I have an uneasy feeling about the title of this panel. If it implies that there is widespread ignorance in the general community, and in civilian law schools in particular, and that this ignorance ought to be redressed, then my answer is yes. But if it implies—as I think it also does—that somehow the teaching of the laws of war in military academies is inadequate or inappropriately biased, and that those academies cannot be trusted to teach it properly, then my answer would be no.

I speak with some knowledge of both. As well as being a professor of international law, I am also a Captain in the Reserve of the Royal Australian Navy. I teach courses in international humanitarian law (incorporating the laws of war) in my own University in Australia to civilian law students (although typically there are a few in the class with military experience). I also teach the same subjects to military courses in Australia and also presently at the United States Naval War College in Newport, Rhode Island. I have to offer some comparisons between military and civilian students based on my experience, mainly in Australia.

First, let us note the actual obligations of nations in the teaching of the laws of war, deriving from their treaty commitments. There are some 190 States Parties to the four Geneva Conventions of 1949, making them the most heavily subscribed conventions in existence. A common article (with minor variations) in each of the four reads:

The High Contracting Parties undertake, in time of peace as in time of war, to disseminate the text of the present Convention as widely as possible in their respective countries, and, in particular, to include the
The Geneva Conventions relate to what is called, in its narrower sense, international humanitarian law. Additional Protocol I of 1977, however, brought the law of Geneva together with the law of The Hague (the laws of war, or the law of armed conflict), so that it is now accepted that the expressions "the laws of war" and "the law of armed conflict" are coextensive with international humanitarian law. Article 83 of Protocol I thus marks a significant step forward in that it imposes an obligation of dissemination in respect of the laws of war/armed conflict as well as of international humanitarian law. That article reads:

The High Contracting Parties undertake, in time of peace as in time of armed conflict, to disseminate the Conventions and this Protocol as widely as possible in their respective countries and, in particular, to include the study thereof in their programmes of military instruction and to encourage the study thereof by the civilian population, so that those instruments may become known to the armed forces and to the civilian population.

The fact that the United States is not yet a party to Additional Protocol I is not, I think, relevant. As I understand it, the policy of the United States is to apply the Protocol de facto wherever possible, and to accept most of its provisions as reflective of customary international law.

It is interesting to note that prime emphasis is placed in these provisions on dissemination through courses of military instruction, with civilian instruction in second place. That is understandable. But I take it that at least one of the intentions of the title of the present panel is to suggest that, if civilians are not made aware of the content of the laws of armed conflict they will not be knowledgeable enough to put appropriate pressure on governments to live up to their obligations. That can certainly be accepted.

II. AUSTRALIA

A major role is played in Australia in the field of education in the laws of armed conflict by the Red Cross movement. The work of the Regional Delegate of the International Committee of the Red Cross (ICRC), based in Sydney, is almost entirely devoted to the promotion of the Conventions and the two Additional Protocols. He travels extensively throughout Australia, New Zealand, and the Pacific islands. He meets with officials of local defense ministries and with politicians. He also visits the universities.
The national association, the Australian Red Cross, although primarily concerned with disaster relief and the tracing of missing relatives, is also engaged in the work of making the Conventions and Protocols better known to the entire population. There is a Dissemination Committee in each of the States of Australia, where there is a representative of each of the three armed forces—Navy, Army, and Air Force. The Australian Red Cross sponsors periodic conferences on international humanitarian law, in which academics, journalists, the general public, uniformed military personnel, and defense civilians take part.

A recent and most notable initiative of the Australian Red Cross is the sponsorship of a Red Cross Chair in International Humanitarian Law at the University of Melbourne. This is a continuing chair, not a short-term visiting post. The inaugural holder of the chair is Professor Timothy McCormack.

There are elective courses in international humanitarian law/law of armed conflict (IHL/LOAC) offered in at least four Australian law schools: the University of Melbourne, the University of Sydney, the University of New South Wales, and the Australian National University. The Red Cross sponsors an essay competition for law students throughout Australia whether they are enrolled in such an elective or not. There are also plans to conduct a national student moot court competition involving questions of IHL/LOAC under the auspices of the Red Cross.

So far as military instruction is concerned, there are short courses or seminars in IHL/LOAC at each stage of the officer promotion process. Such courses are not confined to those who especially need them for their particular billets. The courses are conducted either by regular officers with appropriate academic qualifications, by reserve personnel (who include a number of university law teachers), or by civilian experts. Exercises and war games always contain international law elements. Each of the three branches of the Armed Services has a Manual of International Law specific to their operations. Officers of the Australian Defence Force may be selected to attend the courses run at San Remo, Italy, by the International Institute of Humanitarian Law. Selected senior legal officers specializing in international law may also attend a course at Cambridge University in England. On exchange with the United States many officers study courses, or take higher degrees, in international law at United States military academies.

One should never be complacent. However, I do believe that IHL/LOAC training in the Australian Defence Force is on the right track. It may be that the isolation of Australia has the effect of making Australians more internationally minded. Certainly the prospect of attending a course or seminar on IHL/LOAC at an overseas location helps to make the subject popular. I personally know four serving legal officers who have Ph.Ds in international law, and many have master's qualifications or their equivalents. My only substantial criticism is that officers move billets too frequently and that often their advanced expertise in
IHL/LOAC becomes dissipated. I suppose that is inevitable in a force of such a small size.

I have one final comment on Australia, anecdotal but I think more broadly true. I was once the presenter of an unclassified "war game" at a Navy seminar, in which line officers (not legal officers) were the participants. I decided to use the same scenario in playing a war game with a group of law students in my University humanitarian law class. The general object of war games is to decide when deadly force will first be used. They are typically exercises using rules of engagement (ROE) in which the stated national objective is to contain, and if possible, de-escalate a situation of tension with another country. If armed force is to be used, let it be the other side who uses it first. That is the approach. But of course there are situations in which the use of force in anticipatory (or "interceptive") self-defense must be considered. One does not have to accept the first casualties in order to be on the "good" side. I have to report that the law students were far more eager to open fire first than were the naval officers. They were the Rambos, not the military people. I shall leave you to speculate on the possible reasons for this.

III. THE UNITED STATES

I shall not speak at any length about the situation in the United States. Although I have now been teaching at the Naval War College for three months, I am not sufficiently aware of the scene in the United States at large. What I have seen and heard, however, inclines me to believe that the teaching of IHL/LOAC in military academies is generally conducted at a very high level of both awareness and competence.

The Chair I occupy for the academic year 2000-2001—the Charles H. Stockton Chair of International Law—stands as an example of the "infiltration" of civilian professors of international law into the curriculum of the College. Founded in 1951, the Stockton Chair has been occupied by a line of holders of recognized eminence in civilian academic life (although it is true that some have also had military experience). The inaugural holder of the Chair was Judge Manley O. Hudson. He was followed by Hans Kelsen and Leo Gross. Other notable holders include Brunson MacChesney, William T. Mallison Jr., Carl Christol, Richard Lillich, Oliver Lissitzyn, L.F.E. Goldie, Howard Levie, Alwyn Freeman, our current ILA American Branch President Alfred Rubin, George Bunn, George Walker, Myron Nordquist, Leslie Green, Ruth Wedgwood, and most recently Yoram Dinstein. Each one of these names will, I am sure, be familiar to this audience.

The Department of Oceans Law and Policy at the College, in which the Stockton Chair is situated, and whose mandate extends to the teaching of IHL/LOAC, is staffed with highly qualified and experienced serving and retired
officers. All have law degrees and have participated in advanced courses. They include United States Coast Guard and Marine Corps officers as well as Navy. All are able to integrate their military training with their advanced legal knowledge and teaching skills. This is a vital point. Teaching to military audiences lacks credibility unless scholarship and teaching are informed and focused through operational experience. This is the “street cred” factor, if you will; essentially it ensures the relevance of the teaching to the real world the audience inhabits.

The Naval War College has also contributed significantly to the fund of scholarship and dissemination of the laws of war through its well known series of International Law Studies, begun in 1901. Known as Bluebooks, they are to be found in all major law libraries of the world. There are now nearly eighty volumes in the series. The most recent are Howard S. Levie on the Law of War (Vol. 70, 1998); a collection of essays on The Law of Armed Conflict: Into the Next Millennium (Vol. 71, 1998); The Law of Military Operations: Liber Amicorum Professor Jack Grunawalt (Vol. 72, 1998); and the Annotated Supplement to the Commanders Handbook on the Law of Naval Operations (Vol. 73, 1998). This last publication (which had been issued in a different format previously as NWP 9) has been immensely influential in the navies of other nations. There are four further volumes currently in press or nearing completion: a study of the Tanker War 1980-88 by Professor George Walker, a Festschrift for Professor Leslie Green, articles from a symposium held at the War College on Computer Network Attack and International Law, and a study of the Forcible Protection of Nationals and Humanitarian Intervention. This is a quite outstanding body of work. The Government Printing office distributes free copies to United States law schools and to various public libraries.

Others here will be able to say how widely IHL/LOAC is taught in American law schools. Judging from the periodical literature and the number of monographs, there is a very significant body of scholars contributing greatly to the development of this branch of the law.