



Exploring the Implementation of International Humanitarian Law within Internal Armed Conflicts: in the Context of Manipur

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Unraveling the Enforcement of International Humanitarian Law in the Midst of Internal Armed Conflicts: Spotlight on Manipur's Dynamics

“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.”

Abstract:

The intricate dynamics surrounding the enforcement of international humanitarian law (IHL) amidst internal armed conflicts, with a specific focus on the complex landscape of Manipur. Internal armed conflicts pose unique challenges to the application of IHL, often blurring the lines between combatants and civilians and exacerbating the vulnerability of affected populations. By meticulously examining the context in Manipur, this study aims to illuminate the efficacy and challenges of enforcing IHL within such environments. Factors such as historical precedents, socio-political dynamics, and legal frameworks will be scrutinized to provide a comprehensive understanding of the nuances surrounding the implementation of IHL.

Through a critical assessment of enforcement mechanisms and their impact on the protection of human rights and humanitarian principles, this research endeavors to offer insights and recommendations for enhancing compliance with IHL in internal armed conflicts, particularly in regions like Manipur where the situation remains precarious.

Key words: Armed conflict, Non state, human rights, humanitarian law, vulnerability

Introduction:

In recent decades, the enforcement of international humanitarian law (IHL) has risen to prominence as a critical endeavor in navigating the intricate dynamics of internal armed conflicts worldwide. These conflicts, marked by their intra-state nature and involvement of non-state actors, present significant hurdles in upholding the principles of humanity, impartiality, and the differentiation between combatants and civilians. Among the regions contending with such challenges is Manipur, a northeastern state in India characterized by a protracted history of insurgency and internal discord.

This introduction lays the foundation for a thorough examination of IHL enforcement within the context of internal armed conflicts, with a specific focus on Manipur. By delving into the complexities of this multifaceted landscape, we aim to uncover the factors that influence the implementation and effectiveness of IHL in such environments. This analysis is crucial not only

for understanding the dynamics of armed conflict in Manipur but also for providing insights that can inform broader endeavors to enhance compliance with humanitarian law on a global scale.

Throughout this study, we will explore the historical, socio-political, and legal dimensions that shape the enforcement of IHL in Manipur. Through a critical evaluation of existing mechanisms and practices, we seek to identify both challenges and opportunities for strengthening the protection of human rights and humanitarian principles amidst internal armed conflicts. Ultimately, this research endeavors to contribute to a nuanced understanding of the complexities inherent in enforcing IHL, offering valuable insights for policymakers, practitioners, and scholars alike.

Historical Background:

Manipur's context is deeply intertwined with a complex history characterized by indigenous cultures, colonialism, and post-colonial state-building efforts. Situated in northeastern India, Manipur boasts a rich cultural heritage and a legacy of self-governance prior to its annexation by British colonial forces in the late 19th century.

Under British rule, Manipur underwent significant socio-political transformations, notably the Anglo-Manipur War of 1891, which led to British dominance over the region. Colonial policies, along with the introduction of new administrative structures and land tenure systems, reshaped Manipur's traditional socio-economic fabric and political landscape.

Following India's independence in 1947, Manipur became part of the Indian Union in 1949. However, discontent with the central government's policies and perceived neglect of socio-economic development fueled movements for autonomy and self-determination among Manipur's diverse ethnic groups.

The 1950s and 1960s witnessed the rise of numerous armed insurgent groups in Manipur, advocating for greater autonomy or outright independence from India. Rooted in ethnic, tribal, and nationalist sentiments, these groups engaged in armed struggle against the Indian state, leading to a prolonged period of internal armed conflict.

Enforcing international humanitarian law within this context has proven exceptionally challenging due to fluid conflict dynamics, the presence of multiple armed actors, and allegations of human rights abuses by both state and non-state entities. The situation in Manipur is further complicated by factors such as the Armed Forces (Special Powers) Act, 1958 (AFSPA), which grants extensive powers to Indian armed forces in conflict zones, leading to accusations of impunity and human rights violations.

Understanding Manipur's historical background is crucial for grasping the complexities of enforcing international humanitarian law within the region. It offers vital insights into socio-political dynamics, grievances, and aspirations that continue to shape internal armed conflicts in Manipur, emphasizing the need for tailored approaches to address unique challenges in upholding humanitarian principles amidst such contexts.

Legislative Trends:

Within the examination of enforcing international humanitarian law (IHL) during internal armed conflicts, legislative trends serve as pivotal factors in shaping the legal framework and mechanisms for upholding humanitarian principles. In Manipur's context, legislative developments at both national and regional levels have significantly influenced the implementation and enforcement of IHL.

Nationally, India is a signatory to several international conventions and treaties concerning humanitarian law, including the Geneva Conventions of 1949 and their Additional Protocols. These international instruments establish the fundamental framework for regulating the conduct of parties involved in armed conflicts, emphasizing principles such as distinction, proportionality, and the protection of civilians and non-combatants. It is important to note that internal disturbances and tensions, such as riots or isolated acts of violence, do not amount to armed conflicts under IHL. In such cases, human rights law and domestic legislation govern the situation.

However, within India's domestic sphere, the enforcement of IHL is also influenced by domestic legislation, policies, and judicial interpretations. One significant legislative aspect affecting Manipur is the Armed Forces (Special Powers) Act, 1958 (AFSPA), which grants special powers to the armed forces in designated "disturbed areas," including parts of Manipur. AFSPA

has been a subject of considerable debate and controversy due to allegations of human rights abuses and lack of accountability in conflict-affected regions.

GENEVA CONVENTIONS AND THEIR ADDITIONAL PROTOCOLS:

The roots of the 1949 Geneva Conventions trace back to the Geneva Convention for the Amelioration of the Condition of the Wounded in Armies in the Field, adopted in 1864. This initial convention underwent revisions and developments in 1906 and 1929. Additionally, another convention concerning the Treatment of Prisoners of War was adopted in 1929. In 1934, during the 15th International Conference of the Red Cross in Tokyo, an international convention drafted by the ICRC aimed at protecting civilians of enemy nationality on occupied territory was approved. However, due to the refusal of states to convene a diplomatic conference to decide on its adoption, the provisions in the Tokyo draft were not applied during the Second World War. It wasn't until after the war, in 1949, that states adopted the four Geneva Conventions, which serve as the cornerstone of IHL. While the first three Geneva Conventions evolved from existing treaties, the fourth Geneva Convention was entirely novel, being the first IHL treaty dedicated explicitly to the protection of civilians during armed conflict. The significant civilian casualties during the Second World War prompted the development and adoption of such a treaty.

The content of the Geneva Conventions and the Additional Protocols extends protection to every individual or category of individuals not or no longer actively involved in hostilities:

- The First Geneva Convention covers wounded or sick soldiers on land and members of the armed forces' medical services.
- The Second Geneva Convention pertains to wounded, sick, or shipwrecked military personnel at sea, and members of the naval forces' medical services.
- The Third Geneva Convention deals with prisoners of war.
- The Fourth Geneva Convention protects civilians, including foreign civilians on conflict parties' territory, civilians in occupied territories, civilian detainees and internees, and medical and religious personnel or civil defense units. Common Article 3 provides minimum protection in non-international armed conflicts and is considered customary law.

Additional Protocol I supplements the protection provided by the four Geneva Conventions in international armed conflict. For instance, it offers protection for wounded, sick, and shipwrecked civilians and civilian medical personnel. Additionally, it includes rules on searching for missing persons and providing humanitarian aid to the civilian population. Moreover, it codifies several rules on protecting the civilian population from the effects of hostilities.

In recent years, there have been calls for the repeal or amendment of AFSPA, both within Manipur and nationally, to align with international human rights standards and ensure greater civilian protection. However, legislative changes regarding AFSPA have been slow and contentious, reflecting broader political and security considerations within India.

Furthermore, within Manipur, efforts have been made to enact legislation addressing grievances and promoting reconciliation and peace-building. For example, the Manipur Legislative Assembly passed laws like the Manipur People's Protection Bill, regulating the entry and settlement of outsiders in the state, reflecting concerns over indigenous identity and land rights.

Despite these legislative efforts, challenges persist in effectively implementing and enforcing IHL in Manipur. The presence of multiple armed groups, overlapping legal jurisdictions, and issues of accountability and impunity pose significant obstacles to ensuring compliance with humanitarian principles. Additionally, the politicization of legal frameworks and security considerations complicate efforts to address the root causes of conflict and promote lasting peace and reconciliation.

SPECIFIC PROTECTION: WOMEN AND CHILDREN

Certain categories of individuals, such as women and children, require specific attention and protection in armed conflicts. Children, in particular, must receive the care and aid they need. Every effort should be made to prevent children under the age of 15 from directly participating in hostilities. Additionally, measures should be taken to ensure that children orphaned or separated from their families due to armed conflict are not left to fend for themselves. Their well-being, religious practices, and education should be facilitated under all circumstances. Furthermore, children deprived of their liberty should be housed separately from adults, except when families are accommodated as units. Additionally, individuals who were under the age of 18 when they committed an offense should not face the death penalty.

Internal armed conflicts manifest in various forms, each presenting distinct challenges and considerations for the enforcement of humanitarian principles. Some common types of internal armed conflicts include:

1. **Ethnic Conflict:** These conflicts stem from tensions between different ethnic groups within a state, often revolving around political power, resource access, or cultural rights. Ethnic conflicts may result in widespread violence, displacement, and atrocities against civilians. Addressing underlying grievances and promoting inclusive governance structures are essential for enforcing IHL in ethnic conflicts.
2. **Secessionist Conflict:** These conflicts involve movements seeking independence or autonomy from the central government, often rooted in historical grievances or cultural identity. Balancing self-determination rights with principles of territorial integrity is crucial in enforcing IHL in secessionist conflicts.
3. **Insurgency:** Insurgencies entail armed groups challenging government authority, typically aiming to overthrow or replace the existing regime. Enforcing IHL in insurgencies necessitates distinguishing between combatants and civilians, ensuring proportionality in the use of force, and protecting civilian populations from indiscriminate attacks.
4. **Terrorism and Counterterrorism Operations:** Internal armed conflicts may involve terrorist acts by non-state actors or government responses through counterterrorism operations. Compliance with IHL principles, such as distinction and proportionality, is vital in counterterrorism efforts to safeguard civilian populations and maintain security.
5. **Resource-Based Conflict:** Conflicts over natural resources can escalate into armed conflicts, exacerbating socio-economic disparities and fueling violence. Enforcing IHL in resource-based conflicts requires addressing resource scarcity, promoting equitable resource management, and preventing resource exploitation to finance violence.

Adherence to international humanitarian law is crucial in minimizing civilian casualties, protecting human rights, and facilitating humanitarian assistance in all types of internal armed conflicts. Cooperation between state and non-state actors, respect for legal norms, and accountability for violations are essential for effective IHL enforcement. Additionally, addressing underlying grievances, promoting inclusive governance, and fostering dialogue among conflicting parties are vital for preventing and resolving internal armed conflicts.

Examining the enforcement of international humanitarian law (IHL) during internal armed conflicts in Manipur involves critical legal considerations:

1. **International Legal Framework:** Manipur, as part of India, is bound by international treaties such as the Geneva Conventions of 1949 and their Additional Protocols, which establish legal obligations for parties to armed conflicts.
2. **Domestic Legislation:** Domestic laws, including the Armed Forces (Special Powers) Act, 1958 (AFSPA), influence IHL enforcement in Manipur and have significant implications for human rights protection and accountability.
3. **Judicial Interpretation:** Courts, both nationally and regionally, play a crucial role in interpreting and applying legal principles related to IHL, ensuring accountability and protecting fundamental rights.
4. **International Human Rights Law:** International human rights law complements IHL in regulating parties' conduct in armed conflicts and protecting individuals' rights.

5. **Accountability Mechanisms:** Establishing legal mechanisms to investigate and prosecute violations of IHL is essential for promoting compliance and preventing future abuses.

6. **Humanitarian Access and Assistance:** Legal frameworks governing humanitarian access are vital for facilitating aid delivery to conflict-affected populations in Manipur, ensuring adherence to principles such as impartiality and neutrality.

Understanding legislative trends within Manipur and India is crucial for addressing challenges and opportunities in upholding humanitarian principles and promoting peace and stability in conflict-affected regions like Manipur.

Judicial Trends:

In analyzing the enforcement of international humanitarian law (IHL) during internal armed conflicts, judicial trends wield significant influence in interpreting and applying legal principles, ensuring accountability for perpetrators, and safeguarding human rights. Within the context of Manipur, judicial mechanisms and trends at both national and regional levels contribute to the implementation and enforcement of IHL.

At the national level, the Indian judiciary serves as a pivotal institution in upholding constitutional rights, including the right to life, liberty, and dignity, which are integral to IHL principles. Indian courts have played a central role in adjudicating cases related to alleged human rights violations, such as extrajudicial killings, enforced disappearances, and torture, particularly in conflict-affected areas like Manipur.

A significant legal challenge in Manipur has been the application of laws like the Armed Forces (Special Powers) Act, 1958 (AFSPA), which grants extensive powers to the armed forces in "disturbed areas" and has been linked to allegations of impunity and human rights violations. Judicial trends regarding AFSPA have been diverse, with courts issuing rulings and directives aimed at ensuring accountability and protecting human rights, while also considering national security and public order concerns.

In recent years, the Indian judiciary has shown a readiness to address issues of accountability and transparency in conflict-affected regions like Manipur. For example, the Supreme Court of India has heard cases challenging the constitutionality of AFSPA and issued directives to investigate alleged human rights violations and hold perpetrators accountable. Similarly, lower courts have adjudicated cases and provided remedies for victims of human rights abuses.

Moreover, judicial trends within Manipur itself have adapted to local dynamics and concerns. The Manipur High Court, for instance, has addressed issues related to extrajudicial killings, disappearances, and other human rights violations, often issuing directives to state authorities to conduct thorough investigations and prosecute those responsible.

Despite these positive developments, challenges persist in ensuring effective judicial oversight and accountability for human rights abuses in Manipur. Factors such as institutional capacity, political influence, and procedural hurdles can hinder access to justice and impede efforts to hold perpetrators accountable.

Amnesty International calls upon the Governments of India and Manipur to:

- Publicly denounce extrajudicial executions and deliberate and arbitrary killings, sending a clear message to security forces that such violations will not be tolerated.
- Ensure that security forces use force only when necessary and to the minimum extent required under the circumstances, restricting lethal force to situations strictly necessary to protect life.
- Hold senior officers accountable for maintaining strict control to prevent extrajudicial executions and other human rights violations among their subordinates.
- Provide comprehensive training for security forces emphasizing their obligations to protect human rights.
- Remove the requirement of sanction for the prosecution of police or armed forces personnel under relevant sections of the Code of Criminal Procedure, ensuring accountability for human rights violations.

Amnesty International urges the Government of India to:

- Review the Armed Forces (Special Powers) Act to establish strict legal limitations on the use of force and firearms by law enforcement officials.
- Eliminate the requirement of sanction for the prosecution of police or armed forces personnel under Section 7 of the Armed Forces (Special Powers) Act.

Judicial trends within Manipur and India are pivotal in enforcing international humanitarian law during internal armed conflicts. Understanding these trends offers insights into accountability mechanisms, human rights protection, and the promotion of rule of law within conflict-affected regions, presenting opportunities to combat impunity and advance justice, reconciliation, and peace.

Conclusion:

This research paper has conducted a thorough examination of the enforcement of international humanitarian law (IHL) during internal armed conflicts, focusing particularly on the context of Manipur. By delving into the historical background, legislative trends, judicial mechanisms, and socio-political dynamics, this study has illuminated the intricate challenges and complexities involved in upholding humanitarian principles within conflict-affected regions.

The historical backdrop of Manipur highlights the deep-seated socio-political grievances and aspirations that have perpetuated internal armed conflicts in the area. Colonial legacies, state-building endeavors, and ethnic tensions have all contributed to a prolonged cycle of violence, exacerbating the vulnerability of civilians and posing significant challenges to the effective enforcement of IHL.

Legislative trends, both nationally and regionally, have shaped the legal framework and mechanisms for addressing human rights abuses and fostering accountability. However, reconciling national security imperatives with the protection of human rights, particularly in light of laws such as the Armed Forces (Special Powers) Act, 1958 (AFSPA), continues to present challenges.

Judicial mechanisms have played a pivotal role in interpreting and applying legal principles to hold perpetrators accountable for human rights violations. Despite notable advancements in judicial engagement and accountability measures, barriers persist in ensuring accessible justice and redress for victims of human rights abuses.

References:

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1. See general comments Nos. 29 (2001) on states of emergency (art. 4), para. 3, and 31 (2004) on the nature of the general legal obligation imposed on States Parties to the Covenant, para. 11.
2. See the discussion on the application of the principle of *lex specialis* in chapter II, section D, below.
3. The High Commissioner has recalled that, over the years, the General Assembly, the Commission on Human Rights and, more recently, the Human Rights Council expressed the view that, in situations of armed conflict, parties to the conflict had legally binding obligations concerning the rights of persons affected by the conflict. The Council also recognized the importance and urgency of these problems. In line with recent international jurisprudence and the practice of relevant treaty bodies, the Council acknowledged that human rights law and international humanitarian law were complementary and mutually reinforcing (A/HRC/11/31, para. 5).
4. Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, I.C.J. Reports 1996, p. 226; Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004, p. 136; and Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda), Judgment, I.C.J. Reports 2005, p. 168.

5. For a detailed analysis of customary rules of international humanitarian law, see International Committee of the Red Cross, Customary International Humanitarian Law, by Jean-Marie Henckaerts and Louise Doswald-Beck (Cambridge University Press, 2005).
6. Protocol I, arts. 52.2 and 52.3, and Geneva Convention IV, art. 50

