

From Restraint to Obligation: The Protection of the Environment in Times of Armed Conflict

Authors : Aaron Walayat

Abstract : Protection of the environment in international law has been one of the most developed in the context of international humanitarian law. This paper examines the history of the protection of the environment in times of armed conflict, beginning with the traditional notion of restraint observed in antiquity towards the obligation to protect the environment, examining the treaties and agreements, both binding and non-binding which have contributed to environmental protection in war. The paper begins with a discussion of the ancient concept of restraint. This section examines the social norms in favor of protection of the environment as observed in the Bible, Greco-Roman mythology, and even more contemporary literature. The study of the traditional rejection of total war establishes the social foundation on which the current legal regime has stemmed. The paper then studies the principle of restraint as codified in international humanitarian law. It mainly examines Additional Protocol I of the Geneva Convention of 1949 and existing international law concerning civilian objects and the principles of international humanitarian law in the classification between civilian objects and military objectives. The paper then explores the environment's classification as both a military objective and as a civilian object as well as explores arguments in favor of the classification of the whole environment as a civilian object. The paper will then discuss the current legal regime surrounding the protection of the environment, discussing some declarations and conventions including the 1868 Declaration of St. Petersburg, the 1907 Hague Convention No. IV, the Geneva Conventions, and the 1976 Environmental Modification Convention. The paper concludes with the outline noting the movement from codification of the principles of restraint into the various treaties, agreements, and declarations of the current regime of international humanitarian law. This paper provides an analysis of the history and significance of the relationship between international humanitarian law as a major contributor to the growing field of international environmental law.

Keywords : armed conflict, environment, legal regime, restraint

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