

Rules of War: The Development of International Humanitarian Law and Ethics of Warfare

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Introduction

War has always been a crucible for humanity's highest ideals and darkest capacities. Across centuries and civilizations, communities have sought to channel the violence of armed conflict, to distinguish combatants from noncombatants, to limit suffering, and to preserve the possibility of peace after battle. This book explores how those aspirations coalesced into rules—legal, moral, and practical—that govern warfare. It traces a long arc from ancient edicts and religious injunctions to the dense fabric of modern treaties, customary norms, and courtrooms that now shape decisions made on battlefields and in command centers around the world.

The development of international humanitarian law (IHL) did not occur in a vacuum. It emerged from the interplay of philosophy, state interest, military necessity, humanitarian advocacy, and the testimonies of victims. Just war thinkers supplied moral vocabularies about when and how war may be waged; diplomats and jurists codified obligations; soldiers and medical workers translated abstract principles into doctrine and practice; and courts tested accountability in the aftermath of atrocity. Each chapter in this volume situates legal milestones within the ethical debates that animated them, asking not only what the rules say, but why they were deemed necessary and how they have been interpreted on the ground.

At the heart of this inquiry lie core principles—distinction, proportionality, necessity, and humanity—that aim to reconcile the conduct of hostilities with the protection of persons who do not, or no longer, take part in fighting. These principles are robust yet continually contested as technologies evolve and conflicts shift from set-piece battles to urban warfare, insurgency, and proxy engagements. The book examines the conventions and protocols that seek to operationalize these ideas, the jurisprudence that clarifies or reimagines them, and the persistent dilemmas that commanders, policymakers, lawyers, and humanitarian actors face when lives hang in the balance.

The story of IHL is also a story of institutions and enforcement. Moments of reckoning—from Nuremberg and Tokyo to contemporary international and hybrid courts—have shaped our understanding of war crimes, command responsibility, and victims' rights. Yet enforcement remains uneven, complicated by politics, sovereignty, and the asymmetries of modern conflict. We consider the incentives and pressures that drive compliance, the role of civil society and the International Committee of the Red Cross, and the limits of law when power dynamics and strategic imperatives collide.

New frontiers challenge established norms. Remote and cyber operations blur lines of geography and attribution; autonomous systems force us to re-examine the locus of human judgment and accountability; and long-standing concerns—protection of civilians, detainee treatment, cultural heritage, and the environment—are tested in dense cities and fragile ecosystems. The book engages these emerging issues without treating them as wholly unprecedented, showing how historical experiences and existing legal frameworks provide guidance, even as they require adaptation.

Throughout, the approach is intentionally interdisciplinary and comparative. By drawing on history, legal analysis, ethics, operational practice, and case studies from diverse regions, we aim to equip readers with a nuanced understanding of how rules of war are made, interpreted, complied with, and sometimes violated. The objective is neither to romanticize law's capacity nor to dismiss it, but to illuminate how legal and moral limits on armed conflict have developed—and how they might evolve—to reduce suffering and preserve human dignity when peace breaks down.

CHAPTER ONE: From Hammurabi to Ashoka: Early Restraints on War

Civilizations rarely begin with restraint as their first instinct. When early polities learned to mobilize mass violence, they often celebrated its totality and speed, etching scenes of triumph on stone and clay while leaving the costs to inference. Yet even the most martial societies proved capable of drawing lines. Long before modern treaties or courtrooms, leaders, priests, and scribes devised ways to channel force, to limit its excess, and to reserve a measure of dignity for those who fell on the wrong side of a spear. These choices were rarely born of universal benevolence. They emerged from calculations of order, reputation, reciprocity, and the stubborn human habit of distinguishing one's own from others. The seeds of what would eventually become international humanitarian law sprouted in soil that was pragmatic as often as it was principled, and their growth was uneven, contested, and occasionally uprooted by fresh waves of conquest.

In Mesopotamia, where city walls rose from mudbrick and ambition, the notion that sovereign power could be bounded by written norms took an early and durable form. The stele of Hammurabi, erected near the close of the eighteenth century BCE, is remembered for its *lex talionis* and its meticulous concern with social hierarchy, yet it also reveals a legal mind attentive to the conduct of war. The code insists that authority be exercised according to rules, not whims, and it assigns duties to officials that extend into military matters. Booty is regulated, oaths bind commanders, and protections are extended—or withheld—along lines of status and allegiance. The stele's placement in public spaces was itself a statement: the king's justice could be seen, read, and remembered. This visibility mattered. In an age when word of mouth and royal decree mingled unpredictably, a fixed text reduced the room for commanders to improvise brutality in the heat of campaign. The code did not abolish violence; it aimed to domesticate it, to ensure that force served the state's long-term interests more reliably than short-term terror could.

Hammurabi's regime also recognized that war created economic and administrative

problems that could not be solved by the sword alone. Treaties of the period, recorded in cuneiform archives, show careful attention to the return of displaced populations, the restoration of sanctuaries, and the inviolability of emissaries. These agreements were not humanitarian charters in any modern sense. They were instruments of stability, designed to keep trade routes open, taxes flowing, and alliances from unraveling. Nevertheless, they planted a crucial idea: that even enemies could share limited, enforceable expectations. Ambassadors traveled under names that implied sacred trust, and their safe passage was treated as a matter of cosmic as well as political consequence. When a king swore by the gods to respect a frontier or ransom a captive honorably, he bound his reputation to a performance that others could witness and judge. In a world where terror could backfire by stiffening resistance and harming commerce, moderation could be the shrewder strategy.

Egypt offers a parallel trajectory, though one shaped by a different sense of cosmic order. The pharaoh's wars were never merely contests of territory; they were rituals that affirmed *ma'at* against *isfet*, harmony against chaos. This worldview did not spare Egypt's enemies from crushing defeat, but it did encourage a repertoire of restraints that served the state's self-conception. Inscriptions celebrate the capture of foes, yet administrative papyri record norms that protected water sources during siege, regulated the conscription of labor, and granted certain protections to temple precincts even amid conflict. Foreigners who entered Egypt under truce could sometimes expect guarantees of safety, not because they were loved but because their predictable behavior was useful. The pharaoh's image as a disciplined sovereign who could unleash or withhold violence at will proved more potent than indiscriminate savagery. In the long run, the ability to promise and keep conditional restraints helped Egypt project power beyond its borders with less friction.

The ancient Near East produced its share of exaggerated inscriptions, yet archives from Mari, Ugarit, and Amarna reveal diplomats feverishly negotiating truces, clarifying safe conduct, and exchanging prisoners in ways that presaged later treaty practice. These were fragile arrangements, often shattered by shifting alliances, yet they created habits of communication that survived their immediate failures. A letter from a king warning another not to harm merchants under escort, or a tablet recording the ransoming of captive women with precise weights of silver, shows an incipient legal sensibility at work. People began to distinguish permissible from impermissible harm not by abstract philosophy but by recurring patterns of mutual advantage. Over generations, these patterns hardened into customs that could be cited, disputed, and occasionally enforced. The law of nations, in its earliest form, was less a code than a gossip network of expectations carried across deserts and seas.

Farther east, the Indian subcontinent cultivated its own traditions of restraint that intertwined religion, statecraft, and the management of violence. The Mahabharata, epic in length and moral complexity, devotes long passages to the duties of warriors, the protection of noncombatants, and the limits of righteous war. These discussions

are not always consistent; they reflect centuries of accretion and debate. Yet they include injunctions against striking the helpless, mutilating the dead, or poisoning weapons. The Bhagavad Gita, embedded in this larger epic, wrestles with the ethical burden of taking up arms, emphasizing disciplined action and the importance of intent. Meanwhile, the Dharmashastra texts, composed by Brahmanical jurists, set out detailed rules for kings and commanders. They regulate when war may be declared, how envoys must be honored, and which categories of people and property should be spared. Cows, Brahmins, and agricultural tools receive explicit protections not because they were always respected in practice but because their symbolic value underpinned social order.

These texts were matched, at times, by measures of practical statecraft. The Arthashastra, attributed to Kautilya, offers a realist's guide to empire that nonetheless acknowledges the utility of disciplined conduct. Treaties, spies, and the careful management of conquered populations appear alongside more ruthless stratagems, creating a composite picture in which restraint could be both a moral ideal and a tactical choice. The Mauryan emperor Ashoka represents a striking moment when personal remorse appears to reshape official policy. After the carnage of his campaign in Kalinga, Ashoka issued edicts carved into rock and pillar across the realm, advocating nonviolence, humane governance, and medical care that extended to people and animals beyond his own subjects. While the full reach of these reforms remains debated, they mark a rare instance of an emperor publicly tying his legitimacy to the reduction of suffering rather than its infliction.

China's early history likewise intertwines warfare with elaborate codes of conduct. The Spring and Autumn period gave rise to ritualized combat among feudal states that, for all its pageantry, functioned as a system of mutual restraint. Battlefield etiquette prescribed when challenges could be issued, how surrenders should be accepted, and which ranks of nobility were entitled to particular treatment if captured. These norms were not egalitarian; they served aristocratic warriors who recognized that preserving a shared cultural framework made conflict more predictable and less costly to their class. The chivalrous veneer cracked under the pressures of the Warring States period, when mass infantry and new technologies eroded the exclusivity of ritual combat. Yet the Confucian tradition continued to emphasize the moral cultivation of rulers and the importance of benevolent governance, insisting that the Mandate of Heaven could be lost through excessive cruelty. Military manuals such as the Sunzi Bingfa, often mistranslated as pure Machiavellianism, in fact counsel restraint and deception as ways to achieve objectives with minimal destruction.

In all these societies, the treatment of captives and the fate of noncombatants emerged as touchstones of civilization. Slavery was widespread, yet ransoming and the conditional release of prisoners created pathways short of permanent degradation. Women and children were not always spared, but their systematic targeting could provoke lasting enmity and disrupt postwar recovery. Communities learned that

reputations for mercy or brutality circulated ahead of armies, shaping the decisions of future adversaries. Leaders who cultivated a reputation for measured violence often found it easier to secure surrender and reduce the need for costly sieges. This pragmatic morality was seldom universal or stable, but it established patterns that would echo through later epochs.

The ancient Mediterranean offers a final cluster of examples in which religion, law, and custom interlocked to regulate conflict. The Hebrew Bible contains laws of war that distinguish between distant and nearby cities, mandate offers of peace before siege, and set aside a period of nonagricultural service for newlyweds, acknowledging that human lives are not infinitely pliable. These rules coexist with narratives of total destruction, reminding us that scriptural traditions are capacious and contested. Greek city-states developed their own customs regarding heralds, truces for religious festivals, and the treatment of suppliants. The institution of asylum at sanctuaries created zones of immunity that even wary commanders hesitated to violate, fearing divine as well as political consequences. These practices did not prevent Athens from slaughtering Melos or Sparta from brutalizing helots, but they provided a common language of complaint when lines were crossed.

Rome's rise brought a new scale of organization and a legal tradition that would leave an enduring mark on Western conceptions of war and order. The Roman Republic and later the Empire conducted wars with a lawyerly attention to forms, from the declaration of hostilities to the *devotio* of generals seeking victory through ritual self-sacrifice. Rome distinguished between different categories of enemies and populations, offering varying degrees of incorporation into the civic order. The gradual extension of citizenship and the development of *ius gentium* created a framework in which foreigners could possess enforceable rights. Roman military discipline was famously severe, yet it was matched by expectations that commanders would not enrich themselves at the army's expense or abuse allies. The idea that law could travel with the legions, applying even in distant provinces, foreshadowed later notions of universally applicable humanitarian norms.

Across these diverse civilizations, certain patterns recur. Leaders inscribed their rules on stone or clay to make them public and durable. They privileged certain categories of people and property—envoys, sanctuaries, agricultural tools—because their protection served practical interests as well as symbolic values. They experimented with reciprocity, learning that granting limited courtesies could yield advantages in intelligence, logistics, and surrender. They also discovered that restraints, once established, could be used as weapons of legitimacy, with each side accusing the other of barbarism while styling itself the defender of order. These dynamics set the stage for later philosophical systematization and for the codification that would eventually knit scattered customs into something resembling international law.

Technological limits played their part. Early societies lacked the capacity for total war

as it would be understood in the industrial age. Armies were constrained by supply, terrain, and the need to preserve agricultural labor. These material conditions nudged leaders toward strategies that conserved resources and populations, not out of humanitarianism alone but out of necessity. Yet material limits did not determine behavior; they interacted with ideas about honor, divine will, and justice. When a king chose to spare a defeated rival or to rebuild a conquered city's walls, he was often making a statement about the kind of order he intended to create. In this sense, early restraints on war were never purely technical fixes; they were experiments in political meaning.

Oral traditions and written records alike show that violations were common and that enforcement was inconsistent. A single stele or treaty could not police an empire; compliance relied on a mixture of shame, interest, and the occasional reprisal. Yet the very fact that norms were recorded and taught meant that transgressors could be called to account, if not by a court then by poets, priests, and rival kings. The memory of cruelty could linger for generations, shaping alliances and enmities long after the blood had dried. Reputation, in an age of slower communication and longer memories, was a currency that could outlast a single reign.

As empires expanded and interacted, they encountered foreign customs that challenged their own assumptions. Greek observers of Persian court rituals, Roman envoys among Germanic tribes, and Chinese chroniclers of steppe nomads all struggled to translate alien practices into familiar categories of lawful and lawless conduct. These encounters did not always produce tolerance, but they fostered a recognition that different peoples operated under different rules. This awareness would eventually feed into the idea that certain basic restraints ought to apply regardless of cultural difference, a notion that remained embryonic for centuries yet would prove resilient.

The ancient world did not produce a single, universal law of war. It produced a repertoire of practices, some more durable than others, that could be adapted, borrowed, and transformed. From Hammurabi's stele to Ashoka's edicts, we see rulers experimenting with the relationship between power and principle, discovering that legitimacy could be reinforced by visible limits. These experiments were often self-serving, yet they opened conceptual space for later generations to ask not only what rulers could do, but what they ought to do. The transition from custom to doctrine, from pragmatic restraint to moral obligation, would require new philosophical tools and new political formations, but the raw materials were already at hand.

In the centuries that followed, these scattered traditions would be woven together by thinkers and diplomats who sought to make sense of an increasingly connected and contentious world. The story of international humanitarian law begins not with a single document or conference, but with this long, uneven process of trial and error, inscription and memory. Wars continued to be brutal, yet they also became

increasingly legible—governed by patterns that could be studied, criticized, and refined. As empires rose and fell, the idea persisted that even in the midst of violence, human beings could choose to draw lines, and that those lines, once drawn, could matter.

The echoes of early edicts can still be heard in modern debates over the treatment of prisoners, the immunity of medical facilities, and the duty to warn civilians before an attack. This continuity does not imply progress in a straight line; history is too crooked for that. It does suggest that the impulse to regulate war is as old as the state itself, and that the forms in which that impulse is expressed continue to evolve. By examining these earliest efforts to humanize violence, we gain not a simple blueprint for contemporary problems, but a deeper sense of how legal and ethical norms take root, survive, and adapt when the stakes are highest.

With these foundations laid, the next chapter will explore how philosophers and theologians began to systematize the moral criteria for going to war and for limiting its conduct. Their arguments would help transform a patchwork of customs into a language of principles capable of crossing religious and cultural boundaries, setting the stage for the more formalized law of nations to come. For now, the ancient codes remind us that the struggle to impose limits on armed conflict has always been a human project—flawed, partial, and enduring.

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