Chapter 24

Women, Armed Conflicts, and Violence: An IHL and Indian Legal Perspective

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ABSTRACT

Women, peace, and conflict have remained in focus ever since the end of the Holocaust days. UN Platform for Action 1995 recognized that women are specifically affected by armed conflict because of their unequal status in society and their sex. When the intent is to destroy a culture, women are selectively targeted to symbolize superiority, and induce humiliation in defeated men. Apart from the gender specific effects on women, armed conflicts impose severe strain on economy. It is evident that protecting women during conflict situations therefore makes sound economic sense, apart from the humanitarian obligation that it invites. In this backdrop, this chapter examines the provisions of international humanitarian law and India’s domestic legal instruments from the point of view of their brief contents and intents. It sums up the examination of legal framework by advocating social awareness and societal subscription to practice what is preached.

INTRODUCTION

In various cultures across the world, particularly in Asia, the feminine form has been revered and worshipped as the bearer and giver of life. Across the world, the word ‘mother’ carries special meaning signifying the uniform reverence attached to the feminine form across cultures and societies. In the Indian context, as the legend goes, even the Lord Almighty (Shiva) is said to have shared half his body (‘Ardanareeshwar’, literally meaning half man and half women) signifying the indivisibility of woman’s place in man’s life and the equality to which she is, therefore, entitled.

And yet no other class of people have been put to more suffering than the feminine, be it in any kind of conflict situation-at home, in the work place, in peace or during war. If the aspirations of mankind rest on the three pillars of liberty, equality and fraternity, it is but natural that as co-partners in the journey...
of mankind, woman are entitled to at least an equal share of the liberties that man aspires for himself. While that is the desirable goal, the wars and conflict situations in the world ominously signify a story that is different. It is estimated that over 60% of victims of conflict are women. Over 80% of refugees and IDPs due to conflict situations are women and children, as per a study conducted by the ICRC (ICRC).

In situations of conflict, women face threats that are multifarious and more specifically gender-centric (UN, 1995). In its study on ‘Women Facing War’ published in 2001, ICRC found that women’s experience of armed conflict is multifaceted: It means separation, loss of relatives, physical and economic insecurity, an increased risk of sexual violence, wounding, detention, deprivation and even, death (ICRC). A study of these effects on women brings out a striking oddity – women suffer in peculiar ways that apply only to women.

The world today experiences violence in ways that were unknown to mankind historically, not to say that the wars and conflicts of yester centuries brought lesser calamities on humankind. Conventional wars have become passé (Harkavy & Neuman, 2001) and nation states are found indulging in mercenary and indirect conflicts that neither conforms to laws of war nor to the call of conscience. Proportionate to unrestricted methods and means of such conflicts, the sufferings of the victims of these conflict situations have only aggravated. There have not been many studies on the economic effect of violence against women. Studies by Greaves et al. (1995) indicate that a strong framework of laws is necessary to prevent gender specific violence as well as protect negative economic impact as a consequence of such conflicts. This paper in three parts, examines the effects of conflicts on women and international and national legal instruments that are available for protection of women. Part I looks into the effect of conflicts on women, Part II details the provisions of International Humanitarian Law that are specific to the protection of women during conflicts and Part III contains the Indian domestic law that are relevant to the subject, before outlining some suggestions.

**PART I: EFFECTS OF CONFLICTS ON WOMEN**

Till the Great War, hardly a thought was spared on the actual impact of the means and methods on non-warring populations. Though such thought process commenced earlier in 1864 and resulted in the Hague Conventions 1949 (Gasser, 1998), violence perpetrated on the populations by warring factions remained out of the focus of universal consensus. Despite the Geneva Law that brought this issue into center stage under the Fourth Convention, there again remained a vast gap between the law and its practice (Balachandran & Varghese, 1999). In the process, violence against specific groups, particularly women came to be viewed as an inevitable, though regrettable, consequence of war (Stark, Warner, Lehmann, Boothby, & Ager, 2013). Such an attitude also encouraged perpetrators of violence and compounded the sufferings of women. However, with the establishment of International Criminal Tribunals Yugoslavia, Rwanda, South Sudan, Cote d’Ivoire and Sierra Leone and the provisions of International Criminal Code that attributed the crime of sexual violence against women as an instrument of genocide, a form of torture and as a crime against humanity, these notions are changing (Krill, 2001; Koenig, Lincoln, & Groth, 2011). Be that as it may, in order to understand the actual impact of conflicts on women an appreciation of the kind and extent of violence on women is necessary.
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