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International humanitarianism in the contemporary world: forms and issues

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International Humanitarianism in the Contemporary World:

Forms and Issues

David P. Forsythe

In the contemporary world we remain caught between nationalism and cosmopolitanism: between the national interest and the human interest, between state security and human security, between the legal principle of state sovereignty and the moral imperative to protect human dignity based on need if not rights.¹ An emerging trend is to redefine state sovereignty not as elite privilege and a barrier against foreign scrutiny, but as the responsibility to protect human dignity.² Still, this useful notion does not tell us exactly what to do when the primary responsibility to protect is not properly exercised because the state is either unwilling or unable to do the right thing. There are abusive states and failed states.

¹ For a new analysis of this old tension, see Barry Buzan, From International to World Society? English School Theory and the Social Structure of Globalization (New York: Cambridge University Press, 2004). For an older example of this same type of analysis, see Robert C. Johansen, The National Interest and the Human Interest: An Analysis of U.S. Foreign Policy (Princeton: Princeton University Press, 1980).

² The Responsibility to Protect, Report of the International Commission on Intervention and State Sovereignty (Ottawa: International Development Research Centre, 2001).

States themselves have produced a cosmopolitan and liberal framework by constructing an international law that mandates attention to universal human rights and humanitarian affairs, whether in peace or war.³ But all too often these same states choose-- or feel compelled to choose-- a realist policy reflecting power politics and expedient advantage. They preach liberalism but often practice realism.⁴ They preach cosmopolitan liberalism but often manifest indifference to "others."

Contemporary international humanitarianism-- the transnational concern to help persons in exceptional distress-- reflects the pervasive tension between nationalism and cosmopolitanism. And because the tension is unresolved, for humanitarianism and for international relations in general, the nature and forms of humanitarian action have varied by context. The five main components of international humanitarianism today--the Red Cross and Red Crescent network, the United Nations system, the NGO community, the media, and states--have combined in different ways at different times in different places. Whether it can be otherwise in a more just and orderly world is a pertinent question.

Because the global humanitarian challenge is so great, and because so many of the actors involved in the humanitarian enterprise are inherently international or transnational, some type of multilateralism is usually a characteristic of the situation.⁵ Even in the case where a state takes the lead in action, whether claiming humanitarian or other motivations, usually other components of the normal humanitarian system become involved, leading to some type of multilateral involvement. It may be chaotic multilateralism, but still multilateralism. As usual, questions of effectiveness and participation must be addressed. After all, the primary value is not multilateralism per se, but effective protection of human dignity for persons in exceptional distress, with perhaps participation of stake holders.⁶

A unipolar world, or more precisely a unipolar military situation in the larger game of international relations, creates certain dilemmas but does not fundamentally alter the central and

³ See further the essay by Robert Keohane in this project regarding widespread acceptance of a cosmopolitan liberal ethics.

⁴ David P. Forsythe, "Human Rights and US Foreign Policy: Two Levels, Two Worlds," *Political Studies*, XLIII, Special Issue (1995), 111-130. Also in David Beetham, ed., *Politics and Human Rights* (Oxford: Blackwells, 1995).

⁵ Here I use multilateralism in a sense broader than Keohane's essay in this project. His conception of multilateralism centers on states. Mine allows for a multilateral Red Cross Movement or Red Cross Federation reflecting many actors active in a policy making process, some or all of them not being states.

⁶ See further Keohane in this project on the importance of three core values: human rights, democratic process, and effectiveness.

persistent tension between nationalism and cosmopolitanism--the latter entailing universal standards of human rights and humanitarian norms. This is not the place to examine whether American nationalism is using the "unipolar moment" to create an empire, liberal or otherwise, that would try to submerge most other nationalisms. This is also not the place for an extended discussion of humanitarian intervention, since other authors treat the subject of saving others by military force.⁷ I do, however, have to note coercive factors in passing. This analysis stresses humanitarianism in war and other political conflict, while largely leaving to others the matter of humanitarian response to natural and industrial disasters.⁸ I also do not address persons being in persistent and thus routine distress because of a failure of development.

We briefly analyze the components of international humanitarianism today in an inductive process, with a focus on the Red Cross network and UN system, then put the pieces of the puzzle into a larger picture at the end.

I. Red Cross Redux

The International Committee of the Red Cross (ICRC), the lead agency in conflicts for the International Red Cross and Red Crescent Movement (hereafter the Red Cross, or the Red Cross network), was definitely central to the management of the humanitarian disaster that unfolded in Somalia in the early 1990s. The ICRC was also a central player in the Balkan wars of 1992-1995, not only by coordinating the second largest relief system behind the UN and its UNHCR, but also by playing its usual role with regard to detainees. One should emphasize that international humanitarianism involves not only providing food, water, clothing, shelter, and health care, but also supervising detention conditions and protecting family values in a variety of ways (tracing of missing persons, reunification of family members, reintegration of former child soldiers into civilian society, providing for orphans because of killed parents, etc.). Since about 1970, after the Nigerian-Biafran conflict, the ICRC has been reinventing itself so as to better its

⁷ See the essay by Thomas G. Weiss in this project.

⁸ For starters see World Disasters Report 2003 (Geneva: International Red Cross and Red Crescent Federation, 2004).

performance. Where there are persons in distress because of war and other types of political conflict, the ICRC is always present--often in highly important ways.⁹

Some History

Some history is helpful, given that the ICRC and Red Cross network are known in general but not known very well concerning detail. More importantly, this history affects Red Cross humanitarianism today.

From its beginnings in 1863, the ICRC has always focused on persons in distress because of war-- and later other forms of political conflict. Starting with a focus on wounded combatants in international war, because of the work of its founder Henry Dunant in caring for the wounded after the battle of Solferino in 1859 in northern Italy, the ICRC later took up the plight of individuals in internal conflicts, as within the Ottoman Empire. During World War One it gave great attention to prisoners of war, and immediately after that war it started visiting political prisoners in situations of internal troubles and tensions in places like Hungary and Russia. World War Two brought recognition for both civilian relief and prisoner protection, as well as the tracing of missing persons. Basic ICRC functions did not change during the Cold War or the following unipolar period.

The ICRC's original intent, not fully consistent with Dunant's direct action, was to help develop a legal framework for humanitarian action by others. It drafted the 1864 Geneva Convention (GC) for victims of war, under which wounded soldiers were neutralized, along with the medical personnel who cared for them. The wise course of action was to place the primary obligation on public authorities for the care of victims of war. This was the first full treaty in international humanitarian law (IHL), with other core treaties following in 1906, 1929, 1949, and 1977.¹⁰ Particularly in the four interlocking GCs of 1949, the ICRC is recognized and even given certain rights--such as the right of detention visits to combatant and civilian prisoners in international armed conflict. In modern IHL there is right to humanitarian assistance in war, although it is not clear who exactly is supposed to implement the right, under what conditions.

⁹ This section draws heavily on David P. Forsythe, The Humanitarians: The International Committee of the Red Cross (Cambridge: Cambridge University Press, 2005, forthcoming).

¹⁰ There is no agreement on the precise boundaries of IHL. Parts of the Convention on the Rights of the Child pertaining to child soldiers might qualify as part of the international law protecting human dignity in armed conflict. The ICRC considers various legal instruments pertaining to the means and methods of combat, such as the land mines treaty, to be part of IHL.

From its start the ICRC also promoted the development of national relief or aid societies, which over time evolved into today's 182 National Red Cross or Red Crescent Societies.¹¹ But the Franco-Prussian War of 1870 and then World War One showed the strength of narrow nationalism, the other side of which was the weakness of Red Cross cosmopolitanism as envisaged by Dunant. Various national aid societies were not able to rise above nationalism to practice neutral and impartial humanitarianism. They cared only for co-nationals. Over time these official national aid societies increasingly were nationalized and militarized by their chartering governments.¹² So the ICRC, based in neutral Switzerland, became more of an actor in the field and less of a rear guard storage depot and mailbox. The ICRC was well positioned to practice independent, neutral, and impartial Red Cross humanitarianism (as long as Swiss national interests did not come into play).

After World War One the large and influential American Red Cross, which had put into the field during that war seven times the number of American soldiers, tried to push aside the all-Swiss ICRC by creating a League of Red Cross and Red Crescent Societies. The ICRC was not able to block the creation of the League, now the Federation, as a union of all the National Societies. But the ICRC was able to limit the Federation's mandate to natural disasters and development of the National Societies, thus preserving for itself the realm of Red Cross humanitarianism in conflicts. After much organizational competition and some confusion during 1920-1990, the components of the Red Cross have reaffirmed and codified this basic division of labor.

In the Seville Agreement of 1997, the Movement again stipulated that the ICRC was the network's lead actor in armed conflict for the roles of detention visits, relief, and family reunification efforts. The ICRC also maintained its lead role concerning detainees and their families in situations of internal troubles and tensions. The Federation took on work with refugees and IDPs in countries not characterized by armed conflict, and well as continuing its

¹¹ Two emblems emerged for the Movement when the Ottoman Empire in the 1870s refused to use the Red Cross for its aid society, but rather chose the Red Crescent, a move supported by Persia and Egypt and a few other Islamic states. Thereafter, to make a long, complicated, and still unfinished story short, the Movement, and even more so states meeting in a diplomatic conference, saw the problem of a multiplication of emblems. It is states that determine neutral emblems in international law. Theoretically the Movement could do as it pleases, but then Movement emblems might find no recognition in international law. Moreover, many National Red Cross or Red Crescent Societies are not independent from their governments when voting in Red Cross Conferences.

¹² The best treatment is by John F. Hutchinson, Champions of Charity: War and the Rise of the Red Cross (Boulder: Westview, 1996.)

coordination regarding the international response to natural and industrial/technological disasters. National Societies were to support both the ICRC and Federation internationally, as well as continuing a broad range of domestic social programs. A National Society might even become the lead agency for the Movement in an international action, but only with the "concurrence" of the two (separate) headquarters in Geneva. This Seville Agreement has reduced friction between the ICRC and Federation, or more accurately codified an improvement in relations that was already occurring, as well as encouraging a more orderly relationship between the ICRC and its natural "local partners," the National Societies. Officials of the latter are now regularly seconded to the ICRC (and Federation) for short term contract work.

The significance of Seville is that the Red Cross network is relatively more integrated than in the past, with the ICRC better able to tap into the resources of the stronger National Societies without being undercut by the Federation. A division of labor has been clarified particularly regarding refugees and IDPs, where the ICRC has ceded some ground to the Federation. The ICRC, having too often ignored the National Societies in humanitarian field work between about 1914 and 1990, now is relatively more interested in a better integrated Red Cross network, at least for relief but not for detention visits.¹³

The fact remains, however, that most National Societies are often more aligned with their national governments than with the ICRC. Like the American, British, or French Red Cross Societies, most of these National Societies are more nationalistic than cosmopolitan. They are more patriotic than neutral and impartial. For example, they followed their governments into Northern Iraq in 1991 without much coordination with the ICRC. They may enthusiastically support some ICRC humanitarian operations when their governments do not object or interfere. In the Darfur regions of the Sudan, for example, there is a loose coordination between the ICRC and various Western National Societies that have taken an interest in that conflicted country.

At the International Conferences of the network, which occur in principle every four years, and at which states that are parties to the Geneva Conventions also attend and vote in addition to Red Cross or Red Crescent agencies, there is some renewed discussion of cosmopolitan neutrality for the National Societies as compared to nationalistic deference to their governments.

¹³ See Caroline Morehead, *Dunant's Dream: War, Switzerland And The History Of The Red Cross* (New York: Harper Collins, 1998, 1999.) ICRC doctrine on relations with National Societies regarding detention visits is that the relationship depends on the context. The ICRC may bypass, or work with, or partially involve the NS, depending on what will prove effective in protecting the dignity of detainees.

But some 140 years of fragmented and nationalized history will be difficult for the Red Cross network to completely change, to understate matters.

Mono-nationality, Multilateralism, Effectiveness

ICRC statutes, reinforced by Movement statutes, establish the ICRC as a private Swiss organization ultimately governed by a Committee of not more than 25 Swiss citizens, which, when meeting in formal session, is called the Assembly. It is the Assembly, not the Red Cross conference or any other body, that is responsible for ICRC governance, or the basic rules and doctrine (strategy) of the house. The ICRC is democratic internally, with votes in its Assembly on general policies. It also bears noting that even democratic processes often manifest undemocratic elements. In the United States one has not only appointed judges but also the Federal Reserve System that is largely shielded from democratic pressures in the interest of effective monetary policy. In the same way it can be said that the ICRC is shielded from outside democratic pressures manifested through the Red Cross network or the United Nations. The self-governing nature of the ICRC has been approved by votes in the Red Cross Conference, with states parties to the GCs participating.

Arguably it is ICRC mono-nationality that is foundational for its independence, neutrality, and impartiality. The all-Swiss Committee, linked to permanent Swiss neutrality, in the last analysis does ensure that when belligerents fight, or factions in a civil war, or persons generating internal troubles and tensions, no member from any such group will be on the Committee.¹⁴

The ICRC now has a headquarters agreement with the Swiss Confederation, as if it were an international organization, making its premises and records off-limits to Bern. The organization has similar agreements with dozens of states where it maintains rather permanent offices. Since 1992 the ICRC manifests a multinational staff, drawn overwhelmingly from the North Atlantic area. The Global South is hardly represented at all (ca. 5%). In the future, important ICRC officials like the Director-General, the Director of Operations, and the heads of various delegations and offices may be non-Swiss. On occasions there are joint programs with

¹⁴ For a full discussion of ICRC mono-nationality, see Forsythe, The Humanitarians. There one finds an analysis of the effects of the Confederation's joining the United Nations and other factors that might undermine the logic of essential ICRC mono-nationality. In the author's view, certain factors in the contemporary world undermine the

the multinational Federation, and as noted already personnel from various National Societies are seconded to the ICRC. So the ICRC is now a blend of mono-nationality and a certain type of multinationalism.

The all-Swiss Committee/Assembly has reduced importance today. It meets only five times a year. The daily operations are managed by the Director-General, who has personal responsibility for the Directorate, a five person organ that co-ordinates the professional side of the house. However, the ICRC President and the Council of the Assembly, a sub-group of the Assembly, remain both Swiss and influential. In reality, the leadership of the organization is shared by the President and the Director-General, with the Council of the Assembly as a periodically important body. At the time of writing, all of these latter elements are Swiss. (These offices and bodies are also dominated by white males, but that is another question.)

The Swiss connection at the ICRC has indeed led to considerable independence, neutrality, and impartiality over time in its humanitarian endeavors, not to mention an impressive record of accomplishment that has led to three or four Nobel peace prizes depending on how one wishes to count.¹⁵ No organization is perfect, and a reasoned argument can be made that the ICRC was not as independent, neutral, impartial, and effective as the organization projects, especially prior to about 1970.¹⁶ The ICRC was carefully supervised by Bern during World War Two to ensure that its activities did not unduly antagonize Nazi Germany. This situation constituted the major blight on its record of independence. The organization was not totally neutral during the cold war, tilting toward the United States in the Korean War, and toward France in Southeast Asia during 1947-1954. During the cold war, indeed from 1917, the ICRC leadership, overlapping with the political elite in Bern, was almost as anti-communist as Bern. There were times, especially during its early history, when it was less than impartial in responding to human distress based on need. In World War One it gave more attention to the western front than other theaters of war. In World War Two it gave more attention to Europe than to the Far East.

Still, we should not establish impossible standards of perfection for organizations, which of course are comprised of fallible human beings. Particularly since 1970, after reviewing its

argument for an all-Swiss ICRC Assembly. On the other hand, if the current system works well, why try to fix something that is not broken?

¹⁵ 1906, to Henry Dunant and Fredric Passy; 1917 to the ICRC; 1945 to the ICRC; 1963 to the ICRC and League, now Federation.

defects in the Nigerian-Biafran conflict, the ICRC has paid careful attention to how to establish and improve a record of independence, neutrality, and impartiality in its humanitarian work. As for independence, it now keeps a greater distance from Bern. Also, the ICRC did not hesitate to oppose the United States, a major donor, over the desirability of an absolute prohibition on the deployment of anti-personnel land mines.¹⁷ As for neutrality, while there are always charges of bias in any emotion-laden conflict, to give but one example the ICRC has worked on both sides of the Israeli-Palestinian conflict since 1948, and virtually without interruption since 1967. As for impartiality, when much of the western press wanted to focus on Afghanistan and Iraq after September 11, 2001, the ICRC tried to remind the international community of pressing humanitarian need elsewhere, as in the Democratic Republic of the Congo.

At the moment, there is no drive under way to change the mono-nationality of the ICRC.¹⁸ This is primarily because of the reduced importance of the Committee/Assembly relative to other parts of the house, and because of the organization's mostly impressive record since about 1970.

Red Cross Humanitarianism Today

The ICRC is one of the major humanitarian actors in international relations today by any standard. It is one of the big four relief agencies (the others being the UNHCR, UNICEF, and the World Food Program),¹⁹ operating on a par with these major intergovernmental agencies. It achieved this status by 1979-1980 when it teamed with UNICEF, and in some ways was more dynamic than UNICEF, to run a major relief program in Cambodia (and parts of Thailand). To indicate but one aspect of its relief work, the ICRC recently won an award for its efforts regarding prostheses around the world, as it determinedly used its medical relief to cope with the physical and psychological traumas of land mines, unexploded ordinance, and the other detritus of conflict which continued to maim long after active combat.²⁰ It is also the premier agency for detention visits around the world regarding international and internal armed conflict, and also

¹⁶ See Forsythe, The Humanitarians.

¹⁷ The ICRC receives about 85% of its approximately \$600 million annual budget from state voluntary contributions. The largest donors are the United States, Switzerland, the United Kingdom, and the European Union.

¹⁸ The last major effort was after World War Two.

¹⁹ Andrew Natsios, U.S. Foreign Policy and the Four Horsemen of the Apocalypse: Humanitarian Relief in Complex Emergencies (Greenwood, 1997).

²⁰ The International Society for Prosthetics and Orthotics awarded the Brain Blatchford Prize to the ICRC in 2004 for outstanding service in developing countries. ICRC news release No. 04/91, 6 August 2004.

situations of internal troubles and tensions. And it still does more than any other agency to restore family ties interrupted by conflict, working often in partnership with various National Societies.

Two thumbnail sketches indicate its primary and direct contribution to international humanitarianism in conflicts.²¹ In Somalia in the early 1990s, when the complexities and brutalities of that failed state led to a situation of massive malnutrition and starvation, the ICRC was central to breaking the back of that humanitarian disaster by 1994. While most UN agencies and NGOs retired to the sidelines, the ICRC stayed in country despite the dangers and frustrations. For the first time in its long history it accepted to organize relief under the protection of military forces.²² Teaming with the Somali Red Crescent, which the ICRC itself rejuvenated and made into an important and reliable partner, it had the best access of any agency to those in dire straits in rural Somalia. It displayed the size, resources, creativity, and expertise to save perhaps 1.5 million lives in that era. It was not bureaucratic or stodgy. It required the U.S. military and others to keep weapons out of neutralized planes and premises, then turned around and hired local security forces to protect against theft.²³ For a time, faced with kidnappings for ransom, it moved to Nairobi but ran relief convoys under the protection of local Somali groups identified as reliable partners by the Somali Red Crescent. It took journalists at its own expense on tours of the country, in order to generate public pressure that could ameliorate the situation. In a setting where almost no one with a weapon had ever heard of international humanitarian law, the ICRC out performed most others, and certainly the UNHCR, in responding to civilians in extreme distress.

In the U.S. "war against terrorism," the ICRC played its usual role with regard to detention visits. The organization was faced with two contradictory policies established by Washington. First, the ICRC was allowed in principle to conduct detention visits at Guantanamo Bay, in Afghanistan, and in Iraq (but was denied access to certain prisoners held secretly either in U.S. or foreign jurisdictions). Second, the United States instituted a policy of coercive or

²¹ For detailed treatment, see Forsythe, The Humanitarians.

²² At about the same time in the Balkans, it organized the release and movement of some detainees under the guns of UNPROFOR, the UN security field operation, because of snipers in that area.

²³ Contrary to some speculation, the ICRC contribution to the war economy and prolongation of conflict in Somalia was extremely slight.

abusive interrogation of certain prisoners deemed to be of high intelligence value.²⁴ This latter policy involved the techniques of terrifying with dogs, removal of clothing, sleep deprivation, subjection to loud noises, and other measures designed to break resistance to interrogation. Some measures, such as simulating drowning, clearly amounted to serious violations of human rights and humanitarian law. The other measures were clearly violations of standards against mistreatment. This latter policy led to the widely publicized abuses at the Abu Ghraib prison in Iraq, where abuse and humiliation occurred unrelated to interrogation. There the policy of selective abuse ran out of control because of insufficient training and supervision.

While asking repeatedly for access to those held in secret, the ICRC reported to U.S. authorities discreetly what its delegates witnessed. Particularly at Guantanamo, relations became strained between ICRC delegates and prison authorities, because of ICRC repeated challenges to prevailing practices. Regarding Guantanamo, and consistent with its doctrine, starting in mid-2003 it went public with its concern about the effect of indefinite detention without charge or trial on the mental health of detainees.²⁵ Regarding Guantanamo and Afghanistan, President Kellenberger went to Washington and spoke privately with high officials in both mid-2003 and early-2004. The ICRC at the time of writing had not gone public with regard to detention in Iraq, partly because the scandal about abuse erupted in 2004 through other sources, and partly because the ICRC believed U.S. authorities had shown sufficient will to institute beneficial changes. The ICRC repeatedly commented in public about its lack of access to secret or ghost detainees.

The ICRC largely left to others the public debate about legal issues, preferring to concentrate on practical improvements "on the ground." President Kellenberger did tenaciously continue a private dialogue with various U.S. officials about the protections afforded by IHL, some of which the ICRC believed applied to various detainees held by the United States. At the time of writing many of these practical and legal matters remained unresolved, with U.S. courts slowing taking up many issues of prisoner rights in the U.S. "war on terrorism." There remained room for debate about whether the Geneva headquarters had been dynamic enough in making

²⁴ See also Amnesty International, "The United States of America: Human dignity denied--torture and accountability in the 'war on terror,'" <http://web.amnesty.org/library/print/ENGAMR511452004>. And Seymour Hersch, *Chain of Command: The Road from 9/11 to Abu Ghraib* (New York: Harper Collins, 2004).

²⁵ ICRC doctrine on discretion/publicity is that the organization: will make representations about violations of IHL discreetly to authorities, give those authorities reasonable time to make proper changes, but reserves the right to go public about violations if proper changes are not made, and if such public comment will benefit detainees.

timely representations to high Bush Administration officials about continued mistreatment of prisoners, especially in Guantanamo and Afghanistan, not to mention in the U.S. secret gulag.

II. The United Nations System

Has the United Nations supplemented Red Cross efforts to provide a systematic and multilateral response to humanitarian disasters, particularly in conflict situations? Has "the UN" been able to combine "its own" agencies with private groups and governmental units, in the context of media coverage, to improve on long established Red Cross foundations? An overview published in 2004 provides the distressing answer:

"There exists no system for triggering and delivering international disaster assistance; there is rather a hodgepodge of public and private agencies. And the independent role of the communications media in covering or ignoring a story is often important. Whether...actors are motivated to act because of a concern for the human rights to food, clothing, shelter, and health care (which has been rare) or because of humanitarian compassion (more prevalent), all of these actors have proceeded without central coordination--and thus with resulting overlap and confusion.

Various UN organizations have been protective of their decentralized independence. The private agencies have resisted coming under the full control of public authorities. Various agencies have competed among themselves for a slice of the action in a given situation and for credit for whatever accomplishments were achieved--said to be important for fund raising.

To be sure, emergency assistance has been delivered and lives have been saved in a vast number of situations....²⁶

²⁶ Thomas G. Weiss, David P. Forsythe, and Roger A. Coate, The United Nations and Changing World Politics, Boulder: Westview, fourth ed., 2004, p. 187.

Some History

During the era of the League of Nations, "the Nansen Office" was created to supplement Red Cross and other private, public, and quasi-public efforts in order to deal with refugee relief--especially given the flood of persons on the move in Europe because of communist revolutions in places like Russia and Hungary. But the League never developed a comprehensive system of response to various humanitarian disasters.²⁷ An international relief union was still-born.

Surprising as it may now seem, the United Nations system was very slow to manifest any broad responsibility for disaster response. True, the Office of the UN High Commissioner for Refugees was created in 1950, as was a legal framework for refugees (1951) which was originally designed to deal in fact with a trickle of persons fleeing persecution from European communist countries--these latter proving very adept at least at sealing borders. But the UNHCR was said to be a protection agency, not a relief agency, meaning that it concentrated on diplomatic and legal representations designed to protect the rights of manageable numbers of refugees. Only in the aftermath of the Israeli-Palestinian contest for control of western British Palestine did the UN General Assembly create an early refugee relief agency--UNWRA--whose mandate was limited.

Whether because of Western biases in the global media as well as by powerful Western states, or the Cold War, the UN system was not utilized to help manage a systematic and multilateral response to a broad range of humanitarian disasters until about 1970.²⁸ In the well publicized Nigerian-Biafran conflict (1967-1970), the major relief players trying to get aid to civilians in secessionist Biafra were the ICRC and its Red Cross partners, and Joint Church Aid, a faith-based consortium. While other relief actors like the French Red Cross acted independently, no UN organ or agency was a major player in that drama.

²⁷ See especially Claudena Skran, Refugees in Inter-War Europe, Oxford: Oxford University Press, 1995.

²⁸ In the late 1960s and early 1970s a number of states were concerned not only with growing numbers of refugees and other displaced persons, but with the continuing Israeli control of territories taken in the 1967 war, and with preparations for the 1974 session of a diplomatic conference on IHL. So there was increased attention at that time to many aspects of humanitarianism, not just emergency relief. For example, there was the UN conference in 1968 in Teheran concerning human rights in armed conflict, and reports on that subject by the UN secretariat. These events did not entirely reflect neutral or purely humanitarian concern, for a number of parties were interested in using humanitarian norms as constraints on, and impediments for, adversaries. Thus a number of parties sought to use "humanitarian" rules against particularly Israel and South Africa. Some version of "humanitarianism" was combined with realpolitik.

After Biafra, supposedly but not really a new Solferino, and with other changes in international relations, in 1971 the General Assembly created the UN Disaster Relief Office.²⁹ By 1992 this office morphed into the UN Department of Humanitarian Affairs. In 1998 this Department was changed into the Office of the Coordinator of Humanitarian Affairs (OCHA), headed by an Under Secretary-General who became at the same time the UN Emergency Relief Coordinator. Other administrative arrangements were created in related developments.

The UNHCR and UNRWA both continued, with their independently established mandates as found either in treaty law and GA resolutions, or GA resolutions alone. The UNHCR became more and more a relief agency and not just a legal protection agency.³⁰ This was because Western donor states wanted refugees cared for "over there," rather than become sylum-seekers in the Western states themselves. Other parts of the UN system also developed, or were given, mandates to deal with refugees, internally displaced persons, and others in emergency distress: UNICEF, the World Food Program, the UN Development Program and its Resident Representative in particular countries, the World Health Organization, etc.

Significantly, as the Cold War wound down the UN Security Council began to concern itself more often with humanitarian affairs.³¹ During the Cold War, the deployment of military force under SC aegis had led to traditional (or simple or first-generation) peacekeeping missions entailing primarily observation and reporting, with only light weapons used for self-defense. The point was to show the UN flag and utilize armed diplomacy to help fighting parties reduce or avoid hostile confrontation. Humanitarian matters were excluded. But increasingly the UNSC in the 1990s began to deploy complex (or second-generation) peacekeeping missions which entailed human rights and humanitarian mandates. The point was not just to limit or avoid

²⁹ Thomas W. Stephens, The United Disaster Relief Office: The Politics and Administration of International Relief Assistance, Washington: University Press of America, 1978.

In 1971, India intervened with force to dismember Pakistan, in the context of much forced displacement on the Indian sub-continent. In general the UN's involvement was unbelievably complicated and messy during the period 1971-1973. In so far as UN involvement had a focal point, it was the UNHCR. The UN Secretary-General created an office supposedly to coordinate humanitarian matters, whose head was in fact borrowed from the ICRC (Walter Umbricht). These developments on the Indian sub-continent helped propel the UN into humanitarian relief on a more continuing basis.

³⁰ Gil Loescher, among others, argues that the UNHCR gave such priority to relief than its traditional protection work suffered. The UNHCR in World Politics: A Perilous Path, Oxford and New York: Oxford University Press, 2002.

³¹ See Thomas G. Weiss, "The Humanitarian Impulse," in David Malone, ed., The U.N. Security Council: From the Cold War to the 21st Century, Boulder: Lynne Rienner, 2004. According to Weiss, during the Cold War the UNSC was mostly "missing in action" regarding humanitarian affairs. The first mention of humanitarian matters in a SC resolution was in 1968 regarding Israeli occupied territory. The ICRC was not mentioned until 1978.

conflict, but to create a humane and rights protective situation. Further, on occasion the UNSC would assert a right under UN Charter Chapter VII to engage in enforcement action, not just peacekeeping narrowly defined, and sometimes this was related to human rights and humanitarian affairs.

In sum, progressively the UNSC became involved in humanitarian matters because they were seen as linked to international peace and security. Either one had to protect rights and humane values in order to get peace and stability, and/or one had to use force to compel a target party to respect rights and humane standards. The previously low politics of humanitarianism became enmeshed in the high politics of peace and security.³² The process proceeded inconsistently and selectively with many double standards, because at times "The unwillingness by major powers to spend money was matched by an unwillingness to run risks."³³ Still, in general, the notion of international peace and security in the UNSC was more and more informed by humanitarian concern--that is, by the concern for human security in conflict areas.

Unfortunately the UNSC also played fast and loose sometimes with the language of human rights and humanitarian affairs. Clearly in the Balkan wars of 1992-1995, state members of the UNSC, especially the P-5, and most especially the United States, used the discourse of human rights and humanitarianism to avoid a more disagreeable if more decisive response to atrocities. To these states on the UNSC, it was more agreeable to dispatch the UNHCR to care for those persecuted and uprooted than to commit their military forces to stop the root causes of the forced displacement and other abuses. Likewise to them, it was more agreeable in the short term to create a criminal court (the ICTY for former Yugoslavia in 1993, then the ICTR for Rwanda in 1994) than to risk blood and treasure in a forceful intervention. Only in the wake of media coverage of the massacre at Srebrenica, and media coverage of other terrible events, did powerful states finally use UN authority to help bring pressure to bear on Serb parties sufficient to end the worst Balkan atrocities by 1995. But even graphic media coverage of genocide in Rwanda failed to mobilize particularly Western states to significant intervention there (mainly because of U.S. difficulties in Somalia and a domestic backlash against incurring costs to save "others").

³² This was broadly characteristic of the situation throughout international relations that Robert Keohane and Joseph P. Nye called complex interdependence.

³³ Weiss, "The Humanitarian Impulse."

In Bosnia we were treated to the unseemly spectacle of the UN High Commissioner for Refugees, Sadako Ogata, suspending UNHCR relief in order to try to force UNSC members to deal responsibly with the situation, only to have the UN Secretary-General, Boutros Boutros Ghali order a resumption of relief--even though he probably lacked the legal authority to do so.³⁴ Likewise, when Ms. Ogata brought to the attention of the UNSC the fact that Hutu militias particularly in Zaire had infiltrated, even had taken over, some of the UNHCR refugee camps, state members of the UNSC refused to authorize a deployment of force to deal with the situation.³⁵ The UNHCR in particular knows what it means to be "hung out to dry" by the UNSC, knows what it means to be "left holding the bag" by a UNSC that neglects its proper security responsibilities when faced with a humanitarian disaster.

Regardless of developments within the principal organs of the UN system, private aid and relief agencies constituted a cumulative force to be reckoned with regarding humanitarian affairs. Some had rather long histories during which they had built up expertise and a donor base. To take the tip of the iceberg, the Save the Children network dates from Britain in 1919; the International Rescue Committee in 1933; Oxfam from 1942; CARE from 1945; World Vision from 1950. Others were more recent (e.g., Doctors Without Borders {MSF}, 1971) but brought considerable energy and commitment to their work. Annual budgets as of 2002 were significant relative to UN and Red Cross agencies: CARE-USA \$420m; World Vision, \$820m; Oxfam, \$390m; MSF, \$400m.

Then too, private human rights advocacy groups like Amnesty International and Human Rights Watch, among others, provided a running commentary on humanitarian crises (which entailed human rights violations) and tried to pressure states and UN bodies into further action. Their locales, contacts, and budgets (AI, \$32.5m; HRW, \$19.5m) also contributed often to media coverage that sometimes helped set the agenda for states and the United Nations. They constantly peppered states with reports and requests, urging more protection of human dignity. Other private actors like the International Crisis Group, an advocacy group for conflict monitoring and resolution, pushed in the same direction.

³⁴ Even though the High Commissioner for Refugees is nominated by the UN SG, the High Commissioner is selected by the UN GA and does not report to the SG but to the GA. Nevertheless, Ogata, having made her political point to no avail, agreed to a resumption of UNHCR relief.

³⁵ Some relief NGOs, or parts of relief NGOs, withdrew to protest caring for les genocidaires, even though this withdrawal meant that genuine refugees would suffer the consequences. Most relief NGOs stayed.

On the one hand, some of these private groups were sometimes co-opted into the UN system in a somewhat systematic way. The UNHCR, which increasingly (some would say disproportionately) became a general relief agency at times, relied on these private groups for grassroots action. In effect the UNHCR tried to coordinate relief in places like the Balkans and the Great Lakes region of Africa, while the private agencies did the work in the field. On the other hand, sometimes various private relief or development groups went their own way, with little regard for any designation about "UN lead agency." In Cambodia (and Thailand) during 1979-1983, Oxfam intentionally undercut some of the principles and policies of UNICEF, the latter coordinating with the ICRC to try to provide coordinated multilateral relief in that devastated area. Oxfam wanted an independent part of the action, even if this impaired what other humanitarians were trying to do.³⁶

If the Red Cross network was fragmented, so was the UN family in the matter of response to humanitarian disasters. If the ICRC had trouble fully coordinating its Red Cross partners, so did OCHA or the UNHCR have trouble coordinating the private aid agencies that did the grassroots work in UN sponsored programs.

Global Governance, Multilateralism, Effectiveness

It is states that control the UN system. They get the type of United Nations they authorize and pay for. For the most part, state hypocrisy dominates, not only regarding the principle of state sovereignty³⁷ but more generally as well. States profess high sounding values, but they undercut those values daily. We noted at the outset that states preach a cosmopolitan liberalism but often practice realism or just plain indifference about "others."

Foundational to the evolution of things are two factors: the weakness of a broad transnational morality despite increasing material globalization, and national elite interest in protecting a preferred position.³⁸ On the former, even after U.S. Secretary of State Colin Powell declared the Darfur region of the Sudan to be the locus of genocide in 2004, reaction both inside and outside the United States was muted. On the second point, a centralized and powerful United Nations would be seen by many national officials as a threat to that preferred position,

³⁶ Forsythe, The Humanitarians. And William Shawcross, The Quality of Mercy: Cambodia, Holocaust and Modern Conscience, New York: Simon and Schuster, 1984.

³⁷ Stephen D. Krasner, State Sovereignty: Organized Hypocrisy, Princeton: Princeton University Press, 1999.

³⁸ See Keohane in this project about how loyalty still flows mostly to the nation state.

not as a primary means to deal with the distress of "others." Thus it is not so surprising that multilateral humanitarianism associated with the United Nations remains essentially in the same spadmodic condition it was about a quarter of a century ago.

There has been some substantive progress. As one author noted, "The prominence of the humanitarian impulse altered the ethical, rhetorical, and military landscapes of Security Council decision-making in the 1990s. The nature and scope of enforcement decisions have amounted, on occasion, to a fundamental increase in the relevance of humanitarian values in relationship to narrowly defined vital interests."³⁹ Yet the process was not consolidated into systematic and sure practice. And issues of coordination and effectiveness remained much discussed but mostly unaltered.⁴⁰

The major donor countries to UN humanitarianism, who also channel much money through private relief agencies, could certainly insist on a more streamlined and effective UN system. Above all we are talking about the U.S. Agency for International Development (USAID) and the Humanitarian Office of the European Community (ECHO). But they do not do so. In addition to a lack of interest at high levels of governments, a serious argument can be made that a certain amount of choice in relief mechanisms is a good thing.

Even beyond the desirability of ICRC independence, there is something to be said for going with UNHCR as lead agency in one situation, but UNICEF or even the World Food Program in another. Depending on situational factors, one may be better situated than the other for that lead role, depending upon contacts, history in-country, etc. There is an argument to be made for coordination by consensus among leading relief actors.⁴¹ Many times the ICRC, UNHCR, UNICEF, and the WFP do in fact work out rather clear divisions of labor for relief. And OCHA is there, plus associated standing committees, to facilitate such arrangements. Of course when a UN lead agency is designated for relief, that agency should be authorized and empowered to rigorously manage the private aid agencies that contract with the UN. And the relief groups that try to act as Lone Rangers need to be marginalized.

³⁹ Weiss, "Humanitarian Impulse."

⁴⁰ It is striking how much the older literature on aspects of humanitarianism resembles the discussions of the contemporary world. See, for example, Lynn H. Stephens and Stephen J. Green, *Disaster Assistance: Appraisal, Reform, & New Approaches*, New York: New York University Press, 1979. And Bruce Nichols and Gil Loescher, eds., *The Moral Nation: Humanitarianism and U.S. Foreign Policy Today*, South Bend: Notre Dame University Press, 1989.

⁴¹ See further Larry Minear, *The Humanitarian Enterprise: Dilemmas and Discoveries*, Bloomfield, CT: Kumarian Press, 2002.

Can UN humanitarian bodies emulate the independence of the ICRC? Many UN officials and other observers call for precisely this type of independence from politics--meaning in reality from the strategic calculations of governments.⁴² But the UN system is an intergovernmental system. OCHA, as part of the UN secretariat, can properly aspire to that independent status. Even the UNHCR can appeal to its authorizing resolutions and associated conventional instruments to seek independent, impartial, and neutral programming. But in the last analysis, UNHCR and UNICEF and WFP will not be as independent as the ICRC. Their mandates and budgets come from governments, and they do not have the history of independent neutrality and impartiality that the ICRC presents.

It is a fact of life that the United States circa 2004 will cough up more money for relief, reconstruction, and development in Iraq or Afghanistan, compared to the Sudan or the Democratic Republic of the Congo or northern Uganda. In the former, there is a greater security interest, along with commitments of personal and national prestige. With regard to the latter, and most humanitarian disasters occur in the less-developed countries, the UN system may manifest a limited humanitarian impulse, but not a neutral and impartial moral imperative.⁴³ Powerful states, and above all the quasi-imperial United States, will ensure that this is so. The UN Emergency Relief Coordinator may be principled and dynamic, a spokesman for a liberal cosmopolitanism, but he will remain powerless to change the dominance of nationalistic decision-making in UN bodies. The two fundamental principles continue to clash; they remain unresolved on a systematic basis.

It does not help matters that the western-based media outlets are also highly nationalistic, more interested in the fate of a few western soldiers or journalists than in the hugely greater numbers of those in distress in non-western poor countries. One has only to look at the lack of sustained Western media coverage of the Democratic Republic of the Congo, to see that this is so. And when there is western media attention to the humanitarian disasters of the Global South, it is mostly short lived.

States acting unilaterally would do well to avoid the discourse of humanitarianism. Most of the time (but not always), such state foreign policy debases the notion of humanitarianism.

⁴² Jan Egeland, "Humanitarianism under fire," Christian Science Monitor, August 5, 2004, www.csmonitor.com/2004/0805/p09s01-coop.htm; Gil Loescher, "An Idea Lost in the Rubble," New York Times, August 20, 2004, p. A25; Edward Giradet, "A disaster for humanitarian relief," International Herald Tribune, August 2, 2004, www.iht.com/articles/532107.html.

One of the more egregious examples was when the Reagan Administration referred to its non-lethal but nevertheless military aid to the Contras in Central America as "humanitarian." State unilateral reference to humanitarianism is most often a self-severing cover for self-interested concerns. When the U.S. adopted "humanitarian" policies toward the population in Afghanistan, such as emergency food relief, its fundamental goal was strategic and self-interested--to separate the Taliban and Al Qaeda political factions from the rest of the Afghanistan people, and to show to the rest of the world that its fight was with those political factions, not with the Islamic world as such.

Moreover, a certain state reference to humanitarianism can endanger the real humanitarians. Both Colin Powell and U.S. AID director Andrew Natsios have called for relief NGOs to get on the U.S. team, to fully support U.S. objectives in places like Iraq.⁴⁴ This effort is misguided.

It is bad enough that in places like Iraq the ICRC used the Red Cross emblem in its efforts at neutral projects, while Coalition forces used the same emblem on certain military equipment and facilities while carrying out their invasion and occupation.⁴⁵ The hard fact was that in Iraq there was no automatic neutral space for humanitarian work, and it proved extremely difficult, if not impossible, to construct that neutral humanitarian space. There were repeated violent attacks on a variety of "aid workers."

When the ICRC-- and to a much less extent the United Nations-- independently tried to improve the daily lives of Iraqis through improved sanitation and medical care, this inadvertently contributed to what the Coalition sought to achieve: a satisfied Iraqi population willing to accept a Coalition inspired government friendly to the West. The best that the ICRC could do, besides the futile and actually fatal policy to show independence by not fortifying its facilities in Baghdad, was to try to locate and dialogue with the anti-Coalition forces, to convince them that the organization was not motivated to support the Coalition and its interim government. The same dilemma of how to construct neutrality plagued not only the UN in Iraq, but also NGOs

⁴³ This distinction is developed by Weiss, "Humanitarian Impulse."

⁴⁴ See John S. Burnett, "In the Line of Fire," *New York Times*, August 4, 2004, www.nytimes.com/2004/08/04/opinion/04burnett.html.

⁴⁵ Likewise in Bosnia, the UNHCR used the UN emblem while presenting itself as a neutral relief agency, while the UNSC and UNPROFOR acted under the same emblem while sometimes employing coercion.

like CARE in Iraq and MSF in Afghanistan, whose personnel were also attacked by radical Islamic elements.⁴⁶

UN Humanitarianism Today

Thumbnail sketch of the case of:

Kosovo [to be completed in next revision]

III. Conclusion

The ICRC remains the international standard for independent, neutral, and impartial humanitarian protection. Whatever its defects of the past, no other actor in the contemporary world is as independent from state strategic calculation, as neutral in power struggles, and as impartial in its interest in protecting human dignity based strictly on need in conflict situations.⁴⁷ As much as the ICRC has increased its human and material resources in the past decades, however, it remains too small to handle the big relief emergencies alone. So there will continue to be need for UN and NGO roles in that domain. ICRC prison visits remain unaffected, as UN measures for prison visits have yet to come into force, while European measures (patterned on the ICRC) are limited to that geographical area. No NGO does systematic prison visits, nor

⁴⁶ From one point of view, both sides fought a total war disdainful of many conventional humanitarian restraints. Radical Islamic elements attacked civilians. The United States tortured and mistreated prisoners. With regard to the latter, many memos surfacing from the Bush Administration featured an effort to make null and void much of the UN Convention against Torture and the 1949 Geneva Conventions and 1977 Protocols.

We do not in fact know the motivations of those who attacked the UN and ICRC headquarters in Iraq, or killed MSF workers in Afghanistan. Was the violence because the work of these actors inherently fit with U.S. objectives, or was a blind rage at work against all actors seen to be Western? The former reasoning was articulated by certain Taliban elements claiming responsibility for the attack on MSF in Afghanistan.

⁴⁷ David Reiff wrongly presents Doctors Without Borders (MSF) as the primary neutral model in [A Bed for the Night: Humanitarianism in Crisis](#), New York: Simon and Schuster, 2002. Bernard Kouchner, founder of MSF, continues to say that MSF is impartial but not neutral. "The Future of Humanitarianism: Remarks of Bernard Kouchner," Carnegie Council on Ethics and International Affairs, www.carnegiecouncil.org/viewMedia.php/prmTemplateID/8/prmID/4425. In Rwanda in 1994, MSF had to be incorporated into the ICRC delegation in order to survive in-country. Progressively MSF, which started out believing it could engage in whistle blowing while operating medical relief inside countries, has in fact moved toward the ICRC position of cautious neutral humanitarianism.

should they.⁴⁸ How the ICRC constructs its budget projections, based on a thorough and bottom-up review of anticipated problems, starting with sub-delegation in-put, actually constitutes a reliable early warning system for humanitarian crises. A few alert diplomats know this.

Of course if one is talking about non-neutral or forceful intervention in response to humanitarian crises, then one has to look elsewhere for the appropriate response. The ICRC may call for such approaches, but its neutrality forbids it from participation.⁴⁹ There are no neutral solutions to the root causes of humanitarian disasters.⁵⁰

UN relief agencies like the UNHCR and UNICEF, as well as the UN Emergency Relief Coordinator, may aspire to those same core values that the ICRC represents, but since they are part of an intergovernmental system they will not be able to match the ICRC record in this regard. Ultimately states can tell the UNHCR and UNICEF, or any other lead UN agency, what to do. States always have national interests, however subjectively and even erroneously constructed, and they cannot help but project those interests into their foreign policies at the United Nations. Rigorously neutral and impartial humanitarian relief through the United Nations is rare. State foreign policies cannot completely escape the pull of parochial and self-serving domestic elements that question the wisdom of national sacrifice for "others," or advocate advantage for one's self.

The UN Secretary-General, as well as the UN Emergency Relief Coordinator, and even various UN agency heads, can articulate the cosmopolitan and liberal view of coherent and consistent multilateral humanitarianism. They can personify the international moral imperative to help strangers. But particularly the follow-on policies at the United Nations, because of state values and power, are likely to reflect more of an inconsistent humanitarian impulse than a genuine and thus consistent moral imperative. After all, if states want to advance a genuinely neutral and impartial humanitarian endeavor, they can give more resources to the ICRC, although in that case they will lose control of the operation, given the independence of the ICRC.

⁴⁸ In The Dark Sides of Virtue: reassessing international humanitarianism, Princeton: Princeton University Press, 2004, David Kennedy shows the defects of Lone Ranger and amateurish prison visits by well-meaning do-gooders. HRW asked to do prison visits in Afghanistan after 2001. It was properly ignored by U.S. authorities, at least on this one issue.

⁴⁹ For an example of precisely such a call, see Jakob Kellenberger, President of the ICRC, "Too little, too late for the victims of Darfur," International Herald Tribune, August 30, 2004, www.iht.com/articles/536321.html.

⁵⁰ See further David Rieff, "Humanitarianism in Crisis," Foreign Affairs, 81, 6 (November-December, 2002), 111-121. And Michael Barnett, "What Is the Future of Humanitarianism?," Global Governance, 9 (2003), 401-416.

The ICRC after all remains private, and its Assembly does not take instruction from public authorities.

One can dwell on the defects and limitations on the part of the one remaining superpower or hyperpower, and the United States was certainly slow to act in the Balkans and never acted constructively in Rwanda. The United States also misused the humanitarian argument in its invasion of Iraq.⁵¹ But we should recall that the Dutch were not eager to suffer costs for the defense of Srebrenica, nor the Belgians for staying the course in Rwanda. And when the Japanese did help in Cambodia, or the Australians in East Timor, certain expedient national interests drove those policies as much or more than altruism.⁵²

This record but confirms our core point about the continuing weakness of transnational morality. Thick morality reflects nationalism, in that the group of genuine and intense humanitarian concern is the nation, while thin morality continues to characterize reaction to the suffering of "others."

Whether a continuing material globalization will deepen social globalization in the future is an interesting question. Only if more persons identify with foreign suffering, and see that it has relevance to them, morally or expediently, is the situation likely to change. Some social science evidence suggests that when persons view foreign suffering as related to them, either for moral reasons (my own humanity is diminished) or expedient reasons (an abusive or failed state may breed terrorists that may attack me), then one might see the institutionalization of cosmopolitan liberalism through systematic and reliable humanitarianism.⁵³ This is not going to happen tomorrow.

⁵¹ See particularly Kenneth Roth, "Was the Iraq war a humanitarian intervention?," www.globalagendamagazine.com/2004/kennethroth.asp

⁵² Among other concerns the Japanese wanted to show that they deserved a seat on the UN Security Council, and the Australians wanted stability in East Timor in order to staunch a flow of unwanted asylum seekers.

⁵³ See further Kristen Renwick Monroe, The Hand of Compassion: Portraits of Moral Choice during the Holocaust, Princeton: Princeton University Press, 2004; and by the same author, The Heart of Altruism: Perceptions of a Common Humanity, Princeton: Princeton University Press, 1998.