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The foundations of international humanitarian law in Islamic tradition / Shaheen Whyte

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Abstract:	Recent debates regarding Islam's status in world politics has limited the opportunity for Muslims to speak about Islam's ethical position on war and peace. Within this context, Islam has been labelled as a religion that is incapable of adhering to international norms of armed conflict, specifically those relating to international humanitarian law (IHL). This paper therefore seeks to define and clarify the Muslim perspectives on IHL through a study of Islamic jurisprudence and historical occurrences of war and peace in Islam. Within this scope, the paper aims to critically examine how early Islamic jurisprudence guided state practices of Muslim empires and military commanders under the traditional corpus of Islamic international law (al-siyar). It contrasts these methods and practices with recent commentary aimed at underselling Islam's position on the development of IHL and its key apparatus, the Geneva Conventions. By doing so, the paper explains some of the widely held misconceptions associated with Islamic approaches to armed conflict, namely, the perceived absence of a legal tradition vis-à-vis Western European notions of just war theory.
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