focuses not on the protection of the environment per se, but rather on the use of environmental modification as a method and means of warfare. Although ENMOD is triggered by a lower threshold of environmental damage than the “widespread, long-term, and severe” standard in Article 35 (3) and 55 (1) of Geneva Protocol I, it is also unlikely to provide significant protection for the environment. This is mainly because the language used to define the environmental modification technique is so narrow that the treaty does not identify specific techniques. All these gaps make the Convention difficult to apply, and actually it has never been applied.

Considering all these gaps in the existing law, and bearing in mind the seriousness of the matter, many proposals have been made. Some authors have considered essential to celebrate a new treaty which reinforce the protection of the environment during an armed conflict, suggesting the preparation of a V Geneva Convention to deal specifically with the issue. Another proposal consisted in amending Protocol I, in order to modify articles 35.3 and 55. And it has been also proposed to re-interprete these articles, what seems the fastest and most feasible option, because to prepare a new treaty is a hard work very difficult to be successful.

III. The role of International Organisations:

Once we have recognized the serious problem of environmental warfare and the weak legal answers, we need to analyse which is the role of international organisations in this area.

We will focus on the Iraq’s case, and specifically on Gulf War (1990-91), because as we have already mentioned at the introduction it was the first case that the International Community reacted protecting the environment after an armed conflict. Furthermore, it was in this case where international organisations, within UN system, played an important role as we will see.

environmental damage; the prohibition of methods and means of warfare which are intended, or may be expected, to cause such damage; and the prohibition of attacks against the natural environment by way of reprisals. These are powerful constraints for all the States having subscribed to these provisions.” I.C.J. Advisory case, 1996, par.31.
A) UNCC:

Environmental damage in the 1991 Gulf War was mainly caused by the torching and flooding of oil wells in Kuwait, the spilling of oil from Kuwait and Iraq into the Persian Gulf, and the damage caused by the military action of both sides during the conflict. Giving the serious environmental damages, the Gulf War was termed an “eco-war” and Iraq’s acts as “environmental terrorism”\(^6\). Damage locations were widespread, affecting not only Kuwait and Iraq but also Saudi Arabia, Iran and other neighbouring countries in the Gulf. Due to the Earth’s rotation and the normal winds on the area, some effects were reported in Afghanistan, Pakistan, India and, even in the Himalayan peaks between China, Tibet and Nepal\(^7\).

The UN Security Council, acting under Chapter VII of the UN Charter, which concerns action with respect to threats to the peace, breaches of the peace and acts of aggression, responded with Resolution 687, (1991), 3 April 1991, stating that:

“without prejudice to the debts and obligations of Iraq 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 Iraq’s unlawful invasion and occupation of Kuwait (part E, paragraph 16)\(^8\).

For the first time, international law recognized that wartime environmental damage is compensable.

In order to assess damage—including environmental damage and the depletion of natural resources—and to receive compensation from Iraq, the Security Council created the United Nations Compensation Commission (UNCC or Commission hereinafter) as a subsidiary organ, through its resolution 692 (1991), 20 May 1991.

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As the Secretary-General stated in his report:

"the Commission is not a court or an arbitral tribunal before which the parties appear; it is a political organ that performs an essentially fact-finding function of examining claims, verifying their validity, evaluating losses, assessing payments and resolving disputed claims; it is only in this last respect that a quasi-judicial function may be involved."\(^9\)

The procedure before the UNCC allows individuals, corporations and Governments to present consolidated claims, submitted by Governments and international organisations, and to receive compensation for all loss, damage and injury resulting from Iraq’s unlawful invasion and occupation of Kuwait\(^10\).

The Commission received approximately 2.7 million claims. The total asserted value of these claims amounts to approximately US$352.5 billion. Ninety-seven Governments filed claims on behalf of their nationals, corporations and themselves, as well as thirteen offices of three international organizations, which filed claims on behalf of individuals not in a position to submit their claims through a Government.

To date, the Commission has made available to Governments and international organizations approximately US$19.4 billion for distribution to successful claimants in all categories. Funds to pay compensation are drawn from the United Nations Compensation Fund, which receives a percentage of the proceeds generated by the export sales of Iraqi petroleum and petroleum products. This percentage was originally set at 30 per cent by the Security Council under its resolution 705 (1991), and was maintained in Security Council resolution 986 (1995) as well as in a number of subsequent resolutions, establishing and extending the “oil-for-food” mechanism. The level of funding was changed to 25 per cent as of December 2000 under Security Council resolution 1330 (2000). Finally, paragraph 21 of Security Council resolution


\(^10\) They consist of the claims of individuals for departure from Kuwait or Iraq (category “A” claims), the claims of individuals for serious personal injury or death (category “B” claims), the claims of individuals for losses up to US$100,000 (category “C” claims), the claims of individuals for losses over $100,000 (category “D” claims), the claims of corporations, other private legal entities and public sector enterprises (category “E” claims), and the claims of Governments and international organizations (category “F” claims). (More information see at the web site: http://www2.unog.ch/uncc/
1483 (2003), adopted on 22 May 2003, changed the level of the proceeds of all export sales of Iraqi petroleum, petroleum products, and natural gas to be deposited into the Compensation Fund to 5 per cent.

Environmental claims have been called by the Commission as “F4” claims, within the F claims, which could only be filed by Governments and international organisations for losses incurred in evacuating citizens; providing relief to citizens; damage to diplomatic premises and loss of, and damage to, other government property; and damage to the environment.

Considering the damages covered "F4" claims fall into two broad groups. The first group comprises claims for environmental damage and the depletion of natural resources in the Persian Gulf region including those resulting from oil-well fires and the discharge of oil into the sea. The second group consists of claims for costs incurred by Governments outside of the region in providing assistance to countries that were directly affected by the environmental damage. This assistance included the alleviation of the damage caused by the oil-well fires, the prevention and clean up of pollution and the provision of manpower and supplies.

The Commission, in its “Criteria for Claims”\(^1\), has stated that environmental damage includes losses or expenses resulting from: a) abatement and prevention of environmental damage, including expenses directly relating to fighting oil fires and stemming the flow of oil coastal and international waters; b) reasonable measures already taken to clean and restores the environment or future measures which can be documented as reasonably necessary to clean and restore the environment; c) reasonable monitoring and assessment of the environmental damage for the purposes of evaluating and abating the harm and restoring the environment; d) reasonable monitoring of public health and performing medical screenings for the purpose of investigation and combating increased health risks as a result of the environmental damage; and e) Depletion of or damage to natural resources.

\(^1\) Criteria for Additional Categories of Claims, S/AC.26/1991/7 (4 December 1991), Decision Nº 7, para. 35. Although this provision is under the section of Decision Nº 7 dealing with government claims, the Commission has allowed claims to be made for environmental damage also under category “E”.

The main tasks of the Commission are: to establish the link of causation (in order to confirm responsibility), to ascertain the damage (its verification and extent), to clarify the injured States (either directly or indirectly) and to establish the compensation (its kind and amount)\(^\text{12}\). The legal framework that UNCC must apply when dealing with environmental claims is, as Article 31 of the Rules for Claims Procedure (Decision 10: UN Doc. S/AC.26/1992/10, 26 June 1992):

“In considering the claims, Commissioners will apply Security Council resolution 687 (1991) and other relevant Security Council resolutions, the criteria established by the Governing Council for particular categories of claims, and any pertinent decisions of the Governing Council. In addition, where necessary, Commissioners shall apply other relevant rules of international law.”

Under Decision Nº 7, paragraph 21 (c), Iraq’s liability extended to losses resulting from military action “by either side”, which decision, in the panel’s view, was “in accordance with the general principles of international law”.

The liability principle was expanded since the claims would include any loss suffered as a result of\(^\text{13}\): a) Military operations or threat of military action by either side during the period 2 August 1990 to 2 March 1991; b) Departure from or inability to leave Iraq or Kuwait (or a decision not to return) during that period; c) Actions by officials, employees or agents of the Government of Iraq or its controlled entities during that period in connection with the invasion and occupation; d) The breakdown of civil order in Kuwait or Iraq during that period; and e) Hostage-taking or other illegal detention.

In the case of environmental harm, particular problems arise in dealing with the link of causation. So, as KISS and SHELTON stated, four main challenges to the link of causation can be identified:

“First, the distance separating the source from the place of damage may be dozens or even hundreds of miles […] Second, the noxious effects of a pollutant may

\(^{12}\) As stated by HEISKANEN: “Apart from establishing whether an alleged loss is, as a matter of law, a direct result of, or proximately attributable to, Iraq’s invasion and occupation of Kuwait, the Commission’s principal task is to verify that the loss has, in fact, occurred, and to value and quantify the loss”, in HEISKANEN, V., “The United Nations Compensation Commission”, Recueil des cours, Hague Academy of International Law, Vol. 296 (2002), Martinus Nijhoff Publishers, The Hague/Boston/London, 2003, pag. 357.

\(^{13}\) Decision 1, para. 18, and Decision 7, para. 6.
not be felt until years or decades after the act [...] Third, some types of damage occur only if the pollution continues over time [...] Finally, the same pollutant does not always produce the same effects, due to the important role played by physical circumstances.”

As we mentioned before F4 claims fall into two broad groups, however they have been processing into four instalments. The first instalment was concluded the 22 of June 2001, with the First Report\textsuperscript{15} made by the Panel of Commissioners. This report includes 107 claims for monitoring and assessment of environmental damage\textsuperscript{16}, depletion of natural resources, monitoring of public health, and performing medical screenings for the purposes of investigation and combating increased health risks (the “monitoring and assessment claims”) submitted by the Governments of the Islamic Republic of Iran, the Hashemite Kingdom of Jordan, the State of Kuwait, the Kingdom of Saudi Arabia, the Syrian Arab Republic and the Republic of Turkey.

One year later, in October 2002, the Panel of Commissioners finished the Second “F4” instalment\textsuperscript{17}, which consist of claims for expenses incurred for measures to abate and prevent environmental damage, to clean and restore the environment, to monitor and assess environmental damage, and to monitor public health risks alleged to have resulted from Iraq’s invasion and occupation of Kuwait. Specifically, Iran, Kuwait and Saudi Arabia seek compensation in the amount of USD 829,458,298 for measures to respond to environmental damage and human health risks from: (a) Mines, unexploded ordnance and other remnants of war; (b) Oil lakes formed by oil released from damaged wells in Kuwait; (c) Oil spills in the Persian Gulf caused by oil released from pipelines, offshore terminals and tankers; and (d) Pollutants released from oil well fires in Kuwait\textsuperscript{18}.

\textsuperscript{16} These activities relate to, inter alia, damage from air pollution; depletion of water resources; damage to groundwater; damage to cultural heritage resources; oil pollution in the Persian Gulf; damage to coastlines; damage to fisheries; damage to wetlands and rangelands; damage to forestry, agriculture and livestock; and damage or risk of damage to public health.
\textsuperscript{17} Second Report, S/AC.26/2002/26, 3 October 2002.
\textsuperscript{18} Ibidem, párrafo 6.
The third “F4” instalment\(^{19}\) consists of three claims by the Government of the State of Kuwait and two claims by the Government of the Kingdom of Saudi Arabia. The claims in the third “F4” instalment are for expenses resulting from measures already taken or to be undertaken in the future to clean and restore environment alleged to have been damaged as a direct result of Iraq’s invasion and occupation of Kuwait\(^{20}\). The Claimants seek compensation for expenses resulting from cleaning and restoration measures undertaken or to be undertaken by them to remediate damage from: (a) Oil released from damaged oil wells in Kuwait; (b) Pollutants released from oil well fires and firefighting activities in Kuwait; (c) Oil spills into the Persian Gulf from pipelines, offshore terminals and tankers; (d) Laying and clearance of mines; (e) Movements of military vehicles and personnel; and (f) Construction of military fortifications\(^ {21}\).

The fourth instalment of “F4” claims consists of nine claims: three by the Government of the State of Kuwait; two by the Government of the Kingdom of Saudi Arabia; one by the Government of the Islamic Republic of Iran; one by the Government of the Hashemite Kingdom of Jordan; one by the Government of the Syrian Arab Republic; and one by the Government of the Republic of Turkey. This instalment was processed in two parts: part one contains the recommendations of the Panel on eight of the nine claims in the fourth “F4” instalment, and the remaining claim is the one of Kuwait for which the award recommended by the Panel exceeds 1 billion United States dollars\(^ {22}\).

The claims in the fourth “F4” instalment are for expenses resulting from measures already taken or to be undertaken to clean and restore environment alleged to have been damaged as a direct result of Iraq’s invasion and occupation of Kuwait. The Claimants seek compensation for expenses resulting from measures already taken or to be undertaken by them to remediate damage caused inter alia by: (a) Oil released from damaged oil wells in Kuwait; (b) Pollutants released from the oil well fires and firefighting activities in Kuwait; (c) Oil released from pipelines onto the land; (d) Oil-filled trenches; (e) Oil spills into the Persian Gulf from pipelines, offshore terminals and

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\(^{20}\) Ibidem, par.5.

\(^{21}\) Ibidem, par. 6.

\(^{22}\) The Panel’s recommendations on that claim are presented in the “Report and recommendations made by the Panel of Commissioners concerning part two of the fourth instalment of ‘F4’ claims” (S/AC.26/2004/R.40), 9 December 2004.
tankers; (f) Movement and presence of refugees who departed from Iraq and Kuwait; (g) Mines and other remnants of war; (h) Movement of military vehicles and personnel; and (i) Construction of military fortifications, encampments and roads.

The fifth and final instalment concluded the last 30 June 2005, after the publication of the fifth Report made by Panel of Commissioners. It involved 19 claims filed by six Governments. The claims in the fifth “F4” instalment are for compensation for damage to or depletion of natural resources, including cultural heritage resources; measures to clean and restore damaged environment; and damage to public health. The claims relate to damage resulting from, inter alia: (a) Pollutants from the oil well fires and damaged oil wells in Kuwait; (b) Oil spills into the Persian Gulf from pipelines, offshore terminals and tankers; (c) Influx of refugees into the territories of some of the Claimants; (d) Operations of military personnel and equipment; (e) Mines and other remnants of war; and (f) Exposure of the populations of the Claimants to pollutants from the oil well fires and oil spills in Kuwait and to hostilities and various acts of violence.

Through this final Report it was concluded the claims processing at the UNCC, bringing to an end the work of the panels of Commissioners as a whole. This report means a great step forward in the field of compensations for environmental damages, because it is the first time in the history that an international institution offers compensation for damages to the natural resources that have no commercial value, and it decides also the way to assess them.

Regarding to these last category of damages, Iraq contended that there was no legal justification for compensating claimants for “interim loss” of natural resources that have no commercial value. It argued that compensation for damage to non-commercial resources is limited to the costs of reasonable measures of remediation or restoration. According to Iraq, claims for interim loss of non-commercial resources have no basis in Security Council resolution 687 (1991) or Governing Council decision 7.

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23 Ibidem, par. 9.
But, the Panel considered that any loss of or damage to natural resources that can be demonstrated to have resulted directly from Iraq’s invasion and occupation of Kuwait must be deemed to be encompassed in the concept of “environmental damage and the depletion of natural resources” within the meaning of Security Council resolution 687 (1991). The Panel did not consider that there was anything in the language or context of Security Council resolution 687 (1991) or Governing Council decision 7 that mandates or suggests an interpretation that would restrict the term “environmental damage” to damage to natural resources which have commercial value.

The Panel, therefore, found that a loss due to depletion of or damage to natural resources, including resources that may not have a commercial value is, in principle, compensable in accordance with Security Council resolution 687 (1991) and Governing Council decision 7 if such loss was a direct result of Iraq’s invasion and occupation of Kuwait26.

Following the conclusion of the claims processing stage, the Commission will continue its work, with a small secretariat, on payments of awards to claimants and a number of residual tasks. In this context, at this session the Council approved the proposed budget of the Commission for the biennium 2006-2007.

As we mentioned before, environmental claims have been the last category of claims resolved by UNCC, due principally to the difficulty that means its resolution. Damage to the environment is not easy to verify and quantify, and in order to verify the damage it is necessary a rigorous assessment ratione temporis and ratione loci, mostly because environmental harm is typically extended by time and place27.

Besides, these claims are so large and complex that require the assessment and verification by different types of experts in the following fields: chemistry; toxicology; biology (including microbiology, marine biology, biological oceanography, marine zoology and plant pathology); medicine; epidemiology; environmental, ecological and

27 AZNAR, pag. 17.
natural resource economics; geology; atmospheric sciences; oil spill assessment and response; rangeland management; and accounting.\textsuperscript{28}

\section*{B) Cooperation between UNCC and UNEP}

With the main purpose to facilitate the tracking of environmental monitoring and assessment projects in the Persian Gulf region, following the Gulf war, it was adopted an agreement between United Nations Environment Programme (UNEP) and the United Nations Compensation Commission (UNCC) the 5\textsuperscript{th} of August of 2002.\textsuperscript{29}

The agreement makes UNEP a provider of environmental database services for UNCC, which the UNCC Panel of Commissioners for the environmental claims use to analyse and evaluate the progress and results of the monitoring and assessment projects, awarded by the UNCC Governing Council in June 2001. The databank contains information from claimant governments regarding the monitoring and assessment projects, and, in addition, information about environmental policies, legislation and general state of environment reports. The databank also provides information about available remediation methods and technologies.

This agreement of cooperation was initially adopted to cover a two-year period starting in August 2002, and all expenses related to this cooperation have been covered by UNCC. As Dr. Klaus Töpfer, the executive Director of UNEP, stated:

"It gives us great pleasure to now start the process of establishing and managing a database to assist in the process of monitoring and assessing the potential environmental situation in the region. Our service will give efficient support to the Panel in their work resolving any inconsistencies or duplications in the on-going assessments,"\textsuperscript{30}

\section*{C) Post-Conflict Assessment Unit (PCAU)}

After having been working in the Balkans region to determine the environmental risks from the Kosovo conflict (1999), UNEP focuses on the clean-up and remediation tasks, taking practical steps to raise financial resources to address the identified

\begin{footnotes}
\footnotetext[28]{HEISKANEN, supra n. 12, pag. 379.}
\footnotetext[29]{See at: \url{http://postconflict.unep.ch/uncp_new.htm}}
\end{footnotes}
concerns. Following the positive reactions from the countries in the Balkans and the international community at large, UNEP established a Post-Conflict Assessment Unit (PCAU) in 2001 to build on the work pioneered in the Balkans\(^{31}\).

Consequently PCAU extends UNEP's work in areas of the world where the natural and human environment has been damaged as a direct or indirect consequence of conflict. The UNEP PCAU acts in full cooperation with the humanitarian and development UN framework, to assist countries and regions in the post-conflict recovery and reconstruction period.

The main tasks of PCAU are: Investigate environmental impacts of conflicts and pre-existing chronic environmental problems; Identify risks to human and environmental health; Recommend strategic priorities for cleanup and remediation; Promote an environmental agenda and regional environmental cooperation; Strengthen capacity of authorities for environmental management and protection; Catalyze and mobilize international support for environmental projects; Integrate environmental considerations into the recovery and reconstruction process.

In 2002, major projects of the UNEP PCAU include post-conflict assessments in Afghanistan and the Occupied Palestinian Territories, cleanup of environmental hotspots and capacity building in the former republic of Yugoslavia, and assessment of Depleted Uraniu environmental risks in Bosnia-Herzegovina.

In the case of Iraq, UNEP has been studying the environmental issues in that country since early 2003, preparing a desk study\(^{32}\) with a complete assessment of environmental situations. The desk study outlined immediate environmental concerns that pose a direct threat to the health and livelihoods of the Iraqi people. In particular, threats to water, waste management, degradation of the Marshlands and pollution from weapons and war damaged sites were highlighted.

\(^{31}\) See at: [http://postconflict.unep.ch/](http://postconflict.unep.ch/)

Besides, during July-August 2003 two field missions were undertaken to Iraq to study the environmental situation, as well as institutions and local priorities in Iraq\textsuperscript{33}.

In addition, UNEP has been undertaking capacity building training programmes for Iraqi officials working in the area of environmental management and contaminated sites assessments. And UNEP is also working with stakeholders from Iraq and Iran in order to increase cooperative actions in the management of the Marshlands.

V. Some tentative conclusions

In conclusion, through this study we wanted to find out whether the environment is actually protected by international organisations during armed conflict or not.

As we have seen by studying Iraq’s case, after the Gulf War, international organisations have been playing an important role, specially through UNCC’s work protecting the environment damaged as a result of invasion and occupation by Iraq of Kuwait.

This has been the first time that reparation for deliberate environmental harm has been dealt with by an international (quasi) jurisdictional body, and also the reaction of the Security Council establishing the Iraq’s responsibility and the UNCC was completely new, being the first time that the Security Council established the entire system of reparation.

However, some scholars stated that the UNCC’s work in the Iraq’s case cannot be used as a precedent to other conflicts\textsuperscript{34}. The fact that the unique origin of Iraq’s responsibility is its unlawful invasion and occupation of Kuwait, does not permit the evaluation of all legal questions of this case: which rules (primary rules between those that we have analysed in the second part) are applicable; whether and to what extend

\textsuperscript{33} the findings from the mission were published in a report entitled “Environment in Iraq: UNEP Progress Report”, see at: \url{http://postconflict.unep.ch/publications/Iraq_PR.pdf}

\textsuperscript{34} As Pierre-Marie Dupuy stated: “la question de la responsabilité étatique pour crime paraît tout à fait présente dans l’affaire du Golfe […] mais les conditions de mise en œuvre de la responsabilité international par l’ONU n’apparaissent pas forcément comme le premier témoignage contemporain d’un régime de responsabilité pour crimes…” DUPUY, P-M., “Après la guerre du Golfe.” 95 RGDIP (1991), pp. 634.
those rules have been violated; the possible circumstances precluding wrongfulness, etc.

To conclude it can be said that this kind of ad hoc procedure in order to protect the environment after an armed conflict, even if it has been successful by completing the claim process with the UNEP assistance, is not the best way to approach questions of the international responsibility of States. Consequently, what is necessary is to establish a mechanism of reparation and compensation that gets to reinforce the international environmental law within a war in order to legally bind all the States.