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**Importance of International Humanitarian Law (IHL) Training in Armed Police
Force, Nepal**

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Abstract

International humanitarian law (IHL) applies at times of armed conflict, placing legal obligations on all warring parties that are designed to limit the inhumanity of warfare. Armed Police Force (APF), Nepal with the mandate to control an armed struggle occurred or likely to occur in any part of Nepal, to control armed rebellion or separatist activities or likely to occur in any part of Nepal, and to provide assistance in case of external intervention being under the Nepali Army, can at any time become a party in both international and non-international armed conflict. APF's role in UN Peacekeeping Missions is also an area where it may have to engage with non-state actors if and when situation demands. All these necessitate APF personnel to have proper understanding and compliance to the principles of IHL, violation of which can increase human suffering and consequent individual criminal responsibility and command responsibility. In light of this, it concludes the IHL specific trainings in APF, Nepal should be maintained and augmented to ensure broad and better understanding and respect for IHL in times of conflict.

Keywords

Armed conflict, APF, IHL, international, non-international

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Introduction

Respect for International Humanitarian Law (IHL) is one of the most important obligations of the parties to an armed conflict. IHL, also known as the law of war or the law of armed conflict, is a set of rules which seek, for humanitarian reasons, to limit the effects of armed conflict. It protects persons who are not or are no longer participating in the hostilities and restricts the means and methods of warfare.

IHL applies to armed conflicts. It defines the rules and permitted behavior applicable with regards to the protection of unarmed civilians, prisoners, the sick and the injured in times of war. This law also known as Geneva law is primarily contained in the four Geneva Conventions and their Additional Protocols drafted since 1949. The Conventions create a positive obligation on states not only to respect the law but to ensure respect for it, an omission to act is not acceptable. Those who are responsible for grave breaches of the Geneva Conventions, such as torture or willful killing, will be sought and tried (*Overview*, 2019).

International humanitarian law is founded on the principles of humanity, impartiality and neutrality. The development of modern international humanitarian law is credited to the efforts of 19th century Swiss businessman Henry Dunant. In “A Memory of Solferino,” his book about the experience, Dunant proposed a kind of volunteer groups who should be granted protection during war in order to care for the wounded. The group later became known as International Committee of the Red Cross, formed in Geneva in 1863 to act on Dunant’s suggestion. The negotiated convention containing 10 articles known as Geneva Convention became the foundation of modern international humanitarian law, which now encompasses four conventions and three additional protocols. Collectively, they represent modern efforts to protect people in times of armed conflict (American Red Cross, 2011). The four Geneva Conventions protect wounded, sick, shipwrecked military personnel, prisoners of war, and protection of civilian as well in times of war.

In addition states accepted article 3 common to the four Geneva Conventions which marked a breakthrough, as it covered, for the first time, situations of non-international armed conflicts (Kreß & Mégret, 2014). Later in 1977, in light of growing non-international armed conflict, two Protocols Additional to the four 1949 Geneva Conventions were adopted. They strengthen the protection of victims of international (Protocol I) and non-international (Protocol II) armed conflicts and place limits on the way wars are fought. In 2005, a third Additional Protocol was adopted creating an additional emblem, the Red Crystal, which has the same international status as the Red Cross and Red Crescent emblems (American Red Cross, 2011).

Nepal ratified the four Geneva Conventions in 1964 and is subject to their provisions, including Common Article 3 of the Geneva Conventions which provides minimum standards governing any non-international armed conflict (*Nepal Conflict Report*, 2012). With the ratification of Geneva Conventions, Nepal is obliged to respect and ensure respect for international humanitarian law. Armed Police Force (APF), Nepal’s mandate to control armed struggle, armed rebellion and providing assistance in case of external intervention under Nepali Army and border security of Nepal

bring APF, Nepal in the environment of armed conflict in both international and non-international armed conflict. That is why it is necessary that APF personnel are trained in IHL.

The paper explores legal provisions and normative and legitimacy implications in respect to IHL. It aims to clarify the conditions under which IHL becomes applicable to APF, Nepal which require it to respect the IHL. Then, it identifies the consequences for derogation of the IHL. Both of which will be instrumental in establishing an importance of IHL training to APF, Nepal.

Literature review

A major part of international humanitarian law is contained in the four Geneva Conventions of 1949. Nearly every State in the world has agreed to be bound by them. The Conventions have been developed and supplemented by two further agreements: The Additional Protocols of 1977 relating to the protection of victims of armed conflicts. Other agreements prohibit the use of certain weapons and military tactics and protect certain categories of people and goods (Zhandire, 2005).

In 1949, when the laws of war were under scrutiny following the catastrophe of the Second World War, the ICRC called for IHL to extend to civil war. Though some States, including Great Britain and Burma, expressed concern on the importance of national sovereignty, the common article 3 was finally agreed that regulates civil war within four Geneva Conventions (Kreß & Mégret, 2014).

In the two decades that followed the adoption of the Geneva Conventions, the world witnessed an increase in the number of non-international armed conflicts and wars of national liberation. In response, two Protocols Additional to the four 1949 in 1977 were adopted to reinforce the protection of victims. The Protocol II was the first-ever international treaty devoted exclusively to situations of non-international armed conflicts (American Red Cross, 2011). Based on four major principles of humanity, proportionality, distinction and military necessity, IHL seeks to limit the effects of armed conflicts. It establishes that “the right of belligerents to adopt means of injuring the enemy is not unlimited” (“casebook,” 2019).

IHL is applicable in two situations – international armed conflict and non-international armed conflict. Geneva Conventions and Additional Protocol I apply in the situation of international armed conflict (IHL Answers, 2002). Additional Protocol II was specifically enacted to apply to certain situations of non-international armed conflict. Besides, the provisions made in common Article 3 obligate all parties to non-international armed conflicts, including organized non-state armed groups to abide by the IHL. Armed conflict of non-international nature is the most widespread type in today’s world (Mack, 2008). The laws, rights, and duties of war apply not only to armies, but also to militia and volunteer corps provided that they carry arms openly; and conduct their operations in accordance with the laws and customs of war. There are practices of incorporating paramilitary or armed law enforcement agencies into armed forces. When these units involve in hostilities and meet the standards of armed forces, they are treated as combatants (*Customary IHL*, 2019).

Grave Breaches are explicitly set out in all four Geneva Conventions. Conventions ratifying nations not only must adhere to humanitarian principles but also required to impose legal sanctions against

those who violate them (American Red Cross, 2011). In order to ensure compliance, states and commanders are obliged to teach its armed forces on IHL (Porretto & Vité, 2006). Derogation of the IHL is liable to criminal liability. The four Geneva Conventions have definition of what constitute grave breaches. Command responsibility” which is the legal doctrine of hierarchical accountability for war crimes apply for the breaches of IHL (*Command responsibility*, 2016). Command responsibility assigns criminal responsibility to higher-ranking members of military for crimes of genocide, crimes against humanity and war crimes committed by their subordinates (Normand, 2017). Individual criminal responsibility for war crimes committed in non-international armed conflicts has been explicitly included in international humanitarian law treaties (Henckaerts et al., 2005)

In relation to involvement of international organizations in armed conflict, Ferraro (2013) states that an evolving interpretation of the law contends that an international armed conflict exists whenever two or more entities possessing international legal personality resort to armed force in relation between them. Such interpretation possibly put the action of international organization within the scope of IHL. Similarly, the military operations conducted by multinational peacekeeping force with a coercive mandate of Security Council are the form of armed conflict governed by IHL (David and Engdahl, 2013). The relationship between ‘jus ad bellum’ and ‘jus in bello’ has been described as one of inevitable tension (Moussa, 2008). However, ICRC (2015) states that IHL applies to the parties of armed conflict regardless of the reasons for the conflict or the justness of the causes. So, states have the duty to teach international humanitarian law to their armed forces which is not only stated in the 1949 Geneva Conventions and their Additional Protocols, but also emphasized in the Hague Convention for the Protection of Cultural Property and its Second Protocol, and in the Convention on Certain Conventional Weapons, all of which specify that the obligation to teach international humanitarian law to armed forces applies in time of peace as in time of armed conflict (Porretto & Vité, 2006). In addition, commanders also have the obligation to ensure that members of the armed forces under their command are aware of their obligations under international humanitarian law which is set forth in Article 87(2) of Additional Protocol I (Henckaerts et al., 2005).

At a time when modern warfare is mostly of non-international nature, ensuring compliance to IHL is a challenge to both state and non-state actors because of the perception that IHL cannot be applied to all situations of armed conflict. However, reviewed literatures point at the necessity of compliance to IHL by warring parties irrespective of causes for conflict and non-compliance and derogation will lead to individual criminal responsibility. In this context, this paper looks at different situations under which the Armed Police Force, Nepal engages itself in the conflicts of both international and non-international character. All this shows the importance of IHL training to APF, Nepal. This paper, therefore, with a focus on APF mandate tries to show that IHL training is crucial for APF personnel.

Methodology

The design of the paper is qualitative which is conducted in descriptive form. It is based on a review and examination of information gathered from a variety of primary and secondary sources. For the primary data, Human Rights section of APF, Nepal HQ was consulted which helped understand the focus on IHL specific trainings being conducted in APF. Armed Police Force Act, journals published

by ICRC and UN documents have been taken as major sources of secondary data. Data collected from various sources have been presented, described and interpreted with specific cases to substantiate the statements made.

Armed Police Force, Nepal

Armed Police Force, Nepal is a security force of a paramilitary nature of Federal Democratic Republic of Nepal. The creation of the APF reflected the Government's need to deploy additional forces against the Maoists given the ongoing escalation of the conflict, then in its fifth year, and the continuing challenges faced by a Nepal Police. The APF falls under the Ministry of Home Affairs and is headed by an Inspector General. This organization was established on 24th October 2001 to tackle the growing insurgency in Nepal (*Armed Police Force, Nepal*, 2012). Since its establishment until the settlement of dispute, the APF was directly involved in quelling insurgency in unison with Nepal Army and other security forces. After peaceful settlement of the insurgency, APF, Nepal has focused on public order management along with its other mandated task. Initially founded with a roster of 15,000 police and military personnel, the Armed Police Force is currently being a paramount security organization of Nepal consisting more than 37 thousand of its active personnel.

Armed Police Act, 2001 provides that Government of Nepal shall operate the armed police for the purpose of carrying out multiple mandates. Of them, following mandates bring the organization within the sphere of IHL and its obligations based on applicability of IHL in the situations of international and non-international armed conflict.

- a) To control an armed struggle occurred or likely to occur in any part of Nepal
- b) To control armed rebellion or separatist activities or likely to occurred in any part of Nepal
- c) To provide assistance in case of external intervention being under the Nepali Army
- d) To Secure border of Nepal

In accordance with the Geneva Conventions that Nepal has ratified and the mandate it has been given, Armed Police Force, Nepal has integrated IHL and IHRL in the areas of education and all levels of training. Sustained efforts have been made to inculcate IHL values in the security personnel. They have been continuously sensitized to uphold the human rights and humanitarian law in the discharge of their duties. Clear directives have been issued to them to abide by the IHL and human rights obligations while conducting security operations.

APF, Nepal and international armed conflict

The history of the law of international armed conflict shows that the field of application of this legal regime has been progressively extended as treaty law developed. Whereas a narrow formalistic concept of war was predominant initially, the reform of the system with the revision of the Geneva Conventions in 1949 gave precedence to a broader approach based on the more objective concept of armed conflict. Moreover, that extension was subsequently taken up with the adoption of Additional Protocol I in 1977. That instrument added another type of conflict to the field of the law of international armed conflict, that of wars of national liberation. This legal regime also comprises a

specific body of rules whose field of application is determined on the basis of an autonomous concept, that of occupation (Vité, 2009).

Vité (2009) further adds that by virtue of common Article 2(1), the 1949 Geneva Conventions apply to ‘all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one of them’. The situations referred to here are conflicts between States. The ‘High Contracting Parties’ mentioned in this text are sovereign entities. Depending on the case in question, these situations may take the form of a direct conflict between States or of intervention in a previously existing internal conflict. In the latter hypothesis, the conflict is ‘internationalized’. That is the case if a foreign power sends troops into a territory to support a movement opposing the local government. Intervention may also take place by proxy when that Power merely supports and guides the uprising from a distance. In that case, it is then vital to determine the level of control that makes it possible to classify the armed conflict as international.

When closely viewed, one thing is found common in this typology that is the involvement of another state in the conflict. APF Nepal’s mandate to provide assistance in case of external intervention being under the Nepali Army brings the APF in the engagement with international warring parties. In such situation, APF personnel are required to comply with IHL.

Border security mandate of APF, Nepal is another mandate which brings the force into first confrontation with foreign forces in case of external intervention. Border security functions entail peace time and war time functions (Das, 2016). In peace time, it patrols the border to prevent encroachment; it functions to check smuggling and infiltration, and prevents transnational crimes and illegal movement of goods and people. In war time, it provides assistance to the country’s regular Army to safeguard territorial integrity. So, both of these mandate brings APF, Nepal to be involved in international armed conflict in which condition the situation of international armed conflict applies to APF, Nepal personnel, bringing it under the sphere of IHL.

As widely known, the rules of humanitarian law were developed mainly in the context of international armed conflicts. Today, the regulations for these conflicts are still the most detailed, establishing limitations on the means and methods of warfare and imposing obligations on the parties to the conflict in terms of relief and protection of civilian populations and persons *hors de combat* (*The Practical Guide*, 2019).

APF, Nepal and non-international armed conflict

IHL remains as relevant as ever for all parties to armed conflict. Most contemporary armed conflicts are waged within the boundaries of states. States’ parties to non-international armed conflict are bound to “respect and ensure respect” for international humanitarian law by their own armed (ICRC, 2004). Common Article 3 of the Geneva Conventions provides minimum standards governing any non-international armed conflict. It requires that each party to the conflict protect persons taking no active part in the hostilities, including civilians and “members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause”.

In non-international as in international armed conflicts, indiscriminate attacks are likely to be launched against towns and villages. These might also have indiscriminate effects or might aggravate the suffering of the victims by their wounding effect. The Principle of Humanity requires that civilians and those who are hors de combat must be treated humanely, meaning that abuses of such persons, such as killing, torture, rape, mutilation, beatings and humiliation are prohibited. Violations of these rules may constitute violations of the laws and customs of war, and trigger individual criminal responsibility (*Nepal Conflict Report*, 2012).

As affirmed by the International Court of Justice in 1986, the provisions of common Article 3 reflect customary international law and represent a minimum standard from which the parties to any type of armed conflict must not depart (Mack, 2008). Human Rights and Democratic Forum (2005) reports that during a decade of armed conflict in Nepal, the parties involved in armed conflict have violated the Common Article-3 by unlawful killings, unjustified murder, massacre, deliberate murder and individual murder. Similarly, in the context of Nepal, UN Office of the High Commissioner (2012) report presents research and analysis of serious violations of human rights and international humanitarian law committed during the conflict. It states that the Transitional Justice Reference Archive (TJRA) catalogues over 2,000 incidents which raise suspicions that one or more killings occurred in circumstances amounting to a serious violation of international law. Of these, the majority are alleged to have been committed by Maoists, followed closely by the Security Forces and several where the perpetrator is unknown. The report from the available data asserts that unlawful killings occurred throughout the conflict in multiple contexts. Unlawful killings were also perpetrated against enemy combatants and civilians who were in detention or otherwise under the control of the adversary, the report provides the example of Doramba case as one of the most compelling case, where, according to the report, 17 Maoists and two civilians were killed by security forces.

During a non-international armed conflict, armed groups are also obliged to respect IHL, notably the minimum protections under Common Article 3 to the four Geneva Conventions which apply to “each Party to the conflict”. However, UN Human Rights Office of the High Commissioner (2012) reports the majority of incidents related to violation of law are alleged to have been committed by insurgent. It presents the *Madi bus* bombing incident 6 June 2005 as best known case of Violation of IHL in which a bus, carrying passengers, including a large number of children, and twelve security force members in civilian clothes, some carrying side arms, was exploded killing 39 passengers.

All these incidents of violation can lead to the individual criminal responsibility. In order to receive immunity, parties to the conflict must have to understand and respect the IHL principles. APF, Nepal’s mandate to control armed struggle brought the Force into confrontation with then insurgents. Lacking adequate knowledge of IHL, there might have been error in the past. Although the insurgency has come to an end, the likelihood of similar armed struggle in the future cannot be negated. So, IHL should always be an integral part of syllabus in the basic and advance courses.

APF, Nepal in peacekeeping missions

Armed Police Force Nepal has been constantly involved in various peacekeeping missions since 2002 as a member of FPU contingent (*Armed Police Force, Nepal*, 2019). Peacekeeping missions are often

in a unique position to prevent violations of IHL, and in some specific cases to start responding to the needs of victims. Good practices collected in the field have confirmed the essential role peacekeepers can play in this regard through use of physical protection. This dimension remains a crucial tool for the protection of civilian. The *Secretary-General's Bulletin* (1999) establishes that the fundamental principles and rules of IHL apply to UN forces “when in situation of armed conflict they are actively engaged therein as combatants, to the extent and for the duration of their engagement. They are accordingly applicable in enforcement actions or in peacekeeping operations when the use of force is permitted in self-defense.” The UN peacekeeping operations in the Central African Republic (CAR), Democratic Republic of Congo (DRC) and Mali in 2013 were given peace enforcement mandates, ordering them to use all necessary measures to ‘neutralize’ and ‘disarm’ identified groups in the eastern DRC and to ‘stabilise’ CAR and northern Mali (Karlsrud, 2015). Moreover, a ‘robust turn’ of UN peace operations has provided increased authorization and willingness to use force in protection of civilians and implementation of peace stabilizations (Hunt, 2017).

Ferraro (2013) notes that the responsibilities and tasks assigned to multinational forces have also evolved to encompass a spectrum of operations including conflict prevention, peace-keeping, peace-making, peace-enforcement and peace-building. The multifaceted nature of these operations means multinational forces are more likely to use force and raises the question of when and how IHL will apply to their actions. He further adds that there have been numerous legal debates on their status, if they should be considered as parties to the conflict or mediators. Indeed, in the majority of situations, those international armed forces are deployed with the consent of the concerned States and are not authorized to use force outside self-defense. As such, they cannot be considered as parties to the conflict. The Rome Statute of the International Criminal Court has recognized the civilian status of these forces in certain situations, by envisaging that the deliberate attack on these personnel constitutes a war crime. Nonetheless, in cases where international forces are authorized to use force in an offensive way and to participate in actions of combat, they lose this civilian status. The conflict can then be considered internationalized, and those forces have to respect relevant provisions of international humanitarian law.

David and Engdahl (2013) maintains that if the Security Council gives the multinational peacekeeping force a coercive mandate, the military operations conducted by that force are a form of armed conflict governed by IHL, provided that they consist in open hostilities between the multinational peacekeeping force and government troops or armed groups that are sufficiently well organized to be termed a ‘party to the conflict’. Such a conflict can be classified as international in that it opposes clearly distinct legal personalities under international law.

For each contingent, humanitarian law applies according to the international obligations of each troop-contributing country. States that provide troops for such operations must ensure that their units are familiar with the humanitarian rules. APF Nepal conducts pre-deployment training for APF contingent going to be deployed in Peacekeeping Missions. IHL is part and parcel of the training. Norms and importance of IHL compliance in tactical operations is taught and practiced during the training.

Consequences of Non-compliance of IHL

There are many instances where derogation of IHL resulted into war Crimes and Criminal Responsibility. War crimes refer to any serious violations of IHL directed at civilians or enemy combatants during an international or internal armed conflict, for which the perpetrators may be held criminally liable on an individual basis. Notably, these include serious violations of Common Article 3, particularly murder, mutilation, cruel treatment and torture directed against people taking no active part in the hostilities. Grave Breaches regimes are set out in all four Geneva Conventions. Nations that ratify the Geneva Conventions must abide by certain humanitarian principles and impose legal sanctions against those who violate them (Henckaerts et al., 2005). The four Geneva Conventions of 1949 and Protocol I of 1977 each have a definition of what constitutes grave breaches. Article 50 of Geneva Convention I defined grave breaches as any of the acts, if committed against persons or property protected by the Convention: willful killing, torture or inhuman treatment, including biological experiments, willfully causing great suffering or serious injury to body or health, and extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and want only (American Red Cross, 2011).

A State is responsible for violations of international humanitarian law attributable to it, including violations committed by its organs, including its armed forces. Certain violations of international law are deemed to constitute “international crimes”, notably, crimes against humanity, war crimes, genocide, trafficking, piracy, slavery, torture and enforced disappearance (*Nepal Conflict Report*, 2012). The International Criminal Tribunal for the former Yugoslavia (ICTY), which was established by the United Nations Security Council in 1993 in light of the Balkan atrocities, would establish itself as the key institution to progressively determine the existence of customary international law relevant to Non-international armed conflict. The ICTY charged Slobodan Milosevic on the basis of individual criminal responsibility and superior criminal responsibility with 66 counts of indictment related to genocide, crimes against humanity, grave breaches of the Geneva Conventions, violations of the laws of customs of war (Kreß and Mégret 2014).

As *Command responsibility* (2016) puts, individual criminal responsibility for war crimes committed in international armed conflicts was the basis for prosecutions under the Charters of the International Military Tribunals at Nuremberg and at Tokyo, as it is under the Statute of the International Criminal Tribunal for the former Yugoslavia and the Statute of the International Criminal Court. Command responsibility assigns criminal responsibility to higher-ranking members of military for crimes of genocide, crimes against humanity and war crimes committed by their subordinates. The structure of command responsibility is rooted in IHL, which develops the duties of commanders to prevent, punish or report crimes committed during periods of war.

With respect to non-international armed conflicts, Henckaerts et al. (2005) writes that significant developments took place from the early 1990s onwards. Individual criminal responsibility for war crimes committed in non-international armed conflicts has been explicitly included in three recent international humanitarian law treaties, namely Amended Protocol II to the Convention on Certain

Conventional Weapons, the Statute of the International Criminal Court and the Second Protocol to The Hague Convention for the Protection of Cultural Property. The trials by the International Criminal Tribunals for the former Yugoslavia and for Rwanda of persons accused of war crimes committed in non-international armed conflicts confirm that persons are criminally responsible for those crimes.

“Command responsibility” is also known as the Yamashita standard or Medina standard (Normand, 2017). Command responsibility extends to violations of the law of war which result from a failure to act (*Customary IHL*, 2019). This means commander may be held liable for any act or crime committed during battle by subordinates. The “Yamashita standard” is based upon precedent set by the United States Supreme Court during the prosecution of Japanese General Tomoyuki Yamashita in 1945. Yamashita was charged with “unlawfully disregarding and failing to discharge his duty as a commander to control the acts of members of his command by permitting them to commit war crimes.” The “Medina standard” is based upon the 1971 prosecution of U.S. Army Captain Ernest Medina in connection with the My Lai Massacre during the Vietnam War. In its decision, the Court held that a commanding officer, being aware of a human rights violation or a war crime, will be held criminally liable when he does not take action (Normand, 2017).

There are also instances in Nepal’s context that, during a decade long insurgency, both insurgent and government armed forces have been alleged for violation of IHL and IHRL principles. In April 2017, after a 13-years the Kavrepalanchowk (Kavre) District Court convicted three soldiers involved in the murder of Maina Sunuwar (*Maina Sunuwar murder case*, 2017). On the basis of above cases, it becomes clear that no one is immune to breach of law. Any individual found guilty for violating IHL can be brought to trial even after many years of end of conflict. So, these trials send a strong signal that there are fewer safe havens for war criminals because of the universal jurisdiction. Owing to such criminal liability that one has to bear if found violated IHL, all APF personnel should be aware of the conduct of their behavior during conflict so that they respect the IHL during conflict and not have to face trial.

IHL Training in APF, Nepal

APF, Nepal has the mandates, along with multiple other mandates, to control an armed struggle occurred or likely to occur in any part of Nepal, to control arm rebellion or separatist activities or likely to occur in any part of Nepal, border security and to provide assistance in case of external intervention being under the Nepali Army (Armed Police Act, 2001). These mandates explicitly relate APF with both international and non-international armed conflict as specified in the IHL. Hence, it is important for APF, Nepal to have knowledge of IHL to respect the provisions and principles of IHL in times of involvement in armed conflict of both international and non-international character.

The duty of States to provide instruction in IHL to their armed forces is found in Articles 47/48/127/144, respectively, of the four Geneva Conventions, and in Article 83 of Protocol I additional to the four Geneva Conventions. This treaty obligation is applicable both in peacetime and in times of international armed conflict. Specific to non-international armed conflicts, Additional Protocol II requires, in Article 19, that the Protocol “shall be disseminated as widely as possible”

(Henckaerts et al., 2005). States party to the Geneva Conventions “undertake to respect and to ensure respect for the Conventions in all circumstances”. This general commitment translates into several concrete responsibilities including State’s obligation to disseminate the text of humanitarian law conventions widely among their armed forces and civilians (*The Practical Guide*, 2019).

In addition, it is also the obligation of commanders to ensure that members of the armed forces under their command are aware of their obligations under international humanitarian law. This provision seems to be based on the reasoning that the most effective way to ensure compliance with the States’ obligation to instruct their armed forces is by making commanders responsible for the instruction of the armed forces under their command. Canada’s Commission of Inquiry into the serious violations of IHL by Canadian peacekeeping troops in Somalia blamed a number of officers for the violations committed by their subordinates because they had not adequately trained the latter in their legal obligations (Henckaerts et al., 2005).

Besides having IHL incorporated into regular training syllabus, APF, Nepal, also conducts IHL specific training to its personnel. The trainings include both Training for Trainer (TOT) and orientation in unit levels on a regular basis. Further, ICRC also provides APF, Nepal with important training of TOT on IHL on a timely basis. Such training has been much helpful in producing trainers who become important resource person for IHL training in the regular professional trainings to APF personnel. For the APF personnel to be deployed in UN missions in conflict torn country, APF, Nepal has specialized unit UN Peacekeeping Training Center at Kakani, Nuwakot. The training syllabus includes the lessons on IHL to educate the troops going to missions. It is also an essential part in UN specific operational and tactical exercises.

Conclusion

The Geneva Conventions and their Additional Protocols are the core documents of international humanitarian law. It is the body of international law that regulates the conduct of armed conflict and seeks to limit its effects. They specifically protect people who are not taking part in the hostilities such as civilians, health workers and aid workers and those who are no longer participating in the hostilities, such as wounded, sick and shipwrecked soldiers and prisoners of war. The Conventions and their Protocols call for measures to be taken to prevent or put an end to all breaches of IHL.

The fundamental principles of IHL - humanity, proportionality, distinction, and military necessity should be kept in mind and respected both in non-international armed conflicts and in international armed conflicts. Moreover, the multifaceted nature of peace operations and the increasingly violent environments in which the peacekeepers operate increase the likelihood of their being called upon to use force. By the nature and mandate of APF, Nepal, it can become directly involved in both international and non-international armed conflicts. Since Nepal has ratified the Geneva Convention of 1949, it is the obligation that during peace or armed conflict, to ensure respect for the Conventions and to make sure the law is widely known and understood by all including armed forces. It thus becomes all the more important to understand when and how IHL applies to their action and the legal consequences for the violations of IHL which can lead to individual criminal responsibility and command responsibility. The focus of APF, Nepal on the IHL specific training should be maintained

and further augmented to have broad knowledge on the topic. To ensure the understanding and compliance to IHL, it is all the more important that IHL is incorporated in all level of training manuals of APF, Nepal.

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