

War and Peace and International Humanitarian Law



By Megan Reeve and Kobi Leins, Deacons

In recent months we have been bombarded with hyperbole about war. Alarming headlines, such as: "The War on Terror" (*The Age*), "War in the ruins of Diplomacy" (*The New York Times*) and "Australian War Crime Risk Denied" (*The Herald Sun*) have been plastered across the front pages. Debates, conversations, seminars, talkback radio and demonstrations concerning war have been very difficult to ignore, even for the most disinterested.

While we in Australia have watched the war in Iraq unfold on our TV screens and in the newspapers, thereby not impinging much on our lives, the reality of armed conflict on the ground is devastating for those involved. In the comparably short conflict in Iraq, hundreds of civilians have been injured or killed, essential services have been destroyed, culturally significant buildings looted, and now, the rebuilding by occupying forces has begun.

As a result of the direct impact which war has on civilians, many Australians involve themselves in organisations that actively endeavour to minimise the effect of war – through the provision of humanitarian aid and the dissemination of international humanitarian law ("IHL"). The Australian Red Cross ("ARC") is one such organisation. At present, the ARC has as many as 600,000 volunteers doing a variety of work, including volunteering with the IHL program.

IHL, or the law of war, when properly applied, affords vital protection to the lives and dignity of the victims of armed conflict. The *Geneva Conventions 1949* form the core of IHL, but other international treaties that also limit the means and methods of war fall within its terms.

Recent Australian media interest has focused on our ratification of the *Rome Statute of the*

International Criminal Court and the implications of its establishment, but in the wake of the conflict in Iraq, it is likely that more media attention will focus on the responsibilities and obligations of the occupying forces there.

The responsibilities of occupiers are primarily set out in the fourth *Geneva Convention*. This convention protects the civilian population of occupied territories by:

- requiring the restoration and maintenance, as far as possible, of public order and safety;
- requiring that the civilian population is not discriminated against, protecting them against all forms of violence, and ensuring that despite occupation and war they are allowed to live as normal a life as possible, in accordance with their own laws, culture and traditions;
- requiring that the food and medical supplies of the population are ensured, as well as maintaining hospitals and other medical services "to the fullest extent of the means available to it" (which may include ensuring medical personnel of the national Red Cross or Red Crescent society are allowed to carry out their duties); and
- prohibiting all forms of physical and mental ill-treatment and coercion, collective punishment, and reprisals against protected persons or property.

The *Geneva Conventions* are considered customary international law, and are therefore binding on all countries involved in international armed conflict. Australia has ratified the *Geneva Conventions* and their two *Additional Protocols*. Some State obligations during peacetime are also set out in these treaties – such as the responsibility to disseminate information about IHL. The ARC's mandate also includes this requirement and it therefore works actively in this area. Trying to educate a population – many of whom have never seen war on their own shores – about the laws of war may at first seem difficult. However, the laws of armed conflict are best taught in times of peace, in preparation for the sometimes split-second decisions that must be made in times of war.

Australia has traditionally been active in this

area of international law. This history of national-level involvement provides an excellent foundation from which Australians can become individually involved. It truly is a case of, 'from little things, big things grow'. Volunteering with organisations like the ARC gives individuals the opportunity to put their own personal resources and strengths to work. In Victoria, ARC volunteers are active in the dissemination of IHL to school children, tertiary students, law firms and clubs through various events, speeches and publications. Volunteers also spend time fundraising in order to aid victims of war.

Last year, an international Red Cross youth conference was hosted in Darwin to discuss the most effective methods of educating young people about a topic that often seems far removed from their own reality. Following this conference, the ARC has trained speakers to regularly speak at schools throughout Victoria. Many countries already have such a program incorporated automatically into their school curriculum – Sweden runs the training over a few days, simulating the experience of armed conflict through various exercises.

The Melbourne IHL Unit supports the work of the IHL Department of ARC Victoria. The Unit is active in organising both dissemination and fundraising events, activities and speeches. The Unit has monthly meetings where interested members can meet, learn more about IHL and the ARC and contribute to dissemination activities.

Another way young lawyers are involved in IHL activities is through participation in the Legal Speakers' Program. Speakers give IHL presentations within the legal community on various topics, including: the role of the International Red Cross and its mandate under the *Geneva Conventions*, the role of IHL in current conflict situations, and the enforcement of IHL – in particular, the mandate and operation of the International Criminal Court.

If you are interested in getting involved or booking a speaker, contact the IHL Department of ARC Victoria at: ihl@vic.redcross.org.au or Megan Reeve, Chair, Melbourne IHL Unit at: megan.reeve@deacons.com.au. ■