

EDITORIAL

PROTECTION OF THE ENVIRONMENT DURING ARMED CONFLICT

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It has been well over a decade since the *International Review of the Red Cross* dedicated an issue entirely to the environment, and since then, there has been a wave of momentum to better protect the environment in war.¹ Two major developments since 2010 in particular warranted thoroughly revisiting this topic:

1. After a decade of work, the UN International Law Commission finalized and adopted its Principles on Protection of the Environment in Relation to Armed Conflicts, and these were then welcomed in a UN General Assembly resolution on 7 December 2022.²
2. In 2020, the International Committee of the Red Cross (ICRC) published its *Guidelines on the Protection of the Natural Environment in Armed Conflict*, updating their 1994 predecessor and setting out existing rules under international humanitarian law (IHL).³

Much has been written and said elsewhere about the protection of the environment during armed conflict. Still, we received more proposals in response to the call for papers for this edition than we have ever received before. The proposals were thoughtful and covered a wide range of topics, and authors' enthusiasm for this subject – and for writing innovatively on it – was palpable. It could not have been made any clearer that it was certainly time to revisit the theme in the *Review's* pages. What you can read in this edition are the very best papers, chosen after a thorough selection process.

In the context of the historical development of IHL, the specific protection of the environment is relatively recent. Treaty rules explicitly addressing environmental impacts have only existed since the 1970s – that is, the 1976

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- 1 Thematic issue on “Environment”, *International Review of the Red Cross*, Vol. 92, No. 879, 2010. For the era before 2010, one needs to go back as far as Vol. 75, No. 798, 1992, where a cluster of articles deal with the topic. An earlier article can be found in Antoine Bouvier, “Protection of the Natural Environment in Time of Armed Conflict”, *International Review of the Red Cross*, Vol. 74, No. 792, 1991.
- 2 UNGA Res. 77/104, “Protection of the Environment in Relation to Armed Conflicts”, 7 December 2022, Annex.
- 3 ICRC, *Guidelines on the Protection of the Natural Environment in Armed Conflict: Rules and Recommendations Relating to the Protection of the Natural Environment under International Humanitarian Law, with Commentary*, Geneva, September 2020.

Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques, and Articles 35(3) and 55 of Additional Protocol I. In addition to these emblematic rules, IHL treaty and customary rules provide specific and general protection to the natural environment in armed conflict. In the ICRC's 2005 Customary Law Study,⁴ Chapter 14 ("The Natural Environment") contains three rules (43, 44 and 45) regulating the topic. While these rules enjoy broad support, a limited number of States, vocal on the topic, do not accept Rule 45 as reflective of the law.

And yet, *anno* 2023, we are light years away from the 1970s when it comes to an understanding of the interrelationships between ecological and human health and the severity of the multi-layered and diverse threats that armed conflicts and the behaviour of the parties to those conflicts may pose to the environment. This issue of the *Review* seeks to foreground the multiple ways in which conflict may adversely impact the environment, thus countering the often-repeated narrative characterizing the environment as a "silent victim".

The articles in this issue develop cogent analysis regarding how the existing international legal framework protects the environment in times of armed conflict. It is the *Review's* most sincere hope that these contributions stimulate further legal and policy debates and, most importantly, that they bring the focus to what is most needed today – the operationalization of the existing legal framework – with a view to strengthening environmental protection by warring parties.

Finally, an important announcement: for reasons of space, not all high-quality submissions selected could be featured in this issue. Thus, the debate continues in our spring 2024 issue, where we will feature several more articles on the subject, demonstrating the continued relevance and vibrancy of the topic and the need to enhance environmental wartime protection.

4 Jean-Marie Henckaerts and Louise Doswald-Beck (eds), *Customary International Humanitarian Law*, Cambridge University Press, Cambridge, 2005 (ICRC Customary Law Study), available at: <https://ihl-databases.icrc.org/en/customary-ihl>.