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Don't shoot the messenger: prospects for protecting journalists in conflict situations

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ABSTRACT

One of the greatest threats to freedom of expression around the world is the violence committed against journalists practicing their profession in conflict situations. During the last 20 years, an alarming number of journalists have been targeted or killed when reporting about war. This situation has prompted several international organizations to offer suggestions on how to protect the messengers who report about war. In this study, the authors provide a historical overview of journalist protection. In addition, they explore a number of recent declarations, resolutions and strategies introduced to protect journalists targeted in conflict zones. One particularly controversial strategy, the Press Emblem Campaign, is examined by interviewing various international stakeholders. The authors demonstrate that while no clear comprehensive method to protect journalists has yet to be universally accepted, this global problem has generated increased international attention.

KEY WORDS • Daniel Pearl • Committee to Protect Journalists (CPJ) • journalists and Geneva Conventions • journalists' protection in conflict • International Federation of Journalists (IFJ) • International News Safety Institute (INSI) • Press Emblem Campaign (PEC) • press protection • Reporters sans Frontières (RSF) • reporters without borders

The world became acutely aware of direct attacks on journalists when the *Wall Street Journal* reporter Daniel Pearl was captured and beheaded in Pakistan in 2002. The increasing numbers of kidnappings and killings of journalists in recent years continue to demonstrate the vulnerability of those who disseminate information about the world's conflicts.

Website updates and annual reports from the Committee to Protect Journalists show that the number of journalists who have been harassed, intimidated, threatened or deliberately killed has escalated in the last two decades (Committee to Protect Journalists [CPJ], 2008). Two journalists were

reported killed during the First World War and 66 journalists were killed in the Vietnam conflict. In more recent conflicts, from Bosnia to Sierra Leone to Afghanistan, multiple instances of insurgents deliberately targeting journalists have been reported. The trend is even more disturbing in Iraq. Since the war in Iraq began in March 2003, more than 127 journalists and 50 media workers have been killed while on assignment (CPJ, 2008).

Chris Cramer, honorary president of the International News Safety Institute (INSI) and former president of CNN international networks, responds to this worrying trend:

These are nightmarish times for those working in the news media. Journalists are being killed at an unacceptable and unprecedented rate. Indeed, they are more likely, some say, to be killed in the line of duty than are members of the armed forces. (Cramer, 2003: 1)

Journalists have become targets because of the complex role they play during conflict situations. 'In war time, media are not mere observers but simultaneously a source of intelligence, a combatant, a weapon, a target, and a battlefield,' wrote co-director of NewsWatch Canada, Robert A. Hackett (2007: 48). While war correspondents have always faced challenges to their physical safety, two recent phenomena have made war reporting increasingly dangerous: (1) contemporary methods of war, and (2) the global media market's demand for news about war.

Modern-day war strategies have made it more difficult for journalists to gather information and report on the actions of warring parties. Today's conflicts consist of a blurring between terrorism and war, with terrorism becoming an increasingly dominant form of international conflict (Tumber, 2002: 251). Terrorists reportedly refuse to recognize past immunities previously offered to civilians and journalists and agreed upon through wartime conventions (Carruthers, 2000: 163).

To those who wage war using terrorist strategies: 'foreign journalists are foreigners first, just another element of an occupying force to which they [the journalists] don't belong,' said *The Washington Post's* assistant managing editor for foreign news, Philip Bennett (2004: B4). Thus, the realities of conflict place journalists in the direct line of fire in today's war. 'In no prior conflict – not in Vietnam, nor in Lebanon, nor in Bosnia – have journalists been singled out for such sustained and violent attack,' said contributing editor of the *Columbia Journalism Review*, Michael Massing (2004: 4).

According to a report written by the CPJ (2005), the vast majority of journalists targeted during wartime have been murdered in reprisal for their work or to prevent them from doing their jobs. While deliberately killing a journalist during war can be classified as a war crime, little has been done to bring perpetrators who target journalists to justice.

The global media market's demand for news in real time has also contributed to the growing number of journalists who find themselves in harm's way on the world's battlefields. The 24-hour news cycle has created pressure on journalists to supply an increasing number of stories, especially stories about conflict. The public, while often critical of the news media, want to know about conflicts around the world. A survey conducted by the McCormick Tribune Foundation (2005: 50) found that 69 percent of the 1,016 US adults surveyed responded that they were interested in performances of armed services during a war, and 66 percent answered that they were interested in news that featured discussion leading up to a country's decision to go to war.

Admittedly, journalists are drawn to war stories as they provide the quintessential story of conflict. 'For journalists, war has always been the most urgent of stories. Human fate and the fortunes of nations hang in the balance,' said former editor of *The Sunday Times*, Harold Evans (2003: 7). Amnesty International (2006) asserts that states have a duty to protect journalists because

by exposing human rights abuses and giving voice to marginalized parts of the community, the media can at its best encourage the proper application of justice and stimulate debates that can defuse situations that might otherwise lead to conflict.

Several state solutions to protect journalists in conflict situations were introduced as early as the 1920s. Yet, those strategies were reflective of the warfare and media technology in place during the first half of the 20th century. During the past 10 years, numerous international discussions have focused on the protection of journalists on dangerous missions in today's wars. Prominent individuals, major press associations, media companies and international and non-governmental organizations (NGOs) have recognized the importance of protecting those who gather information about war. Organizations that collect and disseminate information pertaining to mistreatment of journalists include the CPJ as well as the International Federation of Journalists (IFJ), Reporters sans frontières (RSF: reporters without borders), the Press Emblem Campaign (PEC) and the INSI. These organizations collect data about journalists who have been targeted while serving in conflict situations and then share these data on websites and through news releases to international stakeholders. In addition to these rhetorical strategies, pragmatic strategies have been proposed to protect journalists gathering information in conflict zones, which include combat training for journalists, protective equipment and identity badges. Finally, in recent years the United Nations Security Council and the Council of Europe have introduced declarations and resolutions to address this global problem. However, to date, no clear, comprehensive mode, method or mechanism of protection has been universally adopted.

In this article, the authors first review the issue of press protection through the lens of international humanitarian law. They go on to explore several declarations and resolutions developed by the international community to protect journalists in combat situations. The authors cite specific strategies offered from a variety of stakeholders to mitigate the growing dangers facing journalists around the world. Particular attention is paid to one initiative – the PEC – that was founded in 2004 by a group of international journalists to address press protection in conflict situations.

Finally, the authors discuss the feasibility of these proposals and offer recommendations for addressing the problems facing journalists in conflict situations.

History of press protection

International humanitarian law protecting journalists

In order to understand the current need to protect those who gather and disseminate information during war, it is essential to review how the world has protected these messengers in the past. The protection of journalists was initially addressed in international documents in regulations dealing with prisoners of war. Additions to the Hague Conventions of 1899 and 1907 developed for the Geneva Convention of 1929 stipulated that:

Persons who follow the armed forces without directly belonging thereto, such as correspondents, newspaper reporters, sutlers or contractors, who fall into the hands of the enemy, and whom the latter think fit to detain, shall be entitled to be treated as prisoners of war, provided that they are in possession of an authorisation from the military authorities of the armed forces which they are following. (Plenipotentiaries of the Governments, 1929)

Thus, the journalist at that time was considered a quasi member of the armed forces when captured as a prisoner of war. However, it was stipulated that the journalist found in a conflict situation would only be assured protection if he or she could present proper identification.

International humanitarian law revisited the protection of journalists during the extensive revision of the Geneva Conventions in 1949. The Third Convention described war correspondents as civilian members of the military:

Persons who accompany the armed forces without actually being members thereof, such as civilian members of military aircraft crews, war correspondents, supply contractors, members of labour units or of services responsible for the welfare of the armed forces, provided that they have received authorization, from the armed forces which they accompany, who shall provide them for that purpose with an identity card similar to the annexed model. (Plenipotentiaries of the Governments, 1949)

This Third Convention appeared to relax the need for an identity card as a qualification to provide protection for war correspondents when they were prisoners of war. However, the convention continued to require journalists to seek permission from the armed forces in order to obtain protection. Because of this convention, journalists were afforded protections as if they were combatants but with some distinctions. It is important to note that these rights primarily applied to journalists who were captured. These international rules required that captured journalists should not be treated as spies. Journalists were not required to respond to interrogation and, if they were sick or wounded, they were entitled to prompt medical treatment (Gasser, 1983).

In the 1970s, the United Nations (UN) was called upon to create special protection mechanisms for journalists in conflict situations. In a Red Cross Review of 1971, Claude Pilloud reported that the French Minister of Foreign Affairs called for the General Assembly to review a draft resolution, supported by a number of delegations, that addressed the situations of journalists in armed conflict (Gasser, 1983). The General Assembly subsequently directed the Economic and Social Council and the Human Rights Commission to draft a convention providing for the specific protection of journalists on dangerous missions. The Human Rights Commission submitted a draft of the convention to the UN General Assembly in 1971. Groups like the International Committee of the Red Cross were asked to contribute to the discussion and thus developed guidelines intended to contribute to a solution to the problem.

This draft convention proposed a special status for journalists. Stipulations such as an identity card to distinguish journalists on the battlefield were hotly debated. It was also proposed that journalists be required to wear distinctive armbands to demonstrate they were on a journalistic mission. Under the provisions of this draft convention, journalists would be afforded special protection against dangers inherent in conflict. The fundamental design of this draft convention was to create a special status for journalists consistent with medical, religious and civil defense staff – much like the Red Cross.

However, the direction of this convention changed when the extensive revision of the other Geneva Conventions began a few years later, resulting in the adoption of two 1977 Protocols additional to the previously proposed international humanitarian laws. The 1977 Protocols directly addressed journalists' protection in Chapter III: 'Measures of protection for journalists'. This chapter recognized journalists as civilians, due only specific protections determined for civilians in combat zones. Article 79 of Protocol I stated:

1. Journalists engaged in dangerous professional missions in areas of armed conflict shall be considered as civilians within the meaning of Article 50, paragraph 1.

2. They shall be protected as such under the Conventions and this Protocol, provided that they take no action adversely affecting their status as civilians, and without prejudice to the right of war correspondents accredited to the armed forces to the status provided for in Article 4 (A) (4) of the Third Convention.
3. They may obtain an identity card similar to the model in Annex II of this Protocol. This card, which shall be issued by the government of the State of which the Journalist is a national or in whose territory he resides or in which the news medium employing him is located, shall attest to his status as a journalist. (Geneva Conventions 1977 Protocol, 1977)

This material demonstrated that the approach proposed earlier by the Human Rights Commission to create a special status for journalists was discarded with the implementation of the 1977 Protocol. This solution differed considerably from that draft convention by defining journalists as members of the civilian population and not messengers to be afforded special rights. Thus, as current humanitarian law now stands, journalists seeking to uncover the truths of war are considered like any other civilian who finds himself or herself in the conflict zone. No added protection is afforded the journalistic function of seeking accurate accounts of war under international humanitarian law.

While international humanitarian law offers limited protection, stakeholders in promoting freedom of expression and protecting journalists in conflict have recently proposed other ways to address this gap. This article now explores various declarations, resolutions and protection strategies proposed within the last 10 years.

Subsequent declarations, resolutions and protection strategies

Declarations The UN Treaty Reference Guide (2008) describes declarations as an international instrument that is not always legally binding. However, declarations can be considered treaties in the generic sense, intended to be binding as international law. Declarations tend to draw attention to various issues and problems that organizations believe need to be addressed by the international community.

Several organizations have advocated for increased press protection through these written declarations. In 1996, on World Press Freedom Day, the Council of Europe adopted a declaration and recommendation on the protection of journalists in situations of conflict (Schokkenbroek, 1996). In this declaration, the Committee of Ministers of the Council of Europe reaffirmed that all journalists have rights during war that should be upheld. The Council also advocated for survival training and physical protection equipment for journalists.

The Berlin Declaration was created four years later, during a round-table discussion organized by the Organization for Security and Cooperation in Europe on 6 November 2000 (OSCE, 2000a). The declaration pressed for enhanced efforts by governments to investigate the murder of journalists and to make clear that targeting of journalists is unacceptable. In addition, the participating media professionals and officials encouraged news organizations to provide insurance, safety training and equipment for their staff. Participants agreed to continue discussing media safety with the OSCE, the UN and the Council of Europe, among other relevant international organizations.

In 2003, RSF called for a declaration on the safety of journalists and media personnel in situations involving armed conflict. The declaration reaffirmed basic principles of international humanitarian law relating to journalists in armed conflict. The document stressed that journalists should be treated as civilians in wartime and that media equipment should not be attacked.

Another organization leading the charge on press protection is the United Nations Educational, Scientific and Cultural Organization (UNESCO). This UN organization has worked extensively on press freedom and press safety issues. UNESCO's most recent declaration, the Medellin Declaration, was created in 2007 and is dedicated to securing the safety of journalists (UNESCO, 2007). The Declaration addresses concerns regarding attacks on freedom of the press, including murder, abductions, hostage taking, intimidation and illegal arrests, and detention of journalists, media professionals and associated personnel. The declaration calls on news associations to promote actions that secure the safety of journalists, including access to safety training, health care and life insurance for freelancers and staff.

Resolutions Resolutions are considered a formal expression of opinion, will or intention voted by an official body (as a legislature) or assembled group (Findlaw, 2008). Whereas declarations serve as a call to action, resolutions are often legally binding. Prior to resolutions being implemented, organizations request these resolutions from international governmental bodies.

In 2003, the IFJ called for a UN resolution to provide the same protection for journalists as it does for aid workers in Iraq. The IFJ said that this proposal would modify the Geneva Conventions and Additional Protocols to make the targeting of journalists a specific war crime. The IFJ addressed this measure in an August 2003 news release found on the International Freedom of Expression eXchange website:

Yesterday, the United Nations Security Council unanimously adopted a resolution on the protection of UN workers serving in conflict areas following the bombing last week of the UN offices in Baghdad. 'We welcome this action, it is long overdue,'

said Aidan White, IFJ General Secretary. 'And we want to see the same commitment by states to the protection of journalists and media staff, who are now among the most vulnerable of civilian groups in Iraq and other conflict zones.' (IFJ-IFEX, 2003)

The IFJ revisited the possibility of a resolution in November 2005. In a draft text for a suggested resolution by the UN Security Council, the IFJ along with the INSI requested the Secretary-General to:

Address in all his country-specific situation reports, the issue of the safety and security of journalists, media staff and associated personnel including specific acts of violence against such personnel, remedial actions taken to prevent similar incidents and actions taken to identify and hold accountable those who commit such acts, and to explore and propose additional ways and means to enhance the safety and security of such personnel. (IFJ-INSI, 2005)

As a result of the attention being paid to the issue of journalists' protection, two international resolutions were then adopted. In December 2006, the United Nations Security Council passed Resolution 1738, which specifically addressed the safety of journalists in conflict (UN Security Council Resolution 1738, 2006). The resolution calls on countries to put an end to deliberate attacks on the news media in armed conflicts and urges an end to impunity for those who kill journalists. The resolution:

Condemns intentional attacks against journalists, media professionals and associated personnel, as such, in situations of armed conflict, and calls upon all parties to put an end to such practices; *Recalls* in this regard that journalists, media professionals and associated personnel engaged in dangerous professional missions in areas of armed conflict shall be considered as civilians and shall be respected and protected as such ... and further reaffirms the need to bring to justice, in accordance with applicable international law, individuals who incite such violence. (p. 2)

According to the INSI, proposals from the IFJ, the European Broadcasting Union (EBU) and the INSI led to the drafting and passing of this Security Council Resolution 1738 (INSI, 2007). In addition, RSF (2006) acknowledged the efforts by the French Foreign Minister and French diplomats in initiating and securing the passage of the resolution.

The Council of Europe passed a similar resolution in January 2007. This resolution, Council of Europe 1535, addressed the safety of journalists in peacetime as well as war. In this resolution, the Council of Europe called on national parliaments to respect freedom of expression and protect journalists from intimidation and political threats. The Council resolved to establish a specific monitoring mechanism for identifying and analyzing attacks on the lives and freedom of expression of journalists in Europe as well as the progress made by national law enforcement authorities and parliaments in their investigations of attacks made against journalists (Council of Europe 1535, 2007). The resolution concludes that 'the Assembly believes that fully

representative, independent organisations and unions of journalists are an important form of protection for freedom of expression and rejects any concept of state licensing or control over the profession of journalism' (p. 1).

Protection strategies In addition to these declarations and resolutions, stakeholders have proffered a number of pragmatic solutions to address the issue of press safety. Daniel Pearl, the *Wall Street Journal* correspondent kidnapped and killed in Pakistan in 2002, wrote a safety memo, titled 'Memo on Protection of Journalists' in 1999 (Foerstel, 2006). Although largely ignored by *The Wall Street Journal*, this report offered a number of safety measures that journalists and editors should heed to protect themselves during conflict. These recommendations include checking in routinely with fellow reporters and editors, and maintaining a standard account of US\$5,000 to 6,000 for each trip in order to avoid taking unnecessary risks in dangerous situations. Pearl also advocated seeking advanced security training for war correspondents by specialty training organizations such as Centurion Risk Assessment Services (used by *The New York Times* and BBC staff) and Andy Kain Enterprises (used by CNN and BBC) (Foerstel, 2006: 116).

At least one organization, the CPJ, directly addressed the issue of greater prosecution of those who target journalists during war. The CPJ described the murder of a journalist as the ultimate form of censorship. In a 2005 report, the CPJ suggested that the best way to curtail the murder of journalists is to push governments to aggressively investigate and prosecute those who commit acts of violence. The report stated that: 'Press freedom groups and journalists around the world need to draw attention to the killings and make the argument that the murder of a journalist is an attack on the collective right of a society to be informed' (p. 3). In 2007, the organization reported that in the previous 15 years about 500 journalists had been murdered as a result of their work. In addition, the CPJ noted that justice is served in less than 15 percent of these murder cases. To combat this trend, the CPJ has designed a global campaign to combat this impunity (CPJ, 2008).

In 2006, the British Ministry of Defence recognized the issue of journalist safety on the battlefield when, for the first time, it inserted in its 'Green Book' manual for military-media operations in wartime, a pledge that British forces would never deliberately target the news media or facilities (UK Ministry of Defence, 2006). It also recognized that correspondents should be free to move around the battle space (p. 4).

RSF currently provides journalists with an RSF Practical Guide, an RSF Safety Charter and training courses as well as safety equipment such as bullet-proof jackets, helmets, distress beacons and first-aid kits. In addition, RSF operates a safety hotline for journalists in the field (RSF, 2009).

On 6 March, 2007, the INSI formally released the Global Inquiry Commission report. Chaired by BBC Global News Director Richard Sambrook, the 18-member Global Inquiry Commission undertook an investigation into the 'legal, professional and practical issues related to covering the protection of journalists in dangerous situations' (INSI, 2007: i). The report called for war assignments to be strictly voluntary and encouraged employers to provide hostile environment and risk awareness training, as well as seminars on international humanitarian law (p. 42). The report also called on employers to cover all journalists with insurance against personal injury and death and provide free counseling to war journalists and their families (p. 52).

The International Committee of the Red Cross (ICRC), a leader in international humanitarian law and humanitarian efforts worldwide, began a media safety project in 2007. The ICRC obtained pledges from numerous countries to accept a nonbinding accord on protecting correspondents in conflict. Under this agreement, countries would be obliged to educate their soldiers and security forces in international humanitarian law. Countries would also be asked to preserve media independence and act against those who seriously violate the rights of journalists (ICRC, 2007). This media safety project promotes and improves an existing journalist safety hotline, provides international humanitarian law training for journalists and the military, and offers international humanitarian law workshops for stakeholders (Notari, 2007, personal communication).

Press emblem campaign (PEC)

A somewhat controversial strategy to protect journalists was created in 2003 in reaction to events during the Iraq and Afghanistan wars. The PEC proposed an internationally recognized symbol or badge to distinguish reporters in combat zones (see Figure 1). Blaise Lempen, co-founder of the PEC and a correspondent for the Swiss national news agency SDA/ATS, said he would like to see the PEC become the journalists' Red Cross:

No international convention exists for journalists now, yet journalists have a special mandate to cover dangerous events and must take more risks than other civilians. This is why it would be fair for journalists to obtain better protection than civilians. (Lempen, 2006, personal communication)

The supporters of the PEC have proposed a convention similar to the established ICRC Convention, which declared that the Red Cross was a protected emblem. The PEC convention proposal states the PEC would require full support of governments in upholding international law to ensure journalists

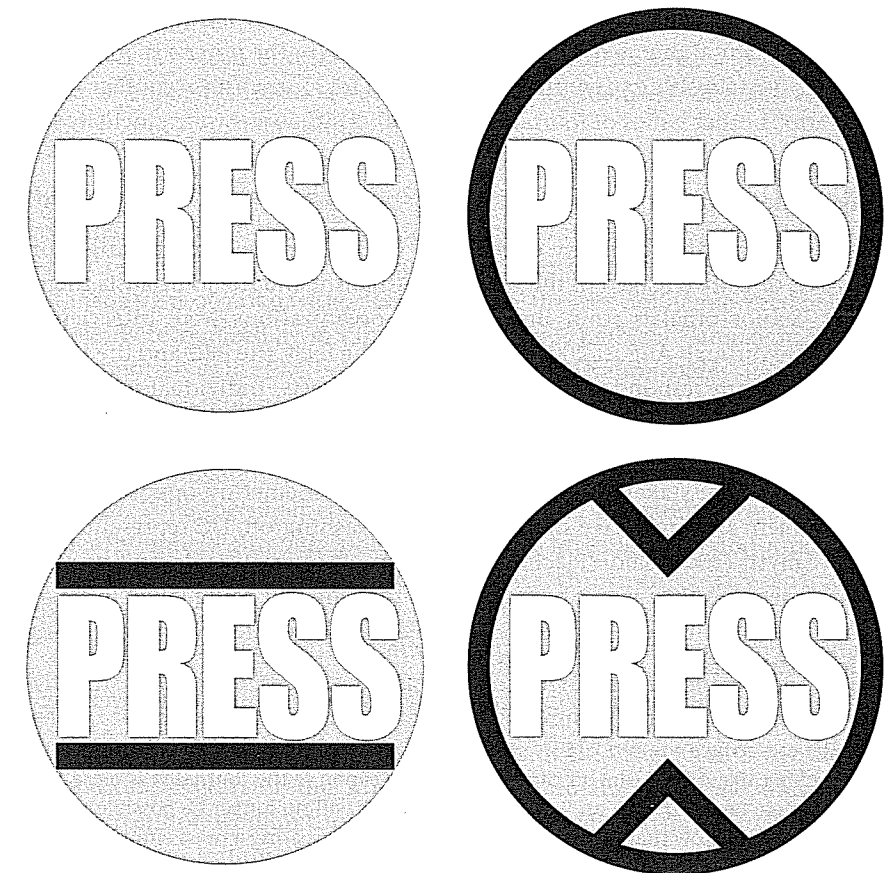


Figure 1 Four proposed designs for the Press Emblem. Design by Ph. Vallier, Dune Graphic-Geneva, June 2004. © PEC.

have the same legal protection afforded to humanitarian workers. In addition, the convention stresses that those who harass or harm media workers wearing the emblem, would be held accountable for their aggressive actions (PEC, 2007). Various opinions have emerged from stakeholders regarding the efficacy of such a symbol.

The strategy to protect journalists with an emblem is not entirely new. A proposal to create a special international badge for journalists in conflict and demand accreditation of journalists by a world journalism commission was blocked in the 1980s (Koven, 2004). The current proposal, which focuses on an international emblem to be worn by journalists to ensure protection, has been criticized by a number of organizations. In order to fully examine the arguments put forward by the proponents and detractors of this strategy, the

authors interviewed several stakeholders about the feasibility of this emblem. The fundamental theme of the interviews focused on the potential efficacy of the PEC in establishing strengthened protection for journalists in conflict areas, but various other issues of journalists in conflict situations were elucidated.

Stakeholder opinions of the PEC

In weighing up the feasibility of the PEC, the authors paid special attention to NGOs directly engaged in the work of journalism and the journalists themselves. Senior officials from the following organizations were interviewed from June through August 2006: the CPJ, RSF, the INSI, the PEC and the ICRC. The IFJ did not respond to several interview requests. Individual journalists interviewed included (embedded and freelance) journalist Thorne Anderson and embedded US journalist Matt Misterek from *The News Tribune*, Tacoma, WA.

Some of the stakeholders interviewed were vehemently opposed to the PEC emblem as a protective strategy. The CPJ Washington, DC representative, Frank Smyth (2006) said: 'Placing an emblem on journalists doesn't provide a guarantee that they won't be targeted, as they are still being killed in target zones. We don't believe it [the Press Emblem] will be effective in protecting journalists' (personal communication).

The supporters of the PEC dispute Smyth's premise on the PEC website:

We can reduce the probability to be mistaken with a military target by avoiding looking like one: a camera can appear as a weapon if the journalist is close to a strategic target. If such an 'incident' happens, it will no longer be possible to say: 'We didn't know that X was a journalist' – if we are wearing a press emblem. (Press Emblem Campaign, 2008)

One embedded journalist disagreed with the idea behind the PEC. 'I believe American journalists, or journalists of any background, are regarded as a trophy kill by insurgents,' said Matt Misterek (2006, personal communication).

PEC Secretary-General and co-founder, Blaise Lempen, does not deny the existence of targeted attacks but he said he believes an internationally recognized press emblem could provide some protection because it would identify the journalist in a conflict. Lempen (2006) stated: 'The emblem is necessary to avoid any mistake on the identification of journalists. It is too simple to say, "We didn't know he was a journalist." A clear identification is imperative' (personal communication).

Some respondents said they thought journalists already carry a protective symbol of sorts. Freelance and sometimes embedded journalist, Thorne Anderson, said: 'Putting "TV" on your car or your vest already is an internationally recognized symbol. TV culture markets itself' (Anderson, 2006, personal communication). Rodney Pinder, Secretary General of the INSI, agreed

that television journalists are already clearly identified with their symbolic two-letter 'TV' icon and many other print journalists already display international emblems. He added that he did not see the need for a new emblem (Pinder, 2006, personal communication).

The PEC recognizes these concerns and maintains that current protection through identification is not good enough because journalists are considered civilians in conflict situations despite significant added responsibilities and hazards. The organization maintains that the current armbands and distinctive self-made signs do not have legitimacy because they are not harmonized or internationally recognized by international law (Press Emblem Campaign, 2008).

Supporters of the PEC believe government and nation-states should legally maintain this emblem under the PEC's proposed convention, which would carry the weight of international humanitarian law. The convention would provide an 'obligation to protect' and an 'obligation to inquire' about abuses (Lempen, 2006, personal communication). These obligations would be subsequently upheld through independently led investigations and proceed to prosecution of those responsible for any abuses with any necessary reparations made to journalists' families.

The ICRC, a leader of international humanitarian law, strongly disagreed with the PEC's view that changing the existing Geneva Conventions would lead to strengthened journalist protections. Knut Dörmann, legal adviser in the Legal Division (ICRC) and member of the ICRC delegation to the Preparatory Commission for the International Criminal Court, said: 'Making a new convention wouldn't solve the existing problems' (Dörmann, 2006, personal communication). Instead, Dörmann said the new convention would experience the same problems as the old convention. Any attempts to change the current conventions would send a dangerous signal to the international community that the present conventions are not enough. In the ICRC's view, international humanitarian law already gives protection to journalists. Dörmann said he believed a new convention might create 'more visibility' for the issue of journalist protection, thereby adding short-term protection and raising awareness in the international community and public, but these new conventions might not be as strong in the long run. Changing the existing convention would essentially mean going through the document and replacing the term 'civilian' or 'person' with 'journalist'. Dörmann said: 'Article 79 shows that journalists already have protection and they are to be granted the same protection as civilians in times of conflict.' According to the ICRC, it is up to each nation-state to protect its people and to ensure that international humanitarian law is respected. Enforcement of international humanitarian law is 'still dependent on political will of state for investing or referring to the international court'.

However, the PEC maintained that the current protection for journalists, afforded under Article 79 of the Geneva Conventions, is insufficient. Instead, the PEC differentiates between the role of the journalist and the civilian in times of conflict. 'They [journalists] have to take risks to report a situation by going to dangerous places on behalf of people's right to information,' states the PEC (2008). The PEC reports that it is this mission of information that justifies journalists being afforded special protection. But to achieve this distinction as a journalist under any newly proposed strategy, a specific definition will most likely need to be established to designate who is and who is not a journalist. This designation, in turn, could lead to the issue of licensing of journalists, which is a source of worry for the journalists interviewed and the PEC.

Pinder of the INSI said: 'Another issue which gives enormous concern is who issues the emblem, and who decides who is a journalist. Is this power given to the government or military?' (Pinder, 2006, personal communication). Smyth from the CPJ added that this issue of licensing could be immensely problematic because a licensing regime to establish journalistic identification cards would restrict press freedom (Smyth, 2006, personal communication). Pinder (2006) added: 'Most journalists resist being licensed by outside bodies' (personal communication).

The PEC responded to this concern by maintaining that journalist organizations would, indeed, be the primary organizations involved in the licensing process. The organization claimed this would help limit government influence, but the group acknowledged that licensing may also afford a government the ability to know where a journalist is located and could result in increased government control of the media (PEC, 2008). Lempen of the PEC admitted that his organization would need to go through the government to write that convention because the government is responsible for law and order. Yet he added: 'We have to be careful' (Lempen, 2006, personal communication). He said the licensing itself would not be conducted by the states: 'The emblem will be given by the journalists' associations as it is now for the press cards. There will be no control of the distribution of the emblems by any state or government office.'

Anderson countered this argument by stating that even if the licensing process was separated from the government and regulated through a liaison body (i.e. journalist association), it would be limited in its ability to provide protection for those journalists who wish to remain anonymous. 'There will always be journalists who choose to not publicly identify themselves as journalists' (Anderson, 2006, personal communication).

This discussion of the PEC also included the issue of impunity and enforcement of international humanitarian law, despite the fact that many

of the participants involved in current global conflicts have little regard for international humanitarian law. While the number of journalists who have been murdered over the past 10 years is appalling, perhaps even more appalling is the fact that 'Ninety percent of these cases haven't been brought to justice' (Pinder, 2006, personal communication). 'Those who kill journalists don't care about legal framework,' said Jef Julliard, Paris representative of Reporters without Borders (Julliard, 2006, personal communication). Journalist Anderson (2006) added: 'The greatest threat doesn't come from state sponsors, but from small, non-state actors that are not intimidated by international law in the first place' (personal communication). During his embedded stay in Iraq, journalist Misterek witnessed roadside bombs that were the biggest killer of American forces in Iraq. He noted that these bombs 'do not discriminate between people wearing armbands' (Misterek, 2006, personal communication).

Lempen (2006) said that international humanitarian law has no provisions for conducting inquiries, to sue those responsible for breaches or to put sanctions on states or actors violating the Geneva Conventions. 'It is a big gap in the protection,' in the way the law currently stands (personal communication). Lempen said he believed a new proposed convention on the protection of journalists would complement the Geneva Conventions: 'It will create mechanisms of enquiry, sanctions and follow-up' all of which 'do not exist until now'. Others such as the ICRC, however, remain unsure. 'Would new rules make a difference in the field?' asked Dörmann (2006, personal communication).

Discussion

The research in this article posits that the fundamental problem for journalists in combat situations is the limitation of humanitarian law to protect them. Under the Geneva Conventions Additional Protocols of 1977, journalists are to be considered merely civilians who place themselves in danger in order to disseminate the story of conflict. Consequently, current international humanitarian law is insufficient in addressing the increasing danger faced by journalists in conflict.

To address this limited legal protection, various organizations have introduced international proposals, documents and strategies. While these efforts should be lauded, they are more broad than they are deep in scope, and may lack the necessary mechanisms for accountability.

Declarations proposed by various stakeholders raise awareness about the plight of journalists in the field but are not that effective in supplying physical or legal protection for journalists. These declarations, like the UNESCO

Medellin Declaration of 2007, provide a way for international organizations to formally commit to press protection. However, these declarations do not provide sufficient protection to journalists during war.

Resolutions provide stronger protections than declarations because they suggest a legally binding document, which compels signatories who ratify the resolution to respect initiatives found in the resolutions. Yet it is difficult to measure the potential efficacy of resolutions such as Security Council Resolution 1738 with no substantive accountability mechanisms. These resolutions will become stronger when and if criminal cases are brought forward under these resolutions, and individuals and groups who intimidate and kill journalists are prosecuted under the full weight of the international criminal court.

Current strategies that appear to be most effective in protecting journalists are ones that combine hostile environment training and language and culture seminars, along with physical protection such as flak jackets. While relatively effective, these strategies are also the most expensive, creating financial difficulty for many news organizations around the world. While NGOs such as the INSI and RSF provide training at a reduced cost for journalists, this training does not ensure comprehensive coverage for journalists operating in conflict areas.

It is evident from the interviews surrounding the PEC strategy that significant disagreements exist about the best way to protect journalists in conflict. Many of the stakeholders suggested that mere physical identification may not be sufficient or may even be a detriment to protecting journalists in conflict situations. This divergence of opinions about the PEC most clearly demonstrates the need for increased collaboration among members of the journalist community to generate and promote a solution that will ultimately provide journalists with comprehensive protection.

The rhetorical strategy of informing the public about this problem and engendering a basic respect for the profession of journalism itself is fundamental to guarantee that journalists who gather information about war and conflict are protected. Increased understanding of journalism's contribution to an open society will provide the first step toward an urgent appeal for the improvement of journalist protection under the auspices of international humanitarian law. 'The role of journalists in society is a counterpart to power. They are the critical voice,' said Freimut Duve, OSCE Representative on Freedom of the Media (OSCE, 2000b). Significant education that informs the public about the importance of journalism in a free society could lead to increased concern of community members and result in supportive action for the protection of these important messengers.

Amit Mukherjee lamented in 1995 that there was little interest in the UN on the topic of international protection of journalists (Mukherjee, 1995).

However, the authors have found that recently, perhaps as a result of the increased number of journalists lost during wartime, members of the international community have addressed this issue most directly through the passage of UN Security Council Resolution 1738 and Council of Europe Resolution 1535. It is not clear what subsequent impact any of these pragmatic strategies or resolutions might have, but this added interest in press protection during wartime suggests the prospects for protecting journalists may be positive, with the international community actively seeking comprehensive approaches to safeguard journalists in conflict situations.

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