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HUMANITARIAN ACTION:
A TRANSATLANTIC AGENDA FOR OPERATIONS AND
RESEARCH

Edited by Larry Minear and Thomas G. Weiss

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DEDICATION

This volume is dedicated to the memory of François Jean, who participated in the White Oak conference and left us last December. In some eighteen years of activism, mainly with Médecins sans Frontières, he stood out as a man of action and reflection—a combination that is as rare as it is necessary in today’s politicized humanitarian emergencies. In the face of human misery, injustice, and strife, he was committed to effectiveness in deed as well as to rigor in analysis and expression. François is held in affection and respect by many who worked with him over the years in Chad, on the Afghan/Pakistan frontier, in Lebanon, and the Sudan, as well as at MSF headquarters in Paris. He will be remembered for his quiet and unassuming style, keen intellect, and deep commitment to professionalism and accountability in humanitarian action.

FOREWORD

This Occasional Paper offers a snapshot of the current state of the transatlantic debate on humanitarian action. It seeks to assess the adequacy of efforts to meet one of today's central humanitarian challenges—assisting and protecting people in the post-Cold War spate of complex humanitarian emergencies.

The snapshot is practical and historical. On the practical side, the monograph examines an issue of real consequence to humanitarian organizations and those in need of assistance and protection. On the historical side, the book frames the discussion as it has evolved in the decade since the end of the Cold War and suggests an agenda for future action.

This publication offers to a wider public the substance of a conference convened by the Humanitarianism and War Project in May 1999. "Assistance and Protection: Transatlantic Perspectives on Humanitarian Operations and Research" brought together a heterogeneous group of 28 persons, consisting of program operators and researchers, emergency relief and human rights experts, and North Americans and Europeans.

Chapter 1 summarizes the themes of their conversations over a period of three days. Chapters 2-5 reprint papers prepared for the conference, each revised in the light of the discussions and further reflections by the author. Appendix I provides a list of those who attended the conference, and Appendix II offers information about the authors of the chapters and the Humanitarianism and War Project.

The conference met at the White Oak Plantation in Yulee, Florida, a facility operated by the Howard Gilman Foundation. We wish to express our appreciation to the Gilman Foundation for providing the venue for our meeting and for underwriting the travel of participants. Kim Hamilton, who at the time was the program officer responsible for the foundation's efforts in this area, was especially supportive of our initiative. We are also indebted to the other financial contributors to the Humanitarian-

ism and War Project (listed in Appendix II) for their ongoing support of our work.

The surroundings in Florida provided a relaxed and gracious environment for the informal and candid exchange of views and also an opportunity to learn about the Foundation's innovative conservation work. The conduct of a variety of animal preservation and breeding activities on the grounds led to numerous comments about whether humanitarians were themselves an endangered species. The conference itself, however, evidenced a probing and self-critical spirit that augurs well for the future of the humanitarian enterprise.

The issues discussed in this monograph elaborate on other research that our Project has recently published. Particularly relevant are *A Humanitarian Practitioner's Guide to International Human Rights Law*, by William G. O'Neill; *Protecting Human Rights: The Challenge to Humanitarian Organizations*, by Mark Frohardt, Diane Paul, and Larry Minear; and *NATO and Humanitarian Action in the Kosovo Crisis*, by Larry Minear, Ted van Baarda, and Marc Sommers.

Several related studies are already published. *When Needs are Rights: An Overview of UN Efforts to Integrate Human Rights in Humanitarian Action*, by Karen Kenny; and *Humanitarian Action: Social Science Connections*, edited by Stephen Lubkemann, Larry Minear, and Thomas G. Weiss. Also of interest is *War's Offensive on Women: The Humanitarian Challenge in Bosnia, Kosovo and Afghanistan*, by Julie Mertus, to be published in the fall by Kumarian Press.

A complete listing of Watson Institute Occasional Papers is provided on the inside covers of this Occasional Paper. The texts are available in their entirety from our website at www.brown.edu/Departments/Watson_Institute/H_W.

We welcome comments on this and our other publications.

Larry Minear, Director
Humanitarianism and War Project
Providence, Rhode Island
May 2000

ACRONYMNS

ACORD	Association for Cooperative Operations, Research and Development
AI	Amnesty International
ALNAP	Active Learning Network on Accountability and Performance in Humanitarian Assistance
CEO	Chief Executive Officer
CRS	Catholic Relief Services
DAC	Development Assistance Committee (OECD)
DPA	Department of Political Affairs (UN)
DPKO	Department of Peace-keeping Operations (UN)
EC	European Commission
ECHO	European Community Humanitarian Office (EU)
EU	European Union
FODH	International Federation of Human Rights Leagues
HRW	Human Rights Watch
IASC	Inter-Agency Standing Committee
ICBL	International Campaign to Ban Landmines
ICJ	International Court of Justice
ICRC	International Committee of the Red Cross
IDPs	Internally displaced persons
ICTY	International Criminal Tribunal for the former Yugoslavia
IFRC	International Federation of Red Cross and Red Crescent Societies
IGO	Intergovernmental organization
IHRT	International Human Rights Trust
IRC	International Rescue Committee
JRS	Jesuit Refugee Service
LCPP	Local Capacities for Peace Project
MSF	Médecins sans Frontières [Doctors without Borders]
NATO	North Atlantic Treaty Organization

NGO	Nongovernmental organization
OCHA	Office for the Coordination of Humanitarian Affairs (UN)
OECD	Organization for Economic Cooperation and Development
ODI	Overseas Development Institute
OXFAM	Oxford Committee for Famine Relief
U.K.	United Kingdom
UN	United Nations
UNDP	United Nations Development Programme
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNITA	União Nacional para a Independência Total de Angola [National Union for the Total Independence of Angola]
U.S.	United States
WFP	World Food Programme (UN)
WTO	World Trade Organization

CHAPTER 1

SEEKING COMMON GROUND

Larry Minear and Thomas G. Weiss
Humanitarianism and War Project

During the first decade of seismic aftershocks associated with the end of the Cold War, the humanitarian community has experienced tensions along numerous fault lines. Tensions that have loomed largest include those between organizations that deliver life-saving emergency assistance and those committed to protecting basic human rights, those between practitioners confronting daunting choices in the field and researchers examining the options available and choices made, and those between professionals in North America and in Europe seized with these issues.

This chapter reviews an attempt to examine such tensions and find some ground. The vehicle for doing so was a conference that dealt with assistance and protection and transatlantic perspectives on humanitarian operations. The four conference papers, circulated in advance and then revised to reflect the discussions they sparked, form chapters 2-5. The purpose of this introductory chapter is to convey a sense of the excitement that the papers generated and the directions envisioned by conferees for more engaged and interactive transatlantic debate in the coming years.

The Conference

As with many conferences, the discussion and its outcomes reflected the participants gathered around the table. In this instance, the participants (see Appendix I) had been selected so as to constitute a careful balance among three sets of groups that often find themselves on opposite sides of humanitarian issues: practitioners from the assistance and human rights communities; persons with responsibilities for managing operational programs

and for carrying out research; and people from North America and Europe. The objective of the conference was to take a close look at the various tension points among the institutions and to find common ground on which to build closer collaboration.

Discussions during the three-day meeting were sequenced to accomplish that purpose. After an initial session that provided participants an opportunity to describe their own involvement in humanitarian issues, the first pair of sessions examined tensions between assistance and protection as experienced by operational agencies. A paper presented by Kenneth Hackett of Catholic Relief Services (chapter 2) sketched the programmatic challenges faced by his organization and, by extension, other aid groups. This paper was the subject of comments by two persons from a human rights perspective and was then discussed by the larger group. A second paper, presented by Michael McClintock of Human Rights Watch (chapter 3), provided a companion analysis from the standpoint of a major operational human rights agency, on which two aid officials then commented.

The next pair of papers analyzed the current research agenda, first, from the standpoint of assistance, by the Overseas Development Institute's Joanna Macrae (chapter 4) and then, through a human rights lens, by the International Human Rights Trust's Karen Kenny (chapter 5). In each instance, colleagues commented on assistance from a human rights viewpoint and on human rights from an aid vantage point. The final session was devoted to the question, "Where do we go from here?" It fleshed out an agenda for improving the operations of nongovernmental organizations (NGOs) in assistance and protection and for nurturing transatlantic dialogue. The sequence of presentations, commentaries, and discussions succeeded in stimulating an examination of the issues from a variety of perspectives. The sustained degree of interactions among participants made the conference particularly worthwhile and lends wider relevance to the publication of this review.

Discussion of the tensions between assistance and human rights organizations was the most animated and recurrent. Exchanges between program managers and researchers in terms of

their mutual expectations and frustrations were a close second, followed by differences in transatlantic perspectives. Various participants wore multiple hats: for example, a human rights researcher based in North America or an assistance program manager based in Europe. We have retained the name of the conference as the title of this Occasional Paper, even though the transatlantic theme was not the conference's most prominent.

Each participant was present in his or her personal capacity, although individuals were drawn from a sampling of key major institutional players. Unlike other meetings convened by the Project, all participants were from the nongovernmental sector. UN and governmental officials were not included, partly to keep the size of the group to a workable number and partly to encourage discussion among nongovernmental actors uninhibited by a wider circle of participants. Many of those present welcomed the idea of formulating a distinctively nongovernmental agenda for action because they were concerned about the distortions injected into the humanitarian enterprise by state actors and intergovernmental organizations (IGOs).

At a conference of this sort, particularly one held in a beautiful setting over a relaxed three-day period, participants are treated to a rich variety of exchanges and to a host of insights. This chapter suggests something of that richness. Since the meeting's ground rules provided that comments were off-the-record, the discussion is summarized here without attributing particular comments to particular contributors.

The State of the Debate

On the operational side, participants reported considerable fluidity in the assistance and the human rights communities. Aid agencies at the dawn of the twenty-first century are increasingly open to exploring a human rights-based approach to the assistance that they provide. "CRS' understanding of effective, appropriate, and timely services is not limited to the provision of material assistance," observed Catholic Relief Services CEO Kenneth

Hackett, “but includes the support of activities designed to promote the protection and proactive transformation of relationships within these populations.” In his view, the issue is not so much the relevance to assistance efforts of human rights or, in the language of Catholic social teaching, of justice. It is rather what such an approach means in day-to-day programming by his agency.

“What could be a more fundamental right,” asked another participant, “than the one to survival?” Putting flesh on that right in terms of aid activities, however, remains a challenge of the highest order. In the case of agencies delivering food assistance in southern Sudan, for example, it means asking tough questions about the continuing cycle of famine and the use of food assistance as a weapon of war by both sides.

For their part, human rights organizations are increasingly willing to acknowledge the contribution of aid groups in giving practical substance to economic, social, and cultural rights. “Many humanitarian organizations serve as providers both of material assistance and protection,” noted Michael McClintock of Human Rights Watch (HRW) in his paper, “while human rights organizations now increasingly address questions of basic needs in their research, reporting, and advocacy, particularly in armed conflicts and in addressing related refugee and internal displacement issues.” Rights groups themselves are looking beyond traditional strategies of fact-finding and denunciation to what one official called “a new kind of activism.” The human rights violations inherent in child labor in India, to use one example cited, require not simply a campaign against buying and selling products made with child labor but initiatives that seek more structural remedies.

The ferment within each of the two communities has also occasioned a certain reaching out to the other. Some of this is borne of common challenges faced in responding to specific obstacles in the field. It also reflects headquarters’ efforts to build bridges, using UN mechanisms such as the Inter-Agency Standing Committee (IASC) and also NGO professional associations. Both assistance and human rights agencies expressed great openness to exploring partnerships, formalizing experimental relationships,

and working to protect and maximize each other's comparative advantages and "specificities." The suggestion, "Let's all be human rights agencies," was therefore treated with caution. "It is unwarranted," one participant went so far as to say, "to expect aid workers to take human rights to the field."

The gist of the discussion suggested that extreme positions in each camp are now being rejected. "Human rights fundamentalism"—the notion that the full spectrum of internationally recognized human rights should be demanded of and respected by all governments—is generally viewed as unrealistic and unconstructive. Conversely, "aid fundamentalism"—the idea that people's right to humanitarian assistance should trump all concerns about the abuses to which such aid may be put in Goma-like settings—is also living on borrowed time. However, if the extreme positions command waning support, the middle ground has yet clearly to emerge.

On research issues, too, there seems to be an "open moment." Policy researchers on both sides of the Atlantic agreed that the uptake on their findings and recommendations had been uneven and, for the most part, disappointing. While they identified resistance in the cultures of humanitarian agencies to institutional learning and change, they also faulted themselves for failing to engage agencies actively in their research and for lacking a strategy, whether country-specific or transatlantic, to ensure dialogue. A number of basic issues, identified below, still remain to be addressed by independent policy research. They should form the core of a transatlantic agenda for the future.

Generally speaking, there seemed to be more diversity and heterogeneity in the assistance community than among human rights counterparts. Human rights practitioners, while they may have disagreed on strategy or emphasis, were seen largely as sharing an understanding of the terms of the debate. There was no comparable orthodoxy—or even a shared vocabulary—among aid agencies.

One pivotal issue that energized assistance and rights officials as well as program managers and researchers, concerned the

indivisibility of rights. There was no theoretical disagreement that economic, social and cultural rights, as well as civil and political rights are cut from the same cloth. As a practical matter, however, can the “seamlessness” of all human rights be preserved? “No human rights should be pursued at the expense of other human rights,” stated a human rights expert. “Indivisibility of human rights,” countered another, “is a counsel of perfection to be rejected.”

Moreover, an official responsible for human rights monitoring added that the necessity of making specific choices inevitably undercuts the preservation of indivisibility. For example, nonderogable rights demand greater fidelity and monitoring than rights that may be temporarily suspended. Disagreement on matters of indivisibility notwithstanding, there was consensus that in the absence of a clear and balanced division of labor among actors, the necessary tensions between priorities will not be successfully preserved.

In sum, the discussion pointed somewhat paradoxically toward a more nuanced discussion of the issues and a return to the fundamental challenges. What is understood by the term “humanitarian” at a time when even the military claim to be exercising humanitarian roles? Is “humanitarian” the umbrella under which human rights may comfortably sit, or do human rights provide a more serviceable framework for humanitarian activities? Can a nongovernmental organization exist in an era in which emergencies require resources on a scale that only governments and intergovernmental organizations can provide?

There was also a recurrent disconnect between operations and research. In summarizing one set of discussions, a rapporteur-cum-provocateur asked a question of each pair of participants: if aid groups are infusing their assistance activities with human rights values, how were they doing things differently in Kosovo in 1999 than in Ethiopia in 1984? And if human rights groups are more solicitous of basic human needs, how much does their new-found concern temper their willingness to denounce the political au-

thorities?

Toward an Agenda for the Future

Are a common framework, a common language, and a common agenda for humanitarian action by assistance and rights groups, by program managers and researchers, by North Americans and Europeans, desirable and possible? "Yes," was consensus at White Oak. Commonalities have new relevance with the ebbing of the Cold War, which for decades had arrayed the political and civil basket of rights against the economic, social, and cultural basket. A common framework is worth exploring, even though differences will remain and even though such a framework, once formulated, provides no road map for day-to-day decisions. Looking forward as well as back, perhaps an explicit "confidence-building agenda" between assistance and rights organizations is needed.

On the operational side, assistance and human rights programming should be strengthened, each in its own right and each in relation to the other. A better balance also needs to be struck in terms of resource allocations to each set of activities. Currently, "an army" of aid workers can be deployed readily to the latest crisis, whereas human rights monitors and advocates, fewer in number, slower off the mark, and more fragile in their presence, are more akin to embattled bands of "guerrilla fighters." Yet, while human rights protection and monitoring are chronically neglected, the aid enterprise is itself demonstrably in need of better performance.

As assistance and rights agencies and their personnel become increasingly supportive of each other's activities and aware of their mutual indispensability, greater attention needs to be paid to the division of labor between and among them. Both sets of organizations rightly fear "mandate creep." However, mutual reinforcement is possible short of aid groups becoming card-carrying human rights actors and vice versa.

The group agreed that the following issues deserve a place on a humanitarian operations and research agenda. At least, they can be counted on to preoccupy agencies that are mounting and

managing humanitarian programs. Such agencies also seem prepared to welcome insights from researchers on how better to frame and conduct their work.

- *Principles versus pragmatism.* In the post-Cold War world, does pragmatism trump principle? Are the more principled initiatives, over the longer term, more successful? How relevant and useful to humanitarian activities is international law? Law is not the solution for the daunting dilemmas that assistance and human rights agencies face, one analyst pointed out, particularly since it is often disregarded by the states that are generating the human crises themselves.
- *Humanitarian action and politics.* McClintock's paper introduced what became a leitmotiv in the discussion by suggesting that the fundamental cleavage is less a fissure between assistance and rights than a divide between the humanitarian family, (encompassing both assistance and rights elements) and the political sphere. Although many aid groups see human rights as inherently "political," human rights advocates are quick to point out that human rights tasks are no more political than are efforts to deliver assistance in highly politicized situations. What is political, in the final analysis, may be neither assistance nor protection but rather the manipulation of such activities by powerful interests. Macrae's caution that humanitarian dialogue should not become too "introspective and self-referential" resonated with many in the group. The group also felt that research on issues within the humanitarian family of agencies should be carefully balanced against serious attention to problems at the humanitarian interface with political actors and factors.
- *Legal frameworks.* Participants had different views of the congruence and compatibility of humanitarian and hu-

man rights legal framework. “The humanitarian framework accepts war,” noted one participant, “while human rights expresses an inherently political vision.” Others saw greater convergence, with one person recalling the judgment in an international Rwanda court case that the protection of human rights is itself a humanitarian objective. Further review of the relationships between the two bodies of law was viewed as an essential underpinning to more productive relations between the two sets of communities.

- *Effectiveness.* Now that aid agencies are embracing human rights-based programming, there is need for serious research and analysis of whether such programs are more effective and cost-effective than traditional aid efforts. Major improvements in aid deliveries for women, it was suggested, have indeed resulted from adoption of rights-based approaches (for example, attention to rape as a violation of human rights law). However, their value is often assumed rather than documented. One researcher suggested that the need for research on the impacts of human rights-based programming may be a subset of a larger problem: the absence of baseline data that would allow measuring the effectiveness of aid programs themselves.
- *Root causes.* The need for emergency assistance frequently has its roots in violations of human rights, which serve as a harbinger of future crises. Yet human rights may themselves be symptoms of even more structural problems, such as powerlessness and poverty, which, while representing denials of human rights, go deeper still. In other words, the stereotype that life-threatening emergencies are fundamentally human rights crises requires additional research and documentation.

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- *Ownership.* Macrae's paper provoked a heated exchange about the trade-offs between the need for research relevant to practitioner organizations and the need for researchers to maintain enough distance from those agencies to ensure their own independence and objectivity. In the political economy of today's policy research, aid agencies and patrons among donor governments largely set the agenda. Yet, commissioned research that primarily serves agency interests and donor priorities may fail to challenge the underlying premises of the humanitarian enterprise. Moreover, aid agencies are often gatekeepers for academic researchers who are now experiencing difficulty in obtaining access to data, archives, staff, and insecure settings without assistance from, and within parameters set by, humanitarian organizations. There is also a need for basic research that may not be immediately useful or directly applicable. Studying the political economy of research could shed light on the ambivalent character of sponsored research.
 - *Professionalism.* There was a general sense that assistance and human rights practitioners want and need higher standards of professionalism. Achieving these will require harnessing personnel and insights from a wider range of academic backgrounds and skill sets, including security studies, economics, international organizations, anthropology, sociology, and demography.¹ Complex humanitarian emergencies require multidisciplinary approaches, both in research and in operations. The minimum standards that are increasingly agreed among aid practitioners have, and need to have, a human rights component. Service providers should develop and use a normative human rights framework for their efforts to meet basic human needs.
 - *Institutional change.* The processes of change differ widely

from agency to agency and place to place. One aid agency described internal turmoil bordering on institutional paralysis accompanying its shift to rights-based programming before its staff adequately understood the issues. Another agency had a different but also unsatisfactory experience as it moved in the agreed upon direction of more human rights-sensitive programming but without a specific deadline to ensure that institutional change did not lag too far behind rhetoric.

- *Accountability.* By all accounts, more rigorous accountability is needed for all the major actors: assistance and human rights agencies, program managers and researchers. “Ten years after the worst famine in the Sudan’s history,” observed a participant in a rigorous indictment of practitioners and researchers alike, “we are experiencing the worst famine in the Sudan’s history.” Those who have managed the massive global investments in program operations and research during the intervening decade (some of them present around the table) should be held more accountable. Since beneficiaries are not objects of charity but holders of fundamental rights, they, too, are a point of accountability, although it is still unclear how they should exercise their rights vis-à-vis the aid establishment.

As indicated earlier, these issues have transatlantic dimensions and stand to benefit from a more frequent and intense engagement across the North Atlantic. Participants openly expressed their view that parochialism is alive and well, even among practitioners and analysts who pride themselves on their internationalism. In fact, one recurring theme of the conference was the entrenched insularity that exists on both sides of the Atlantic. Although international associations of assistance groups and, to a lesser extent, human rights agencies provide mechanisms for interaction, these are underutilized. Similarly, much of the policy research that goes on

in the United States is unconnected to comparable efforts in Europe. Participants noted that studies being carried out in the United Kingdom—London seems to be the European capital of policy research on humanitarian matters—are also insulated from comparable efforts across the Channel on the continent.

Operations and research alike often have a country focus. Indeed, both practitioners and researchers were seized with the Kosovo crisis, which evolved even as the meeting was held. White Oak-style workshop with a country focus could draw together around a given crisis a comparable mix of operational and research personnel from both sides of the Atlantic. Indeed, in the interim since the White Oak conference, major crises in East Timor, as well as in North Korea, Colombia, and Mozambique have provided further confirmation of the need for greater transatlantic interaction among actors involved in operations, policy research, assistance, and human rights.

Conclusion

The assistance and human rights organizations, program managers and researchers, North Americans and Europeans who participated at the conference strongly affirmed the existence of common ground. Each of the four papers that follows explores that common ground, as well as the accompanying obstacles. As with the conference itself, the papers provide a rich resource for reflection and action.

CHAPTER 2

UPGRADING PROTECTION BY AID ORGANIZATIONS: AN OPERATIONAL PERSPECTIVE

Kenneth Hackett
Catholic Relief Services

This chapter articulates the evolving understanding by Catholic Relief Services (CRS) of the protection of human rights in conflict situations. More particularly, it discusses challenges of putting this understanding into practice in operations within active war zones. It also identifies approaches for the humanitarian aid community to explore further the relationship between assistance and protection from an operational perspective.

Understanding Human Rights Protection

Integral to CRS' basic approach to its emergency response programs is its declared intention that "its disaster programming foster a culture of peace, respect and dignity." As a faith-based organization, CRS' concept of what it means to foster a culture of peace, respect, and dignity is based in its understanding of tradition and social teaching. As part of agency-wide strategic planning in 1996, CRS reassessed its program focus in view of an analysis of the changes in the world situation during the past decade and of Catholic social teaching. This process led to the development of an overarching framework, described as the "justice lens" approach, which CRS now applies to all of its work.

Since 1997, CRS has been engaged in an ongoing process of reflection and discussion on the applications and implications of the justice lens. Justice in this context involves an understanding of "right relationships"—the proper ordering of relationships between and among individuals, groups, communities, institutions, nations, and the wider human community. Relationships are

evaluated according to principles that include dignity and equality of the human person, rights and responsibilities, the common good, solidarity, subsidiarity, the preferential option for the poor, and stewardship. Concepts, such as the dignity and equality of the human person and the common good, have obvious corollaries in international law instruments. Others, such as rights, responsibilities, and subsidiarity are less pronounced in those instruments.

The process of reflecting on these principles has led CRS to explore further the convergence between a legal interpretation of human rights and a broader perspective. For example, an understanding of the principle of rights and responsibilities in Catholic social teaching illustrates how the term human rights, particularly in its legal sense, falls short of describing CRS' understanding of its role on the protection side of the assistance and protection debate. From a legal perspective, protection implies an individual's right to *claim* internationally sanctioned human rights. Catholic social teaching does not dispute this, but goes one step further by placing equal emphasis on corresponding responsibilities.

In brief, Catholic social teaching understands human rights as moral claims—as opposed to solely legal claims—which each person is able to make on a variety of goods and necessities because of his or her human dignity. These rights are essential to protecting human dignity and provide the minimum conditions necessary for living in a just society. They belong to all human beings, regardless of any social or political structure, and cannot under any circumstance be surrendered or given away. From a legal standpoint, human rights can be suspended in certain circumstances; moreover, in international humanitarian law, there are certain human rights that can be derogated. By contrast, Catholic social teaching does not accept that these basic human rights can be derogated under any circumstances.

In addition, it sees these rights as intrinsically bound to corresponding responsibilities of all individuals. These responsibilities are not contingent upon our participation in society or within a particular community. Rather, responsibilities stem from individual rights. For one individual to have effective rights, other

individuals must respect and promote that person's rights. CRS applies this principle to confer a responsibility to actively promote justice in conflict situations. CRS has begun only recently discussions around the implications of this understanding, from the policy level to that of country program operations.

Catholic Relief Services seeks to involve the dynamic nature of societies in our understanding of human rights. The protection issue has an added element reflected in our commitment to justice through the active promotion of transforming relationships within and among societies. This leads us to place more emphasis on the proactive prevention of human rights abuses by cultivating a culture of peace, respect, and dignity. This understanding is related to the principles of subsidiarity and rights and responsibilities that compel CRS to work with local counterparts, civil society organizations, and communities to support their efforts to promote justice within their own societies. This understanding also compels CRS to work in the United States through education and advocacy programs to promote justice among societies.

Whereas protection of human rights is one aspect of CRS' work in conflicts, we consider active promotion of justice a more accurate description of our role. For the purposes of this discussion, we prefer the term justice to human rights, and promotion to protection.

Challenges to Applying a Justice Lens

The most visible area in which humanitarian aid organizations actively protect the human rights of affected populations is through providing assistance. CRS agrees with defining such assistance as protection. The challenge here is to continue to improve the technical quality of assistance and delivery systems. There is much focus today on identifying shared standards for the provision of aid. One such effort, The Sphere Project: Humanitarian Charter and Minimum Standards in Disaster Response, explicitly outlines the creation of standards based on "fundamental human rights and humanitarian principles." CRS firmly supports

the need for sound technical standards for humanitarian assistance programs and sees the promotion of these technical standards as an integral part of the agency's promotion of justice. In the midst of the great indignities suffered by civilians in armed conflict, our assistance strives to meet basic needs according to internationally accepted technical standards and to deliver that assistance in ways that preserve human dignity.

We are currently exploring the application of an analytical framework to minimize the potential negative effects of aid and also to promote actively the potential for building capacities for peace at the local level, in part through the way aid is delivered.¹ We see in this experience opportunities to learn more about providing assistance in ways that may effectively contribute to the transformation of unjust relationships. This is important in the context of a discussion on assistance and protection because a justice perspective requires that we go beyond a strictly legal understanding of the protection of human rights. It includes not only claims that can be made by individuals to the state, but also the corresponding responsibilities that enable making these claims.

CRS does not minimize the importance of the strict legal sense of the protection of human rights in such situations. It is a sad reality that the primary cause of death of civilians in some wars is not disease but bullets and mortars, and a leading cause of suffering is sometimes not lack of food and water but torture and other physical and psychological abuses. Yet, while we recognize the importance of human rights protection in the legal sense, we also see the importance of going beyond this understanding to address the root causes of such human rights abuses.

Although fundamental to the agency's understanding of applying a justice lens to relief programming, this particular approach is not fully incorporated into the current debates about assistance and protection. For example, what are the roles of humanitarian aid organizations in promoting peace building, reconciliation, and civil society? How do these kinds of activities relate to the core humanitarian principles of neutrality and impartiality as articulated in the Code of Conduct in Disaster Response?

How do they relate to the understanding among aid organizations understanding of their role vis-à-vis local and international political actors in conflict environments? Is the growing involvement of nongovernmental organizations (NGOs) in this area supplanting the responsibility of the local and international political and diplomatic communities to work for peace?

One of the initial challenges for CRS in applying a justice lens to its assistance and other activities designed to promote justice in conflicts is the lack of a firm conceptual understanding of human rights principles and the relationship between the various fields of international law (for example, international humanitarian law, human rights law, and refugee law) and Catholic social teaching. Such an understanding is a necessary precursor to identifying how these various principles connect with the essential aspects of what staff need to know to design and implement effective programs.

Over the past few years, CRS has recognized our need to understand better those aspects of international law that are relevant to its continuing effort to enhance staff professionalism. Behind this effort is the requirement to provide the most effective, appropriate, and timely services possible to populations affected by wars. Such services range beyond material assistance to include activities designed to promote the proactive transformation of unjust relationships in crisis areas. An increased familiarity with the international legal regime in which CRS operates would likely facilitate the application of the internal frameworks that seek to place the promotion of justice at the forefront of all our activities.

The evolving nature of law itself complicates the process. Aid workers in the midst of armed conflict cannot be expected to keep up with the latest developments in this rapidly evolving field. Identifying what CRS field staff must know regarding international law and designing accompanying training programs, tools, and methodologies for them to apply in their daily work presents a great challenge.

Catholic Relief Services began an internal dialogue on assistance and protection issues in December 1998 by working with an international lawyer to explore the relationship between interna-

tional law and Catholic social teaching. Many questions arose. How might CRS address systemic injustice? What do we mean by the terms “protection,” “promotion,” and “respect?” Are we talking about humanitarian aid organizations physically guarding people from harm? What are the roles of agencies with explicit protection mandates such as the International Committee of the Red Cross (ICRC) and the United Nations High Commissioner for Refugees (UNHCR)?

The questions continue. Is calling attention to injustice through advocacy a form of protection? What are the risks that more robust advocacy might entail for field staff and counterparts? Does protection require a commitment to guarantee only basic human rights such as the right to life and the needs to sustain it (e.g., food and shelter), or does it also include civil and political rights such as freedom of movement, freedom of speech, and the right to a fair trial? How does a humanitarian organization begin to provide such guarantees, especially when the provision of many of these rights is the primary responsibility of governments? What is the role of NGOs in strengthening civil society? How do we design program standards that reflect the complexity of situations in which human rights are in peril? Is the mission of saving lives and alleviating suffering a necessary prerequisite to addressing the structures of injustice? How do we reflect on all of these questions at the very moment when, in the acute stages of a humanitarian crisis, we are struggling to hire qualified staff, conduct needs assessments, and deliver assistance under extremely challenging conditions?

Responses to these questions require information about the international human rights regime that defines who is responsible for protecting which rights. International humanitarian law, too, expresses an understanding of relevant roles in responding to problems. International law both defines and universalizes the work of protecting human rights, yet it is only a starting point. Despite the standards articulated in a variety of human rights conventions, states frequently fail to provide the protection promised and international and local humanitarian and human rights

organizations step in.

But there are many practical and conceptual questions about the role of nonstate entities in these situations. What does a shift in the understanding of CRS' role in promoting human rights imply for its relationship to other humanitarian organizations, the federation to which it belongs, its position in the Catholic Church, its relations with the states in which it works, with international peacekeeping, and national military forces? What might an enhanced understanding of the role of CRS in promoting human rights mean for staff support, training, safety, and management? What are the operational and institutional implications of working through the relationship between assistance and protection?

Although there is no doubt that the primary responsibility for protecting human rights lies with the states parties to these agreements, CRS believes that a significant, indeed essential, role can and must be played by local civil society. It is through local organizations working to promote justice within their own societies that CRS believes it can address the root causes of conflict, which is at the heart of the agency's justice approach. Yet there is no blueprint for how to go about this kind of work. Nor is CRS an exception in its struggle to identify methods of implementing these kinds of activities that address injustice and rights and responsibilities and complement humanitarian assistance.

Various CRS programs promote the transformation of conflict and build relationships that foster peace and reconciliation. The types of intervention involved often differ, depending on the context and the level of tensions as well as the type of conflict (whether latent, manifest, or protracted) within a society. Programs also vary significantly in design and intensity of activities, although their approaches so far primarily include one or more of the following: the promotion of dialogue and mutual understanding; support for individual and community healing; and the reintegration and reconstruction of communities in ways that build relationships of mutual respect and a sense of shared future. Such efforts address the prevention, mitigation, and resolution of conflict; respect for human rights; reconciliation and increased

interethnic and interfaith understanding. Moreover, CRS' country programs are increasingly exploring how such approaches can be integrated into our work in various program sectors.²

As we continue to deepen our conceptual understanding of international law and Catholic social teaching, we are also exploring ways to institutionalize justice perspectives into our overarching approach to emergency programming. CRS is striving to develop a conceptual framework for humanitarian response in which the crosscutting theme of the promotion of justice is reflected. This work is seen as the foundation on which the operationalization of the principles discussed above can then be pursued as tools and methodologies for needs assessments, project design, monitoring, and evaluation. Development of this framework is underway and a draft should be available in 2000.

An integral part of the assistance and protection debate is the question of whether to speak out against human rights violations witnessed during humanitarian assistance work. Although the risks are great in this high-stakes game, there is a widespread perception within the aid community that refusing to speak out against injustice is to participate in it. In the past, humanitarian organizations often limited themselves to the enormous challenge of meeting short- and medium-term humanitarian needs in wars, looking to organizations with specific protection mandates to take primary responsibility for speaking out against abuses. Increasingly, humanitarian aid organizations are now finding themselves in situations in which their assistance activities seem incomplete without complementary advocacy activities that address the root causes of conflict.

The challenge lies in effectively integrating advocacy and assistance programs when the risks to the affected population, local partners, and CRS staff are very high and when rigorous analysis is required before action is taken. This challenge demands a careful analysis of the potential increase in security risks that such work poses for these groups in armed conflicts. Greater discussion and the development of policies and procedures is necessary to clarify the position of CRS and other agencies on this issue as the

security for one agency in a war often affects the security of others. Actions of aid organizations, however well intentioned, may inadvertently put local partners and communities at risk.

Conclusion

Humanitarian aid organizations, such as CRS, that are actively exploring the interface between assistance and protection have more questions than answers. Are the standards for basic assistance as articulated in the new Sphere Minimum Standards for Humanitarian Response a measure for protecting human rights? By meeting them will aid organizations satisfy their obligation to protect human rights? Will speaking out more forcefully against human rights abuses produce a more comprehensive protection approach to stand-alone assistance activities? If CRS must choose between providing assistance or speaking out against abuses, what is the basis on which this choice is made? Does the future calling of NGOs lie in protecting human rights through activities such as peace building, reconciliation, and strengthening of civil society? Are these indeed activities in which NGOs should be involved?

There are still many outstanding questions related to CRS's role in promoting justice in armed conflict. The structures, principles, rules, and relationships established by international law are only some of the grist for the mill of current challenges to humanitarianism. Catholic social teaching, common sense, feasibility, and a host of other reference points also contribute to our deliberations. There is much practical and conceptual work yet to be done that will only be accomplished with continued, active, internal, and external exploration of the issues.

As part of this ongoing process, there are several areas of study that CRS intends to pursue:

- A training curriculum that increases field staff “comfort level” with humanitarian principles and issues and understanding the relationships between existing and evolving legal norms and Catholic social teaching.

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- Further exploration of how the increasing interest in protection activities on the part of assistance-oriented NGOs may affect the current roles played by protection-mandated organizations such as the ICRC and UNHCR, as well as by more human rights-oriented organizations.
 - Continued examination of the usefulness of specific codes of conduct or ground rules for humanitarian aid agencies operating in conflicts.
 - Better understanding of the evolving role of humanitarian aid organizations in new program areas such as peace building, reconciliation, and strengthening civil society as approaches that emphasize preventing future human rights abuses by promoting justice.
 - Practical operational methodologies and tools for assessing protection needs and identifying what steps aid agencies can take to support protection (e.g., taking into consideration the associated risks, the role of human rights organizations, ICRC and UNHCR, etc.).
 - Methodologies and tools to assist aid organizations in designing assistance programs that reduce negative aspects (i.e., decrease programs that do not build on local capacities or do not include participation of the affected population in designing and implementing programs) and increase the potential positive impact of aid on conflicts (i.e., promote peace building and reconciliation activities).
 - Exploration of means to measure “progress” or “success” of protection activities.
 - Integration of advocacy and policy issues into program strategies. We developed a robust advocacy program in conjunction with humanitarian assistance programs in our response to Hurricane Mitch in Central America, a direction we wish to emphasize.
 - Exploration of issues concerning how NGOs can organize to make their voices heard on a policy level. For example, is there a formal way in which NGOs can bring relevant protection matters to the attention of the United

Nations (as the ICRC does)?

- Further exploration of how NGOs and human rights organizations can work together on advocacy. What are the barriers to individual or joint advocacy? How can human rights organizations and humanitarian organizations work more collaboratively together?

CHAPTER 3

TENSIONS BETWEEN ASSISTANCE AND PROTECTION: A HUMAN RIGHTS PERSPECTIVE

Michael McClintock
Human Rights Watch

Human Rights Watch (HRW) has focused almost since its beginning on human rights protection in armed conflict. Founded on field-based research, work now involves fact-finding, analysis, and practical advocacy for change worldwide. Reporting on humanitarian crises in a human rights framework has become an integral part of activities and builds on longstanding interaction with humanitarian agencies in the field, while drawing upon their unique expertise.

Since HRW is by no means the only human rights agency engaged in this way, the lessons identified in this chapter have more general salience. In a very practical sense, the human rights challenges of armed conflicts, particularly the challenge of survival, express the most basic interdependence and indivisibility of human rights. These challenges also bring together organizations focusing on different parts of the rights spectrum.

The strengthening of partnerships across the human rights and humanitarian divide has resulted in more concerted, collaborative monitoring, reporting, analysis, and advocacy to defend vulnerable groups and address the causes of emergencies. Human rights organizations have adapted increasingly to the need for more integrated approaches to rights protection, notably in their work for refugees and internally displaced persons (IDPs). Their collaborative effort also has drawn increasingly upon expertise in fields as disparate as criminal investigation, forensic anthropology, arms control, medicine, issues, photography, journalism, and statistical analysis.

Human rights conditions are a part of the environment of humanitarian service providers, as well as of those who provide

human rights protection. In their goal of preventing full-blown emergencies, humanitarian organizations have long recognized the potential for decisions to *create* disasters. They have exchanged early warnings of actual and potential human rights developments with their counterparts in the human rights sector. Some of these organizations, ranging from OXFAM to faith-based organizations such as Christian Aid and Catholic Relief Services, have addressed the root causes of humanitarian crises for many years. Through long-term local programs, they have sought to enable the grassroots to develop to their full potential. Through international engagement, some humanitarian organizations have challenged both the international actors and the trends that they have identified as part of the global rights problem, while mobilizing to bring about change.

There is neither a distinct line nor a particular symmetry in the divide between the two sides of the humanitarian mission, although the human rights and assistance sectors have traditionally pursued separate agendas and developed distinct programs and expertise. Despite differences, the respective missions have intersected in practical and programmatic terms, as well as in their humanitarian intent. Many aid agencies serve as providers of both material assistance and protection, while human rights organizations now increasingly address questions of basic needs in their research, reporting, and advocacy, particularly in armed conflicts and related refugee and internal displacement issues. The methodologies of the two sectors also intersect in certain broad areas, while differing significantly in accordance with each organization's distinct mission. For Human Rights Watch, for example, field work is the foundation of its program and the source of its effectiveness in the identification of issues, problem solving, and effecting change. Collaboration with humanitarian agencies that maintain constant field operations in conflict areas is a high priority.

Protection includes measures to prevent, halt, and remedy violations of the rights of assisted populations and to safeguard against renewed violations (including by holding the perpetrators

accountable). A principal challenge faced by all agencies is to perform this function better in the face of conflicts to come. Needing to be protected is the full spectrum of rights established in human rights and refugee law as well as in international humanitarian law. These range from protection against refoulement in the guise of voluntary repatriation to measures to ensure a population's access to means of survival. Whether abuse takes the form of siege or man-made famine, the systematic destruction of shelter, or blocking delivery, such access requires involvement by all sectors of the human rights and humanitarian community.

In confronting the challenges of a changing world, we face the parallel challenges of improving the capacity to work together. Past efforts by the International Committee of the Red Cross (ICRC), United Nations High Commission for Refugees (UNHCR), Amnesty International (AI), and others to explore the concept of protection have been a step forward in this regard, and an effort that Human Rights Watch has supported. The actual interaction and cooperation that have evolved into collaborative partnerships provide insights into how best to proceed.

Institutional Learning and Change in the 1990s

During the 1990s, cooperation, collaboration, and even integration of programs by human rights and assistance agencies have grown greatly. The interactions have resulted from and facilitated progress in a better understanding of different roles and responsibilities. Recognizing the different capacities and competencies of each sector often has often made their respective programs more complementary. This effort has required more clarity by the human rights sector in defining its distinct contribution and methodology. How and why do we conduct field operations? What are our rules on confidentiality and security? How do we collaborate with humanitarian assistance organizations in the field, and before setting out for the field? How do we use and share information? How do we carry out advocacy locally and internationally? The most productive partnerships have de-

manded a common understanding of working methods, guiding ethical principles, and shared goals.

One lesson is that effective human rights work requires better coordination and collaboration with those tackling the same and related problems. This means, above all, the exchange of information to ensure that everyone is fully familiar with work programs. A good start is knowing who is who and how each organization works. What are their objectives, modes, and methods of action? What are their particular areas of expertise and capacity for action? What projects and programs are being developed, where, and by whom? There is also a need to know how organizations deal confidentially with particularly sensitive information and with measures to safeguard the security of those to whom they relate in the field.

These are fundamental factors in building a working relationship and determining an effective division of labor in a partnership. An organization must have a relationship of trust founded on full understanding before agreeing, for example, to provide information to others for dissemination. Exchanging information and experience before designing field operations, and establishing procedures by which headquarters gives notice before contacting counterparts in the field, are just some of the basics that can facilitate an effective relationship. To work effectively, a collaborative partnership requires ground rules that are based on common understandings, a commitment to constant communications, and, ultimately, well-earned trust.

In HRW experience, collaborative partnerships with local and international nongovernmental organizations (NGOs) have developed extraordinarily in the 1990s. Close cooperation between HRW and other human rights organizations has been part of this trend, including partnership in field operations and advocacy with the International Federation of Human Rights Leagues (FIDH) in Central Africa and cooperation in the field and in numerous advocacy areas with Amnesty International. While Human Rights Watch has always worked closely with local and regional NGOs, lasting partnerships in the 1990s have made some headway

toward bridging the divides between protection and assistance and between civil and political versus economic, social, and cultural rights, giving real substance to the discourse about the indivisibility of human rights. These partnerships have been most extensive with nongovernmental humanitarian organizations, in particular those that combine the provision of services to victims of armed conflict and man-made catastrophes with advocacy on a broad spectrum of human rights concerns.

Collaboration ranges from active cooperation in the field to assistance by human rights organizations in drawing the attention of potential donors to particular underfunded needs. In field operations, humanitarian agencies have aided human rights workers greatly in helping them overcome the practical difficulties of operations in remote areas. For this task in particular, assistance agencies far outstrip the logistical and technical capacity of human rights organizations to sustain field operations. Interagency help with mobility, communications, and maintenance of security of field workers has become a constant in this relationship. Such interactions have helped build confidence and mutual understanding among the different parts of the humanitarian sector, enabling more substantive partnerships to develop.

One consequence is a greater understanding of the distinct humanitarian missions and capabilities within the human rights and assistance communities. Relief organizations increasingly alert others to problems that they themselves may be unable to address in isolation, just as human rights groups flag assistance needs that they themselves cannot tackle. The actual experience of HRW with such partnerships is outlined below.

The Intergovernmental Dimensions

Human rights organizations also routinely critique operations from a human rights perspective, identifying actions or omissions in field efforts or addressing broader policy issues. One of the more prominent HRW reports outlines the missed opportunities in United Nations (UN) peacekeeping operations during the early

post-Cold War period.¹ In such situations, human rights lenses provide a way to scrutinize the gap between standards, policies, and practice as well as advocate for change. Interlocutors in most of these cases are field and headquarters personnel of intergovernmental organizations with broad mandates and enormous operational programs. Effective action often requires consultation at every stage of inquiry and careful consideration of how best to help a particular intergovernmental organization meet common protection goals, including garnering support from donor organizations and governments. The publication of findings should not ambush partner organizations, but rather reflect an exchange of views and provide concrete proposals for improved protection.

In one aspect of this collaborative effort, human rights groups regularly lobby international agencies to integrate human rights protection more fully into their assistance programs, particularly as it concerns internally displaced persons. As part of its work with the displaced in Kenya, HRW examined the relatively new role of the United Nations Development Programme (UNDP) as a lead agency in this area and identified weaknesses in the protection dimension of UNDP's Kenya program. The report irritated some officials responsible for that program, but ultimately it resulted in serious reflection within UNDP about the protection needs of displaced populations and in ongoing consultations with Human Rights Watch.²

In recent fieldwork, notably in Guinea and Liberia, some UN field and headquarters staff have genuinely collaborated, providing field-based logistical support and useful information about refugees. Human Rights Watch works to ensure that findings relevant to UN field operations are communicated to appropriate levels of the world organization. Some examples are findings in Guinea that refugee camps were being used as base camps for Kamajor fighters operating at the border, that fighters were sometimes openly registered as such by camp administrators, and that these forces included children. While collaboration may be uneven, even where high-level contacts precede relations in the field, continued efforts to pursue and deepen such relationships

deserve high priority.

The Information Challenge

Human rights information is much more than a record of abuses. It also draws on broader fact-finding and analysis concerning the structures, actors, and context of actual or potential abuse, as well as the options with which to respond to ongoing abuse, remedy past abuse, or take preventive action. This information and its objective analysis are essential to policy formulation, whether in the political or the humanitarian spheres. Many relief agencies still remain largely silent about the human rights context of their operations, arguing that discretion is necessary to maintain access to vulnerable populations or that they have neither the mission nor the competence to monitor and disseminate information concerning human rights. Increasingly, organizations that refrain from assuming a whistle-blowing function cooperate informally with human rights monitors whose parallel missions complement their own.

The immediacy of information needs in humanitarian emergencies places special demands on the organizations addressing these situations, particularly on relief workers who are often directly exposed as incipient cries explode into full-blown human rights emergencies. For instance, after the massacre at Kibeho, Rwanda between April 20 and 24, 1995 in which thousands were killed in the presence of aid workers, many of the organizations spoke out. Notable was staff from Médecins sans Frontières (MSF)-France who were present with the HRW/FIDH staff during some of the killings.³ Their efforts were undermined by international collaboration with the Rwandan government in concealing the number and reality of the killings and by the government's expulsion of 38 NGOs from the country. Was the lesson of Kibeho that humanitarian organizations should remain silent in the face of atrocities, or that the international humanitarian system as a whole should support those who speak out? The debate goes on, but the consensus appears to be that in the face of atrocity one must not

undermine those who speak out, even if unable to do so oneself.⁴

A less catastrophic incident or pattern of rights abuse might better illustrate the typical scenario in which relief workers are faced with tortuous decisions. In these less dramatic situations, other options arise that depend on the nature and venue of field operations, the scope of humanitarian presence, and the special advocacy skills of a particular organization. Options include delegating data collection and speaking out to partner organizations experienced in and expected to issue public reports about ongoing events and to engage in advocacy.

Action also involves choosing with care and anticipation particular issues and situations in which to expose abuse, while balancing the potential loss of access to vulnerable groups against the long or short-term potential to bring real improvement. A further factor is how much silence can be expected to encourage continued abuses or prepare the ground for a full-fledged human rights disaster, like that of the eastern Congo, which sweeps away any possible continuation of quiet humanitarian assistance.

In the 1990s, a trend toward openness about human rights has gradually emerged in humanitarian operations, despite fierce resistance from political negotiators. There is still some distance to go, however, until all who share information concerning actual or potential human rights issues routinely make the information public before human rights emergencies develop. As the routinization of information progresses, the idea that reporting is unusual and outrageous should fade.

The Collaborative Experience

Assistance and human rights organizations have interacted in the field for almost as long as both have conducted field operations. Active, if not always acknowledged, cooperation has become increasingly the norm. One aspect has been to work with counterparts in the field to identify issues to be addressed systematically. The recent creation of a program by the International Rescue Committee (IRC) to address sexual violence in the camps

of Sierra Leonean refugees in Guinea, for example, illustrates just such a response to a human rights problem. It dovetails with recommendations made by Human Rights Watch in its 1998 report on Sierra Leonean refugees in Guinea and Liberia.⁵ Moreover, the learning was not unidirectional. HRW research and recommendations had drawn on previous contact with IRC's sexual and gender violence staff in Tanzanian refugee camps the previous year.

Work to address the plight of children abducted by the rebel Lords Resistance Army in northern Uganda was the result of a similar collaborative effort. This involved close coordination with local and international organizations ranging from the Gulu Save the Children Organisation, Gulu Human Rights Focus, and Concerned Parents of Aboke, in the former category, to UNICEF, World Vision, Save the Children-U.K., the Mennonite Central Committee, and Amnesty International, in the latter. This wide-ranging partnership, particularly with those on the ground, made possible the organization of fieldwork, interviews with dozens of children, and the subsequent use of a broad advocacy strategy.⁶ Similarly, HRW has joined forces with the Jesuit Refugee Service (JRS) and others in launching the International Coalition to Stop the Use of Child Soldiers, building on the successful previous experience of the International Coalition to Ban Landmines (ICBL).

Other extensive collaboration has become the norm in many war zones, from the former Yugoslavia to Central and West Africa. In the aftermath of the Rwandan genocide, for example, Human Rights Watch worked closely with nongovernmental assistance organizations in establishing a field operation there. It provided support for local NGOs and collaborated closely with the entire humanitarian network in an association that continues.

Jointly promoted remedies may concern locations (relocating refugee camps away from the danger of crossborder raids, as in the Gueckedou area of Guinea) or the actual layout of camps (cases of sexual violence may be related to locating latrines on the remote periphery of a camp, or the lack of security for women collecting

firewood). Remedies may relate to screening out combatants (the Rwandan crisis needs no elaboration, but today there are units of Sierra Leonean Kamajors based in Guinean refugee camps), and active measures to protect children from recruitment as soldiers. In each of these areas, assistance providers and human rights workers routinely collaborate in both fact-finding and problem solving. When access to populations is blocked—as when the Guinean government denied access in June 1998 to camps along the Sierra Leone border where some 150,000 refugees were housed, or when the Sudanese government tried to stop relief airlifts during the 1998 famine—Human Rights Watch worked closely with relief agencies to document the obstruction and advocate its cessation.⁷

Partnerships also have been developed with local NGOs whose mandates combine fact-finding, dissemination of information, and broad-spectrum advocacy.⁸ These partnerships include organizations that address such issues as children's rights (as in HRW's work on bonded child labor in India, where remedies have been largely economic and social) and women's rights (where work with local NGOs has included training, standard setting, promoting medical services, and improving state forensic mechanisms for victims of domestic and sexual violence). Partnerships in the international effort to ban landmines have been forged with local organizations concerned with mine clearance, assistance to landmine victims, and a broad range of advocacy efforts. HRW's contributions to these partnerships have focused on fact-finding methodology, the exchange of skills and experience, expertise in arms and human rights issues, and coalitions to formulate and promote advocacy.

One structured means to familiarize partners with complementary mandates and operations has been to bring field staff together in operational areas to gain on-the-spot experience with the mission and operations of counterparts. Through such cross-education, field staff become aware of their counterparts' work, needs, and perceptions—an exchange that is distinct from the cross-training in skills and local knowledge that may also occur.

Human rights and assistance workers must recognize the constraints and common ground of their respective missions if they are to work together effectively. Interactions have included the participation of human rights practitioners in workshops with the staff of assistance programs in the field and in structured training sessions on such matters as human rights standards, fact-finding, and interview methodology. Human rights country experts have provided relief field staff with orientations about the historical and cultural contexts of the areas in which they work, as well as more general guidance on human rights issues. Human rights staff learn from their counterparts about the practicalities of field operations and the details of the human rights environment that can best be gleaned through a long-term presence in the field and day-to-day contact with those receiving assistance whose rights are threatened.

Some of these partnerships have included joint training programs, staff exchanges, joint advocacy, logistical, administrative, and security support in the field. Experiments are based on a mutual understanding of the strengths and limits of respective organizations, complementary work, and agreement on how to work together in the field and at headquarters to strengthen protection. Partnerships can enhance the protection of and respect for the human rights of assisted groups through actively sharing resources, information, skills, and expertise.

Many humanitarian groups consider it necessary to address the human rights of war victims and preconflict situations and wars before beginning to assist them with basic needs and addressing the causes of their plight. Some aid organizations themselves witness grave abuses, publicly denouncing those that might otherwise negate their broader humanitarian mission. At the same time, the collection and dissemination of human rights information and analysis by relief and development staff is often seen as potentially jeopardizing relationships with host governments and thus putting at risk their overarching missions.

Although often shying away from any public involvement in monitoring rights, many of the largest humanitarian organizations

are extremely sophisticated in collecting data about the operational environment, including civil and political human rights. They collect large quantities of data and prepare detailed analyses—with rights conditions key factors of risk analysis—to guide programs. These findings are strictly internal to these organizations and usually unavailable even to scholars. They can be subject to the same kind of bureaucratic censorship that skews internal government analysis—the result is what one colleague has called “negotiated findings”—and their dissemination strictly limited. As faith-based and other aid agencies consider the pros and cons of grounding their work more explicitly on international human rights standards, a new disposition to make some of this research and analysis available to responsible scholars and human rights analysts should also be considered.

Sharing current information concerning rights in active armed conflict is at once the most urgent and the most potentially sensitive area in which humanitarian and human rights organizations can cooperate. In determining how to use such information responsibly, partner agencies must consider as the highest priority the interests of the vulnerable groups whose welfare may be advanced or jeopardized by their decisions to release or suppress information. This requires a tortuous ethical calculus that should draw upon interdisciplinary data and analysis on the full spectrum of human rights, from assessments of basic needs to the requirements for protection from looters, sexual violence, and marauding armies. It should integrate concerns for meeting a population’s needs for food and fresh water today, for example, with reflections about the ultimate prospects for survival and self-sufficiency or for debilitating oppression, famine, and war.

An alternative for an aid agency’s publicly bearing witness or taking a public advocacy stand is to make information on human rights abuse available for analysis, dissemination, and advocacy by others, all the while maintaining a distance from this work. Such information can be used by a human rights partner to inform its own analysis and policy recommendations or to mobilize public opinion. The noisy denunciation of broad-gauged abuses as the

essence of rights work should not be entirely discounted and remains an option, but human rights action may also be quiet and tightly focused. Raw information may be transformed into detailed analysis and policy recommendations that do not require open denunciation to receive attention and generate change. With human rights problem solving the principal aim of the human rights movement, publicity of human rights abuses serves increasingly as a carefully calibrated tool and not automatically an end in itself.

If information is to be shared between assistance and human rights organizations, both partners must fully understand its sensitivity in light of their related missions. They also must agree on how and for what purpose shared information should be disseminated or reflected in advocacy, or whether it should be disseminated at all. The nature of such partnerships needs absolute clarity, not least whether it is to be public, as this will color how information provided must be handled. In nurturing a partnership, a holistic approach can be developed toward protection that respects the needs of humanitarian agencies to exercise discretion in human rights advocacy, while ensuring that information crucial to the welfare of victims of conflict is disseminated by a partner to policymakers and to international public opinion.

Challenges in the Global Environment

There are enormous challenges arising from changing world politics that frame the dynamics of institutional interactions. These challenges include the prospect of a continued proliferation of war and atrocities driven by ethnic, nationalist, or religious chauvinism; an increasing demand for international involvement in local and regional armed conflicts; and trends by governments in the West to renege upon past commitments in such areas as refugee law even while increasing their military commitments abroad. In this context, statelessness and nationality issues will increasingly become core factors in humanitarian emergencies as both cause

and consequence of massive displacement, “ethnic cleansing,” and the generation of refugees.

Humanitarian initiatives will also continue to be hampered by the role of armed forces outside the framework of states and traditional armies, which are less susceptible to persuasion or other means of winning compliance with international humanitarian norms, let alone respect for humanitarian agencies. These include both governmental and nongovernmental forces, with or without state sponsorship at some remove: for example, Uganda’s Lord’s Resistance Army. The proliferation of the shadowy irregular forces—for example, Serbia’s paramilitaries or the Indonesian army’s vast tapestry of militias—by which governments augment their capacity to wreak havoc while evading accountability is likely to make humanitarian operations increasingly dangerous. At the same time, such proliferation holds the potential for the slaughter of civilian populations beyond the reach of international protection. Finally, the growing presence of private security corporations in armed conflicts adds new challenges for those concerned with assistance or monitoring and protection.

There are real challenges to making human rights, in its broadest sense, central to peacekeeping and peacemaking—and to exposing new episodes in which conflict resolution is pursued in a human rights vacuum. The more generalized conflation of conflict resolution with humanitarian initiatives also will need attention because of recurring efforts to build peace on foundations stripped of human rights principles. The factors that result in the muting of public, unfiltered reporting on human rights practices in humanitarian emergencies are often most visible in peacekeeping and related operations. At the same time, armed conflict also tends to generate a flood of claims of atrocities that have been tweaked and tailored to support a belligerent’s claim of righteousness. In any situation involving the use of armed force, objective information on human rights practices is crucial to effective analysis but also prone to distortion, misuse, and suppression. In such circumstances, intergovernmental humanitarian agencies, with their enormous capacity and resources, will continue to play the principal roles in both assistance and protection. These

agencies, like their nongovernmental partners, must work harder to protect their core humanitarian mission.

The fundamental challenge may be to maintain the integrity of the human rights and assistance missions, a goal that will be complicated by the overlay of political and humanitarian goals that will inevitably color intervention, however well intentioned. If agencies delivering services in wars become increasingly dependent on the funding, logistical assistance, and authority of parties to the conflicts in which they operate—be they governments or intergovernmental bodies—their humanitarian integrity may appear to be compromised and their capacity to perform their humanitarian mission reduced. This eventuality is increasingly complicated by the pivotal role played by the multitasked agencies of the UN system, the funding crisis in which they find themselves, and a preference among some donor governments to demand that large private agencies be directly contracted to provide humanitarian services as an alternative to the United Nations. Finally, the practice of commissioning human rights groups and individual experts to undertake studies on behalf of governments and intergovernmental bodies requires attention. Although welcomed by many, does this practice introduce “market forces” that can distort the priorities and independence of the human rights movement?

As the relationship between the human rights and assistance sectors evolves into a division of labor in which “complementarity” is the watchword, the more serious divide between the humanitarian and the political will continue to be the object of tensions. In situations involving wars with massive displacement, the pressure to subordinate human rights and, more generally, humanitarian concerns to strategic or even economic considerations can become extreme. The challenge is to maintain the integrity of both the human rights and assistance components of the humanitarian mission in the face of such pressures.

CHAPTER 4

STUDYING UP, DOWN, AND SIDEWAYS: TOWARD A RESEARCH AGENDA FOR AID OPERATIONS

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In the early 1990s, it would have been a relatively easy task to sit down and review the state of the art of humanitarian research. There was not much of it, and one knew roughly who was doing it. During the decade, this once esoteric area—one could hardly call it a “discipline”—has been coming out of the woodwork in its own, invariably odd way. One is now faced with an apparently bewildering array of journals, conferences, and books. Perhaps most overwhelming is the vast “gray” literature, often looking sad and accumulating dust, in the offices of academics, policymakers, and perhaps a few practitioners.

The Humanitarian Policy Group at the Overseas Development Institute (ODI) has been engaged in a strategic review process over the last few months. This chapter draws on the discussion and debate that has sought to identify priorities for humanitarian assistance research over the next two to three years. It argues that the real challenges for humanitarian academics, policymakers, and practitioners lie not so much within the humanitarian system itself, but at its frontiers with the wider world.

This chapter has three key parts. The first is an overview of the recent history of humanitarian studies. The second maps a research agenda that studies up, down, and sideways from the humanitarian system itself. The final part presents a series of dilemmas about humanitarian research—who should be doing it and on what terms.

The Evolution of the Humanitarian Impasse: A Brief Overview of “Humanitarian Research”

While perhaps not yet a discipline, humanitarian studies is definitely an industry. Its fortunes usually have been tied to those of our client base, primarily those responsible for financing and operationalizing the humanitarian system—in other words, non-governmental organizations (NGOs), the United Nations (UN), and governments. Reflecting the fluctuating fortunes of those whom we study, a crude characterization of humanitarian studies over the past decade or so might comprise three phases.

A “Golden Era” of Humanitarianism

The mid-1980s saw the conditions emerging for the resolution of the Cold War, particularly in nonstrategic areas, including most of Africa.¹ The culmination of this process—the tearing down of the Berlin Wall in 1989—generated an unprecedented confidence that, in the context of new politics of peace and security, humanitarian access could and would be secured in internal wars, if necessary by force.

The late 1980s and early 1990s saw the emergence of “humanitarian research.” This built upon, but was distinct from, an important body of work that had emerged in the late 1970s and 1980s about aid responses to natural disasters, particularly drought.² During this period, many of the foundation stones for humanitarian research were laid. Yet, at least in the United Kingdom (U.K.), the new humanitarian research was not mainstreamed, as it was funded sparsely and in an ad hoc way, largely by NGOs themselves; and findings were scattered across an eclectic range of journals. Until the early 1990s, there were no academic centers in the U.K.,³ or probably in Europe, dedicated to the study of complex political emergencies and responses to them. The Humanitarianism and War Project in the United States was obviously

an important exception to a similar rule across the Atlantic.

As the decade progressed, humanitarians, particularly in the NGO sector, grew confident politically that aid could occur in a war zone and that it would be underwritten with political support. This confidence was paralleled by an expansion in writing concerned with describing the emerging humanitarian system,⁴ including the emergence of military humanitarianism.⁵ At the same time, the political space opened up by the end of the Cold War provided new analytical room for a more fundamental review of the political economy of war and of humanitarian action in war.⁶

The Sky Falls Down

The optimism of the post-Cold War era was short-lived, dented severely by practical experience. If Somalia was the beginning of the end, Rwanda was the final nail in the coffin of humanitarian optimism.

At issue were two things. First, whether political-military intervention could be used to enforce the humanitarian imperative. Second, whether “being there” was enough. While funding for humanitarian aid continued to expand massively during the early 1990s, peaking (at least until Kosovo) in 1994-1995, so too did doubts. These doubts were fueled not simply by operational anecdote, but also by an increasingly solid body of research that suggested that being present was not enough. Sometimes being there could do more harm than good.⁷

That Millennial Feeling: The Humanitarian Impasse

The Rwanda experience proved that a coherent system was required, capable of fulfilling the multiple mandates necessary to respond effectively to complex political emergencies.⁸ Rwanda also emphasized that at the humanitarian interface, the thousands of personal encounters between the fed and the hungry were more complex than had been accepted previously. Individual aid workers needed to know not just about rations, but about rights and

wrongs.⁹

We know much more about how aid works in war zones than we did ten years ago. The end of the Cold War enabled those in the relief community working in armed conflicts to escape the conceptual shackles of drought, to relabel what they were doing, and to acknowledge publicly what military tacticians had always known—namely that delivering aid in war zones is an inherently political task.¹⁰ Thus, what had once simply been called “emergencies,” became known as “complex political emergencies,” and relief became “humanitarian aid.”

In recognition of the new politics of humanitarianism, various tools have emerged with which to navigate these complex environments. Numerous global and country-specific codes of conduct provide a base in moral principles, which reflect the need for the system to adopt smarter, more politically informed methods of delivering aid.¹¹ There has also been growing interest in the idea that as aid may increase the incentives for violence, it might be deployed conversely as an instrument for peace and provide a focus for conflict resolution, or at least a resource to consolidate peaceful gains.¹²

There are two major strands of international debate about aid in war zones—that aid should be used as a tool for conflict management, and that relief can and should be developmental. They have become the basis for an apparent consensus regarding aid responses to complex political emergencies, with few in the bilateral, multilateral, NGO, or even academic communities taking issue.¹³

However, beneath the banner of the new orthodoxy, a factionalism is appearing within the humanitarian community as it struggles to understand the operational and institutional implications of “smarter” and more “sustainable” relief in war zones. A complex pattern is emerging, whereby different agencies respond to the humanitarian impasse by developing new working methods such as greater emphasis on developmental and conflict resolution goals.¹⁴ Others reassert the continuing value of basic operating principles such as neutrality and impartiality and are more cautious

about the emerging multimandate nature of aid agencies in war zones.¹⁵ These different views regarding the “solution” to the problems facing humanitarian aid lie not only between different agencies, but run through operational agencies, sometimes divisively. These differences are reflected in the emerging schools of academic humanitarianism.

The impact of this dissent is not insubstantial. To name a few examples, the strategic framework process in the United Nations is being “torn apart by the agencies,” says one closely involved with the effort. Within the NGO sector, attempts to define common standards for programming through the Sphere Project are encountering strong resistance from key groups in the Francophone humanitarian community.¹⁶ The institutional failure of the UN to articulate clearly and operationalize a consistent way of responding to the needs of those affected by the chronic emergency in Sudan is leading many donors out of Operation Lifeline Sudan in search of a privatized solution, a form of humanitarian deregulation with probably dire consequences. At a conceptual level, schisms also are emerging between “the humanitarian purists” and those who propose deepening and broadening the humanitarian agenda.¹⁷

There are important and real debates that should occur among humanitarian actors. Conflicts about ideology and purpose undoubtedly need to be fought out in an arena often (and perhaps wrongly) praised for the quickness of its feet rather than of its brain. In the process of these debates, the strengths and weaknesses of different approaches will be discussed, and hopefully proven, and will contribute to the evolution of the system.

Yet a characteristic of these debates is that they are becoming increasingly introspective and self-referential. They are also taking place in a context of continuous catastrophe for its clients, and at a time when the financial backers of the humanitarian system are less and less convinced of its effectiveness.

As research and debate of humanitarian issues have become more subtle and detailed, there is a risk of not seeing the forest for the trees. One can argue that the humanitarian system itself

controls few of the parameters within which it works since these are set by others within the wider political and aid community and within recipient countries. Rather than starting from a series of internal questions about who should do what, arguably the most important (and many of the most interesting) issues confronting the humanitarian community are located not within but around it. Following is a brief synopsis that illustrates up, down, and sideways of the humanitarian system.

Studying Up: States, Quasi-states, and the Humanitarian Impasse

It is worth beginning this section with an anecdote. Discussing Angola in 1996-1998 (the same observation could have been made about any number of war-affected countries), a UN official recently described how the aid system remained locked in a political process that gradually bore less and less resemblance to the actually existing political environment. As the international community became committed to the formal dance of the political continuum from peace agreements to cease-fires, demobilization, and elections, so the aid community was also committed to a parallel continuum from relief to rehabilitation and development. As the aid continuum was the operational expression of the political continuum, any attempt to question whether the political conditions were in place to progress along intended lines was laden with symbolism.

It was obvious to field staff, particularly those based in areas held by the National Union for the Total Independence of Angola (UNITA), that things were not getting better but worse. Yet, within the confines of the politics of formal diplomacy, no one could say that the emperor was naked until it was too late. The relevance of the aid operation was compromised fundamentally by the fact that it was part of a highly dysfunctional international political process.

A major dimension of the current crisis of humanitarianism is not so much its own patchy technical performance as the crisis in

global governance. In particular, there exists an obvious incapacity of the existing international system to find a legitimate basis for responding to massive violations of human rights by vicious state and quasi-state bodies. Unless this is addressed, even major improvements in aid performance will have only a marginal impact on the lives and livelihoods of affected populations.

The post-Cold War wave of experimentation continues with instruments to punish pariah regimes that range from sanctions to aerial bombardment. The events of Kosovo are so fresh that it is difficult to interpret their meaning and assess their impact both in the region and for the future. Stepping outside that predominating theater, there are two trends that appear to have dominated political management of complex political emergencies in recent years. The sidelining of the only potential base for global governance—the United Nations—in favor of regional and bilateral security arrangements is further threatening the idea of a global consensus around humanitarian values. At the same time, in nonstrategic areas, even flimsier arrangements are taking place as responsibility for conflict management is delegated from the diplomatic sphere to the low politics sphere of aid.

For “humanitarian” academics, the problem of international political management—its form and content—is the primary problem with which we need to grapple. It is one that we too rarely research at a global level and that is rarely deconstructed in relation to specific case studies. The research agenda here is vast, and clearly relies upon forging relations with the more innovative international relations theorists. But there are two distinct research challenges about the structure and functioning of international politics that may be worth highlighting.

The first is a conceptual and theoretical task: to develop tools to respond to the problem of belligerent state and nonstate entities. An analysis of global governance that overcomes the existing limitations of state-centric international relations is necessary to inform humanitarian action if the latter is to have any legitimacy if the fundamental humanitarian problem, that of protection, is to be addressed and if mechanisms to improve accountability of the

system are to be developed.

In the absence of such a framework, humanitarian action will remain the poor sibling of the international political system. Presently, this system often fails the humanitarian imperative for two reasons. First is the incapacity of formal diplomacy to connect idealized political relations with an actually existing political process (e.g., Angola). Second, the analysis is wrong and also partial in its application. The selectivity of political engagement in complex political emergencies throws into question the legitimacy of the humanitarian enterprise. In other words, amid the calls for greater coherence between the political and humanitarian spheres, humanitarian action is increasingly vulnerable to accusations of being part of a new imperialism. Lacking is the creation of a global consensus about the new rules for post-Cold War politics, including the legitimate response of states to massive violations of human rights.

The task for researchers involves reviewing the framework for global governance as it applies to a world characterized by quasi-states: that is, a framework that should provide protection for citizens facing internal war and should lend itself to greater accountability of the major powers. The essence of this challenge is not defining international norms (which arguably both the UN Charter and the Geneva Conventions, among others, do exemplarily). Rather, it is identifying alternatives to the state-centric organization of international relations and to establish how a global consensus can be achieved about values and how to enforce them.

The second “upwards” issue is one that is empirically researchable—namely, to unpack further the implications of the trend for donor states to integrate increasingly their political, humanitarian and even military responses to conflict. In recent years, there has been growing emphasis on increasing the coherence of international responses to conflict. At the same time, there has been repeated justification of international (Western) intervention within sovereign states on “humanitarian” grounds (e.g., Bosnia, Iraqi Kurdistan, and most recently, Kosovo). These trends have impor-

tant implications for the quality of humanitarian space and the legitimacy of the humanitarian enterprise. Yet they remain difficult to research while funders remain focused on the internal institutional issues within the humanitarian system.¹⁸

Studying “Down”: Entering the Other’s Planet

A second major area of study concerns the interface of the humanitarian system and its constituents, or at least the political economy in which they live. An important body of work has emerged in the United States and Europe regarding the function of war economies and how they articulate with the economy of aid.¹⁹ Although the risks of aid being diverted to feed military structures have been well highlighted, other challenges remain. In particular, in some countries (the Sudan, the Balkans, and Afghanistan are the most obvious, but not the only examples), war is being fought not only with bullets and bombs, but also through complex and ambitious processes of political and social engineering. Forcible displacement, capture of land, and strategic resources are only three aspects of such strategies.

Understanding these dynamics and the power structures that they represent will be important, not only to ensure that humanitarian aid is delivered to and consumed by those most in need, but also to ensure that aid does not serve to reinforce those political structures that threaten human rights. This is particularly important in increasing demands for aid in armed conflict to engage in developmental and capacity-building activities. The environments raise complex political questions about whose capacity should and should not be built.

For academics, there is the challenge of documenting the “real” political economy of war-affected countries. This is underway with researchers looking behind collapsed formal economies to monitor parallel, extra-legal flows of resources. Less understood are the sociopolitical dimensions of these economies and their implications for the emergence of stable governance and civil institutions. For example, whether such economies can be recap-

tured for the “public good,” as opposed to private and militaristic gain, remains an important but underresearched issue.²⁰ Similarly, more information about the “real” political economy of war could be used to inform guidelines for programming, particularly in relation to adherence to humanitarian principles.

Studying Sideways: Into New Territories and Rediscovering Some Old Ones

Some observers have argued that the parameters of humanitarian action are set as much by the global environment as by the specific context within which aid is delivered. At the same time, the scope of the international humanitarian system itself has been broadening into new areas, or at least areas that are new to it. An important process has been what might be described as the secularization of international humanitarian law, or a reinterpretation of the Geneva Conventions and the principles of the Red Cross movement by nongovernmental and UN organizations.

This proliferation of principles implies a careful analysis of how much such principles maintain or erode international legal standards and the operational standards of bodies such as the International Committee of the Red Cross (ICRC).²¹ Understanding the limits (as well as the potential) of such principles in dealing with regimes such as that in North Korea will be important if the appropriate bodies are to be held accountable for the effectiveness of humanitarian action.²² Looking more at the law and efforts to apply rights-based approaches to aid programming in war zones is likely to be a rewarding area of investigation.

Broadening relief to embrace developmental approaches has already been mentioned in the context of real war economies. Empirical and conceptual work is required, particularly work that goes beyond the tale of individual projects to analyze the conceptual, institutional, and operational difficulties of realizing development goals and disbursing development aid in chronic political emergencies.

A final point is in the “sideways” category. As the debates

regarding the effectiveness of relief aid in the 1970s and mid-1980s emphasized the technical over the political, there is a risk that in the 1990s the pendulum swung back too far. Perhaps the key for the next millennium (to use a temporal cliché) is to secure a link between the technical and the political. The critique of humanitarianism, with attempts to respond to it, puts a constant of human life at risk: the need to secure a minimum number of calories, clean water, and protection from basic disease. The trend toward making the humanitarian imperative conditional upon the outcome of complex calculations, regarding net gains of harm and good, means that the bottom line of survival can get lost.

This is the case, particularly given what appears to be a quiet acceptance on the part of the humanitarian community, including academics, regarding the steady decline in funding. Budget- or appeals-based needs assessment is the most obvious manifestation. In this context, academics, in particular epidemiologists and nutritionists, have an important role to play in defining and applying better methods of documenting and analyzing need objectively.

This is a controversial exercise, given the complexity of food systems, especially when the variable of violence is added to the existing richness of socioeconomic tactics for survival.²³ Quantifying suffering may sound quaint, but it remains the key not only to the design of effective response but also to claims about impartiality and accountability of the international humanitarian system. Initiatives such as the Sphere Project imply synthesizing the hard sciences with a capacity for policy analysis to determine not only how much was delivered and consumed, but also to explain (and allocate blame for) gaps in provision. Thus, sustaining what Borton calls the accountability revolution may be crucial.²⁴

Conclusions

In the true academic tradition, it seems more appropriate to close with a set of issues that are less concerned with the content of research than with research strategies. First is the issue of

ownership of research and the research agenda. We have recently become aware of an initiative to strengthen capacity for research on humanitarian issues in Africa, specifically through the Association of African Universities. Support for this type of undertaking will be important, as will be developing methods of research that involve intended beneficiaries in defining humanitarian response. Encouraging better and more participatory methods of analysis is clearly important, but also problematic.²⁵

An additional point on ownership is in order. It was suggested earlier that humanitarian debates are at risk of being self-referential. Equally, there is a risk that humanitarian researchers talk primarily to one another, and that their discussion excludes policymakers and, still worse, practitioners.

This leads to a second dilemma of how to maintain subtlety and detail of argumentation, while also facilitating debate across the academic, policy, and practitioner divides. Undoubtedly, the contexts within which we work are among the most complex on the planet, and the capacity within the system to analyze and think through responses is limited. Those who are responsible for delivering assistance barely have time to read their E-mail and field manuals, let alone the latest dense analysis of the political economy of north Kivu. Without understanding the likes of the latter, aid responses will fail and may actually have a negative impact.

This suggests not dumbing down research, but synthesizing and translating complex research findings into forms accessible and digestible to fieldworkers. We hope that the Relief and Rehabilitation Network and the Active Learning Network on Accountability and Performance in Humanitarian Assistance (ALNAP) have made a contribution to this type of institutional learning. There is undoubtedly much room for increasingly innovative methods of making research programmable without overly simplifying it.

The final dilemma confronting researchers is how to ensure policy relevance while also maintaining independence and objectivity. This is yet another humanitarian challenge because of questions about the principles by which academics engage with

the policy process, as well as our responsibilities as advocates for our findings. The costs of overengaging with the operational community are that the politics of operational pragmatism often entail negotiating findings to build consensus for action. At the same time, simply handing over reports and allowing readers to make of them what they will also carry risks. One obvious danger is that findings are simply ignored. Another is that findings are used selectively and wrongly to support policies that analysts have strongly criticized.

In the United Kingdom recently, it has been striking that while Kosovo has been on the news nightly, the quality of the relief response has not. This contrasts coverage of the Sudanese famine last year, which was characterized by bitter exchanges between the Minister for International Development and NGOs, as the latter were routinely accused of opportunism and profiteering. A cynic would suggest that if the politicians are keeping silent about the quality of relief response this time, it is because the humanitarian system is useful to them.

The fundamental challenge for researchers is to maintain a constructive critique of the international humanitarian system but to situate this within a broader analysis of global politics and to do so consistently and empirically, despite changing fashions in humanitarian politics. Establishing such an understanding will require greater mutual understanding within the humanitarian field without denying internal divisions, but also not living for them.

CHAPTER 5

HUMAN RIGHTS: TOWARD A RESEARCH AGENDA FOR HUMAN RIGHTS

Karen Kenny

The International Human Rights Trust

This chapter covers issues that are in a highly evolutionary phase. It focuses on the framework of human rights law within which humanitarian activities take place. Reinforced by experience, the framework provides a legal basis and answers an operational need for the integration of human rights concepts and approaches in humanitarian work. Urging a more transformative approach rather than simply “adding on” a human rights element to humanitarian action, the chapter raises some implications that such a transformative integration would have. It proposes moving beyond distinctions between “assistance” and “protection” toward a human rights framework that affords the potential for more coherent, consistent, and principled approaches to perceived humanitarian dilemmas.¹

Clarifying Terms and Methods

To avoid confusion, this chapter continues to use conventional terms. The phrase “human rights” is used as a legal term of art encompassing civil, cultural, economic, political, and social rights, which are described in shorthand as full spectrum human rights. International refugee law and international humanitarian law are presented as subsets of human rights law.² The principles of international human rights law include the universality, indivisibility, and interdependence of rights.³ Looking beyond conventional formulations, the clear use of appropriate human rights language would be a step (though insufficient of itself) toward a rights-based approach.

Theoretically, the link between human rights violations and

conflict has been long recognized. It is widely accepted that, left unaddressed, human rights violations contribute to conflict escalation, which makes peace—and ultimately reconciliation—infininitely more difficult to achieve. Recent conflicts have led to the conclusion that “today’s human rights violations are tomorrow’s conflicts.”⁴

Peace without justice is understood in theory as a contradiction in terms. For agencies, understanding the link between human rights and conflict sheds new light on Article 1 of the United Nations (UN) Charter. The obligation to promote and encourage respect for human rights is an expressed purpose of the organization that is also at the heart of other UN aims, including maintaining international peace and security.

Reflecting upon the experiences of Somalia, Sudan, Bosnia-Herzegovina, and Rwanda, many humanitarian actors have explored the operational relationship between human rights and humanitarian action. The UN Secretary-General has committed the organization to integrating human rights into all activities.⁵ As an example of this process, the United Nations Development Programme (UNDP) published in January 1998 its strategy for mainstreaming human rights throughout all UN activities. “Whether we are working for peace and security, for humanitarian relief, or for a common development approach and common development operations,” the UN document stated, “we are all concerned with ensuring the inherent dignity of the human person, with the enjoyment of human rights.”⁶

The search for a coherent relationship between human rights and humanitarian action is thus underway among a wide range of humanitarian and human rights actors. Donors such as the European Community Humanitarian Office (ECHO) often share an instinctual sense that a human rights framework could add to humanitarian effectiveness.⁷ This chapter seeks to contribute to this ongoing process by identifying at the field level how a human rights framework contributes to more effective assistance efforts. It is time to move from theory to practice.

The Cooperation Approach to Sharing Information

The conceptual thinking and methodologies underlying self-described humanitarian action are as varied as the field of actors involved. Some actors are bridgeheads of human rights thinking, particularly those nongovernmental organizations (NGOs) that view delivery of assistance as most effective when combined with some form of advocacy when access is denied. The NGOs have understood their responsibility for human rights and have tried to ensure, at a minimum, that they have set back that cause. Their efforts have been made largely without support from intergovernmental organizations, which have made it clear that “human rights” activities were taboo and unlikely to be funded.

An example of one such effort was the 1996 declaration by a mixed group of twenty-eight “human rights” and “humanitarian” NGOs that share a common aim of achieving effective respect for the dignity and worth of human beings. The declaration states that whereas the methods used to achieve that aim may differ among organizations, they should be pursued in a manner that is complementary and mutually reinforcing.⁸

Such an approach sees humanitarian and human rights organizations as separate and distinct, but suggests that they can cooperate for mutual benefit. Cooperation has focused mainly on more effective information sharing by humanitarian organizations with human rights organizations.⁹ The approach tends to be based on a narrow view of how human rights are relevant in the humanitarian context, generally limiting them to civil and political rights associated with the term “protection” in humanitarian circles. The impression is widespread that human rights approaches available to humanitarians are limited to gathering information for UN human right mechanisms or for NGOs using “mobilization of shame” to pressure for an end to violations.

For some agencies, sharing information is seen as too risky where there are continuing field operations, while mechanisms such as treaty bodies are perceived as irrelevant, legalistic, and

ineffectual amid the realities of complex emergencies. While these two end users of human rights information can play a constructive role in emergencies, sharing information is just one aspect of the relevance of human rights in humanitarian action. The risk is that aid agencies that view sharing information as inappropriate may conclude that there are no other relevant aspects of a human rights approach for them to consider.

The cooperation approach would then tend to reinforce common stereotypes of what human rights are and the traditional narrow range of methods seen as available to advance their enjoyment. For some humanitarian actors, the information-sharing approach with which human rights has become associated may impede other creative approaches to human rights in their daily work. Discussion of this approach would benefit from networking among NGOs or intergovernmental organizations (IGOs) specialized in economic, social, and cultural rights, as well as with those agencies that use proactive human rights development approaches based on participation by the rights holders to stimulate empowerment and sustainable change.

The cooperation approach tends to see human rights concerns as an “add-on” item for humanitarians, even when an issue as basic to assistance programs as access is at stake. In Bosnia and Herzegovina, access was systematically barred as a weapon of war. There were some 30,000 humanitarians, including military personnel, on the ground from 1991-1995 whose convoys were blocked. The International Criminal Tribunal for the former Yugoslavia (ICTY) was established to prosecute such crimes. In these circumstances, human rights lenses might be used to ask whether humanitarian actors reliably documented the obstruction phenomenon to encourage the International Criminal Tribunal to prosecute those responsible and whether human rights organizations supported and facilitated the documentation process. In fact, charges such as genocide have not yet been brought against those who blocked access in any of the conflicts in former Yugoslavia. The Genocide Convention forbids “deliberately inflicting...conditions of life calculated to bring about [the group’s]

physical destruction in whole or in part.”¹⁰

The Human Rights Law Framework of Humanitarian Action

Beyond cooperation in sharing information lies a broader challenge for practitioners and researchers: to identify the implications of integrating human rights in humanitarian activity.¹¹ To do so, we must explore the source and nature of the notion that human rights should be integrated in humanitarian action. The international legal framework applicable to the behavior encompassed by the term “humanitarian” activity is not new, although the term has been used so loosely as to describe or justify a range of activities, including missile strikes.

Approaching the concept more narrowly, humanitarian activity is seen in terms of Common Article 3 of the Geneva Conventions of 1949, which provides that an “impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict.”¹² Understandings of humanitarianism vary, with self-defined humanitarian actors taking various approaches. Yet, as the international legal framework has evolved during the last fifty years, activities commonly described as humanitarian need to be understood within that framework, not merely in relation to one subset of it: the laws of war. During this time, the international legal framework also has evolved most significantly with the expansion and deepening of international human rights law.

We explore humanitarian action in light of human rights law from four perspectives: the rights holders, donor states, IGOs, and NGOs.¹³

A Rights Holder’s Perspective

If humanitarian action is seen within a human rights framework, “assistance” or “protection” or some mix of both involves seeking the vindication of human rights when the host state is unwilling or unable to acquit itself of its direct responsibilities. In

the case of the most common forms of assistance, this involves the right to food, shelter, and health.¹⁴ Drawing on human rights concepts, humanitarian action would mean delivery of the human rights that inhere to the individuals being served. “Beneficiaries” would be more accurately termed “rights holders.” The change in nomenclature redirects attention to those in whose name humanitarian action is carried out, underscoring that there is always a core minimum of international human rights law that forms a powerful basis for humanitarian work. In this light, humanitarian actors need not be interposed as putative bearers of a “right of access” or a “right to provide humanitarian assistance.” Powerful legal tools are already available, held not by humanitarian organizations but by the persons whom they seek to serve.

For state actors, certain “nonderogable” elements of human rights treaty law apply during both peacetime and conflict. The International Covenant on Civil and Political Rights, (which concerns torture, arbitrary deprivation of life, slavery, recognition before the law, freedom of thought, conscience, and religion), imposes obligations on states party, as does the International Covenant on Economic, Social, and Cultural Rights. Beyond treaty law, customary international human rights law prohibits genocide, torture, and slavery. In armed conflict, Article 3, common to the four Geneva Conventions, is regarded as applicable to state as well as nonstate actors. Regardless of whether the perpetrator is a state official, the above legal tools are reinforced by potential individual criminal responsibility under international law for genocide, slavery, crimes against humanity, and grave breaches of common Article 3 and war crimes. Moreover, individual responsibility is potentially applicable to all, including individual humanitarian and human rights actors.

Where human rights are understood to inhere to human beings as a birthright, they exist regardless of who, if anyone, is responsible for or seeking to ensure their enjoyment. No one has suggested, for example, that because there was no effective government or state apparatus, Somalis ceased to have human rights. That suggestion would obviate the purpose of international

human rights standards.

A further reason to explore the functioning of humanitarian organizations as human rights actors is that their action or inaction has life-and-death consequences for the human rights of those they seek to serve. The potential human rights impacts of nonstate actors, such as international corporations, armed opposition groups, the World Trade Organization (WTO), and the Commonwealth or the European Union are reflected in a trend in international law toward holding nonstate actors as well as states legally accountable for their actions.

To regard humanitarian actors themselves as nonstate actors, with the potential to affect the enjoyment of human rights, may be considered contrary to international public policy and nonconstructive.¹⁵ Yet, the question is fundamentally one of the general application of human rights law. Should praiseworthy motivation or a lack of intent to do harm provide immunization against legal responsibility? The trend of human rights law suggests that good intentions are not the issue: the impact and actual effects of actions are what matter.¹⁶ States and nonstate actors are already potentially subject to international legal responsibility for human rights violations that are inadvertent, unintended, or the result of incompetence. The analogy with states provides some useful guidance for humanitarian actors.

A Donor State Perspective

When states commit themselves to international human rights law, whether expressly by treaties or to custom essentially by acquiescence, they are bound to meet certain obligations and standards. Official aid is an expression of foreign policy and may be an act of state for the purposes of international legal responsibility.¹⁷ This is so whether the donor provides funds bilaterally to another state, multilaterally through the UN, or channels funds through NGOs. Such accountability is a logical expression of the notion that states are, in principle, responsible for the conse-

quences of their actions.

An Intergovernmental Perspective

The human rights framework also applies to intergovernmental organizations (IGOs), functioning as humanitarian actors. Relevant IGOs include such operational agencies as the United Nations Children's Fund (UNICEF), the United Nations Development Program (UNDP), the World Food Programme (WFP), the United Nations High Commissioner for Refugees (UNHCR), and also the United Nations Department of Peacekeeping Operations, Department of Political Affairs, and Office for the Coordination of Humanitarian Affairs (OCHA).

If it is the agent of a group of states, an IGO must not undermine the international human rights commitments that its members have undertaken and that apply no less when those states act in concert than when they act individually.¹⁸ In some cases, the IGO itself may bear international legal responsibility. In the case of the UN, the integration of human rights in all its work is a legal imperative flowing from the UN Charter, as well as from its near-universal membership. The Charter does not envisage the pursuit of any one purpose of the organization at the expense of any other. Indeed, the multiple purposes of the organization may arguably be pursued only in a mutually reinforcing manner. Similarly, humanitarian activities carried out by the European Union (EU) are viewed increasingly within a framework of international legal accountability.¹⁹

Until very recently, UN agencies in the humanitarian field were reluctant to identify their human rights role and responsibilities under the international law. Their tendency has been to follow the efforts of NGOs in developing "principles" and "codes of conduct." Yet, often such humanitarian principles are either inappropriate for UN agencies or already binding upon them.²⁰ An example of the former is the principle of independence from governments, while an example of the latter is the principle of impartiality that is already encompassed in the powerful prohibition against invidious discrimination in the enjoyment of rights

in international human rights law.

An NGO Perspective

International legal obligations attach not only to states and intergovernmental organizations. NGO behavior may be directly affected by the international human rights framework.

If donor states are to act responsibly regarding their own obligations, they must take responsibility for the actions that they fund, an approach with consequences for NGOs receiving funding from donor states or indirectly from IGOs. New approaches may be needed to ensure that such funding does not undermine the donor state's human rights responsibilities, while at the same time meeting the concerns of NGOs regarding their own independence.

Moreover, NGOs may also step into the line of legal responsibility when they act as implementing partners of IGOs. If bodies such as the UN have the capacity for legal responsibility, as suggested above, those responsibilities do not disappear simply because an NGO is subcontracted as an implementing agent. Given the high proportion of UN humanitarian work delegated to NGOs, this is likely to be an important area for the integration of human rights into UN humanitarian action.²¹

The Transformative Integration of Human Rights

From the preceding discussion, it is clear that all humanitarian actors are governed by the legal imperative regarding the human rights framework within which they work, although the applicability of specific legal provisions may differ, depending on whether the actor involved is a government, IGO, or NGO. In essence, the application of the human rights framework is not optional, or applicable in some contexts but not in others. It is inherent in the nature of humanitarian action. However, international law does not yet clearly recognize human rights as directly claimable by rights holders from international humanitarian actors, although

the evolution may proceed in the direction.

In the meantime, how are human rights concepts and approaches relevant to the range of humanitarian actors? A human rights analysis would ask why humanitarian action is needed. Human rights root causes and symptoms of conflict are more than mere constraints in the framework of aid; they need to be analyzed and interventions designed accordingly.²² Relevant facts may include views of prevention and efforts at early warning, conditions for international involvement, how the primary human rights responsibility of the host state and de facto authorities are to be reinforced, how humanitarian action can leave rights holders better prepared to defend their own rights, and how achievement of goals and impacts are measured in the immediate and longer term.

Humanitarian aid, like development, is a billion-dollar industry with consequences for socioeconomic human rights in host states and regions. It can be designed in ways that affirm and reinforce human rights, for example, in contributing to the sustainable enjoyment of the right to food. International access and presence are methods rather than ends in themselves. From this perspective, it is not so much a question of access at any cost as one of the most effective tool available for the sustainable improvement of the human rights situation.

For humanitarian actors, the indivisibility of rights undercuts artificial distinctions between protection and assistance, promoting instead the careful balancing of competing rights and rights holders. Such balancing is automatically part of human rights approaches, grounded in participation of rights holders in decisions that affect them.²³ Participatory human rights approaches in emergencies also may minimize artificial dichotomies between relief and development. Another cornerstone of a human rights approach is the principle of nondiscrimination in the enjoyment of rights, which may guide humanitarian actors in minimizing disparities in the treatment of refugees and host populations.

Recognizing the nature of humanitarianism as human rights action would spur the transformative integration of human rights

concepts and approaches over time. Such has been the experience with parallel efforts at transformative integration of the human rights of women in development and in the context of public health and human rights.²⁴ In each instance, international access and presence are methods rather than ends in themselves. In this perspective, the question is less one of access at any cost than of the most effective tool available for the sustainable improvement in the human rights situation.

The importance of exploring the human rights framework as a potential ally in increased humanitarian effectiveness cannot be overstated. Experience in the African Great Lakes offers stark lessons:

...humanitarian space was not consistently defined and delimited by the UN as a system. There was not an overarching approach to determining what humanitarians could and could not accomplish...No “lines in the sand” were drawn that reflected a commitment by the UN system to fundamental humanitarian principles. Instead, each agency (and indeed, each field office) pursued its own set of standards and priorities, determining on an ad hoc basis what was acceptable and what was not.²⁵

The failure to frame humanitarian action within the context of applicable international law has negative implications. It tends to undermine the legal nature of the international commitments of states and other parties. In addition to undercutting the international rule of law, it can perpetuate a charity-based instead of a rights-based approach to justice, directing attention away from root causes and sustainability. Language can have an empowering effect for rights holders and “this change in consciousness is the first step towards taking action.”²⁶ Yet, human rights language alone does not suffice. Humanitarian action itself needs to be carried out in a way that consciously reflects its nature as human

rights action.

Within the human rights framework applicable to humanitarian action, a core minimum can be identified. Each actor should seek to ensure, at all levels and in all aspects of its work, that it does not negatively affect the human rights situation directly or indirectly in the immediate or longer term. Where actors choose to work toward a humanitarian goal, they need to be aware and informed of the human rights implications of their actions. Relevant variables include presence or absence, silence or speaking out, use of the human rights mechanisms available internationally or ignorance of their existence, the content of fundraising campaigns, and educating constituencies. Without informed policy and an analytical capacity for learning from experience and without adequate training and guidance of field and headquarters staff, there is real risk of negative human rights impacts.

When field staff are left to face human rights decisions without clear organizational policy and support, they are often placed in an impossible situation. Far from burdening field staff by asking them to do more, the human rights framework raises organizational issues that require organizational approaches. No state has a perfect record on human rights, nor will humanitarian actors. However, the question for both is how errors may be effectively prevented. Practical steps in an ongoing process would involve assessing the human rights impact as part of routine evaluations and examining the consequences of the decisions made. The key to integrating human rights is an effective process of institutional learning.²⁷

Conclusion

The potential for more systemic and coherent approaches through a human rights framework transformatively integrated into humanitarian action is great. Discussion is needed of the “human rights nature of humanitarianism.” Beyond the first step of recognizing the implications of the human rights framework, which has long applied to humanitarian actors, a second step

should test the hypothesis that consistent human rights approaches applied system-wide would enhance operational effectiveness.²⁸

In the end, what is the principle of humanity? The essence of human rights is that we have them because we are human. Many engage in the humanitarian enterprise because they are motivated by solidarity. Yet what greater expression of solidarity can there be than recognizing our common dignity, not as a matter of generosity but as a birthright, and transforming our approaches better to reflect this reality?

NOTES

Chapter 1

1. For further discussion, see Stephen Lubkemann, Larry Minear, and Thomas G. Weiss, eds., *Humanitarian Action: Social Science Connections* (Providence, R.I.: Watson Institute, 2000).

Chapter 2

1. CRS participates in the Local Capacities for Peace Project (LCPP), a collaborative effort of nongovernmental organizations and donor agencies seeking to provide assistance to people in conflict settings in ways that avoid increasing tensions while reinforcing local capacities for peace.

2. For a more detailed treatment of programmatic approaches used by CRS and other agencies, see “Applying the Justice Lens to Programming: Ideas, Examples & Initial Lessons,” CRS Occasional Paper, July 1998.

Chapter 3

1. Human Rights Watch, *The Lost Agenda: Human Rights and U.N. Field Operations* (New York: Human Rights Watch, 1993).

2. Human Rights Watch, *Failing the Internally Displaced: The UNDP Displaced Persons Program in Kenya* (New York: Human Rights Watch, 1997).

3. Kibeho was a case study discussed in the second of four ICRC workshops on protection. See ICRC, *Protection: Toward Professional Standards. Report of the Workshop (17-19 March 1998)* (Geneva: ICRC, 1998): 91-92.

4. See *ibid.*, 28-29.

5. Human Rights Watch, “Sierra Leone-Sowing Terror: Atrocities against Civilians in Sierra Leone,” *Human Rights Watch Short Report* 10, no. 3 (August 1998). See also, “Forgotten Children of War: Sierra Leonean Refugee Children in Guinea,” *Human Rights Watch Short Report* 11, no. 5 (July 1999); and “Getting Away with Murder, Mutilation, and Rape: New Testimony from Sierra Leone,” *Human Rights Watch Short Report* 11,

no. 3 (June 1999).

6. Human Rights Watch, *The Scars of Death: Children Abducted by the Lords Resistance Army in Uganda* (New York: Human Rights Watch, 1997).

7. See, for example, *Human Rights Watch, Famine in Sudan, 1998: The Human Rights Causes* (New York: Human Rights Watch, 1999).

8. See International Campaign to Ban Landmines (ICBL), *Landmine Monitor 1999: Towards a Mine Free World* (New York: Human Rights Watch, 1999).

Chapter 4

1. Michael Clough, *Free At Last?: US Policy Towards Africa and the End of the Cold War* (Washington: Council on Foreign Relations, 1992).

2. Alexander de Waal, *Famine that Kills: Darfur 1984-1985* (Oxford: Clarendon, 1989).

3. The exception was the Refugee Studies Programme in Oxford, established in 1982. By definition, this remained confined largely to studying what Mark Duffield has described as the periphery of conflict and its humanitarian impact, namely in second countries and not in war zones. It is interesting that the field of refugee studies appears to be maintaining its own identity and literature distinct from that of humanitarian studies. See Mark Duffield, "Complex Emergencies and the Crisis of Developmentalism," *IDS Bulletin* 25 (1994): 37-45.

4. de Waal, *Famine that Kills*.

5. For a review, see Thomas G. Weiss, "A Research Note about Military-Civilian Humanitarianism: More Questions than Answers," *Disasters: The Journal of Disaster Studies, Policy and Management* 21 (1997): 95-117.

6. For example, see David Keen, *The Benefits of Famine: the Political Economy of Famine in Southwestern Sudan 1985-1988* (Princeton: Princeton University Press, 1994); Mark Duffield, "From Emergency to Social Security in Sudan — Part I: The Problem," *Disasters* 14 (1990): 187-203; and Mark Duffield, *War and Famine in Africa: An Exploratory Report for Oxfam* (Oxford: Oxfam, 1990).

7. Mary Anderson, *Do No Harm: Supporting Local Capacities for Peace through Aid* (Boston: Local Capacities for Peace Initiative, 1996).

8. John Eriksson, *The International Response to Conflict and Genocide: Lessons from the Rwanda Experience: Synthesis Report* (Copenhagen: Joint Evaluation of Emergency Assistance to Rwanda, 1996).

9. Hugo Slim, "Doing the Right Thing: Relief Agencies, Moral

Dilemmas and Moral Responsibility in Political Emergencies and War,” *Disasters* 21 (1997): 244-257.

10. Duffield, “Complex Emergencies.”

11. For a review, see Nicholas Leader, “How to Sup with the Devil without Getting Eaten,” *Disasters* 22, no. 4 (1998): 288-308.

12. See, for example, *Development Assistance Committee Guidelines on Conflict, Peace and Development Cooperation* (Paris: Development Assistance Committee, OECD, 1997); and *Communication from the Commission to the Council and Parliament on Linking Relief, Rehabilitation and Development* (Brussels: European Commission, 1996).

13. Joanna Macrae, “The Death of Humanitarianism? An Anatomy of the Attack,” Paper presented at “The Emperor’s New Clothes: The Collapse of Humanitarian Principles” conference of the Disasters Emergency Committee, London, February 4, 1998.

14. See, for example, “Development in Conflict: The Experience of ACORD in Uganda, Sudan, Mali and Angola,” ACORD, 1995; and Claire Pirotte, Bernard Husson, and François Grunewald, eds., *Responding to Emergencies and Fostering Development: The Dilemmas of Humanitarian Aid* (London and New York: Zed Books, 1999).

15. See Thomas G. Weiss, “Principles, Politics, and Humanitarian Action,” *Ethics & International Affairs* 13 (1999): 1-22; and Cornelio Sommaruga, Joelle Tanguy, Fiona Terry, and David Rieff, “Responses,” *Ethics & International Affairs* 13 (1999): 23-42.

16. Narr Buzard, “Benchmarks, Sticks or Carrots. Differing Perceptions of the Role of Standards,” *Relief and Rehabilitation Network Newsletter*, Overseas Development Institute (1998): 13-14.

17. Compare, for example, Stephen Jackson and Peter Walker, “Depolarising the ‘Broadened’ and ‘Back-to-Basics’ Relief Models,” *Disasters* 23 (1999); and Dylan Hendrickson, “Humanitarian Action in Protracted Crises: The New Relief ‘Agenda’ and its Limits,” *Relief and Rehabilitation Network*, Network Paper, 1998.

18. Historically, journalists like William Shawcross and Peter Gill, rather than humanitarian academics, have researched the international political structure and influences of humanitarian response.

19. See, for example, William Reno, “Humanitarian Emergencies and Warlord Politics in Liberia and Sierra Leone,” paper presented to the UNU/WIDER-Queen Elizabeth House meeting on the Political Economy of Humanitarian Emergencies, October 6-8, 1996; Keen, *The Benefits of Famine*; and François Jean and Jean-Christophe Rufin, *Economie des guerres civiles* (Paris: Hachette, 1996).

20. Hugh Cholmondeley, *Mission to Afghanistan and Islamabad 18 June - 7 July 1997* (New York: United Nations, 1997).

21. John Borton, *NGOs and Relief Operations: Trends and Policy Implications* (London: Overseas Development Institute, 1994); and Leader, *Proliferating Principles*.

22. Jon Bennett, "North Korea: The Politics of Food Aid," *Relief and Rehabilitation Network*, Network Paper, Overseas Development Institute, London, 1999.

23. See, for example, Tanya Boudreau, "The Food Economy Approach: A Framework for Understanding Rural Livelihoods," *Relief and Rehabilitation Network*, Network Paper, Overseas Development Institute, London, 1998.

24. J. Borton, "More Far Reaching than Strong: An Accountability and Standards Revolution," paper presented at Webster University/ Geneva University. Geneva, June 1997.

25. Raymond Apthorpe and P. Atkinson, "Towards Shared Social Learning for Humanitarian Programmes," paper presented at the Active Learning Network for Accountability and Performance in Humanitarian Assistance. ODI, London, 1999.

Chapter 5

1. The author is grateful for the comments on an earlier draft by W. B. Ofuately-Kodjoe, Nicholas Stockton, and Patrick Twomey, and for valuable insights provided by the discussion at the White Oaks meeting.

2. This grouping is used because international refugee law and international humanitarian law are designed to apply as cumulative protection on top of the minimum human rights standards that apply to all people at all times and have the same aim of protecting the inherent dignity of a human being. Although the specificity of these areas of law should not be underestimated, they should be understood as part of an integrated legal framework that grounds the work of humanitarian actors. The legal community has become very compartmentalized, with sectors dealing only with international humanitarian law, human rights law, or refugee law, respectively, rather than conveying a holistic view of international law for maximum benefit. See Julia Hausermann, *Humanitarian Intervention and Human Rights: Exploring the Legal, Ethical and Political Issues Involved in Times of Conflict and Mass Violations of Human Rights*, Rights and Humanity Workshop, The Hague Appeal for Peace,

May 3, 1999.

3. This reflects the reality that the right to vote cannot be fully enjoyed without the right to education that allows for an informed choice. Conversely, the right to adequate shelter cannot be fully enjoyed without an effective right of access to courts to defend against unlawful eviction, and so forth.

4. Statement by UN Secretary-General Kofi Annan to the opening of the fifty-fourth session of the Commission on Human Rights, Geneva, March 16, 1998.

5. "Report of the Secretary-General on Renewing the United Nations: a Programme for Reform," to the General Assembly, A/51/950, July 14, 1997.

6. "Integrating Human Rights with Sustainable Human Development: A UNDP Policy Document," January 1998; Foreword by James Gustave Speth, Administrator, UNDP, p. iv.

7. "Towards a Human Rights Approach to Humanitarian Assistance," European Community Humanitarian Office (ECHO) Discussion Paper, July 1999, available from Camilla Bruckner ECHO-4, camilla.bruckner@echo.cec.be.

8. For the full text of the Declaration, see "Conference on the Cooperation between Humanitarian Organisations and Human Rights Organisations: Final Report of the Conference Held in Amsterdam, the Netherlands, on February 9, 1996."

9. Other elements of cooperation include secondments of staff, training support, and logistics support for on-site fact-finding human rights visits.

10. Article IIC, Convention on the Prevention and Punishment of the Crime of Genocide, 1948. International witnesses are an extremely valuable source of evidence in a context where crimes such as rape are difficult to prosecute due to the fears and trauma of survivors. The systemic documentation of blocking access might have supported charges against senior military and political leaders who otherwise are difficult to indict, with positive downstream effects for Kosovo.

11. Reflecting a collaborative effort between The International Human Rights Trust and the Humanitarianism and War Project, a Watson Institute Occasional Paper examines UN efforts to understand and actualize that integration. See Karen Kenny, *When Needs Are Rights: An Overview of UN Efforts to Integrate Human Rights in Humanitarian Action* (Providence, R.I.: Watson Institute, 2000). Approaching the issue from the perspective of mainstreaming human rights and development,

research also is being conducted at the European University Institute in Florence by Professor Philip Alston and Mac Darrow.

12. International Committee of the Red Cross, *International Red Cross Handbook*, 12th Edition (Geneva, International Committee of the Red Cross, League of Red Cross Societies, 1983): 24.

13. The focus on international actors in no way detracts from the legal responsibilities of host states. Space does not permit an exploration of the legal responsibility of the international community, although the North Atlantic Treaty Organization (NATO) intervention in Kosovo is an important case for analysis.

14. The Convention on the Rights of the Child, applicable in almost all states, which covers the full spectrum human rights and elements of humanitarian law, does not allow states to excuse themselves by making “derogations.”

15. In analogous circumstances, the British House of Lords has rejected the claim that “Good Samaritans” should be held legally accountable for negative effects of their attempts to help (such as passersby helping at the scene of an accident), expressly rejecting the U.S. approach. Similarly, the Law Lords recently considered liability in negligence for an ambulance’s delay in responding to an emergency once it been activated by a call. See *Kent V. Griffiths*, *Times Law Reports*, 23 December 1998.

16. Simply put, the end does not justify the means. The assumption that NATO bombed Serbia “due to President Milosevic’s fundamental challenge to the values of democracy, human rights and the rule of law,” and that this would be lawful grounds for use of force under international law, is entirely separate from the question of whether war crimes were committed by NATO in bombing refugee convoys or TV stations. See the statement by Javier Solana, NATO secretary-general at the Washington Summit marking the 50th anniversary of the alliance, BBC Radio 4, 23/4/99. Similarly, for other nonstate actors, the fact that transnational corporations create employment (providing a public benefit and helping vindicate the right to work) does not mean that the human rights framework is inapplicable to their activities. A human rights approach looks also at how jobs are created (such as work conditions, trade unions, fair wages, and child labor).

17. The assertion builds on the reasoning of the International Court of Justice in the *Nicaragua Case*, ICJ Reports 1986.

18. By similar logic, it should be understood that the behavior of UN peacekeepers is governed by international legal standards, recalling

for example the allegations of torture of Somalis by Canadian, Belgian, and Italian peacekeepers which led to the disbanding of the relevant regiment and to a public inquiry in Canada. See African Rights, "Somalia: Human Rights Abuses by the United Nations Forces (London: African Rights, 1993).

19. See "Communication from the Commission to the Council and the European Parliament," *The European Union and the External Dimension of Human Rights Policy from Rome to Maastricht and Beyond*, COM (95) 567 final, November 22, 1995, para. 68. The Council of Ministers has stated that "human rights have a universal nature and it is the duty of all states to promote them." See "Resolution of the Council and of the Member States Meeting in the Council on Human Rights, Democracy, and Development," November 28, 1991, 9875/91, Annex 1.

20. Humanitarian principles were developed initially in 1965 by the International Committee of the Red Cross (ICRC) and the International Federation of the Red Cross and Red Crescent (IFRC) movement to enhance their coherence and unity as a movement of national bodies. These were later expanded and opened to endorsement by NGOs. See "The Fundamental Principles of the Red Cross," XXth International Conference of the Red Cross, Vienna 1965, Resolution No. IX.

21 For an elaboration of this point, see Karen Kenny, *When Needs are Rights*.

22. See Bo Viktor Nylund, Erin Mooney, and Karen Kenny, "Focus on a Child Rights Approach to Complex Emergencies and Internal Displacement," paper prepared for a UNICEF training workshop in Brussels, September 30-October 1, 1998.

23. For references to aspects of the right to participate in decisions affecting one's life, see the Universal Declaration of Human rights, the International Covenant on Civil and Political Rights, and the Convention on the Rights of the Child.

24. For the human rights of women in development, see Anne Gallagher, "Ending the Marginalisation: Strategies for Incorporating Women into the United Nations System," *Human Rights Quarterly* 19, no. 2 (May 1997). For public health and human rights, see the pioneering work of the late Professor Jonathan Mann (formerly head of the World Health Organization's AIDS Programme) at Harvard University's School of Public Health and Human Rights.

25. "Strategic Humanitarian Coordination in the Great Lakes Region 1996-1997," para. 177, p. 55.

26. The point is well made in the context of transforming needs into rights, as noted in the Centre for Economic and Social Rights, *Five-Year Report 1993-98*, p. 7.

27. For a discussion of the needed elements for an effective learning cycle, see *Learning-to Integrate Human Rights, a Report of The International Human Rights Trust* (Dublin: IHRT, 1999.)

28. States have moved onward, for example, with nearly universal ratification of the "full spectrum" Convention on the Rights of the Child; see note 18.

APPENDIX I

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APPENDIX II

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Karen Kenny is a human rights lawyer who is co-founder and co-director of the International Human Rights Trust of Dublin, Ireland. Based in Nottingham, England, she advises and trains intergovernmental and nongovernmental organizations on human rights matters. Her field experience includes serving as a UN staff member in the human rights field operations in Rwanda, El Salvador, and the Former Yugoslavia. She recently concluded a study published by the Humanitarianism and War Project and the Trust, *When Needs are Rights: An Overview of UN Efforts to Integrate Human Rights in Humanitarian Action*.

Joanna Macrae is a research fellow in the humanitarian policy group at the Overseas Development Institute in London. Her primary research interest is in the politics and practice of international assistance in chronic political emergencies. She is co-editor of *Disasters: The Journal of Disaster Studies, Policy and Management* and of *War and Hunger: Rethinking International Approaches to Complex Emergencies* (1994). Several years ago she carried out, in partnership with the Humanitarianism and War Project, a study of the linkages between relief and development in selected UNICEF country programs in Africa.

Michael McClintock is deputy program director of Human Rights Watch. Based in New York, he supervises the work of five regional and three thematic units. His field experience includes participation in fact-finding missions on five continents. He is the author of histories of El Salvador and Guatemala and of a study of U.S. military doctrine, *Instruments of Statecraft: U.S. Guerrilla Warfare, Counterinsurgency and Counterterrorism, 1940-1990* (1992). He has also worked in the research department of Amnesty International in London.

Larry Minear is co-founder and, since September 1998, director of the Humanitarianism and War Project at Brown University. He has worked on humanitarian and development issues since 1972, when he directed a refugee resettlement program in the southern Sudan. From 1974 to 1991 he headed the advocacy office in Washington, D.C. of Church World Service and Lutheran World Relief. Over the years he has served as a consultant to United Nations organizations, governments, and NGOs. He has conducted research in many recent humanitarian emergencies and has written extensively for general and specialized audiences.

Thomas G. Weiss is Presidential Professor at The Graduate Center of The City University of New York, where he is co-director of the United Nations Intellectual History Project and one of the editors of *Global Governance*. From 1990 to 1998 as a Research Professor at Brown University's Watson Institute for International Studies, he also held a number of administrative assignments (Director of the Global Security Program, Associate Dean of the Faculty, Associate Director), served as the Executive Director of the Academic Council on the UN System, and co-directed the Humanitarianism and War Project. He has also served as executive director of the International Peace Academy, a member of the UN secretariat, and a consultant to several public and private agencies. His latest book is *Military-Civilian Interactions: Intervening in Humanitarian Crises* (1999).

ABOUT THE PROJECT

The Humanitarianism & War Project is an independent policy research initiative underwritten by some 50 UN agencies, governments, NGOs, and foundations. Since its inception in 1991, it has conducted thousands of interviews on complex emergencies around the world, producing an array of case studies, training materials, books, articles, and opinion pieces for a diverse audience.

The Project is currently examining the process of institutional learning and change among humanitarian organizations in the post-Cold War period. The Project is highlighting innovative practices devised by individual agencies to address specific challenges.

Current research builds on geographical case studies of conflicts in the Persian Gulf, Central America and the Caribbean, Cambodia, the former Yugoslavia, the Great Lakes Region, and the Caucasus. It also reflects earlier thematic studies on the interface between humanitarian action and peacekeeping, the humanitarian impacts of economic sanctions, and the roles of the media and in the military in the humanitarian sphere. Research is tailored to the expressed needs of humanitarian organizations, the primary constituency of the Project.

Intergovernmental organizations that have contributed to the project are the European Community Humanitarian Office (ECHO), International Organization for Migration, OECD Development Centre, UNDRP, DHA, OCHA, UNDP, UNHCR, UNICEF, UNITAR, the UN Special Emergency Program for the Horn of Africa, UN Staff College, UN University, UN Volunteers, WFP, and WHO.

NGO contributors are the American Red Cross, CARE-US, Catholic Relief Services, Danish Refugee Council, International Center for Human Rights and Democratic Development (Canada), International Federation of Red Cross and Red Crescent Societies, International Orthodox Christian Charities, International Rescue Committee, Lutheran World Federation, Lutheran World Relief,

Mennonite Central Committee (U.S.), Mennonite Central Committee (Canada), Mercy Corps International, the Nordic Red Cross Societies, Norwegian Refugee Council, Oxfam-UK, Save the Children-UK, Save the Children-US, Trócaire, and World Vision-US.

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The Project is an activity of Brown University's Watson Institute for International Studies, which was established in 1986 to facilitate analysis of global problems and to develop initiatives to address them. Additional information about the Institute and the Project may be found at http://www.brown.edu/Departments/Watson_Institute.