

FORUM

war and accountability



ICRC

Forum: war and accountability

Selected articles

What does "accountability" in wartime really mean? How does it work in practice and who is accountable to whom? Against what standards is humanitarian assistance measured? How will accountability relationships evolve in the future? Should those who benefit be more involved in their own aid?

In the third of its series of FORUM publications, the ICRC's *FORUM : War and Accountability* offers a wide-ranging look at the issue of accountability and its relevance for those involved in bringing humanitarian assistance to people in need, in times of war or violence.

The authors come from a wide range of experience and each has contributed in a personal capacity. The views expressed do not necessarily reflect those of their organizations or of the ICRC.

The accountability relationship



People affected by conflict or internal violence require some form of assistance.

A set of actors, "humanitarian organizations", attempt to provide this assistance by undertaking a range of actions. An array of other actors can influence, directly or indirectly, whether, how, and what degree of assistance will be provided in a particular context.

Humanitarian action is based on references which may be institutionally derived, or empirically or consensually based, and are subject to quality assurance mechanisms. Thus, the action, the references and the compliance mechanisms form the basis on which the responsibilities of various actors are defined. Interrelationships between actors – notably the extent to which they facilitate or impede the activities of one another – play a pivotal role in determining how such responsibilities are discharged.

Ultimate accountability is towards people affected by war

Introductory remarks

THE CONCEPT OF ACCOUNTABILITY IS RELATIVELY NEW in the field of international relations. It appeared in the vocabulary of international development cooperation in the early 1990s as one ingredient of the “good governance” which aid agencies sought to promote in developing countries. It is not surprising that the scope of the concept should have expanded to humanitarian action, as the protagonists are very close – and often identical – to those involved in development cooperation. Here, too, the promotion of accountability was initially mostly donor-driven, concentrating on the accountability of humanitarian agencies towards donor governments. The impact, standards and cost-effectiveness of humanitarian aid were increasingly scrutinized. This process has already improved the quality of the material assistance and services provided to people affected by armed conflict by the more professional humanitarian actors.

Accountability in situations of armed conflict cannot be restricted to a dialogue between humanitarian agencies and donor governments on resource management issues. The global scope of accountability must be viewed as a triangular relationship between political and military actors, humanitarian organizations and people affected by war. Increasingly, in conflict situations, the latter emerge from their passive role of “victims”; they speak out, express critical views, organize themselves and request a genuine dialogue with the other actors. Today, the main emerging issue should therefore be that of accountability of the first two

sets of actors towards the third one: people affected by conflict have rights and cannot be treated as mere objects of charity.¹ This is bound to have implications for both State and humanitarian actors in the fulfilment of their obligations.

The accountability of State actors towards civilian populations stems from the responsibility of the former to protect the latter. This responsibility is primarily that of the State directly concerned. Should it be unable or unwilling to ensure this protection, it has been argued that it becomes the responsibility of the international community.² In conflict situations, this responsibility entails political, diplomatic and, if necessary, military action to end the conflict. It also means that protection and assistance of non-combatants must be ensured, both by acting to prevent or put an end to violations of international humanitarian law and by guaranteeing humanitarian actors the space they need to act independently, and with adequate resources, so as to gain access to all non-combatants affected by the conflict. The responsibility also extends to the aftermath of conflicts, in order to heal the wounds of war and encourage reconciliation. A strong commitment to ascertain the fate of the missing is, for example, a key element of this process for which the parties to the conflict are accountable to the families. Promoting reconciliation is a vital step towards preventing future conflicts. Addressing the root causes of conflict is the area to which national and international political actors must devote much more attention and resources. Everybody is

□ □ □ people affected by conflict have rights and cannot be treated as mere objects of charity.

aware of the importance of conflict prevention, yet the political will to act decisively in this sense remains hopelessly weak.

The fate of people affected by armed conflict is one of the primary concerns of humanitarian actors. Institutions specifically committed to preventing, ending or at least limiting abuses and suffering face the challenge of enabling the beneficiaries of humanitarian action to make their voices heard, to participate in the formulation and implementation of programmes designed to meet their most urgent and vital needs and to foster their autonomy. Although affected people are frequently consulted on their needs for assistance, they are all too seldom treated as partners in the activities designed to protect and assist them.

This problem is well known to those involved in international development cooperation. It is somewhat less familiar to humanitarian actors, who feel that the very nature of humanitarian action in times of conflict precludes, or at least limits, the active involvement of local institutions representing different segments of the civilian population. Given the necessity to act rapidly, it could be difficult to find efficient and impartial partners. Working together with local associations could impair well-oiled needs assessment and response procedures. These arguments cannot be easily dismissed, but, at the outset of a humanitarian mission, more effort could nevertheless be devoted to identifying partners representing affected segments of the population, with whom a meaningful dialogue could be established. Such

participation could develop a sense of partnership and, hence, of shared accountability towards the population.

For both political and humanitarian actors, accountability towards affected people also has a global dimension. Impartiality – the constitutive element of any humanitarian action – not only applies to people affected by specific conflicts, but should also be viewed globally, to avoid gross inequalities between the victims of different conflicts due to factors such as the location of the conflict, the interests involved and media attention. Genuine accountability does not allow for forgotten conflicts.



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¹ Larry Minear and Thomas Weiss, *Humanitarian Action: A Transatlantic Agenda for Operations and Research*, Thomas J. Watson Jr Institute for International Studies, Occasional Paper No. 19, p.11.

² See the Report of the International Commission on Intervention and State Sovereignty (ICISS), *The Responsibility to Protect*, International Development Research Centre, Ottawa, December 2001.

Accountable humanitarian action: an overview of recent trends

Understanding accountability

Being accountable means explaining one's actions and inactions, and being held responsible for them. Individuals, organizations and States have to account for their actions. Accountability also means that individuals, organizations and States may safely and legitimately report concerns and complaints, and obtain redress where appropriate.²

An accountability system requires that:

- somebody has to be affected;
- the rights of individuals and groups of people are articulated;
- the duty-bearers, responsible for respecting and fulfilling those rights, are identified;
- there are certain standards or benchmarks for judging the performance, or lack thereof, of a duty-bearer;
- there are autonomous duty-holders that monitor to what degree the duty-bearers fulfil their responsibilities;
- there can be consequences: praise for those who performed responsibly and well, and reprimand for those who failed to act responsibly, with perhaps

redress where such failure caused unnecessary grievance to an individual or group of people.

What we are concerned with here is the accountability of humanitarian actors, but also of those who influence and shape the conditions under which they have to operate.

What drives the current interest in accountability?

Accountability in a global political context

Accountability is an act of justice, and relates to power. At the core of the contemporary debate about accountability are the questions of the social contract between citizens and the State, and inter-State relationships. This debate is not static: the terms in which "accountability" is debated, and who participates in that debate, evolve historically and can themselves be the object of a political struggle.

Three important elements can be highlighted here.

- Liberal ideology over the last 20 years has developed a new model of the social contract between citizens and the State.

Economically, the "privatization" and "public sector reform" ideology has significantly affected the perceived role and responsibilities and hence accountability of the State. Politically, the argument that "sovereignty" is ultimately vested in the people, and not in its government of the day, has strengthened the concept that a government has to be transparent and accountable to its citizens. This concept of the "accountable State" is not, however, universally accepted. There are differences among countries that generally share this ideology, and there is active resistance from certain governments, but sometimes also from opposition movements, in Asia, Africa and the Middle East.

- The notion that sovereignty is vested in the people also opens the way for international or regional interventionism when people's fundamental rights are grossly violated. However, these interventions risk being driven by geo-strategic interests rather than by principle, international obligations or concern for people's rights. There is little

if any accountability for multilateral interventions, such as the 1999 NATO bombing campaign against Serbia, that themselves may violate people's rights (e.g. the ongoing sanctions against Iraq), or for the failure to act (e.g. to stop the 1994 genocide in Rwanda). This lack of accountability diminishes the credibility and legitimacy of such multilateral actions.

- Finally, there is the proliferation and significantly increased influence of non-State actors. Some of these, notably transnational business corporations and transnational aid organizations, act globally. This creates challenges for their accountability: they take on roles and control resources that give them significant influence. How are their responsibilities circumscribed, and to whom are they accountable? How are they being held accountable? It is primarily NGOs and social movements, often very diverse and fragmented, that have cast themselves into the role of external "watchdogs" and "whistle-blowers". They themselves, however, have managed to stay out of the spotlight, until the recent backlash against their perceived lack of representativeness, democratic governance and, since the violence at global summits that started in Seattle, lack of civic responsibility.³

War and accountability

Holding the perpetrators to account

There is a new international willingness to hold perpetrators of gross violations of human rights to account and thereby end impunity. The creation of the Ad Hoc

Courts and a permanent International Criminal Court is a historic step forward. What we see here is the development of mechanisms to deal with breaches of, notably, international humanitarian law and the Convention on the Prevention and Punishment of the Crime of Genocide (1948), something that did not exist before. The Pinochet case was another signal to the political orchestrators of gross human rights violations, war crimes and crimes against humanity that they can no longer assume that they will never be called to account. Nevertheless, it is still a major challenge to make these legal mechanisms of accountability effective, but also credible from a "justice" point of view.

- Legal prosecutions and court cases are slow and expensive. A judiciary that is underfunded or that mismanages its resources loses effectiveness and credibility.
- The law is only as effective as its enforcement. National legislators around the world need to create domestic laws that allow active cooperation with international judicial bodies.
- International and national legislation needs to be developed, to bring to account those who directly contribute to a war economy, for example, by smuggling arms, violating sanctions or purchasing resources that a warring party uses to support itself.
- Where large-scale violations have occurred, the law has to find a balance between who and how many to prosecute. Are only those who directly committed brutalities responsible and/or the political leadership? How is one to deal with the fact that repressive or aggressive leaders often had popular support?

- Finally, but perhaps most importantly, to be credible justice cannot be perceived as "victor's justice".

Holding the interveners to account

The argument that those intervening to bring an end to a conflict or at least mitigate the suffering need to be accountable is sometimes met with indignation. While emotionally understandable, that feeling is not consistent. A breakdown of the rule of law is a major cause of conflict, its restoration a major component of a durable solution. It would follow then that those seeking the restoration of fairness, justice and accountability would want to lead by example.

The humanitarian operators

Humanitarian agencies have come under closer and more critical scrutiny. The main criticisms relate to the quality of performance, moral integrity and accountability of humanitarian agencies.

- Quality: the proliferation of especially non-governmental organizations that become involved in humanitarian action today, and the fact that virtually everyone can set up an "NGO" and raise funds for a "relief" operation under the banner of "humanitarianism", without many conditions or controls, has meant that the performance of organizations on the ground can be very uneven. Host governments may not be able to provide effective supervision. In particular, NGOs

¹ A pilot project intended to focus the attention of institutions and organizations involved in the provision of relief or humanitarian aid on the question of their transparency and accountability towards affected people, and how they can improve it.

² Humanitarian Accountability Project, *Humanitarian Accountability: Key Elements and Operational Framework*, Geneva: 11 October 2001, HAP Index: ACC/01/09/2001.

³ M. Edwards, *NGO Rights and Responsibilities*, The Foreign Policy Centre, London, 2000.

with independent funding can be hard to stop, even if their performance is poor. This situation has generated a healthy debate among agencies about quality assurance. Unfortunately, progress is being stalled by the defensiveness of some of the more professional actors, who probably have least to fear. Their opposition concentrates on the risks of politically or administratively driven “external supervision” that would be misused to “control” their independence. While the concern for inappropriate forms of “quality assurance” is entirely valid, the opponents risk being perceived as claiming immunity and even impunity. They would do better to take a more constructive lead and (a) work together to articulate more clearly the benchmarks and quality and accountability assurance mechanisms that they undoubtedly already apply internally; (b) articulate principles and procedures that, as for a financial auditor, should govern the performance of an external “quality reviewer” or “accountability review” mechanism; and (c) finally break out of the unspoken “code” in which aid agencies avoid public criticism of each other. Part of the problem is the lack of any distinction between the “responsible” and the “not-so-responsible” actors. It is in the interest of the responsible ones to make clear this distinction, and explain the criteria by which they do so.

- Moral integrity: another range of criticisms relates to integrity. In essence the point is the drift of humanitarianism into a “service delivery industry”^{4,5} Perceived indicators of this are the predominance of institutional self-interests in decision-making, the disregard

for the views and priorities of local counterparts, the material comforts and sometimes arrogance and even racism of international aid workers in particular, the active resistance to coordination, and the increasingly distasteful competition for “visibility” and media attention. These are characteristics of a billion-dollar, market-driven industry, at risk of losing sight of its *raison d’être* and mission.

- Accountability: an important driving force for increased accountability of operational agencies has been the donors. This is positive. But it also creates its own distortions. A major concern of donor administrations is the need to demonstrate that their money has been well managed and well spent, and the need, in the face of a growing number of applicants, to find more objective criteria for choosing whom to fund. Inevitably this puts emphasis on sound financial management, on achieving internal project objectives, and cost-effectiveness in doing so. More recently the growing interest in “coherence”⁶ has given rise to the belief that humanitarian aid can be another instrument of foreign policy, and therefore needs to contribute to the achievement of foreign policy objectives. While humanitarian aid was previously protected from (too overt) political interests, it is less so today. The most extreme aberration undoubtedly occurred when the 1999 NATO bombing campaign against Serbia was termed a “humanitarian war”, supposedly to stop the refugee problem that in fact had been created by the bombing. As many aid agencies are fairly heavily dependent

on official aid, they are at risk of only being able to go where and do what donors want them to.⁷ The fluctuations of aid money available for the people in Afghanistan, dependent on geo-political interests, are a tragic example of this. Aid for humanitarian purposes is being politicized and instrumentalized. Many aid organizations, concerned about their institutional survival and market share, have rather complacently gone along with this.

This predominance of the contractual responsibility to donors entails major risks:

- Firstly, that it supersedes the responsibility to a mandate or mission. UNHCR, for example, at the mercy of voluntary contributions from States, has found it difficult to adopt an assertive position based on its mandate.
- Secondly, that it supersedes the responsibility to the affected people who are the *raison d'être* of the agencies, on whose behalf funds are raised and for whose supposed benefit actions are undertaken. Interactions with affected people now serve mainly to determine “needs” that can be addressed through predetermined programmes, to emphasize their obligations as aid recipients, and to reduce the cost of implementation through the mobilization of free “community labour”. Too often the nature of international aid and the way in which it is delivered forces affected people into a “dependency” that is then subsequently held against them. What is missing is greater transparency and responsiveness on the part of the aid organizations towards the affected people, greater respect for their dignity, and a mechanism of redress if, through



Discussing their own aid: great capacities for ethics, local constituency, internal democracy and advocacy are to be found amongst local organizations.

acts of commission or omission, people have unnecessarily been caused serious additional suffering.

- Thirdly, the “contract culture” also runs the risk of degrading the nature of “partnership” with local organizations. Whereas international relief in certain places has strengthened local capacities, these are typically the capacities required from “sub-contractors”, i.e. the ability to deliver the end service and to meet donor administrative requirements. What is less heralded is how local capacities are undermined by the brain-drain of talented staff to international organizations, the loss of credibility and legitimacy of government services that do not match up to the (temporary) performance of international agencies, and the lack of active interest of donors in the ethics, local constituency, internal democracy and advocacy capacities of local organizations.

A number of national and international aid providers have a formal mandate, and in that sense a legal “duty” to provide assistance and protection.

Others, notably non-governmental organizations, operate according to a self-ascribed mission, rather than a received mandate. There are NGOs that argue that they place themselves in a crisis situation mainly in order to remind the primary duty-bearers of their obligations towards the victims. In other words, they put themselves in the role of duty-holders. Does that absolve them from any formal responsibility, and the obligation to account for it? The answer must be “no”. Whenever we establish a presence in a conflict area, receive money, and run programmes on behalf of the affected people, we assume a responsibility. Also when we speak out on behalf of people affected by disaster, or decide not to do so, we must act responsibly. That responsibility increases as we gain in influence and prestige.

4 I. Smillie, *The Alms Bazaar*, Intermediate Technology Development Group, London, 1995.

5 D. Sogge (ed.), *Compassion and Calculation, The Business of Private Foreign Aid*, Pluto Press, London 1996.

6 J. Macrae and N. Leader, *Shifting Sands. The search for 'coherence' between political and humanitarian responses to complex emergencies*, Overseas Development Institute, London, 2000.

7 D. Hulme and M. Edwards, *NGOs, States and Donors. Too close for comfort?* London MacMillan Press, 1997.

Accountable humanitarian action: an overview of recent trends

The donors: value for money or value for people?

Donors have been the main drivers of the accountability agenda. But the problems with the way in which humanitarian operations are funded remain largely out of the spotlight, and the responsibility of donors in this regard is not challenged. Yet they are well-known: erratic and

beneficiaries are taken into account. Surely positive feedback from disaster-affected populations is the best justification that donors can offer the taxpayer?

Official humanitarian aid needs to be better protected from political considerations, and donor administrations need to become more responsible and made more accountable.

This is not a totally fair criticism. Factors beyond the control of aid agencies are often far more powerful. When it comes to development projects, it is now widely recognized that macro-level political, economic and environmental forces can completely overwhelm and undo the benefits of a development project. But the expectation that humanitarian aid can, *by*

Ne Durlay / Panos Pictures



Positive feedback from those affected by war may be obvious but is hard to measure: mobility restored with an artificial limb, for instance, or...

unpredictable funding, overly short time horizons, overfunding of certain programmes and crises and underfunding of others, uncoordinated funding decisions between different donors, delays in disbursements, political influence on humanitarian aid decisions, etc.

Humanitarian aid should not be driven only by a one-sided interpretation of cost-effectiveness such as “value for money” (with, in practice, emphasis on “cost”, as that is easier to measure). The real criterion is whether the aid has brought “value for people”: that can only be ascertained if the views of the intended

The politicians: who must end conflict?

Who is responsible for ending a war and creating a durable peace; what is the nature of international obligations in this regard; and how are the duty-bearers held to account? These are difficult questions for which there are as yet no clear answers.

The argument has been made that humanitarian aid can “prolong” conflicts in various ways. Humanitarians have been accused of “political naivety”, of failing to see how conflict entrepreneurs have incorporated their presence and resources into their tactics of war, and of not actively contributing to peace-building.

itself and in any significant way, influence the war economy, bring “development” in unstable situations or bring peace, has not yet been fully abandoned.

In return, some humanitarians claim that war is a failure of politics and that the spotlight of accountability should therefore be on the politicians who, through their acts of commission or omission, have encouraged violence or allowed the conflict entrepreneurs to go ahead quite unhindered. They argue that it is the responsibility of politicians to create the conditions in which they can carry out their tasks.



...a family together again.

That argument is valid. But it does not absolve them of their responsibility to minimize being manipulated, and the power of politicians should not be exaggerated.

- Politicians, especially in democratic countries, need to juggle the views of their domestic constituency, with their “international obligations”. The two may not converge. Do humanitarian agencies invest enough to help create an informed constituency in their home countries that supports a responsible foreign policy?
- Furthermore, it would be rather naïve to believe that politicians have a “magic bullet” for conflict resolution that humanitarians do not have. Often, they too can only rely on the power of persuasion.

Clearly though, from an accountability point of view, serious work is needed to elucidate what, in an ever more global or “interconnected” world, international “political responsibility” really means. Domestic political constituencies need to be encouraged to see themselves more as “global citizens”. This is not the primary responsibility of aid agencies, but of governments, through education, and of the media.

Towards a responsibility-based humanitarianism

Humanitarian action has long been said to be “needs-based”. While useful as a moral argument, in reality the logic of humanitarian action is usually more determined by other factors such as access, funding, selective agency competencies, historical involvement with a particular

region or country, solidarity, geo-political interests, etc. From an operational point of view, it is also a crippled concept because it is too open-ended (e.g. needs are unlimited, no distinction is made between short-term and deeper structural, long-term needs) and does not focus on local capacities. Recently, there has been growing interest in “vulnerability-capacity analysis”. While encouraging actions that are contextually better informed, this concept does not allow for a clearer demarcation between “humanitarian” and more “developmental” types of situations. Whereas that demarcation is possibly not very meaningful in contexts of natural and technological disasters, it is so in situations of conflict, because different legal frameworks will apply.

A different approach, gaining in interest, is that of rights-based programming.⁸ But rights beg the question of responsibilities: who is responsible for the protection, restoration and fulfilment of people’s rights? The answer in the 20th century was “the State” and/or the “parties to the conflict”. But if the power and capacity of States, by choice or default, has weakened, *also because of* the growing number and influence of multilateral and non-State actors, this answer needs to be reviewed. ■

⁸ H. Slim, “Not Philanthropy but Rights: the Proper Politicisation of Humanitarian Philosophy”, *International Journal of Human Rights*, Vol. 6, No. 2, Frank Cass, London 2002.



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Accountability: a framework

THE AIM OF HUMANITARIAN ACTION in war is to relieve suffering without thought of any financial, economic or political return. That is why there has been a tendency to consider it as being first and foremost a “good deed” for those who benefit. However, this opens the way for all kinds of blunders, in which the provision of aid may not only be inappropriate but may also generate even more violence. In addition, the increasing number of humanitarian organizations, their growing professionalism and the complexity of current situations have all highlighted the need to improve the quality of humanitarian actions. Finally, pressure is being exerted by the donors, requiring the humanitarian organizations not only to present their accounts but also to account for their actions.

Over the past 20 years, various codes and guidelines have been drawn up with this in mind. The idea is not a new one. After the battle of Solferino, Henry Dunant

sought to place the “humanitarian gesture” within a legal framework which would become international humanitarian law. More recently the notion has emerged that control mechanisms should be established in order to ensure that humanitarian actions are consistent with the standards set. Looming on the horizon was the possibility of regulatory mechanisms and sanctions to be applied to humanitarian personnel whose actions failed to comply with these standards. This approach has sparked off a great debate over the relevance of such mechanisms and the applicability of appropriate standards to humanitarian actions. The opposing points of view in this debate reflect the lack of a wider perspective which would incorporate actions, standards and control mechanisms within a consistent whole. This is what is intended by the notion of “accountability”.

The term “accountability” will be defined in this article as the notion of responsibilities binding the parties involved in one way or another in armed conflicts. However, “humanitarian accountability” in armed conflicts cannot be analysed simultaneously with “political

accountability”, as the former depends on the latter. The humanitarian consequences of armed conflicts stem from the manner in which hostilities are conducted and whether the parties to the conflict grant the humanitarian organizations access to the victims of the conflict. On the other hand, the capacity of the organizations to respond is often subject to the financial resources allocated by States for humanitarian action. The interdependence of the responsibilities is due to the multiplicity of the parties concerned and also to the complexity of the relations between them. Thus, analysis of the responsibilities has to take into account the dynamic process in which they are involved. Any change in the relations between two parties will have an impact on all the others. This article will focus on certain aspects of the dynamics of these responsibilities and the way in which they are divided between the parties.

Accountability: a concept

The word “accountability” focuses on the notion of responsibilities (i.e. being

So-called donor fatigue in the face of chronic situations apparently beyond a political solution will affect which situations are addressed by humanitarian action. Here, southern Sudan.

Humanitarian organizations...need to see themselves ...as spokesmen for the victims...

responsible for one's actions towards others; being able to render an account for one's actions). "Responsibility" may be defined as consisting of three components, as follows:

- the action which binds the various actors;
- the normative framework serving to define the action; and
- the mechanisms which are responsible for monitoring and, if necessary, correcting the course of the action, as well as establishing regulatory measures and sanctions applicable to those whose actions fail to comply with the standards.

The limits of the concept reflect the limits of each of these elements. While international humanitarian law, for example, is universally recognized as the reference which defines the obligations of the parties to the conflict and, by extension, the rights of the victims, there are many other humanitarian codes and standards which do not have the same legal status or universal recognition. Thus, an organization may decide not to be guided by them without considering such a decision to be irresponsible. However, this may lead to arguments and even hostilities

with other organizations which take a different view of the role of the standards in defining their responsibilities. Similarly, the humanitarian organizations are far from unanimous when it comes to subscribing to control mechanisms. While all of them may understand the importance of such mechanisms as a means of guaranteeing a minimum of compliance with the standards, this does not stop them from trying to remain independent of such control.

The fact that the concept has limits does not mean that it is of no value. Accountability is a general framework which enables each organization to clarify its responsibilities in relation to those of others without in any way developing "humanitarian clones".

Humanitarian responsibilities

Aid to the victims: the bedrock for defining the humanitarian organizations' responsibilities

Although the humanitarian organizations are all in favour of improved accountability, each one has its own perception of what

this means. The distinctions between them relate not to the general objective of humanitarian action but rather to the strategies for achieving it, these being generally drawn up on the basis of their perception of their duties towards the victims. A genuinely contextualized analysis of humanitarian situations cannot confine itself – as is all too often the case – to taking into account the constraints which tend to limit the capacity of the humanitarian organizations to meet their obligations. On the contrary, it must broaden its scope to include a proper recognition of the role of the victims in asserting their rights through a participatory approach.

Such an approach has important consequences for the type of responsibilities linking the victims to the humanitarian organizations. The latter need to see themselves not just as service-providers but as the spokesmen for the victims, transmitting their views to those whose duty it is to ensure that the fundamental rights of the victims are respected.

The normative, ethical or political framework

Through this switch of focus, the new approach makes it possible to pay greater attention to the values of the victims when decisions are made which concern them directly. As a result, humanitarian action gains on the ethical level. This is an important point when we recall that, in various armed conflicts, it is the values of the victims which are called into question. However, there are limits to this approach. As decisions have to be taken very quickly during the acute phase of armed conflicts, it is often difficult to carry out the sort of in-depth analysis which will allow the victims to express themselves fully on the way in which they might be involved in the humanitarian action which concerns them. Some would say that, with this approach, there is a danger of attending to the political and socio-economic interests of the victims rather than their values. In such a case, humanitarian action would be serving the interests of political groups, generally to the detriment of the most vulnerable. During this phase, a normative framework based on the rigour of humanitarian law is essential to ensure the fairness of the humanitarian action.

When the humanitarian organizations come to tackle the post-conflict phase, where the aim is *reconstruction* – or possibly *development*, if starting out on new bases – the distinction between the values and interests of the population is no longer so clear-cut. After all, it is up to the people to decide what type of political, social and economic system they want to belong to.

The problem which then arises is to determine the point at which humanitarian action ceases and development aid begins,

i.e. the point beyond which it is necessary to switch to a political frame of reference.

Responsibilities within the humanitarian community

Whenever this issue is raised, the debate can easily descend into polemic, given the emotional terms in which the humanitarian organizations view their action, not to mention the spirit of competition discerned by some. To clarify matters, it is worth recalling certain essential elements.

- The definition and division of responsibilities between the humanitarian organizations need to be analysed on the basis of the responsibilities which they are ready to assume in relation to the victims. Otherwise, the debate on humanitarian action is in danger of becoming sterile, a turf war over the positioning of the humanitarian organizations in relation to each other, which does nothing to promote a greater assumption of responsibilities in favour of the victims.
- Standardization is a means of improving the quality of services in humanitarian actions. However, if pursued blindly, this approach can result in the establishment of standard solutions which no longer reflect the complexity and particular nature of each situation.
- The definition of the role of each actor is codified by external standards, such as the mandate entrusted to the ICRC by the States, as well as by the internal standards drawn up by the humanitarian organization itself. This results in differences which enable them to cope with the disparities in the situations but which can also generate duplication and antagonism between the humanitarian organizations.

If the organizations differ, it is perhaps because the situations in which they operate are themselves very different. Neither anarchy nor a standardization taken to extremes can provide a satisfactory answer in the necessary search for an improvement in the quality of humanitarian action.

Is it possible, then, to find a middle ground between these extremes and to propose measures which would permit a better definition of responsibilities and a harmonization of roles, while at the same time allowing the humanitarian organizations to retain that individuality which gives them the strength to cope with the diversity of the situations confronting them?

Political and humanitarian responsibilities

The humanitarian consequences of armed conflicts

Humanitarian action addresses – or, better still, prevents – the consequences of armed conflicts, the nature and scale of which are more often than not directly linked to the conduct of the belligerents. It is increasingly the non-combatants who suffer and die, whether because the belligerents are indifferent to their fate or because they intend to harm or even destroy them. In this case, the objective of humanitarian action is opposed to the objectives of the parties to the conflict. Humanitarian action not only derives its origins from the way in which hostilities are conducted, but its effectiveness depends to a great extent on the room for manoeuvre which the parties to the conflict allow the humanitarian



From negotiations behind the scenes to public denunciation: the ways in which organizations get players to assume their responsibilities towards the victims vary widely.

organizations, particularly in terms of access to the victims. In evaluating the impact of humanitarian action, it is necessary to take these political dimensions into account and the responsibilities of the humanitarian organizations need to be analysed in parallel with those of the other actors (parties to the conflict, political entities, donors, the media).

Confusion of responsibilities

International humanitarian law describes in great detail the duties of the parties to the conflict and Article 1 of the Geneva Conventions and the Additional Protocols recalls that the High Contracting Parties are under an obligation to respect and to ensure respect for the Conventions (See *Respecting and ensuring respect for humanitarian norms*, page 30). Thus, the responsibilities owed by the parties to the conflict to the persons protected by international humanitarian law are clearly laid down at the outset, namely to prevent or at least mitigate the humanitarian consequences of armed conflicts and to afford protection and assistance to the victims.

There tends to be a confusion of responsibilities. The humanitarian

organizations are perceived as having the prime responsibility of managing the humanitarian consequences of armed conflicts. A second confusion arises from the fact that the political players may jointly conduct humanitarian actions in the context of their operations to maintain and to restore peace. All of this tends to blur the distinction in the eyes of the victims between the humanitarian and the political players, with the result that both are held responsible for armed conflicts and their consequences.

Donors are tending to become more and more involved in the decision-making processes with regard to the establishment of the priorities, objectives and strategies of humanitarian action. It is open to question whether this involvement offers any added value or improves the quality of humanitarian action. The concentration of funds on certain contexts at the expense of others affects the choice of the situations which will be addressed by humanitarian action. Is this the result of simple donor fatigue in the face of chronic situations apparently beyond a political solution or is it rather a deliberate choice to get the humanitarian organizations to act in

situations which fulfil particular geopolitical criteria rather than humanitarian needs? This question needs to be put in terms of the areas of responsibility to which the donors refer.

The duty of influence

A refusal to recognize an interdependence between the political players and the humanitarian organizations opens the way to a radicalization of behaviour. To ignore the need for humanitarian action to be independent is to run the risk of it being drawn into political strategies and indeed manipulated.

The first responsibility of the humanitarian organizations is to bring their influence to bear on all the players (parties to the conflict, governments, economic groups, the media) and get them to assume their responsibilities towards the victims. The way in which this influence is exercised may vary from one humanitarian organization to another, ranging from negotiations behind the scenes to public denunciation.

This duty of influence also applies to the rules governing the conduct of hostilities and the means used to wage

How is it possible to preserve the independence of humanitarian action when it falls, *de facto*, within a political framework?

war. We have seen the involvement of the humanitarian organizations in the campaign which brought about the prohibition of antipersonnel mines and the efforts of some of them to make the political players aware of the humanitarian consequences of economic embargoes. Similarly, the humanitarian organizations analyse the development of new weapons and encourage governments to establish mechanisms which ensure that these arms remain within the limits laid down by humanitarian law.

The adoption of the Statute of the International Criminal Court in 1998 is a recent example which demonstrates the will of the international community to fight impunity. The humanitarian organizations played an important role in the development of the court. In the long run, these sanction mechanisms may well help to reduce violations of the rules of international humanitarian law.

These few examples serve to illustrate the types of influence which the humanitarian organizations can bring to bear on the other parties concerned, particularly the political players. In addition, we can cite the role of the

humanitarian organizations in relation to the media and the influence they can have in this domain; for example, through the information which they provide.

To what extent can the humanitarian organizations influence the political players? Is there a limit beyond which a humanitarian organization – through its influence in the political domain – becomes a political player, or at least is perceived as one?

The States provide a large share of the financing of humanitarian aid and have to account for the use of the funds allocated to the humanitarian organizations. However, the States are now going far beyond a simple insistence on financial transparency. The extent to which humanitarian action is being incorporated into an overall political strategy threatens to undermine the independence of the humanitarian organizations. We need to ask, therefore, what limits must be placed on the influence of politics over humanitarian action.

Striving for transparency

We must be careful not to confuse issues. The definition of the responsibilities of the

humanitarian organizations involved in situations connected with armed conflicts must be based on the needs of the victims. The division of responsibilities between the organizations themselves is subsidiary to this prerequisite. This common reference is the basis for the development of an ethical approach both to the management of the humanitarian consequences of armed conflicts and to the latter's political management.

In practice, all the parties concerned need to explain more clearly the responsibilities they are prepared to assume. This concern for transparency must be matched by a clear definition of the standards to which each side refers. At the same time, the dynamics which link together all forms of responsibility need to be acknowledged.

It remains to be seen whether recognition of a reciprocal duty of influence will permit interdependence to be reconciled with independence. ■

This article has been translated from the original French.

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Interrelationships between humanitarian organizations

THE SHORTCOMINGS OF humanitarian organizations have come under the public spotlight more in the last five to six years than in the previous two decades. This became a central issue in media reporting of the humanitarian response to the crisis in Rwanda in 1994, and has been a recurrent theme ever since. A number of articles have questioned the accountability of humanitarian organizations, particularly non-governmental organizations (NGOs).¹ Meanwhile, many of the most difficult humanitarian operations are being carried out in situations where there is no formal State authority, or where the State is very weak, for example in Somalia, eastern Democratic Republic of the Congo (DRC) and Afghanistan. In these environments the “usual” accountability mechanisms between international aid agencies and the government of the recipient country simply do not exist. It is not surprising, therefore, that emergency aid has been called one of the largest unregulated industries in the world.

Humanitarian organizations have not sat idly by, and there has been an active if

unresolved debate within the sector. Indeed, humanitarian organizations have launched a number of their own so-called “accountability initiatives”, especially since the mid-1990s. Many of these focus on the interrelationships between humanitarian organizations, and most have been initiated by NGOs and the International Red Cross and Red Crescent Movement. This article reviews some of these initiatives and their origins. It begins by considering the varied types of relationship that exist between humanitarian organizations.

Humanitarian organizations and how they interact

But first, what do we mean by “humanitarian organizations”? This article takes a broad view and includes national and international NGOs, the Red Cross/Red Crescent Movement and some UN agencies – as long as their mandates and objectives are partially humanitarian. In fact, rather few of these organizations have a mandate which is solely humanitarian like those of the International Committee of the Red Cross (ICRC) and *Médecins*

sans frontières (MSF). Most have a development mandate as well, which usually accounts for the larger part of the organizations’ resources and effort, and has a strong influence over their approach to humanitarian work. In this article we are not directly concerned with bilateral donor government agencies.

The interrelationships between these different types of organization are many and complex, and throw up different types of accountability, as evidenced by the following examples.

- One humanitarian organization may be funding another; for example, an international NGO which channels funds through national NGOs. This raises the more conventional notion of financial accountability, although there are likely to be other dimensions to the relationship, such as capacity-building.
- A growing number of humanitarian organizations are part of a larger “family” of international NGOs, such as Oxfam and CARE. In this case the relationship

¹ See, for example, The Non-governmental Order in *The Economist*, 9 December 1999.



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Interrelationships between humanitarian organizations

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Humanitarian agencies are thick on the ground nowadays, all with different specialities and mandates.

is most likely to revolve around a common mandate, and there is often strong peer pressure to meet that mandate. Agencies may also be accountable to one another through agreements about an appropriate division of labour between the different “national” NGOs that belong to an international family.

- One humanitarian organization may be supplying another with relief resources; for example, the World Food Programme (WFP) provides emergency food aid to a number of international and national NGOs for distribution to beneficiaries. The relationship here may be covered by a Memorandum of Understanding or even by a formal contract. One humanitarian organization may be working in close partnership with another to deliver humanitarian assistance – for example, in a refugee/displaced persons’ camp, where one organization is responsible for water and sanitation and another for health. The relationship in this case is usually more informal, based on cooperation and a close working arrangement.
- One humanitarian organization may be charged (formally or informally) with

coordinating the humanitarian response and therefore coordinating all other humanitarian organizations – the “lead agency approach” – for example, UNHCR during the Kosovo crisis or UNICEF in the southern sector of Operation Lifeline Sudan. This coordination role may include negotiating with warring parties for access to potential beneficiaries, on behalf of other humanitarian organizations, and is usually based on coordination by consent.²

The list could go on. What it demonstrates is the complex web of interdependency between humanitarian organizations in practice, from the conventional funding relationship to more complicated issues of partnership and representation. Yet, as Raynard has highlighted,³ there is a general lack of clearly defined responsibilities amongst the organizations. If food aid is not delivered to those in need, it may be difficult to establish whether this is the responsibility of the implementing NGO, or of WFP which is supplying the food, or of the donors who are supposed to provide the financial resources.⁴ This, in turn, makes it harder to establish and

strengthen mechanisms of accountability *within* the humanitarian system.

Partly for this reason, it has sometimes been suggested that evaluations of humanitarian operations should be system-wide or, in other words, should look at the entire international response to a humanitarian crisis. Only this type of evaluation really deals with the complex relationships between humanitarian organizations and identifies what has worked and what has not, i.e. fulfils an accountability function between agencies. But in practice, there has only been one such evaluation, namely the seminal evaluation of the international humanitarian response to the crisis in Rwanda in 1994.⁵ There have been some discussions within ALNAP⁶ about the value of a system-wide evaluation of the international humanitarian response, for example to the 1998 famine in southern Sudan, and to the Kosovo crisis in 1999. But neither materialized, partly because of the enormity of the task. Instead, evaluations are usually commissioned by a single humanitarian organization, focusing on its own performance. Of course this may take into account some interrelationships, but not at a system level.

Yardsticks

Humanitarian organizations have found themselves increasingly responding to humanitarian crises in the midst of war and violent conflict. International humanitarian law (IHL), enshrined in the Geneva Conventions, provides a set of rules about how war should be fought. It refers to the obligations of warring parties towards non-combatants, and states the principles such as impartiality that are supposed to govern the provision of humanitarian assistance. Although most States have signed up to the Geneva Conventions, the mechanisms for holding States and other warring parties accountable to these rules are weak. Also, apart from the ICRC, humanitarian organizations have no recognizable legal obligations under IHL. In other words, there is no legislative accountability of humanitarian organizations. Partly because of this weakness of legislative accountability, partly because of an awareness of the importance and value of humanitarian organizations working to the same principles, particularly in war zones, there has been a proliferation of “codes of conduct” in the last six years. A number of these incorporate some of the principles from IHL.

The “original” Code of Conduct – the Code of Conduct for the International Red Cross and Red Crescent Movement and NGOs in Disaster Relief – was drawn up in 1994 and has attracted hundreds of signatories since. This was one of the first attempts to apply basic principles and “standards of behaviour” across the humanitarian sector – for example, by calculating aid priorities on the basis of need alone and involving beneficiaries in

the management of relief aid.⁷ But it is pitched at a very general level, against which it is hard to monitor performance. Since then, there has been a proliferation of other inter-agency codes of conduct.⁸ A number of these have been drawn up for specific emergencies, such as the “Principles of Engagement for Emergency Humanitarian Assistance in the DRC”, and the “Sierra Leone Code of Conduct”. Some are geared specifically to warring parties in order to secure their agreement to certain standards and principles, like the Ground Rules negotiated for southern Sudan in 1995. Others have been more concerned to guide the behaviour of humanitarian organizations to ensure they are working to the same principles. Greater consistency in agency practice, particularly in dealings with warring parties, should reduce the likelihood that one agency will be played off against another and that humanitarian space will be manipulated as a result.

For some of the other codes, such as the Code of Conduct of the Australian Council for Overseas Aid (ACFOA) and the People in Aid Code of Best Practice in the Management and Support of Aid Personnel, the motivation is usually improved and more professional performance. For example, People in Aid is specifically concerned with improving the quality of human resource management.

This proliferation of codes is an indicator of the level of concern amongst humanitarian organizations to improve quality and performance, but the impact on accountability is, so far, limited. Opt-in to most of the codes is voluntary. There are very few examples of mandatory sign-up.⁹ Undoubtedly, peer pressure

encourages agencies to sign, but there are currently limited, if any, means for measuring compliance across the sector. As Raynard puts it:

“Any policy statement or commitment to a code of conduct on the part of an organization is only as good as the ability of the individuals within it to put those policies into practice... Accountability therefore needs to be embedded in the governance and management of organizations.”¹⁰

Indeed, some commentators have pointed out that agencies are unlikely to whistle-blow on one another because of the anticipated negative effect on how the humanitarian aid sector is perceived as a whole.¹¹

The most ambitious attempt to improve performance and accountability across the humanitarian aid sector is the Sphere Project. Launched in 1997, it has

2 The most common approach to coordination, however, is the appointment of an individual within the UN as the Resident Coordinator or as Humanitarian Coordinator, as in DRC and in East Timor. See N. Reindorp and P. Wiles, *Humanitarian Coordination: Lessons from Recent Field Experience*, a study commissioned by the Office for the Coordination of Humanitarian Affairs, 2000.

3 P. Raynard, *Mapping Accountability in Humanitarian Assistance*, report presented to ALNAP, see footnote 6, at the bi-annual meeting in April 2000.

4 Of course, the reason for failure to deliver food aid may be to do with entirely external causes – for instance, access may be denied by belligerents. This would also have to be factored into any analysis of failure and the extent to which more could have been done to negotiate humanitarian space by humanitarian aid agencies.

5 J. Eriksson, *The International Response to Conflict and Genocide: Lessons from the Rwanda Experience*, Synthesis Report, Steering Committee of the Joint Evaluation of Emergency Assistance to Rwanda, Copenhagen, 1996.

6 Established in 1997, the Active Learning Network for Accountability and Performance in Humanitarian Action (ALNAP) is an international inter-agency forum working to improve learning and accountability across the humanitarian system. ALNAP members hold bi-annual meetings at which the issue of a system-wide evaluation has sometimes been discussed.

7 *Code of Conduct for the International Red Cross and Red Crescent Movement and NGOs in Disaster Relief*, IFRC, 1996.

8 “Relief and Rehabilitation Network”, *RRN Newsletter*, No. 13, ODI, London, 1999.

9 Two exceptions are (1) the Disasters Emergency Committee (DEC) in the UK – all member UK NGOs must sign up to the Red Cross/NGO Code of Conduct if they wish to join the DEC, and (2) AusAID, which requires Australian NGOs to sign up to the ACFOA Code if they are to be accredited.

10 See footnote 3.

11 N. Leader, “Codes of Conduct: Who Needs Them?”, Editorial, *RRN Newsletter*, No. 13, ODI, London, 1999.

been described as “one of the largest collaboration and consultation processes that the humanitarian community has ever experienced”.¹² It has resulted in a handbook that contains a humanitarian charter, along with minimum standards and key indicators for disaster assistance in five sectors: water and sanitation; nutrition; food aid; shelter and site planning; and health services. The dissemination of Sphere has been impressive: it has now been translated into at least five languages and hundreds of individuals have been trained.

The Sphere Project has also generated a lively debate within the humanitarian sector, which has tended to polarize agencies into those that support the Sphere standards and those that are against. The critique against raises concerns such as Sphere’s focus on technical standards and contends that it does not address issues of protection which may sometimes be compromised by the provision of material assistance. There has also been debate and sometimes confusion about whether the standards represent an absolute minimum, implying that inability to reach them means failure, or whether they are aspirational,

although a recent contribution from an Oxfam manager states that:

“Ultimately, Sphere standards need to be seen as guidelines that we try to reach, and for the moment they cannot be much more than this.”¹³

Less clear is how Sphere has contributed to improved accountability, although this is one of its stated aims. One of the concerns of agencies that oppose Sphere is also that donor governments may insist that their implementing partners adhere to Sphere standards, thus locking them into ever-closer relationships with donor governments that may be pursuing political objectives rather than just humanitarian ones.¹⁴ But, as a number of commentators have noted, Sphere is currently more of a “tool than a rule”, and a mechanism for raising the quality of humanitarian assistance.^{15, 16} Opt-in and sign-up are voluntary. Mechanisms are not yet in place for monitoring compliance, nor for imposing sanctions for lack of compliance. These would be inappropriate at this stage in Sphere’s development. Thus, the claim that it enhances accountability seems somewhat misplaced.

In contrast, the People in Aid Code of Best Practice in the Management and Support of Aid Personnel is one of the few codes that does directly address issues of accountability. Agencies signing up must agree to an external audit of social accountability. Only when they have fulfilled a range of conditions, based on reporting, audit and disclosure of progress, may they state that they follow the code. Twelve agencies agreed to pilot the code, of which seven have so far fulfilled the conditions. This is no mean feat in four years. However, compared with Sphere, People in Aid covers more charted territory and can draw upon social accountability practice pioneered in other sectors.

Going for quality rather than accountability

Overall, although accountability has been much discussed by humanitarian organizations, rather little progress appears to have been made through the initiatives discussed in this article. In terms of the interrelationships between humanitarian

organizations, the unclear division of responsibility between organizations seems to be at the root of this. The sector is still hugely diverse and humanitarian organizations are still far from signing up to the same humanitarian principles.

Instead, efforts have focused on improving quality and performance, through initiatives such as Sphere. There appear to have been two strong motivations. First, to improve the effectiveness of humanitarian assistance, in response to both public and internal criticisms. In taking these initiatives, humanitarian organizations have been keen to stay in control of their own destinies, rather than be subject to the monitoring and initiatives of some external regulatory body. Second, the recent and rapid growth in the number of humanitarian organizations, particularly international NGOs, has raised concern amongst the more experienced and established ones to set and maintain standards of humanitarian assistance.¹⁷ Whilst there is a tendency to lump all NGOs into one category, some are much longer-established and more experienced

than others. The latter are particularly motivated to promote and protect the professionalization of humanitarian aid work, and improved performance of NGOs overall.

Some have argued that a logical next step would be some form of voluntary accreditation for humanitarian organizations.¹⁸ Of course, this throws up issues about the standards and performance measures that would be used in any accreditation process. Should these be the “technical standards” of Sphere, or process standards that refer to management, learning and evaluation, and/or what role might there be for the original Code of Conduct?¹⁹ These are important questions to be addressed, but the time may be ripe to entertain and begin to develop this particular idea, as a natural evolution beyond the initiatives reviewed here.

Although concerns about accountability have driven many of the initiatives described above, they should more appropriately be termed “quality initiatives”. A lot of valuable investment has gone into developing these initiatives, but their overall effectiveness is still to be

proven. A first step in this direction will be the evaluation of Sphere, to be commenced shortly.

To an important extent, the effort that has gone into developing these standards and codes has focused the spotlight on the interrelationships *between* humanitarian organizations, rather than on the dominating relationship between funder and implementing partner. ■

12 S. Lowrie, “Sphere at the End of Phase II”, *Humanitarian Exchange*, No. 17, Humanitarian Practice Network, ODI, London, 2000.

13 F. Mompont, “Using Sphere: Oxfam’s Experience in West Africa”, *Humanitarian Exchange*, No. 17, Humanitarian Practice Network, ODI, London, 2000.

14 F. Terry, “The Limits and Risks of Regulation Mechanisms for Humanitarian Action”, *Humanitarian Exchange*, No. 17, Humanitarian Practice Network, ODI, London, 2000.

15 K. Van Brabant, “Regaining Perspective: The Debate over Quality Assurance and Accountability”, *Humanitarian Exchange*, No. 17, Humanitarian Practice Network, ODI, London, 2000.

16 See footnote 3.

17 In Kosovo, for example, there were over 300 NGOs at the height of the crisis. In Rwanda five years earlier there were over 200.

18 This argument was put forward by Nick Stockton of Oxfam at an international working conference on “Enhancing the Quality of Humanitarian Assistance”, held in The Hague on 12 October 2001, and was widely discussed by participants.

19 At this same conference, there were a number of calls for developing the original Code of Conduct, for example by “unpacking” it and/or by providing an interpretation of its broad principles and indicators against which adherence could be monitored.

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The political dimension



Franco Pagetti / ICRC

In the past, some donor governments have withheld humanitarian aid to Afghanistan on the grounds that the Taliban's policy made it impossible to deliver it effectively.

HUMANITARIAN AID HAS ALWAYS been a highly political activity. Efforts to enhance the protection of civilians, and to secure access for the provision of assistance, rely upon engaging with political and military authorities. Wars are not only about capturing territory and assets, they are also about controlling civilian populations in order to harm or protect them. Thus, by definition, humanitarian interventions that aim to protect civilians necessarily affect the political economy of conflict. The provision of humanitarian assistance has also been influenced by strategic interests of donor governments, as well as by the media visibility of particular conflicts. Thus, the issue is not *whether* humanitarian aid is political, but *how*.

Humanitarian principles can be seen as a set of rules to define the particular kind of politics of humanitarian action.¹ The principle of impartiality defines entitlement to assistance and protection on the basis of need and not according to the political, racial or ethnic affiliation of affected people. Humanitarian access has been contingent upon observing the principle of neutrality, i.e. not taking a position with regard to the justice or otherwise of any particular cause. These principles have implied a separation of what might be called “humanitarian politics” from the partisan politics of warring parties and the foreign policy interests of other States.²

In the post-Cold War era, this distinction between humanitarian politics and other forms of political action is becoming increasingly unclear. So too are the responsibilities and mandates of humanitarian assistance organizations

and diplomatic and military bodies in responding to conflict-related crises. This article analyses the factors that are driving closer integration of aid and politics and the implications of this in practice.

“Politics”: whose responsibility?

Three key factors are driving the closer integration of humanitarian and broader political responses to conflict.

- The nature of contemporary warfare is changing, and this is forcing a search for new strategies to manage conflict. Permanent Members of the Security Council are finding it much more difficult to exert political leverage over warring parties that are often highly fragmented, and that rely for their survival on the extraction of natural resources and predation on civilians, not on superpower military budgets.
- Against this background it has been argued that aid can play a significant role in addressing conflict prevention and resolution. Claims are being made that, used badly, aid might exacerbate conflict; used well, it might be able to address its root causes: poverty, environmental degradation and weak public institutions.
- Finally, in many Western countries, there has been a reshaping of domestic politics in terms of both ideology and administration. Security of States is increasingly seen as being contingent on the control of not only nuclear missiles, but of HIV infection, refugee flows and environmental change. The process of globalization means that it is increasingly difficult to define the boundaries between domestic and international

policy, and thus between the responsibilities of different government departments. In particular, responsibility for the formulation and execution of international relations can no longer be contained within a single ministry of foreign affairs. Instead, it has become much more dispersed, with different government departments, including those responsible for aid, all playing a role.

Thus, particularly in Europe, the distinction that previously existed between aid and politics has been breaking down. Now, aid sits alongside diplomacy and military action as part of an integrated “international policy”, constituting a part of a wider framework designed to enhance human security and reduce conflict.

This framework is prompting real change in the organization and functioning of the international responses to humanitarian crises in conflict-affected countries. In the United Kingdom, for example, the Department for International Development (DFID) has assumed responsibility not only for the delivery



Aid: a highly political activity.

1 N. Leader, "Proliferating principles: How to sup with the devil without getting eaten", *Disasters*, 1998, Vol. 22(4), pp. 288-309.

2 D. Forsythe, *Humanitarian Politics*, Johns Hopkins University Press, Baltimore, 1977.

of international assistance, but for the definition and promotion of the United Kingdom's political strategy in relation to countries where there is an aid programme, but little clear strategic interest. Essentially, DFID has become the "Ministry for International Policy in Non-Strategic Countries".

This is particularly evident with regard to conflict-affected countries that are excluded from the mainstream of international relations, including development aid relations, because of sanctions and political conditionality. The "new humanitarianism" championed in the United Kingdom, and promoted at a European level, moves away from the idea that donor governments' only responsibility is to write cheques payable to the relief system. Instead many donor governments are adopting a much more proactive approach in the definition of humanitarian principles and practice and in the management of humanitarian operations.

Thus, for example, several donor governments have withheld humanitarian assistance to Afghanistan, arguing that the Taliban's policy in that country precludes

the effective delivery of relief. While donor attention to humanitarian principles is clearly welcome, its selectivity means that it is often difficult to distinguish between analysis of the *conditions* required for effective humanitarian action and political *conditionality* on humanitarian assistance.

This integration of humanitarian affairs within a broader foreign or, perhaps more accurately, *international* policy reached its nexus in Kosovo with the emergence of the Orwellian idea of a "humanitarian war". As Adam Roberts³ reminds us, the essential contradiction in NATO's intervention was not only or primarily its lack of UN mandate, but that the tactics it used could not deliver its stated objectives – the protection of civilians. In this context, it is hard not to conclude that the use of the humanitarian label served only as a thin veil behind which to hide wider strategic interests.

While there may be a convergence of interest between humanitarian and "harder" foreign policy interests – such as the prevention of large refugee flows – this does not mean that they are necessarily comfortable bedfellows.

As humanitarian action becomes enmeshed with international political and military priorities, its neutrality is lost and its impartiality compromised. Belligerents have been among the first to notice the disappearance of the aid-and-politics divide. In part because of this, securing access to conflict-affected populations is becoming more difficult and dangerous. Thus, for example, it has been reported that the Revolutionary United Front in Sierra Leone was very sensitive to the sources of funding of local NGOs, and in particular those receiving funds from the UK government, which was seen to have taken a tough line with regard to humanitarian assistance after the May 1997 *coup*. In other words, some donors/agencies were seen as more neutral and impartial than others. In integrating humanitarian operations into broader diplomatic and military strategy, the very practical function of neutrality has been ignored. Ultimately this may mean that the access of civilians to basic necessities such as food, water and shelter is reduced.

Another very practical implication of the casual compromise of humanitarian

principles is a growing acceptance that it is legitimate to withhold assistance to certain groups of civilians if this contributes to a process of conflict reduction in the future. Such an approach assumes not only that it is feasible to calculate the potential impact of (not) supplying assistance on a very complex set of political variables, but that international aid officials have the mandate and information required to make such calculations. Furthermore, this approach marks a profound shift of principle regarding the ethics of humanitarian action. It signals an end to the view that all civilians are entitled to

protection and assistance on the basis of their essential humanity, and a move towards a more utilitarian approach that accepts that the means justify the ends.

Technically, too, there are problems. There is little evidence that in the absence of a revitalized political strand, including appropriate military engagement, aid alone can make a significant contribution to conflict prevention or resolution. Aid flows globally are declining, but the list of objectives these are supposed to achieve continues to expand. However, the leverage aid can exert is limited, particularly when contrasted with the potential gains

belligerents can secure from illicit trade in resources such as diamonds, forest products and narcotics.⁴

There has also been little innovation in “projectizing” conflict prevention and resolution. Present efforts to use aid to prevent conflict and to build peace tend to be constructed around a relatively simple model of the causes of conflict that emphasizes competition for resources. Emphasizing the internal failures of States to develop sufficiently and to regulate conflict over scarce resources is to oversimplify the complex history of State formation and collapse. Increasing the material resource base, without also investing in political institutions and processes, is bound to fail. How to legitimately provide support to the process of building national political institutions at community and national levels is perhaps the most pressing, and as yet largely unaddressed, question facing the international aid and diplomatic communities.

Rather than seeking a revitalized and reformed diplomatic track, there is evidence that formal diplomacy is turning to aid organizations, including those engaged in humanitarian operations, for political analysis and intelligence. NGOs are increasingly at ease in high political fora. They are making appearances at the Security Council and providing informal briefings to diplomats, and some are even paid occasionally to provide intelligence to political organizations. While some international humanitarian agencies have

How to legitimately provide support to the process of building national political institutions at community and national levels is perhaps the most pressing, and as yet largely unaddressed, question facing the international aid and diplomatic communities.



Thierry Gassmann / ICRC

3 A. Roberts, “Humanitarian issues and agencies as triggers for international military action”, *International Review of the Red Cross*, No. 82, 2000, pp. 673-698.

4 See, for example, P. Le Billon *et al.*, “The political economy of war: what relief agencies need to know”, *Humanitarian Practice Network*, Network Paper 33, and *Forum: War, Money and Survival*, ICRC, Geneva, 2000.



The essence of humanitarian action: “a vital salve for the wounds of war”.

invested considerable resources in political analysis and informed advocacy, there are very real questions as to the consistency and robustness of the analysis presented by NGOs to political fora, as well as its ethics. Not only are principles of neutrality and impartiality potentially compromised by this more proximate engagement, but also there are real questions regarding the capacity of aid agencies to act as competent advocates in relation to particular conflicts.

Accountability co-opted?

In the last decade, and in particular in the aftermath of the genocide in Rwanda, there has been much greater scrutiny of humanitarian assistance by the media and donor governments. This was driven by

concern that the performance of relief agencies has been patchy, with many examples of humanitarian assistance being disbursed with little regard for quality or for its impact on conflict.

The crisis of confidence in the performance of humanitarian organizations has led to a dazzling array of initiatives to enhance performance and strengthen accountability of humanitarian actors. Codes of conduct, performance standards such as the Sphere Project, new networks for information exchange and debate⁵ and the rise of the evaluation of humanitarian action are all manifestations of what has been called the accountability revolution (see *Interrelationships between humanitarian organizations*, page 40).

In the sense that all of these initiatives are intended to ensure that those affected by conflict receive appropriate and effective assistance, they are to be welcomed. However, there is a not insignificant risk that the accountability revolution will be at best diluted, at worst co-opted.

There are two aspects to this. First, there is a risk that major donors will use performance arguments as a means of exerting political influence. In Serbia in 1999, for example, major donors scrutinized the functioning of the Serbian Red Cross with unprecedented thoroughness, nominally on performance grounds but

clearly strongly influenced by a particular political agenda. This raises the question as to who should undertake (and be responsible for) determining whether or not the conditions for effective delivery of assistance are in place – donors or their implementing partners? And who should scrutinize these decisions?

Second, the rapid expansion in the emphasis on accountability in the humanitarian arena has been only partially matched in the political domain. At one level there have been giant steps forward in terms of holding to account those responsible for major violations of human rights – the indictment of Slobodan Milosevic being the most obvious example.

Yet more remains to be done. The transparency and accountability of international political decision-making remains much less open to public scrutiny than humanitarian assistance, often hiding behind blanket claims of confidentiality. Very seldom are independent policy analysts provided with the mandate to scrutinize diplomatic and military responses to conflicts. The “Joint Evaluation of the International Response to Genocide and Conflict in Rwanda”⁶ remains an all-too-rare example of what could be done in this regard.

Managing the aid/politics relationship

Humanitarian organizations do not and should not live in a plastic bubble, insulated from the “nasty” business of politics. Rather, they are in the thick of it, and increasingly so. From occupying an esoteric space at the margins of international relations, “humanitarianism” is being redefined and placed centre-stage.

...many humanitarian organizations are allying themselves with the mono-politics of the West's political vision...They need to be aware that rather than being simply a substitute for political action, they might be becoming the primary form of political action undertaken by the West.

This new found prominence is a mixed blessing, offering opportunities as well as threats. Maximizing the rewards that can be drawn from renewed international concern for human rights relies upon developing a clearer *modus vivendi* between humanitarian actors and those responsible for diplomatic and military action.

The relative poverty of diplomacy in responding to “new wars”⁷ cannot be countered by investing in a political version of the “trickle down” theory of

allying themselves with the mono-politics of the West’s political vision. In doing so, they need to be aware that rather than being simply a *substitute* for political action, they might be becoming the primary *form* of political action undertaken by the West.

Ensuring that humanitarian organizations are engaged in humanitarian politics, and are not merely instruments of partisan politics at a global and domestic level, requires considerable effort on behalf of those organizations and of donor governments.

The consequences of this in practice remain relatively unevaluated, although preliminary evidence suggests this is likely to have negative implications for the welfare of conflict-affected populations but to yield only marginal gains politically.⁹ Safeguarding these principles, if necessary through appeal to national and international law, is a priority.

In other words, what is required is not so much an *integration* of aid, foreign policy and military action, but clarity

In the absence of clarity regarding mutual competence and obligations, there is a risk that... humanitarian assistance will become the scapegoat for the failings of politicians and armies.

economic approach. Injecting aid funds in the hope of reducing poverty, so reducing competition for resources, and/or securing political allegiance has proven an unreliable model. More sophisticated tools of analysis, as well as innovation in terms of politico-military strategies for engagement, are required to underpin interventions.

It will be important to ensure that political engagement in other peoples’ wars is self-critical. At present, there is a risk of assuming a “one size fits all” paradigm of the modern State and its responsibilities and political outlook. The tenets of what has been called “liberal peace”⁸ – promotion of human rights, democracy and free trade – are not uniformly understood or shared at a global level, particularly if they are used by powerful States to threaten the principle of unconditional sovereignty of others. By omission and commission, many humanitarian organizations are

The former would do well to re-examine their relationships with official donor governments and in particular ministries of foreign affairs, and the terms under which they work. Monitoring the consistency of the way in which donors apply conditions on humanitarian assistance and advocating to protect its neutrality and impartiality will be an important role. Similarly, NGOs and international organizations have been slow to recognize the potential contradictions in their claims that humanitarian assistance is compatible with efforts to actively resolve conflicts and invest in longer-term development.

As some donor governments, including in particular the United States, move to consolidate humanitarian assistance within a wider security framework, the particular character of the impartiality and independence of humanitarian assistance is under threat.

regarding mutual competence and obligations. In the absence of such clarity, there is a risk that rather than being simply a palliative, humanitarian assistance will become the scapegoat for the failings of politicians and armies. In the process, its ability to serve even its most minimal function – a vital salve for the wounds of war – is diminished. ■

5 Such as ALNAP - the Active Learning Network for Accountability and Performance of humanitarian assistance.

6 H. Adelman and A. Suhrke, *Early Warning and Conflict Management, Study II of the Joint Evaluation of Emergency Assistance to Rwanda*, Danida, Copenhagen, 1996.

7 M. Kaldor, *New and Old Wars: Organized Violence in a Global Era*, Stanford University Press, 1999.

8 M. Dillon and R. Reid, “Global Governance, Liberal Peace and Complex Emergencies”, unpublished mimeo, University of Lancaster, 2000.

9 See, for example, P. Uvin, “The Influence of Aid in Situations of Violent Conflict”, a synthesis report prepared for the DAC Informal Task Force on Conflict, Peace and Development of the findings of the project: “The limits and scope for the use of development assistance incentives and disincentives for influencing conflict situations”, OECD/DAC, Paris, 1999.

Media in conflict: the new reality not yet understood

THE TRADITIONAL ASSUMPTIONS of the relationship between the media, humanitarian organizations and all others involved in conflict and emergencies are fast becoming outdated and even irrelevant.

This means that assumptions about accountability are similarly outdated. As a result, mind-sets will have to change – or at least be modified – swiftly. Institutional understanding of the “media” dynamic has to a large extent become frozen in these old assumptions instead of rapidly adapting to the new realities that are driven by the new, cheap, lightweight capability of information technology to observe, record and bear witness from the field.

The new witnesses

Most significantly, the bearing of witness in crises can now often be done not just by journalists but by a whole new cadre of impromptu information “doers”. They are the new mediums, and they are presenting new challenges that are barely acknowledged, let alone considered. Many of these new information doers from conflict situations can now be amateurs

with little or no training in the principles of good journalism – namely, balance, impartiality and accuracy. A growing number are motivated advocates or partial campaigners who have found low-cost, low-tech but highly effective ways firstly to record and then to distribute their information and views in near real time.

This massive proliferation of new information gatherers and publication/ transmission outlets is challenging and bypassing the traditional definition of the media. Their work can efficiently seize the information high ground in an emergency, circumvent the traditional media and thereby have a profound impact that catches many unawares.

Less checks and balances

Crucially, the new transmission platforms – especially websites fed with information from the field, chat forums and mobile phones – have begun both to bypass and challenge the layered filtering and editing processes of the established broadcast and publishing news mediums. An increasing number of them may be subject to no

editorial scrutiny or standards. By way of both text and video on internet websites and other forms of distribution they are steadily finding ways to seize the information initiative from the traditional media. Often, though not always, they use questionable but enticing misrepresentations, exaggerations or polemics.

Indeed, the growing evidence is that their often unfiltered, wild-card content can make waves just as dramatically as the traditional radio, TV or newspaper platforms. Sometimes the impact can be even greater, with unpredictable consequences. The potential for distortion and/or misrepresentation is clear.

Significantly, they have been taking with them willing information receivers – especially from the less trusting younger generation. These audiences are no longer prepared to accept automatically and passively the reporting perspective of long established media brands, many of whom are considered by the new information doers to have a commercial and political agenda that either distorts or inadequately represents the core message they expect to be transmitted from a crisis. The radical



War on TV: the speed of change in technology has been breathtaking.

Middle East website “Electronic Intifada” states unequivocally on its homepage that it “will equip you to challenge myth, distortion, and spin in the media in an informed way, enabling you to effect positive changes in media coverage of the Palestinians and the Israeli-Palestinian conflict”.

A combination of this head-on challenge and the inexorable fragmenting of audiences highlights the growing signs that established media brands will eventually be weakened and their traditional influence undermined.

Recognizing the new developments

In summary, the media in conflict, crisis and emergency are no longer just what most believe them to be – the traditional news and information outlets of radio, newspapers and TV. As the old media matrix fractures and fragments at an extraordinarily rapid rate, many players in crisis have yet to embrace and confront these new realities.

The trend is not yet overwhelming, but in a matter of months it has been

established. As a result, its impact in crises is growing faster than many with the levers of power in government or public influence in the established media care to accept or admit.

Likewise, while the outlines of the new trend are clear, the nature and extent of the new information doers has yet to be fully identified, especially on the institutional media radar screens and by those involved in crisis management. But in the interests of preserving an acceptable level of integrity and credibility for information in crises they will have to be. And fast.

So, the role of the media in crisis is still being perceived through an understandable but outdated prism. This is hardly surprising, however, and no blame should be apportioned. The speed of change in both technology and information transparency since early 2001 has been exponential and breathtaking. Even major media organizations, along with government intelligence processing agencies assumed to be the best equipped and funded to cope, have been left floundering and gasping at the speed of developments.

The new realities are creating a formidable struggle to adapt information systems and work practices, not just in news rooms but also within governments, diplomacy and the military. NGOs must also confront this. Embracing the new media dynamic in crises has been shown to be a belated, painful process of catch-up that is usually well behind the curve of change.

Thus, what this author long ago warned would be a “tyranny of real time”¹ has now arrived with a vengeance. By its very nature, the new, cheap real-time technology is forcing the ditching of filtering and editing media processes in the interests of immediacy and real-time impact. But that can lead to increasingly imperfect and flawed information.

As a result the integrity, accuracy and balance of high profile information that seizes the high ground in moments of crisis and tension is often – though not always – not quite what it seems. Indeed, in this new proliferation of mediums

¹ N. Gowing, *Real-Time Television Coverage of Armed Conflicts and Diplomatic Crises: Does it Pressure or Distort Foreign Policy Decisions?*, Joan Shorenstein Barone Center, John F. Kennedy School of Government, Cambridge, MA, Harvard University, 1994.

and data generators, which piece of information is credible? Once information is out in the public domain, unfiltered and uncorroborated, yet seizing the initiative, how can it be checked and verified?

Even more important, as information timelines become relentlessly compressed, which new and partial information does with a laptop computer, digital camera and mobile uplink capability in a crisis zone might be knowingly trying to manipulate or deceive in a time of crisis? In their jungles or mountain hideouts, the warlords, warriors and guerrilla groups can now be as well equipped and IT savvy as both the traditional media and the advocacy groups with their PC and young webmaster in a city office.

And the established media?

The overall implications for the accountability of the established media must now be assumed to have the potential to become sweeping.

For a start, no longer will they be viewed obediently as the high priests of what is expected to be the most reliable information. Their versions can now be challenged explicitly, contemporaneously and credibly by other information doers.

These information doers also have the ability to create a rival, alternative agenda of issues and coverage to expose what some view as the usually narrow, often superficial agenda of traditional media outlets with their constraint of ever-shorter column inches or finite amounts of airtime for news and analysis.

Already some of the new information doers are showing how effectively they can both expose and challenge the inherent

editorial shortcomings of traditional media in conflict. As with the globalization street protests in Genoa, Gothenburg, Prague, Davos, Seattle and elsewhere, it could be said that the fundamental challenge to an existing status quo has been masked by the smoke and noise of a handful of dramatic, violent events. Before the terrorist outrages of 11 September in the United States, a fundamental upheaval was already under way, changing things faster than traditional thinkers had even begun to realize.

More exposure for world suffering?

There is, however, a positive upside for humanitarians who struggle to focus international attention on what they fear are victims and crises that are forgotten or ignored. They may suspect bias, propaganda and the power of commercial interests in some of the traditional media. Yet the recent evidence shows that the combination of the new, cheap, lightweight technology and the proliferation of transmission platforms means there is a far greater chance of war and the suffering of victims being both recorded and exposed, even if it is not to a mass media market. The swift and proliferating presence of MiniM and TV satellite uplinks in Northern Afghanistan within days of the 11 September outrages is partial proof of this.

Although critics complain that the prime time TV news programmes and main broadsheet newspapers appear to have abandoned coverage of all but the most dramatic humanitarian crises, the world has the chance to know much more about conflict than it ever did. By way of one medium or another, there is more coverage in text and video of more



A UNHCR spokesperson is interviewed by the BBC over satellite phone as Rwandan refugees return home.

conflicts and emergencies from more parts of the world than ever before. The IRIN and Alert Net websites² are but one vivid confirmation of this.

There is also the proliferation of young, sometimes callow freelancers who aspire to greater things in the media and want to take risks to bear witness to war and humanitarian crises, even if their earnings are minimal.

Some must be admired for the brilliance of the revelatory work that they have taken big risks for. Others have shown themselves to be inept and foolhardy, and thereby a liability to any media organization they claim to be working for.

Tragically, but inevitably, a handful of both the brilliant and inept have paid

the world has the chance to know much more about conflict than it ever did.

with their lives. Eight highly respected international journalists died in Afghanistan during three incidents involving both robbery and combat. From what we know, more journalists were killed in the first months of the hunt for Osama Bin Laden and al Qaeda than soldiers in the US-led forces. But this new breed of risk-takers continues to be willing to cross the lines into zones of conflict and emergencies to record suffering and the reasons for it where many would think twice and refuse.

Despite intense danger for humanitarian workers and a Russian bounty for anyone found with even a tiny camera and satellite uplink, the horrors of Chechnya have been exposed piecemeal by a small, determined band of defiant information doers. In late 1999 the Russian journalist Andre Babitsky of Radio Liberty was eventually detained by the Russians as a spy, handed over to Chechen guerrillas in exchange for Russian soldiers, according to some sources, and then narrowly escaped death.

Miguel Gil Moreno, an APTN cameraman, also spent four weeks living with the victims of Grozny and the Chechen

mountains in late December 1999 and early 2000. Uniquely, and at great risk, he recorded on his video camera the Stalingrad-like conditions of the capital, along with the slaughter of both Chechen civilians and Russian troops. On the morning he returned to Britain, he told me in the BBC World studio that Chechnya had been “the most frightening time of my life” but “I had to do it”.

Gil Moreno had done the same at great risk in many conflicts, including over many years in the Balkans. His vivid bearing of witness brought the horror to world TV screens and won him many awards. In May 2000 he was killed in an ambush in Sierra Leone with the Reuter correspondent Kurt Schork, a revered veteran of the Balkans since Croatia and Sarajevo in the early 1990s.

These are just three examples of great journalistic distinction in this new era of technology in conflict. They are proof of a determination to report horrors. Like scores of others, they were there and they bore witness, which must always remain the primary journalistic aim in a humanitarian crisis.

Bias or truth?

As surely as night follows day, there will always be accusations of media bias, often due to assumed commercial pressures or business interests of some media organizations. Without doubt, some concerns will be justified in some parts of the world. However, the reality about bias and truth is far more complex.

It is best illustrated by what happened to a commercial risk-taking media enterprise like the formerly independent Russian TV station NTV. In late 1999 – when it was still an independent media voice – NTV defied the Kremlin by dispatching brave Russian video journalists into Chechnya to reveal both the appalling fighting and the high, but still secret, casualty rate among Russian troops.

NTV's nightly coverage enraged Russia's political leaders. It exposed the Kremlin's deceit, the rising death toll among Russian soldiers and the dreadful human suffering in one of Russia's own



Emotions run high as Palestinian mothers grieve for their lost sons. Intifada-2 has underscored how real-time reporting can show unfolding incidents through contradictory prisms.

republics. NTV's motives for the coverage were clearly both commercial and journalistic, yet humanitarian suffering was exposed vividly.

But the policy carried a high price. Subsequently the Kremlin targeted NTV, engineered a commercial "takeover", forced the station's leading figures into exile and sacked the main editorial staff and on-air presenters. This was the commercial and editorial price for journalistic risk-taking and bearing of witness in war. It forced the Russian government to try and turn the screw even more decisively and ruthlessly on those journalists, information doers and diminishing number of media organizations who continued to try and defy the Kremlin's political determination.

In the new world of 24-hour channels on TV, radio and websites, the cacophony of accusations of media bias will always grow, especially from the participants in a crisis. But this is the price of the new information transparency in zones of conflict.

The warring factions – whether the government, insurgents or street protesters – now monitor the 24-hour output of most news stations. As Intifada-2 in the Middle East has shown, real-time reporting is uncomfortable for all sides because they see or hear unfolding incidents immediately through contradictory prisms during the heat of conflict. In different ways, each views factual reporting – including the inevitable imperfections in real time – as either a betrayal or tactical threat to their military operations.

The media in war today

As a result, there is often deep hostility and resentment towards the media, without acceptance or understanding of the new real-time realities. This has now led to a new insidious trend. The growing evidence being gathered from news organizations by the International Press Institute is that this is exposing camera operators and information doers on the ground to the new threat of being actively targeted by warring factions, including by government forces under orders to "eliminate and neutralize" those who bear witness to their military operations.

Overall, many will readily conclude that the media as traditionally perceived are in retreat in humanitarian crises. However, there are good reasons to confirm that the opposite is the case, albeit with a fast-changing matrix of media operators and new on-the-ground realities. It is nevertheless imperative that these realities are embraced and confronted.

A major concern is the effect of real-time reporting on accountability. The very immediacy of such reporting increases the

expectations and assumptions of accuracy. Yet the reality can be just the opposite, with impressions and rumours abounding. When the two aircraft were videoed flying into the World Trade Center on 11 September 2001, the images told us what had happened, but not why. Was it a massive air traffic control failure? Pilot error? A catastrophic on-board failure? Or the more unthinkable possibilities – at that stage – of hijacking and terrorism?

Inevitably, media anchors and correspondents began speculating. They can be accused of making the wrong assumptions and held to account for such inaccuracies. However, the new inherent tension of real-time reporting is precisely that the *fact* of an incident is often known and reported well before an accurate *explanation* for what has taken place.

Moreover, the recent recession and the collapse in advertising have highlighted the massive commercial pressures on media companies, both large and small. Reporting excellence since 11 September has been put under immense strain because good journalism costs money. Both newspapers and commercially-funded broadcasting media have been forced to bleed cash in order to fight for readership, while advertising income has slumped. Newspapers have become thinner and their very survival in the medium to long term has been put in question as, more than ever, the profit and loss accounts have failed to balance. ■

Dangerously close: following the war in Chechnya.



Missing

by Antonella Notari

Antonella Notari is the spokesperson of the ICRC. She has worked as a delegate in a number of conflict zones throughout the world since 1989. In her last field assignment, she was in charge of the process of clarifying the fate of people who had gone missing in Bosnia-Herzegovina. She wrote her observations in this article from the April 2002 issue of FORUM.

Nick Danziger (Contact Press Images)/ICRC



The Book of Belongings. This volume, put together by the ICRC, contains thousands of photos of items found with unidentified mortal remains in Bosnia-Herzegovina. For many families it is the only way to trace missing relatives.

QUOTE: "...prompted mainly by the right of families to know the fate of their relatives...each Party to the conflict shall search for the persons who have been reported missing by an adverse Party..." from Articles 32 and 33 of 1977 Protocol I additional to the 1949 Geneva Conventions

Photographs taken on a sunny Sunday picnic – the whole family gathered together smiling; photographs of confident students, swaggering soldiers, happy grooms; faded portraits countless times beheld, stroked with trembling fingers, carried close to the heart; pictures displayed like banners to ward off oblivion; photographs held out in a desperate gesture to anyone who might recognize the fading features, to anyone who might know something about a

cherished individual whose fate is unknown.

In countless scenes of armed conflict or political unrest around the world, parents, siblings, spouses, children and friends are immersed in the restless task of seeking. The circumstances in which people disappear may vary from one situation to another, but the devastating anguish and pain endured by their relatives and friends are always the same.

Uncertain of whether the people sought are alive or dead, their families and communities usually find it impossible to come to terms with the violent events that have disrupted their lives. They often remain trapped in their anxiety and outrage for years after the hostilities have subsided and peace has returned. As a result, they are unable to recover personally or achieve reconciliation at the community level. Future generations will therefore inevitably be imbued with resentment owing to the trauma and injustice suffered by the present generation. Such wounds fester, and can contaminate the fabric of society, poisoning relations between entire groups and even nations for decades after the actual events.

A close look at conflict and post-conflict situations around the world – the troubled peace in Cyprus or in Bosnia-Herzegovina, the strained relations between Iran and Iraq or Ethiopia and Eritrea, the near-impossible task of resolving the conflict over the Western Sahara, the relentless demands for truth and justice in Chile and Peru, the ongoing violence in Indonesia and the marathon conflict in Sri Lanka – reveals that among other causes, pain and anger on the part of the families of missing people and their traumatized

communities is a prime factor in perpetuating hostilities.

In many situations of war or political violence, relatives and friends of the missing organize themselves into associations for mutual support and advancement of their cause. These groups generally disseminate information about the missing and advocate ways of uncovering the truth and bringing about personal and community "closure". They also seek to identify the families' most pressing needs – psycho-social support, effective judicial measures, legal counsel, and material aid for the most deprived – and to make these needs known to those in a position to meet them. To the extent that they adequately represent the interests of the relatives and communities of the missing persons, such associations are crucial to ensuring that they receive the help they require.

Responsible action on the part of governments and national and international organizations to find the missing and help their families and their communities must imperatively be based on constructive dialogue with the victims and their associations.

This dialogue helps pinpoint the action needed to meet the main needs of the victims. Though the need to know is inevitably cited by relatives as essential, experience also shows that the missing person often was a breadwinner and responsible for dealing with administrative matters. While every effort must be made to clarify what has happened to missing persons, their relatives also need the financial means to live with dignity.

Dialogue between those seeking information about their loved ones and those in a position to help them is needed to ensure that responsibilities are met and that the memory of what happened is preserved. Anything less would add to the trauma of the original loss the indignity of failing to have it acknowledged. When all attempts fail and it proves impossible to trace all individuals who have fallen on the battlefield or have disappeared after arrest or remain otherwise unaccounted for under violent circumstances, the least that must be done for their families and communities is to recognize the loss of these precious human lives and to honour their memories in a dignified manner.

It is essential that efforts to determine what has happened to persons unaccounted for be based on verifiable facts regarding their identity and the circumstances of their disappearance. Rumours and outright lies surrounding persons missing in connection with conflict will only aggravate tensions. Accurate facts and figures serve as recognition of the relatives' plight and place their search in a dignified framework. The tracing effort can also provide indications as to who might have vital information and how such information might be obtained.

Throwing light on conflict-related disappearances has often been made extremely difficult by lack of cooperation on the part of those in a position to account for them, an absence of political will on the part of those who might be able to exert pressure to obtain relevant information, and suppression and destruction of data. But it is often apparent that if the problem of missing persons is not dealt with in due time and in close cooperation with those affected, the future of whole societies and of relations between entire nations will be placed in jeopardy. For the sake of lasting peace and stability – and whatever the gruesome truths that might be revealed – the fate of the missing must be clarified and the dignity of their families restored. This calls for courageous and determined action.

War and Accountability, FORUM, April 2002

15-04-2002

Roy Gutman, a diplomatic reporter based in Washington DC, co-edited *Crimes of War, What the Public Should Know*, an A-to-Z of the Geneva Conventions, with David Rieff in 1999, and wrote *A Witness to Genocide: The 1993 Pulitzer Prize-Winning Dispatches on the 'Ethnic Cleansing' of Bosnia*. He is a co-founder and president of the Crimes of War Education Project in Washington DC, which maintains a website on humanitarian law.

Conclusion

IN SUMMER 1994, WHEN SURVIVORS OF THE RWANDAN genocide discovered that the world had decided to rush humanitarian aid to the perpetrators of that genocide, their fury was understandable.

The scene in Yolande Mukagasana's article, of townspeople gathering to throw stones at the aid convoy, and the broader scandal of the camps at Goma, is a nightmare not only for the humanitarian aid community but for all civilized people. This was a world-class blunder, an occasion when providing aid, to paraphrase Pierre Perrin, certainly led to even more violence.

Humanitarian “blunders”

The humanitarian aid community has been trying ever since to grapple with the implications of that scandal; the evolving debate is the basis of this edition of *FORUM*. But before drawing conclusions, it might be useful to focus first on those who bear the most responsibility, after the perpetrators themselves. It was the major Western governments who failed to respond to the Rwandan genocide in the first place and then, in order to defuse short-term political pressures, established a zone of protection for the perpetrators. It was they who made a public show of staging food deliveries, thereby cheapening the humanitarian cause. What lessons have they learnt? Do they accept accountability? The answers to those questions will help feed the broader debate.

In its historical context – the post-Cold War era – Rwanda was the third in a succession of second-order crises in which the

major powers, starting with the United States, felt they had no security interests at stake.

In Somalia, the United States led UN troops from more than a dozen countries, but the decision to deploy forces in that country in late 1992 was undertaken largely for domestic political reasons, namely to distract attention from the conflict in Bosnia-Herzegovina and the growing clamour to intervene in the Balkans. The humanitarian aid mission in Somalia, which opened with a staged “photo opportunity”, gave way to a chaotic military conflict for which no one was prepared, and the United States quickly withdrew in disarray. Somalia was a triple setback in the world of humanitarianism: the deployment decision had provided the United States with an excuse not to act in Bosnia (“We do deserts, not mountains,” a top military aide said at the time) and the failure of the deployment gave the US Administration the excuse to ignore the genocide in Rwanda.

With Washington ducking out, the United Kingdom and France had taken the lead in Bosnia, but under the false guise of “peacekeeping” forces in a raging war. The sole mission they assigned themselves was to protect humanitarian aid deliveries, and often they did not do even that. Instead they used their presence to block an air intervention by the US-led NATO troops until after the Serb-led slaughter at Srebrenica in July 1995. And, while present, they failed to denounce or prevent genocide, crimes against humanity, or other war crimes. As UN blue helmet forces, and in the absence of any specific UN-ICRC agreement at the time,¹ they claimed that they were not bound by the Geneva Conventions. It was left to the news media and humanitarian aid personnel

to inform the world of the realities of “ethnic cleansing”.

Finally, in Rwanda, Western governments ignored practically every obligation of humanitarian law. They pretended there was no genocide until it was completed, withdrew most of the international force that might have helped shield the masses of innocents, and rescued only Western nationals. Finally, they organized Operation Turquoise, a rescue mission for the combatants – *génocidaires* – who fled Rwanda to then-Zaire to prepare their return engagement. That was the step over the moral cliff.

A dawning awareness

Now, eight years after Rwanda, the powers-that-be – France, the United States, and the United Nations Secretariat – have recognized the enormity of their errors in terms of active policy.

France abandoned any claim to take charge of those parts of French-speaking Africa that it had not colonized. In 1995, led by the United States, NATO acted to end the war in Bosnia – albeit on unjust terms – and in 1999 intervened in Kosovo to avert a massive crime against humanity. That same year, the United Nations and the West, using mainly threats, intervened in Timor. The UN also undertook its own accountability review, with investigations into Rwanda and Srebrenica as well as an examination of UN peacekeeping practices, the potential for humanitarian intervention and how to address war crimes.

¹ A Bulletin on observance of international humanitarian law by United Nations forces was subsequently issued on 6 August 1999 (Secretary-General's Bulletin, ST/SGB/1999/13).



Yet the debate about lessons learned is far from over. The major powers have not yet reached a consensus on when to intervene for humanitarian reasons, establishing a humanitarian space in war to enable populations to be protected and humanitarian agencies to operate. The reason is largely that two US administrations have not yet been able to reach an internal accord on the use of military power when US security is not directly threatened. And there is no other State or combination of States that for the present can substitute for the United States.

A growing sense of accountability

In its slow and halting response to the epic policy failures in the early 1990s, the international community breathed life into the concept of accountability, chiefly by creating international tribunals to address crimes in Bosnia and Rwanda. These tribunals began as a lame substitute for political inaction. Now, with the arrest and trial of Slobodan Milosevic, they have become formidable institutions, rescuing international humanitarian law from stagnation and creating a track record for legal and moral accountability that had not been seen since Nuremberg. Most important: these tribunals have put legal norms at the centre of their examination of conduct in conflict. Thus, there has been an incomplete but significant shift in international politics, coupled with a revival of legal norms and moral standards through the creation of new UN judicial institutions.

In the absence of concerted and consistent leadership, non-governmental humanitarian aid organizations, on the other hand, are caught in a bind. From their vantage point at the cutting edge of events, they are not only the visible signs of conscience but often the eyes and ears of the international community. By moving in where Western armies feared to tread, and staying as long as needed, they as a group gained moral influence during the 1990s. Their insistence that they, too, should be accountable enhanced their credibility. They deserve to be heard, and increasingly this is the case. But can the public comprehend what they are saying?

The humanitarian aid world reacted to the debacles of the 1990s by attempting to set standards. The Red Cross/Red Crescent Movement published its code of conduct for disaster relief in 1994 and supported the Sphere Project, started in 1997 in response to the Goma camp scandal. The resulting 1999 Sphere standards break with the long-standing “charity” approach to aid, and speak

Conclusion

of the obligation to and rights of the victims. This notion of a bottom-up system of accountability, instead of top-down (from the donors), makes sense in an era when development aid took second place to emergency humanitarian aid. Nevertheless, this is not to advocate abandoning accountability in a post-conflict development context, for as Msgr Basílio do Nascimento of Timor points out, humanitarian aid organizations and the UN seemed to pocket most of the funds the international community allocated to that emerging country's reconstruction.

Yet the articles in *FORUM* and the debate within the humanitarian community, spurred by the formation by *Médecins sans frontières* (MSF) of an "anti-Sphere" movement, suggest that the standards have been insufficient. The most trenchant judgement is that the guidelines, which focus on food, shelter, water and health conditions, do not explicitly address the core issue of modern humanitarian crises. The Sphere Humanitarian Aid Charter notes at its start that non-combatants are increasingly the targets in war, even though they are entitled to immunity from attack. This is a positive, but muted, reference to the law. The law stipulates that violations of explicit legal protections are grave breaches, or war crimes. The issue is whether to call crimes by their rightful name, and to use these standards in the field. There is a compelling argument to do that. For crime, a word not mentioned in the charter, is most probably what prompted the drawing-up of standards in the first place. As Fabien Dubuet of MSF puts it: "Deaths among people in need are more often caused by serious violations of humanitarian law than by poor-quality relief."

What sort of accountability?

What sort of accountability should be injected into the operations of humanitarian aid organizations, "one of the largest unregulated industries in the world", in the words of Margie Buchanan-Smith? The toughest single question, notes Dubuet, is whether NGOs should develop a procedure for reporting war crimes. Can individuals take on that role? Should States assure accountability of third States? Just who should be held accountable?

Akeel Bilgrami's discussion of accountability is a good starting-point for the inquiry. "What is basic to freedom is responsibility and what is basic to responsibility are justifiable moral responses," he writes. This statement of individual

responsibility underlies all law, but most especially criminal law, and humanitarian law. According to Bilgrami, a group may be held accountable only when it is capable of human reasoning, self-criticism, and self-correction. Thus, individuals who are part of groups formed or brought into existence on a basis such as race, ethnicity or geographical location, cannot be held accountable in a sense of "collective guilt". A group formed to commit crimes, such as a terrorist gang, a criminal conspiracy or a death squad, certainly could, however. But the key question he poses is whether States can be held accountable if their goals are "exclusively self-interested". He suggests that taking a moral stance towards States may encourage them to be morally sensitive, while not taking such a stance will bring the exact opposite result.

The law

Bilgrami's approach overlooks the existence of humanitarian law, which embodies both legal strictures now increasingly being enforced and the moral guidelines that emerged from recent history. Individual States may wish to ignore that history and those experiences, but the rest of humanity cannot. Bilgrami's question should be rephrased: who is accountable in a State that authorizes its agents to commit crimes under international humanitarian law? The standards were redefined after the Second World War and the Holocaust. The need for them was reaffirmed by the events of the early 1990s, leading to the setting-up of the statutes of the International Criminal Court and the International Criminal Tribunal for the former Yugoslavia. But who will see that they are carried out? Who has "ownership" of these laws? This is the challenge of our era.

The standard response is that the law is the responsibility of States and courts. Legalists will argue that States do not "derogate" the rights under this law other than to the International Committee of the Red Cross (ICRC), which has a specific right to provide humanitarian assistance to civilians during armed conflict. Koenraad Van Brabant argues that sovereignty is ultimately vested in the people and not in the government of the day. In actual fact, when States fail to uphold the standards, as occurred in the early 1990s, public outrage forced them to return to their responsibilities. Humanitarian field workers and the media provided the data that fuelled the outrage. So humanitarian law is no longer an affair solely of governments. Indeed governments,



Towards a “tolerable future”: there can be no real peace without accountability.

because of their failure in the past decade, now find themselves being second-guessed at every turn.

The shift in government thinking – from wilful negligence of genocide to intervention to pre-empt crimes against humanity – has given rise to hand-wringing. Take, for example, the US-led intervention in Kosovo. The question is whether armed intervention can be directly based on humanitarian law as opposed to taking place according to the UN Charter. Yet the Geneva Conventions require States Parties not only to uphold the law, but to see to it that it is upheld, and one must ask how that can be done in extreme cases, except by armed intervention. As for the UN Charter (the law of nations) having superior status over humanitarian law (the law of armed conflict), the two laws actually co-existed for years before the 1999 Kosovo intervention provided a test. The superiority of the law of nations has never been formally and legally established. The real question is, which court of law will in fact determine that the intervention was not lawful? Similarly, Joanna Macrae’s assertion that the use of the humanitarian label in Kosovo “served only as a thin veil behind which to hide wider strategic interests” is a political judgment that has yet to be borne out. The United States, as leader of NATO,

currently seeks to withdraw from the Balkans; it let others lead the effort to halt the violence in Macedonia. So where is the strategic interest at work? The fact is that the creation of tribunals alone has not deterred planning for future, massive crimes; nothing has, and probably nothing will, short of occasional intervention.

How should the humanitarians act?

Where do aid organizations or representatives fit into this new scheme? Pierre Perrin points out the dependence of humanitarian accountability on political accountability, and of humanitarian action on humanitarian space. The shrinkage of that space in the early 1990s was the work of local politicians whose actions Western leaders tolerated and even encouraged. Thus, there are three instances where humanitarian organizations have every right to be concerned and become very active. The first is when military forces shrink the humanitarian space by means of organized crimes against non-combatants; second, when Western States stand by and do not act; and, finally, when Western States come to the rescue of those committing crimes.

The question of the 20th century, posed by Albert Camus after the Second World War, is, what can an individual do in the face of evil?

Perrin and Dubuet suggest parallel answers. Perrin says that exercising one's responsibility entails taking action, operating within a normative framework to define the action, and establishing the mechanisms for monitoring, follow-up, regulating and sanctioning those who fall short of the standards.

In actual fact, as Dubuet notes, humanitarian staff may be witnesses to crimes. The first obligation is to establish the "legal nature of the situations in which they become involved", so that humanitarian law can be invoked to protect civilians. That simple but serious injunction can be difficult to determine in the heat of war. A State may be fighting a just war by illegal means or an unjust war by legal means. The answer is to dispense with the origins of the war and focus on violations of the law of armed conflict. Understanding conduct in conflict is vital for understanding what is going on: people do not flee their homes and possessions lightly, but because they have been terrorized into doing so. The act of terror is always criminal in content.

Should one denounce crimes? Dubuet says that humanitarian organizations should not be promoting or defending human rights in general, but must report any serious violations that they witness to competent national or international authorities and "demand that the violations be stopped". He wisely cautions that public action taken with regard to the crime can jeopardize the security, presence and work of the organizations in the field. Yet "silence can no longer be dogma". He suggests passing on information to human rights organizations or to UN mechanisms; but, "broadly speaking, actions taken by humanitarian organizations should be geared towards immediate prevention rather than condemnation and legal documentation of the crime after the event."

In addition, aid personnel are never completely alone on the battlefield. There are political visitors, there are journalists. If encouraged to ask the right question, a humanitarian aid worker's greatest contribution will be simply to steer the others

to act as witnesses. Nik Gowing notes a growing readiness of journalists to bear witness to horrors – often well-established staff reporters, but increasingly a “proliferation of young, sometimes callow freelancers” who are ready to take risks.

Should an ICRC, Oxfam or UNHCR staff member testify before a tribunal? The ICRC has decided firmly against so doing. Reporters face this question too, and there is no single satisfactory answer. If the concern is the ability to return to a location and not be seen as a political actor but as a professional carrying out one’s job, caution is well-advised.

Of course, governments have an obligation to see that the Conventions are upheld, and it is not necessary to send in the 82nd Airborne Division every time. David Owen points out that the glare of publicity will prevent negotiators and humanitarian relief workers alike from becoming complicit with those committing gross violations of humanitarian law. He states that while he was the EU Balkan representative, he never “made any secret deals with the parties”. However, the British Government was very wary of bringing charges against a head of State,² and publicly expressed doubt about the goal of bringing Milosevic to trial as opposed to making peace.

No peace without accountability

Ultimately, as Jakob Finci argues eloquently, peace without justice is a false peace. In post-Second World War Yugoslavia, there had been no accountability for the inter-ethnic outrages committed during that period; in the name of “brotherhood and unity”, all

discussion and accountability were actively suppressed by the regime of Josip Broz Tito. Forty-five years later, with few of the crimes acknowledged or punished, and unscrupulous politicians conjuring up the ghosts of the past, there was a return engagement. “One of the reasons for the atrocities committed [in the Bosnia conflict] is perhaps this failure to clarify the past, this attempt to sweep it under the carpet”, writes Finci. He advises that the way towards a “tolerable future” is “to bring to justice each and every individual accused of war crimes in Bosnia-Herzegovina and the rest of the former Yugoslavia”. The point can be made for almost any conflict: there will never be peace without accountability.

This is the long-term vision of peace, built on experience, to which each new humanitarian aid worker can relate. Crime and terror produce humanitarian disaster; tolerance by the world community accelerates the process; and crime begets crime. Those who witness crime must think long and hard about what their proper role is in helping to break that cycle. ■

² Brendan Simms, in *Unfinest Hour*, Allen Lane, The Penguin Press, quotes from the non-paper circulated by the United Kingdom in the Security Council in March 1993 which said it may be undesirable to revoke the immunity of a head of State.