

RIGHTS REVEALED

HUMAN RIGHTS AND ARMED CONFLICT

PART 1

In times of armed conflict, respect for and protection of human rights take on a heightened significance. It is precisely during challenging moments in the chaos of war that the protection and promotion of human rights become even more essential. The first in our series of educational explainers explains **why human rights matter during war**, focusing on the dignity, safety and well-being of individuals, including civilians, combatants and detainees.

EVEN WARS HAVE LAWS

WHAT HAPPENS TO HUMAN RIGHTS DURING ARMED CONFLICT?

Human rights are universal: they apply to all people at all times. Human rights cover a wide range of topics and themes, from the right to freedom of expression, to the right to health, and the right to take part in cultural life. These rights are set out in several human rights declarations and conventions. One of the best known is the Universal Declaration of Human Rights, created in the aftermath of World War II. Others include the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the Convention on the Rights of the Child. Many people wonder, what happens to the protection of human rights during armed conflict? Do people still have the same rights? Or are human rights no longer respected, protected, and fulfilled at the same levels as in peacetime, due to the large-scale violence and disruption caused by an armed conflict?

People can and should expect to continue to have access to and enjoy their human rights. This applies to **political and civil rights**, including the right to life and the right to fair trials. For example, the prohibition against cruel, inhuman or degrading treatment or punishment is just as valid during extreme public emergency, such as times of war. It also applies to **economic, social and cultural rights**. For example, children still have the right to education even in times of armed conflict or natural disasters. People have a right to healthcare, housing, food and clean water. While the impact of armed conflict often has a devastating impact on human rights, **states still have a duty to respect, protect and fulfil the rights of all individuals and groups.**

WHAT HAPPENS TO HUMAN RIGHTS DURING ARMED CONFLICT?

In times of crisis that could seriously impact the people of a country, a government may not have the capacity to secure human rights in the same manner it normally does. They can, to a certain extent, adjust the normal way of operating in order to deal with the emergency. For example, in case of a natural emergency like an earthquake or floodings, governments might issue evacuation orders to move people from dangerous zones to safer locations, organizing transport and temporary accommodation. Or, during an armed conflict, resources like food, water, medicine and fuel may be scarce and governments may ration these resources to guarantee everyone gets essential supplies.

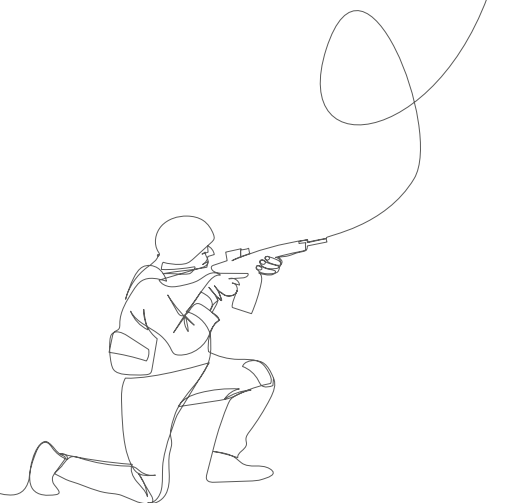
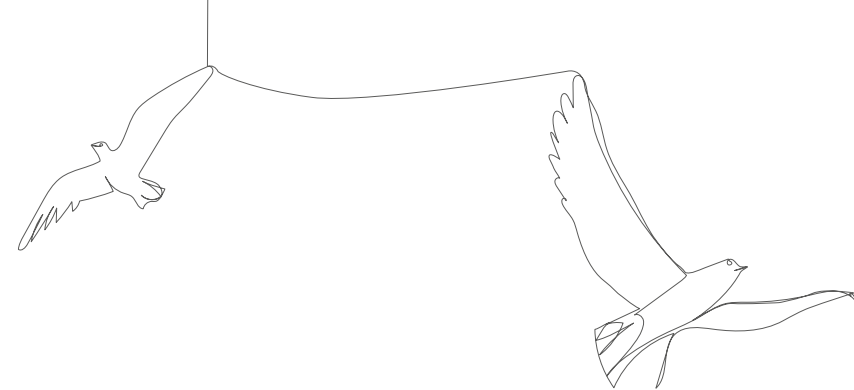
However, governments **may only limit some human rights when absolutely necessary**, and they still have to follow international law. They are still accountable for their actions. Also, they can't use an emergency to treat people unfairly and discriminate based on their race, colour, gender, language, religion, or other grounds.

Certain human rights are considered so essential to everybody's protection that they may never be suspended or changed, even during situations of armed conflict or public emergencies. These include, among others:

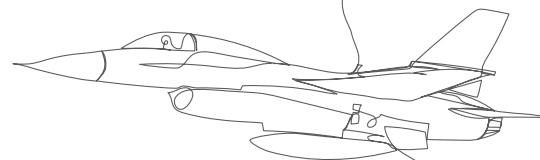
- ▶ the right to life;
- ▶ the prohibition against torture or other ill-treatment;
- ▶ the prohibition against slavery;
- ▶ fundamental requirements of fair trial;
- ▶ the right to freedom of thought, conscience and religion or belief;
- ▶ the prohibitions against taking of hostages, abductions and enforced disappearances;
- ▶ the minimum core obligations of rights, for example essential primary healthcare without discrimination, as well as food, basic shelter and safe water.

HUMAN RIGHTS ALWAYS APPLY, INCLUDING DURING ARMED CONFLICT.

States are always bound by human rights duties, even in times of war and armed conflict. This is set out in the international human rights' legal framework. In times of armed conflict, other laws also start to apply to regulate all parties' actions: **international humanitarian law.**



WHAT IS INTERNATIONAL HUMANITARIAN LAW?



Even in war and armed conflicts there are rules. This is called international humanitarian law or the laws of war.

International humanitarian law guides what can and cannot be done by parties to an armed conflict. It sets out the rules to protect civilians, those people who are not or are no longer taking part in hostilities. It also imposes limits on the means and methods of warfare. It helps to save lives, reduce suffering, and limit harmful practices by state and non-state armed groups during armed conflicts. In other words, it defines acceptable conduct during conflicts. **International human rights law and international humanitarian law co-exist and overlap**, offering greater protection to civilians and other people in conflict.

These rules are mainly found in the Geneva Conventions of 1949, their Additional Protocols of 1977, and the Hague Regulations of 1907.

Even though international humanitarian law is frequently violated, following its rules reduces human suffering significantly. All states, armed groups and armed dissidents have a duty and obligation to abide by international humanitarian law. The rules of international humanitarian law are universal, unconditional, and non-reciprocal: the violation of these rules by one party does not justify the opposing party breaking its own obligations under international humanitarian law.

ESPECIALLY ARMED CONFLICTS NEED LAWS.



Check out this 3-minute video from the ICRC that explains the principles of international humanitarian law.

https://www.youtube.com/watch?v=ESwfxu_1Ko0

IN SHORT: While international humanitarian law applies specifically to armed conflicts, international human rights law applies at all times, including during situations of emergency or armed conflict. It includes obligations to respect, protect and fulfil human rights such as the rights to life, education, shelter, and health. These obligations under international human rights law extend not only to states with respect to their own citizens but also to their conduct when they are involved in conflicts beyond their borders, including invasions and occupations. Armed conflicts are not exempt from rules, on the contrary. Armed conflicts, due to their destructive nature, require legal frameworks not just as an afterthought but as a crucial necessity to protect civilians and reduce human suffering.

SOME OF THE BASICS OF INTERNATIONAL HUMANITARIAN LAW

1 PROTECTING CIVILIANS

Most people in conflict zones are not actively taking part in hostilities, even if they take a side. “Civilians” are people – both children and adults – who aren’t combatants or fighting members of armed groups. International humanitarian law sets out to protect civilians and others from harm during military operations. Some people are considered more vulnerable and thus demanding more protection—such as children, sick and wounded persons, or detainees.

2 PROTECTING CHILDREN

Children are often at greater risk during conflict and so they are granted special protection under international humanitarian law. They must be provided with the care and aid they need. Steps need to be taken to protect children in every way, to help them keep attending school despite the conflict, to prevent them from being recruited as child soldiers, to ensure they aren’t taken away or separated from their families, and especially from being abducted.

3 PROTECTING HOSPITALS AND SCHOOLS

Civilian objects such as residential buildings, schools and hospitals are under special protection. These structures should not be attacked and should not be used for military purposes. International humanitarian law requires all parties to respect and protect hospitals, medics and patients. Deliberate attacks on these facilities are war crimes, demanding accountability and potential international prosecution. Schools are also civilian objects, like residential buildings and places of worship, and unless they are used for military purposes, must not be attacked. Given the importance of educational institutions for every society, parties to a conflict should not use schools for any purpose in support of their military effort.

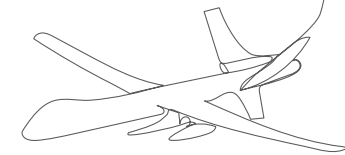
4 ATTACKING MILITARY TARGETS, DISREGARDING THE FACT THAT MANY CIVILIANS WILL BE KILLED OR INJURED, IS ILLEGAL.

This is called the principle of **proportionality**, a fundamental concept in international humanitarian law. It requires that, in armed conflicts, parties weigh the concrete and direct military advantage they expect in an attack against the potential harm or damage to civilians and civilian objects. In other words, it means that the harm caused to civilians because of any military attack should not be excessive in relation to the concrete and direct military advantage expected. Wilfully launching a disproportionate attack is a war crime.

5 WHEN THERE IS DOUBT, THE MATTER SHOULD BE DECIDED IN FAVOUR OF CIVILIANS..

During armed conflicts, attackers must abide by the principle of **distinction**, another cornerstone of international humanitarian law. This means that they must ensure their targets are military, not civilian. International humanitarian law prohibits attacks on civilians and civilian objects.

In addition, the principle of **precaution** requires that constant care be taken to spare civilians and civilian objects throughout the conduct of military operations. Extra caution is needed near civilian zones such as cities and towns. Attackers must take all possible precautions to avoid or minimize harm, including through providing adequate advanced warnings. Any attack should be cancelled or suspended if it is found that the target is not a military objective or if it may be expected that the harm to civilians will be disproportionate, in violation of the principle of proportionality.



DEBUNKING MYTHS

International humanitarian law provides us with a framework to regulate armed conflicts. But as laws can seem quite complex, it can easily be misconstrued or misunderstood. Let's look at some common misconceptions about international humanitarian law and clarify the truth behind them.



MYTH: International humanitarian law is ineffective because it is constantly violated.

DEBUNK:

While violations occur – and are often very visible – many states and non-state armed groups do follow international humanitarian law. The presence of violations does not show the law's ineffectiveness but underscores the need for better implementation, enforcement and accountability. In fact, it is generally in the interest of a party at war to adhere to these rules, as their own fighters and civilians would also suffer more if the other party doesn't.



MYTH: International humanitarian law is not relevant because it cannot be enforced.

DEBUNK:

International humanitarian law can be enforced through a combination of national implementation, international criminal tribunals, and other international measures to hold state and non-state armed groups accountable. States are responsible for incorporating international humanitarian law into their domestic systems and prosecuting serious violations amounting to war crimes, including through the principle of universal jurisdiction. Universal jurisdiction allows national courts to prosecute an individual regardless of their nationality or where the alleged crime was committed. International criminal tribunals, like the International Criminal Court, can prosecute individuals for war crimes. Companies and corporations have a duty to implement due diligence to make sure that their business operations do not breach international humanitarian law and they should be held accountable if they do not do so. Diplomatic efforts and public pressure from civil society and international organizations also play roles in promoting adherence to international humanitarian law.

MYTH: In armed conflict, the end justifies the means.

DEBUNK:

International humanitarian law is based on the ground that there are limits in war and in the conduct of armed conflict, and certain actions are still prohibited, regardless of the potential military advantage to be gained. This includes compliance with the principles of distinction, proportionality and precaution. Crucial points of international humanitarian law are the protection of civilians and persons who are no longer engaging in hostilities, and preventing unnecessary suffering among combatants and fighters, to ensure that human dignity is upheld even during armed conflict. The notion that achieving victory by any means necessary is permissible undermines these legal and ethical norms established by the international community.

DEBUNKING MYTHS



MYTH: International humanitarian law is a modern invention.

DEBUNK:

The basic principle of upholding humanity in warfare is ancient and has been part of cultural and religious ethical codes for centuries. While today's codification of international humanitarian law in treaties started and expanded in the past 150+ years, the "Chivalric code of War" from the Battle of Lagny in 1439 in medieval European warfare, the Islamic principles of warfare by the Prophet Muhammad in the 7th century, and ancient Indian rules called the Mahabharata (circa 3100 BCE) outlined early standards for the protection of civilians and civilian property and the humane treatment of prisoners.



MYTH: Civilians can never be targeted.

DEBUNK:

It's true that the protection of civilians is one of the fundamental rules of international humanitarian law, explicitly prohibiting direct attacks on them. However, the situation becomes complex when civilians directly take part in hostilities. Civilians are protected from attack unless and for such time as they take a direct part in hostilities. Examples include civilians taking up arms and directly attacking enemy soldiers, operating military equipment or installations, or conducting sabotage. Once they do so, they lose the protections granted to civilians, but only for the duration of their direct participation in hostilities. International humanitarian law protects persons who are not, or are no longer, directly taking part in hostilities.

MYTH: Sending a pre-warning of upcoming attacks and bombing soon after is enough to warn civilians.

DEBUNK:

Merely issuing a warning does not absolve a party from its responsibilities under international humanitarian law. The warning must be effective, prompt and clear, allowing civilians enough time and means to take protective measures or evacuate the targeted area. The warning should specify the nature of the threat, the expected time of the attack, and the actions civilians should take to protect themselves. A vague or generic warning may not be considered sufficient. Warnings must also be workable. For instance, ordering hundreds of thousands of people to leave a specific area within a limited time frame and under conditions where such orders cannot be implemented, cannot constitute an effective advance warning. Further, the issuance of advance warnings, no matter how effective they may be, does not absolve the warning party of its obligation to respect the principles of distinction, proportionality and precaution.

DEBUNKING MYTHS

MYTH: Civilians who stay in conflict zones accept the risk of becoming casualties.

DEBUNK:

There are many reasons civilians might not leave an area after a warning, including lack of safe places to go, fear of becoming internally displaced, being too wounded or ill, responsibilities to vulnerable family members, lack of resources, or simply hoping to protect their property and livelihoods. International humanitarian law protects all civilians and means that parties to the conflict must avoid harm to all civilians, no matter their location or the reasons why they stay in an area under attack. An indiscriminate or direct attack against civilians who do not or cannot leave an area after a warning, based solely on the fact that they stayed at their homes, violates the principle of distinction.

MYTH: Taking hostages is a permissible method of warfare.

DEBUNK:

International humanitarian law prohibits hostage-taking. Hostage-taking is a war crime.

MYTH: There are no legal restrictions on the use of force in occupied territories.

DEBUNK:

International humanitarian law specifically regulates military occupation, including with a view to protecting the occupied civilian population. Actions such as collective punishment, forced displacement, indiscriminate and disproportionate attacks are prohibited and may amount to war crimes.

THIS LIST OF MYTHS MAY SEEM LONG ALREADY, BUT THERE ARE PLENTY OTHER MYTHS THAT GO AROUND.

HAVE YOU HEARD OF OTHER STATEMENTS THAT YOU THINK MIGHT BE MYTHS? CAN YOU DO SOME RESEARCH TO EITHER CONFIRM OR DEBUNK THAT MYTH?



DEBUNKING MYTHS

MYTH: Forcible transfers of the local population within occupied territories are permissible.

DEBUNK:

International humanitarian law firmly prohibits forcibly moving residents in occupied areas. Forcibly transferring them disrupts the social fabric, separates families, and violates individual rights.

MYTH: Transferring the occupier's civilian population to occupied territories or setting up settlements is allowed.

DEBUNK:

International humanitarian law strictly forbids the establishment of settlements in occupied territories and prohibits an occupier from relocating their civilians to those occupied territories. These acts alter the area's demographic balance, infringe on residents' rights, and go against the temporary nature of military occupation, often fuelling further conflict and suffering. They lead to long-term changes in the occupied territories and cause lasting harm to the local population.

As you navigate through the complexities of international humanitarian law, it's crucial to remember that its rules aren't just theoretical — they're about preserving human dignity amidst the horrors of armed conflict. You, as a global citizen, play a role in upholding these standards. By staying informed, advocating for adherence to international humanitarian law, and supporting accountability for violations, you contribute to a world that respects the rules, even in times of conflict. Remember, your voice matters in the collective effort to ensure that especially conflicts follow laws, and these laws bring light to the darkest of times



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