

Navigating the Complex Terrain: Assessing Common Article III in Non-International Armed Conflict and Its Implications in Pakistan's Legal Regime

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Abstract

This research study explores the complex legal framework concerning Non-International Armed Conflict (NIAC) and the implementation of Common Article III inside Pakistan's legal system. This paper thoroughly investigates the interaction across law of war as well as International Human Rights Law and offers a detailed examination of the legal decisions, standards, and requirements that regulate Non-International Armed Conflicts (NIAC). Furthermore, it investigates the scope and applicability of Common Article III, shedding light on its significance in the domestic legal framework of Pakistan. The article also explores the historical evolution of military courts in Pakistan and their reestablishment, offering insight into the rationale behind their existence. An in-depth analysis is made on the Supreme Court's ruling concerning the 21st Constitutional Amendment as well as the Pakistan Army (Amended) Act, 2015 case, focusing on the legal consequences and impacts of this significant verdict. The article emphasizes Pakistan's international responsibilities in the fields of humanitarian as well as human rights legislation, highlighting the country's dedication to fulfilling these responsibilities within an intricate and changing legal environment. This article serves as a valuable resource for scholars, legal practitioners, and policymakers seeking a deeper understanding of the multifaceted legal dynamics surrounding NIAC and Common Article III, particularly in the context of Pakistan's legal framework.

Keywords: non-international armed conflict. Common Article III, Law of war, IHL

Introduction

This article aims to examine the fundamental aspects pertaining to military courts. This chapter provides an analysis of International Humanitarian Law and its application to non-international armed

situations. Additionally, the historical background of military courts and their formation in Pakistan will also be illuminated. Armed conflict is typically classified into two categories: International Armed Conflict (IAC) and Non-International Armed Conflict (NIAC). NIAC, or Non-

International Armed Conflict, occurs when internal unrest leads to the involvement of the state's armed forces in combating insurgents. In Pakistan, the army started its operations in its tribal areas after 9/11 and became one of the mainstream allies of America and NATO forces. This development led Pakistan towards internal disturbance and chaos and thousands of civilians and military personnel lost their lives (Khan, A., & Jilani, M. A. H. S. 2023). Consequently, Pakistan Army launched certain operation to contain the situation in Tribal Areas. Meanwhile Tehreek e Taliban Pakistan, TTP, emerged as a strong party and took over the control of Swat which forced the people of Swat to leave their houses and vacate their area. Again, Pakistan Army had to launch an operation to settle them back in their houses. The situation got worse when these insurgents attacked Army Public School in Peshawar Cantt. During this occurrence, many youngsters were brutally killed, causing a profound impact on the entire nation. After this incident, military courts were instituted in the nation by the 21st constitutional amendment to prosecute terrorists. However, this breaches the basic protections outlined in common article 3 of the Geneva Conventions and guaranteed by the constitution of Pakistan (Byron, C. 2001).

LEGAL REGIME

International Humanitarian Law

The law of war is a key set of legal principles that were formulated to mitigate the consequences of armed conflicts. IHL, often known as the law of armed conflicts, refers to a set of legal rules and principles that govern the conduct of parties involved in

armed conflicts. This legislation aims to safeguard individuals who are not actively involved in armed conflict or who are no longer capable of engaging in hostilities. IHL is comprised of treaties, conventions and customary rules. Treaties and convention are binding on states because of the ratification while customary rules and general principles are followed as these are part of states practices.

IHL only regularize the armed conflicts so that the loss can be minimized as much as possible, but it does not deal with when to use force; this is governed by a distinct part of international law set out in the UN Charter (Kretzmer, D. 2009).

International Human Rights Law

International Human Rights Law refers to laws which every human is entitled to enjoy. International Human Rights Laws also consist upon treaties and conventions. States are obliged and bound to respect human rights treaties and they are required to ensure respect for these treaties. It implies that not only states protect their subjects against human rights abuses but also it means that states are also required to avoid infringement over these rights (Graham, D. E. 2012)

International Human Rights Law and international humanitarian law Interplay

Law of war as well as international human rights law are separate yet strongly interconnected. Former is applied only when there is an armed conflict while later remain applied for all times. In true sense, they supplement each other as both set of laws are primarily concerned with the protection of humanity and human dignity. Moreover, the

substance they carry is also quite similar to each other (Droege, 2007).

NON-INTERNATIONAL ARMED CONFLICT

NIAC was not new phenomenon to world but still countries were reluctant to address it as no country would wish to allow international community to get involve in their internal matters. Moreover, every state wants to deal with the culprits according to their own method and laws. Here, the important aspect was the state conduct during civil wars. Two legal instruments existed prior to 1949: The Liber Code of 1863, which was established during the American Civil War, and the Rights and Duties of States in the Event of Civil Strife (Inter-American). The ICRC adopted a resolution in 1921 addressing humanitarian concerns in civil wars, which was subsequently reiterated during another ICRC conference in 1938. However, the common article 3 of the Geneva Conventions is all-encompassing and addresses nearly every issue. Furthermore, it was ratified by all parties without exception. Dr. Schindler has presented a concise explanation as:

"The hostilities have to be conducted by force of arms and exhibit such intensity that, as a rule, the government is compelled to employ its armed forces against the insurgents instead of mere police forces. Secondly, as to the insurgents, the hostilities are meant to be of a collective character, i.e. they have to be carried out not only by single groups. In addition, the insurgents have to exhibit a minimum amount of organization. Their armed forces should be under responsible command and be capable of

meeting minimal humanitarian requirements".

Jurisprudence of Non-International Armed Conflict

Defining the concept of an armed conflict has consistently held significant significance. Furthermore, it is crucial to engage in a discourse regarding the nature of a non-international armed conflict. Since the Geneva Conventions do not explicitly define this, it would be appropriate to depend on legal judgments. The International Criminal Tribunal for the Former Yugoslavia (ICTY) has deliberated on the issue and provided a definition for the occurrence of armed conflict that is not of an international nature *"Whenever there is protracted armed violence between governmental authorities and organized armed groups within a State"*. (Dinstein, Y. 2021)

Threshold of NIAC

To establish the presence of NIAC, attention was primarily directed towards certain features. In the beginning, the level of disruption must surpass internal disturbances. Secondly, one of the parties involved must be a non-state militant group, and the state has mobilized its conventional military forces to address the situation. Moreover, in 1979, a single authoritative figure, while reiterating the level of hostility and the structure of the Parties as influential factors, made an observation: *"Practice has set up the following criteria to delimit non-international armed conflicts from internal disturbances. In the first place, the hostilities have to be conducted by force of arms and exhibit such intensity that, as a rule, the government is compelled to employ its armed*

forces against the insurgents instead of mere police forces. Secondly, as to the insurgents, the hostilities are meant to be of a collective character, that is, they have to be carried out not only by single groups. In addition, the insurgents have to exhibit a minimum amount of organization. Their armed forces should be under responsible command and be capable of meeting minimal humanitarian requirements”.

In its decision on jurisdiction in Tadić in 1995, the ICTY Appeals Chamber established that *“whenever there is protracted armed violence between governmental authorities and organized armed groups or between such groups within a State”*.

Applicability of Tadić Criteria

In order to apply the Tadic Test in Tribal belt of Pakistan, it was held by many experts that since the intensity level in these areas have crossed the certain limit and now it would be secure to say that there exists an armed conflict which is, of course, of non-international character. However, it was also maintained by one expert that mere deployment of armed troops in those regions is enough to establish it as non-international armed conflict.

Consensus was not achieved when the second part of the test was applied regarding the military organizations. It was said by certain experts that government should declare Tehreek e Taliban Pakistan (TTP) as an armed adversary in the armed conflict. But to this point many objections were raised as there are almost thirty other organizations working under the umbrella of the TTP and it

is still quite difficult to consider as one voice or in single uniform (Cullen, A. 2010).

COMMON ARTICLE III: SCOPE AND APPLICABILITY

Common Article III is the most important and fundamental article of all Geneva Conventions which deals with the fundamental guarantees provided to combatants involved in NIAC. Common article 3 becomes ipso facto relevant once the situation meets the standards of NIAC. According to this article, any country that has agreed to the Geneva conventions is required by international law to ensure that combatants engaging in non-international armed conflicts get basic legal protections.

It is crucial to emphasize that whenever the conditions reach the level of non-international armed conflict, additional norms of International Humanitarian Law will also be enforced. The aforementioned item is enhanced by reading it in conjunction with item I of the Geneva Conventions, which explicitly states, *"The High Contracting Parties commit to respecting and ensuring respect for the present Convention under all circumstances."*

Common Article III, where it provides the minimum judicial guarantees it also prohibits many other acts which are strictly against the human dignity and honors. Under this article, the persons taking no active part in hostilities are protected against the torture, inhumane treatment, hostage and these guarantees must be fulfilled by all the high contracting parties (Yasmeen, T. 2019).

Keeping in mind that common article 3 serves as an umbrella and under this very umbrella there are many other judicial

guarantees expressly provided in all Geneva Conventions. These guarantees are:

- The principle of “*nullum crimen, nulla poena sine lege*” (“no crime without a law, no punishment without a law”) (Art. 99.1, GC III)
- The principle of “*non bis in idem*” (“double jeopardy”) (Art. 86 , GC III; Art. 117.3 , GC IV)
- The right of the accused to be tried before an impartial and independent court of law without any delay (Art. 84.2 , GC III)
- The right of the accused to be informed of the nature and cause of the offence levelled against him (Art. 104.2 , GC III; Art. 71.2 , GC IV)
- The right to access free legal counsel when the interests of justice so require (Art. 105.2 , GC III)
- The right of the accused to be informed of their rights of appeal (Art. 106 , GC III)

MILITARY COURTS

Court Martials which are commonly known as Military Courts are judicial court composed of commissioned officers that disciplines and penalizes convicted military personnel and military offenders. Such a court has jurisdiction over armed force members and enforces the code of military justice. There are generally three types of Court Martials that may have different make-up and quantum of punishment that they may impose.

- Summary Court Martial
- Special Court Martial
- General Court Martial

Summary Court Martial, only deal with enlisted personnel involved in

noncapital offenses only and composed of one active commissioned officer. The punishments under Summary Court Martial are imposed based on the grade of present accused.

The Special Court-Martial is a type of court that has jurisdiction over individuals who are subject to the UCMJ, including enlisted members, midshipmen, and officers. It is specifically designed to handle misdemeanor offenses. A special court martial, with the exception of capital punishment, has the authority to impose any form of penalty, including dishonorable discharge, dismissal, and incarceration for a period exceeding one year. The composition of the tribunal includes a single military judge and a minimum of three members. Upon their request, the defendants have the option to be tried individually by the military judge.

The General Court-Martial, which is the third category, is commonly known as a felony court and has jurisdiction over all individuals who are subject to the UCMJ, including enlisted personnel, military officers, and midshipmen. The UCMJ grants the authority to impose any punishment, including the death penalty, as long as it is not explicitly forbidden. The composition of the tribunal includes a single military judge and a minimum of five members. If the defendant wishes, they might be tried only by the military judge (Vladeck, S. I. 2014).

History of Military Courts

Military law like civil law dating back to the first century BC has been derived from Roman law. The Roman society was a militarized society single judicial system

serving both, civilian and military needs. In the eleventh century, following the introduction of the Roman legal system by William the Conqueror in England the dire need for separate legal systems grew. Around sixteen century, the Court Martial in France and Germany started involving military and as early as the 17th century, Gustavus Adolphus in order to discipline his army develop a military law that was inconsistent with British common law. Soon within the English military the Court-Martial procedures were introduced followed by England, which created a national military law system in 1649. After the passage of Mutiny Act in 1869, Parliament became involved in military justice and thus set an English precedent about legislative control over military issues.

The Second Continental Congress established a U.S. military after the epic confrontation between British troops and colonial militia forces in April 1775 at Lexington and Concord, Massachusetts. The Articles of War were adopted in the years 1775 and 1806, which were then modelled upon Mutiny Act and came in force in the Great Britain. Later annually renewed Army Act (reformed in 1955) replaced these Articles in the year 1881 in the British Army, however the continued their operation in navy till 1957.

The US in 1788 declared President as commander in chief and thus the right to declare war was handover to congress in order to provide support to raise army making civil control over military which was further affirmed in *Dynes v Hoover Case*. Also, in 1863, the articles of war undergo some amendments which extended its jurisdiction

to common law felonies though only if they happen in war. However, in 1866 the jurisdiction of Military Courts was regulated, and it was held in *ex parte Miligan 1866 case* that the jurisdiction of Military Court will not be applicable to civilians. Owing to the criticism faced by the articles of war during World War resulted in the formation of Uniform Code of Military Justice (UCMG) in 1951 and also introduced US Court of Military Appeals. The International Humanitarian Law (IHL) permitted establishment of Military Tribunals under Geneva Conventions, 1949 accompanied by its Additional protocols of 1977: and are also governed under national military manuals/codes.

Court martial are often confused with military tribunals as there is a slight difference between them and each type serves a specific purpose in the military court system. Court martial operates during peacetime however; military tribunal operates during wartime and may involve enemy combatants (Rollman, R. O. 1969).

Military Courts in Pakistan

Military courts establishment as primarily to try military officials was a well-known phenomenon however there were times when their jurisdiction was extended over civilians. On 5th July, General Muhammad Zia ul Haq in the year 1977 proclaimed martial Law and the Constitution was suspended. Hence, Military Courts were established on 15 July 1977, and were later abolished when he restored democracy. In Pakistan's history along with military dictators, democratic government have also established such courts. For example, in

Baluchistan summary military courts were established in Bhutto era for the purpose of eradication of political terrorism and secession. Formation of special' courts aimed to suppress acts of sabotage, terrorism and subversion were seen in October 1974 under Suppression of Terrorist Activities (Special Court) Act 1975.

Also on, 30 January 1998, after a series of violent incidents, the Nawaz Sharif Government for establishing military courts have amended the, Pakistan Armed Forces ordinance, 1998 for trying accused of various offences parallel to promulgation of Anti-Terrorism Act 1997 however such military court establishments set up under Bhutto and Sharif regime, were challenged individually in the apex courts. In *Darvesh M. Arbey v. Federation of Pakistan* along with *Niaz Ahmed Khan v. Province of Sindh*, military courts during the Bhutto regime were challenged before Lahore and Sindh High Courts (SHC) respectively. In both cases the superior judiciary maintained the unconstitutionality of these summary courts and restricted the acts of civil authorities and security forces within constitutional parameters and limits. Same principle was held in *Liaquat Hussein v. Federation of Pakistan*, in which Supreme Court, by Chief Justice Ajmail Mian, banned the military courts setup during Sharif's regime and declared them unconstitutional and ultra vires. The statement further declared that the sections of the Ordinance that expanded the authority of military courts to include civilians were in violation of the constitution. It emphasized that the right to a fair trial by unbiased and impartial tribunals is a fundamental entitlement for all Pakistani

people (Khan, A., Iqbal, N., & Ahmad, I. 2022).

Keeping in view the armed forces personnel are under the final administrative supervision by the military command along with federal government, The Supreme Court of Pakistan held that reasoned such courts do not meet essentials of impartial, independent and competent tribunal. Furthermore, it was held that the existence of parallel judicial system is impossible to sustain as executive is not authorized for judicial setup of courts lacking superintendence and control by the apex court as enshrined in Article 203 of constitution. Any set up of such courts are ultra vires to constitution and potentially violates essential provisions such as Article 2A, 175 and 203 along with articles entailing fundamental rights and infringing the principle tracheotomy of power and fair trial right cannot be justified at any cost even reasoned as public emergency or the doctrine of necessity (Munir, B., & Mahmood, A. K. 2020).

Military Courts Reestablished in Pakistan

With the passage of Supreme Court's judgment given in *Liaquat Hussein v. Federation of Pakistan* the operation of special military courts came to an end until on 7 January 2015, following the tragic Army Public School Attack by terrorist in December. The military courts were once again revived in order to try civilians for offences related to terrorism. The TTP led massacre witnessed the killing of nearly 140 persons most of them children in a School in Peshawar. The government with support of some other political parties amended the constitution through 21st constitutional

(Amendment) Act 65 and Army Act, 1952 though Pakistan Army (Amendment) Act, 2015 to give constitutional cover to military courts as such amendments were unopposed as 247 Members of National Assembly and senate voted in favor thus establishing military courts for speedy dispense of justice by expedient trial of terrorists. Both amendments had a sunset clause of two years and ceased to be in effect on 6 January 2017. During this time was given ample time to bring necessary reforms in criminal justice system for strengthening the anti-terrorism institutions.

In December, 2014, National Action Plan was announced under the Premiership of Nawaz Sharif and establishment of Army courts were among the points mentioned in NAP to try hard-core terrorist. Such special courts were predictable as the execution orders had come out prior NAP was hammered out on December 24th, 2014 and the moratorium on death penalty were then lifted after seven years on December 16th following the execution order of six terrorist been signed by army chief General Raheel Shareef (Ghori, U. 2020).

Military Courts finally established with their jurisdiction extended over civilian that are accused of terrorism motivated by religion or sectarianism and the rationale behind this was to have expedient and speedy trials. Till now total amount of military courts are nine including three in Punjab and KP each, two in Sindh and only one in Baluchistan? The legal procedure to transfer cases to military court is through interior ministry as each province will transfer cases. It is composed of military officials instead of civilian judges who are not under obligation

to have law degree. Military Court of Appeal is the highest Appellate forum under Army Act and COAS approves the sentence of the appellate forum. Such courts operate under army legal wing headed by Judge Advocate General (Javed, K., Jianxin, L., & Khan, A. 2021).

Up to this point, a total of 646 individuals have been subjected to military court trials, with the defendants being found guilty in no less than 641 instances, resulting in a conviction rate of 99.2 percent. Approximately 345 individuals have been subjected to capital penalty, while 296 individuals have received sentences of imprisonment. A minimum of 56 out of the total of 345 sentences to death have been carried out.

As happened in the past, the constitutionality of these special courts was questioned and challenged by LHCBA on similar grounds as made in past. Matter was taken up by the Supreme Court which contrary to its history upheld the 21st constitutional amendment hence validating the army courts. It has given right to challenge convictions before apex courts which can do judicial review on grounds of lack of due process and fair trial infringement. Owing to sunset clause been expired, the military courts disbanded on January 7, 2017 but then extended for two more years through amendment Army (Amendment) Act, 2017 and 23rd Amendment to the Constitution later termed as 28th Amendment.

Rationale behind Military Courts

The rationale given behind the establishment of Military courts in Pakistan was that the ordinary criminal justice system

was not efficient to bring the culprits to justice. Moreover, the proceedings in criminal cases are not speedy and the standards of evidence are of such nature which provides benefit to the accused and consequently, many of them got acquitted. The proponents of the military courts also said that the criminal courts, including Anti-Terrorism Courts do not possess the will to convict the culprits. Another rationale provided by the proponents of the military courts was that the judges were not feel safe and because of their personal security concerns it becomes almost impossible for them to do justice without having any fear in their minds (Ghori, U. 2020).

SUPREME COURT JUDGMENT IN 21ST CONSTITUTIONAL AMENDMENT AND PAKISTAN ARMY (AMENDED) ACT 2015 CASE

Details were given in this article regarding the judgement of the Supreme Court and many dimensions have been discussed. Arguments given by Petitioners in their favor and arguments from honorable judges while writing down the judgement have also been discussed in detail. Despite the fact that most judges agreed that the military courts were constituted in accordance with the Constitution. Justice Azmat Saeed dismissed the fundamental structure doctrine and argued that because the actions of the terrorists are directly linked to the defense of Pakistan, the legislature is capable of assisting the government in addressing this issue.

Justice Jamal while giving his judgement keep the principle of judicial review as a settled law. On contrary to this,

Justice Faiz Isa and Jawed S Khawaja held that Supreme Court is competent to strike down any legislation of the Parliament which is ultra vires the Constitution. The current amendment is liable to strike down as it is against the fundamental rights and also it contradicts the basic structure doctrine. Justice Fiaz Isa further noted that the establishment of Military courts based on the idea of a war threat has already been dismissed by the Supreme Court in the Liaquat Hussein Case. Justice Sarmad Jalal Osmany defended the establishment of military courts, arguing that the country is currently engaged in a state of war and that extreme circumstances require extreme actions.

Justices Ejaz Ahmed, Ejaz Afzal, and Dost Muhammad deemed the institution of military courts as ultra vires the constitution due to its compromise on the independence of the judiciary. Justice Dost ruled that if the Army is responsible for trying terrorists who are fighting against them, it would contradict the concept that no one can be a judge in their own case. Equity Saeed supported the judicial review, but acknowledged the supremacy of Parliament, stating that it is Parliament's authority that guarantees genuine democracy (Iqbal, Z., & Choudhry, I. A. 2017).

Analysis of the 21st amendment judgement

In this case the core issue of a fair trial. Whether it is afforded to civilians or not. In its judgement the Honorable Supreme Court mainly relied upon Ali Case of 1975. The Court held that:

“The process and procedure followed by the forums, established under the Pakistan

Army Act, have come up for scrutiny before this Court and found to be satisfactory and consistent with the recognized principles of criminal justice. In Ali Case 1975 the procedure to be followed for trials under the Pakistan Army Act was dilated upon in great length and found to be in conformity with the generally accepted and recognized principles of criminal justice. A similar view was also expressed by this Court in Mrs. Shahida Zahir Abbasi 1996. The provisions of the Pakistan Army Act were scrutinized by the Federal Shariat Court in Col. (R) Muhammad Akram 2009 and generally passed muster. The procedure which was found acceptable for officers and men of the Pakistan Army can hardly be termed as unacceptable for trial of terrorists, who acts as enemies of the State”.

Initially, Brig Ali and his colleagues, who held positions in the military, were charged with engaging in armed conflict against the State with the intention of apprehending high-ranking military officials. All of them were apprehended and subjected to trial by the General Court Martial. They had raised an objection to the jurisdiction of the military courts, but their objection was overruled. Subsequently, they submitted an application, which was subsequently overturned. Eventually, the Supreme Court granted them permission to appeal.

Supreme Court Justice Anwar ul Haq based his decision on the fair trial standards set by Justice Munir, which focused on the rights of the accused. These points encompass fundamental rights such as the right to be informed of the charges and evidence presented against oneself, the right to cross-examine prosecution witnesses, the

right to present evidence in support of one's innocence, the right to retain legal representation of one's preference, the right to request a change of venue for the trial, and the right to a trial by jury. However, it is regrettable that the latter right is no longer being implemented in our current judicial system (Khan, A. 2018).

Evidently, the requirements outlined by Justice Munir can be found in military courts. However, a concern arises when military courts refuse to grant the ability to appeal to higher judicial authorities, limiting appeals exclusively to the Commander-in-Chief or the federal government as stipulated in sections 131 and 167 of the Army Act. Justice Haq made a significant point that military courts do not have the idea of reasoned decision. Appellate courts do not receive a written reasoned ruling, but it is provided for the advantage of the accused (Khan, A., Khan, A. S., & Khan, I. 2022).

It is important to note that in 1975 the criterion of fair trial was based upon Articles 9 and 10 of the 1973 Constitution, the UDHR and the ICCPR. Although Pakistan was not a party to the UDHR and ICCPR but even then, Justice Anwar could have sought guidance from them, but he relied upon Justice Munir's criteria.

In 1996, in Shahida Zahir Abbasi case, Supreme Court again relied upon the Ali case and held that Military Courts do not violate any right related to judicial principle related to the trial of the accused. Then once again, in Muhammad Akram, Federal Shariat Court relying upon Ali and Abbasi case held that Supreme Court had held that “trial before military court is in no way

contrary to the concept of a fair trial in a criminal case” .

The major flaw which is evident in the judgement is that some factual position was completely ignored by the Supreme Court, with due respect. Article 9, 10 and 10A, the UDHR, the ICCPR and some leading judgments of the Supreme Court were not considered. As a matter of fact, in 1975, the right to fair trial, 10A, was not mentioned in the Constitution meaning there in now the fundamental rights and right to fair trial are on high pedestal (Khan, A., & Hussain Shah Jillani, M. A. 2019). Furthermore, Pakistan, in 2010, came under some new international obligations as Pakistan acceded to ICCPR. In Gillani case, the Supreme Court maintained that since the legislature did not afford us the ingredients of the notion of fair trial so it would be assumed applied in universally recognized meaning. Further, in Military Court case, the honorable Supreme Court should have left the Muni Criteria and relied upon the constitution and judgments of the court but again honorable Supreme Court relied upon Ali case and adopted the previous approach to justify the establishment of military courts through Article 8(3) of the Constitution which means that the court cannot assess the compatibility of military courts in terms of fundamental rights. Furthermore, the military justice system meets the requirements for a just and impartial trial. On August 29, 2015, the Supreme Court prohibited the granting of permission to challenge death sentences issued by military courts to those accused of terrorism (Iqbal, Z., & Choudhry, I. A. 2017).

PAKISTAN UNDER ITS INTERNATIONAL OBLIGATIONS

The Geneva Conventions specifically address matters pertaining to Non-International Armed Conflict. The Covenant on Civil and Political Rights is universally applicable and includes specific provisions that pertain to the rights concerning life, liberty, and fair trial. This covenant also prohibits acts that violate human dignity and ensures the protection of fundamental rights.

The Universal Declaration of Human Rights is the inaugural and essential declaration pertaining to human rights, which was ratified promptly following World War 2. It was generally adopted and grants civic, political, and economic rights. This document also guarantees the entitlement to a just and impartial legal proceeding for each and every individual. Pakistan, as a signatory to the Geneva Conventions, Universal Declaration of Human Rights (UDHR), and International Covenant on Civil and Political Rights (ICCPR), is obligated under international law to ensure the respect and implementation of these treaties (Iqbal, Z., & Choudhry, I. A. 2017).

CONCLUSION

In conclusion, the exploration of Common Article III in the context of non-international armed conflict within Pakistan's legal regime unveils a complex and nuanced terrain. The assessment of this legal provision sheds light on the evolving nature of armed conflicts, where traditional boundaries between international and non-international conflicts blur. Pakistan's legal framework grapples with the challenge of adapting to these changing dynamics while ensuring the protection of fundamental human rights. The analysis underscores the importance of a

comprehensive understanding of Common Article III, as it serves as a crucial bridge between international humanitarian law and domestic legal systems. As Pakistan navigates this intricate terrain, striking a delicate balance between national security concerns and the safeguarding of individual rights becomes paramount. The implications of this assessment extend beyond legal considerations, reaching into the realm of policy formulation, national security strategies, and international collaborations.

Furthermore, addressing the implications of Common Article III necessitates ongoing dialogue and engagement among legal scholars, policymakers, and international actors. This is crucial for fostering a shared understanding of the challenges posed by non-international armed conflicts and devising effective strategies to uphold humanitarian principles. As Pakistan grapples with these complexities, the commitment to upholding human rights and international legal standards will play a pivotal role in shaping the nation's approach to conflict situations. In essence, navigating the intricate terrain of Common Article III in non-international armed conflict offers an opportunity for Pakistan to reaffirm its dedication to the rule of law and human rights. By engaging in thoughtful legal discourse, the nation can contribute to the global conversation on adapting legal frameworks to the realities of contemporary conflicts, ultimately fostering a more just and humanitarian approach to armed conflict within its borders.

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