

## **From the Corner: Conflict, Woes and Call for Expanding IHL (Story about Victims in Unregulated and Overlooked Conflicts)**

**By**

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### **Abstract**

The emergence of IHL and the efforts of humanitarian agencies like ICRC to strengthen the same are highly appreciative. For not only it attempts to protect and help victims of armed conflicts but its success for telling the warring groups that innocent people suffer burns of your politics. Nonetheless, this paper argues, the contemporary wars are no more 'world'. Unlike the world wars on which backdrop the IHL emerged, the existing wars are covered as these are localized under the name 'ethnic conflicts'. The burns of the victims, however, remain the same as these are unregulated, often overlooked violence which side lined humanitarian norms. The hard fact is that there is hardly any country in the world without ethnic conflict though the patterns of conflict differ. By narrating the story of victims of a specific ethnic conflict in Dima Hasao district in India's Northeast, the paper claims that when it comes to such politically motivated conflicts, IHL as it exists today, can do little and thus, victims hardly get any respite from it. In such contexts, neutral humanitarian organizations should be given more freedom on the one hand to expand their boundaries and on the other to meaningfully carry the ideals of IHL forward.

**Keywords:** conflict, Wounds, IHL, Humanitarian, ICRC.

### **1. Introduction**

Though most of the states, and the political class within, seem to espouse the idea of peaceful coexistence and settlement of disagreements peacefully through negotiations, the fact remains that contemporary state politics is marked by violent conflicts. Forms and patterns of conflicts may be varied but there is hardly any state in the world which does not face issues of conflict. During the cold war years the world vehemently focused on rivalry between ideologically constructed groups of states, and even prior to that was the conflicts between states that hoodwinked the nerves of most of the states in nearly all of the continents. Recent state politics, however, is marked by intra-state conflicts many of which ignited civil wars. Though these conflicts may see different outcomes, there is a common feature of all these conflicts and that is the civilians turn out to be the most vulnerable victims. According to World Military and Social Expenditures 1996, civilians represented about 50 per cent of war-related deaths in the first half of the twentieth century. In the 1960s civilians accounted for 63 per cent of recorded war deaths, in the 1980s 74 per cent, and in the 1990s the figure appears to have risen further.

Conflicts often destroy many important public spaces such as schools, hospitals and places of worship besides destroying crops, food, water, shelter, healthcare and other artefacts. In simple terms, in conflict nothing is spared and humanitarian norms are pushed aside. Thus, societies ravaged by conflicts have paid a massive toll in loss of human life and

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economic, political and social disintegration, creating a fearsome humanitarian crisis. Women and children, in particular, suffer unspeakable atrocities in armed conflicts. This is true as in all forms of emergencies they become the most vulnerable population. Deaths associated with pregnancy, reproductive health, sexual violence and sexual exploitation have been parts of such emergencies. The risk of female health and safety is heightened and it makes them vulnerable to disease, violence and death. It is well known that humanitarian crisis is a huge challenge.

It is here the emergence of International Humanitarian Law (hereafter IHL) and the efforts of humanitarian agencies like International Committee of the Red Cross (hereafter ICRC) to strengthen the same are highly appreciative. However, still humanitarian challenges persist. It is highlighted in the story from the Dima Hasao. The story of the Dima Hasao is important for many reasons. First, during my research on the impacts of ethnic conflict on marginalized communities it comes to light that such unregulated and overlooked conflicts may become vehemently brute and disastrous for civilians and innocence. Second, it illustrates that the isolated incidents which are not covered under the jurisdiction of IHL can many a times produce humanitarian calamities. Third, it highlights the necessity to allow neutral agencies to expand its boundary of humanitarian targets if not reconsidering the expansion of IHL itself.

## **2. International Humanitarian Law (IHL): The Ideals and Principles**

For putting the paper in proper perspective let me start with some understandings of what is IHL. Violent conflicts and wars had always been parts of human history and political expansions. As such mass casualties continued to be a part of political trajectory of development and expansion. In fact, what is loosely considered as 'human development' and 'political successes rested on human casualties. Therefore, there are some ethics and Morals that are expected from groups involve in violent conflicts and wars which often withstand mass casualty. Humanitarian casualties during wars and violent conflicts were so grave that it not only uncertain the lives of the members of the groups involved in the war but even threatens the very existence of humanity by its carnage of innocence. That is why such morals and ethics continued to be essential.

In fact, what is now known as IHL is formal name given to these morals and ethics. In this sense IHL is a hope of life and it insists on politics with minimum (or without) carnage of innocence. Therefore, it is defined as a set of rules which seek, for humanitarian reasons, to limit the effects of armed conflict. Among others, it seeks to protect persons who are not or are no longer participating in the hostilities and restricts the means and methods of warfare.

The universal codification of international humanitarian law began in the nineteenth century. And because of bitter experience of modern warfare States have agreed to consider it as legally binding. It is in this context that Geneva Conventions are important as a major part of international humanitarian law is contained in the four Geneva Conventions of 1949. 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. As per the Convention and the additional Protocols principles have been set to limit the effects of armed conflicts of both kinds: international as well as non-international.

Amongst others these principles include protection of civilians, medical and religious

military personnel who are not part of conflicting armed groups; protection of those who have ceased to take part, such as wounded, shipwrecked and sick combatants, and prisoners of war; forbidden to kill or wound an enemy who surrenders or is unable to fight; the sick and wounded must be collected and cared for by the party in whose power they find themselves. There are also detailed rules governing the conditions of detention for prisoners of war and the way in which civilians are to be treated when under the authority of an enemy power. This includes the provision of food, shelter and medical care, and the right to exchange messages with their families. Principles such as Principle of Distinction, principle of proportionality or the principle of precaution are important towards regulating the general conduct of hostilities.

The IHL sets out a number of clearly recognizable symbols which can be used to identify protected people, places and objects. The main emblems are the Red Cross, the Red Crescent and the symbols identifying cultural property and civil defence facilities. International humanitarian law prohibits all means and methods of warfare which: fail to discriminate between those taking part in the fighting and those, such as civilians, who are not, the purpose being to protect the civilian population, individual civilians and civilian property; cause superfluous injury or unnecessary suffering; cause severe or long-term damage to the environment. Humanitarian law has therefore banned the use of many weapons, including exploding bullets, chemical and biological weapons, blinding laser weapons and anti-personnel mines.

### **3. Enforcement of IHL and the International Neutral Agencies**

These principles, however they are good, if not implemented will not have any outcome. Wars are barely fought for morality lessons. Political aspirations are often the drive for wars. Politics often sidestep morality and law and thus laws and wars do not go hand in hand. Therefore, war casualties are often large and include non-combating individuals including civilians, medical personnel. Even ICRC reports suggest that there are countless examples of violation of international humanitarian law. Increasingly, the victims of war are civilians. It is said that implementation of IHL is primarily the responsibility of the States. They must respect and ensure respect for these rules in all circumstances. Further, ICC (International Criminal Court) is empowered to prosecute serious crimes including war crimes. United Nations Security Council has created international tribunals to punish acts committed in two recent conflicts (the former Yugoslavia and Rwanda). More importantly, the States must also pass laws protecting the Red Cross and Red Crescent emblems.

It is in this context the importance of neutral agencies which step up during the wars to protect these non-combating individuals lies. Certainly, the development of IHL has benefited the humanity as there are important cases where international humanitarian law has made a difference in protecting civilians, prisoners, the sick and the wounded, and in restricting the use of barbaric weapons. However, the successful protection of non-combating individuals and innocence will certainly require the efforts of these neutral agencies. The Geneva Conventions which were adopted before 1949 were concerned with combatants only, not with civilians. Some provisions concerning the protection of populations against the consequences of war and their protection in occupied territories are contained in the Regulations concerning the laws and customs of war on land, annexed to the Hague Conventions of 1899 and 1907. Because of the bad experiences of the World War I, the International Conferences of the Red Cross of the 1920's took the first steps towards laying down supplementary rules for the protection of civilians in time of war.

Given that this body of law applies during times of extreme violence, implementing the law will always be a matter of great difficulty. That said, striving for effective compliance remains as urgent as ever. Since in conflict situations the parties often side-line humanitarian norms (it is also not practical to expect humanitarianism in most cases in spite of IHL), the disasters of humanitarian emergencies are inevitable. Therefore, besides insistence on the observation of IHL strictly, humanitarian works and aids from various agencies during and after conflicts should be the main focus of any recovery and reconstruction projects. It is to be highlighted here, however, that the success of humanitarian responses will not come easily. There are many reasons for this. Many have talked about un-conducive working condition of the aid providing agents, irrational restrictions imposed by the donors, overt politicisation of aid in which agencies themselves use relief as a tool to achieve wider political goals, etc.

There are other potential factors too. Two of such factors may be highlighted here briefly. Lack of coordination and communication between aid providing agent/s and the local authority of the state often hijack such responses. Again, State is often party to the conflict or become so cautiously neutral that when humanitarian aid is provided by the state itself, it is either not sincerely undertaken or almost impossible on the part of the victims to accept such aid due to mistrust. Therefore, the success of the response will also base not only on proper coordination between the donor, the agency/ies and local authority (which I call aid institutions) but also humanitarianism on the part of these institutions.

#### **4. New Forms of Conflicts and Human Woes**

Yes the emergence of International Humanitarian Law has made a difference in protecting civilians, prisoners, the sick and the wounded, and in restricting the use of barbaric weapons. Further, neutral international agencies such as ICRC have contributed a lot towards this. There are, however, various issues, other than just mentioned which are widely known issues that need serious attention. It does not mean that the just mentioned issues are trivial. Rather it means these are issues mostly known to many.

First issue is about the forms of present day conflicts. As briefly highlighted in the introductory note all the armed conflicts are not open and known to all. It is also not only 'inter-national' in the sense that all conflicts are not between two recognised countries. These forms of conflicts (between countries) are easily seen through various forms of mass media. So far regulation or so called laws of war concern these forms of violence. Similarly, International humanitarian law applies only to such armed conflicts; it does not cover internal tensions or disturbances such as isolated acts of violence. Even if the term 'armed conflict' is loosely used to include violence that resulted to large scale humanitarian crisis, application of it is limited to widely visible conflicts.

There are conflicts within states which are not overtly visible. Most of the so called nation-states have these conflicts. In political and sociological studies such forms of conflict have become an important feature of analysis. Sometimes labelled as ethnic conflict, such intra-state conflict is prevalent in most of the countries in the world. Africa is known as continent of ethnic conflict and produces a number of civil wars. In the Arab world, religious rivalries have often challenged the state system. This has also been the case in the former Yugoslavia, a region renowned for its rich multi-ethnic heritage.

#### **5. Story from the Corners**

Plethora of such ethnic conflicts and incompatibilities between groups make North-Eastern India known to the world as naturally carved beautiful landscape but ill-sorted region. As expressed by the existing state of incompatibilities and hostile meetings between opposing armed forces, if there is truly any region that can be considered a zone of ethnic conflicts in the country it will very rightly be the North-Eastern States. Conflicts and disputes between ethnically charged groups across the region creating insecurity and uncertainty about peace and prosperity have been regular feature of the socio-political dynamics of many states. Till date there is a popular perception about the North-Eastern India as a security nightmare plagued with insurgency. Over the years the nature and dimensions of conflicts have changed and became quite complex. The way different groups and the state are entangled in state of opposition makes the whole conflict situation more complex in recent years.

There are claims and counter claims against and from different groups, which are more or less armed with sophisticated weapons. Involvement of the state in the conflict both as a party and an adjudicator makes the intra-state conflict more multi-faceted and complicated. We have seen the conflict over the whole region, namely, between the Naga and Kuki and Meetei in Manipur, and the Mizo and Riang in Mizoram, between the Arunachali and Chakma in Arunachal Pradesh, to name a few. Insurgency, which can be taken as extreme form of political upsurge, has rocked almost all the states in the North-Eastern Region at one time or other.

Amongst others three widely known ethnic calamities may be mentioned here. In July 2012, sectarian violence occurred between Bodos and Muslims in two districts viz. Kokrajhar and Chirang within Bodo Territorial Council, a territorial privilege established according to the Memorandum of Settlement signed on February 10, 2003. In the violence many people were killed and left at least 3.5 lakh people displaced. Not more than four years back the same territorial council had seen ethnic violence in 2008 in which over a lakh people were displaced and many killed. The violence, says a report, was systematic and well-organised. There was also retaliatory violence against Bodos too. In 2014, between May 1 and May 3, the same areas saw unprincipled killing of innocence. A report said “this year (2014), nearly 50 unarmed Muslims were shot dead in three separate incidents in the Bodo Territorial Administered Districts. These killings, according to the report, were retaliations by Bodo militants because a host of non-Bodo communities, including Muslims, had collectively put up an election candidate from the United Liberation Front of Assam to contest for the Kokrajhar Lok Sabha election seat against Bodo candidates. Since Bodos form just 33% of the population in the four Bodo-administered districts, it was clear that the ULFA candidate was likely to win in the national election”.

From 1993 onwards for nearly half a decade Manipur kept witnessing series ruthless ethnic violence. Conflict between Nagas and Kukis then Kukis and Paites who were earlier consider as a clan of Kukis. The worse part of these conflicts is the burning of thousands of houses by both armed groups. This left many people death and many homeless.

## **6. Wounds without Humanitarian Touch: Story from Dima Hasao**

When conflicts occur it is not only difficult to find the cause of it but almost impossible to judge who is right. It is also not necessary to look for answers of these questions too for conflicts happen at different political level beyond common man's imagination. But behold who is crying on the field? Common man's worry is not just limited to death. It also is about

dying in life. Memories of violence are so fierce that memories itself became another cause of violence.

Dima Hasao is another small hill district of Assam which often succumbs to violent conflicts between Hmars and Dimasas. The conflict, sometimes given the name ethnic cleansing operations, has been there since late 80s. The most violent conflict in the area was occurred in 2003 resulting to many losses. Just to highlight the quantum of the loss it may be mentioned here some of the villages which were deserted during the conflict and not yet settled. These are Tlansang, Mahur Kanaan, Aovaphai, Muolsang, Fiangpui, Jordon Veng, Upper Hmartlangmawi, lower Hmartlangmawi, Simtuikuong, Mission Veng, and Harangajao. Further, some of the physical losses during the conflict (2003) may be given in the table below:

**Table 1.**

Sl. No.	Physical Assets	Affected Number
1.	Number of houses burned	709
2.	Number of houses evacuated	933
3.	Number of villages affected	47
4	Number of villages deserted	21
5	Loss of Human lives	50
6	Other losses:	
	a) Churches	22
	b) Pastor quarter	7
	c) School buildings	16
	d) Shops and granaries	115

The conflicts often threaten the very foundation of society. In 2005 the same district witnessed violent conflicts between communities namely Karbis and Dimasa. During the conflict many innocent lives were lost. As per our interactions with individuals from both the groups during the field work more than 100 persons were killed and many left wounded and homeless. 2009 again brought another violent conflict, this time between Dimasa and the Nagas in which around 40 Jeme Nagas and 26 Dimasas lost their lives. It was told that more than 500 houses were burnt.

Apart from the consequences the worse part of the conflicts is the way it is started. Because of the existing dynamics of ethnic relationship it can start any movement on small what is IHL considered as “isolated incidents” not come within its scope. Take the case of 2005 conflict between Karbi and Dimasas for instance. Initially tensions were built up in

Karbi Anglong, a different district when on September 26 three Dimasa auto-rickshaw drivers were killed by unidentified persons. In retaliatory attacks both the communities lost lives. Eventually, actual scene of the violence was fallen out in Dima Hasao. During the conflict the victims include 22 innocent passengers of a bus who were hacked to death by an armed group. The physical consequences or humanitarian emergencies during the conflict mentioned here is just a small part of the whole tragedy just showcase how lives are disturbed in such cases.

But it is also important to mention here the humanitarian crisis after the conflicts. Makeshift houses and very limited relief centre provide shelter to the victims who survive the violence but without enough food and other necessities. More than anything else immediate feeling of insecurity and lack of confidence amongst the victims are very high. Women, children, old and disabled individuals are extremely susceptible to these conditions. This along with issues of displacement has impending consequences. Filmy scenes such as division of family members while fleeing from state of violence and young ones are left on their own without any support is quite common in such situations.

## **7. Need of the Hour**

Such woes face by innocence and common people are immeasurable. In such conflicts, principle of IHL such as Principle of Distinction, principle of proportionality or the principle of precaution are not known, nor ICC like bodies nor tribunals that can prosecute most serious crimes of international concern are in place. These wounds are often concealed beyond any visibility and therefore the victims hardly get any assistance to rebuild the loss. Such conflicts are often brushed aside as internal disturbances or tensions and therefore, international neutral agencies are also 'visibly' silent.

Essentially, the neutral agencies works in terms of International humanitarian law to protect the victims of what is limitedly defined as 'armed conflict'. The principles on which they work is well conceived. The law applies once a conflict has begun, and then equally to all sides regardless of who started the fighting. It calls for adequate relief and humanitarian aid. But the tragedy is many of the internal disturbances do not come under International humanitarian law. As international law applies to external relationship between states, it is therefore, not expected to impose on internal affairs of the states. However, violence from such internal disturbances equally gives hardships to innocence.

Therefore, if one is serious about the innocence, it is time to think about discussing (or re-discussing) on two questions. First, it is not possible to enlarge the scope of IHL in order to apply it to internal tensions involving armed violence. From the political standpoint and considering the way modern nation-states are conceived and defined, application of any such international law to internal issues would be taken as a challenge to its sovereignty. Even there are cases in which universal human right norms are often challenged. The Red Cross had long back called not only for extension of legal protection in turn to prisoners of war and civilians but for the idea of applying the principle to 'all' cases of armed conflict, including Internal ones.

Second issue seems sound more practical. It is about empowering and expanding limits of neutral agencies that are committed to humanitarian causes. It is not a new proposal at all. In all armed conflict situations (and even the emergence of what is known as humanitarian law) the role played by the Red Cross is humongous. The Red Cross is to aid the victims of internal conflicts. However, it is said "the difficulties which the Red Cross encountered in its

efforts in this connection -- as always when endeavouring to go a step beyond the text of the Conventions -- were enhanced in this case by special obstacles arising out of the home policies of the States in which the conflicts raged. In a civil war the lawful Government, or that which so styles itself, tends to regard its adversaries as common criminals. This attitude has sometimes led governmental authorities to look upon relief given by the Red Cross to war victims on the other side as indirect aid to guilty parties. Applications by a foreign Red Cross Society or by the International Committee of the Red Cross for permission to engage in relief work have more than once been treated as unfriendly attempts to interfere in the domestic affairs of the country concerned”.

The Red Cross at appropriate platforms had discussed this issue time and again. It somehow could manage to pass resolution to issues of the internal disturbances into the fall IHL. However, as highlighted in the story from the corner, there are still challenged towards fulfilling the goal of Red Cross. It is time that the states should take it seriously and enable the Red Cross to work towards providing not only immediate humanitarian relief but be partnered to rebuilding the confidence of the victims aftermath the conflicts. As ethnic conflicts happened in many remote areas due to lack of education and employment amongst other reasons, international neutral agencies should also be permitted to initiate education on humanitarian crises in potential tension areas across states.

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