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CHAPTER VI

LAWS OF WAR

War is recognised as one of the modes of settling disputes among the belligerent parties or states. The term 'war' is popularly applied to any conflict between nations, communities, or other large social groups in which violence is used for the settlement of a [quarrel](#).¹ In legal words, 'War is a contest carried on by public force between states, or between states and communities having with regard to the contest the rights of [states](#)'.²

The 'Laws of War' is not a new concept altogether. We can find such laws in ancient times. In Greece, there was a religious association called Amphictyonic Council. The function of this Council was to arbitrate over the disputes amongst the states to avoid war and in case of war to mitigate its horrors by suggesting ways and means for it, violation of which was forbidden. Peace at any price was preferred. The chief elements of the code were the rights of the alien, the sacred immunity of the herald, pious treatment of the slain (whose corpses might not be mutilated and should not be left unburied), and merciful treatment of prisoners. Unconditional surrender, if voluntary, carried with it a right to mercy; conditional surrender, if confirmed by an oath, was to be respected; and a captive had a title to be liberated (though it was doubtful if the captor was compelled to accept it) on payment of a fixed [sum](#).³

Rome took a solid measure by passing Fetial law under which it was made obligatory that a demand for satisfaction from the enemy be made before the initiation of war. The prisoners of war were to be treated with compassion.

In India Manu suggested many such laws. Some of these are:

- (i) Not to use concealed weapons, arrows smeared with poison or the points of which are blazing with fire.

- (ii) Anybody who had surrendered or fled was not to be killed.
- (iii) Disarmed or sleeping persons were not to be harmed. (iv) The wounded were not to be attacked. —VI I. 90-93.

In the *Mahabharata* Bhishma advises Yudhisthira not to conquer any territory by unrighteous means a king should never desire to subjugate the earth by unrightful means, even if such subjugation would make him the sovereign of the whole earth. Which king is there, that would rejoice after obtaining victory by unfair means? A victory stained by unrighteousness is uncertain and never leads to heaven. The *Mahabharata* further holds that disarmed person and one who has surrender-should not be attacked but simply arrested. There should not be any general massacre. Women of the invaded area must not be attacked and the area should not be plundered—Santiparva, Section XC VI.

In spite of all the above measures brutalities of war could not be lessened. The reason was that the above laws were rarely put into practice. With a few exceptions we can see in history that armies used to plunder the invaded areas. No distinction was made between civilian and military population, religious or non-religious places, etc. Though identifiable features of the present law can be traced back to ancient times in diverse paths of the world, yet as a rule, however, the mitigating features of law represented only an ideal, and so the law was actually applied only during wars between kindred people or like civilizations. Such were the conditions that persisted through ancient times into Middle Ages, until prompted by religion and ideas of chivalry on one hand and by the increase of rationalist and humanist sentiment on the other, a substantial body of law had come into being by the late Middle Ages.⁴ The brutalities of war can be seen everywhere in the history of mankind. In the Egyptian tradition battle of Megiddi is quoted as an example. In this battle, the king ordered general massacre and the invaded area was [ransacked](#).⁵

The monuments of Assyria and Babylonia as well as the records of the Hebrews bear witness to the barbarity of the Assyrians and certain of the Babylonian monarchs in warfare. The bodies of the slain were often mutilated and rebel captives were impaled and subjected to the most horrible tortures. Those who escaped were chained and enslaved.

In India we cannot forget the destruction caused by Emperor Asoka's conquest of

Kalinga which was the first major event of his reign. The 13th Rock Edict states clearly that this event took place in the ninth year of Asoka's reign, *i.e.* 260 BC. The tone of this edict, in which, he mentions his regret and remorse at the suffering in Kalinga, is not the regret of a man moved by a passing emotion, but the meaningful contrition of a man who was consciously aware of the sorrow he had caused.⁶ The 13th Edict reads, "The country of Kalinga was conquered when King Priyadarsin, Beloved of the gods, had been anointed eight years. One hundred and fifty thousand were therefrom captured, one hundred thousand were slain, and many times as many died. Thereafter, now when the country of Kalinga has been acquired..."⁷ These are the figures for Kalinga only, and do not include the casualties in the king's army. We thus have to note that even in such a small province as Kalinga, such a large number of people killed and enslaved, surely, these are appalling figures for a tiny district like Kalinga, and indicate the extreme horrors of war in that ancient period when the weapons of destruction were not so diabolical and deadly as now. Though after the battle of Kalinga, Asoka did not fight any battle but war could not be stopped in the times to come. And we can see the horrors of war because of lack of laws of war, especially during medieval period, of Indian history. We cannot forget the miseries caused by the invasions of Mahmud of Ghazni, Mohammad Ghori, Timur, Changiz Khan, Babur, Ahmad Shah Abdali and other invaders.

The Sikh Gurus not only gave a new lease of life to war ethics but also 'followed the same themselves and preached the Sikhs to follow the same'. Guru Nanak, the founder of the Sikh faith not only condemned the invasion of India by Babur and the killing of innocent men and women, he even went to the extent of accusing the invader for not following any ethics during his invasions of India. For Guru Nanak there must be some rules and regulations to be followed during war. We can find such indications in the *Bani* of Guru Nanak, wherein, he indirectly points to such laws. He tells us what should be done and what ought not to be done in the event of war. According to him one should attack only that person or party, who has at least equal strength to that of the invader. One should not attack the weaker. To quote the Guru:

If the powerful duel with the powerful, I grieve not;

But if a ravenous lion falls upon a flock of sheep, then the
Master must answer.

A.G., p. 360

Actually Sikhism lays great emphasis on peace and war is considered only a last resort. Guru Gobind Singh says in this connection

When all efforts to restore peace
Prove useless and no words avail
Lawful is the flash of steel then
And right it is the sword to hail.

V. 22

From this verse the purpose of war is very clear. Sword or force should only be used against tyranny and not for some personal gains. If we look at history, wars have been fought mainly for two causes, one is woman and other is property, it may be territory or any other kind. Nearly all the wars fought, we read in history, have one of these two causes directly or indirectly. But here we see that the Sikh Gurus did not fight for any of these two causes. They fought against tyranny or in other words they fought to save honour, may be of oneself or of any other person. This is also clear from the literal meaning of *Kirpan* (sword) one of the five symbols of the *Khalsa*. Literally speaking *Kirpan* is combination of two words, *Kirpa* (mercy, grace or kindness) and *Aan* (honour) or we can say to 'protect the honour' of any one, may be of oneself. Sword is not to be used to frighten anyone as the ninth Guru says:

He, who fears no one, nor makes other afraid,
He alone is Wise, O mind he alone Knows his God.

A.G., p. 1427

Therefore even if war has to be fought it is only for the cause of righteousness and not for any narrow personal benefits. It is to be fought for the welfare of the mankind and not for the narrow ends of a section of people alone. Sikhism stands for *Sarbat Da Bhalla* (welfare of the whole of humanity) and not for *Sikhan Da Bhalla* (welfare of the Sikhs) only. The sixth Guru, Hargobind, and the tenth Guru, Gobind Singh fought many wars but they did not make any personal gain. They fought against

tyranny and to defend the rights of human beings. So they must have followed certain laws during the wars they fought and enjoined upon the Sikhs to follow those. The following laws can be mentioned which they followed:

1. Not to attack the unarmed or the weak

War is to be fought for the sake of righteousness and not for oppression. So the Gurus made it a law not to attack any unarmed or weak person who is not fit to fight. Guru Nanak himself indicated this law. He said that the mighty person can attack the mighty person but if any mighty person attacks a meek person if en it is to be condemned--A.G., p.360. In the *Zafarnama* Guru Gobind Singh advises Emperor Aurangzeb not to kill the weak, timid or humble. He says that one should not become cruel by doing so. He uses the Persian word *Ajiz Kharashi*, means, to commit atrocities on the feeble and the poor. To quote him:

When with thy cruel hands O Alamgir
You do torment the humble and low...

V. 106

Neither during the period of Guru Hargobind nor in the times of Guru Gobind Singh any weak or unarmed person was attacked. Not even a single instance can be found in any of the battles. In the last battle Painde Khan attacked Guru Hargobind but the Guru managed to save himself. When the Guru attacked Painde Khan the latter's horse was killed. In keeping with the ethics of war the Guru also dismounted himself to fight at equal level. Kavi Sohan depicts the situation in the *Gurbilas Patshahi-6*:

The Guru aimed and gave a blow with the left hand
Painde Khan felt on the ground and began to cry
The Guru left the horse and came on foot and challenged him.

VI .20.575-76

According to Guru Gobind Singh, an innocent person should not be harmed. He condemned the cruel deeds of Aurangzeb in killing Guru's two younger sons who were not at all inimical to the emperor. He called it a hateful deed. One should not quench

one's thirst with the blood of some helpless or harmless persons. Of course one can attack the equal ones that too with proper reason and of course lawfully. To quote the Guru:

Tho' the voice of my beloved sons
 Thou have O king forever stilled,
 Of what avail is this hateful deed?
 When I breathe alive fully filled.

V. 75

2. To Challenge before Attack

It was observed as a law that none should be attacked without a prior challenge. Enemy is not to be taken unaware of. None is to be attacked from the back.

From the Sikh chronicles we learn that Guru Hargobind attacked Painde Khan after challenging him properly. The Guru allowed Painde Khan to attack him thrice. Only after that the Guru attacked and killed him. Kavi Sohan thus depicts the situation:

'O Guru! Where is thy strength thou art remaining in the backfield?
 Now I am going to retaliate; stop my blow!
 Then Painde thrust with his sword in anger, but the Guru stopped it with his stirrup
 The second blow the Guru stopped on his shield, Painde Khan got frustrated.
 Painde Khan lost the privilege of his three blows in vain
 The Guru left the horse and challenged, him thus
 'Face my blow O Khan! with all thy might!
 The Guru wielded his sword so swiftly as it was a light wire,
 It went through him and the Almighty blessed the Guru with victory.

XX.570-77

Similarly, in the battle of Bhangani Guru Gobind Singh allowed Raja Hari Chand to blow three times and after facing three blows the Guru hit back and killed him. The Guru describes in the *Bachitra Natak* as under:

Hari Chand drew his bow in anger and shot an arrow at my horse first

He gave a second shot with his arrow at me, God protected me and
 it flew past after grazing my ear
 The third one pierced through my belt
 The pointed edge touched my body without hurting me
 God only saved His servant's life
 When the arrow touched me my wrath aroused
 I shot at him with my arrow and
 thus killed the warrior Hari Chand.

8.29-31,33

In the *Zafarnama* Guru Gobind Singh condemned the act of Aurangzeb's army who attacked the Guru's army without any challenge. The Guru writes:

What more forty famished men can do
 In a bloody combat of hellish hue
 When a million armed foes pounce
 Unawares upon them in moments few.

V. 19

3. Not to plunder private property or the property of peaceful citizens

The Sikh Gurus enshrined this law in theory and put it in practice as well. As war is not fought for personal gains, so nothing should be done which is not right. It is not any individual but his unjust policies, which are to be attacked. The person who is not committing any unjust act should be saved. The Sikhs under the Gurus never looted any private property or the property of peaceful citizens.

When the commander of Lahore's army, Hussaini plundered the Doon area, he looted the property of peaceful citizens even. In the *Bachitra Natak*, Guru Gobind Singh has condemned his act:

He plundered the Doon and none could challenge him
 He divided the booty amongst his armymen and
 thus he did this nefarious act.

11:3

After the defeat in the battle of Nadaun, the Nawab of Lahore sent troops to

defeat Guru Gobind Singh but the latter defeated the royal armies. The defeated army took to heels but on way back, looted a village Barwa out of frustration. Guru Gobind Singh condemned this act of the defeated army. The Guru said that the royal army could not defeat him and in sheer frustration plundered Barwa just as a grocer can't eat meat but to quench his taste he satisfies himself by eating a dish of stones. To quote him:

When he could not be effective here he plundered Barwa
As a grocer, to quench his hunger for meat,
eat a dish of stones.

10:10

4. Due respect of ladies

In Sikhism women are given a place of honour. Guru Nanak condemned the low status given to them amongst Hindus and Muslims. He says:

Why call women evil who gives birth to kings and all?

A.G., p. 473

The Gurus laid stress on the preservation of honour of the women. They strictly prohibited adultery. The fifth Guru says:

Let his eye not cast a glance at the women folk of others.

A.G., p. 274

Bhai Gurdas, a Sikh theologian, says that a Sikh should treat other women either as mothers, sisters or daughters according to their age group:

When we see other men's wives beautiful,
we should consider them as our mothers, sisters and daughters.

Var 29:11

Again he says:

Man should be content with his own wife and call
others' woman as daughter or sister.
To covet another's women is forbidden to a Sikh

as the Swine is to the Muslim and the cow to the Hindu.

Var 6: 8

Guru Gobind Singh says:

Let no thought of other women cross even thy dreams
And let the wedded spouse be the (exclusive) object
of thy Ever-increasing love.

Charitropakhyan 21: 51, 4

This principle was to be applied during war also. In none of the battles the Sikhs ever misbehaved with women. Kavi Santokh Singh, in his *Gurpratap Suraj Granth* cites a conversation of Guru Gobind Singh with his Sikhs. The latter inquired that the Muslim soldiers took away the women along with booty, why should not they capture the Muslim women in retreat. But the Guru forbade them and told that he wanted the Panth—the Sikh brotherhood—to attain much higher values of life:

The Sikhs told the Guru that Muslim soldiers
raped the Hindu women
Why not the Sikhs take revenge?
Why does the Holy Granth forbid this?
The Guru assured, 'I've to take you much higher
I don't want you to go downwards, that is why
I forbid committing sins.

6.20. 16-19

This law was strictly followed even after the demise of Guru Gobind Singh. The Sikhs saved many a woman during the invasions of Abdali and Durani. Among other things the invaders captured and carried with them a large number of women. It was only the Sikhs who used to free those innocent women and restore them to their houses with due honour.

5. To help the belligerent party for the cause of Righteousness

While dealing with the belligerent group the general policy was to attack and finish the enemy. But it was Guru Gobind Singh who set up a unique convention to help even a foe for the cause of righteousness. It was because the Guru had no personal enmity

with anyone. As the fifth Guru also writes:

I am estranged with no one: nor is any one a stranger unto me. A.G., p. 1299

The Sikh Gurus fought only for the sake of righteousness. Though Guru Gobind Singh fought the battle of Bhangani against the hill chiefs led by Bhim Chand yet he had no hesitation in making a common cause with those very hill chiefs when the Mughal force attacked the latter. The joint armies of the hill chiefs and of the Guru repelled the attack in the battle of Nadaun. Guru Gobind Singh has given the description of the battle in 11th Chapter of the *Bachitra Natak*.

6. No Violation of Treaty and Agreements

This law has been included in modern International laws of the war but in previous times treaties were respected under compulsions and flouted at convenience. But the Sikh Gurus laid stress on unity of thought, word and deed. According to the Sikh thought once one has made some commitment one should not run away from one's word. This is to be applied during war also. If one party makes some promises or agreements, it should sincerely honour them. When Aurangzeb promised Guru Gobind Singh that he would not attack the Guru if the latter vacated the fort of Anandpur, however, the Emperor went back from his promise and his forces attacked the Guru. The Guru criticised this policy in the *Zafarnama* addressed to the Emperor in following words:

Keep in view thy solemn oaths O King,
And abide by them to thy level best. V. 53

Stick to the positions once taken up
Within and without the same be you. V. 55

Guru Gobind Singh wrote that had he made any agreement he would have sincerely abide by the same.

Had I even in secret taken oath
On the holy Book as didst thou
I would never take a single step
Beyond the mark set by that vow.

V. 18

Virtually whole of the *Zafarnama* is addressed to Aurangzeb because the latter had violated the agreement arrived at with Guru Gobind Singh.

7. No Violation of Cease Fire Declaration

This declaration was not fully respected in ancient times; similarly we find a number of instances of violation in medieval India also. But Guru Gobind Singh made it clear that once an end to hostility had been declared there should be no violation under any pretext. After that peaceful means should be adopted to reach at some settlement already agreed to in principle in such peace making declaration.

In the *Zafarnama* Guru Gobind Singh called upon Aurangzeb to follow this code. He blamed the Emperor that the latter had violated such a declaration. In the letter the Guru brings to the notice of the Emperor as to how the latter had agreed for an end to hostilities and promised to meet at Kangar after evacuation of the Anandpur fort by the Guru and the latter broke the promise. Guru Gobind Singh quotes this offer in the *Zafarnama*:

I here quote thy own words O King
Sworn and sent to me long before
Which were by thyself and thy men
Betray'd and relied upon no more
"To Kangar town repair please
We shall there welcome you
And avail of this opportunity
For a parley between us two".

V. 57-58

The Guru said that once a person has declared an end to hostility and has sworn not to attack, must not attack again. Observing cease-fire was made obligatory. To quote

the Guru again:

Whoever in his dealing O Alamgir
On his holy Book doth once swear
Must never imprison the innocent
Nor to shed their blood ever dare.

V. 25

8. No General Massacre

In ancient times during wars, blood of general public was shed mercilessly. Especially during Medieval period, the Muslim invaders massacred the general public in this way. We can find many examples of massacres. In 712 AD. Mohd. Bin Qasim attacked Sind and killed a large number of Hindus. According to *Twarikh-e-Sind* he killed 16000 Hindus in the siege of Hiraon fort only. According to one estimate Timur alone killed 77000 Brahmins and 29000 women including infants and aged. But Guru Gobind Singh enjoined upon the Sikhs not to kill innocent people. When Aurangzeb was doing so, the Guru condemned his act. In the *Zafarnama* he wrote him not to kill the innocent people because God's *Kal* (death) will shed his blood. In verse 66 of the *Zafarnama*, which is in Persian language, he used the word *Bedareg* that means shedding the blood without looking (blind killings).

In the *Bachitra Natak* also, Guru Gobind Singh condemned the killing of innocent people of Barwa by the son of Dilawar Khan, the Nawab of Lahore. Since Dilawar Khan could not cause any harm to Guru Gobind Singh at Anandpur Sahib, in sheer frustration he killed many innocent people. He writes:

When he could not be effective here he plundered Barwa
As a grocer, to quench his hunger for meat eats a dish of stones.

10:10

In the *Zafarnama* Guru Gobind Singh asked Aurangzeb not to commit cruelties on the humble and low or poor general public who has committed no sin. To quote the Guru:

When with thy cruel hand O Alamgir
You do torment the humble and low

You slash your own oaths one by one
With the dagger sharp blow by blow.

V. 106

Much before Guru Gobind Singh, Bhai Gurdas, a Sikh theologian and a contemporary of Guru Arjan and Guru Hargobind, condemned the general killing in his first *Var*. When he depicts the situation before the advent of Guru Nanak he tells that the Muslim invaders and rulers killed innocent people and sin prevailed all over. To quote him:

They slaughter the faultless and the helpless;
Sin is prevailing on the earth.
There is no example of the Sikh Gurus punishing innocent populace.

1:20

9. Not to damage the places of Worship

The history of Muslim rule in India is full of examples of killing of Hindus, demolishing of their temples and erecting mosques in their place. This was because the Muslims took the Hindus as infidels and treated them as their slaves. The Hindus had no right to worship. But Sikhism gives right to worship to every being. Bhai Gurdas condemned demolishing of temples in his first *Var* while depicting the situation on the eve of Guru Nanak's birth. To quote him:

The (Hindu) temples are razed to the ground,
And mosques are erected in their place
The sin is prevailing.

1:20

Guru Gobind Singh saw no distinction between temple and mosque. He said that God lives everywhere. He is not only in the temple or in mosque but is all pervasive and immanent. Only man is under the wrong impression. Therefore these places should not be damaged at all. To quote him:

The temple and the mosque are same;
The Hindu worship and the Mussalman prayer are the

same; all men are the same;
it is through error they appear different.

Akal Ustati 16:86

10. Not to harm persons who have surrendered

Previously every person from the enemy side was killed even after their surrender. It was only in the Geneva Convention of 1949 that such killings were prohibited. This convention prohibited the violence to life and person of prisoners, taking of hostages and humiliating or degrading treatment. But much before the Geneva Convention the Sikh Gurus laid down the rule that whosoever surrenders must be protected because our Lord also does so:

Whoever seeks Lord's Refuge, him He hugs to His bosom:
this is the innate nature of the Lord.

A.G., p. 544

Similarly the third Guru, Amardas, says:

And he who seeks Thy Refuge him Thou Redeemest.

A.G., p. 792

In the *Zafarnama* (V. 99) Guru Gobind Singh hints to this law when he writes that whosoever surrender before Him or take His refuge or protection, he takes him in His shelter and protects him.

The Sikhs in wars strictly followed this rule during the Guru period.

11. Legitimacy of stratagem and not of deceit

The word stratagem literally means a plan for misleading the enemy or gaining an advantage through some trick. Laying down of ambushes and troops; concealing of military operations through false marches; giving false impression to the enemy about the location of army etc. are internationally recognised means of stratagem. Stratagems are ruses practised on the enemy in order to mislead him and put him off his guard. According to Article 24 of the Hague Regulations of the year 1907 the use of stratagems is permitted.

But there is difference between stratagem and deceit. Deceit is perfidy whereas 'Stratagem' is not. If any belligerent party violates any promise or undertaking given to

his opponent, it is a perfidy and thus a deceit. So far as stratagem is concerned, there is no promise or undertaking on the part of any of the belligerent parties and there is only an attempt to mislead the enemy by applying wits more sharply. It is a moral obligation of the belligerent party to fulfil the promise and never to backout from the commitment or the undertaking once given to the opponent. If this moral obligation is not kept, it amounts to deceit. For example when Aurangzeb promised Guru Gobind Singh that he would not attack the Guru in case the latter vacated the Anandpur fort and promised to meet him at Kangar for parleys. But when the Guru left the fort, a large royal force attacked him all of a sudden. Guru Gobind Singh himself wrote in the *Zafarnama* that royal army consisted of one million soldiers while there were only 40 men with the Guru. This is a clear-cut example of deceit. To quote Guru Gobind Singh:

I here quote thy own words O King
Which were by thyself and thy men
Betray'd and relied upon no more
"To Kangar town repair please
We shall there welcome you
And avail of this opportunity
For a parley between us two."

V. 57-58

Aurangzeb gave the confidence that none will harm the Sikhs and the former will meet the Guru with a tribute of a thousand pick horsemen. Guru Gobind Singh quotes Aurangzeb:

Accede to my request please
In person to confer with me.

V. 59

There we shall bestow in you
With a thousand pick horsemen.

V. 61

But the Guru was deceived. He writes that had he been in the place of Aurangzeb he would not have deceived the Emperor. To quote the Guru again:

Had I even in secret taken oath
On the holy book as didst thou
I would never take a single step
beyond the mark set by that vow.

V. 18

Virtually in whole of the *Zafarnama*, Guru Gobind Singh criticised bitterly the deceitful manners adopted by Aurangzeb during war.

Stratagems were used by Guru Hargobind as well as Guru Gobind Singh in the wars. Use of them was permissible. For example Guru Gobind Singh left the fortress of Chamkaur, which was surrounded by the royal forces, in a moonlit night. He himself writes about it in the *Zafarnama*:

When at last sun, the light of world
Behind veil of darkness hid his face
And moon the glorious queen of nights
Went up the sky in her shining grace.

V. 42

Lord God, the chastiser of proud arms
Rescued me safe from the fanatic foes
No harm was done not a hair was hurt
For grace divine full security bestows.

V. 44

It seems that the laws of wars and other ethics and principles to be followed by the belligerent groups as evolved during the Guru period became precursor of the modern conventions of warfare. A careful perusal of the various conventions held in the nineteenth and twentieth centuries shows that some of the laws of war prevalent during the Guru period were the basic features of these modern conventions held on warfare.

In nineteenth century many conventions were held. The most important amongst these are the Declaration of Paris of 1856, the Geneva Convention of 1864, the Declaration of St. Petersburg of 1864, the Hague Conventions of 1899 and 1901, the Geneva Protocol of 1925, the Submarine Rules Protocol of 1936 and the four Geneva

Red Cross Conventions of 1949. Some of the important existing laws of war passed by these conventions are not to kill the civilians; not to ill-treat the prisoners of war; not to sink the merchant ships without securing the safety of the crew; not to use poisonous gases, due regard to be accorded to the women; free treatment to the injured; not to make vehicles and aircrafts, engaged in evacuation of the sick and the wounded target. The purpose of such laws of war, is to minimise the suffering of the individuals and to circumscribe the area within which the savagery of armed conflict is permissible.

While it is not possible to enforce the laws of war fully in modern times especially in the view of growing button warfare, nonetheless some sort of rules need to be followed while fighting wars. In spite of obvious difficulties and lack of resources compared to the super powers one can not minimise the role of U.N.O. Similarly the Red Cross Movement with all the limitations plays a vital role in minimising the sufferings caused by wars.

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