

Responsabilité, fraternité et développement durable en droit:

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Sustainable Development as Freedom: Addressing Equity and Sustainability in the Arab Revolution

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1. Introduction: Sustainable Development as Freedom

1.1. The State of Nature and the Nature of the State

The systemic transition underway across the Arab region is a civil society call for more transparent, accountable and participatory governance, action against corruption and human rights abuses, and economic reform to address the rising challenges of youth employment. Meanwhile, many of these problems are indirectly related to issues of equity and sustainability in the use of natural resources and the environment. Control over the environment has for decades been central to state legitimacy and power in the region, shaping the nature of autocratic and centralized systems of governance, and influencing how sovereignty and statecraft function in the region. The future however will be shaped by

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As noted in the 2010 Human Development Report, Arab countries make up five of the top ten countries globally in terms of fastest progress on the Human Development Index (HDI) from 1970 to 2010.³ However this often came at the expense of the natural capital which serves at the base of human development.⁴ The Arab region has seen a history of the rich receiving disproportionate benefits from the exploitation of natural resources and the environment, while the poor bear a disproportionate burden through lack of benefits from resource use and impacts of pollution on health and well-being. With much of the region's poor heavily reliant on rural livelihoods such as agriculture and fisheries, ecosystem goods and services like arable land, adequate water, and a stable climate have stood at the base of many of the region's human development results. But as impacts mount, serious concerns exist for the sustainability of these hard-won development gains.⁵

Beyond being a mere market externality, ecological change is now eroding the foundations of human security in the Arab region and the ability to sustain a certain quality of life for future generations.⁶ While communities recognize the important role that natural resources and the environment have played in past human development results, the severity of ecological change and resource depletion now "calls into question the Enlightenment principle that human progress will make the future look better than the past".⁷ While analyses of the links between environment and human development often focus on consumption sustainability, a broader perspective is needed to address the important role of natural resources and the environment as a means to expanding people's long-term choices and freedoms. The capacity to deal with ecological change is quickly becoming a universally-valued capacity, without which basic freedoms and rights to development, human security and human development stand in jeopardy.⁸

Food security, for example, played an exacerbating role in the emergence of civil society movements in 2011. The combination of unemployment and spiking food prices serves as a potent mixture in many countries. This in turn was partially attributable to the result of climate impacts on global food production, with record droughts in Russia and flooding in Pakistan and Australia in 2010. Statistics showed well in advance of the social movements that an excessive proportion of household incomes in many Arab countries, more than 35% in countries like Tunisia and Egypt, were allocated to purchase of food items.⁹ Exacerbating this are local trends in food security, with North Africa expected to see some of the worst impacts of climate change over the coming decades.¹⁰

Water security has also play a significant role in social grievances in the Arab region, which already stands as the most water stressed region in the world.¹¹ Some of the recent civil protests in Jordan, for example, may have been partly sparked by tribal grievances over lack of access to water

³ UNDP, *2010 Human Development Report*, Palgrave Macmillan, New York (2010), 15.

⁴ See also Partha Dasgupta, *Nature's Role in Sustaining Economic Development*, *Philosophical Transactions of the Royal Society* (2010) 365, 5–11, 6. London.

⁵ AFED, *Arab Forum on Environment and Development* (2009), 2.

⁶ UNDP, *2009 Arab Human Development Report: Human Security in the Arab World*, United Nations Publications, New York (2009), 22.

⁷ UNDP, *2007 Human Development Report: Fighting Climate Change: Human Solidarity in a Divided World*, Palgrave Macmillan, New York (2007), 1.

⁸ Dasgupta, 2001, p.5

⁹ Subbaraman et al (2010), *Food Price Trends*, Nomura, 2010.

¹⁰ Balgis Osman Elasha, *Mapping of Climate Change Threats and Human Development Impacts in the Arab Region*, Arab Human Development Report Paper Series, UNDP, New York. (2010), 14-15.

¹¹ AFED (Arab Forum on Environment and Development) (2009), *Impact of Climate Change on the Arab Countries*, AFED, Beirut.

resources for local livelihoods and agriculture.¹² In Syria, recent years have seen a wave of internal migrations owing to severe droughts, while water stands as a bottleneck to equitable and sustainable development in Yemen, and in Saudi Arabia chronic floods in early-2011 in Jeddah led to rare public protests with calls for public accountability and long-standing issues of urban environmental services and infrastructure.¹³

Energy use also has critical links to the transition. While oil exports revenues have served as a foundation for social welfare initiatives and human development gains in many countries in the region, reserves are on the decline at just the time when the region experiences a youth bulge with expanding needs for new employment and social welfare needs. As countries seek to boost youth employment opportunities through industrial growth, local energy intensity has risen dramatically in recent times, with an 88% carbon emission growth rate in recent years.¹⁴ As a result, many in the region now seek to expand energy efficiency and renewable energy to reduce the energy intensity of new growth and save increasingly scarce oil resources for export revenues.

As countries across the region craft new social compacts for development, the equitable and sustainable use of natural resources and the environment will likely emerge as a central issue of contention. Higher expectations will emerge within society for more effective, accountable and participatory use of natural wealth as a public good, combating corruption, preventing the squandering of natural wealth, and preserving its value for future generations. The social compact in many countries has been defined by a balance between the state control over natural wealth and provision of social development results. In analyzing the political economy of natural resources and the environment in the Arab region it becomes clear that political power and economic wealth have been generated from strategic use of the environment, and that challenges exist in expanding the benefits of this natural wealth for the benefit of the average citizen, and the poor in particular.¹⁵

The emerging process of institutional and economic reforms across the region stands as an opportunity to address entrenched systems of control, broaden access and benefit-sharing related to natural wealth, expand the role of local governance, and strengthen resilience of the natural asset base on which the poor depend. Furthermore, as noted below the transition also provides space to rethink the role of natural resources in the economy, with new green economy concepts potentially providing a channel to increase the efficiency of resource use while generating new knowledge-based approaches to innovation and competitiveness.

In the classic Development as Freedom, Amartya Sen argued that development was ‘not the mere accumulation of goods but the enhanced freedom to choose, to lead the kind of life one values’.¹⁶ The focus on the role of human agency and inclusive governance are central to understanding new trends in the Arab region and the call to freedom. In recent years ecological change has also emerged as a major challenge to the human development paradigm. In addressing the convergence of these trends, it is argued that a shift is now needed to move from the original Development as Freedom model towards a ‘Sustainable Development as Freedom’ model, with sustainability emerging as a sixth freedom alongside the five pillars reviewed in Chapter 1 above. “The question can thus be asked whether environmental priorities should be seen in terms also of

¹² Nicolas Pelham, *Jordan’s Balancing Act*, Middle East Report Online, February 22, 2011

¹³ Khaleej Times, *Saudi plans Jeddah projects after floods*, protests, 2 February, 2011

¹⁴ Balgis Osman Elasha, *Mapping of Climate Change Threats and Human Development Impacts in the Arab Region*, Arab Human Development Report Paper Series, UNDP, New York. (2010), 14-15

¹⁵ See David Reed, *Analyzing the Political Economy of Poverty and Ecological Disruption*, WWF Macroeconomics Programme Office, Washington DC (2004).

¹⁶ Amartya Sen, *Development as Freedom*, Anchor Books (1999), 16.

sustaining our freedoms. Should we not be concerned with preserving – and when possible expanding – the substantive freedoms of people today without compromising the ability of future generations to have similar, or more, freedoms?”¹⁷

As noted by Anand and Sen, sustainable development is about more than charity, it is critically about justice and accountability.¹⁸ As chants of freedom and calls for a new era of inclusive and equitable development arise across the Arab region, the history of unsustainable and inequitable use of natural resources such as land, water, energy and minerals will likely emerge as a central focus of reform. As noted further below, of particular importance is the nexus of food, water and energy security in the region and their central role in creating a new green economy for the future. This comes at a time of historic and transformational change in the Arab region, as the world also seeks to adapt to one of the most severe economic downturns in history. The cumulative impacts of ecological change affect the freedoms and choices of individuals and the capacity of countries to achieve inclusive growth and sustainable development. As countries in the Arab region look to the future, there is a feeling that we are moving into terra incognita where the forms of old are being recast, with the current transformative moment in the Arab region holding out hope for a more equitable and sustainable future.

1.2. Expanding Ecological Footprints in the Arab Region

Human security in the coming decades will be greatly affected by the implications of living in a resource-constrained region, with the cumulative impacts of ecological change affecting the likelihood of inequity and the frequency and magnitude of droughts, floods and other disasters that largely impact the poor. “Access to ecological services will become an ever more critical factor for economic success and resilience in the 21st century.”¹⁹ This is especially so when one considered the cumulative impact of changing climate, shrinking energy and water reserves, and challenges to food security, with many fearing a “peak everything” scenario as commodity demands surge over the coming decades.²⁰ The impacts of inequity and ecological change together affect the prospects for sustaining human development, the range of freedoms and choices of individuals, and the capacity of Governments in the region to achieve inclusive growth and development. The growing ecological deficits facing the region will have profound political, economic and social consequences. As populations grow and consumption levels of society and industry continue to mount, the pressures on fragile ecosystems and increasingly scarce natural resources have become a major concern for Governments across the world. In recent years, the Arab region has experienced a surge in demand for natural resource commodities such as oil, gas, water, timber and minerals, owing to an expansion of economic liberalization, an expanding middle-class with rapidly increasing per capita income levels, and increased global demand from emerging economies. Meanwhile, decades of exploitation have left the region’s resources at risk as demands continue to grow and ecological capacities continue to shrink. In some cases, these new pressures are felt by local communities that host these resources, exacerbating pre-existing tensions and bringing risks to human development goals.

A key concept to analyze the interaction of rising consumption and carrying capacity of the environment is the Ecological Footprint, which compares humanity’s rising demands with changing

¹⁷ Amartya Sen, ‘*Why We Should Conserve the Spotted Owl*’, ALDR, Volume 13:6, London (2004).

¹⁸ Ananda and Amartya Sen (1994), *Sustainable Human Development*, UNDP, New York, 1.

¹⁹ Global Footprint Network, *The 2010 Ecological Footprint Atlas*, Global Footprint Network, (2010) USA, 5.

²⁰ See Richard Heinberg, *Peak Everything: Waking Up to Centuries of Decline*, New Society Publishers, Gabriola Island, Canada (2007).

levels of ecological goods and services.²¹ Recent estimates show a dramatic rise in humanity's ecological footprint over recent years, with global society now overshooting ecological capacity by 40%, equivalent to using the ecological goods and services of 1.3 Earths.²² By 2030, we will be using the equivalent of 2 planets, creating greater pressures on equity and sustainability of human development. With the Arab region hosting one of the most ecologically fragile and water scarce environments, pressures on carrying capacity are of particular importance in sustaining poverty reduction efforts. The population of the Arab region has nearly tripled since 1970, climbing from 128 million to 359 million, with a population of 598 million expected by 2050, increasing by two-thirds over 2010 levels.

While achieving some of the world's fastest rates of progress on human development indicators over the past decades, this has also resulted in escalating ecological footprints and decreased carrying ecological capacities, with risks for the future sustainability of development trends and the maintenance of peace and human security. Egypt's per capita ecological footprint increased by 77% and Tunisia's increased by 26% from 1961-2006.²³ On the other hand, Morocco reduced its ecological footprint by 11%, Iraq by 21% and Sudan by 35% over the same period.

Climate change creates an exacerbating factor to underlying challenges to resource scarcity and expanding consumption trends. This holds true in the Arab region more than others, hosting the world's lowest levels of water security and some of the world's fastest carbon emission growth rates.²⁴ The risks and opportunities associated with climate change are now emerging within development discourse across the region, with a focus on adaptive capacities needed to sustain poverty reduction results and the rise of new clean energy policies to set the foundations for the low-carbon economies of the future. As noted by Amat Alsoswa, UN Assistant Secretary General and Director of the UNDP Regional Bureau for Arab States, "climate change is a development challenge that is both complex and vitally important. It is essential for all Arab countries to come together, demystify the challenge and lay the foundation for a concrete and coordinated response. There is a good deal of discussion and research on climate change at the global level. The challenge is to localize the discussion in the Arab context."²⁵

Low-emission, climate resilient strategies have become a priority for engaging the risks and opportunities from climate change. Within this process leadership is needed by Government, the private sector and civil society to find innovative solutions. Current development patterns do not fully capture climate change challenges and opportunities and a need exists to elaborate and apply new frameworks that mainstream climate change into poverty reduction and MDG policies.²⁶ Climate change presents an unprecedented challenge, but also an opportunity to do development differently.

Even in countries where MDG progress is on track, climate change brings serious risks for sustaining results beyond 2015. "Climate change presents a new and real threat of severe

²¹ Global Footprint Network, *The 2010 Ecological Footprint Atlas*, Global Footprint Network, (2010) USA. See also Global Footprint Network, *The Ecological Wealth of Nations*, Global Footprint Network, (2010), USA. See also Donella Meadows, Jorgen Randers and Dennis Meadows, *Limits to Growth: The 30-Year Update*, Chelsea Green Publishing Company, White River Junction, Vermont, USA (2004).

²² Erik Assadourian, *State of the World*, Earthscan, London (2010), 4.

²³ Global Footprint Network, *The Ecological Wealth of Nations*, Global Footprint Network, (2010), USA, 30.

²⁴ Balgis Osman Elasha, *Mapping of Climate Change Threats and Human Development Impacts in the Arab Region*. Arab Human Development Report Paper Series, UNDP, New York. (2010), 14-15.

²⁵ Amat Alsoswa, UNDP and the Government of Morocco Launch the Arab Climate Resilience Initiative Regional Forum, Press Release, Rabat, November 3, 2010.

²⁶ Yanchun Zhang, *Climate Change and Development: Interlinked Challenges and Opportunities*, UNDP Office of Development Studies, New York (2009), 5.

environmental, economic, political and security impacts in the Arab region. For a region that is already vulnerable to many non-climate stresses, climate change and its potential physical and socioeconomic impacts are likely to exacerbate this vulnerability, leading to large scale instability.”²⁷ Action is needed to prevent an exacerbation of inequality and poverty in the region, and prevent the emergence of climate-induced resource scarcity, migration and conflict.²⁸ The increased severity and frequency of climate impacts has resulted in heightened awareness within society and Governments of the serious nature of climate risks and the vulnerability of human development. The far-reaching nature of these changes poses risks to delivery of the MDG promise and to the region’s economies and livelihoods. Tourism and agriculture are highly sensitive to climate and frequency of extreme events. Both sectors contribute significantly to the economy of most Arab countries in terms of GDP and employment, a key concern in a region with an average unemployment rate of 14.4% and a large youth population.²⁹ In some countries, over half of the work force is employed in agriculture, thus reduced productivity would result in return of poverty unless preventive measures are taken and social protections put in place.

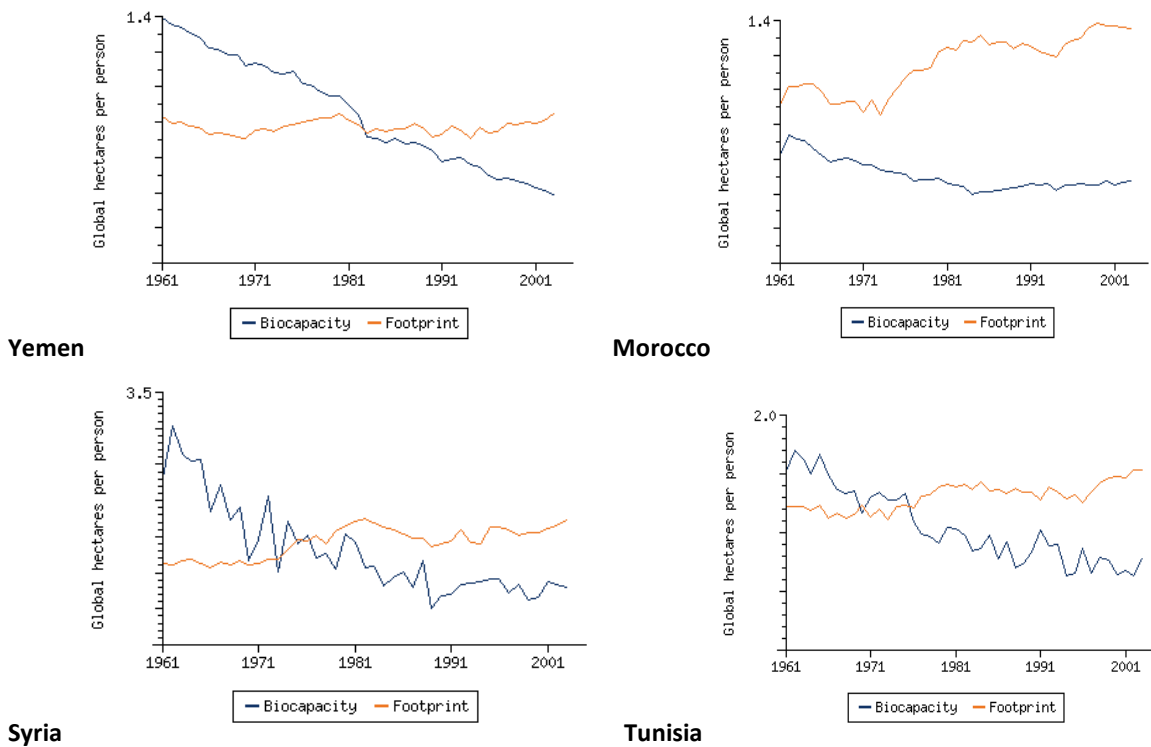


Figure 1. Ecological Footprints and Biocapacity in Selected Arab Counties (1961-2003)

Source: Global Footprint Network

Human development could face a number of climate-induced tipping points in coming years - decreased agricultural productivity, heightened water insecurity, increased fragility of ecosystems,

²⁷ Osman-Elasha, 15.

²⁸ Zhang, 2.

²⁹ UNDP, Arab Climate Resilience Initiative: Concept Paper, UNDP, New York (2010), at 4.

increased health risks and increased exposure to extreme events.³⁰ Climate change projections show that harsher conditions lie ahead, with millions of people across the region at risk of being affected. Globally, the year 2010 was the hottest year on record with a series of extreme events and disasters in the region including record heat waves, floods and droughts. The Inter-Governmental Panel on Climate Change (IPCC) Fourth Assessment Report (2007) estimated an increase in temperature in the Arab region of up to 2°C by 2030 and 4°C by 2100, with reduction of water run-off by 20-30% by 2050, owing to rising temperatures, less precipitation and increased drought likelihood.³¹ As noted above, many parts of North Africa, and in particular Morocco, are already experiencing more droughts with a doubling of drought frequency from once every decade a century ago, to once every two years on average currently.³² Meanwhile IPCC projections foresee risks from sea level rise to coastal communities of the Egyptian delta where a 0.5 meter sea level rise could displace 2-4 million people by 2050, with risks to other coastal populations across the region including Bahrain, the only small island state in the region.³³

The Arab region is one of the most vulnerable to climate change owing to its status as the most water insecure region. Although the Arab world has a common heritage, it has never been confronted with a common economic threat comparable to climate change.³⁴ At the same time, the exact nexus between climate change and human development is highly country specific. Countries differ in terms of exposure, vulnerability, and adaptive capacity. Over the last century the Arab region has experienced warming of up to 0.5°C, with significant increases of 0.5° to 3°C in Morocco, Algeria, Tunisia and Saudi Arabia, while Somalia has experienced decreasing mean temperatures of 0.5°C.³⁵ Out of twenty-two Arab countries, fifteen are among the world's most-water stressed countries with water per capita of less than 1,000 m³.³⁶ In some countries like Sudan and parts of North Africa precipitation has decreased by up to 10% in recent decades. Almost all Arab countries are highly vulnerable to climate change, with 90% of the region classified as arid, semi-arid and dry sub-humid.³⁷ More than half of the region's land receives average annual rainfall of less than 100mm while the highlands and coastal areas of Lebanon, Syria, and North Africa, and southern Sudan, experience as much as 1,500 mm of rainfall per year.³⁸

2. Resource Scarcity and Conflict Prevention

2.1. Evolution of the normative framework

Recent years have seen a transformation in the normative framework of peace and development. The nature of exploitation of natural resources and emerging ecological carrying

³⁰ See UNDP, *2007 Human Development Report: Fighting Climate Change: Human Solidarity in a Divided World*, Palgrave Macmillan, New York (2007).

³¹ Milly *et al*, "Global pattern of trends in streamflow and water availability in a changing climate", *Nature*, Vol. 438/17, (2005).

³² Osman-Elasha, 15.

³³ Osman-Elasha, 10.

³⁴ UNDG, *Climate Change and Food Security in the Arab Region*, Regional UNDG, Cairo (Forthcoming), 2.

³⁵ UNDP, Arab Climate Resilience Initiative: Concept Paper, UNDP, New York (2010), at 3.

³⁶ UNDP, 2006 Human Development Report: Beyond Scarcity: Power, poverty, and the global water crisis. Palgrave Macmillan, New York (2006), 44.

³⁷ Abahussain *et al*, "Desertification in the Arab Region: analysis of current status and trends." *Journal of Arid Environments*. Volume 51, (2002), 521-545.

³⁸ Balgis Osman-Elasha, *Mapping of Climate Change Threats and Human Development Impacts in the Arab Region*. Arab Human Development Report Paper Series, UNDP, New York. (2010), 15.

capacity stresses are now seen as important drivers of conflict. Since 1990 at least eighteen conflicts have been fuelled by the exploitation of natural resources.³⁹ As noted by former UN Secretary General Kofi Annan, “when resources are scarce - whether energy, water or arable land -- our fragile ecosystems become strained, as do the coping mechanisms of groups and individuals. This can lead to a breakdown of established codes of conduct, and even outright conflict.” “Environmental degradation has the potential to destabilize already conflict-prone regions, especially when compounded by inequitable access or politicization of access to scarce resources.”⁴⁰ The convergence of resource scarcity and increased global and local consumption demands could trigger new conflicts or exacerbate existing international and intra-national tensions.

As noted in a recent Expert Meeting of the Economic and Social Commission for West Asia (ESCWA), root causes of conflict and instability in the Arab region includes a “wide frustration gap...despite abundant natural resources, the huge demographic expansion have not been sufficiently analyzed within the context of stability. Equally absent is an examination of best practices for the use of the region’s resources aimed at addressing the demographic challenges.”⁴¹ Addressing local grievances and bringing about peace is essential for achieving poverty reduction and sustainable development goals in the region, with inclusive governance regarded as the most likely path to peace by defusing discontent and breaking “the pernicious cycle of crisis, poverty and risk that is fueling instability worldwide.”⁴² As noted by former UN Secretary General Kofi Annan, “the prevention of conflict begins and ends with the promotion of human security and human development”. What is needed is “a more systematic addressing of the root causes of conflict and the promotion of equity and sustainable development as a necessary foundation for peace.”⁴³

In recent years, the Arab region has experienced a surge in demand for natural resource commodities such as oil, gas, water, timber and minerals, owing to an expansion of economic liberalization, an expanding middle-class with rapidly increasing per capita income levels, and increased global demand from emerging economies. Meanwhile, decades of resource exploitation and extractive sector activity have left many of the region’s reserves at risk, with some resources possibly disappearing within the course of the 21st century as demands continue to grow and reserves continue to shrink. In some cases, these new pressures are felt by local communities that host these resources, exacerbating pre-existing tensions and bringing risks to goals of poverty reduction, ecological sustainability and conflict prevention.

2.2. Equity and sustainability in the extractive sector

Since 1950 up to forty percent of domestic conflicts were related to natural resources.⁴⁴ The UN has identified major interactions between the environment and emergence of conflict, with a key one being inequitable sharing of wealth from resource development or environmental degradation

³⁹ Ross, M. (2004). “The natural resource curse: How wealth can make you poor”. In I. Bannon & P. Collier (Eds.) *Natural resources and violent conflict*. World Bank. Washington, D.C.

⁴⁰ UN (2007), *Deliberations of the Climate Change Session*, UN Security Council A/SC/4/14, 17 April 2007, New York.

⁴¹ ESCWA (2010), Report of the Expert Group Meeting on Policies for Peacebuilding and Conflict Prevention in Western Asia, ESCWA Report E/ESCWA/ECRI/2010/WG1, Beirut, 7.

⁴² UNDP (2000). *The Role of UNDP in Crisis and Post-Conflict Situations*, at 2. New York.

⁴³ Office of UN Secretary General (UNSG) (2000). *Report to the Security Council on Prevention of Armed Conflict*, New York, 3-4.

⁴⁴ Uppsala Conflict Data Program & Centre for the Study of Civil War. (2008). UCDP/PRIO Armed Conflict Dataset version 4.0. In Binningsbø, H. & Rustad, S. A. (2008). PRIO working paper: *Resource conflicts, resource management and post-conflict peace*. Uppsala University & International Peace Research Institute, Oslo

from extractive sector activities.⁴⁵ Research by Paul Collier suggested that the majority of countries furthest away from achieving the Millennium Development Goals (MDGs) are affected by conflict, and of the major conflicts occurring around the world most are now domestic conflicts.⁴⁶ Countries whose wealth is largely dependent on the export of natural resources are more prone to violent conflict and civil strife than countries that have a broader economic base balancing extractive sector activities with robust manufacturing and/or services sectors. Many countries suffering from conflict and poverty are constrained by an excessive dependence on natural resource exports and face hurdles in achieving sustained growth and development, with many suffering a decline in human development indicators in recent years while also being more susceptible to violent conflict. At the global level, more than 80% of people in mineral exporting countries lived on less than \$1 a day at the end of the 1990s, compared with 43% in service exporters and 25% in manufactured goods exporters.⁴⁷

This contrasts with economies that use resource exports as an engine for catalyzing broader-based industrial growth and development progress across different regions and sections of society.⁴⁸ Humphrey identified three key factors in the emergence of conflict from resource use - the extent to which production is centralized, the geographic distances between zones of production and the seat of government controlling the resource, and the extent to which trade in the resource is legal and legitimized by local communities.⁴⁹ Le Billon adds by noting the difference between point resources like oil versus diffuse resources like water, the correlation of resource abundance and aspirations for secession, community grievances related to benefit sharing, the divorce of extractive activities from taxation systems and the domestic economy, and the effect of global commodity price fluctuations.⁵⁰

While this does not hold true in the face of low levels of national aggregated poverty levels in most Arab countries, there are development gaps between different regions and/or groups within resource rich countries in the region. This overlaps with the fact that conflicts in the region are increasingly located within countries rather than between countries, often taking place in areas where commodity exports take center stage in the local economy and where issues of social exclusion and relative poverty have become entrenched as a result of distributional inequities.

As noted in the 2009 Arab Human Development Report on human security, the Arab region hosts the majority of the world's oil reserves, the exports of which play a central role in national economies.⁵¹ Benefit sharing over oil resources has been a central underlying grievance for many local communities across the region.⁵² In Libya, lack of benefit sharing led to tribal tensions in the oil rich east, an important undercurrent of recent social movements and political turmoil. Cases of

⁴⁵ UNEP (2009), *From conflict to peace-building: The role of natural resources and the environment*, UNEP, Nairobi, 8.

⁴⁶ Paul Collier (2008), *The Bottom Billion: Why the Poorest Countries are Failing and What Can be Done About It*, Oxford University Press, London. See also, Collier, Paul & Hoeffler, Anke. (2000) *Economic Causes of Civil Conflict & Implications for Policy*. World Bank, Washington DC.

⁴⁷ UNDP (2002). *Trade & Development: Part 1 Trade and Human Development*, at 34. New York. (Referencing UNCTAD (United Nations Conference on Trade and Development)(2002). *Least Developed Countries Report: Escaping the Poverty Trap*. Geneva.

⁴⁸ Francisco Rodriguez (2010), *Natural Resources: Blessing or Curse?* Background Paper for the 2010 Human Development Report, UNDP, New York.

⁴⁹ Humphrey, M (2003). *Economics and Violent Conflict*, Harvard University Press. Boston, 4-6.

⁵⁰ *Id* at 6

⁵¹ UNDP (2009), *Arab Human Development Report*, Palgrave McMillan, New York.

⁵² Swanson, Phillip. (2002) *Fueling Conflict: Oil Industry & Armed Conflict*, at 33-43. FAFO Institute of Applied Social Sciences, Washington DC.

equitable and sustainable management of oil resources in the Kurdish north of Iraq and the Eastern Province of Saudi Arabia are other well-known examples.⁵³

As Governments across the region move to enact a new era of legal and institutional changes and political leadership, a top priority will be to establish new policies that ensure peace and sustainability for current and future generations. In particular, action is needed to address the root causes of conflict – horizontal inequalities and lack of access and benefit sharing over natural resource use by local communities hosting such resources.⁵⁴ For poverty reduction policies to succeed in resource-rich areas, a focus is needed to crafting new rules and systems of rights required to address local concerns of equity and sustainability.⁵⁵ Policies that counteract inequality and increase participation in development of and benefits from local resources can help reduce the likelihood of conflict and lead to sustained poverty reduction. Policy measures are needed to address the need for economic diversification beyond resource exports, local autonomy and improved revenue sharing, and policies that support sustainability and enlarge the choices, opportunities voice and representation for local communities. Partnerships between government, civil society and business are of critical importance in designing and executing such policies.

In the process of crafting new regimes of resource governance, the role of public-private partnerships has gained significant attention in recent years, with rising expectation placed on the responsibility of both government and local business leaders in generating peace and sustainable development and bringing about ‘globalization with a human face’.⁵⁶ Investment can support growth and poverty reduction for communities, but in many cases it has also spurred social inequity, ecological devastation and conflict.⁵⁷ The goal is to target the benefits and revenues from resource development towards these challenges, bringing the benefits of globalization to the poor through more inclusive governance that includes local communities in decision-making processes.⁵⁸

As noted by former UN Secretary-General Kofi Annan, “[w]e have to choose between a global market driven only by calculations of short-term profit, and one which has a human face.”⁵⁹ The emphasis is on coupling resource development with social empowerment as a foundation for peace and sustainability. The pursuit of unfettered resource use and global trade creates pressures against participatory governance while the tensions and social exclusion created is often expressed as distributional conflicts. Unless communities enjoy greater access to information, participation and justice in decision-making processes, hostility to inequity and un-sustainability will continue to grow.

⁵³ David Jones (2010), *Desert Kingdom: How Oil and Water Shaped the Formulation of Saudi Arabia*, Harvard University Press, Boston.

⁵⁴ *Humphrey*, 3-4.

⁵⁵ See Thad Dunning (2008), *Crude Democracy: Natural Resource Wealth and Political Regimes*, Cambridge University Press, New York.

⁵⁶ John Ruggie, Report of the Special Representative of the Secretary General on the issue of Human Rights and Transnational Corporations and other Business Enterprises, Report to the Human Rights Council, United Nations General Assembly A/HRC/14/27, 9 April, 2010, New York. See also Simon Zadek, Niels Hojensgard and Peter Raynard (2001), *Perspectives on the New Economy of Corporate Citizenship*, Copenhagen Center, Copenhagen, 24.

⁵⁷ Victor Haufler (2002), *Case studies of Multi-stakeholder Partnerships – Policy Dialogue on Business in Zones of Conflict*. Office of the UN Global Compact, New York. See also Tennyson, R & Wilde L (2000) *The Guiding Hand – Brokering partnerships for sustainable development*, Prince of Wales Business Leaders Forum and UN Staff College, New York. See also UNCTAD (2007), *World Investment Report-Transnational Corporations, Extractive Industries and Development*, Geneva.

⁵⁸ UN (2010), *Guidance on Responsible Business in Conflict-Affected and High-Risk Areas*, UN Global Compact Office, New York.

⁵⁹ Executive Office of the UN Secretary General (2001), *The Global Compact - Corporate Leadership in the World Economy*, United Nations, New York, 2.

2.3. The case of Sudan

Sudan stands as one example among many in the region. Issues of carrying capacity have for years been central to social and political tensions across the country, and will be an important element to maintaining peace between Sudan and the new nation of South Sudan following a historic referendum in January 2011. Inequitable development has stood at the base of the secession of the oil-rich region of South Sudan, with the area around the city of Abyie on the new international border between Sudan and South Sudan already emerging as an area of contention. Competition by nomadic herders for land has also played a significant role in emergence of conflict in the Darfur region of Sudan in recent years.⁶⁰ In past years, issues of resource use and carrying capacity played critical roles in the emergence of conflict in the western region of Darfur. As noted by the Secretary General, “amid the diverse social and political causes, the Darfur conflict began as an ecological crisis....It is no accident that the violence in Darfur erupted during the drought. Until then, Arab nomadic herders had lived amicably with settled farmers...For the first time in memory there was no longer enough food and water for all. Fighting broke out. By 2003, it evolved into the full-fledged tragedy we witness today.”⁶¹

While there are many causes of conflict in Darfur, resource scarcity has been one important factor.⁶² Reduced access of the poor to fertile pastoral land and water was compounded by displacement from conflict-induced migrants from southern Sudan. Furthermore, as “climate change may further compound water and land stresses, Darfur and indeed the entire Sahel region – recently dubbed “ground zero” for climate change – will need to place adaptation at the centre of their development and conflict prevention plans. In addition to resolving the long-standing ethnic tensions in Darfur, durable peace will indeed depend on addressing the underlying competition for water and fertile land.”⁶³ Pastoralism and agro-pastoralism are important forms of livelihood in Sudan. Pastoralists, for whom livestock activities are at the origin of more than half of household income, number an estimated two million people in Sudan. Agro-pastoralists, who combine crop farming and livestock, are many more. Livestock, 80-90 percent of which are controlled by pastoralists, are a key component of GDP, second only to oil exports. Despite their numbers and importance in the economy, pastoralists are a marginalized group in Sudan, falling behind urban and other agricultural groups on all social indicators including health and education.

Among these are the peoples of Darfur. The Darfur region of Sudan comprises the three states of North, South and Western Darfur with a total area of 550,000 km². This is a diverse ecology dominated by desert in the north, mountains in the center and rich savanna in the south. About 80% of the population is rural involving in dry cultivation and pastoralism. Drought is a recurrent hazard and symptoms of large-scale environmental degradation and severe desertification are conspicuous in northern reaches of the region. Darfur is also a conflict-inflicted region and violent resource-based conflicts between herders and farmers have been widespread over the years, with far reaching impacts on economy, society and polity.

Extension of national and international markets has led to greater commercialization of production, with greater divergence between rich and poor and the emergence of a large underclass of poor pastoralists. Pastoral land has been alienated by extension of dryland farming responding to

⁶⁰ Ban Ki-moon, *A Climate Culprit in Darfur*, New York Times (2007).

⁶¹ Ban Ki-moon, *A Climate Culprit in Darfur*, New York Times (2007).

⁶² UNEP (2007). *Sudan post-conflict environmental assessment*. UNEP. Geneva.

⁶³ UNEP (2009), *From conflict to peace-building: The role of natural resources and the environment*, UNEP, Nairobi, 8

population growth by an enlargement of the cropped area rather than by intensification. Mechanized farming schemes and other agro-industrial enterprises have taken large areas of land and disrupted pastoral routes. A long series of droughts have led to increased desertification of northern Darfur, driving pastoralists further south and into conflict with existing land users, both agricultural and pastoral. Traditional natural resource tenure systems, effective when there was less pressure on resources and no competing source of legitimate governance, have been breaking down. Traditional authority has been weakened, owing to overlapping jurisdiction between formal and customary authority and legislation. Conflicts between pastoralists, between pastoralists and farmers, and between pastoralists and the state, have broken out over past years.

In South Sudan in particular, local customary rules governing land and resources in both are well known and regarded as legitimate by local stakeholders. Their existence is acknowledged by the state, but they have no legal force in the face of the modern civil law system. In many cases, weak land use policies, and interference by political and government authorities, undermine local traditional rule. This situation is exacerbated by armed conflict, where land use conflicts are sometimes used as a proxy for other disagreements. Projects which promote settled and mechanized agriculture go forward through state land allocation systems, without reference to customary rights and traditional rules.

The divergence of state and indigenous systems of law and the exclusion of customary rules from formal rule of law systems is the origin of most conflicts over pastoral migration routes, with lack of access of the poor to traditional lands. Increased numbers of pastoralists are trying to use routes of diminishing size. A weakening of traditional means of settling disputes has contributed to increased land capture by farmers and government. Existing legal and institutional arrangements for natural resource management are weak and unable to prevent conflict. Legal and institutional reform, new policies, and a new national planning framework are essential, with a need to reflect the scarcity of resources and the need for sustainability.

3. Governance for Sustainable Development

3.1. Social Accountability and the Environment

The links between environmental sustainability and human well-being are complex and are mediated by systems of governance. Systems of laws, policies and institutions serve as the substrate of politics and society and the web of relations between the state, private sector and civil society that codify common concerns, objectives and means of achieving them. But all too often unaccountable, non-transparent and non-participatory forms of governance in the Arab region have been the cause of disempowerment, inequity and unsustainability for the poor. Through ongoing calls for reforms in the region, an opportunity has now arisen for a new era of development, in which the rule of law takes shape as a force for accountable and inclusive governance of natural resources and the environment for the empowerment of the poor. As a result of systemic transitions across the region, coming years will be marked by a reexamination of the foundations, efficacy and capacity of policies and institutions to meet development goals.

Ecological change presents an unprecedented challenge to achieving and sustaining poverty reduction and peace, but it is also an opportunity to do development differently. Vulnerable communities are the ones most suffering the burden of environmental degradation and inequitable sharing of resources, including the consequences for emergence of conflicts as noted above, while also being the ones least able to mobilize against abuse of power, corruption and other causes of

inequity and unsustainable policies. The poor tend to live in communities with scarce resources or are heavily reliant on natural resources for livelihoods, while also often suffering disproportionately the ill effects of pollution.⁶⁴

Inefficient utilization of resources, including land, water, and extractive and agriculture sector outputs, is often an outcome of insecure ownership or usage rights and lack of participation by communities in decision-making processes. For the poor, unsustainable resource use and pollution are an affront to their ability, and that of their children, to earn a livelihood and to live a healthy life. Efforts to achieve goals of poverty reduction and environmental sustainability now fall within the broader process of calls in the Arab region for more transparent, accountable and participatory forms of governance. The nexus between poverty and environment in the Arab world is defined by lack of accountability and rule of law surrounding natural resource use and the control of pollution. Emerging processes of reform stands as an opportunity to make the kind of transformational progress needed to avoid the far reaching impacts of ecological change.

A spirit of constitutionalism has gripped countries across the Arab region, an organic and dynamic process by which the fundamental principles and policies of the State are under review to address changing power dynamics and drivers of change within society. Adapting to ecological change is not only about managing change within institutions, but fundamentally about accountability and changing behavior. While the science of ecological change elaborates the ‘why’ and ‘what’ of the challenge, governance addresses the ‘how’ of making effective links to poverty reduction and broader human development goals. As noted by Anand and Sen, sustainable development is about more than charity, it is critically about justice and accountability.⁶⁵ Justice is an “ideal of accountability and fairness in the protection and vindication of rights and the prevention and punishment of wrongs.”⁶⁶ About three quarters of the world’s population falls outside of the rule of law, and the Arab region has historically been among the most excluded from the benefits of human rights and access to justice.⁶⁷

Putting in place accountability systems can create possibilities for ecologically-resilient development, and help protect against risks to public welfare. Accountability systems can help check abuse of power by officials and ensure effective functioning of government policies related to sustainability and equity of natural resource use. This includes two key components: answerability as the obligation to provide an account and the right to get a response as to the status of natural resource policies and actions; and enforceability as the means of ensuring that actions are taken and redress provided for inequitable natural resource use or ecological impacts.⁶⁸ Accountability can be applied vertical by society on governments through public participation in decision-making and claims against the state, and it can be applied horizontal by State actors among public institutions such as legislative oversight of public administration or judicial checks on administrative discretion and abuse. Central to the functioning of accountability systems is the rule of law. “Environmental degradation generates further poverty by the exhaustion of natural resources and creates prejudice to the exercise of basic rights.”⁶⁹ “The rule of law...refers to a principle of governance in which all

⁶⁴ El-Naggar and El-Sayed (2005), *The Geography of Economic Resources and Its relationship to Poverty in Arab Countries: Comparative Indicators with Developed and Developing Countries*, in *Poverty in the Arab World*, El-Naggar (editor), Al-Ahram, Centre for Political and Strategic Studies, Cairo, 9-42.

⁶⁵ Ananda and Amartya Sen (1994), *Sustainable Human Development*, UNDP, New York, 1.

⁶⁶ Id, 3.

⁶⁷ UNDP (2005), *Legal Empowerment of the Poor*, UNDP, New York.

⁶⁸ UNDP (2010), *Fostering Social Accountability: A Guidance Note*, UNDP, Oslo.

⁶⁹ IUCN (2007), *Human Rights and the Environment: Overlapping Issues*, IUCN, Gland, 1.

persons, institutions and entities, public and private, including the state itself, are accountable to law.”⁷⁰

3.2. Legal Empowerment and Rights-Based Approaches

A Human Rights-Based Approach (HRBA) to poverty reduction is an important framework through which to engage the role of citizens and CSOs in future poverty reduction discourse in the region. Ecological change is now seen as critical to achieving basic social and economic rights.⁷¹ “Environmental harms and human rights abuses often go together” and are symptomatic of political and socio-economic contexts through which threats to environment also constitute threats to life, livelihood and health.⁷² The UN Special Rapporteur on Human Rights and the Environment further elaborated the importance of HRBA, arguing that the right to development would be violated if trends of ecological change continue. The UN Special Rapporteur encapsulated this in the idea of a ‘right to prevention of ecological harm’ as part and parcel of the right to development, particularly given the clear impacts of ecological change on poor and vulnerable communities.⁷³

“The dominant environmental protection framework in many countries serves to reinforce instead of challenge the stratification of people...and places.” “Current systems have institutionalized unequal enforcement of safety precautions, traded human health for profit...exploited the vulnerability of economically and political disenfranchised communities” and “subsidized ecological destruction.”⁷⁴ For the poor, human development, empowerment and enhanced freedom of opportunity means not only increasing personal consumption, but also increased accountability of government to the public, being free from the inequities that often result from entrenched and corrupt systems of resource exploitation and disproportionate impacts of pollution. They increasingly recognize that their voice and engagement in public life is critical to responsive governance mechanisms. Civil society movements for poverty reduction thus often find an important environmental undercurrent to their calls for human rights, whether related to corruption in extraction of natural resources and abuse of power in land and water rights, freedom from the toxic effect of pollution, etc.

The importance of human rights-based approaches to sustainability lies in the importance of civil and political rights to foster a sustainable development-friendly political and legal order. For example, the majority of countries, more than one hundred at the moment, have gone so far as to establish environmental protection as a provision in their Constitutional framework.⁷⁵ A particular focus of HRBA is the poor’s *access to information* regarding natural resources use and pollution which may have a bearing on their livelihoods and well-being, the poor’s *access to participation* in decision-making concerning the natural resources and environment on which they depend, and *access to*

⁷⁰ UNDP and the Commission for the Legal Empowerment of the Poor (2008), *Making the Law Work for Everyone, Volume II Working Group Reports*, UNDP, New York, 2-3.

⁷¹ UNEP (2004), *Human Rights and the Environment*, Proceedings of UNEP Geneva Environment Network Roundtable, Geneva. See also Watt-Cloutier (2004), *Climate Change and Human Rights*, Human Rights Dialogue, Series 2 No.11, Carnegie Council, New York, 10-12.

⁷² Id at 9.

⁷³ Ibid.

⁷⁴ Robert Bullard (2005), *The Quest for Environmental Justice: Human Rights and the Politics of Pollution*, Sierra Club Books, San Francisco, 29.

⁷⁵ Tim Hayward (2005), *Constitutional Environmental Rights*, Oxford University Press, New York, 4.

justice and means of remedy where issues like corruption, abuse of power and violation of legal process causes negative impact on natural resources and environment and in turn on the poor.

Participation in governance entails actions such as integration of environmental sustainability into CSO lobbying, debating, campaigning etc centered on issues of poverty reduction.⁷⁶ It could also entail raising issues of environmental sustainability in legislative and regulatory reform hearings on poverty reduction policies and measures that may come about in the future as a result of electoral process and shift to more multi-party and open decision-making in some countries in the region. Participation allows citizens put pressure on decision-makers and allows the poor to become involved in government oversight and accountability processes, and very importantly allows citizens and CSOs to participate in Environmental Impact Assessment (EIA) processes which are normally required by law to consider risks from development to ecological sustainability and in turn social welfare. Successes have also been registered around the world on community-based governance of natural resources and the environment with regards to land, water, minerals, forestry, waste management, etc., which can be built on and legislated at the national level as a means of empowering the poor within broader context of shift to rule of law and accountability frameworks. Meanwhile most environment-related public decisions, including those related to the poor, take place through administrative agencies. Thus a country's public administration at national and sub-national levels is a key interface for between issues of accountability and sustainability.

The right to information regarding natural resources use and pollution which may have a bearing on the livelihoods and well-being of the poor is a key foundation for effective participatory governance. Without adequate access to information on the status of natural resources use or the nature of risks from pollution, communities are unable to analyze many of the problems, or solutions, that underlie their poverty. Meanwhile, access to justice and remedy is a foundation for a shift to a rule of law and accountability framework, entailing a "right to a fair and public hearing in front of an independent tribunal."⁷⁷ Indeed the "judicialization of politics" has been a key process around the world for shifting debates over the accountability of development results and nature of development beyond the realm of politics and into the rule of law.⁷⁸ Several important examples exist around the world for enhancing the role of justice systems in review disputes and abuses of natural resources and the environment.⁷⁹ This includes support for the work of legal aid groups, including CSOs who take action on behalf of the poor and marginalized in the society and assist the poor enhance their access to courts which are often limited by inability to pay for legal representation and capacity to articulate claims.⁸⁰

Another critical perspective for adopting HRBA is the emerging framework for the Legal Empowerment of the Poor based on the work of the UN High Level Commission on Legal Empowerment of the Poor launched in 2005. In 2008, following three years of global reviews and analysis, a high level report *Making the Law Work for Everyone* was launched, followed in 2009 by the launch of *UN Secretary-General Report on Legal Empowerment and Poverty Eradication (A/64/133)* and UN General Assembly Resolution on Legal Empowerment of the Poor. These documents summarize the emerging approach to legal empowerment of the poor, highlighting its

⁷⁶ IUCN, 8-9.

⁷⁷ IUCN, 10.

⁷⁸ C. Neal Tate and Torbjorn Valinder (1995), *The Global Expansion of Judicial Power*, New York University Press, New York, 1-11.

⁷⁹ See George Pring and Catherine Pring (2009), *Greening Justice: Creating and Improving Environmental Courts and Tribunals*, World Resource Institute, Washington D.C.

⁸⁰ Id, 13-14.

operational scope and focus, and summarizing national and regional experiences and the role of various organizations of the UN in fostering empowerment of the poor. Increased legal empowerment of the poor in the area of environment requires not only good will, but also a commitment to experimentation, fine-tuning solutions, and institution building.⁸¹ Some conceptual shifts include: “empowering the poor to identify their problems and seek their own solutions and not assuming the poor are the problem; engaging poor people as partners, not as beneficiaries, and using people-centered frameworks for planning and implementation, creating incentives for the poor as well as for private-sector entrepreneurs to mobilize resources for poverty eradication, and move away from simply exhorting poor people to mobilize their resources or providing all the resources from the State; and seeing the value of giving the poor real rights and ownership of assets, not just a sense of ownership”. If governments take steps to make these shifts, experience has shown that poor people will be more inclined to view the government as a viable partner in development.

Legal empowerment of the poor is an agenda of inclusive development that complements other development strategies and linkages to sustainable use of natural resources and the environment are critical. This has important relations to the goal of sustainable development. Legal empowerment can give poor people and communities the legal tools to proactively protect themselves from the effects of climate change, and give the poor access to new carbon markets. “Secure land rights, for example, will be critical to ensuring that poor farming communities can attract carbon financing to rehabilitate forests, grasslands and agricultural land. Land rights for the poor and equitable access to land would produce a triple dividend: improving livelihood security, stimulating economic development, and reducing concentrations of greenhouse gases.”⁸² Achievement of both poverty and environmental sustainability goals requires adherence to the rule of law and a strong legal and institutional framework.

4. Conclusions

⁸¹ UNDP (1999), *Attacking Poverty While Improving the Environment: Towards Win-Win Policy Options*, UNDP, New York, 9-10.

⁸² UNGA (2009), Report of the UN Secretary General on Legal Empowerment of the Poor and Eradication of Poverty, UN General Assembly A/64/133, New York, 4-5.