Series: The Person in Five Circles

Five Common Misconceptions about International Humanitarian Law

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Introduction

International humanitarian law (IHL) is mentioned in the news whenever an armed conflict breaks out, yet public understanding of it is often confused. Some think it applies only to armies, some see it as a cover that makes war look acceptable, and others believe it has nothing to do with them. This article sets out five common misconceptions and corrects each by returning to the original texts: the four Geneva Conventions of 1949 and their two Additional Protocols of 1977. Every state in the world is party to the Conventions; the UAE acceded to them in 1972 and to the Additional Protocols in 1983.

Misconception 1: "IHL legitimises war"

This confuses two separate branches of international law. The first governs the resort to force and is set by the UN Charter, whose Article 2(4) prohibits the use of force in international relations except in limited cases. The second is IHL, which does not ask whether a war was lawful but how it must be conducted once it has begun. Its rules therefore apply equally to all parties, whichever side others believe is in the right. IHL does not justify war; it restrains it.

Misconception 2: "Anything goes against the enemy"

The opposite is true. IHL rests on three principles that restrict the conduct of hostilities:

- **Distinction:** Article 48 of Additional Protocol I requires parties to distinguish at all times between civilians and combatants, and between civilian objects and military objectives, and to direct operations only against military objectives.
- **Proportionality:** Article 51(5)(b) prohibits attacks expected to cause incidental civilian deaths or damage to civilian objects that would be excessive in relation to the concrete and direct military advantage anticipated.

- **Precaution:** Article 57 requires constant care to spare civilians, verification of targets, and the choice of means and methods that minimise harm.

The law also protects those who can no longer fight. A wounded soldier or a prisoner of war is no longer an "enemy" who may be targeted but a protected person whose rights are set out in the Third Convention.

Beyond the general protection of civilian objects, some objects receive specific protection. Article 54 of Additional Protocol I and Article 14 of Additional Protocol II prohibit attacking, destroying or rendering useless objects indispensable to the survival of the civilian population, such as foodstuffs and drinking water installations, and hospitals and medical units enjoy specific protection under the Geneva Conventions.

Misconception 3: "It applies only to declared wars between states"

Common Article 2 of the Geneva Conventions provides that they apply to declared war "or to any other armed conflict" between two or more states, even if one of them does not recognise a state of war, and to cases of occupation. Common Article 3 sets minimum protections in non-international armed conflicts and binds every party to the conflict, including non-state armed groups. Additional Protocol II develops these protections further. The scope matters here: Protocol I covers international armed conflicts, while Protocol II covers a category of non-international conflicts that meet specific conditions. The core principles of distinction, proportionality and precaution, however, have become customary rules that apply in both types of conflict, as the ICRC's study of customary IHL documents.

Misconception 4: "Only the state is responsible"

States are responsible, but so are individuals. Grave breaches of the Geneva Conventions are war crimes for which the perpetrator is personally liable, as is whoever ordered them. The Conventions require states to prosecute those responsible for grave breaches or hand them over for trial, and Article 8 of the Rome Statute of the International Criminal Court defines war crimes in detail. "Following orders" is no defence for a manifestly criminal act.

Misconception 5: "Ordinary people have nothing to do with it"

Common Article 1 commits states "to respect and to ensure respect" for the Conventions in all circumstances. One tool for this is the duty to disseminate the law as widely as possible, in military training and, where possible, in civilian education, under Article 47 of the First Convention, Article 144 of the Fourth Convention and Article 83 of Additional Protocol I. Ordinary people have a real role: knowing that the Red Crescent and Red Cross emblems are protected and must not be misused, treating misleading content with caution during conflicts, and supporting

credible humanitarian work. The UAE has a National Committee on International Humanitarian Law that works to promote the law and align national legislation with it.

Roots older than the modern texts

The idea of restraining war is not foreign to our culture. The well-known instructions attributed to Caliph Abu Bakr al-Siddiq to his armies, forbidding the killing of children, women and the elderly and the cutting of fruit-bearing trees, meet the principle of distinction in substance. This does not mean the two bodies of rules are identical in every detail, but it shows that respect for human beings in war has deep roots in our heritage.

Conclusion

IHL does not prevent wars and was never designed to. What it does is draw the line between fighting and brutality, and preserve the humanity of civilians, the wounded and prisoners when every other safeguard has gone. Violations are many, but a violation does not cancel the rule; it confirms the need for the rule, and for spreading and respecting it.

Sources

1. The four Geneva Conventions of 12 August 1949, in particular Common Articles 1, 2 and 3, Article 47 of the First Convention and Article 144 of the Fourth Convention.
2. Additional Protocol I of 1977, Articles 48, 51, 54, 57 and 83; Additional Protocol II of 1977, Article 14.
3. Charter of the United Nations, 1945, Article 2(4).
4. Rome Statute of the International Criminal Court, 1998, Article 8.
5. International Committee of the Red Cross, Customary IHL database (2005 study); glossary entry on objects indispensable to the survival of the civilian population.
6. International Review of the Red Cross: UAE accession to the Geneva Conventions (1972) and to the Additional Protocols (9 March 1983).
7. Imam Malik, *al-Muwatta*, Book of Jihad, chapter on the prohibition of killing women and children in war.

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