



2nd SINGAPORE INTERNATIONAL HUMANITARIAN LAW (IHL) ROUNDTABLE “PROTECTION OF THE ENVIRONMENT IN TIMES OF ARMED CONFLICT”

Day/Date : Wednesday, 6 September 2023

Venue : Diversity Room, International Involvement Hub, The Atrium@Orchard

Time : 1400 hrs - 1730 hrs

Moderator : Ms Mei Ching Liu

Emcee : Ms Deborah

INTRODUCTION

The Singapore Roundtable on International Humanitarian Law series, jointly organised by the Singapore Red Cross (SRC), the International Committee of the Red Cross (ICRC), and the Centre for International Law of the National University of Singapore (CIL-NUS), is designed to establish and maintain a regular platform for Singapore policymakers, IHL practitioners, and governmental bodies who are stakeholders in IHL to engage in constructive dialogue, knowledge exchange, and promote cooperation on IHL development and implementation. The first Singapore IHL Roundtable was organized in 2022. The 2023 edition focused on the impact of armed conflict on the natural environment and affected populations, which includes climate change, and the role of international law, including IHL, in protecting the natural environment thereby minimising the effects of environmental degradation and the attendant climate changes on affected populations.

SUMMARY OF PROCEEDINGS

Welcoming Remarks

These focused on the combined impact of environmental degradation, climate change, and armed conflict, and how such impacts are changing the pattern of humanitarian needs, creating new and

combined risks for vulnerable populations, as well as multiplying existing inequalities in conflict zones. The importance of IHL rules on environmental protection during armed conflict has a crucial role in mitigating. The Secretary-General of the SRC and the Head of Operations and Prevention of the ICRC Kuala Lumpur Regional Delegation emphasized the importance of the roundtable in disseminating the rules of IHL protecting the environment and addressing the ways in which the environment can be better protected under IHL in times of armed conflict.

Brief Overview of the Protection of the Environment in Times of Armed Conflict

The moderator started the presentation by acknowledging that the environment has always been a silent victim of armed conflict. The natural environment is often directly attacked or incidentally damaged during armed conflict, and further impacted by damage and destruction to the built environment. In certain circumstances, the environmental consequences of armed conflict may also contribute to climate change. The consequences for conflict-affected populations of such environmental damage are severe and complex. When the environment is damaged or destroyed, it threatens the well-being, and survival of conflict-affected populations. The combined impacts of armed conflict, environmental degradation, and climate risks have added new urgency to the work relating to the protection of the environment in armed conflict, in order to prevent and mitigate the deeply interlinked civilian harm that accompanies environmental damage.

Environmental damage may be inherent to war, but it cannot be unlimited. The ICRC has updated [the 1994 Guidelines for Military Manuals and Instructions on the Protection of the Environment in Times of Armed Conflict](#). The new guidelines, [Guidelines on the Protection of the Natural Environment in Armed Conflict](#), was released in September 2020. The 2020 ICRC Guidelines reflects the existing IHL rules and obligations. It does not create new IHL obligations.

The 2020 ICRC Guidelines generally recognized that, by default, the natural environment is civilian in character. As such, its various parts are protected by general IHL rules protecting civilian objects. The guidelines also set out the specific IHL rules protecting the natural environment in armed conflict.

For their protective effect to be seen on the ground, relevant stakeholders must now move towards better promotion, implementation, and application of these rules. This roundtable is one instance where different actors such as relevant government officials, academics and IHL practitioners such

as the military were brought together to discuss how they can act together to better protect the environment during times of armed conflict.

IHL Rules on the Protection of the Natural Environment

This presentation emphasized that the impact of armed conflict on the environment is not confined to the impacts of hostile military action, an egregious instance being the use of nuclear weapons. Preparations for armed conflicts, such as the production and movement of arms and war supplies, as well as the reconstruction of property and infrastructure destroyed during armed conflicts all require resources. Production and extraction of the required materials would not only deplete the natural environment but also result in carbon emissions which then cause climate change.

IHL itself is not concerned about the causes of armed conflict but is focused on minimizing the suffering that armed conflicts inevitably entail. The extent of protection conferred by IHL is dependent on the class of the subject of protection. In IHL protection from hostile action during armed conflicts applies only to combatants, POWs, civilians and neutrals. For the purpose of IHL protection, the environment is regarded as a civilian. This means that it would lose its protection in the same circumstances as when a civilian loses his protection. This includes being involved in facilitating hostile activities. In such a case the environment can be legally targeted as a military objective.

An overview of the history of the development of IHL in protecting the natural environment during armed conflict was provided, starting from the 1907 Hague Regulations, the 1949 Geneva Conventions I-IV and the 1977 Additional Protocols to the Geneva Conventions. The Vietnam War in the 1960s and 70s underscored the inadequacies of the IHL rules on the protection of the natural environment. This was a major factor that led to the 1976 Convention on the Prohibition of Military or any Hostile Use of Environmental Modification Techniques (ENMOD Convention) as well as the environmental protection provisions of the 1977 Additional Protocols. It has been argued that the protection afforded by ENMOD Convention is limited, as its prohibitions applies only to environmental modification techniques which have widespread, long-lasting or severe effects. Similar concerns were expressed about Article 55 of the 1977 AP I which prohibits means and methods of warfare which are intended or may be expected to cause widespread, long-term, and severe damage to the natural environment. Almost all States are State Parties to the API, but some

countries, such as USA and Singapore, are not State Parties. As such, question remain as to whether such rule is applicable to non-State party.

Recent incidents, such as the Gulf War in 1990s, global warming, and rising sea levels, have also raised questioned whether IHL is effective in protecting the natural environment during armed conflict. Recently there have been initiatives to heighten awareness and facilitate implementation of IHL rules protecting the environment during armed conflicts such as the 2020 ICRC “Guidelines on Protection of the Natural Environment in Armed Conflict” and 2022 [International Law Commission’s Draft Principles on the Protection of the Environment in Relation to Armed Conflicts](#) (ILC’s Draft Principles). The ILC Draft Principles as significant as they apply not only during times of armed conflict but also at times before and after armed conflicts as well as during military occupation.

Overview of Current Developments and Thinking in the Protection of the Environment in the Context of Climate Change During Armed Conflict

The presentation focused on recent developments in international fora relating to the protection of the environment in armed conflict, including the 2020 ICRC Guidelines, the ILC’s Draft Principles, the 2019 Geneva List of Principles on the Protection of Water Infrastructure, the United Nations Environment Assembly (UNEA) Resolutions 2016 and 2017, and the United Nations Security Council (UNSC) arria-formula meetings in 2018, 2019, and 2023.

It was highlighted that under the 2020 ICRC Guidelines and the ILC’s Draft Principles, natural environment is recognised as civilian in character, and therefore no part of the environment may be attacked, unless it has become a military objective.

The 2020 ICRC Guidelines and the ILC’s Draft Principles are complementary to each other. The 2020 ICRC Guidelines mainly dealt with IHL rules in protecting the environment during armed conflict, while the ILC’s Draft Principles takes into consideration of other branches of international law, including international environmental law and international human rights law. Furthermore, the ILC’s Draft Principles has a broader temporal scope, covering the applicable rules before, during, and after armed conflict, including in situations of occupation. The ILC’s Draft Principles applicable in situations of occupation have also been highlighted, including Draft Principles 19, 20, and 21.

Emerging themes in the context of triple environmental crisis have been highlighted, including pollution, climate change, and biodiversity loss. It was brought to focus that very few States at the UN sessions have expressed the view that there is a need to go beyond IHL in relation to the protection of environment in armed conflict.

Combined Effects of Climate Change and Armed Conflict on Affected Populations

The presentation focused on the case study of Cambodia and how its environment was impacted during the conflict in Cambodia in 1970s. It was highlighted that the combined effects of climate change and armed conflict on conflict-affected populations are multifaceted and interrelated. These effects include, among others, the increases in poverty and food insecurity, displacement and migration, health risks, and social unrest and violence.

It was presented that the conflict in Cambodia caused extensive social problems, such as access to education and health care. Social problems were made worse when agricultural lands were polluted and damaged by mines and Agent Orange. Water supplies were also polluted, threatening the survival of the conflict-affected populations.

The Cambodian Red Cross (CRC) was involved in restoration efforts in post-conflict Cambodia. Its activities included mine risk education, assisting refugees, restoring family links (through relocation of persons, and identification of missing persons), and providing microloans to conflict-affected populations.

A few suggestions were provided with the aim to promote the protection of environment during armed conflict, such as (i) promoting the awareness of the importance of protecting the environment in relation to armed conflicts, (ii) engaging with governments with the aim to integrate the 2020 ICRC Guidelines into military manuals, (iii) collaborating with international organizations, (iv) building capacity on this issue, and (iv) engaging with the media.

Open Discussion

The following are the key reflections during this segment of the roundtable:

- While efforts are underway to integrate the right to a healthy and sustainable environment into the ASEAN framework as a Human Right (IHRL), this is challenging as International Human Rights Law and IHL are two different branches of International Law with different objectives. Although both laws are based on the principle of humanity, IHL is only applicable in armed conflict and applies differently to different classes of person, whereas IHRL is applicable to all persons at all times. It is thus not easy to integrate IHL rules on the protection of the environment into the ASEAN framework as a Human Right..
- On the issue of how the natural environment would qualify as military objective and its characterization as civilian object, it was agreed that in relation to dual-use civilian objects, question remains as to how IHL would apply, and it very much depends on the facts and circumstances at the point of military operations.
- On the question of States obligations in removing remnants of war, it was noted that the ILC's Draft Principles addressing this matter are non-binding. Nevertheless, most of the ILC's Draft Principles are derived from treaties, which are binding on State parties. It was agreed that cooperation between parties to armed conflict, between States, and with international organisations are required to remove or render harmless toxic or other hazardous remnants of war.
- Concerns about the level of IHL awareness among authorities demonstrate that efforts are needed to raise such awareness, and it would be ideal for the Red Cross and Red Crescent Movement to work on this aspect with the aim to enhance domestic implementation of IHL.
- On the issue of the effects of armed conflict on the environment, it was agreed that military personnel should be made more aware of the impacts of armed conflict on the environment, and more importantly, authorities need to integrate IHL rules and principles into military manuals and instructions.

Concluding Remarks

The closing remarks focused on the importance of domestic implementation of IHL. It was emphasized that the 2020 ICRC Guidelines and the 2022 ILC's Draft Principles are crucial, and need to be incorporated into national military manuals and frameworks. More importantly, they need to be widely discussed, and disseminated in international fora. The impacts of armed conflict on the environment cannot be understated, and the world need take steps in creating better protection of

environment in armed conflict and addressing humanitarian issues that result from environmental degradation during times of armed conflicts..

***** End of Report *****