INTERNATIONAL LEGAL FRAMEWORK ON OWNERSHIP AND CONTROL OF NATURAL RESOURCES: PROBLEMS AND PROSPECTS

By

Gafar Gbenga Adebiyi-Oroyinyin*, Suzan Oluwaseun Akangbe, and Ibrahim Akangbe*****

ABSTRACT

For vast majority of the people, the use of natural resources is a part of everyday life, as a result of which access to natural resources should not be taken for granted. Millions of people die each year, most of them children, from lack of access to natural resources such as water, land, fish, wildlife and minerals. The picture gets much more complicated when access to these natural resources become the reason for a conflict or, much more frequently, are used to fuel a conflict. Accordingly, much attention has been given to issues relating to the ownership and control of natural resources at the local, national and international level. This paper fills the gap in existing literature on this subject, by identifying and analysing the problems and prospects of the international legal frameworks on ownership and control of natural resources. This is a quantitative research, it is library based and for this reason, reference is made to textbooks, published and unpublished works of legal writers, as well as internet resources. At the end, the conclusion reached is that with the existing laws, the prospects of achieving a rational and equitable system of allocation of the limited world resources is quite remote, but if nations add common sense, resourcefulness, regard for others' views and good-will to the national and international effort to reduce or completely eradicate the constant conflict over ownership and control of natural resources, these problems can be successfully resolved. Ultimately, this paper offers some recommendations and suggestions on how to resolve these problems.

INTRODUCTION

The World Bank defines natural resources as *'materials that occur in nature and are essential or useful to humans, such as water, air, land, forests, fish and wildlife, topsoil, and minerals'*.[1] These resources can be classified as renewable or non-renewable. In most cases, renewable resources such as cropland, forests, and water can be replenished over time by natural processes and if not overused, are indefinitely renewable. Non-renewable resources such as diamonds, minerals, and oil are found in finite quantities, and their value increases as supplies dwindle. Natural resources are usually regarded as gifts from God to a nation. But, in economic terms, it is often seen as a major source of national income and prowess of the states having them. More

* LL.M, Barrister and Solicitor, Lecturer, Crescent University, Abeokuta, Nigeria. oroyinyin2006@gmail.com
** Legal Practitioner, Yusuf Ali & Co., 254 Unity Road, Ilorin, Kwara State.
*** Principal Partner, Premium Legal Partners, Ilorin, Kwara State. akangbe@optimalchambers.com

[1] United States Institute of Peace Study Guide Series on Peace and Conflict for Independent Learners and Classroom Instructors, (United States Institute of Peace, 'Natural Resources, Conflict and Conflict Resolution', Washington, DC, 2007). Available at <www.usip.org%2Fsites%2Fdefault%2Ffiles%2Fresources%2F08sg.pdf&ei=MinQUsvgHcmUhQfDm4CABg&usg=AFQjCNGnsviQvM8cK4FhU2X4jjv-xlpzjg&sig2=Y-Iy5AIE8z7L71KRp0LXQ> accessed on 30 December 2013.

importantly, a nation's access to natural resources often determines its wealth and status in the world economic system.

Over time, so much attention has been given to issues relating to the ownership and control of natural resources at the local, national and international level. This has in turn, resulted in the development of diverse principles on ownership and control of natural resources by nations of the world and the international community. While some see natural resources as the national heritage of a particular state or joint property of one or more states, others view them as common property, accessible to any individual or nation wishing to use them and to others still, they are regarded as property of all mankind which should be under the control and management of the international institutions.

The aim of this paper is therefore, to identify and analyse the problems and prospects of the international legal frameworks on ownership and control of natural resource. In so doing, it gives a brief outline of the major causes of conflicts over natural resources, explicates the constitutional practices of some selected countries on ownership and control of natural resources, elucidates the international principles on ownership and control of natural resources, and enumerates the problems and prospects of these principles.

At the end, the conclusion reached is that with more than 190 nations pursuing separate objectives in a competitive effort to increase their share of limited world resources, the chances of somehow achieving a rational and equitable system of allocation of these resources is quite remote. Ultimately, this paper recommends that nations should add common sense, resourcefulness, regard for others' views and good-will to the international effort to reduce or completely eradicate the constant conflict over ownership and control of natural resources so that these problems can be successfully resolved.

Conflicts Over Ownership and Control of Natural Resources

For most of us, the use of natural resources is a part of everyday life. We wake up in the morning and turn on the faucets to brush our teeth, shower, and drink a glass of water. We drive to and from work, school, and other places, stopping so often to fill up the tank with gas. We use energy to light our homes and cook our food. Processed timber is used to form our chairs desks, pencils, and paper. We sometimes buy diamond and other jewelleries as a token of love or status. But access to natural resources should not be taken for granted. According to the United Nations (UN), many women walk several hours a day just to find water; and more than two million people, most of them children, die from diseases associated with water stresses each year.[2] The picture gets much more complicated when access to these natural resources become the reason for a conflict or, much more frequently, are used to fuel a conflict.[3]

Some of the major causes of conflicts over natural resources among many, are:

1. **Sole Dependence on a Particular Natural Resources:** Evidence has shown that countries that are solely dependent on a particular natural resource are more prone to conflict. That is why conflicts over natural resources in the western world is minimal irrespective of the

[2] Collier P, 'Economic Causes of Civil Conflict and Their Implications for Policy', in Chester, Croker, Osler and Pamela (eds), (Washington DC United States Institute of Peace, 2007).
[3] *Ibid*.

principle adopted by these countries because they have never relied solely on a particular resource than others, as opposed to some African countries like Nigeria where there is sole dependence on a particular natural resource[4] and this has in effect resulted in underdevelopment of other resources.[5]

2. **Weakness of State Structures:** Weakness of key state structures such as lack of good political and corporate governance in relation to regulation of natural resources, weakness in institutional and technical capacity i.e. having poor administrative capacity to regulate the natural resources sometimes result in conflict over ownership and control of natural resources. However, it must be pointed out that these weaknesses are common in the Africa continent.[6]
3. **Nature of Ownership Rights**: Due to dysfunctional nature of political system in many countries, especially in Africa, some private actors, including individuals and ethnic groups who inhabit the regions with natural resources deposits, often engage in conflict on the strength of their perceived ownership of such resources. This issue of unresolved ownership is what brings about conflicts, as reflected by the youths' insurgency in Nigeria's oil-rich Delta region, where citizens and ethnic minority who feel that they are being denied of the profits derived from tapping of resources found on their land which they feel belong to them as against the federation contrary to the constitutional provision that all the resources in the nation belong to the Federation[7]
4. **Peculiarities of Certain Natural Resources:** The peculiarities of some natural resources can also predispose them to conflict, linked to easy accessibility by non-state actors. These attributes include ease of discovery and extraction process, ease of transportation and less-technical ways of conversion (processing) into use. For instance, Land is undoubtedly the most important natural resource in Africa. Every society in the continent sees land as a natural resource that is held in trust for future generations. Land is also the "abode" of almost all other natural resources.[8]
5. **Negative Implications of Illegal Exploitation of Natural Resources**: for instance, illegal exploitation of oil has generated much interest and attention because of its high degree of profitability, the environmental consequences of its exploitation, the international nature of its politics and its role in the ethno-political and socio-economic affairs of the endowed countries.[9]

---

4 Nigeria depends solely on petroleum that is commonly found in the Niger Delta area of the country than other resources such Cocoa, Iron ore, bitumen and the likes, hence, the constant conflict in the region.

5 Dr. Abiodun Alao, 'Transforming a Peace Liability into a Peace Asset', (Paper presented at session one of the United Nations Expert Group Meeting on 'Natural Resources and conflicts In Africa: Transforming a Peace Liability into a Peace Asset', Cairo, Egypt, 17-19 June, 2006) available at <http://www.un.org/africa/osaa/reports/Natural%20Resources%20and%20Conflict%20in%20Africa%20Cairo%20Conference%20ReportwAnnexes%20Nov%2017.pdf > f on 10 January, 2014.

6 *Ibid*.

7 Mr. Alex Vines, 'Breaking the Link between Natural Resource Exploitation and Illicit Trade in Arms', (Paper presented at session one of the United Nations Expert Group Meeting on 'Natural Resources and conflicts In Africa: Transforming a Peace Liability into a Peace Asset, Cairo, Egypt, 17-19 June, 2006), available at <http://www.un.org/africa/osaa/reports/Natural%20Resources%20and%20Conflict%20in%20Africa%20Cairo%20Conference%20ReportwAnnexes%20Nov%2017.pdf> accessed on 10 January, 2014

8 *Ibid.*

9 United Nations Secretary-General Valuable Report, 'The causes of conflicts and Promotion of Durable peace and Sustainable Development in Africa', (1998).

6. **Unaccountable Governments:** Too often, government control of important resources and the revenues that flow from these resources go hand in hand with a culture of impunity, lack of respect for the rule of law and inequitable distribution of public resources. They can also make prolonged armed conflict more likely. In many resource-rich countries, control over resources gives governments a strong incentive to maintain power even at the expense of public welfare and the rights of the population. These factors often lead to governments with unaccountable power that routinely commit human rights abuse.[10] Such governments are abusive, unaccountable and corrupt and often grossly mismanage the economy. By the same token, unaccountable governments with large revenue streams at their disposal have multiple opportunities to divert funds for illegal purposes.[11]
7. **Actions of Third-Party Governments**: Conflict can be exacerbated by the actions of third-party governments seeking to profit from resource-rich neighbours. A prime example, detailed below, is the way in which both Ugandan and Rwandan governments have intervened in the conflict in DRC, a conflict that itself has been impelled by competition for lucrative resources. The involvement of Charles Taylor's forces in Sierra Leone's conflict and in western Côte d'Ivoire from September 2002 to mid-2003 was also driven in part by a desire to obtain control of such resources. The incursion into Côte d'Ivoire also fostered individual greed: Taylor's forces resorted to looting in lieu of pay.[12]

Although, conflicts involving natural resources have increased and their devastating consequences have widened, interest have also expanded on how to ensure that natural resource endowment cease from causing tragedy and become instrument of peace, stability and post conflict peace-building.[13] This is evidenced by the catalogue of national and international initiatives designed to stem conflict over ownership and control of natural resources.

Constitutional Practices of Selected Countries on Ownership and Control Of Natural Resources

The Constitution, being the ground norm of any land, is supreme.[14] It is the anchor of any society which directs how the society is ruled. Natural resources being the source of wealth of any nation, its ownership and control need to be properly guided in order to avoid conflict. Hence, the provision for the ownership and control of natural resources in the constitution[15] of some states, especially heterogeneous societies or federal states like Canada, Iraq, Nigeria, Russia and Sudan. In this paper, certain constitutional provisions of some countries (both federal and Unitary States), including Nigeria, on the ownership control and development of the natural resources of the nation will be considered.

It is instructive to note at this juncture, that in most instances where the Constitution specifically addresses ownership of natural resources, the sovereign state, or, as it is more commonly

[10] Dr. Biodun Alao, 'Transforming a Peace Liability into a Peace Asset'.
[11] The example of Liberian government under Charles Taylor.
[12] Alex Vines, 'Breaking the Link between Natural Resource Exploitation and Illicit Trade in Arms'.
[13] Dr. Abiodun Alao, 'Transforming a Peace Liability into a Peace Asset'.
[14] Marwa v Nyako *(2012) SCM 67 at 120 Paras F-l, 135 Paras E-l; PDP V CPC (2011) 9 SCM 37 At 46-48*
[15] Nicholes Haysorn and Sean Kane; 'Negotiating Natural Resources for Peace: Ownership, Control and Wealth Sharing', (October 2009).

expressed, "the people", is designated as the owner of the natural resources[16] However, it must be emphasized that ownership is different from management and control of natural resources, ownership might lie in a set of people while management or control lies in another body as will be demonstrated anon.

1. **Federal States**
   a. **Nigeria:** By section 44 (3) of the Constitution of the Federal Republic of Nigeria, 1999 (As Amended), the entire property in and control of all minerals, mineral oils and mineral gas in, under or upon any land in Nigeria or in, under or upon the territorial waters and the Exclusive Economic Zone of Nigeria shall vest in the government of the Federation. The implication of the above provision is that the ownership of natural resources lies in the federal government irrespective of the area where the resources are found. It is therefore, very surprising the attitude and the agitation of some of the people of the Niger-Delta laying sole ownership to the mineral oil found in their area therefore causing a lot of troubles in the region against the federal government,[17] their activities and claims are illegal. They have been able to do this because this provision is not pronounced and there is need for the National Assembly to look into this area and enact a law that will cater for this issue. Also, exclusive legislative authority over mines and minerals including hydro carbons has been given to the National Assembly.[18]
   b. **Canada:** Article 109 of the Canadian Constitution provides that all lands, mines, Minerals and Royalties belonging to the several provinces of Canada, Nova Scotia, and New Brunswick at the Union, and all sums then due or payable for such lands, mines, minerals, or Royalties shall belong to the several provinces of Ontario, Quebec, Nova Scotia and New Brunswick in which the same are situate or arise, subject to any interest other than that of the province in same. Therefore, the ownership of the resources resides in the province. The provincial Legislatures and governments are equally given exclusive authority to make laws related to exploration of non-renewable natural resources; development, conservation and management of non-renewable and forestry resources.[19]
   c. **Iraq:** The Constitution of Iraq provides that Oil and gas of the land are owned by the people of Iraq in the regions and governorates,[20] this provision seems to recognize individual or communal ownership of Natural resources as against what is obtainable in Canada and Nigeria. Meanwhile, the federal governments together with the producing regional and provincial governments are given the responsibility to formulate strategic 'policies to develop the Iraq's oil and gas wealth to achieve the highest benefit to the people.[21]

[16] International Monetary Fund, 'Guide on Resource Revenue Transparency', (June 2005). Resources in the ground are usually the property of the state, except in a few countries (e.g. the U.S.A) where private ownership of morals in the ground is legal.
[17] The activities of the Militants such MEND, MASSOP etc lead by late okiti, and the likes before the Amnesty Programme organized by the Late President Umar Musa Yar'Adua
[18] See Paragraph 39 of the exclusive legislative list of the 2nd schedule of the 1999 Constitution (As amended)
[19] See Section 92 of the Canadian Constitution Acts, 1867 to 1982.
[20] See Article 111 of the Constitution of Iraq, 2005.
[21] Ibid Article 112.2.

d. **Russia:** The provision of the Constitution of Russia in respect of ownership of resources is very interesting in the sense that it permits any form of ownership either private, state, municipal or other forms of ownership. The Constitution provides that the land and other natural resources shall be used and protected in the Russian Federation as the basis of the life and activity of the peoples living on their respective territories. It states further that the land and other natural resources may be in private, state municipal and other forms of ownership.[22] It is instructive to note that the management and the development of the natural resources lies in the Russian federation and the subject of the federation.[23]

e. **Sudan:** The approach of the Sudan Constitution in relation to ownership of natural resources is also a unique one. It is different from all others mentioned above because the constitution did not vest the ownership of natural resources in anyone.[24] Little wonder why conflict over natural resources is high and inevitable in the land. However, the formulation of public policy, development strategies and negotiation for approving all oil contracts lies in the Sudan National Petroleum Commission (NPC) with the representatives of National Government, Government of Southern Sudan and state Governments.[25]

2. **Unitary States**

a. **Indonesia:** By Article 32(2) of this constitution, sectors of production which are important for the country and affect the life of the people shall be under the powers of the states while sub 3 of the same articles 33 periods that the land, the waters and the natural resources within the state shall be under the powers of the state and shall be used to the greatest benefit of the people. Therefore, these natural resources are seen as national property devoid of any individual ownership. However, the management and control of these resources is given to the Council of Representatives of the Regions (Upper House of Parliament) in respect of making laws for the management of these natural resources and other economic resources,[26] thereby, making the power of the management asymmetrical.

b. **Papua New Guinea:** The ownership of national resources for Bongamville Island is to be determined in the future.[27] The sovereignty of Papua New Guinea over its territory, and over its natural resources is and shall remain absolute. Therefore, the ownership of the natural resources in that country lies in the state. While the power of control and management of the natural resources is given to the National Legislature.[28]

It is discernible from the constitutional provisions considered above, that those Constitutions envisage national sovereignty over natural resources, as opposed to the other principles of the UN on ownership and control of national resources which will be discussed shortly

[22] See Article 9 sub 1 and 2 of the Constitution of the Russian Federation, 1993.
[23] Ibid Articles 72.1.C and 72.l.E.
[24] See Article 2.1 of Sudan Comprehensive Peace Agreement, Wealth Sharing Protocol 2005.
[25] Ibid Article 32.
[29] See Chapter VIIA 22D, Sections 1 and 2 of the Constitution of the Republic of Indonesia, 1945.
[30] See Article 22 of the Constitution of the Independent State of Papua New Guinea, 1975.
[31] Ibid Article 290.2.zd.

International Principles on Ownership and Control of Natural Resources

The international legal framework on ownership and control of natural resources are contained in the various international instrument negotiated and entered by different countries of the world such as charters, conference reports of the UN General Assembly, as well as declarations and resolutions issued by the UN and its subsidiaries. However, it is not practical in this paper to attempt to review all of the rules, institution, arrangement and procedures bearing on natural resource policies and issues[29] because the law in this area is scattered and it is still uncertain whether the many types of natural resources and the diverse problems they encompass can be handed within a single framework of rules. Instead, this paper will consider these rules as they evolved by the UN over the years and culminated into the four major principles that have been adopted by the UN over the years. These are:

1. National Control over Natural Resources,
2. Joint National Control of Resources,
3. Common Access to Natural Resources, and
4. International Ownership and Control Resources[30]

1. **National Control over Natural Resources**

   The most prominent and momentous of these principles on natural resources allocation is the principle that a nation may acquire sovereignty and/or exclusive jurisdiction over particular resources. The best-known and most important application of this principle is the rule that resources located in a nation's territory, including its territorial waters, are subject to its sovereignty. Indeed, this rule is now so strongly established that territorial sovereignty and sovereignty over resources present within a nation's territory are normally linked inseparably in peoples' minds. Thus, the copper present within Chile's territory is seen as "Chile's copper," the oil present in Nigeria is viewed as "Nigeria's oil," while the wheat grown in the United States is regarded as "the United States' wheat". Under this principle, since almost all of the earth's land area is claimed by one or another nation, almost all of the earth's land and subsurface resources are "owned" by some nation. Presently, the reach of this principle is no longer limited to resource found on or under land within national territory. It has now been extended to many of the important resources in the seas adjacent to but, not legally within national territory. Since 1945, there has been a dramatic expansion in coastal states' claims to jurisdiction over the resources-although not the waters themselves- of the continental shelves and fisheries in the seas along their coasts. These claims sometimes have created serious tensions among nations competing for access to these resources: the "cod war," "tuna war," "shrimp war," and so on.

   However, there is an overwhelming consensus favouring recognition of the right of coastal states to exercise resource jurisdiction in an "exclusive economic zone" extending at least, 200 miles from their coasts. Relying on this consensus, the United States, Canada, Japan, the Soviet Union, and other nations including those of the European Economic Community, have established 200 miles' fishery limits. In Nigeria, 200 miles' limit has

[29] See Schachter O, *Sharing The World's Resources*, (15 COLUM. J. TRANSNAT'L. L. 1 (1977) for a broad, thoughtful discussion of various legal and normative aspect of natural resources issue.

[30] Richard B. Bilder; 'International Law and Natural Resources Policies', (1980) 20 Natural Resources Journal 451, available at <https://www.google.com.ng/?gws_rd=cr&ei=Q5rCUuWNKOqvyAPE6oGAAw#q=United+National+Approach+To+Ownership%2c+Control+And+Development+Of+Natural+Resources+And+Weath> accessed on 30 December, 2013.

been given judicial pronouncement by the Supreme Court in the case of *A.G. River State v A.G. Akwa Ibom.*[31] With the establishment of the 200 miles' exclusive economic zones in the oceans, most of the earth's economically valuable mineral and living resources now are effectively under some nation's control.

The principle of national sovereignty over resources indicates that the nation having such sovereignty can deny some or all other nations access to or use of such resources.[32] In Nigeria, the Supreme Court in *A.G. River State v. A.G. Akwa Ibom State*[33] have also placed some embargo on the influence on international organization like the UN in the management and control of intrastate natural resources by holding that the Un Convention on the Law of the Sea, 1982 is not applicable in Nigeria when determining which state has what resources. This principle also means that a nation can permit access and use to other nations on such terms and conditions as it chooses. For instance, by entering concession agreements or by enacting laws controlling the exploitation of natural resources by aliens.

However, notwithstanding a nation's broad control over its own resources under this principle, it may be dependent on other nations for realization of some of the benefits accruing from control. Other nations, in the exercise of their own sovereignty, also have rights to control the import of foreign resources into their territory and to control any activities by their nationals exploiting or using foreign resources.[34] Consequently, nations that needs foreign assistance to exploit their resources effectively, or can profit from their resources only by exporting them, may find little practical meaning in the right of national sovereignty over the resources, unless other nations are prepared to help exploit these resources and permit access to their markets.

Likewise, a nation which needs another's resources can secure them only by convincing the second nation to supply them. A nation which can obtain benefits from its resources only by selling them abroad has to do so by convincing other nations to take them. Thus, the nature and extent of the movement of natural resources among nations inevitably depends upon the kind of influence which nations can use on each other. In most cases, national foreign policies concerning resources are attempts to exert such influence.[35]

One way to secure access to markets for resources is coercion, that is, the threat or use of force. This method was typical of the imperialist and colonialist periods of history. Coercion still plays an important role in many aspects of international affairs, but several factors have constrained its usefulness in resource policy. Broadly accepted international norms written into the UN Charter, the UN Declaration on Colonialism, the UN Declaration on Non-intervention, and an extensive array of other international instruments and precedents now clearly prohibit a nation from using force to acquire another nation's territory or resources. In a world of power blocs and alliances, practical political concerns

[31] (2011) 2 SCNJ 108 Paras B-D; 115-116 Paras F-B

[32] Examples this type of claim are the United States restrictions on exports of strategic commodities to certain communist countries and the 1973 Arab oil embargo.

[33] Ibid. at note 37, 53-54, paras l-A, 56 A-F.

[34] For instance, the United States has on various occasions, refused to permit imports of sugar from Cuba, established quotas on imports of foreign oil, and imposed constraints on trade, investment, and other transactions with other nations.

[35] Richard B. Bilder; 'International Law and Natural Resources Policies'.

and fears of escalation buttress these norms. The fact that developed nations in recent years, have rarely attempted to use military force to protect natural resource interests threatened by developing nations' actions suggests the extent to which coercion has been discarded, even by powerful countries, as a way of implementing natural resource objectives.

A second type of influence used to persuade other nations to supply or accept natural resources includes persuasion and appeals to altruism, goodwill, or self-interest. Developing nations recently have urged, with some success, that developed nations extend substantial amounts of economic assistance to poorer nations. Such help may involve the flow of developed countries' resources and monies to developing countries as gifts or loans at reduced rates[36]. It may also take the form of favoured treatment for developing countries' products in developed nations' markets. International law now recognizes that developed countries are obligated to extend economic assistance to developing nations, and an extensive body of rules, agreements institutions, and procedures has been designed to facilitate and regulate assistance efforts.[37] The question is no longer whether developed nations should give, but how much.[38]

Another way by which a nation may secure another's resources or access to another's markets is the mechanism of exchange (international trade) through various network of international rules, agreements, and institutions facilitating and regulating world trade in resources, including: bilateral and multilateral commercial agreements for specific exchanges of commodities, or establishing broad rules to encourage mutual trade and investment such as common markets and free trade areas; arrangements such as the General Agreement on Tariffs and Trade for mutual reduction or removal of tariffs and other discriminatory barriers to trade; agreements such as the Lome Convention to foster trade among specific groups of developed and developing countries; organizations of resource-producing nations, such as the Organization of Petroleum Exporting Countries (OPEC), or of resource-importing nations, such as the International Energy Agency, to strengthen bargaining powers or to deal with common concerns; commodity agreements among both producers and consumers such as the international tin, coffee, and wheat agreements, to rationalize trade and stabilize prices in particular commodities; UN institutions such as the Conference on Trade and Development, the regional and economic commissions, and the Food and Agriculture Organization Commercial exchanges of this type currently are the most important basis for international flow of resources and a host of other bodies dealing with natural resources, trade, and economic development issues..[39]

2. **Joint National Control of Natural Resources**

The second principle of international allocation of natural resources is the principle that resources common to more than one nation or in which more than one nation has an active and substantial interest should be shared by the countries concerned according to equitable

[36] for example, agricultural commodities under the United States agricultural surplus disposal programs-and, of course, financial grants or loans

[37] See Schechter O, *The Evolving Law of International Development*, (15 COLUM. J TRANSNAT'L L. 1, 1976).

[38] Richard B. Bilder; 'International Law and Natural Resources Policies'.

[39] Ibid.

standards and procedures.[40] This concept is suggested, for example, in Article 3 of the UN Charter of Economic Rights and Duties of States, 1974, which provides that:

> In the exploitation of natural resources shared by two or more countries, each state must cooperate on the basis of a system of information and prior consultations in order to achieve optimum use of such resources without causing damage to the legitimate interests of others.[41]

This concept of joint control finds its most important application in the widely-approved principle of equitable utilization or apportionment of rivers or lakes which form a common boundary between nations or lie within more than one country. Under this principle, all the riparian states of an international river or lake and/or all the basin states of an international drainage basin have a right to an equitable and reasonable share in the use of such waters. Likewise, one riparian or basin nation should not use or allow the use of these waters in a way that will unreasonably interfere with the legitimate interests of other co-riparian or basin states.[42]

The idea of equitable utilization is embodied in about 300 international agreements dealing with rivers, lakes, and drainage basins throughout the world which suggests a cooperative approach in the management of these shared resources. Many of these agreements, such as the United States Canadian Boundary Waters Treaty of 1909, contains specific provisions governing the equitable use of the waters concerned. Some of them went further to establish joint Commissions or other common institutions to facilitate cooperation in the developments ad disputes.[43]

Another area in which the principle of joint national control of resources has been applied is the cooperative management of certain fisheries. However, freedom of fishing on the high seas has led to overexploitation and depletion of stocks and economic inefficiency for some nations' fleets. One response has been pressure to expand fisheries' limits to bring particular fisheries under one nation's control and management authority. In this case, a nation's own enforcement agencies can compel compliance with conservation and other regulations. Another response has been agreement by all nations in the fishery to create joint institutions such as the International Whaling Commission, the International Halibut Commission, and the Great Lakes Fisheries Commission, for managing and conserving the particular fishery resource. Some of these Commissions have been empowered to set (and to some extent enforce) overall quotas and specific national allocations for catches. In this case, the problems of securing compliance have proved more difficult.[44]

---

[40] Ibid p. 459.

[41] U.N. General Assembly Resolution No. 3281 (xxix), Charter of Economic Rights and Duties of State, (14 INT'L LEGAL MATERIALS 251, 1975), Art.3.

[42] Richard B. Bilder; 'International Law and Natural Resources Policies'.

[43] Ibid

[44] Koers A, 'International Regulation of Marine Fisheries: A Study of Regional Fisheries Organizations' (1973), available at <https://www.google.com.ng/?gws_rd=cr&ei=Q5rCUuWNKOqvyAPE6oGAAw#q=United+National+Approach+To+Ownership%2c+Control+And+Development+Of+Natural+Resources+And+Weath> accessed on 30 December, 2013.

The principle of joint control has also been employed in resolving the problems of international pollution. This is reflected in the concept that nations have responsibilities to each other and in this regard, Principle 21 of the UN Declaration on the Human Environment, adopted by the UN Conference on the Human Environment at Stockholm in 1976, provides thus:

> States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national Jurisdiction.[45]

A more unequivocal confirmation of the idea that states should work together toward a joint solution of these types of common resources problems is contained in a draft principle approved by the Governing Council of the UN Environmental Program in 1978, which states that:

> States have a duty to cooperate in the field of the environment concerning the conservation and harmonious utilization of natural resources shared by two or more States. Accordingly, consistent with the concept of equitable utilization of shared natural resources. States should cooperate with a view to controlling, preventing, reducing and eliminating adverse environmental effects which may result from the utilization of such resources. Such cooperation shall take place on an equal footing and due account shall be taken of the sovereignty and interests of the States concerned.[46]

Other explicit attempts to put cooperative management of common environmental problems into practice can be found in international agreements such as the 1972 London Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, the 1974 Convention on the Protection of the Marine Environment of the Baltic Sea Area, the 1976 Convention on the Protection of the Mediterranean Against Pollution and the UN Environmental Program. Manifestly, as opposed to international declarations, resolutions, and statements of principles, international agreements are legally binding and usually provide procedures for enforcement.[47]

3. **Common Access to Natural Resources**

The third and conflicting principle of international allocation of natural resources is the principle that resources should not be subject to national sovereignty or jurisdiction but should, in effect, be common property, accessible to any individual or nation wishing to use them. This principle has found only limited application, chiefly within areas regarded as clearly beyond the limits of national claims to jurisdiction. Furthermore, the principle

[45] United Nations Conference on the Human Environment Report, 'United Nations Declaration on the Human Environment', (U.N. Doc, A/CONF. 48/14 1972). The text of the Declaration also is reprinted in (11 INT'L LEGAL MATERIALS 1416 1972).

[46] Report Of The Intergovernmental Resources Shared By Two Or More States, July 1980, 'Draft Principles of Conduct in the Field of the Environment for the Guidance of States in the Conservation and Harmonious Utilization of Natural Resources Shared by Two or More States', approved by the Governing Council of the U.N. Environmental Program at its Sixth Session, (UNEPGC.6/CRP.2, 19 May, 1978). The Draft Principles are reprinted in (17 INT'L LEGAL MATERIALS 1094 1978).

[47] Richard B. Bilder; 'International Law and Natural Resources Policies'.

has been accepted only in circumstances where resources either were unproven, inaccessible, or available in such quantities that no conflict among potential users has arisen.[48]

In practice, where resources have had economic value and restrictions on access have been feasible, some type of property claim-either national or international typically is usually made to secure or at least, regulate access to the resources. Indeed, there are strong arguments that effective resource management and conservation techniques require some type of proprietary rules. It is generally recognized that the principle of free access tends to produce overexploitation, economic inefficiency, and 'external dis-economies'.[49]

Historically, the most prominent example of the principle of common access, has been the doctrine of the freedom of the high seas. For several centuries, the seas were treated as international commons. Article 2 of the 1958 Geneva Convention on the High Seas provides in part that:

> The high seas being open to all nations, no State may validly purport to subject any part of them to its sovereignty. Freedom of the high seas... comprises... inter alia... Freedom of navigation; Freedom of fishing...[50]

Under this doctrine, fishing fleets of any nation traditionally had the right to capture fish anywhere in the seas beyond a coastal state's territorial limits, hitherto regarded as only three miles in breadth.

However, this traditional concept of the freedom of the seas is currently undergoing substantial change. Many coastal states now claim at least 12-mile territorial seas plus jurisdiction over both mineral and living resources in ocean zones reaching out 200 miles, as well as jurisdiction over migratory species of fish, such as salmon, which spawn in their rivers. Special international joint management regimes have been established to regulate other species of high seas fish and aquatic mammals such as tuna and whales, manganese nodules and other mineral resources of the deep seabed. In practice, at least with respect to several significant natural resources, fish, oil and gas and minerals the concept of the oceans as international commons has all but disappeared.

Another example of international rules purporting to exclude national sovereignty over territory is contained in the UN Outer Space Treaty, 1967. Article 1 of that treaty provides in part that:

> Outer space, including the moon and other celestial bodies, shall be free for exploitation and use by all states... and there shall be free access to all areas of celestial bodies'[51] Article II provides that, 'Outer space, including the moon and

[48] Ibid, p. 457.
[49] Hardin, *The* Tragedy of the Commons, (162 SCI. 1243 1968).
[50] Convention on the High Seas, done at Geneva April 29, 1958, (13 U.S.T 2312, T.I.A.S no. 5200, 450 U.N.T.S.82 Sept. 30, 1962).
[51] Treaty on Principles Governing the Activities of States in the Exploration and uses of Outer Space, Including the Moon and Other Celestial Bodies, done at Washington, London and Moscow January 27,1967, entered into force for the United States October 10, 1967.

> other celestial bodies, is not subject to national appropriation by claim of sovereignty, by means of use or occupation, or by any other means.[52]

The UN Agreement Governing the Activities of States on the Moon and Other Celestial Bodies, which was opened for signature in late 1979, goes well beyond the common access principle by providing that the moon and its natural resources are the common heritage of mankind, that the moon is not subject to national appropriation, and that the parties will establish an agreed international regime to govern the exploitation of the natural resources of the moon.

The unique case of Antarctica and its offshore waters also presents an example international rules purporting to exclude national sovereignty over territory. Although, most of the continent was claimed by one or more nations, none of these sometimes-conflicting claims has sound general acceptance. Neither the United States nor the Soviet Union, which carry on the most extensive programs in Antarctica, have made claims or recognized claims by any other nation.[53] Presently, activities on the continent are governed by the Antarctic Treaty of 1959, a treaty to which 50 countries are now signatories.[54]

The treaty demilitarizes the continent, reserves it for peaceful and scientific purposes, and prohibits nuclear explosion or the disposal of radioactive wastes. Conflicting national claims to territory essentially are "frozen"; scientists may pursue their work anywhere on the continent without restrictions. Pursuant to the treaty, the parties meet biennially to exchange information, to consult on matters of common interest, and to formulate, consider, and recommend to their government's measures in furtherance of the principles and objectives of the treaty. These measures may include the preservation, exploitation, or conservation of resources.[55]

Though natural resources of commercial significance are yet to be exploited on the Antarctic continent, and the Antarctic Treaty is silent about the exploration and exploitation of the continent's resources at present, there is evidence that the continent and continental shelf contain minerals and oil and gas. Hence, the growing interest in possible harvest of the vast quantities of krill and other living resources in the oceans of Antarctica. As such, the fear that states driven by emergent energy and resource requirements might seek to reaffirm national claims of exclusive access to Antarctica's land and marine resources; that disputes over resources might challenge the stability of the Antarctic Treaty regime; and that resource exploration and exploitation might threaten the Antarctic environment, have spurred the development of new collaborative efforts among the nations participating in the Treaty.[56] These efforts include negotiation of a Convention on Antarctic Marine Living Resources, agreement on a voluntary temporary moratorium on

---

[52] Ibid Art II
[53] Richard B. Bilder; 'International Law and Natural Resources Policies', p. 461.
[54] 'Atlantic Treaty System', available at, <http://en.wikipedia.org/wiki/Antarctic_Treaty_System> accessed on 14 January, 2014.
[55] See the Antarctic Treaty, (12 U,S,T. 794, 402 U.N.T.S. 71, Dec. 1, 1959), available at <http://www.ats.aq/upload/SIGNEDINWASHINGTON.pdf> accessed on 12 April, 2014
[56] Richard B. Bilder; 'International Law and Natural Resources Policies', p. 461.

mineral resources exploration and exploitation in Antarctica[57] and the Protocol on Environmental Protection to the Antarctic Treaty[58]. However, whether the principle of common access will survive remains to be seen

It is instructive to note at this juncture, that parties to the Antarctic Treaty have also reached a consensus that discussions regarding development of an international mineral resources regime should begin in earnest. It appears as if the parties to the treaty will try at least, to maintain the unique cooperative international regime they seek to establish. This brings us to the fourth principle of the UN on ownership and control of natural resources

1. **International Ownership and Control of Natural Resources**

The fourth principle of international allocation of natural resources stipulates that resources should be regarded as the property of all mankind and exploited only by and/or under the management of international institutions. The most important example of this principle is the international regime, negotiated at the Third UN Law of the See Conference, to govern the exploitation of the resources of the deep seabed.[59]

In the 1960s it became apparent that new deep-sea technology might permit the mining of manganese nodules which lie scattered over many areas of the deep seabed. These nodules can reach the size of a small ball and are composed of manganese, iron, nickel, copper, cobalt, and various other minerals. Developing countries were afraid that a few technologically advanced and well industrialised nations like the United States, might attempt to appropriate these resources solely for their own benefits. Their anxiety was further stimulated by a series of speeches made at the UN meeting/conferences in the late sixties, suggesting that the resources of the deep seabed which falls outside the limits of national jurisdiction should be treated as "common heritage of mankind", subject to international authority.[60]

Subsequent UN General Assembly Resolutions and Declarations asserted that these resources were indeed "the common heritage of all mankind" and they are not subject to national appropriation or claims of sovereignty. Hence, calls for a collectively established international regime to exploit deep seabed resources "for the benefit of all mankind" and scheduling of an international conference on the Law of the Sea were made.[61] Accordingly, the third UN Conference on the Law of the Sea[62] was convened with the purpose of generally revising the International Law of the Sea and particularly, establishing an international regime to govern deep seabed mining.[63] This task proved

[57] Richard B. Bilder, *The New Nationalism and the Use of Common Spaces. Issues in Marine Pollution and the Exploitation of Antarctica* (j. Charney ed), (the American Society of International Law, 1981).
[58] The Protocol on Environmental Protection to the Antarctic Treaty, *(30 I.L.M. 145, Oct. 4 1991)*, (hereinafter referred to as the Madrid Protocol).
[59] Richard B. Bilder; 'International Law and Natural Resources Policies',p. 462.
[60] Ibid.
[61] Ibid, p. 463.
[62] The Conference took place between 1973 and 1982.
[63] Richard B. Bilder; 'International Law and Natural Resources Policies', p. 463.

extremely complex, lengthy and difficult. However, a formal text of a comprehensive Convention on the Law of the Sea was finally adopted.[64]

The UN Convention on the Law of the Sea lays down a comprehensive regime of law and order in the world's oceans and seas by establishing rules governing all the uses which the oceans and their resources can be put. It defines the rights and responsibilities of nations in their use of the world's oceans, establishing guidelines for businesses, the environment, and the management of marine natural resources[65]. The Convention embodied in one instrument, traditional rules for the uses of the oceans and at the same time, introduced new legal concepts and regimes and addressed new concerns. The Convention also establishes specific jurisdictional limits on the ocean area that countries may claim, including a 12-mile territorial sea limit and a 200-mile exclusive economic zone limit.[66]

The influence of the UN Conference on the Law of the Sea was evident in proposals for the development of an international mineral resources regime to govern the Antarctic continent and its mineral resources which has been declared as the "common heritage of mankind"[67] It is also reflected in the far-reaching resource provisions of the UN Agreement Governing the Activities of States on the Moon and Other Celestial Bodies[68] (Hereinafter referred to as the Moon Treaty). Article II of the Moon Treaty[69] provides in part, that:

> 1. The moon and its natural resources are the common heritage of mankind, which finds its expression in the provisions of this Agreement and in paragraph 5 of this article;
> 2. The moon is not subject to national appropriation by any claim of sovereignty, by means of use or occupation, or by any other means;
> 3. Neither the surface nor the subsurface of the moon, nor any part thereof or natural resources in place, shall become property of any State, international intergovernmental or non-governmental organization, national organization or non-governmental entity or of any natural person....;
> 4. States Parties to this Agreement hereby undertake to establish an international regime, including appropriate procedures, to govern the exploitation of the natural resources of the moon as such exploitation is about to become feasible;
> 5. The main purposes of the international regime to be established shall include:
>
> (a) The orderly and safe development of the natural resources of the moon;

[64] 'United Nations Convention on the Law of the Sea of 10 December 1982: Overview and full text', available at <http://www.un.org/depts/los/convention_agreements/convention_overview_convention.htm> accessed on 14 January, 2014.

[65] This marked the culmination of more than 14 years of work involving participation by more than 150 countries representing all regions of the world, all legal and political systems and the spectrum of socio/economic development.

[66] 'United Nations Convention on the Law of the Sea of 10 December 1982: Overview and full text'.

[67] See the 'Atlantic Treaty System'.

[68] 'United Nations Convention on the Law of the Sea of 10 December 1982: Overview and full text'.

[69] United Nations Agreement Governing the Activities of States on the Moon and Other Celestial Bodies (hereinafter referred to as the Moon Treaty), annexed to U.N. General Assembly Res. No. 34/68, adopted December 5, 1979, 19 INT'L LEGAL MATERIALS 1434, Art. II. The Agreement was opened for signature December 18, 1979.

(b) The rational management of those resources;
(c) The expansion of opportunities in the use of those resources;
(d) An equitable sharing by all States Parties in the benefits derived from those resources, whereby the interests and needs of the developing counties, as well as the efforts of those countries which have contributed either directly or indirectly to the exploration of the moon, shall be given special consideration...[70]

The problem here is that the developed nations such as USA, Britain, Russia and the likes are likely to broadly benefit from this principle, since it appears that they have special treatment from UN and it might later turn to another exploitation, where all the nations will be members of the institution but only a few powerful ones will be taking the benefits just as it is happening in the UN as presently constituted.[71]

Problems of The International Legal Framework on Allocation of Natural Resources

Questions about the fairness of the principles which govern the international allocation of natural resources, especially the dominant principle of national sovereignty over resources have been raised. The most interesting questions involves the concept of national control. For instance, why is it that one nation rather than another, should own or control a particular resource? How equitable or rational are the basic assumptions upon which the international system currently distributes resources? These questions will be addressed to determine the future prospects of these principles.

1. **The Principle of National Sovereignty over Natural Resources**

Under the generally accepted distributive principle which permits each nation to control resources within its territory and within 200 miles of any coastline it may have, resources are allocated solely on the basis of geographic accident. Sovereignty over territory carries with it sovereignty over resources. Other factors which might be relevant in determining allocation, such as equality, effort, or need have no role in this view. The effect is that sparsely populated nations may control vast wealth in natural resources, while densely populated nations, with a great need for resources may control few or none. Secondly, a nation owning resources vital to other nations may by virtue of its right of control threaten to deny, or actually deny other nations access to these resources, as a way of exerting pressure on these nations to act in ways that is not pleasing to them.[72]

For instance, developing or socialist nations facing pressures from Western developed nations, as well as Western developed nations facing pressures from oil producing developing nations, have questioned the extent to which nations should be permitted to use their control over resources to bring political or economic pressure on other nations. At some point, the use of such pressures (or of any other types of pressures used improperly or for improper purposes) may fall within the scope of established international norms condemning coercion or intervention. Apparently, it is becoming more difficulty to draw a

[70] Article II of the Moon Treaty, Ibid.
[71] The activities of USA in Iraq, Iran and even Libya speak for themselves.
[72] Richard B. Bilder; 'International Law and Natural Resources Policies', p. 467 and 468.

distinction between direct military coercion and economic embargo on vital food or resources needs.[73]

Furthermore, emerging principles of international environmental law have placed a number of constraints over a nation's freedom to pursue any resource policy it chooses, especially if those policies degrade the environment of other nations. A nation in principle, should not pollute an international river or discharge wastes from resource exploitation into the atmosphere or oceans, if these may likely result in severe environmental damage to its neighbours, or the international community.[74] Even in its internal resource decision-making process, a nation must take into consideration, the impact of such decisions on other nations' interests.[75]

Other Principles of International Ownership Control and Development of Natural Resources

The other principles of international ownership and control of natural resources also raises some questions on equity and fairness. For instance, the principle of joint national control over natural resources shared by more than one nation apparently, does not designate:

> 'How a river flowing through and/or between different countries should be allocated among them. What determines water allocations, is it the respective geographical area's shares in the basin, their population, historic use, or present needs? What should be the allocative priorities accorded such potential uses as drinking water, irrigation, navigation, industrial use, waste disposal, or recreational use? How should shares in a jointly managed fishery be allocated, is it by historic use, currently available fishing capacity, or needs? To what extent should new fishing nations be allowed to enter a fishery already subject to joint control by other established nations? Should nations currently active on the Antarctic continent be entitled to joint shares in whatever resources that may be discovered or exploited there, or should other nations also get some share? If so, on what basis should any division be made?'[76]

It was as a result of these unresolved questions that china unlawfully entered the shore of Japan for fishing, claiming that they have access to the shore. If not for the intervention of the international body, it would have triggered another problem.

Regarding the principle of international control over resources, some difficult and far-reaching unresolved questions of equity have also been raised. For instance, developing nations believe that it would be unfair for a few developed nations currently capable of mining seabed resources to exclusively procure the profits from the natural resources in those places. The only just result, in their opinion, is to give control of these resources to the developing countries, which represents majority of the world's nations and population and have the greatest need of the benefits of natural resources found within the seabed. On the other hand, developed countries are of the opinion that it would be unfair for their companies which have invested effort, skill, and capital into the development of seabed

[73] Ibid, p. 469.
[74] See Principle 21 of the United Nations Conference on the Human Environment at Stockholm in 1976.
[75]Richard B. Bilder; 'International Law and Natural Resources Policies', p. 469.
[76] Ibid, p. 469 to 470.

> mining technology to lose control over the fruits of their enterprise, and allow both control and rewards fall in the hands of developing nations which have invested little or nothing.[77]

Apart from the issues of equity in each of these principles when considered individually, there are also questions of fairness, consistency, and justification when they are jointly considered. For instance, international law recognizes that the United States, which can physically control the flow of the Colorado River, cannot deny Mexico, which is heavily dependent on these waters, an equitable share in its resources. On the other hand, Mexico which is physically able to control its oil resources, can probably deny the United States access to "Mexican oil", even if the United States ultimately becomes heavily dependent on it. In the same vein, the United States may deny exports of its agricultural commodities to foreign nations for political or other reasons, even if these nations are heavily dependent on such exports to feed their peoples. Again, manganese nodules on the deep seabed more than 200 miles from nations' coasts are now to be regarded as the common heritage of mankind, while fish swimming in the oceans within 200 miles are not to be regarded as common property, but the exclusive property of the adjacent coastal state. The question is, is it fair that all nations should share in one but not the other?[78]

The recognition of coastal states' jurisdiction over immense oil, fish, and other resources of the adjacent seas may end up being a short-sighted giveaway of potential international resources which might have been allocated for more expansive global usages. Naturally, the principal beneficiaries of 200-mile economic zones have been the big nations with long coastlines and broad 'continental shelves, mainly developed nations and particularly the United States, the Soviet Union, Canada and Australia, as well as a few of the developing nations such as India and Brazil. These are controversial issues which the international community will have to face eventually.[79]

Prospects of International Legal Frameworks on Allocation of Natural Resources

For the time being, the principle of national sovereignty over territorial resources is firmly entrenched through both tradition and the realities of power, such that any substantial modification of this doctrine soon seems extremely farfetched. All the same, several developments now point towards international concern about the equity of the principle of national sovereignty over territorial resources. An increasing sympathy for some restraints on the exercise of national sovereignty, and the possibility that at least, some change in the way nations view this principle is gradually occurring.[80]

For instance, there seems to be a relatively vast consensus within the international community that very rich nations should share part of their wealth with poorer nations through economic assistance. It is interesting that some wealthy developed nations such as Sweden, Canada, and the Netherlands, and even certain wealthy developing nations such as Kuwait and Saudi Arabia now view assistance to others as an obligation. At times, developing nations phrase requests for aid in terms of claims, obligations, and duties.[81]

---

[77] Ibid, p. 470.
[78] Ibid.
[79] Ibid, p. 471.
[80] Ibid, p. 468.
[81] Ibid.

Furthermore, an extensive debate occurred at the Third UN Law of the Sea Conference over coastal state control of resources in adjacent 200-mile ocean zones. Landlocked and "geographically disadvantaged" states advocated for rules which would permit them an equitable share in the benefits of these offshore resources. While other nations which traditionally have fished, such waters wanted rules which recognize and preserve their historic use. It is also apparent from the conference discussions, that majority opinions lean in favour of the principle that coastal nations do not only have rights, they also have international custodial duties in the management and conservation of offshore resources, and that coastal states ought to permit other nations access to ocean resources which they are not able to exploit themselves.[82]

In the end, increasing conflict between prominent the principle of national control over resources and the other evolving principles of joint ownership, common access and international control may call for some sort of harmony. Broadly speaking, all-natural resources (and indeed all knowledge) may be rightly referred to as the common heritage of mankind. It may not be far-fetched to imagine a future where the international community recognises the fact that all nations depending on a resource share an important interest in it, and they should in fairness, have at least some sort of influence on the way it is used and managed[83]

Although, it is most unlikely that we will soon see a full acceptance by sovereign nations that resources located within their national territories should be subject to international or joint control. However, as the world problems of scarcity of natural resources increase in severity, it is conceivable that, in the future, the proposition that the principle of exclusive national sovereignty over resources should be modified will increasingly gain acceptance.[84]

It is apparent that the problems of ownership and control of natural resources are not likely to be taken away by 'technological miracles moral revolution, or political brotherhood'. The prospects are most likely to be increased international competition, tension, and conflict, as nations seek to have a greater share of natural resources to maintain or increase the standard of living for their growing populations. Conflicting criteria about "equity" and "fairness" in resource distribution will undoubtedly persist. Divergent views about the content and scope of the principle of national sovereignty over territorial resources and the other allocative principles, as well as the extent to which these inherent principles, are within each nation's sole discretion to interpret and/or subject to change through the process of development of international law will continue to be held.[85]

Recommendations and Suggestions

As each nation continues to press for definitions of "equity" and "fairness", as well as resource arrangements which will advance its own interests and increase its own share of resources, not

[82] Ibid, p. 468 to 469.
[83] Ibid, p. 471.
[84] For instance, International Commodity Organizations now expressly recognize the common interests of both producers and consumers in particular resources and the fact that certain kinds of decisions about these resources should be jointly made by them. These agreements lean towards an all-encompassing common heritage approach to ownership, control and development of natural resources.
[85] Richard B. Bilder; 'International Law and Natural Resources Policies', p. 484

much can be done.[86] However, a few broad conditions for a more effective international cooperation on ownership and control of natural resources can be suggested:

1. **Co-operation**: Nations will have little hope of resolving the problems of resources allocation, especially in the light of predictable resource scarcities, unless they are prepared to work together in an effort to solve these problems. Both developed and developing, must come to terms with the fact that their interests are entwined and that policies of either confrontation or autarky will pose serious risks and costs. There is simply no practical alternative to cooperation.
2. **Participation**: International arrangements for management of natural resources cannot work unless a significant number of the directly concerned nations participate. For instance, producers' associations, such as OPEC, will be ineffective unless all major exporters of the resource participate or at least, tacitly cooperate. Arrangements for managing natural resources must be designed not only to attract participation by all nations whose cooperation is important, but also to ensure that their participation will continue.
3. **Dispute Settlement and Enforcement:** International cooperative arrangements on natural resources usually involves questions of dispute settlement and enforcement. There can be no guarantee that nations will always comply with their obligations. The international system must therefore, develop effective means of compelling compliance. One of the best ways of dealing with disputes is a preventive one, in which adequate consultation and other anticipatory mechanisms for avoiding dispute is put in place. For example, by ensuring that cooperative arrangements are fair and balanced, that they serve the needs of all parties, so that parties will want continued effective operation of the agreement. Other devices which can help with dispute settlement and enforcement at the international level include joint commissions and other consultative techniques, arbitration, mediation, and international courts. In addition, even with the absence of formal law enforcement agencies in the international system, there are many informal pressures which can be brought to bear on nations to meet their obligations. This includes international criticism and various economic or political sanctions. The UN Security Council should be more feasible on their sanctions on erring states.
4. **Efficiency and capacity:** The governments of each nation must develop laws that will enhance the nation's ability and capacity to develop and manage their natural resources more efficiently. In countries where illegal exploitation of natural resources is occurring, government should take all necessary measures to effectively control and halt such activities. To do so, regional and international efforts, aimed at building national capacity in the field of governance, should be exerted. At the regional level, in this regard, inter-region coordination and cooperation in the areas of border management, breaking the links between the illegal exploitation of natural resources through close collaboration with international actors is necessary. The international community should also assist these countries to impose their full control over the trade system of their natural resources. A

[86] Address by his Excellency, Ahmed Aboul Gheit, Minister for Foreign Affairs of the Arab Republic of Egypt, at The official opening of the United Nations Expert Group Meeting on 'Natural Resources And Conflict In Africa: Transforming A Peace Liability Into A Peace Asset', Cairo, Egypt, 17-19 June 2006, available at <http://www.un.org/africa/osaa/reports/Natural%20Resources%20and%20Conflict%20in%20Africa%20Cairo%20Conference%20ReportwAnnexes%20Nov%2017.pdf> accessed on 10 January, 2014

monitoring process to help achieve a substantial reduction in the level of illegal exploration of natural resources should be established.

5. **Accountability and Good Governance:** The government of nations where natural resources are deposited should maintain the greatest level of accountability to the local population with respect to the exploration of the natural resources and the allocation of the profit or proceeds from these resources to the public at large. So that what happened during the regime of Charles Taylor will not repeat itself.[87] Efforts at improving governance and other domestic conditions, including unemployment and denial of minority rights, which drive sections of the population, especially the youths towards illegal exploitation of natural resources should also be strengthened.

Conclusion

From the foregoing, the reasonable conclusion is that out of the four prominent principles of international allocation of natural resources, the first principle of sovereign ownership of the natural resources by the states having them is the prevailing one. Although, other principles are trying to have their way, the issue of sovereignty and independence of every nation as provided for by the United Nation's Charter, has not paved way for them because, those principles appear to have some connotation of imposition on the sovereignty of developing world.

With more than 190 nations pursuing separate objectives in a competitive effort to increase their share of limited world resources, the chances of somehow achieving a rational and equitable system of allocation of these resources is quite remote. However, a system of equitable and efficient allocation of natural resources can ultimately be achieved through planning and regulatory techniques implemented by international agencies with supra-national authority.[88] Although for the meantime, we have to work as best we can, within the existing system and the legal framework at hand, to try to forge an effective and fair solutions to the very difficult problems we face.

It is strongly believed, that if nations add common sense, resourcefulness, regard for others' views and good-will to the international effort to reduce or completely eradicate the constant conflict over ownership and control of natural resources, these problems can be successfully resolved. Similarly, it will be of great benefit to such efforts, if some of the suggestion made above could be put into action by the UN and concerned states. Thus, making the world a peaceful abode for all.

[87] See Hardin, *The* Tragedy of the Commons, for details.
[88] Richard B. Bilder; 'International Law and Natural Resources Policies', p. 486.