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## ANALYSIS OF THE INTERNATIONAL LEGAL PRINCIPLES FOR THE CONSERVATION OF BIODIVERSITY AND HUMAN RIGHTS PROTECTION

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### Abstract

Biodiversity includes all living species and ecosystems. It is important for maintaining a healthy environment and providing resources like food, water, and medicine. These resources are linked to human rights to life, health, and cultural identity. The degradation of biodiversity threatens these rights, prompting the development of international legal frameworks aimed at conserving biodiversity. While these frameworks have incorporated key legal principles, their effective application remains limited. Despite establishing a foundation for connecting human rights and biodiversity conservation, the lack of clear, consistent and enforceable legal principles at the national level has led to conflicts between conservation efforts and human rights protections. This gap limits states ability to adequately reconcile environmental sustainability with their human rights obligations. Through using a doctrinal methodology, this study examines the legal landscape, emphasizing the importance of the principles of necessity, precaution and proportionality within international frameworks that guide states in balancing competing rights and public interests. The findings highlight significant challenges, including weak enforcement, economic pressures, and policy inconsistencies, which limit effective implementation. To address these issues, the paper recommends that states codify the principles of necessity, precaution, and proportionality into national laws providing clear guidelines for environmental impact assessments, project approval processes and conflict resolution mechanisms, thereby strengthening the legal foundation for integrating biodiversity conservation with human rights protections.

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**Keywords:** Biodiversity Conservation, Human Rights, Legal Principles and Environmental Governance

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## 1.1 Introduction

In an era where the repercussions of environmental degradation and biodiversity loss are increasingly pronounced, the interrelationship between biodiversity conservation and human rights protection has come to the forefront of international legal discourse.<sup>1</sup> Biodiversity encompasses the variety of life forms on Earth, including the diverse ecosystems in which these species exist. Its conservation is not merely an environmental necessity; it is intrinsically linked to the fulfillment of human rights, such as the right to life, health, and cultural identity.<sup>2</sup> The degradation of biodiversity threatens these rights, underscoring the urgent need for legal frameworks that recognize this inherent connection.<sup>3</sup> International law has begun to address this critical intersection by establishing principles that guide state parties in their responsibilities to both protect biodiversity and uphold human rights.<sup>4</sup> Instruments such as the Convention on Biological Diversity (CBD), Rio Declaration, Stockholm Declaration and the Universal Declaration of Human Rights (UDHR) have set the groundwork for integrating human rights considerations into biodiversity conservation efforts.<sup>5</sup> Despite the existence of international legal frameworks which have established a foundation for linking human rights, health, and environmental protection,<sup>6</sup> the lack of clear, consistent, and enforceable legal standards impedes the effective integration of these principles into national policies, resulting in conflicting laws

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<sup>1</sup> Burns H and Bollier, 'D. Toward a recalibrated human right to a clean and healthy environment: making the conceptual transition', *Journal of Human Rights and the Environment* [1 September 2013] 116-142.

<sup>2</sup> Smith, J. A., & Brown, L. T. 'The importance of biodiversity: Understanding our planet's species' *Journal of Environmental Science* [2022] 15(3) 123-145.

<sup>3</sup> Shehu, F. Z., Haruna, A. and Bello, Z. M. 'Contemporary Issues on the Regulatory Framework on Biodiversity and Human Rights Protection in Nigeria' *MAAUN Multi-disciplinary Law Journal of International Law* [2021] (2) (1) 186.

<sup>4</sup> Commentary on the Conflict between Rights and Environmentalism <<https://www.carnegiecouncil.org/dialogue>> 12/1/2023.

<sup>5</sup> Ibid.

<sup>6</sup> Article 8j Convention on Biological Diversity (1992) and Principle 1, Stockholm Declaration of the United Nations Conference on the Human Environment, (16 June 1972).

and insufficient safeguards against environmental harm. This persistent gap led to conflicts between biodiversity conservation and human rights protection. This gap limits the ability of states to adequately reconcile environmental sustainability with human rights obligations.<sup>7</sup> Therefore, necessitated the need to analyze how core legal principles namely, the precautionary principle, the principle of proportionality and the principle of necessity can be effectively applied within international and domestic legal contexts to harmonize biodiversity conservation with human rights and to address the challenges faced by states in implementing these principles.

## **1.2 International Legal Principles for the Conservation of Biodiversity**

The Convention on Biological Diversity have imposed responsibility on the state parties to develop national strategies for the conservation, sustainable use of biological diversity and to integrate biodiversity considerations into all activities without compromising human rights.<sup>8</sup> Hence, by linking the legal instruments for the conservation of biodiversity to existing human rights obligations, this paved way for the establishment of some international law principles which have significant bearing on the making of environmental laws at the domestic level without violating human rights. These principles are tools for reconciling the clashing interest in human rights conflicts against public interest hence ensure the full implementation of the goals of sustainable development.<sup>9</sup> These principles are the principle of necessity, precautionary principle and proportionality principle.

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<sup>7</sup> Ibid.

<sup>8</sup> See Article 8j of the Convention on Biological Diversity (1992).

<sup>9</sup> The United Nations Sustainable Development Goals (SDGs) comprise seventeen interconnected objectives aimed at addressing a broad spectrum of social, economic, and environmental challenges. Life on Land which aim to protect, restore and promote the sustainable management of terrestrial ecosystems and biodiversity is the fifteen goal. See United Nations (UN) (2015) Transforming our World: The 2030 Agenda for Sustainable Development A/RES/70/1 < <https://sdgs.un.org/2030agenda> > accessed 4/11/2024.

### **1.2.1 The Principle of Necessity**

Lawyers can be quite argumentative about the definition and use of a principle or doctrine in law, but it is safe to say a principle or legal doctrine is not a strict rule; it is simply a guide which has the benefit of including theoretical explanations and fundamentals of law that help lawmakers in making decisions. This simply means that a principle or doctrine, when included in a piece of legislation or a treaty, can direct how rules in that legislation or treaty should be applied.<sup>10</sup> Tribunals have acknowledged the existence of the doctrine of necessity as customary international law as accurately codified by the International Law Commission (ILC) in Article 25 of the Articles on Responsibility of States for Internationally Wrongful Acts.<sup>11</sup> The principle or doctrine of necessity is a circumstance preventing the wrongfulness of an internationally wrongful act of a state.<sup>12</sup> This principle is expressed in the Rio Declaration, The Stockholm Declaration, World Charter for Nature, African Convention on the Conservation of Nature and Natural Resources, The global Convention on International Trade in Endangered Species of Wild Fauna and Flora and the Convention on Biological Diversity, Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity, The National Biodiversity Strategies and Action Plans, which have reflected on the growing interest on biodiversity conservation which carries a strong obligation to ensure full implementation of the goals of sustainable development.

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<sup>10</sup> Jose Felix Pinto Bazurco 'Still Only One Earth Lessons from 50years of UN Sustainable Development Policy' *IISD Earth Negotiations Bulletin* [2020] 2.

<sup>11</sup> Gebhard Bucheler *Proportionality and the Customary International Law Defense of Necessity* (Oxford University Press, 2021) 253.

<sup>12</sup> See Drafted Articles on Responsibility of States for Internationally Wrongful Acts with Commentaries (A/56/10), 2001. See also Maria Agius, 'The Invocation of Necessity in International Law' *Netherlands International Law Review* [2009] (56) (2) 95-135.

### **1.2.2 Precautionary Principle**

The precautionary principle requires that, if there is a strong suspicion that a certain activity may have environmentally harmful consequences, it is better to control that activity now rather than to wait for incontrovertible scientific evidence.<sup>13</sup> This principle is expressed in the Rio Declaration, The Stockholm Declaration, World Charter for Nature, African Convention on the Conservation of Nature and Natural Resources, The global Convention on International Trade in Endangered Species of Wild Fauna and Flora and the Convention on Biological Diversity and The Cartagena Protocol on Biosafety which states that in order to protect the environment, the precautionary approach shall be widely applied by States according to their capabilities and where there are threats of serious or irreversible damage, and lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.<sup>14</sup> The precautionary principle, by contrast, points to the modest extent of scientific understanding of the nature and function of ecosystems and of the effects of human activities upon them. It suggests that the burden of uncertainty should not necessarily fall on the environment or on human populations, but rather that in some cases the imposition of costs in order to reduce the risk of environmental harm may be justified.<sup>15</sup>

### **1.2.3 Principle of Proportionality**

Proportionality is a pervasive and familiar concept within both the civil and criminal national legal systems of States, which norm first found the expression in international law in the doctrine of the just war, the Christian version of which formed the basis of the secular just war writings of early commentators on the

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<sup>13</sup> Jay Ellis & Alison Fitz Gerald *The Precautionary Principle in International Law: Lessons from Fuller's Internal Morality* (2004) 4 McGill L. J. 779

<sup>14</sup> Principle 15, United Nations Conference on Environment and Development: Rio Declaration on Environment and Development, 14 June 1992.

<sup>15</sup> Jaye Ellis and Alison FitzGerald, *The Precautionary Principle in International Law: Lessons from Fuller's Internal Morality* (2004) 49 McGill L.J. 779.

developing discipline of international law, such as Aristotle, Grotius, Cicero and Aquinas.<sup>16</sup> The principle is reflected either explicitly or implicitly in several diverse areas of international law, it appears explicitly as either a treaty norm, for example, in the regulation of targeting decisions in international humanitarian law or as a customary norm in the case of self-defense and counter measures.<sup>17</sup> In other situations, proportionality operates as a judicial mechanism of review implicit in the need to balance competing interests such as in European Union Law (EU Law), International Human Rights Law (IHRL), and the dispute settlement regime of the World Trade Organization (WTO).<sup>18</sup> Modern proportionality thus emerged as a general principle of international law whose significance, scope and role varies widely depending on the area of international law in question.<sup>19</sup> Despite its increasing importance in international law, there is no any consensus on the meaning of proportionality or on the contexts in which it operates or as to its application across board.<sup>20</sup> In order to provide some structure to the debate, scholars claimed that proportionality operates as a self-standing principle in its own right while others advocated that proportionality operates in the context of particular fields of international law and in different ways.<sup>21</sup>

For the last twenty years, constitutional courts have applied the principle of proportionality as a procedure that aims to guarantee the full respect of human rights (or fundamental rights) by the state.<sup>22</sup> This principle is applied in both civil law and common law systems, in countries such as the United States, Argentina, Germany, Great Britain, Spain, Italy, France, to mention a few; and also by the

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<sup>16</sup> Eric Engle, 'The History of the General Principle of Proportionality: An Overview' *The Dartmouth Law Journal* [2012] (x) (1) 6-8.

<sup>17</sup> Ibid.

<sup>18</sup> Ibid.

<sup>19</sup> Ibid.

<sup>20</sup> Thomas Cottier Robert *et al.*, 'The Principle of Proportionality in International Law' *NCCR Trade Working* [2012] (38) 4.

<sup>21</sup> Ibid.

<sup>22</sup> Juan Cianciardo, 'The Principle of Proportionality: The Challenges of Human Rights' *Journal of Civil Law Studies* [2010] (3) (1) 11.

European Court of Human Rights, the Inter-American Court of Human Rights and the European Court of Justice, etc.<sup>23</sup> In the common law systems, the principle is usually called “principle of reasonableness” and the principle is applied not only in constitutional issues but also in civil law, administrative law and criminal law.<sup>24</sup> In the field of human rights protection, the European Court of Human Rights since its establishment has applied considerations of proportionality in assessing restrictions of fundamental rights.<sup>25</sup> Proportionality has evolved as an important ingredient in consistently assessing human rights violations wherever and on whatever level of governance they occur as courts regularly apply the principle and its different components in this context to assess whether restrictions and measures affecting human rights appropriately respond to legitimate public interests.<sup>26</sup> Hence, three sub-principles of proportionality were found to be applicable in this field namely: 1) the principle of suitability/ adequacy, which established whether a specific measure taken by the government is suitable for a legitimate government purpose.<sup>27</sup> 2) The principle of necessity, which raised the question as to whether there is less restrictive measure which is equally effective and available to achieve the purpose of the measure. 3) Finally, the principle of proportionality *stricto sensu* which evaluates whether a measure is excessive and attributes relative weight to each principle involved, therewith taking into account all available factors and preventing unreasonable results.<sup>28</sup> These sub-principles are tools used to reconcile the clashing interest in human rights conflicts or in human rights against public interest and find a solution which respect human rights and promote public interest and protect public order, hence ensure the full

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<sup>23</sup> Ibid.

<sup>24</sup> Ibid.

<sup>25</sup> Digino Scaccia, *Proportionality and the Balancing of Right in the Case Law of European Courts*, (Federalimiit 2019) 3.

<sup>26</sup> Ibid.

<sup>27</sup> Ibid. See also Juan Cianciardo, Kai Moller, *Proportionality Challenging the Critics* (Oxford University Press, 2012)

<sup>28</sup> Ibid.

implementation of the goals of sustainable development.<sup>29</sup> The principle of proportionality is one of the ways in which the linkages between biodiversity and human rights can be actualized as it respect human rights and promote public interest and protect public order by facilitating planning for the conservation of biodiversity and healthy ecosystems while ensuring sustainable use of related resources and equitable sharing of the benefits derived therefrom.<sup>30</sup>

### **1.3 Challenges in Integrating Biodiversity Conservation and Human Rights**

The international community has established several laws and agreements to protect biodiversity and human rights. However, there are some challenges that make it difficult to put these laws into practice.

#### **1.3.1 Challenge of Necessity in Economic Development**

The challenge of necessity in economic development pertains to the justification of development projects based on their actual necessity and the availability of alternatives.<sup>31</sup> In many cases, projects are pursued without a thorough examination of whether they are truly necessary or if less harmful alternatives exist.<sup>32</sup> This issue is particularly critical in sectors like mining, agriculture, and urbanization, where the social and environmental impacts can be profound.<sup>33</sup>

A lack of rigorous necessity assessments often leads to projects being approved that do not genuinely serve the public interest. Economic development initiatives, especially in resource extraction, are frequently justified by projected economic gains without critically assessing their necessity or exploring sustainable

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<sup>29</sup> Ibid.

<sup>30</sup>United Nations Environment Programme, *Law and National Biodiversity Strategies and Action Plan* (UNEP, 2018).

<sup>31</sup>Morrison, J., 'Economic Development Projects: The Necessity for a Holistic Approach' *Journal of Environmental Management* [2014] 135: 32-40.

<sup>32</sup> Ibid.

<sup>33</sup> Ibid.



alternatives.<sup>34</sup> This was argued that this focus on profit-driven motives can lead to significant environmental harm and social injustices, especially for marginalized communities who have little power in the decision-making processes. Furthermore, it was highlighted that many projects are presented as essential for national development, thereby overshadowing alternative approaches that could achieve similar economic objectives with less ecological or social impact.<sup>35</sup> It was emphasized that a narrow view of necessity can lead to the approval of projects that may not be essential for local communities, thereby advancing agendas that prioritize short-term economic growth over long-term sustainability and community well-being.<sup>36</sup>

In many developing countries, the pressure to attract foreign investment often results in the implementation of large-scale projects that are framed as necessary for economic advancement, with inadequate attention paid to traditional livelihoods and environmental stewardship.<sup>37</sup> For instance, the Food and Agriculture Organization (FAO) report illustrates how extensive land conversions for industrial agriculture are frequently justified by claims of food security without considering small-scale, sustainable agricultural practices that could meet local needs with far less risk to ecosystems.<sup>38</sup> Additionally, the United Nations Environment Programme (UNEP) stresses the importance of necessity in developing strategies for sustainable development.<sup>39</sup> UNEP argues that the adoption of the precautionary principle should coincide with the necessity principle, advocating for the exploration of alternatives that minimize harm. In

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<sup>34</sup> Ibid.

<sup>35</sup> Sullivan, S., 'The Challenge of Necessity: Reflections on Economic Development and Environmental Justice' *International Journal of Sustainable Development* [2015] 18(2): 150-164.

<sup>36</sup> Ibid.

<sup>37</sup> Food and Agriculture Organization, *The State of Food and Agriculture 2016: Climate Change and Agriculture* (FAO 2016).

<sup>38</sup> Ibid.

<sup>39</sup> United Nations Environment Programme, *Global Environment Outlook – GEO-6: Healthy Planet, Healthy People* (UNEP 2019).

their view, justifying projects without proper consideration of alternatives undermines sustainable development goals, which should prioritize ecological integrity and social equity alongside economic growth.

In sum, the challenge of necessity in economic development highlights the crucial need for a comprehensive evaluation of whether proposed projects are genuinely needed and sustainable. A more balanced approach that prioritizes the exploration of alternatives and critically assesses the actual benefits of development initiatives is essential if we are to avoid unnecessary harm to both communities and the environment.

### **1.3.2 Lack of Adherence to the Precautionary Principle in Environmental Policies**

The precautionary principle is a key element of environmental governance, which advocates for preemptive action in the face of uncertainty, particularly when the potential for irreversible harm exists.<sup>40</sup> However, there is a notable lack of adherence to this principle across many countries' environmental policies.<sup>41</sup> This trend is particularly concerning given the rapid pace of development initiatives that often proceed despite significant scientific uncertainty regarding their long-term impacts on biodiversity and the rights of local communities.<sup>42</sup> It was argued that the precautionary principle is frequently overlooked in policy-making contexts, which contributes to detrimental environmental outcomes.<sup>43</sup> They emphasize that when policymakers prioritize immediate economic gains over scientific advice and ecological considerations, they exacerbate the risks to both human and environmental health.<sup>44</sup> This negligence is compounded by political

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<sup>40</sup>Raffensperger, C. & Tickner, J. (eds.), *Protecting Public Health and the Environment: Implementing the Precautionary Principle* (Island Press 1999), 10 – 20.

<sup>41</sup> Ibid.

<sup>42</sup> Ibid.

<sup>43</sup> Ibid.

<sup>44</sup> Ibid.

pressures that favor short-term growth over long-term sustainability.<sup>45</sup> Furthermore, a report by the European Environment Agency highlighted a disturbing trend wherein projects are permitted despite unknown ecological consequences.<sup>46</sup> This report underlines that inadequate application of the precautionary principle has led to several instances of environmental degradation across Europe, such as biodiversity loss in marine ecosystems due to unchecked fishing practices.<sup>47</sup> The report emphasizes that failing to address gaps in precautionary measures not only threatens ecosystems but also undermines the rights of communities that depend on these resources for their livelihoods.<sup>48</sup>

A practical example is found in the American context, where it was discussed that the reliance on economic justification in regulatory frameworks, often sideline precaution.<sup>49</sup> It was noted that industries can frequently mobilize political support by advocating for economic development, which leads to regulatory rollbacks on environmental protection.<sup>50</sup> This practice perpetuates a cycle where scientific uncertainties are ignored, ultimately resulting in significant environmental harm and the erosion of community rights.<sup>51</sup> In developing countries, it was pointed out that many governments prioritize economic development projects, such as large-scale agriculture, mining, or infrastructure projects, over the precautionary measures needed to protect vulnerable ecosystems and the rights of indigenous populations.<sup>52</sup> In these contexts, the urgency to attract foreign investment often leads to the minimization of requisite environmental assessments, allowing

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<sup>45</sup> Ibid.

<sup>46</sup> European Environment Agency, *The Precautionary Principle: A European Perspective* (EEA Report No 3/2015, 2015).

<sup>47</sup> Ibid.

<sup>48</sup> Ibid.

<sup>49</sup> Hoffman, A.J., 'Climate Change Strategy: The Business Model Imperative' *Harvard Business Review* [2008] 86(3): 80-87.

<sup>50</sup> Ibid

<sup>51</sup> Ibid.

<sup>52</sup> Kälén, W., 'Indigenous Peoples, Natural Resource Extraction and the Precautionary Principle: A Preliminary Assessment' *Natural Resources Journal* [2016] 56(1): 103-124.

projects to advance without proper scrutiny.<sup>53</sup> This trend demonstrates a troubling disregard for the precautionary principle and its role in preventing irreversible ecological damage.

In summary, the lack of adherence to the precautionary principle in environmental policy is a significant concern that arises from economic pressures and political expediency. This oversight places biodiversity and community rights at risk and highlights the need for a fundamental shift in how development initiatives are evaluated and implemented.

### **1.3.3 Challenge of Proportionality in Economic Development**

The challenge of proportionality in the context of economic development is critical, particularly as it relates to the balance between development initiatives and their environmental and social impacts. Often, actions taken to spur economic growth, especially through projects like mining, agriculture, and urban development, do not adequately consider the significant environmental degradation and social costs they impose on local ecosystems and communities.<sup>54</sup> This imbalance raises ethical concerns and calls for a reevaluation of how project impacts are assessed. The benefits of development projects are often prioritized over their environmental and social repercussions, for instance, Girot discusses how mining operations frequently disregard the potential for habitat destruction, water pollution, and adverse effects on local communities, particularly indigenous groups.<sup>55</sup> These projects typically promise economic benefits, such as job creation and increased revenue, yet fail to address the long-term degradation of the environment, which, in many cases, can result in a net loss for affected communities. The World Bank also highlights that many large-scale development projects often impose significant burdens on vulnerable populations without

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<sup>53</sup> Ibid.

<sup>54</sup> Girot, P., 'The Impacts of Mining on Ecosystems and Communities: A Critical Overview' *Environmental Science & Policy* [2016] 60: 1-7.

<sup>55</sup> Ibid.

adequate justification.<sup>56</sup> According to their report, the economic benefits touted by such projects can be overshadowed by the social costs borne by displaced communities and the ecological impact on surrounding areas.<sup>57</sup> The report emphasizes the need for policies that ensure a proportional relationship between development benefits and the costs to local people and ecosystems, recommending comprehensive impact assessments that fully integrate social and environmental factors. Moreover, Jenkins critiques the disproportionate effects of agricultural expansion on local ecosystems and communities in his analysis of land-use policies.<sup>58</sup> He argues that the push for increased agricultural productivity often overlooks the intrinsic value of maintaining biodiversity and the ecosystem services that healthy environments provide, such as pollination, water filtration, and climate regulation.<sup>59</sup> By not properly weighing these factors, policymakers perpetuate a cycle of environmental degradation that disproportionately affects marginalized communities, who rely heavily on natural resources for their livelihoods.<sup>60</sup> Furthermore, Pope examines case studies where economic development projects disproportionately impact indigenous peoples, often resulting in the violation of their rights.<sup>61</sup> He notes that these projects can lead to loss of land, cultural heritage, and traditional livelihoods, with little regard for the proportionality principle that would require weighing economic benefits against social and environmental costs.<sup>62</sup> His findings highlight the urgent need for a more balanced approach to assessing development initiatives, where decision-makers take a holistic view of project impacts on all stakeholders involved.

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<sup>56</sup>World Bank, *Resilience to Natural Disasters and Climate Change: A New Paradigm for Development* (World Bank 2019).

<sup>57</sup> Ibid.

<sup>58</sup>Jenkins, M., 'Capitalizing on Nature: The Marginalization of Biodiversity in Agricultural Expansion' *Plant Biology* [2014] 16(1): 49-55.

<sup>59</sup> Ibid.

<sup>60</sup> Ibid.

<sup>61</sup>Pope, J. J., 'Indigenous Rights and Development: Reconciling Interests in the Name of Progress' *Environmental Law Review* [2015] 17(1): 45-60.

<sup>62</sup> Ibid.

In summary, the challenge of proportionality in economic development necessitates a critical examination of how the costs and benefits of development projects are assessed and valued. Without a concerted effort to align economic initiatives with social justice and environmental sustainability, disproportionate impacts on communities and ecosystems will persist, undermining both the legitimacy of development policies and the future viability of those communities.

**1.3.4. Lack of Clear Laws:** There are many different laws and agreements about biodiversity and human rights, but they are not always clear and consistent. For example, the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) deals with the trade of endangered animals and plants, while the International Covenant on Civil and Political Rights (ICCPR) protects human rights. These laws sometimes conflict with each other making decision-makers to often resort to rapid and sometimes unnecessary development projects that may threaten biodiversity and human rights. The assessment of whether such projects are essential is frequently inadequate, leading to detrimental consequences for local communities and ecosystems

## **1.4 Conclusion**

The integration of the principles of necessity, precaution, and proportionality into the discourse surrounding biodiversity conservation and human rights is vital for sustainable governance. The identified challenges underscore the need for a paradigm shift in how development is approached, advocating for a holistic perspective that prioritizes both ecological integrity and human dignity. To achieve lasting solutions, policymakers must confront these challenges head-on by implementing targeted recommendations that align with the three principles. This will require commitment at all levels: national, local, and grassroots level to reshape environmental governance frameworks. Through this transformative approach, biodiversity conservation and the protection of human rights can be

ensured to not just be aspirational goals, but integral elements of development strategies that benefit both humans and the planet.

## **1.5 Findings**

1. **Legal Frameworks and Principles:** International instruments such as the CBD, Rio Declaration, and Cartagena Protocol embed the principles of necessity, precaution, and proportionality as essential tools for balancing biodiversity conservation with human rights obligations.
2. **Challenges in Implementation:** Despite the recognition of these principles in international law, their effective application at the domestic level is limited by economic pressures, political expediency and inconsistent legal interpretations. Specific issues include inadequate necessity assessments, neglect of precautionary measures, and disproportionate impacts of development projects.
3. **Economic Development and Environmental Trade-offs:** Projects justified on the basis of necessity or economic benefits often overlook environmental and social costs, leading to biodiversity loss and human rights violations, especially affecting marginalized communities and indigenous peoples.
4. **Legal and Policy Gaps:** The lack of clear, consistent, and enforceable legal standards impedes the effective integration of these principles into national policies, resulting in conflicting laws and insufficient safeguards against environmental harm.

## **1.6 Recommendations**

1. **Strengthening Legal Frameworks:** States should codify the principles of necessity, precaution, and proportionality into national laws, ensuring clear guidelines for environmental assessments, project approvals, and conflict resolution.

2. **Enhancing Domestic Implementation:** Develop robust institutional mechanisms to enforce international standards, including capacity-building for policymakers and judiciary bodies to interpret and apply these principles effectively.
3. **Holistic Impact Assessments:** Mandate comprehensive, multi-dimensional impact assessments that rigorously evaluate environmental, social, and cultural implications, integrating the three principles to ensure sustainable decision-making.
4. **Promoting Alternative Development Strategies:** Encourage exploration of less harmful, sustainable alternatives to development projects that are justified on the basis of necessity, prioritizing community rights and ecological integrity.
5. **Fostering International Cooperation:** Facilitate greater alignment and coherence among international treaties and domestic laws to prevent conflicting obligations and promote integrated approaches to biodiversity and human rights.
6. **Raising Awareness and Capacity Building:** Implement educational initiatives to sensitize stakeholders, government officials, communities, and corporations about the importance of these principles in safeguarding biodiversity and human rights.