

Climate Change and Warfare as Interconnected Concerns in International Legal Negotiations

Mario Pasquale Amoroso*

University of Trento, Trento, Italy

mario.amoroso@unitn.it

Environmental protection in international humanitarian law (IHL) appears in a historical context in which climate change was not yet perceived as a global threat. Nevertheless, contrary to the common perception that the relationship between climate change and armed conflict is a recent concern, the links between warfare, environmental harm, and climatic impacts were already present in the negotiations of both humanitarian law and the United Nations (UN) climate change regime. By examining the drafting history of Additional Protocol I (AP I) and the negotiations leading to the UN Framework Convention on Climate Change and the Kyoto Protocol, this article shows how these concerns emerged in parallel across different branches of international law.

In 1977, the AP I established for the first time obligations aiming at protecting the natural environment from the impact of hostilities. In particular, Articles 35 and 55 AP I prohibit the employment of ‘means and methods of warfare which are intended, or may be expected, to cause widespread, long-term and severe damage’, while at the same time requiring belligerents to ‘take care to protect the natural environment against widespread, long-term and severe damage’. By analysing the drafting process of these two provisions, one can observe a certain progressive approach in defining the protected object.

During negotiations, the Diplomatic Conference emphasised that respect for the environment was increasingly becoming part of the ‘conscience of the nations’, making it necessary to restrict belligerent behaviour in armed conflict that harms the environment.¹ While at the time of drafting the AP I the Stockholm Conference was raising awareness of the need to protect the environment from human-made harm, climate change was not yet included in its agenda.² Nevertheless, the drafters of the AP I proved to be ahead of

* PhD candidate at the University of Trento.

¹ Yves Sandoz, Christophe Swinarski and Bruno Zimmermann (eds.), *Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949*, (ICRC/Martinus Nijhoff Publishers 1987), 662.

² UNGA Res 2994(XXVII) of 15 December 1972, A/CONF.48/14/Rev.1, 3.

subsequent legal developments by interpreting the term ‘natural environment’ as referring to ‘external conditions and influences which affect the life, development and the survival of the civilian population and to living organisms’.³ Based on this interpretation, the commentary on Article 55 AP I, recalling the debates that took place during its drafting, states that the concept of the natural environment should be understood in the broadest sense to encompass ‘the biological environment in which a population is living’. This does not consist merely of ‘the objects indispensable to survival mentioned in Article 54 [...] but also includes forests and other vegetation [...] as well as fauna, flora and other biological or *climatic elements*’.⁴ This definition shows how climatic considerations emerged in the rules governing the conduct of hostilities already at the time of its drafting, strongly supporting a wide understanding of the IHL regime as limiting attacks and military operations producing climatic impacts.

However, the identification of a form of environmental protection in IHL did not impede military activities from causing unprecedented environmental damage. Exemplary in this sense has been the Gulf War (the 1990-91 military operation by a United States (US)-led coalition against Iraq, authorised by the UN Security Council), during which the combustion of oil wells resulted in evident climatic impacts, producing around 130-140 million tons of CO₂, accounting for 2-3 % of global anthropogenic emissions in 1991.⁵ In the same years, the Intergovernmental Negotiating Committee for a Framework Convention on Climate Change (INC) started negotiations for the adoption of a framework agreement aiming at mitigating the impact of climate change. Despite not being the main reason for governments to negotiate this instrument, recent historical events still played an influential role and were certainly in the minds of the drafters. In the first reports of the INC, published in 1991 just a few months after the Gulf War, statements from governments and representatives of international organisations demonstrate the impact of this conflict on the perception of the need for negotiating a climate change framework. During the first session of the INC, Mostafa K. Tolba, the Executive Director of United Nations Environment Programme (UNEP), emphasised that ‘since the beginning of the negotiations, the Gulf War had

³ Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law applicable in Armed Conflicts, ‘Report of the Chairman of the Group “Biotope”’, 1975, CDDH/III/GT/35, para. 5.

⁴ Sandoz, Swinarski and Zimmermann (n. 1), 662.

⁵ Olof Linden, Arne Jernelöv and Johanna Egerup, *The Environmental Impacts of the Gulf War 1991* (April 2004). International Institute for Applied System Analysis Interim Report IR-04-019/April, available at: <<https://pure.iiasa.ac.at/id/eprint/7427/1/IR-04-019.pdf>>, last access 30 June 2026.

continued to cause great sorrow', and went on to highlight the disastrous environmental destruction that had been resulting from the presence of oil in the fragile waters of the Persian Gulf, from the impact of dangerous substances on the air land, and waters, and from the '*climatic impacts* of large-scale burning of the oil in the region'.⁶ This issue was raised again in subsequent sessions when Professor Obasi, Secretary-General of the World Meteorological Organization (WMO,) discussed unresolved issues in climate science and climate change, citing major 'environmental events which had affected climate since the negotiations began, including the oilfield fires in Kuwait'.⁷

This demonstrates that the Gulf War was a pivotal moment in negotiating a regime establishing universal climate change mitigation obligations. While the relevance of this War gradually disappeared during the negotiations for the adoption of the Kyoto Protocol, concerns regarding military emissions emerged in discussions about methodological issues and reporting obligations. In this context, the Conference of the Parties adopted Decision 2/CP.3, stating that 'emissions from multilateral operations pursuant to the Charter of the United Nations shall not be included in national totals, but reported separately'.⁸ This exemption would exclude emissions related to UN-authorised military operations or peacekeeping activities from national total inventories, meaning that they would not be considered when assessing compliance with quantified emission limitations and reduction objectives (QELROs). The Decision is the result of pressures by some states, in particular the US, which argued in favour of exempting the activities of military forces from emissions targets so as not to affect the preparedness of the US military.⁹

However, the result was not a general exemption from reporting military emissions. The Decision also states that 'other emissions related to [multilateral] operations shall be included in the national emissions totals of one or more Parties involved', meaning that military activities not mandated by the

⁶ UNGA, 'Report of the Intergovernmental Negotiating Committee for a Framework Convention on Climate Change on the Work of Its First Session, held at Washington, D.C., from 4 to 14 February 1991', 1991, A/AC.237/6, para. 9.

⁷ UNGA, 'Report of the Intergovernmental Negotiating Committee for a Framework Convention on Climate Change on the Work of Its Third Session, held in Nairobi from 9 to 12 September 1991', 25 October 1991, A/AC.237/12, para. 16.

⁸ Conference of the Parties, 'Methodological Issues Related to the Kyoto Protocol', 1997, Decision 2/CP.3.

⁹ Center for Security Policy, 'The Plot Thickens: Stuart Eizenstat Blows More Smoke in House Hearing About Kyoto's Impact on U.S. National Security', 14 May 1998, available at: <<https://centerforsecuritypolicy.org/the-plot-thickens-stuart-eizenstat-blows-more-smoke-in-house-hearing-about-kyotos-impact-on-u-s-national-security-2/>>, last access 30 June 2026.

UN have to be reported by one or more of the involved parties.¹⁰ This demonstrates that the exception did not significantly impact QELRO commitments, but is rather linked to attribution issues that could be created by multilateral operations authorised by the UN. Further attempts by the United States following the adoption of the Kyoto Protocol to question ratification for the national security consequences that could ensue confirm this. Despite the adoption of Decision 2/CP.3, the US Department of Defence, as stated in an internal memo, was still concerned that ‘even a 10 % reduction in fuel usage could hinder the implementation of the US national security strategy’.¹¹ Attempts have been made to defuse the controversy by pointing out that, at the time, all US military operations were authorised by the UN and that domestic military operations, including training exercises, were not acknowledged. While these debates did not lead the Conference of the Parties (COP) to establish further exceptions, they show how military emissions were well-known at the time of the adoption of the Kyoto Protocol, generating concerns regarding compliance with mitigation obligations.

In conclusion, this brief contribution has tried to show how the preparatory works of both regimes reveal an early awareness of the links between armed conflict and climatic harm. Read together, they suggest that the interaction between international humanitarian law and the climate change regime is not a recent development but rather rooted in parallel historical concerns about the environmental consequences of warfare.

¹⁰ Axel Michaelowa and Tobias Koch, ‘Military Emissions, Armed Conflicts, Border Changes and the Kyoto Protocol’, *Climatic Change* 50 (2001), 383–394 (387).

¹¹ Mackubin Owens, ‘Global Warming vs. U. S. Security’, Ashbrook Center, 1 August 1998, available at: <https://ashbrook.org/viewpoint/oped-owens-98-globalwarming/?utm_source=>, last access 30 June 2026.