Executive summary of the 4th Autumn School on Humanitarian Aid

HUMANITARIAN SPACE IN DANGER

Defining humanitarian space

‘Humanitarian space’ is a complex idea. It can be understood to be a ‘symbolic’ space where operations can take place freely, which has particular characteristics, and which is endangered when obstacles and constraints limit humanitarian action.

But this view, which is centred on humanitarian actors, does not take into account the real issues which principally concern local people. In this respect, humanitarian space primarily concerns the degree to which victims of a crisis are respected and protected. The freedom with which humanitarian actors can conduct operations is an indirect consequence of this.

But the concept of humanitarian space can not be fully understood without taking into consideration all the various related issues: respect for IHL, the safety of humanitarian actors, their ability to conduct advocacy, their freedom of action, institutional reforms and the risks which these contain in terms of aid becoming politicised or militarised, etc. Only by analysing these different facets of the problem can a true picture be established of the dangers which threaten humanitarian space.

The role of IHL in protecting humanitarian space

If humanitarian space is, above all, a question of respect and protection for crisis victims, the key to preserving this space is Law. International Humanitarian Law is the only ‘damage limitation’ tool which exists during a conflict (ensuring that there are as few deaths and acts of violence as possible, guaranteeing the rights of injured people and prisoners...). It provides a legal framework which can be used to qualify the parties to the conflict, the crimes committed, the rights and responsibilities of the different parties involved etc.

IHL is currently under attack. Its founding principles are being called into question. The ‘War on Terror’, which has influenced international relations and politics since 11 September, 2001, has led to what could be called ‘exceptional justice’. The pillars of IHL – the distinction between civilians and combatants, the banning of torture, the protection of civilians, respect for the rights and dignity of prisoners of war – are being challenged.

Since the Autumn School was held, the Bush administration has been trying to pass a bill concerning military commissions which comprises the same rules which were rejected by the Supreme Court. Their objective is to modify US law relating to war crimes and to ‘clarify’ the Geneva Conventions, which in practice means legally ratifying the idea of ‘exceptional justice’ which has caused such controversy both nationally and internationally. This bill confirms the existence of a category called ‘illegal enemy combatants’ and reintroduces practices which had become illegal, such as unlimited detention, violent interrogation, the inability to contest detention, the use of evidence obtained through coercion, the creation of a network of secret prisons for suspected terrorists where the protection afforded by the Geneva Conventions does not exist, etc. It remains to be seen whether this bill will be amended or repealed...

If IHL, the law of war, is to be flouted in this way, how are we to prevent the world from descending into lawlessness and preserve humanitarian space?

All actors involved should do all they can to stop such precedents as Abou Ghraib and Guantanamo and prevent them from becoming the norm. In this regard, there is a real need for information and training. Too many actors are unaware of the basic rules
of IHL and the issues behind them. Civil society also has a significant role to play through lobbying and defending these rights.

- **The relations between different actors**

Humanitarian space brings together a mixture of actors with varying interests and ways of functioning. The contradictions and tensions which this creates can be a source of creativity. Humanitarian space is multicultural and inter-relational.

A variety of bodies are involved in bringing aid to the victims of conflict: local NGOs, civil society, international NGOs, International Organisations, United Nations agencies, the military (in conflict and post-conflict situations), national authorities, donors, private enterprise (reconstruction, security), etc. To a certain extent, such a mixture of mandates means that aid can be optimised. But it is important to understand how each of these bodies functions, their responsibilities and their limits, and to respect the specific character of each crisis.

Local NGOs want to play a more important role within this space, which is currently dominated by international organisations. Strengthening links and partnerships makes it easier to understand and take into account political, socio-economic, cultural and technical issues as well as questions of responsibility. Humanitarian actors probably have a lot to learn from development NGOs, who have been able to develop and maintain partnerships and relations of confidence with local NGOs, governments and civil society.

The participation of local populations and NGOs should surely be a priority in the creation or preservation of humanitarian space, despite all the ambiguity, difficulties and risks which this involves with regard to humanitarian principles.

Relations with the government of the country where an operation takes place are extremely important to maintain access to the population and by extension to preserve a space for humanitarian operations. These relations will take different forms depending on the context, but considering the extent to which certain states can hinder humanitarian action, the issue is of real importance.

Relations with local authorities whether these are legitimate or not, often influence humanitarian space. To preserve a space for operations it may be more judicious to preserve confidentiality rather than to take a stance publicly. The difficulty is then to avoid becoming complicit with the local authority and making too many compromises.

- **Respecting the mandate and independence of each actor**

Much of the debate on this issue stems from having such a mixture of actors in the field. Creating confusion between different types of actor is detrimental to humanitarians and creates a dangerous tendency to lump everyone together. In crisis-ridden countries distinguishing between different missions and mandates can be a difficult task. There is a tendency for politicians to delegate the crisis response to humanitarians. The military do humanitarian and reconstruction work. Humanitarians use the army’s logistical means to get from place to place and for the transportation of aid. This blurring of lines has serious consequences on several levels - while the above-mentioned actors no longer have a clearly defined mandate, local people find it more and more difficult to distinguish between them. How are they to know who they can talk to and who they can trust?

Humanitarian space is extremely complex: each actor should have a clear idea of their role, their mandate, their legitimacy and the limits of their responsibilities.

Behind this blurring of lines between mandates is a crucial question which challenges the very foundations of humanitarian action – the question of neutrality and impartiality. How are local populations to believe in the political neutrality of humanitarian actors when they work hand in hand with the military – whose presence and action is guided by political objectives.
It is extremely important to aim for understanding and dialogue on this issue as it seems inevitable that in certain contexts there will be interaction between the military and humanitarians, at least in the short term. This dialogue should take place at various levels:

- With local populations, local actors and civil society, so that they understand the reasons for this partnership and the roles and responsibilities of the different parties involved.
- With the military, because certain problems currently encountered in the field show that there is a real lack of mutual understanding. It is absolutely essential to develop communication prior to crises, particularly through training, to reduce both ideological and practical misunderstanding, which can have disastrous effects in the field.

It is vital to maintain the impartiality and neutrality of humanitarian actors so that they are not considered parties to a conflict, a situation which drastically increases insecurity both for humanitarians themselves and local populations and partners.

### Towards coherence and coordination

Current internal, national and international reforms and restructuring have a common objective, which is to optimise the quality and coordination of humanitarian action. There is no question that, in general, coordination has potential advantages and benefits. However, the humanitarian community, and NGOs in particular, are worried about the potential negative impacts of excessive coordination/standardization. Beyond the danger of creating confusion between humanitarian, military and political mandates, there is a risk that the reform of the UN, with the cluster approach, integrated missions and the idea of a European civil protection force will limit the adaptability and independent room for manoeuvre of each actor. The overall logic behind the idea of integrated humanitarianism goes beyond humanitarianism’s original mandate. Rather than creating superstructures, as appears to be happening within the United Nations and the European Union, ways need to be found to increase the synergy between different organisations while strengthening their individual capacity.

The necessary and vital independence of the sector goes hand in hand with the diversity of actors and types of action. It is through its diversity that the humanitarian sector carries weight. It is important to respect the specific characteristics of different actors and not to move towards standardization of the system. Once again, we see the limits of a standard model and a standard way of thinking. The world is enriched by its biodiversity. In the same way, it is through its diversity that humanitarian action will continue to exist.

### The future of humanitarian NGOs

For some time now, there appears to have been a reverse in trends concerning the provision of funds. Donors today propose actions, whereas in the past they responded to the requests of humanitarian actors. Their guidance plans are based on proposals which come from their growing number of offices in the field. This new positioning by donors raises the prospect of humanitarian action being used by politicians for their own ends. Faced with dangers of this kind, the Good Humanitarian Donorship Initiative is a useful development which will allow the sector as a whole to take measures against this kind of abuse. If institutional donors increasingly adopt the role of actor, it is only right that they should conform to the founding principles of humanitarian action.

Higher standards in terms of quality, professionalism and competitiveness have led to a greater number of procedures in terms of control, returns and financial monitoring. This has a tendency to make the sector more rigid, favouring large organisations and entrepreneurial
methods and threatening the survival of smaller organisations. Yet, humanitarian action needs some flexibility to be able to respond to the unexpected and the inevitable fluctuations of a context.

Since the fall of the Berlin Wall, the UN has conducted more and more peace-keeping operations of different kinds depending on the context. Humanitarian arguments have been used as an alibi for military interventions by the international community. Denouncing certain practices by bearing witness can be dangerous. Advocacy is not so much limited by financial dependence as the fear of being used for political ends. How can this essential part of humanitarian action be preserved in the current geopolitical context? How is it possible to avoid being a political alibi or an accomplice and continue to bear witness and keep the freedom to speak out in order to raise public awareness?

- **Is humanitarian space threatened?**

It is difficult to be optimistic considering the current situation in Afghanistan, Iraq and Darfur, to name only some examples. ‘Civil’ space is shrinking, the laws of war are being challenged and there has been an increase in the number of areas where human rights are not respected, where civilians are targeted, where law and order has broken down, etc.

But we must not forget that humanitarian space has never been something that one could take for granted. There have always been entities for whom it was not in their interest to have witnesses to their actions and who attempted to restrict the access of humanitarian actors, whether this was openly or indirectly.

Contexts vary and evolve, as do these entities and their strategies. Humanitarian actors must be increasingly vigilant, must go further in their analysis and must be increasingly inventive and flexible, while continuing to base their actions on the values advocated by IHL.