

# RIGHTS OF JOURNALISTS AT TIMES OF ARMED CONFLICTS

## INTRODUCTION

One of the most renowned professions of all time, *journalism* is the activity, or product, of journalists or others engaged in the preparation of written, visual, or audio material intended for dissemination through public media with reference to factual, ongoing events of public concern, according to Wikipedia. Through news and media, journalists reveal out information which otherwise remains concealed. As such, they are dubbed called eyes and ears of a nation.



However, journalism has become a really tough work in some countries especially where armed violence occurs. In several countries of Asia, Middle East and Africa, journalists face terrible barriers while collecting news of armed conflict. The situation is so intense that journalists sometime become hostage, kidnapped, beaten brutally and in some cases, even shot to death. But without their help, it is quite impossible for the rest of the world to know the actual scenario of the place. Obviously, the protections of journalists' rights must be shed light upon.

During armed violence, often journalists are considered to be unwanted as they play the role of witness and can create problems for the perpetrators in further days. This is the main reason of violent acts against the journalists. It is truly unfortunate that a person doing such noble work of letting the rest of the world know about true incident regardless of the upcoming danger does not have any specific protection. Under article 79 of the Additional Protocol to the Geneva Conventions of 1949 "journalists engaged in dangerous professional missions in areas of armed conflict shall be considered as civilians". Thus, all international humanitarian law applicable to civilians also applies

to journalists. Article 19 of the Universal Declaration of Human Rights adopted on December 10, 1948 states that journalists have the right to “seek, receive, and impart information.” This right is restated in the International Covenant on Civil and Political Rights which has been signed or ratified by more than 140 states, and in several regional conventions and charters, such as the European Convention for the Protection of Human Rights and the African Charter of Human and People’s Rights.

To us, “rights of journalists at times of armed conflict as civilian” is not good enough. A civilian would not get out of his home to collect news to present to the whole world at that time. But as it is journalist’s duty, they deserve the extra facilities. The main purpose of United Nation Human Rights Council is to create a better working situation for journalists by adapting several new rights of journalists and informing people of different regions about those throughout the world. The International News Safety Institute (INSI) points out, “as modern warfare, terrorism and crime follow different patterns, journalists reporting these conflicts and events are ever more at risk of being caught in a crossfire or taken hostage. The free flow of information, on which enlightened governments and peoples depend, suffers.” Violent attacks on journalists tend to have a chilling effect. Attacks hamper the journalists’ ability to probe deeply and report accurately thus depriving the public of its right to know.

With great regret we are passing this information that from conventional wars with defined battle lines to acts of terrorism that blur boundaries, from banditry to extremism or even pocket wars between feuding clans, journalists have to put themselves in ever increasing danger to get the story out. Over the last 10 years more than 1,000 journalists and media staff worldwide have been killed in the line of duty and are hunted down in their homes and offices and deliberately executed.

Though a brief description about the history of the problems of journalists at times of armed conflict will be given in later part, we would like to give a simple example here. In 1971, at the time of Bangladesh’s birth, the whole world was kept in dark about the war and mass genocide as Pakistani Army kept the international journalists as hostages in Hotel Intercontinental and local publication houses were taken over by them. For the “Operation Searchlight” the Pakistani army brought arms for several days in the country but as journalists were not able to inform others about these, the world did not know and could not do anything for many innocent Bangladeshis. If the rest of the world knew about this arms importing they could have politically put pressure on Pakistani Government to prevent such brutal act. From here we can guess the importance of the flow of information.

## OVERVIEW

Journalists, media professionals and associated staff play an essential role in informing the public and the international community. The very nature of their work, journalists and media staff must be at the forefront of unfolding events, be it something routine work as a ribbon-cutting ceremony for a new government program or something life-threatening like the outburst of hostilities between two belligerent forces. They witness what is happening on the ground, gather and propagate information about events and can help identify serious violations of human rights and international humanitarian law. To exercise this right journalists often have to put themselves in harm's way. But the exercise of this right should be viewed in the context of modern conflict situations that journalists may find themselves covering or reporting on.

International humanitarian law does not provide for any specific protection of journalists in armed conflict. Under article 79 of the Additional Protocol 1 to the Geneva Conventions of 1949 "Journalists engaged in dangerous professional missions in areas of armed conflict shall be considered as civilians". Thus, all international humanitarian law applicable to civilians also applies to journalists.

As much as they are civilians, journalists are protected under international humanitarian law against direct attacks unless and for such time as they take a direct part in hostilities. Violations of this rule constitute a grave breach of the Geneva Conventions and Additional Protocol I. What is more, intentionally directing an attack against a civilian – whether in an international or in a non-international armed conflict – also amounts to a war crime under the Rome Statute of the International Criminal Court.

Over the last 10 years more than 1,000 journalists and media staff worldwide have been killed in the line of duty. In many parts of the globe, especially the Philippines, coping with threats, harassment, intimidation or worse has become part of the journalist's job description.

The International News Safety Institute (INSI) points out, "as modern warfare, terrorism and crime follow different patterns, journalists reporting these conflicts and events are ever more at risk of being caught in a crossfire or taken hostage. The free flow of information, on which enlightened governments and peoples depend, suffers." Violent attacks on journalists tend to have a chilling effect. Attacks hamper the journalists' ability to probe deeply and report accurately thus depriving the public of its right to know.

Decades ago, journalists were able to cover conflicts successfully from different sides in regions such as Central America. Today, both government forces and insurgents have detained or attacked



journalists suspected of having relationships with their foes. In 2011, Ethiopian authorities imprisoned Swedish journalists Johan Persson and Martin Schibbye on treason charges after they were found embedded with the separatist Ogaden National Liberation Front. In Iraq and Afghanistan, U.S. military forces detained numerous local journalists who were perceived as having had contact with insurgent forces. Some of those journalists were held for many months or years without ever being charged with a crime.

A person might face important trade-offs in determining whether to embed or to report unilaterally (that is, independent of military forces). Traveling with military forces provides you with exclusive access to frontline stories, but it can come at the expense of gaining other perspectives, including observing the impact of combat on civilians. Journalists traveling independently of armed forces may have a wider field of view. Fatalities are more common among journalists reporting unilaterally, but the risk of embedding with military forces should not be underestimated. Nine journalists were killed while embedded with military forces in Iraq from 2003 through 2009, while six embedded journalists died in Afghanistan from 2001 through 2011, CPJ research shows.

Journalists working unilaterally should also be aware of how their appearance and demeanor may look from afar. Photojournalists holding cameras or carrying gear have been mistaken for combatants, CPJ research shows. In 2003, machine gunfire from a U.S. tank killed veteran Reuters cameraman Mazen Dana as



he was working outside Abu Ghraib Prison. One soldier later told investigators he thought Dana was an insurgent with a rocket-propelled grenade. If you are working unilaterally, choose clothing that does not resemble military gear and does not stand out from afar. Darker earth tones are preferable to brighter colors.

American-born reporter Marie Colvin and French photographer Rémi Ochlik, who had been working with other reporters in a makeshift press center, were killed along with Syrian civilians by government shelling in February 2012. Some journalists who had worked in Homs suspected Syrian authorities targeted the building, although the city was also under heavy overall bombardment. If government forces had targeted the building, they could have relied on several forms of intelligence, including the tracking of journalists' satellite signals.



## RIGHTS OF JOURNALISTS AT TIMES OF ARMED CONFLICTS

On April 8, 2003, during the US-led invasion of Iraq, Al Jazeera correspondent Tareq Ayoub was killed when a US warplane bombed Al Jazeera's headquarters in Baghdad. The invasion and subsequent nine-year occupation of Iraq claimed the lives of a record number of journalists. It was undisputedly the deadliest war for journalists in recorded history. Disturbingly, more journalists were murdered in targeted killings in Iraq than died in combat-related circumstances, according to the group Committee to Protect Journalists. CPJ research shows that "at least 150 journalists and 54 media support workers were killed in Iraq from the US-led invasion in March 2003 to the declared end of the war in December 2011." "The media were not welcome by the US military," Soazig Dollet, who runs the Middle East and North Africa desk of Reporters Without Borders told Al Jazeera. "That is really obvious." Unfortunately for Al Jazeera and Tareq Ayoub, Dollet's statement was all too true. Journalists "should not be there"



Al Jazeera bore a constant barrage of bellicose verbiage from Bush administration officials during the invasion and occupation. Then Secretary of Defense Donald Rumsfeld labeled Al Jazeera Arabic's reportage as "vicious, inaccurate and inexcusable." But the verbal attack had been

preceded by bombs in Afghanistan.

The US bombed Al Jazeera's office in Kabul during the 2001 US invasion of Afghanistan, and attacked the media outlet multiple times during the 2003 Iraq invasion, including the killing of Ayoub, despite the fact that Al Jazeera supplied the Pentagon with their headquarters' coordinates in Baghdad in February 2003.

On the same day Ayoub was killed a US tank shelled the Palestine Hotel, home and office to more than 100 unembedded international journalists operating in Baghdad at the time. The shell smashed into the Reuters office, killing two cameramen, Reuters' Taras Protsyuk and Jose Couso of Spain's Telecinco. That day there was also an attack on an Abu Dhabi TV office by US forces.

In a chilling statement at the end of that bloody day in Iraq, then-Pentagon spokesperson Victoria Clarke spelled out the Pentagon's policy on journalists who were not embedded with US troops when she warned them that Baghdad "is not a safe place. You should not be there."

## NO JUSTICE

By 2010 Reporters without Borders had recorded the deaths of 230 media professionals, 87 per cent of which were Iraqis. The infamous day when Ayoub was killed along with the two Reuters' cameramen unfortunately became a warning of what was to come for journalists working in Iraq. As high as both the CPJ and Reporters without Borders tallies are, another group, the Brussels Tribunal, closely tracked Iraqi media worker deaths in detail, and provides a detailed account of each death, concluding with the current total number of 382 journalist and media worker deaths when combining Iraqi and non-Iraqi.

However, Iraq's impunity rate, or the degree to which perpetrators have escaped prosecution for killing journalists, is the worst in the world at 100 per cent. Even today, as Iraq has moved beyond the US conflict, both Iraqi and US governmental authorities have shown no interest in investigating these murders.

Dima Tareq Tahboub, Tareq Ayoub's widow, continues her mourning for her late husband, which she said is extended due

Dima Tahboub, widow of Al Jazeera journalist Tareq Ayoub, continues seeking justice 10 years after her husband was killed by the US military. [Dima Tahboub]

To the lack of justice for what happened.

"No justice has been achieved to this day after 10 years," she told Al Jazeera.

In her quest to find justice for the death of her husband, Tahboub has filed lawsuits in Belgium, the US, and Jordan, but "none of the cases were successful and the American lawyer finally informed us that the US soldiers were granted immunity from prosecution."

Today she acknowledges that the effort made by individuals like herself is "not enough" and calls for continued efforts by media watchdog and rights groups to seek justice and work towards the better protection of journalists in conflict zones around the world.

## LONG TERM CONSEQUENCES

Today, Tahboub and her now 11-year-old daughter Fatima, struggle to cope with the loss of Tareq.

"Does anyone ever cope with the loss of a loved one," she asked Al Jazeera. "That the perpetrators got away with murder

Dima Tahboub's daughter, Fatima, now 11 years-old, was only 1 year old when her father Tareq was killed. [Dima Tahboub] "Deepens our grief and agony. We are stranded in the past, unable to move forward and turn the page with some kind of relief."

Dollet believes the US invasion and occupation of Iraq has had long-term consequences on the freedom of the press in Iraq, and expects the targeting of journalists there likely to continue.

"Between 2003 and 2010 more than 30 Iraqi journalists were detained and held in prisons in Iraq by the Americans," she explained. "All of these journalists were arbitrarily arrested by the Americans, just as they continue to be arrested by the Iraqi government today."



Tahboub continues to hope that the death of her husband will ultimately result in indictments against those responsible in the Bush administration.

"Those responsible in the US military, and the other perpetrators, should be tried before a court of law," she said. "They should be indicted for the premeditated murder of Tareq, revealing the truth about the bombing of the Al Jazeera office in Baghdad."

"How the US treated journalists during and after the invasion was in

clear violation of the Geneva Conventions," Dollet added. "Reporters Without Borders continues to be angry about what happened in Iraq, and we continue our investigations into who is responsible for all the murders of foreign and Iraqi journalists, and we aim to bring prosecutions."

Dollet was clear about who her group believes is responsible.

"The US, as the occupying power in Iraq all those years, they have a huge responsibility for what happened," she concluded.

Al Jazeera is still awaiting an apology from the US government for the death of Tareq Ayoub.

## PAST ACTIONS

### Security Training

- A private firm has offered security training courses for journalists since 1990, And the main former are British or American military personnel. They are taught personal-awareness skills oriented toward combat risks and battlefield hazards, along with emergency first aid. The training is held both in the classroom and in complex field simulations that challenge journalists to apply their skills and work together.
- The Europe-based International News Safety Institute (INSI) has trained hundreds of local journalists operating in hazardous areas around the world. The training acclimatizes local journalists to living and working in dangerous areas.
- Since 2011, various new training organizations have developed and they are covering civil scenarios and digital security.
- There is a five-day course offered in Great Britain and the United States which include hostile-environment and emergency-first-aid courses, violent protests and clashes and also exercises in how to react to a kidnapping scenario.

- The Rory Peck Trust offers a Training Fund for freelancers to help cover the cost of security courses. The fund is available to “bona fide professional freelancers involved in newsgathering or current affairs for a minimum of 18 months.” The course is conducted in French and held in the French Alps.
- There are multilateral agencies which are led by the United Nations Educational, Scientific, and Cultural Organization, or UNESCO. There are also unilateral government agencies such as the Swedish International Development Cooperation Agency and private groups such as the International News Safety Institute, have provided security training for journalists in less developed nations on a periodic basis.

## Past Action

- In France and Greece, the Security Council adopted resolution S/RES/1738 (2006) on the protection of civilians in armed conflict aimed at preventing acts of violence against journalists.
- Resolution 1738, which is the first Security Council text devoted to the protection of journalists in armed conflicts, expresses the Council’s concern regarding the lack of adherence to existing rules and recalls the relevant body of legislation applicable. It therefore reaffirms the basic principles of the protection of civilians in UNSCRs 1265 (1999), 1296 (2000), 1674 (2006) and states that this protection includes journalists, media professionals and associated personnel
- UNSCR 1738 also provides for the UN Secretary-General to devote a section of his reports for the protection of civilians in periods of armed conflict to the safety of journalists.
- Particularly in UNSCRs 1910 on Somalia (2010), 1973 on Libya (2011), this resolution has become the point of reference for the protection of journalists and has been cited in a number of Security Council resolutions on this issue.
- The 1949 Geneva Convention regulations were tailored for the accredited uniformed war correspondent, who could be viewed by the enemy as part of the military entourage.
- Article 19 of the Universal Declaration of Human Rights adopted on December 10, 1948 states that journalists have the right to “seek, receive, and impart information.” This right is restated in the International Covenant on Civil and Political Rights. This has been signed or ratified by more than 140 states, and in several regional conventions and charters, such as the European Convention for the Protection of Human Rights and the African Charter of Human and People’s Rights. Its aim is to recall the principles and rules of international humanitarian law protecting journalists and the news media during armed conflicts and to propose improvements to the law in line with present-day requirements. In this respect, there is a need to reaffirm that attacks against journalists and the media are unlawful and to recall that the authorities preparing or deciding on an attack that may affect journalists or the media have an obligation to take all possible for the protection of journalists as civilians.



- International humanitarian law distinguishes between but does not specifically define two categories of journalists working in war zones: war correspondents accredited to the armed forces and “independent” journalists. According to the Dictionnaire de droit international public, the first category covers any “specialized journalist who is present, with the authorization and under the protection of the armed forces of a belligerent, on the theatre of operations and whose mission is to provide information on events relating to ongoing hostilities.”

## ATTACKS ON JOURNALISTS AND FREEDOM OF EXPRESSION

### Case Study: Syria

Except for those hand-picked by the government, journalists have been banned from reporting in Syria. Those who have entered the country regardless have been targeted. Within a month of the protests taking off, at least seven local and international journalists were detained, and at least one of these was beaten. Citizen journalist Mohammed Hairiri was arrested in April 2012, tortured in prison, and sentenced to death in May 2012 for giving an interview for Al Jazeera. Jordanian Salameh Kaileh was tortured and detained in deplorable conditions before being deported.

According to the Committee to Protect Journalists, 13 journalists were killed in work-related incidents during the first eighteen months of the uprising. During the same period, Reporters Without Borders said a total of 33 journalists were killed. Many, such as Marie Colvin, were killed by government forces, but at least one, French journalist Gilles Jacquier, was killed by rebel fire.



### Case Study: Iran

The human rights situation in Iran remained extremely poor in 2012. The government heavily suppressed freedom of speech, using intimidation and arbitrary arrest as tools of oppression and control. Several prominent human rights defenders remained in prison – some alleging torture and others suffering serious health issues for which they were denied adequate medical treatment. The death penalty was again widely applied, particularly for drugs offences, and in many cases in contravention of international law. The majority of the recommendations in the UN Human Rights Council Universal Periodic Review for Iran in 2010 remained unimplemented.

In 2012, Iran introduced further restrictions on Internet use, including regulations controlling public Internet cafes. A national Internet network was introduced to control the flow of information, and websites continued to be filtered. Cyber-security forces arrested and intimidated Internet users, bloggers and journalists.

Domestic media remained tightly controlled to prevent reporting on certain topics. Many journalists were arrested, subsequently reporting poor prison conditions and a lack of access to appropriate medical care. Journalists such as BBC Persian employees reported that their families in Iran continued to be harassed, arrested and interrogated.

## **CURRENT SITUATION OF THE RIGHTS OF JOURNALISTS AT TIMES OF ARMED CONFLICTS**

As stipulated before, the journalist has no more protection than a civilian. The consequence of this civilian status is that a distinction be made between the two cases.

The first case is when the journalist can freely move in an attempt to report of the armed conflict. In this situation the journalist encounters in a direct way the dangers of an armed conflict, but he/she can appeal on the same protection as a civilian under the Convention and its Additional Protocols.

The second case is when the journalist falls into the power of a party involved in the conflict. When the journalist is captured in his own country, the journalist can only be detained for reasons of security. He can be punished when he has committed an offence. When the professional journalist works in a third country and is captured, the journalist benefits from the normal (peacetime) legislation of the host country and can only be imprisoned when there are sufficient charges against him. If there are not sufficient charges against him, the journalist must be released.

During armed conflicts, professional journalists encounter many risks. They run the risk of getting murdered, held as hostages or being kidnapped. These examples show that although the professional journalists have the protection of art. 79 AP I, the reality in an armed conflict is sometimes different. Therefore, the Reporters Without Borders took the initiative to work out a Charter for the Safety of Journalists Working in War Zones or Dangerous Areas. This Charter is aimed to avert or at least decrease the risks that professional journalists have during reporting on an armed conflict.

When journalists or other media are used to bring a message of hate issued by a communicator it is received by other persons. The receivers of the message could then follow the message issued by the communicator and issue harm to other persons. These hate message could be considered as propaganda when the media is used to influence the attitude or behavior of the receivers.

## **HUMAN RIGHTS COUNCIL: PANEL ON THE PROTECTION OF JOURNALISTS IN ARMED CONFLICT**

The Human Rights Council held a panel discussion on the protection of journalists in armed conflict. It also concluded its interactive dialogue with the Special Rapporteurs on freedom of opinion and expression, on extrajudicial, summary or arbitrary executions and on trafficking in persons.

Introducing the panel discussion on the protection of journalists in armed conflict, United Nations Deputy High Commissioner for Human Rights Kyung-Wha Kang said that the panel took place against the backdrop of alarming reports of killings, harassment, intimidation or kidnapping of journalists, men and women, in situations of armed conflict. According to reports, deliberate attempts to target journalists in areas of ongoing conflict were increasing. International law set out clear provisions for the protection of journalists in armed conflict. However, despite these unequivocal norms, there continued to be a high number of abuses and crimes targeting journalists, which were committed with impunity and emboldened other would-be perpetrators to follow suit.

Frank La Rue, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, said that the issue of the protection of journalists in armed conflict was of ongoing concern to his mandate. The role of journalists as monitors of human rights violations and war crimes frequently led them to become targets of intentional attacks by parties to the conflict. States had a threefold obligation to respect, protect and fulfill the right to freedom of expression. Preventing impunity functioned as the most important deterrent against the repetition of attacks on journalists and effective investigation of attacks and prosecution of persons responsible was in itself a means of protecting journalists.

Robin Geiss, Legal Adviser in the Legal Division of the International Committee of the Red Cross (ICRC), said that the ICRC remained deeply concerned by the high number of acts of violence and deliberate attacks against journalists, media professionals and associated personnel. Experiences from recent armed conflicts, international as well as non-international, showed that media professionals were increasingly prone to become the victims of direct attacks in violation of international humanitarian law. It was often said that the first causality of war was truth. Journalists and other media professionals also ran a high risk of being subjected to arbitrary detention and internment for alleged security reasons.

Mogens Schmidt, Deputy Assistant of the Director-General for Communication and Information and Director of the Division for Freedom of Expression, Democracy and Peace, at the United Nations Educational, Scientific and Cultural Organization (UNESCO), said that with each conflict, the price paid by local journalists and foreign correspondents was getting heavier. The safety of journalists was an issue that affected all and every aggression against a journalist was an attack on the most fundamental freedoms. Mr. Schmidt also dispelled a commonly held misconception that during times of war, human rights law was suspended and humanitarian law came into play. That was incorrect and human rights were as applicable in wartime as they were in peace.

Osama Saraya, Editor in Chief of Al Ahram Newspaper, said that the war in Iraq was one of the modern wars which had shed the most light on the issue of the protection of journalists in areas of armed conflict. More than 280 journalists had been killed in the war since it started, and for many years Iraq had been at the top of the list of countries which was most dangerous for journalists. It was important to point out that none of those guilty of killing these journalists had been brought to justice. Death was not the only result of the phenomenon of attacking journalists. Some of the victims still lived with the trauma and could not function in the workplace due to physical and mental scars and injuries.

Omar Faruk Osman, President of the Federation of African Journalists, said that he was here to explain, in grim terms, the day-to-day reality of the safety and security situation of African journalists. Their predicament today was further complicated by the fact that in many conflict and non-conflict countries they had to face up to not only repressive national Governments, but also armed gangs and militias. The Horn of Africa was a place where to choose to become society's

messenger often equated with choosing martyrdom. Journalists in Africa had today become the most unprotected and persecuted defenders of human rights. The Human Rights Council should send a clear message that it would not remain idle while journalists continued to be the subject of violent death and unjustified attacks.

Hedayat Abdel Nabi, President of Press Emblem Campaign, said that Press Emblem Campaign believed that the time had come for action in the form of developing guidelines through a working group that would lead to a global compact for the promotion of journalists. Some ideas of the Press Emblem Campaign included a call to guarantee unhindered, unfettered and uninterrupted Internet services at anytime and under all conditions and circumstances. The Press Emblem Campaign also reminded the Council that when its movement began in Geneva, it rallied around the idea of a recognized press emblem, which it continued to support. A protective emblem would symbolize that journalists were protected by law and carried with it the rights of compensation, the bringing of perpetrators of crime to justice and so forth.

It has been said that the nature of warfare had changed, and there were new challenges, with a multitude of new actors, showing the need to re-evaluate norms and standards, and for the international community to think about what could be done to afford journalists greater protection. It was hoped that holding this discussion would send out an important message to journalists working in conflict zones, as well as providing means and mechanisms for protecting journalists further. International human rights law and international humanitarian law were the main tools for the protection of journalists in armed conflicts, in particular the Geneva Conventions and the additional Protocols. Moreover, the Human Rights Council should help countries emerging from conflict to create conditions respecting the freedom of speech and expression.

Speaking in the discussion were the representatives of Egypt, Norway, Pakistan on behalf of the Organization of the Islamic Conference, Spain on behalf of the European Union, Canada, France, Greece, Qatar, Syria, Colombia on behalf of the Group of Latin American and Caribbean Countries, United Kingdom, Sudan on behalf of the Arab Group, China, Nigeria on behalf of the African Group, Azerbaijan, United States, Italy and Algeria.

Also speaking were the following non-governmental organizations: Commission on Human Rights of the Philippines, Reporters without Borders International, Article 19-International Centre Against Censorship and PEN International.

## **CONCLUDING REMARKS: PROTECTION OF JOURNALISTS**

In the vicious civil conflicts and undeclared cross-border battles that are increasingly the norm for full-blown shooting wars, few combatants are aware that the Geneva Conventions afford special protections to journalists. It might be prudent for a reporter in such situations to keep a Kevlar-coated copy of the Geneva Conventions in the left breast pocket since the protective powers of international treaties are based on the assumption that the combatants will observe international law.

The laws of armed conflict stipulate that journalists play a unique and essential role in wartime. A century ago war correspondents ran the risk of being shot as spies. Though this can still happen today—the 1998 killing of an Iranian journalist by Taliban militiamen being just one recent case in point—the executioners at least now face the possibility of internationally sanctioned punishment.



The spirit and the letter of international humanitarian law are clear. When accredited by and accompanying an army, journalists are legally part of that military entourage, whether they see themselves that way or not. This has been the legal practice at least since the early nineteenth century. If captured by opposing forces, they can expect to be treated as prisoners of war. The Geneva Conventions say so quite unambiguously: equating war correspondents with “civilian members of military aircraft crews” and other integral, albeit nonuniformed, participants in the greater military enterprise. Absent evidence of atrocities outside their roles as war correspondents, they are not to be treated as spies.

Journalists are legally entitled to greater autonomy than most other civilian noncombatants: reporters can be detained only for “imperative reasons of security,” and even then are entitled to be held with the same legal protections as a prisoner of war, including the right not to respond to interrogation (though notebooks and film may legally be confiscated by military personnel).

The 1949 Geneva Convention regulations were tailored for the accredited uniformed war correspondent, who could be viewed by the enemy as part of the military entourage. Though clearly not a soldier, the correspondent was still performing an officially sanctioned role in an organized military force. To the extent that tradition or prudence dictated by-the-books treatment of noncombatants or prisoners of war, the correspondent presumably benefited.

Those days are largely gone. The fear of being taken prisoner can still be quite real in Iraq or Chechnya or the Afghan highlands, but the potential captors might well not be conversant with international humanitarian law. Being held hostage by guerrilla forces or a renegade pariah regime in the 1990s is a qualitatively different (and usually more frightening) experience than being an Axis or Allied prisoner of war in the 1940s. In the early 1960s many correspondents and combat photographers still wore army-issue fatigues. A decade later the Vietnam press corps stood conspicuously apart from the fighting force in dress, political perspective, and even national loyalties. (Indeed, since the 1977 adoption of Additional Protocol I, journalists are now advised that the protections they are afforded under the Geneva Conventions may not apply if their clothing too closely resembles that of combat personnel.) Article 79 of Protocol I in addition to reiterating the rights of journalists accredited to armed forces provides for an “identity card” issued by a government attesting to their status as a journalist.

The rights most journalists enjoy in wartime today were won in their respective national political cultures. In the final analysis, field commanders tolerate the presence of the press because of the political power and legal protections the press has acquired in their own local arenas. Some reporters may feel that to demand special protection under international humanitarian law is to invite special regulation under such law. Regardless, the protection is explicitly stated in law. In many instances accreditation comes with the territory: it is the only way to get access to the military transportation needed to cover the conflict, or to the official briefings (where it is often explained that what has just been seen firsthand may not have in fact happened and the real story is what was not seen by reporters).

But journalists roaming around the wilder conflicts of the world are forced to live instead by the Dylan dictum: to live outside the law you must be honest. Never pretend to be what you are not or

deny being what you are unless your life depends on it. Carry a camera, but never a gun. And keep that dog-eared copy of the Geneva Conventions in your breast pocket until after the shooting stops.

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