

# LAWINTER REVIEW

Law - International Law  
International Relations

ISSN 2153-4020

# LAWINTER REVIEW

## VOLUME 15– Nº 01 – 2024

### Featured Authors (Volume 15 – nº 01 – 2024)

ABBAS POORHASHEMI

ANDRESSA JULIA COSTA

DANIEL FREIRE E ALMEIDA

ISABELLA ALVARES FERNANDES

LUCAS FERNANDES DIAS

MARZIEH FATHI BORNAJI

SOBHAN TAYEBI

LAWINTER REVIEW

New York

ISSN 2153-4020

## LAWINTER REVIEW

Law - International Law  
International Relations

ISSN 2153-4020

### LAWINTER WORLD GROUP

The Lawinter World Group is a pioneering open-access review for the publication of knowledge and commentary on Law, International Law, and International Relations.

It has been online and freely available since 2001 ([lawinter.com](http://lawinter.com)).

Founded to present an opportunity to students access the pedagogical materials of international law, linking cutting edge international law with “today’s classroom”, Lawinter has become a connection center for scholars around the world in various branches of Law and International Relations.

The global reach of Lawinter is achieved through its online presence, the high caliber of its contributors, authors, and editors.

More recently, Lawinter World Group included the publication of Books from Swiss and United States to the world.

Lawinter Review and Lawinter Editions warmly welcome submissions of high-quality, including articles, Books, essays, case-notes, comments, and reviews, which focus on Law, International Law, and International Relations. Lawinter Review and Lawinter Editions publish in English, French, German, Spanish, Italian or Portuguese.

Send all inquiries to:

[review@lawinter.com](mailto:review@lawinter.com)

**EDITORIAL BOARD - Lawinter Review - Lawinter Editions**

**Silviana Cocan** - PHD - University of Bordeaux - France & Université Laval - Canada / Postdoctoral at Université du Québec - Canada.

**Wei Dan** - PHD - Coimbra University / Professor at University of Macau - China.

**Alexandra Harrington** - PHD - McGill University / Professor at Albany Law School - USA.

**Evita Dionysiou** - PHD - Panteion University / Professor at Athens Metropolitan College - Greece.

**Dattesh D. Parulekar** - PHD - Goa University - India & Johns Hopkins University - USA / Professor at Goa University - India.

**Diogo Leite de Campos** - PHD - Université de Paris II and IX, and Coimbra University - Cathedric Professor at Coimbra University – Portugal.

**Shivani Sanghavi** - LL.M. - Georgetown University - USA / United Nations Legal Assistant - IRMCT - The Hague - The Netherlands.

**Andrea Carcano** - PHD - University of Milan / Professor at University of Milan - Italy.

**Cora Cheung** - Masters - Leiden University / Professor at Singapore Institute of Technology - Singapore.

**Rafael Leal-Arcas** - PHD - European University Institute - Italy / Harvard Law School - USA / Professor at Queen Mary University of London - United Kingdom.

**Abbas Poorhashemi** - PHD Université de Strasbourg - France / Scientific Member & President of the Canadian Institute for International Law Expertise (CIFILE) - Toronto - Canada.

**Vittorio Mainetti** - PHD - Graduate Institute Geneva / Professor at University of Milan - Italy.

**Ivo Josipovic** - Professor at University of Zagreb / President of Croatia (2011-2015) - Croatia.

**Daniel Freire e Almeida** – PHD - Coimbra University – Portugal / Postdoctoral at Georgetown University - USA / Professor and Lawyer.

**Sibilla Sartori** - Masters of Laws - University of Verona - Italy / International Expert, United Nations Industrial Development Organization - Austria.

**Ana Cláudia Nascimento Gomes** - PHD - Coimbra University - Portugal / Prosecutor and Professor of Law.

**Donatella M. Viola** - PHD - London School of Economics and Political Science / Professor at University of Calabria - Italy.

**Ana Maria Freire P. M. Almeida** - PHD and Postdoctoral - Sao Paulo State University - Brazil.

**Lina Reyes S.** - PHD - Université Paris Nanterre - France & Universitat Autònoma de Barcelona - Spain.

LAWINTER REVIEW – New York - ISSN 2153-4020

**Danilo Fontenele Sampaio Cunha** - PHD - PUC University - Brazil / Federal Judge and Professor of Law.

**Yangzi Tao** - PHD Keio University - Japan / Space Generation Advisory Council at United Nations (National point of contact - China).

**Fabio Luiz Gomes** - PHD ongoing Salamanca University - Spain / Lawyer and Professor of Law.

**Marie Gerardin** - PHD - Capella University of Minnesota - USA / Professor at University of Edinburgh Law School - Scotland - United Kingdom.

**Sabrina Lanni** - PHD / Associate Professor at Milan University - Italy.

**Bashar H. Malkawi** - Doctor of Juridical Science at American University Washington College of Law – USA / Dean and Professor of Law at University of Sharjah - UAE.

**Raimundo Nonato Chaves Neto** - PHD ongoing at Lisbon University - Portugal / Lawyer and Professor at Lisbon University - Portugal.

**Walid Fahmy** - PHD Université Nancy 2 - France / Legal Counsel on the African Court on Human Rights.

**Thalita Leme Franco** - PHD - University of Sao Paulo - Brazil / Lawyer and Professor.

**Fabiola Vianna Morais** - Masters - Coimbra University - Portugal / Professor of Law.

**Verônica Scriptore Freire e Almeida** - PHD - Coimbra University - Portugal / Lawyer and Professor of Law.

**Ana Carenzi** - Masters - Université de Montréal - Canada / Internationalist.

**Umberto Machado de Oliveira** - PHD - Coimbra University - Portugal / Prosecutor and Professor of Law.

**Haseeb Mohammed** - LLM, Public International Law - University of Nottingham - United Kingdom - Professor at Jindal Global University - India.

LAWINTER WORLD GROUP

© Lawinter Editions, New York. Library of Congress: NRC103986.

© Lawinter Editions, Zürich. Verlagsnummer -ISBN Agentur Schweiz: 978-3-9525199.

© Lawinter Editions in partnership with Amazon KDP University.

© Lawinter Review, New York. ISSN 2153-4020. ISSN National Centre for the USA.

© Lawinter Review, New York. OCLC-Online Computer Library Center – USA. OCLC Number: 516234013.

© Lawinter.com, New York and Zürich.

© The Author(s), under exclusive global license to Lawinter Review and Lawinter Editions, New York – Zürich.

This Work is subjected to copyright. All rights reserved. Except as permitted under the United States Copyright Act, no part of this publication may be reproduced or distributed in any form or by any means, or stored in a database or retrieval system, without prior permission of the Publisher.

The Publisher, the Authors and the Editors are safe to assume that the advice and information in this Review are believed to be true and accurate at the date of publication. Neither the Publisher nor the Authors or the Editors give a warranty, expressed or implied, with respect to the material contained herein or for any errors or omissions that may have been made. The Publisher remains neutral with regard to jurisdictional claims in published maps and institutional affiliations.

The articles, chapters and books are the exclusive responsibility of the Authors, and do not compromise the Editorial Board, Lawinter Review, and Lawinter Editions.

Send all inquiries to:

Lawinter Review: [review@lawinter.com](mailto:review@lawinter.com)

# Table of Contents

**Environmental Crimes Prevention in the Light of Environmental Diplomacy**

***ABBAS POORHASHEMI***

***SOBHAN TAYEBI***

***MARZIEH FATHI BORNAJI***

..... 07

**The Threat of Nuclear Weapons to Future Generations: Urgency of Disarmament for Environmental Preservation**

***ANDRESSA JULIA COSTA***

***DANIEL FREIRE E ALMEIDA***

..... 41

**Sharing Fascism: The Responsibility of Social Media Platforms in the Rise of the Far-Right**

***LUCAS FERNANDES DIAS***

..... 79

**NOTES**

**The European Union and the Role of Global Governance in Building New Green Deals Around the Globe**

***ISABELLA ALVARES FERNANDES – DANIEL FREIRE E ALMEIDA***

..... **.107**

## ENVIRONMENTAL CRIMES PREVENTION IN THE LIGHT OF ENVIRONMENTAL DIPLOMACY <sup>1</sup>

*Abbas Poorhashemi* <sup>2\*</sup>

*Sobhan Tayebi* <sup>3\*\*</sup>

*Marzieh Fathi Bornaji* <sup>4\*\*\*</sup>

---

<sup>1</sup> **How to cite:**

POORHASHEMI, Abbas; TAYEBI, Sobhan; BORNAJI, Marzieh Fathi. Environmental Crimes Prevention in the Light of Environmental Diplomacy. **Lawinter Review**, New York, v. 15, n. 01, p. 07-40, 2024, available at: <http://www.lawinter.com/review.htm> .

<sup>2</sup> \* **Abbas Poorhashemi:**

-Scientific Member and President of the Canadian Institute for International Law Expertise (CIFILE) Toronto, Canada.  
E-mail: [info@cifile.org](mailto:info@cifile.org)

<sup>3</sup> \*\* **Sobhan Tayebi:**

-Assistant Professor, Scientific member and Vice-editor-in-chief of CIFILE Journal, Toronto, Canada. (Corresponding Authors)  
E-mail: [sobhantayebi@yahoo.com](mailto:sobhantayebi@yahoo.com) .

<sup>4</sup> \*\*\* **Marzieh Fathi Bornaji:**

-M.A. of Private Law, Department of Law, Faculty of Humanities, Azad University, North Tehran Branch, Tehran.  
E-mail: [golshanfathi@hotmail.com](mailto:golshanfathi@hotmail.com) .

**Environmental Crimes Prevention in the Light of Environmental Diplomacy****Abstract**

Despite significant advancements in international environmental law and an increased understanding of the fundamental values at risk, there has been a predominant focus on non-criminal strategies in response to ecological disasters. Environmental threats are evolving rapidly, and within the context of advancing tools, there is potential to transform these threats into opportunities and prevent the commission of environmental crimes. Nonetheless, alternative strategies exist, such as organizational responses at the international level and coercive measures to combat environmental crimes at national and international levels.

Beyond these strategies, it is essential to recognize the potential impact of environmental diplomacy as an effective tool. A well-structured diplomatic approach can facilitate coordinated government interactions in decision-making regarding the fight against environmental crimes. However, it's also imperative to consider the ecological context and its support within the framework of international criminal law documents, particularly the Rome Statute. International support for the environment to prevent crimes against it, primarily through criminal tools, requires global consensus and the establishment of environmental diplomacy on the global stage.

**Keywords:** Environmental Crimes, International Law, National Approaches, Prevention Opportunities, Environmental Diplomacy, Sustainable Development.



**Environmental Crimes Prevention in the Light of Environmental Diplomacy****Introduction**

Their close relationship with science and technology has profoundly influenced natural resources and environmental rights. Understanding these issues requires a fundamental grasp of the environmental domain. It has benefited from recent innovations in environmental rights, adapting itself to new mechanisms and introducing regulatory frameworks for protecting natural resources and the environment, encompassing technical guidelines and specialized standards.

The concept of the environment, which represents the interconnected activities and relationships between living organisms, including humans and their surroundings, covers various legal aspects, including private and public laws, international laws, and efforts to incorporate environmental considerations into all aspects of justice. Consequently, environmental criminal laws encompass numerous regulations that emphasize criteria, benchmarks for establishment, material tests, and environmental definitions.

Today, ecological issues have evolved into crucial subjects of discussion from various perspectives: sociological, geological, ecological, criminological, and criminal justice. This multidimensional approach reflects the emergence of global

**Environmental Crimes Prevention in the Light of Environmental Diplomacy**

environmental criminology, which examines transnational organized environmental crime studies. These studies assert that “Transnational Environmental Harm Is a Crime,” highlighting the interest in exploring criminology and the criminological aspects in line with global environmental goals. To understand transnational crimes and environmental harm, taking a worldwide perspective and employing the framework of international environmental criminology is vital.<sup>5</sup>

Environmental crime transcends natural borders, court jurisdictions, geographical boundaries, and social norms. Many environmental harms extend across borders, demanding a serious commitment to their prevention and control. The question arises: What structures and practical tools are available to prevent and control environmental crimes? The proposed hypothesis of this research is that, in addition to emphasizing the significance of the position of environmental crimes and their prevention, we must consider the role of environmental diplomacy as a preventive measure against the commission of environmental crimes. This research utilizes a descriptive-analytical method and relies on data collected through extensive library research.

---

<sup>5</sup> Heydarzadeh, Elham, Mozaffari zadeh, Sajjad, **Preventing environmental crimes**, biological ethics, 2013, third year, No.7. Page 164

**Environmental Crimes Prevention in the Light of Environmental Diplomacy****1. Theoretical Principles****A) Fundamentalism and Predicating Environmental Criminology**

The welfare of human society is inherently linked to specific governmental mechanisms. Discussions about global risks within various international associations, such as economic global organizations and sustainable development summits, highlight the growing concerns regarding global environmental dangers. These dangers can arise from natural disasters like storms influenced by Earth's gravity, earthquakes, extreme climate changes, or human-made disasters such as irreversible pollution and the extinction of plant and animal species. These potential threats can lead to economic instability, geopolitical conflicts, and the depletion of Earth's vital resources, affecting its inhabitants and their security.

In their connection to other forms of organized crime, environmental crimes significantly threaten sustainable development, peace, and security. These crimes undoubtedly undermine societal well-being, safety, and human rights.<sup>6</sup> Beyond the overexploitation of the natural environment, environmental crimes manifest in illegal activities like trading protected species,

---

<sup>6</sup> Ramezani Ghavam Abadi, Mohammad-Hosseini, Preventing and suppressing environmental crimes in the light of non-governmental organizations actions in Iran legal system, *Laws of Justice*, 2011, year 75, No.75. Page 203

**Environmental Crimes Prevention in the Light of Environmental Diplomacy**

smuggling ozone-depleting substances, handling hazardous waste, illegal fishing, and the illicit timber trade. Despite the severe environmental impact of such crimes, they often do not receive swift government responses. Governments often fail to prioritize the fight against environmental crimes and overlook their actual and potential consequences.<sup>7</sup>

These crimes have far-reaching and irreparable effects on the environment, leading to severe damage to the foundations of human, animal, and plant life, resulting in immense suffering. Consequently, environmental crimes progressively evolve into transnational organized crimes perpetrating violence and corruption. This transformation has seen an increased involvement of groups engaged in environmental crimes, driven by substantial financial gains and the unscrupulous and widespread exploitation of natural resources. As a result, environmental crimes have escalated to higher levels and have become interconnected with other crimes, such as theft, fraud, corruption, drug trafficking,

---

<sup>7</sup> R. A. Falk, 'Environmental Warfare and Ecocide, Facts, Appraisal, and Proposals', 4 Bulletin of Peace Proposals (1973) 1, 80, 93-96; N. Ruhashyankiko, Special Rapporteur, Study of the Question of the Prevention and Punishment of the Crime of Genocide, UN Doc E/CN.4/Sub.2/416, 4 July 1978, paras 462-478.

**Environmental Crimes Prevention in the Light of Environmental Diplomacy**

human trafficking, forgery, arms smuggling, and money laundering.<sup>8</sup>

The initial suggestions for incorporating crimes against the environment into international criminal laws emerged during the 1970s, responding to the extensive environmental damage caused by the United States military during the Vietnam War. The concept of “environmental warfare and ecocide” emerged as a significant crime against human peace and security. It is characterized by the creation of deliberate orders leading to extensive, long-term, and intentional environmental damage. Such actions constitute an international crime with severe consequences for current and future generations. Despite extensive and prolonged discussions regarding the inclusion of severe environmental violations in international criminal laws, the draft Article 26 was not approved, and the protection of the environment was not included as a separate article in the final draft of the Rome Statute.<sup>9</sup>

---

<sup>8</sup> Almeida, Daniel Freire, Poorhashemi Abbas, Saleme Edson Ricardo (2021), **Environmental Infringements Disputes Solutions in Brazil and Canada**, journal Veredas do Direito: Direito Ambiental e Desenvolvimento Sustentável, Brazil [http://www.mpsp.mp.br/portal/page/portal/documentacao\\_e\\_divulgacao/doc\\_biblioteca/bibli\\_servicos\\_produtos/bibli\\_informativo/2021\\_Periodicos/Veredas\\_n.4.1.pdf](http://www.mpsp.mp.br/portal/page/portal/documentacao_e_divulgacao/doc_biblioteca/bibli_servicos_produtos/bibli_informativo/2021_Periodicos/Veredas_n.4.1.pdf)

<sup>9</sup> Report of the ILC on the work of its 28th session, UN Doc A/CN.4/SER.A/1976/Add.I (Part 2), 3 May-23 July 1976, 95-96 (emphasis added).

**Environmental Crimes Prevention in the Light of Environmental Diplomacy**

Nevertheless, there is compelling evidence that economic considerations have influenced most governments' opposition to its inclusion. As a result, international criminal laws maintain a human-centered framework, with humans at the core of its focus.<sup>10</sup>

In the evolving framework, addressing transnational organized crimes requires comprehensive national, regional, and international analysis. Establishing a coordinated global response to prevent and combat environmental crimes is imperative. Consequently, evaluating environmental crimes and the resulting threats is essential, mainly as they affect human health, security, and peace.

The identified needs and necessities arise from the numerous gaps in our current understanding of these issues.

---

<sup>10</sup> S. Jodoin, 'Crimes against Future Generations – A New Approach to Ending Impunity for Serious Violations of Economic, Social, and Cultural Rights and International Environmental Law', WFC & CISDL Legal Working Paper, Final Version, 15 August 2010, 13-14.

### Environmental Crimes Prevention in the Light of Environmental Diplomacy

undeveloped legal frameworks

poor enforcement of laws

inappropriateness of adjudication procedures

lack of proper understanding of environmental structure

weakness in prevention and discovering environmental crimes

lack of comprehensive understanding from causes of criminal behaviors

Therefore, these factors lead us to consider environmental crimes as serious issues.<sup>11</sup> This perspective needs consideration and is exemplified by the actions of the Socio-Economic Council of the United Nations Organization in 2012 when it approved Resolution 2012/19 titled “Strengthening International Cooperation in Fighting Transnational Organized Crimes in All Forms and Manifestations.” Paragraph 12 of the resolution urged governments to investigate various forms of environmental crimes under the supervision of the United Nations Criminal Justice Research Institute. It could mark the

---

<sup>11</sup> Nasr Esfahani, Ahmad, Raesi, Leila, Arash Pour, Alireza, International Criminalization of Biodegradation, criminal laws teachings, 2020, period 17, No.19. Page276.

**Environmental Crimes Prevention in the Light of Environmental Diplomacy**

beginning of a concerted global effort to urgently assess and combat environmental crimes.

Several noteworthy actions were taken in this regard: a. The United Nations Organization's Criminal Justice and Crime Prevention Commission met in 2013 to address the challenges of emerging environmental crimes and their significant environmental impact. They also discussed mechanisms to deal with these challenges.

b. The United Nations Interregional Crime and Justice Research Institute has been conducting research on environmental criminal laws since 1991.

c. The United Nations Organization's Institute of Criminal Research and Interregional Justice has focused on sustainable development, sanction strategies, evaluating criminal laws, and implementing International Environmental Conventions since 1997.

d. In 2009, the Institute of Environmental Crimes and Justice conducted research aimed at designing a comprehensive plan for studying environmental crimes (Ahmadi, Shamlou, Khosroshahi, 66: 2017).

e. Efforts were made to increase awareness of environmental crimes in 2012.



**Environmental Crimes Prevention in the Light of Environmental Diplomacy**

Furthermore, the International Criminalization Institute has produced international reports and research statistics on combating the illegal smuggling of electronic and hazardous waste.

While international criminal laws may not be the sole or primary solution for environmental protection, they can provide a more coherent framework that complements other areas of international law. Several reasons support the integration of proper environmental protection within the development of international criminal laws. No compelling reasons exist for a distinct approach to environmental damage during war and peace in international criminal law.

**B. Upcoming Steps Regarding Environmental Crimes**

To enhance cooperation and political will to combat the escalating threats posed by environmental crimes, member governments, environmental organizations, and civil society must all play essential roles in addressing these challenges. A standardized framework must be established. Defining environmental crime at the international level underscores the importance of protecting the victims of such crimes, human rights, and public health. This focus reinforces the effectiveness of the international rules framework by utilizing existing tools and

**Environmental Crimes Prevention in the Light of Environmental Diplomacy**

adapting them to address the fundamental needs associated with combating environmental crimes. This process necessitates research, analyzing existing legal frameworks, and providing best practices for addressing environmental crimes at national, regional, and international levels, promoting extensive cooperation. Therefore, defining the developmental aspects of the mechanisms to combat environmental crimes is essential.

An international convention on environmental crimes under the auspices of the United Nations appears to be a feasible solution. Strengthening existing mechanisms in active and related conventions is also crucial. It is necessary to bolster criminal laws at the national level to support transparent, effective, and deterrent laws against environmental crimes and emerging organized environmental crimes. Strengthening the effective judicial system at both the national and international levels to implement legal guarantees effectively can form the foundation for preventing the threats posed by environmental crimes.<sup>12</sup>

Taking these measures makes it possible to identify and control environmental crimes at both national and international levels, enabling the regulation of irregularities stemming from these

---

<sup>12</sup> Sabouri Pour, Mehdi, Ahmadi, Asghar, **Environmental Crimes from Covid-19: effects and defects**, legal research, 2020, period 23, No.89 (Corona issue), P.303

**Environmental Crimes Prevention in the Light of Environmental Diplomacy**

crimes at various levels. Consequently, it is crucial to examine best practices related to future issues within legal processes and judicial decisions.<sup>13</sup> The following considerations should be taken into account to ensure the implementation and enhancement of efforts to address environmental crimes:

A. Legal sanctions and criminal, civil, and administrative penalties should be tailored to suit the nature of the crimes and their specific circumstances.

B. Mandatory criminal responsibility for companies and factories is essential.

C. The involvement of the public and private sectors is crucial for preventing environmental crimes and enforcing regulations, considering the seriousness of the crimes.

D. Enhancing the capacity to enforce the law, primarily through official channels such as the judiciary, is essential for establishing and strengthening specialized environmental crime courts.<sup>14</sup>

E. Strengthening the role of environmental experts in the court system.

---

<sup>13</sup> Kashkouljian, Esmail, Sheikh-al Eslami, Abbas, Naghavi, Mehdi, **Environmental Crimes and Strategies to Prevent them**, environmental ethics, 2019, period 9, No.32, P 106.

<sup>14</sup> McCallion, Kenneth, Implementing justice about International Law Environment and solutions, translation by Mohammad-Hossein Zahedian Labaf, Journal of International Law, 2004, No.31, P 189.

### **Environmental Crimes Prevention in the Light of Environmental Diplomacy**

In light of the above, it is essential to implement legal sanctions and consider legal aspects in judicial decisions while considering the nature and scope of environmental crimes and the severe perspective of judges in relevant legal proceedings.

## **C. Environmental Crimes and Human Rights Violations**

### **1. Structural Tools of Environmental Crimes**

Today, existing legal frameworks often leave environmental crimes unprosecuted. To protect the environment effectively, enforcing criminal law becomes a vital solution, as it can respond significantly to severe threats and environmental crimes. In addition to safeguarding the environment through criminal laws, international criminal laws should also be employed, playing a crucial role in combating environmental crimes and the individuals responsible within nations. Where human rights violations occur, international law is viewed as a robust national, regional, and global implementation guarantee. This perspective encompasses the following considerations:

A. International laws and ratified regulations should include penalties for environmental crimes and international environmental treaties.

**Environmental Crimes Prevention in the Light of Environmental Diplomacy**

B. Environmental crimes should be recognized as distinct crimes, reaching international consensus.

C. Protecting the environment and human rights are inherently interconnected. Environmental crimes often lead to widespread rights violations, making influential environmental protection contingent upon the robust protection of human rights.<sup>15</sup>

Therefore, applying international legal tools and mechanisms to protect the environment and human rights from extensive attacks due to environmental crimes is imperative. International treaties contain explicit prohibitions for environmental protection. Still, they may require revisions to include provisions the States can incorporate into their domestic criminal laws to prevent environmental crimes.

Another tool for adopting international environmental laws involves combatting organized crime resulting from multi-structural integration. Examples include the European Union's solid legal framework and coordinated action against environmental crimes, civil law-based compensation mechanisms, and specialized commissions within the European Union, such as the Specialized

---

<sup>15</sup> Jam Bozorg, Maryam, Pour Noori, Mansour, Poorhashemi, Abbas, Hermidas Bavand, Davoud, **Components and challenges of compiling the environmental crime indexes titled International crime**. Technology Sciences of the Association of Environment Specialists of Iran, 2019, period 21, No. 4, consecutive No. 83, P263.

### Environmental Crimes Prevention in the Light of Environmental Diplomacy

Commission for the Environment. Attention should also be given to the responsibility of multinational corporations in environmental crimes, underscoring the need for legal entities to be held accountable. Therefore, international treaties should be reviewed, emphasizing the utilization of their legal content in domestic laws concerning the criminalization of environmental crimes.<sup>16</sup>

## 2. Etiology of International Environmental Protection in the International Criminal Law System

The question arises: “Why should the protection of the environment be addressed through international criminal law documents?” An exhaustive evaluation of the effectiveness of international criminal law in this domain extends beyond the scope of research studies. In this context, the following approaches should be considered:

A. The deterrent effect of criminal law is a compelling reason to prosecute behavior that significantly harms the environment. Criminal penalties are more effective at deterring environmental misconduct than amendments to civil and administrative penalties. Criminal prosecution can be a powerful deterrent when

---

<sup>16</sup> Jalaliyan, Asgar, Zarei, Mostafa, Afrough, Abdolamohammad, **International criminal laws challenges against environmental crimes**, International police studies (Interpol), 2018, period 9, No.33, P15.

**Environmental Crimes Prevention in the Light of Environmental Diplomacy**

environmental damage results from cost-benefit assessments. The inclusion of new environmental crimes in the framework of international criminal law can be justified as long as there is a reasonable likelihood of criminal prosecution and robust, enforceable sanctions.

B. An organized and institutionalized global approach to prosecuting environmental crimes offers minimal positive effects compared to a piecemeal system of handling prosecutions domestically. Criminal prosecution can encourage governments to align their domestic laws with environmental obligations.

However, another set of arguments revolves around the question: “What makes a criminal offence an international crime?” The Rome Statute itself states in its introduction that it is designed to address “[...] crimes that deeply shock the conscience of humanity” and “serious crimes that threaten peace, security, and well-being of the world.” The conduct must meet specific criteria to be considered an international crime; it must have destructive effects on the foundations of human society, reaching a certain level of seriousness. If a crime meets these criteria, it is of such global concern that it can be subject to international criminal prosecution. Environmental destruction can have severe impacts

**Environmental Crimes Prevention in the Light of Environmental Diplomacy**

on the well-being of current and future human society.<sup>17</sup> While this may not apply to all environmental crimes, there are certainly cases where the effects are equivalent or similar. This is particularly true in instances where environmental degradation reaches an irreversible state and has lasting negative consequences for future generations.<sup>18</sup> Therefore, these cases affect the public interests of the entire international community. The question should not be, “Should crimes against the environment generally be prosecuted under international criminal law?” but rather, “Under what conditions should environmental crimes be considered international crimes?”

### **Third. Designing a Structure to Identify Emerging Environmental Crimes**

In addition to developing international laws and criminalizing environmental offences at the national level, there is a need to establish a framework within international laws to identify emerging environmental crimes for appropriate action. The time

---

<sup>17</sup> UN Secretary-General, **Climate change and its possible security implications**, UN Doc A/64/350, 11 September 2009

<sup>18</sup> Poorhashemi, Abbas (2022), **International Law and Global Governance**, CIFILE Journal of International Law, 3(5), 70-74. [https://www.cifilejournal.com/article\\_147709\\_8c500e8fb578797672faa744cebb2c6e.pdf](https://www.cifilejournal.com/article_147709_8c500e8fb578797672faa744cebb2c6e.pdf)



**Environmental Crimes Prevention in the Light of Environmental Diplomacy**

has come to consider creating an independent legal framework for environmental crimes due to their far-reaching political, social, and economic implications.

Therefore, recognizing environmental crimes in international law is essential. In fact, reaching a global consensus on this matter is crucial. Thus far, efforts to solidify the international concept of environmental crimes have not yielded satisfactory results. To address this, we can draw upon past experiences to build a foundation for global consolidation of this concept, as environmental crimes have proven to be multifaceted and require careful planning.

Environmental crimes result in significant breaches of international obligations and pose threats to human security and the environment. Although the issue was initially included in the International Law Commission's plan, Article 19, which outlined this matter, was removed in a later revision. This removal may signify a lack of understanding within the international community regarding the seriousness of environmental crimes, or it could indicate a perceived challenge that might lead to tension if included in the plan of international government responsibilities. There was an expectation that Article 19 would not only remain but that, in cases of severe environmental crimes, the Security Council would

**Environmental Crimes Prevention in the Light of Environmental Diplomacy**

also play a significant role in ensuring enforcement. Unfortunately, this issue has not received the attention it deserves.<sup>19</sup>

Efforts have been made within the United Nations Human Rights Commission to address environmental crimes as part of crimes against human peace and security. However, a draft that included environmental crimes yielded no concrete results. Another attempt to amend the International Court of Justice Statute to include environmental crimes in the list of international crimes has thus far been unsuccessful. Nevertheless, some progress can be seen within the framework of conventions, such as the Geneva Conventions of 1949 and their additional protocol in 1977, which emphasize preserving and respecting the environment during wartime. Therefore, reviving the discourse on environmental crimes is crucial, with the United Nations playing a pivotal role.

Furthermore, according to the initial proposed draft of the law on crimes against human peace and security, Article 26, several requests have been made to include an international crime related to the environment. The recent focus has been on the fifth main crime, “ecocide.”

---

<sup>19</sup> White, Rob, **Environmental Crime**, Elgar Publication, 2020, p. 657.

**Environmental Crimes Prevention in the Light of Environmental Diplomacy****Fourth. The Importance of Protecting Human Environmental Rights**

As we move forward, the passage of time reinforces the importance of recognizing environmental crimes at the international level, along with specific enforcement measures. Judge Weeramantry, in his opinion in the case of Hungary and Slovakia, known as Gabčíkovo–Nagymaros, stated that “Environmental protection is an integral component of contemporary human rights doctrine, as the rights to health and life are fundamental human rights.” Environmental crimes harm the environment and undermine human rights, a concept enshrined in the Universal Declaration of Human Rights and related documents. While all nations and governments have the right to undertake development projects, they must do so within the environmental protection framework.<sup>20</sup>

Considering the following, it is essential to acknowledge that small-scale environmental damage can escalate into more significant problems due to neglect, affecting human rights. Although international concern about environmental crimes and

---

<sup>20</sup> Jalaliyan, Asgar, feasibility study of international crimes concept development to environmental crimes emphasizing on sustainable development principle, scientific-educational journal of sustainable development and environment, 2020, ninth year, No.2, p49.

**Environmental Crimes Prevention in the Light of Environmental Diplomacy**

damage is evident, it is not universally consistent. While numerous international documents are dedicated to environmental protection, some are even considered part of JUS COGENSE, and their violation carries consequences. Despite the considerable attention given to environmental issues in major world summits focused on the environment and sustainable development, this does not guarantee the absence of human rights violations or full respect for the right to a healthy environment. The international community should uphold JUS COGENSE principles and consider the fair use of a healthy environment as a reason to prevent violence and environmental crimes. Additionally, ERGA OMNES should be recognized.<sup>21</sup> Prosecution for international environmental crimes is another necessity to prevent widespread human rights and environmental violations, ultimately ensuring the preservation of human life, fundamental human values, and, most importantly, the irrefutable protection of the environment.

---

<sup>21</sup> Ahmadi, Asghar, Shamlou, Bagher, Khosroshahi, Ghodrattollah, **Crimes against Environment in Criminal Laws of Iran and Germany**, International police studies (Interpol), 2017, year 7, No.33.

## Environmental Crimes Prevention in the Light of Environmental Diplomacy

**2. Research Findings****A. Dealing with Illegal Waste Trafficking as an International Necessity**

The intensified illegal trade of waste and its association with transnational organized crimes pose a significant threat to the environment and endanger the health of citizens, causing serious economic and social damage. Therefore, increasing awareness about this issue is crucial to take effective measures. To address this problem, we need to focus on the following:

1. Proposing and Raising Awareness: Addressing environmental threats involves proposing and raising awareness about the issue creating a mechanism for collecting criminal information related to waste trafficking. Awareness efforts should cover sea and land routes to increase understanding of cross-border organized crimes, the connection with corruption, and the responsibilities of exporting and receiving governments.<sup>22</sup>

2. Effective National and International Research: Efforts must be made to investigate issues at the domestic level, utilizing a multi-organizational approach involving law enforcement agencies,

---

<sup>22</sup> N. Ruhashyankiko, **Special Rapporteur, Study of the Question of the Prevention and Punishment of the Crime of Genocide**, UN Doc E/CN.4/Sub.2/416, 4 July 1978, p152.

**Environmental Crimes Prevention in the Light of Environmental Diplomacy**

marine authorities, environmental protection organizations, customs, and specialized working groups focused on environmental crimes. This approach should include adopting effective methods to prevent trafficking, identifying economic responsibilities in terms of freezing and exports by producers, recognizing buyers and sellers, clarifying the prosecutor's role, supporting specialized judicial services, and promoting electronic monitoring tools.

3. Clear, Effective, and Deterrent Criminal Laws: To prevent environmental crimes, having clear, understandable, and coordinated criminal laws at the national level is essential. It is vital to approve these regulations at the international level, emphasizing the need for strong international laws. This should also involve enhancing judicial capacity for efficiency and effectiveness. Furthermore, supporting criminological efforts and enforcing criminal liability on companies and factories is essential. Classifying criminal and civil crimes, administrative violations, and increasing penalties for these crimes, especially those related to illegal waste trafficking, is also crucial.

4. Law Enforcement Organizations and Trained Judges: The judicial system and executive mechanisms should focus on increasing specialized knowledge within the courts, providing study programs research methods, and fostering cooperation between

**Environmental Crimes Prevention in the Light of Environmental Diplomacy**

law enforcement agencies and environmental protection organizations. Law enforcement agencies need to respond effectively to crimes.

5. Replacing Threats with Opportunities: Efforts should be made to turn threats into opportunities. Opportunities include prioritizing environmental protection by governments, activating importing governments to prevent waste trafficking, providing recycling facilities, legalizing entrepreneurs in the field, combatting the illegal market, promoting the integration of society, economy, and environment, and incorporating green economy considerations into education, law, and ethics.

**B. Growth of Trade and Organized Environmental Crimes**

The growth of international trade creates an environment conducive to corruption and the rise of organized environmental crimes at all levels. Combatting these crimes should be a top priority for member states of the international community. Collective responsibility and immediate action are necessary to address the fight against corruption in environmental crimes. National

**Environmental Crimes Prevention in the Light of Environmental Diplomacy**

governments should take individual and collective initiatives to protect the shared ecosystem from environmental crimes.<sup>23</sup>

Increasing awareness at the national and international levels enhances cooperation in preventing threats caused by organized crime groups. To address these challenges, governments, national and international organizations, environmental executive bodies, and beneficiaries should consider the following:

1. Acknowledging the industrial responsibility of developed countries with the capacity to dismantle organized environmental networks.

2. Recognizing the criminal and civil responsibility of legal and natural persons who use financial instruments to conceal environmental criminal activities.

3. Developing a multi-organizational approach to fight against environmental crimes.

4. Promoting partnerships between law enforcement agencies and beneficiaries, clarifying roles and responsibilities, and improving information exchange to analyze environmental crimes.

---

<sup>23</sup> Hamilton, Mark, **Restorative Justice Intervention in an Aboriginal Cultural Heritage Protection Context: Chief Executive, Office of Environment and Heritage v Clarence Valley Council**. *Environmental and Planning Law Journal*, 2019, 36 (3). Recoverable: <https://www.researchgate.net/publication/292882356>, 201.



**Environmental Crimes Prevention in the Light of Environmental Diplomacy**

5. Strengthening legal structures at the national level to support international legal instruments.

**C. Diplomacy Discourse and Control of Environmental Crimes**

Since human life depends on the biosphere's health, decision-making for environmental preservation has become increasingly crucial.<sup>24</sup> Governments have convened to address environmental threats and have achieved positive results through summits, conferences, and meetings since 1972. Environmental diplomacy, as a geopolitical approach to international environmental negotiations, plays a significant role in accelerating environmental decision-making and facilitating international cooperation.<sup>25</sup> Given the expanding environmental threats and the substantial growth of environmental crimes, international summits can be leveraged to strengthen the enforcement of environmental guarantees.<sup>26</sup>

Existing international environmental treaties and legislative foundations, such as the Geneva Conventions 1949, further facilitate this framework. Environmental diplomacy can provide

---

<sup>24</sup> Susskind, Lawrence, Ali, Saleem, **Environmental Diplomacy Negotiating More Effective Global Agreements**, New York, NY: Oxford University Press, 2015, p. 97.

<sup>25</sup> Nicolas, Leila, Kallab, Elie, **Effective Forms of Environmental Diplomacy**, Published by Routledge, 2021, p. 39.

<sup>26</sup> Lynch, Michael J., Pires, Stephen F, **Quantitative Studies in Green and Conservation Criminology: The Measurement of Environmental Harm and Crime**, Routledge Publication, 2019, p. 117.

**Environmental Crimes Prevention in the Light of Environmental Diplomacy**

practical control tools for curbing environmental crimes through treaty frameworks and simultaneously monitor the progress in addressing and preventing environmental crimes.<sup>27</sup>

### **3. Approaches and Attitudes**

#### **A. The Principle of Stability and Maintaining the Situation**

Emphasizing ecological sustainability and the need to address environmental damage is essential. Instead of being constrained by legal boundaries, efforts should focus on acknowledging the importance of environmental sustainability. It could involve evaluating damages in diverse contexts and addressing legal and social aspects of ownership. Shifting the focus from purely private ownership to include social and environmental considerations is necessary. Reacting to environmental damage calls for addressing actions that contribute to destruction, pollution, and degradation.<sup>28</sup>

Criminalizing actions that lead to environmental damage is essential, particularly concerning transnational corporations.

---

<sup>27</sup> Favarin, Serena, Aziani, Alberto, **The Global Waste Trafficking and Its Correlates**, *Journal of Contemporary Criminal Justice*, 2020, Vol 36, Issue 3, Recoverable:

<https://journals.sagepub.com/doi/abs/10.1177/1043986220939701>, p 357.

<sup>28</sup> Kess, Jannsen. Milous, Dunois, **Global pesticides governance by disclosure: prior informed and the Rotterdam convention**. Authors' version of Chapter 5, forthcoming in: Marti Gupta and Michael Mason, ed, *Transparency in Global Environmental Governance: Critical Perspectives*. Cambridge, MA, MIT Press, 2014, p.235.

**Environmental Crimes Prevention in the Light of Environmental Diplomacy**

However, this poses challenges, especially for those advocating for specific ecological and environmental justice methods and procedures.<sup>29</sup>

**B. Universality and Worldview**

Recognizing the international nature of environmental issues, procedures, comparisons, networks, and collaborations is vital. A comprehensive approach is essential to address global problems. Efforts should aim to replace crime and bullying in environmental discipline with persuasion, self-regulation, and cooperation strategies.<sup>30</sup>

In this perspective, shifting the focus from addressing environmental damage to creating environmentally friendly production processes is likely possible. However, this requires overcoming the structural barriers inherent in contemporary capitalism to pave the way for a fair and sustainable future.<sup>31</sup>

---

<sup>29</sup> Hamilton, Mark, **Environmental Crime and Restorative Justice: Justice as Meaningful Involvement**, Palgrave Macmillan, 2021, p.186.

<sup>30</sup> Elliott, Lorraine, **Fighting Transnational Environmental Crime**, Journal of International Affairs, 2012, Vol. 66, No. 1, Transnational Organized Crime, Recoverable, <https://www.jstor.org/stable/24388253>, p. 208.

<sup>31</sup> Uhm, Daan P. van, Nijman, Rick C.C, **The convergence of environmental crime with other serious crimes: Subtypes within the environmental crime continuum**, European Journal of Criminology, 2020, Recoverable:<https://journals.sagepub.com/doi/full/10.1177/1477370820904585#>, p. 98.

**Environmental Crimes Prevention in the Light of Environmental Diplomacy****Conclusion**

In conclusion, this research field demonstrates its significance in addressing environmental crimes within the scope of environmental diplomacy. The international community should adapt and update its efforts, remembering that while ecological treaties have been established, environmental crimes continue to evolve. The human society's attitude and perspective toward the biosphere's life should be transformed, emphasizing the importance of convergence and interactions at the international level. International institutions, such as Interpol, are pivotal in ensuring effective implementation. The discourse of environmental diplomacy is central to this discussion, as it acts as a vital tool for protecting the Earth's environment and biological life. This tool monitors the process and implementation of treaties and shapes international environmental interactions. Its importance is underscored by the fact that ecological threats are growing, necessitating the strengthening of criminal guarantees. This framework can be found within the statute of the International Criminal Court due to the existence of treaty-based foundations. With various international environmental treaties and legislative agreements, such as the Geneva Conventions of 1949 or the 1982

---

**Environmental Crimes Prevention in the Light of Environmental Diplomacy**

Law of the Sea Convention, the specifics of these guarantees can be refined through protocols. In light of this definition, environmental diplomacy can offer effective control mechanisms to curb environmental crimes through treaty contexts while overseeing the process of addressing and preventing these crimes.

**References**

Ahmadi, Asghar, Shamlou, Bagher, Khosroshahi, Ghodratollah, **Crimes against Environment in Criminal Laws of Iran and Germany**, International police studies (Interpol), 2017, year 7, No.33

Almeida, Daniel Freire, Poorhashemi Abbas, Saleme Edson Ricardo (2021), **Environmental Infringements Disputes Solutions in Brazil and Canada**, journal Veredas do Direito: Direito Ambiental e Desenvolvimento Sustentável, Brazil [http://www.mpsp.mp.br/portal/page/portal/documentacao\\_e\\_divulgacao/doc\\_biblioteca/bibli\\_servicos\\_produtos/bibli\\_informativo/2021\\_Periodicos/Veredas\\_n.41.pdf](http://www.mpsp.mp.br/portal/page/portal/documentacao_e_divulgacao/doc_biblioteca/bibli_servicos_produtos/bibli_informativo/2021_Periodicos/Veredas_n.41.pdf)

Elliott, Lorraine, **Fighting Transnational Environmental Crime**, Journal of International Affairs, 2012, Vol. 66, No. 1, Transnational Organized Crime, Recoverable: <https://www.jstor.org/stable/24388253>

Favarin, Serena, Aziani, Alberto, **The Global Waste Trafficking and Its Correlates**, Journal of Contemporary Criminal Justice, 2020, Vol 36, Issue 3, Recoverable: <https://journals.sagepub.com/doi/abs/10.1177/1043986220939701>

## Environmental Crimes Prevention in the Light of Environmental Diplomacy

Heydarzadeh, Elham, Mozaffari zadeh, Sajjad, **Preventing environmental crimes**, biological ethics, 2013, third year, No.7

Hamilton, Mark, **Restorative Justice Intervention in an Aboriginal Cultural Heritage Protection Context: Chief Executive, Office of Environment and Heritage v Clarence Valley Council**. Environmental and Planning Law Journal, 2019, 36 (3). Recoverable: <https://www.researchgate.net/publication/292882356>

Hamilton, Mark, **Environmental Crime and Restorative Justice: Justice as Meaningful Involvement**, Palgrave Macmillan, 2021.

Jam Bozorg, Maryam, Pour Noori, Mansour, Poorhashemi, Abbas, Hermidas-Bavand, Davoud, **Components and challenges of compiling the environmental crime indexes titled international crime**. Technology science of the Association of Environment Specialists of Iran, 2019, period 21, No. 4, consecutive No. 83.

Jalaliyan, Asgar, **feasibility study of international crimes concept development to environmental crimes emphasizing on sustainable development principle**, scientific-educational journal of sustainable development and environment, 2020, ninth year, No.2

Jalaliyan, Asgar, Zarei, Mostafa, Afrough, Abdolamohammad, **International criminal laws challenges against environmental crimes**, International police studies (Interpol), 2018, period 9, No.33

Kashkoulian, Esmaeil, Sheikh-al Eslami, Abbas, Naghavi, Mehdi, **Environmental Crimes and Strategies to Prevent them**, environmental ethics, 2019, period 9, No.32

Kess, Janssen. Milous, Dunois, **Global pesticides governance by disclosure: prior informed and the Rotterdam convention**. Authors' version of Chapter 5, forthcoming in: Marti Gupta and Michael Mason, ed, Transparency in Global Environmental Governance: Critical Perspectives. Cambridge, MA, MIT Press, 2014.

**Environmental Crimes Prevention in the Light of Environmental Diplomacy**

Lynch, Michael J., Pires, Stephen F, **Quantitative Studies in Green and Conservation Criminology: The Measurement of Environmental Harm and Crime**, Routledge Publication, 2019.

McCallion, Kent, **Implementing justice about International Law Environment and solutions**, translation by **Mohammad-Hossein Zahedian Labaf**, Journal of International Law, 2004, No.31

Nasr Esfahani, Ahmad, Raeisi, Leila, Arash Pour, Alireza, International Criminalization of Biodegradation, criminal laws teachings, 2020, period 17, No.19

Nicolas, Leila, Kallab, Elie, **Effective Forms of Environmental Diplomacy**, Published by Routledge, 2021.

N. Ruhashyankiko, **Special Rapporteur, Study of the Question of the Prevention and Punishment of the Crime of Genocide**, UN Doc E/CN.4/Sub.2/416, 4 July 1978.

Poorhashemi, Abbas (2022), **International Law and Global Governance**, CIFILE Journal of International Law, 3(5), 70-74. [https://www.cifilejournal.com/article\\_147709\\_8c500e8fb578797672faa744cebb2c6e.pdf](https://www.cifilejournal.com/article_147709_8c500e8fb578797672faa744cebb2c6e.pdf)

R. A. Falk, **Environmental Warfare and Ecocide, Facts, Appraisal, and Proposals**, 4 Bulletin of Peace Proposals (1973) 1, 80.

Ramezani Ghavam Abadi, Mohammad-Hossein, **Preventing and suppressing environmental crimes in the beam of non-governmental organizations actions in Iran legal system**, Laws of Justice, 2011, year 75, No.75.

Report of the ILC on the work of its 28th session, UN Doc A/CN.4/SER.A/1976/Add.I (Part 2), 3 May-23 July 1976.

Sabouri Pour, Mehdi, Ahmadi, Asghar, **Environmental Crimes from Covid-19: effects and defects**, legal research, 2020, period 23, No.89 (Corona issue)

Environmental Crimes Prevention in the Light of Environmental Diplomacy

Susskind, Lawrence, Ali, Saleem, **Environmental Diplomacy Negotiating More Effective Global Agreements**, New York, NY: Oxford University Press, 2015.

S. Jodoin, **Crimes against Future Generations – A New Approach to Ending Impunity for Serious Violations of Economic, Social, and Cultural Rights and International Environmental Law**, WFC & CISDL Legal Working Paper, Final Version, 15 August 2010.

UN Secretary-General, Climate change and its possible security implications, UN Doc A/64/350, 11 September 2009.

Uhm, Daan P. van, Nijman, Rick C.C, **The convergence of environmental crime with other serious crimes: Subtypes within the environmental crime continuum**, European Journal of Criminology, 2020, Recoverable: <https://journals.sagepub.com/doi/full/10.1177/1477370820904585#> White, Rob, **Environmental Crime**, Elgar Publication, 2020.

White, Rob, **Environmental Crime**, Elgar Publication, 2020.

**How to cite:**

POORHASHEMI, Abbas; TAYEBI, Sobhan; BORNAJI, Marzieh Fathi. Environmental Crimes Prevention in the Light of Environmental Diplomacy. **Lawinter Review**, New York, v. 15, n. 01, p. 07-40, 2024, available at: <http://www.lawinter.com/review.htm> .



# THE THREAT OF NUCLEAR WEAPONS TO FUTURE GENERATIONS: URGENCY OF DISARMAMENT FOR ENVIRONMENTAL PRESERVATION <sup>1</sup>

*Andressa Julia Costa* <sup>2\*</sup>

*Daniel Freire e Almeida* <sup>3\*\*</sup>

---

## <sup>1</sup> **How to cite:**

COSTA, Andressa Julia; FREIRE E ALMEIDA, Daniel. The Threat of Nuclear Weapons to Future Generations: Urgency of Disarmament for Environmental Preservation. **Lawinter Review**, New York, v. 15, n. 01, p. 41-78, 2024, available at: <http://www.lawinter.com/review.htm> .

## <sup>2</sup> \* **Andressa Julia Costa:**

- Master's student in Law and Development at the Getúlio Vargas Foundation Law School, with support from the Mario Henrique Simonsen scholarship.
- Bachelor's degree from the Catholic University of Santos. Completed a semester of academic mobility in European and International Public Law at the Université de Caen Normandie, France.
- Awarded a PIBIC-CNPQ scholarship for Scientific Initiation with a focus on Global Governance and Nuclear Disarmament.

## <sup>3</sup> \*\* **Daniel Freire e Almeida:**

- Postdoctor in International Law - Georgetown University - Law Center, Washington DC, United States of America (2015-2017).
- PhD in International Law - Faculty of Law - University of Coimbra, Portugal (2008-2012).
- Master in International Law - Faculty of Law - University of Coimbra, Portugal (1999-2002).
- Permanent Professor of the Postgraduate Program - PhD and Masters in International Law - Catholic University of Santos (UNISANTOS).
- Lawyer, acting, in Brazil and abroad, in the areas of International Law, Digital Law, Space Law, and International Relations.

## The Threat of Nuclear Weapons to Future Generations: Urgency of Disarmament for Environmental Preservation

### Abstract

This article aims to analyze the institute of global governance and its contributions to the construction of a peaceful international order, free from nuclear weapons. In this context, it also seeks to evaluate the legal repercussions arising from the proliferation of nuclear weapons and the risks faced, as well as the environmental damage and the population exposed to their radioactivity. Despite the growing international concerns for the protection of humanity from wars, as recently observed in the conflict between Russia and Ukraine, the existence of nuclear weapons and their potential for use heighten the need for legal assessment and contribution to the global scenario. Indeed, international security and nuclear disarmament demand urgent scientific attention. In this regard, the recognition of Sustainable Development Goal 16, entitled “Peace, justice, and Strong Institutions,” is of paramount importance. In truth, without peace, stability, human rights, and effective global governance, we cannot achieve sustainable development in this regard. Therefore, nuclear disarmament is crucial for fully attaining Goal 16. Consequently, the current scenario presents signs of significant legal repercussions in the nuclear aspect, warranting investigative studies. In this context, questions arise regarding the legal challenges arising from the current conflict between Ukraine and Russia in the event of the use of nuclear weapons. Similarly, how can global governance contribute to the construction of a global order of peace without nuclear weapons? Based on the points to be investigated, this article will seek to analyze the institute of global governance and its contributions to the construction of a peaceful international order devoid of nuclear weapons. Likewise, it will evaluate the legal repercussions resulting from the proliferation of nuclear weapons and the risks faced.

**Keywords:** Global Governance; Nuclear Disarmament; SDG 16.

## The Threat of Nuclear Weapons to Future Generations: Urgency of Disarmament for Environmental Preservation

### Introduction

In the recent past, the accidents at Chernobyl (1986) and Fukushima (2011) have recalled what was horribly demonstrated when the two atomic bombs were used in Japan, specifically on August 6 and 9, 1945, in the cities of Hiroshima and Nagasaki.

Since then, the world has seen the risk and the consequences of the use of nuclear devices, as well as the challenge of keeping the management of the production and use of nuclear energy stable.

Within the scope of this scientific initiation subproject, the nuclear weapon is the most dangerous weapon in the world. With just one, an entire city can be destroyed, killing thousands of people, leaving catastrophic effects. people, leaving catastrophic effects that will last for years, compromising the environment and future generations of human beings.

The first successful nuclear experiment took place on July 16, 1945, named Trinity, and from then on, is sad proliferation began.

Over the following years, the then Soviet Union and other countries achieved success in technical domination and nuclear industrial development. Today, there are 9 countries characterized as nuclear powers: the United States, China, Russia, North Korea, Pakistan, India, the United Kingdom, France, and Israel.

### **The Threat of Nuclear Weapons to Future Generations: Urgency of Disarmament for Environmental Preservation**

As mentioned above, these weapons have been used twice in history, in the Japanese cities of Hiroshima and Nagasaki, although there have been thousands of nuclear tests over the years.

There was therefore a need to develop a treaty to prevent these tests, called the Partial Nuclear Test Ban Treaty (PTBT - Partial Nuclear Test Ban Treaty), finalized in 1963. In 1963, which banned nuclear tests underwater, abroad and in the atmosphere. It progressed to the Comprehensive Nuclear Test Ban Treaty (CTBT), aimed at a total ban, in 1996, but which has not yet entered into force [1].

As a result, the fundamental instrument that made it possible to contain the advance of nuclear weapons production in 1968 was the Treaty on the Non-Proliferation of nuclear weapons (NPT). The Treaty on the Non-Proliferation of nuclear weapons (NPT) is the foundation for nuclear stability. The treaty is governed by three fundamental pillars: the principle of Non- Proliferation, in which all members of the treaty must refrain from transferring fissile material to countries that do not possess nuclear weapons, with the intention of curbing the production of weapons in new states; the principle of disarmament, in which member countries, especially those with nuclear weapons, must refrain from transferring fissile material to countries that do not possess nuclear weapons.

**The Threat of Nuclear Weapons to Future Generations: Urgency of Disarmament for Environmental Preservation**

Countries, especially those with nuclear arsenals, must commit themselves to negotiations and agreements in good faith with the aim of achieving nuclear disarmament at an early stage and stopping the nuclear arms race by other states, and finally, the principle of access to peaceful nuclear technology, determining that all participants in the NPT have the right to develop and be assisted in the creation of nuclear energy for purposes beneficial to society [2].

In a recent development, the most up-to-date treaty entered into force on January 22, 2021, after two decades without new agreements on nuclear disarmament. The Treaty on the Prohibition of nuclear weapons (TPNW - Treaty on the Prohibition of nuclear weapons) was adopted on July 7, 2017, but it only entered into force almost four years later, as the minimum number for ratification was 50 member states. Currently, 86 nations have agreed to the treaty, but the nuclear powers have yet to adopt it, raising new challenges in this area [3].

Therefore, due to the difficulties in reaching the totality of signatory nuclear powers, and the consequent benefits, the present will seek to analyze the institute of global governance and its contributions to the construction of a peaceful international order, without nuclear weapons. It will also assess the legal repercussions

**The Threat of Nuclear Weapons to Future Generations: Urgency of Disarmament for Environmental Preservation**

resulting from the proliferation of nuclear weapons and the risks faced. faced.

The main objective of the scientific initiation sub-project is to analyze the institute of global governance and its contributions to a peaceful international order free of nuclear weapons.

In this context, it also sets out to assess the legal repercussions arising from the proliferation of nuclear weapons and the risks faced.

Despite growing international concerns about protecting humanity from wars, as recently observed in the conflict between Russia and Ukraine, the existence of nuclear weapons and their potential for use, raise the need for evaluation and legal contribution to the global scenario. to the global scenario. In fact, international security and nuclear disarmament require urgent scientific attention. In this sense, the Sustainable Development Goal 16, entitled "Peace, justice and strong institutions".

Indeed, without peace, stability, human rights, and effective global governance, we will not be able to achieve sustainable development in this regard. Therefore, nuclear disarmament is crucial to the full achievement of goal no. 16.

As a result, the current scenario shows signs of important legal repercussions in the nuclear aspect, giving rise to investigative

**The Threat of Nuclear Weapons to Future Generations: Urgency of Disarmament for Environmental Preservation**

studies. In this sense, questions arise about the legal challenges arising from the current conflict between Ukraine and Russia, in the event of the use of nuclear weapons. In the same vein, how can global governance contribute to building a global order of peace without nuclear weapons?

Based on the points to be investigated, this project will seek to analyze the institute of global governance and its contributions to the international order without nuclear weapons. It will also assess the legal repercussions resulting from the proliferation of nuclear weapons and the risks faced.

The current scenario presents indications of important legal repercussions in the nuclear aspect, giving rise to investigative studies.

The new conflict between Russia and Ukraine, with the potential use of nuclear weapons, is giving rise to new discussions in terms of governance in this area.

In fact, without peace, stability, human rights, and effective global governance, we will not be able to achieve sustainable development in this area.

As mentioned, nuclear disarmament is crucial to the full achievement of goal 16. Consequently, the study focused on the role of global governance in disarmament is relevant and

## **The Threat of Nuclear Weapons to Future Generations: Urgency of Disarmament for Environmental Preservation**

scientifically justified for the necessary contribution to new hypotheses and solutions.

In global terms, the achievement of Sustainable Development Goal 16, in terms of peace, stability, human rights and effective global governance, requires academic contributions that advocate a world without nuclear disarmament. world without nuclear weapons.

In this sense, the work aims to raise the role of global governance towards nuclear disarmament. Therefore, reflection and awareness for the promotion of public and private policies that stimulate international dialogue and diplomacy for peace, with the aim of reducing the nuclear arsenal, to guarantee the international security of society, is extremely relevant today.

### **1. The Role of Global Governance Towards Disarmament**

In this chapter, we will discuss the most important solutions adopted by the international community in recent years, whose objective is to abolish nuclear weapons and end the threat of war and mass destruction of humanity.

These include the sustainable development goal 16 set out in the UN's 2030 Agenda, the Treaty on the Non-proliferation of Nuclear of nuclear weapons (NPT), the Treaty on the Non-



**The Threat of Nuclear Weapons to Future Generations: Urgency of Disarmament for Environmental Preservation**

proliferation of nuclear weapons (NPT), the Comprehensive Nuclear-Test-Ban Treaty (CNTB) and the Comprehensive Nuclear-Test-Ban Treaty (CNTB). Comprehensive Nuclear-Test-Ban Treaty (CTBT) and finally, the most recent treaty, the Treaty on the Prohibition of nuclear weapons (TPAN) - Treaty on the Prohibition of nuclear weapons (TPNW), the origin and purpose of each will be explained in detail below, as well as their peculiarities.

Likewise, it is important to highlight international environmental law, a new area of international law. of the environment, a new area of international law, which is also considered an autonomous sphere of law, in view of its and specificity of norms and principles that have at their core the relationship between the subjects of international law and the environment and which seeks a common goal, namely the protection of nature [4].

Along these lines, author Fernando Rei (2006, p.9) states that that the importance of the role of NGOs and other actors in international society has already been solidified in international environmental law. Human beings and humanity are responsible for preserving and maintaining a sustainable natural equilibrium, which reaffirms that human beings must adapt their actions so as not to do more harm than necessary, and that in cases where the

**The Threat of Nuclear Weapons to Future Generations: Urgency of Disarmament for Environmental Preservation**

equilibrium is affected for reasons other than that of the human being, that the human being should adapt their actions in order to with the aim of remedying the damage and restoring balance to the environment.

International environmental law consequently brings new challenges, innovating the field of international law, enabling a reconstruction of international legal relations.

In view of this, the expansion of international environmental law is closely linked to the problems that have been manifesting themselves in the current situation on the planet, for example: global warming, climate change, the depletion of natural resources and, the focus of this article, major nuclear accidents and attacks, with immediate effects [5].

This article seeks to make a connection between international environmental law and the importance of nuclear disarmament.

To this end, the United Nations (UN) promoted the 2030 AGENDA in 2015, in 2015, the 2030 AGENDA and, together with it, drew up the 17 Sustainable Development Goals (SDGs). Development Goals (SDGs), whose mission is to ensure their complete realization by the year 2030.

It was therefore established that the 2030 Agenda and its 17 SDGs to be achieved within 15 years of their being drawn up, whose

**The Threat of Nuclear Weapons to Future Generations: Urgency of Disarmament for Environmental Preservation**

commitment is to strengthen world peace, eradicate extreme poverty in all its forms and depth, characterized as the greatest international challenge and impediment to the sustainable development of the planet [6].

In turn, the most important goal for this issue of Nuclear Disarmament is SDG 16, which establishes "Peace, Justice and Effective Institutions". More specifically promoting peaceful and inclusive societies with a view to sustainable development.

Furthermore, SDG 16 also aims to provide access to justice for all people for all people to build institutions that are accountable, effective and that enable social inclusion.

Therefore, SDG 16.8 and 16.a, constituted by SDG 16, determine that it is necessary and fundamental to expand and strengthen the participation of developing countries in global governance institutions.

It is also important to strengthen the relevant national institutions, even considering the support of the international community, to build national competencies, particularly in developing countries, to combat violence, terrorism, and crime.

On the other hand, there is still an arms race, with the two main nuclear powers, the United States and Russia, followed by China, the United Kingdom and France, at its center. On the other hand,

**The Threat of Nuclear Weapons to Future Generations: Urgency of Disarmament for Environmental Preservation**

smaller powers such as Pakistan, North Korea and India are constantly adding new harmful and destructive capabilities to their war weapons.

According to a survey by the Swedish Peace Research Institute Peace Research Institute (IPRI)- considered to be a competent organization in the collection and updating data on armaments around the world, it was estimated that the total number of military expenditures in 2012 was 1.7 trillion dollars per year.

Sérgio Duarte, a Brazilian diplomat and pacifist, states that a fraction of the expenditure on arms that the planet spends would be enough to subsidize the achievement of the UN Sustainable Development Goals [7].

In this sense, in recent decades, the international order has adopted treaties and measures that have eliminated bacteriological and chemical weapons. The same goes for nuclear weapons and the arms race that began after the appearance of the nuclear bomb in World War II.

The main aim of these treaties is to prevent an increase in the number of countries possessing nuclear weapons, but unfortunately there are still no multilateral rules forcing states to eliminate their nuclear arsenal.

**The Threat of Nuclear Weapons to Future Generations: Urgency of Disarmament for Environmental Preservation**

After the US nuclear attack on Japan, it became necessary to hold the first United Nations General Assembly in 1946, where it adopted Resolution No. 1, providing for the creation of a commission tasked with guaranteeing the use of nuclear energy for peaceful purposes only, as well as abolishing the remaining atomic weapons [8].

It should be emphasized that these solutions and international instruments created since the origin of nuclear weapons only serve to prohibit these weapons in places where they have not yet been developed and created, preventing countries without nuclear arsenals from developing them.

These sites are called nuclear-weapon-free zones, with Latin America pioneering the development of the first free zone in inhabited regions. There are currently five nuclear-weapon-free sites worldwide. Nuclear weapons have also been banned on the Antarctic continent, underground and on the surface of the oceans, on the Moon, in Earth orbit and even on other celestial bodies.

In 1959, the UN General Assembly adopted a new resolution, also proposed by Ireland, which called on all states, especially those possessing nuclear weapons, to make an international agreement aimed at banning the transfer or acquisition of weapons.

**The Threat of Nuclear Weapons to Future Generations: Urgency of Disarmament for Environmental Preservation**

This was because, in 1960, the international order was genuinely concerned about the increasing proliferation of nuclear weapons, as many countries were technologically and industrially advanced. They could follow the example of the great powers by developing their own atomic bombs within a few years.

The results of the Commission's report were crucial for the US to decide to negotiate a treaty on the non-proliferation of nuclear weapons, supported by the United Nations, together with the USSR.

In the same year, the UN General Assembly adopted a resolution setting out the basic principles of a future non-proliferation treaty. The document asked the Eighteen Nations Disarmament Committee (ENDC) to urgently negotiate a treaty to prevent atomic spread. Following the request, the Soviet Union and the United States jointly presented a treaty addressing this issue.

However, the non-nuclear-weapon states pointed out several points that diverged from the main idea of the treaty, proposed by the armed states and their allies. The main points they raised were the fundamentally discriminatory nature of the text, which imposed differences between two categories of states: those possessing the weapons and those not possessing the nuclear weapon, delimiting unequal, uneven rights, and obligations.

**The Threat of Nuclear Weapons to Future Generations: Urgency of Disarmament for Environmental Preservation**

They were also dismayed by the creation of limitations and restrictions on the research and development of nuclear energy used for peaceful purposes, and finally, they advocated the need for nuclear disarmament, with legally binding effects for the possessing countries, to obtain the renunciation of the warlike nuclear choice. However, the Conference was unable to agree on the final text of the treaty.

For this reason, two representatives from the USA and the USSR sent the treaty to the General Assembly, even without the consensus of all the members of the Committee. In 1968, the Treaty on the Non-Proliferation of nuclear weapons (NPT) came into being, and only entered into force in 1970, with 95 votes in favor, 4 against and 21 abstentions. Like 23 other states, Brazil abstained from the vote.

It should be noted that the dissatisfaction and doubts of these countries regarding the inequalities and disharmonies of the NPT occurred during the division of the world into two political systems and the influence of the two powers in the Cold War, which explains the delay in joining the NPT.

Brazil signed the NPT in 1996 and ratified it in 1998 [9], because it was based on the understanding that the more countries that signed the treaty, the nuclear powers would be able to take

**The Threat of Nuclear Weapons to Future Generations: Urgency of Disarmament for Environmental Preservation**

effective measures to abolish and eliminate their nuclear weapons, which has not yet become a reality.

However, the NPT remains the main multilateral instrument for nuclear disarmament, and today has been signed and ratified by 191 states, all of which are members of the United Nations, except North Korea, India, Israel, and Pakistan.

As a result, the NPT recognizes five Power States as possessing nuclear weapons: the United Kingdom, the United States, China, France, and Russia [10]. These countries had the status of permanent members of the Security Council, conferred by the United Nations Charter, with the right to veto the decisions of the body responsible for ensuring the maintenance of international peace and security.

The NPT establishes that a country's status as a nuclear power is permanent, since Article IX.3 of the NPT states that a "nuclear country" is one that manufactured and detonated a nuclear weapon or other explosive nuclear weapon before January 1, 1967. It also states that the others are defined as "non-nuclear countries" for the purposes of the treaty and for the purposes of the treaty and are obliged not to acquire these weapons.

Years later, the Comprehensive Nuclear-Test-Ban Treaty (CTBT) was adopted on September 10, 1996, and opened for signature on



**The Threat of Nuclear Weapons to Future Generations: Urgency of Disarmament for Environmental Preservation**

September 24, 1996, at the headquarters of the United Nations (UN) in New York.

In January 1994, negotiations and debate began on the treaty at the Conference on Disarmament (CD) in Geneva, attended by 127 countries, including Brazil [11].

In its first article, it is stated that each member state of the treaty undertakes not to carry out any experimental explosion of nuclear weapons or any other atomic explosive, as well as being obliged to prohibit and prevent any nuclear explosion from taking place in any region under its control and district.

Thus, Brazil and the five nuclear powers recognized by the NPT, as explained above, signed the CTBT on its first day, ratifying it two years later, in 1998. It was signed by Brazil with the understanding that the CTBT corrected the discriminatory nature of the NPT, since, as already mentioned, it differentiated and treated countries possessing nuclear weapons from those that did not.

Today, the CTBT has 186 signatures and 177 ratifications; however, even with this high number, which demonstrates the international community's support for the CTBT, the treaty has not yet entered into force (Ibid, p. 18). For this reason, there is no Decree Promulgating the CTBT in Brazil.

**The Threat of Nuclear Weapons to Future Generations: Urgency of Disarmament for Environmental Preservation**

This is because Article XIV of the treaty stipulates that the ratification of 44 countries that were part of the Conference on Disarmament and that possessed some nuclear capability until the adoption of the text in 1996 is required. Of these, 35 countries have already signed and ratified it, including three of the five powers recognized by the NPT: Russia, the United Kingdom and France.

And finally, one of the most important treaties, adopted at a United Nations diplomatic conference on July 7, 2017, was the Treaty on the Prohibition of nuclear weapons (TPNW). Currently, the TPNW has 92 signatures and 68 corrigenda.

It was the first international multilateral agreement to comprehensively ban nuclear weapons. It is the first treaty to include regulations that help to address the humanitarian consequences of the use and testing of these potential nuclear weapons.

The TPNW was drawn up as a solution to the humanitarian fears that had developed over the years in relation to the catastrophic and destructive consequences caused using atomic bombs.

For this reason, it recognizes and declares that the use of nuclear weapons is completely incompatible with the principles of humanity and the norms of international political conscience, and

**The Threat of Nuclear Weapons to Future Generations: Urgency of Disarmament for Environmental Preservation**

broadly prohibits their disarmament based on International Humanitarian Law (IHL).

In their effectiveness and validity, they contain a great commitment to assisting the victims of the use and testing of these weapons, as well as repairing the areas that have been contaminated. It also presents alternatives for all countries to join, including those that possess nuclear weapons or are associated with them.

The treaty stipulates, in its entirety, the prohibition, in all forms, of the use of nuclear weapons or other nuclear explosive devices. It also prohibits their development, testing, production, creation, manufacture or any other form of acquisition, possession, or stockpiling.

It also prohibits States Parties from transferring their nuclear weapons, receiving the transfer, or having control of them, allowing them to be deployed, installed, or even used on their territory and in all regions under their jurisdiction or control, in accordance with art. 1.1(b), (c) and (g) of the TPN.

In the same vein, the countries parties are prohibited from assisting, encouraging, or inducing, in any way, the carrying out of any activity banned by the treaty, under the terms of its article 1.1, paragraph “e”.

**The Threat of Nuclear Weapons to Future Generations: Urgency of Disarmament for Environmental Preservation**

However, even after 78 years, the risk of another nuclear attack still hangs over the world. On February 24, 2022, Russia attacked Ukraine, bombing the capital Kyiv, and several events followed.

One of the biggest concerns was the possibility of considering the use of nuclear weapons, and Russian President Vladimir Putin stated that he would not rule out such a possibility. However, what happened was the destruction of nuclear power plants in Ukraine [12].

The UN has stated that the risk of nuclear weapons being used in this conflict between Russia and Ukraine is higher today than at any time since the end of the Cold War.

Thus, the UN Secretary General for Disarmament Affairs stated that all states must avoid taking any measures that could lead to nuclear escalation, deception, or miscalculation. Furthermore, she added that all States Parties must strictly and correctly comply with their obligations under the NPT.

In the face of all these multilateral instruments aimed, each in its own way, at worldwide nuclear disarmament, the desire of global governance to achieve harmony and peaceful cooperation between states is evident.

### **The Threat of Nuclear Weapons to Future Generations: Urgency of Disarmament for Environmental Preservation**

The use of nuclear weapons, at the current stage, could lead to irreparable and inevitable consequences, it would be such a catastrophe and terror implanted in the world.

This chapter therefore concludes with the realization that a nuclear attack today would be greeted with great horror, as well as being condemned internationally.

Its consequences mean that Global Governance understands that its use will never comply with International Humanitarian Law and is therefore acting urgently to prevent the situation from getting out of hand, trying to remove any use, testing or manufacture of nuclear weapons.

## **2. Global Governance**

From an international perspective, diplomacy, negotiation, building reciprocal mechanisms, resolution and peaceful settlement of conflicts and resolution of conflicts and disputes, are considered important points for understanding the context of Global Governance [13].

In addition, Maria Graziela and Fernando Rei (2019, p. 07) also understand that Global Governance is a way of resolving conflicts, with the aim of fostering international cooperation to promote effective results.

**The Threat of Nuclear Weapons to Future Generations: Urgency of Disarmament for Environmental Preservation**

In this sense, governance can be understood as the means and processes in which an organization or society directs itself. To this end, it is built by both the state and non-governmental actors [14].

It calls for greater participation in evaluation processes to international problems, in the discussion of alternatives, in the deliberations and in monitoring the solutions that have already been identified. It cannot just be treated theoretically but must be applied in practice. Its application in practice must be considered, being a concrete activity, made up of rules to be operationalized [15].

Its role is to act without sovereign authority, analysing and resolving issues that go beyond the barriers of nations, and it must cover, in addition to decisions, the consequences, effectiveness, acceptance and implementation by the people.

Governance corresponds to the global order, and is not just about one issue, but about several regimes that oppose each other, clash or are linked to heterogeneous, incompatible interests. Rosenau gives the example of global governance in the Cold War situation, where its duty was to prioritize the nuclear arms control regime over the freedom of the population to come and go. of the population [16].

**The Threat of Nuclear Weapons to Future Generations: Urgency of Disarmament for Environmental Preservation**

As a result, the arms control negotiations between the United States and the Soviet Union were not paralyzed by the emigration of Jews to the USSR, unlike the trade negotiations.

Rosenau states that governance in relation to world order has a larger concept, which encompasses all, or almost all, members of international society.

The Commission on Global Governance states that the planet needs a new vision aimed at uniting all peoples to achieve higher conditions of cooperation in matters of conflict and universal concern.

For Global Governance to be effective, it is necessary to bring together various local, national, regional, and international cooperative forces, as well as governments and companies, civil associations, and international organizations.

Brigagão, further states that human security is understood as security is understood to be the set of various human interests and burdens that can short-term local needs to longer-term global needs.

Security and governance issues must be interpreted as terms of citizenship security, where learning processes and educational, cultural, and inclusive dialog must be observed, transformative and developmental.

### **The Threat of Nuclear Weapons to Future Generations: Urgency of Disarmament for Environmental Preservation**

It also has the idea of building a peaceful future in which humans can transform their inner selves, becoming less selfish, eliminating the conditions of servitude, hatred, exploitation and misunderstanding from society.

Furthermore, with the end of the Cold War, the strength of world bipolarity diminished, which encouraged the development of Globalization. With it, not only markets and the economy became globalized, but also power and politics. It can be said that Global Governance has modernized and updated concepts in international relations, encompassing various authors, decentralizing power that was previously the preserve of states [17].

In the following chapters, the importance of Global Governance in International Security, with a view to protecting against the threat and risk of the use of nuclear weapons and other atomic explosives, to protect citizenship, human rights, and the international order.

### **3. The Nuclear Context and the Environmental Consequences**

This chapter is about the nuclear weapons, covering the events of the catastrophes and their global historical line. This will highlight the threat posed by the nuclear arsenal and the environmental consequences of its attacks.



**The Threat of Nuclear Weapons to Future Generations: Urgency of Disarmament for Environmental Preservation**

Initially, in the Preamble to the Charter of the United Nations, adopted on June 26, 1946, expressed the decision of the peoples of the United Nations to "spare Nations to "spare future generations the scourge of war".

One month after the adoption of the UN Charter, the first experimental detonation of an atomic bomb took place in Los Alamos, on July 16, 1945. July 16, 1945. At that time, nuclear disarmament was not mentioned.

It has been demonstrated historically, as will be discussed in this chapter, that the atomic weapon is capable of annihilating, instantaneously, tens of thousands of people, and countless others will suffer painful consequences.

However, the atomic consequences go much further, as they cause irreversible damage to our planet. They are capable of completely disrupting the ecosystem and lowering global temperatures, which will lead to a worldwide shortage of natural resources. No state or organization could cope with the catastrophic results of a nuclear attack.

It is therefore important to determine the origin of the bomb and how it all began, so that it is possible to contextualize and recall the real danger of the harmful nuclear weapon.

**The Threat of Nuclear Weapons to Future Generations: Urgency of Disarmament for Environmental Preservation**

Beginning on May 10, 1933, in Germany, countless young people had to watch a series of books at the University of Berlin being set on fire marking the beginning of a violent run caused by the Second World War [18].

Following this attack on German culture and education, many scientists of Jewish origin, including Albert Einstein, among others, saw no other alternative than to flee Germany and take refuge in other countries, such as England, France and especially the United States.

This flight from Germany resulted in many wise scientists concentrating in the United States, a key point in the creation and discovery of the Nuclear Bomb.

Nuclear fission, a chemical division that releases an enormous amount of energy, was discovered by the German physicists Hahn and Strassman in 1938, becoming Hitler's great secret.

As a result of this discovery, the scientists who took refuge in the United States were convinced that Nazi Germany would become a nuclear power, and because of this, they decided to deepen and intensify their nuclear research to dominate and surpass it.

**The Threat of Nuclear Weapons to Future Generations: Urgency of Disarmament for Environmental Preservation**

In this sense, the first scientist to take the development of an American atomic bomb seriously and study it was the Hungarian scientist, Leo Szilard. He was also one of the first to oppose its use.

He believed that Nazi Germany would be able to build atomic bombs before its US allies, because it had already blocked the sale of uranium from Czechoslovakia's mines.

With the speed at which the situation was evolving, physicists were worried that Nazi Germany could become an even more deadly threat if it developed a nuclear weapon, and so, dismayed at providing the US with access to uranium, they turned to physicist scientist Albert Einstein to join forces.

However, the reason for the acceleration of research and manufacture of the bomb was not due to Nazi Germany, but to Japan, which attacked and destroyed the American and destroyed the US fleet in the Pacific Ocean on December 7, 1941, without a declaration of war.

And because of this, the US entered the war two days later, on December 9, 1941. Consequently, by the end of the war, they had invested around 2 billion dollars in building the first nuclear bombs.

This gave rise to the Manhattan Project, also known as the Manhattan Engineering District, one of the largest undertakings during the Second World War, being a North American program,

**The Threat of Nuclear Weapons to Future Generations: Urgency of Disarmament for Environmental Preservation**

whose objective was the development of nuclear weapons, with assistance from Canada and England, led by scientist Julius Robert Oppenheimer. His research was carried out at four university centers: Columbia, Princeton, Chicago, and Berkeley.

From this point on, the team of physicists concentrated on researching the structure of the atomic bomb, installed at Los Alamos, in the New Mexico desert, located near the city of Santa Fe, since (IN) March 1943.

It should be noted that even after Germany surrendered on May 7, 1945, the project did not slow down, but rather the opposite: the US Army continued to encourage the scientists to advance their research. However, some of these professionals began to disagree.

Once the Manhattan Project was completed, the US obtained possession of two types of weapons: the one to be dropped on Hiroshima would use Uranium-235, and the one to be dropped on Nagasaki would be made of plutonium. Because the quantity of uranium was greater than that of plutonium, they managed to build two bombs of the latter element, used for testing.

They called the uranium-235 bomb Little Boy, because it weighed 4 tons and exploded from the collision of two uranium charges. and the other was named Fat Man, as it was larger than

**The Threat of Nuclear Weapons to Future Generations: Urgency of Disarmament for Environmental Preservation**

the other and exploded than the other and exploded from the compression of the plutonium lodged in its core.

After the bomb was built, scientists began to form the idea of testing a nuclear weapon. First, in 1940, the French suggested a test in the Sahara, then it was the British recommending Australia, in a desert area.

However, it was in 1944 that General Groves decided that it should be held in Alamogordo, in the New Mexico desert, some 350 km from Los Alamos and 35 km from the nearest population.

A steel tower was built in this area and the device that caused the first nuclear bomb explosion was placed in it. Director Oppenheimer called this historic operation Trinity, the same name given to the plutonium bomb.

The first nuclear explosion took place on July 16, 1945, at 5 a.m. in Alamogordo, where 150 scientists gathered to watch this historic test. What they saw was a lightning that could blind them, being able to see it from more than 35 km away. followed by a loud detonation.

On the other hand, a few weeks later, the scientists who created the bomb of the bomb were informed that the German bomb, which they had feared so much feared, and which had been an incentive and springboard for them to develop the American

**The Threat of Nuclear Weapons to Future Generations: Urgency of Disarmament for Environmental Preservation**

atomic weapon for five years, had never actually never existed, not even as a project.

In this sense, the question that remains is, what would be the United States' motive in attacking Japan? Which had already lost the war and was practically destroyed? The answer, according to the US State Department, is that this nuclear launch in Japan was necessary to avoid the death of countless Americans if there were to be an invasion of Japanese territory.

However, the justification that the US army spared lives with the attack on Hiroshima and Nagasaki was refuted, since they all knew that they were all aware that Japan intended to sign its surrender, asking for the Emperor and the Japanese Empire to be protected and preserved.

In this way, there is no doubt that the Allies' real intention was to conquer and occupy Japanese territory. That every ruin and region be dominated. However, they found it exceedingly difficult to achieve what they wanted, because they didn't consider the ideals of Japanese culture and their willingness to die voluntarily, in the belief and determination to defend themselves to the death.

On the other hand, some US military generals were aware that they had the standard nuclear weapon, which was the two atomic bombs developed in the Manhattan Project.

**The Threat of Nuclear Weapons to Future Generations: Urgency of Disarmament for Environmental Preservation**

They knew that the Soviet Union intended to declare war on Japan and did not want the Soviets to participate in the Japanese occupation. Because of this, they were considering using the atomic bomb as a way of putting an end to the Russian onslaught to prevent the Soviet invasion of the Asian continent.

On July 25, in Potsdam, President Truman approved the order to drop the nuclear bomb on Japan. In addition, he sent a communiqué requesting the unconditional surrender of the Japanese, informing them that once the conditions were rejected, the US would use a new weapon of extreme destructive power.

The answer was given on July 28, 1945, when the ultimatum was sent to Japan with the options of unconditional surrender or extermination on July 26. Japan chose not to accept conditions of surrender and rejected the ultimatum (Ibid, p. 697). Thus, four Japanese cities were designated as targets by the Manhattan Project, these were Hiroshima, an industrial city with military bases and a strategic port for the Pacific Ocean; Kokura, an important arms center; Niigata, with its port, steel industry and refineries; and Kyoto, an industrial center. industrial center.

The bombings were suspended to assess the destructive capacity of the atomic bomb. On August 6, 1945, at 08:16 a.m., the 4.50 meters long and 76 cm in diameter was dropped on Hiroshima,

**The Threat of Nuclear Weapons to Future Generations: Urgency of Disarmament for Environmental Preservation**

killing around 140,000 civilians, and affecting more than 300,000 survivors with short- and long- term consequences due to nuclear radiation.

The thermal energy of the explosion vaporized everything within a radius of 1 km and caused instantaneous combustion up to 4 km away. The shock wave destroyed thousands of buildings within a radius of 2 km. The radioactivity and long-term chemical effects resulted in cancer and other diseases.

On August 9, the second bomb, Fat Man, was dropped on Nagasaki, replacing the original target due to poor visibility conditions.

The explosion was equivalent to 22,000 tons of TNT explosive, using 8 kg of plutonium 239, with a bomb weighing 4.5 tons, in which more than 70,000 civilians died.

140,000 people died in the bombing of Hiroshima, with 40% of the city population killed by the nuclear attack. Similarly, 74,000 people died in the bombing of Nagasaki, 60% of whose population was killed by the bomb.

The new nuclear arsenal goes beyond a weapon of mass destruction. The experiment they carried out by dropping the two atomic bombs on Hiroshima and Nagasaki was also a way of



**The Threat of Nuclear Weapons to Future Generations: Urgency of Disarmament for Environmental Preservation**

demonstrating to the world the extent of US economic, political, and technological power. technological power.

Thus, Japan signed its surrender on September 2, 1945, decreeing its defeat. 1945, declaring its defeat and the end of the Second World War, which did not end with the failure of the Third Reich, but on August 6 and 9, 1945, with the two atomic bombs that were the fuse for the Cold War.

Shortly after the first US test and the attacks on Japan in 1945, it was the Soviet Union's turn to carry out its first nuclear explosion in Semipalatinsk, now part of the independent Republic of Kazakhstan, in 1949.

And so on, the United Kingdom, France and China began to produce their own nuclear weapons, followed by Israel, India, Pakistan, and the Democratic People's Republic of Korea, better known as North Korea.

With the creation and proliferation of nuclear weapons, it became necessary to adopt the first UN General Assembly in 1946, which established a Commission responsible for abolishing US arsenals and atomic weapons, as well as other weapons capable of mass destruction.

Finally, this chapter has aimed to clarify and detail key facts that led to the development of the most dangerous weapon on the

**The Threat of Nuclear Weapons to Future Generations: Urgency of Disarmament for Environmental Preservation**

face of the earth, the atomic bomb, to highlight and emphasize the urgency of eliminating all nuclear weapons.

The consequences of these nuclear tests and attacks have resulted in a tragic phenomenon in world history, with countless losses, destructions and side-effects that will not go away, given that there is no possibility of returning nature to the state it was in before August 6, 1945.

**Conclusions**

Based on the results founded with this study, the research shown the global governance has made various efforts to curb the use of nuclear weapons, obtained the following results.

Today, the international community strongly rejects the potential use of these weapons. This thinking is inherent in the actions and internal governments of many countries and as a result, the use of nuclear weapons as a means of war has become inadmissible, whether from a humanitarian, moral and now, with the NPT, CTBT and TPAN, legal and juridical point of view.

This is one of the reasons why nuclear bombs have not been used since the attack on Hiroshima and Nagasaki. However, the International Committee of the Red Cross believes that, if atomic

**The Threat of Nuclear Weapons to Future Generations: Urgency of Disarmament for Environmental Preservation**

bombs continue to exist, there is a risk that they could be used again, whether by accident, miscalculation or even intent.

As explained in the second chapter, this fear is becoming increasingly evident in the current world situation. This is because the proliferation and improvement of technology and the lethal potential of nuclear weapons in the possession of armed countries has become a technological race that continues to grow to this day.

One of the main points that impedes and hinders the process and achievement of nuclear disarmament observed because of this research is the challenge for countries, whether they are nuclear powers or not, to communicate and reach a fair and peaceful consensus.

This is also the main reason for wars between states, including the current war that has been going on since 2022, which is still going on today, in 2023, between Russia and Ukraine.

Finally, this is why Global Governance, the result of international cooperation, is so necessary for humanity, considering the importance of diplomacy and the exchange of thoughts, culture, and education between countries to combat wars and disasters arising from their differences.

The Threat of Nuclear Weapons to Future Generations: Urgency of Disarmament for Environmental Preservation

## References

- 1- COMPREHENSIVE Nuclear-Test-Ban Treaty. United Nations, 1996, available online at: <https://treaties.unoda.org/t/ctbt>.
- 2- TREATY on the Non-Proliferation of nuclear weapons. United Nations, 1968, available online at: <https://treaties.unoda.org/t/npt>.
- 3- TREATY on the Prohibition of nuclear weapons. United Nations, 2023, available online at: [https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=XXVI-9&chapter=26](https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XXVI-9&chapter=26).
- 4- NASSER, Salem Hikmat; REI, Fernando Cardozo Fernandes (Org.). Direito internacional do meio ambiente: ensaios em homenagem ao Prof. Guido Fernando Silva Soares. São Paulo (SP): Atlas, 2006.
- 5- GUERRA, S. C. S. (2007). DIREITO INTERNACIONAL AMBIENTAL: BREVE REFLEXÃO. Direitos Fundamentais & Democracia, Curitiba, v.2, 2007.
- 6- AGENDA 2030 para o Desenvolvimento Sustentável. NAÇÕES UNIDAS BRASIL, 2015, available online at: [://brasil.un.org/pt-br/91863-agenda-2030-para-o-desenvolvimento-sustent%C3%A1vel](http://brasil.un.org/pt-br/91863-agenda-2030-para-o-desenvolvimento-sustent%C3%A1vel).
- 7- DUARTE, S. Desarmamento e temas correlatos. Brasília: FUNAG, 2014.
- 8- LONDON. Resolution n° 1, 24 January 1946.
- 9- BRASIL. Decreto n° 2.864, de 7 de dezembro de 1998.
- 10- TREATY on the Prohibition of nuclear weapons. United Nations, 2022, available online at: <https://treaties.unoda.org/t/tpnw>.
- 11- SAMPAIO, M.F. N.O. O Tratado de Proibição Completa de Testes Nucleares (CTBT): Perspectivas para sua entrada em vigor e para atuação diplomática brasileira. Brasília: FUNAG, 2012.

**The Threat of Nuclear Weapons to Future Generations: Urgency of Disarmament for Environmental Preservation**

12- TREATY on the Prohibition of nuclear weapons. The International Committee of the Red Cross, Suíça, 2021, available online at: <https://www.icrc.org/pt>.

13- BRIGAGÃO, C. e RODRIGUES, G. Globalização a Olho Nu. O mundo conectado. São Paulo: Ed. Moderna, 1998.

14- GONÇALVES, A. A legitimidade na governança global. XV Congresso do Conpedi, Manaus. 2006, available online at: [https://www.unisantos.br/upload/menu3niveis\\_1323730898299\\_alcindo\\_goncalves\\_a\\_legitimidade\\_da\\_governanca\\_global.pdf](https://www.unisantos.br/upload/menu3niveis_1323730898299_alcindo_goncalves_a_legitimidade_da_governanca_global.pdf).

15- \_\_\_\_\_; GRAZIENZA, M.; REI, F. Governança Global e a solução de conflitos internacionais. Santos (SP): Editora Universitária Leopoldianum, 2019.

16- ROSENAU, James N. Governança, ordem e transformação na política mundial. In: CZEMPIEL, Ernst-Otto. Governança sem governo: ordem e transformação na política mundial. Brasília: Ed. UnB. São Paulo: Imprensa Oficial do Estado, 2000.

17- ARAUJO, Izabela Viana de. A governança global e a atuação das redes internacionais de cidades. In: 3º ENCONTRO NACIONAL ABRI 2011, 3., 2011, São Paulo. Associação Brasileira de Relações Internacionais, Instituto de Relações

18- MOURÃO, R. R. de F. (2005). Hiroshima e Nagasaki: razões para experimentar a nova arma. *Scientiae Studia*, São Paulo, v. 3, n. 4, p. 683-710, 2005.

**The Threat of Nuclear Weapons to Future Generations: Urgency of Disarmament for Environmental Preservation**

**How to cite:**

COSTA, Andressa Julia; FREIRE E ALMEIDA, Daniel. The Threat of Nuclear Weapons to Future Generations: Urgency of Disarmament for Environmental Preservation. **Lawinter Review**, New York, v. 15, n. 01, p. 41-78, 2024, available at: <http://www.lawinter.com/review.htm> .

Lucas Fernandes Dias

## SHARING FASCISM: THE RESPONSIBILITY OF SOCIAL MEDIA PLATFORMS IN THE RISE OF THE FAR-RIGHT <sup>1</sup>

*Lucas Fernandes Dias* <sup>2\*</sup>

---

<sup>1</sup> **How to cite:**

DIAS, Lucas Fernandes. Sharing Fascism: The Responsibility of Social Media Platforms in the Rise of the Far-Right. **Lawinter Review**, New York, v. 15, n. 01, p. 79-104, 2024, available at: <http://www.lawinter.com/review.htm> .

<sup>2</sup> \* **Lucas Fernandes Dias:**

-Mastering in International Law for the Catholic University of Santos and Bachelor in International Relations (2021) for the same institution.

**Sharing Fascism: The Responsibility of Social Media Platforms in the  
Rise of the Far-Right**

**Abstract**

This article discusses the connections between the rise of the far-right on the international stage and the role played by social media platforms in popularizing and permitting discourses that weaken democracy globally, as well as the need for change in the current paradigm. In order to achieve this, the text is organized around three chapters, which focus on three main objectives: exposing the interconnection between the far-right and social networks as enablers of antidemocratic discourse; analysis on two levels, civil and political, of the discourses uttered by extremist sympathizers, as well as the preferred social networks of these groups; idealization of fairer and more democratic paths for the digital environment, including proposals for accountability, regulation and punishment of the companies responsible for the dissemination of radical and malicious discourse. At the end of the article, it was possible to highlight ways to reduce the damage to global democracy on social networks.

**Keywords:** Digital Law, Far-Right, International Law, Social Media.



## Sharing Fascism: The Responsibility of Social Media Platforms in the Rise of the Far-Right

### Introduction

Keeping up with the technological advancements emerging in the field of social communication is no simple task. With new social networks cropping up in various countries at an ever-accelerating rate, algorithms governing digital systems growing more complex, and fresh mobile features for sharing ideas continually rolling out, there's a lot to keep track of. As more and more people connect to these networks, it's vital to question the intentions behind humanity's utilization of these communication tools.

During this already-established realm of online communities, where knowledge and information are freely shared, there are also those who disseminate ominous narratives that undermine global democracy. The necessity of being present on social media to truly be seen has led not only well-intentioned individuals to join these platforms but also those who seek to offend, segregate, or belittle others through both serious messages and humor. These harmful groups include everyone from young civilians to experienced politicians and outsiders aiming to gain power, with most of them aligning with the far-right political spectrum.

The goal of this study is to explore how these masses leverage social media to their advantage, as well as the role and

**Sharing Fascism: The Responsibility of Social Media Platforms in the Rise of the Far-Right**

responsibility of social media platforms in either preventing or allowing the spread of such discourses within the democratic space.

To achieve this goal, the first chapter of this article will explore how the far-right and social media networks are interconnected, aiming to understand why the political spectrum and the communication platform have become entities that operate in mutual symbiosis.

Furthermore, an analysis will be conducted in two levels of online far-right activity: community-level and political dimensions, addressing the preferred communication platforms of these groups and examining how they interact with each other to promote extremist advancement across all social spheres.

In conclusion, this paper seeks to delineate optimal approaches for promoting justice within the digital sphere and mitigating the proliferation of extremism. This will involve a rigorous examination of mechanisms surrounding the accountability, regulation, and punitive measures directed towards digital enterprises that facilitate threats to democratic principles.

**The "New" Far-Right and Social Media: Interconnected Roots**

The past two decades have witnessed a period of profound transformation on the global stage. Particularly the 2010s stand out

**Sharing Fascism: The Responsibility of Social Media Platforms in the Rise of the Far-Right**

as a time marked by an unprecedented confluence of political and social upheavals. We observe a systematic rise of political and identity groups associated with the so-called 'new far-right' across various regions, epitomized by the election of leaders such as Donald Trump in the United States in 2016, Jair Bolsonaro in Brazil in 2018, Giorgia Meloni in Italy in 2022, and more recently, figures like Javier Milei in Argentina and Geert Wilders party in the Netherlands in 2023.

The rise of those personalities is not a phenomenon confined to a particular region; rather, it is rooted in an era characterized by institutional fragility, both domestically and internationally. This trend is further propelled by the expansive global communication network that has emerged, commonly referred to as Social Media.

The surge of the internet serves as the catalyst for this entire issue. With the proliferation of various forms of digital communication in the 2000s, there has been a profound shift in human social dynamics, coupled with a revolution in access to information for all (Freire e Almeida, 2020: 208). As time has progressed, the modernization of the internet has granted upon diplomacy and political discourse an unparalleled capacity to influence individuals (Kildiş, 2020, online).

**Sharing Fascism: The Responsibility of Social Media Platforms in the Rise of the Far-Right**

The correlation between the rise of neo-fascist personalities in the international political sphere and the widespread adoption of global communication processes emerges from a later period, primarily from the 2010s, as the fertile inequalities of incomplete globalization intensify, fueling populism (Rodrik, 2021: 134). Simultaneously, social media platforms serve as significant virtual hubs for the dissemination of dissatisfaction with the established political landscape, drawing both civilians advocating for change and political figures seeking to enhance their power through promises of 'quick fixes' to complex issues.

The preceding statement, along with this article, does not intend to categorize the entire populace into a single political voice. Rather, the discussion revolves around the idea that while political discourse and the utilization of social media for idea dissemination are commendable, a considerable number of individuals, spanning various age groups, employ these platforms to endorse antidemocratic, offensive or segregants ideologies, inaccurately labeling them as political positions.

Moreover, a strong connection is observed between internet-based far-right groups and the deliberate dissemination of fake news in the digital sphere. Individuals and political leaders alike utilize these strategies to propagate their ideologies, effectively

**Sharing Fascism: The Responsibility of Social Media Platforms in the Rise of the Far-Right**

manipulating large segments of the population to endorse their narratives or even sway the outcomes of entire electoral processes (Yerlikaya; Aslan, 2020: 178).

Amidst the escalating dissemination of fake news and discriminatory content, social media companies bear a substantial responsibility. While entities like Meta – along with the majority of widely-used social platforms – tout their democratizing ethos, it is essential to analyze their role in amplifying both longstanding and emerging forms of abuse, hatred, and discrimination on a large scale (Matamoros-Fernandez; Farkas, 2017).

The absence of effective and internationally standardized regulations for major social media networks facilitates impunity among users who disseminate racist, homophobic, or xenophobic messages. However, their contribution to the propagation of prejudice extends beyond this aspect. The very structure of these platforms fosters hostility. Instances where the organizational policies of these networks demonstrate shortcomings and undemocratic tendencies include TikTok's censorship of videos exposing Chinese persecution of Uighurs (Porter, 2019) and the exclusion of African American and Hispanic individuals from transactional processes via Facebook (Jackson, 2017 apud. Matamoros-Fernandez; Farkas, 2017). In both cases, the issue

**Sharing Fascism: The Responsibility of Social Media Platforms in the Rise of the Far-Right**

stemmed from the organization as a communicative platform and its guidelines.

All these aspects, heightened by social media, intertwine with the exclusionary ideals championed by the far-right, almost uniformly. While many of these movements are rooted in nationalist, individualistic, and supremacist ideologies, this doesn't manifest as disparate international movements. Instead, there's a discernible trend among neo-fascist groups towards cultivating a collective identity (Gaudette et al, 2020: 3492).

Therefore, it is essential to understand the emergence of digitalized discrimination to comprehend how the far-right is mobilizing support, leading to increasingly successful electoral outcomes. To achieve this understanding, it is crucial to examine both fronts driving the rise of neo-fascism: the engagement of ordinary citizens in online forums and the political activities of politicians and their parties leveraging social media platforms. It is the synergistic interaction between these two spheres that yields the political advancements witnessed in recent years.

To grasp this interaction, it's necessary to examine the platforms where both groups are predominantly active. While interaction spans across numerous platforms, focusing on specific communities can provide insight into broader trends, as most social

**Sharing Fascism: The Responsibility of Social Media Platforms in the  
Rise of the Far-Right**

networks operate on a shared framework of content production and sensationalism.

In the realm of communities formed by civilians, the emergence of a platform that receives limited academic attention despite being one of the world's largest social networks is notable: Reddit. The platform harbors a significant concentration of extremist youth and adults, boasting over 1.6 billion monthly active users, thus fueling the propagation of a pervasive "toxic technoculture" (Massanari, 2017).

The political domain exhibits deeper roots, given that the presence of political leaders across various platforms has fueled their popular ascent. Nevertheless, a heightened political engagement is particularly evident on the erstwhile Twitter, now X, where candidates and presidents disseminate their ideas and decisions to the governmental sphere. This phenomenon, increasingly recognized as "twiplomacy" (Chhabra, 2020), underscores the evolving role of social media in political discourse and governance.

The intention is not to confine the discourse solely to these platforms. The progression of the discussion will unveil additional mechanisms employed by individuals and politicians in disseminating fake news, hate speech, and antidemocratic ideals.

Sharing Fascism: The Responsibility of Social Media Platforms in the  
Rise of the Far-Right

### **The Use of Social Networks and Fractures in Democracy**

In the past few decades, research concerning the online interaction of extremists has predominantly centered on their utilization of conventional and widely recognized websites and forums, particularly among the cohort that experienced the advent of social media platforms. Consequently, there remains a shortage of comprehensive understanding regarding the modus operandi of the far-right within the realms of platforms favored by younger demographics. These individuals are actively shaping collective and enigmatic identities on platforms such as Reddit, established in 2005, which emerged as the fifth most accessed website in the United States in 2020 (Gaudette et al., 2020: 3493).

Reddit exhibits distinctive characteristics contributing to its widespread popularity. Structured around communities known as subreddits, the platform facilitates discourse on diverse topics ranging from politics to sports teams, online gaming, and TV series. Users engage by posting tailored content—be it images or text—pertaining to the subreddit's theme, subject to communal voting. Notably, Reddit's unique feature lies in its voting system, wherein "upvotes" and "downvotes" determine a post's visibility; accumulating "upvotes" elevates a post's prominence, positioning it distinctly within others' feeds, whereas "downvotes" mitigate its



**Sharing Fascism: The Responsibility of Social Media Platforms in the  
Rise of the Far-Right**

visibility due to diminished interest. This mechanism fosters the development of a predominantly youthful and cohesive culture centered around specific themes (Hale, 2017).

Due to a profound deficiency in the social network's capacity to address manifestations of misogyny, prejudice, or criminality—particularly given its purported commitment to "freedom of expression"—the proliferation of images, memes, and ostensibly humorous but inherently offensive discourse has become pervasive on this platform and others. This prevalence has led to the formation of cohesive youth communities that thrive on collective derogation through dark humor, often facilitated by crude manipulations, a phenomenon termed the "weaponization of memes" (Lamerichs et al., 2018: 182). Consequently, this process has contaminated the foundational algorithm of Reddit.

In 2020, Gaudette's study provided a comprehensive examination of the operational dynamics of the Reddit algorithm, particularly in its role in amplifying content characterized by the aforementioned attributes. The research primarily explored into the dynamics of the subreddit "r/The\_Donald," a central platform where users of varying age demographics congregated to discuss and disseminate content related to Donald Trump's candidacy and presidency, beginning in 2015. Despite its suspension in 2019—a

**Sharing Fascism: The Responsibility of Social Media Platforms in the Rise of the Far-Right**

significant disciplinary action by Reddit citing instances of incitement to violence and violations of platform policies—the subreddit experienced intermittent resurgences before its eventual permanent banishment (Gaudette et al., 2020: 3495). With a membership exceeding 700 thousand and a notable prevalence of content sharing featuring themes of anti-Semitism, racism, and anti-immigration sentiments, one could reasonably infer that such activities may have influenced a considerable segment of pro-Trump voters in both the 2016 and 2020 elections, driven by alignment with the "alt-right" ideology.

In the symbiotic interaction between political figures and social network communities, a pragmatic alliance emerges, fostering mutual advantages. This phenomenon prompts a discernible trend wherein political leaders, including heads of state, allocate considerable resources towards enhancing their visibility on various social media platforms. This strategic endeavor is not solely driven by the convenience afforded by modern communication channels but also by the strategic imperative to cultivate fresh support constituencies, particularly within younger demographics, through clear and compelling messaging strategies. Within the contemporary sociopolitical landscape, it becomes apparent that the far-right faction has adeptly capitalized on the intricacies of this

**Sharing Fascism: The Responsibility of Social Media Platforms in the Rise of the Far-Right**

communicative framework. They do so by leveraging candidates endowed with extravagant, hyperbolic, and exaggerated personas, strategically designed to capture public attention (Lempert; Silverstein, 2012: 8).

Significant attention has been drawn to the distinctive manner in which Donald Trump engaged with the former Twitter platform (X). While the former president did not inaugurate the political utilization of the platform, his approach notably transformed its landscape. Throughout his campaign, Trump and his marketing team adopted a strategy characterized by negativity, featuring vehement remarks concerning the national landscape and Democratic policies. The proliferation of this discourse, filled with misinformation and biases, notably augmented Trump's popularity, as his tweets consistently captured media headlines (Ross; Caldwell, 2020: 14). In this context, his comments also disseminated widely through paid digital influencers.

The utilization of X, a prominent global social media platform, acts as a channel for a wide spectrum of opinions, surpassing the constraints of 'political correctness' often observed in traditional media channels. Notably, X prioritizes the principle of freedom of expression, drawing a varied user base, ranging from advocates of democratic principles to proponents of more radical ideologies.

### Sharing Fascism: The Responsibility of Social Media Platforms in the Rise of the Far-Right

Consequently, Trump successfully appealed to substantial segments of disenchanted voters dissatisfied with the established political order, ultimately leading to his victory in the 2016 elections.

During his presidency, Trump consistently maintained his rhetoric, albeit shifting its focus towards international actors, popular movements, and even leaders of states who opposed his policies. He strategically leveraged these elements to mobilize intercontinental support bases that shared similar sentiments, engaging with communities such as those found on Reddit and Facebook. This sparked a surge of individuals and digital influencers who began utilizing platforms like X as reactionary tools. In this realm of "twiplomacy," multiple individuals in the sphere of global politics, including Trump, emerged, employing X to advance ideals characterized by traits of narcissism, psychopathy, and Machiavellianism (Ross; Caldwell, 2020: 16).

This phenomenon has predominantly spread across Europe and South America. Froio and Ganesh (2019) have identified that the transnationalism of the far-right through digital platforms has notably influenced countries such as France, Germany, Italy, and the United Kingdom. International collaboration among extremist groups in these nations is evident as they utilize platforms like X and

Sharing Fascism: The Responsibility of Social Media Platforms in the Rise of the Far-Right

other digital channels to coordinate protests with antidemocratic agendas (Froio; Ganesh, 2019: 517). In Italy, movements of this nature contributed to Giorgia Meloni's presidential victory in 2022, while in Germany, they facilitated the neo-Nazi party's parliamentary expansion.

In South America, a similar trend was notably observed, predominantly revolving around the persona of Jair Bolsonaro in Brazil from 2018 to 2022. Throughout his candidacy and presidency, there was a pronounced utilization of "us vs. them" narratives, alongside the dissemination of misinformation on platforms like X and WhatsApp, aimed at undermining political adversaries and opposing ideologies (Viscardi, 2020). Moreover, there was a dissemination of antidemocratic sentiments through Telegram groups, an essential element contributing to the infamous "*Gabinete do Ódio*" scandal within the country (Negreiros, 2022). Furthermore, amidst the Covid-19 pandemic, there was a significant increase in the utilization of YouTube as a platform for disseminating videos that belittled journalists who were disapproving of the government (Nicoletti; Flores, 2022).

Given the evidence, it becomes apparent that the use of social media as a political instrument by the far-right is neither an isolated occurrence nor confined to specific geographical boundaries.

### Sharing Fascism: The Responsibility of Social Media Platforms in the Rise of the Far-Right

Instead, it represents a multifaceted mechanism perpetuated by the political establishment and economic elites, who capitalize on the aspirations and apprehensions of both young and adult demographics. Through the dissemination of "humorous" messages and assaults on democratic principles, they secure electoral advantages that erode the foundational values of liberty.

The most viable approach to mitigating the spread of digitized barbarism entails reforming the operational mechanisms of social media platforms. It is essential, therefore, to investigate optimal strategies for holding accountable, regulating, and penalizing networks that enable the dissemination of global extremism.

#### **In Defense of Democracy and Digital Justice**

If significant accountability rests on individuals propagating criminal content on social networks and on politicians fostering connections with these groups, thereby undermining democracy, equal attention should be directed towards the companies enabling such harmful activities. Each of the previously mentioned social media platforms bears responsibility for the global decline of democracy.

It is no coincidence that, despite platforms having terms of use and policies for users, their efforts appear ineffective against the

**Sharing Fascism: The Responsibility of Social Media Platforms in the Rise of the Far-Right**

sheer volume of prejudiced, aggressive, and segregating actions perpetrated by the digital far-right. The administrators of social networks are directly involved in these actions, driven by their own interests, as they not only mediate communication and value exchange, but shape participation, what is shown to whom, how users are directed towards or away from specific content, how information is collected, processed and presented by the algorithm for specific purposes. (Gillespie, 2018: 257.)

The key aspect lies in the immense scale of contemporary social networks, boasting user numbers in the billions. Those who manage the operations of networks wield influence not only over global connectivity but also over the political and democratic trajectories of entire nations and communities. As articulated by Khajeheian (2020: 124), social platforms emerge as the modern-day empires, with network owners assuming the roles of sovereigns and favorable content serving as their playground.

Hence, the operations of such companies, lacking global regulatory or punitive mechanisms, have emerged as a substantial challenge to be addressed within the realm of international law. It is crucial to explore concrete pathways to counteract the proliferation of online antidemocratic movements and the

**Sharing Fascism: The Responsibility of Social Media Platforms in the Rise of the Far-Right**

normalization of discriminatory memes, all while preserving the vital principle of digital freedom of expression.

It is clear that self-regulation strategies adopted by companies fall short. For instance, in companies like Facebook in 2018, policies were rolled out to strengthen the monitoring of posts violating community guidelines, alongside new rules for advertising on the platform. However, these measures proved insufficient in addressing the extensive volume of offensive and false content proliferating online. Similar situations can be observed on other platforms within the Meta group, such as Instagram, Messenger, and WhatsApp (Rochefort, 2020: 240).

The current trajectory, which continues to evolve and has, to some extent, yielded progress in addressing illegal practices on the internet, merits analysis. Individual states or international organizations such as the UN, European Union, and International Telecommunication Union have been formulating agreements and regulations regarding online conduct (Majid, 2018: 10), exemplified by the Budapest Convention and General Data Protection Law. However, while these mechanisms have shown some effectiveness against digital crimes, there are challenges in their practical application to combat entrenched far-right extremism.



**Sharing Fascism: The Responsibility of Social Media Platforms in the  
Rise of the Far-Right**

Firstly, because the Convention provides, in Article 20, the possibility of storing metadata during communication by service providers, and in Article 21, the interception of communication content, in a confidential manner (Brazil, 2023). In nations already governed by extremist and/or authoritarian leaders, such provisions could have adverse outcomes from what is democratically envisioned, potentially being utilized in ways that best suit the interests of the state and the dominant political class, to the detriment of the people.

Moreover, academia has critiqued the development of the Second Additional Protocol of the Convention for its lack of thorough consultation with Civil Society. This has resulted in a document which makes protection mechanisms discretionary, as it lacks sufficient judicial supervision, potentially resulting in infringements on privacy and the freedom of expression of the populace (Rodriguez; Israel, 2021, online).

It is important to recognize that existing international laws and agreements were not conceived as mechanisms for regulating social media platforms, nor as tools for restraining extremist politicians on these platforms. There is a critical need to develop, within legal frameworks, effective regulatory and punitive measures to address the impunity exhibited by such companies.

**Sharing Fascism: The Responsibility of Social Media Platforms in the Rise of the Far-Right**

There are solutions proposed in academia both for regulation and for penalizing entities that promote disorder and illegalities – even if such instigators are political figures – in the digital environment. Regarding regulation, Rochefort (2020: 252) suggests a solution by considering the regulation of social networks through classification as public utilities, which, in addition to ensuring greater government intervention in platform discourse,

“Could involve separating the information conduit functions of platforms from their paid services (that is, advertising) and curated newsfeed. This could help to ensure universal access to information and potentially reduce problems associated with platform manipulation. Another variation of public utility regulation might include the creation of public options, that is, new government-funded platforms offering an alternative to the private companies.”

A measure of such magnitude, implemented on an international scale, could potentially weaken the hate industry, which is orchestrated by politicians and perpetuated by individuals, and which contaminates social media platforms. However, caution should be exercised to prevent governments from leveraging this power to undermine the democratization of discourse online. Additionally, efforts must be made to ensure that such actions do

**Sharing Fascism: The Responsibility of Social Media Platforms in the Rise of the Far-Right**

not lead to the complete suppressing of smaller social media platforms, forcing them out of the market.

For this reason, the importance of judicial solutions that align with potential new regulations is also emphasized. In this context, there is an urge for the establishment of an entity capable of adjudicating and penalizing daily cybercrimes, which frequently underpin far-right activities. Hence, to foster substantive dialogue with regulatory efforts, the inception of an authentic globalized and digital entity serving as an international internet tribunal is deemed necessary (Freire e Almeida, 2015).

The author does not believe that the complex network of manipulation and criminality orchestrated by the far-right can be eradicated in the short or medium term. It is evident that even the implementation of the solutions proposed earlier requires strong international cooperation and robust action by institutions of international law. In an era where individualism is on the rise and countries are closing themselves off from the international domain, such points may seem idealistic. However, contemplating how to bring them into practical fruition may be the first and most crucial step in a journey to combat digital neo-fascism and foster a safer and more democratic digital environment.

## Sharing Fascism: The Responsibility of Social Media Platforms in the Rise of the Far-Right

### Conclusion

Research on the utilization and manipulation of networks by far-right groups remains relatively recent. As elucidated throughout this article, the extent to which this sphere provides a "free rein" for prejudiced and extremist individuals has resulted in societal harm, impacting both civil and political domains.

The reality is that these criminal and antidemocratic figures have already seized control of social media algorithms. The rapid emergence of a collective identity among both young and adult populations, characterized by the propagation of misogyny, racism, xenophobia, and the exclusion of diverse ideals, is evident. Likewise, politicians who align with and invest in this narrative are reaping electoral gains. The current trajectory points towards a profound global disruption.

No major platform can evade responsibility. Reddit, X, Facebook, Instagram, WhatsApp, Telegram, and YouTube are merely a handful of the multitude of social networks and communication companies that require a transformation in their range and operational permissions.

The only viable solution lies in developing novel and efficient mechanisms for holding these groups accountable, regulating their activities, and imposing penalties. This approach will help mitigate

**Sharing Fascism: The Responsibility of Social Media Platforms in the  
Rise of the Far-Right**

the dissemination of fascism, which undermines the fundamental purpose of social media: fostering diversity.

### References

BRAZIL. DECRETO Nº 11.491, DE 12 DE ABRIL DE 2023. Promulga a Convenção sobre o Crime Cibernético, firmada pela República Federativa do Brasil, em Budapeste, em 23 de novembro de 2001. Disponível em:

[https://www.planalto.gov.br/ccivil\\_03/\\_Ato20232026/2023/Decreto/D11491.htm](https://www.planalto.gov.br/ccivil_03/_Ato20232026/2023/Decreto/D11491.htm). Acesso em 23 nov. 2023.

CHHABRA, R. A. D. H. I. K. A. (2020). Twitter diplomacy: a brief analysis. Observer Research Foundation-ORF, Issue Brief, 335(1), 1-12.

FREIRE E ALMEIDA, Daniel. Fake News and The Liability of Social Networks. Revista Científica sobre Cyberlaw do Centro de Investigação Jurídica do Ciberespaço – CIJIC – da FACULDADE DE DIREITO DA UNIVERSIDADE DE LISBOA - Portugal. Lisboa: Cyberlaw, EDIÇÃO N.º X – SETEMBRO DE 2020, p. 203/219.

FREIRE E ALMEIDA, Daniel. Um Tribunal Internacional para a Internet. 1 ed. São Paulo, Almedina Brasil, 2015. 430 p.

FROIO, Caterina; GANESH, Bharath. The transnationalisation of far right discourse on Twitter, *European Societies*, 2019, 21:4, 513-539, DOI: 10.1080/14616696.2018.1494295. Acesso em 23 nov. 2023.

GAUDETTE, Tiana; SCRIVENS, Ryan; DAVIES, Garth; FRANK, Richard. Upvoting extremism: Collective identity formation and the extreme right on Reddit. SAGE Publications, *New media & society* 2021, Vol. 23(12) 3491–3508. Disponível em:

Sharing Fascism: The Responsibility of Social Media Platforms in the  
Rise of the Far-Right

<https://journals.sagepub.com/doi/10.1177/1461444820958123>.  
Acesso em 20 nov. 2023.

GILLESPIE, T. Regulation of and by platforms. In *The SAGE Handbook of Social Media* (pp. 254278), 2018. SAGE Publications Ltd, <https://doi.org/10.4135/9781473984066>. Disponível em: <https://sk.sagepub.com/reference/the-sage-handbook-of-social-media/i2081.xml>. Acesso em 23 nov. 2023.

HALE BJ. “+1 for Imgur”: a content analysis of SIDE theory and common voice effects on a hierarchical bidirectionally-voted commenting system. *Computers in Human Behavior*, 2017, 77(1): 220–229.

KHAJEHEIAN, Datis. The Struggle to Regulate Social Media Platforms. *Nordic Journal of Media Management*, Issue 1(2), 2020, DOI: 10.5278/njmm.2597-0445.5426.

KILDIŞ, Hüseyin Pusat. Post-Truth and Far-Right Politics on Social Media. *E-International Relations*, 2020. Disponível em: <https://www.e-ir.info/2020/11/17/post-truth-and-far-rightpolitics- on-social-media/>. Acesso em 20 nov. 2023.

LAMERICHES, Nicolle; NGUYEN, Dennis; CARMEN, Mari; MELGUIZO, Puerta; RADJEVIC,

Radmila; LANGE-BÖHMER, Anna. “Elite Male Bodies: The Circulation of Alt-Right Memes and the Framing of Politicians on Social Media.” *Participations*, 2018, 15 (1): 180–206. Disponível em: <https://www.participations.org/15-01-11-lamerichs.pdf>. Acesso em 23 nov. 2023.

LEMPERT, M & SILVERSTEIN, M. (2012). *Creatures of Politics: Media, Message and the American Presidency*. Indiana University Press.

**Sharing Fascism: The Responsibility of Social Media Platforms in the Rise of the Far-Right**

MASSANARI, A. #Gamergate and the fapping: how Reddit's algorithm, governance, and culture support toxic technocultures. *New Media & Society* 19(3): 329–346, 2017.

MATAMOROS-FERNANDEZ, Ariadna; FARKAS, Johan. Racism, Hate Speech, and Social Media: A Systematic Review and Critique. *Television & New Media* 2021, Vol. 22(2) 205–224. Disponível em: <https://journals.sagepub.com/doi/10.1177/1527476420982230>. Acesso em 20 nov. 2023.

NEGREIROS, Célia Rejane Araújo. Gabinete do ódio e fake news – os métodos da extrema-direita e a corrosão da democracia no Brasil. Dissertação de Mestrado, UFPB, João Pessoa, 2022. 148 f. Disponível em: <https://repositorio.ufpb.br/jspui/handle/123456789/26685>. Acesso em 23 nov. 2023.

NICOLETTI, J.; FLORES, A. M. M. Violence against journalists on Jair Bolsonaro's Youtube Channel: analysis of the first 100 days of the Covid-19 pandemic in Brazil. **Brazilian journalism research**, [S. l.], v. 18, n. 1, p. 4–35, 2022. DOI: 10.25200/BJR.v18n1.2022.1438. Disponível em: <https://bjr.sbpjor.org.br/bjr/article/view/1438>. Acesso em: 23 nov. 2023.

PORTER, Jon. "TikTok Unblocks US Teen Who Slammed China for Uighur Treatment." *The Verge*, 28 de novembro de 2019. <https://www.theverge.com/2019/11/28/20986867/tiktokunblock-usteen-china-criticism-muslim-minority-terrorist-imagery-moderation-guidelines>. Acesso em 20 nov. 2023.

RODRIG, Dani. Why Does Globalization Fuel Populism? Economics, Culture, and the Rise of Right-Wing Populism. *Annual Review of Economics*, 13:133–70, 2021. Disponível em: <https://www.annualreviews.org/doi/pdf/10.1146/annurev-economics-070220-032416>. Acesso em 20 nov. 2023.

Sharing Fascism: The Responsibility of Social Media Platforms in the  
Rise of the Far-Right

ROCHFORT, A. Regulating Social Media Platforms: A Comparative Policy Analysis. *Communication Law and Policy*, 25(2), 225–260, 2020. DOI:10.1080/10811680.2020.1735194.

Disponível em:

<https://www.tandfonline.com/doi/abs/10.1080/10811680.2020.1735194>. Acesso em 23 nov. 2023.

RODRIGUEZ, Katitza; ISRAEL, Tamir. Global Law Enforcement Convention Weakens Privacy & Human Rights. Coluna publicada à Eletronic Frontier Foundation, em 8 de junho de 2021. Disponível

em: [https://www.eff.org/pt-](https://www.eff.org/pt-br/deeplinks/2021/06/global-law-enforcement-conventionweakens-privacy-human-rights)

[br/deeplinks/2021/06/global-law-enforcement-conventionweakens-privacy-human-rights](https://www.eff.org/pt-br/deeplinks/2021/06/global-law-enforcement-conventionweakens-privacy-human-rights). Acesso em 23 nov. 2023.

ROSS, Andrew S.; CALDWELL, David. ‘Going negative’: An APPRAISAL analysis of the rhetoric of Donald Trump on Twitter, *Language & Communication*, Volume 70, 2020, Pages 1327, ISSN 0271-5309. Disponível

em: <https://doi.org/10.1016/j.langcom.2019.09.003>. Acesso em 23 nov. 2023.

VISCARDI, Janaísa Martins. FAKE NEWS, VERDADE E MENTIRA SOB A ÓTICA DE JAIR BOLSONARO NO TWITTER. Dossiê, *Trabalhos em Linguística Aplicada*, 59 (2), mai-ago 2020. DOI: <https://doi.org/10.1590/01031813715891620200520>. Acesso em 23 nov. 2023.

YERLIKAYA, T., & ASLAN, S. T. Social Media and Fake News in the Post-Truth Era: The Manipulation of Politics in the Election Process. *Insight Turkey*, 22(2), 177–196, 2020. Disponível em: <https://www.jstor.org/stable/26918129>. Acesso em 20 nov. 2023.



**Sharing Fascism: The Responsibility of Social Media Platforms in the  
Rise of the Far-Right**

**How to cite:**

DIAS, Lucas Fernandes. Sharing Fascism: The Responsibility of Social Media Platforms in the Rise of the Far-Right. **Lawinter Review**, New York, v. 15, n. 01, p. 79-104, 2024, available at: <http://www.lawinter.com/review.htm> .

**Sharing Fascism: The Responsibility of Social Media Platforms in the  
Rise of the Far-Right**

Isabella Alvares Fernandes – Daniel Freire e Almeida

# THE EUROPEAN UNION AND THE ROLE OF GLOBAL GOVERNANCE IN BUILDING NEW GREEN DEALS AROUND THE GLOBE <sup>1</sup>

*Isabella Alvares Fernandes* <sup>2\*</sup>

*Daniel Freire e Almeida* <sup>3\*\*</sup>

---

<sup>1</sup> **How to cite:**

FERNANDES, Isabella Alvares; FREIRE E ALMEIDA, Daniel. The European Union and the Role of Global Governance in Building New Green Deals Around the Globe. **Lawinter Review**, New York, v. 15, n. 01, p. 107-116, 2024, available at: <http://www.lawinter.com/review.htm> .

<sup>2</sup> \* **Isabella Alvares Fernandes:**

-Lawyer.  
-Masters in International Law from the Catholic University of Santos.  
-PhD candidate in International Environmental Law at the Catholic University of Santos. Student Researcher at the Research Group on Global Governance and International Regimes, also at the Catholic University of Santos.  
-E-mail: [isabella.alvares@unisantos.br](mailto:isabella.alvares@unisantos.br) .

<sup>3</sup> \*\* **Daniel Freire e Almeida:**

-Postdoctor in International Law - Georgetown University - Law Center, Washington DC, United States of America (2015-2017).  
-PhD in International Law - Faculty of Law - University of Coimbra, Portugal (2008-2012).  
-Master in International Law - Faculty of Law - University of Coimbra, Portugal (1999-2002).  
-Permanent Professor of the Postgraduate Program - PhD and Masters in International Law - Catholic University of Santos (UNISANTOS).

**The European Union and the Role of Global Governance in Building  
New Green Deals Around the Globe**

The climate changes observed today, caused by unrestrained human action of environmental degradation, give rise to the need for collaborative and integrated actions to resolve common problems, since it is impossible to contain and mitigate the aforementioned climate degenerations in isolation and unilateral. For its complete contemplation, it is essential that there is, therefore, the conjuration of multiple elements from different areas to coordinate problem-solving efforts.

In this area, with the massification of globalization and the recognition of common problems between actors, initially States, but later non-state, appropriate solutions are sought that can be carried out in a multilateral manner. This spectrum conceives that the sovereignty of States gives rise to cooperative and joint action between entities (Fernandes, 2021), allying themselves with other actors, emerging in the concept of global governance, which qualifies as a tool, means and process in problem solving (Gonçalves, 2021).

Therefore, three fundamental aspects of global governance deserve to be highlighted: 1) its instrumentality, precisely because

---

-Lawyer, acting, in Brazil and abroad, in the areas of International Law, Digital Law, Space Law, and International Relations.

-E-mail: lawyer@adv.oabsp.org.br .

**The European Union and the Role of Global Governance in Building  
New Green Deals Around the Globe**

it qualifies as the path to producing effective results; 2) expanded participation in decision-making processes beyond actors restricted to traditional International Law, with the inclusion of civil society, subnational governments, non-governmental organizations, the scientific community, among others; 3) importance of consensuality in the establishment of actions and relationships, thinking about a reality that gets rid of the rigidity of obligations to be fulfilled (Gonçalves, 2021).

Global governance presents itself as a pillar for the continuation of the 21st century and the maintenance of a new multilateral model of cooperation in the globalized world, and cannot be ignored, considering its presence in the most diverse areas, such as the environment, and it is essential that its practice takes place widely, as well as its development.

The contemporary context demands more institutionalized, effective and democratic action so that multilateral and, consequently, global governance is viable (Abranches apud Gonçalves, 2021).

Covering governmental institutions, more broadly than government, governance encompasses “informal mechanisms, of a non-governmental nature, that cause people and organizations

**The European Union and the Role of Global Governance in Building  
New Green Deals Around the Globe**

within their area of activity to have a determined conduct, satisfy their needs and respond to their demands” (Rosenau, 2000).

In this utilitarian criterion of global governance, it becomes an instrument for conducting policies and other management in various areas, as previously mentioned, including the environment. It is on this point that it can be said that global governance is essential for the conduct of policies that involve Green New Deals, or new green agreements.

As mentioned above, climate change affects humanity as a whole, in an unprecedented degeneration. It turns out that the climate crisis is not unrelated to other factors, being considered a triple crisis (Elliott et al., 2008), of a financial, climate and energy nature, culminating in a system that feeds on credit – which gives rise to a financial crisis, accelerates climate change and sees the price of energy sustained due to oil production skyrocket.

Taking inspiration from the economic policy of Frank Roosevelt (Chomsky; Pollin, 2020), then president of the United States of America, the new wave of New Green Deals arises from the demand for containment of the triple crisis, combining short-term stabilization with long-term restructuring of the three sectors, financial, energy and tax, from an international perspective,

**The European Union and the Role of Global Governance in Building  
New Green Deals Around the Globe**

requiring actions at different levels, such as local, national, regional and global (Elliott et al., 2008).

Through a reduction in the use of fossil fuels, financial and tax regulation, in addition to combating unemployment and developing a resilient low-carbon economy, in perspectives of multiple actions (Legnaioli, 2021), the New Green Deals aim to create a resilient economy and sustainable, promoting environmental protection and social justice. Looking at the current situation, it is extremely necessary to adopt some form of Green Deal, as maintaining the situation that is envisaged is nonsense.

Global governance then presents itself as the essential backdrop to enable the changes aimed at by the new wave of New Green Deals, citing as a concrete example the establishment of the European Green Deal, by the European Union, in 2019. This is how it is done. because it provides the necessary foundation for a cooperative dialogue to take place between States and other actors, negotiating problems at a round table in which the convergence of interests and solutions to contemporary problems is important.

Through techniques, rules, norms and legal arrangements, in addition to institutions, it becomes possible to manage relationships and concrete actions between States and other actors

**The European Union and the Role of Global Governance in Building  
New Green Deals Around the Globe**

in this specific thematic area, promoting integration and solutions to transnational problems and challenges in a globalized world, with supranational action and an incremental approach with existing regimes and institutions.

In this sense, the emergence of the new wave of Green Deals, thanks to the atmosphere created by the Paris Agreement (Capar, 2021), caused the European Union to take the lead, soon presenting its own Green Deal. Already considered a leader in this new movement to protect and combat climate change (Vogler, 2004), it developed the European Green Deal in 2019 (European Commission, 2019).

Considering that climate change and environmental degradation are concrete threats to Europe and the rest of the world, the European Union aims to transform itself into a modern, efficient and competitive economy, guaranteeing climate neutrality by 2050, zeroing its greenhouse gas emissions. greenhouse effect (GHG) with economic growth decoupled from the use of these resources (European Commission, 2019), through a holistic and cross-sectoral approach (Freire e Almeida; Fernandes, 2023).

In this way, the movement already carried out within the European Union, as a decentralized supranational structure, already highlights the use of global governance as a viability



**The European Union and the Role of Global Governance in Building  
New Green Deals Around the Globe**

mechanism for the implementation of New Green Deals, in the search for resolving the previously mentioned triple crisis.

Global governance qualifies, therefore, as the basis for seeking joint solutions in a cooperative and integrative way, in a range of activities based on common objectives, not depending on the police power inherent to the State so that they overcome possible resistance and are widely accepted. (Rosenau, 2000). Governance is seen as the mechanism, or better said, the tool for the future.

### References

CAPAR, Gurkan. From Conflictual to Coordinated Interlegality: The Green New Deals Within the Global Climate Change Regime. **Italian LJ**, v. 7, p. 1003, 2021. Available at: [https://heinonline.org/hol-cgi-bin/get\\_pdf.cgi?handle=hein.journals/italj7&section=54](https://heinonline.org/hol-cgi-bin/get_pdf.cgi?handle=hein.journals/italj7&section=54). Accessed on: 27 May 2024.

CHOMSKY, Noam; POLLIN, Robert. **Crise climática e o Green New Deal global: a economia política para salvar o planeta**. Rio de Janeiro: Roca Nova, 2020.

ELLIOTT, Larry et al. **A Green New Deal: Joined-up policies to solve the triple crunch of the credit crisis, climate change and high oil prices - the first report of the Green New Deal Group**. Available at: [https://neweconomics.org/uploads/files/8f737ea195fe56db2f\\_xb m6ihwb1.pdf](https://neweconomics.org/uploads/files/8f737ea195fe56db2f_xb m6ihwb1.pdf). Accessed on: 27 May 2024.

EUROPEAN COMMISSION. **A European Green Deal**. Available at: [https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/european-green-deal\\_en](https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/european-green-deal_en). Accessed on: 27 May 2024.

The European Union and the Role of Global Governance in Building  
New Green Deals Around the Globe

FERNANDES, Isabella Alvares. **Brexit: quebra da governança na União Europeia?** In: Alcindo Gonçalves, Daniel Freire e Almeida, Fernando Rei (orgs.). **Governança global: desafios e complexidade**. Santos: Editora Universitária Leopoldianum, 2021. Available at: <https://www.unisantos.br/wp-content/uploads/2021/03/governanca-global-2021-e-book.pdf>. Accessed on: 27 May 2024.

FREIRE E ALMEIDA, Daniel; FERNANDES, Isabella Alvares. A União Europeia e as Hodiernas Diretrizes e Políticas Climáticas. In: XII Encontro Nacional de Pós-Graduação, 2023, Santos. **Anais do XII Encontro Nacional de Pós-Graduação da Universidade Santa Cecília**. Santos: ISESC (Instituto Superior de Educação Santa Cecília), 2023, vol. 07, p. 317-321. Available at: <https://periodicos.unisanta.br/index.php/ENPG/article/view/3709>. Accessed on: 27 May 2024.

GONÇALVES, Alcindo. **Apresentação**. In: Alcindo Gonçalves, Daniel Freire e Almeida, Fernando Rei (orgs.). **Governança global: desafios e complexidade**. Santos: Editora Universitária Leopoldianum, 2021. Available at: <https://www.unisantos.br/wp-content/uploads/2021/03/governanca-global-2021-e-book.pdf>. Accessed on: 27 May 2024.

LEGNAIOLI, Stella. **O que é Green New Deal**. ECycle. Paz e Governança, 2021. Available at: <https://www.ecycle.com.br/green-new-deal/>. Accessed on: 27 May 2024.

ROSENAU, James N. Governança, ordem e transformação na política mundial. In: ROSENAU, James N. e CZMPIEL, Ernst-Otto (org). **Governança sem governo: ordem e transformação na política mundial**. Brasília: UnB - São Paulo: Imprensa Oficial, 2000. p. 11-41. Available at: <http://professor.pucgoias.edu.br/sitedocente/admin/arquivosUpload/17553/material/2.4%20COMPLEMENTAR%20->

The European Union and the Role of Global Governance in Building  
New Green Deals Around the Globe

%20Rosenau%20&%20Otto%20-  
%20Governan%C3%A7a%20sem%20governo.pdf. Accessed on: 27  
May 2024.

VOGLER, John et al. **In the absence of the hegemon: EU actorness  
and the global Climate change Regime.** 2004. Available at:  
[https://openresearch-  
repository.anu.edu.au/bitstream/1885/41008/3/Vogler.pdf](https://openresearch-repository.anu.edu.au/bitstream/1885/41008/3/Vogler.pdf).  
Accessed on: 27 May 2024.

**How to cite:**

FERNANDES, Isabella Alvares; FREIRE E ALMEIDA, Daniel. The  
European Union and the Role of Global Governance in Building New  
Green Deals Around the Globe. **Lawinter Review**, New York, v. 15,  
n. 01, p. 107-116, 2024, available at:  
<https://www.lawinter.com/review.htm> .

**The European Union and the Role of Global Governance in Building  
New Green Deals Around the Globe**

**LAWINTER REVIEW - Volume 15– n° 01– 2024**

**LAWINTER REVIEW – New York - ISSN 2153-4020**

# **LAWINTER REVIEW**

Law - International Law  
International Relations

---

ISSN 2153-4020

## LAWINTER REVIEW

Law - International Law  
International Relations

ISSN 2153-4020

### LAWINTER WORLD GROUP

The Lawinter World Group is a pioneering open-access review for the publication of knowledge and commentary on Law, International Law, and International Relations.

It has been online and freely available since 2001 ([lawinter.com](http://lawinter.com)).

Founded to present an opportunity to students access the pedagogical materials of international law, linking cutting edge international law with “today’s classroom”, Lawinter has become a connection center for scholars around the world in various branches of Law and International Relations.

The global reach of Lawinter is achieved through its online presence, the high caliber of its contributors, authors, and editors.

More recently, Lawinter World Group included the publication of Books from Swiss and United States to the world.

Lawinter Review and Lawinter Editions warmly welcome submissions of high-quality, including articles, Books, essays, case-notes, comments, and reviews, which focus on Law, International Law, and International Relations, Lawinter Review and Lawinter Editions publish in English, French, German, Spanish, Italian or Portuguese.

Send all inquiries to:

[review@lawinter.com](mailto:review@lawinter.com)

**LAWINTER REVIEW – LAWINTER EDITIONS**

New York - Zürich