



HANDBOOK OF INTERNATIONAL HUMANITARIAN LAW IN SOUTH ASIA (2007). By V.S. Mani. Oxford University Press, YMCA Library Building, Jai Singh Road, New Delhi 110001. Pp. xxxii + 262. Price Rs. 650/-.

“A HANDBOOK is a type of reference work or other collection of instructions, that is intended to provide ready reference.”¹ This definition of ‘handbook’ conveys the meaning that it is *vade mecum*² or pocket reference that is intended to be carried at all times so that it can be referred to, for the fundamentals of the concerned subject which the handbook deals with. To this end the book under review,³ promises that “[E]ach volume (of the Oxford handbook series)⁴ offers a comprehensive survey of research in a critical subject area and provides facts, figures, and analyses for a well-grounded perspective” focusing scholars, students, and policy planners.

The book is about international humanitarian law (IHL) with particular reference to South Asia. But it is felt that the author instead of confining the study to South Asia could have expanded it to other regions as well, e.g., African states where similar problems exist.

Part I of the book is titled as ‘Evolution of the Principles of International Humanitarian Law in South Asia’ and contains four chapters. They are (1) Buddhism and Humanitarian Law written by C.G. Weeramantry; (2) Christian Traditions of International Humanitarian Law, by V. S. Mani; (3) International Humanitarian Law in Ancient India by B.C. Nirmal; and (4) The Islamic Concept of Humanitarian Law by Aftab Alam.

1. Retrieved March 10, 2008, from Wikipedia.com website:<http://en.wikipedia.org/wiki/Handbook> .

2. Latin term which means ‘go with me’

3. V.S. Mani, *Handbook of International Humanitarian Law in South Asia* i (2007).

4. This book falls in a series of other volumes on other branches of social sciences published by Oxford University Press India. Other volumes include John Briscoe and R.P.S. Malik(ed.), *Handbook of Water Resources in India-Development, Management and Strategies* ; Shovan Ray (ed.), *Handbook of Agriculture in India*; Uday Sahay (ed.), *Handbook of the Media in Contemporary India*; Bani P. Banerjee (ed.), *Handbook of Energy and the Environment in India* etc..



In the first chapter, the author begins with the premise that “Buddhism being a very practical religion does have many insights to offer which could be useful in the application and development of modern humanitarian law.”⁵ The author continues that, “The matter assumes practical relevance also because Buddhist states are not without their standing armies.”⁶ So the author attempts to bring the Buddhist teachings, which are relevant from a humanitarian point, to be brought to the attention of the armed forces in Buddhist and other countries. Various Buddhist texts such as the *Mahasillava Jataka*, *Dhammapada*, *Vimalakriti Sutra*, *Mahavamsa*, *Majjhima Nikaya*, *Anguttara Nikaya*, and other scholarly works on Buddhism are analysed by the author in his search for the roots of IHL in Buddhism. This excellent illustration of the Buddhist philosophy on the aspect of humanitarian law is in ten pages, which can be for sure an authoritative reference for scholars, students and policy planners as aimed by the publishers.

In the second chapter, the author, who is also the editor of this book, analyses the two strands of thought in the Christian traditions, namely, the ‘Christian pacifism’ and ‘doctrines of just war’ in search of evidences of modern international humanitarian law. The pacifist thought, is ‘a simple and straightforward interpretation’ of the biblical phrases like ‘thou shalt not kill’ to condemn all wars. On the other hand, the author argues, the interest of protection of those who embraced the Christian faith against hostilities from those who practised other faiths, gave way to interpretations intending to recognize war to be morally and religiously justifiable. The essence of this argument is that though no one has a right to kill ‘thy neighbour’ use of force is permissible subject to rule of proportionality of the threat. The author thereafter⁷ falls back on Adney who identifies four stages in the evolution of the Christian just war tradition, namely, period of Cicero which was deeply influenced by Roman natural law thinking; the second period represented by Augustine’s theological concepts of just war that separated internalized motivations from external actions, relying on more ‘just intentions’;⁸ the third period refining and reducing the theory of Augustine to an elaborate code of rules; and the fourth period came in the era of breakdown of Christendom

5. *Supra* note 3 at 3.

6. *Ibid.*

7. *Id.* at 17

8. *Ibid.*



and emergence of nation state and de-emphasized the justifiability and concentrated on rational means of restraining its destructiveness. The author thereafter traces the evidence of modern IHL to various Christian scholars including St Thomas Aquinas. This chapter thus gives a fair picture about the contributions of ancient Christian traditions to international humanitarian law. Considering that Christianity had its roots in South Asia, the author should have concentrated on its contribution within South Asia towards building IHL, instead of heavily or absolutely relying on Western Christian thought.

B.C. Nirmal in third chapter quoting C.J. Chacko⁹ opines that “[I]n early religious and secular writings of ancient India, ...there is evidence of what we now know as international humanitarian law.”¹⁰ Attempts are made thereafter to trace the ancient Hindu literature, notably all of them in Sanskrit, and other scholarly works on these Sanskrit literature to conclude that the international humanitarian law is well evident in ancient India. However, the reviewer thinks that Indian literature, ancient as well as modern, includes non-Sanskrit literature as well, which includes along with others, Dravidian literature of the south also. For example, Sangam Literature of South India, which contains many evidence as to good ethics of war did not find a place in the sequence of this chapter at all.

Aftab Alam, in the next chapter goes to the roots of texts of the *Quran* and the *Sunna*, which are the primary and secondary sources of law in Islam. Starting from a brief elaboration on the concept of war in Islam, the author examines the other principles of international humanitarian law regarding means and methods of warfare, prisoners of war etc. to conclude that “Islamic concept of humanitarian law, while not identical with modern humanitarian law, embodies a broad range of IHL principles and rules. Both systems of law urge the belligerents to show clemency and compassion to the victims of war.”¹¹

Part II of the book, which is titled as “National Attitudes towards International Humanitarian Law” has seven chapters: (1) National Attitudes Towards International Humanitarian Law in South Asia — An Overview by S. K. Verma; (2) International Humanitarian Law — Bangladesh’s Attitude and Practice by Borhan Uddin Khan; (3) International Humanitarian

9. C.J. Chacko, ‘International Law in India,’ 1 *IJIL* 199 (1961).

10. *Supra* note 3 at 25.

11. *Id.* at 45.



Law — Bhutan's Response by V. S. Mani; (4) International Humanitarian law — India's Attitude by Ravindra Pratap; (5) International Humanitarian law — Maldives and its responses by V. S. Mani; (6) The Status of International Humanitarian Law in Nepal by Hari Phuyal and Surya Subedi; and (7) International Humanitarian Law — A Pakistani Perspective by Ahmer Bilal Soofi. Putting together all these chapters gives an excellent overview of the attitudes of South Asian countries towards IHL. All these papers portray ratification status of respective states in various international humanitarian instruments. They also look into the constitutional status of the principles of IHL in each of this state, the level of incorporation and adaptation of these principles in their municipal law, the role played by Red Cross, and legislative and judicial approach towards IHL principles. Part II is an excellent source of information about the attitude of these states towards international humanitarian law principles. It would serve the purpose of all the sections of researchers as a handbook on the subject.

Part III of the book, "Application of International Humanitarian Law in Selected Conflict Situations in South Asia" contains two sub-parts. The first four chapters are case studies and last three chapters are specific to the case of refugee. The case studies are (1) India's tryst with Humanitarian law — Some Reflections by Rupa C. Hingorani; (2) International Humanitarian Law — India's Experience since 1962 by V. S. Mani; (3) International Humanitarian Law and Internal Armed Conflict in Nepal by T.R. Onta; and (4) International Humanitarian Law in Conflict Situations — A Sri Lankan Case study by Thushara Rajasinghe. In the refugee specific part there are three chapters. They are; (1) Improving Human Condition of Refugees in Asia — The Way Forward by B.S. Chimni; (2) Sri Lankan Refugees — A Case Study by Nirmala Chandrahasan; and (3) Afghan Refugees and Humanitarian Interventions — Issues, Concerns and Lessons by Mahendra P. Lama. In her chapter, Rupa C. Hingorani examines various conflict situations in independent India and analyses the case with a critical approach of the role played by India, Britain, Pakistan, ICRC and others. In the next chapter, V. S. Mani examines India's experience with international humanitarian law in three occasions of war, the India-China war of 1962, the India-Pakistan War of 1971 and the Kargil conflict. The author critically analyses the treatment afforded to Indian 'Prisoners of War' by China and Pakistan in these wars. The author is also critical about India's decision of not seeking the services of ICRC because their intervention would have given greater credence to



India's claims of Pakistani ill treatment of 'Prisoners of War.' Both T. R. Onta and Thushara Rajasinghe have divided the essays in the appropriate format befitting the style of a handbook. The chapters on rights of refugee also give an excellent perception to the present scenario in South Asia generally and Sri Lankan and Afghan Refugees specifically.

Part IV of the book entitled 'States of Emergency, Humanitarian Law, and Human Rights' has only one chapter with the same title by Venkat Iyer. The author gives a brief insight into the interrelation between humanitarian law and human rights law. He also examines the applicability of international humanitarian law to internal conflicts and states of emergency.

In Part V dealing with 'Humanitarian Organisations and Promotion of International Humanitarian Law in South Asia' there is again only one chapter 'Promotion of International Humanitarian Law in South Asia — The ICRC initiative and Activities by Umesh Kadam. The author narrates the initiatives taken by ICRC in promoting the ratification of instruments of international humanitarian law, national implementation of these instruments, dissemination of the principles of international humanitarian law to civil society and armed forces.

In the last part 'Military Organisations and Implementation of International Humanitarian Law' there are two chapters. They are: (1) Applicability of International Humanitarian Law to United Nations Peace Operations by Satish Nambiar; and (2) 'Military Law Mechanism for International Humanitarian Law Implementation' by Nilendra Kumar. In his essay, Satish Nambiar, starting with the need of using military forces for collective security, illustrates the various efforts taken by the U.N. in binding the forces participating in U.N. peace operations with the international humanitarian law standards. In the second chapter of this part, the author, analyses the various initiatives taken by the military in India, in training its personnel about the international humanitarian law and the convergence of military law and international humanitarian law. This part contains perhaps the most useful chapters in this book for student of international humanitarian law.

The first of the two annexures contain the signature, ratification, and incorporation details of the various international humanitarian law instruments by the states in South Asia. The second annexure is a table, which claims to show the status of International humanitarian law treaties by all the countries in the world. But it is unclear as to the use of the word



status because it could mean many things like signature, ratification, and incorporation in this context.

In any case, this book with its top quality printing is expected to be useful for the scholars across the globe, given the fact that books on this subject focusing IHL in South Asia are not many.

*Vishnu Konoorayar**

* Assistant Research Professor, Indian Law Institute, New Delhi.