

# Moral dilemmas for humanitarianism in the era of “humanitarian” military interventions

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In recent years, the “humanitarian” label has been increasingly used by Western governments to legitimize a new and sometimes controversial security agenda. The use of humanitarian reasons to justify international military interventions, combined with the fact that the governments involved in these military operations are usually also the main financiers of the humanitarian system, has led to revived discussions among international humanitarian organizations and NGOs on the ethical principles of humanitarian action. This article deals with a number of moral dilemmas humanitarian organizations are faced with when they — often unwillingly — become part of political and military strategies to reduce conflict and build peace, notably in the aftermath of “humanitarian” military interventions. Recent international operations in Cambodia, Bosnia, Kosovo, Afghanistan and Iraq will serve as examples.

## **Humanitarianism and ethics**

The impulse to help seems to be one of the more pleasant sides of human nature. Rousseau classed it among the “natural” feelings and Adam Smith thought it was inherent to human nature.<sup>1</sup> In addition, the idea that the strong and the rich have a moral obligation to assist the weak and those in need is normative in all major world religions. Not surprisingly, organized charity was therefore largely the domain of religious orders and organizations until the end of the nineteenth century.

Many of today’s more secular humanitarian organizations have their origin in Henry Dunant’s idea of the Red Cross, famously conceived after Dunant

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had witnessed the terrible Battle of Solferino in 1859. The efforts of the International Committee of the Red Cross (ICRC), formed in response to Dunant's vivid eye-witness account in his book *A Memory of Solferino*, led to the adoption at a Diplomatic Conference of the original Geneva Convention of 1864.<sup>2</sup> This convention not only laid down the rules for *jus in bello* by defining limits for warfare, but also paved the way for the creation of voluntary medical services by granting them the right to assist the wounded on the battlefield.

Largely inspired by this text, which was to become the basis of the 1949 Geneva Conventions, the work of the ICRC, and that of the International Red Cross and Red Crescent Movement that developed from it, has been and continues to be guided by seven fundamental principles: humanity, impartiality, neutrality, independence, voluntary service, unity and universality.

While the principles of voluntary service, unity and universality are relevant mainly for the internal functioning of the Red Cross and Red Crescent Movement, the other principles — humanity, impartiality, neutrality and independence — still provide the basis for discussion on the ethical framework of humanitarian action in general.

Nicholas Leader cautions, however, that these humanitarian principles cannot be seen as the expression of a universal ethic, because they were historically a compromise between military-political necessity and the dictates of conscience and humanity.<sup>3</sup> The "deal" was that the belligerents accepted the role of the humanitarian workers on the condition that humanitarian action would not interfere with the conflict itself. The terms of this "deal" need to be constantly renegotiated.

### The humanitarian imperative

The "humanitarian imperative", the ethical basis of most humanitarian organizations, declares that there is an obligation to provide assistance unconditionally, wherever and whenever it is needed. Fiona Terry rightly points out, however, that the primary responsibility for the safety and well-

<sup>1</sup> David Rieff, *A Bed for the Night: Humanitarianism in Crisis*, Simon and Schuster, New York, 2002, p. 57.

<sup>2</sup> Convention for the Amelioration of the Condition of the Wounded in Armies in the Field, Geneva, 22 August 1864.

<sup>3</sup> Nicholas Leader, *The Politics of Principles: The Principles of Humanitarian Action in Practice*, Humanitarian Policy Group Report No. 2, Overseas Development Institute, London, March 2000, available at <<http://www.odi.org.uk/hpg/papers/hpgreport2.pdf>> (last visited on 20 August 2004), p. 11.

being of their citizens belongs to governments and that "humanitarian assistance is necessary only once governments or combatants have been unwilling or unable to shoulder their respective responsibilities."<sup>4</sup> According to this view, humanitarian organizations therefore do not inherit the moral responsibilities that States and governments have failed to uphold.

This fundamental moral dilemma was already raised by Florence Nightingale, who disagreed with Henry Dunant's idea of humanitarian volunteers, arguing that it would relieve States from a part of the burden of going to war.<sup>5</sup> Transposed to today's discussion on "humanitarian" military interventions, it can indeed be asked whether these would be possible without the flotilla of UN agencies and NGOs standing ready to repair the damage and rebuild shattered civil societies after the military operations.

For humanitarian organizations have come to discover — sometimes painfully — that the question of moral responsibility cannot always be easily deferred to governments alone. The dilemmas of humanitarian action were, for example, agonizingly exposed in the huge assistance operation for the Rwandan refugee camps in Zaire in 1994. Not only had many — if not most — of the refugees taken active part themselves in the Rwandan genocide, but their camps also served as sanctuaries and recruitment centres for extremist Hutu militias who continued to murder and plunder inside Rwanda. The responsibility to intervene and impose at least a demilitarization of the camps would clearly have belonged to the government of Zaire or possibly the UN, and humanitarian workers did not fail to point that out. On the other hand, the camps could not have existed without the international humanitarian assistance, and at least some organizations felt that moral responsibility heavily. Some, such as *Médecins Sans Frontières* (MSF), decided to withdraw, but many others stayed and continued their operations. The Rwandan army ultimately attacked the camps in October 1996, leading to even more bloodshed.<sup>6</sup>

Similarly, within a country at war humanitarian operations can unintentionally bestow local and international legitimacy on rebel movements, local warlords or other powerful individuals. First, humanitarian agencies

<sup>4</sup> Fiona Terry, *Condemned to Repeat: The Paradox of Humanitarian Action*, Ithaca: Cornell University Press, New York, 2002, p. 17.

<sup>5</sup> Caroline Moorehead, *Dunant's Dream: War, Switzerland and the History of the Red Cross*, Harper Collins, London, 1998, pp. 29-32.

<sup>6</sup> *Ibid.*, pp. 155-215.

need to negotiate access with the groups in charge of a certain area, thus implicitly recognizing their authority and legitimacy. Secondly, humanitarian operations such as aid distributions and the provision of health services may assist those groups in controlling the population in their area, or even attract an influx of people from other areas. Thirdly, those groups might derive considerable financial benefits from humanitarian operations by imposing charges on transports, levying taxes on imports and employees' salaries, and collecting rent for warehouses, offices and residences.

Humanitarian aid has also been accused of fuelling war economies and prolonging conflict by providing assistance, directly or indirectly, to combatants and their military operations. The conflicts in Somalia, Liberia and Angola are usually mentioned as prime examples. Edward Luttwak, for example, charges that "NGOs, impartial to a fault, even help both sides, thus preventing mutual exhaustion and a resulting settlement"<sup>7</sup> and concludes that "although it may not be possible to constrain interventionist NGOs, they should at least be neither officially encouraged nor funded."<sup>8</sup>

Most humanitarian organizations are indeed keenly aware of the moral dilemmas of their operations and the pitfalls of the "humanitarian imperative". Mary Anderson warns, however, that "it is a moral and logical fallacy to conclude that because aid can do harm, the decision not to give aid would do no harm. In reality, a decision to withhold aid from people in need would have unconscionable negative ramifications."<sup>9</sup> Fiona Terry, armed with a lot of practical experience, sees the problem pragmatically: "We can never construct the best world in which our compassion can immediately translate into an end of suffering, but we can try to build a second-best world based on hard-headed assessments of the needs and options."<sup>10</sup>

### Impartiality and independence

The principles of impartiality and independence are in some way direct consequences of the "humanitarian imperative" and the conviction that all people have equal dignity by virtue of their membership in humanity.<sup>11</sup> Impartiality

<sup>7</sup> Edward N. Luttwak, "Give war a chance", *Foreign Affairs*, Vol. 78, No. 4, July/August 1999, p. 43.

<sup>8</sup> *Ibid.*, p. 44.

<sup>9</sup> Mary B. Anderson, *Do No Harm: How Aid Can Support Peace – or War*, Lynne Rienner, Boulder, 1999, p. 2.

<sup>10</sup> Terry, *op. cit.* (note 4), pp. 216-217.

<sup>11</sup> Rony Braumann, "L'assistance humanitaire internationale" in: Monique Canto-Sperber (ed.), *Dictionnaire de philosophie morale et politique*, Presses Universitaires de France, Paris, 1996, p. 96.

implies that the needs of human beings are assessed and addressed without consideration for origin, race, political or religious belief, gender, etc. In order to be able to act impartially, humanitarian organizations — as a logical consequence — need to be independent from political, religious or ethnic influence.

Although hardly contested as a fundamental ethical principle of humanitarian action, impartiality is often not applied in practice in many international relief operations. Most humanitarian organizations, UN agencies as well as NGOs, depend to a large extent on funds from Western donor governments, whose priorities are — quite legitimately — not influenced by humanitarian concerns alone. While the assessments of humanitarian needs might be impartial, the actions of humanitarian organizations are constrained by the funds made available to them and are therefore subject to the political considerations of donor governments. Donor governments pledged, for example, US\$ 207 per person in response to a UN appeal for Kosovo in 1999, whereas only US\$ 16 were spent per person in Sierra Leone in the same period, although the objective needs of the latter might have been far greater.<sup>12</sup> Experience shows that even NGOs which depend on funds from the general public collect much greater contributions for certain humanitarian crises than for others.

There are also disparities in assistance within particular contexts, owing to political or security constraints imposed on humanitarian organizations. Such disparities in the level of assistance can be the reason for large population movements.

In addition, it is still quite common for religious or nationalist NGOs to provide assistance primarily to persons of the same respective faith or national and ethnic background. The increasing promotion of faith-based NGOs in the US and the rise of Islamic relief agencies are both likely to present new challenges for defining a universal humanitarianism.<sup>13</sup>

### Neutrality

The most sensitive and most contested of Henry Dunant's humanitarian principles is the principle of neutrality. It denotes a duty for humanitarian

<sup>12</sup> Oxfam, Briefing Paper: *An End to Forgotten Emergencies?*, Oxfam, Oxford, May 2000, available at: <<http://www.oxfam.org.uk/policy/papers/gemg/fgemgsum.htm>> (last visited on 10 August 2004).

<sup>13</sup> Joanna Macrae, "Analysis and synthesis" in: Joanna Macrae (ed.), *The New Humanitarianisms: A Review of Trends in Global Humanitarian Action*, Humanitarian Policy Group Report No. 11, Overseas Development Institute, London, April 2002, available at:

<<http://www.odi.org.uk/hpg/papers/hpgreport2.pdf>> (last visited on 10 August 2004), p. 17.

organizations not to take sides in a conflict and not to take any action that might be to the advantage of one side or the other. Historically, this was the price the Red Cross volunteers had to pay to be accepted on the battlefield by the armies of both sides and to enjoy protection and immunity from the hostilities. Even today, the argument that neutrality is an operational tool to gain access to people in need and to maintain a dialogue with all parties to a conflict remains valid for the ICRC.

The question whether neutrality can be morally acceptable in the face of horrendous crimes such as the ethnic cleansing in Bosnia or the genocide in Rwanda merits consideration. Fiona Terry argues, for example, that not addressing the question of who is right and who is wrong assumes that there is moral equality between the oppressor and the victim.<sup>14</sup>

This criticism of alleged moral indifference ultimately led to a split in the humanitarian sector when a group of ICRC doctors, among them Bernard Kouchner, frustrated by delays in receiving permission to assist the starving Biafrans in the Nigerian Civil War (1967-1970), created Médecins Sans Frontières (MSF). Their fundamental idea was that concern for the victims should be put above State sovereignty and neutrality of humanitarian action.<sup>15</sup> MSF's example of a politically activist humanitarianism was soon followed by other NGOs, such as Oxfam in the UK. The idea of not only alleviating the suffering but also addressing its root causes by denouncing oppression and injustice, and thus creating a momentum for political change, definitely had something convincing about it.

For the ICRC, on the other hand, neutrality has always also implied confidentiality in that the price of denunciation is usually expulsion from the scene of the suffering, which in turn deprives victims of possible assistance and protection and thus is likely to cause even greater suffering. The two components of MSF's slogan "*Soigner et témoigner*" (care for and bear witness) might in fact in many cases be mutually exclusive.

The ICRC, which now "grudgingly admits" that it should have behaved differently in the face of the Holocaust during World War II,<sup>16</sup> has slightly changed its policy of absolute neutrality and will consider "publicly condemning violations of international humanitarian law as a last resort"<sup>17</sup>

<sup>14</sup> Terry, *op. cit.* (note 4), p. 22.

<sup>15</sup> *Ibid.*, p. 20.

<sup>16</sup> Rieff, *op. cit.* (note 1), p. 20.

<sup>17</sup> International Committee of the Red Cross, "Frequently asked questions", available at: <<http://www.icrc.org/Web/eng/siteengo.nsf/html/faq>> (last visited on 10 August 2004).

and withdraw when it concludes that the harm done by humanitarian assistance outweighs the good, as in the case of the Rwandan refugee camps in Zaire.

The moral dilemma between neutrality and political activism, however, remains difficult to solve for humanitarian organizations. The two approaches seem mutually exclusive but when seen pragmatically are complementary. It might in fact be in the interest of victims of oppression and violence that both philosophies coexist, albeit represented by different organizations. The respective roles of the ICRC and Amnesty International in monitoring conditions of detention for prisoners can serve as an example.

### **Humanitarianism and international politics**

The revelation that there are, in the words of the former UN High Commissioner for Refugees, Sadako Ogata, "no humanitarian solutions to humanitarian problems"<sup>18</sup> had far-reaching consequences. Joanna Macrae concludes that "the 1990s saw the concept of humanitarianism transformed, from a distinctive but narrow framework designed to mitigate the impact of war, into an organizing principle for foreign relations, led largely by the West."<sup>19</sup> The painful lessons of Bosnia, Somalia and Rwanda inspired a number of experiments, principally by the US and the European Union, in integrating humanitarian assistance into the political framework of responses to conflict. Attempts to use humanitarian assistance as political leverage were made, for example, in Serbia, southern Sudan, North Korea and most recently Afghanistan.

The UN followed the trend. The 1999 "Report of the Panel on United Nations Peace Operations" — commonly known as the Brahimi Report — recommended that humanitarian and peacekeeping operations should be combined in an "Integrated Mission Task Force (IMTF)" and placed under the political responsibility of the Special Representative of the Secretary-General (SRSG).<sup>20</sup> The idea has been strongly opposed by most humanitarian UN agencies and NGOs, who argued that such integration would threaten the independence and impartiality of their operations.

<sup>18</sup> Quoted in Rieff, *op. cit.* (note 1), p. 22.

<sup>19</sup> Macrae, *op. cit.* (note 13), p. 7.

<sup>20</sup> United Nations, "Report of the Panel on United Nations Peace Operations", United Nations, New York, 1999, paras. 198-217, available at: <[http://www.un.org/peace/reports/peace\\_operations/](http://www.un.org/peace/reports/peace_operations/)> (last visited on 10 August 2004).

The discussions and dilemmas faced by humanitarian NGOs are again clearly illustrated by MSF and Bernard Kouchner. Kouchner's vision was that humanitarianism should be at the service of States: "It is not so much that humanitarians must learn to be political as that States must learn to be humanitarian."<sup>21</sup> His vision was not shared by the other co-founders of MSF, such as Rony Braumann, who thought that political independence was an important ethical principle for humanitarian action. Kouchner left MSF and started yet another NGO in 1980, *Médecins du Monde* (MDM), to realize his vision of humanitarian action.

The more recent trend of "humanitarian" military interventions and the substantial involvement of humanitarian organizations in the subsequent peace-building operations have revitalized the discussion on whether it is morally legitimate to use humanitarian assistance as political leverage to promote conflict resolution, political reconciliation and nation-building.

### **Humanitarianism and "humanitarian" military intervention**

A number of humanitarian activists, prominent among them Bernard Kouchner, had already come to the conclusion in the 1980s that military action, ideally undertaken by the UN, but also by individual great powers if necessary, was the only moral answer to certain humanitarian crises.<sup>22</sup> The trend of "humanitarian interventions", i.e. military operations with the primary aim of protecting or assisting victims of violence, perhaps started with the operation to protect the Iraqi Kurds against the attacks of the Iraqi regime in the aftermath of the 1991 Gulf War. This relatively successful operation was followed by the ill-fated attempts to provide military protection for humanitarian assistance operations in Somalia and Bosnia in 1992. More recent international interventions, such as the NATO interventions in Bosnia and in Kosovo or the Australian-led intervention in East Timor, were also largely justified by citing humanitarian considerations. They also went one step further than previous interventions and established temporary international protectorates to maintain stability and guarantee peace.

While humanitarian and human rights concerns might only have been a secondary priority in the justification for the US-led interventions in Afghanistan and Iraq, humanitarian issues played an important part in their aftermath, at least rhetorically. The Provincial Reconstruction Teams (PRTs)

<sup>21</sup> Quoted in Rieff, *op. cit.* (note 1), p. 97.

<sup>22</sup> *Ibid.*, p. 66.

in Afghanistan deliberately use humanitarian reconstruction projects as a means for achieving the military objectives of gathering intelligence and winning the "hearts and minds" of the Afghan population. With regard to Iraq, several governments, among them Japan and Thailand, have declared the involvement of their troops in the US-led multinational forces as "purely humanitarian" operations.

Whether or not they welcomed the principle of "humanitarian" military intervention, humanitarian workers were confronted in the wake of these operations with a number of new moral dilemmas, or possibly the old ones in a new guise. Being part of the ostensibly moral plan to bring peace and prosperity to war-torn societies has proved to be more complicated for humanitarian agencies than many of them thought. David Rieff argues, for example, that "independent humanitarianism does many things well and some things badly, but the things it is now called upon to do, such as helping to advance the cause of human rights, contributing to stopping wars, and furthering social justice, are beyond its competence, however one might wish otherwise."<sup>23</sup>

The blurring of the lines between military operations, the implementation of political objectives and humanitarian assistance has had particularly serious consequences for humanitarian workers. Being perceived — at least by some — as part of a Western-dominated military and political operation has caused fundamental security problems for humanitarian organizations in contexts such as Afghanistan and Iraq.

Humanitarian organizations have traditionally been called upon to tackle two major tasks in post-conflict reconstruction. The first is to assist a number of vulnerable groups created by the conflict, such as internally displaced persons, returning refugees, war widows, children, etc. The second task is to revive shattered social services such as health care, water supply and education, with the aim of making them sustainable in the long term.

Sustainable long-term development obviously depends essentially on the political and economic framework and on the institutional and physical infrastructure a State is able to provide. After the most recent international interventions, the political framework has largely been defined by external entities such as intervention or occupation forces. Economic and social policies have been shaped by bilateral donor countries or by international financial institutions (IFIs).

<sup>23</sup> *Ibid.*, p. 334.

Michael Pugh points out that a fundamental problem of this approach is that "the conceptual baggage of peace building has included the assumption that external actors wield the power and moral authority to bring about the peaceful change that communities have so signally failed to do."<sup>24</sup>

It is indeed questionable whether outside interventions in war-torn societies can impose reconciliation and bring about self-sustainable peace. The continued need for a strong international military and civilian presence in Bosnia more than nine years after the Dayton Peace Agreement certainly indicates that building peace is more difficult than some protagonists initially thought.

During the 1990s, the international donor community pledged more than US\$ 100 billion in aid to almost 40 countries recovering from armed conflict.<sup>25</sup> A large proportion of the external aid to all these countries went into humanitarian relief and development projects with the stipulated intention to lay the foundation for a sustainable transition to economic growth and participatory governance. Although the contexts of the interventions were very different, a number of problems faced by humanitarian organizations involved in the implementation of such projects were very similar in all of them.

### Coordination

The first rather more practical challenge encountered by humanitarian and development organizations after an international intervention or a peace agreement is the coordination of activities among themselves and between them and the military and political intervention forces. While there are usually only few international organizations and NGOs in the country during an armed conflict, their number rises sharply at the end of hostilities. The main reasons for the surge in the number of humanitarian agencies are the improved security situation and the increase in available funds from donor governments and the general public. The high-profile media coverage that is usually given to international interventions is also attractive to humanitarian organizations, because it gives them the "visibility" they need to raise funds for their operations.

<sup>24</sup> Michael Pugh, "Introduction: The ownership of regeneration and peacebuilding", in: Michael Pugh (ed.), *Regeneration of War-Torn Societies*, St. Martin's Press, New York, 2000, p. 3.

<sup>25</sup> Shepard Forman and Stewart Patrick, "Introduction", in: Shepard Forman and Stewart Patrick (eds.), *Good Intentions, Pledges of Aid for Postconflict Recovery*, Lynne Rienner, Boulder/London, 2000, p. 1.

The weak administrative structures of post-conflict governments have regularly been overwhelmed by a crowd of autonomous actors, including donor States, IFIs, UN agencies and NGOs. Stewart Patrick notes that “the resulting amalgam of interests, mandates and capacities can stymie collective action and agreement on burden-sharing, delaying early donor engagement and thwarting agreement on common approaches essential to success.”<sup>26</sup> The lack of a coordinated approach has, he says, regularly led to “incoherent strategies, incompatible projects, redundant initiatives, gaps in assistance, insufficient accountability, and minimal organizational learning.”<sup>27</sup>

Within months of the 1991 Paris Peace Agreement for Cambodia, the number of international organizations and NGOs working in the country jumped from a handful to several hundreds. Similar developments took place in Bosnia after the Dayton Peace Agreement in 1995 and after the military intervention in Kosovo in 1998. In Afghanistan, the annual humanitarian aid budget for 2001 was approximately US\$180 million<sup>28</sup> and increased to almost US\$2 billion in 2002 after the US-led intervention.<sup>29</sup>

As funding for many individual humanitarian organizations often depends on their “visibility”, intense competition is usually the result. Because of this competition for funds between humanitarian organizations, effective coordination can only come from donor governments, which provide most of these funds. It is usually the same — Western — donor governments that also have the main political stakes in the intervention. Their coherent planning framework of political, military and humanitarian activities therefore risks transforming international organizations and NGOs into implementing agencies of political and possibly even imperialist plans or, as David Rieff puts it, into “an instrument and emblem of the reach of Western governments.”<sup>30</sup> A coordinated approach is important to increase efficiency and accountability, but its cost might be that it effectively rules out, or at least marginalizes, the participation of NGOs for which political independence and impartiality are important parts of their ethical basis and self-understanding.

<sup>26</sup> Stewart Patrick, “The donor community and the challenge of postconflict recovery” in: Forman and Patrick (eds.), *op. cit.* (note 25), p. 36.

<sup>27</sup> *Ibid.*, p. 37.

<sup>28</sup> Rieff, *op. cit.* (note 1), p. 296.

<sup>29</sup> Transitional Government of Afghanistan, *Analysis of Aid Flows to Afghanistan*, March 2003, available at: <<http://www.afghanistangov.org/resources/mof/cU-GoA-AidAnalysis.pdf>> (last visited on 10 August 2004).

<sup>30</sup> Rieff, *op. cit.* (note 1), p. 274.

Donor governments quite logically have a tendency to favour humanitarian activities in their direct self-interest. Both in Cambodia and in Bosnia the humanitarian agenda was for example largely dominated for several years by the rapid return of refugees, the highest priority of Western donor countries. In both contexts, the disproportionate level of assistance to returning refugees led to potentially destabilizing social and political tensions with the host communities, which might have been a major factor in the difficulty to achieve reconciliation.

The task of coordinating humanitarian activities in international interventions is often additionally complicated by the fact that the military intervention forces are keen to "win the hearts and minds" of the population and want to be seen to be involved in the provision of humanitarian assistance as well. The difficult relationship between the PRTs of the military intervention forces in Afghanistan and humanitarian organizations serves as an example.

### **Emergency assistance and sustainable development**

Donors and implementers of post-conflict humanitarian and reconstruction programmes are often torn between the need to deliver assistance as quickly as possible and the desire to rely on local capacities to shape and implement the projects and thus ensure their appropriateness and sustainability. In theory there is, however, general agreement that "local ownership" and participation are essential for the long-term sustainability of any social or humanitarian programme.

When the local administration and civil society in general are weak, as is often the case in post-conflict situations, the question which local partners should be involved in the implementation of humanitarian projects is difficult to solve. The national government structure or local authorities? Local NGOs or other non-State actors, such as tribal leaders, local associations and cooperatives or even the private sector?

The choice of local partners invariably implies a clear vision of the future political system and creates a number of dilemmas. Strengthening the national government might be the best guarantee for a coordinated and balanced approach, but it will most certainly lead to a cumbersome bureaucracy and long delays in the disbursement of assistance and risks concentrating too much power in the hands of a few. It might also be problematic for humanitarian agencies to give explicit political support to a government that was put in place by the intervening forces and does not necessarily have sufficient local legitimacy. Favouring cooperation with local authorities might

speed up the planning and approval process, but risks exacerbating political and ethnic divisions within a country and may lead to an unbalanced distribution of the available assistance. Local NGOs can play an important role in implementing humanitarian programmes, but their activities are usually not sustainable in the long run without external assistance. Relying on village elders or local associations might undermine the authority of the State structures and therefore be resented by the latter. Extensive privatization of State assets and services, a neo-liberal approach often favoured by Western donors and peace-builders, can end up in favouritism or "grab-it-ism" and lead to considerable social and political tensions in post-conflict societies.

Pugh rightly points out that external players in such situations are "caught in a dilemma between support for State sovereignty and support for counter-hegemonic civil society, between degrading State responsibility and disdaining non-State activities."<sup>31</sup>

There are also a number of difficulties in defining when and how local capacity-building should begin. After prolonged wars, the institutional and physical infrastructure of a country is invariably in a desperate condition. In the first phase of emergency assistance, there can often be only little concern for local capacities and assistance operations are essentially run by international staff. Although such emergency aid is sometimes necessary to alleviate the suffering and provide a visible peace dividend, it rarely addresses the root causes of poverty and conflict. Prolonged emergency assistance can in fact cause additional problems by creating dependencies and by undermining indigenous self-help capacities.

The transition from emergency relief to development assistance is usually problematic, particularly if there are different organizations and procedures involved. Stewart Patrick notes that "as a rule, relief and development activities are designed by different departments or agencies; funded through distinct windows; approved through dissimilar procedures; shaped by disparate political considerations; subjected to divergent timetables; and implemented by diverse partners."<sup>32</sup>

As a result, prolonged emergency relief operations have often undermined the long-term development prospects. Continued food deliveries generate little or no incentive for the affected population to engage in agricultural rehabilitation programmes; sophisticated and expensive health care

<sup>31</sup> Michael Pugh, "The social-civil dimension", in: Pugh (ed.), *op. cit.* (note 24), p. 116.

<sup>32</sup> Patrick, *op. cit.* (note 26), p. 39.

services provided by international staff are not sustainable with local resources, and parallel health and education structures draw staff and beneficiaries from the State-run infrastructure.

Changing an initial approach is often not easy. In the case of Cambodia, Peou and Yamada show that when some major donor governments decided in the mid-1990s to support only projects that included local partner institutions, the flow of international assistance dropped significantly, mainly because the local capacities did not exist in spite of several years of ongoing assistance.<sup>33</sup>

### Legitimacy

While a peace agreement usually establishes or re-establishes a form of national government, this is often not reflected in the situation on the ground. At the local level, the same political leaders and warlords who took advantage of the political war economy often remain in place. To be able to implement their projects, humanitarian organizations have to cooperate with these local warlords and their power structures and thus provide power and legitimacy to potential spoilers of the peace process.

A 1998 US Institute of Peace report concludes that in Bosnia "millions of relief and reconstruction dollars channeled through local officials have fortified the physical barriers between ethnic communities by allowing political leaders to distribute aid to their side before the efforts to challenge ethnic cleansing were in place (...) Municipal authorities and representatives of displaced ethnic communities use aid to achieve their political ends, to strengthen their sides, and to funnel aid disbursements to favored local suppliers and contractors."<sup>34</sup>

Implementing humanitarian assistance programmes in today's Afghanistan, at least outside Kabul, implies cooperation with local warlords and their power structures and thus helps to confer legitimacy upon them, at least in the eyes of the population under their control. The warlords also levy import duties and taxes on humanitarian assistance, which constitute an important part of their revenues.<sup>35</sup>

<sup>33</sup> Sorpong Peou and Kanji Yamada, "Cambodia", in: Forman and Patrick (eds.), *op.cit.* (note 25), p. 96.

<sup>34</sup> Julia Demichelis, *NGOs and Peacebuilding in Bosnia's Ethnically Divided Cities*, United States Institute of Peace, Washington, DC, June 1998, available at:

<<http://www.usip.org/pubs/specialreports/early/BosniaNGO.html>> (last visited on 10 August 2004).

<sup>35</sup> United States Institute of Peace, *Unfinished Business in Afghanistan: Warlordism, Reconstruction, and Ethnic Harmony*, United States Institute of Peace, Washington, DC, April 2003, available at:

<<http://www.usip.org/pubs/specialreports/sr105.html>> (last visited on 10 August 2004).

Strengthening the legitimacy of these warlords could well undermine the long-term prospects for peace and stability in Afghanistan.

Empowerment of local institutions without strict accountability can also lead to corruption. In Cambodia, the rampant corruption of government officials involved in reconstruction projects was attributed to their ridiculously low salaries and the failure of donors to address that problem.<sup>36</sup> Corruption of government officials at all levels was also a problem in the implementation of reconstruction projects in Bosnia.<sup>37</sup>

### **Conditionality**

In order to address the legitimacy problem, James Boyce and others suggest that post-conflict assistance, especially for reconstruction and development, should be used to force compliance with the peace process by imposing a "peace conditionality". This could mean, for example, that reconstruction projects are only implemented if local leaders adhere to an existing peace agreement or if they accept certain specific conditions. Such conditions could include requests for active participation in specific aspects of the peace process, for the handing over of war criminals, for quotas of certain ethnic groups to be among the beneficiaries of the international assistance, or for gender equality.<sup>38</sup>

This type of conditionality was extensively used by a number of bilateral donors and some UN agencies in Bosnia. Withholding international assistance helped to persuade Bosnian Serb leaders to participate in the country's collective presidency in 1996 and led to a political thaw in the Republika Srpska in 1997.<sup>39</sup> The Office of the UN High Commissioner for Refugees made assistance to various communities in Bosnia conditional on the return of minorities who had been expelled from those communities during the war. Aid embargoes against unfriendly municipalities were established and in allocating reconstruction funds priority was given to cooperative mayors.<sup>40</sup>

<sup>36</sup> Peou and Yamada, *op. cit.* (note 33), p. 96.

<sup>37</sup> Zlatko Hertic, Amela Sapacanin, and Susan Woodward, "Bosnia and Herzegovina", in: Forman and Patrick (eds.), *op. cit.* (note 25), pp. 350-353.

<sup>38</sup> James K. Boyce, "Beyond good intentions: External assistance and peace building", in Forman and Patrick, *op. cit.* (note 25), pp. 377-379.

<sup>39</sup> *Ibid.*, p. 379.

<sup>40</sup> Demichelis, *op. cit.* (note 34).

It is highly questionable whether such “peace conditionality” for assistance can indeed force adherence to the peace process or impose reconciliation. Experience in Bosnia has shown that the cooperation from local authorities was often pure lip service in order to get rewards from reconstruction funds, and was stopped or even reversed as soon as a specific project was completed. Ensuring compliance with conditions also requires a degree of authoritarian control that does not sit well with the democratic and participatory pretensions that are usually part of the peace-building rhetoric. Michael Pugh concludes in this context that “attempts to exert leverage through conditionality point to the limits of social engineering.”<sup>41</sup>

In addition, Pugh points out that “the conditionality adopted by external actors to manipulate participation by creating or empowering only local institutions that demonstrate a commitment to externally determined goals may result in social exclusion.”<sup>42</sup> Such an exclusion may lead to a radicalization of minorities and ultimately undermine the peace process.

For humanitarian organizations, applying conditionality to their assistance projects runs counter to the humanitarian imperative and the principle of impartiality. Most humanitarian organizations therefore feel deeply uncomfortable about applying any form of political conditionality to their activities. One of their arguments is also that the population should not be punished for their leaders, especially if they are not democratically elected.

Some have argued that emergency relief should be unconditional and only longer-term reconstruction and development assistance should be subject to conditions. However, such a distinction is not practical because it risks perpetuating emergency relief assistance with all the negative consequences that this entails.

The policy of “peace conditionality” for humanitarian assistance has placed humanitarian organizations in the dilemma of whether to submit themselves to the principle of self-determination by the populations concerned or to the moral principles of the intervening powers. Supporting self-determination in Bosnia might well have cemented ethnic segregation. It might equally well lead to Islamic rule by Shiite clerics over at least some parts of Iraq.

<sup>41</sup> Pugh, *op. cit.* (note 31), p. 123.

<sup>42</sup> *Ibid.*, p. 123.

## Conclusion

The original deal between humanitarianism and States was that humanitarians were accepted on the battlefield as long as they did not interfere with the actual hostilities. In this way a space was created for independent humanitarian action. Since the 1990s this humanitarian space has increasingly lost its independence, mainly due to the fact that international humanitarian organizations have essentially been funded by States, which have progressively discovered the utility of humanitarian aid as a foreign policy instrument. The idea that humanitarian assistance should be unconditional has been further challenged by the introduction of sets of political or human rights conditions. The incorporation of humanitarian action into the framework of "humanitarian" military interventions and subsequent nation-building exercises has reinforced this trend. Humanitarian organizations and their protagonists continue to struggle with the ethical implications of these developments.

It is in the nature of dilemmas that they have no easy solution. The question is not "whether" humanitarian actions have political consequences, but "what" these will be. A candid ethical assessment of these political consequences is the least that should be expected from humanitarian organizations and their donors. Independent humanitarian organizations are an essential part of this system of checks and balances.

Even if the new forms of humanitarianism might have a moral standing as well, it is essential that sufficient space be preserved and defended for independent, neutral and impartial humanitarian action and the organizations that uphold it. This humanitarian space must be kept clearly distinct from "humanitarian" military interventions.

## Résumé

### ***L'humanitarisme confronté à des dilemmes moraux à l'époque des interventions militaires «humanitaires»***

*Beat Schweizer*

Ces dernières années, l'étiquette «humanitaire» a été utilisée de plus en plus souvent par des gouvernements occidentaux pour légitimer de nouvelles priorités, parfois controversées, en matière de sécurité. La justification d'interventions militaires internationales par des motifs humanitaires et le fait que les gouvernements impliqués dans ces opérations militaires soient généralement aussi les principaux bailleurs de fonds du système humanitaire ont relancé le débat parmi les organisations humanitaires internationales et les ONG sur les principes éthiques de l'action humanitaire. Cet article examine un certain nombre de dilemmes moraux auxquels les organisations humanitaires sont confrontées lorsqu'elles sont intégrées – souvent contre leur gré – dans des stratégies politiques et militaires visant à limiter les effets des conflits armés et à bâtir la paix, notamment à la suite d'interventions militaires «humanitaires».

S'il est vrai que les dilemmes n'ont, par essence, pas de solution simple, il est néanmoins important que les membres d'organisations humanitaires et leurs donateurs en prennent conscience et les analysent. L'action humanitaire indépendante et impartiale et les organisations qui veillent à ce qu'elle soit respectée doivent donc être reconnues comme étant une partie essentielle d'un système fondé sur un équilibre subtil, dont le but est de venir en aide le plus efficacement possible aux personnes souffrant de la violence et de l'injustice.