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International Humanitarian Law And Authority Of Indian Constitution

Mr. Indra Kumar Singh[1] , Dr. Tarun Pratap Yadav[2]

[1]*Asst. Prof. GLA University, Mathura, indra.singh@gla.ac.in*
[2]*Asst. Prof. GLA University, Mathura., tarun.pratap@gla.ac.in*

Abstract

India has given sufficient provisions to the International Humanitarian Law Principles in the Constitution of India. Article 51 of Indian Constitution endeavour the State to promote international peace, amity, harmony and security, maintain equitable, just and respectable relations between different nations and enlarge sacredness for international law or any treaty commitments in the intercourse of organized peoples with each another. Article 253 of Indian Constitution empowers the Parliament to ratify and validate any law in pursuance to the execution of any treaty or agreement to which India is a member, or even resolution of any international conference, in spite of anything possessed in the Constitution of India vis-a-vis distribution of legislative powers between centre legislature and state legislatures

In this research paper we tried to highlight and explain the relevance of International Humanitarian Law and Constitution of India; elaborate the scope and nature of Geneva Conventions Act, 1960 and discuss the various Implementing measures adopted by various countries.

Keywords: International Humanitarian Law, Constitution of India, Geneva Conventions Act 1960.

Introduction

National Law of any country doesn't accept International Treaties in one go as they have to be incorporated, where appropriate, in the Acts or Statutes of respective Parliaments to become the part of Local Law. Overriding of any Municipal Law or enforceability before the courts did not come just by mere ratification or accession. But while elucidating the statutory law or any provision of the Constitution, the Indian law courts can expound statutes and consider them in appropriate cases vis-a-vis International Law binding rules on India.

Part III (Fundamental Rights), Part IV (Directive Principles of State Policy) and Part IV-A (Fundamental Duties) in Constitution of Indian exhibits basic principles of International Humanitarian Law on numerous occasions. The right to life includes the prohibition of torture and other cruel treatment, the abolition of slavery, the protection of children, women, and family units, respect for religion, legal safeguards to uphold fundamental freedoms, and environmental protection, among other things are envisaged in International Humanitarian Law rules as well as find a suitable place in the clauses of Constitution of India. Further examples include Article 14 and Article 15 of Constitution of India which ensure the rights to equality, freedom from discrimination, and life and liberty as advocated in Art.21 of Constitution of India. The Apex court of India through its various rulings and pronouncements has enlarged the nature and scope of Article 21, which nowadays practically covers all the rights which relates to lives of human beings and their dignity.

Assurances and promises by the Judiciary are highlighted in Article 20 and 22 of the Indian

constitution. Article 20 of Indian Constitution states that, neither a person shall be put behind bars except for the transgression or contravention of law for the time being in force, nor he can be subjected to the punishments greater than the crime he has committed under the law for the time being in force, at the moment of his commission of the said offence. It further deny double jeopardy and self incrimination. Article 22 of Indian Constitution gives protection to a person against illegal detention and arrest. Article 22 (1) & Article 22 (2) lays down the process of the aforesaid event or happening.

Another examples where Indian Constitution comply with Internal Humanitarian Law is where Article 39 (c), (e) and (f), Right to freedom of religion exhibits provisions mentioned in Articles 25, 48-A and 51- A (g) respectively and Article 24 which forbids the employment of children in dangerous factories or mines, which must be read in conjunction with Article 23 which offers protection against exploitation. But Indian Laws (except Article 20 & Article 21) as mentioned can be suspended or modified in case of certain exigencies which is unlike the International Humanitarian Law which, without exception, strictly abides by the established rules and procedures. Major exceptions to Part III of the Constitution include the competence of Parliament to change the rights granted by Part III in their application to the Armed Forces, etc., and the restriction of rights granted by Part III when martial law is in effect in any territory are discussed in Articles 33 and 34, respectively.

The power to amend and modify these rights in connection to the military forces and police forces is granted by the aforementioned Articles, which are responsible for the sustentation of public order; intelligence organization members; people recruited in the communication network setup for the purposes of any association, organization or force referred to in clause (a) to (c), subject to the condition that the armed forces should discharge their duties properly and maintain discipline among its ranks. Only the Parliament of Indian can imposed these restrictions. Nevertheless the contravention of fundamental rights should not be the grounds for challenging the validity of any law made under Article 33 of the Constitution.

Further restrictions are imposed by Article 34 of the Indian Constitution when martial law is in effect anywhere on Indian territory. The Parliament may enact an Act of Indemnity to pay the costs if someone violates the law while working for the government or maintaining or restoring public order while martial law is in effect. Despite the fact that this clause has a broad scope, it may negate the protection provided by other clauses of the constitution unless an Act is passed by parliament. It is possible to receive indemnification for crimes done while martial law was in effect, demonstrating the broad scope of this Act. However, this immunity is contingent on Parliament approving an Act, which may potentially nullify the protection provided by several Constitutional clauses. On a different point, this clause is silent regarding Article 32's suspension of the Writ of Habeas Corpus, which cannot be immediately revoked by the simple declaration of martial law anywhere.

India ratified the Geneva Conventions on October 16, 1950; these conventions were later incorporated into the Geneva Conventions Act, 1960. The clauses that must be carried out by this enactment are detailed in order to understand the background, the antecedent state of affairs, the surrounding conditions in regard to that state of affairs, and the harm that the statute has sought to remedy:

• The First Convention's Article 50 and the corresponding provisions of the Successor Conventions deal with problems pertaining to the punishment of severe violations;

• Even when the offence is committed by foreigners outside India, the Indian Courts has the jurisdiction to hear the cases.;

• The emblems Red Crescent and the Red Lion and Sun of Red Cross and Geneva Cross

respectively were given extension of protection under the existing law.

- Legal representation, appeals and other procedural matters were given weightage

Four Geneva treaties were annexed or attached as schedules, and earlier laws like the Geneva Convention Implementing Act of 1936 were repealed. Although this Act has only ever been once invoked, concerned authorities have taken these steps to teach and convey understanding of international humanitarian law to the military services and police.

Regarding the Act's effectiveness, the Apex court noted in Rev. Mons. Sebastian Francisco v. The State of Goa that it does not provide a particular remedy in the traditional sense. For Convention violations, it offers no immediate protection. The Act does not grant any section of the government a cause of action, and neither have the Conventions been made enforceable by the government against itself. Additionally, the court has not been sought to enforce any rights that have been created in regard to protected persons. Therefore, it appears that the Indian government has committed to upholding the Convention regarding the treatment of civilian population. Given that there is no legal provision that the courts may enforce and that the Act is therefore ineffective and impotent, it could be said to represent the fury of mankind. The Geneva Convention needs to be thoroughly revised in order to establish rights in support of those who are protected by these accords. Additionally, a number of Acts, such as the Army Act of 1950, the Air Force Act of 1950, and the Navy Act of 1957, have been exempted from the scope of this Act (Section 7).

However, because the scope of these Acts is sufficiently broad and well defined, with a clear procedure for trial by ordinary criminal courts, it does not displace the authority of those courts over the grave breaches defined under the conventions, which come under section 69 of the Army Act to be tried by court martial. This need needs to be explicitly stated in the Geneva Conventions Act.

South Asian nations play a crucial role in upholding the IHL's guiding principles. The South Asian countries, with their diverse cultural past, are well positioned to uphold the norms of international humanitarian law because they place a high value on human dignity in all spheres of life. Geneva Conventions has been ratified and endorsed by most of the countries and they remain parties to the International Humanitarian Law till the present day. On the question of enforceability of International Humanitarian Law, except India, no other South Asian nation has taken measures to incorporate it in their respective laws. Two Additional Protocols of the 1948 Geneva Convention, with wider obligations than those under the conventions, have also not been ratified by most of South Asian nations. But at the same time the countries, more or less, in this region the countries have complied with the basic tenets of International Humanitarian Law, except for Pakistan's violation of the Geneva Conventions during the Kargil War in May–July 1999, which resulted in the deaths of a pilot from the air force and six Indian Army officials.

With the passage of the Geneva Conventions Act in 1960 and the inclusion of human rights concepts in its Constitution, among other measures, India has demonstrated its commitment to international humanitarian law by making these values an integral component of the nation's legal system.

Geneva Conventions Act 1960

India's ratification of the Geneva Conventions on October 16, 1950, took a while to be reflected in local law. The preamble of the Act said that it was intended to "enable effect to be given to certain international conventions in Geneva on the twelfth day of August 1949, to which India is a party and for purposes connected therewith." It can be deduced from knowledge of the convention's historical context, its preexisting

state of affairs, the surrounding circumstances in relation to that state of affairs, and the evil that the convention has sought to address, that the matters requiring implementation by legislation were the punishment of grave breaches mentioned in Article 50 of the First Constitution.

The emphasis was placed on a number of other provisions as well, including the extension of the protection provided by the existing law to the Red Cross and Geneva Cross, to two new emblems, the Red Crescent and the Red Lion and Sun, as well as procedural issues relating to legal representation, appeal, and other matters, as well as analogous articles of the succeeding conventions.

The Zimbabwaen Geneva Convention Act, 1981, which allows for private prosecution for a common law offence, is contrasted with the Act by stating that the courts may only take cognizance of any offence under this Act upon the complaint of the Government or of such officer of the Government as the Central Government may specify by notification. Following an analysis of the Act's provision, one author concluded that "it appears as though the act was designed and passed in a rushed manner."

Execution of International Humanitarian Law in Various Countries

National Legislation of Different Nations

Afghanistan

The Order of the Minister of National Defense on the Establishment of a Curriculum Board for the Integration of International Law of Armed Conflict into the Educational and Training Institutions of the National Armed Forces as well as National Army Units was adopted in this nation in July 2005. The Order names the Board members, outlines a number of responsibilities and activities to be taken, and discusses the instruction of national armed forces in the law of armed conflict. These initiatives include, in particular, the projected creation of a legal department inside the Ministry of Defense's educational and training facilities, the creation of instructional materials, the hiring of instructors, etc.

France

The directive, Instruction No. 201710 on the implementation of the Decree vis-à-vis general military, which was adopted on November 4, 2005, aims to define the rules relating to military rules and regulations in the various army divisions and their respective hierarchical and pyramidal organizations and structures. The instruction listed the responsibilities and duties of military leaders and their subordinates, as well as serving people and those captured by the enemy. While affirming that a junior employee's most important job is to follow orders from a superior, subject to that employee's criminal and disciplinary liability, that employee must refuse to carry out an order that is obviously illegal. The directive also specifies the variety of procedures that must be implemented for prisoners of war. The use of the Red Cross emblem for identification purposes refers to the roles and responsibilities of medical professionals in both war and peacetime, and it provides for their special protection in certain emergency situations, in accordance with the laws and rules of international humanitarian law.

Singapore

The Singaporean Parliament approved the Biological Agents and Toxins Act No. 36 of 2005 on October 18 and it went into effect on January 3 of the following year. The aforementioned Act put into effect the Convention on the Prohibition of the Development, Production, and Stockpiling of Bacteriological (Biological), and Toxic Weapons. Additionally, the convention includes restrictions on biological agents and poisons. Anyone who violates the Act's prohibitions is guilty of a criminal offence, which carries a fine or a term in jail, or both. Additionally, the District

Court shall have the authority to trial offenses and inflict punishments under the Act, with the exception of those offenses listed under sections 5, 16, and 30.

Sudan

Interim Decree Law was signed and became effective on August 3rd, 2005. The Sudanese Red Crescent Society is a subject of this statute. The decree establishes the legal personality, purpose, and jurisdiction of the National Society. It outlines the goals and responsibilities of the National Society as an adjunct to the armed forces in the provision of medical services to civilian and military victims of armed conflicts in all spheres of influence covered by the 1949 Geneva Conventions, as well as in aiding governmental institutions in need and engaging in other supportive services and initiatives. Additionally, it states that the National Society shall abide by the seven Fundamental Principles of the International Red Cross and Red Crescent Movement and that it is an offence under domestic law to use the society's red crescent emblem improperly.

Syria

The Law No. 36 on the Protection of the Emblem, which was adopted on November 23, 2005. This law defines the use of the protective and the indicating emblem by the persons. The Syrian Red Crescent Society was given the duty of overseeing the application of the law, and the preservation of the names of the Red Crescent and the Red Cross is also provided for, along with penalties in situations of misuse of the insignia.

United Kingdom (Gibraltar)

The Gibraltar House of Assembly passed the Weapons of Mass Destruction (Amendment) Ordinance 2005 on May 23. This resulted in additional definitions and clarifications to the 2004 Weapons of Mass Destruction Ordinance (Gibraltar).

United States of America

The Department of Defense's Directive 3115.09 on Intelligence Interrogations, Detainee Debriefings, and Tactical Questioning was adopted on November 3, 2005, using the authority granted to the Secretary of Defense by Title 10, Title 50, United States Code, and Executive Order 12333, "United States Intelligence Activities."

Policies, including the need for humane treatment during all detainee debriefings, tactical questioning to obtain intelligence from captured or detained personnel, and intelligence interrogations, were consolidated and codified by the Directive on December 4th, 1981. All interrogations pertaining to the rules of war, assigning blame, and infractions must be carried out humanely and in compliance with the law and policy that apply. The Department of Defense Authorization Bill 2006 Amendment relating to the military's use of riot control agents was approved on November 9th, 2005. The amendment reiterates current American policy regarding the use of tear gas and other riot control measures by military forces. Since they are not chemical weapons, members of the armed forces may use them in combat in a defensive military mode to preserve lives. The president of the United States of America thereafter authorizes their use as appropriate, legal, and non-lethal substitutes for the use of lethal force.

Cases

Colombia

Law No. 833 of 10th July 2003 approving the Optional Protocol to the Convention on the Rights of the Child on involvement of children in armed conflict of 25th May 2000 was implemented on 2nd March 2004 by the Colombian Constitutional Tribunal (hereinafter Optional Protocol). The Optional Protocol's goals were taken into consideration by the

Constitutional Tribunal, which deemed it to be in accordance with Colombia's Constitution, which recognizes the special protection and unique rights of children. The Constitutional Tribunal also urged the State to take all necessary steps to give effect to these rights.

The Tribunal determined that the Optional Protocol advances and reinforces Colombia's constitutional requirements while improving the protection of minors from being directly involved in armed conflict and placing obligations in this regard upon States Parties. Draft Statute Law No. 064 (Senate) and 197 (Chamber) of 2003, which regulated the framework formed to conduct prompt investigations into enforced disappearances, was approved by the Colombian Constitutional Tribunal on May 10, 2005, and went into effect.

The Declaration on the Protection of All Persons from Enforced Disappearance, the Rome Statute of the International Criminal Court, the Inter American Convention on the Forced Disappearance of Persons (adopted at Bele' m do Para' on 9 June 1994 at the Twenty-fourth Regular Session of the General Assembly), and the Working Group Report on Enforced or Involuntary Disappearances were all cited by the Court in its analysis of the constitutionality of the draught law.

Germany

On July 28, 2005, the German State's civil liability for alleged transgressions of international humanitarian law by NATO soldiers in Kosovo was rejected by the Higher Regional Court of Cologne (hence, Regional Court). The case involved a civil lawsuit filed by the victims of a NATO airstrike that killed both military personnel and civilians when it damaged a bridge in the Serbian town of Varvarin. It was asserted that the bridge had no military use and had not been a lawful military target at the time.

The District Court of Bonn had previously dismissed the case as a matter of principle and rejected the compensation claims, ruling that any rights based on public international law only applied between states and that international humanitarian law could not be used to create exceptions to this rule. In contrast to the lower court, the Higher Regional Court of Cologne upheld the claim in theory despite deciding against the claimants on the case's circumstances. Before anything else, the Court affirmed that there was no individual claim for reparation under international humanitarian law. It did not, however, rule out the possibility of claims based on national law in general, and particularly on German law, which is derived from the Basic Law and Civil Code of Germany, regarding compensation for wrongdoings by public officials.

The Regional Court further cited recent advancements in international law to support its decision, citing the Rome Statute of the International Criminal Court, the European Convention for the Protection of Human Rights and Fundamental Freedoms, and the evolving codification of principles governing the protection of individuals under human rights and humanitarian law. The German state was not held liable for the bombing because, according to the facts of the case, German authorities' indirect involvement in it did not breach any laws, according to the Higher Regional Court, which rejected the claims.

Spain

Regardless of whether the victim is a Spanish citizen, the Tribunal Constitutional of Spain declared on October 5, 2005, that cases of genocide committed abroad might be punished in Spain. In doing so, the Constitutional Court rejected the interpretation of section 23(4) of the Organic Law on the [organization of the] Judicial Power (i.e., the legal system) made by Spain's Tribunal Supremo (Supreme Court), reasoning that it had violated the right to effective access to

justice as guaranteed by Section 24.1 of the Spanish Constitution.

The case in question involved the prosecution of actions allegedly constituting crimes of genocide, terrorism, and torture that were allegedly carried out in Guatemala in the 1970s and 1980s. The plaintiffs contested the Supreme Court's narrow interpretation of Spanish law's universal jurisdiction premise. The notion of universal jurisdiction is acknowledged in Section 23(4) of the Organic Law on the Judicial Power with regard to a number of crimes, including genocide and terrorism. The plaintiffs had failed to show that the courts of another state (Guatemala) had de facto rejected the claim, according to the Supreme Court, which dismissed the case on the basis of the subsidiary principle under Section 6 of the Convention on the Prevention and Punishment of the Crime of Genocide of 9 December 1948.

The Constitutional Court found that such an interpretation violated the principles of universal jurisdiction set down in both Spanish law and the Genocide Convention and that sufficient proof of a failure to prosecute must be shown in order for domestic courts to exercise their jurisdiction.

The Constitutional Court also disagreed with the Supreme Court's claim that the idea of universal jurisdiction is limited by customary international law because no international treaty creates it. The Constitutional Court held that international law does not condition the ability of States to prosecute genocide and punish offenders on the existence of a connection or link with the place of jurisdiction, whether based on the principles of territoriality, active or passive personality, or national interest. The court cited the definition of universal jurisdiction in criminal matters provided by the Institute of International Law in 2005.

Britain

The case brought forth on behalf of a dual British and Iraqi national who was held in Iraq by British soldiers on suspicion of being a member of a terrorist organization conducting operations there was denied by the High Court of Justice of the United Kingdom on August 12, 2005. The claimant argued during the proceedings that his continued detention in Iraq and the failure to have him returned to the UK were illegal and in violation of the rights granted to him by Article 5 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), as incorporated into the Human Rights Act of 1998 of the United Kingdom. The defendant Secretary of State's major response was that the claimant's imprisonment had been approved by UN Security Council Decision 1546 of June 8, 2004 (hereafter Resolution 1546), and that this resolution had the effect of displacing the claimant's rights under the ECHR.

The 1998 Act's field of applicability was the first thing the Court looked at. At doing so, it acknowledged that the latter could apply to the claimant because he had been detained in a facility run by British authorities while being outside of the UK. On the basis of precedent, it also reaffirmed that UK courts had a responsibility to interpret the Human Rights Act and the latter's jurisdictional reach in a way that was consistent with the obligations imposed on the country by the ECHR as interpreted by the Strasbourg-based European Court of Human Rights. The UK's public authorities were so bound to protect the rights recognized by the Convention.

The Court then looked at whether Resolution 1546 affected the claimant's right to liberty and security of person as guaranteed by Article 5 of the ECHR as a matter of international law. The Human Rights Act's Schedule 1 lists the aforementioned rights, which the Court first acknowledged as domestic rights granted by the UK Act and cognizable in UK courts even though they derive from Article 5 of the ECHR.

The Court concluded that Resolution 1546's objective had been to maintain the multinational

force's mission in Iraq following the handover of power from the Coalition Provisional Authority to the Iraqi Interim Government by taking into account the resolution's natural meaning and context. In light of this, the Court determined that Security Council Resolution 1546 had maintained the authority previously exercised by the multinational force while subject to a belligerent occupation. The Fourth Geneva Convention of 1949's Article 78 allowed for the urgent detention of people for security considerations, and the Court further found that this power superseded Article 5 of the ECHR.

After further deliberating the legality of the detention under the regime established by Resolution 1546, the Court came to the conclusion that the claimant's detention procedures did not strictly adhere to the procedural requirements under Article 78 of the Fourth Geneva Convention, but that the non-compliance was in its opinion more technical than substantial. Last but not least, the Court determined that the defendant's refusal to send the claimant back to the UK was lawful since Resolution 1546's power of internment only applies to keeping people in Iraq rather than removing them from it. Therefore, a transfer to the UK would include deeds that were against Resolution 1546. Due to these factors, the Court decided to dismiss the claimant's complaint.

United Sates of America

On September 9, 2005, the US Court of Appeals for the Fourth Circuit overturned the decision of the District Court of South Carolina, which had ruled that the US President lacked the power to militarily detain a US citizen who had been arrested in the country on suspicion of being recruited by members of al Qaeda abroad to carry out terrorist acts in the US.

The appellant in the case had been put into military prison after the President determined that he was an enemy combatant, and he had subsequently filed a petition for a writ of habeas corpus. The District Court had ruled that the defendant should have been either charged or released since his extended imprisonment violated both the United States Constitution and the law. The question put to the Court of Appeals was whether the President had the power to militarily detain a US citizen who was closely linked to Al Qaeda, an organization with which the US is at war, and who had enlisted in its ranks in a foreign combat zone before coming to the US with the stated intention of escalating that conflict on American soil against American citizens and targets.

The US Congress's Authorization for Use of Military Force Joint Resolution, which states that "The President is authorized to "use all necessary and appropriate force... in order to prevent any future acts of international terrorism against the United States...," and the Supreme Court's decision in the Hamdi v. Rumsfeld case are the foundations for the Court of Appeals' reasoning. In that ruling, the Supreme Court read the Joint Resolution and supported the Executive's power to imprison people who meet the legal definition of "enemy combatants" under the laws of war.

In this case, the petitioner argued that his circumstances were distinct from those of Hamdi because the latter had been taken prisoner on a foreign battlefield. The Court of Appeal decided that the petitioner's military detention was legal as an incident essential to the President's conduct of the fight against al Qaeda in Afghanistan, citing the Supreme Court's rationale, and found no grounds for drawing a distinction based on the location of capture. Additionally, the petitioner said that because he could face criminal charges, his military custody was "neither essential nor reasonable."

Because the mere possibility of criminal prosecution cannot, by itself, guarantee the very purpose for which detention is authorized in the first place—namely, the prevention of return to the field of battle—the Court of Appeal

concluded that the availability of criminal process cannot determine the authority to detain.

In this instance, the Court of Appeals found that the petitioner unquestionably met the criteria for "enemy combatant" status and that, as a result, his military detention was completely warranted by the Joint Resolution authorizing the use of military force.

Methodology

Most of the data collected for this research paper was secondary based. Secondary analysis involves the use of existing data, collected for the purposes of a prior study, in order to pursue a research interest which is distinct from that of the original work; this may be a new research question or an alternative perspective on the original question. The following sources that were used to collect data were: books, journals, reliable internet sources and journal databases, as the information that was needed to compile this paper required information based on different laws of respective countries. It would have been very difficult to collect all the information that was needed using primary research as it would have been expensive and very time consuming, therefore secondary data was opted as another method.

There are many advantages for using secondary data as it has already been collected, therefore it is cost and time effective with high quality data that has an opportunity for longitudinal and cross cultural analysis. According to Prensky, secondary data helps refine research and design further research as it provides a full context for interpretation of primary research. While the benefits of secondary sources are considerable, their shortcomings have to be acknowledged. There is a need to evaluate the quality of both the source of the data and the data itself.

The researcher must be careful when using secondary data as it is collected for a different purpose and therefore it is unknown to the researcher. With secondary data there are a few limitation that come with it such as the there would be a lack of familiarity with data then when you collect your own as you become familiar with your data, and the data that is not yours you may also find the complexity of the data to be a problem or they may find that the data is missing a key variable. The secondary data collection may neither be valid nor reliable. The data is also dated, which means new information will be published by the time this is used.

Results

Adoption of Conventions is merely the first stage; the second stage is the purpose that these standards be incorporated into the domestic laws of the member countries; and the third stage is the actual implementation and enforcement of these standards. Therefore, unless internal legal and practical means for implementation are taken inside State systems to ensure their execution, the treaties and conventions that make up IHL may very well remain nothing more than a dead letter. Despite being a state party to numerous instruments relating to IHL and other related instruments, India was unable to make significant advancements in the area of domestic legislation and their implementation due to certain unavoidable current circumstances and limitations. The potential multifaceted implications of this law on our other domestic criminal law, special law, Army Acts, judicial & criminal administration of Justice, and Constitution are also being considered by many Asian countries. The upcoming law and current pertinent statutes must be harmonized. Therefore, a thorough and worthwhile national enactment in light of necessary changes to the existing procedural and other related laws is required for an effective national legislation and domestic implementation of the four Geneva Conventions, their two Additional Protocols, and other related IHL instruments.

Analysis and Recommendations

Since there are no circumstances in which IHL directly affects a situation, the legal provisions that translate IHL into domestic legislation are out-of-date, and in some cases, there are no suitable legislative instruments, the application and bearing of IHL's legal provisions in India are found to be both limited and insufficient. To ensure that IHL is properly implemented in India, the following actions can be suggested:

1. It is clear from the debate above that the Indian government has not yet passed the necessary laws to put the 1949 Geneva Conventions and its Protocols into effect. As a result, it is anticipated that measures would be done in the right direction to pass legislation that would be appropriate for implementing IHL from the perspective that best suits and serves the needs of the moment.
2. Various Acts that have been periodically passed should be updated with relevant and appropriate provisions addressing the needs of the Conventions and the demands of the time in order to replace them and satisfy the commitments of the Government of India under the Geneva Convention.
3. A National Committee may be established to promote the application of IHL at the national level. This committee would be in a position to assess national legislation, court rulings, and administrative rules in light of the obligations stemming from the Geneva Conventions and their additional Protocols.
4. In order to fulfil its commitment, the government may seek support and collaboration from the ICRC and the Indian Red Crescent Society.
5. The Government of India must act in peacetime by passing the required legislation, by establishing internal regulations and administrative procedures, and by making the Conventions and Protocols as widely known to the populace as possible in order to carry out the humanitarian rules in times of war.

Conclusion

In this paper, we have covered the constitutional clauses pertaining to the use of international humanitarian law. The state must "strive to (a) promote international peace and security; (b) maintain just and honourable relations between nations; and (c) nurture respect for international law and treaty commitments in dealings of organized peoples with one another," according to Article 51 of the constitution.

Additionally, the Geneva Conventions Act of 1960 was discussed. The issues that needed to be put into effect by legislation were the "penalty of grave breaches" mentioned in Article 50 of the First Constitution, according to the Statement of Object and Reasons. We talked about national laws that apply international humanitarian law in nations like Afghanistan, France, Singapore, Sudan, Syria, the United Kingdom, and the United States of America. The case laws of nations including Germany, Spain, Columbia, the United Kingdom, and the United States have also been considered.

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