PART III

The governance of natural resources as part of conflict resolution and post-conflict peacebuilding efforts

Introductory remarks to Part III

This part discusses two distinct but interrelated issues. The first concerns approaches to stopping trade in natural resources that is used to finance armed conflicts. Addressing this issue is a prerequisite for resolving those armed conflicts. The second concerns the governance of natural resources in countries that are recovering from resource-related armed conflicts. While economic reconstruction must be an inherent part of any peacebuilding strategy, specific challenges must be addressed when natural resources play a role in armed conflicts, to either finance or sustain them. In these situations, it is often necessary to implement institutional changes regarding the governance of natural resources in order to prevent a relapse into armed conflict.

Notwithstanding the paramount importance of addressing natural resources governance as part of peacebuilding efforts, this issue has not been included in the official mandate of the UN Peacebuilding Commission, an intergovernmental advisory body established in 2005 by the UN Security Council, together with the UN General Assembly. The principal objective of the UN Peacebuilding Commission is 'to address the special needs of countries emerging from conflict towards recovery, reintegration and reconstruction and to assist them in laying the foundation for sustainable development'.[1] As part of its general mandate, the UN Peacebuilding Commission has recently started to consider issues related to natural resources management, both in a general sense and in its country specific configurations.[2] However, the practice of the UN Peacebuilding

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[1] UNSC Resolution 1645 (2005), preambular para. 6; UNGA Resolution 60/180 (2005), sixth preambular paragraph. For this purpose, the UN Peacebuilding Commission has received three main tasks: (1) to bring together all relevant actors to marshal resources and to advise on and propose integrated strategies for post conflict peacebuilding and recovery; (2) to focus attention on the reconstruction and institution-building efforts necessary for recovery from conflict and to support the development of integrated strategies in order to lay the foundation for sustainable development; and (3) to provide recommendations and information to improve the coordination of all relevant actors within and outside the United Nations, to develop best practices, to help to ensure predictable financing for early recovery activities and to extend the period of attention given by the international community to postconflict recovery.

[2] The need for the UN Peacebuilding Commission to address these issues was emphasised in a 2009 UNEP report, entitled 'From Conflict to Peacebuilding: The Role of Natural Resources and the Environment'. The UNEP Report further contains a number of recommendations for the Peacebuilding Commission on the integration of natural resources management and environmental protection into its peacebuilding strategies. In response to the UNEP report, the UN Peacebuilding Commission's Working Group on Lessons Learned has issued a background paper in July 2011 on 'Economic Revitalization and Youth Employment for

Commission is still limited, preventing a systematic analysis of its work in this field. Furthermore, the Commission becomes involved at a relatively late stage, when the situation in a former conflict country has, to a certain extent, stabilised. It is submitted that, to enhance the success of the peace process in countries emerging from armed conflict, changes in the governance of natural resources must be initiated already in the phases of conflict resolution and immediate post-conflict reconstruction, which is the principal focus of this part of the study.

Recent attempts to address the governance of natural resources, and, as a prerequisite, the trade in natural resources that finance armed conflicts as part of conflict resolution and immediate post-conflict reconstruction efforts have evolved around two distinctive but interrelated approaches, namely sanctions by the Security Council under Chapter VII of the United Nations Charter on the one hand, and voluntary agreements between States and other entities related to the management of natural resources in States experiencing an armed conflict, on the other.

The United Nations Charter assigns the Security Council the primary responsibility for maintaining international peace and security.[3] It gives the Security Council a wide range of powers to perform its functions effectively. In this respect, the principal powers of the Security Council relate to its role in the pacific settlement of disputes under Chapter VI of the UN Charter and its authority to adopt coercive measures in response to threats to the peace, breaches of the peace and acts of aggression under Chapter VII of the UN Charter. Together these chapters assign the Security Council a variety of options to effectively address specific situations which constitute a threat to international peace and security.

In practice, resource-related economic measures under Article 41 of the UN Charter have been the principal means used by the Security Council to address links between natural resources and armed conflict.[4] Before the end of the Cold War, the Council only used its powers under Chapter VII once to impose resource-related coercive measures aimed at ending a

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Peacebuilding', identifying natural resources management as one of the priority areas for the Peacebuilding Commission to focus on in the near future. This background paper expanded on preliminary work undertaken by this Working Group in cooperation with UNEP on 'Environment, Conflict and Peacebuilding'. Nonetheless, the proposals of the Working Group have not yet been adopted as part of the overall strategy of the Peacebuilding Commission.

[3] The legal basis for this function of the Security Council may be found in Article 24 of the UN Charter.

[4] See Le Billon, 'Natural Resources, Armed Conflicts, and the UN Security Council', p. 2.

conflict, namely in the case of natural resources originating in Southern Rhodesia.[5] Since 1990 the Council has increasingly used its powers for this purpose. Examples include diamond sanctions in the cases of Angola, Sierra Leone, Liberia and Côte d'Ivoire, petroleum sanctions in the case of Iraq and timber sanctions in the case of Liberia.[6] This practice of the Security Council reveals the recent trend towards 'smart' or 'targeted' rather than comprehensive sanctions.[7]

The Council has secured the implementation of its sanctions regimes partly through UN peace operations. The mandates of several of these operations include measures related to the enforcement of resource-related sanctions. In addition, the Council expressly included issues related to the management of natural resources in the mandate of some of these missions, most notably in those of the UN Mission in Liberia (UNMIL) and the UN Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO).[8]

A second approach to address the link between natural resources and armed conflict, both as an alternative and complementary to Security Council sanctions, is through informal normative processes bringing together States, the business community and civil society. Examples of these include the Kimberley Process for the Certification of Rough Diamonds (KPCS), a certification mechanism which aims to curb the trade in conflict diamonds; the Extractive Industries Transparency Initiative (EITI), a mechanism which aims to increase transparency in the management of public natural resources; and the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas, a set of guidelines which aims to increase corporate responsibility for companies operating in or sourcing from the minerals sector in fragile States.

By way of their standard-setting function, these informal normative processes can make an important contribution to reinstating and/or

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[5] See UNSC Resolution 232 (1966) concerning an import ban on certain natural resources, including iron ore and copper and Resolution 253 (1968) concerning an import ban on all commodities and products.

[6] See, e.g., UNSC Resolution 1173 (1998) concerning an import ban on diamonds originating in Angola; Resolution 1306 (2000) concerning an import ban on diamonds originating in Sierra Leone and Resolution 1521 (2003) concerning an import ban on diamonds and timber products from Liberia.

[7] Cortright and Lopez (eds.), *Smart Sanctions: Targeting Economic Statecraft.*

[8] For more details on these and other peacekeeping missions, see a report issued by UNEP, 'Greening the Blue Helmets: Environment, Natural Resources and UN Peacekeeping Operations' (2012). See also Section 7.6.

improving governance of natural resources in conflict-torn States. At the same time, they signify a move away from formal treaty-making procedures, creating 'commitments' rather than legal obligations for States. This can partly be explained by a genuine desire of States to actively involve other stakeholders, principally civil society and the private sector, in efforts to address issues of general concern. However, this practice also raises more fundamental questions, particularly in relation to the efficacy of nonbinding standards to address issues of general concern as compared to binding norms resulting from formal treaty processes. In other words, are these informal normative processes credible alternatives to formal treaty processes?

Chapter 7 examines the approach of the Security Council in stopping natural resources from financing or fuelling armed conflicts and in improving the governance of natural resources in conflict-torn States, with an emphasis on sanctions regimes. The chapter discusses the contribution of sanctions to conflict resolution and, ultimately, post-conflict peacebuilding. It also examines the role of peacekeeping operations in supporting the implementation of sanctions regimes and that of the Peacebuilding Commission in consolidating the processes initiated by the Security Council. Chapter 8 examines three categories of informal normative processes. These are certification mechanisms, anti-corruption initiatives and corporate responsibility tools. Each category is discussed from the perspective of one instrument which is of particular interest for the purposes of this study.

One question that is central to both chapters concerns the ways in which these mechanisms contribute to providing structural solutions for preventing future conflicts involving natural resources in States that have experienced armed conflicts. Throughout this book it has been argued that the issue of resource governance is of central importance to prevent conflicts involving natural resources. In other words, the question is how and to what extent these mechanisms contribute to promoting adequate resource governance in countries that have experienced armed conflict. And what does 'adequate' resource governance mean in this context?

Of course, the current book can only give a glimpse into the enormous range of initiatives that – directly or indirectly – contribute to breaking the link between natural resources and armed conflict. The purpose of this book is not to give an exhaustive summary of all the initiatives, but rather to provide insight into the contribution of those approaches that have been at the forefront of efforts to break the link between natural resources and armed conflict.