Contents

1.1.1 The Climate Component 1.1.2 The Legal Component 1.2 Aim of the Analysis 1.3 Methodology 1.3.1 Bangladesh: As an Example Throughout the Analysis 1.3.2 Challenge 1.4 Synopsis 1.4.1 Climate Conflicts: The Pathways 1.4.2 State Responsibility 1.4.3 Climate Conflicts and International Environment 1.4.4 Legal Consequences 1.4.5 Climate Change and the Use of Force 1.4.6 Climate Conflicts and International Humanita 1.4.7 Definition of Climate Conflicts References 2 Climate Conflicts: The Pathways 2.1 Physical Consequences of Climate Change 2.1.1 Rising Sea Level 2.1.2 Natural Disasters 2.1.3 Desertification 2.2 Social Consequences of Climate Change 2.2.1 Climate Change and Conflict 2.2.2 Historical Scenarios 2.2.3 Present Scenario: Sudan 2.2.4 Future Scenario: Bangladesh 2.3 Conclusion	ı	introduction			
1.1.1 The Climate Component 1.1.2 The Legal Component 1.2 Aim of the Analysis 1.3 Methodology 1.3.1 Bangladesh: As an Example Throughout the Analysis 1.3.2 Challenge 1.4 Synopsis 1.4.1 Climate Conflicts: The Pathways 1.4.2 State Responsibility 1.4.3 Climate Conflicts and International Environment 1.4.4 Legal Consequences 1.4.5 Climate Change and the Use of Force 1.4.6 Climate Conflicts and International Humanita 1.4.7 Definition of Climate Conflicts References 2 Climate Conflicts: The Pathways 2.1 Physical Consequences of Climate Change 2.1.1 Rising Sea Level 2.1.2 Natural Disasters 2.1.3 Desertification 2.2 Social Consequences of Climate Change 2.2.1 Climate Change and Conflict 2.2.2 Historical Scenarios 2.2.3 Present Scenario: Sudan 2.2.4 Future Scenario: Bangladesh 2.3 Conclusion		1.1	Clima	tte Conflicts: A Disputed Term	
1.1.2 The Legal Component 1.2 Aim of the Analysis 1.3 Methodology 1.3.1 Bangladesh: As an Example Throughout the A 1.3.2 Challenge 1.4 Synopsis 1.4.1 Climate Conflicts: The Pathways 1.4.2 State Responsibility 1.4.3 Climate Conflicts and International Environme 1.4.4 Legal Consequences 1.4.5 Climate Change and the Use of Force 1.4.6 Climate Conflicts and International Humanita 1.4.7 Definition of Climate Conflicts References 2 Climate Conflicts: The Pathways 2.1 Physical Consequences of Climate Change 2.1.1 Rising Sea Level 2.1.2 Natural Disasters 2.1.3 Desertification 2.2 Social Consequences of Climate Change 2.2.1 Climate Change and Conflict 2.2.2 Historical Scenarios 2.2.3 Present Scenario: Sudan 2.2.4 Future Scenario: Bangladesh 2.3 Conclusion				The Climate Component	:
1.3 Methodology 1.3.1 Bangladesh: As an Example Throughout the A 1.3.2 Challenge 1.4 Synopsis 1.4.1 Climate Conflicts: The Pathways 1.4.2 State Responsibility 1.4.3 Climate Conflicts and International Environme 1.4.4 Legal Consequences 1.4.5 Climate Change and the Use of Force 1.4.6 Climate Conflicts and International Humanita 1.4.7 Definition of Climate Conflicts References 2 Climate Conflicts: The Pathways 2.1 Physical Consequences of Climate Change 2.1.1 Rising Sea Level 2.1.2 Natural Disasters 2.1.3 Desertification 2.2 Social Consequences of Climate Change 2.2.1 Climate Change and Conflict 2.2.2 Historical Scenarios 2.2.3 Present Scenario: Sudan 2.2.4 Future Scenario: Bangladesh 2.3 Conclusion				The Legal Component	(
1.3.1 Bangladesh: As an Example Throughout the A 1.3.2 Challenge 1.4 Synopsis 1.4.1 Climate Conflicts: The Pathways 1.4.2 State Responsibility 1.4.3 Climate Conflicts and International Environme 1.4.4 Legal Consequences 1.4.5 Climate Change and the Use of Force 1.4.6 Climate Conflicts and International Humanita 1.4.7 Definition of Climate Conflicts References 2 Climate Conflicts: The Pathways 2.1 Physical Consequences of Climate Change 2.1.1 Rising Sea Level 2.1.2 Natural Disasters 2.1.3 Desertification 2.2 Social Consequences of Climate Change 2.2.1 Climate Change and Conflict 2.2.2 Historical Scenarios 2.2.3 Present Scenario: Sudan 2.2.4 Future Scenario: Bangladesh 2.3 Conclusion		1.2	Aim o	of the Analysis	,
1.3.2 Challenge 1.4 Synopsis 1.4.1 Climate Conflicts: The Pathways 1.4.2 State Responsibility 1.4.3 Climate Conflicts and International Environmed 1.4.4 Legal Consequences 1.4.5 Climate Change and the Use of Force 1.4.6 Climate Conflicts and International Humanita 1.4.7 Definition of Climate Conflicts References 2 Climate Conflicts: The Pathways 2.1 Physical Consequences of Climate Change 2.1.1 Rising Sea Level 2.1.2 Natural Disasters 2.1.3 Desertification 2.2 Social Consequences of Climate Change 2.2.1 Climate Change and Conflict 2.2.2 Historical Scenarios 2.2.3 Present Scenario: Sudan 2.2.4 Future Scenario: Bangladesh 2.3 Conclusion					
1.4 Synopsis			1.3.1	Bangladesh: As an Example Throughout the Analysis	8
1.4.1 Climate Conflicts: The Pathways 1.4.2 State Responsibility 1.4.3 Climate Conflicts and International Environments 1.4.4 Legal Consequences 1.4.5 Climate Change and the Use of Force 1.4.6 Climate Conflicts and International Humanita 1.4.7 Definition of Climate Conflicts References 2 Climate Conflicts: The Pathways 2.1 Physical Consequences of Climate Change 2.1.1 Rising Sea Level 2.1.2 Natural Disasters 2.1.3 Desertification 2.2 Social Consequences of Climate Change 2.2.1 Climate Change and Conflict 2.2.2 Historical Scenarios 2.2.3 Present Scenario: Sudan 2.2.4 Future Scenario: Bangladesh 2.3 Conclusion			1.3.2	Challenge	10
1.4.2 State Responsibility		1.4	Synop	osis	1
1.4.3 Climate Conflicts and International Environme 1.4.4 Legal Consequences 1.4.5 Climate Change and the Use of Force 1.4.6 Climate Conflicts and International Humanita 1.4.7 Definition of Climate Conflicts References 2 Climate Conflicts: The Pathways 2.1 Physical Consequences of Climate Change 2.1.1 Rising Sea Level 2.1.2 Natural Disasters 2.1.3 Desertification 2.2 Social Consequences of Climate Change 2.2.1 Climate Change and Conflict 2.2.2 Historical Scenarios 2.2.3 Present Scenario: Sudan 2.2.4 Future Scenario: Bangladesh 2.3 Conclusion			1.4.1	Climate Conflicts: The Pathways	12
1.4.4 Legal Consequences 1.4.5 Climate Change and the Use of Force 1.4.6 Climate Conflicts and International Humanita 1.4.7 Definition of Climate Conflicts References 2 Climate Conflicts: The Pathways 2.1 Physical Consequences of Climate Change 2.1.1 Rising Sea Level 2.1.2 Natural Disasters 2.1.3 Desertification 2.2 Social Consequences of Climate Change 2.2.1 Climate Change and Conflict 2.2.2 Historical Scenarios 2.2.3 Present Scenario: Sudan 2.2.4 Future Scenario: Bangladesh 2.3 Conclusion			1.4.2	State Responsibility	12
1.4.5 Climate Change and the Use of Force 1.4.6 Climate Conflicts and International Humanita 1.4.7 Definition of Climate Conflicts References 2 Climate Conflicts: The Pathways 2.1 Physical Consequences of Climate Change 2.1.1 Rising Sea Level 2.1.2 Natural Disasters 2.1.3 Desertification 2.2 Social Consequences of Climate Change 2.2.1 Climate Change and Conflict 2.2.2 Historical Scenarios 2.2.3 Present Scenario: Sudan 2.2.4 Future Scenario: Bangladesh 2.3 Conclusion			1.4.3	Climate Conflicts and International Environmental Law	13
1.4.6 Climate Conflicts and International Humanita 1.4.7 Definition of Climate Conflicts References 2 Climate Conflicts: The Pathways 2.1 Physical Consequences of Climate Change 2.1.1 Rising Sea Level 2.1.2 Natural Disasters 2.1.3 Desertification 2.2 Social Consequences of Climate Change 2.2.1 Climate Change and Conflict 2.2.2 Historical Scenarios 2.2.3 Present Scenario: Sudan 2.2.4 Future Scenario: Bangladesh 2.3 Conclusion			1.4.4	Legal Consequences	13
1.4.7 Definition of Climate Conflicts References 2 Climate Conflicts: The Pathways 2.1 Physical Consequences of Climate Change 2.1.1 Rising Sea Level 2.1.2 Natural Disasters 2.1.3 Desertification 2.2 Social Consequences of Climate Change 2.2.1 Climate Change and Conflict 2.2.2 Historical Scenarios 2.2.3 Present Scenario: Sudan 2.2.4 Future Scenario: Bangladesh 2.3 Conclusion			1.4.5	Climate Change and the Use of Force	14
References 2 Climate Conflicts: The Pathways 2.1 Physical Consequences of Climate Change 2.1.1 Rising Sea Level 2.1.2 Natural Disasters 2.1.3 Desertification 2.2 Social Consequences of Climate Change 2.2.1 Climate Change and Conflict 2.2.2 Historical Scenarios 2.2.3 Present Scenario: Sudan 2.2.4 Future Scenario: Bangladesh 2.3 Conclusion			1.4.6	Climate Conflicts and International Humanitarian Law	14
2 Climate Conflicts: The Pathways 2.1 Physical Consequences of Climate Change 2.1.1 Rising Sea Level 2.1.2 Natural Disasters 2.1.3 Desertification 2.2 Social Consequences of Climate Change 2.2.1 Climate Change and Conflict 2.2.2 Historical Scenarios 2.2.3 Present Scenario: Sudan 2.2.4 Future Scenario: Bangladesh 2.3 Conclusion			1.4.7	Definition of Climate Conflicts	15
2.1 Physical Consequences of Climate Change 2.1.1 Rising Sea Level 2.1.2 Natural Disasters 2.1.3 Desertification 2.2 Social Consequences of Climate Change 2.2.1 Climate Change and Conflict 2.2.2 Historical Scenarios 2.2.3 Present Scenario: Sudan 2.2.4 Future Scenario: Bangladesh 2.3 Conclusion		Refe	rences		16
2.1 Physical Consequences of Climate Change 2.1.1 Rising Sea Level 2.1.2 Natural Disasters 2.1.3 Desertification 2.2 Social Consequences of Climate Change 2.2.1 Climate Change and Conflict 2.2.2 Historical Scenarios 2.2.3 Present Scenario: Sudan 2.2.4 Future Scenario: Bangladesh 2.3 Conclusion	2	Climate Conflicts: The Pathways			
2.1.2 Natural Disasters				cal Consequences of Climate Change	21
2.1.3 Desertification			2.1.1	Rising Sea Level	22
2.2 Social Consequences of Climate Change			2.1.2	Natural Disasters	23
2.2.1 Climate Change and Conflict			2.1.3	Desertification	24
2.2.2 Historical Scenarios		2.2	Social	Consequences of Climate Change	25
2.2.3 Present Scenario: Sudan			2.2.1	Climate Change and Conflict	28
2.2.4 Future Scenario: Bangladesh			2.2.2	Historical Scenarios	30
2.3 Conclusion			2.2.3	Present Scenario: Sudan	31
				Future Scenario: Bangladesh	33
References				asion	35
		Refe	rences .		35

x Contents

3	Sta	te Responsibility	39
	3.1	State Responsibility	40
		3.1.1 The International Law Commission	40
		3.1.2 The ILC-Draft Articles on State Responsibility	42
	3.2	Internationally Wrongful Act	45
		3.2.1 Breach of an International Obligation: Primary Rules	47
		3.2.2 Breach of <i>Ius Cogens</i> and <i>Erga Omnes</i> Norms	49
	Ref	erences	51
4	Clir	nate Conflicts and International Environmental Law	53
	4.1	International Environmental Law	54
	4.2	Terminology in International Law	55
	4.3	The United Nations Framework Convention on Climate Change	58
		4.3.1 Objectives	59
		4.3.2 Principles	63
		4.3.3 Commitments	68
		4.3.4 Conclusion	69
	4.4	The Kyoto Protocol	70
		4.4.1 The Kyoto Commitments	71
		4.4.2 The Conferences of the Parties (COP) and Conference of the	
		Parties Serving as the Meeting of the Parties	
		to the Kyoto Protocol (CMP)	76
	4.5	The Geneva Convention on Long-Range Transboundary Air	
		Pollution	79
	4.6	Customary International Law	82
		4.6.1 The Obligation to Prevent Transboundary Harm	83
		4.6.2 Draft Articles on Prevention of Transboundary Harm	
		from Hazardous Activities	86
		4.6.3 Draft Principles on the Allocation of Loss in the Case	
		of Transboundary Harm Arising Out of Transboundary	
		Activities	92
		4.6.4 The Polluter-Pays Principle	93
		4.6.5 Court Opinions	95
		4.6.6 Other Rules/Standards of Customary International Law	96
	4.7	United Nations Convention on the Law of the Sea (UNCLOS)	100
		4.7.1 Diminishment of the Exclusive Economic Zones	101
		4.7.2 Responsibility and Liability in UNCLOS	102
	4.8	The Lugano Convention and the Basel Convention	104
	4.9		105
	Refe	rences	106
5	Lega	al Consequences	111
	5.1	Invoking State Responsibility	111
	5.2	Attribution or Imputability	113

Contents xi

	5.3	Fair Attribution of Conduct Creates the Claim Opponent	114
		5.3.1 Subjects of International Law: Actors	116
		5.3.2 The Victim Becomes the Claimant	124
	5.4	Fault, Damage, and Causation	126
		5.4.1 Fault	128
		5.4.2 Damage	128
		5.4.3 Causation	130
	5.5	Circumstances Precluding Wrongfulness	133
	5.6	Legal Implications	138
		5.6.1 Cessation	138
		5.6.2 Reparation	139
		5.6.3 Joint Liability	141
	5.7	The Problems	143
	5.8	Conclusion	144
	Refe	erences	146
,			
6		nate Change and the Use of Force	149
	6.1	Article 2.4 UN Charter	150
	6.2	Climate Change and the UN Security Council	151
	6.3	Defining Use of Force	153
		6.3.1 Use of Force and Armed Conflict	153
		6.3.2 UN Resolutions	155
		6.3.3 Use of Force: Dynamic or Narrow Interpretation?	159
		6.3.4 Article 2.4 UN Charter and the Object of Protection	163
		6.3.5 Violations of State Sovereignty	166
	6.4	Conclusions Regarding the Violation of Article 2.4 UN	
		Charter	183
	Refe	erences	185
7	Clin	nate Conflicts and International Humanitarian Law	189
	7.1	Crossing the Threshold: <i>Ius in Bello</i>	191
	7.2	International Humanitarian Law Relevant to the Environment	194
		7.2.1 Convention on the Prohibition of Military or Any Other	
		Hostile Use of Environmental Modification Techniques	
		(ENMOD), 18 May 1977	195
		7.2.2 Additional Protocol I to the Geneva Conventions	200
	7.3	Other International Provisions Regarding Armed Conflicts	
		and the Environment and Custom	214
	7.4	Conclusions Regarding Environmental Warfare and Climate	
		Conflicts	217
		7.4.1 Argumentum a Fortiori	219
		7.4.2 Climate Change as a Form of War	225
		7.4.3 The Possibility of Compensation	226
	7.5	Conclusion	228
	7.6	Climate Change and the Responsibility to Protect	229
		rences	232

X11	

8	Definition of Climate Conflicts					
	8.1 Terminological Dilutions in IHL	235				
	8.2 Peace and Conflict Studies	238				
	References	241				
9	Conclusion	243				