

BOOK REVIEWS

The Ecology of War and Peace, by Eliana Cusato
Cambridge University Press, 2021, 296 pp, £85 hb, US\$88 ebk
ISBN 9781108837521 hb, 9781108944632 ebk

Any piece of literature acquires meaning at two different moments – when it is written, and when it is read. The topical nature of Eliana Cusato’s monograph *The Ecology of War and Peace*, published in September 2021, has been reinforced for the current reader through the ongoing Russian aggression against Ukraine. With Russian bombs dropping on Ukrainian nuclear facilities and militaristic vocabularies of ‘scorched earth’ and ‘resource pillage’ making headlines again, the horrors of war’s environmental fallout feel eerily acute.¹ Given that the book fires its opening salvo at the well-known attraction of international law to ‘crisis talk’,² it is not without irony that current events have rendered Cusato’s core message all the more powerful.

The Ecology of War and Peace is a thoroughly researched and compellingly argued critique of legal responses to the environmental causes and consequences of violent conflict. The book, based on Cusato’s doctoral thesis, laudably avoids the disciplinary blinds that often characterize dissertations. At its heart lies an overarching social question, one to which law provides only the institutional scaffolding: ‘What may happen if we change the lens through which we view the interrelation of war, peace, and ecology?’ (p. 12). In following this provocative invitation, the book manages to shine a bright light on some of international law’s ‘invisible frames’³ – most notably its obsessive focus on highly visible, spectacular forms and elements of environmental violence, such as the United States’ devastating deployment of defoliating Agent Orange during the Vietnam war. It then deconstructs those frames, and proposes a new, much wider frame of its own: environmental justice.

To substantiate the normative yardstick against which international legal mechanisms should be assessed, Chapter 1 engages two well-known alternatives to dominant securitization discourses: Rob Nixon’s characterization of environmental damage as a form of ‘slow violence’, and Johan Galtung’s notion of ‘structural violence’ as institutionalized, normalized, and indirect forms of harm. Only with such an expanded view of how environmental factors may enable, structure, prolong, or end conflict can one see the interconnections between topics as diverse as blood diamonds and nuclear disarmament.

¹ R. Peel, ‘Ukraine War: The Dangers Following Russia’s Attack on the Zaporizhzhia Nuclear Power Plant’, *The Conversation*, 4 Mar. 2022, available at: <http://theconversation.com/ukraine-war-the-dangers-following-russias-attack-on-the-zaporizhzhia-nuclear-power-plant-178564>.

² This insight, of course, is owed to, or at least most eloquently elaborated in H. Charlesworth, ‘International Law: A Discipline of Crisis’ (2002) 65(3) *The Modern Law Review*, pp. 377–92.

³ A. Bianchi & M. Hirsch (eds), *International Law’s Invisible Frames: Social Cognition and Knowledge Production in International Legal Processes* (Oxford University Press, 2021).

Having thus outlined the parameters of her enquiry, Cusato embarks upon a mapping exercise of the sprawling literature around the ‘environment-conflict nexus’ in peace and security studies (Chapter 2). Three pervasive questions are identified as dominating much of the field:

- (1) What is the role of the environment in causing conflict?
- (2) To what extent do natural resources influence the conduct and duration of armed activities?
- (3) What is the adequate place for ecology in building peace?

Answers to the first question revolve around the oppositional logics of ‘greed’ (for example, of local elites) *versus* ‘grievances’ (for example, the infamous ‘resource curse’). Once war has erupted, the environment is reduced to an exploitable economic resource, brushing over the fundamental ecological services that ecosystems perform for local communities affected by conflict. In response to the third question, dominant theories of ‘liberal peacebuilding’ foreground a commodified environment, which attracts foreign investment and fuels economic growth. Although these caricatured, deterministic views have come under fervent attack by scholars, they have been imported uncritically into legal frameworks.

To explicate how problematic empirical assumptions about the nature of ‘the environment’, ‘violence’, and ‘reparation’ have seeped into international law, Chapter 3 presents a near-exhaustive survey of the relevant legal landscape. Cusato takes the reader on a detailed *tour d’horizon* of the evolution of environmental considerations in the law of armed conflict. She departs from the ways in which the central tenets of international humanitarian law came to cover some aspects of the natural world, to arrive at the more recent prohibition of ‘ecocidal’ warfare in international criminal law and the restrictions on resource exploitation in situations of occupation. Although easily mistaken for a history of progressively ‘greening’ the laws of war, the chapter shows how every solution devised by creative legal minds gives rise to new environmental problems as long as underlying assumptions remain untouched.

In Part Two, the book shifts from ‘law in the books’ to ‘law in action’. Chapter 4 examines the ways in which various international criminal tribunals, from the end of the Second World War until today, have addressed environmental destruction in war. Some stops on this journey include the 1999 NATO bombing of Yugoslavia, the International Criminal Court’s recent efforts to probe environmental atrocities within its jurisdiction, and the Sierra Leone Special Tribunal. All of these judicial engagements have suffered from conspicuous shortcomings: some predetermined or caused by the faulty nature of treaty provisions, others hailing from more practical difficulties, such as the unique challenges to evidence collection in cases of environmental damage. Ultimately, Cusato concludes that international criminal justice and environmental justice are largely irreconcilable at the theoretical level, as they ‘move from completely different assumptions about the character and causes of socio-ecological injustices, and what should be done in response’ (p. 130). From this sobering intermediate conclusion, the analysis turns to the judicial practice of the International Court of

Justice as a generalist tribunal. In particular, Cusato investigates the fault lines of two monumental decisions: the *Nuclear Weapons* advisory opinion,⁴ and the *Armed Activities* case.⁵ Alas, also in these cases the environment is relegated to an economic asset. Both decisions fail to take account of the structural and slow violence brought about by nuclear weapons and resource extraction, respectively.

Chapter 5 looks at a different institutional *locus*, namely the United Nations Security Council (UNSC). Tasked with maintaining international peace and security, the UNSC has adopted an increasingly proactive stance on environmental issues. For instance, it has imposed sanctions on certain resources from conflict zones – such as ‘blood diamonds’ from Sierra Leone⁶ – with a view to depriving aggressors of their funding and forcing them to the negotiation table. In addition, the UNSC has supported various transparency and accountability initiatives aimed at corporate actors. After the cessation of hostilities, UNSC-backed peacekeeping missions have come to regulate resource extraction, among other things. Yet again, much of what the UNSC is doing accords with theories of ‘environmental securitization’ and ‘liberal peacekeeping’. Its interventions may have ameliorated the symptoms of conflict but fail to tackle the root causes. A similar tendency to view environmental conflict through the lens of ‘securitization’ is already discernible in the nascent discourse on the implications of climate change. Here, Cusato warns against the dangers of casting the ‘slow violence’ of climate change in the light of international security law. In adopting the latter’s focus on temporally and geographically specific, state-centric conflicts beyond a given severity threshold, the creeping climatic threat haunting, in particular, poorer countries risks being downplayed, sidelined, and trivialized.

As a final example of international practice, the book turns towards the work of Truth Commissions (TCs). As TCs, in principle, are capable of embracing a wide perspective on harm and reparation, they could be better placed to represent environmental justice ideals in their output. Chapter 6 zooms in on TCs in Sierra Leone, Liberia, and Timor-Leste. Each of these TCs operated in a different context and gave a different valuation to the environment. The Sierra Leone TC, for instance, evinces a state-focused approach in which the greed of governmental elites was recognized as a driving factor of resource exploitation. Its Liberian cousin, in contrast, homed in on the role of economic crimes (including resource-related crimes). Cusato criticizes both approaches for their reproduction of tired tropes about greedy elites and their blending out of structural causes and external interests. Only the Timor-Leste TC manages to avoid these pitfalls by viewing responsibility for conflict-related extraction through a social and environmental rights paradigm.

Up to this point the book is dedicated to a meticulous dismantling of international law’s skewed relationship with ecological categories in the context of war by

⁴ *Legality of the Threat or Use of Nuclear Weapons*, Advisory Opinion, 8 July 1996, *ICJ Reports* (1996), p. 226.

⁵ *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*, 19 Dec. 2005, *ICJ Reports* (2005), p. 168.

⁶ UNSC Resolution 1306 (2000), 5 July 2000, UN Doc. S/RES/1306/2000.

juxtaposing it with the well-established demands of environmental justice. Cusato's critique largely succeeds because of its intuitive normative appeal and its extraordinarily well-referenced analysis, the latter being indicative of the author's profound understanding of the field.

Yet, the reader is left with a nagging doubt, common to many critical projects: the gravitational pull of fatalism. What, if anything, could ever be done about this mess? The hurdles identified are frustratingly pernicious. Like the mythological hydra who grows a new head for each decapitation, as soon as legal reform or well-intentioned use of legal discretion addresses one critique somewhat successfully (for instance, through interpretation of the laws of war in the light of environmental principles), a new problem emerges. In the end, the reader wonders, together with Cusato, whether military activities can *ever* be reconciled with ecological values, with environmental justice; or is international law trying to square the circle when it sets out to do so?

Cusato offers a partial answer to this question in the final chapter, in which she sketches the contours of a truly transformative ecology of war and peace. Despite its inevitable tendency to reproduce the inherently destructive forces of militarism, the potential of international law to build sustainable peace must not be dismissed – the baby must not be thrown out with the bathwater. To harness the emancipatory potential visible, *inter alia*, in the Timor-Leste TC and to rekindle the relationship between humans and non-humans, so Cusato argues, we must turn to the ideas developed by feminists and critical ecologists. If the law's underlying assumptions are the problem, changing these assumptions can pave the way forward. Given their heightened role in creating the current predicament, scholars also incur a particular responsibility in pushing for a shift in legal consciousness towards complexity and interdependence.

Compared with the previous chapters, this part of the book is relatively brief and rudimentary; it sketches the repertoire of ideas from which future work may draw, but does not follow through their implications. In this sense, the book opens as many directions for thought as it closes. I have no doubt, however, that Cusato's suggestions will be carried forward by herself and others in the coming years. Then again, one wonders whether international law is really the right tool for effectuating the sweeping reconfigurations that the book proposes. Implicit in its reasoning is the idea that legal frameworks, broadly understood, shape social behaviour, but must environmental justice not be anchored in cultural and political spheres before finding inscription in international law? The book largely avoids this difficult question; it lacks a substantiated theory of change. That said, its avowed primary objective is 'to unpack and problematise some of the assumptions about the "environment", its relationship with violent conflict, and the justification for its protection underlying current debates and institutional practices' (p. 10) – a task that it more than accomplishes.

In conclusion, *The Ecology of War and Peace* is a refreshingly interdisciplinary, heterodox, and critical contribution by a promising junior scholar. Environmental and international lawyers alike, as well as political ecologists and international relations scholars, are well advised to add the title to their reading lists. As valid as the criticism of international law as a 'discipline of crisis' remains, the current uptick in military hostilities has already triggered a reflection on the international regulation of 'security' and

‘violence’.⁷ One hopes that Cusato’s ideas find resonance in these discussions and manage to shift attention to the ever-closer entanglements of military and environmental categories.

Daniel Bertram 

Department of Law, European University Institution (EUI), Florence (Italy)

Transnational Environmental Law, 11:2 (2022), pp. 441–445 © The Author(s), 2022. Published by Cambridge University Press.
doi:10.1017/S2047102522000280

Understanding the Rights of Nature: A Critical Introduction, by Mihnea Tănăsescu
Transcript Verlag, 2022, 168 pp, €40 pb, open access ebk
ISBN 9783837654318 pb, 9783839454312 ebk (open access)

The Politics of Rights of Nature: Strategies for Building a More Sustainable Future,
by Craig M. Kauffman and Pamela L. Martin
The MIT Press, 2021, 290 pp, \$35 pb, open access ebk
ISBN 9780262542920 pb, 9780262366601 ebk (open access)

In 1972, Christopher Stone argued that natural ecosystems should have legal standing before courts.¹ It took more than 40 years for the first rights of nature (RoN) law to be adopted.² However, since 2006, legal provisions establishing RoN have rapidly spread from state constitutions and local laws, to court rulings and international instruments, making RoN a global legal trend. The global development of RoN has not been linear or uniform, however. Both in theory and in practice RoN cases vary substantially. They are developed in different contexts, respond to different objectives and tensions, and have been recognized and implemented from dissimilar political dynamics involving a variety of actors. Any study of RoN must recognize these complexities and contexts in order to start to grapple with complex questions such as: What are rights of nature? How should they develop further?

For a holistic analysis that takes into account the details, context and political dynamics surrounding RoN, *Understanding the Rights of Nature* by Mihnea Tănăsescu and *The Politics of Rights of Nature* by Craig Kauffman and Pamela Martin provide two important new resources. Each book takes a different approach to analyzing the main issues surrounding RoN and the most representative cases around the world, but complement each other well. Kauffman and Martin, from a political perspective, focus on the politics behind RoN, as well as their impacts on

⁷ D.M. Herszenhorn, ‘The Failed World Order’, *Politico*, 24 Mar. 2022, available at: <https://www.politico.eu/article/ukraine-russia-war-failed-world-order-united-nations-nato-council-of-europe-vladimir-putin>.

¹ C. Stone, ‘Should Trees Have Standing: Toward Legal Rights for Natural Objects’ (1972) 45 *Southern California Law Review*, pp. 450–501.

² Borough Council of Tamaqua Borough, PA, United States (US), Tamaqua Borough Sewage Sludge Ordinance, Ordinance No. 612, 19 Sept. 2006 (‘Borough residents, natural communities, and ecosystems shall be considered to be “persons” for purposes of the enforcement of the civil rights of those residents, natural communities, and ecosystems’).