The tenth anniversary of the start of the Rwanda genocide is on 7 April 2004. The events that ensued represented one of the worst humanitarian catastrophes of recent times. Up to a million people were killed in the genocide and civil war; over two million Rwandans became refugees and more than a million were internally displaced. An estimated 80,000 died in camps in Zaire, Tanzania and Rwanda.

The genocide revealed terrible failings in the international community and weaknesses in the international humanitarian system. Humanitarian organisations were criticised for a lack of professionalism, efficiency and accountability. But the critical failings lay not in the humanitarian domain; instead, they were political, diplomatic and military. ‘It is highly significant,’ said the Joint Evaluation of Emergency Assistance to Rwanda, ‘that the number who died as a result of causes that could be considered avoidable had the humanitarian response been more effective was many times lower than those who died as a result of the genocide and conflict.’

The special feature of this issue of Humanitarian Exchange focuses on Rwanda ten years on. It begins by revisiting the horror of spring 1994 in Rwanda, with the moving testimony of a woman who survived the genocide. The feature also looks at what went wrong in 1994, how international response has evolved since, and where further change is needed. John Borton, a member of the team that carried out the unparalleled Joint Evaluation of Emergency Assistance to Rwanda, reviews the evaluation and the follow-up process, and reflects on its impact.

The theme for this issue of Humanitarian Exchange reflects the recommendation of the report by revisiting the horror of spring 1994 in Rwanda, with the moving testimony of a woman who survived the genocide. The feature also looks at what went wrong in 1994, how international response has evolved since, and where further change is needed. John Borton, a member of the team that carried out the unparalleled Joint Evaluation of Emergency Assistance to Rwanda, reviews the evaluation and the follow-up process, and reflects on its impact.

A wide range of other humanitarian policy and practice issues are also discussed in this issue. As always, we welcome submissions for publication and your feedback on our publications.
In 1994, I was married and had a baby. We were living at Muhima, near the Kabuga business building. It was on 7 April 1994 at 5.30 in the morning that we first heard that President Habyarimana was dead. Immediately my husband became terrified and said that he knew the Tutsis would not survive; he went to hide at our neighbour's house, but I stayed at home. My husband was right, and that morning the worst things happened. People were herded into a beautiful new big compound near our house to be killed. We could see the killings through the windows of our house. Men armed with machetes, sticks and pangas hit people until they dropped down dead. Then I began to pack things in a suitcase in order to flee that evening. I bathed my baby and dressed him.

Widowed
A directive was issued, telling all men to go on neighbour-hood security watch. My husband went, but before leaving, he told me 'I am going but I am not sure I will be coming back.' Indeed, they did not take long: men including my husband were immediately attacked and killed. I was frightened to stay at home alone, so I went to a lady who was our neighbour. She told me someone had just been killed: it was my husband.

Before I could gather the details, a very big group of more than 30 killers came to our house and asked, 'Where is Kabanda's wife?' 'Here I am,' I said. 'Take us first to your house and give us money,' said one of them. 'There is no money at home,' I answered. They told me to go with them. I was carrying my baby on my back. On the way, I saw a neighbour called Papa Neema and I took off my baby and asked him if he could keep him. Papa Neema was seriously injured and could not manage the baby, so I had to put the baby on my back again. We continued, and when we arrived at that beautiful compound, me still with my baby on my back, a group of male killers immediately struck me with whatever they had to hand: machetes, axes, clubs, sticks, spears and spears; I knew that I was going to die instantly, asking God to forgive me all my sins.

Bereaved
Then I heard a voice saying, 'And this baby who is shouting and must be silenced.' They hit him just once, and he died immediately. After killing him and leaving me for dead, they closed the gates of the compound and went to bring other people to kill. I heard people crying out in anguish, calling for help and one by one they finished their last breath. I was badly injured and covered in my own blood, blood from my baby and blood from other people. I didn’t know whether I was alive or dead. I took my baby off my back, made a small bed with the clothes I was wearing and put it near the baby. I talked to my baby, telling him to listen to him and to his father. I saw him covered and felt he was safe with his father. It was then that I realised I was not dead. I was the only person in the compound still living; everyone else was silent because they had died.

Hidden
I continued walking aimlessly, and saw a boy and asked him to hide me at his house. He told me he couldn’t let me in through the back compound because the killers were at his gate. He eventually agreed to let me in to his compound saying that he was going to check the situation and would come back for me in the evening. There were many people, hiding there and when they saw me, they kept talking to me. They were trying to talk me into going to the church, but I wouldn’t listen. They asked me if I could come with them. I said no, and told them to come with me. The next day I was carried in the compound and they left me there. People were afraid of me and they put me in a small house where they kept turkeys. The other people who were hiding there were afraid and went to find somewhere else to hide.

I heard people come to the turkey house debating whether I was dead, but I couldn’t move, let alone speak. They forced tea down my throat to see whether I was dead or not, and readjusted a little. They kept giving me tea and on the following day I regained full consciousness. Then they told me that they were planning to go, and I had to find

From death to life: a widow’s story

Ten years after the genocide in Rwanda, memories of what took place are still raw. This testimony, collected by the UK-based Survivors Fund, is part of a wider Remembrance Initiative, which aims to help the healing process by recording the experiences of the survivors in their own words.
another place for me. I was too weak to go anywhere. Their grandmother had a house nearby behind their compound, and the next evening they broke down the fence that separated the houses and took me to her. She was poor and there was no light in her house. When the grandmother saw me, she was afraid because she said I looked like an animal. I told her I had been asked to come to her and hide because I was too weak to go anywhere. She took pieces of wood and made a fire. Then she cleaned me, put some of her clothes on me, and dressed the wound on my head where my brain was exposed with a piece of cloth. When she gave me food, I could not lift my arm to eat. She saw milk coming out of my breast and asked me if I was pregnant or had a baby. I said, ‘I have left my baby with his father where they were killed.’ She was very sad.

Refuge

In the morning, she washed my clothes, which were covered with blood, and tried to take me to the dispensary. There were roadblocks everywhere and Tutsis were being killed everywhere. People were crying in pain while others were singing and dancing every time a Tutsi fell and died! The old lady waited until evening and asked a soldier who was their neighbour to take me to the dispensary. He came with his car and took me with the old lady and two of her grandsons. The old woman put clothes over my stomach and pretended I was pregnant and in labour. When we reached the dispensary, the workers put on rubber boots and gloves and pulled me out. They did not lift me up but instead dragged me on the ground like a dead animal. They put me outside and cleaned the room. While I was outside, it rained and it was good for me because I found water to drink, although it was painful because I could not move my arms and was drinking like an animal. When they had finished cleaning the room, they pulled me back in again, but after some time the maggots came back. The workers cleaned the room again and this time shaved my head with a brand new razor blade. They discovered that my head was full of wounds, which they disinfected, and they tried to give me porridge, saying, ‘Tutsis are special. They die and come back to life.’ At that time, I learned the difference between body and spirit. The body was completely dead but my spirit was still alive inside that rotten body.

Then I began to reflect: ‘I thought I was still alive but I realize I am dead. In the few days, all the dead people and Tutsis have died. I am not the only one who has been wounded because I had not eaten for days! I learned that one can live without eating, I prayed to God to lift my spirit out of my maggot-ridden body. I don’t know how, but most of the maggots disappeared, except in my head and on my right hip where the wounds were extremely deep and open. Other dispensary workers came to watch me die, refusing to treat me. They could see my eyes were open, looking at them.

Paralysed

Maggots surrounded me where I was lying: they had made a trail from my body to the ground outside. The dispensary workers put on rubber boots and gloves and pulled me out. They did not lift me up but instead dragged me on the ground like a dead animal. They put me outside and cleaned the room. While I was outside, it rained and it was good for me because I found water to drink, although it was painful. They did not lift me up but instead dragged me on the ground like a dead animal. They put me outside and cleaned the room. While I was outside, it rained and it was good for me because I found water to drink, although it was painful because I could not move my arms and was drinking like an animal. When they had finished cleaning the room, they pulled me back in again, but after some time the maggots came back. The workers cleaned the room again and this time shaved my head with a brand new razor blade. They discovered that my head was full of wounds, which they disinfected, and they tried to give me porridge, saying, ‘Tutsis are special. They die and come back to life.’ At that time, I learned the difference between body and spirit. The body was completely dead but my spirit was still alive.
had never seen anything that looked like me locked up in a room.

I was very thirsty, and whenever I heard somebody passing I shouted for someone to bring me water, but this cry was in vain as no one did. Then I heard the sound of many boots, so I shouted loudly, "Help me!" The workers came and told me to be quiet because it was soldiers looking for Tutsis to kill and they would shoot me. I had kept walking and some soldiers came and saw me, a dead body who couldn't even move. They didn't kill me. When they saw me, they were surprised. They wanted to take me up in the room and some people wouldn't let me in, I said. They pointed the workers to open the door.

The soldiers saw me and they left. But the workers thought that the soldiers were going to kill me. "When did this lady come here?" asked the soldiers. "On April 8," replied the worker. "What do you want?" they asked. I shouted that they had refused to give me water and tried to crawl to them, begging them to kill me. I tried to go out but the soldiers pushed her back into the room and angrily ordered the workers to find her some food. They said that if they didn't serve her, they would be responsible.

The teacher brought water in a small five-litre jerry can and I drank it as if I had stolen it, feasting on the fact that I would not die. They stopped giving me food and water. As I could not walk, I crawled slowly on the ground like a reptile and entered at the road. I continued and came to a place where aubergines were planted. When I saw children passing, I asked them to give me some water. But they said, "This is a place where aubergines were planted. When I saw children passing, I asked them to give me some water. But they said, "This is a place where aubergines were planted. When I saw children passing, I asked them to give me some water. But they said, "This is a place where aubergines were planted."

The children told their mother that I was there and she came to see me. Her husband came early in the morning and told me to go back to the road because he didn't want anyone to see me in the house. I escaped yet again through the back door into a stony road, with stones entering my wounds all along the way. When I reached the road, my body was covered in blood. People saw me and recognised me from the dispensary. They wondered how I had managed to get there. I had just crossed a river to get to a place where aubergines were planted. I took me to a small valley and left me there. I was like an exhibition and people exclaimed, "That woman who was at the dispensary is now in the valley! People come to see me.

Spared

Later on, the militiamen came and told them to leave me to spare me. In the evening a little girl came and told me her mother said that if I went to their house they would give me food. They lived on the hill, but I could not climb it as I could not walk and all my body was covered with wounds. I tried to cross it but it was impossible. I asked people to give me some food, but no one did. A soldier who had a Bible in his hand passed and asked him to carry me, but he said he couldn't because other soldiers would kill him if they saw him doing it. He did give me some rice to give to the children to go and buy me a drink. He left me, and other soldiers asked me what we were talking about. I was surprised when they all came and helped him carry me. They were frightened to be seen so they left me near the house. I called the sailors and told them to tell their mother that I had made it to the house.

The children told their mother that I was there and she sent her daughters to bring me. The mother prepared some water and they washed me and took all the maggots away. She gave me clothes and brought me into a room in a small house behind hers that also had a kitchen. Then she took me into her kitchen and made a fire for me. I slept by the ashes and had a nice sleep.

Rescue

It was a very hard time when the remaining Tutsis were aggressively hunted down. The woman's husband was a Hutu but she was a Tutsi and could not go out. The militiamen came every day to see whether Tutsis were hidden in the room.
The RPF had come but we did not know. Then one day, there was an indescribable noise of guns. The following day, I waited for people to bring me food but nobody came. After a long time a child came and told me that her mother said to come. She ran off and when I went outside I could not see her. I went to the family’s house but it was closed and even the curtains were drawn. Nobody was there; not even a bird. I saw many bullets. Then I prayed and asked God where I should go, and at that moment I saw an RPF soldier. He called me and told me to join a group of people down the hill where I would get treatment.

Miraculously, among the soldiers who were supposed to treat me there was one I had previously seen at Kibogora when I was doing a survey for a Rwandan private company. I recognised him and he recognised me. He gave me powders to make drinks, and they gave me food. Treatment

After a short time, I became very sick and was taken to Kigali Central Hospital, vomiting and suffering terribly. They took me to intensive care and I nearly died again. They decided to take me to another room where I stayed for months in a coma. No one can count the number of serums that were injected in me. Sometimes, the nurses covered me, believing that I was dead, although I was still alive. I remained like that for months and months, not alive but not completely dead. Many doctors came and confirmed that my head could not heal in Rwanda, as my brain had come out many times. This is what people told me when I recovered.

After a long period, I began to see people but I could not recognize them or make out people from objects. I could not speak but could hear, even though I could not understand what I was hearing. Slowly I began to communicate with people using gestures. After some time, someone asked a doctor who I was and he said that I was Godriva. I used gestures to ask the meaning of Godriva and the doctor told me that it was my name. I was amazed to learn that I had one. He began to teach me to say my name. I had forgotten how to read and write. I could not recognize people, not even my mother and my friends. Today I do not know how to read and write, but I can read and write Godriva. I plan to learn again to read and write, and I think that I will make it.

Today, I am still suffering because the treatment I have received hasn’t healed me completely. The treatment abroad, but the Government Fund for Rwanda failed to send me abroad because it is expensive. I pray for proper treatment. Maybe one day someone will help me.

The Survivors Fund

The Survivors Fund (SURF) exists to rebuild a sense of self and trust in humanity among the survivors of the Rwandan genocide. Since 1997, it has helped survivors deal with and recover from their experiences, supporting a wide range of services for victims in Rwanda, and assisting survivors in the UK. SURF works in partnership with AVEGA, a widow’s association supporting 25,000 women, and through Uyisenga N’Manzi, which helps 10,000 orphan heads of households.

Contact: Mary Kayirangwa, Director, SURF, 10 Rickett Street, West Brompton, London, SW6 1RU, UK. Tel: +44 (0) 207 610 2589; fax: +44 (0) 207 610 3851; email: surf@dircon.co.uk; web: www.survivors-fund.org.uk.
Genocide response: a timeline

August 1993
The Arusha Peace Agreement mandates a power-sharing government, signalling the end of the civil war in Rwanda. The UN Assistance Mission for Rwanda (UNAMIR) is deployed with 2,500 troops to oversee implementation.

January 1994
UN Commander in Rwanda Major-General Romeo Dallaire informs the UN Department of Peacekeeping Operations of indications that the extermination of Tutsi is being planned.

6 April 1994
Rwandan President Juvénal Habyarimana and his Burundian counterpart are killed when their plane is shot down near Rwanda’s capital, Kigali. Within hours, government soldiers and Hutu militia begin killing Tutsi and moderate Hutu. In the next 100 days, an estimated 800,000 people are killed.

7 April 1994
Prime Minister Agathe Uwilingiyimana is killed by government forces. Ten Belgian UN peacekeepers are killed; a week later, the remaining Belgian troops are withdrawn from UNAMIR.

9 April 1994
An interim government takes office but fails to stop the massacres and leaves Kigali three days later.

21 April 1994
UN Security Council Resolution 912 reduces the UN military contingent in Rwanda from 2,500 to 270: the mandate of the operation remains unchanged.

29 April 1994
Approximately 250,000 Rwandans flee to Tanzania. UN Secretary-General Boutros Boutros-Ghali calls for more UN troops to be sent to Rwanda. The Security Council rejects the request.

30 April 1994
UN Security Council issues a resolution condemning the killings but does not call the killings ‘genocide’.

17 May 1994
UN Security Council passes a new resolution (918) approving the deployment of 5,500 UNAMIR troops.

31 May 1994
Boutros-Ghali reports to the Security Council that ‘We have failed in our response to the agony of Rwanda, and have acquiesced in the continued loss of human lives’. He says ‘there can be little doubt’ that the killing ‘constitutes genocide’.

23 June 1994
French forces begin controversial ‘Operation Turquoise’, agreed to by the UN Security Council pending the UNAMIR deployment, to protect civilians in south-west Rwanda.

24 July 1994
RPF captures Kigali. Within two weeks, it declares the war over and announces the formation of a government of national unity based on the principles of the Arusha Agreement.

29 July 1994
Rwandan refugees begin flooding into Zaire. Nearly a million flee in a few days. Thousands die in a cholera epidemic in the refugee camps.

4 August 1994
Operation Turquoise ends and UNAMIR forces take over from the French.

November 1994
UN establishes the International Criminal Tribunal for Rwanda.

April 1995
The Rwandan government opens the first genocide trials in Kigali. Between 3,000 and 8,000 are killed when the Rwandan army moves to close an IDP camp in Kibeho.

March 1996

Late 1996
Refugee camps in Zaire are attacked and closed. Most refugees return to Rwanda but several hundred thousand disappear in Zaire.

December 1999
Report of the independent inquiry into the actions of the UN during the genocide in Rwanda released.

December 2001
Who bears the responsibility to protect innocent victims of humanitarian atrocities like the Rwandan genocide? The tension between sovereignty and the need to intervene in its internal affairs created an inter-state consensus 

"No more Rwandas": intervention, sovereignty and the responsibility to protect

Ramesh Thakur, United Nations University

It is easy to dub a war a 'humanitarian intervention', and so label its critics as 'anti-humanitarian'. The ICISS recommended a change in terminology to 'responsibility to protect', which is a more accurate reflection of the sense of international solidarity from which external help should spring. It is important to get away from the rights and duties of interveners and to focus instead on the needs of victims.

The International Commission on Intervention and State Sovereignty

The International Commission on Intervention and State Sovereignty (ICISS) was set up to address the tension between sovereignty on the one hand, and humanitarian intervention on the other. It was established by the Canadian government in September 2000, in response to Kofi Annan’s challenge to the world to forge a new consensus on the competing principles of international humanitarian concern and national sovereignty. Its members were chosen to reflect a range of geographical, political and professional backgrounds. Its work took us to every continent and most major capitals.

The results are encapsulated in The Responsibility to Protect, published in December 2001. The report seeks to do three principal things: to change the conceptual language from ‘humanitarian intervention’ to ‘responsibility to protect’; to pin the responsibility on the state, at the national level, and in the UN Security Council, at the international level; and to ensure that interventions, when they do take place, are done properly.

It is easy to dub a war a ‘humanitarian intervention’, and so label its critics as ‘anti-humanitarian’. The commission found it useful to reconceptualise sovereignty, viewing it not as an absolute term of authority, but as itself a kind of responsibility: state authorities are responsible for protecting the safety and lives of citizens, and accountable for their acts of commission and omission in international as well as national forums. In part, this expressed what we heard from a cross-section of African interlocutors.

While the state has the primary responsibility to protect its citizens, the responsibility of the broader community of states is activated when a particular state either is itself the perpetrator of crimes or atrocities, or is itself the perpetrator of crimes or atrocities, or is itself the perpetrator of crimes or atrocities. Where a population is suffering serious harm, as a result of internal war, insurgency, repression or state failure, and the government in question is unwilling or unable to halt or control it, the norm of non-intervention yields to this international responsibility to protect.

The foundations of the international responsibility to protect lie in obligations inherent in the concept of sovereignty, the responsibility of the Security Council, under Article 41 of the UN Charter, for the maintenance of international peace and security, specific legal obligations under human rights and international humanitarian law, and the developing practice of states, regional organisations and the Security Council itself.

ICISS identified three specific responsibilities: prevention, reaction and reconstruction.

• The responsibility to prevent: This requires addressing both the root causes and the direct causes of conflict. The ICISS believes that prevention is the single most important dimension of the responsibility to protect, and that no intervention should be contemplated until it has been exhaustively addressed in all ways possible. Preventive diplomacy, development and security assistance, conflict prevention and early warning are all important elements.

• The responsibility to react: This requires us to respond to situations of compelling human need with appropriate measures, which may include coercive means, like sanctions and international criminal prosecution, and in extreme cases military intervention.

• The responsibility to rebuild: This requires us to provide, particularly after a military intervention, full provision for reconstruction and economic recovery, and to assist in the rebuilding of institutions and governance.
Responsibility to Protect

The primary purpose of the intervention, whatever other motives intervening states may have, must lie in halting or averting human protection violations, i.e., those atrocities about to occur (this is not retroactive, and does not justify intervention now for atrocities committed in the past). Intervention must be guided by the principles of right intention, last resort, proportional means and reasonable prospects.

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Prevention

The ICISS is clear on this: the UN is the indispensable forum for authorising international military enforcement. While its work can be supplemented by regional organisations acting within their own jurisdictions, only the UN can build, consolidate and use military force in the name of the international community. As we learned yet again in Iraq, it is easier to wage war without UN blessing than it is to win the peace.

Reaction

Military intervention happens. The challenge is to manage it so that human security is enhanced and the international system strengthened. To accomplish this, we must learn from the past.

Reconstruction

Assistance with recovery, reconstruction and reconciliation. These follow-up components of external action are becoming major concerns in post-war Iraq.

The urgent task therefore is not to evade or circumvent the UN, but to make it work better, to hold it accountable for its responsibility to protect at the global level. Security Council authorisations should be sought prior to any military intervention. Those calling for an intervention should formally request such authorisation, or have the Council take the matter on its own initiative, or have the Secretary-General raise it under Article 99 of the UN Charter, which permits the Secretary-General to bring to the attention of the Security Council any matter which is likely to lead to the maintenance of international peace and security.

Questions of authorisation: the role of the UN

The Security Council should deal promptly with any request for authorisation where there are allegations of large-scale loss of life or ethnic cleansing. It should seek adequate verification of facts or conditions on the ground that might support a military intervention. The Permanent Members of the Security Council should agree not to apply their veto, in matters where their vital interests are not involved, to obstruct the passage of resolutions authorising military intervention for human protection purposes for which there is evidence support Washington has sought in vain to establish a UN-led process for regional funding and the existing UN machinery and modalities for confronting and eliminating today's threats.

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Permanent Members are divided, or where the Council fails to exercise its primary responsibility for the maintenance of international peace and security. Action within their area of jurisdiction may also be taken by regional or subregional organisations, subject to their seeking subsequent authorisation from the Security Council. The Security Council should take into account in all its deliberations that, if it fails to discharge its responsibility to protect in conscience-conditioned situations, concerned states may not take other responses – and that the stature and credibility of the UN may thereby suffer further erosion.

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Those factors that led the UN and most of its member states to ignore the Rwandan genocide are as relevant today as they were a decade ago. Whether the UN would mount the same kind of mission as it did in post-genocide Rwanda is, however, a different matter. Institutionally, significant changes have occurred since 1994, and the potential capacity of the UN to respond coherently and professionally to conflict and post-conflict situations has greatly improved since those early days of ‘complex emergencies’ and their grim aftermaths. Yet for all these improvements – impressive as they may be from the perspective of a decade – the same uncertainties, divergent interests and institutional constraints remain.

Rwanda in retrospect

The possibility of genocide was first broached by the commander of the UN Assistance Mission for Rwanda (UNAMIR), Major-General Romeo Dallaire, in a cable dated 11 January 1994 to the UN Department of Peacekeeping Operations (DPKO) in New York. The cable noted that an informant from Rwanda’s mainly Hutu government had let it be known that he had been ordered to register all Tutsis in Kigali, and presumed that this was for the purpose of extermination. The informant suggested that his personnel could probably kill up to 1,000 Tutsis 20 minutes after an order was given to proceed. For Dallaire at least, events in Rwanda were no longer the inevitable toll of civil war. Rather, the crisis was now about extermination, about genocide actively and deliberately pursued by the Rwandan government.

Dallaire reported regularly on the deteriorating security situation right up to the start of the genocide in April. Given these repeated warnings, why was the response so slow and uncertain? The answer is broadly three-fold, to do with the UN’s mandate and role; its peacekeeping and intelligence capacity; and the political calculations of its member states.

Mandate and role

Despite subsequent claims to the contrary, Dallaire’s cable was not ignored, nor was it treated as standard field-to-headquarters traffic. Several senior DPKO officials – Iqbal Riza, the Assistant Secretary-General for Peacekeeping; Maurice Baril, a Canadian general and creation of the ICISS have not gone away. Living in a fantasy world is a luxury we can ill-afford. In the real world, the choice is not between intervention and non-intervention. Rather, it is between ad hoc or rules-based, unilateral or multilateral, and consensual or deeply divisive intervention.

The challenge is to manage military intervention so that human security is enhanced and the international system strengthened

If we are going to get any sort of consensus in advance of crises requiring urgent responses, including military intervention, the principles of Responsibility to Protect point the way forward. To interveners, they offer the prospect of more effective results. For any international enforcement action to be legitimate, it must conform with international law, for it to conform to international law, it must be consistent with the UN Charter. To the potential targets of intervention, these principles offer the comfort of a rules-based system, instead of one based solely on might.

During the commission’s worldwide outreach and consultations, no one did we find any insights and absolute rejection of intervention in favour of sovereignty. Instead, we found much greater focus on the consistency of response, agency of authorisation and clear and consistent rules – echoes of which were heard again in debates over Iraq in 2003. If anything, the desire to avoid another Rwanda (where the world stood passively by during genocide) was more powerful than the desire to avoid another Kosovo (where NATO intervened without UN authorisation).

Kofi Annan has put the authority of his office behind Responsibility to Protect, describing it as the ‘most comprehensive and carefully thought-out response to date’ to the challenge of humanitarian intervention’. According to Annan, it takes away the last remaining excuses for the international community to do nothing when confronted with atrocities again. We believe that it will help the world to be better prepared – conceptually, normatively, organisationally and operationally – to meet the challenges, whenever and whenever it arises again, as inevitably it will.

Ramesh Thakur

Senior Vice Rector of the United Nations University (Assistant Secretary-General of the United Nations). He was an ICISS Commissioner.

The ICISS report may be found at www.iciss-ciise.gc.ca.

The UN and the Rwanda genocide: could it ever happen again?

Randolph Kent, King’s College London

The factors that led the UN and most of its member states to ignore the Rwandan genocide are as relevant today as they were a decade ago. Whether the UN would respond in the same kind of mission as it did in post-genocide Rwanda is, however, a different matter. Institutionally, significant changes have occurred since 1994, and the potential capacity of the UN to respond coherently and professionally to conflict and post-conflict situations has greatly improved since those early days of ‘complex emergencies’ and their grim aftermaths. Yet for all these improvements – impressive as they may be from the perspective of a decade – the same uncertainties, divergent interests and institutional constraints remain.

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Despite subsequent claims to the contrary, Dallaire’s cable was not ignored, nor was it treated as standard field-to-headquarters traffic. Several senior DPKO officials – Iqbal Riza, the Assistant Secretary-General for Peacekeeping; Maurice Baril, a Canadian general and
Peacekeeping and intelligence capacity

The UN lacked the capacity to deal adequately with the glut of operations with which it had to contend. Few knew how best to undertake the rapidly changing and diverse roles being demanded of the peacekeepers, and there was significant anxiety about the organisation’s expansion away from the ‘classic’ model of intervention. Too little time and capacity were available to do justice to all the crises the UN faced by 1994.

The UN also lacked – and still lacks – a formal intelligence-gathering capacity, primarily because member states oppose it. Theoretically, the UN should have an effective information-gathering capacity in its extensive field networks. In practice, however, this is an unrealistic resource: the expertise of field staff is variable, and the UN’s institutional culture avoids systematic intelligence-gathering. Instead, the UN relies on informal mechanisms, including the exchange of sensitive information through member states.

Inevitably, this means that the UN can only expect to receive the information that interested governments are willing to offer and to provide. In the case of Rwanda in 1994, the quality and quantity of intelligence was conspicuously lacking. The US committed almost no in-country resources to what was considered a tiny state in a region of little strategic value. According to one analyst, the majority of information came from non-governmental organisations and news reports. These primarily concerned events in Kigali, and so hid the scale of the violence in the country as a whole. Without reliable intelligence to support and confirm Dallaire’s communications, headquarters staff were essentially working in the dark.

The UN still lacks a formal intelligence-gathering capacity

Political considerations

According to Samantha Power, one of the key analysts of the UN response to the genocide, Rwanda was very low on the list of American priorities. When James Woolsey of the Defense Department’s African affairs bureau suggested that the Pentagon add Rwanda-Burundi to its list of potential trouble spots, his bosses told him, “Look, if something happens in Rwanda-Burundi, we don’t want to be associated with it. We don’t want to be involved and we can’t pull out all these idle humanitarian issues in a crisis . . . just make it go away!”

There is little doubt that mean political calculation and institutional cowardice played a key role in the failure of the international community to respond to the unfolding genocide in the early days of April 1994. Deliberations over Rwanda followed a previous session of peacekeeping failures. Bosnia, Somalia and Haiti had all in one way or another gone sour. UNAMIR II was established just two days after US troops were killed in Mogadishu. When the small UNAMIR force to intervene in yet another
episode of African ethnic violence would have piled the Secretary-General’s shoulders with the incalculable weight of responsibility.

The UN, shaken by its experience in Mogadishu and discredited with the whole peacekeeping process, insisted that UNAMIR should be shut down. This threat was echoed by the US Secretary, thus in an attempt to bolster the UN’s credibility. In reality, the US at least still felt that the peacekeeping presence had value. Although the US brokering an extension of UNAMIR, the closure of the Rwandan president’s aircraft on 4 April 1994, the triggers for the genocide – prompted the Security Council to rethink UN involvement. In what was still seen as a civil war, and attention shifted to the evacuation of international personnel. UNAMIR was reduced to a token force of 270, around a tenth of its original size, and the Rwandan position was allowed to run its course.

could another genocide on Rwanda’s scale happen again?

Rwanda in prospect?

Could another genocide on Rwanda’s scale happen again? Secretary-General Kofi Annan recently called for the creation of a UN commission and a Special Rapporteur to formalise future acts of genocide. His propaganda, he said, ensured that when confronted with a Rwanda…

Recent operations in Kosovo and Sierra Leone might suggest that UN member states, and the Security Council in particular, are willing to respond with greater alacrity to threats of ethnic cleansing, genocide and social collapse. But they are also suggesting lingering hazards. Political interest and calculations, the possibility of misperception and the constrains and limitations of institutional behaviour all remain paramount but invisible determinants of action. In the final analysis, it is a question of will. Does the international community care enough to respond to the threat of another episode of African ethnic violence would have piled the Secretary-General’s shoulders with the incalculable weight of responsibility.

While one can only hope that this is the case, Rwanda ten years on demonstrates the continuing risks of instability in the world – does it care enough that a response is its single most important priority? Randolph Kent is a Senior Research Fellow at the International Policy Institute, King’s College London, and was an expert panel member of the Brahimi Panel on UN Peacekeeping. He has also served with the UN in Rwanda in 1994/95, Kosovo, Sudan and Ethiopia. He has recently completed a study for the UK on humanitarian reform, entitled ‘Changing in Humanitarian Financing and Information Systems Strength’. His email address is: randolph.kent@kcl.ac.uk.

References and further reading


Writing for HPN

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Building local capacity after crisis: the experience of local NGOs in the Kivus after 1994
Sadikli Byombo, BAC/BUKAVU-DRC

Local NGOs in the eastern part of the Democratic Republic of Congo (DRC) became involved in humanitarian assistance in the wake of the 1994 genocide in Rwanda and the subsequent massive influx of refugees. The impacts of population displacement, ethnic conflict and the volcanic eruption in Goma in January 2002 – only a few months later – made it necessary for local NGOs to develop their capacities in humanitarian aid. Today, ten years on from the genocide, humanitarian assistance has become a key area of activity for local NGOs in eastern Congo. This article looks at some of the key points in this development.

The impact of the genocide
Cooperation with community development organisations in the Kivus started as far back as the 1970s. The highest education institution the Rural Development College of Bukavu (Institut Supérieur de Développement Rural de Bukavu – ISDR) was instrumental in this early phase. The ISDR, founded in 1980 by Catholic missionaries and taken over in 1992 by the Congolese government, trained people from the Congo, Rwanda and Burundi in community and rural development, and worked with local NGOs and governments to establish cooperatives.

Projects

After independence in 1960, the Democratic Republic of Congo (DRC) became involved in humanitarian assistance by providing aid to refugees in the eastern Kivus. The UNHCR, in 1983, also started a large-scale humanitarian project in the Kivus, followed by many more smaller camps scattered along the Rwandan and Burundian borders. The foreign aid organisations that came to Congo – UNHCR, WFP, UNICEF, Save the Children UK, World Vision, the International Rescue Committee (IRC), Médecins Sans Frontières, Norwegian Church Aid (NCA), Caritas – could not cope by themselves, and did not possess the necessary local knowledge. Many, including UNHCR, WFP, Save the Children and the IRC, subcontracted work to local NGOs in areas such as food distribution, camp management, healthcare, water supplies, shelter and firewood supply. Competition among local NGOs for these contracts was intense, some abandoned existing projects for work with prominent international organisations. For all local NGOs, this was a very tough period because most funds were obtained from the international humanitarian organisations. As a result, many small NGOs were unable to continue their work because they lacked sufficient funding. Some, such as Mugunga camp near Goma and Kashusha camp near Bukavu, held over 100,000 people; many more smaller camps were scattered along the Burundian and Rwandan borders.

Subcontracting: learning by doing
In 1994, most local NGOs in the Kivus did not consider humanitarian assistance as a core area. Via subcontracting work, local NGOs in the Kivus, such as APREU, FID, Solidarité Francophone, AID-KIVU, Sirkodi, the Association Elimu and GEAD-Goma, entered the humanitarian field, going on to ‘learn by doing’ alongside international humanitarian organisations. As an example of the way local and international organisations could work together, two national Protestant churches headedquartered in Bukavu, CELPA and CDPC, formed a kind of joint venture with NCA to deliver integrated assistance to refugees in three camps around Bukavu. The two churches were not subcontracted by NCA, but rather joined with it in a temporary organisation called Plateforme Intercommunautaire.

Planning and implementing humanitarian aid projects
From their initial experience of subcontracting, many local NGOs started planning and implementing their own humanitarian aid projects in their areas of intervention. Funds were mostly obtained from the international organisations which had earlier subcontracted them, but were also accrued from other international sources. Most projects were run on a short-term basis (three to six months, occasionally a year). Examples include a seeds and tools project by FID in Karabwa-Luvungi in 1997, a similar project by APREU in Kalambwe-Mwenga in 1997, and a similar project by APREU in Kalambwe-Mwenga in 1997.
a number of local NGOs and supported by Save the Children UK. Meanwhile, large-scale humanitarian projects run by individual NGOs and churches have been undertaken, such as a CARITAS programme in South and North Kivu, CEPAC’s humanitarian programme, which covers three provinces (South Kivu, North Kivu and Province Orientale), and a UNICEF humanitarian project, which focuses on health and education. This kind of work has been made possible as a result of the increased capabilities of NGOs and churches in managing humanitarian activities.

Networking, mobilising local resources and implementing large-scale projects
When Congo’s second war broke out in August 1998, local NGOs in the Kivus began increasingly to mount joint projects. These were supported by international humanitarian organisations, either as funders or as partners in implementation.

Examples include:
• UNDP humanitarian projects in North Kivu and South Kivu, which use a network of local actors in school rehabilitation in collaboration with NGOs and public services in charge of education and planning.
• The humanitarian programme funded by OPEX (a church-related international development organisation based in Switzerland), involving a group of NGOs and churches in Goma coordinated by a local consultancy, the BÉED.
• Christian Aid’s joint humanitarian programme in South Kivu, where eight NGOs work together around Bukavu and in the territories of Walungu and Kabare.
• The joint humanitarian initiative targeting street children and former child soldiers in Bukavu, involving a number of local NGOs and supported by Save the Children UK. Meanwhile, large-scale humanitarian projects run by individual NGOs and churches have been undertaken, such as a CARITAS programme in South and North Kivu, CEPAC’s humanitarian programme, which covers three provinces (South Kivu, North Kivu and Province Orientale), and a UNICEF humanitarian project, which focuses on health and education. This kind of work has been made possible as a result of the increased capabilities of NGOs and churches in managing humanitarian activities.

Another important feature is the considerable efforts by NGOs to mobilise local resources to respond to humanitarian crises. After the Goma eruption in January 2002, local NGOs collected food, clothes, jerry-cans and money from local people to help the volcano’s victims. A few weeks after the Goma event, the Kamongola river flooded, killing about 30 people in the city of Uvira in South Kivu. Once again, local NGOs, led by the BUCONGD network, were the first to assist with food, clothes and medicines collected locally. All the large humanitarian organisations were preoccupied with Goma, where the disaster was being well reported in the international media.

Large-scale humanitarian projects run by individual NGOs and churches have been undertaken

Further steps and fresh challenges
Some NGOs in South and North Kivu are trying to create specialist humanitarian departments through further training in areas such as project management, human rights and humanitarian action and emergency preparedness. Many NGOs are also keen to find better ways to combine humanitarian interventions with development projects, which remain their core business.

As the Congo moves towards peace, further challenges lie ahead, both here and in the Great Lakes more broadly. Local NGOs will need to develop their capacity to manage humanitarian programmes. International humanitarian organisations should help in this regard. They must step up their emergency preparedness, and mobilise local and external resources more effectively. They need to establish better coordination and collaboration with government institutions and services, and with international humanitarian organisations, and develop stronger networks among themselves to allow examples to emerge. They also...
need to integrate humanitarian interventions with their long-term development work, not least because, in the Great Lakes, crises tend to last for a long time.

Local NGOs in the Kivus should also look at enhancing their advocacy skills and their use of the media to raise awareness on local disasters at the national, regional and international levels. Firstly, this has an educational function, helping the international community to understand that it is important to stop political leaders in the region from exploiting disasters as a political asset, and from waging unjustified wars as a means of looting natural resources. Congo needs more international help, notably to strengthen the local, national and regional economy, this can be achieved through employing more local people, and buying more relief goods locally. Finally, NGOs need to help international humanitarian organisations prioritise interventions more efficiently, and more effectively, as Roger Persichino puts it, even "the more straightforward interventions more efficiently, and more effectively: as to help international humanitarian organisations prioritise..."

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References and further reading


The Joint Evaluation of Emergency Assistance to Rwanda

John Borton, John Borton Consulting

The 1994 genocide and the ensuing relief operations presented an unprecedented international collaborative evaluation process – the Joint Evaluation of Emergency Assistance to Rwanda (JEEAR) – which has remained unsurpassed in terms of its scope and scale, and arguably the process's impact. This article reviews the JEEAR and follow-up process, and offers some personal observations on the evaluation's impact eight years on.

The Joint Evaluation

The JEEAR process was first proposed by the Danish government and its agency Danida in September 1994, just two months after the end of the genocide and the influx of almost two million refugees into eastern Zaire. An approach to the OECD's Development Assistance Committee (DAC) Expert Working Group to approve the process an DAC activity did not receive full support of the wider DAC membership and work on the JEEAR process began in February 1995 with a meeting of international representatives in Copenhagen. Work on the synthesis began in December 1995, involving the five donor trans-national organisations described in Table 1. All five reports were published in March 1996. Simultaneous launch events were held in Geneva, New York and Nairobi, with a press launch in London.

The JEEAR process was approved for five separate studies described in Table 1. Each member of the Management Group took responsibility for managing one of the five.

Study 1, on historical perspectives, produced its report first, so that it could act as a resource for the other studies. Studies 2, 3 and 4 all circulated their draft reports to the Steering Committee in October 1995, and each team gave a presentation to the November Steering Committee meeting in Copenhagen. Work on the synthesis began in December 1995, merging the main findings, conclusions and recommendations from studies 2, 3 and 4. A synthesis report was ready for approval by the DAC in July 1996.

The scale of the process was unprecedented. Overall, 12 researchers and consultants were employed on the five studies, and the cost of the whole process including translation and dissemination of the published reports was $1.7 million. The targets of the studies, Study 1 on humanitarian aid, cost 86,000 and had a team of 10 specialists and support staff with a combined total of over a person years. 
The JEFF process: an early assessment of impact

At its meeting in November 1995, the Steering Committee agreed to review the impact of the JEEAR reports one year after their publication, and a second process, the Joint Evaluation Follow-up, Monitoring and Facilitation Network (JEFF), was set up to monitor and report on the evaluation’s 64 recommendations. JEFF was a small network of 11 individuals representing the Management Group, the study teams and the Steering Committee, with a part-time secretariat and a modest budget. In the 15 months following publication, JEFF members participated in a total of 73 events. JEFF’s final report was issued in June 1997, 15 months after the publication of the evaluation itself.

The JEFF process assessed the status of each of the 64 recommendations according to four principal categories (A–D) and two mixed categories (A/D and C/D), described in Table 2.

Two-thirds of the recommendations were judged to have had at least some positive outcomes. The main areas of progress were:

- The strengthening of human rights machinery in Rwanda;
- The development of early-warning information systems in the Great Lakes region;
- Broadly supported efforts within the NGO community to improve performance through the development of standards and self-regulation mechanisms; and
- The commitment shown by donors, UN agencies and NGOs to improve accountability within humanitarian aid.

The main areas where no progress was found were:

- ‘Fostering Policy Coherence’ (directed at the UN Security Council, Secretariat and General Assembly); and
- ‘Effective Prevention and Early Suppression of Genocide’ (directed at the UN Security Council, the secretary-generals of the UN and Organisation of African States).

Table 2: The JEEAR studies

<table>
<thead>
<tr>
<th>Study number</th>
<th>Focus</th>
<th>Managing evaluation department</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Historical perspectives</td>
<td>Sida</td>
</tr>
<tr>
<td>2</td>
<td>Early warning and conflict management</td>
<td>Norway</td>
</tr>
<tr>
<td>3</td>
<td>Humanitarian aid and its effects</td>
<td>UNHCR</td>
</tr>
<tr>
<td>4</td>
<td>Rebuilding post-genocide Rwanda</td>
<td>USAID</td>
</tr>
<tr>
<td></td>
<td>Synthesis study</td>
<td>Synthesis and principal recommendations</td>
</tr>
</tbody>
</table>
Table 6: JEEF’s assessment of the JEEAR recommendations’ status

<table>
<thead>
<tr>
<th>Category</th>
<th>Proportion of recommendations</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>Not formally discussed/raised by recommendation addressees</td>
</tr>
<tr>
<td>B</td>
<td>Formally discussed by recommendation addressees and rejected</td>
</tr>
<tr>
<td>C</td>
<td>Formally discussed but no resolution or action</td>
</tr>
<tr>
<td>D</td>
<td>Formally discussed and resolution taken or action taken</td>
</tr>
<tr>
<td>A/B</td>
<td>In part formally discussed</td>
</tr>
<tr>
<td>C/D</td>
<td>In part formally discussed but no resolution or action taken</td>
</tr>
<tr>
<td>A/B/C/D</td>
<td>In part formally discussed and resolution taken or action taken</td>
</tr>
</tbody>
</table>

While evaluations certainly are used directly to affect change, this appears to be the least common outcome. This is broadly the case with the JEEAR. While the evaluation can claim to have had a direct impact on certain programmes and policies, it has also had many other less direct impacts and uses, though these are often difficult to measure and assess objectively.

Ultima (DAU) and the High Commissioner for Human Rights).

The four recommendations that had been formally consid- ered and rejected (category B) involved the more radical of the options offered on UN coordination, the regulation of NGO performance and mechanisms for improving accountability.

The longer-term impact of the JEEAR

The evaluation literature identifies four main ways in which evaluations are used:

1. Guidance for action – the direct use of the evaluation to change programmes or policies
2. Reinforcement of prior beliefs – reaffirms and bolsters the confidence of those who want to press for change
3. Mobilisation of support – providing ammunition for a particular change
4. Enrichment – a general increase in understanding that may not itself lead to action, but that leads to changes in thinking and the reordering of priorities that may eventually result in a change.

While evaluations certainly are used directly to affect change, this appears to be the least common outcome. This is broadly the case with the JEEAR. While the evaluation can claim to have had a direct impact on certain programmes and policies, it has also had many other less direct impacts and uses, though these are often difficult to measure and assess objectively.

In addition to the impacts on humanitarian accountability and evaluation, at least three of the significant initiatives aimed at improving accountability and performance in the humani- tarian sector over the last eight years – the Sphere Project, the Active Learning Network for Accountability and Performance in Humanitarian Action (ALNAP) and the Humanitarian Accountability Project (HAP) – stemmed directly from, or were substantially influenced by, the JEEAR.

Although Sphere’s beginnings just predated the JEEAR, the evaluation gave the project a large push by encouraging the initiative as a piece of welcome self-regulation, and partly by raising the prospect of external regulation of the NGO community. ALNAP, a network bringing together bilateral and multilateral donors, UN agencies, NGOs and the Red Cross, grew out of a European bilateral donor meeting in 1996 to consider the JEEAR, and was significantly influenced by the inclusiveness and perceived value of the JEEAR Steering Committee. Finally, while the JEEAR’s recommenda- tion for a ‘humanitarian ombudsman’ was initially rejected, British NGOs nevertheless set up the Humanitarian Ombudsman Project, out of which grew the HAP.

The JEEAR also appears to have made significant contributions to the evaluation of humanitarian action through
JEEAR timeline

1994

September Danida representative proposes a joint evaluation of the Nordic emergency response in the Great Lakes region to a regular meeting of the Evaluation Departments of the Nordic aid agencies. Meeting proposes an approach to the DAC to undertake a joint evaluation.

October Danida presents the concept of joint evaluation to the DAC Expert Group on Aid Evaluation. Whilst the majority of members are supportive some are not, and the DAC's consensus prevents the joint evaluation going ahead as a DAC activity.

November Danida holds a consultative meeting for interested bilateral donors, UN agencies, international organisations and NGOs. The structure for the JEEAR process is agreed.

December The Steering Committee holds its first meeting, and approves Terms of Reference for the five studies. The Management Group undertakes a tendering and selection process for the five study teams and the synthesis team.

1995

January Representatives of the teams meet the Management Group in Geneva. Evaluation work begins. Study teams 1 and 2 make their first visits to the region.

New Year Study teams 1 and 2 undertake the bulk of their fieldwork. Draft reports of Studies 2, 3 and 4 are completed and disseminated for comment to organisations represented on the Steering Committee.

November The Steering Committee meets in Copenhagen, and teams present the comments received and how they propose responding to them in the final report.

1996

January Report texts are finalised.

March JEEAR is launched simultaneously in Geneva, Nairobi and New York, with a special press briefing in London. Joint Evaluation Follow-up Monitoring and Facilitation Network (JEFF) is formed to represent JEEAR at meetings and conferences and to monitor the follow-up discussions and responses to the JEEAR's recommendations.

1997

February The final meeting of the Steering Committee reviews the preliminary report by JEFF.

June JEFF issues its final report, A Review of Follow-up and Impact Fifteen Months after Publication of the JEEAR.

Parliamentary enquiries were also carried out in France and Belgium. The JEEAR was therefore one among many studies, and it would seem that its contribution and ability to provide a focus for the debates on how best to prevent genocide were diluted.

During the JEEAR process and for ten months after its publication, it defined Rwandans (and as refugees) in neighbouring countries. The new Rwandan government manoeuvred to establish its control over the country and its international credentials. In November 1996, many of the refugees in the camps around Goma returned to Rwanda as a result of Rwandan military action against the FPRD militia who had been controlling the camps. Whilst this broke the impasse with the refugees and enabled the Rwandan government to focus on reintegration and stabilisation inside Rwanda, it also saw the start of several years of direct and indirect Rwandan involvement in the civil war and ethnic conflict in large areas of Zaire (now the DRC). This fundamentally altered the context in which the study and its recommendations had been generated, and may have made its conclusions appear less relevant than at the time of publication.
3. The recommendations on policy coherence were misinterpreted by some actors. The JEEAR argued that the lack of effective political responses to the genocide, and to the problem of Hutu militia control of the camps in Zaire, forced humanitarian agencies to work in situations that were untenable. However, the JEEAR’s call for more effective political action and greater policy coherence between the aid and political spheres seems to have been interpreted by some donor organisations as a call for the integration of humanitarian with political objectives. For instance, the British government appears to have pursued a policy of not funding humanitarian aid in Sierra Leone after the March 1997 coup there, fearing that the aid would sustain the (unwelcome) new regime.

Conclusions

These observations are subjective and impressionistic. It is highly likely that a more thorough exploration will reveal other areas where a linkage between changes in policy and practice can be traced to the JEEAR. It may also be that the effects in relation to genocide prevention and public–military processes in the region have been more positive than appears to be the case to this observer, at this stage.

A larger study of the legacy of the JEEAR is planned for presentation to the ALNAP Biannual Meeting in Copenhagen in June 2004. Whatever its outcomes, it is clear that the JEEAR represented a unique process—a product of the shock felt by so many of those working in the aid community at what had happened, and been allowed to happen, in Rwanda, and a response to the challenge from Niels Dabelstein, the Head of Evaluation at Danida, that some of those involved in the aid community must undertake a collaborative process that has had a fundamentally positive impact within the humanitarian sector, and in other areas as well. Efforts at similar collaborative, system-wide evaluations following Hurricane Mitch in 1998 and the conflict and humanitarian crisis in Kosovo in 1999 failed to bear fruit. Although the benefits of such evaluative exercises are readily apparent, it seems that it takes events as shocking as those in Rwanda in 1994 to generate the effort and collaborative spirit required.

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References and further reading

The five JEEAR reports can be downloaded from the evaluation section of the Danida website at www.um.dk/danida/evalueringsrapporter/1997_rwanda.


See also:


The introduction of cost-sharing mechanisms as part of healthcare programmes in complex emergencies has become a source of increasing concern to many humanitarian relief agencies. Cost recovery seems contrary to the humanitarian principle of impartiality and the allocation of assistance based on need alone. Critics argue that, in already difficult healthcare environments, charging users fees compounds inequities in access to treatment and contributes to the destitution of the most vulnerable. Yet donors have increasingly made their funding contingent on having these mechanisms. Both donors and national governments see such policies as developmental; they believe that their introduction is inevitable, and that bringing them in at an early stage will contribute to building a sustainable, locally financed health system in the long-term.

The rationale for introducing cost-sharing in complex emergencies has not been well articulated, and the arguments in favour of it are largely ideological. The research base on cost-sharing in complex emergencies is extremely limited; there is insufficient evidence to develop more empirically based approaches. However, given the evidence available on cost-sharing in other resource-poor settings, and the results of NGO evaluations, there is a strong case that, regardless of whether cost-sharing mechanisms should remain a longer-term development goal, their introduction in complex emergencies is inappropriate and should be abandoned.

Cost-sharing in developmental settings

While cost-sharing is a recent innovation in complex emergencies, there is substantial experience with such schemes in the development sector. Cost-sharing became widely accepted as a necessary element of healthcare financing in the developing world in the 1980s. At that time, governments were unable to adequately fund public services including health, and out of pocket expenditure on health was growing rapidly as people (including the poor) were forced to seek care in the private sector. Cost-sharing became an important way of bridging what is known as the health sector resource gap — the shortfall between the funding provided by governments and donors and the level of funding required to provide a basic level of healthcare of acceptable quality. The World Bank’s arguments in favour of cost-sharing were given added weight by the Bamako Initiative, developed by WHO and UNICEF and adopted by African ministers of health in 1987. This focused on the potential of user fees to increase the resources available for primary healthcare.

Three basic arguments have been developed to support cost-sharing:

1. Increased revenue. User fees are one of the few feasible ways of raising revenue to bridge the health sector resource gap in resource-poor environments. There are other ways of raising revenue: increased donor funding; increased private philanthropy; economic growth and a consequently increased tax base; taxes on health-damaging products such as tobacco and alcohol; or increasing the share of government expenditure spent on health. However, none of these is likely to be achievable in the developing world, especially in Sub-Saharan Africa, in the near future.

2. Increased efficiency. User fees, if well designed, should mean that resources are used more efficiently within the health system. They discourage unnecessary use, and can create incentives for providers and patients alike to switch the focus towards cost-effective high-priority care for disease prevention and also, via differential pricing, move the delivery of care away from expensive hospital-based treatments to more cost-efficient primary healthcare.

3. Increased equity. If the incomes they generate is used to improve service quality, user fees could have positive equity outcomes. Even with user fees, a public health system that delivers high-quality care closer to where people live would offer poor people cheaper and better care than they would be able to get in the private sector.

The verdict on cost-sharing in resource-poor settings

The results of cost-sharing in resource-poor settings have been disappointing. It has failed as a revenue-raising tool — although the World Bank had hoped for 15%–20%, user fees have raised an average of 5% of total recurrent health system expenditure, and even this is an over-estimate because it does not take account of the cost of collecting the fees. User fees have, however, been able to generate a large proportion of non-salary recurrent expenditure, ranging from 60% to more than 90% in Sub-Saharan Africa. This can be significant in under-funded and under-managed public health systems.
health systems, where otherwise effective systems were failing because there was insufficient money for drugs and other medical supplies.

There is evidence that cost-sharing improves efficiency in weak, otherwise effective systems, but in situations where user fees discourage unnecessary use, or that have significantly altered patterns of service delivery in ways that increase efficiency, there is evidence that user fees can create perverse incentives that actually deteriorate efficiency by reducing the use of preventive services, reducing access for the poorest (and often sickest); and forcing people to wait until they are very sick, and then seeking more expensive treatment in hospitals.

Evidence on the equity impact of user fees has been mixed, in part because it is difficult to disentangle the effects of price, quality of care and affordability on service use. In many cases, the introduction of user fees has led to significant and sometimes dramatic decreases in utilisation, in some cases exemplifying certain sections of a population from having to pay. There is also evidence of an increase in utilisation following the removal of fees. At the same time, these are examples that suggest that, if cost-sharing is linked to improvements in the quality of health delivery, user fees may benefit those who can afford to pay while improving overall care quality. On balance, the introduction of cost-sharing will in many instances create a significant barrier to poor people accessing care.

There is also the question of willingness and ability to pay. Poor people may be willing to pay to access care, but they may be unable to do so without sacrificing their long-term economic well-being through unsustainable borrowing or selling productive assets. This is referred to as catastrophic health expenditure.

By 1993, the World Bank’s position on user fees in healthcare had become more neutral, and there is widespread consensus that the most efficient provision of healthcare involves free service at the point of delivery. Nevertheless, policymakers within donor organizations and governments, both in the West and in the developing world, have bought into the World Bank’s mid-1980s arguments in favour of cost-sharing, and still retain a widespread belief that it is a necessary component of healthcare financing in the developing world – largely because there are no other options, since taxation or insurance systems are too complex to operate in these environments.

Cost-sharing in complex emergencies

A similar logic (that there is no other option) drives cost-sharing in complex emergencies where donor pressure has been crucial in pushing cost-sharing onto the policy agenda in these environments. The majority of funding for health programming comes from donors, which means that donors have significant leverage over health policy. In its approach to supporting primary healthcare in the Democratic Republic of the Congo (DRC), for instance, the European Commission Humanitarian Aid Office (ECHO) has developed guidelines for partner NGOs which promote cost-sharing. As a consequence, ECHO-funded projects in the DRC include cost-sharing mechanisms.

The arguments in favour of cost-sharing in complex emergencies are the same as in other resource-poor settings: it can raise revenue; increase efficiency; and, with appropriate exemption mechanisms, increase or have minimal effect on equity. Cost-sharing is supported by its proponents as developmental: the underlying logic is that, given the widespread introduction of cost-sharing mechanisms throughout the developing world, it is more than likely that such a scheme will be introduced in any case once peace has been restored. The introduction of user fees is seen as a necessary step towards rebuilding a sustainable health system. This does not, of course, solve the problem of what a complex emergency might real
the point where developmental programming is appro-
appropriate, and opponents often criticize cost-sharing as an
example of premature developmentalism.

Many people working in humanitarian relief have an
instinctive aversion to the introduction of user fees in
complex emergencies. It runs counter to the ethos and
principles of humanitarianism, under which assistance
should be rendered to people affected by conflict on the
basis of need alone. To them, it seems absurd that people
already struggling to survive in difficult and unstable
circumstances should have another financial burden
imposed on them. The potential for catastrophic health
expenditure in self-funded in complex emergency
settings, where people’s asset base is typically extremely
vulnerable and their health needs are grossly elevated.
Critics point out that the characteristics of complex emer-
gencies are such that transferring the policy from a develop-
ment context in inappropriate. Poverty is widespread,
needs are high, governance is absent, per capita incomes
are already insufficient to meet essential needs and the
skills and capacity to support the introduction of user fees
are lacking.

Cost-sharing mechanisms should not be introduced in complex
emergencies

There is very limited published literature on the impact of
user fees in complex emergencies. In-house NGO assess-
ments suggest that their capacity to raise significant
amounts of money is limited. Deliberations indicate that,
in already disrupted and inequitable healthcare envi-
ronments, user fees compound inequities in access to
healthcare, particularly in the setting’s most vulnerable.
Little is known about who is discouraged from
seeking treatment, or what the impact might be, but
community-based surveys suggest that the poor are
prevented from accessing care.

There is limited information regarding the impact of cost-
sharing on the health of populations, particularly its impli-
cations for the control of infectious diseases, which is a
major source of morbidity and mortality in complex emer-
gencies. However, from the few cases available it is
likely that some individuals with other
cost-sharing mechanisms who are unlikely to be able to pay
they cannot afford it. This then acts as a reservoir of infe-
tions, with the potential for triggering and sustaining
epidemics.

Conclusions

Definitively answering the myriad of complex questions
that the introduction of user fees in complex emergencies
issues would require well-designed academic studies.
Such operational research in the only way to develop a
foundation for more empirically based policymaking in
this area. In the meantime, there is no evidence to
support cost-sharing mechanisms in complex emergen-
cies, and there are good grounds to argue that they
should not be introduced. It is likely that cost-sharing in
complex emergencies will:

• Raise little money
• Have a significant negative impact on equity, which
cannot be effectively mitigated via exemption mecha-
nisms
• Have negative impact on efficiency
• Potentially tip individuals and families into destitution
via catastrophic health expenditure
• Potentially hamper efforts to control epidemic infec-
tious diseases
• Needlessly increase the complexity of programming in
already challenging environments, potentially damag-
ing the motivation of local staff and the relationship
between local and expatriate staff.

This constitutes a reasonable basis for arguing that cost-
sharing should not be introduced in complex emergency
settings. If donors reject this argument on the basis that
they cannot afford it, they are missing a key opportunity
to fund further operational research to establish the basic
conditions for the successful introduction of user fees. It
should not be acceptable to make claims for any benefits
from user fees when the basic underlying condition do
not exist for their introduction, where doing so has predictable negative impacts, where poor experiences in
more favourable settings is negative, and where levels of
need are high.

If donors fail to change their policies, some NGOs and
humanitarian agencies will be forced to continue to
comply with donor principles and make cost-sharing in
appropriate, and opponents often criticise cost-sharing as
an example of premature developmentalism.
Legal aid might not seem the first priority for a humanitarian assistance organisation in a situation where people's physical needs for food, shelter, security, and basic healthcare have not been met. Nonetheless, its practical value in post-conflict situations is being increasingly recognised. Until the rule of law has been re-established, most attempts to tackle other social problems are likely to be little more than short-term palliatives. Afghanistan is a prime example. The central government's writ barely extends beyond the capital Kabul. Much of the country remains lawless and, even in the areas that they control, the police and courts are unable to protect basic human rights. Corruption is rife and popular alienation from the government is, in some ways, similar to the situation which first swept the Taliban to power. It is no coincidence that this force has now re-emerged as a credible threat. For donors and the international community, restoring the rule of law in Afghanistan is seen as a vital part of the process of disarmament, political reform and social reintegration.

NRC's legal aid programme

The Norwegian Refugee Council (NRC) first began legal aid and information projects in the Balkans in the mid-1990s. Thousands of refugees and internally displaced people were helped throughout the region. Often working in the absence of a properly functioning legal system, it was an innovative programme that other agencies have since copied. NRC established a number of legal aid centres in Pakistan in 2002, and opened three more in Afghanistan in 2003. These are currently the only centres of their kind in the country. The programme is expanding facing needs, with another four centres opening in the north and west. The centres provide free assistance, including direct legal representation by local Afghan lawyers, to people who have been forced to flee their homes or who have recently returned. They also provide information and advice about the current situation in places of origin so that people can make an informed decision about whether to return. The centres work closely with protection staff of the UNHCHR, the UN Assistance Mission to Afghanistan (UNAMA) and the Afghan Independent Human Rights Commission (AIHRC). In their first six months, NRC's information and legal aid centres had registered over 300 cases, and had achieved a number of notable settlements.

Land rights and the justice system

Two issues in particular need to be tackled. The first concerns land rights, which remains the biggest single source of conflict in Afghanistan. The second concerns the shape of the justice system, and how formal institutions should be developed alongside traditional, informal ones.

Land rights

The vast majority of cases handled by the NRC's legal aid programme are related to land disputes. Land rights are a symbol and deeply controversial subject in Afghanistan. A misconceived attempt at land reform was one of the major causes of the revolt against the Communist regime in 1978. Since then, successive governments have used local policy as a way of rewarding their own supporters. Land ownership is still legally disputable, and a significant proportion of the rural population is landless. Complex social relationships determine rights to ownership and usage, and these can vary considerably in different areas. Few people possess official title deeds,
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and most use customary documents to prove ownership. Missing deeds, widespread forgery and the fact that disputed land has often been sold many times over make it difficult to determine who owns what. A quarter of a century of conflict, population growth and the rapid return of up to forty-three million refugees have added to these problems. Prices have risen sharply, particularly in urban areas, and returnees often find themselves entangled in property disputes, or simply fall victim to extortion rackets run by local commanders.

Discontent over the land issue is one of the factors behind growing disenchantment with President Mohammed Karzai’s Western-backed government. One of Karzai’s first acts was to ban further land distribution, in recognition of the fact that the warlords would simply grab it for themselves. This freeze is thawing in many areas – further undermining the president’s authority. A Special Land Court has been established to address the property concerns of returnees, but it is overburdened, politicised and subject to intimidation and widespread corruption. A Special Commission for City Development has been instructed to arbitrate disputes over urban property and a number of presidential decrees have been issued on land rights, but these have created as many problems as they were intended to solve.

The absence of rule of law in much of the country means that, even where the courts issue fair judgments on land and housing disputes, there is no guarantee that these will be enforced. Many Afghans are understandably cynical about their prospects of obtaining justice through the official system, and around half of the formal property cases registered by the NRC’s legal aid centre in Kabul concern people who have become disillusioned with the progress of the courts.

In September 2003, a government Special Commission was established to look at the issue of land rights following the high-profile demolition of houses in the Shurpur district of Kabul to make room for private homes for a number of government ministers. The residents had been occupying their houses, which were located on government-owned land, for over 20 years. NGOs and the AIHRC publicly condemned the demolition, and it was also criticised by the UN Special Rapporteur on the Right to Adequate Housing. The municipal chief of police was forced to resign, although the Commission’s report, which is believed to have contained damning criticism of other high-ranking public officials, has not been published.

NRC provided legal advice to residents in the Shurpur case, and has a number of similar cases where people feel threatened by evictions. The organisation is sometimes able to use its ‘international status’ to obtain leverage with commanders or senior officials (the two are not mutually exclusive) in order to obtain justice in individual cases. Commanders have been persuaded to hand back houses to their rightful owners after interventions by NRC counsellors. In one case, NRC successfully mediated a settlement with an official who had cut off the water supply to hundreds of returnees, some of whom had been assaulted, imprisoned and shot at when they objected.

Such initiatives may help individuals, and may even have a role to play in strengthening civil society and holding the authorities to account, but they are no substitute for an effective justice system based on respect for the rule of law and human rights. Many of NRC’s clients have still not obtained justice, and managing people’s expectations is becoming an increasing problem. Conversely, the organisation’s successes may attract more cases than the centres can handle. Staff safety is also another potential problem, for which there are no easy answers in such a dangerous society.

The shape of the justice system

The second pressing problem concerns the relationship between formal systems of justice and informal, traditional mechanisms. As much as 90% of all cases are settled using these methods, and few cases that NRC has ‘resolved’ are officially registered as such because there is no official mechanism to acknowledge them or monitor their implementation. While the community itself can be relied upon to enforce rulings that it considers fair, such settlements do not always accord with principles of human rights and international law.
The two key mechanisms of traditional justice in Afghanistan are the *shura* and the *jirga*. These entities are products of the country’s patriarchal tribal society, which lays strong emphasis on solving conflicts ‘privately’, within the family, village or clan. A *jirga* is a decision-making forum at which, theoretically, all adult males can participate. A *shura* is restricted to the elders of a particular community. Both have a long history of resolving land disputes. Shuras and jirgas derive their legitimacy from their perceived ability to settle disputes. At their best, they are the closest thing to democratic institutions in Afghanistan today. They can reach decisions much faster than the official courts, are virtually cost-free, are less susceptible to bribery and are accessible to illiterate Afghans (the vast majority). Since they reach decisions by consensus, they tend to try to settle disputes through compromise. This makes them an effective mechanism for conflict resolution. However, they do not always offer the best method of upholding individual rights. Women rarely have any say in their deliberations, and may find their own rights being violated by the settlement reached. It is not uncommon for a family to be required to give a young girl to another family as part of a compensation package.

Sexual slavery, of course, violates Afghanistan’s state law and Islamic law, on which the country’s formal justice system is also based. This dual basis was confirmed at the Special Loya Jirga which approved Afghanistan’s new constitution in December 2003. However, there remains a widespread misunderstanding about many principles of Islamic law, and it is frequently cited to justify practices based on Afghan tribal traditions. No in-depth analysis has been conducted into the strengths and weaknesses of Afghanistan’s informal justice system, this is clearly an issue that would benefit from closer study.

NRC’s legal counsellors have represented women before informal dispute resolution bodies, and have successfully mediated divorces and custody battles. Like most Afghan lawyers, NRC’s counsellors believe it is best to try and exhaust domestic remedies, using informal mechanisms, before a case is brought to court. For NRC, the issue is not whether informal mechanisms are better or worse than the official courts, but how best to pursue justice for our clients in whatever forum can be used. One important lesson from the legal aid programme’s admittedly limited Afghan experience will be whether such ‘principled pragmatism’ has a wider applicability, and what the rest of the world can learn from Afghanistan’s system of justice.

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For much of its short life, modern humanitarianism has been seen as a specialised arena in which various professions and services are practiced. More recently, however, the temptation, and maybe necessity, has grown to treat it as a profession in its own right. If humanitarianship is a profession, does it warrant an academic discipline?

**What is a profession?**

Today’s model for professionalism has at its heart individual ideals. The very distinction between party and profession is a method of defining the professional as an expert with a specific role in society. Professionals are often seen as experts, but this role is not necessarily stable. If humanitarianship is a profession, does it warrant an academic discipline?

**Does the humanitarian community need a humanitarian academia?**

Peter Walker, Feinstein International Famine Center, Tufts University

For much of its short life, modern humanitarianism has been seen as a specialised arena in which various professions and services are practiced. More recently, however, the temptation, and maybe necessity, has grown to treat it as a profession in its own right. If humanitarianship is a profession, does it warrant an academic discipline?

- A solid set of values which are agreed upon by the profession.
- A body of knowledge which is acquired and passed on.
- A set of skills, and the ability to exercise them, which are required for professional practice.

In the 1960s and 1970s, professionalism came under intense criticism for being elitist and decoupled from society. Professionals were often seen as self-interested. In this century, however, professionals have been role models in times of crisis - knowledge through action, and the use of reflection and learning through commitment.
What does academia add? Academics should add four things to humanitarianism.

• First, a body of knowledgeable and skilled individuals curating on relevant and essentially customised research in order to enhance our understanding of the depth, breadth and complexity of the humanitarian field.
• Second, a repository for knowledge, in the form of libraries, learned journals, databases and conferences.
• Third, an ability to provide objective and critical advice, which is qualitatively different from that of private consultancy.
• Finally, an ability to teach a commonly accepted curriculum, allowing a student to graduate with a recognised and relevant qualification.

Academic research
Research in academia comes in two basic forms: that which is driven by curiosity, and that which is driven by the need to find answers to specific problems. Curiosity-driven research is traditionally seen as the purest and least susceptible to bias – one goes into a piece of research with no interest invested in any particular outcome. Problem-solving research is always open to the charge that researchers are looking for certain desirable end-states and certain desirable solutions, thus bringing an inherent bias to the work.

Which direction research takes is increasingly being driven by how the research is funded. Curiosity-driven research has tended to be funded by the large national research councils and foundations, set up specifically to promote their own professions and disciplines. Humanitarianism is too young a discipline to have such institutional backing. Most research in humanitarianism is funded by agencies and foundations interested in particular humanitarian issues, and this is the case for research projects undertaken by the academic community. This is the crux of the professional checks, guards against bias and predeterminations. It makes the role of academic research more valuable, as the academic environment, with its history of rigorous research, objectivity and professional checks, guards against bias and predetermined solutions.

Why view humanitarianism as a profession? Is this a model for humanitarians? A body of committed individuals with an agreed value set, knowledge and skills? With a body of committed individuals, must it be a profession? And if it is a profession, what is it that marks it off from others? The answer is threefold:

• First, a body of knowledgeable and skilled individuals with an agreed value set, knowledge and skills.
• Second, a repository for knowledge, in the form of libraries, learned journals, databases and conferences.
• Third, an ability to provide objective and critical advice.

Professions need a repository for knowledge, a body that will teach and train new professionals, work consistently to push forward the frontiers of knowledge and practice in the profession. They need a quality which to judge if one people seeking to enter the profession have a sufficient grasp of the values, knowledge and skills that lie at its heart. For most professions this upstream body is academia, with its ability to teach a set curriculum, award a qualification and carry out objective research.

Most research in humanitarianism is funded by agencies and foundations interested in particular humanitarian issues. If the client relationship represents the ‘downstream’ end of humanitarian action, in the past few years agencies and foundations interested in particular humanitarian issues have found themselves being drawn into contract rather than grant arrangements. This makes the role of academic research more valuable, as the academic environment, with its history of rigorous research, objectivity and professional checks, guards against bias and predetermined solutions.

Knowledge repository
Libraries, peer-reviewed journals, professional discussion in conferences, online journals and searchable databases all provide the basic academic backup to a profession. Three papers, humanitarianism demonstrates its usefulness. There is really only one dedicated peer-reviewed journal on humanitarian issues – the Journal of Humanitarian Assistance, run by the UN Office for the Coordination of Humanitarian Affairs, do an excellent job of providing access to a wide range of cross-related reporting. Of more interest to academics is the Forced Migration Online Project at Oxford.
PRACTICE AND POLICY NOTES

Academic and research associations and their related conferences are the backbone of building academic continuity in most disciplines. Humanitarianism has not yet got to this stage yet. There are a number of humanitarian subject-specific conferences in which academics are invited, but there is no regular academic gathering on humanitarianism.

The consistent offering of a recognised qualification is, we hope, making a substantial contribution to increasing the level of professionalism within the humanitarian endeavour.

To date, most people practicing humanitarianism have come to it from other professions, from medicine, anthropology or the military, for example. In effect, humanitarianism is a profession built upon other professions, and this is reflected in its educational structure. Almost all formal academic degrees in humanitarianism are postgraduate Masters degrees. Many are derivatives of other degrees. Some courses are essentially spin-offs of development studies degrees. Some, like the MA in Post War Recovery Studies at York University in the UK, are derived from the interests of a particular group of academics. ReliefWeb provides a comprehensive listing of available degrees under its Humanitarian Assistance Training inventory (see www.reliefweb.int/training).

There are a number of courses that are mandatory courses. Since its inauguration in 1999, students completing the degree have all returned to work in the humanitarian field at a higher level and with greater opportunities than before. A higher level and with greater opportunities than before.

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Academic education

Finally, academics have a duty to provide the formal educational core that allows humanitarianism to consistently obtain agreed-upon standards of values, skills and tools.

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Humanitarian aid is a complex emergency. This course trains students to develop their expertise and ability in delivering assistance in delivering assistance is an increasing challenge.
Humanitarianism faces tremendous tests. Keeping true to our values and trying to constantly develop our expertise and ability to deliver assistance, protection and solidarity in crisis situations is an increasing challenge. A vibrant, critical and committed academic community is essential in supporting this endeavor, but it remains unclear whether staff, agencies and donors are really willing to move humanitarianism beyond an ad hoc arrangement to an internationally recognised profession and discipline.

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Unexploded ordnance poses a significant threat to civilians following the end of an armed conflict. These 'explosive remnants of war' (ERW) include artillery shells, rockets, bombs, hand grenades, landmines, cluster-bombs and other landmines and similar explosives. Such weapons have caused significant numbers of civilian deaths and injuries and hindered reconstruction, the return of refugees and displaced people and the delivery of humanitarian aid. They are a regular consequence of modern warfare, and prolong the hardship of war-affected countries.

The international community took an important step to address the problems caused by anti-personnel landmines by concluding a Convention prohibiting their use in 1997. However, other types of explosive remnants of war had not been addressed until last year, when in November governments adopted a new international treaty in this area. The Protocol on Explosive Remnants of War establishes a framework that, if adhered to and implemented, can help minimize the post-conflict suffering caused by unexploded and abandoned ordnance.

The problem of ERW

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New rules to minimise the suffering caused by ‘explosive remnants of war’

Louis Maresca, ICRC

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involve large military operations on the ground. Nonetheless, in the year following the end of the war in June 1999, nearly 500 people were killed or injured by ERW, including anti-personnel and anti-vehicle mines and cluster-bomb sub-munitions. More than 54,000 pieces of ordnance were removed or destroyed by clearance agencies.

Ordnance can fail to explode for a variety of reasons: fuses can be poorly designed; the device might be poorly built; improper storage, handling and transport might affect it; or the weapon might be incorrectly delivered (dropped from too low an altitude, for example). Environmental factors also affect detonation, as ordnance will often land on soft ground or be deflected by trees, vegetation or other obstacles. These weapons may seem harmless duds, but in fact they remain dangerous, with full explosive force.

The war in Iraq in 2003 has highlighted another source of ERW: like other conflicts, the fighting produced a large amount of unexploded ordnance. But there are also large stockpiles of explosive weapons abandoned by Iraqi forces. This ordnance was often located in or near populated areas, and has caused significant casualties when civilians have tried to collect or tamper with it. In some instances, stocks have spontaneously exploded in the summer heat.

The new Protocol
In September 2000, the ICRC proposed that a new protocol be added to the Convention on Certain Conventional Weapons (CCW) that would outline specific requirements on the clearance of ERW, the provision of warnings to civilian populations affected by such weapons, and the sharing of information between the parties to a conflict and organisations involved in ERW clearance and risk education. The CCW, adopted in 1980, is intended to regulate the use of weapons that may cause unnecessary suffering or have indiscriminate effects, such as incendiary weapons, booby traps and similar weapons. As of January 2004, 93 states were party to the CCW.

At the Review Conference of States Parties to the CCW, which took place in December 2001, a Group of Governmental Experts was established to consider the nature of the ERW problem and ways to address it. NGOs, UN agencies and the ICRC contributed to the Group’s work. A draft protocol was submitted for consideration, and the Protocol on Explosive Remnants of War was adopted at a meeting of CCW states in Geneva on 28 November 2003.

The Protocol on Explosive Remnants of War was adopted in November 2003

The Protocol establishes new rules in an area where international humanitarian law has been weak. Under its terms, “explosive remnants of war” means explosive weapons that have been abandoned by a party to an armed conflict, or that have been used during a conflict and were supposed to explode but failed to do so. It covers all situations of armed conflict irrespective of whether they are international or internal in nature. The Protocol does not apply to mines, booby traps and devices that are already addressed by the CCW.

The Protocol requires each party to an armed conflict to:

• clear explosive remnants of war in territory it controls after the end of active hostilities;
• provide material and financial assistance to facilitate the removal of unexploded or abandoned ordnance in areas it does not control resulting from its operations.
• record information on the explosive ordnance employed by its armed forces and share that information with organisations engaged in ERW clearance or conducting programmes to warn civilians of the dangers of these devices;
• provide warnings to civilians of the ERW dangers in specific areas.

Although these obligations are only called for “where feasible”, they nevertheless provide an outline of the measures required to address the ERW problem and a framework to support the activities of organisations conducting ERW clearance and risk education programmes.

One of the Protocol’s weaknesses is that its rules will have their greatest impact in future conflicts – its obligations do not address ERW already on the ground. Recognising the need to improve the situation in countries already affected, the Protocol gives a state the right to seek assistance from other states to help it remove ERW that may already be in its territory. In parallel, countries that are in a position to do so are obliged to provide assistance to help ERW-affected states to reduce the threats posed by these weapons.
The Protocol primarily focuses on remedial measures and does not include specific requirements on cluster-bomb and other sub-munitions. These weapons are a particular concern due to the large numbers which have failed to explode as intended and the large area over which explosive force is delivered. Several organisations and governments have proposed specific requirements such as self-destruct mechanisms to prevent these weapons from becoming explosive remnants of war in the first place, and to prohibit their use in populated areas. Such weapon-specific measures could be discussed by the Group of Governmental Experts, and with increased public and political support could become the subject for negotiations in the future.

Final thoughts

Like other protocols to the CCW, the Protocol on Explosive Remnants of War will enter into force once 20 states have ratified it. In order for the Protocol to fulfil its goals, it will need to be widely ratified and implemented. The Protocol has the potential to enhance the activities of organisations involved in clearing mines and ERW, or which conduct risk education programmes and help bring rapid results on the ground. These organisations are often the first responders to an ERW problem following the end of active hostilities.

Despite its limitations, the Protocol is a significant development in international humanitarian law, and the first multilateral agreement to be adopted by all the major military powers in this area. In the current international environment this is an encouraging result. Together with the Convention on the Prohibition of Anti-Personnel Mines, the international community has adopted a framework to reduce the scourge of civilian death, injury and suffering caused by unexploded and abandoned ordnance, and to eliminate one of the serious threats facing civilians in the aftermath of conflict.

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been fired on at the spring's location on several occasions; one person had been injured and a donkey killed.

The primary point of contact for humanitarian agencies in the OPT is the civil liaison branch of the Israeli army. Oxfam requested its assistance to ensure that the workers repairing the spring would be free from harassment by the army or the settlers at Yizhar. Civil liaison staff reviewed the request and gave verbal guarantees that agency staff and villagers would be safe. On the morning work was due to begin, Oxfam contacted the civil liaison branch to ensure that the settlers and army personnel were informed of the project. The agency was repeatedly assured that the work was authorised and safe. Three international staff members were present at the worksite, and a large ECHO flag was planted nearby (ECHO funded the project). Oxfam vehicles with insignia were also visible about 200 meters away.

The work was quickly stopped by a group of Israeli soldiers from the settlement. They took workers’ IDs, claiming to have no knowledge of the permission from the civil liaison. After about two hours, the documents were returned and the work was allowed to continue. On the following day, the village council representatives and Oxfam decided that the villagers could continue the work without the presence of international staff. Oxfam continued to make contact with the civil liaison and the village council prior to the start of work and throughout each day.

Two days later, a van appeared from the settlement road after the work began, and a gunman began firing on the workers. A donkey being used to haul cement was shot and killed. The workers ran from the scene, terrified but unhurt. Oxfam reported the incident in writing to the officer responsible, to the commander of the civil liaison in the West Bank, and to the ICRC and ECHO. The civil liaison officer apologized and reassured Oxfam and the villagers that such an incident would not happen again. The following morning, the village council representatives and Oxfam’s director general met with the commander of the civil liaison branch to address any issues.

Oxfam used a variety of ‘protective’ methods during this incident:

• establishing a working relationship with representatives of the Israeli army to solicit their permission and agreement not to harass workers;
• using visible and locally known ‘labels’ – an ECHO flag, Oxfam T-shirts and Oxfam vehicles with insignia were visible about 200 meters away;
• employing a variety of ‘protective’ methods.

The incident analysis is not because it was unusual, but because it was repeated, and that many of the fallacies of the least difficult but nevertheless creative protection challenges facing staff working in an environment of protracted conflict, where the military authority has little or no interest in protecting beneficiaries; where there is no accountability to HRIL on the ground, and where the monitoring and reporting of human rights violations has had no perceivable effects for those at risk.

Analysis

Oxfam used a variety of ‘protective’ methods during this incident:

• establishing a working relationship with representatives of the Israeli army to solicit their permission and agreement not to harass workers;
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• employing a variety of ‘protective’ methods.

Although the incident was not unusual, it is common.

Approximately two hours later an unmarked vehicle appeared from the settlement, the driver opened fire on village women and Oxfam staff, shooting about 40 rounds. A woman fell and broke her nose while fleeing. Further reports and complaints were made to the Israeli army authorities, and Oxfam also tried to interest an Israeli journalist in the incident. Though promised, no story ever appeared. The commanding officer told Oxfam that the work must be stopped, since the area was under indefinite status pending final negotiation of the (collapsed) Oslo peace agreement. ICRC personnel reassured Oxfam and the villagers that such an incident would not happen again. The following day, the village council representatives and Oxfam decided that the work could continue safely, and drove up the hill to the settlement.

Approximately two hours after the incident, another vehicle appeared from the settlement, the driver opened fire on village workers and Oxfam staff, killing about 40 rounds. A woman fell and broke her nose while fleeing. Further reports and complaints were made to the Israeli army authorities, and Oxfam also tried to interest an Israeli journalist in the incident. Though promised, no story ever appeared. The commanding officer told Oxfam that the work must be stopped, since the area was under indefinite status pending final negotiation of the (collapsed) Oslo peace agreement. ICRC personnel reassured Oxfam and the villagers that such an incident would not happen again. The following day, the village council representatives and Oxfam decided that the work could continue safely, and drove up the hill to the settlement.

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liaison himself was present at the settlement. Likewise fired upon at the worksite, even while the civil probably not have made a difference, since staff were Regular escort by international Oxfam staff would have been pointless, given the inherent tension between humanitarian protection and military control and subject to military action at any time, the army is the de facto authority in most areas. As the OPT are under Israeli military control and subject to military action at any time, the army is the de facto authority in most areas.

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None of these measures protected staff members or villagers.

Did Oxfam pick the wrong interlocutor? The protection strategy was developed in consultation with the villagers, and with advice from a number of other agencies, both local and international. Everyone consulted used the army’s civil liaison branch to some extent. As the OPT are under Israeli military control and subject to military action at any time, the army is the de facto authority in most areas. Oxfam staff chose not to negotiate directly with the settlers because:

• as a civilian rather than a military force, there was no
  chain of command, and thus there was neither the
  opportunity to directly address those involved in the
  violence, nor any accountability.
• Oxfam’s policy prohibited staff from entering Israeli
  settlements, both for security reasons and because the
  agency does not recognise settlements as legitimate
  since they are a violation of international law; and
• Oxfam staff believed the villagers’ claims that the
  settlers had vandalised the spring and were respon-  
  sible for the shooting. Oxfam believed that the army
  could serve as an intermediary with the settlers.

Regular escort by international Oxfam staff would probably not have made a difference, since staff were blown free upon at the worksite, even while the civil liaison itself was present at the settlement.

The solidarity organisation’s intervention was successful where Oxfam’s failed because the solidarity organisation had:

• strength in numbers – Oxfam did not have the number of international staff necessary to establish a more visible presence;
• the willingness to work in the evening and after dark, which is likely to be a more dangerous time;
• a clear mission to protect human rights, unencumbered by any sense of maintaining a long-term legal presence in the OPT; and
• the willingness to risk their lives.

Oxfam’s Badama experience shows that, while it is important for agencies to maintain advocacy efforts towards compliance and protection, people at risk and staff in the field can confront threats to individuals’ rights and safety with more pragmatic approaches. In many situations, the most effective protection efforts are those like the one achieved at Madama – what one might call ‘underground protection’. Where advocacy efforts fail on both ends and conventional approaches fail short, a variety of contacts and concerted action are needed. Active human rights organisations were able to protect villagers and restore a crucial water supply.

Conclusions

When humanitarian agencies consider how their relief programmes may impact upon protection, they should focus on practical outcomes that strive for real safety for those at risk. There is an implicit tension between more activist protection work and humanitarian neutrality, but this tension should not blind agencies to the opportunities they have for assisting in protection. While staff in a programme may not be able to protect individuals directly, campaigns and creative action are needed to expand the current range of protection strategies and develop innovative approaches that do not jeopardise agencies’ neutrality.

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Public-private partnerships in the health sector: the case of Iraq

Geoff Prescott and Lara Pellini, Merlin

Public-private partnerships (PPPs) are fast becoming the dominant method of tackling large, complicated and expensive public health problems in post-conflict and unstable settings such as Afghanistan and Iraq. They are seen as ‘win-win’ arrangements in which diverse actors – with often varied, sometimes conflicting, motivations – work together to contribute to health development.

In principle, there is no reason why a PPP should not be effective, provided it is established on the premise of a ‘partnership’. In the quest for a standard definition of partnership in a PPP, there are signs of convergence on common elements: the mutual recognition of comparative advantages; cooperation and coordinated planning; transparency; and cost-effectiveness. These general conditions are necessary for the existence of a partnership, regardless of its nature. However, for a partnership to be successful in the delivery of humanitarian aid in countries under occupation (like Iraq), there are further specific conditions that need to be met: legitimacy, legality and an understanding of critical cross-cultural issues.

Merlin’s work in Iraq began in December 2002, when it carried out health assessments in the north of the country. By mid-February 2003, Merlin had established a coordination base in Amman, Jordan. The agency has since assessed around 200 health centres in the Baghdad region, and continues to support facilities in the capital in cooperation with the Iraqi Ministry of Health. This article summarises Merlin’s experience in Iraq. It argues that both the general and the specific conditions for PPPs are as yet absent, and raises questions as to whether Iraq is a good setting in which to experiment with PPPs on such a large scale.

1. Comparative advantage

The notion of public and non-profit organisations working jointly with private companies to establish, deliver and manage essential services is well-known in a number of sectors, and is being actively promoted in the reconstruction of the health sector in post-conflict settings. PPPs are seen as a means for resource-constrained governments that can no longer provide public services solely from their national budget. Particular advocates of this approach include the World Health Organization (WHO) and the World Bank, which is a partner in the Global Fund to Fight AIDS, Tuberculosis and Malaria (GFATM). This fund is an independent PPP working to increase global financing to combat these diseases.

PPPs in Iraq

The prime US Agency for International Development (USAID) contracts in post-war Iraq (valued at $900 million) were awarded to US for-profit companies to repair and reconstruct water systems, roads, bridges, schools and health facilities in what the Wall Street Journal called the largest government reconstruction effort since the Second World War. The private sector has been asked to apply its skills and resources to services that have traditionally been provided by the Iraqi government. The bidding process has, however, been criticized for including only a handful of companies, none of which is based outside the US. Private contractors have secured lucrative contracts from the Coalition Provisional Authority (CPA), and seem unwilling to cooperate with the Iraqis and/or the local authorities towards the establishment of a partnership. Examples of this lack of cooperation as they relate to the fundamental components of a successful partnership are described below.

1. Comparative advantage

The first component of a successful PPP is the recognition of the comparative advantages of the players within the partnership. Yet with Iraq still dealing with making funding decisions in favour of the Iraqi authorities until November 2003, and others disinterested in installing the framework of support for NGOs and international organisations such as the UK, this component has been lacking from the beginning. As a result, at the beginning of the reconstruction period there were more than 100 NGOs operating in Iraq. Now, there are fewer than 50 permanent delegations, and only one major international organisation. This is due primarily to a lack of neutral and impartial funding and security issues, combined with the difficulties experienced in working with the CPA and the private sector.
2. Cooperation and coordinated planning

The second key component of partnership is cooperation and coordinated planning. With some private contractors, Merlin has encountered high costs and unreasonable attitude towards the Iraq Medical Assistance Committee (IMAC), the joint CPA/MOH of health responsible for authorising medical assistance programmes, and towards the NCCI/Coordination Committee in Iraq. Some contractors have also been faced with undefined needs. During the early post-war period, this caused confusion within the CPA and UN. Merlin’s experience, leading to delays in evaluating the health situation and in expediting planning, has led to a lack of collaboration and transparency between private contractors and humanitarian agencies. This has resulted in duplication of effort and unnecessary competition over responsibility for rehabilitating health facilities.

In the past, NGOs have not been used as a major criterion by PPPs in Iraq. Very little seems in doubt, however, is whether cost-effectiveness is self-evidently justified large profits for foreign private contractors. In other words, the Hague Regulations do not stipulate that public property (e.g. Iraqi oil wells) should be used for the benefit of the population and, to some extent, to cover the cost of occupation. In other words, the Hague Regulations do not stipulate that public property (e.g. Iraqi oil wells) should be used for the benefit of the population and, to some extent, to cover the cost of occupation.

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However, this pattern is not universal. Merlin also has experience of a contract which has been cooperation, trust and practice in preventing its plans, and it is often difficult to establish trusting partnerships or to have confidence in the conduct of the Contractor.

This is done to increase the likelihood of having a transparent and trusting relationship with Iraq contractors. As donors, most NGOs follow the guidelines on the public sector.

Given that the USAID contracts were given to companies in a closed-bid process, away from public scrutiny, it is not surprising that transparency is a word not well applied to the PPP experiment in Iraq.

3. Transparency

This is the third key component of partnership. It is a matter of public record that most NGOs presented themselves as independent and responsible to the CPA and UN. However, this transparency is hard to assess. What certainly seems in doubt, however, is whether cost-effectiveness is self-evidently justified large profits for foreign private contractors. In other words, the Hague Regulations stipulate that public property may be administered by an occupying power, but only under the rules of usucapio (Article 55). Proceeds from such property (e.g. Iraqi oil wells) should be used for the benefit of the local population and, to some extent, to cover the cost of occupation. In other words, the Hague Regulations do not stipulate that public property (e.g. Iraqi oil wells) should be used for the benefit of the local population.

Merlin also has experience of a contractor which has been cooperation, trust and practice in preventing its plans, and it is often difficult to establish trusting partnerships or to have confidence in the conduct of the Contractor.

These tensions would be resolved if private contractors gained legitimacy from the public and worked together with the local authorities. This would facilitate cooperation, enabling NGOs to work in partnership with the local authorities and indirectly with the private sector, without facing neutrality issues.

4. Cost-effectiveness

The fourth key component of a successful PPP is cost-effectiveness. Systems to measure impact, utilisation and outcomes should be doing. It is questionable to what degree the NGOs are faced with the same legitimacy issues when implementing humanitarian work without the consent of the beneficiaries. Indirectly, it is in the interest of NGOs to strive for greater neutrality and impartiality, as this is assumed de facto by contractors. Questions of legitimacy are hard to substantiate, but the public is believed to perceive private contractors as profit-oriented with supporting the occupation, and therefore lacking the legitimacy to operate in Iraq.

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Operational interaction between UN humanitarian agencies and belligerent forces: towards a code of conduct

Greg Hansen, independent consultant

The recent wars in Afghanistan and Iraq have resulted in unprecedented threats to the integrity of the humanitarian system and to the credibility of some of its leading institutions, perhaps most especially the UN. In the wake of the bombing of the UN office in Baghdad in August 2003, there has been a groundswell of interest in examining how the UN manages humanitarian crises in armed conflict.

Humanitarian space in a conflict zone depends on the consent of warring parties and the acceptance of the host population. All humanitarian agencies working in conflict need to manage the tensions inherent in dealing with belligerent forces on the one hand, and on the other safeguarding their real and perceived independence and neutrality. This balancing act is especially difficult when the belligerent nations are major donors. For UN agencies, the management task is further complicated by the multiple roles that member states expect the UN to perform in a single country, as in Iraq, different elements of which are simultaneously subject to the constraints of legality and legitimacy, and to the exigencies of war and occupation.

The UN’s civil–military coordination is conducted in a policy vacuum. Currently, the UN’s civil–military coordination is conducted largely on an ad hoc basis, in a policy vacuum. While the UN Office for the Coordination of Humanitarian Affairs (OCHA) has produced guidelines for interaction between UN personnel and the occupying powers in Iraq, this does not go far enough. An effective PPP should be based on mutual recognition of comparative advantages, transparency, cost-effectiveness and coordinated planning. In addition, in occupied countries, the parties should operate within a framework of legality, legitimacy and sensibility to contextual and cultural differences. Is it possible that UN agencies could have established an effective PPP to manage humanitarian and post-conflict development needs in Iraq? Yet, so far, there has been a chequered record in assisting and supporting the beneficiaries. The key components of PPPs were not adequately in place in Iraq – is there still time to learn from these experiences?

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References and further reading

far enough to deal with the threats that conflict of interest, deferral to belligerent chains of command, lack of transparency and individual conduct pose to the UN's real and perceived independence and neutrality.

For all the difficulties, it is essential that UN agencies have some form of engagement with belligerent forces or occupying powers, both for their own security and to limit the harmful consequences of warfare for the civilian population. Ideally, engagement prevents the potential blurring of roles between military and humanitarian actors, coordinates the use of UN Military and Civil Defence Assets (MCDA), ensures that military assets are not injudiciously used for humanitarian operations, and enables the smooth and timely flow of information.

While engagement with belligerent forces or occupying powers has been essential, the form of engagement in recent emergencies has been deeply flawed.

• Without precedent, in October 2001 UN humanitarian agencies co-located staff members within the military headquarters of a belligerent force in an active conflict occurring outside of UN auspices. On the orders of the UN Secretary-General, the UN presence at US Central Command (CENTCOM) Headquarters in Tampa, Florida was low profile, and no UN flag was displayed. But the presence of UN staff nevertheless implied UN endorsement of coalition military operations, and undermined the perceived independence and neutrality of UN humanitarian operations and staff by suggesting that the UN was the humanitarian instrument of a belligerent force. Co-location with the US-led coalition also suggested that UN agencies practiced different standards of independence and neutrality from belligerent to belligerent, particularly where – whether justified or not – UN agencies had suspended contact with the other set of combatants in both Afghanistan and Iraq soon after hostilities began.

• UN civil–military liaison positions were staffed with nationals of belligerent nations or occupying powers. In the case of Afghanistan, all of the UN agency liaisons to CENTCOM were nationals of countries participating in the US-led coalition. Many were former military personnel, and thus had former colleagues among the belligerent forces. The argument has sometimes been advanced that a national and former military officer of a belligerent nation will be a more effective representative of the UN's humanitarian interests. This has not been demonstrated. Indeed, the erosion of real and perceived neutrality and independence has far outweighed any potential benefits. Legal and political conflicts of interest existed under the recent arrangements. Former military officers who collected pensions or continued to hold security clearances from their home governments were legally bound by the secrecy laws of those governments, at the same time as they were in the paid service of UN humanitarian agencies, and ostensibly accountable to humanitarian principles. The assertion of the UN's humanitarian interests by some liaison staff was periodically tempered or stymied by an inappropriate deference to CENTCOM's rank structure and chain of command, or by loyalty or allegiance to the home countries of other combatants. Loyalty oaths taken by commissioned officers, and their adherence to the military ethos of duty, suggested the possibility of dual allegiances between their home countries and the UN system, in particular when specific military operations were proving fundamentally incompatible with the humanitarian imperative.

• The UN's civil–military coordination efforts with US-led forces were opaque and, at times, highly secretive. While the substance of humanitarian diplomacy should have been discreet, there was a blanket lack of transparency that obscured even the structure of coordination mechanisms. This invited all manner of speculation, just prior to the invasion of Iraq, when senior humanitarian officials paid furtive visits to CENTCOM's forward headquarters in Doha, Qatar, feeding the perception that the UN had taken sides in a fait accompli and was engaged in joint planning with US-led forces. Even within UN agencies there was noticeable – though largely unspoken – discontent about the perceived subjugation of humanitarian to political agendas for the sake of smooth relations with prominent member states and donors.

• After the onset of hostilities, the relationship between UN humanitarian agencies and belligerent forces was at times extremely adversarial, given the range of humanitarian responsibilities entrusted to the UN. Again, there were persistent inadequacies in the strength with which the UN asserted the humanitarian imperative.
agendas with belligerent forces, both at the policy and operational levels. These are serious shortcomings, and they point to the need to professionalise and codify operational interactions between the UN’s humanitarian agencies and belligerent forces and the occupying power. Recent crises and attacks on UN aid operations and personnel have given rise to renewed speculation about whether the UN’s humanitarian and political roles have become interlocked. Measures are meant to improve adherence to the principles of neutrality and independence in UN humanitarian action, and to better preserve the quintessentially civilian character of humanitarian action.

3. Independence from the chain of command of belligerent forces

The real and perceived independence and neutrality of UN humanitarian agencies is harmed when UN staff defer to belligerent forces or occupying powers, or allow themselves to be intimidated by forceful personalities. Interaction with a belligerent’s command structure should take place at the lowest rank necessary to get a particular job done.

However, large military bureaucracies can be difficult to deal with. Where necessary, as may be the case when a commander is acting in an unhelpful, unduly time-consuming or obstructive manner, UN liaison staff should not hesitate to assert the UN’s humanitarian agenda with the most senior military decision-makers in their area of responsibility.

4. Transparency

The UN’s humanitarian agencies must be seen at all times to be acting in a neutral and independent way. Transparency is essential. By contrast, military organisations and operations are characterised by secrecy, and information is frequently classified.

Coordination structures adopted by or for the UN humanitarian agencies must be transparent in order to avoid the appearance that UN agencies are taking sides, or making undue compromises with belligerents or occupying powers. The mechanics of coordination structures should be publicised and open to scrutiny in order to avoid any appearance that the UN has something to hide.

5. Qualifications

Civil-military coordination is a specialised and sensitive undertaking. Field liaison staff should be graduates of the Civil-Military Coordination (UN-CMCoord) training course. This would ensure greater consistency of approach. While a military background can be immensely helpful, greater emphasis should be placed upon humanities – rather than military – credentials.

6. Personal conduct

The Inter-Agency Standing Committee (IASC) should provide active oversight to ensure that senior UN managers are accountable for setting the highest standards of professional and personal conduct. Descriptions of time-close relationships between UN staff members and military or belligerent forces, and access to higher level strategy or planning meetings, will increase distrust of the UN. Individual conduct in the practice of independence and neutrality needs to be beyond reproach. UN humanitarian personnel should not socialise with belligerents or occupying powers, other civilians or military beyond what is judged minimally necessary for maintaining professional relations.

7. Organisational culture

In times of acute necessity or in the wake of a direct attack, humanitarian agencies tend to become more insular, less transparent and more defensive. The building of the UN office in Baghdad and attacks on UN premises in

Towards a code of conduct

Codes of conduct are unpopular. They imply that not everyone naturally adheres to high professional standards in all situations. But a code of conduct is one such objective navigation as it is a tool of accountability. The following measures represent a first attempt to institutionalise ethical and professional standards, and are meant to improve adherence to the principles of neutrality and independence in UN humanitarian action, and to better preserve the quintessentially civilian character of humanitarian action.

1. Form of engagement

Civil-military coordination functions should be conducted at arm’s length from belligerent forces or occupying powers. Co-location should not occur. Effective liaison can be achieved, according to need, through liaison visits, conference calls and other indirect means, in support of effective UN humanitarian diplomacy. The experience of UN-CMCoord training staff is that less direct approaches entail no reduction in the quality of civil-military coordination, and are less open to question.

2. Recusal

In the event of a real or perceived conflict of interest, employees of UN humanitarian agencies, at all levels and without exception, should routinely exempt themselves from civil-military coordination duties, including decisions related to the establishment of coordination structures. In particular, such conflicts of interest should be understood to exist when employees are nationals of a belligerent nation or occupying power.

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In times of acute necessity or in the wake of a direct attack, humanitarian agencies tend to become more insular, less transparent and more defensive. The building of the UN office in Baghdad and attacks on UN premises in
Afghanistan have only worsened this tendency. Given the likelihood that the UN will soon be asked by member states to re-engage in Iraq in a sizeable way, this is likely to result in closer affiliations with the occupying power.

It should be the responsibility of managers at all levels to create working environments where the humanitarian imperative comes first, and where threats to real and perceived independence and neutrality are dealt with quickly, decisively and transparently to ensure that staff security and the integrity of UN humanitarian programs are not compromised.

Next steps
A logical next step would be to situate these measures within the role played by the Humanitarian Coordinator in an emergency. Apart from further development of a code of conduct, UN interaction with belligerent forces would also benefit from broader guidelines, perhaps developed through an open and consultative process modelled on that used to develop OCHA's Oslo Guidelines on the use of military and civil defense assets in disaster relief. Greater professionalism and consistency in the UN's approach to interaction with belligerents needs to be nurtured over the long term by strengthened policy development, advisory and training capacities.

Increasingly, UN agencies are being called on to serve in places where the UN's credibility is already in short supply, and where people are predisposed to distrust it, rightly or wrongly, as an instrument of Western interests. The UN Staff Association can clamour for greater staff security in war zones, but no amount of hardening of potential UN targets will protect aid operations and personnel if the UN's credibility is compromised by the injudicious management of relationships with belligerent forces and occupying powers.

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References and further reading

Iraq and the crisis of humanitarian action
Antonio Donini, Larry Minear and Peter Walker, Feinstein International Famine Center, Tufts University

The Iraq crisis has contributed to a deep malaise in the humanitarian community. Agencies are confronted with major policy quandaries, including a contested environment, a security crisis and a host of issues arising from interaction with coalition forces where intervention is seen as illegal by a significant portion of the population. With the lines between political and humanitarian action blurred, humanitarian principles have been eroded and the credibility of the humanitarian enterprise has been damaged. The UN and other humanitarian agencies are seen as taking sides, with tragic consequences for the security of staff and ongoing humanitarian operations. The Baghdad blast in August 2003, which killed Special Representative of the Secretary-General Sergio Vieira de Mello and 21 of his colleagues, and attacks against the ICRC and NGOs have brought home the risks and the consequences of the choices made.

Coming shortly after the Afghan and Kosovo crises, the issues highlighted in Iraq are profoundly troubling. This was the broad consensus of a series of meetings held during the final quarter of 2003 in Boston, Geneva, London, and Washington. The discussions were facilitated by Tufts University's Feinstein International Famine Center in collaboration with the Centre for Humanitarian Dialogue, the International Council of Voluntary Agencies, the Interagency Standing Committee, the Overseas Development Institute, and the Brookings Institution. Participants included over 200 UN and government officials, NGOs and Red Cross Movement members, and academics. The consultations were laden with political sensitivities and unusually high levels of tension between principles and institutional interest. Views diverged sharply, even within individual agencies. This article recaps the recurring themes of these meetings which, taken together, map out the key issues that face the humanitarian enterprise.
Diagnosis

Most humanitarian actors are in broad agreement that the Iraq crisis has resulted in a dangerous blurring of the lines between humanitarian and political action and the consequent erosion of core humanitarian principles of neutrality, impartiality, and independence. Well-established NGOs, particularly in the US, have found themselves faced with choices and considerable pressure from their governments as well as competition from less principled quarters in the community and from for-profit contractors. In contrast with their European counterparts, many US-based NGOs have not felt that they could afford to say no. Before the intervention, few in the humanitarian community were prepared to say openly that their agency should not be in Iraq, deferring instead to the occupying power to deliver on its responsibilities under international humanitarian law. However, many now privately question whether NGOs should have relied on the UN as a ‘buffer’ between themselves and the occupying power, and whether the UN’s humanitarian apparatus should even be operational within Iraq.

The murkiness of the situation was compounded by two additional factors. First, the situation on the ground was arbitrarily defined as ‘humanitarian’, reflecting both an absence of knowledge and a felt need to justify the presence of the UN and NGOs in the absence of a UN mandate. Pockets of need did exist, nor was it wrong to plan for a possible deterioration in the situation. However, agencies felt they needed a humanitarian ‘cover’ in order to be present. The UN’s Consolidated Appeal for $2.3 billion was driven by political considerations, institutional interest and the sheer magnitude of the funds that were being made available. Second, humanitarian, development and advocacy agendas were conflated in order to justify agency presence. Both considerations were viewed by discussants as illuminating the extent to which humanitarian agencies have strayed into a political thicket.

This is not the first crisis in which the lines between humanitarian and political action have been blurred. Afghanistan and Kosovo provided a foretaste of unpalatable pressures on humanitarian action. From Angola to East Timor, humanitarian agencies have often functioned in highly politicised landscapes or in lieu of political action. Yet the Iraq crisis was viewed as representing a new level of instrumentalisation, differing in degree and kind from its predecessors. Moreover, the global war on terror now casts a sombre shadow over the prospects of principled humanitarianism, leaving little space for independent, neutral and impartial humanitarian action. Decisions on humanitarian issues by the major donors are made in the context of their foreign policy and security agendas. There is a readiness to ignore humanitarian principles and international law, and the events in Guantanamo Bay are but one example. The perception that double standards are being applied is reinforced by the wide disparity in funding patterns. High-profile crises attract funds, while forgotten— yet more deadly— crises languish.

Events in Iraq, hard on the heels of Afghanistan, have challenged the humanitarian community with the unpopular truth that Western aid agencies are seen as the ‘mendicant orders of empire’ – the compassionate face of a hard-nosed globalisation. So-called humanitarian assistance is funded by a small club of Western donors and implemented by agencies and individuals based primarily in donor countries who by and large ignore the wishes of the locals. From Afghanistan to Iraq, the split is wider than within humanitarian action. In the absence of a UN mandate, funding for humanitarian assistance is exclusively voluntary. The scores of member states not part of the ‘donors’ club’ have no visible stake in the policies and implementation of UN humanitarian assistance.

The nature of the aid apparatus thus calls into question the actual universality of humanitarianism. At the same time, other forms of action with major humanitarian implications go unnoticed and unreported: the contributions of Islamic countries and charities, the remittances of diasporas, the involvement of countries in crises them-
The global war on terror casts a sombre shadow over the prospects of principled humanitarianism

Prognosis
While the discussions suggest that there may be the beginnings of some consensus on what has gone wrong in Iraq, the bigger picture and its execution are difficult to assess. While it is still too early for anything but reflection, the future may provide some answers. Here are some of the following questions are answered in the months and years to come:

- Is the subordination or instrumentalisation of humanitarian action to the political objectives of the US the key or only quantitatively different from earlier experiences?
- Does humanitarianism still have meaning in its classical sense?
- Most participants seemed to agree that the humanitarian enterprise is ailing. The sobering shadow over the global war on terror casts a sombre shadow over the prospects of principled humanitarianism.

A call for action
What is the future of humanitarianism? Does it still have meaning in its classical sense? What are the indigenous values and traditions that a more universal humanitarianism might tap into? What are the roles of groups and constituencies in the South and the Islamic countries and beyond in only one example of the West’s disaffection?

The current push for programme integration in high-profile crises carries crucial policy and institutional implications for the humanitarian enterprise. UN humanitarian bodies are confronted with a stark choice. One option involves full membership in the UN conflict management and conflict resolution machinery, with a potential eclipse of their independent and neutral humanitarian voice. The other embraces some degree of separation or insulation from that machinery as the way to nurture policy and partnerships in the wider humanitarian community, with the risk of being less able to ensure that humanitarian concerns are given equal prominence in the overall response.

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- Is it possible or desirable to decouple humanitarian action from Western values and approaches to security?
- Are the devaluation of humanitarian emblems and the threat faced by humanitarian personnel qualitatively different from earlier experiences?
- What is the subordination or instrumentalisation of humanitarian action to the political objectives of the US the key or only quantitatively different from earlier experiences?
- Is it necessary to redefine humanitarianism? Is it truly universal? What is its essential core and how does it connect with other forms of international engagement?
- Is a two-tiered crisis-response regime emerging in the UN, with new mechanisms to take the lead in revitalising humanitarian action? These include the Security Council and elsewhere on humanitarian aid issues. The establishment by the Secretary-General of a panel on the reform of the UN’s political/security role provides one such opportunity. The objective here is to have humanitarians take the lead in revitalising humanitarian action.

One can envisage many different structures for driving humanitarian action. This must be an initiative led by humanitarians. Humanitarian agencies around the world can form a powerful constituency. They can influence public opinion, parliaments, the media, communities, affected populations, and, last but certainly not least, governments.

Various groups, agencies, community-based institutions, non-governmental organisations, think tanks and professional organisations are in a position to join forces around the defence of core values. The resulting movement would represent a range of groups and constituencies, including those not part of the mainstream Judeo-Christian tradition but with their own valuable traditions.

The resulting movement would also explicitly address the threat faced by humanitarian personnel, including those in Iraq. It would insist on the importance of human rights for all, and challenge the humanitarian community to resist pressure on humanitarian personnel to compromise.

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Since the Second World War, humanitarianism has moved forward through phases of opportunistic growth followed by piecemeal and largely reactive reform. There is a sense, however, that the ‘system’ is now beyond further patching up. One-off studies and fix-it remedies, however well-intentioned, cannot solve the fundamental problems of humanitarianism today. Now may be the time for those who are serious about preserving humanitarianism and who are able to see a future different from yesterday to start to build this enterprise with humility, principle, and a sense of rekindled universal mission.

This article summarises a longer paper entitled The Future of Humanitarian Action: Implications of Iraq and Other Recent Crises, Report of an International Mapping Exercise by the Feinstein International Famine Center at Tufts University. The paper is available, along with supporting documentation, at famine.tufts.edu and hwproject.tufts.edu. Antonio Donini acted as a consultant to the Feinstein Center, conducting interviews prior to the four discussions, participating in the meetings themselves and drafting the report. Larry Minear, the director of the Center’s Humanitarianism and War Project and Peter Walker, who heads the Center itself, were also engaged in the discussion process and report writing.

References and further reading

Forthcoming special feature in Humanitarian Exchange
The politics of famine and the business of food aid

It is 20 years since the famine in Ethiopia, in which between 800,000 and a million people are thought to have died. Following years of war and drought, it was the worst famine in the country’s modern history and its scale and severity eventually triggered an unprecedented international response. Such events as the Band Aid and Live Aid concerts marked the moment when, for many, the world woke up to the huge challenge of famine and food insecurity in the world’s poorest countries.

The July 2004 issue of Humanitarian Exchange will have a special feature of articles on Ethiopia as a focus for a reassessment of the complex, often controversial question of famine response. It will look back over the last 20 years from the perspective of a range of different actors to ask what has changed, and what still needs to change in humanitarian policy and practice on famine.

In Ethiopia, for instance, much has changed: the government and its policies, the foreign policies of other countries, the shape of the international aid community, early warning and food security policy and practice, demography, and the degradation of the environment. Some things have not changed, such as agencies’ inability to learn, doubts about the role and impact of food aid, chronic poverty, limited coping strategies, and the instability of humanitarian aid models to respond. As a result, much of the population is extremely (and increasingly) vulnerable and, agencies say, in 2003 nearly 14 million Ethiopians might have died had they not received emergency food aid.

If you would like to suggest or contribute an article for this feature, please contact hpn@odi.org.uk. HPN’s editorial policy and submissions procedure is available on the HPN website at www.odi.org.uk/documents/HPN-submission.pdf or from hpn@odi.org.uk. The final deadline for submissions for this feature is 15 May 2004.
Japan’s humanitarian assistance dates back to 1953, when the government started funding UN relief work for Palestinian refugees. Since then, Japan has provided a vast amount of assistance worldwide, including financial aid, emergency supplies and personnel. This was primarily in response to natural disasters: Japan only became actively involved in conflict-related emergencies in 1992. Legally, humanitarian assistance for natural disasters remains distinct from humanitarian assistance in response to conflict. Nonetheless, Japan is starting to play a larger role in post-conflict environments, such as post-war Iraq, where Japanese troops were deployed in January 2004.

The legal framework
The Law Concerning the Dispatch of Japan Disaster Relief Teams (JDR Law) was introduced in 1987. Although the JDR Law provides a comprehensive approach to international disaster relief, the scope of assistance is restricted to natural disasters, and man-made disasters except those arising from conflict. JDR Teams have been sent to major disaster areas worldwide, especially in developing countries, to carry out rescue operations, provide medical care and undertake rehabilitation work. JDR Teams comprise rescue workers, medical teams and experts in disaster response and reconstruction. To ensure a swift and flexible response, Japan maintains a standby roster of rescue personnel and a registration system for medical teams; relief teams can be dispatched within 24 hours of a request for assistance, and medical teams can be ready to leave within 48 hours.

The outbreak of the Gulf war in 1990 led to widespread domestic discussion about Japan’s role in conflict-related disasters. The following year, the Japanese government enacted the Law Concerning Cooperation for United Nations Peacekeeping Operations (PKO Law), which allows Japan to engage more fully in UN peacekeeping and international humanitarian relief operations, including the dispatch of Self-Defense Force (SDF) units. PKO Law permits the following activities in relation to humanitarian relief:

- medical care including prostitution;
- search and rescue or repatriation assistance;
- the distribution of food, clothing, medical supplies, and other necessities;
- construction of facilities or equipment to accommodate displaced people;
- including facilities and equipment damaged by conflict; and
- ensuring natural environments where they have been damaged by conflict.

The policy context
The introduction of the PKO Law reflected a growing recognition within the Japanese government that conflicts not only destroy the products of long-term development, but also greatly hinder future development. As such, the government highlights the important role of development assistance as a means of dealing with conflict.

Numerous policy statements have spoken of the need for comprehensive assistance and a seamless transition from humanitarian relief to post-conflict reconstruction. Japan’s Medium-Term Policy on Official Development Assistance, issued in 1999, identified conflict and development as a priority issue. It emphasized that Japan must play an active role in promoting development and reconstruction in post-conflict environments.
In line with these policies, the Japanese government has increased its budget allocations for peace-building and humanitarian assistance. This is despite a general downward trend in ODA overall. In 2003, for example, Japan's total humanitarian assistance was around $2.8 billion, or 2.5% of its total ODA budget of $114 billion. In 2004, however, the ODA budget was cut by 7.5%, leaving the humanitarian assistance at around $2.5 billion, or 2.2% of the ODA budget. Japan's largest contributions were to support landmine clearance, followed by support for refugees in Iraq and Afghanistan.

In addition to its direct assistance, Japan has also been a leading advocate for international cooperation in conflict prevention and post-conflict reconstruction. Japan's ODA Charter, revised in 2003, states that the objectives of Japan's ODA are to contribute to the peace and development of the international community, and thereby to help ensure international security and prosperity. The Charter recognizes the importance of addressing not only poverty and economic development, but also conflict prevention and post-conflict reconstruction. It states that Japan's ODA is "an urgent need", and that preventing conflicts and promoting peace and stability are integral to achieving the Millennium Development Goals.

Japan's ODA and humanitarian assistance have been instrumental in supporting conflict prevention and post-conflict reconstruction in many countries. For example, Japan's assistance to Iraq and Afghanistan has been crucial in supporting peace-building and reconstruction efforts. Japan's assistance to landmine clearance has also been significant, helping to reduce the risk of injury and death for civilians in affected areas.

In conclusion, Japan's commitment to conflict prevention and post-conflict reconstruction is evident in its ODA and humanitarian assistance. By supporting peace-building and reconstruction efforts, Japan is helping to build a more stable and prosperous world, and thereby to contribute to Japan's own security and prosperity. Japan's ODA and humanitarian assistance are critical tools in this effort, and the government's commitment to these policies should continue to be a priority for the future.
Over 50% of Japan’s total ODA. Humanitarian assistance, however, has been extended to conflict-affected countries around the world. Some of the major contributions in the last five years include:

- **Assistance for East Timor**: A total of $1.2 billion during 1999–2001, of which over $1.0 billion was spent on humanitarian aid (mainly relief aid, basic needs, shelter and health services).
- **Assistance for Afghanistan**: A total of $1.2 billion during 1999–2001. The amount has been channelled through international organisations or NGOs and in-kind contributions. A total of $1 billion has been pledged for 2005–07. So far, €6 billion has been channelled through CARE.
- **Assistance for Sri Lanka**: A total of $1 billion has been pledged for 2005–07. So far, €6 billion has been provided for health care through UNICEF.

**Future challenges**

The PKO Law stipulates that the deployment of humanitarian relief expenses is subject to the approval of the Japanese cabinet, which takes between one and two months. This means that humanitarian assistance to post-conflict areas is primarily limited to funds channelled through international organisations or NGOs and in-kind contributions. If Japan is to make more “visible” and effective humanitarian assistance, either the process needs to be simplified, or the law has to be amended to enable UN Teams to be sent to conflict areas.

The Japanese public is relatively supportive of Japan’s commitment to “visible” humanitarian assistance. There is, however, strong opposition to the dispatch of SDF units, and this has only increased with the killing of Japanese diplomats in Iraq in November 2003. The deployment of SDF troops to Iraq in January 2004 has been controversial. If the Japanese government is committed to reducing its dependence on the PKO Law, then it needs to encourage a deeper understanding of the necessity for such assistance among the Japanese people. Humanitarian assistance is associated with risks, physically and politically. The government should engage in a thorough dialogue with academics, the media and the public on its future policy on humanitarian assistance.

The emphasis on the speediness and volume of humanitarian assistance tends to be overestimated and possibly inappropriate. While increased humanitarian assistance is important, Japan has a rich history of providing humanitarian assistance through NGOs and other organisations that are an integral part of the international community. Japan’s NGO sector is among the most active in the world, given the diverse range of resources and knowledge available in Japan. It is thus crucial that Japan strengthen its monitoring and evaluation mechanisms for humanitarian assistance. This has been done for ODA activities in response to natural disasters since 2001, and needs to be extended to conflict-related relief activities. Doing so would not only improve future assistance, but disclosure of the results would deepen the public’s understanding of the humanitarian aid project and enhance the government’s accountability.

References and further reading


Additional sources include:

- **Japan Platform (a partnership between Japanese NGOs, businesses and government)**: http://www.japanplat form.org.

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Humanitarian Practice Network

The Humanitarian Practice Network (HPN) is an independent forum where field workers, managers and policymakers in the humanitarian sector share information, analysis and experience.

HPN’s aim is to improve the performance of humanitarian action by contributing to individual and institutional learning.

HPN’s activities include:

• A series of specialist publications: Humanitarian Exchange magazine, Network Papers and Good Practice Reviews.
• A resource website at www.odihpn.org.
• Occasional seminars and workshops bringing together practitioners, policymakers and analysts.

HPN’s members and audience comprise individuals and organisations engaged in humanitarian action. They are in 80 countries worldwide, working in northern and southern NGOs, the UN and other multilateral agencies, governments and donors, academic institutions and consultancies. HPN’s publications are written by a similarly wide range of contributors.

HPN’s institutional location is the Humanitarian Policy Group (HPG) at the Overseas Development Institute (ODI), an independent think tank on humanitarian and development policy. HPN’s publications are researched and written by a wide range of individuals and organisations, and are published by HPN in order to encourage and facilitate knowledge-sharing within the sector. The views and opinions expressed in HPN’s publications do not necessarily state or reflect those of the Humanitarian Policy Group or the Overseas Development Institute.

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