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protection for
humanitarian
workers

CRISIS CARE COMMITMENT

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Cover Image: Djebel Mara region, Kaguro. Open air operation.

This medical group is based in Nyala and is always ready to fly or drive to combat zones, wherever they are needed, providing treatment to all. The idea is to provide an emergency surgical service in a region that has virtually no such medical facilities. This operation is taking place at a field clinic.

Photo: © ICRC/B. Heger

Welcome to this edition of the International Humanitarian Law Magazine which focuses upon issues relating to protections for humanitarian workers. This is a topic very close to the heart of Australian Red Cross as in the last year alone we have sent over 150 delegates to work with the ICRC, Federation or with sister National Red Cross or Red Crescent Societies as humanitarian workers. The protection of such brave individuals is an utmost consideration for any international institution and cases of death, injury and kidnapping of any such workers anywhere is always of great sadness and concern to all those who believe in the principle of humanity.

The articles contained in this edition deal with a range of issues, from the legal regime established to protect those delivering medical and humanitarian aid, to the experiences of a delegate, the views of the military and factors considered by journalists working in this area. Of particular interest is the piece acknowledging the work of Mr Darwin Clark, an Australian Red Cross representative who lost his life when the hospital ship he was working on was torpedoed in May 1943. I would like to warmly acknowledge all who have contributed to this magazine.

Australian Red Cross is delighted to announce that Mallesons Stephen Jaques has become a corporate supporter of the International Humanitarian Law Magazine. Mallesons' support of the magazine builds on contributions they have made to the Australian Red Cross' international humanitarian law activities over recent years, which has included partnering on the annual Humanitarian Law Perspectives seminar series.

In November 2009 the International Red Cross and Red Crescent Movement met in Nairobi and agreed upon Resolution 13 entitled 'Respecting and Protecting Health Care in armed conflict and other situations of violence'. In this resolution the Movement noted –

That the origin and very identity of the International Red Cross and Red Crescent Movement are rooted in care for the wounded and sick, through providing them with immediate and practical relief while upholding the laws that protect them, and that concern for respecting and protecting health care must therefore always be at the heart of the Movement's concerns.

With this in mind I hope you enjoy this edition of the International Humanitarian Law Magazine.

Robert Tickner
Chief Executive
Australian Red Cross

Disclaimer: The articles contained within represent the views of the authors and not necessarily those of Australian Red Cross.

protecting the protectors – the international humanitarian law framework

by **Kelisiana Thynne, Legal Adviser, International Committee of the Red Cross**

On 11 September 2009, Martini Hospital in Somalia was hit by shells killing several people and wounding at least 17, including children. Earlier in the year, on 4 February 2009, Puthukkudiyiruppu Hospital, in the northern Vanni region of Sri Lanka was shelled repeatedly, forcing patients and staff to flee towards the north-eastern coast. While transferring the patients and staff to other facilities as quickly as possible, the International Committee of the Red Cross (ICRC) called upon all parties in both conflicts to meet their obligations under international humanitarian law (IHL). These include the duty to spare and protect the sick and wounded, as well as medical facilities and their personnel, at all times.

Reacting to the need to ensure victims of armed conflict have access to medical treatment, the ICRC announced at the end of 2009 that it had plans to significantly increase expenditure on medical services for people adversely affected by armed conflict. Presenting the organisation's 2010 budget in Geneva, ICRC President Jakob Kellenberger stated that 'millions of people affected by armed conflict do not have sufficient access to basic health services and many wounded die because they can't get the care they need'. However, money and personnel are not the only requirements for good healthcare for civilians, wounded soldiers, prisoners of war and other detainees affected by conflict. Healthcare services will not be available unless those providing the protection and healthcare are also protected through strong international legal regimes under IHL.

One hundred and fifty years ago, at the Battle of Solferino in 1859, the Italian villagers mobilised by Henry Dunant to collect and care for the wounded at night, had no fear of attack. When the battle resumed in the morning, only one civilian had lost their life. Nonetheless, the first Geneva Convention for the Amelioration of the Condition of the Wounded in Armies in the Field of 22 August 1864 showed great foresight in providing that military hospitals and ambulances which 'accommodated wounded and sick' in armed conflicts, would be neutral and protected from attack. The Convention went further, ensuring that military hospitals, ambulances and evacuation parties would be instantly recognisable as neutral by displaying a distinctive emblem of a red cross on a white background. We would later also see the use of the red crescent and, since 2005, the red crystal. Indeed, the first five articles of the 1864 Convention dealt exclusively with the protection of persons providing assistance.

Since 1864, IHL has developed into an extensive body of law which, amongst other goals, aims to protect individuals who provide care and assistance during times of armed conflict. Primarily, the fourth Geneva Convention of 1949 provides protection to all civilians during times of international armed conflict. In light of this, it is important to remember that individuals working for humanitarian organisations providing aid or healthcare services are also classified as civilians. To that end, it is a fundamental principle of IHL that warring parties at all times distinguish between civilians and combatants,



The ICRC's field surgical hospital in Peshawar is adding more tents to care for weapon-wounded casualties from the conflict in north-west Pakistan. Photo: ©ICRC/J.Ahmad

'Millions of people affected by armed conflict do not have sufficient access to basic health services and many wounded die because they can't get the care they need.'

ICRC President Jakob Kellenberger



The ICRC-supported hospital in Peshawar, North-West Frontier province in Pakistan. Photo: ©ICRC/J.Ahmad

and similarly between civilian objects and military objectives. This distinction is vital when considering that attacks must not be directed against civilians or against civilian objects (Additional Protocol I, Article 52) or conducted in an indiscriminate manner (Additional Protocol I, Articles 51(4), (5)).

Healthcare workers, whether military or civilian, must not be attacked unless they commit acts harmful to that party to the conflict. They must be respected and protected in all circumstances (first Geneva Convention, Articles 36, 38-39, second Geneva Convention, Articles 22-23, 36, fourth Geneva Convention, Articles 18, 20, Additional Protocol I, Articles 12, 15 and Additional Protocol II, Articles 9, 11).

More specifically there are rules designed to ensure that medical aid and facilities continue to operate during an armed conflict. IHL requires

that civilian medical personnel must be afforded all available help in areas where civilian healthcare is disrupted by fighting (Additional Protocol I, Article 15(3)). They must have access to any place where medical services are essential, subject to the supervisory and safety measures deemed necessary by the relevant party to the conflict (Additional Protocol I, Article 15(4)). In the event of occupation, the occupying power must, to the fullest extent possible, ensure and maintain the healthcare system and afford civilian medical personnel every assistance in their work (fourth Geneva Convention, Articles 55, 56 and Additional Protocol I, Article 15(3)).

Military medical facilities, transportation and personnel as well as health workers, and workers from the Red Cross and Red Crescent National Societies and the ICRC, are authorised to display the red cross,

red crescent and red crystal emblems (first and second Geneva Conventions (Articles 41-43), Additional Protocol I (Articles 8(c) and 9(2)) and Additional Protocol II (Article 12), Additional Protocol III of 2005). These emblems provide protection for those who wear them, by identifying individuals or facilities as providers of neutral and impartial humanitarian aid or medical services. Indeed, intentional attacks against medical personnel and medical facilities who have adopted the distinctive emblems of the Geneva Conventions in conformity with international law are prohibited. Such attacks constitute war crimes under the Rome Statute of the International Criminal Court (Article 8(xxiv)).

Although different rules apply to conflicts which are international (between States) and those which are non-international in character (between government forces and a militia group, for example), it should be noted that some rules are accepted as being applicable to all forms of conflict. The obligation to respect and protect humanitarian relief personnel and objects, as well as the obligation to allow the unimpeded access of impartial relief organisations to conflict areas, are regarded as rules of customary international law. Customary international law is founded on the basis of continuous state practice or patterns of behaviour. Its existence requires State recognition that certain conduct is necessary despite the absence of written rules. The ICRC considers the rules of customary international law relating to health workers to be applicable to all forms of conflict.

Despite the universal acceptance of these IHL principles and the protective power of the red cross emblem, safeguards to ensure that health workers and facilities are respected and protected from attack are not sufficient. The situations previously outlined, from the conflicts in Somalia and Sri Lanka, highlight the changing face of armed conflict since the Battle of Solferino. Increasingly, health and humanitarian aid workers are being targeted, attacked, kidnapped and killed in conflicts. According to information gathered by the Maurice de Madre

French Fund (ICRC assistance fund), 57 volunteers and first-aid workers from Red Cross and Red Crescent Societies have been killed or injured in the line of duty by violent acts since 2004. Similar or worse statistics exist for other humanitarian workers. The Humanitarian Policy Group (HPG) found that in 2008 alone 260 humanitarian aid workers were kidnapped, injured or killed in violent attacks. That is the highest recorded number of any year since the HPG started recording attacks twelve years ago. The protectors are no longer necessarily protected.

While various legal protections for healthcare and humanitarian workers in armed conflicts exist under IHL, they yield little effect if not respected. The need to ensure medical care for the wounded and sick in armed conflict and to protect those providing that medical care, remains as important as ever. Further, the obligation to collect and care for the wounded and sick remains at the heart of IHL. States and non-state parties to conflict must take all feasible measures to guarantee that the wounded and sick receive care as soon as possible, regardless of their status or their allegiance. States need to uphold their obligations under IHL and ensure respect for these laws by implementing them into their domestic legislation. State and other armed forces need to ensure that their military doctrine and conduct comply

with these rules and that their soldiers are trained to distinguish between healthcare and humanitarian workers and others. Violations of IHL must be prevented and, in the case of breaches, the perpetrators must be brought to justice.

Without rigorous safeguarding of IHL's protection of health workers, the essential humanity underpinning IHL's existence is defeated. Fundamental to IHL is the need to ensure that victims of armed conflict are assisted and protected. Where healthcare workers and health facilities are either prevented from accessing victims, or themselves become the subject of attack, it becomes both victim and carer whose right to medical attention is violated. For many in war zones, upholding IHL through medical assistance is simply a matter of life or death.

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The ICRC evacuated 14,000 wounded people by ferry-boat from Puttumatalan to Trincomalee, Sri-Lanka 2009. Photo: ©ICRC/Z. Burduli



protection through neutral, independent humanitarian action

by Christopher Lamb, Special Adviser,
International Federation of Red Cross
and Red Crescent Societies

The origins of the Red Cross and Red Crescent Movement within the framework of the Geneva Conventions were based on the need to provide security for humanitarian workers as they went about their mission. A key part of this protection is the articulation of three principles which underpin the work of the Red Cross and Red Crescent movement: neutrality, impartiality and independence. Articles 1 and 2 of the 1864 Geneva Convention for the Amelioration of the Condition of the Wounded in Armies of the Field, illustrates this point well; ambulances, military hospitals and their personnel were designated as

neutral in times of war.

This fundamental point has been the anchor for the neutrality which marks the Red Cross and Red Crescent Movement and its personnel as unique in times of conflict. It also applies to, and has been adapted to fit, the National Red Cross and Red Crescent Societies - their personnel and volunteers - in the performance of their functions beyond conflict zones.

The principle of neutrality for Red Cross workers has formed part of basic training for armed forces personnel around the world, consistent with the obligations of

States as parties to the 1949 Geneva Conventions. However, this principle was easier to articulate and enforce in a world where conflict was defined simply as wars conducted between State parties. The last 25 years have seen a sharp rise in conflicts of various kinds, whose scope are beyond the control of States and disciplined armed forces. This has meant that many of those engaged in conflict nowadays have not received training which references the Geneva Conventions, or the neutrality of humanitarian workers.

At the same time, a rapid growth of non-governmental organisation

involvement in the provision of humanitarian assistance, and the arrival of governments and their civilian agencies as direct providers of assistance, has blurred the character of the aid worker. There are now many such workers whose contributions are not offered from the same standpoint as those from the Red Cross and Red Crescent, combining neutrality, impartiality and independence with humanity.

An effort was made to clarify the nature of humanitarian assistance provided by the Red Cross and Red Crescent and NGOs in the 1990s, in recognition of the plethora of organisations now working in the field. The result was the Code of Conduct for the International Red Cross and Red Crescent Movement and Non-Governmental Organisations in Disaster Relief, which was formally noted by governments and National Societies together at the 26th International Conference of the Red Cross and Red Crescent in 1995 .

The events of 9/11 in the United States transformed the international security environment dramatically, introducing challenges to the principles of impartiality and neutrality which still persist today. On the one hand, governments have, despite their statements to the contrary, stereotyped certain groups of people as security threats. On the other hand, some militant groups have made clear their readiness to treat people as hostile simply on the basis of ethnicity or religion. These positions have introduced a new dimension to the issue of the security of humanitarian workers, thus threatening the provision of assistance to the most needy in some situations of complex emergency . Solutions to this threat are hard to find, but have occupied a great deal of attention in the Red Cross and Red Crescent Movement and elsewhere in recent years. The International Committee of the Red Cross (ICRC) in particular, has

produced important studies on the concept of Neutral and Independent Humanitarian Action (NIHA) .

Concern for the increased danger confronted by humanitarian workers in the field, led to the adoption of a resolution by the Movement's Council of Delegates in November 2009. The resolution called on all parties to armed conflict, as well as all actors involved in other situations of violence, to respect and ensure respect for, healthcare personnel and premises. It also called for collective action by all members of the Movement to ensure the protection of healthcare workers .

The concentration of ICRC attention on neutral and independent humanitarian action in times of armed conflict, is mirrored by the International Federation of Red Cross and Red Crescent Societies' (IFRC) attention to the situation of humanitarian workers in other situations. This has also been the subject of increased debate and attention in the United

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**Patrick Brugger, ICRC
Directorate of Operations**



ICRC employees in Anman painting a large emblem on a tarpaulin intended to cover trucks bringing aid from Jordan to Iraq. Photo: ©ICRC/Thierry Gassmann



Disseminating information on international humanitarian law to the Indonesian Army in Aceh. Photo: ©ICRC

One of the biggest challenges lies in educating parties to conflict on the unique role and needs of relief workers.

Nations, where resolutions are now adopted as a matter of course on issues of security for aid workers in conflict and non-conflict situations. The most recent of such resolutions was General Assembly Resolution 64/77 of 7 December 2009, which starts from the premise that attacks and threats against humanitarian workers and associated personnel is a factor which increasingly restricts the provision of assistance and protection to populations in need. The resolution calls for the provision of all necessary security and safety measures, improved training and other safeguards .

However, like other resolutions before it, resolution 64/77 does not make adequate reference to volunteers and their work. It does however, include a paragraph on locally recruited humanitarian personnel, recognising the special danger within which they often work.

The resolution, whilst in some respects positive for the attention it brings to the dangers which confront humanitarian aid workers, cannot meet the needs of the Red Cross and Red Crescent. Operative paragraph 8 calls on all States and parties to conflicts to respect the principles of neutrality, humanity, impartiality and independence in the provision of humanitarian assistance. Pierre Krähenbühl, the ICRC's Director of Operations, stated that these principles are often not in place when assistance is being provided by a State or organisation which is itself involved in the conflict.

The challenge for Red Cross and Red Crescent actors is hence to widen public understanding of the character of the Fundamental Principles (detailed on page 27) within which all their staff and volunteers operate. At the same time, it is important for the Red Cross and Red Crescent to remain distinct from organisations which might be perceived as having a vested interest in the outcome of a conflict or political situation. This does not mean that the Red Cross and Red Crescent must always stand separately from other organisations – coordination of effort, exchanges of information and a degree of interdependence are always essential - but it does mean that the identity of the Red Cross and Red Crescent must be preserved and protected. Further, the Fundamental Principles of the International Red Cross and Red Crescent Movement must not be devalued through misappropriation by others.

The calls by the United Nations for improvements in procedures and training follow work done in the Movement by both the ICRC and IFRC, to improve their own training and their support for National Societies. The work of the ICRC is well known, but it is worth noting that the

IFRC's Security Unit has built extensive contacts with National Societies and now provides security training and modules, as well as incident reports and other forms of feedback and knowledge sharing.

The IFRC Security Unit Report for 2009 (available to Movement personnel and volunteers through FedNet) shows the progress made in reaction to the increased threat faced by humanitarian aid workers. All IFRC personnel are required to complete an e-learning course on personal security, and managers an additional e-learning course on security management by 30 June 2010.

The IFRC Security Report also details a wide range of other training programs and responses to threats. It also seeks to ensure that to the greatest extent possible, security management is decentralised, with responsibility being assumed at locations closest to the situation itself and with the fullest knowledge of all pertinent factors.

The Report also details incident statistics, but makes it clear that the statistics represent only reported incidents, and need to be treated with some caution. Nevertheless, the Report shows that an increasing number of participating National Societies (those which bring assistance to another country), are coming under the IFRC's security management system. This will help to improve security management for the personnel of those Societies. The measure will also address a problem separately identified in United Nations assessments of security management: the lack of coordination between organisations, including the inadequate sharing of information.

At the end of 2009, approximately 3000 people came within the IFRC security management system. The ICRC on the other hand, has roughly four times that number of staff members working around the world. Patrick Brugger, the delegate in charge of security at the ICRC's Directorate of Operations, makes a vital point about the evolution of security issues for the Red Cross and Red Crescent Movement, when he concluded his



Nepal: working in the midst of conflict, 2005. The task of spreading knowledge among bearers of weapons of the main rules for behaviour in combat – as performed here with a unit of the Nepalese armed forces deployed in the field – never ends. The ICRC recently gave a series of training courses to senior officers of the Nepalese army in order to remind them of their obligations towards the civilian population and detainees in times of conflict. Photo: ©ICRC/Jon Bjorgvinson

June 2009 article in the International Review of the Red Cross as follows: 'The ICRC has chosen to make lack of security a permanent consideration in its operational policy: it takes every possible step to reduce risk to a minimum, without being entirely able to eliminate it'.

As the nature of armed conflicts become more complex, the role, and the protection, of humanitarian workers is increasingly difficult. It is increasingly urgent that the components of the International Red Cross and Red Crescent Movement find new ways of inspiring States and non-state actors to respect international humanitarian law and especially the principles of impartiality and neutrality as they apply to humanitarian workers in the field.

One of the biggest challenges lies in educating parties to conflict on the unique role and needs of relief workers, whether Red Cross and Red Crescent employees and

volunteers, or those belonging to other organisations which share the commitment to the principles of neutrality, impartiality and independence.

As the nature of armed conflicts become more complex, the role, and the protection, of humanitarian workers is increasingly difficult.



The Australian Hospital Ship Centaur, which was sunk by a Japanese submarine off the Queensland Coast in 1943. Image 043235 courtesy of the Australian War Memorial

when protection fails ...

AHS Centaur

by Lynette Lye and Annabel McConnachie, volunteers, Australian Red Cross

The reality of this situation is that those individuals who seek to preserve human dignity in the most extreme circumstances may pay the ultimate price for their dedication.



ARCS Senior Representative Darwin Clark, photo courtesy of Rosemary Brown and Carolyn Lewis

The issue of protection for humanitarian workers is by no means novel. International humanitarian law has always sought to ensure the protection of health delegates and independent aid workers by recognizing their neutrality and distinguishing them from those participating in a conflict. However, the provision of that protection is dependent upon all parties to a conflict respecting that neutrality – a factor which has never been perfectly achieved. There are too many examples of Red Cross workers killed in the line of duty: a Swedish Red Cross volunteer in Ethiopia in 1935; two ICRC delegates alongside two missionaries in Biafra in 1968; an ICRC delegate in Yugoslavia in 1992

and three local ICRC staff members in Sri Lanka in 2009 are just a few.

The reality is that those individuals who seek to preserve human dignity in the most extreme circumstances may pay the ultimate price for their dedication. The following Australian case provides one such example.

On 20 December 2009 David Mearns, marine scientist and expert in the search and recovery of shipwrecks, found sonar footage of the AHS Centaur nearly 50kms off the Queensland coast. AHS Centaur was an Australian hospital ship torpedoed and sunk by the Japanese during World War II on 14 May 1943 with the loss of 268 lives.

On board AHS Centaur, and one of the fatalities that day, was Wilfred Francis Darwin Clark, Senior Representative of the Australian Red Cross Society (“ARCS”). Mr Clark had begun his service as an ARCS representative on the Oranje – another Australian hospital ship which operated during World War II. Mr Clark was promoted and transferred to the fateful AHS Centaur where he served mostly as an amenities officer.

As a humanitarian worker Mr Clark’s role required ensuring that the injured soldiers aboard the ship were supplied with entertainment, books, toiletries, cigarettes or tobacco,

cordial, slippers or any other items required for their convalescence. Together with requesting funds and keeping inventories of all items, Mr Clark oversaw the occupational therapy activities of his bedridden patients. Primarily he was to ensure that no patient suffered discomfort or inconvenience and that each should receive goods and services on basis of the fundamental principal of humanity - “every man according to his needs”.

Mr Clark kept meticulous records of the number and types of patients and personnel AHS Centaur carried and the places at which and exact dates on which patients boarded and disembarked the ship. These detailed records of AHS Centaur served to endorse the true identity of this vessel as a hospital ship.

The archived letters of request and gratitude that Mr Clark drafted to the various Red Cross stations and organisations that assisted with providing supplies and hospitality at each port provide a unique record of the details of the work of a representative and the diplomacy required in their work. Mr Clark truly represented ARCS in every way, from his humanitarian care and concern, to his diplomatic bearing and the relationships he fostered both on and off the ship. It was noted in an

archived Eastern Australian Military Forces missive that Corporal WFD Clark had a flawless record and was commended for being a “no. 1 hospital ship representative”: he was clearly highly regarded for his work and capabilities.

Prior to the Centaur’s first voyage, Australia had issued a notice of intention to the Axis Powers that the Centaur would be used as a hospital ship. The ship’s dimensions, markings and details of her appearance were provided, specifically to the Japanese on 5 February 1943. Mr Clark served on this first voyage of the newly designated AHS Centaur.

AHS Centaur began her second voyage unarmed and unescorted from Sydney to New Guinea at 10.44am on 12 May 1943. The ship was reported to have been fully illuminated during the night, as would be the case with all hospital ships. However, within a few days the Centaur had been torpedoed and sunk in the early hours of 14 May 1943 claiming 268 lives, many of whom were thought to have been “taken by sharks” or drowned after being rendered unconscious by the debris breaking the surface from the ship as it sank. 64 survivors were saved by an American ship.

Underwater images of the Centaur taken from an unmanned robot

submarine shortly after her discovery in December 2009 clearly show the large red crosses which had been painted onto the hull of the ship. The use of the protective red cross emblem was to mark the ship and indicate both its neutrality and the nature of its humanitarian mission. During World War II parties to the conflict were bound by the customs of the laws of war contained in the 1929 Geneva Convention and the Hague Conventions of 1907: specifically Hague Convention (X) for the Adaptation to Maritime Warfare of the Principles of the Geneva Convention. These principles of protection were expanded and consolidated into the four Geneva Conventions of 1949 following the end of the war.

Prime Minister Curtin declared in May 1943 that the AHS Centaur was carrying ‘non-combatants, engaged on an errand of mercy and [who] were, by all the laws of warfare, immune from attack’. There were early denials of involvement by the Japanese forces. However, in the 1970s, a submarine captain, Lieutenant Commander Nakagawa, was investigated and then it is believed he was tried and sentenced for the sinking of AHS Centaur.

The uncovering of AHS Centaur late last year only serves to highlight the need for robust protections for those



Red Cross clearly visible on the side of the wrecked Australian Hospital Ship Centaur, January 2010 Photo: © Courier Mail, Brisbane/Bruce Long

engaged in humanitarian work. On 12 January 2010 a memorial plaque was laid on the deck of AHS Centaur in remembrance of those who lost their lives on the hospital ship. However, until all parties to a conflict ‘undertake to respect and to ensure respect for the present Convention in all circumstances’ (Article 1 common to the four Geneva Conventions of 1949) it will not be possible to prevent such deaths and fully support humanitarian workers, such as Wilfred Francis Darwin Clark, in their endeavours.



a military

perspective on protection for humanitarian workers

by Colonel Neil Greet,
Asia Pacific Civil-Military
Centre of Excellence

Local Afghans and Afghan National Army(ANA) along with Australian soldiers sit down to hold a shura in the Mirabad Valley Region, January 2010. Photo courtesy Department of Defence © Commonwealth of Australia 2010

The military is focused on achieving specific conditions that will allow it to be withdrawn ... and do not take into account long term development and aid requirements.

Small wars or those armed conflicts not of an international character, as they are categorised in the Geneva Conventions, have become the most common form of conflict during recent decades. These conflicts have been typified by insurgency.

Consequently throughout the 1990s western military conceptual thinking began to shift from considerations of inter-state conflict, to an articulation that the people-centric and complex nature of small wars was now an increasingly important part of military operations. General Charles Krulak of the US Marine Corps highlighted this shift in thinking when he promoted the concept of the “three block war”¹, based on US experiences in Bosnia, Haiti and Somalia. Essentially, military armed forces could be dealing firstly with the provision of humanitarian assistance but a moment later holding warring tribes apart. In the midst of conducting peacekeeping operations, they may find themselves involved in fighting a highly lethal mid-intensity battle. All of this may occur on the same day, within three city blocks.

Although articulation of the “three block war” concept captured the complexity of modern military

operations, the practical implications for armed forces has had to be learned through a number of hostile and prolonged conflicts. One of the military responses to this dilemma has been a renewed emphasis on counter-insurgency operations; a strategy that combines political, social, civic, economic, psychological and military

actions taken to defeat an enemy.

However counter-insurgency is not the sole answer as humanitarian assistance, reconstruction and development activities are occurring concurrently in conflict areas. The crossover between these legitimate activities is easy to conceptualise but



An Australian private maintains a secure watch as troops move through Tarin Kowt to visit the nearby hospital to continue reconstruction work and to deliver Australian aid in southern Afghanistan, November 2008. Photo courtesy Department of Defence © Commonwealth of Australia 2010



Warrant Officer Class Two Brendan Johnson secures a building at the Tarin Kowt Hospital, April 2007.
Photo courtesy Department of Defence © Commonwealth of Australia 2010

Military armed forces could be dealing firstly with the provision of humanitarian assistance but a moment later holding warring tribes apart.

tactical integration remains difficult to manage. Protecting humanitarian workers while conducting counter-insurgency activities is one area where many potential unintended consequences can occur. Humanitarian aid principles and military missions may clash, creating questions around 'who holds the moral high ground?'. Clashes of this nature are rarely helpful.

In recognition of this potential, the United Nations drew together stakeholders to provide guidelines for the use of military and civil defence assets in complex emergencies. It is recognised within the resultant Oslo Guidelines, that humanitarian organisations may only request the protection of forces deployed on military missions as a last resort. This can, however, result in protection being ad hoc and reactive rather than planned, which has the potential to invite danger. This short anecdote

from an ADF officer about a retired military officer working for an NGO in East Timor during 2006 illustrates this difficulty:

*'I was disappointed that my friend of many years refused our support and indeed preferred the dangerous habits of his new found job. I was surprised, when he asked for emergency help during the riots, and I was again disappointed that at that time there was nothing I could give to help.'*²

In this case there was no loss of life but the issue of unplanned protection at short notice can potentially have terrible consequences for all parties. The military believes in the value of contingency planning and understanding potential branches and sequels to events. Protection of humanitarian workers can be planned for, and military forces made available,

without overt daily demonstrations of patrols and sentries. However, if requested careful positioning of forces with demonstrated means of rapid deployment, rather than the use of force, may be all that is necessary.

Personal meetings are always best to resolve planning issues. These do not necessarily have to occur at the site of the military barracks. Offsite meetings are common, and the Civil-Military Coordination (CIMIC) staff can play a critical role as interlocutors if desired. There are so many situations and alternatives on offer if both parties are prepared to meet.

However, it is necessary to remember that military forces operate within the constraints of their government directed missions. This can place a clear limit on resources. A government expects a military commander to find resources from within allocated forces if the need arises to protect humanitarian workers. However, the force that responds to such a request would have other tasks which consequently would need to be re-organised. Furthermore, the military is focused on achieving specific conditions that will allow it to be withdrawn. Invariably timelines are part of that assessment, and do not take into account long term development and aid requirements. The transition can be a very dangerous period, if not well planned.

Training underpins the quality of protection that a humanitarian worker might expect in the greatest hour of need from a military force. Preparedness is expensive but poorly trained troops on any mission are arguably worse than no troops at all. The Global Peace Operations Initiative (GPOI), established by the US State Department with the intention of equipping and training 75,000 military troops in readiness for peacekeeping operations, has invested significant resources to the training of peacekeepers across the

world. Not all troops can be trained to the same standard, but it should be reassuring to humanitarian workers that the standard of training is being lifted across the world.³ Consistency of behaviour through good training underpins quality protection. To this end, the United Nations has lifted its investment in training of national police forces. Joint interaction and protection between police and the military may be a preferred option for some humanitarian workers. Civil-Military-Police (CIMPOL) integrated responses in protection is the next step the military must take in consideration of this issue.

Finally, a military commander has no wish to see humanitarian workers become the victims of violence in the course of their work. Therefore, if asked, military forces will do whatever is in their capability to provide protection to these workers. There is an understanding that heavy-handed or insensitive protection measures may in fact place humanitarian workers at increased risk.

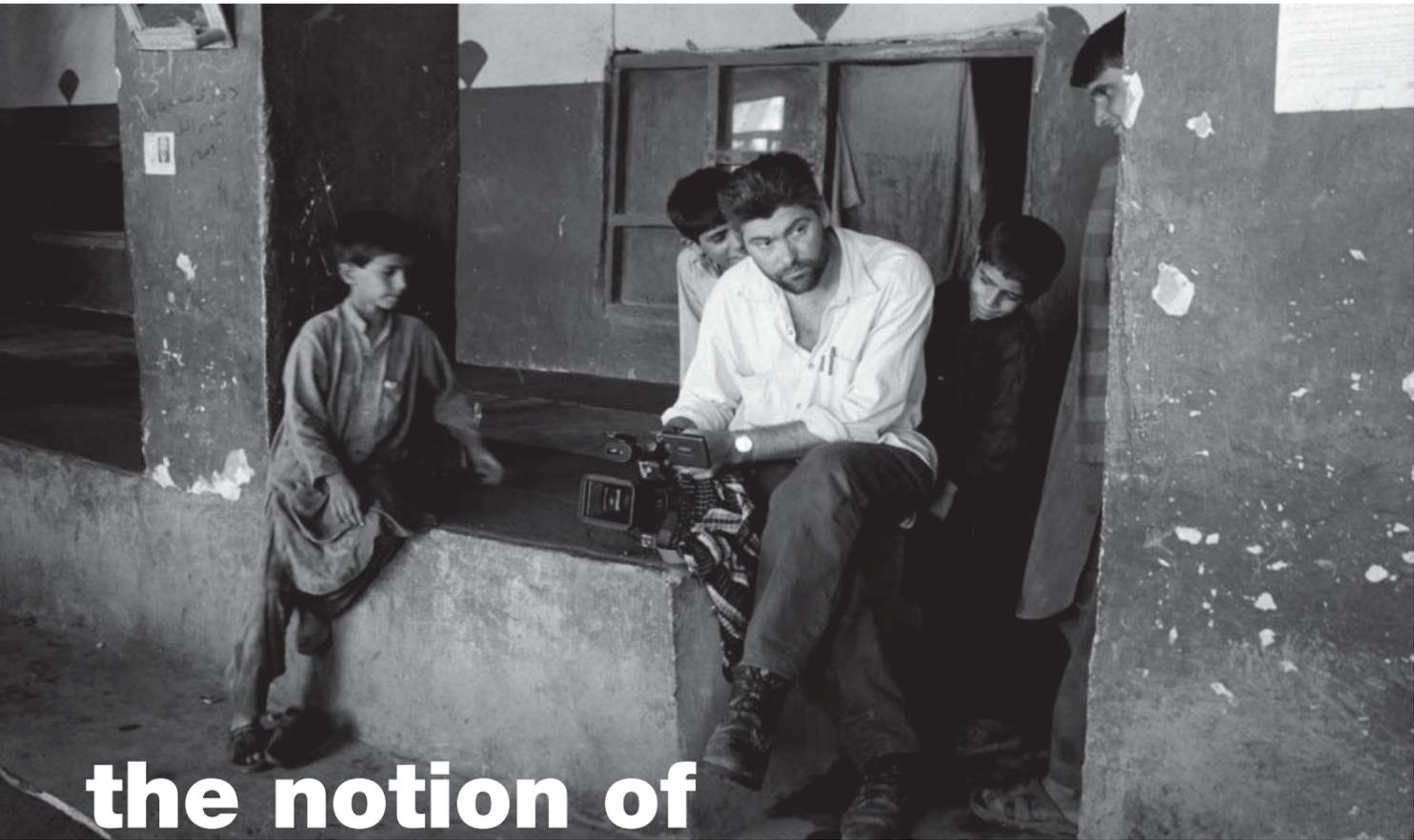


An Australian Corporal provides a security screen during a visit to continue reconstruction work and to deliver Australian Aid to the nearby Tarin Kowt hospital in southern Afghanistan, November 2008.
Photo courtesy Department of Defence © Commonwealth of Australia 2010

There is an understanding that heavy-handed or insensitive protection measures may in fact place humanitarian workers at increased risk.

References

- ¹ Charles C. Krulak, 'The Strategic Corporal: Leadership in the Three Block War', *Marines Magazine* (January 1999)
- ² Australian Army Centre for Army Lessons Learned, 2008.
- ³ GPOI trained 86,969 peacekeepers as of 30 September 2009. United States Department of State GPOI Fact Sheet dated 30 Oct 2009



the notion of

John Martinkus in Sarobi, Afghanistan, 2005.
Photo courtesy of Stephen Dupont

neutrality

by John Martinkus,
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The notion of neutrality for journalists and aid workers in conflict zones has taken a battering since the commencement of the US led wars in Iraq and Afghanistan. However, it still offers what is perhaps the only real protection for those seeking to work in conflict zones.

I remember arguing the case for journalists remaining unarmed quite vigorously in October 2004 in Iraq. A colleague of mine who was responsible for several staff had just announced that none of his staff would travel anywhere in Baghdad unless they had two vehicles and at least one armed bodyguard. The rule didn't apply to me, as I wasn't directly employed by him, but I lent my voice to the arguments of his staff

who thought it was a bad idea. They argued that the policy would only increase the likelihood of a shoot out.

I feared that this policy was the start of a slippery slope. If armed Iraqis believed journalists were armed, they would be more likely to shoot first. If journalists employed foreign security contractors – who were widely distrusted by Iraqis - this may just escalate the dangers. I had many questions. If you were ambushed by insurgents would one bodyguard with a weapon make any difference anyway? Wouldn't that just make the attackers more willing to shoot? What if the attacker had a rocket propelled grenade? Wouldn't we need one too? What if there were more of them shouldn't we have more than one bodyguard?

The beer-fuelled argument went on into the night with my colleague finally declaring, 'well I'll just get a tank for the Bureau!' It was funny at the time, but I knew he was deadly serious.

However, my concerns were that arming journalists and aid workers turned these actors into combatants. Doing so meant they may sacrifice their neutrality, as well as the trust of, and access to, the community. The short term psychological reassurance of a weapon places you, in the eyes of many of the people you are trying to report on or assist, in the same role as the occupier or aggressor. For instance, when conducting an interview with a warlord or militia leader, their bodyguard may search your car. If they find a gun, the bodyguard may not know whether your aim is to kill their leader or interview him.

Two days after the exchange with my colleague, I was kidnapped at the front of my hotel. As I drove out through the checkpoint on to the street, a car moved in to position behind me. After turning the next corner another car pulled in front boxing us in. Armed men leapt out and ran towards our vehicle. After a brief struggle it was over. I was kidnapped and spent the next twenty four hours convincing my captors I was indeed a journalist, not a contractor, not a Mossad or CIA agent, not a spy from the Australian army.

The fact I was not armed meant my captors were more inclined to believe me. It also meant that there were no shots fired when I was kidnapped, and therefore no one was hurt. It was a terrifying ordeal but I was released after arguing the case that I was a neutral journalist. A case that was much easier to argue because I was unarmed.

The following year I was in the Afghanistan city of Jalalabad. In May of that year riots were sparked by reports of the desecration of the Koran in Guantanamo Bay. These riots led to attacks on UN and NGO offices in the town. As a result most NGOs were evacuated.

It was one of those events over which the NGO workers had no control as the rioters were targeting any

symbol associated with the West. It demonstrated the unfortunate reality of the connection made in the population's mind between the actions of US forces and the international aid community.

For a whole myriad of reasons the neutrality of non-combatants in Afghanistan and Iraq has not been respected by either side. This has resulted in journalists and NGOs being targeted. In other conflicts I have covered, such as East Timor, international aid organisations and journalists were seen by the community as genuinely assisting

the local population. It is part of the tragedy of these conflicts that the West is no longer seen as benevolent. We are the occupying forces. In Afghanistan and Iraq westerners are seen by many as extensions of the foreign forces. This is something that has to be redressed if the local community is to be engaged with the efforts of NGOs. Both NGOs and journalists have to engage with the societies they are reporting on if they hope to adequately understand the situation. That is not something you can do driving around in an armoured four wheel drive with a heavily armed contractor beside you.



Channel Seven cameraman, Rob Brown, fixes a video camera to a Light Armoured Vehicle before a patrol into Tarin Kowt, April 2007.
Photo courtesy Department of Defence © Commonwealth of Australia 2010



The ICRC distributes agricultural equipment in the village of Ardébé to people who have been displaced by violence and to the communities who have given them shelter. Photo: ©ICRC/M. Ngardobe Nodjingue

**by Jeremy England,
Head of Office, Australia
– Regional Delegation in
the Pacific, International
Committee of the Red Cross**

When I left for Rwanda as a Red Cross delegate in 1995, I knew I was in for an adventure. I wanted to understand the stories behind the news and to help the people in greatest need, knowing they were in the one of the most insecure parts of the world. Organisations like the International Committee of the Red Cross (ICRC) need this kind of ambition to deliver truly impartial responses to victims of conflict. I assumed that the global norms and values that encourage such assistance - which call for the respect of those who provide it - would protect me. But I soon realised that without a real understanding of the ICRC such respect would be difficult to attain. I learnt a new mantra – access through acceptance – and a methodology based on knowledge,

relationships and reputation. My every action had to contribute to this. What you are taught first is the need for personal and institutional discipline - on the job, in the field and during time off. It turned out to be a pretty restrictive gig – full of rules, curfews and daily security reviews.

My postings were also very reflective gigs – focused on the way in which the ICRC was viewed. International humanitarian law and the Red Cross principles of neutrality, independence and humanity, are tough concepts. They are more concerned with **how people perceive you**, than absolute values. They're hard enough to explain in English, let alone once translated into local languages and value systems. I remember meetings with tribal leaders in Sierra Leone where neither *1949*, nor *Geneva*, nor *Convention* had any meaning in the local language. We had to find other ways to explain ourselves. Neutrality can be controversial – seen as not condemning the bad guys to some, or as a balanced approach leading

to something useful to another. The bottom line is that we had to add value to these principles, or at least not cause any strategic disadvantage.

Critical to this was an understanding of who the key people were – whether cultural or religious, community-based or governmental, criminal or militia. My initial briefings were all about what their influence or interests might be and whether they understood and accepted our presence. Later, as a manager, I realised that time spent on building trust with different leaders, drinking anything from tea to vodka, showing respect for traditions, asking questions and listening to advice, was not just a fascinating privilege, but time well spent. Even urgent operations cannot be allowed to compromise this without incurring real risks. The rush to mount huge operations in Darfur in 2004 could not interrupt my weekly gatherings with the Imams and Chiefs of the Fur people – long insightful meetings built on mutual respect and concerns. In many ways, they were the meetings that confirmed our

successful launch in the area.

Our **acceptance** by these leaders and by their relevant authorities, brought the permissions or security guarantees, needed to enter unstable areas - or equally importantly, the information needed to decide not to. This would then need checking at every level of the community (more tea), the armed forces (at check points and barracks) and against all other available information (endless coordination meetings). Of course, there is a strict hierarchy regarding who takes the final decision to **access** an area but it relies on accurate feedback from every staff member. Team responsibility, avoiding complacency, listening and exercising judgement is everything.

activities of other actors on the ground (whether civilian, military or political) or the influence of global players far outside the conflict. Currently, the biggest difficulty for my colleagues in the field is the possible association to others' agendas or acts – be that a Security Council resolution, a military's hearts and minds campaign, a religious institution's evangelism or an international court's decision to prosecute (leading to attacks on NGOs and the expulsion of some in Darfur last year). A strain in relations may be exacerbated by the perception of humanitarian organisations being overwhelmingly "Western" and therefore linked to other Western agendas or interference. Diversifying

tolerated, rather than accepted and defended.

The ambitions of humanitarian work are increasingly underpinned by regular tragedies – things can and do go wrong. I know of too many casualties. You are forced to be very clear with yourself as to why you leave on each new mission. With experience comes responsibility for others in the team, including national staff who do not have the same protections, nor the same opportunities to leave and start over if things go sour. Carrying those decisions, and managing the incidents that can arise, have been the most painful and confronting experiences of my career.

When the helpers end up needing help, or the story of those in need gets overtaken by those who come to assist, we all fail. All players in modern war zones need to assume their responsibilities under international humanitarian law to assure the safety of humanitarian actors (and all other civilians) and not to take actions that may jeopardise their work. That includes the behaviour of humanitarian actors themselves, as well as military, governments, media and others. Assuring that the lines are not blurred and the trust needed by humanitarians to safely assist those in need is everybody's responsibility, including my own.

security

an ICRC delegate's view

With **access** must come **action**. Those who have the capacity to protect or to harm must be convinced by our actions – what we do, and how we do it. Do we understand the culture and politics well enough to avoid causing offence and to deliver appropriate services? Are our movements and programmes transparent? Do they live up to what we say? And finally, are our relationships now good enough to discuss the tough issues of protection and assistance with those authorities responsible for the situation.

This cycle: **perception → acceptance → access → action → perception** should be a virtuous one (i.e. self reinforcing). It doesn't replace the legal obligations armed factions have to protect civilians, including humanitarian actors, but it creates the understanding and dialogue necessary for those obligations to be met.

However challenges remain. The cycle can be overridden at any moment by a development in the conflict, the

staffing, establishing the new, less religiously perceived emblem (the red crystal), and working closely with local staff and leaders may all help to get beyond these images and perceptions. But realistically, in too many cases, I have grown to understand we may still only be

The seven pillars of security for safe access:

- being properly **identified**
- having good **information**
- **disseminating** who you are, what you do and what you don't do
- developing locally appropriate **rules** and following them
- ensuring appropriate **behaviour**
- having good means of **communication**
- putting **passive** protection measures in place for physical threats.

Reflections

by Robin Sands
Former Field Coordinator
for Médecins Sans
Frontières in Darfur, Sudan.
Currently Head of Field
Human Resources,
Médecins Sans Frontières
Australia



A doctor examines a child in a Médecins Sans Frontières program treating malnutrition in Zam Zam displaced camp, Darfur, Sudan. Photo courtesy Martyn Broughton.

Humanitarian space means the existence of access to our patients and populations in need. If we have humanitarian space in which to conduct our operations then the issue of protection for humanitarian workers is a given. However, ever diminishing space in recent years reminds us of the growing challenge to the basic principles of protection which are inextricably linked to the fundamentals of the impartial medical-humanitarian act.

International humanitarian law obliges warring parties to provide independent humanitarian actors, such as Médecins Sans Frontières, with the space to operate. However it is more often our charter and principles of action that provide us with the necessary tools to create an understanding at the local level, by our actions, where the basics of life and survival outweigh the acquiescence to international laws and conventions.

Impartial humanitarian assistance provides the foundation for the protection we can receive in the areas where we work. The fact that we provide free medical care to people in need touches all parts of a society.

Everybody needs medical care, whether tribal groups, families, friends or others. Our principal message can be passed very quickly and in fulfilling this need we are often protected by those we are helping. The alternative strength of the message of our acts is the simplicity and ease with which it can be understood thereby cutting across the many barriers surrounding education, economics, religion, culture, ethnicity or politics. The threats to our field workers more commonly come from within the society or region in which we are present. The result is that the people or societies we help are also the ones we need to protect ourselves from.

In my postings, I have been responsible for protection both in the field and at international headquarters level. This was particularly challenging in Darfur where the complexities of the context highlight some of the difficulties of protection. The protection issues were starkly contrasted by the effect of international political events such as the International Criminal Court's issuance of an arrest warrant against President Bashir which resulted in the expulsion of 13 NGOs (including

the French and Dutch sections of Médecins Sans Frontières) and the manipulation of the perception of our organisation in the field.

When I first arrived in the town of Niertiti, my role was to find and meet all those involved in the region including local authorities, militia, tribal chiefs, religious leaders, government officials, military, police, rebel groups, patients, local staff, other NGOs and the United Nations. I had to present myself and Médecins Sans Frontières thus gaining an understanding of their perception of us. These exchanges provided valuable knowledge and advice on the population, the region, their traditions and expectations. Listening and treating people with respect creates trusted links at all levels. As the relationships are often built on an individual level, it is the people who gain the respect and hence the organisation gains respect because of that individual. As a result, the organisation's reputation can be won or lost by one person.

These links can, in return, provide information that protects our staff and access to our patients. This trust must be earned and promises must

on maintaining humanitarian space

be turned into actions that reflect our principles. It is particularly important at the beginning of a program when the population has no idea who we are and has not yet received any benefits from our activities.

Another important factor that ensures humanitarian space is created is our field staff, and in particular our local staff. They have an intimate, local view of our activities and principles. They can provide the direct link to the community and thus provide a trusted source of information. Our local staff members are an important cog as they provide insight into how our organisation is seen and how we see the communities we are working in. This works best when perceptions on all sides are as transparent as possible.

Managing our organisation and its principles, and ensuring that our acts and behaviour match accordingly, is a constant challenge. We have to operate amongst vastly different cultures and religious groups and with staff from multiple cultures and belief systems. These elements are often pitted against the dynamic of local, national or international politics, so making the veil of our protection very thin, as was the case in Darfur.

The complexities of maintaining humanitarian space in Darfur are mainly due to the number of disparate groups who control or influence a region or who pass through it seasonally. This makes it difficult to have a relationship with the multitude of groups in the area and can lead

to a precarious situation where risk is hard to control or evaluate. With a lot of work and respect already in place for Médecins Sans Frontières, we managed to operate a hospital in the government-controlled town of Niertiti. We also ran two clinics: one in the Sudanese Liberation Army (SLA) held zone of the Jebel Mara and the other in the government-controlled town of Thur, on the territorial boundary between the SLA and the North Sudan governmental forces. We managed to travel on two roads only. The first road went directly into the SLA zone but was controlled by the government up to the front line and then by the SLA to our clinic. The other more precarious road covered the 12km between Niertiti and Thur. This second road required

constant assessment and travel was only possible due to the strong relationships we had with the Thur chiefs. The Thur chiefs, links with all the nomad groups, and our links with the authorities at each end, completed the circle for our access.

At the international level, where judicial or political influences have a greater impact, the veil of protection for humanitarian workers can be torn. We become targets and are no longer able to carry out our objectives because of the increasing danger and risk to our staff. This was the case in Darfur; leaving us with the challenge of organisations in the field trying to achieve individual change against others trying to achieve international change.



On the way to Tebnine hospital, the Médecins Sans Frontières mobile team has to cross new craters caused by an air-strike. Lebanon, 2006. Photo courtesy Sergio Cecchini.



ICRC staff member at scene of destruction in Tyre, 10 August 2006. Photo: ©ICRC/M. Kokic

the
need
for

protection

Another issue raised in the articles here has to do with the need for more effective implementation of existing legal rules. The challenge here lies with States Parties to the different treaty regimes to take seriously their obligations to implement the respective treaty provisions – through domestic criminal legislation, through training of military forces and through dissemination of international legal obligations throughout the society more generally. There are also challenges here for organisations like the International Committee of the Red Cross and national Red Cross societies as they seek to engage in training and in education about the important legal rules on protection of those providing humanitarian relief and assistance. Colonel Neil Greet also discusses the quantum shift in military thinking about the strategic importance of civil-military co-operation and the contributions militaries might make to the protection of humanitarian workers in appropriate circumstances.

Comprehensive legislation must be accompanied by enforcement of the law in the face of violations. It is important that the Rome Statute for the International Criminal Court (ICC) extends subject matter jurisdiction to the ICC over two war crimes involving attacks against humanitarian workers: Article 8(2)(b)(iii) of the Statute prohibits ‘intentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian

assistance or peacekeeping mission in accordance with the Charter of the United Nations’ and Article 8(2)(b)(xxiv) of the Statute prohibits ‘intentionally directing attacks against buildings, material, medical units and transport and personnel using the distinctive emblems of the Geneva Conventions’. (There are two corresponding provisions in the context of non-international armed conflicts in Articles 8(2)(e)(ii) and (iii)). It is perhaps even more significant that the Prosecutor of the ICC has taken these provisions seriously enough to issue an arrest warrant against the Sudanese rebel leader Abu Garda for alleged war crimes including intentionally attacking AU peacekeepers in the Darfur Region of Sudan. Proceedings against Abu Garda have commenced and represent an extremely important statement of intent about how seriously these war crimes will be treated in situations where the ICC has jurisdiction.

Good legislation, real implementation and effective enforcement in the face of violations can only ever be part of the story. Anecdotal evidence from the operational experience of both John Martinkus and Jeremy England suggests that on occasions attacks will be directed against humanitarian workers because of misperceptions about the relationship between those offering humanitarian relief and foreign military forces in the theatre of operations. Sometimes misunderstandings can be overcome

by education and strict adherence to neutrality including the refusal to carry weapons even in self-defence.

All of these issues are understandable and multi-dimensional complementary efforts can be directed at responding to them. Ultimately though, there is a lingering reality that some rebel forces will act with such repugnant disregard for humanity and for those attempting to alleviate human suffering that nothing can be done to stop the atrocities those people will commit. As Chris Lamb explains, there is growing evidence of an eagerness by some militia groups to consider humanitarian workers hostile because of their nationality, ethnicity and/or religion. The international community is conscious of this problem, is trying to address it and should be encouraged in all its initiatives.

However, it must also be accepted that the complete eradication of all depravity from the human spirit is a forlorn hope. Instead, it is important to acknowledge that humanitarian work can be dangerous and that people who undertake it in certain situations are risking their lives to alleviate the suffering of others. We must hope that there will always be people willing to sacrifice their lives for this work in order to demonstrate to the world and particularly to those most desperately in need of humanitarian relief that there are some fundamental values worth dying for.

by Tim McCormack
Professor of Law,
Melbourne Law School

The statistics revealing a significant increase in the deaths of humanitarian workers in armed conflict situations are as indisputable as they are alarming. And this is not simply a numbers game. The evidence incontrovertibly points to a sizeable proportion of those deaths caused by wilful attacks – humanitarian workers not simply caught up in cross-fire but deliberately and carefully targeted. It is chillingly ironic to be confronted with planned and calculated killings of some of those who have dedicated themselves to the preservation of human life in the midst of protracted and devastating armed violence.

I commend the Australian Red Cross on the initiative to focus this edition of the *International Humanitarian Law Magazine* on the challenges of

increasing protection for humanitarian workers and to raise both the magnitude and the complexity of the problem of attacks upon them. The authors have been carefully selected to ensure a broad range of perspectives on the problem and the collective effect of their pieces admirably achieves the objectives of Australian Red Cross in choosing the focus of this particular issue of the magazine.

The critical challenge is, of course, how to respond to the problem? Various authors here canvas a range of options. There are, for example, questions about the adequacy of existing law and whether it should be supplemented by additional rules. Kelisiana Thynne’s piece provides a comprehensive overview of the critically important provisions of the Geneva Conventions and Additional Protocols prohibiting attacks against those receiving medical care and attention under the

protected emblems of the red cross, red crescent or red crystal. These are, of course, extremely important provisions but they do not extend protection to other humanitarian relief efforts not undertaken under one or other of the protective emblems. The Convention on the Safety of United Nations and Associated Personnel extends protection from attack to another category of humanitarian workers – those personnel on UN authorised peace missions. This Convention is extremely important in extending legal protection to an important category of humanitarian workers but it is by no means exhaustive in its coverage. Robin Sands writes about the challenges he experienced working in the field with Médecins Sans Frontières in the Darfur region of Sudan. This raises serious questions about the need for comprehensive international legal protection for those delivering humanitarian aid and assistance.

International Humanitarian Law (IHL) Program

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

IHL is something Red Cross thinks everyone should be aware of. We run an IHL Program providing training and education highlighting IHL issues to key target groups identified as having a role to play in situations of armed conflict.



Photo: ©ICRC/Boris Heger

Red Cross has a mandate to promote an understanding of, and respect for, the law in times of armed conflict – International Humanitarian Law (IHL).

For more information on the IHL Program please visit: www.redcross.org.au/ihl or email: redcrossihlinfo@redcross.org.au

The IHL Program focuses on the following target groups:

- Australian Defence Force
- Australian Federal Police
- Non-government organisations
- Commonwealth Government agencies
- Key professions (law, medicine, journalism)
- Tertiary and secondary education sectors
- Wider community.

The IHL Program specifically offers training programs 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 education seminars for members of the general community who have an interest in humanitarian issues and whose work is affected by the application of IHL.



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humanitarian principles of the laws of war, and the role of the Red Cross Red Crescent movement.

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fundamental principles

In Colombia's Regencia District, school children learn about the basic rules of international humanitarian law. Photo ©ICRC/Ch. Von Toggenburg

In all activities our volunteers and staff are guided by the Fundamental Principles of the Red Cross and Red Crescent Movement.

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.

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.

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.

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.



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