Pen and Sword: Journalism and IHL
Welcome to the first edition of the International Humanitarian Law magazine for 2015, which focuses on journalism and the laws of war.

Journalists have a unique and incredibly powerful role in conflicts. As observers and reporters, they bear witness to the horrific consequences of armed conflict and relay this horror to people around the globe. In carrying out their work, correspondents are also among those most at risk of being wounded, kidnapped or killed.

In recognition of the special role they play and the risks they take, journalists are specifically protected by the laws of war. Under the Geneva Conventions “journalists engaged in dangerous professional missions in areas of armed conflict shall be considered as civilians ... and shall be protected as such under the Conventions.”

However, journalists working in some of the world's most violent conflicts are often targeted and killed. Of the more than 1,000 journalists killed since 1992, almost half have been covering conflicts, with many more detained simply for doing their job. Advocacy groups have called for additional protective measures to be adopted internationally, while others argue that existing protections are sufficient and that the focus should be on education and enforcement of these measures.

Journalists can be part of the solution. They not only play a critical role in informing the world about the events of conflict but can also be vital in terms of educating about the principles of IHL through their work. By understanding IHL and who it is intended to protect, journalists can recognise and report on IHL violations and ensure they are reporting responsibly and accurately. They can contribute to the creation of conditions likely to compel authorities to respect these important laws. Importantly, an understanding of IHL can also help them protect themselves.

In this edition of the magazine, we commence with an article outlining the protection of journalists under IHL, accompanied by a piece looking at the media's own responsibility to understand IHL. Other articles cover the first-hand experience of working in a conflict zone, the ethics and difficulties of capturing humanitarian crises through a camera lens, the role of social media in news-reporting and relevant case analysis from the International Criminal Tribunal for Rwanda. Alongside these articles we profile some of those journalists who tragically lost their lives or were harmed while carrying out their duties.

We sincerely thank the contributors to this issue for their informative and educative work and we hope you enjoy this edition.

Michael Legge,  
President  
Australian Red Cross

Robert Tickner,  
Chief Executive Officer  
Australian Red Cross
Protecting journalists in situations of armed conflict

By Dr Emily Crawford, Co-Director, Sydney Centre for International Law, University of Sydney

Of all the people in danger during situations of armed conflict, journalists and war correspondents face a unique threat. They willingly place themselves in the midst of active hostilities with no means to defend themselves and they risk their lives to report on the events in the conflict. However, journalists now increasingly find themselves subject to violence simply due to their occupation. Journalists often serve as witnesses to events that people in power do not want publicised; thus, journalists can often find themselves harassed, censored, attacked, imprisoned, even killed. The non-governmental organisation, the Committee to Protect Journalists (CPJ) has recorded over 1,100 journalists killed since 1992, with over 200 imprisoned in the last 18 months and over 400 driven into exile over the past five years due to their work.

The unique dangers that threaten journalists and war correspondents in war zones and situations of unrest and conflict have long been recognised under the law of armed conflict. Indeed, one of the very first mentions of journalists in the law of armed conflict came in the 1863 Instructions to the US Union Army during the American Civil War. Known as the Lieber Code, in honour of its drafter, law professor Francis Lieber, the 1863 Code provided a comprehensive statement on the law of armed conflict for the Union Army and stated in Article 50 that "citizens who accompany an army for whatever purpose, such as ... editors, or reporters of journals" should be afforded prisoner of war (POW) status. The Geneva Conventions of 1949 also provides POW protections for ‘war correspondents’ – that is, any journalist accredited...
by and accompanying the armed forces in the field. As POWs, war correspondents are thus entitled to a raft of protections found in the Third Geneva Convention relating to the treatment of prisoners of war.

When the law of armed conflict was further developed and reaffirmed in the 1970s, the Additional Protocols to the Geneva Conventions restated the importance of protecting journalists from direct attack. Article 79 of Additional Protocol I affirms that journalists are civilians and are thus to be protected from the effects of the conflict and are not to be made the subject of attack. Directly attacking a civilian is a grave breach of the Geneva Conventions and Additional Protocol I and constitutes a war crime under the Rome Statute of the International Criminal Court in both international and non-international armed conflicts.

What these rules provide is a comprehensive set of protections for journalists operating in situations of armed conflict. The POW protections ensure that journalists do not find themselves subject to arbitrary detention or mistreatment by authorities in power. As civilians, journalists are also protected from mistreatment and violence at the hands of any party to the conflict, with prohibitions on acts such as murder, mutilation, torture, corporal punishment, humiliating and degrading treatment, and denial of fair trial and due process rights.

The increasing violence against journalists over the past twenty-five years has prompted some commentators to call for a revision of the law, perhaps even the adoption of an entire treaty designed to protect journalists and media workers in situations of violence and unrest. The issue of protecting journalists has been the focus of renewed attention from the International Committee of the Red Cross (ICRC), the United Nations Human Rights Council and a number of civil society organisations, such as the CPJ and the Press Emblem Campaign (PEC). The PEC has even called for the creation of a special emblem for journalists to wear in the field; much like the red cross, red crescent and red crystal emblems, the press emblem would serve as an internationally recognised symbol of the wearer’s immunity from attack under international law.

However, as with nearly all of the laws of armed conflict, the problem is not with the law itself, but rather with its implementation and enforcement. As ICRC legal expert Robin Geiss has stated, “[t]he existing laws do provide enough protection. They constitute a solid and realistic basis for shielding media professionals from harm as they work in the battlefield. The most serious deficiency is not a lack of rules, but a failure to implement existing rules and to systematically investigate, prosecute and punish violations.” Better protection of journalists – indeed, of all civilians in situations of armed violence and unrest – will come with better adherence to and respect of the law, rather than the adoption of new laws.

Organisations such as the ICRC have put in place mechanisms to promote the rules for protecting journalists. Since 1985 the ICRC has operated a permanent international hotline for journalists, their employers and for relatives of journalists. Through the hotline, the full range of the ICRC’s humanitarian services can be accessed, such as seeking confirmation of a reported arrest, obtaining access to arrested or detained journalists, providing information to families and employers of detained journalists, tracing missing journalists and carrying out medical evacuations of wounded journalists. Since the start of 2011, over sixty media professionals have been able to seek and receive assistance through the ICRC hotline.

Ultimately though, it is in the hands of those who fight the wars and those who plan the wars to ensure compliance with the laws of armed conflict. As Robin Geiss has stated, the laws that protect journalists already exist and they are comprehensive. It is up to all of us to ensure that in times of conflict those laws are respected and implemented.
“There is no such thing as international humanitarian law”

Q & A with Matt Brown, ABC’s Middle East Correspondent and Tara Gutman, Deputy National Manager of IHL, Australian Red Cross

Q When you first covered armed conflict in Iraq in 2004, what kind of preparations were you given? Did you receive a briefing on international humanitarian law?

A No, none at all. At my instigation I was put through what’s called a Hostile Environments course, which is pretty standard in the media these days. Five days of first aid training, activities and classroom instruction about movement in hostile environments at various times, security measures, that kind of thing. I don’t think at that stage there was any discussion of IHL in that.

The trainers addressed weapons effects, behaviour of participants in various types of armed conflicts. But IHL and international law issues don’t play any substantial role in these courses. The way journalists are regarded is addressed; there are constant reminders about not carrying your tripod on your shoulder so it doesn’t look like a rocket launcher and not dressing in military clothing so that you don’t look like a soldier, and not behaving as a participant.

Q So, I’m guessing you have some knowledge of the IHL framework now but it’s been self-taught?

A Yes, completely self-taught. It actually doesn’t play a front and centre role in reporting. When you’re assessing how much prominence to give an attack and the consequences of the attack, obviously journalists make judgements all the time, like “Do I ignore that? Do I feature it?” Then IHL is very important – in the background.
If a participant in a conflict has said that they targeted a place and killed 50 people because one bad guy was there, some people will consider that a disproportionate use of force—it’s possibly controversial, so you might feature that highly. Other participants might use indiscriminate weapons and say that they’re using them to target civilian areas—well that one’s a no-brainer.

Q Do you tend to make an assessment as to whether an act constitutes a breach of IHL? Would you say so in a news report?

A I would not usually say it. I’m not an international lawyer so I’m obviously not qualified to make it. I would necessarily be cautious. Others who are properly qualified should be there making that call. The guardians and custodians of these standards of behaviour, the Red Cross, are not active and not forthright when it comes to pointing the finger and making the call about these issues and it’s obviously a matter for them to be making those statements. I make that criticism to be constructive and knowing the Red Cross has other duties and there’s an entire doctrine around why they don’t run out in the middle of a conflict and say it but, this is just my view. Neutrality is well and good but problematic. I’m a journalist obviously, not a humanitarian worker. To a journalist, you don’t have a line unless it’s a public line. Red Cross’ audience for IHL is the public, ultimately. You want people to recoil at what others do, possibly in their name.

If you want your agenda out there, there has got to be a warm body, in the field, talking. The Red Cross might consider getting a spokesperson to a place where journalists are covering a conflict, say the border with Turkey, and get them commenting every day. That would be useful. A stuffy press conference in Geneva doesn’t cut it.

Q What is your view of the audience’s understanding of IHL?

A Does IHL exist? If I murder someone in the street in full view of the entire public and get away with it, then there is no law against murder. So, in some ways I think there is no such thing as international humanitarian law because there’s no-one to enforce it, really, in a consistent way. It’s too arbitrary; it picks off the weak players. To that extent there is no such thing as IHL in the postmodern sense. If IHL is not applied equally and evenly and people don’t fear it genuinely, and you don’t see it actually happening then I don’t really think it exists, in some ways.

It’s often depicted, to the extent that it’s depicted at all, as this system that already fully exists when it’s a system, at very best, where there’s only some scaffolding.

It might bolster the perception of international humanitarian law if everybody involved acknowledges this and says that this is what we’re still in the process of trying to do: we’re trying every day to make it exist; we’re trying to bring it into being consistently. Otherwise I think that’s another thing that just undermines it.

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Q Have there been times when your right to report has been challenged?

A I once filmed in the street inside the Green Zone in Baghdad, on a street very busy with traffic and military traffic. We were doing a piece to camera, not pointing at a checkpoint or anything. A passing American military convoy saw us and within five minutes, the private security contractors, Triple Canopy, who were manning a very large checkpoint 500m away were detaining us. They took us to the American military and confiscated our footage because we were in the Green Zone and a military convoy had passed by. It was a direct interference with our freedom and our work. The ‘operational security’ reason justification was that there was no filming in the Green Zone without permission, one of the rules that they had promulgated and that filming a convoy passing could offer the enemy some tactical advantage. It’s a good example of things that are true, but complete rubbish; the enemy had been staging complex attacks on these convoys outside the Green Zone for some years by the time that happened.

Q There’s an inherent tension in IHL: the law simultaneously permits and regulates the use of force. Military necessity and the principle of proportionality are designed to balance the existence of armed hostilities with considerations of humanity.
If IHL is not applied equally and evenly and people don’t fear it genuinely, and you don’t see it actually happening then I don’t really think it exists, in some ways.

If I ever take a sabbatical and get a research grant from the Red Cross, I would write my PhD thesis on the ‘golden kill ratio’ because I think it would do us all a world of good to know that NATO powers are prepared to kill 30 civilians for one moderately high value target, and that everybody involved in the game privately nods their head and agrees that it was legitimate to wipe all of these women and children off the face of the earth. That’s another thing that undermines perceptions of IHL. How can this happen? Look at this blasted apart child? How can this be legitimate? I think that a little bit more honesty about the law legitimating the killing of civilians in particular circumstances is needed.

If someone who drops a one tonne bomb on a building containing 50 civilians to kill one high value target is ever brought before an international tribunal we might start to get some case law and precedents on it but I’m willing to bet that that will never happen ...

Q I hope you are proven wrong. Can you comment on combatant knowledge of IHL?
A Rich, well-armed militaries that have access to precision-guided munitions are obviously aware of it. I’ve had discussions with the Israeli military personnel, especially spokesmen, Australians, Americans. It’s obviously part of their doctrine. Because IHL favours people who are rich with precision-guided ammunitions, it’s a lot easier for them to say that they honour it.

Q Can you elaborate?
A Distinguishing between combatants and non-combatants is a lot easier when you’re able to drop a bomb on a dime than if you’ve got a World War II vintage missile system. But this sort of asymmetry in the conflicts that I deal with means that I’m talking to combatants who have rockets that at best are able to be guided within 50 or 100m of a target. And, in the case of Hamas, they don’t care sufficiently to not be war criminals. Hamas in Gaza is a bit different; they don’t cloak their indiscriminate use of weapons against civilian areas in the way that a well-educated, well-financed army describes the use of its weapons. These forces and their motivations are not equivalent. But everybody, from the rich militaries down to the militias, has got their ‘military necessity’ get-out-of-jail free card ready. It’s hard to have a gold standard when there’s always an exception.
The challenges of social media news in conflict situations

By Peter Cave, former Foreign Affairs Editor and Foreign Correspondent for the ABC

Stripped down to the bare essentials, a journalist gets paid to take in vast amounts of information and to winnow the wheat from the chaff, before using their professional skills to mill the grain, mix in the water and yeast and turn it into a fine loaf that is hopefully flavoursome and digestible, the staple diet of those hungry for information. Hopefully it will not be half-baked, overcooked or delivered so late it’s mouldy.

Twitter, Facebook, YouTube and countless online offshoots provide a vast amount of wheat and chaff, not to mention stones, burrs and weevils. Anyone with the time and skill can of course bake their own bread from that, without going to the source, but there are many pitfalls.

I like to think of tweeting as gossip. Everybody wants to be first with a juicy piece of information and, if not, they want to repeat and embellish it so they look well informed. It spreads like wildfire without accountability. Like gossip it can be well-meaning or malicious, true or totally false.

Social media is not something to be ignored. It can be an immediate tip off to a breaking story. This is especially true of news organisations using sophisticated aggregation software to pick up movements and trends. Social media provides information which is sometimes, but sadly not always, directly from the source. It can provide information from inside an area not easily accessible because of the actions of governments, natural disasters, or military action.

It must be treated for what it is – raw information that needs to be verified and treated with sufficient scepticism. Nowhere is this more important than in conflict situations where the dissemination of information both true and false is now, more than ever, a weapon.

Search for ‘Syria’ on YouTube and you will find more than seven million hits. Search for ‘Syria War Crimes’ and you will find more than 800,000. There are thousands upon thousands of videos claiming to be evidence of war crimes by both sides.
There is little doubt that social media has become an ideological battleground where propaganda can be inserted anonymously by anyone. Some of the misinformation can be easily disproven, much of it cannot. The same footage is labelled as evidence of summary executions, torture or poison gas attacks by both Assad Forces and by rebel groups. Some videos are from Iraq, Palestine, Libya and Africa. Some are from fictional cinema.

One particularly gruesome video that has been circulated for years purports to show Assad forces beheading a prisoner with a chain-saw. It is actually footage of the cruel handiwork of a Mexican drug lord. Syrian State television aired another video which quickly found its way onto social media. It depicts a man, allegedly in his hotel room in Homs. He films the television showing Al Jazeera footage of the devastated city and then pans out the window to show an undamaged and peaceful city. The city outside however is easily proven to be a suburb of the then untouched capital, Damascus.

Social media can be very fast, with live tweets and pictures from breaking stories, but this very speed can easily lead even the most respectable of news organisations to blindly accept spurious information in the race to be first with the news.

Another danger with social media is the way it allows information to be hidden behind a cloak of anonymity. In a conflict zone there are often very good reasons for those posting messages, pictures and video to remain anonymous and keep their location secret. Secrecy however can provide a cloak for the propagandists, the malicious and mischievous.

One way to penetrate that cloak is to use social media as a way to make direct contact with those who are posting. It is not perfect but at least making contact through messages or direct contact through relatively safe channels like Skype allows information to be questioned and expanded upon. It also perhaps allows a relationship of trust to be developed between journalist and source.

It is probably appropriate here to mention so called “citizen journalists”. In my view there is no such animal – they are bloggers. Bloggers can mix what they see and hear with opinions and links with no responsibility to anyone but themselves. Some are quite good at it, some are simply activists.

Journalism, whether one regards it as a craft, a trade or a profession, involves a lifetime of training, an ethical framework and a responsibility to an audience who are prepared to trust that particular news outlet to do the job of sorting the wheat from the chaff for them.

Journalists are trained to seek out information and to check and cross-check it. They are taught to question sources and not to blindly accept what they are told. They are told to report accurately what they see and hear and to attribute everything else.

Some journalists are not very good at their job and some outlets not very good at distinguishing between analysis and opinion, but nothing in this world is perfect.

Social media is something relatively new but there is nothing magical about it. It is information that must be winnowed, separating the chaff from the wheat using the traditional skills of journalism.

It must also be leavened with a good dose of scepticism.
Journalists reporting from danger zones take huge risks just to keep us informed. Under international humanitarian law (IHL) – the body of law that applies in times of armed conflict – journalists are afforded the same protection as civilians. All too often, however, those rules are not sufficiently complied with or enforced. Only four months into 2015, dozens of journalists across the globe have already been attacked, wounded or killed and there is little prospect of any improvement.

The International Committee of the Red Cross (ICRC), a neutral and independent humanitarian organisation founded over 150 years ago, has long experience assisting and protecting people in times of armed conflict. Every day, ICRC staff, often with the help of staff from National Red Cross or Red Crescent Societies, are using this experience to benefit media professionals on dangerous assignments, whether by providing them with direct assistance or with training.

Dedicated services available through the ICRC’s hotline directly enhance the physical safety of journalists. The primary purpose of the hotline is to provide a quick and effective response when journalists or their crews are arrested, captured, detained, reported missing, wounded or killed in areas where the ICRC is already carrying out humanitarian activities.

In the event of a reported arrest or capture, ICRC staff may be able to provide information to next of kin and employers or professional associations on the whereabouts of a journalist. In addition, the ICRC may be able to visit detained journalists, as it did in Colombia, Chad, Iraq, Libya and elsewhere on a number of occasions over the past decade, to check on the conditions in which they are being held and the treatment they are receiving. Such visits may also be an opportunity to restore contact between a detained journalist and his family or employer through the exchange of brief messages (Red Cross messages).
The ICRC may also help evacuate wounded journalists. In worst-case scenarios, it may be able to recover or transfer mortal remains. At the end of March 2003, two weeks after the outbreak of war in Iraq, ICRC staff based in Suleimanieh evacuated Eric Campbell, an injured ABC reporter, and the remains of cameraman Paul Moran, who was killed when the crew came under attack while reporting in the north of the country. They were taken to Iran, where they were handed over to the Australian embassy. More recently, in 2012, the ICRC was involved in organising the transportation of the bodies of journalists killed in Homs, Syria.

Most of the time, the hotline comes into play only after a crisis has arisen. Avoiding harm in the first place remains a challenge. Sound knowledge of international humanitarian law and of the way it protects civilians, including journalists, can make a difference however. It can even save lives. Moreover, journalists who are knowledgeable about IHL can use that knowledge to inform their reporting, describe what they are witnessing more accurately, understand when the law is being violated or upheld, and raise awareness of issues. That is why the ICRC is providing training for journalists all over the world, from Tunis to Beijing, from Cairo to Tehran, from Bogota to Pretoria and New Delhi.

The fact that the training often includes life-saving first-aid skills is much appreciated by media professionals working in violence-stricken areas where first aid and other medical care aren’t readily available. National Red Cross and Red Crescent Societies play a major role in these training programs.

It is very important for the ICRC and other humanitarian organisations to cultivate a close relationship with journalists. Because journalists do not merely report the news – in addition, they raise public awareness, help build up a supportive environment and influence the main actors and decision-makers – they can also help put an end to abuses and suffering. The media, which can speak with a strong voice when it becomes necessary to do so, have a role to play that complements that of humanitarian organisations.

Conferences and workshops provide a valuable opportunity for journalists to have exchanges with humanitarian workers and discuss the challenges they face in reporting on armed conflict and other situations of violence and disaster.

Last November, a major conference in Hiroshima brought together senior media people from across the Asia-Pacific region. In 2011, senior editors and media contributors meeting in Manila adopted the Manila Declaration, a commitment to promote responsible and responsive journalism and support a safety code for journalists.

All these activities may help enhance the protection and the safety of journalists. However, in order to truly make the world a safer place for journalists reporting from areas of armed conflict, much more will need to be done to improve compliance with and efficiently enforce the rules designed to protect them.

The HOTLINE was set up in 1985 to help protect and assist media staff whenever they find themselves in trouble in armed conflict areas. When a journalist is missing, wounded, killed or detained, his employer, relatives or colleagues can alert the ICRC by contacting the closest ICRC office, sending an e-mail to press@icrc.org or calling the HOTLINE permanent telephone number on + 41 79 217 32 85.

The kinds of services that can be provided by the ICRC to journalists are:

- seeking confirmation of a reported arrest/capture and if necessary an authorisation to visit
- providing information to next of kin and employers/professional associations on the whereabouts of a sought-after journalist whenever such information can be obtained
- maintaining contact between family members
- actively tracing missing journalists
- recovering and transferring mortal remains
- evacuating wounded journalists

The HOTLINE can only be activated in areas where the ICRC is conducting humanitarian activities.
Heavy toll on journalists reporting conflict

While these statistics suggest a slightly downward trend in the past four years in the deaths of journalists worldwide, the same cannot be said for deaths of journalists in armed conflicts. Indeed, a large number of these recorded deaths occurred in Syria in recent years, where there is ongoing armed conflict.

Source: Reporters Without Borders, 'Press Freedom Barometer'.

Danger zones

What does the law say?

Even where media facilities distribute propaganda, they are still protected. However, if journalists incite crimes or acts of violence, as occurred in the Rwanda genocide, or utilise 'hate media', then media facilities may lose their protection from attack under the law.

Danger zones

Deadliest countries in 2014, indicating number of journalists killed.

Source: Committee to Protect Journalists
Heavy toll on journalists reporting conflict

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Indeed, a large number of these recorded deaths occurred in Syria in recent years, where there is ongoing armed conflict.


What does the law say?

Under the laws of armed conflict, journalists engaged in missions in areas of armed conflict are considered to be civilians, provided that they don’t take up arms themselves. As such, journalists are protected against attacks.

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Capturing crisis

Q & A with Martine Perret, UN photographer and humanitarian and Renata Sivacolundhu, WA IHL Officer, Australian Red Cross

Q As a photographer, you have worked in several hotspots around the world including South Sudan, Sierra Leone, Burundi, East Timor and Western Sahara. What motivates you to cover situations of conflict and humanitarian crises?

A Since my teens I always had the desire to work in places where I could do some form of humanitarian work. My interest in photography came much later in my life and my first assignment was to East Timor in 2002, to witness the independence of that country after years of struggle.

Subsequently, I took a job at the UN in 2004 and was sent to Burundi. The first job I ever did with the UN was quite daunting. It was just two weeks after the Gatumba massacre, in the northern end of Lake Tanganyika near the border with the Democratic Republic of Congo, where around 160 children and women died under the brutal attack of Hutus from over the border as part of the Forces for National Liberation (FNL). We travelled in a convoy with peacekeepers armed with guns to reach the camp after the massacre. The area was still scattered with people’s belongings, children’s shoes, half-burnt books. It was really eerie and silent. The photographs I took then were very important to me and the UN mission as I ensured what had happened in the camp would not remain untold and that these images would be seen by a wide audience through the UN’s dissemination channels. It also reinforced my opinion that the job I had started would be an important one that would allow me to contribute to bringing to light issues relating to the efforts of those who work tirelessly to help achieve peace and reduce suffering in the world.

Q When documenting personal tragedy and loss in conflict or disasters, how do you ensure that you maintain the dignity of your subject and respect their personal space?

A Photography is a powerful medium that helps bring...
a health worker removes his protective equipment after a visit to the red zone at PST1 Ebola Treatment Unit near Freetown. December 2014.

Photo: UN/Martine Perret

an issue to light and gives people a voice. Photographing people in distressing situations and grim moments of their lives is not an easy thing to do. If you do not do it, who else will? It is important to get close to your subject to get a sense of what they are going through.

I have often had these discussions with colleagues doing the same work as me but using video, including during my recent assignment in countries affected by Ebola. We thought that the best we could do was to remain humble and treat people with respect and publish our story because this was our responsibility to them. The recent Ebola concert at UN Headquarters in New York proved us right. Our work was shown to a wide audience and the whole concert helped raise more funds towards efforts to combat Ebola.

Q In your work, you have come into contact with and photographed alleged war criminals. How did this make you feel at the time? Were you able to remain impartial?

A When you work at the UN, you must always remain impartial in the dealings with the parties of the conflict and sometimes it is difficult when you are surrounded by ethnic hatred not to have an opinion deep inside. I remember once in the Democratic Republic of Congo, I was sent to photograph a meeting between UN leaders and some warlords in Ituri. One of them was the head of the Congolese Revolutionary Movement (MRC), and had committed horrendous atrocities and here I was standing a few metres from him. I asked my colleague working for the UN human rights team what his crimes were and he told me plainly amongst other things that “he liked smashing babies’ heads against walls”. So here I was photographing the head of the MRC group and he was standing smiling, shaking hands and looking like he was totally innocent. He was recently being tried in The Hague for war crimes – I am not sure of the outcome but I hope justice will prevail. All you can trust is that the work you do will help influence public opinion when you publish it.

Q What are some of the challenges of reporting in a conflict zone? Can you give a personal example?

A When I have worked with the UN during a humanitarian crisis or responding to human rights violations in the context of an armed conflict, challenges have been numerous and diverse.

Sometimes it relates to getting access to the area of hostility – this can be dangerous and movements are necessarily restricted. Safety is one of the main issues. A situation can rapidly change without much warning.

We had just come back from a patrol with UN peacekeepers in the small village of Pibor in Jonglei State in South Sudan in 2013 when all of a sudden we heard the sound of AK47s and RPGs in the vicinity. Minutes after, some 2,500 women, children and some men rushed inside the UN compound to seek shelter from the firing.

Checkpoints are often dangerous and unpredictable. Travelling by roads has to be avoided at times for security reasons (or lack of suitable roads!) which means flying may be the only option. I used to fly a lot when I worked in South Sudan but I remember one day one of our helicopters had been shot down. Everyone on board died. It makes you think a lot about your next flight.

In contexts like these, it is important to remain calm, focused, emotionally prepared and resilient, physically fit and well-trained.

It is important to get close to your subject to get a sense of what they are going through.
Have you ever been targeted by military forces? How did it impact on your work?

The most dangerous moment of my career so far has been when I was in Kinshasa in the Democratic Republic of the Congo in 2007. On 22 March 2007, clashes broke out between the Congolese government troops — Forces Armées Democratic Republic of Congo (FARDC) — backing the newly elected President Joseph Kabila and the “rebel” soldiers fighting for former opposition leader and failed Presidential candidate Jean Pierre Bemba. The clashes lasted for four days and the UN was busy evacuating people trapped in the city. The whole city centre was completely deserted. It was really spooky. Everyone had fled. With a colleague of mine, a cameraman, we sat inside an armoured personal carrier (APC) with peacekeepers. It was hot and sweaty as we were wearing body armour and helmets, cramped inside and in a stressful environment. The peacekeepers had rescued a man who had a bad head injury. He was bleeding and the blood was falling onto our shoes. He was delirious. As soon as we started to drive back to the base to carry him to hospital, we heard the sound of bullets against the APC and at one point a mortar exploded near us. If it had hit us, we would have all died. This was for real. I realised then how everything could change in a split second ... I kept photographing inside the APC ... I think I made some mistakes then, the wrong shutter speed, stress crept in. The man in front of us was dying. All the while it was important to keep doing our work to show the world what was going on ... That was our responsibility then.

The laws of war provide protection for journalists. Why is this important?

Journalists can cover armed conflicts as civilians operating independently and should not be targeted by any forces. However as independent journalists trying to cover the front line in any sort of conflict (international or non-international), you face significant risks. While it is important to understand these rules when covering any conflict, being properly prepared, trained and insured is really essential for anyone intending to venture into hostile zones nowadays. In my case, over the past 10 years I have mainly worked in the context of a peacekeeping operation, so I worked under the UN flag and was afforded the corresponding security and protections as a UN staff member. When you work with the UN, you are often accompanied by peacekeepers when you travel, especially in dangerous zones. You have to follow security procedures and at times wear protective equipment. It is important to ensure that you follow all organisational training concerning your own safety and follow general security rules that will help you be prepared for any possible volatile situation. It’s always better to be well-informed and have knowledge about the place you are in and the situation you are dealing with in order to assess your environment in a clearer way. So while the laws exist, ultimately you are your own best protection against harm — through ensuring you have adequate preparation and training and that you constantly assess and evaluate risk.
Why journalists should understand IHL

Dr Kayt Davies, Senior Lecturer, Edith Cowan University and member of the WA IHL Committee

I teach all of the journalism students at Edith Cowan University about international humanitarian law (IHL). Why? Because I agree with Pulitzer-prize winning journalist Roy Gutman who said “the public grasp of what is at stake in war will be enhanced if reporters have an idea of which acts are legal, illegal or criminal.”

Talking about Henri Dunant and his colleagues, the tribunals, the years of negotiations for the Rome Statute and the eventual establishment of a permanent court, it’s hard not to sound like an advocate for IHL.

While we all know the old adage about journalism being impartial, unbiased and objective, there are a few reasons why my IHL advocacy doesn’t bother me, my colleagues or my students.

Professor Stephen Ward from the Centre for Journalism Ethics has argued in many books and articles that journalism ethics need to, and are, evolving.

He tackles the issue from a philosophical perspective, stripping back claims that journalism advocates for nothing and exposing it as a largely patriotic exercise that panders to its readers. He argues that world politics and problems are at a point where following this pattern is no longer responsible practice.

He says: “Journalism with a global perspective is needed to help citizens understand the daunting global problems of poverty, environmental degradation, technological inequalities and political instability.”

IHL can only be viewed through a global lens and focussing on it opens students’ eyes to the tension between the urge to protect sovereign rights and the need to forge global agreements and all the associated baggage about imposing ideologies versus the protection of innocents.

Without commentary on the legality of various acts, war reporting is often exploitative and voyeuristic, where the grieving and injured are shown for shock value, their images reinforcing a sense of their differentness from the audiences at home.

In order for the public to grasp what is at stake in war we need to understand their pre-crisis conditions, the normality of their civilian lives, so audiences can empathically imagine how they’d feel if their homes, schools and water supplies were destroyed.

Whether to show images of people in other countries living normal lives is an editorial choice and one that Ward argues should be based on shared humanity rather than just shared nationality.

Other reasons to tell students about IHL are that some of them may need its protection. Many of our students come from troubled countries that they will return to. Others may work as foreign correspondents or in newsrooms deciding which news to run.

In mid-May the Reporters Without Borders’ tally of journalists killed so far in 2015 stood at 25.

It is therefore important that all our students – who will potentially work in dangerous places or report on others in danger – have an awareness of the risks involved and the help offered by ICRC; understand the ethical value of showing normal international civilian life and the complexities of achieving global consensus; and are mindful of the legal and ethical ramifications of their decisions.
Freedom of expression versus incitement: the ICTR Media Case

When the topic of journalism and international humanitarian law (IHL) is raised, it immediately evokes thoughts of freedom of expression, restrictions on press freedoms and above all, the protection of media professionals in armed conflict.

It is recognised as customary international law that journalists engaged in professional missions in areas of either international or non-international armed conflict must be respected and protected as long as they are not taking a direct part in hostilities. Yet media professionals are increasingly subjected to attack, at risk of being wounded, killed or kidnapped, particularly while reporting in armed conflicts.

Such attacks constitute a serious threat to freedom of expression, a fundamental right granted to every individual in the Universal Declaration of Human Rights, Article 19: “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”

However there is also another angle to consider when speaking about journalism and IHL. That is, when it is the media representatives themselves who in exercising their freedom of expression and enjoying the press freedoms they are permitted, create disorder and chaos by supporting, instigating and encouraging human rights violations on a massive scale. The 1994 genocide in Rwanda is a chilling example of the negative role that media can play.
The role of the media in the Rwanda genocide

Over three months from April to July 1994, more than 800,000 people were massacred in Rwanda. Most were targeted simply because they were Tutsis, however some Hutus who were political opponents of the regime in power or were trying to oppose Tutsi killings, were also killed.

It is now recognised that the scale of the genocide against the Tutsi was due in large part to the role played by hate media, in particular the radio station RTLM (Radio Télévision Libre des Mille Collines) and the newspaper Kangura. Rather than fighting for human rights and bringing to light abuses, these media did the contrary and fuelled the tragedy in Rwanda.

Media as a weapon of war

Aware of the power of the media and how it can be turned into a strong weapon, the planners of the genocide in Rwanda purposely chose to use newspapers and radio stations in their heinous propaganda. Their choice of medium was influenced by and made more effective for several reasons. Firstly, as Rwanda had a high rate of illiteracy at the time of the genocide, radio was the best medium for the conspirators of genocide to reach all corners of the country in disseminating their hateful propaganda. Secondly, knowing the oral culture of Rwandans, radio was a suitable medium to spread ethnic discrimination messages by word of mouth. Finally, as radio was the main communication channel of government authorities to give directives and instructions to the Rwandan population, any message aired through radio was considered or taken to be true or as law.

In the lead up to the genocide, the radio station RTLM began to spread hatred amongst the population by dehumanising the victims (the Tutsi), calling them “Inyenzi” (cockroaches) and labelling them as accomplices of the Rwanda Patriotic Front and therefore the enemy to exterminate. This paved the way for the mass participation and commission of acts of genocide that were to follow.

A witness at the ICTR Media Case summed up RTLM’s pre-genocide broadcasts as follows: “In fact, what RTLM did was almost to pour petrol or to spread petrol throughout the country little by little, so that one day it would be able to set fire to the whole country.”

After the crash of the President’s plane that ignited the genocide in early April 1994, RTLM served to mobilise those of the Hutu population in “Hutu power”, turning them into killers. It openly called people to violence, encouraged people to “Work” (code word meaning take up arms and kill). Names of people to target for killing were aired and the genocidaires were even guided towards their victims by the radio station.

International prosecution

As part of the international community’s efforts to assist Rwanda to recover from the ashes of the genocide, the United Nations Security Council created the International Criminal Tribunal for Rwanda (ICTR) in 1994. The ICTR was given a mandate to prosecute persons who bore the greatest responsibility for acts of genocide and other serious violations of international humanitarian law committed in the territory of Rwanda and in the neighbouring States between 1 January and 31 December 1994. Scholars in international criminal law recognise that the ICTR’s jurisprudence has significantly contributed to the development of international humanitarian law in relation to issues such as the crime of rape, civilian command responsibility and direct and public incitement to genocide. The latter comes from a case known as the “ICTR Media Case.”
Freedom of expression versus incitement

The Media Case was the first instance of an international tribunal examining the role of media in armed conflict and challenging the principle of freedom of expression since the conviction of Julius Streicher at the Nuremberg Tribunal for his role in inciting the extermination of Jews in his newspaper. As they say in French: “la presse est ‘une arme à double tranchant’”, which can be interpreted as: media is a weapon which can be used in two ways, for bad and for good.

In the words of the former ICTR spokesperson, “The media is more and more playing a pivotal role in shaping our social, cultural and economic lives and trends in our communities. It is an integral component of the civil sector in our societies. It has an important role to play in raising public awareness, exposing the ills of our societies and building a coalition to combat them. The media has a role in which if handled responsibly can promote a more responsible society, and if not, can fan social conflicts and create immense problems to our communities.”

In the Media Case, the debate in the court between Prosecution and Defence focused on the power of media and its use in a responsible way. Bearing in mind the fundamental right of freedom of expression, the ICTR judges in Trial Chamber 1 managed to demonstrate that journalists, especially leaders of the media, must not attempt to hide behind freedom of expression in inciting people to hatred, discrimination and much less to killings.

As Rwanda had a high rate of illiteracy at the time of the genocide, radio was the best medium for the conspirators of genocide to reach all corners of the country in disseminating their hateful propaganda.

In the ICTR Media Case, three media leaders were tried in a group: Jean Bosco Barayagwiza, Board member of RTLM, Ferdinand Nahimana, Director of RTLM and Hassan Ngeze, Chief Editor of Kangura Newspaper. On 3 December, 2003, the ICTR’s Trial Chamber 1 rendered its judgment against the accused, finding them guilty of genocide, conspiracy to commit genocide, direct and public incitement to commit genocide and persecution and extermination as crimes against humanity. Nahimana and Ngeze were sentenced to life imprisonment while Barayagwiza was sentenced to 35 years in prison. The three convicted criminals lodged an appeal and four years later in November 2007, the ICTR Appeals Chamber upheld in part the convictions (reversing several aspects including conspiracy to commit genocide) and reduced their sentences respectively to 32 years for Barayagwiza, 30 years for Nahimana and 35 years for Ngeze.
Throughout the 1930s and early 1940s, Der Stürmer was virulently anti-Semitic and a significant, though unofficial, source of Nazi propaganda. Streicher’s publishing firm, Stürmer-Verlag, also released a host of anti-Semitic books for children. In 1934, Streicher used Der Stürmer to publish propagandist accounts of Jewish ritual murder of Christian children.

Streicher was nicknamed the ‘King of Nuremberg’, due to his effective rule of the city of Nuremberg during the Nazi Germany era and his organised boycotting of Jewish shops and businesses and anti-Semitic demonstrations throughout the 1930s.

He was eventually captured by US forces in May 1945 and charged with crimes against humanity by the International Military Tribunal at Nuremberg (IMT). While noting that Streicher never directly participated in the Nazi military or in the Holocaust, the IMT convicted Streicher of crimes against humanity for his actions in inciting the extermination of Jews.

Research by Liam Elphick, research volunteer with the WA IHL program.

**King of Nuremberg**

Julius Streicher (12 February 1885 – 16 October 1946) was a prominent member of the Nazi party and founder and publisher of Der Stürmer newspaper (established in May 1923).

He was sentenced to death.

This was the first trial of a media representative at an international criminal tribunal.

The IMT held:

*For his 25 years of speaking, writing and preaching hatred of the Jews, Streicher was widely known as ‘Jew-Baiter Number One’. In his speeches and articles, week after week, month after month, he infected the German mind with the virus of anti-Semitism, and incited the German people to active persecution... Streicher’s incitement to murder and extermination at the time when Jews in the East were being killed under the most horrible conditions clearly constitutes persecution on political and racial grounds in connection with war crimes, as defined by the Charter, and constitutes a crime against humanity.*

Streicher was hanged in the early hours of 16 October 1946, alongside the nine other condemned defendants from the first Nuremberg trial.
International Humanitarian Law (IHL) Program

Australian Red Cross is part of the International Red Cross and Red Crescent Movement (Movement), the largest humanitarian network in the world.

International Humanitarian Law (IHL) is something the Movement thinks everyone should understand. Indeed the Movement has a special role around the globe to promote IHL and humanitarian principles. In Australia, Australian Red Cross has an IHL Program that provides targeted training and education on IHL issues to key groups identified as having a role to play in situations of armed conflict.

Australian Red Cross has a mandate to promote understanding and respect for international humanitarian law (IHL), also known as the laws of armed conflict.

The IHL Program focuses on the following groups:
- Australian Defence Force
- Australian Federal Police
- Non-government organisations
- Commonwealth Government agencies
- Key professions (eg. legal, health, media)
- Tertiary sector and academia
- Wider community

The IHL Program offers training to sectors of the Australian Defence Force such as military medics and military police, in addition to being invited to participate in Australian Defence Force training exercises. More broadly, we run events and training seminars for key groups whose work is affected by the application of IHL and for members of the general community who have an interest in humanitarian issues.

For more information on the IHL Program visit: www.redcross.org.au/ihl
In all activities our volunteers and staff are guided by the Fundamental Principles of the Red Cross and Red Crescent Movement.

**Our Fundamental Principles**

**Neutrality**
In order to continue to enjoy the confidence of all, the Movement may not take sides in hostilities or engage at any time in controversies of a political, racial, religious or ideological nature.

**Independence**
The Movement is independent. The National Societies, while auxiliaries in the humanitarian services of their governments and subject to the laws of their respective countries, must always maintain their autonomy so that they may be able at all times to act in accordance with the principles of the Movement.

**Voluntary Service**
It is a voluntary relief movement not prompted in any manner by desire for gain.

**Unity**
There can be only one Red Cross or Red Crescent Society in any one country. It must be open to all. It must carry on its humanitarian work throughout its territory.

**Universality**
The International Red Cross and Red Crescent Movement, in which all Societies have equal status and share equal responsibilities and duties in helping each other, is worldwide.

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**Humanity**
The International Red Cross and Red Crescent Movement, born of a desire to bring assistance without discrimination to the wounded on the battlefield, endeavours, in its international and national capacity, to prevent and alleviate human suffering wherever it may be found. Its purpose is to protect life and health and ensure respect for the human being. It promotes mutual understanding, friendship, co-operation and lasting peace amongst all people.

**Impartiality**
It makes no discrimination as to nationality, race, religious beliefs, class or political opinions. It endeavours to relieve the suffering of individuals, being guided solely by their needs, and to give priority to the most urgent cases of distress.

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**Humanity:** Working with communities on both Bathurst Island and Melville Islands. Photo: Australian Red Cross/Pete Eve
For more information about international humanitarian law, go to redcross.org.au/ihl

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