



**Report on the seminar
'On the ground': The legal protection of journalists reporting from conflict**

On 15 March 2012 the British Institute of International and Comparative Law hosted an evening seminar on the legal protection of journalists reporting from conflict zones. The event was chaired by William Horsley, International Director for the Centre for Freedom of the Media at the University of Sheffield and a Visiting Fellow at the City University's for Law, Justice and Journalism. Horsley was a BBC Foreign Correspondent for over 20 years. The panel speakers was Dr Marco Odello, Senior Lecturer in Law at Aberystwyth University, Peter Noorlander, Legal Director at the Media Legal Defence Initiative and Jenny Kleeman, a journalist with experience reporting from conflict areas, who has produced programmes for Channel 4 and written for the Guardian.

Horsley highlighted the risks faced by journalists in conflict zones, emphasising the increasing number of instances of deliberate attacks against the media and in particular 'local' journalists. The breakdown of the national rule of law during conflicts means that there is a greater need for international law to protect journalists and for the media themselves to bring to the attention of the international community the plight of their colleagues.

Horsley introduced Dr Marco Odello who set out the international legal framework on the protection of journalists covering three legal regimes, all of which apply simultaneously to a situation of conflict: international human rights law; international humanitarian law; and national law. The protection of journalists under international humanitarian law is complicated by the fact that different rules apply in international and non-international armed conflict. Generally, international humanitarian law protects journalists as ordinary civilians which means they must not be the subject of deliberate attack so long as they take no direct part in hostilities (as set out in Article 79 of Additional Protocol 1 to the Geneva Conventions). This does not provide them with special protection, similar to medical or humanitarian workers. Dr Odello went on to discuss protection for journalists under Article 4A of the Third Geneva Convention and in non-international armed conflicts, under Common Article 3 of the Geneva Conventions and Additional Protocol 2 to the Geneva Conventions.

In contrast, under international human rights law which applies at all times, the right to freedom of speech, thought, and opinion are protected. In addition the issue of the safety of journalists, and their special relationship with human rights, has been recognised by UNESCO which has adopted an inter-governmental plan of action to reduce impunity for attacks, and the UN Security Council in Resolution 1738 (2006) which condemned attacks against the media and urged parties to conflicts to prevent and refrain from such attacks.

Dr Odello discussed whether journalists required special protection similar to that for medical or humanitarian workers. The media and journalists play an important role as a catalyst of public opinion on a national and international level. He concluded that the legal regimes in place had developed a level of protection for journalists; however, the dissemination of the rules applicable was important.

Noorlander then highlighted the issue of 'legal violence': the use of national laws to illegitimately hinder the work of journalists. He noted that this can create significant problems for journalists in addition to those faced by them as a result of the conflict including the prospect of being killed or injured. Local journalists for example are vulnerable to detention and incidents in Libya had effectively resulted in journalists being censored.

Kleeman discussed the 'on the ground' experience of journalists, explaining that there is little knowledge of international legal protection among the media profession and no expectation of justice if they are unlawfully targeted. Most journalists, especially freelance ones, rely on their editors and 'in-house' lawyers to provide them with the legal information that they need.

She emphasised that within the media profession there are a range of journalists: from fixers (local organisers); freelancers; and fully employed staff reporters and that each group faces different levels of risk. Often there is a tension between the need to 'get the story' and the physical risks faced by journalists in conflicts. Fixers and freelance journalists feel compelled to take greater risks to secure the experience necessary to progress in their profession.

The increasing importance of the media presence in conflicts and tension zones, for example the "Arab Spring", makes them more vulnerable to attacks. Combatants start to view members of the media as the enemy or participants which might partially explain why journalists are attacked even when they are clearly engaged in professional activities and not involved in hostilities. The desire to censor the media may also explain the increasing violence against them. The role of the journalist in conflict is to tell the stories of war and to ensure public scrutiny of the conduct of parties to a conflict – without the presence of the media the unseen atrocities would be unimaginable. Their effectiveness in exposing war crimes, corruption, and illegal activity is the very reason that they are censored.

The overall assessment was that the implementation of the current legal framework protecting journalists is mixed and in some cases ineffective. Protection had been hampered by issues of impunity and there was consensus that parties to a conflict were often not willing to investigate, prosecute and implement their obligations to the media. Further dissemination of the relevant international law and a reduction in impunity are essential to ensure that journalists and their vital professional work are protected during conflict.

Report prepared by Rebecca Francis