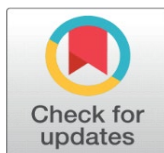
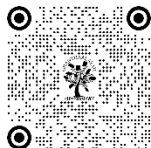


THE SIGNIFICANCE OF INTERNATIONAL HUMANITARIAN LAW IN SAFEGUARDING THE ENVIRONMENT IN ARMED CONFLICT ZONES

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ABSTRACT

The primary motivation behind the researchers' writing of this work is the fundamental need for human safety and care for survival at all times. Man is the essence of existence, and his sense of safety and tranquillity, which ensures his liberties and his dignity at all times, are the foundations of his survival. Because international humanitarian law is intimately related to human rights, it is one of the most significant areas of international public law, and its provisions reflect the expansion of human rights. As long as they follow this law's guidelines and provisions, it has so far saved millions of lives. This paper aims to determine the extent to which International Humanitarian Law contributes to the safeguarding of the ecosystem. This will be achieved by examining existing studies and assessing conferences, conventions, and international agreements that address international humanitarian law.

Keywords: "International Humanitarian Law", Environmental Safeguard, Armed Conflict, Human Protection



1. INTRODUCTION

The need for environmental conservation during armed conflicts did not emerge recently, but rather has a lengthy historical background. The rules and guidelines for environmental preservation have evolved from the local level of the environmental peace movement to the global level. The evolving pattern of anthropogenic environmental degradation and perils alters the character of legal statutes and regulations. Furthermore, the extensive devastation of the environment that occurs during armed conflicts has led to the need for the establishment and development of international laws and regulations, among other factors. Therefore, global agreements and regulations pertaining to armed conflict have included various requirements to safeguard the environment during times of war. International Environmental Law is a reasonable and appropriate framework for safeguarding the environment from the destructive impacts of conflict. However, this statement is incorrect as Environmental Law is enforceable during times of peace but not during times of conflict. Furthermore, International Humanitarian Law is the sole legal framework that applies specifically to armed conflicts and is sometimes referred to as the "law of war or armed conflict." The primary objective of this study is to identify the laws of International Humanitarian Law that offer general, direct, or indirect protection to

the environment during times of conflict. In addition, the discussion will cover various international treaties and United Nations Resolutions that directly or indirectly address environmental safety during times of conflict.

2. CONCEPTUAL FRAMEWORK AND METHODOLOGY

When considering the safeguarding of the environment in times of armed conflict, the issue of environmental security takes precedence. Moreover, while discussing the backdrop or historical context of environmental preservation, it is essential to take into account the environmental movement that has been present for an extensive length of time, involving environmentalists and naturalists. There are two overarching frameworks that conceptualise environmental conservation during war. One perspective focuses on security, while the other perspective centres around the environmental movement. The initial proposition posits that the most effective approach to achieving environmental protection is by broadening the definition of security. The notion of security is primarily defined within the realism perspective, which is a state-centric paradigm that focuses on martial concepts. Furthermore, there is a lack of space allocated for the preservation of the ecosystem. The prevailing trend in security concepts incorporates environmental protection through a non-traditional method, namely by explicitly including the concept of environmental security. Furthermore, safeguarding the environment is seen as a crucial measure for the preservation of humanity within the ecosystem. The component of security was redefined to incorporate the idea of environmental protection. (Refer to Narrotam, 2000) Therefore, it may be inferred that the idea of environmental protection is encompassed within the greater scope of human security, when considering security from a perceptual standpoint.

Furthermore, if we consider the problem of environmental preservation from a larger perspective of the environmental movement, we might perceive it as a manifestation of a new social movement. There is currently no established theoretical foundation for emerging social movements. According to Timothy (2005), the global environmental movement is depicted using the theoretical framework of new social movement. There are several attributes associated with emerging social movements. Jonathon and Joseph (1995) outline the primary attributes of new social movements (NSMs). It is asserted that NSMs frequently include the formation of novel aspects of identity. The complaints stem from a collection of convictions, symbols, ideals, and significances, rather than only from the economic grievances that typified the activities of the working class. Once again, this tendency is mostly observed in movements in developed countries, but environmental movements in developing countries often transcend social class and other differences.

The authors are doing an explanatory research. The research has been carried out using secondary data and analysed utilising qualitative methods. Books, scholarly publications, company websites, etc., are examples of data sources. "International Humanitarian Laws" means "the laws of armed conflict" in an operational sense.

3. WARTIME ENVIRONMENTAL PROTECTION: A CONCEPTUAL FRAMEWORK

According to prominent environmental literature, the concept and laws surrounding environmental protection during times of conflict emerged in the twentieth century. "Malviya (1999)" states that most of the legislation related to environmental preservation was developed in the past century. In addition, the environmental movement gained prominence in the twentieth century as a unique and influential social phenomenon. In order to highlight the influence of the American perspective, "Taylor (2008)" delves into the origins of the environmental movement. According to him, the environmental movement originated in the early 1900s with a diverse group of individuals who shared a passion for conservation, nature, and birdwatching. Human activities such as overhunting, forest clear cuts, and strip mining have a significant impact on depleting natural resources. The campaign gained momentum when the government began monitoring and documenting these detrimental effects. During the latter half of the twentieth century, there was a significant worldwide movement urging governments to recognise the potential health consequences of environmental violations. In today's society, being environmentally indifferent is often viewed as uncivilised. Today, environmental issues have become a battleground of global political posturing and widespread misinformation. According to another writer, "John McCormick (1989)", the birth of the environmental movement is not easily identifiable. There were no significant conflicts, no influential figures who emerged to inspire the masses, no singular event that sparked a major movement, and only a handful of notable locations. The movement originated in multiple locations and emerged at different times, driven by diverse causes. The initial movements were ignited by concerns within the local community. Once individuals became aware of the direct impact of pollution, poaching, and deforestation on their lives. It all began with individuals coming together, then those groups formed alliances, which developed into a national movement, and eventually a global movement. This progress happened in bursts, with periods of active growth followed by periods of inactivity.

There is ongoing discussion about when the environmental protection movement first emerged, but it is widely acknowledged that it gained momentum in the 20th century. This was primarily driven by the alarming levels of environmental degradation caused by industrialization and the devastating impact of war on a global scale. During the latter half of the twentieth century, the study of environmental issues gained global recognition. As "Gabriel (2011)" points out, the relationship between environmental degradation and the broader economic, political, and cultural systems of modern societies has become increasingly evident and politically charged since the 1960s. This has resulted in a surge of global environmental movements. There is a growing awareness among individuals about the connection between globalisation and environmental degradation. As a result, various groups are now extending their efforts beyond national boundaries to combat this issue. The 1992 United Nations Conference on Environment and Development (UNCED) is widely regarded as a pivotal moment in the involvement of transnational actors in global environmental politics. Simultaneously, approximately 1,500 non-governmental organisations (NGOs) organised a parallel conference, while numerous others convened in different regions across the globe. During the 2002 International Summit on Sustainable Development in Johannesburg, over 6,000 formally registered NGOs and countless "unofficial" organisations and movements came together, two decades later. Leading up to the 2009 United Nations Climate Change Conference in Copenhagen, various groups and movements from around the world came together to address the pressing issue of climate change. Included in the main body of international law is the concept of safeguarding the environment during periods of conflict. Environmental protection during combat reached its peak in the twentieth century, as international environmental law evolved alongside the law of armed conflict. In addition, measures to protect the environment have been incorporated into important international laws such as International Humanitarian Law, Human Rights Law, Treaty Laws, and more. Environmental protection measures during wartime were explicitly addressed with the approval of Additional Protocol I to the Four Geneva Conventions in 1977.

4. EXPLORING THE INTERSECTION OF INTERNATIONAL HUMANITARIAN LAW (IHL) AND ENVIRONMENTAL PROTECTION

According to UNEP's Merrema et al. (2009), International Humanitarian Law is the primary set of rules governing environmental conservation. The four main areas of international humanitarian law are "treaty law, customary law, soft law, and case law." When it comes to environmental protection during times of conflict, the Treaty Law primarily consists of three parts. There is direct environmental protection, a fundamental concept that applies in all cases, and indirect environmental protection measures included in the regulations pertaining to wartime.

Many rules are specifically intended at protecting the environment during conflict, according to the UNEP study (2009). Here is a basic overview of them:

"ADDITIONAL PROTOCOL I"

Wartime environmental protection is addressed directly in Articles 35(3) and 55(1) (1977) of Additional Protocol I to the 1949 Geneva Conventions. The use of weapons and tactics that cause or are likely to cause extensive, lasting, and severe damage to the environment is against the law. According to Hans-Peter Gasser (1997), this additional limitation was added to Article 35 in order to place a broad limitation on combat. In this article, key terms like "natural environment," "widespread," "long term," and "severe damage" are used. Combat strategies that cause massive, irreparable harm to the "natural environment" are categorically forbidden in this piece. American troops in Vietnam wreaked havoc on the ecosystem for decades to come, says the UNEP Report (2009).

The article 55(1) opines that, "Care shall be taken in warfare to protect the natural environment against widespread, long-term and severe damage. This protection includes a prohibition of the use of methods or means of warfare which are intended or may be expected to cause such damage to the natural environment and thereby to prejudice the health or survival of the population." It also added that "Attacks against the natural environment by way of reprisals are prohibited."

When there is going to be an armed confrontation between two or more nations, these two provisions of the Additional Protocol I to the Geneva Conventions apply. However, the pattern of warfare in recent times has shifted from being internal to being worldwide. The academic community's "new war debate" got off to a great start. Since it does not apply to conflicts that do not include international forces, this is one of the main problems with these two articles. In any case, the natural environment is fiercely and vehemently protected in these pieces even while war is raging. Another difference that Merrema et al. pointed out is that the terms "widespread," "long term," and "severe" harm are not

defined.

5. ONE SUCH INTERNATIONAL AGREEMENT IS THE ENV (1976) CONVENTION, WHICH FORBIDS THE USE OF ENVIRONMENTAL MODIFICATION TECHNIQUES FOR MILITARY PURPOSES OR ANY OTHER PURPOSE:

The UNEP (2009) Report highlighted the United Nations Conventions on the Prohibition of Military or Any Other Use of Environmental Modification Techniques (ENMOD) (1976) as a significant part in directly safeguarding the natural environment. The United Nations established this treaty in response to the extensive environmental damage caused by the U.S soldiers during the Vietnam War. The U.S troops launched an assault on the environment with the intention of provoking an earthquake, tsunami, and other natural disasters. They attempt to utilise the surroundings as weapons. The U.S soldiers aimed to inflict significant harm on the people of Vietnam through environmental degradation or direct attacks on the environment.

This convention was formed in response to the U.S military's use of environmental modification methods during the Vietnam War. It includes restrictions about the use of such techniques in conflict.

All signatory nations agree, as stated in Article 1 of this convention, that they will not use environmental modification techniques in a hostile or military way that might have substantial, long-lasting, or devastating consequences in order to destroy, damage, or harm another signatory nation. The first article of ENMOD and article 35 of additional protocol I have some similarities and some differences.

Furthermore, Article 1 of ENMOD is more favourable for safeguarding the environment compared to Article 35 of Additional Protocol 1, which pertains to the enduring and lasting consequences. The study states that under article 35, the phrase "long term" refers to a duration of decades, whereas in article 1, "long lasting" refers to a period of either a month or a season. Therefore, it can be concluded that the ENMOD regulations are effective measures aimed at safeguarding the environment from the destructive impact of contemporary combat.

"THE 1984 CONVENTION ON THE PROHIBITION OF SPECIFIC CONVENTIONAL WEAPONS"

In addition, the UNEP (2009) report correctly identified another convention, namely the "Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which may be deemed to be Excessively Injurious or to Have Indiscriminate Effects (CCW)", along with its Protocol III on Prohibitions or Restrictions on the Use of Incendiary Weapons (1980), which specifically addresses the protection of the environment during wartime. It is sometimes referred to as the "Convention on Certain Conventional Weapons" and the "Inhumane Weapons Convention." The opening statement of this agreement declares that it is forbidden to utilise tactics or strategies of warfare that are designed or anticipated to result in extensive, enduring, and significant harm to the natural environment.

"Further amendments of this article in 2001 strengthen its spectrum to Non-International Armed conflict also. In addition, Article 2(4) of the CCW Protocol III on Prohibitions or Restrictions on the Use of Incendiary Weapons also directly addresses environmental protection, as it prohibits making forests or other kinds of plant cover the subject of an attack by incendiary weapons except when such natural elements are used to cover, conceal, or camouflage combatants or other military objectives, or are themselves military objectives."

TO COMBAT CHEMICAL WEAPONS: THE 1993 CONVENTION

The environmental and human costs of using chemical weapons are enormous. Because of the catastrophic effects they have on both humans and the environment, chemical weapons have been outlawed by governments across the globe. "The Chemical Weapons Convention was adopted in January 1993; it only came into force in 1997," noted Poll, Bolley, and Pool (2011) accurately. The Chemical Weapons Convention outlaws the use, production, and storage of chemical weapons in any form. The potential effects on the environment of dismantling the chemical weapons stockpile must be assessed. According to Mrema et al. (2009), chemical substances impact the ecosystem in both short and long terms. The authors Bolley and Poll state that Articles 4(10), 5(11), and 7(1) of the Chemical Weapons Convention provide that all States Parties must ensure the protection of the environment throughout the whole weapon's lifespan, from sampling through transportation, storage, destruction, and implementation. The Chemical Weapons Conventions' fundamental safeguards for the environment are outlined in these three articles. Also, as mentioned in the first article of the Convention, chemical weapons are never to be deployed. Thus, it is equally illegal to utilise chemical warfare chemicals to harm the environment during times of peace or conflict.

The 1997 Convention Against Mines on Personnel

The Convention on the Anti-Personnel Mine imposes duties and constraints on the state parties regarding the use of anti-personnel mines. Its acceptance in 1997 led to restrictions on its use in armed conflict. Bolley and Pool state that the Anti-Personnel Mine was regulated in part because of the environmental harm it caused. Before demolishing the Anti-Personnel Mine, the state parties must calculate the potential environmental hazards and expenses. That is why the Anti-personnel Mine Treaty is so important for protecting the environment. "Ottawa Treaty 1977" is another often used moniker for it.

"The Nuclear Weapon Treaty"

The International Court of Justice (ICJ) issued a ruling in 1996 stating that the use of nuclear weapons poses a significant threat to future generations. It has the potential to cause extensive harm to the environment, food sources, and marine ecosystems, as well as lead to genetic abnormalities and illnesses in future generations. However, the judgement did not explicitly prohibit the use of nuclear weapons, but rather endorsed their use in situations of self-defence, taking into account the cost of military necessity and proportionality. This assessment implicitly considers the preservation of the environment during armed conflicts.

6. GENERAL PROVISIONS OF INTERNATIONAL HUMANITARIAN LAW (IHL) THAT MAY APPLY TO THE PROTECTION OF THE ENVIRONMENT

In addition to the particular provisions for protecting the environment during wartime, the wider framework of International Humanitarian Law also includes some general prohibitions on the means and tactics of warfare that can indirectly regulate environmental protection efforts. The next paragraphs will examine the fundamental principles of International Humanitarian Law (IHL), with a particular focus on safeguarding the environment in times of armed conflict.

Poll and Bolley (2011) reiterated that "the general principles of international law applicable in armed conflict are regarded as a source of law in accordance with Article 38(1) of the Statute of the ICJ." All of them are relevant to every state party. The Martens clause is the root of the most significant rules and values for environmental preservation, as stated in the UNEP Report of 2009.

The Martens clause opines that, "Until a more complete code of the laws of war has been issued, the high contracting Parties deem it expedient to declare that, in cases not included in the Regulations adopted by them, the inhabitants and the belligerents remain under the protection and the rule of the principles of the law of nations, as they result from the usages established among civilized peoples, from the laws of humanity, and the dictates of the public conscience." The analysis highlights the significance of the terms "humanity" and "conscience" in this paragraph. Now, let us elucidate these two statements in a manner that establishes a connection between environmental preservation and warfare or conflict.

Principle of Humanity

The "Martens clause" stipulates that in the absence of specified regulations under international law, priority would be given to humanitarian considerations. It signifies that the nation party will evaluate any cruel act or technique of combat with a strong emphasis on compassion and humaneness. If there are no established international customary norms and regulations for environmental preservation, the concept of civilization might be invoked and acceptable by the parties involved. The notion of humanity is expected to drive environmental conservation efforts during armed conflict.

The Issue of Public Morality

The Martens clause also encompasses the consideration of public conscience as the determining factor in assessing the morality of environmental harm during times of conflict. The general consensus is that the public's understanding or perception of the environment will not be accurate in the event of extensive environmental degradation, leading to incorrect conclusions. From that standpoint, safeguarding the environment during times of conflict is a question of ethics. According to the realist perspective, morality does not have a role in international politics. However, the "Martens clause" suggests that morality should be considered in times of conflict when there is no international convention, laws, or regulations in existence.

ADDITIONAL PROVISIONS FOR THE PROTECTION OF THE ENVIRONMENT UNDER INTERNATIONAL HUMANITARIAN LAW (IHL)

The prohibition on weapons and military strategies has certain broad features with environmental protection, including the Martens clause. Not only have other authors identified and recognised these features, but so have “Poll and Bolley (2011) and UNEP (2009)”. It all comes down to proportionality, military need, and difference. These concepts are succinctly examined by establishing a connection with the safeguarding of the environment in times of armed conflict.

7. THE PRINCIPLE OF DISTINCTION

On the battlefield, it is crucial to establish a clear differentiation between “civilian” and “military objects” as well as between “civilian” and “combatant”. The preamble of St. Petersburg (1868) said that the sole acceptable objective that a state should strive to achieve during war is to diminish the military capabilities of the adversary. Moreover, according to United Nations Resolution 2444, it is imperative to consistently differentiate between those engaged in war and non-combatant civilians. Furthermore, Article 52 (1) of Additional Protocol I imposes tight limitations on the scope of attacks that lack military aims. Military goals refer to targets and facilities that are exclusively dedicated to military activities and operations. According to the concept of distinction, armed forces should not attack any environmental items that are commonly considered civilian, as doing so might result in unnecessary harm to the civilian population. Therefore, the environment may be safeguarded during times of war or armed conflict through the application of the concept of differentiation. In their study for UNEP, Mrema et al (2009) identified several shortcomings of this principle and emphasised the need for more clarity.

“THE PRINCIPLE OF MILITARY NECESSITY”

The concept of military necessity in response to an attack is another cornerstone of International Humanitarian Law (IHL). When planning an assault against an enemy, this idea states, military need must be considered. According to “Poll and Bolly (2011)”, article 14 of the Lieber Code, which was first introduced in 1863, presented the notion of military necessity. Any utilisation of force must be comparative to the degree that it is necessary to achieve a definitely stated military objective, as stated in this article.

Specifically, they cited Article 23 (g) which prohibits the destruction or seizure of enemy property, unless it is absolutely necessary for the conduct of war. Since “enemy property” might comprise protected regions, conservational assets, and valuable natural possessions, this criterion is predominantly important for the expected environment. Accordingly, these assets may get meandering protection under the Fourth Hague Convention's Article 23(g) principle of “military necessity”. Thus, during times of military hostility, the idea of military necessity may be used to protect the ecosystem and its resources.

THE PRINCIPLE OF PROPORTIONALITY

Prior to initiating any offensive action, it is crucial to accurately assess the proportionality of the potential benefits compared to the costs, with a focus on maximising the former. Under the standards of International Humanitarian Law (IHL), an assault may be allowed if the benefits clearly outweigh the costs or harm. However, if this is not the case, the attack is prohibited.

The UNEP reports has opined that, “Based on the principle of proportionality codified in Article 57 of Additional Protocol I, disproportionate attacks are those in which the “collateral damage” would be regarded as excessive in relation to the anticipated direct military advantage gained. Destroying an entire village or burning an entire forest to reach a single minor target, for example, would be considered a disproportionate strategy in relation to the military gain.” Disproportionate military attacks occurred many times throughout Afghanistan & Iraq War. Therefore, the concept of “proportionality” prohibits any incidental harm to the ordinary atmosphere.

PROTECTION OF THE ENVIRONMENT IN ARMED CONFLICT: AN INDIRECT APPROACH

‘International Humanitarian Law’ encompasses several features that are indirectly relevant in multiple scenarios, including the preservation of the environment all through armed battle. The academic works highlight a limited number of ways in which international humanitarian law indirectly safeguards the environment. ‘Poll and Bolly’ assert five (5) primary domains of law on agreements that might be classified as straight safeguards for the natural surroundings

during times of conflict.

These are specifically: "(a) rules limiting or prohibiting certain weapons and methods of warfare; (b) clauses protecting civilian objects and property; (c) clauses protecting cultural sites; (d) rules pertaining to installations containing dangerous forces; and (e) limitations on certain specifically defined areas." The following expanses are momentarily discussed:

Constraints on the techniques and strategies of Armed Conflict or War. Conflicting parties are not permitted to employ any and all strategies and techniques to inflict impairment onto the opposing powers according to their desires. Numerous weapons are deemed illegal according to international treaty law. Prohibited weapons and procedures have perilous consequences for both human life and the physical or natural environment. As an illustration, article 22 of the "Hague Convention of 1899 and 1907" specifies that the civil rights of combatants to employ methods of harming the adversary are not without restrictions. Furthermore, the "first Peace Conference of The Hague" in 1899 officially prohibited the utilisation of "dum-dum" bullets, as well as venom and poisoned armaments. Toxic substances, such as poison and deadly gas, have significant impacts on both human life and the environment. The Hague regulations primarily focus on imposing restrictions on the tactics and techniques used in conflict. The UNEP study accurately states that the level of compliance with the Hague rules during times of conflict is severely inadequate.

8. SAFEGUARDING THE CIVILIAN OBJECTS AND PROPERTY

The field of International Humanitarian Law (IHL) has explicit provisions on the safeguarding of civilian objects and property. Civilian things are often defined as objects that are not utilised for military purposes. Furthermore, the environment is largely not utilised for military purposes or as a military object. Therefore, it is considered a civilian item. Furthermore, natural environmental resources are finite and not inexhaustible. The general population relies on the environment. Often, the whole population of a place relies entirely on the resources provided by the environment. Harming the environment directly impacts civilian people. Therefore, environmental conservation is obligatory in an indirect manner according to International Humanitarian Law (IHL).

9. THE PROTECTION OF CULTURAL PROPERTY

International humanitarian law has precise provisions on the safeguarding of cultural heritage. The Convention for the Protection of Cultural Property in the Event of Armed Conflict was established in 1954 by the United Nations Educational, Scientific and Cultural Organisations (UNESCO). The international agreements provide limitations on warring parties regarding social goods and inheritances during times of armed hostilities. While the treaty may not explicitly address the conservation of the natural environment, there are indirect indications of environmental preservation. According to Schmitt (2003), there is no explicit provision for protecting the environment. However, the extensive damage to the environment can have detrimental effects on cultural resources. Therefore, the safeguarding of cultural property indirectly contributes to the preservation of the environment for its own security. The identical reasoning is also evident in other literary works.

10. PROTECTION OF DANGEROUS OBJECTS

IHL also included provisions for safeguarding industrial installations that house hazardous forces, such as dams, dykes, hydroelectric power plants, and similar facilities. As an illustration, Article 56 of the Additional Protocol explicitly shows that "works or installations containing dangerous forces," such as "dams, dykes, and nuclear electrical generating stations," can be targeted in an attack, even if they are considered military targets. Pool and Bolly noted that fields of oils and petroleum factories are not expressly listed and might have been purposely removed, according to UNEP. Article 15 of the supplementary protocol II explicitly forbids certain measures in the context of Non-International hostility. A critique of these clauses even highlights that in case the clause restricts attacks on oil-fields, it would make it challenging for the U.S. to seize Iraq by force, given there are oil fields in other 'Middle Eastern states.'

11. RESTRICTIONS ON ATTACKS FOCUSED ON SPECIFIC AREAS

'Pool and Bolly' categorise limitations depending on intended region into three distinct types. This topic is also addressed in the UNEP Report. Additional literature on the preservation of the environment during times of conflict also addressed this matter. The three (3) groupings are hereby laid down: "territories under occupation", "neutral territories", and "demilitarised zones". Violations of International Humanitarian Law (IHL) prohibit attacks in these three specific categories. The automatic preservation of the environment was first incorporated in laws pertaining to these three areas.

12. ADDITIONAL INTERNATIONAL INSTRUMENTS FOR ENVIRONMENTAL PROTECTION DURING TIMES OF HOSTILITY

The primary environmental protection methods during armed conflict have been covered above. Now, let's get into a few crucial strategies for directly safeguarding the environment amid warfare.

“ROME STATUTE OF INTERNATIONAL CRIMINAL COURT (ICC)”

Article 8 of this statute addresses the topic of war crimes and provides a clear definition of the actions that would be classified as war crimes. According to this statement, any breach of the “Four Geneva Conventions” will be regarded as acts of combat misconducts. ‘Article 8(2)(b)(IV)’ specifically addresses the reprimand for ecological annihilation. “It states that intentionally launching an attack with the knowledge that it will cause incidental loss of life or injury to civilians, damage to civilian objects, or widespread, long-term and severe damage to the natural environment that is clearly excessive in relation to the expected military advantage, will be classified as a war crime.” The state nations of the Rome Statute are obligated to comply with its provisions. The authority of any state or armed force that violates this Statute may be subject to legal proceedings under the International Criminal Court (ICC). The Rome Statute serves as a contemporary tool for safeguarding the environment in times of warfare.

THE UN CONFERENCE ON THE HUMAN ENVIRONMENT IN 1972 RESULTED IN THE STOCKHOLM DECLARATION, WHICH OUTLINED IMPORTANT PRINCIPLES AND GOALS

The 26 principles on the connection between people and their environment were outlined in the United Nations Conference on the Human Environment, which took place in Stockholm, and were included in the UNEP report. The applicability of International Environmental Law in times of war is determined by two criteria.

Primarily, Principle 21 establishes the groundwork for the conference by iterating that: “States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction.” Therefore, the issue of whether International Environmental Law (IEL) is relevant during times of armed conflict remains ambiguous. The last article, notably clause 26, pertains to the imminent attainment of an international accord aimed at eliminating the threat posed by “nuclear arsenals”. It also refers to the total eradication of nuclear weapons. Therefore, the connection between this proclamation and environmental conservation in times of armed conflict is evident.

GENERAL ASSEMBLY RESOLUTION 37/7 (1982)

The UNEP Report also includes a significant measure for safeguarding the environment against the devastating impact of conflict, known as the “World Charter for Nature, UNGA Resolution 37/7 (1988).” There are three crucial ideas concerning environmental protection during combat. According to Principle 11, it is necessary to protect nature from being damaged by wars or other aggressive actions. Furthermore, this concept also requires that “activities that could potentially affect nature must be regulated, and the most advanced technologies that minimise significant risks to nature or other negative consequences must be utilised.” Principle 20, which pertains to execution, stipulates that martial actions that cause harm to the environment should be evaded. Thus, the resolution aids in safeguarding the natural environment.

“RIO DECLARATION (1992)”

The Report likewise referenced the Rio Declaration, which was established in 1992, on Environment and Development. How to manage the environment during wartime was the main topic of the meeting. Rio de Janeiro, Brazil was the site of the United Nations Conference on Environment and Development. The central focus of the session revolved around the ideas of sustainable development. The proclamation delineated 21 criteria for achieving sustainability.

Long-term environmental preservation for future generations. In 2002, a subsequent global high-level meeting on Sustainable Development was convened to reassert the endorsement of these twenty-one (21) postulates. The overwhelming bulk of the material on 21 principles is primarily focused on peace time rather than environmental conservation during war time. The Report indicates that under section 39.6, it is recommended to consider taking steps

in conformity with international law to address the large-scale degradation of the environment during armed conflicts, which cannot be justified under international law. Therefore, it may be asserted that the Rio Declaration addresses the issue of environmental conservation during times of conflict.

UNITED NATIONS GENERAL ASSEMBLY RESOLUTION 47/37 PROTECTION OF ENVIRONMENT IN TIMES OF ARMED CONFLICT 1993

The United Nations General Assembly implemented an important provision known as UNGA Resolution 47/37 Protection of Environment in Times of Armed Conflict in 1993. The UNEP (2009) Report states that the Preamble acknowledges the significance of international legal laws that apply to safeguarding the natural surroundings in periods of warfare and hostilities. In addition, paragraph one (1) strongly encourages nations parties to implement steps to achieve this goal. Furthermore, paragraph 3 emphasises the need for States to actively include the regulations of international law that pertain to environmental protection in their military manuals and to guarantee their widespread distribution. Therefore, the resolution passed by the general assembly played a role in safeguarding the natural environment in times of warfare combats.

SHORTCOMINGS OF INTERNATIONAL HUMANITARIAN LAW IN RELATION TO ENVIRONMENTAL PROTECTION

It is evident that “international humanitarian law”, or more broadly, domestic law, has shortcomings when it comes to safeguarding the environment in times of warfare. The primary constraints are hereby listed: “All current provisions of international law pertaining to the safeguarding of the environment during instances of international armed conflict. However, the nature of armed conflict has undergone a transformation among the ongoing discourse surrounding the concept of “new war”. The phenomenon of interstate or international armed conflict has transformed into domestic conflict or civil war. There is a lack of robust legislation pertaining to the preservation of the environment in situations of non-international armed conflict. Although the Additional Protocol II exists, it has not been approved by significant parties and is not obligatory for everyone.” According to the UNEP reports, currently there exists no permanent dominant organisation responsible for enforcing international laws to prevent significant harm to the environment. Furthermore, the overarching principles of International Humanitarian Law (IHL) are insufficient in ensuring the safeguarding of the environment in times of armed conflict. There is a significant dearth of elucidation about the safeguarding of the environment under International Humanitarian Law (IHL). Certain sections indirectly promote environmental conservation and may lead to ambiguity during any ensuing debate. Therefore, international law is inadequate for safeguarding the environment. Essentially, UNEP accurately pointed out that there is a significant deficiency in the enforcement of current legislation pertaining to environmental conservation.

13. CONCLUSION

Based on the preceding debate, it is evident that the sole means of safeguarding the environment during armed conflict is through the implementation of international humanitarian law. International Environmental Law is not directly concerned with the protection of the environment during times of conflict, as its scope is limited to peace time. International Humanitarian Law has many specific laws, both direct and indirect, that aim to safeguard the environment during armed conflicts. However, these measures are insufficient to adequately safeguard the environment from the devastating impact of armed war. Therefore, it is imperative to implement new policies and laws to save the environment from potential catastrophic damage in future conflicts. Otherwise, the survival of human and other animal life will be greatly endangered. The General Assembly, as stated in Gaser (2014), urges all States to extensively distribute the updated rules for martial handbooks and directions on safeguarding the natural ecosystem during armed hostilities.

CONFLICT OF INTERESTS

None.

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