UNIT 17 WHAT IS THE ROLE OF INTERNATIONAL COMMITTEE OF THE RED CROSS (ICRC)?

Structure

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17.1 INTRODUCTION

International Humanitarian Law comprises of a fairly significant number of international instruments. One of the greatest challenges for humanitarian law today is ensuring compliance with its rules and principles.

If we look humanitarian rules in matter of practice, the law itself is not well developed with respect to the promotion of compliance as it is with respect to the prescription of rules for the protection of war victims. Only the thing is the willingness of the ratified parties is required to implement the regulations of humanitarian laws.

As we know the close-knit association between the ICRC and IHL right from the very establishment of the ICRC. Thus, promotion of international humanitarian law, the very source of its mandate, befalls on the ICRC.

17.2 OBJECTIVES

After reading this unit, you should be able to:

- discuss the role of ICRC in promoting the ratification of IHL treaties;
- describe the contribution of ICRC in the dissemination of IHL in civil society and armed forces; and
- evaluate the role of ICRC in promoting the national implementation of IHL treaties.
17.4 PROMOTING RATIFICATION OF INSTRUMENTS

In south Asian region, the ICRC has been facilitating implementation, ratification, and dissemination of international humanitarian law instruments.

Generally, these activities are conducted under the auspices of the ICRC’s Advisory service on International Humanitarian Law. The advisory service, which has been integrated into the overall structure of the ICRC, both at the head quarters and in the field, became fully operational in 1996.

The purpose is to assist civilian and military authorities in the implementation of humanitarian law and to promote universal acceptance of humanitarian law instruments.

The service provides technical assistance, i.e. Translating the Geneva Conventions and their Protocols into national languages, incorporating international humanitarian law into national law, enacting legislation to ensure that war crimes are prosecuted and punished and establishing national information bureaux.

The provisions of international instrument are taken seriously, give due respect, and they form the basis for subsequent legal developments as well. Those provisions may also gain the status of customary international law, and undoubtedly Geneva Convention fall into this category only.

As we know attaining universal acceptance is a long and steady process, and also possible to facilitate universalization of an international instrument.

The ICRC has taken up the task of facilitating universalization of IHL instruments since this will undoubtedly expand the safety net of humanitarian law so that there is greater and better protection to victims of wars and armed conflicts.

The ICRC considers it important to involve the civil society in the process of facilitating ratification of international humanitarian law instruments. A number of such activities were organized by the ICRC in various countries of south Asia on issues like the additional protocols of 1977, the hague convention on cultural property of 1954, anti-personnel landmines and international criminal court. Such events are usually organized by the ICRC in close collaboration with national red cross and red crescent societies or academic institutions.

When issues concerning ratification of or accession to humanitarian law instruments are taken up by the advisory service with governmental authorities, the latter’s responses very among the positions, like, that the government has considered the instrument but is reluctant to become a state party— at least for the time being—in view of certain provisions of the instrument which are not acceptable for certain specific reasons.

Another response, like, the government has not considered the instrument but will look into it and come up with a decision whether or not to become a state party.

The main function of ICRC in this is to provide services. A number of states in the south Asian region have become states party to certain international humanitarian law instruments and some ratifications are on the way.

17.4 NATIONAL IMPLEMENTATION OF IHL

Obviously, one of the major responsibilities entrusted to the Advisory Service is to ensure appropriate national implementation of international humanitarian law instruments by the states party.
There are various instruments envisage different types of measures which states party are obliged to adopt to fulfil obligations under them.

For example, to adopt legislation to punish grave breaches of the Geneva Conventions and Additional protocol I of 1977; this is obvious that those where it is applicable. Another obligation we can say, to protect the proper use of the Red Cross and Red Crescent emblems; to define and guarantee the status of protected persons, to ensure fundamental guarantees of humane treatment and due legal process in times of armed conflict, to disseminate humanitarian law as widely as possible, to train and appoint personnel qualified in humanitarian law including legal advisers within the armed forces and to ensure that protected sites are properly situated and marked.

The ICRC also has been discussing issues concerning national implementation with the authorities of various states in the South Asian region.

The ICRC deems it expedient to study the existing national legislation of a given country to find out to what extent existing international humanitarian law obligations have already been implemented through national legislation, what legal mechanisms are followed to incorporate international legal obligations in the domestic legal system, and whether the measures adopted so far are adequate or not.

Such national study enables the ICRC to decide upon a plan of action.

The another usual modalities of dealing with these issues may be, where national legislation to make grave breaches and other violations of the Geneva Conventions and Additional Protocols has not been adopted, the ICRC requests the authorities to take steps in that direction.

Now, upon request, the ICRC, also provides draft model legislation, copies of other countries’ legislations, literature on international humanitarian law instruments, etc.

The role of Advisory Service also provides support to states in the process of adoption of national legislations under other humanitarian law treaties, such as the Ottawa Treaty banning anti-personnel landmines.

Now, another step that ICRC is initiating is to organize events on concerning national implementation. Very often these are discussed by organizing a round-table of representatives of different ministers and governmental departments associated with international humanitarian law issues.

Obvious, the main objective is that, it may useful for both the authorities as well as to the ICRC.

Self Assessment Question

1) What is the role of ICRC, to implement humanitarian law in the State?

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17.5 ROLE OF NATIONAL COMMITTEES OR WORKING GROUPS ON IHL

Now, we discuss the role of very different committees or any working groups in implementation of IHL in the state.

The main role of those working groups or other committees is to implementation, dissemination, and promoting ratification of international humanitarian law instruments. Generally, it is an ongoing process for them. It encompasses a wide range of efforts, which involves many very different fields of government activities and numerous sectors of public life.

There is no doubt, that to complete this job, it requires the coordination and cooperation of various ministries, government administrative departments, state bodies, public service establishments, and other national institutions.

Now, some states have set up special bodies such as national committees, or inter-ministerial working groups on international humanitarian law. Their functions are specifically defined in terms of promoting humanitarian law. Generally, their objective is to advise and assist governments on matters pertaining to participation in the humanitarian treaties, adoption of measures for their implementation, and dissemination of their provisions.

There is no doubt that there is no legal obligation to set up such bodies, their creation has been recognized as an important step towards the effective application of humanitarian law.

There is no doubt that since beginning, there has been an effort in the sphere of implementation of IHL in the nation.

We can say toward the South Asian countries that, some positive developments are taking place. i.e Sri Lanka established national humanitarian law committee in March 2000. The main task was of the Ministry of Foreign Affairs behind this set up.

The ICRC has also discussed the possibility of establishing such bodies in Bangladesh, India and Nepal too.

The ICRC has strongly encouraged the establishment of committees, or other bodies as internal mechanisms to ensure the effective implementation of humanitarian law.

We will discuss the role of the other organizations to implement IHL in the next Unit, where we discuss in detail.

Self Assessment Question

2) What is the role of ICRC to establish committees or working groups in the state?


17.6 DISSEMINATION OF IHL IN CIVIL SOCIETY

As soon the state ratified the four Geneva Conventions 1949, it is an obligation to the
State party to disseminate the content of their humanitarian treaties as widely as possible in their state or country.

The emphasized, obvious, is on military. Military instruction is indispensable to ensure their implementation in times of armed conflict. No doubt, it is equally important to promote knowledge of humanitarian law among those whom it is intended to protect the civil population as well as among those who have to apply it, such as the public officials of various ministries.

When we say about civil society, political leaders, and decision makers must also be familiar with that law, so that they are aware of its relevance, realism, and mode of operation if and when a conflict should break out.

Education and IHL

As we all know, that higher education in most of the South Asian countries is based on the British system. The students can join the professional courses, generally, after passing the standard twelfth. The important thing in the SAC is that educational planners have by and large agreed to include international humanitarian law in Law and Political Science and in Law. Most of the Indian universities have included international humanitarian law components in their undergraduate LL.B. programme, postgraduate courses, and postgraduate diploma as well as Masters’ course in human rights.

About thirty universities offer postgraduate courses in international law.

State of Pakistan and IHL

International humanitarian law is taught primarily within law faculties and departments of international relations. The University Grants Commission of Pakistan has shown interest in the inclusion of international humanitarian law modules in undergraduate professional law courses.

State of Sri Lanka and IHL

The University of Colombo offers a full postgraduate course in international humanitarian law for law graduates. In addition, the undergraduate international law course contains a brief module on international humanitarian law.

The ICRC and its endeavour in implementation of IHL

As we know, ICRC is organising regularly South Asian Teaching Session on international humanitarian law for post-graduate students, and young university lecturers.

ICRC is fully supporting in research and publication field.

ICRC publishes journals on international humanitarian law in collaboration with Indian Society on International Humanitarian Law.

Regularly, ICRC is organising academic events on international humanitarian law, such as the ICC, Anti-personnel Landmines, etc.

Internships etc. by ICRC

ICRC accepts the students for internships. The ICRC established a documentation centre in its premises, supports libraries of academic institutions by providing publications on international humanitarian law, holds moot court and essay-writing competitions, and arranges other promotional events too.
ICRC, regularly organizes training programmes in international humanitarian law for academic staff training law, international relations, human rights, etc.

Self Assessment Question

3) Discuss the role of ICRC in promoting IHL in academic institutions in South Asia.

17.7 DISSEMINATION OF IHL TO ARM AND SECURITY FORCES

As we know, it is essential that international humanitarian law should be known by those who will be called upon to apply it, ie. Combatants

By virtue of being a party, the obligations are fulfilled by putting them in practice. Training members of armed forces in humanitarian law in peacetime is absolutely indispensable to ensure that as and when they are involved in an armed conflict they already know what humanitarian law norms they are expected to respect.

It is equally important to impress upon them that they shall be held accountable individually in case of failure to adhere to humanitarian law norms.

By virtue of provisions in GC and AP, it is the responsibility of states parties to include the study thereof in their programme of military institution.

It is obvious that the international community has entrusted a responsibility to the ICRC to help the states parties in fulfilling this obligation under humanitarian law.

Since 1995, the ICRC dissemination activities for armed and security forces in south asia is recognized. After having established formal contacts with institutions imparting military training in the region, the ICRC embarked upon a programme of dissemination and training for armed, paramilitary, and police forces.

The ICRC has already been assisting the authorities in developing and producing training syllabi for the various levels of military instruction. This is also complemented by production of audio-visual and written material on humanitarian law especially designed for use in military instruction.

ICRC in Internal Armed Conflict

In an internal armed conflict or strife this means addressing the rebel groups which are fighting with the government forces. They must also know what restraints they ought to follow in the curse of their fight against the state. For example, in Sri Lanka, the ICRC has been regularly conducting training in humanitarian law for various cadres of the liberation tigers of Tamil Eelam. The ICRC is convinced that the programme of dissemination and training in humanitarian law for members of armed, paramilitary, and police as well as the non-state actors is bound to enhance greater respect for humanitarian law on the part of combatants and authorities.

Finally, we can say, promoting IHL is an arduous task. An organization like the ICRC
can only facilitate this process, that too if the authorities of the states concerned are wholeheartedly willing to act in a spirit of cooperation with the ICRC. The ICRC has, in accordance with the mandate entrusted to it by the international community, taken a number of steps to facilitate this process on different fronts and at different levels in South Asia. Dissemination of humanitarian law in civil society, to political authorities, to members of armed, and security forces is one such step.

The Advisory Service's programme and activities for facilitating national implementation of international humanitarian law and encouraging ratification of, or accession to, humanitarian law instruments has contributed to promotion of international humanitarian law.

**Self Assessment Question**

4) Discuss the role of ICRC in Dissemination of Information about IHL.

**17.8 SUMMARY**

- ICRC and the IHL are the two sides of one coin. The role of ICRC is to disseminate the principles of IHL.

- This unit also discussed the role of ICRC in promoting the ratification of the Four Geneva Conventions of 1949, their Protocols of 1977, and other instruments which protect the IHL. We saw, "important to involve the civil society" in the process of facilitating ratification of international humanitarian law instruments.

- This unit also touched upon the national implementation of IHL, and the active participation of ICRC into it. Obvious, one of the major responsibilities entrusted to the Advisory Service is to ensure appropriate national implementation of international humanitarian law instruments by the state party. There are various instruments envisage different types of measures which states party are obliged to adopt to fulfil obligations under them.

- This unit also covered the role of national committees and other working groups to implement the IHL provisions in the state.

- One of the important roles of ICRC is to dissemination of IHL in the civil society. We discussed that it is equally important to impart the knowledge to the civilians.

- One of the major contributio of ICRC is dissemination of IHL in Armed conflicts and security forces. It is also important to provide knowledge, actually who implement in practically.

**17.9 TERMINAL QUESTIONS**

1) How ICRC plays role in dissemination of IHL in civil societies?

2) Discuss the role of ICRC in promoting National Implementation of IHL.
17.10 ANSWERS AND HINTS

Self Assessment Question
1) Refer to Section 17.4
2) Refer to Section 17.5
3) Refer to Section 17.6
4) Refer to Section 17.7

Terminal Questions
1) Refer to Section 17.6
2) Refer to Section 17.3, 17.4 and 17.5

17.11 GLOSSARY

Dissemination means propagation.

17.12 REFERENCES AND SUGGESTED READINGS

1) Promotions of International Humanitarian Law in South Asia