

# An Analysis of the Environment as a Silent Victim of War

CONTINUOUS INTERNAL ASSESSMENT – 1

ENVIRONMENTAL LAW

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**Abstract:- The universally accepted definition of environment refers to it as the complex of physical, chemical and biotic factors that act upon an organism or an ecological community and ultimately define its form. What this definition does not address however, is the multiple aspects of the environment that are formed and shaped through human interaction. While it is postulated that there existed a time when the environment as we know it existed free of human interferences, the explosive population growth and the subsequent need for resources and personal and societal advancement has redefined what can be considered the expansion and development of the natural environment.**

## I. INTRODUCTION

In fact, the instances of human interference have increased to the extent wherein the current definition of the „environment“ includes a subset which addresses the interaction of humans and the „natural environment“. What must be looked into, therefore, is the matter of how such interaction reshapes the environment, and whether this impact is one that is malevolent in nature. And there are few instances of human interference that are as overpowering and all-consuming as war.

With the development of society, mankind was faced with a pressing need for more resources, land and a variety of other needs. When it was discovered that in certain cases, resources such as metal ores or precious stones would not be shared between existing communities who possessed them, the only plausible solution was to forcibly seize them in acts of pre-meditated strategic violence. This forceful seizure of resources soon resulted in the phenomenon known as war. Perhaps the earliest known instances of war influencing the environment is the early civilizations warring over natural resources which soon were depleted leading to more forceful seizures from other areas.

## II. HISTORY OF WAR AND THE ENVIRONMENT

The environment and the ecology have been war's victims since the beginnings of recorded history, either as collateral damage or as the direct victims of targeted attacks aimed at crippling the food reserves and habitats of the opponents. Biblical annotations note that the duty of man in war is to limit the disaster that befalls of both man and nature, according to Deuteronomy 20:19. The Book of Judges referred to King Abimelech who salted the fields of Shechem, causing widespread fear and chaos; a tactic adopted by the Romans and later by modern armies, albeit using chemical means.

Historically, the impact of war has been largely focused around its effects on the society, and its various elements. Losses to life and of property have been accepted outcomes of war, to the extent where wars have been waged with the sole purpose of creating such losses. However, a rarely spoken of victim of war is the environment, and this includes the secondary indirect damages it suffers as a result of polluted rivers, forests that are razed and land that becomes infertile. Additionally, post the age of industrialization, the amount of metal being used in wars has led to large scarcity of resources. The environment has been a strategic tool of war since the ancient Roman era, when Roman and Assyrian armies sowed salt into the fertile croplands of their enemies to make the land unusable for cropping and lead them to starvation and poverty.

## III. WAR AND ITS IMPACT ON THE ENVIRONMENT

However, the sabotage of the environment for military gains did not end with the Romans. Chemical warfare was aggressively used throughout much of the Vietnam War, waged between the United States of America and the country of Vietnam. The war, which led to staggering losses, also led to a far more dangerous enemy- starvation. The use of the chemical „Orange“ by the U.S Armed forces led to the destruction of thousands of acres of Vietnamese crops and farmland. Vast areas were defoliated to create a military disadvantage for the alleged Vietnamese guerrilla militia.<sup>1</sup> These warfare tactics were hardly analysed by American

historians with respect to the damage that the ecology suffered. Further, post the conclusion of the Vietnamese War, very little was done to ensure that the effects of such harsh ecological sabotage were mitigated in a manner that prevented environmental degradation for future generations.<sup>2</sup> Thus the concepts of adaptation versus mitigation, which ought to have been analysed in the circumstances of such a large scale ecological attack, were largely swept aside for favour of political compromise.

Modern day warfare has evolved to the extent wherein the weapons of mass destruction consist of chemicals and radioactive material that can destroy entire ecologies within short spans of time and leave devastating consequences. This has continued with the invention of chemical bombs and missiles, the likes of which have been used in the Iraq war. The bombing of Iraq, by the U.S, was done using 340 tonnes of missiles containing depleted Uranium which has polluted land and rivers, and have caused the environment to become carcinogenic in nature.<sup>3</sup> The effects of such warfare have been observed to result in health complications for the inhabitants of this polluted area as well as for the undesirable ecological imprint it leaves behind.

Like the Vietnam War, a majority of violence in wartime situations take place by the machinations of guerrilla organisations, especially in places with little organised military efforts such as several North African countries and South American nations. Such guerrilla forces often use dense foliage as a cover to maintain anonymity and protection, and in turn such places draw aggressive attention from the opposing sides. This leads to destruction of natural forest cover.

The „Rwandan Genocide“ highlights such a situation where the lack of sufficient mitigation or adaptation mechanisms in response to extreme internal strife led to inimitable ecological devastation, with as much as 105 square kilometres of forest land being negatively affected by the warfare and constant violence, in some form or the other. The Rwandan civil war led to the death of as much as 800,000 indigenous persons belonging to the Tutsi and Hutu communities, and another two million seeking refuge in the areas of Africa which is now called the Republic of Congo<sup>4</sup>. In years during which Rwanda underwent turbulent internal strife, the Virunga Volcanoes Tri-National Park became refuge for nearly 720,000 Rwandians, who inhabited large parts of the park in years from 1994<sup>5</sup>. As a result, large number of trees was cut to be used as firewood and shelter for families and displaced women and children. Further, the knowledge that large number of Rwandians were hiding from the forces invited active attacks on these areas, leading to death. As a result of the 1994-96 Rwandan massacres, loss of life was limited to not just humans, but also animals and bio-organisms that became unwitting collateral damage. The large-scale deforestation of the Virunga National Park altered key ecological corridors that led to the near extinction of the wild -buck and the hippopotamus population in the Park.

#### IV. DISPLACEMENT OF PEOPLE DUE TO ENVIRONMENTAL HAZARDS OF WAR

Historically, there has been a profound co-relation between war and the large-scale displacement of people from area to area, in lieu of a lack of provisional measures that will allow for rehabilitation of war-struck communities and persons. The Vietnamese war saw very large displacements of people, with the estimates coming up to staggering numbers close to twenty million. The Gulf War and both the world wars saw such large scale displacement of people, which was very often attributed to situations of aggressive combat and instability. Even issues such as lack of resources and lack of food were attributed to the large number of displaced people. As such environmental refugees and war refugees are very often considered to be two different things with no relation to the other. However, it must be noted that a significant number of war refugees are also environmental refugees or internally displaced persons.

##### ➤ Refugee

The Convention Relating to the Status of Refugees, or the 1951 Refugee Convention, defines a refugee as “As a result of events occurring before 1 January 1951 and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.” This definition when read with the concept of climate and environmental refugees implies the existence of a significant number of people who have been displaced as a result of events such as war which have led to environmental conditions that make inheritance very harmful.

The internal violence and rebel attacks in Bangladesh have led to the unmitigated influx of refugees from the Rohingya territory of the country. These refugees have been provided with little acceptance with neighbouring countries such as India and China refusing to provide asylum. The Rohingya crisis is an example of a large scale environmental refugee movement caused by war or direct violence in a country.<sup>6</sup>

There exist various international treaties and conventions such as the Universal Declaration of Human Rights and the Geneva Convention, all of which have referenced the existence of the phenomenon of refugees and what must be done with regards to it. Various guidelines and policies have been set up to ensure that refugees seeking asylum have been provided with the basic human rights that every person ought to get.

The category of climate refugee under which the subset of „war refugee“ falls is referred to as the environmental-forced refugee, and typically addresses migrants who are

forced to flee their home countries as a result of forced onset environmental degradation, such as the large scale defoliation and deforestation that war induces.

#### ➤ *Internally Displaced Persons*

There exists no universally accepted definition of an Internally Displaced Person (henceforth referred to as an IDP) in any international convention or treaty. However, a United Nations report on the guiding principles on internal displacement refers to IDP's and defines them as *"persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border."*<sup>7</sup>

This report also states that there are 6.9 million IDP's as of 2016, who have been displaced due to causes ranging from internal rebellion to extreme climatic and environmental degradation or disaster.

Internally displaced migrants have not been recognised by conventions, with the exception of the „African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa" or the Kampala Convention. This was introduced as a result of extreme internal displacement of large tufts of indigenous population as a result of armed conflict as well as environmental factors or disaster. This provides protection to IDP's whose displacement is a result of "man-made or human made disasters, including climate change".

What must be recognised is the lack of binding international sanctions and legislation which recognise that refugees and IDP's can be born as a result of the climatic and ecological degradation or war, much less provide protection and rights to such persons. While cognizance of war refugees and IDP's as well as climate refugees to a lesser extent has been given, the same cannot be said for the phenomenon of „climate refugees of war". There is a severe scarcity of resources which can cater to the needs of such persons organically, and therefore legislation must exist to ensure equitable distribution of such resources. This becomes crucial in conditions of internal violence and strife as can be seen in Syria and Yemen, where there are a large number of refugees and IDP's. While refugees have been recognised through the UDHR and the Convention Relating to the Status of Stateless Persons, IDP's forced to displace as result of war and its various environmental hazards have very little protection provided. There also exists the added risk of refugees becoming internally displaced upon returning to their country or origin is such return is involuntary, unprepared or premature, or if there exists very little legislation and resources that can provide for the rehabilitation of such refugees.<sup>8</sup>

## V. INTERNATIONAL LEGISLATION

International Environmental Law must address matters regarding the impact of war on the environment, and this extends to dealing with matters such as refugees and IDP's. However, it has been established that there exists very evident lacunae in international environmental law, which has not been updated sufficiently to allow for the inclusion of recent developments such as that of climatic war refugees or means of mitigation or adaptation to ecological crisis situations caused by war and violence.

Existing international environmental legislation is constricted to the realms of customary international law such as that Rio Declaration, which states that *"States shall ... respect international law providing protection for the environment in times of armed conflict and cooperate in its further development, as necessary."*

Protocol I of International Humanitarian Law prohibits *"methods and means of warfare which are intended, or may be expected, to cause widespread, long-term and severe damage to the natural environment"* and further goes on to state that attacks against the environment by way of reprisals are also prohibited.

Several international treaties and conventions deem „environment" to be consisted of the human environment and not the natural environment. This implies that legislation can often be misread or misinterpreted, or if read in a naturalistic manner can be expanded to mean the natural environment.

There also exists the 1976 „Convention on the Prohibition of Military or any Hostile Use of Environmental Modification Techniques" commonly referred to as the ENMOD convention, which prohibits the deliberate manipulation of the natural environment for military or Para- military needs.

What must be observed in these legislations is that while there exist legislation which prevents malevolent manipulation or mal-usage of the environment for purposes of war, there exists very little on the use of mitigation or adaptation mechanisms which are required in situations of crisis or war, as can be seen in countries such as Syria, Yemen or Bangladesh. This becomes crucial due to the fact that several countries which ought to fall under the protective purview of such international environmental legislation have little to no legal frameworks set in place to provide for the insurgence of various war-caused ecological and environmental hazards. Therefore, there is a direct contradiction that arises when comparing the existing legislation, which largely focuses on preventive measures as opposed to measures which focus of adaption; it becomes obvious that the current status quo is in dire need of the latter.

## VI. CONCLUSION

The inference that can be drawn out of such analysis and comparison is that while there is a pressing need for preventive measures that can nullify the possibilities of ecological devastation due to causes including, but not limited to, war, there is an equally pressing need for legislation and policy framework that target mitigation and adaptation mechanisms. To narrow down on what legislation need to be introduced, there also needs to be a land to land ecological survey done, with tenacious focus on the impact of crisis due to violence and war. A model must be made, taking into account the need versus want debate surrounding environmental protection, especially in areas such as South-Asia and North Africa where the millennium development goals target alleviation of poverty as the primary goal, and not environmental protection.

Ultimately, it must be noted that environmental conservation and protection is an intergenerational right and that there is an imminent need to ensure that no further damage is dealt to it.

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