THE RULES AND PRINCIPLES OF INTERNATIONAL HUMANITARIAN LAW ON THE PROTECTION OF ENVIRONMENT DURING ARMED CONFLICT. AN APPRAISAL

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Abstract

Environmental degradation affects populations across the globe, threatening lives and exacerbating existing vulnerabilities, inequalities, and social fragility. People, communities, and countries affected by armed conflict tend to be particularly vulnerable to the consequences of the impact of armed conflict on environment, because conflicts limit their capacity to adapt and protect themselves. The effect of armed conflict on environment has made the vulnerable populations to be disproportionately affected by food insecurity, loss of livelihood opportunities, health impacts and displacement, which are compounded by environmental degradation. This article examines the negative effect that protracted armed conflict has on the environment. It also concludes that the rule and principles of humanitarian law on environment should, during armed conflict be respected for the sole aim of protecting the natural environment for the benefit of its inhabitants.

Keyword: International humanitarian law, armed conflict, environment, rules and principles

1.0 INTRODUCTION

International Humanitarian Law (IHL) is a set of international rules, established by treaty or custom, which are specifically intended to solve humanitarian problems directly arising from international or non-international armed conflicts.[1] It protects persons and property that are, or may be, affected by an armed conflict and limits the rights of the parties to a conflict from using methods and means of warfare of their choice.[2]

IHL binds all actors to an armed conflict, in international armed conflicts it must be observed by the states involved, whereas in non-international armed conflict it binds the government, as well the groups fighting against it or among them[3] Thus, IHL lays down rules that are applicable to both state and non-state actors[4]

It also protects civilians and civilian object through rules on the conduct of hostilities. For example, parties to a conflict must at all times distinguish between combatants and non-combatants and between military and non-military targets. Neither the civilian population nor civilian object may be the object of attack.[5] The natural environment by its nature is civilian object and therefore protected under the rules of IHL during armed conflict.

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[1] ICRC Advisory Service On International Humanitarian Law ,*International Humanitarian Law and International Human Rights Law Similarities and differencesihl-and-ihrl.pdf accessed on the 2nd of august 2022*

[2] *Ibid*

[3] *Ibid*

[4] *Ibid*

[5] *Ibid*

Under International Humanitarian Law (IHL), there is no agreed definition of the term "natural environment". According to the Commentary on Article 55 of Additional Protocol I, the notion of the natural environment includes everything that exists or occurs naturally and is therefore not man-made, such as the general hydrosphere, biosphere, geosphere, and atmosphere (including fauna, oceans and other bodies of water, soil, and rocks). [6]

In addition, the natural environment includes natural elements that are or may be the product of human intervention, such as foodstuffs, agricultural areas, drinking water, and livestock. It is of particular significance that this interpretation does not refer exclusively to organisms and inanimate objects in isolation; rather, the term "natural environment" refers more broadly to the system of inextricable interrelationships between living organisms and their inanimate environment.[7]

According to a 2009 report by the United Nations Environment Programme, at least 40 per cent of internal armed conflicts in the last 60 years have been related to natural resources.[8]The protracted nature of many armed conflicts has an impact on the needs and vulnerabilities of civilian populations, in most cases the issue of reciprocity in armed conflict, regrettably have enabled both state armed forces and non-state armed group to disregard basic rules of distinction resulting in great harm on the environment.[9]

The environment is degraded in many ways; it is directly attacked or suffers incidental damage due to the use of certain weapons and tactics of war during armed conflict, such as the use of explosive devices or the setting ablaze of oil fields.[10] It is also impacted by damage to or destruction of the built environment, for example when fighting disrupts water, sanitation or electricity services or hinders the infrastructure that enables them to operate.[11]

Parties to armed conflicts have harmed the environment in order to weaken the enemy or gain resources. Many cases of water poisoning, poaching, logging and crop burning are being reported all around the world and all contribute to increasing the vulnerability of the populations that depend on these resources to survive.[12]

The deterioration of governance and infrastructure service systems, illicit exploitation of natural resources to sustain war economies, or for personal gain, all contributes to lasting environmental

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[6] International Committee on Red Cross. *International Humanitarian Law andthe Challenges of Contemporary Armed Conflicts.Recommitting to Protection in Armed Conflict onthe 70th Anniversary ofthe Geneva Conventions.* P. 71 http/www/ challenges-report climate-conflict-and-the-natural-environment accessed on 1st of August 2022. See also Article 55 of Additional Protocol I, of the Geneva Contention, 1977

[7] *Ibid*

[8] United Nations Environment Programme, (UNEP, Nairobi) *From conflict to peace building: The role of natural resources and the environment* 2009, P. 5.

[9] *Ibid*

[10] *Ibid*

[11] *Ibid*

[12] Geneva Call *Armed Conflict And The Environment, Protecting Civilians In Armed Conflict*. Html/// armed conflict //and//the/environment//Geneva accessed on the 26th of July 2022

damage.[13]The destruction and degradation of the natural environment remains a largely hidden effect of hostilities. Such destruction and degradation generally, contributes to the increased vulnerability of the populations already affected by conflict. international humanitarian law (IHL) protects the natural environment and contains provisions to limit the damage caused to it, nevertheless its scope has often reveals that armed conflict remains one of the major causes of environmental degradation.[14]

2.0 Effects of Armed Conflict on Environment

Over 80% of all major armed conflicts between 1950 and 2000 took place directly in biodiversity hotspots that sustain around half the world's plants and many rare species of animals.[15] Armed conflicts have always been a threat to the environment, and environmental degradation in turn affects the well-being or even the survival of people.[16]

At least 40% of non-international armed conflicts between1950-2009 were related to natural resources.[17] At the same time, countries enduring conflict are on the front line of climate change and most of this countries vulnerable to climate change and least ready to adapt, are mired in conflict.[18]

Armed conflict can lead to environmental destruction, by contaminating land and soil, with effects frequently extending over large areas, including to coastal and marine zones, and to water sources.[19] These consequences of conflict can remain in place for years or decades after a war.[20]

Alongside these developments, United Nations Environment Programme(UNEP) post-conflict environmental assessments, civil society and others have documented how the environment has continued to suffer in war, In addition, the climate crisis is increasingly defining how conflict-affected women, men, girls and boys experience their natural environment. Environmental impacts of war are now compounded by climate risks

It is also at risk from damage and destruction to the built environment including industrial complexes, combustible storage and processing facilities, factories and plants, agricultural facilities,

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[13]C. Bruch, C. Muffett and S.S. Nichols.*Governance, Natural Resources, and Post-Conflict Peace building* (Routledge, Abingdon). 2016, Also see: United Nations Environment Programme (UNEP, Nairobi*Environmental Rule of Law: First Global Report*), 2019, P.19 and 231–232.

[14] Geneva Call *Armed Conflict And The Environment, Protecting Civilians In Armed Conflict*. Html/// armed conflict //and//the/environment//Geneva accessed on the 36th of July 2022

[15] H. Thor *"Warfare in Biodiversity Hotspots", Conservation Biology*, 23 (3), jan2009, pp. 578–587.www.jstor.org//stable29738774 accessed on the 31st. oct2022

[16]*Ibid*

[17]International committee of Red *Cross Humanitarian Law & Policy blog: Fighting without a Planet B; how IHL protects the natural environment in armed conflict*Format News and Press Release Source ICRC Posted25 May 2021Originally published25 May 2021

1 [18]*Ibid*

[19]*Ibid*

[20] The Guidelines were annexed to the Report of the Secretary-General on the United Nations Decade of International Law (UN Doc. A/49/323, 1994); UN General Assembly Resolution 49/50 (1994) invited all States to give due consideration to the possibility of incorporating the Guidelines in their military manuals and other instructions for military personnel

solid and hazardous waste sites across urban and rural areas. [21]Attacks against, or incidental damage to, extractive mines and chemical facilities can lead to water, soil and land contamination, or release pollutants into the air , explosive remnants of war can also severely affect the environment by contaminating the soil and water sources, and harming wildlife.[22]

At the same time, deadly landmine contamination may also contribute to climate risks, including pollution to the soil and water by introducing non-biodegradable and toxic waste and threats to biodiversity by eroding soil, and destroying vegetation or animals during explosions. Explosive remnants of war cause further contamination and biodiversity is irreparably degraded as warfare is waged in hotspots. [23]

In certain circumstances, the environmental consequences of armed conflict can also contribute to climate change. For instance, the destruction of large areas of forest can have detrimental climatic consequences. Damage to infrastructure, such as oil installations and big industrial facilities, can force large volumes of greenhouse gases and other air-borne pollution into the atmosphere. In addition to the effects resulting from the acts of parties to armed conflicts, certain indirect effects of armed conflict on environment are also. [24]

a. Collapse of governance;
b. Thediminution or erosion of institutional capacities in environmental management and of the coping mechanisms employed by the civilian population;
c. And the deterioration of entire infrastructure service systems owing to lack of proper operation and maintenance over prolonged periods of time.[25]

Furthermore, when local populations are forced to avoid or abandon certain areas, including because of environmental damage, it can lead to the unsustainable exploitation of other areas, putting the environment under even greater stress. Another important contributor to environmental damage is the exploitation of natural resources to sustain war economies or for personal gain.[26]A concurrent reduction in institutional capacity for environmental management further compounds harm and hinders recovery long after a conflict has ended. The effect of environmental damage on communities is complex in many ways, but in one sense it is quite simple because the effect is total.[27]The effects of armed conflict both between states and within state have undeniably left untold hardship on the civilian and civilian object.

[21]*Ibid*
[22]*Ibid*
[23]*Ibid*
[24] International Committee of Red Cross *International Humanitarian Law And The Challenges Of Contemporary Armed Conflicts. Recommitting To Protection In Armed Conflict On The 70th Anniversary Of The Geneva Conventions* /www/_IHL-Challenges-Contemporary-Armed-Conflicts_WEB_7%20(1).pdf accessed on the 21st of July 2021
[25]*Ibid*
[26]*Ibid*
[27]International committee of Red Cross*Protecting the Natural Environment in Armed Conflicts: An ICRC view, www icrc org.accessed on 31st oct2022*

3.0. International Humanitarian Law Guidelines on the Protection of the Natural Environment in Situations of Armed Conflict

To step up efforts toward enhancing respect for the relevant IHL rules, in 2020 the International Committee of Red Cross (ICRC) released its updated Guidelines on the Protection of the Natural Environment in Armed Conflict. The first iteration of these was released in 1994, following a request from the United Nations (UN) General Assembly, the updated version reflects developments in international law, in areas from weapons, to how conduct of hostilities rules apply to the natural environment.[28]The updated Guidelines focus on how IHL protects the natural environment. The 2020 Guidelines are a reference tool for States, parties to armed conflicts, and other actors who may be called upon to promote, implement, apply and enforce IHL relevant rules on the protection natural environment.[29]

Synopses of the rules:

3.1. The use of methods or means of warfare that are intended, or may be expected, to cause widespread, long-term and severe damage to the natural environment is prohibited.

The first type of protection that IHL offers is contained in the rules that specifically protect the natural environment as such. These include the prohibitions against using means or methods of warfare that are intended, or may be expected, to cause long-term, widespread and severe damage to the natural environment.[30]

Rule 2 of the ICRC's Guidelines identified as a rule of customary IHL binding on all States in international armed conflicts and arguably in non-international armed conflicts (NIACs) - establishes an 'absolute ceiling of permissible destruction' prohibiting all widespread, long-term and severe damage to the natural environment regardless of considerations of military necessity or proportionality .[31]

Widespread generally refers to damage extending to several hundred square kilometres. This is based on several factors, including the meaning that should be given to the area affected and knowledge of the trans regional nature of the effects of damage, which can go beyond the area directly affected by the use of a method or means of warfare [32]

IHL also explicitly prohibits attacking the natural environment in reprisal. These rules, which were adopted in 1977, were among the first to explicitly protect the natural environment in times of armed conflict, following the Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques.[33] The recognition among the drafters of Additional Protocol I of the need to protect the natural environment, particularly at a time when this was still quite a novel idea, was a significant step towards affirming the importance of this protection.

[28]*Ibid*
[29]*Ibid*
[30].*Ibid*
[31]Rule 2 of the ICRC's updated Guidelines of1994 on the Protection of the Natural Environment in Armed Conflict www.icrc.org
[32]*Ibid*
[33]*Ibid*

3.2. By virtue of its civilian character, the natural environment is protected by IHL rules governing the conduct of hostilities. This means that disproportionate environmental damage is prohibited.

Based on its civilian character, the natural environment is also protected against "incidental damage, it is prohibited to launch an attack against a military objective which may be expected to cause damage to parts of the natural environment constituting civilian objects which would be excessive in relation to the military advantage anticipated. Bearing in mind that an assessment of whether damage would be "excessive" must be made in each individual case, taking into account the circumstances ruling at the time, an example of disproportionate incidental damage would be to cause an entire forest to burn when attacking a single, small enemy campsite of minor importance.[34]

Guidelines Rules 5-8 provided for protections to all parts of the natural environment as civilian objects by the IHL principles of distinction, proportionality, and precautions.[35]When assessing proportionality, the basic rule requires that parties to conflict must take into account incidental civilian harm (including to the natural environment) that is reasonably foreseeable based on an assessment of information from all sources available to them at the relevant time.[36]This obligation includes taking into account an attack's indirect effects on the natural environment.[37]

An example of disproportionate incidental damage to the natural environment would be the burning of an entire forest to eliminate a single, small enemy camp of minor importance, to the extent that it constituted damage incidental to an attack, or the pollution arising from the burning of oil fields and the deliberate spilling of millions of gallons of oil into the sea whichwould be excessive in relation to the military advantage that may have been anticipated.[38]

It is the ICRC's position that the foreseeable indirect, or reverberating, incidental effects of an attack must also be considered in the proportionality assessment. [39]This is of particular importance for the protection of the natural environment, which is often affected indirectly rather than directly by hostilities.

also in the conduct of military operations, including during troop movements or the establishment of military bases, constant care must be taken to spare civilian objects, including parts of the natural environment. Lack of scientific certainty regarding the effects on the natural environment of

[34]International Committee of Red Cross *International Humanitarian Law and the Challenges of Contemporary Armed Conflicts. Recommitting To Protection In Armed Conflict On The 70th Anniversary Of The Geneva Conventions* /www/_IHL-Challenges-Contemporary-Armed-Conflicts_WEB_7%20(1).pdf accessed on the 21st of July 2021

[35]Guidelines Rules 5-8.of the ICRC's updated Guidelines of1994 on the Protection of the Natural Environment in Armed Conflict www.icrc.org ICRC (2020), Guidelines *on the Protection of the Natural Environment: Rules and recommendations relating to the protection of the natural environment under international humanitarian law with commentary* (ICRC, Geneva). Available at: https://www.icrc.org/en/document/guidelines-protection-natural-environment-armed-conflict-rules-and-recommendations-relating. Accessed On the 15th of July 2022

[36]*ibid*

[37] *ibid*

[38]International committee of Red Cross Humanitarian *Law & Policy blog: Fighting without a Planet B; how IHL protects the natural environment in armed conflict Format* News and Press Release Source ICRC Posted25 May 2021Originally published25 May 2021

[39]*Ibid*

certain military operations does not absolve a party to conflict from taking precautions.[40] The natural environment is also protected by other IHL rules that seek to prevent or limit damage. These include rules on specially protected objects, such as works and installations containing dangerous forces and objects indispensable to the survival of the civilian population, as well as rules on enemy property and pillage.[41]

3.3 Another type of protection is contained in general IHL rules that protect the natural environment, without this being their primary purpose. Importantly, it is generally recognized today that, by default, the natural environment is civilian in character. On this basis, all parts or elements of the natural environment are civilian objects, unless parts of it become military objectives. Its various parts therefore benefit from the corresponding protection under IHL, in particular the general principles and rules on the conduct of hostilities, i.e. the principles of distinction, proportionality, and precautions.[42]

An attack cannot be directed against parts of the natural environment unless it is directed against a specific element of the natural environment that has become a military objective. This may be the case if, by its nature, location, purpose or use, a distinct part of the natural environment makes an effective contribution to military action, and if its total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage. [43]

As the intrinsic character of the natural environment is civilian, it can never by its "nature" make an effective contribution to military action, but it may make an effective contribution to military action by its location, purpose, or use.[44] For example, a hill may contribute effectively to the military action of enemy forces if it provides them with a vantage point over their adversary's camp. The foliage in a specific forested area may also contribute effectively to military action by providing cover for a troop manoeuvre. However, the concept of an "area" must not be interpreted so broadly that a large expanse of forest is deemed a military objective simply because combatants are located in a small portion of it.

Furthermore, the contribution to military action must be "effective" and made to the actual war fighting capabilities of the adversary and not merely towards its war sustaining capabilities.[45] For instance, an area of the natural environment where the mining of high-value natural resources takes place does not make an effective contribution to military action even though it may generate significant revenue for the war effort.[46]

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[40]*Ibid*
[41]*Ibid*
[42]*Ibid*
[43]*Ibid*
[44] International Committee of Red Cross *International Humanitarian Law and The Challenges Of Contemporary Armed Conflicts. Recommitting To Protection In Armed Conflict On The 70th Anniversary Of The Geneva Conventions* /www/_IHL-Challenges-Contemporary-Armed-Conflicts_WEB_7%20(1).pdf accessed on the 21st of July 2021

[45]G. Laurent. "*The relevance of revenue-generating objects in relation to the notion of military objective", in Proceedings of the Bruges Colloquium: The Additional Protocols at 40: Achievements and Challenges*, 2017, pp. 139–151
[46]*Ibid*

3.4 Parties to a conflict should endeavour to conclude agreements providing additional protection to the natural environment in armed conflict, such as demarcating demilitarized zones.

In non-international armed conflicts, common Article 3 foresees that parties can conclude special agreements.[47] This could be used as a basis to agree on myriad of additional protections for the natural environment, including the agreement of demilitarizes zone**.**The conduct of hostilities may have particularly disastrous consequences when it occurs in areas of major environmental importance or fragility (e.g. areas containing unique ecosystems or endangered species) if they are not provided with effective and specific protection.

IHL provides for the establishment of demilitarized zones by agreement between parties in both international and non-international armed conflicts.[48] Article 60 of AP I provides a blueprint for the terms of an agreement on a demilitarized zone, but any such agreement can be tailored to each specific situation, as Article 60 recognizes, and could be established in non-international armed conflicts, (NIAC) pursuant to common Article 3.[49]

Demilitarized zones can be agreed in an ad hoc manner between States at any time and between State and non-State actors during a conflict. By establishing a demilitarized zone, parties agree to keep certain identified areas of particular ecological significance or fragility off-limits to military operations. Fighters and military equipment would be excluded from such zones, which could only be attacked if they contain a military objective. Areas of major environmental importance that could be designated as demilitarized zones include groundwater aquifers, key biodiversity areas (which could be national parks or endangered species habitats), ecological connectivity zones, and areas important for coastal protection, carbon sequestration or disaster prevention.

Moreover, protection is also granted to the natural environment through the rules on the use of certain weapons, including

a. The prohibition against using herbicides as a method of warfare;
b. Rules on incendiary weapons; the prohibitions against using poison or poisoned weapons,
c. Biological weapons and chemical weapons;
d. Rules on landmines; and rules to minimize the impact of explosive remnants of war.[50]

4.0 Non-State Armed Groups Obligations Addressing the Protection of the Natural Environment under IHL

a. The rules of distinctions, passive and active precautions, and proportionality[51]
b. The prohibitions regarding objects indispensable to the survival of the civilian population [52]

[47]Common Article 3 To The *Geneva* Convention Of 1949
[48]Article 60 Of Additional Protocol I To The Geneva Convention Of 1949
[49]*Ibid*
[50]*Ibid*
[51]Rules 5-9of the ICRC's updated Guidelines of1994 on the Protection of the Natural Environment in Armed Conflict www.icrc.org ICRC (2020), Guidelines *on the Protection of the Natural Environment: Rules and recommendations relating to the protection of the natural environment under international humanitarian law with commentary* (ICRC, Geneva). Available at: https://www.icrc.org/en/document/guidelines-protection-natural-environment-armed-conflict-rules-and-recommendations-relating. Accessed On the 15th of July 2022
[52]Rule 10

c. The prohibition of the destruction of the natural environment not justified by imperative military necessity [53]
d. And the prohibition of pillage [54]

4.1 Key Recommendations for States and Parties to Armed Conflict

The Guidelines are intended to facilitate the adoption of concrete measures to reduce the environmental impact of armed conflict. To support this implementation, the ICRC proposes the following measures

a. Disseminate IHL rules protecting the natural environment as reflected in the Guidelines and integrate them into armed forces doctrine, education, training, disciplinary systems and national policy and legal frameworks. National IHL committees or similar entities can work with national authorities in this regard.[55]
b. Adopt and implement measures to increase understanding of the effects of war on the natural environment prior to and regularly during military operations, whenever feasible and operationally relevant, to minimize direct and indirect impacts of war on the environment. For instance, States could carry out environmental impact assessments or map areas of particular environmental importance or fragility before the conduct of military operations.[56]
c. Identify and designate areas of particular environmental importance or fragility as demilitarized zones. Designation could take place in peacetime or after fighting breaks out.
d. Exchange examples and good practices of measures to comply with relevant IHL, through activities such as conferences, military training and exercises, and regional forums. States could also, for example, carry out or share scientific assessments of the proportionality of damage caused to the natural environment by certain types of weapons or offer technical advice on measures to better protect areas of particular environmental importance or fragility.[57]

It is not enough that there are important IHL rules protecting the natural environment during armed conflict, they must be better disseminated, implemented and enforced, as well as reaffirmed and clarified. Ultimately, respect for IHL can limit the impact that armed conflict can have on the natural environment.

Respect for IHL in armed conflicts discussions at the regional expert seminars organized by the ICRC in 2003 showed that improving compliance with IHL is most challenging in non-international armed conflicts, especially in relation to non-State parties to such conflicts.[58]

[53]Rule 13
[54]Rule 14).
[55]International Committee Of Red Cross *International Humanitarian Law And The Challenges Of Contemporary Armed Conflicts Document Prepared By The International Committee Of The Red Cross For The 30th International Conference Of The Red Cross And Red Crescent, Geneva, Switzerland,* 26–30 November 2007irrc-867-ihl-challenges.pdf accessed on the 22nd of July 2022
[56]*Ibid*

[57]*Ibid*
[58]*Ibid*

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Specific circumstances, such as the increasingly fragmented nature of armed conflicts occurring in weak or failed States, the asymmetric nature of most conflicts with devastating effect on the environment and the growing involvement of civilians in hostilities tend to undermine observance of the law.[59]

Better implementation and enforcement of humanitarian law must be seen as a priority. It should be noted that considerable efforts have been made over the last 15 years to ensure that individuals responsible for serious violations of IHL are prosecuted and punished. Ad hoc tribunals have been established, as well as the International Criminal Court and special or mixed tribunals. While these developments should continue, particular attention must also be paid to improving compliance with IHL while an armed conflict is going on.[60]

This is particularly important because respect for the rules of armed conflict as it relates to environment is needed to safeguard its properutilization.It is of utmost importance that preventive mechanisms be consolidated if the law is to fulfil its protective role on the environment during armed conflict.

States have a role to play individually or collectively in ensuring respect for IHL, This responsibility exists to the extent that States have or can have some influence on the behaviour of parties to an armed conflict whether it relates to international or non-international armed conflict. It is not an obligation to reach a specific result, but rather an "obligation of means" on States to take all appropriate measures possible, in an attempt to end IHL violations.[61]

5.0 Challenges to the respect to International Humanitarian Law rules

5.1 Diversity of conflicts and parties

Non-international armed conflicts differ enormously, They range from those that resemble conventional warfare, similar to international armed conflicts, to those that are essentially unstructured. The parties whether States or organized armed groups vary widely in character. Depth of knowledge of the law, motives for taking part in an armed conflict, interest in or need for international recognition or political legitimacy all have a direct impact on a party's compliance with the law of armed particular on environment.

5.2Ignorance of the law

In many non-international armed conflicts, bearers of arms with little or no training in IHL are directly involved in the fighting. This ignorance of the law significantly impedes efforts to increase respect for IHL and to regulate the behaviour of the parties to conflicts.

5.3 Present the law "strategically"

Merely making the parties to an armed conflict aware of the law or of their specific obligations is not enough to ensure compliance. The law should be presented and discussed "strategically," in a manner that is relevant and adapted to the context, and as part of a deliberate plan to engage the

[59]*Ibid*
[60]*Ibid*
[61]*Ibid*

parties. This is necessary if parties are to develop a receptive attitude towards the law, which is the first step towards compliance. To present the law "strategically" implies knowing and understanding a party's motivations and interests.

5.4 Understand and adapt to the unique characteristics of the conflict and the parties

Given the great diversity of armed conflicts and parties, there is no uniform approach to the problem of lack of respect for humanitarian law. Any effort to increase respect for the law will be more effective if it takes into account the unique characteristics of a specific situation. This is especially true with regard to the parties themselves. It is particularly helpful to know and to understand a party's motivations and interests in order to explain why it is in the party's interest to comply with the law.

5.5Respect for IHL in non-international armed conflicts

Discussions at the regional expert seminars organized by the ICRC in 2003 showed that improving compliance with IHL is most challenging in non-international armed conflicts, especially in relation to non-State parties to such conflicts. Specific circumstances, such as the increasingly fragmented nature of armed conflicts occurring in weak or failed States, the asymmetric nature of most conflicts and the growing involvement of civilians in hostilities tend to undermine observance of the law.

5.6Lack of political will to implement humanitarian law

A party may have no or not enough political will to comply with the provisions of humanitarian law. Where the objective of a party to a non-international armed conflict is itself contrary to the principles, rules and spirit of humanitarian law, there will be no political will to implement the law

5.7Understand and adapt to the unique characteristics of the conflict and the parties

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6.0 Conclusion and Recommendations

Seventy years after their adoption, the 1949 Geneva Conventions complemented by three Additional Protocols and customary IHL provide a robust set of international legal rules regulating the behaviour of belligerents. IHL conveys a basic yet fundamental message which is that, wars even between fierce enemies have limits. experiences during two world wars and subsequent armed conflicts has shown that IHL was designed for the most extreme circumstances, striking a careful, pragmatic balance between military necessity and humanity.

The IHL rules can prevent atrocities only if all States take measures to implement their legal obligations, if all parties to armed conflict are committed to respecting them, and if all actors are able to influence those involved in the fighting and use their leverage to ensure respect for IHL.

The current suffering caused by armed conflicts should be a stark reminder that it is time to recommit to protecting our common humanity and environment in armed conflict.

Respect for IHL generally can contribute to finding durable solutions to the plight and the unprecedentedly high level of damage on the environment

Generally, better respect for IHL will limit the impact of armed conflict on the natural environment, if IHL rules on protecting the natural environment as reflected in the updated Guidelines more comprehensively disseminated in national policy and legal frameworks.

Different measures should be adopted by states to enhance understanding of the effects of conflict on the natural environment. This measures can greatly minimize the impact of military operations, for instance by mapping areas of environmental importance or fragility prior to the conduct of military operations. Situation like this will enable the military or possibly the combatant to keep off such area in the course of armed conflict.

Areas of particular environmental importance or fragility, such as national parks, natural reserves and endangered species habitats, should at all times identified and designated as civilian object that should at all times be protected. Conferences, military training and exercises, and regional forums should be organised to enhance IHL obligations towards protecting the natural environment.