

Social Work and The International Humanitarian Law: Rights, Roles, and Responsibilities

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Abstract

The Geneva Conventions and their additional protocols, also known as the International Humanitarian Law, are important international laws consistent with social work values that seek to ameliorate the suffering of the most vulnerable and protect human dignity during times of armed conflict. Despite increasing awareness of the international nature of social work services and interests, American social workers tend to be relatively uninformed of the basics of international legal instruments. This article outlines the basic aspects of the law and discusses how social workers must be prepared to understand and implement the spirit and letter of international humanitarian conventions designed to help protect people caught in the middle of armed conflict. Key words: war, law, human rights, Geneva Conventions, international social work

Introduction

Conflict, violence, and war have been unfortunate results of the ambiguous international political environment of the post cold war era. The major alliances constructed from the polar opposition of the superpower nations of the United States and the former Soviet Union, and the political legacies of the earlier colonial era are transforming nation-states in new and unpredictable ways. The by-products of this transformation include the increasing practice of mass terrorism and war. Tensions created by technological revolution have provoked increased instability in world economic relationships. Added to these conditions, the emergence of two simultaneous but apparently contradictory social forces: globalization of information and cultural products on the one hand, and a renewed assertion of cultural and ethnic identity on the other, have combined to foster widespread feelings of uncertainty, political tension, and social injustice based upon bigotry and xenophobia (Bugnion, 2000). Perhaps as a consequence, the horrors of war persist into the present day and the foreseeable future.

Provisions in the United Nations' Charter (1945) outlaw initiating war to solve political conflict, yet military defense from hostilities remains legally available. Increasingly, inter- and intra-national military conflicts occur with tragic consequences of death, disease, and civil dislocation. Despite arguments that war is increasingly becoming more difficult to wage (van Creveld, 1991; Berry, 1997), the number of conflicts, and resulting civilian deaths since 1945, approach outstripping the losses in WWII, and the preceding two centuries (Singer & Small, 1982; Dyer, 1985).

In a globalizing world, still fraught with armed conflict, social workers must be prepared to understand and implement the spirit and letter of international humanitarian conventions designed to help protect people caught in the middle of war. Social workers increasingly find themselves involved with issues of refugee assistance (Balgopal, 2000; Montero, D. & Dieppa, I., 1982; Tran, T.V. & Wright., 1986), international relief and development (Estes, 1992), and the provision of services to persons affected by war and armed conflict (American Red Cross, 2002). The need for social workers to have command of legal knowledge has been raised previously (Madden & Wayne, 2003; Lemmon, 1983; Miller, 1980; Kopels & Gustavsson, 1996), largely in the context of domestic social work practice. Despite an increasing awareness of the international nature of social work services (Healy, 1992), and international human rights (NASW, 2000; Reichert, 2003), social workers tend to be relatively uninformed of the basics of international human rights instruments such as the Geneva Conventions, increasingly referred to as "International Humanitarian Law" (IHL). This article seeks to introduce social workers to the provisions of IHL, and its ramifications for policy and practice.

Social Workers and Armed Conflict

Two major themes permeate the social work literature concerning war. On the one hand are the writings of those in the profession who have had a long history of pacifism, and trying to prevent war through social action (Sullivan, 1993; Verschelden, 1993; Addams, 1907; Schott, 1993), while others who stress social work treatment of war's effects with victims when it becomes necessary (Richmond, 1930; Ross, 1991). The social work literature since the last world war focuses on treatment of a number of different issues concerning the personal and social consequences of armed conflict. Several studies explore direct service intervention approaches with clients who are affected by the psychosocial stresses of combat. These efforts explore direct

practice with soldiers (Martin and Campbell, 1999), military families, and the stress of reintegration of military families back into post conflict life (Knox & Price, 1999; Westhuis, 1999), Additionally, roles by military social workers have focused on the support social work activities can provide to combat readiness (Daley, 1999). Social work practice with refugees uprooted by war has received attention concerning the difficulties of resettlement and acculturation (Lipson & Omidian, 1997), religious and political support, (Canda,1992) mental health (Westermeyer, J., Williams, C.L., & Nguyen, A.N, 1991), and culturally sensitive practice (Brown, 1982).

The changing nature of military conflict, humanitarian relief, and international policy requires social workers to know what international conventions exist that bind combatants to basic standards of humanity. In the absence of a comprehensive international law that outlines the conduct of humanitarian providers, or an "international disaster response law", the IHL at least offers basic protections in those situations of providing humanitarian relief in environments of armed conflict (Hoffman, 2000). In being able to advocate for the rights of persons threatened by armed conflict, social workers need to understand the international "ground rules" from which debate is framed. The Geneva Conventions and their additional protocols constitute a legal and policy framework that seeks to ameliorate human suffering arising from the tragedy of armed conflict.

Social workers have certain rights, roles, and responsibilities under the IHL, yet tend to be largely uninformed as to the basics of these agreements. An electronic title and text search conducted by the present author of all volumes of *Social Work Abstracts* could not discover a single article in that database that discusses the Geneva Conventions or the International Humanitarian law.

Rights & Roles: The International Humanitarian Law

The Geneva Conventions (1949) and their Additional Protocols (1977) are a set of agreements amongst virtually all the nations of the world which specify basic humane conduct in the face of the human suffering provoked by armed conflict. The conventions specify that warring parties make distinctions between combatants and non-combatants and seek to provide basic protections for persons not engaged in the direct conduct of military action. The conventions represent limits in armed conflict have been described as a special and distinctive set of human rights law (Chetail, 2003). At a minimum, the first Geneva Convention required that soldiers

placed "out of combat" by sickness, wounds, or detention, be treated humanely, and violence to their person and dignity, including murder and torture, be prohibited. The soldier is, in a sense, an agent of the state licensed to commit specific violence to pursue military objectives. Wounded or captured, the soldier no longer serves a military function and is entitled to the basic human rights of the individual.

The first Geneva Convention was convened and signed at Geneva, Switzerland in 1864. The impetus for this first agreement is often credited to the efforts of Henry Dunant, a Swiss businessman and social progressive, who was a witness to the sufferings of the wounded after a horrendous battle in Solferino, Italy in 1859. Dunant helped to organize relief to the wounded of both sides with volunteers of a nearby village. In 1862, Dunant published an influential book, *A Memory of Solferino* (1939), and succeeded in forming a committee of influential Swiss citizens of the Geneva Public Welfare Society who undertook to persuade national leaders to agree to basic rules of humanity in times of war. This committee is formalized in the Geneva Conventions as the International Committee of the Red Cross (ICRC), which continues to this day to be a central international organization concerned with humanitarian protection in armed conflicts.

There have been three subsequent conventions leading to an evolution in the IHL. In 1906, the basic protections provided to soldiers in the field were extended to sailors on the high seas. In 1929, protections were codified for prisoners of war. By 1949, all the provisions were updated, and protections were extended to civilian non-combatants. Since 1949, two additional "protocols," which seek to further define protections in international and non-international armed conflicts, have been posited. These protocols have less widely held acceptance.

Taken together, the Conventions are part of what is considered "jus in bello" ("law in war") that sits outside of questions of whether there is ever justification of armed conflict. The Conventions seek basic assertions of human rights when the chaos of armed conflict reigns. They dictate rules of humane treatment that encompass concerns of those detained by military powers including the sick and wounded, prisoners of war, detainees, civilian internees, and refugees. The 634 articles of the four conventions, their annexes, and three additional protocols, provide detailed considerations concerning basic human needs and mechanisms of protection in armed conflict. The IHL specifies responsibilities and protections that include such diverse requirements as the provision of protections for detained persons, communication between separated family members,

marking protected persons and places, and mechanisms concerning the repatriation of prisoners of war.

At a minimum, a common "Article Three," sometimes referred to as the "Mini-Convention," is found in all four of the Conventions that captures the basic foundation of all of the IHL. Article Three holds that the articles of the Conventions apply in all cases of war or armed conflict; that all persons not taking part in hostilities or "Hors de combat," shall be treated humanely without discrimination or violence to life & person; that taking hostages and outrages on personal dignity is forbidden; and that a representative from a neutral "protecting power" country, or the ICRC, must have access to any person detained. The Conventions create mechanisms that seek to implement humanitarian concern in war. These mechanisms include the recognition of the Red Cross/ Red Crescent movement, the use of protective emblems, and the dissemination of international humanitarian law throughout the world.

The Red Cross/ Red Crescent Movement

Often recognized locally or nationally as the social service organization that provides disaster related emergency services, few recognize that the Red Cross, or its other recognition, the Red Crescent, is one of a group of specific organizations recognized with identified rights and responsibilities under international law. Perhaps one of the largest secular charitable efforts in the world, the structure and function of the Red Cross is often misunderstood (Forsythe,1977). The Red Cross is more accurately understood as a "movement" with at least three major organizational structures: The International Committee of the Red Cross (ICRC), The International Federation of Red Cross and Red Crescent Societies (IFRC), and the various national Red Cross/Red Crescent societies of all the countries that are party to the Geneva Conventions.

The ICRC

The International Committee of the Red Cross, headquartered in Geneva, Switzerland, is an international organization established in 1863 and legitimized in the Geneva Conventions to perform certain international responsibilities (Studer, 2001). The organization purports to be an impartial, neutral, and independent actor whose mission is solely humanitarian; engaged in the protection of lives and dignity of victims of war and armed conflict. Comprised of a private collegial assembly of usually twenty-five co-opted Swiss citizens, The ICRC employs thousands of "delegates"—usually university-trained young Swiss, whose work in the field implements the

committees' mandates under the Geneva Conventions. These mandates include visiting prisoners of war and other detainees, in privacy, to inspect their health and safety; giving such persons opportunities to send personal communications to and from their families; and creating and maintaining records of persons killed or dislocated by armed conflict. It is the recognized neutrality of the ICRC that supports its delegates' efforts at accessing and providing services to combatants on both sides of an armed conflict.

The ICRC directs and coordinates the international relief activities conducted by other movement partners in situations of armed conflict. It also endeavors to prevent human suffering by promoting and strengthening humanitarian law and universal humanitarian principles in international political arenas. It maintains an observer status with the United Nations, and frequently sends representatives to international diplomatic conferences to assert human needs. Diplomatically regarded as "the guardians of the Geneva Convention," the Committee maintains ongoing institutes for military and legal scholars to train in international humanitarian law. At the outbreak of hostilities, it makes active diplomatic efforts with combatant nations to establish relationships to support the requirements of the Conventions.

The IFRC

The International Federation of Red Cross and Red Crescent Societies (IFRC), also headquartered in Geneva, was founded in 1919 as an organization of national Red Cross societies who could pool their efforts to mitigate the human suffering provoked by natural disaster. Previously known as the "League of Red Cross & Red Crescent Societies," the organization had its roots in progressive era American Red Cross successes in disaster relief (Hutchinson, 1996). The impetus for this effort derived from a realization that preparing for disaster relief work was consistent with the mission given in the Geneva Conventions to national Red Cross societies to aid the humanitarian concerns of their respective countries' military. The IFRC is comprised of 181-member Red Cross and Red Crescent societies and maintains delegations in regions around the world. While the IFRC operates as an organization that coordinates and implements disaster relief and social development, its role in armed conflict is supportive to the mandated lead agency, the ICRC.

The National Societies

The Geneva Conventions require the creation of societies that are responsible for supporting humanitarian efforts within a nation. Every country that agrees to be bound by the IHL, provides for the creation of a single national Red Cross or Red Crescent society (The State of Israel is supported by the Magen David Adom, or "Red Shield of David" society). The activities of each of these national societies vary widely. Many are involved in domestic disaster relief, health and safety education, and social services. In some countries, the national Red Cross society takes a significant role as the major provider of emergency medical services, or collection of blood products. All of these domestic services support the possibility of the national society playing a role to support the ICRC in the case of armed conflict, or the IFRC in regional or national disaster relief.

Each nation that is party to the Geneva Conventions has a responsibility to disseminate information about the rules of IHL to their respective military and their citizens. In the United States, the training commands and Judge Advocate General's offices of the various uniformed services are responsible to inform personnel under their command (Department of the Army, 1956). The American Red Cross provides courses and information about the IHL to all interested persons.

Working under a framework of the Geneva Conventions and a set of universal principles, all members of the Red Cross/Red Crescent movement have at hand certain technologies that help to ameliorate human suffering in the midst of armed conflict. These include certain emblems, services, and responsibilities. The various partners cooperate to help locate persons dislocated by war, provide humanitarian relief supplies, and cooperate in sending and receiving personal family communications to prisoners of war and detainees throughout the world.

The Protected Emblems.

The Geneva Conventions create three universally recognized emblems of a red Greek cross, a red crescent, or a "red crystal" --a red square turned on a corner, on a white background as symbols of protected persons and places that carry out humanitarian functions in armed conflict, such as military hospitals, ambulances, and medical personnel (Bugnion, 1989). Military medical personnel, including military social workers, are not considered combatants or legitimate military targets and must provide care to sick and wounded persons impartially. In time of armed conflict,

military authorities may extend the use of the emblem to protect noncombatants such as civilian hospitals, refugee camps, and designate humanitarian relief efforts such as prisoner-of-war transports. Military commanders are responsible for respecting the protective nature of the emblem and may not use it for deceptive, perfidious, or direct military advantage. The emblems' use on military vehicles or equipment commits that equipment to use for humanitarian reasons only. Commanders are responsible not to fire upon the persons and places the emblem protects. To do so constitutes a universally recognized war crime. Both in times of peace and in armed conflict, small versions of the emblem may be used to indicate property or persons who are acting as members of a national or international Red Cross or Red Crescent society.

The protective emblems protect only in that they demarcate persons and places under humanitarian concern and serve no military objective. Their use in armed conflict is restricted to military personnel and the Red Cross and protected under most nations' laws. The misuse of the emblem threatens to dilute its importance in protecting lives in the chaos of combat. Social workers who become aware of the improper use of Red Cross symbols should use the opportunity to teach misusers about the importance of the protective emblem or consider contacting the local Red Cross society and appraising that agency of the situation.

International Tracing

In the fog of armed conflict, prisoners of war, detainees, and civilian internees are often separated from their families and loved ones and become lost in the confusion of war. The Geneva Conventions contain several legal provisions for the protection of these victims (Bugnion, 1995). Beginning with the Franco-Prussian conflict of 1870, the ICRC has maintained a Central Tracing Agency that seeks to reestablish contact between relatives separated as a result of war, internal conflict, or natural disaster. Establishing agencies to create and provide records of prisoners of war and detainees is a service mandated to combatant nations under the Geneva Conventions. Nations are also mandated under the conventions to help facilitate the efforts of dispersed family members seeking to find each other. Over the years, the ICRC has become recognized and established itself as the useful, and neutral, point of contact that seeks to keep the connections between families and prisoners and those detained by war's exigencies. The ICRC continues to maintain millions of records of detained, imprisoned, and killed persons in armed conflicts going back to WWII. The tracing service continues to explore new technologies and communication methods to support

efforts to allow for humanitarian communications disrupted by armed conflict. Capture cards of interviewed prisoners now coexist with satellite-phones and Internet-based efforts at reuniting families disrupted by war.

Red Cross Messages

When war or other disasters strike a country, people are often cut off from their families because normal communications have broken down. Relatives in the military may be taken prisoner-of-war or moved to refugee camps or shelters. In these circumstances, the Red Cross Message Service is often the only means for families to keep in touch. Messages are restricted to family or personal matters and must be written on a special Red Cross Message form. Red Cross messages are subject to censorship by authorities on either side of a battle line, but in accordance with the IHL, must pass to their intended recipients when their communications concern only personal and family matters. Social workers working with clients separated from relatives as a result of armed conflict may find resources to assist their clients at a chapter of a local Red Cross chapter. Specialists trained in assisting with Red Cross International Social Services are prepared to take information and provide assistance in preparing Red Cross Messages that can be forwarded via the international Red Cross/Red Crescent network postage free to separated loved ones.

Responsibilities under the IHL for social workers

Although not specifically mentioned in the GC, civilian social workers are concerned with helping vulnerable persons meet basic human needs and advocating for human dignity (NASW, 1996). In the practice of their professional roles, social workers at minimum should be mindful of the basic provisions of the IHL should they find themselves in situations of armed conflict. Such knowledge allows workers to be alert to situations that represent breeches of the Geneva Conventions, and give them the opportunity to advocate for vulnerable persons by asserting to authorities in command to respect the IHL. Social workers acting in civilian and humanitarian services are protected persons who deserve and should expect safe conduct should they find themselves providing services to combat's victims (Lancet, 1999). Social workers serving in the military are directly bound by the IHL.

Social workers domestically engaging clients whose difficulties are complicated by intra-national or international armed conflict should recognize the possible resources available as close as the local Red Cross or Red Crescent society. Assistance with international tracing, Red Cross

messages, social services with Armed Forces family members, or resources for refugees from armed conflict are a few of the services provided by the national society.

Family members separated in the chaotic environment of resettlement agonize about the whereabouts of loved ones. Domestic social workers need to be sensitive to the complex demands of armed conflict. Tracing and message services can take weeks or months to cross through hostile environments. Frequent liaison with Red Cross personnel can help workers support their clients who wait anxiously.

Tracing services coordinated with national societies and the ICRC may identify the separated family members who are dead. In such circumstances, the ICRC may be in a position to be able to provide documentation that details the circumstances of death or detainment. This information can be used in some situations for insurance and burial needs of a family. In some cases, such documentation may be part of a claim to war reparations. Clearly, workers engaged with clients separated by armed conflict need to be mindful of the traumatic needs of their clients and what closure difficulties or anxieties are provoked by war and loss.

As the Red Cross/Red Crescent societies staff their ranks from both paid and volunteer personnel, social workers with professional interests in international social services may find opportunities to provide professional and pro bono service. Social workers with fluency in other languages, or particular cultural competencies with refugee communities, can assist local Red Cross personnel in tracing investigation, and Red Cross Message delivery.

Military social workers attached to medical units in zones of armed conflict are specifically protected persons under the Geneva Conventions. In armed conflict, they have responsibilities to care for the sick and wounded impartially. Care must be provided to “friendly” and “enemy” forces without distinction. Should they be captured, military social workers are required to inform their captors of their medical corps attachment. Depending on military necessity, military social workers may be transferred to a neutral agent, such as the ICRC, for repatriation, or, placed in medical services for other prisoners of war held by their captor.

In the theater of operations, military social workers would be advised to understand the distinction between members of the Red Cross movement who may also be operating in the environment. Delegates of the ICRC will be responsible for visiting prisoners of war, and providing humanitarian relief to civilian populations. ICRC delegates will serve as monitors that

will report both to local commanders and the diplomatic corps concerning implementation of the IHL. Personnel from local national societies may also assist in providing civilian relief at the permission of the controlling military authority. Red Cross workers attached to a specific military, such as American Red Cross Armed Forces Emergency Services (AFES) are tasked to provide morale and social supports for their own troops specifically and will not be engaged in the specifically neutral and diplomatic efforts of the ICRC. Whatever their role, military social workers can be encouraged to understand that persons who wear the Red Cross are engaged in a common humanitarian and non-hostile action. Red Cross workers are not combatants, and like military social workers, are protected persons.

As advocates for human dignity, social workers are well positioned to lend witness during times of armed conflict. Social workers should advocate with responsible parties in their governments for respect for the IHL. Workers trapped in the context of armed conflict would do well to keep careful recollection of persons and events who commit war crimes to be able to provide depositions in the inevitable tribunals that occur in a conflict's aftermath.

Social workers have a responsibility to understand under what situations the Geneva Conventions apply and when they do not. The IHL is international law that applies to the conduct of the military of nation-states or recognized armed forces. Its application domestically is restricted to the conduct of providing humanitarian relief to those persons identified as protected. Efforts to use the Conventions as a defense for trespass in civil protests by social workers have been met scornfully from judges on the bench and cast some social workers' credibility in doubt. (Furst, 1997).

Dialogue on Internet social work listservs during the beginning of internment of detainees at Guantanamo Naval Base during the recent Afghan conflict depicted several instances of how the Geneva Conventions are misunderstood (SOCWORK, 2002). Misunderstanding was again apparent with the U.S. - Iraq conflict (SOCWORK, 2003). The NASW code of ethics enjoins social workers to practice competently. Social workers who are advocates for social justice should enter into public debates as informed professionals, and not disseminate misinformation. Instruction and information on the IHL can be obtained through local Red Cross chapters.

The ultimate power of the Geneva Conventions does not come from the paper they are written on, but in a shared reciprocal understanding of the importance of basic human rights in the

face of armed conflict. Violations of IHL draw appropriate public attention, as their consequences are tragic. The voluntary compliance by military combatants, while less overtly visible, remains the most important protection of the Geneva Conventions. The citizen-social worker can play a significant role in their society by affirming the importance of basic human protections in armed conflict. Clausewitz's (1976) doubtful assertions about the rule-less environment of war notwithstanding, military commanders understand full well that legitimate and effective use of military force only comes from the political will of the people whose state they represent (Chester, 2000). As the battlefield of modern war often includes the observing eye of the journalist's camera, the Geneva Conventions become the benchmark by which a military's conduct can be viewed as acceptable conduct, or not. The social work profession's commitment to human dignity and amelioration of suffering calls for the ability to be a credible witness and a humanitarian actor during armed conflict. Knowledge of the IHL arms the social worker.

Conclusion

Understanding the basic principles of the Geneva Conventions is important in the practice and values foundation of social workers increasingly involved in a global environment. The basic human rights protections outlined in the International Humanitarian Law require the ethics of witness and advocacy when armed conflict arises in the world. Clients who are refugees from war may require services that can be obtained under the structures and processes of the Red Cross movement, and social workers should become aware of the law and the services it provides.

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