**HUMANITARIAN SPACE IN JEOPARDY?**

Humanitarian actors have long occupied a privileged space in the international arena, on the margin of geo-strategic and political issues. This ‘free’ space has enabled humanitarian actors to operate with a certain autonomy, beyond the confines of national borders.

The end of the Cold War paved the way for the first major changes. There has been a steady growth in the number of actors playing a humanitarian role. United Nations agencies and other intergovernmental organisations (European Union, NATO, InterGovernmental Authority on Development) have adopted an increasingly interventionist policy with regards to crisis management, and emergency relief funding has also expanded thanks to wider media coverage. Henceforth, the landscape in which humanitarian actors worked was complex, for some, chaotic.

The attack of 11 September 2001 introduced a new political order. The Manichean vision dominating present-day international relations and the fight against the ‘axis of evil’ has meant that humanitarian principles are being questioned. In some cases, humanitarian aid is being used as a tool for implementing foreign policy and crisis management. The blurring of the distinction between independent humanitarian action and military mandates has meant that, in some contexts, humanitarian aid is increasingly being associated with the economic and geo-strategic interests of the superpowers and donor countries. Aid organisations are facing rejection or have to deal with high levels of insecurity which reduces their room for manoeuvre. The essence of humanitarian culture and the acceptability of aid are becoming stigmatised.

The borders appear to be closing in, proof that in some contexts humanitarian organisations are no longer able to operate.

Similarly, UN and European institutions are undergoing major restructuring. Several reforms and initiatives related to international funding mechanisms have been introduced over the last few years. The institutional stranglehold appears to be tightening its grip in an increasingly centralised and regulated system where actors are dependent on each other. This raises the question as to whether there is a place in this system for national partners (e.g. local NGOs, Civil Society, etc.).

Voluntarism, independence, neutrality, impartiality ... they very foundations of humanitarian action are today being questioned. Is this symbolic space, in which humanitarian actors work, in jeopardy?

What are the reasons for this evolution? What consequences does this entail for our work and what is the outlook for the future? Are agency mandates and International Humanitarian Law (IHL) still relevant or will the humanitarian aid of tomorrow look very different?

The 4th Autumn School on Humanitarian Aid aims to provide a platform for debate on these issues.
1. **Geopolitical changes and their impact on humanitarian space**

   - **New rules in the game of international relations**

**War without borders to the detriment of humanitarian action without borders**

With the terrorist attacks in Nairobi, Dar El Salaam, and then the World Trade Center on 11 September 2001, we entered into a new era. The majority of present day conflicts can broadly be categorised as follows:

1. Internal conflict or civil war led by organised political groups (guerrilla factions seeking to overthrow ruling authorities) or by marginalised groups, such as paramilitary, militia, mafia involved in illegal goods, etc.

2. Large-scale military interventions carried out under the banner of the Global War against Terror (GWT), notably Iraq and Afghanistan. These countries illustrate all too well the tension that has developed between the West and the Arab world, the so-called clash of civilisations. Under the pretext of a ‘preventative war’ to reduce the risk of any other attack on American territory, the USA and their allies have adopted a bellicose stance in their fight against terrorism, a new form of war, a so-called ‘fair war’ which aims to establish a new world order. This war against terror has, among other pernicious effects, raised these same terrorists to warrior status and reinforces the analysis of a Manichaean world. International relations are today polarised between ‘good’ and ‘evil’.

In this new geopolitical scene, movements such as Hamas – democratically elected in Palestine – and Hizbullah who benefit from widespread popular support, are treated as terrorist organisations on the same level as Al-Qaeda. All analysis of their history as a resistance movement and their subsequent transition to a political movement has been completely overlooked for essentially ideological reasons. Similarly, after the events of 11 September 2001, both the FARC and the LTTE became classified as terrorist organisations.

But what do we actually mean by the term terrorist? Where do we draw the line between an act of war, a legitimate act of defence and a terrorist act? How can we group together under one category various movements that have little in common?

Armed forces are also used as a vehicle to promote human rights and democratic values (cf. International Security Assistance Force in Afghanistan), which in itself is both a paradox and potentially dangerous.

In this context, the humanitarian community is losing its bearings. How should we defend and ensure the sustainability of an impartial movement without borders?

| “You are either with us or against us.”
| How to preserve our neutrality in this kind of context? |

---

1 Whether one subscribes to the theory about the clash of civilisations or not, one cannot fail to notice the impact that this doctrine is having on international relations.

2 Mr Bush’s “greater Middle East initiative” is an illustration of this desire to reshape the world.

3 Revolutionary Armed Forces of Colombia

4 Liberation Tigers of Tamil Eelam

5 “You are either with us or against us.” Dick Cheney, in light of the controversy over the Iraq war.
When the legal foundations of humanitarian action are called into question

The Global War against Terror has completely shaken traditional military tactics. It is valid to question whether a conflict in which the enemy has not been identified or is invisible, and the objectives and interests of the belligerents are unclear and constantly changing, can be resolved.

The coalition forces have declared war on so-called ‘illegal combatants’ who do not wear a uniform, have no territory, and do not always have organised command. By attacking civilians, these combatants fail to respect International Humanitarian Law, a legal base which establishes people’s right to assistance, distinguishes between combatants and non-combatants, and more generally clarifies the principles of humanitarian action. Yet since embarking on the Global War against Terror, various parties to the conflict, including western governments, have also repeatedly breached international treaties. Disproportionate military strikes resulting in large numbers of civilian casualties; firing at ambulances; failing to secure rapid humanitarian access to the population; restrictions on people’s basic liberties, preventing them from accessing basic services; mistreatment and disappearance of prisoners; highly contestable interrogation techniques; creation of military tribunals; Guantanamo and other unrecognised detention centres; torture and other human rights violations. These are all examples of IHL violations.

In 2002, Mr Bush renounced the Third Geneva Convention for Al-Qaida combatants and Taliban prisoners. After a lengthy legal saga, the American Supreme Court ruled on 7 July 2006 that article 3, common to all four Geneva conventions, applies in the conflict with Al-Qaida.

This is symptomatic of the current debate on whether IHL can be adapted to present-day conflict and combatants. Governments are attempting to circumvent the law under the pretext that it is not well-adapted to the present context but we need to ask ourselves whether this fully justified or is it merely an alibi.

As soon as the legal framework that defines humanitarian action is repeatedly breached, humanitarian space is intrinsically threatened.

How can we preserve a space for impartial, neutral and independent action in a world that is polarised between ‘good’ and ‘evil’?

➢ When soldiers play at being doctors

On the ground, the distinction between aid workers and armed forces has become blurred, making the situation more complicated for the affected populations and aid actors.

A partnership between civilians and the military can be highly effective in handling logistical issues in the aftermath of a natural disaster. Arguably, a civilian military partnership is also applicable in war zones for ensuring security for aid actors and transport of materials and equipment, when all other options have been exhausted.

However, this type of collaboration often makes humanitarian work more complicated, as people begin to associate aid with geo-strategic and political issues at stake in the conflict, especially when the occupying forces also happen to be the main aid donors.

Today’s peacekeeping activities are part of an integrated, multi-functional and holistic system, increasing levels of dependence between different actors. Integrated peace operations were introduced in 2000 to improve the coherence of peacekeeping efforts and improve coordination, but, on the ground, there is much confusion. The growth in the number of Provincial

6 Common article 3 of the Geneva conventions is also known as the ‘mini-convention’. It sets a minimum legal framework (prohibition of inhuman and degrading treatment and torture) that is to be respected in all situations.
Reconstruction Teams (PRT) in Afghanistan and NATO’s commitment to this strategy, despite its inconclusive results, are examples of this change in tack.

Combining civilian and military elements in response to a humanitarian crisis poses different problems. Mandates and working methods are often distinct, even opposed. How are humanitarian actors supposed to address political issues when impartiality and neutrality are the very essence of humanitarian action?

In terms of ethics, it is difficult to reconcile the army’s dual role of carrying out bombardments in one area whilst trying to save lives in another. In post-crisis environments where numerous stakeholders are brought together, the privatisation of peace operations, notably protection services for diplomats and NGO workers, further adds to the confusion. How are humanitarian organisations supposed to preserve people’s trust and defend their raison d’être?

Nevertheless, the flip side of the coin is that, given the scope of people’s needs in present day crises, can we allow ourselves to refuse, or at least contest on principle, operational support from armed forces, if in some areas this is the only way of ensuring that aid reaches those in need?

What are the repercussions faced with a global communications network? More generally, the image of NGOs and their position appears to be at stake.

How can the humanitarian sector preserve its image and values when its role has become so unclear? How are we perceived by the affected population?

A humanitarian space that has become dangerous and inaccessible

Security constraints on the ground

All too often humanitarian organisations are put in the same category as international forces, who themselves are seen as occupying forces, and aid workers have become targets and against their will pawns in the power game. UN agencies, ICRC, Médecins Sans Frontières, Action Contre la Faim … many aid workers have had to pay the price.

Security conditions in the field have deteriorated as a result, limiting the space in which humanitarian agencies can effectively carry out their work, obliging them to adapt their working methods to this new context.

The number of areas that are no longer accessible to aid organisations is growing. It has become difficult to carry out needs assessments and deliver aid. Many projects are delayed, changed or cancelled as a result of security constraints and it is increasingly difficult to evaluate the impact of aid in these conditions. If we look at Afghanistan, the number of no-go areas imposed on UN staff has considerably increased since January 2006.

In these troubled contexts, some humanitarian organisations have decided to stay and have lost members of staff. Others continue to run their programmes within the confines of security limits, no-go areas, no-go times, curfews, armed escorts, which inevitably affects their work with local communities. In the Lebanon, UN teams were scarcely allowed to leave Hotel Movenpick, whereas the majority of other actors were in the field.

Local populations often lose hope and their trust is shaken, especially if their needs are great. But can we still melt into the crowd and provide community-based emergency relief? Is it better to

---

7 Via so-called joint Civilian-Military Action (CMA)
8 Southern Afghanistan illustrates this problem all too well. International and national aid actors are often placed in the same category as the international community and no longer have access to increasingly lawless areas where a resurgent Taliban is forming.
leave, or to bunker down and adopt draconian security rules which only serve to alienate the humanitarian community from the people they are trying to help?

When security levels are high, how can aid actors gain access to isolated communities without placing themselves in danger? What limits are we prepared to accept? When the humanitarian space is reduced, what risks are we prepared to take in order to access the affected population? If we decide to leave knowing that local authorities do not have the necessary capacity, who will respond to people’s needs?

**Humanitarian martyrs, is this the dilemma that we will have to face tomorrow?**

**Limitations of the ‘Remote Control strategy’**

In highly sensitive and dangerous contexts, many aid actors adopt a ‘remote control strategy’, whereby operations are controlled from a distance. Such is the case in conflicts such as Somalia and Chechnya. Only local staff work on the ground while expatriate staff run operations from a regional office, for example Jordan or Syria for Iraq, and visit programme activities once in a while.

Even though in some contexts, this strategy appears to be the only option, the recent assassination of seventeen ACF workers in Sri Lanka is one of the tragic illustrations of its limitations. Each actor has to decide which strategy is most appropriate. If security levels are very alarming, is it better to withdraw completely or retain local staff, despite the risks they may face?

Previously expatriate aid workers enjoyed a certain ‘protection’ but now they are seen as all other westerners and suspected of defending the interests of the superpowers. Their national colleagues are seen as potential collaborators.

**Remote Control or the risk of rejection: have our strategies failed?**

### 2. New institutional framework: less room for manoeuvre?

- **Building UN institutions**

**Efforts to improve coordination on the ground**

Over the past decade, NGOs have increasingly been working as partners with UN agencies. A recent assessment of the international community’s humanitarian response capacity\(^9\) was carried out to identify factors that affect the efficiency and quality of aid delivery and to make recommendations on how to improve aid mechanisms.

This review led to a three-pronged Humanitarian Reform Programme of the UN system:
- Ensure predictable funding with a new cash-flow mechanism: E-CERF
- Bolster humanitarian response capacity through the Cluster Approach
- Strengthen the Humanitarian Coordinators System by recruiting Humanitarian Coordinators from the wider humanitarian community.

The CERF\(^10\) was revised in 2005 with a view to improving the timeliness of the immediate emergency response. Although the CERF facility is reserved for UN agencies, funds can also be

---


\(^10\) The old Central Emergency Revolving Fund (CERF) was established by the Secretary-General in accordance with UN General Assembly Resolution 46/182 of December 1991 and in December 2005
redistributed to operational NGOs. The disadvantage for NGOs is that this limits their role to that of implementing partners for the UN.

However the reform that concerns us the most is the cluster approach\textsuperscript{11}, which establishes new coordination mechanisms for aid agencies and operations in given sectors in emergency situations (conflict and natural disasters). This endeavour to create synergy between the United Nations, NGOs and the Red Cross Movement\textsuperscript{12} is a means of clearly defining roles and responsibilities, saving time and reducing repetition. Evidently, efforts to improve coordination are highly relevant as soon as several organisations with different mandates and operating methods are working together in a conflict zone.

But this also implies understanding and taking into account each organisation’s specific characteristics and distinct mandates in order to optimise the way they work together. The cluster approach should be integrated into present working methods rather than attempting to replace them.

\begin{center}
\textbf{With the steady growth in the number of actors, there is a need for better coordination. But just how far are we prepared to go?}
\end{center}

The dangers of a monolithic system

Despite the positive impacts that the cluster approach is likely to have on the ground, it also raises a number of new issues.

The first consideration is of an operational nature. Does improving coordination imply that organisations will become over-dependent on each other, and is this desirable on a technical and organisational level? Is there a risk that we are heading towards a super-organisation with complex structures, in which everyone is tied to each other? On an operational level, does this mean that aid stakeholders will become highly dependent on each other, for example NGOs will need to rely on the UN for logistics or military support? Is the cluster approach going to reduce our flexibility, which is a key factor in providing an appropriate response in highly volatile contexts?

Furthermore, if the humanitarian sector becomes overly compartmentalised, there is a risk that certain humanitarian needs will be not covered by any of these clusters, or fall into a cross-cutting category that has not been provided for. With over-centralisation, is there not a risk of producing a closed system, impervious to all types of innovation and difference?

\begin{flushleft}
a resolution was passed to create an enlarged CERF (now renamed the Central Emergency Response Fund). The goal of the fund is to provide aid workers with sufficient funding within 72 hours to jump-start lifesaving relief operations. The CERF is funded by voluntary contributions from a broad base of 38 donors (members of the United Nations, private companies, foundations and individuals). However the impact of this loan facility is nevertheless reduced when several crises occur simultaneously, the scope of the emergency is large. The new CERF will provide grants as well as loans, and includes the Expanded CERF (E-CERF) component. It will make funding more predictable, and thereby encourage a faster, more equitable response across all emergencies.
\end{flushleft}

\textsuperscript{11} Nine clusters have been established. These areas include traditional aid sectors (water and sanitation, health, nutrition, emergency shelter), service provision (logistics, emergency telecommunications) and cross-cutting issues (protection, camp coordination, early recovery). Each cluster has a designated lead (UN agency) and is composed of aid organisations and stakeholders (UN agencies and the main NGOs).

\textsuperscript{12} Previously, these actors had their own internal coordination systems. At a more global level, coordination was achieved by means of the IASC, with meetings of agency heads on the ground, or technical coordination meetings.
The second consideration concerns the humanitarian principle of independence in this new system which is based on inter-dependence at operational, strategic and political levels. Will organisations still be free to establish their position on a crisis situation and analyse the context accordingly?

In this increasingly organised and institutionalised framework, there is a risk that organisations that do not fit into the system will be marginalised.

Finally, there are other considerations. It is hoped that these reforms will not lead to an over-bureaucratic system, removed from reality in the field. A standardised response may fail to take into account the values and culture that are characteristic of each population, and the nature of the crisis. In this respect, has the role of local partners – who play a major operational role in the field – been sufficiently well defined? It is possible that small and medium sized organisations with limited funds will have less room for manoeuvre in responding to flash appeals and conducting multi-sector programmes.

What opportunities remain for distinctive roles?

- Evolution in the European humanitarian aid system

Certain changes at European level may threaten or at least affect the apolitical nature of aid. The Common Foreign and Security Policy (CFSP) paves the way for improved crisis management capacity and this may have an impact on the way ECHO and NGOs work.

In the Barnier study, it was recommended that the EU reinforce its civilian crisis management capacity, with all the necessary resources: humanitarian, civilian but also military. France put forward ideas for setting up a Rapid Response Intervention Force (FIRE). Many fear that with time EU humanitarian aid will be reduced to a political or strategic tool for the CFSP, with little consideration for beneficiaries’ basic needs. In this scenario, ECHO may become a mere funding mechanism for the PESC, a worrying prospect given that ECHO is one of the world’s main donors.

How best to defend humanitarian work from the risk of instrumentalisation?

- Funding mechanisms and regulations

Funding for humanitarian operations

To a certain extent, just as the humanitarian space is under pressure, so too is available funding contracting. Asides NGOs who have the necessary capital, few organisations have the resources to take the initiative and self-finance aid programmes.

It is increasingly difficult for NGOs to find funding for independent humanitarian programmes. On the contrary, project proposals are subjected to stringent checks in the appeals process. Each project must fit into a pre-defined plan established by the donor. We can thus legitimately raise questions about the political and geo-strategic nature of these project management and financial planning tools.

Is there not a risk that this increased dependence on financial institutions compromises the capacity of NGOs to engage in advocacy? It is without doubt their independence which has enabled them over the years to interpellate government policy and public opinion.

Often expelled from countries where they refuse to avert their eyes to political intrigues, speaking out on behalf of ‘forgotten crises’, are NGOs still credible witnesses if their neutrality is continually being challenged? Where do we draw the line between bearing witness and lobbying?
Is it still possible for NGOs to take initiatives and bear witness?

Providing a structure for a sector that was once unregulated: have we moved from one extreme to another?

While donors are becoming more demanding in terms of transparency and accountability and some are having to reduce their budgets, the number of humanitarian organisations both in the northern and southern hemisphere continues to rise. Hence, funding mechanisms are becoming increasingly selective.

So maybe the humanitarian system was too chaotic and the need for regulation was necessary given the way the humanitarian sector was expanding (scope of humanitarian operations, number of organisations and available funding). Better transparency and accountability is a means of improving the quality of aid delivered.

So if the humanitarian sector was too disjointed yesterday, today it boasts a regulated system. NGOs have to comply to a series of regulations, both internal and external. Codes of conduct, charters, standards, audits and maybe in the future accreditation. But how far are we prepared to go in terms of accountability and regulations?

How can we safeguard our capacity for initiative and creativity in a system that is increasingly standardised?

In the face of all these changes, what conclusions can we draw? Can we accuse NGOs of being romantic idealists, even utopian? Can we forge ahead and propose alternatives? Are our mandates, values and working methods out of date and inappropriate or, on the contrary, should we be fighting to preserve them?