

Research note

On Body and Soil – The Potential of Territorial and Environmental Dimensions of Disarmament

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Abstract

If territory is part of the problem in the quest for peaceful relations, it should also be part of the solution. This is the core argument in the present text, where the work of international lawyer Louis Sohn during the Cold War and efforts towards territorial disarmament across time and space are used as starting points for the exploration of possibilities today, including in the global commons and other territories beyond the jurisdiction of individual states. I explore a range of experiences of territorial disarmament already in operation alongside the opportunities currently offered in the nexus between protection of the environment and armed conflicts. Finally, the recently adopted Kunming-Montreal Global Biodiversity Framework and the UN Principles on protection of the environment in armed conflict developed by the International Law Commission are looked at as opportunities for the successive protection of territories through various forms of disarmament and neutralisation.

Keywords

Disarmament, demilitarisation, neutralisation, international law, global commons, biological diversity, armed conflict

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1. Introduction - Armament and Disarmament Today

While modern technology is sometimes said to have made war fully digital, a fact that may well become true in the future, wars of today are still fought over territory, on the ground, with real bodies bleeding real blood on real soil. Wars are still fought over body and soil, even if the politics of war also include efforts of winning “body and soul”. More frequent and more severe famines, as well as shortages of water, which we now see increasingly as outcomes of bad policies, climate change and violent conflict, make people more desperate and aggravate the effects and risks of war even further, thus accentuating the “body and soil” connections of war for regions and people situated also further away from the sites of climate disasters and war.

Focus within large parts of disarmament and arms control discussions and efforts of today is on arms and weapons and their manifold categories and usages, e.g. nuclear weapons, conventional weapons, chemical & biological weapons, anti-personnel mines, small arms and light weapons, illegal weapons, missiles, drones, kinetic weapons with strong effects etc.¹ A result of such mono-dimensional focus and a lack of interest in similar attention to the effects of various weapons, as well as on the need for diplomatic and trust-enhancing tools, is that rather than looking into the problems of the increase and threats posed by weapons and by militarisation overall, as well as into the solutions needed to minimize them, we end up studying and discussing mainly about weapon functionality and their respective “advantages and disadvantages”, thus assuming that having more refined weapons is an adequate response. As it happens, we are confronted with a normalization of discussions on weapons, rather than focusing on the limitation or even elimination of them and on the development of other non-violent tools for the handling of the multiple threats and problems plaguing our world. Disarmament discourses risk feeding into the militarisation trend.

Furthermore, our attention both in the field of disarmament as well as in the field of arms control has been on the technical aspects of weapons. Needless to say, technical knowledge is highly important and needed, not least when deciding how weapons should be controlled, abolished and destroyed. However, it is not technical knowledge which seems to be the core problem in such efforts to limit the grip of global armed violence.²

1 See e.g. Casey-Maslen, Stuart (2021). Arms Control and Disarmament Law. Oxford University Press; UN Office on Disarmament Affairs <https://www.un.org/disarmament/>, accessed 28.02.2023.

2 The SIPRI Yearbook 2021 reports a continued increase in military spending and in the number of armed conflicts. While the global total of fatalities in war fell in 2020 below the level experienced at the height of the Syrian war, war deaths regionally have showed great variation, and in Sub-Saharan Africa, for instance, they increased by about 40 per cent. SIPRI yearbook 2021: armaments, disarmament and international security (2021). Oxford University Press. In the Military Expenditure report published by Sipri in spring 2023, it was found that European military spending surged, with Finland standing for one of the sharpest increases (+36%). The report is found here: <https://www.sipri.org/media/press->

If we only focus on technical knowledge, we mask the political nature of the choices involved in prioritising among societal needs and problems as well as choosing between the tools available to us when dealing with such global or local problems. This is perhaps the most drastic form of militarisation we may observe, i.e. the “militarisation of the mind”.³

So, discussions on other aspects or elements of disarmament have been marginalised in this post-Cold-War discourse of disarmament, which focuses mainly on types and effects of weapons and their containment. Confidence building measures, the role of diplomacy and its relation to military security, democratic control of armed force, as well as forms of territorial disarmament and demilitarisation or neutralisation are other such avenues we could be contemplating as alternatives or complements to the weapons-focused mode of disarmament. In the present article I focus on territorial disarmament as one such tool in the spectrum of alternatives to militarization and armed conflict. Under all circumstances also in technical arms controls treaties enhanced attention should be directed in the future to matters of societal, economic and environmental implications and consequences.

The result of the above trends is that many technical experts as well as politicians and decision makers seem to take the abundance and spread of weapons as a natural law, and as a necessity without which we shall either be in a state of total, anarchic war or subordinated under a unilateral global government. Perceptions about the risk of anarchic war as well as the risk of unilateral global government trigger a wide range of arguments of self-defence. Those who argue in favour of investing further in weapons argue mainly along these two lines for the sake of self-defence, rather than arguing in favour of wars of aggression or imperialist ambitions.⁴ The humanitarian justificatory ground seems at the moment to have fallen into disrepute, as a consequence of the failures for instance in Afghanistan, Libya and Iraq, and even though president Putin tried to justify the aggression against Ukraine partly on the basis of humanitarian arguments referring to the need of protection of Russian speakers in the eastern parts of Ukraine.⁵

If we want then to avoid the risk of anarchic wide-spread war, as well as prevent unilateral global government, what do we need to do in terms of limiting arms and weapons?

[release/2023/world-military-expenditure-reaches-new-record-high-european-spending-surges](#) (24 April 2023). The arms transfers reports indicate that the United States remains the global superpower in arms exports, having increased its share from 33% of global arms exports to 40% of global exports in the period 2018-2022, followed by Russia (16%) and France (11%). See “Trends in International Arms Transfers 2022”, Fact Sheet, Sipri, March 2023 https://www.sipri.org/sites/default/files/2023-03/2303_at_fact_sheet_2022_v2.pdf (accessed 26.06.2023).

3 On the concept of militarisation see the introductory chapter in Spiliopoulou Åkermark, Sia et al., (2018), Demilitarisation and International Law in Context, Routledge, and several chapters in Stearns, Peter N., (2013) Demilitarisation in the Contemporary World, University of Illinois Press.

4 Chinkin, Christine & Kaldor, Mary (2017). International law and new wars. Cambridge University Press, pp 129-174 on self-defence.

5 “Russia recognises independence of Ukraine separatist regions”, 21.02.2022, <https://www.dw.com/en/russia-recognizes-independence-of-ukraine-separatist-regions/a-60861963> (accessed 29.03.2023).

It would be hard for anyone to argue successfully that a state of total or global war is opportune. If wide-spread long-lasting war prevails then there is no global peace, in which case we are operating far beyond the framework of the vision of the UN Charter which pronounces peace and security as its paramount goals. An anarchic state of comprehensive war is of course conceivable, but in fact not very useful to states who are keen to protect their sovereignty, territorial integrity, prosperity, and markets relying on stability, and in some cases, therefore, realise that they need healthy populations to cater for all the above. The failure of efforts in Afghanistan and Iraq by western powers, but also in Chechnya and Afghanistan by the Soviet Union/Russia, shows further that also unilateral global government, global empire, is highly fragile and unattainable at least through traditional military means.

In spite of the advancements in the field of technology, wars today are still fought territorially and at least superficially for territory, on the ground, even when coupled to cyber- and communication dimensions or have emotional or domestic political reasons behind them. If territory is a reason for and immediate target of most wars, then territory must also be included in the efforts to limit the use of armed force for war. This is a core argument in the present text.

Furthermore, one clear sign of militarisation is not simply the increase of numbers and power of arms and weapons, but also the expansion of military presence in geographical areas where such presence was earlier absent. This trend continues today and shall be explored further on in this text. Inspired by the core ideas and tradition carried on the one hand by the status and the experience of the Åland Islands as a demilitarised and autonomous region, as well as through efforts until the 1970s globally and later on regionally, I explore whether a territorial approach to disarmament can be a useful complement to the weapons-oriented approaches and methods of disarmament. A territorial approach focuses on establishing a particular territory as free from all or specific kinds of weapons (demilitarisation), alternatively aiming at maintaining a particular territory outside the conduct of armed activities (neutralisation), occasionally combining these two tools.⁶

Before looking closer at these tools, I shall revisit some arguments by international lawyer and professor Louis Sohn during the Cold War in order to explore the continuity in the efforts to limit the spirals of militarisation then and now.

Thereafter, I shall turn towards efforts and experiences of limited territorial disarmament and demilitarisation. Finally, I shall explore the potential existing in the linkage of environmental protection, in particular in the field of biological diversity, with the new principles on protection of the environment in armed conflict, which both include territorial dimensions of regulation and protection.

6 Ahlström, Christer (2004), Demilitarised and Neutralised Territories in Europe, The Åland Islands Peace Institute.

2. The legacy of Louis Sohn

International lawyer Louis Sohn published some sixty years ago, in 1961, in the Bulletin of Atomic Scientists a short article entitled “Disarmament and Arms Control by Territories” in which he summarised what he saw as the stumbling blocks of disarmament negotiations between the West and the Soviet Union.⁷ The situation is reminiscent of today’s stagnated mentalities. According to Sohn, the West envisaged then strict controls from the very beginning, while Soviet proposals envisaged limited controls at the beginning which would grow into full controls at the end of the disarmament process. It was a discussion about percentages of disarmament vs controls. What percentage of disarmament and what percentage of control.

Louis Sohn was born in Lviv in 1914, in today’s Ukraine, then part of the Austro-Hungarian Empire, later on part of Poland. He gained his basic law degree in 1939 at John Casimir University, leaving with a scholarship at Harvard University two weeks before Poland was occupied by Nazi Germany. The Second World War forced him to stay on in the United States, where he taught at university, but was also highly involved in the efforts to make the United Nations Charter a viable reality, including as counsellor to the Legal Adviser of the US Department of State during part of Richard Nixon’s mandate as President of the United States, as well as in the role of US delegate to the negotiations ahead of the UN Convention on the Law of the Sea (finally adopted in 1982).⁸ Louis Sohn was thus familiar with the importance of geopolitical considerations, while maintaining a firm confidence in the role of international law and institutions.

Sohn hoped for a compromise which would permit disarmament and degree of control to go hand in hand. According to Sohn a “compromise would permit disarmament and degree of control to go hand in hand. Each cut in armaments could be accompanied by the extension of control to a specified part of a nation’s territory, proportional to the total arms reduction at each step”. In other words, Sohn triangulated an issue which was until then polarised between control systems and arms reductions by bringing in territory in a most realist manner. Focus should not only be in reducing particular kinds of weapons, but successively ensuring trust in relation to increasing parts of territory on each side.

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- 7 Sohn, Louis, “Disarmament and Arms Control by Territories”, (1961) Bulletin of Atomic Scientists, Vol 17, Issue 4, pp 130-133. It was followed up in his 1962 article “Zonal Disarmament and Inspection: Variations on a Theme”, Bulletin of the Atomic Scientists, Vol 18, Issue 7, pp. 4-10.
- 8 Among the vast authorship of Louis Sohn see e.g. Sohn, Louis & Noyes, John (2004). Cases and materials on the law of the sea, Transnational Publishers; Basic Documents of the United Nations (1956), Foundation Press; Rights in Conflict – The United Nations and South Africa (1994), Brill; World Peace through World Law (1960, with Clark, Grenville), Harvard University Press (a book in which disarmament holds a core position) and several journal articles on matters of arms control and disarmament.

At that time the vision was that of bilateral disarmament, US-Soviet Union, with the territory of both countries being divided following Sohn into six regions, and disarmament successively covering one region at a time. Instead of dividing each country into regions, all the territories of NATO on the one hand and of the Warsaw Pact on the other could be lumped together for the purpose of division into regions, Sohn argued. The core goal of such efforts would be to ensure that available armament was only for defensive purposes and some measure of trust could be ensured between the parties. The right to self-defence would be respected for all.

It could perhaps be argued that in some respect the 1992 Open Skies Treaty signed in Helsinki and creating a confidence building system of mutual aerial observation was a reflection of the ideas expressed by Louis Sohn thirty years earlier. However, the United States withdrew from the Open Skies treaty in November 2020, followed by Russia shortly thereafter. The important thing here is though that the focus at that time was not simply on weapons and their manifold sorts and effects, but rather on ensuring disarmament on the ground in particular locations and on enhancing mutual trust. In a somewhat similar manner, Pope Francis argued recently, more than 60 years after the arguments put forward by Louis Sohn, when addressing the diplomats accredited to the Vatican, that “there is a need to change this way of thinking [note by the author: on balance of power] and move towards an integral disarmament, since no peace is possible where instruments of death are proliferating”.⁹

3. Limited territorial disarmament

A different kind of disarmament on a territorial basis, much more limited compared to the ambition of Louis Sohn’s thoughts and to the League of Nations’ and UN efforts for General and Complete Disarmament (GCD), is that of limited demilitarised zones. Such solutions are different from general, state-wide disarmament as a result of post-conflict settlements covering an entire state and its constitutional status.¹⁰ But they protect what are considered to be key territorial zones where interests are complex and where trust needs to be ensured and conflict should be avoided. Furthermore, while there are specific demilitarisation treaties such as those pertaining on the Åland Islands, there are also specific provisions concerning historic straits and the right to innocent passage in international straits in the law of the sea¹¹. This is a long tradition, going back to the Middle

9 Address of his Holiness Pope Francis to members of the diplomatic corps accredited to the Holy See, 09.01.2023, <https://www.vatican.va/content/francesco/en/speeches/2023/january/documents/20230109-corpo-diplomatico.html> (accessed on 29.03.2023).

10 Cf cases discussed in Stearns, loc. cit. note 3 above.

11 Parts II and III of the UN Convention on the Law of the Sea, 1982

Ages, which continued throughout the 19th and 20th centuries but is much less regarded today. Demilitarisation has been chosen as an avenue for the regulation of the following territories in the past 150 years.

Among the many examples that could be mentioned here, we can follow the historical evolution and continuity throughout the demilitarisation regime for Hüningen 1815, Spitsbergen/Svalbard 1920, Åland Islands 1856 and 1921, Corfu and Paxos 1863-1864, Aegean islands (Lemnos, Mytilene, Chios, Samos, Ikaria, Dodecanese) in 1914, 1923, 1936 and 1947, the Greek – Bulgarian border 1947, and islands and territories mentioned in the Peace Treaty with Italy after the Second World War, such as Pelago.¹²

As can be easily seen in the list above, demilitarisation is prevalent on islands. Earlier many other islands have been demilitarised, including Sardinia and Sicily, but also coastal areas around Europe, including the northern side of the Black Sea in agreements between the Russian and Ottoman empires in the 18th century. In addition, Corfu and Paxos had gone through the experience of the Septinsular Republic in the early 19th century, i.e. as an autonomous entity, before becoming demilitarised in the middle of the same century.¹³ Here we also find a connection between autonomy and demilitarisation, as well as in several other cases of cities and limited territories such as the highly complex and tense solution of the Free City of Danzig after World War I (involving mainly Polish and German relations) and Trieste (see provisions on neutrality and demilitarisation in the Treaty of Peace with Italy, 1947).

UN Secretary General Kofi Annan proposed a demilitarisation for Cyprus as part of the comprehensive plan for the island (2002) and this was perhaps the last major (failed) effort for a conflict settlement including comprehensive demilitarisation for a (limited) territory.¹⁴

All the above regimes that have been in place have been security oriented, geopolitical compromises. When they have failed this has been so because of the failure of actors to stick to agreements, not because of a failure of the idea of territorial disarmament as such.

12 Ahlström, loc. Cit., note 6 above; Heraclides, Alexis. (2010). *The Greek-Turkish conflict in the Aegean - Imagined enemies*. Palgrave Macmillan, pp. 201-208.

13 Spiliopoulou Åkermark, Sia (2019), “The Multiple Paths to Territorial Autonomy – Examples and Conceptual Underpinnings”, in O. Akbulut & E. Aktoprak (red), *Minority Self-Government in Europe and the Middle East*, Brill, pp. 62-82.

14 Comprehensive Plan for the Settlement of the Cyprus Problem, 31.03.2004, so called “Annan Plan” named after UN Secretary General Kofi Annan, https://peacemaker.un.org/sites/peacemaker.un.org/files/Annan_Plan_MARCH_30_2004.pdf (accessed 20.03.2023).

4. The battles over the global commons

There also other kinds of territorial provisions and concepts found in agreements aimed at reducing arms and weapons. In this category we find what has been called the “global commons”, where the principle of the “common heritage of mankind” applies, i.e. the Earth’s resources which are beyond national jurisdiction, in particular high seas, atmosphere, the polar regions, and outer space.¹⁵ It is therefore not surprising that there are demilitarisation treaties and provisions covering some forms of militarisation for the following areas.

The Antarctic Treaty (adopted in 1959, in force since 1961) was the first treaty to include a general prohibition on testing of all weapons, including nuclear tests. Article I(1) provides further that Antarctica ‘shall be used for peaceful purposes only’, prohibiting ‘*inter alia*, any measures of a military nature, such as the establishment of military bases and fortifications, the carrying out of military manoeuvres, as well as the testing of any type of weapons’. Article V of the treaty prohibits all nuclear explosions in Antarctica and the disposal there of radioactive waste material. However, the treaty does not prevent ‘the use of military personnel or equipment for scientific research or for any other peaceful purpose’, so its disarmament ambition is limited. In spite of this fact, the Antarctic Treaty was used as a source of inspiration and point of reference for later agreements, such as the Treaty on Outer Space and the Moon Agreement.¹⁶ It was originally negotiated and signed by twelve state parties and today has nearly sixty member states.¹⁷ In the recent Antarctic Treaty Consultative Meeting held in Helsinki in June 2023, emphasis was indeed put on the environmental aspects of the regime.¹⁸

The Outer Space Treaty was negotiated within the UN system and was opened for ratification in 1967 after having been endorsed by the UN General Assembly in December 1966. According to the treaty’s first operative article ‘the exploration and use of outer space, including the moon and other celestial bodies, shall be carried out for the benefit and in the interests of all countries, irrespective of their degree of economic or scientific development, and shall be the province of all mankind’. Furthermore, outer space, including the moon and other celestial bodies, shall be ‘free for exploration and use by all States without discrimination of any kind, on a basis of equality and in accordance with international law, and there shall be free access to all areas of celestial bodies’.

15 For many of the treaties and documents referred to in this section, see Disarmament Treaties Database, UN Office on Disarmament, <https://treaties.unoda.org/> (accessed 29.03.2023).

16 Casey-Maslen, Stuart & Vestner, Tobias (2019). A Guide to International Disarmament Law, Routledge, p. 95.

17 See the website of the Secretariat of the Antarctic Treaty, https://www.ats.aq/index_e.html

18 ‘Helsinki Antarctic Meeting culminates in climate declaration’, Ministry for Foreign Affairs of Finland, https://um.fi/current-affairs/article/-/asset_publisher/iYk2EknIlmNL/content/helsingin-etelamanner-kokous-huipentui-sopun-ilmostojulistuksesta/35732 (14.06.2023).

Article IV of the Outer Space Treaty sets out in more detail the disarmament provisions of the agreement. States Parties to the Treaty undertake not to place in orbit around the earth any objects carrying nuclear weapons or any other kinds of weapons of mass destruction, install such weapons on celestial bodies, or station such weapons in outer space in any other manner. The moon and other celestial bodies shall be used by all States Parties to the treaty exclusively for peaceful purposes. Finally, the same provision explains that ‘the establishment of military bases, installations and fortifications, the testing of any type of weapons and the conduct of military manoeuvres on celestial bodies shall be forbidden’. However, and similarly as we have seen in the previous treaty, ‘the use of military personnel for scientific research or for any other peaceful purposes shall not be prohibited. The use of any equipment or facility necessary for peaceful exploration of the moon and other celestial bodies shall also not be prohibited’. In fact, the prohibition of testing nuclear weapons in outer space was already in place through the so-called Partial Test Ban Treaty of 1963 (Treaty banning Nuclear Weapons Tests in the Atmosphere, in Outer Space and under Water).

It took only a few years before the treaty had to be broadened as regards the moon. The Agreement Governing the Activities of States on the Moon and Other Celestial Bodies was endorsed by the UN General Assembly through resolution 34/68. The Moon Agreement entered into force in 1984 after a slow ratification process. Article 3 outlines the main disarmament framework established by the treaty, following the mode found in previous similar agreements (see above):

ARTICLE 3

1. The moon shall be used by all States Parties exclusively for peaceful purposes.
2. Any threat or use of force or any other hostile act or threat of hostile act on the moon is prohibited. It is likewise prohibited to use the moon in order to commit any such act or to engage in any such threat in relation to the earth, the moon, spacecraft, the personnel of spacecraft or man-made space objects.
3. States Parties shall not place in orbit around or other trajectory to or around the moon objects carrying nuclear weapons or any other kinds of weapons of mass destruction or place or use such weapons on or in the moon.
4. The establishment of military bases, installations and fortifications, the testing of any type of weapons and the conduct of military manoeuvres on the moon shall be forbidden. The use of military personnel for scientific research or for any other peaceful purposes shall not be prohibited. The use of any equipment or facility necessary for peaceful exploration and use of the moon shall also not be prohibited.

Finally, the Seabed Treaty (in full: Treaty on the Prohibition of the Emplacement of Nuclear Weapons and other Weapons of Mass Destruction on the Seabed and the Ocean Floor and in the Subsoil thereof) entered into force in 1972. It provides as follows in Article I:

1. The States Parties to this Treaty undertake not to emplant or emplace on the sea-bed and the ocean floor and in the subsoil thereof beyond the outer limit of a sea-bed zone, as defined in article II, any nuclear weapons or any other types of weapons of mass destruction as well as structures, launching installations or any other facilities specifically designed for storing, testing or using such weapons.
2. The undertakings of paragraph 1 of this article shall also apply to the sea-bed zone referred to in the same paragraph, except that within such sea-bed zone, they shall not apply either to the coastal State or to the sea-bed beneath its territorial waters.
3. The States Parties to this Treaty undertake not to assist, encourage or induce any State to carry out activities referred to in paragraph 1 of this article and not to participate in any other way in such actions.

It is notable that, as far as we now have seen, the Arctic is not considered to be among the list of global commons and that the seabed treaty for instance only covers weapons of mass destruction and not any kind of weapons.

The recent treaty on the high seas confirmed the idea of global commons and common heritage of mankind and recognised the importance of contributing to the realization of a just and equitable international economic order which takes into account the interests and needs of humankind as a whole and, in particular, the special interests and needs of developing States, whether coastal or landlocked (see preamble). The United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas beyond National Jurisdiction was adopted on March 4th, 2023 after nearly twenty years of negotiations.¹⁹ While the treaty established a global system of management and an ‘access and benefit-sharing committee’ it was not possible to regulate to any larger extent the effect of military activities. Namely, this agreement does not apply to any warship, military aircraft or naval auxiliary. Except for Part II in the agreement (which includes also the creation of a monitoring system), this agreement does not apply to other vessels or aircraft owned or operated by a Party and used, for the time being, only

¹⁹ The advance, unedited final text was made available by UN General Assembly here: https://www.un.org/bbnj/sites/www.un.org.bbnj/files/draft_agreement_advanced_unedited_for_posting_v1.pdf (accessed 04.03.2023).

on government non - commercial service. However, according to the same provision, each Party shall ensure, by the adoption of appropriate measures not impairing the operations or operational capabilities of such vessels or aircraft owned or operated by it, i.e. including military vessels and aircraft, that such vessels or aircraft act in a manner consistent, so far as is reasonable and practicable, with the agreement. So, the treaty does not contain any disarmament provisions, but its implementation may have consequences for the conduct of military activities in the future. At any rate, the exception itself reveals the tension existing between biological diversity maintenance and restoration efforts on the one hand and military activities in general on the other, as well as the particular difficulties in this regard in areas falling beyond national jurisdiction.

In view of the above it may therefore be seen as problematic that the latest 2022 NATO Strategic Concept envisages the expansion of military activities in areas beyond the national jurisdiction of states under the idea of “cooperative security”, a concept which includes matters of civilian crisis management, countering terrorism, hybrid operations and non-military threats and challenges, including climate change.²⁰ The Concept, which is not legally binding but which is negotiated and carries considerable weight in the development of NATO activities, announces:

Maintaining secure use of and unfettered access to space and cyberspace are key to effective deterrence and defence. We will enhance our ability to operate effectively in space and cyberspace to prevent, detect, counter and respond to the full spectrum of threats, using all available tools.

We see this trend already being materialised in Finnish legislation in amended legislation concerning international assistance according to which military force can be used even with no request for assistance for reasons of self-defence and also outside regions falling into the territorial jurisdiction of a state.²¹ The scope of application of the Act goes now far beyond situations of collective self-defence and includes “cooperative action” with another state, the European Union or another organisation “within our outside Finnish territory” when such action serves the interests of Finland and “takes note of the goals and principles of the UN charter and of international law in situations of assistance or other activity”. This seems to leave open the potential participation of Finland, including by use of force in the global commons, without a situation of collective self-defence or authorisation by

20 Nato Strategic Concept 2022 <https://www.nato.int/strategic-concept/> (as of 29.03.2023).

21 Amendments to Finnish Act on the Making of Decisions Concerning the Provision of and Request for International Assistance, Act No 418/2017 as amended by Bill 193/2022, in force since January 1st, 2023. While the basis of self-defence remains article 51 of the UN Charter, such recent expansions seem to go beyond the immediate self-defence needs of states victims of aggression.

the United Nations Security Council. The Draft Bill 193/2022 makes clear already on its first page that the omission of a geographical delimitation is an important element, as is the omission of the prerequisite of a request for assistance. Bill 72/2016, which introduced the relevant legislation, informed that the Act on international assistance could apply outside territories under the exclusive jurisdiction of a state, including in economic zones, the high seas, and international airspace. However, such action would require a request for assistance following mainly the EU rules on mutual assistance or the solidarity clause. What exactly the notion of “cooperative action” entails and what kind of other “international activity” is considered remains open. The so-called 360 degrees approach by NATO (NATO 2022 Strategic Concept, see above) seems thus to entail that all kinds of threats, anywhere in the world, should be dealt with within the framework of the military and “cooperative security” of the alliance. It seems rather clear that these efforts of a military nature take place under other conditions than self-defence and collective self-defence as we know it under international law. There is in other words a risk of a further militarisation of the areas described as the global commons, where the principle of the common heritage of humankind applies.

This line of thought is at odds with the efforts promoted within the United Nations by those working *inter alia* with environmental and development matters who have put forward proposals for the future governance of the global commons. The UN System Task Team on the Post-2015 UN Development Agenda has addressed the problem in its think piece entitled “Global governance and governance of the global commons in the global partnership for development beyond 2015”. It was coproduced by several UN agencies and organs (OHCHR, OHRRLLS, UNDESA, UNEP, UNFPA) in 2013, and explained:

Lastly, there is growing interest, in particular amongst regional economic and military alliances, in access to the global commons from a trade, security and critical resources perspective. A global governance regime, under the auspices of the UN, will have to ensure that the global commons will be preserved for future generations.²²

22 Global governance and governance of the global commons in the global partnership for development beyond 2015, available at: https://www.un.org/en/development/desa/policy/untaskteam_undf/thinkpieces/24_thinkpiece_global_governance.pdf (accessed 20.03.2023)

5. Territorial disarmament through Nuclear Weapon Free Zones and local initiatives

Finally, there are the considerable efforts of smaller countries through the establishment of Nuclear Weapons Free Zones (NWFZ) around the world: the Treaty of Tlatelolco (1967) prohibits nuclear weapons in Latin America and the Caribbean; the Treaty of Rarotonga (South Pacific Nuclear Free Zone) was signed in 1985 and entered into force in 1986, so nearly twenty years after the previous one; the Treaty of Bangkok created the South East Asia Nuclear Free Zone in 1995 (in force since 1997) and currently has ten states parties; the Treaty of Pelindaba was signed in 1996 but entered into force only in 2009, creating an African Nuclear Weapon Free Zone. The Treaty of Pelindaba has today 43 states parties and three additional protocols. The Treaty on a Nuclear-Weapon-Free Zone in Central Asia was opened for signature in 2006 and entered into force in 2009. It has five states parties. For many of those treaties there are additional protocols whereby other states (great powers and former colonial powers) undertake not to use nuclear weapons against states parties to the NWFZ agreement, and, in some cases, also not to test nuclear weapons in this NWFZ territory while at the same time safeguarding their interests in overseas territories.²³

The existence of special cases of countries without armies (or, no standing armies), including Liechtenstein, Tuvalu, Dominica, Grenada, Andorra, the Vatican, Costa Rica and Iceland illustrates the contingency of options concerning military spending. Iceland illustrates well the difficulties of small countries at times of global militarisation with a US base that was closed in 2006 and reopened in 2015, and with NATO Air Policing to which other Nordic states have also contributed.²⁴

At the very local level there are limited territorially based demilitarisations, at least at the level of rhetoric, for instance in the Mayors for Peace initiative. In recent years membership has expanded fast to over 8,200 cities in 166 countries.²⁵ Mariehamn prides itself on being a member, but this has not been a profile used actively and concretely in recent years. A similar initiative is the Cities Appeal of the International Campaign to

23 UN Office on Disarmament, Nuclear Weapons Free Zones, <https://www.un.org/disarmament/wmd/nuclear/nwfz/> (accessed 29.03.2023).

24 Thorhallsson, Baldur (2018), A small state in world politics: Iceland's search for shelter, Icelandic Review of Politics and Administration (Stjórnmál & stjórnsýsla), Vol 14, No 1, <https://doi.org/10.13177/irpa.a.2018.14.1.3>. Barbey, Christophe (2015), Non-militarisation – Countries without Armies, Working Paper by the Åland Islands Peace Institute, <https://peace.ax/wp-content/uploads/2021/02/Arbetspapper-Barbey.pdf> (accessed 28.03.2023).

25 Mayors for Peace <https://www.mayorsforpeace.org/en/> (accessed 29.03.2023).

Abolish Nuclear Weapons (ICAN). So far, Helsinki in Finland and Gothenburg in Sweden are two cities that have endorsed the appeal.²⁶ However, these are political pronouncements rather than legally binding undertakings. They document though the wish of a considerable number of citizens towards the limitation and abolition of weapons of mass destruction, and in particular nuclear weapons.

6. New opportunities stemming out of the nexus of war and environment?

In December 2022, the Kunming-Montreal Global Diversity Framework was the result of a cooperation between Canada and China, the two countries that headed the negotiations concerning efforts to safeguard and restore biological diversity. The Framework was adopted at the meeting of the Conference of Parties of the UN Convention on Biological Diversity (which had been adopted in 1992).²⁷ The new Kunming-Montreal Global Diversity Framework (GDF) sets four goals and 23 targets to ensure the maintenance of biological diversity on our planet. It includes a (voluntary) commitment to protect 30% of Earth's lands, oceans, coastal areas, and inland waters.

In another initiative and direction of developments, in August 2022 the International Law Commission, an expert organ of the UN, adopted its principles on protection of the environment in armed conflict.²⁸ These so called PERAC principles developed by the International Law Commission were also endorsed in November 2022 by the UN General Assembly's Sixth Committee, which deals with legal matters.

According to Principle 4:

States should designate, by agreement or otherwise, areas of environmental importance as protected zones in the event of an armed conflict, including where those areas are of cultural importance.

26 Cities Appeal of the International Campaign to Abolish Nuclear Weapons (ICAN) <https://cities.icanw.org/> (accessed 20.03.2023).

27 Kunming-Montreal Global Diversity Framework (22.12.2022) available at the website of the Convention on Biological Diversity <https://www.cbd.int/article/cop15-final-text-kunming-montreal-gbf-221222>

28 International Law Commission, Draft principles on protection of the environment in armed conflict, https://legal.un.org/ilc/texts/instruments/english/draft_articles/8_7_2022.pdf; UN General Assembly, Sixth Committee, Draft Resolution on protection of the environment in armed conflict A/C.6/77/L.22 (11 November 2022). This resolution was adopted without a vote by the UN General Assembly on December 7, 2022.

Principle 18 - Protected zones

An area of environmental importance, including where that area is of cultural importance, designated by agreement as a protected zone shall be protected against any attack, except insofar as it contains a military objective. Such protected zone shall benefit from any additional agreed protections.

Whether the ILC Principles evolve into a separate binding instrument remains to be seen, however many of its principles rely on existing legally binding humanitarian and environmental rules, as well as customary law.

It would be opportune at this time of history when both peace and the environment are at a most vulnerable condition to couple those two normative potentials and explore further at least three aspects:

- that the 30% of lands, oceans, coasts and inland waters that our states restore and protect on biodiversity grounds under the Global Diversity Framework (GDF) could be designated *simultaneously* as protected zones in the event of armed conflict as envisaged under the voluntary mechanism of the Principles on the Protection of the Environment in Armed Conflict (PERAC);
- that the 30% of lands, oceans, coasts and inland waters are furthermore considered as *worthy to be demilitarised and neutralised* since armed activities and war are a large part of the ‘human induced extinction of species’ that our environmental efforts try to limit. Such an approach would reverse the frequent exceptions included in environmental agreements, whereby military activities, facilities and tools are exempted from environmental obligations;
- that the *coasts* of the Baltic sea, which are the home of more than 80 million people and which is one of the most nuclear energy plant dense places on Earth, is designated by all states around the Baltic Sea as *an area of environmental importance and a protected zone in the event of armed conflict*, according to the Kunming-Montreal Global Diversity Framework and the ILC PERAC principles respectively. Many states around the Baltic Sea have already adopted Maritime Spatial Plans according to the requirements of EU Directive 2014/89 and have thus explored and documented the diversity values of their coasts and waters. The Åland Government has done the same since it has competence in

environmental matters and is bound by EU law.²⁹ Such designations can be made unilaterally as well as multilaterally, and rather than creating new institutional systems of supervision could be made using existing structures, for instance those in the EU as well as in the work of the Baltic Marine Environment Protection Commission, so-called HELCOM, which was established in 1974 by the Convention on the Protection of the Marine Environment of the Baltic Sea Area.³⁰

7. Final reflections

The current focus on rearmament and militarisation of territories, minds and societies has increasingly meant a focus on weapons and their dangers and potential. There are, however, other ways of approaching disarmament and the need for de-escalation and promotion of confidence-building internationally. One of them could be a renewed emphasis on limited territorial demilitarisation and neutralisation in its multiple modes (demilitarised zones, nuclear weapons free zones, and rules on demilitarisation in global commons). A further possibility is linking recent environmental protection tools of specific geographic zones, rules such as those found in the principles for the protection of the environment in armed conflict (the so-called PERAC) to such methods of territorial disarmament. The legacy of Louis Sohn points both to the importance of the law of the sea as well as to the need for proactive disarmament. All these impulses together should give us enough food for not only thought, but also action.

29 Åland Government, Havsplanering, Ålands havsplan (22.03.2021) <https://www.regeringen.ax/demokrati-hallbarhet/hallbar-utveckling/marin-kustomradesplanering-havsplanering> (accessed 29.03.2023).

30 On HELCOM see <https://helcom.fi/about-us/> including the Baltic Sea Action Plan <https://helcom.fi/baltic-sea-action-plan/> (adopted in 2007 and updated in 2021).