

THE INTERNATIONAL COUNCIL ON HUMAN RIGHTS POLICY

Review Meeting

Military Intervention: NGO Responses to Human Rights Crises

14 March 2001

MILITARY INTERVENTION TO PROTECT HUMAN RIGHTS: THE HUMANITARIAN AGENCY PERSPECTIVE

Hugo Slim

© 2001, International Council on Human Rights Policy
ICHRP commissioned this document as a Working Paper.
ICHRP has not edited it and is not responsible for its accuracy or for the views and opinions expressed.
ICHRP welcomes the re-use, re-publication and re-distribution of this paper, appropriately cited.

Author's Note

In the limited time available to prepare this paper, it has not been possible to make anything like a full survey of the many positions that humanitarian agencies hold on the military interventions of the last 10 years. As such, the paper makes no claims to do justice to the topic in any detailed way. Instead, the paper relies on some general knowledge of the literature involved, an overview of the humanitarian sector as a whole and a certain amount of familiarity with a number of the agencies concerned. The paper is, therefore, essentially impressionistic and inevitably prone to generalisation. But it does hope to identify a number of key themes that all humanitarian agencies may have in common when encountering the morally difficult and practically challenging subject of international military intervention for humanitarian and human rights ends.

INTRODUCTION

1. Since the early 1990s, humanitarian agencies have been intricately involved with the international community's use of military force in situations of gross human rights violations and grave breaches of international humanitarian law. Often already in a country for many years before an international military intervention, or arriving in its slipstream, humanitarian agencies have been involved in the decision for and the impact of such interventions in many different ways. Humanitarian agencies have called outright for military intervention and not got it. They have called for intervention and got it. They have provided muted acceptance of interventions. They have welcomed interventions. They have strongly objected to interventions. They have called for an intervention and then objected to it as it unfolds in practice. Their own protection has been given as a major part of the reason for military intervention in Security Council resolutions. They have worked closely with international military forces and have sometimes depended on them during an intervention. They have also castigated intervening forces for their military and personal behaviour under international humanitarian law and wider human rights norms. They have remained completely silent on particular interventions.
2. So, in the last 10 years, both the idea of and the reality of international military intervention in defence of human rights has met with a variety of responses from humanitarian agencies. As one would expect from an essentially diverse range of organisations, there has been no uniformity of agency positions on particular interventions, or on military intervention *per se*. Different agencies have taken different views of the same intervention, and their views of that same intervention have also changed over time. No overall position on the "doctrine" of military intervention has emerged from the community of humanitarian agencies, although some groupings of agencies have put out positions and principles around international military intervention at various times in the last 10 years¹. Some individual agencies have also put forward their own criteria for determining a legitimate intervention. In 1995, Oxfam set out five key principles for the appropriate use of UN military force under Chapter VII of the UN Charter to ensure the protection of civilians². But the overall policy reticence from the humanitarian community as a whole is in contrast to several recent attempts by academics, politicians and the UN to lay down principles for legitimate international military intervention³.
3. As a result of such diversity, this paper cannot talk with confidence of a singular humanitarian agency "perspective" on military intervention. More realistically, it needs to recognise a variety of "perspectives" as many agencies have a slightly different take on the use of force and all agencies tend to reserve their judgement on military interventions on a case-by-case basis. Also, to be frank, some agencies give the subject more thought than others. So, to generalise about a single humanitarian position on all military intervention would be unwise. Having said this, the Rwandan genocide is perhaps one event around which it is possible to talk about a common humanitarian position on intervention. In truth, this consensus has probably emerged more firmly in retrospect and was by no means apparent at the time of the genocide. But there is now a real conviction amongst humanitarian agencies that the Rwandan genocide did demand the fast and forceful international military intervention that it never received. This conviction, emanating from the benefit of hindsight, obviously does nothing for the thousands murdered and their

¹ See for example, World Conference on Religion and Peace (1994) The Mohonk Criteria for Humanitarian Assistance in Complex Emergencies, Task Force on Ethical and Legal Issues in Humanitarian Assistance, February.

² Oxfam (1995) The UN's 50th Anniversary: An opportunity to Reduce Conflicts, Oxfam, pp7-9.

³ See for example, President Clinton's PDD 25 (1994); Tony Blair's Speech in Chicago (1999); UNDP's 4 criteria in the Human Development Report (1994), p57; Nicholas Wheeler's 8 criteria in *Saving Strangers: Humanitarian Intervention in International Society* (2000), OUP, and Ramsbotham and Woodhouse's 12 principles in *Humanitarian Intervention in Contemporary Conflict*, Polity, p226.

surviving families but it may serve as an essential common starting point for humanitarian agencies in their understanding of and their arguments for and against the use of force in future.

4. Despite the essential variety of humanitarian perspectives on particular military interventions, it is possible to identify a number of common themes that most concern humanitarian agencies about military intervention. All agencies seem to encounter these themes to some degree as they struggle to address what Nicholas Wheeler recognises as “the agonising moral choices” involved in any decision to use force in the rescue and protection of people enduring massive cruelty and suffering⁴. Overall, perhaps, it can be said that, in principle at least, the great majority of humanitarian agencies welcome the international community’s recent introduction of the use of force more explicitly as a key part of international policy to protect human rights. But from this cautious welcome, there flow many serious concerns about the effect and implications of how such force is actually applied. These concerns fall broadly into two groupings. First, there are those issues that concern humanitarian agencies in reaching a decision about whether military intervention is morally acceptable and practically useful in a given situation. Secondly, there are a group of issues about the preservation of principles and operational difficulties while working in the context of an international military intervention and alongside UN or other military forces.
5. These concerns and the themes they highlight are discussed in several main groupings. First, humanitarian agencies have conceptual and semantic concerns around the term “humanitarian” as it used to refer to violent military intervention. Secondly, they share a moral concern about the use of force in itself – particularly related to its means and its ability to achieve a successful long-term outcome. Thirdly, in discussing international military intervention, humanitarian agencies are inevitably involved in moral arguments about the extent of legitimate international interference in states. They argue this point in terms of the legitimate parameters of their moral space and the universalism and international legality of their humanitarian values. Fourthly, agencies frequently express concerns about the political motivations of the major powers as the main arbiters and providers of intervention and the effect this has on the mandates of UN forces and the inequity of humanitarian intervention policy. Finally, agencies share a range of very practical concerns about the very real operational difficulties which can result from operating near, alongside, within and after an international military intervention.
6. Before examining each one of these areas of concern in more detail, it might be useful to define some terms. In particular, it seems important to agree what is meant by humanitarianism and humanitarian agencies, but also to identify what can be considered as “humanitarian intervention”.

TERMINOLOGY

7. In this paper, I understand the term **humanitarianism** to have specific reference to war and organised political violence. In the context of armed conflict, humanitarianism embodies a range of practical activities and legal principles that seek to restrain and limit violence in accordance with norms set out in international humanitarian law (IHL), refugee law and human rights law. From this legal basis, humanitarianism has a special and very practical concern for protecting the lives and dignity of non-combatants in armed conflict - either as civilians, refugees or others who are hors de combat – and for ensuring that combatants and their political leaders respect these norms. To this end, humanitarianism is not confined to one or two narrow forms of activity but is free to pursue a wide range of activities in order to protect people’s rights and meet their needs in war⁵. The main condition upon such humanitarian activity is that it should not

⁴ Wheeler, N (2000) *Saving Strangers: Humanitarian Intervention in International Society*, OUP, Oxford, p51.

⁵ For a clear summary of these needs that range from shelter to agricultural livelihood to religious worship see Additional Protocol I of the Geneva Conventions, Articles 53, 54, 55 and 69.

provide relief and protection in such a way as to disadvantage one or other side in the conflict⁶. To ensure this condition, and in respect of the fundamental equality of all people, humanitarian activity is guided by the essential value of impartiality that requires people to be assisted and protected purely on the basis of need alone. Apart from combatants, the only other exception to this humanitarian duty of impartial care effects refugee status. Under refugee law, those persons who have committed serious war crimes or crimes against the spirit of the United Nations are not entitled to refugee status and so are deprived of the humanitarian protection of UNHCR⁷.

8. I understand **humanitarian agencies** to be those agencies whose personnel are practically concerned with impartial humanitarian activities as described above and who actively engage in the protection and assistance of civilians, refugees and other non-combatants suffering as a result of armed conflict. Humanitarian agencies, therefore, include a wide array of different organisations – international, national and local. Some of these agencies, like ICRC, UNHCR and MSF, are solely humanitarian agencies in that their activities are only concerned with humanitarian work in or around armed conflict and political violence. Other agencies, however, pursue humanitarian activity alongside other objectives and can thus be described as “multi-mandate” organisations. International agencies like OXFAM, CARE, SCF and IRC represent such organisations for whom humanitarian work is only one aspect of what they do as part of a wider mission around suffering and poverty. Similarly, Christian churches and other religious organisations frequently pursue humanitarian activities as a practical expression of their values alongside other objectives and other activities. Doing other things and having wider organisational objectives beyond humanitarianism in armed conflict does not preclude an organisation from being a humanitarian agency in a given situation of armed conflict.
9. Nor does an organisation have to be an NGO to be humanitarian in war. Government bodies, commercial companies and military forces can operate as humanitarian agencies if they pursue humanitarian activities as prescribed in international law in an impartial manner. But there is nevertheless an important distinction between an organisation that is essentially (as a whole or in a significant part of itself) concerned with humanitarian work and an organisation which is primarily concerned with other objectives but is in part operating in a humanitarian fashion. One could illustrate the distinction by saying that while ICRC is *by nature* a humanitarian agency, a battalion of Indian soldiers engaged in vital and impartial emergency healthcare *is being* humanitarian in a given situation. So too is an active combatant in the Sierra Leone armed forces who does not kill the prisoners of war he has just captured.
10. In other words, humanitarianism is not the preserve of humanitarian agencies – this would be as disastrous as making humour the sole preserve of clowns. But one can talk of a core group of humanitarian agencies that are primarily and consistently humanitarian and are not simply opting to be humanitarian in a given situation and for a particular time. These core organisations earn specific recognition as “humanitarian agencies” that enables them to operate with the confidence of key parties in the midst of armed conflict and to exert a certain amount of authority in humanitarian matters. This confidence and authority - which might be termed their legitimacy - comes from a number of things⁸. In some cases, like ICRC, UNHCR and to a lesser degree other UN agencies, it comes from specific international mandates written into international humanitarian and refugee law. In others, most notably the multi-mandate agencies it comes from making an explicit and accountable commitment to international humanitarian, refugee and human rights law and to a series of their own “humanitarian principles” which they declare to

⁶ See Fourth Geneva Convention, Article 23.

⁷ See Convention Relating to the Status of Refugees, Article 1, paragraph F.

⁸ For a wider discussion of NGO legitimacy, see Slim, H (2001) Some Reflections on Oxfam’s Legitimacy and Accountability, Oxfam.

guide their work in armed conflict⁹. Finally, such confidence and authority is derived from the hard-earned operational experience, expertise and relationships that they have developed over the years.

11. The perspectives of this group of agencies – that might be called core humanitarian agencies - both secular and religious, international and national, will be the focus of this paper.
12. The term **humanitarian intervention** also requires some definition. This term refers to the use of international military force to stop the massive abuse of human rights in another state¹⁰. Such action might be taken unilaterally by a single state without international approval or by a single state or alliance of states with official international sanction from a multi-lateral organisation such as the United Nations. In his important analysis of humanitarian intervention, Nicholas Wheeler examines six instances of sufficiently grave and extensive human rights abuse to qualify for humanitarian intervention. Three of these are from the Cold War era: India's intervention into Bangladesh in 1971, Vietnam's intervention in Cambodia in 1979, and Tanzania's intervention in Uganda in 1979. Five of them are from the "new world order" of the 1990s: the UN intervention into Northern Iraq in 1991; the US and UN intervention in Somalia in 1992; the appalling lack of intervention in Rwanda in 1994, and the UN and NATO's interventions in Bosnia in 1995 and in Kosovo and Serbia in 1999.
13. These cases have become the classic types of humanitarian intervention. Several of them are also examined by Oliver Ramsbotham and Tom Woodhouse¹¹. Michael Walzer also examines the Cold War cases and other important ones from the nineteenth century like the Russian intervention in Hungary in 1849 and the US intervention in Cuba in 1898¹². But in addition to these cases, it is also necessary to include other 1990s interventions, such as ECOMOG's interventions in Liberia and Sierra Leone, UN intervention in East Timor and the British and UN interventions in Sierra Leone.
14. The particular problems of humanitarian intervention are many but scholars from Walzer to Wheeler have now provided a clear structure for analysing the moral and political problems. Three main issues can be summarised for the purposes of this paper. They show how international military intervention uncovers difficult questions hinging on international order and justice, the intervenes' risk and the risk of failure on those on whose behalf the intervention is made¹³. First, decisions about international military intervention take place in the very real tension between international statist norms of non-intervention, the non-use of force and the primacy of international order based on state sovereignty laid down in the UN charter on one hand and, on the other hand, on the high value placed on individual human rights also found in the charter and the growing array of human rights law that flow from it¹⁴. Secondly, international military intervention also requires serious calculations within individual intervening

⁹ For the most notable examples of such self-professing and self-regulating commitments see The Humanitarian Charter (SPHERE 2000) and the Code of Conduct for the International Red Cross and Red Crescent Movement and Non-Governmental Organisations in Disaster Relief (1994). See also the Fundamental Principles of the Red Cross and Red Crescent Movement (1965).

¹⁰ For the purposes of this paper, I am confining the term to the more classical definition in contrast to Ramsbotham and Woodhouse "reconceptualisation" which allows the term to cover a wide array of forcible and non-forcible, coercive and non-coercive deployments of military force or civilian humanitarian agencies - see their pp....

¹¹ Ramsbotham, O and T. Woodhouse (1996) *Humanitarian Intervention in Contemporary Conflict*, Polity, Cambridge.

¹² Walzer, M (1977) *Just and Unjust Wars: A Moral Argument with Historical Illustrations*, Basic Books, second edition 1992.

¹³ See Wheeler chapter 1 for a much more detailed discussion of these issues.

¹⁴ For the principle of non-intervention and non-use of force, see especially Article 2 paras 3,4 and 7 of the UN Charter.

states of the appropriate cost in lives and finances to its own citizens to carry out the intervention. Thirdly, in addition to the risk of casualties, there is also the risk of failure. As Michael Walzer points out: “a state contemplating intervention or counter-intervention must for prudential reasons weigh the dangers to itself, but it must also, *and for moral reasons*, weigh the dangers its action will impose on the people it is designed to benefit and on all other people who may be affected”¹⁵.

15. With these definitions of humanitarianism, humanitarian agencies and humanitarian intervention behind us, it is now possible to examine the five main themes of common concern to most humanitarian agencies confronted with the possibility or reality of a forcible international military intervention.

DISTINGUISHING HUMANITARIANISM FROM FORCE

16. The first theme which emerges strongly in humanitarian agency discussions of international military intervention is the use, and to many agencies the abuse, of the term “humanitarian” as an adjective to describe the international use of force in the phrase “humanitarian intervention”. Not surprisingly, this concern has been heightened since NATO’s use of the term “humanitarian war” to describe the bombing of Kosovo and Serbia in 1999. For agencies like ICRC and MSF, the phrase “humanitarian intervention” and most especially “humanitarian war” are logical impossibilities. So, Joelle Tanguy from MSF says of humanitarian intervention that it:

“should not be labelled humanitarian in our mind or we will see humanitarian action become a flag of convenience for various agendas that have nothing to do with a very clearly defined role of impartial NGOs in conflict that has been codified in the Geneva Conventions...the expression mixes two approaches, which though not mutually exclusive, weaken each other when they are combined: the first is independent humanitarian action, the second is political and military intervention undertaken in situations involving mass crime or terror”.

17. Going further still, Tanguy notes that the idea of humanitarian intervention “may even, in a monstrous misinterpretation, mean killing in the name of humanitarianism¹⁶”. In similar vein discussing the term “humanitarian war”, Danielle Coquoz of ICRC says that the phrase: “goes beyond a simple question of semantics, and is indeed actively pernicious...since war is essentially political in nature – the result of a desire to transform a balance of power through force – the word humanitarian is inapplicable”¹⁷.
18. From both these agencies, there is a real sense that humanitarianism and force are different species of things and that they sit naturally opposite rather than adjacent to one another. But not all agencies would agree with this. While readily alert to Tanguy’s concern about flags of convenience, other humanitarians find it possible to allow the idea of humanitarian force (the notion of humane means of war as per the Geneva Conventions) and of force used for humanitarian ends (the use of force to ensure humanitarian protection). James Darcy of Oxfam notes that while “the term humanitarian intervention is problematic” it is not necessarily an outrage. He points out that: “in principle, military intervention on humanitarian grounds is not inherently contradictory provided that a number of criteria are fulfilled” – criteria which, for Oxfam, stand firmly in the just war tradition¹⁸.

¹⁵ Walzer op cit p95.

¹⁶ Tanguy, J (2000) When Intervening in the Name of Humanity, Be Cautious, Public Affairs Report, Institute of Governmental Studies, University of California, Berkeley, Vol 41 No 1.

¹⁷ Coquoz, D (2000) The Involvement of the Military in Humanitarian Activities, in The Challenges of Complementarity, Fourth Workshop on Protection for Human Rights and Humanitarian Organisations, ICRC, Geneva, p14/15.

¹⁸ Darcy, J (2000) *ibid.* pp16/17.

19. These arguments seem to hinge on what kind of adjective one takes “humanitarian” to be and whether it confers an absolute description or a qualifying description on the noun that follows it. If humanitarian is a predicative adjective like “red” then whatever it describes can only ever be red. Not surprisingly, for MSF and ICRC who seem to take this approach, the adjective can only ever describe the kind of independent, impartial and non-violent caring and protective action of the Geneva Conventions. To make it refer to and describe the use of force and killing is indeed ridiculous and a gross misrepresentation of humanitarianism as they understand it. If, on the other hand, one regards humanitarian as an attributive adjective like “small” or “large”, then the term can be more relatively applied to other things beyond the strict definition of non-violent humanitarian action. In this sense, the word humanitarian functions to qualify the noun that follows it. Understanding “humanitarian” in this way, it is possible to talk meaningfully and significantly of a humanitarian military intervention¹⁹.

20. Humanitarian agencies obviously do have different understandings of the concept of humanitarianism revealed in the way they understand it operating as an adjective. But despite this, all agencies recognise a particular form of legally prescribed non-violent humanitarian activity that is their duty and profession. This activity is something they all want to preserve as distinct from military force. This is why the application of the adjective humanitarian to “intervention” or “force” or “war” is so alarming to some and potentially confusing to others. It may not necessarily be technically wrong to talk of humanitarian intervention (depending on your understanding of adjectives) and indeed it is surely the aim of the Geneva Conventions that all wars are fought in a humanitarian fashion in accordance with the humane principles of the conventions. But such phrases may indeed lead people to lose sight of, or become suspicious of, the essential non-violent humanitarian action that is the role of humanitarian agencies – particularly if international military intervention becomes increasingly violent and internationally contested while being described as humanitarian by the politicians that pursue it. As a result of these semantic difficulties and their conceptual implications, several agencies would prefer to see such military interventions described as “human rights interventions” – deftly passing the semantic buck to their cousins in human rights agencies!

BROAD ACCEPTANCE OF THE USE OF FORCE

21. Once humanitarian agencies have managed to distinguish between their own role of non-violent humanitarian action from that of violent military intervention, they still have to take a position on the use of violent force in any discussion of international military intervention and their operations alongside it. In so doing, humanitarian agencies inevitably encounter questions about the morality of violence. But what is rather surprising is their lack of developed positions on the use of force *per se*. Most seem to avoid explicit policy articulations of their view of violence either by saying nothing or by identifying themselves simply (and sometimes simplistically) with policies that seek to value and promote peace. Few seem to have had extensive and broad-based internal debates about the use of force. The exceptions would be those multi-mandate NGOs who have worked in a degree of solidarity with the relief and development wings of liberation movements in the 1970s and 1980s where the morality of being associated with “armed struggle” was a burning issue for many. For others, ethical questions about the use of force arise *ad hoc* with each new intervention, and do not seem to be addressed continuously and systematically as part of agency strategic thinking and planning.

22. Reading between the lines and without explicit policies to go on, it seems fair to say that almost all the humanitarian agencies, whether single-mandate or multi-mandate, are not pacifist organisations. Four humanitarian agencies have won the Nobel Peace Prize – ICRC, Quaker

¹⁹ I owe these adjectival distinctions to Peter Geach cited in Philippa Foot (2001), *Natural Goodness*, OUP, p2.

Relief Service, UNHCR and MSF – but only the Quakers, who won the prize in 1947 for their work in World War II, were explicitly pacifist. Interestingly, the Quakers abandoned humanitarian relief work almost immediately after winning the prize to focus entirely on conflict resolution work.

23. Humanitarianism is not a pacifist ideology as represented in today's core humanitarian agencies. Humanitarian ideology is based rather on an ethic of restraint which accepts the use of force (albeit regrettably) and seeks to legitimate violence within certain prescribed norms and limits. Thus, without being able to scrutinise definite statements to the contrary, it seems clear that no humanitarian agency has a fundamental moral objection to the use of force in itself. Humanitarian agencies can accept military intervention in principle.
24. But having said that humanitarian agencies have no *prima facie* moral objection to the use of violence, there is perhaps a pragmatic scepticism about the use of force that pervades humanitarian agencies. In short, there is a predominant sense among humanitarians that the use of force seldom actually works. Such a view inevitably undermines the essential moral arguments in favour of violence. Many agencies might argue that more often than not, international military intervention fails to produce the goods in the medium and long-term. This scepticism seems fairly endemic among core humanitarian agencies. It seems to be based partly on innate deep doubts about the ability of war itself to achieve a just and successful outcome but instead to lead to more war. And partly it is the result of a certain wariness born from the recent experience of seeing international interventions “go wrong” in Somalia and Kosovo, and from witnessing the Rwandan and Ugandan invasion of DRC spawn a massive regional war. Certain elements within humanitarian agencies may share a concern about any military intervention project that while it may ameliorate it will not solve and, indeed, it may even exacerbate the problem. Coincidentally, this concern about military intervention is close to the anxiety that the humanitarian profession has about itself. Such are the perennial limits perhaps of interim ethics like humanitarian action and military intervention²⁰.
25. With no fundamental moral objection to violence, but a pragmatic scepticism about its limits and risks, the moral problems that humanitarian agencies have with military force are secondary in nature. They relate to the application of violence in terms of the *cause* in which it is pursued, its *legality* and *consent*, the *means* with which it is perpetrated and the *outcomes* that result from it. In this respect, most humanitarian agencies seem to sit fair and square within the western Christian tradition of Just War theory²¹. Nevertheless, there is a definite spectrum of humanitarian agency tolerance and acceptance of the use of force within such an overall moral theory. At one end, all agencies seem to agree with the use of international military violence as a legitimate response to genocide. This is most clearly shown perhaps in MSF's famous full page advertisements in *Le Monde* during the Rwandan Genocide which stated famously that: “*On n'arrete pas un genocide avec des medecins!*” and called for “*une intervention immediate des Nations Unies qui s'oppose veritablement aux tueurs et protégé les survivants*”²². In the UK, Oxfam and Christian Aid also made similar calls for immediate military action against the genocide²³. Oxfam staff lobbied the UN Secretary General in person on the matter with “a specific proposal for a UN force designed to save civilians lives

²⁰ For a longer discussion of humanitarianism as an interim ethic, see Slim, H (2000) Fidelity and Variation: Discerning the Development and Evolution of the Humanitarian Idea, Fletcher Forum for World Affairs 24 (1), p8.

²¹ Although Just War theory is the particular term used for the predominant Christian doctrine of war, all other major world religions have some form or other of moral theory that legitimates the use of violence in particular situations. The key precepts of Just War theory are that just use of force should depend on: a just cause; the use of force as a last resort; legitimate authority for the force; just means and a proportionate response; the reasonable prospect of a successful outcome.

²² MSF (1994) Appel Rwanda, *Le Monde*, date.... See also Hermet, G (1995) Why MSF Made a Call for Arms, in *Populations in Danger*, MSF.

²³ Vassell-Adams, G (1994) Rwanda: An Agenda for International Action, Oxfam, p36.

and enable aid agencies to provide humanitarian aid”. Oxfam campaigners used advertisements and vigils to draw attention to the need for international action to stop the genocide²⁴.

26. ICRC occupies a unique position in the matter of ethical decision-making about the use of force. Their understanding of their humanitarian mandate means that they focus almost entirely on *jus in bello* matters in the conduct of a war. As Françoise Krill has pointed out, ICRC’s neutrality and independence mean that ICRC “do not discuss matters relating to *jus ad bellum*” and so would not concern themselves with debates about the just causes (or not) of war and military intervention²⁵. However, ICRC have also made it increasingly clear in recent years that the exception to this neutrality is genocide which they now affirm represents an occasion in which it is right to abandon humanitarian neutrality and call for international action²⁶.
27. Moving along the spectrum from genocide and potential genocide to less extreme forms of armed conflict, agency positions on the use of force understandably become more difficult to predict and are governed more by moral judgement than moral absolute. Such judgements involve difficult calculations about what is best for those they seek to help, what is best for the safety of their own staff and what is best for the integrity of their own humanitarian ideals. In their ethical deliberation about the use of force in situations other than genocide, humanitarian agencies inevitably become more consequentialist. These non-genocide situations – like Somalia and Sierra Leone – can therefore present harder moral choices.
28. On occasions other than genocide, NGOs have also called for military intervention. In 1992, CARE International advocated hard for what became a landmark military intervention in Somalia²⁷. Oxfam has also called outright for forcible international military intervention in other situations than the Rwandan genocide. For example, in Eastern Zaire in November 1996, while admitting that they found themselves “on the horns of a particular moral dilemma and not in a position to judge all the implications of military intervention”, Oxfam did for one in a statement on the crisis: “It is our view that the least worst option is that UN, EU and OAU should immediately organise the deployment of a military force...such an intervention should be part of a coherent political strategy for a regional political settlement in the region”. The proposed terms of reference that Oxfam proposed for such a force combined the protection of humanitarian assistance with that of civilians and the disarmament of the FAR and Interahamwe²⁸. Some years later in May 2000, Oxfam also called for much stronger military intervention in Sierra Leone. Welcoming the deployment of British troops in Sierra Leone in a letter to the British Foreign Secretary, they urged that “the UN Security Council should urgently remandate UNAMSIL under Chapter VII, authorising it to use all necessary means to protect civilians and enforce disarmament”²⁹.
29. But for some agencies, in non-genocide situations, the pragmatic scepticism about the ultimate effectiveness of military intervention remains paramount. Save the Children UK was one of the few agencies to publicly object to military intervention in Somalia³⁰. During NATO’s bombing of Kosovo it also called publicly for: “an immediate cessation of all military and paramilitary activity, including air strikes into Serbia” to ensure humanitarian access to children in Kosovo³¹.

²⁴ Ibid. p42.

²⁵ Krill, F (2000) in *The Challenges of Complementarity*, ICRC, p10.

²⁶ See for example,, Seminar on Politics and Humanitarian Aid: Debates, Dilemmas and Dissension, Leeds University, ODI and CAFOD, 1st February 2001, ODI website.

²⁷ See De Waal, A (1997) *Famine Crimes: Politics and the Disaster Relief Industry in Africa*, pp181-185.

²⁸ Oxfam UK and Ireland (1996) *Statement on the Crisis in Eastern Zaire*, Oxford, November 5th.

²⁹ Oxfam (2000) *Letter to Robin Cook, British Foreign Secretary*, Oxford, May 9th.

³⁰ De Waal, op cit, p184.

³¹ Save the Children (1999) *Save the Children Calls for Urgent Humanitarian Access to Kosovo*, News Release, 30th April.

Christian Aid put out a similar call for a cease-fire in April too while CAFOD expressed grave concern about the humanitarian impact of the NATO bombing³².

30. On many other occasions, NGOs appear to have given military interventions their tacit support. Although, sometimes, their silence may be the result of their internal positions being divided or confused. With small agencies, silence on the use of force may simply be the result of a lack of time and capacity to formulate and agree a position. Thus some agencies neither explicitly object to nor endorse military interventions. The independent evaluation of 12 British humanitarian agencies in the Kosovo crisis noted that “given the scale and profile of the Kosovo crisis, those DEC agencies with an advocacy remit appeared to carry out only limited public advocacy during the Kosovo crisis”³³. This was explained by the evaluators as the result of the possible security risks of taking explicit positions on the NATO’s campaign for those with staff in Serbia and because, in the massive media noise around Kosovo, NGO voices would be unlikely to be heard. But, and very significantly, the lack of strong advocacy on the nature of NATO’s intervention itself was also frequently because of serious differences of opinion within individual agencies which made it impossible to reach a strong common position.

CONCERNS OVER MANDATES

31. Even if humanitarian agencies can agree in principle on the use of force, they seldom succeed in getting the kind of mandate they would like for a UN force. This is a concern they share with many military intervenors themselves who are all too often frustrated by their rules of engagement or force structure and equipment. All too often, the power politics of members of the UN Security Council mean that forceful mandates are denied, watered down or compromised by insufficient forces with which to carry out a forceful mandate. Some areas of the world, like Chechnya, are considered as strictly off-limits because of the Russian veto while US and European ignorance, post-colonial power play, strategic disinterest and cowardice meant that Rwanda was ignored and many other conflicts do not receive the international political attention their violence and suffering demand. Humanitarian agencies have often considered that while the principle of the use of force has been agreed in principle in the Security Council, it has subsequently been applied imperfectly or not at all.

CRITICISING MILITARY TACTICS AND BEHAVIOUR

32. Whatever strategic position or none that humanitarian agencies take on the ethics and practical appropriateness of a military intervention, many do have serious views on military behaviour during an intervention. In recent years, humanitarian agencies have criticised international military forces for their pursuit of particular military tactics and for their personal behaviour. One of the most detailed criticisms of UN military tactics was MSF’s denunciation of what it saw as UNOSOM’s violations of international humanitarian law in Somalia in 1993. Many agencies strongly criticised UNOSOM’s indiscriminate attacks and their overall policy against General Aideed at this time. MSF sent a detailed communiqué to the UN Security Council, the UN’s Chief Military Commander in Somalia and the Commanders of the National Contingents in Somalia. Denouncing UNOSOM’s actions with particular reference to the Geneva Conventions and the UN Charter, MSF criticised UNOSOM for putting civilians at risk, attacking medical establishments and obstructing civilian access to hospitals³⁴. Criticism that international military

³² Independent Evaluation of Expenditure of DEC Kosovo Appeal Funds, ODI/Valid International, London, August, 2000, p72.

³³ Ibid, p72.

³⁴ MSF (1993) Communication on the Violations of Humanitarian Law in Somalia during UNOSOM Operations MSF, Paris, July 23rd.

forces are not pursuing just means might be expected to be more common a part of agency perspectives on humanitarian intervention.

33. One particular aspect of current military tactics receiving increasing attention from humanitarian agencies is the use of air power – exemplified in NATO’s bombing of Kosovo. The Somalia experience and the fear of a public backlash against even relatively light casualties in certain western forces, has produced a new determination to intervene from a great height. As, Danielle Coquoz of ICRC has pointed out, this strategic development seems to imply a new understanding of military means in stark contrast to the spirit and letter of the Geneva Conventions. The new western ideal of the zero-casualty war seems to tolerate civilian casualties over military casualties in a way that defies the moral and legal logic of IHL. As Coquoz observes: “A zero-military casualty strategy would appear to overturn humanitarian law by admitting the legitimacy of civilian casualties and the destruction of civilian assets in order to protect military lives and material”³⁵. The (primarily US) doctrine of avoiding military casualties at all costs in Peace Support Operations tends to accept the idea that some civilian casualties on the ground are inevitable in order to avoid putting troops on the ground! It seems likely that humanitarian agencies may well increase their advocacy against this inverted humanitarian logic if air power continues to be a strategy of choice for humanitarian intervention.
34. The personal behaviour of international forces has also been criticised. First as it relates to corruption and the selling of UN supplies. But, secondly, and more importantly, as it relates to the sexual behaviour of UN soldiers. Concerns on the latter have emerged from within the UN itself as well as from NGOs and relate to the rise in prostitution and child prostitution that can emerge around a large international force³⁶. The consequent increase in sexually transmitted diseases (STDs) and HIV/AIDS has also been a major part of agency criticisms. Both the respect for IHL and the standards of personal behaviour incumbent on UN military personnel have been addressed specifically in reports and recommendations from the UN Secretary General³⁷.

AFFIRMING UNIVERSALIST CLAIMS FOR INTERVENTION

35. Another major theme to emerge from any analysis of humanitarian agency perspectives on international military intervention centres on the universalist claims humanitarian agencies make to demand intervention on behalf of people from all parts of the globe. All humanitarians subscribe to the universalism of the humanitarian ideal. They argue that the principle of protection of civilians from armed conflict and from massive human rights violations is the same for everyone everywhere. This does seem to be a clearly unanimous position amongst all agencies. In the last few years, humanitarian agencies have further reinforced this moral claim by an increasingly concerted appeal to the international legality of their own global role as manifest in the legal norms of international humanitarian law, refugee law and human rights law. This appeal to the moral and legal universalism of humanitarian action means that humanitarian agencies make certain demands on the policy of international military intervention that may not always be accepted by the politicians who determine such policies in action. While humanitarian agencies may think that international military intervention can operate as a right for all people in extreme situations, many politicians may not.
36. In the jargon of international relations theory, this universalist perspective identifies humanitarian agencies as “solidarists” and sets them in opposition with “realists” in their approach to

³⁵ Coquoz, D (2001) The Involvement of the Military in Humanitarian Activities, in *The Challenges of Complementarity*, ICRC, Geneva, p15.

³⁶ UNICEF....and others...

³⁷ UN Secretary General....

international military intervention. If such interventions are to be pursued, the solidarist humanitarian position requires that they be pursued equally on the basis of human rights rather than “realistically” on the basis of power and the national interest of states. In other words, humanitarian agencies would argue that international military intervention must operate in international society as an option for all and not a privilege for the few. This position is in stark contrast to that of a statist realist like Samuel Huntington who said of the US intervention in Somalia that: “it is morally unjustifiable and politically indefensible that members of the [US] armed forces should be killed to prevent Somalis from killing one another”³⁸. This realist position derives from a conviction that the best international society can expect is a level of *order* based on respect for a plurality of states. This is very different from a solidarist position which believes the best international society can aim for is a level of *justice* based on a sense of equality with individuals and their human rights across the world³⁹.

CONCERNS ABOUT HUMANITARIAN EQUITY, POLITICAL MOTIVE AND SELECTIVITY

37. Another current in humanitarian agency debate about international military intervention emanates from the tension between their solidarist convictions and the more realist philosophy of state politicians. Humanitarian agency interpretations of some recent international military interventions (or the lack of them) have frequently questioned the determining motives of international intervention. Humanitarian agencies have seen strong political motives functioning through humanitarian intervention to facilitate political interest or mask political disinterest. On the one hand, several humanitarian agencies have elaborated on MSF’s famous critique of military intervention operating as “a humanitarian fig leaf” to cover political strategies of naked neglect for the more economically marginal areas of the globe. The disproportionate response to armed conflicts and human rights emergencies in the Balkans has led many agencies (and more famously the previous UN Secretary General) to reflect upon the massive inequalities in international humanitarian intervention and expenditure which can only be the result of realist considerations of national interest. Oxfam’s report on Forgotten Emergencies puts particularly vivid financial figures to these imbalances in international humanitarian policy⁴⁰.
38. Although most humanitarian agencies are glad to recognise increasing humanitarian intentions and motivation in major powers, they also see them as co-existing and competing with more routine statist political interests. Guy Hermet of MSF makes the point succinctly: “It is clear that, even when driven by disinterested motives, states cannot forsake their political preoccupations”⁴¹. The political interests of states which generate mixed motives in the major powers’ decisions to intervene militarily might be centred on oil, the preservation of alliances or the alarming potential for widening conflict and increased refugee flows within Europe. Whatever the interests concerned, there is a view amongst humanitarian agencies that the selectivity and inconsistency that characterises international military intervention is not based on fair calculations of humanitarian equity. On the contrary, most humanitarian agencies would argue that the interventionist policies of the major powers are highly selective and in-equitable – leading to the reality that most armed conflicts and their suffering civilians are essentially “forgotten”.

³⁸ Samuel P. Huntington, quoted in Wheeler, p31.

³⁹ For a good summary of pluralist and solidarist positions see Wheeler, pp11-13.

⁴⁰ Forgotten Emergencies (2000), Oxfam.

⁴¹ Guy Hermet (1995) Why MSF made a Call to Arms, in Populations in Danger, MSF, p92.

A FORCE FOR HUMANITARIAN JUSTICE

39. An aspect of military intervention which is broadly welcomed by humanitarian agencies is its ability to contribute to the process of bringing war criminals to justice under IHL. Agency calls for international forces to separate FAR/Interahamwe combatants and other “genocidaires” from civilians in the refugee camps in Zaire between 1994-6 signal a wider movement in humanitarian agencies concerned to see individuals brought to justice. Humanitarian agencies advocating for the International Criminal Court (ICC) recognise an inevitable role for military force – national or international – in bringing people to justice.

PRACTICAL DIFFICULTIES AT FIELD LEVEL

40. Once the difficult decisions have been made to intervene, perhaps the most challenging problems of an international military intervention for humanitarian agencies are those that affect their relationship with military forces at field level. These main relationship challenges – known in military jargon as civil-military co-operation or CIMIC - concern issues of association and perception; co-operation and co-ordination, roles and responsibilities⁴².
41. Problems of **association and perception** concern the way humanitarian agencies are seen alongside the military. If staff from humanitarian agencies are being protected by international forces, talking to them regularly, working with them on the logistics of relief provision and even socialising with them, then the image of that force inevitably rubs off on humanitarian agencies in the eyes of the local population. This means that association with an intervening international force carries risks for humanitarian agencies of which they are only too well aware. The standing and popularity of the force at any given time (and popularity always changes over time and over space in different parts of a country) will influence how any humanitarian agency who associates with it is perceived by local people and armed groups. Too close an association can lead to over-identification with the intervening force that can be to the detriment of a humanitarian agency, undermining its perceived impartiality and eroding its legitimacy, security and freedom of movement. Many humanitarian agencies emphasise the need for an appropriate distance to be maintained between humanitarian and military organisations at field level that is mutually respectful and easily perceived by others. While humanitarian agencies and UN military forces obviously need to meet, liaise and lobby one another, they feel certain that some distance (more conceptual than physical) must be respected and ritualised between them somehow.
42. At a planning and management level, the challenge in the relationship seems to be **co-operation without co-option**. Humanitarian agencies feel strongly that the military commitment to an ideology of command and control at field level requires adaptation in Peace Support Operations. With the provisos against over-identification set out above, most humanitarian NGOs recognise the importance of co-operating with military forces at field level on a range of issues of a logistical, security and policy nature. To this end, the great majority is content to engage in some form of co-ordination with the military. The general rule in such co-operation seems to be that humanitarian agencies don't mind *co-ordinating with* the military but they don't like *being co-ordinated by* the military. This runs the great risk of co-option whereby independent and impartial humanitarian agencies would simply become the instruments of military policy – much of which might centre on “winning hearts and minds” rather than impartially meeting human need.
43. Finally, potential tensions around humanitarian **roles and responsibilities** have been highlighted by humanitarian agencies. In some very high profile settings – usually confined to the Balkans – international military forces have engaged directly in the traditional activities of

⁴² See Slim, H (1996) *The Stretcher and the Drum: Civil-Military Relations in Peace Support Operations*, International Peacekeeping Vol.. No..

humanitarian agencies so seemingly encroaching on their “turf”. When they have been on the scene early with sufficient capacity – as in Kosovo and Goma – military forces have taken on roles in the provision of water, shelter and health alongside their security brief. This has raised questions of quality and competition for humanitarian agencies as well as collaboration. While most would agree that collaboration is essential in some situations, most humanitarian agencies feel strongly that core humanitarian activities needs to remain a civilian response. The more professional agencies also feel it important to add the value of their expertise in any situation where the military are engaging directly in relief work to ensure a level of quality in both the process and product of military efforts.

44. All these practical relationship issues essentially turn on the key principles of impartiality and independence so crucial to humanitarian agencies. But if these problems are difficult enough when the international force is essentially a third party intervening between two or more others, then they are far more complicated when the intervening force is a totally partial belligerent as was the case in Kosovo with NATO. Working with NATO placed severe doubts on the impartiality and independence of humanitarian agencies and made issues of identification and co-option critical. As Oxfam’s Toby Porter has pointed out: “The key issue, however, was obviously that the dominant humanitarian player was a party to the conflict, the very antithesis of an impartial actor” and that, as a result, “the response was disproportionate” and the conflict and its aid policy “seemed to create an undeserving victim”⁴³.

CONCLUSION

45. This paper has tried to give an overview of how humanitarian agencies value the use of military force but also have serious doubts about the selective and imperfect application of such force. On the whole, most humanitarian agencies do not seem to have problems with force *per se* but recognise that the political constraints and priorities which shape the mandates and implementation of such force often lead to effective privilege or neglect of people enduring armed conflict and massive human rights violations. In short, despite an increase in military intervention in the last 10 years, realisation of the principle of humanitarian equity in international society continues to elude international policy as it operates around the world.

⁴³ See Porter, T (2000) The Partiality of Humanitarian Assistance – Kosovo in Comparative Perspective, Journal of Humanitarian Assistance, www.jha.ac/articles/a057htm.