

Spotlight on violations of international humanitarian law

The role of the media

by Roy W. Gutman

Fifty years after the United Nations proclaimed its ambitious Universal Declaration of Human Rights, skeptics will have no trouble demonstrating that the international community's commitment to the document is shallow at best. The pretense was laid bare by the UN's inadequacy to stop genocide in Bosnia-Herzegovina and Rwanda, compounded by the institution's failure to conduct a thoroughgoing self-examination to determine the lessons of the debacle in Bosnia.

That being said, the United Nations is not a monolith, nor is it synonymous with the international community; and attitudes have shifted at the top of the organization itself, among many UN Member States, non-governmental organizations, and the media, with many groups in many locations focusing attention on war crimes. The most significant sign of change was the Security Council's establishment of ad hoc international tribunals to address the genocide, crimes against humanity, and war crimes in the Bosnia and Rwanda conflicts. A third tribunal may be created to address the massive crimes against humanity in Cambodia during the 1970s. Finally, States recently adopted in Rome the terms of reference for a permanent criminal court. Despite these steps toward ending impunity, major powers have yet to fulfil their obligations under the Geneva Conventions to arrest indicted war criminals in Bosnia.

Non-governmental organizations have also drawn lessons from these terrible events of the post-Cold War era, some by adopting a more militant

Roy W. Gutman is an American journalist and Pulitzer Prize winner.

stance on war crimes and other gross human rights abuses, others by redrafting their training manuals or by attempting to open more of their operations to the public.

There is soul-searching among news reporters as well. Human rights abuses, war crimes, and impunity are the stuff of journalism for the simple reason that crime is news. The traditional watchdog function requires media to report on disregard for the law, especially if that is the attitude of a State or an institution supported by taxpayer's money.

Yet media coverage of international or internal conflict is rarely framed in terms of the infractions of the laws of war. International humanitarian law is a thicket of inter-connected assumptions, principles, statements and caveats that most laypersons find impenetrable. Would a grasp of human rights and the Geneva Conventions produce better news coverage? Personal experience leads this reporter to think it would.

A journalist's experience

For many journalists, coverage of armed conflicts of the past decade has left a feeling of frustration and discouragement.

Reporters were among the first to discover that major governments, far from upholding humanitarian law, would just as soon walk away from it in the absence of vital or commercial interests or a carefully trained spotlight. Early in August 1992, following my own reports disclosing systematic killing at detention camps in northern Bosnia, the stunning television footage by the British *ITN* network, and the on-site reporting by Ed Vulliamy of *The Guardian*, United States President George Bush issued a stern-sounding but evasive statement that nonetheless reflected a clear grasp that international humanitarian law had been violated. He did not denounce crimes against humanity, demand the closure of the camps, the freeing of the prisoners, or even an investigation to determine whether crimes had occurred. His only demand was that the ICRC be granted access to Omarska and other camps. Other major governments were slower to respond. France waited more than a week to comment on the existence of the camps, and Britain, which organized a major diplomatic conference later that month, declined to provide air fare to the meeting for Tadeusz Mazowiecki, the former Polish Prime Minister, whom the UN had named its special human rights rapporteur to examine charges of atrocities in Bosnia.

Far from learning the lessons of the beginning of the Nazi Holocaust, many European governments and the United States seemed all too ready

to repeat the mistake of the 1930s — all but closing their borders to refugees fleeing for their lives. French and then British troops arrived in Bosnia starting in mid-1992, but their mission was severely limited to protection of food and humanitarian aid shipments, and often not even that, rather than the protection of innocent, suffering civilians.

It was after the deployment of the UN Protection Force or UNPROFOR that the real erosion in denouncing violations of the Geneva Conventions occurred. The Conventions have few enforcement mechanisms, except that the parties pledge to uphold them and see to it that they are upheld. A lengthy investigative research project I undertook in 1993 convinced me that the international community's evasion of responsibility at the time of the Omarska reporting was not inadvertent but the result of a mind-set that had developed over decades. UNPROFOR personnel, instead of monitoring observance of the Conventions, were repeatedly present at the scene of crime and did not investigate or report.

The very idea that Blue Helmets, the ultimate good soldiers, would look away when crimes are being committed in their presence might strike the naive observer as an abdication of a responsibility more basic than any UN mandate.¹ Even without knowing the content of the Geneva Conventions and other key treaties of international humanitarian law, common sense would suggest that a citizen of the modern world cannot simply witness gross violations of human rights without investigating and urging that someone put the matter right. The United Nations, however, takes the legalistic attitude that Blue Helmets are not bound by the Geneva Conventions. This I learned in the course of reporting on events in Bihac.

In November 1994, Bihac, northern Bosnia, a UN declared "Safe Area", was threatened with attack. To enter the town, Bosnian Serb forces would have had to attack the municipal hospital. Anticipating catastrophic results, a UN civil affairs officer cited the Geneva Conventions when he asked the local military commander to protect the hospital. The civil affairs officer, an American, argued that UN forces were duty bound to ensure that Bihac hospital received the high level of protection stipulated for hospitals by the fourth Geneva Convention. He secured the agreement of the head of civil affairs in Sarajevo, a Russian. The commander, a

¹The French essayist Jean Baudrillard calls the UN soldier in Bosnia the "virtual soldier", who "does not die, but is paralysed and immobilized, a stand-in for the dead". He adds that "the military paralysis is not surprising, however, since it is related to the mental paralysis of the civilized world". Jean Baudrillard in Thomas Cushman and Stjepan Mestrovic, *This time we knew*, New York University Press, 1996, p. 88.

Canadian, deployed his Bangladeshi forces on the hospital grounds, and successfully blocked the offensive. But two weeks later, a legal officer ruled that the United Nations had no obligations under the Geneva Conventions, for the world body is not a party to the 1949 Conventions; and that the commander was bound only by Security Council mandates.

If anyone assumed that UNPROFOR felt an obligation to prevent — or even monitor — genocide, crimes against humanity, and the grave breaches listed under the Conventions, the fall of Srebrenica in July 1995, proved the ultimate wake-up call. Before Dutch forces were evacuated to safety, they witnessed the Bosnian Serb army separating out men and boys from the women, children and old people, loading the latter onto buses and trucks and dispatching the men and boys, it later became clear, to be massacred. The first 54 Dutch “peacekeepers”, who had been seized by Serb forces at their observation posts, stripped of their weapons and equipment, and held hostage in violation of international law, were freed and bused out of Bosnia on 15 July. En route to safety and while still inside Bosnian Serb territory, the Dutch witnessed powerful evidence of massacres — shoes and backpacks of more than 100 people lined up along the side of the road, dozens of corpses piled in a cart, and bodies along the road. Witnesses from Srebrenica say the main executions occurred a day earlier, on 14 July. One would have thought that anyone who saw such evidence of extra-judicial executions, a war crime under the Geneva Conventions, would have reported it immediately.

These events — Omarska, Vogosca, Bihac, and Srebrenica — which I researched and wrote about at the time, added up, I later realized, to a disturbing pattern, and I inquired at the ICRC for an explanation. I was told that the UN, not being a party to the Conventions, nor to the conflict, does not require full observance of the Geneva Conventions by Blue Helmets; instead, prior to most deployments, the UN Secretary-General issues general instructions about respecting the principles of the Conventions. In Bosnia, those instructions were never given. This raises another question: who in the international community is supposed to see to it that the Conventions are upheld? The ICRC has a conflicting double-mandate under the Conventions: both to work for compliance and to provide all possible protection to prisoners of war and other protected persons. Denouncing violators can directly and adversely affect access. So the ICRC’s practice of making discreet approaches to the violating party is an understandable response. Unfortunately, as a result, the violation rarely becomes known to the public. Foreign troops, if they wear Blue Helmets, can argue that they are there as part of a force which is not a party to the Conventions. They can and do look the other way. That leaves the parties

to the conflict themselves, those who are violating the laws and are unlikely to turn themselves in, and the victims, whose allegations are rarely taken at face value. Thus, there really is no one on or near the battlefield who in real time can identify for the general public infractions of international humanitarian law. And violators are likely as not to enjoy impunity.

A role for the media?

Many discussions provided the germ of an idea that there might be a role for the news media. How many times has a reporter observed a gross abuse and not called it by its real name, a war crime? But how is a reporter to know a war crime when he or she sees it?

I thought back to events I had seen but had not adequately reported. In October 1991, in the thick of the Serb-Croat war, I visited a hospital on the front line at Vinkovci, Croatia, where every above ground ward had been destroyed, every red cross on the building or the hospital vehicles had been turned into a target and demolished. The Croat doctors tended their patients, mostly military casualties, including Serbs, in the basement. My story was a dramatic account of the soldiers in one ward, the multi-ethnic crew of a Yugoslav tank, and the Croat gunner who had disabled it. Only in passing did I mention the fate of the building itself, and then as another example of the “tragedy” of Eastern Slavonia. Tragedy? A little research would have determined that it was also a grave breach of international law.

Years later, I learned that an ICRC delegate had concluded at the time that the hospital at Vinkovci was a “perfect” example of a violation of the Geneva Conventions. Moreover, it was only one hospital under constant attack. ICRC staff identified Karlovac and Osijek as others. The ICRC of course could not provide a complete account for attack on the hospital in Vukovar, which took, according to Croatian information, hundreds of shells and two 500-pound gravity bombs. When that did not destroy the hospital, after Serbs captured the town they carted off all the survivors and shot them.

Thus Vinkovci was not an isolated example, but part of a pattern whereby hospitals were targeted. That would have made quite a story: of course, a careful journalist would have had to cross to the other side, obtain its version of events, then return to the Croat side, perhaps go back and forth again, until the facts added up. Hundreds of reporters from dozens of countries covered that war, but not one, so far as I know, documented the crime of the destruction of Vinkovci hospital. And there is a lesson in that.

Whatever the UN may require of its peacekeeping troops in future with regard to the Geneva Conventions, the news media can do their own monitoring of compliance. And by searching for unambiguous examples, investigating what really occurred, and then reporting in near-real time, journalists can convey a human drama that the public in almost any country can relate to the observance or violation of universally accepted norms. The potential impact on public awareness is hard to assess in the abstract, but in certain circumstances it could be substantial. Had the media covered the abuses in the Croatia war of 1991 more skilfully, the reportage would have alerted the world to the true nature of the conflict and prepared the world better for the explosion of crimes in the 1992-1995 Bosnia conflict. And had reporters supplied the legal frame of reference for the systematized maltreatment in the camps, the destruction of culture and the attacks on cities and civilians during the Bosnia conflict, the public and major governments might have had a better frame of reference for determining a response.

The 1949 Geneva Conventions, far from being outdated or overtaken by events, might provide the public with a normative guide to what matters in conflict. After all, they represent the lessons learned after the century's worst conflict; and their content, much of which dates back a good deal further, has a certain logic to it. While the ICRC properly seeks to encourage observance by citing positive examples, the news media can properly put the spotlight on war crimes. Public grasp of what is at stake in war will be enhanced if reporters have an idea which acts are legal, illegal, or criminal, particularly in the era now opening of international courts to try abuses. At the end of what may well be remembered as the decade of ethnic cleansing, at the close of a century of total wars against civilians, and at the turn of a tumultuous millennium, perhaps it is time to make the public more aware of these same distinctions.

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**Preventing suffering and crimes:
making the media aware of international humanitarian law**

A project

In an effort to raise awareness of international humanitarian law, a group of reporters and law scholars, with the backing of the American University's Washington College of Law and its Department of

Communications, have organized the "Crimes of War Project". The project's aim is to educate the news media in the United States and abroad about humanitarian law. With financial support from the Sandler Family Foundation and the Ford Foundation, our first objective is to publish a pocket guide to war crimes. This will consist of about 60 articles by reporters on specific grave breaches of the Geneva Conventions and on crimes against humanity. Each will feature an unambiguous example that the reporter witnessed or can vouch for, together with a discussion of the applicable law, what to watch for, and such caveats as may apply. To facilitate legal discussion, a graduate from the Washington College of Law researched the law journals for articles on each grave breach and prepared a short cover-sheet.

Every article is being edited by journalists and by legal scholars, with input from ICRC legal staff as well as from leading military experts. There are also articles on nine major wars, with reporters taking a fresh look from the perspective of international humanitarian law and, more specifically, war crimes. Each is intended to be a paradigm of a conflict. Those chosen: the Arab-Israeli conflict, as a typical example of a war that extended far beyond anything the Geneva Conventions ever envisioned; Bosnia, as a case study in nearly every violation of humanitarian law; Cambodia, an example of the artificial limits of the Genocide Convention; Chechnya, a case study in both sides violating the Geneva Conventions; Colombia, demonstrating how paramilitary forces take on a life of their own; the Gulf War, showing how major powers attempted to observe the Conventions; Iran-Iraq, one of the last major international armed conflicts; Liberia, the barbarism that characterizes small African wars; and Rwanda, the world community's failure before, during, and after the genocide.

A number of articles on other topics have been drafted by leading experts. To enhance the impact of the pocket guide, each major article will be illustrated. A former Magnum researcher is photo editor, and the book is being designed by a professional team: Gilles Peress, a Magnum photographer, and Jeff Streeper, a New York graphics designer.

The book, expected to come out in 1999, will be launched with a series of seminars for the media on covering wars and war crimes. A supplementary publication is also planned on the professional and ethical issues in war coverage. An Internet site, a film, a journalism school curriculum, and photo exhibitions are to follow.