



Environmental destruction in conflict: broadening accountability in war

March 20, 2025, Accountability / Analysis / Conduct of Hostilities / Emerging Voices / IHL / Law and Conflict / Related bodies of law

🕒 8 mins read



Iryna Rekrut

Legal Fellow, Center for Gender
& Refugee Studies, University of
California College of Law, San
Francisco



International law recognizes the importance of environmental protection during armed conflict. Additional Protocol I of the Geneva Conventions was the first treaty to formally prohibit warfare methods that cause widespread, long-term, and severe environmental damage. The Rome Statute of the International Criminal Court (ICC) further criminalizes damage to the natural environment as a war crime, though its high threshold has so far prevented its use. The existing initiatives to define “ecocide” aim, among other things, to broaden accountability beyond armed conflict and include corporations.

In this post, part of the [Emerging Voices](#) series, Iryna Rekrut, Legal Fellow at the Center for Gender & Refugee Studies, proposes an additional potential avenue that could also be used to improve accountability for environmental damage under the Rome Statute. She argues that a more expansive interpretation of existing provisions – particularly refining the definitions of “widespread,” “long-term,” and “severe” damage – could meet the evidentiary burden and make prosecution more viable under current international law.

ICRC Humanitarian Law & Policy Blog · Environmental destruction in conflict: broadening accountability in war

Throughout the development and evolution of international humanitarian law, the environment has been considered as important and deserving of protection. Legal frameworks, such as the Rome Statute, criminalize damage to the natural environment during warfare. However, the high thresholds for prosecution have – so far – hindered its usage and respective accountability. There are ambitious initiatives that seek a broader and actionable definition. To enhance accountability for environmental offenses, it is necessary to advocate for its implementation and also explore expanding the interpretation of the existing war crime in the Rome Statute.

Existing legal framework on environmental protection

Protocol I Additional to the Geneva Conventions introduced the protection of the environment in conflict expressly for the first time, [prohibiting warfare methods](#) “which are intended, or may be expected, to cause widespread, long-term and severe damage to the natural environment.” The Protocol further [emphasizes](#) “[a]ttacks against the natural environment by way of reprisals are prohibited.”

These provisions have established the crucial quantifiable degree standards for one type of criminal environmental damage: “widespread,” “long-term,” and “severe.” At the same time, to this day, they are not concretely defined. The “widespread” term’s interpretation should be understood to be [several hundred square kilometers](#). As for the “long-term” standard, there are variations to consider between several months to a season (in the context of the Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques, hereafter [ENMOD](#)) or requiring [damage to last decades, or in the range of years \(possibly a scale of 10 to 30 years\)](#). It is understood that this standard does not cover [short-term or temporary damage](#), such as from artillery bombardment. However, during the assessment it is vital to consider the duration of the [indirect effects](#), such as health issues, from the given method or means of warfare. The “severe” standard, in the context of the [ENMOD](#) Convention, requires “serious or significant disruption or harm to human life, natural and economic resources or other assets.”

The Rome Statute enables the classification of environmental damage as a war crime under international criminal law. According to article 8(2)(b)(iv) of the [Rome Statute](#), “[i]ntentionally launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians or damage to civilian objects or widespread, long-term and severe damage to the natural environment which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated” is a war crime. The rule retains the quantifiable standards of the harm. However, it adds additional criteria, including raising the *mens rea* standard, now requiring evidence that demonstrates intent and knowledge. In the International Criminal Court’s jurisdiction, article 8(2)(b)(iv) [has not been utilized yet](#), likely due to its high threshold of required damage.

Numerous countries and international organizations also prohibit methods and means of warfare, which could cause widespread, long-term, and severe damage to the natural environment in their [military manuals](#). In some countries, such as [Italy and Ukraine](#), employing these methods and means would be unlawful regardless of the intent to cause such harm.

Recent global initiatives and the rise of ecocide

In 2021, an Independent Expert Panel convened by the non-profit Stop Ecocide International (SEI) proposed a [groundbreaking definition of “ecocide”](#) as “unlawful or wanton acts committed with knowledge that there is a substantial likelihood of severe and either widespread or long-term damage to the environment being caused by those acts.” SEI also provides compelling [definitions](#) for standard terms.

Such progressive change would significantly broaden international accountability for environmental damage beyond the armed conflict and [allow the prosecution](#) of illegal pollution and deforestation from corporations. On September 9, 2024, Vanuatu, Fiji, and Samoa formally [proposed](#) considering ecocide as a fifth international crime under the Rome Statute, relying on SEI’s definition. Classifying ecocide as a separate crime would be a valuable solution for addressing environmental offenses, irrespective of the existence of an [international armed conflict](#) (Rome Statute, Art. 8(2)(b)).

It is undoubtedly an admirable and promising initiative, one that will hopefully soon succeed. However, at this time it may prove [challenging](#) to procure support to add it to the Rome Statute. Some State Parties may hesitate due to concerns over expanding *mens rea* standards and [exposing](#) their corporate leaders, as pillars of their economy, to potential liability. On the other hand, there is significant civil society momentum behind this initiative and several states and international organizations have already [enacted](#) similar domestic legislation. As of 27 January 2025, there are [fifteen countries](#) who have criminalized ecocide specifically, some even in peacetime. The European Parliament officially issued a [Directive](#) that considers ecocide as a crime. In the example of Ukraine, Article 441 of the [Criminal Code](#) defines ecocide as a “[m]ass destruction of flora and fauna, poisoning of air or water resources, and also any other actions that may cause an environmental disaster.” This growing support for the issue highlights the potential for broader acceptance.

In the meantime, it is possible to improve potential accountability by interpreting existing law in more detail. For example, it is feasible to keep the existing standards of “widespread,” “long-term,” and “severe” as a unified framework, but evaluate them more inclusively and holistically. To evaluate them reasonably, it is crucial to consider [existing knowledge](#) on ecological processes, climate risks and shocks.

Moreover, article 8(2)(b)(iv) of the Rome Statute currently has a high threshold to meet by requiring proving that the perpetrator is “[i]ntentionally launching an attack in the knowledge that such attack will cause . . . ” It would be beneficial to provide more guiding interpretation on what could potentially constitute *mens rea* element for this specific crime. For example, Dr. Matthew Gillett [suggests](#) the scenario wherein failing to conduct an environmental impact assessment without justification could support a finding of willful blindness and help establish the required *mens rea*.

The ICC Office of the Prosecutor is soon releasing a [new policy](#) on advancing accountability for environmental crimes, which may offer further clarity and guidance for addressing such offenses. The ICC Office of the Prosecutor also has the opportunity to explore broader interpretations of the proportionality principle of the norm by elaborating on the “military advantage” definition.

Conclusion

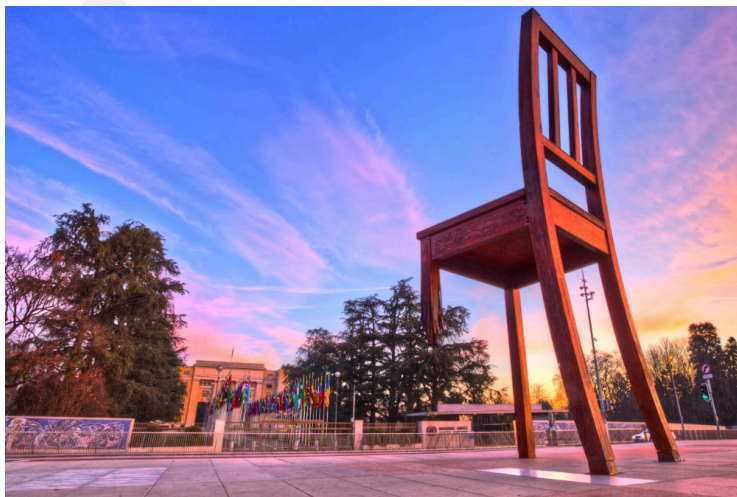
It is crucial for accountability to strengthen legal frameworks that aim to prosecute environmental damage during warfare. It is especially important for the devastating environmental impacts of armed conflict. By interpreting the existing law or amending the Rome Statute, it is possible to hold the perpetrators of environmental harm accountable more effectively. This would serve as a meaningful protection of the environment in today’s armed conflicts.

See also:

- Sarah Gale, *Climate and environment considerations for weapon bearers in armed conflict*, September 22, 2022
- Bonnie Docherty, *Mine action in action: influencing law and policy on toxic remnants of war*, December 21, 2021
- Alex Frost, *Mitigating the environmental impacts of explosive ordnance and land release*, December 16, 2021
- Florian Titze, *The nature-security nexus and the UN Security Council*, October 14, 2021
- Vanessa Murphy, Helen Obregón Gieseken, *Fighting without a Planet B: how IHL protects the natural environment in armed conflict*, May 25, 2021

Tags: armed conflict, conduct of hostilities, ecocide, environment, Environment and Warfare, Environmental Modification Convention (ENMOD), Geneva Conventions, ICC, international humanitarian law, Means and Methods of Warfare, Respect for IHL, Rome Statute

You may also be interested in:



Anti-personnel mines: the false promise of security through exceptionalism in war

🕒 14 mins read

Accountability / Analysis / Conduct of Hostilities / Emerging Voices / IHL / Law and Conflict / Related bodies of law

Cordula Droege & Maya Brehm

Earlier this month, Lithuania's unprecedented withdrawal from the Convention on Cluster Munitions (CCM) took effect. ...



Hospitals under fire: legal and practical challenges to strengthened protection

🕒 11 mins read

Accountability / Analysis / Conduct of Hostilities / Emerging Voices / IHL / Law and Conflict / Related bodies of law

Khang Phan & Thao Nguyen

Amid the devastation of armed conflict, hospitals stand as fragile sanctuaries, overwhelmed by demand and ...