

PROFILE





WAR & PEACE

FOR THE FIRST TIME IN ITS 150-YEAR HISTORY,
the International Committee of the Red Cross (ICRC)
has appointed a woman, Dr Helen Durham, as the
Director for International Law and Policy
to its headquarters in Geneva.
She speaks to **JULIE MCCROSSIN.**





Clockwise from left: Helen Durham on duty for the Red Cross at the Red Crescent Field Hospital in Beirut; speaking about the impact of nuclear weapons; and taking a break in Fiji with her family – husband Greg Arnold, and children Alexander and Hannah.



As Helen Durham and her husband, singer and musician Greg Arnold, set up their new home in Geneva and find schools for their children, Alexander and Hannah, an interesting “to do” list is waiting on Durham’s new desk. The Red Cross has a mandate to educate people on the laws of war. The laws are found in the Geneva Conventions, their additional protocols and other treaties restricting the use of particular weaponry. The ICRC in Geneva has a particular mandate to influence the behaviour of people to respect these laws.

At 45, Durham is the youngest person ever appointed to the role and the first Australian to join the ICRC Directorate in Switzerland. Indeed, she is the first non-Swiss citizen to join this Directorate.

The priorities for her new job include keeping health care workers safe in war zones, preventing the use of child soldiers and reducing sexual violence towards both sexes in armed conflict. While progress has been achieved in international law for female victims of sexual violence, Durham believes more work is needed for men and boys, especially in relation to sexual humiliation during interrogation.

This is a challenging line up for any new job, but it seems there is plenty more to keep her awake at night.

A graduate of the University of Melbourne Law School and

New York University, Durham has worked in various roles in international humanitarian law with the Australian Red Cross and the ICRC, as well as Melbourne Law School, since 1996. Before this new appointment, she was the Director of International Law and Strategy for the Australian Red Cross.

We meet at 7.30am as it is the only time available before she flies to Geneva to finalise the plans for her new job. She will be leading a team of lawyers, former military officers and policy makers, with offices in New York, London and Washington, as well as Geneva.

What strikes you immediately when you meet Durham, a vivacious and warm woman with blonde hair and a ready laugh, is her energy and optimism in the face of the human darkness she deals with in her work.

When I ask her what will be her biggest challenges in Geneva, her answers come quickly and she is keen to get her teeth into the task.

“One of the wicked problems is the changing nature of armed conflict,” she says. “We now have prolonged conflicts that fall off the news agenda, but the suffering goes on for a long time. And we have to work out how to engage with more complex stakeholders.

“Nowadays, in many conflicts in Africa and the Middle East, there are numerous groups involved and there are many people you have to influence, such as the Taliban and groups that are not traditional fighters. It is our job to set up innovative communication channels.”

“It’s fine to be in Australia reading about how women need extra nutrition when they are breast feeding in detention,” Durham says. “But it’s not until I am sitting with the women in a jail, talking about that right, that it really comes home how precious those little bits of black writing on a white piece of paper really are.”

The use of modern technology is also creating new challenges for the law.

“The use of drones, nano technology and asymmetrical warfare (where one side has huge military capacity and the other side has nothing but their bodies) is putting pressure on our ideas about the laws of war,” Durham says. “The increasing disassociation between looking into the whites of people’s eyes and killing is a very important issue to reflect upon when it comes to bringing humanity to armed conflict.”

For many years, Durham has played a leading role in unpacking the horrors implicit in the centuries-old view that “rape and pillage” are part of war. The achievements of the past 15 years underpin the optimism she takes into her new work.

“There is now clarity to the law that rape is a war crime because of cases at the international criminal tribunals, both the International Tribunals for the former Yugoslavia and for Rwanda, and others in places such as Sierra Leone,” she explains.

“The first big breakthrough came with the case Prosecutor v.

Akayesu. A number of significant cases followed. We now see the International Criminal Court engaging with prosecutions relating to sexual violence. There has been strong progress since the Nuremburg and Tokyo trials in which these crimes barely featured.” (For more see Durham H and O’Byrne K ‘The dialogue of difference: gender perspectives on international humanitarian law’ Vol 92 Number 877 March 2010 *International Review of the Red Cross*).

These legal developments have led to important policy statements at the highest level. “The United Nations Security Council in 2000 in Resolution 1325 acknowledged women, not only as victims, but as playing a critical role in peace-building and post-conflict reconstruction,” Durham explains keenly. “And in 2008 in Resolution 1820, it condemned sexual violence as a tool of war.”

Durham describes herself as “a great believer in the complementary nature of the ways you try to make change”. She points to the achievements in relation to sexual violence during armed conflict.



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We have seen black letter law translated into jurisprudence from international tribunals and then translated into policy-making at the United Nations. This policy leads to funding and community action,” Durham says.

She is pragmatic about the scale of the challenge. “I know that there are thousands of women still being ill-treated, despite the jurisprudence and the policy,” she says with feeling. “But I also know that when I visited a group of women in the Philippines, who had been ‘comfort women’ in World War II, and I told them about the cases clarifying that rape was not acceptable, they were all weeping, because the court understood that what they had suffered was unacceptable.”

Durham has published widely and teaches a subject on women and war as part of a Master of Law course at the University of Melbourne. Yet it is her experience as a visitor to prisons and refugee camps that keeps her grounded and inspired by the power of law to change lives.

“It’s fine to be in Australia reading about how women need extra nutrition when they are breast feeding in detention,” she says, “But it’s not until I am sitting with the women in a jail, talking about that right, that it really comes home how precious those little bits of black writing on a white piece of paper really are.

“I believe black letter law has a crucial role to play in challenging us to treat each other better. It is a clear articulation about how we wish to live as human beings. That’s why I find international humanitarian law so exciting. When people are killing each other, we have to carve out a little circle of humanity.”

Black letter law provides a language and an avenue for redress. “If we didn’t have laws about how we treat prisoners of war, there would be nothing to talk about when we feel uneasy about things we see when individuals are detained,” Durham says.

Ironically, while Durham has spent almost 20 years helping to build the infrastructure of international tribunals and working with states to draft domestic legislation to be able to prosecute war criminals, she can never give evidence before a tribunal.

“When you work for the ICRC, the principle of neutrality



“The increasing disassociation between looking into the whites of people’s eyes and killing is a very important issue to reflect upon when it comes to bringing humanity to armed conflict.”

means you cannot provide evidence to war crimes tribunals,” she says, “Article 73 of the International Criminal Court’s rules of evidence says the Red Cross cannot be compelled to give evidence if they gather information in their operations mandated by the state.

“Neutrality is a trade-off for access. If you go into a prison for the Red Cross, you do practical things to improve the lives of individuals. You engage in humanitarian diplomacy, behind the scenes, to improve living conditions. Our neutrality makes this possible.”

The resilience and generosity of the many people she visits in prisons inspires her. Last year she drew on the memories of such an experience to cope with disturbing evidence of atrocities.

While attending a meeting in Hiroshima to discuss the unacceptable nature of nuclear weapons, a doctor from the Congo took Durham aside and spent more than an hour and a half showing her photographs of horrific injuries suffered by women at the hands of rebels.

“When I feel overwhelmed by human darkness, I draw upon the flipside of horror, the human kindness and resilience,” Durham

says. “I remembered women in a prison in Myanmar I had visited for two weeks. They had nothing, but they saved a few peanuts from their food and put together a party for me to celebrate my work with them. We discussed together how we were all missing our children. Experiences like that keep me going.”

Durham says her husband has played “an absolutely critical role” in her career. (Arnold’s band, Things of Wood and Stone, performed his hit “Happy Birthday Helen” when accepting an Aria for Best New Talent in 1993.)

“I travel extensively and he doesn’t bat an eyelid at being a solo father for that period of time,” she says with gratitude. “As a working mum in the legal area, I miss some school events. I have to find an inner peace about that.”

Durham laughs as she remembers a recent experience with her 12-year-old son Alexander.

“My son had to write an essay about his mum. He wrote, ‘Mum is Rubenesque and she is trying to stop nuclear weapons.’ And I thought, ‘If I have to be someone, I’ll be a Rubenesque, stopping-nuclear-weapons type of chick!’” **LSJ**



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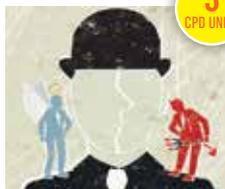
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