

# IntLawGrrls

voices on international law, policy, practice

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Monday, June 18, 2012

## Read On! Water and War: Elements of a Legal Framework



(Read On! ... occasional posts on writing worth reading)

Water can be a source of hostilities, and it is often also one of the victims of armed conflict. In her new book, **Mara Tignino** of the University of Geneva skilfully explores the

relationship between water and war, and what international law has to say about this relationship.

*L'eau et la guerre: éléments pour un régime juridique* (Bruylant, 2011, in French)

systematically reviews how various branches of international law protect access to water during armed conflicts. The book is part of the **Collection of the Geneva Academy of International Humanitarian Law and Human Rights**.

As the preface by **Laurence Boisson de Chazourmes** emphasizes, the volume is a pioneering study offering a synthesis of the applicable law pertaining to one of the most vulnerable natural resources. Military hostilities not only cause damage to water itself, but they also destroy infrastructure and hamper the functioning of administrative institutions. Moreover, the insecurity created by armed conflicts can dramatically exacerbate difficulties in accessing safe drinking water, in particular those faced by displaced persons.

The strategic and practical importance of water in armed conflicts has long been obvious, but international lawyers have not studied the topic in much depth. Tignino recognized the need for a study that is not confined to the analysis of one branch of international law. Rather, international humanitarian law (IHL), including the law of occupation; international human rights law; and the law on international watercourses are all explored in her study.

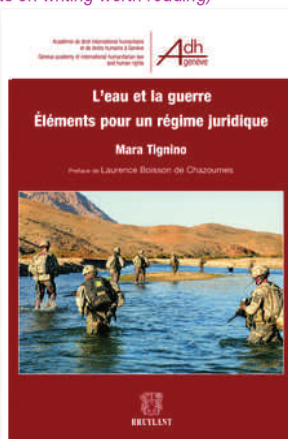


As far as IHL is concerned, one of the merits of the book is that the author does not limit her analysis to the norms of IHL that explicitly protect water (such as the prohibition to attack drinking water installations in the **First Additional Protocol to the Geneva Conventions**). In contrast, her exploration of the numerous norms of IHL that implicitly protect water is substantial in length and depth. The author distinguishes

four pillars protecting water in war: First, she outlines how the general principles of IHL, in particular the principles of distinction and proportionality, pertain to the protection of water in times of war. Second, water is protected by the prohibitions on destroying objects indispensable for the population's survival or the prohibition on attacking water installations or humanitarian relief operations. The third pillar concerns the ancient prohibition on ingesting drinking water and the fourth deals with the rules concerning the protection of the natural environment during armed conflicts.

The author also briefly touches upon international criminal law. Tignino observes that deprivation of access to water can amount to an international crime which the International Criminal Court or national tribunals can prosecute. In 2010, the **Pre-Trial Chamber of the ICC** considered that there were reasonable grounds to believe that the contamination of water wells in Sudan may amount to international crimes.

The conceptual strength of the book is the idea that the various branches of international law pertaining to water and war are interpreted in a harmonious way. Based on the premise of Art. 33(3)c of the **Vienna Convention on the Law of Treaties**, the author suggests that the relevant norms should be interpreted in light of 'any relevant rules of international law applicable in the relations between the parties'. The legal regimes applicable to water in war are thus presented not as a **bric-à-brac**, but



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rather as specialized, but interrelated branches, sharing the common objective of protecting humanity's access to water at all times.

The author cautions that we should not perceive international law as a kind of *deus ex machina* capable of solving all problems related to water and war. Rather, the relatively descriptive, but skilfully elaborate exploration of the applicable legal norms illustrates what law is available and assists the reader to diagnose for him- or herself whether a given problem is due to wanting political will or flaws in international law.

International lawyers and practitioners interested in the strategic importance of access to water both *durante* and *post bellum* will find Tignino's book well worth their time.



(photo credits: Bruylant 2011 and Wikipedia)

by [Evelyne Schmid](#) at 12:30 PM



Labels: [Evelyne Schmid](#), [ICC](#), [international environmental law](#), [international humanitarian law](#), [Read On](#), [U.N. Convention on the Law of Non-Navigational Uses of International Watercourses](#), [water rights](#)

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