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Review Article

Implementation of International Humanitarian Law in India: A Critical Study

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Abstract

International humanitarian law also called the law of war sets out detailed rules that seek to limit the effects of armed conflict. Geneva Conventions and their additional protocols of 1977 are the principal treaties governing aid to and protection of victims of armed conflicts. In order to secure the guarantees provided by these instruments, it is essential that the states implement their provisions to the fullest extent. The term implementation covers all measures that must be taken to ensure that the rules of IHL are fully respected. In the present paper the researcher, will discuss that whether the International Humanitarian Law has been met with open arms by government of India or its full-fledged application seems like a distant dream. Taking into account the ongoing conflicts in India the researcher will analyse that whether India needs to ratify the additional protocols of 1977 and how far the Geneva Convention Act of 1960 suffices the objective of implementing IHL obligations in India.

Keywords: Humanitarian Law; Armed conflict; Additional Protocols; Geneva Convention Act.

INTRODUCTION

International Humanitarian law also known as 'law of war' or 'law of armed conflict, has been defined as an international rules, established by treaties and customs, which are specifically intended to solve humanitarian problems directly arising from international or non-international armed conflicts and which, for humanitarian reasons, limit the rights of the parties to a conflict, to use the methods and means of warfare of their choice or protect persons and property that are, or may be, affected by conflict.[1]

The seminal problem of all law, and hence of international humanitarian law, is the yawning gap between precepts and practice.[2] That the precepts are ingrained in the accumulated wisdom of all human civilizations is beyond dispute and the precepts of international humanitarian law belong to the whole of humanity, both politically and culturally.[3] The famous *Martens clause* lays down the principle (which, it is submitted, must be elevated to the position of a *juscogens*, i.e. a peremptory norm of international law from which

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no derogation is permitted, within the meaning of Article 53 of the 1970 Vienna Convention on the Law of Treaties) that "civilians and combatants remain under the protection and authority of the principles of international law derived from established custom, from the principles of humanity and from the dictates of public conscience".[4] This principle, now thus crystallized for us, has developed as part of the evolution of human civilization down the ages and emphasizes the universality of the essence of international humanitarian law.[5] For this reason compliance with "the elementary considerations of humanity"is both a moral as well as a legal duty of the parties to an armed conflict nay, it is the most natural thing to do between human beings.[6]

India is one of the greatest civilization of the world and it has been an example to various nations for its ancient war culture and rules. However, the status of IHL implementation in modern Indian history is not as great as its ancient past despite the number of conflicts it has had with its neighbours, along with numerous internal conflict situations, which it has been grappling with.[7] Contemporary India is often criticised for its indifference to the effective implementation of its international law commitments, especially IHL obligations.[8] Though a party to the universally ratified four Geneva Conventions of 1949 (Geneva Conventions), India is still not keen on acceding to the Additional protocols to the Geneva Convention.[9]

This paper discusses the observance and implementation of the principles of International Humanitarian Law in India. It will also discuss the pertinent issue that if India should sign the additional protocols of the Geneva conventions, 1949.

Implementation of International Humanitarian Law in India

Article 51 of the constitution of India provides that the State shall endeavour to:

(a) Promote international peace and security.

(b) Maintain just and honourable relations between nations.

(c) Foster respect for international law and treaty obligations in the dealings of organised peoples with one another; and encourage settlement of international disputes by arbitration.

Article 253 of the Constitution empowers the Indian Parliament to enact any law in order to Implement any treaty or agreement to which India is a party, or even any decision of an international conference, notwithstanding anything contained in the Constitution in respect of distribution of legislative competence between Parliament and State (provincial) legislatures.

In furtherance of the mandate imposed by the constitution of India Geneva Convention Act, 1960 was passed to implement the provisions of four Geneva conventions.

The Statement of Objects and Reasons made by the government while introducing the bill for this enactment explained that the enactment was required because it was expected of India as a party to the Conventions to provide for:

- Punishment of "grave breaches" referred to in Article 50 of the First Geneva Convention and equivalent articles of the succeeding conventions.
- Conferment of jurisdiction on our courts to try offences under these Conventions, even when committed by foreigners outside India.
- Extension of the protection given under the existing law to the emblem of the red cross and to the two other emblems, namely, the red crescent on a white ground and the red lion and sun on a whiteground.
- Procedural matters relating to legal representation, appeal, etc.

The Geneva Convention Act of 1960 is divided into five chapters, which deal with Short title, extent and commencement, punishment of offenders against convention, legal proceeding in respect of protected persons, abuse of the Red Cross and other emblems, miscellaneous respectively.[10] It is a short legislation consisting of twenty articles.

The second chapter of the act incorporates punishment of offenders committing grave breaches of the Conventions and the jurisdiction of courts to deal with the breaches.[11] Anyone who commits or attempts to commit or abets or procures the commission of grave breaches referred to in Article 50 of GC I, Article 51 of GC II, Article 130 of GC III and Article 147 of GC IV shall be punished with death or imprisonment for life if the act involves willful killing and with imprisonment for a term which may extend to fourteen years in any other case.[12]

The Geneva Conventions Act (1960) does not detail the grave breaches, instead refers to the conventions set out in the Schedule of the Act.[13] The core crimes covered include, wilful killing of a protected person; torture or inhuman treatment, including biological experiments; willfully causing

great suffering or serious injury to body or health of a protected person; extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly (this provision is not included in Article 130 of GC III).[14] It also includes compelling a prisoner of war (POW) to serve in the forces of the hostile power and willfully depriving the same of the rights of fair and regular trial prescribed under Article 130 of GC III. Further additional grave breaches under Article 147 of GC IV, compelling a protected person to serve in the forces of the hostile power; wilfully depriving a protected person of the rights of fair and regular trial prescribed in the Convention; unlawful deportation or transfer or unlawful confinement of a protected person; and taking of hostages are covered under the Act.[15] It is implicit that these crimes must take place in an international armed conflict (IAC) to attract the jurisdiction of the Act, except the guarantees laid down in the Common Article 3 to all the Geneva Conventions.[16]

The Act empowers a court not inferior to a Chief Presidency Magistrate or a Court of Sessions to try the offences. The principle of universal jurisdiction is incorporated in the Act as it has jurisdiction over any person committing the offence 'within or without India' and 'when an offence under chapter II is committed by any person outside India, he may be dealt with in respect of such offence as if it had been committed at any place within India at which he may be found'.[17] On any question relating to whether the Act is to be invoked in a particular case or not, the ultimate authority to decide is given to the Secretary to the Government of India.

The third chapter provides for the procedure of trial of protected persons and certain other persons, including the requirements of notice and legal representation.[18] The act makes it mandatory to notify certain particulars like the full name and description of the accused, his place of detention, offence with which he is charged, time and place appointed for the trial[19] to the protecting power[20] and if the accused is the prisoner of war then on the accused and the prisoner's representative.[21]

The same chapter under Section 9 provides a provision for the legal representation of certain persons. Any person who is brought up for a trial for an offence under section 3 of this act or a protected prisoner is brought up for trial for any offence shall not proceed with the trial unless the accused is represented by a legal practitioner and also the legal representative is to be given not less than fourteen days' time gap after the instruction for the representation of the accused at the trial, however, the detention time can be elongated notwithstanding any other law until the provisions of this section is complied with.[22]

The fourth chapter seeks to protect the red cross and other emblems from abuse and provides for penalties there of.[23] The violation of the use of such emblems shall be punished with fine which may extend to five hundred rupees, and be liable to forfeit any goods upon or in connection with which the emblem, designation, design or wording was used by that person.[24] Companies and their office bearers shall also be liable for misuse of emblem provided in Chapter IV of the Act except in cases where the company had a trademark registered before coming into force of the Act.[25]

The final chapter deals with matters like the cognizance of offences under the Act and the power of the Government of India to make rules under the Act.[26] Section 17 prohibits courts from taking cognizance of any offence under the Act except on a complaint by the Government or of an officer designated by the Central Government by notification in the Official Gazette.[27] In otherwords the courts cannot invoke the jurisdiction under the Act unless the Central Government makes a complaint by itself or through a designated official.[28]

The Geneva Conventions Act does not seem to have been an adequate piece of legislation incorporating India's international humanitarian law obligations into domestic law.[29] The Geneva Convention Act 1960 though in force within the entire territory of India, has not been made enforceable against the government of India neither does it provide for any specific mechanism to give a cause of action to any party for the enforcement of the provisions of this act or to its schedules.[30] Section 17 of the act clearly says that the courts can clearly entertain a complaint only if it is filed by Government or an officer of the government specified by notification.[31] An individual cannot seek remedy under these legislation; he or she must first approach the government to seek enforcement.[32] No explicit rights are available to the protected persons under the act and at the same time there is no obligation on the government of India or the municipal courts for their enforcement.[33] The Act is also ambiguous and does not provide for an unambiguous method to move the municipal court owing to the breach of various provisions of the act or the schedules to the act.[34]

An opportunity visited the Supreme Court in Rev. Mons. Sebastian Francisco Xavier Dos Remedios Monteiro vs. The State of Goa, Supreme Court of India,[35] to note some limitations of the Act

as follows:

"To begin with, the Geneva Conventions Act gives no specific right to any one to approach the court. The Act was passed under Art. 253 of the Indian Constitution read with entries 13 and 14 of the Union List in the Seventh Schedule to implement the agreement signed and merely provides for certain matters based on Geneva Conventions. What method an aggrieved party must adopt to move the Municipal Court is not very clear.

"It will thus be seen that the Act by itself does not give any special remedy. It does give indirect protection by providing for penalties for breaches of Conventions. The Conventions are not made enforceable by government against itself nor does the Act give a cause of action to any party for the enforcement of Conventions.Thus there is only an obligation undertaken by the Government of India to respect the conventions regarding the treatment of civilian population but there is no right created in favour of protected persons which the court has been asked to enforce. If there is no provision of law which the courts can enforce the court may be powerless and the court may have to leave the matter to what Westlake aptly described as indignation of mankind."

The Geneva Conventions Act (1960) does not apply to service personnel who are governed by the Army Act (1950), the Air Force Act (1950) or the Navy Act (1950).[36] Section 7 of the Geneva Conventions Act (1960) excludes its jurisdiction over people who are governed under the Army Act (1950), the Air Force Act (1950) or the Navy Act (1950). Such category of persons shall be governed under Sections 69 and 70 of the Army Act (1950), Sections 78 and 79 of Navy Act (1950), Sections 71and 72 of the Air Force Act (1950) respectively.[37] For example, Section 69 and 68 states that subject to Section 70 any person subject to the Army Act commits any civil offence shall be deemed to be guilty of an offence against the Army Act (1950) and shall be liable to be tried by a courtmartial.[38] Section 70 and 69 clarifies that where an offence is committed against a person not subject to military, naval or air force law (that is, a civilian), that person may not be found guilty of an offence against this particular Act and shall not be tried by a court- martial, unless he commits any of the said offences while on active service or outside India or at a frontier post specified by Government.[39] Hence, should officers of the armed forces, acting in their official capacity, commit any grave breaches, this is to be dealt with under Section 69 read along with Section 70 of the Army Act, and not under the Geneva Conventions Act (1960).[40] However, under Section 125 of the Army Act (1950), the commanding officer of the force concerned has the discretion to decide between the court martial and the ordinary criminal court when there is concurrent jurisdiction if the offence falls under Section 70 and the accused was not acting under official capacity.[41] Further, in similar situations, an ordinary criminal court can request by written notice the custody of the accused if it deems it appropriate under Section 126 of the Army Act (1950).[42] The commanding officer may either hand the suspect to the nearest magistrate to be proceeded against according to law or to postpone proceedings pending a reference to the Central Government, in that case, order upon such reference shall be final.[43]

None of the Armed Forces Acts explicitly provides for IHL provisions in it to prosecute its members for IHL violations.[44] These acts are mostly limited to rules of conduct for soldiers and related disciplinary actions in military settings. The Acts do mention certain 'civil offences' which are committed against civilians.[45] According to these provisions, if a member of the armed forces commits an offence against a civilian during his official duty, he will be subjected to court martial and not any ordinary courts.[46] However, if the offence is committed not during his active service, such a member shall not be tried by the respective armed forces act, but by civilian courts.[47] Consequently, tribunals set up for the Armed Forces under the Armed Forces Tribunal Act (2007) are limited to decide disputes that arise out of these Acts and not for violations of IHL provisions.[48] For example, the Armed Forces Tribunal Act (2007) has the jurisdiction to adjudge disputes in commission, appointment, service and conditions of services in respect of persons arising from the Army Act (1950), the Navy Act (1957) and the Air Force Act (1950).[49] Since the norms specifically relating to humanitarian law are absent from these Acts, such tribunals do not exercise jurisdiction to rule on cases relating to violation of IHL and are left to be dealt with by Court Martial.[50]

INDIA AND ADDITIONAL PROTOCOLS

On June 8, 1977, states adopted two important international treaties referred to as Additional Protocol I and II (API) and (APII) which were intended to supplement the four Geneva Conventions of 1949. The four Geneva Conventions and two Additional Protocols are together considered the most important treaties of international humanitarian law. Protocol 1 deals

with international armed conflict and the protocol II with non-international armed conflict. Currently API has 174 and APII has 169 signatories.

Some states refrained from becoming parties to the two Additional Protocols of 1977, including India.[51] The reasons could be mainly because these protocols have expanded the scope of international humanitarian law as provided in the four Geneva Conventions, which may have certain implications at the domestic level.[52] Such a hesitation mainly in the form of domestic political contingencies is overtly evident in the case of India keeping off the two Additional Protocols even though they are considered, together with the Geneva Conventions themselves, to be the bedrock of international humanitarian law.[53]

In India during 1974-1977 there was considerable discussion about the impact of New York Conference on "India's sovereignty." Indian government did not signed additional protocols because it could not approve of an international document, which impugned upon national sovereignty and permitted outside interference, direct or indirect, financial, military or otherwise in the international affairs of the state.[54]

India has certain objections and differences with the content of the APs.[55] India actively took part in the negotiations of protocols and the major advances made by AP I to the four Geneva Conventions were supported by India. For example, India supported the expansion of the definition of international armed conflict to include national liberation movements.[56] India was of the view that 'adoption of Article 1 with its paragraph was an important achievement in the development of international humanitarian law'.[57] India also did not express any objections to the important provisions on means and methods of warfare, like Articles 35 and 48.[58] Similarly, it also supported the modification of combatant status under Article 44 (3).[59] In consonance with its view on national liberation movements, India felt that this'article would strengthen the cause of liberation.[60]

One issue on which it expressed clear objection was the International Fact Finding Commission.[61] India was of the view that there was no need for the Commission. The Final text of the AP I makes the International Fact Finding Commission optional in nature. Article 90 which deals with the Commission provides that a State has to recognize its competence separately.[62] Therefore, a State can become a party without recognizing the competence of the Commission.[63] In accordance with its objection at the time of negotiations, India can become a party to AP I without accepting the competence of the Commission.[64] Going by India's views at the negotiations on foregoing issues, it becomes difficult to discern the reasons for its refusal to become a party to AP I.[65]

AP II remains without universal acceptance due to its non-ratification by states such as India, Myanmar, Israel, Srilanka and Nepal to name a few.[66] While most of the armed conflicts around the world are internal in nature it is hard to fathom the reason for the wavering commitments.[67] If India is to be treated as a particular case study, the reasons can be traced back to the contentions it made while discussing on whether it should go ahead with the ratification, which are as follows:[68]

a) It argued that in the face of equal suffering, victims have the right to the same protection in all armed conflicts, whether internal or international. Therefore, there is no need of protocol II.

b) The protocol has a high threshold of application.[69]

India was apparently against AP II.[70] It was of the opinion that internal armed conflicts were law and order problems falling under the domestic jurisdiction.[71] It further observed that common Article 3 was justified in four Geneva Conventions because it was required to address the national liberation movements then.[72] Since the national liberation movements were covered in API, India found that there was no reason for the adoption of a Protocol specifically dealing with the internal armed conflicts.[73] India's subsequent practice testifies to a changed position on internal conflicts. It became a party to the treaties which are applicable to internal conflicts.[74] Such as Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices as amended on 3 May 1996 (Protocol II as amended on 3 May 1996), Convention on Certain Conventional Weapons (CCW) as amended on 21 December 2001 and the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict.[75] Acceptance of these treaties makes it clear that no longer India subscribes to the view that internal conflicts, other than national liberation movements, are law and order situations.[76] It seems at least clear from the positions taken at the time of negotiations and from the subsequent practice that there is no major hindrance in India becoming a party to the APs.[77]

The above mentioned contentions are not persuasive and show the reluctance of the Indian

government to not be tied up with the obvious responsibilities that the ratification of protocols would have placed.

Conflicts in India and need for intervention of humanitarian law

Immanuel Kant has preached that perpetual peace is no empty idea, but a practical thing which, through its gradual solution, is coming always nearer its final realisation.[78] At the present, India is coping with two major conflict in Jammu and Kashmir and the Naxal affected areas.[79] Naxalism, also branded as the People's War, started as a movement to uplift the downtrodden and oppressed people belonging to tribal communities, however, over the time, it has gradually evolved its shape and ideology and is now facilitating the capture of state power through terror and preaches violence against the ruling classes.[80] Although various incarnations of this group have been involved in some form of insurgency since 1967; an increase in the intensity of violence in the late 2000s means that the situation currently qualifies as a non-international armed conflict.

- First, the level of armed violence must reach a certain degree of intensity that goes beyond internal disturbances and tensions.
- Second, in every non-international armed conflict, at least one side to the conflict must be a non-state armed group which must exhibit a certain level of organisation. Government forces are presumed to satisfy the criteria of organisation.

In the case of Prosecutor vs. DuskoTadic,[81] the ICTY Tribunal observed that an armed conflict is a "resort to armed forces between states or protracted armed violence between governmental authorities and organized armed groups or between such groups within a state".

The Naxalite movement, concentrated in CPI (Maoist), is highly hierarchical and centralized.[82] It has a Central Committee (which controls all the operations) and other Subordinate Committees along with Revolutionary People's Committee (also known as people's government).[83] By 2003, the Revolutionary People's Committee has had influence over 2000 villages.[84] Moreover, Central Committee sets agendas and exert control over Central Military Commission that is responsible for coordinating the People's Liberation Guerrilla Army (PLGA), an armed wing which is said to contain 25,000 soldiers or above. They are focused on using military power as a means to establish an independent state and over 12,000 people have been killed in the past 20 years.[85]

The Indian government, with support from various state governments, has deployed its police and paramilitary forces since the beginning of the conflict in response to the Naxalites.[86] There was a state-sponsored militia, SalwaJudum (aka an armed civilian vigilante group) to wage a brutal war against Maoists.[87] Additionally, in 2009, the CRPF began a large scale operation against the Naxalites, which was called by media as the "Operation Green Hunt", and 84,000 CRPF personnel supposedly have been deployed in Naxalism infected regions.[88] Indian military denies its direct involvement, nevertheless, the military has been training paramilitary forces and police and may also be involved in counter insurgency missions.[89] Naxalites display their organizational skills and hierarchical system quite palpably along with the ability to organize armed attacks, plan activities, and project control over a vast territory.[90]

As far as the intensity criteria is concerned, more than 50,000 people have been displaced due to the war.[91] In 2019, clashes between CPI Maoist and state armed forces remained intense.[92] For instance, on 13 January 2019 the Maoist commander Shahdev Rai, alias "Talada", was killed by the Indian army during a gunfight and on 29 January security forces killed five members of the Maoist group in West Singhbhum district.[93] During the beginning of 2020 armed confrontations were numerous. For instance, on 10 February three members of the Central Reserve Police Force (CRPF) were killed and five were injured during clashes with the Maoists.[94] Clashes continued in 2020 and persist in 2021, as the government engaged in anti-Maoist military operations and the opposition group. On 3 April 2021, in Chhattisgarh state (centre), Maoist fighters carried out the deadliest attack against state armed forces since 2017: they ambushed a security patrol and caused the death of 22 Indian soldiers, while more than 30 were injured.[95]

Talking about the territorial occupation, the 'Red Corridor' area extends to over eight states or more including Maharashtra and Telangana. Also, this conflict has led to the killings of 2700 security forces personnel so far.[96] Reading all of the above points holistically suggests that the Maoist insurgency is a non-international armed conflict (NIAC), as all conditions have been effectively met and the humanitarian law is invoked.[97] This suggests that India is struggling to protect the life of its people (civilians) in conflict stricken stretches.[98] However India is not in a position to appreciate the IHL rules

related to NIAC formulated in Additional protocol II as it has waived its commitments by not ratifying the Additional Protocol II.

India is involved in non-international armed conflicts against the separatist group in Indian administered Jammu and Kashmir. The conflict of Jammu and Kashmir is not new and with the passage of time it had reached the high level of intensity. As per the recent information in April 2020 clashes dramatically intensified, with armed confrontations taking place nearly on a daily basis.[99] On 5 April, Indian forced claimed to have killed five militants in Kupwara district, while 5 soldiers lost their life during the armed confrontations.[100] The following month, on 3 May five soldiers were killed during a military operation against separatist fighters in Handwara area. In June 2020, a sharp increase in hostilities led to the killing of at least 35 militants only in Pulwama district.[101] Militants attacks and counter insurgency operations have continued at high intensity in 2021 and security operations and militant attacks continued and in 2022 militants increasingly targeted Indian armed forces.[102] Therefore, state troops increased their attacks against fighters. For instance, in January 2022 they killed over a dozen members of the rebel groups. Violence further increased in the following months, with June 2022 marked as the most violent month of the year.[103]

Due to the increased ethnic group and partition conflicts at the borders of India controlled part of Kashmir the people are witnessing inevitable suffering. The civilian people are continuously facing the wrath of the internal armed conflicts caused by the rebellious groups and belligerents. They suffer from harassment, reprisals, property destruction, indiscriminate attacks, military crackdowns, disappearances, and extrajudicial killings subjecting to continuous violation of International Humanitarian Law. Allegations of arbitrary detentions, extrajudicial killings and enforced disappearances are part of what appears to be an ongoing pattern of serious violations of human rights by Indian government forces in the Jammu and Kashmir region, according to UN experts.[104]

According to the Jammu and Kashmir Coalition of Civil Society (JKCCS), around 160 civilians were killed in 2018. 2018 registered high number of conflict related casualties since 2008 with 586 people killed including 267 members of armed groups and 159 security forces personnel.[105]

According to JKCCS, 1,081 civilians have been killed by security forces in extrajudicial killings between 2008 and 2018. Of the 160 civilians reportedly killed in 2018, 71 were allegedly killed by Indian security forces (while 43 were killed by armed group members or unidentified gunmen and 29 were killed by shelling and firing by Pakistani troops in areas along the Line of Control).[106]

Indian security forces continue to use pellet-firing shotguns in the Kashmir Valley as a crowd-control weapon despite concerns as to excessive use of force and the large number of incidental civilian deaths and injuries that have resulted.[107]

Media reports suggest that at least 19 civilians have been killed in 2022 so far, of which seven belonged to the Hindu minority community including a schoolteacher, shopkeeper, government employees and a casual daily worker.[108] According to the Government of India, between August 2019 and November 2021, 87 civilians were killed by armed groups in Jammu & Kashmir.[109]

The people of Kashmir are in dire need of an intervention against constant and continuing armed attacks against the civilian population. Geneva convention IV which relates to the treatment and protections of civilians in times of war, occupation or interment does not apply to conflicts of non-international character.[110] Consequently, the conflict of Jammu and Kashmir does not come under its purview.[111] However, common article 3 of the Geneva conventions, which is relevant in case of Jammu and Kashmir, impels the state to fulfil its obligation towards the innocent lives. In the light of above discussion it is pertinent to note that India should move towards signing Addotional Protocol II as it provides a comprehensive set of regulations for limiting the violations of rules relating to war in non-international armed conflict.

CONCLUSION

Obligations to limit the effect of conflict is based on humanity and no nation of the world should lag behind when it comes to their obligation to preserve the peace and humanity. India's reluctance towards implementing humanitarian law is evident from the fact that although it is signatory to twenty three treaties relating to international humanitarian law only three municipal laws have been passed so far to enforce its treaty obligation. Even the law passed to implement humanitarian law suffer from its own lacuna's and seems to be nothing but only a formality on part of the state. In Geneva Convention Act, there is no right given to the individual to approach the courts for special remedy and the courts can take cognizance of any

offence under this Act only with the permission of the government. Neither does the Act applies to Army Act, Air force Act and Navy Act nor does Armed Forces Acts explicitly provides for IHL provisions in it to prosecute its members for IHL violations. These are essentially the people who are most prone to violate IHL in armed conflict. Hence, IHL implementation legislation in India remains toothless tigers.

India has not even signed the Additional Protocols so far which are the bedrock instrument of International Humanitarian Law and looking at the nature of ongoing conflicts in India it is evident that India should not be reluctant any more in ratifying those instruments. Indeed, application of these instruments would also impose the moral obligation of compliance on non-state armed groups, whether the Maoists in central India or the insurgents in Jammu and Kashmir and the north-east of India. It is a high time where India needs to enlarge the scope of its legislation for implementation of International Humanitarian law to fulfil its international obligation being a party to Geneva conventions of 1949 and to have a more concrete and effective regulation against violations of rules relating to war.

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