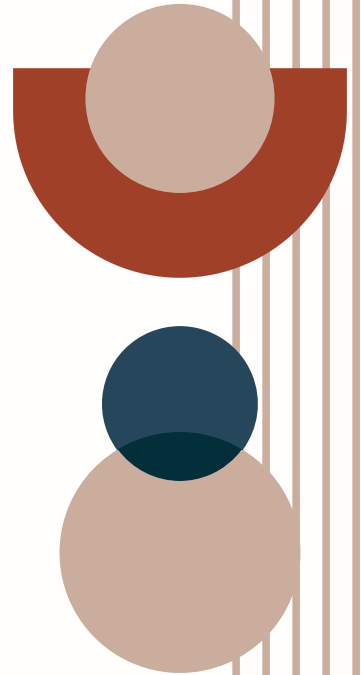
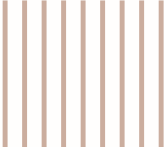


30 Years of the Nuclear
Weapons Advisory
Opinion –
30 Years of Development
of International Law

Amela Škiljan

The Hague, 8 July 2026



International Humanitarian Law

1

Jus Cogens

2001

„In the light of the description by ICJ of the basic rules of international humanitarian law applicable in armed conflict as “intransgressible” in character, it would also seem justified to treat these as peremptory.”

ILC, Draft Articles on State Responsibility, Commentary to Article 40, para. 5

International Humanitarian Law

1

Jus Cogens

2022

- (a) The prohibition of aggression;
- (b) the prohibition of genocide;
- (c) the prohibition of crimes against humanity;
- (d) **the basic rules of international humanitarian law;**
- (e) the prohibition of racial discrimination and apartheid;
- (f) the prohibition of slavery;
- (g) the prohibition of torture;
- (h) the right of self-determination.

International Humanitarian Law

1

Jus Cogens

Article 53 VCLT

„[...] a norm accepted and recognized by the international community of States as a whole as a norm from which **no derogation is permitted** and which can be modified only by a subsequent norm of general international law having the same character.”

International Humanitarian Law

2

Jus ad bellum and jus in bello

„None of the States which appeared before the Court raised the question of the relations between the right of self-defence recognized by Article 51 of the Charter and the principles and rules of the law applicable in armed conflict. All of them argued **as if these two types of prescription were independent**, in other words **as if the jus ad bellum and the jus in bello constituted two entities having no relation with each other.**”

Separate Opinion of Judge Guillaume appended to the ICJ Nuclear Weapons Advisory Opinion, 08.07.1996, p. 290.

International Humanitarian Law

2

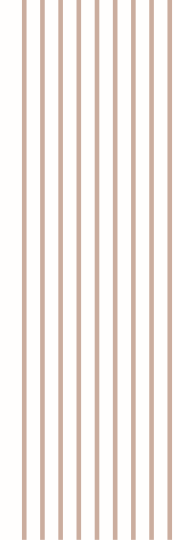
Jus ad bellum and jus in bello

„The reality is, of course, that while the jus ad bellum only opens the door to the use of force (in self-defence or by the Security Council), whoever enters that door must function subject to the jus in bello. The contention that the legality of the use of force justifies a breach of humanitarian law is thus a total non-sequitur. “

Dissenting Opinion of Judge Weeramantry, appended to the ICJ Nuclear Weapons Advisory Opinion, 08.07.1996, p. 519.

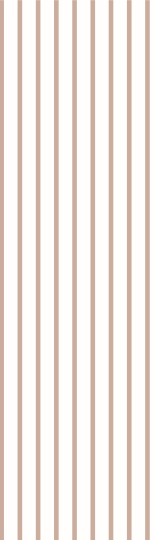


IHL/Int. Environmental Law



3

Protection of the environment in armed conflict

- Due regard for the natural environment in military operations
 - Prohibition of widespread, long-term and severe damage to the natural environment
 - Prohibition of using the destruction of the natural environment as a weapon
 - Prohibition of attacking the natural environment by way of reprisal
- 
- 



IHRL/Int. Environmental Law

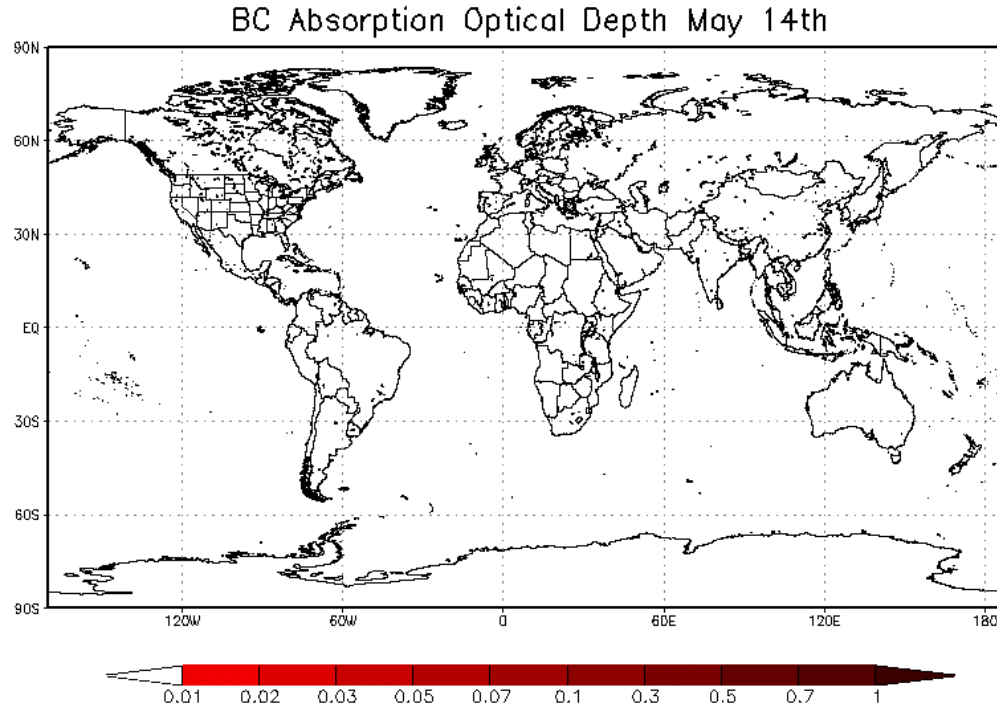
International Human Rights Law

The **right to a clean, healthy and sustainable environment**

(ICJ, Obligations of States in respect of Climate Change,
Advisory Opinion,
23.07.2025, para. 393.)



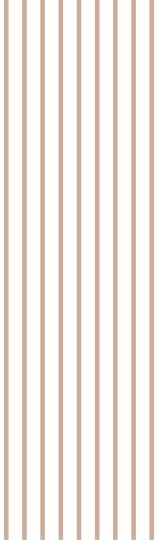
Nuclear Winter



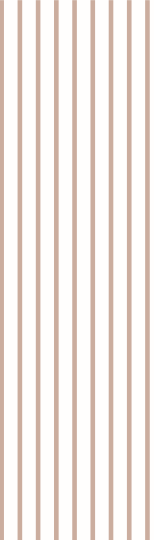
See Robock et al., „Climatic consequences of regional nuclear conflicts“, Atmospheric Chemistry and Physics, 2007 and <https://climate.envsci.rutgers.edu/nuclear/>



International Human Rights Law



The Right to Life



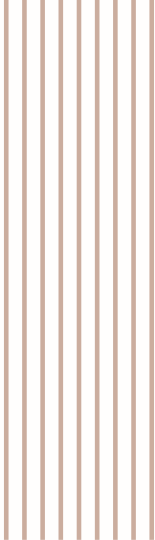
„The threat or use of weapons of mass destruction, in particular nuclear weapons, which are indiscriminate in effect and are of a nature to cause destruction of human life on a catastrophic scale, is **incompatible with respect for the right to life** and may amount to a crime under international law. States parties must take all necessary measures to stop the proliferation of weapons of mass destruction [...] to refrain from developing, producing, testing, acquiring, stockpiling, selling, transferring and using them, to destroy existing stockpiles, and to take adequate measures of protection against accidental use, all in accordance with their international obligations.”

Human Rights Committee, General Comment No. 36, para. 66.

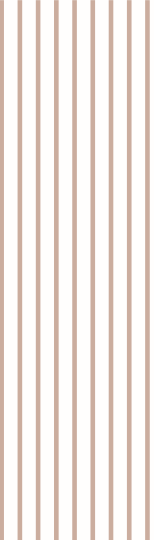




International Criminal Law



Article 8(2)(b)(iv) Rome Statute



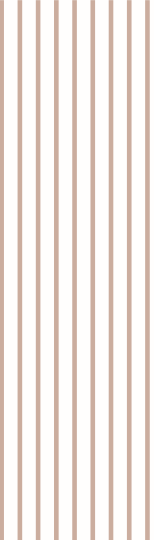
“Intentionally launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians or damage to civilian objects or widespread, long-term and severe damage to the natural environment which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated.”





Law directly related to nuclear weapons

NWFZ

- Treaty of Pelindaba 1996
 - Treaty of Semipalatinsk 2006
- 

TPNW

Adopted in 2017

Currently 75 state parties





Thank you for your attention!

„No issue could be fraught with deeper implications for the human future, and the pulse of the future beats strong in the body of international law.“

Dissenting Opinion of Judge Weeramantry, appended to the ICJ Nuclear Weapons Advisory Opinion, 08.07.1996, p. 554.

