



On the meaning of SPHERE standards to States and other humanitarian actors

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On the Meaning of the SPHERE Standards to States and Other Humanitarian Actors.

December 3, 1998

London, United Kingdom

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Good Morning. This conference is a continuation of a dialogue that began among SCHR members in 1996. The conference marks both the end of phase 1 of the SPHERE project with the release of a preliminary edition of the standards, and the beginning of PHASE 2 of the project where the SPHERE standards will be field tested in a climate of open and constructive dialogue and debate.

I would like to thank the conference organizers for giving MSF the opportunity to speak today. The potential subject matter is very general and diverse, so let me frame my comments in terms of the MSF movement, who we are, and how we see the contexts in which the SPHERE standards may apply, and particularly their meaning for states and other humanitarian actors.

Since its inception in 1971, MSF has been an association rooted in civil society, and fundamentally committed to humanitarian action - which is for MSF both medical action, and temoignage for populations in danger. Temoignage is a French word meaning essentially both witnessing and advocacy. For MSF both medical action and temoignage are the two indivisible components of humanitarian action: they are two sides of the same coin that is our currency. Humanitarian action then is the driving force of the MSF movement. As an association rooted in civil society, MSF considers itself open and accountable primarily to civil society. Its legitimate authority is therefore informal, and this has its locus relative to the formal legitimacy of state structures and the political nation state system and their formal responsibilities in international law and international humanitarian law. It is in this informal legitimacy where we wish to remain to sometimes engage in a kind of dialectic relationship with formally legitimate state structures around humanitarian action.

Humanitarian action for MSF adheres to certain principles that are not necessarily unique to MSF: neutrality, impartiality, and independence of action in our pursuit of humanitarian action. Closely held though for MSF are the additional principles of proximity and volunteerism. Proximity for MSF means that we wish to be and to remain in solidarity, in actual physical contact with the populations in danger that we serve, and whose suffering we seek to address. Volunteerism for MSF means that we are not a professional organization, nor do we seek to be. But rather, we bring professional medical skills within a spirit of volunteerism that is itself a willingness to voluntarily respond to the common humanity in the other - a humanity that is at risk in a particular population in danger.

The purpose or “enjeux” of humanitarian action for MSF is very simple: it is to engage and promote humanitarian space for populations in danger, and when necessary, to catalyze a political or social response that addresses either the failure to achieve humanitarian space, or that identifies the root causes of that failure that creates a population in danger in the first place.

So MSF does not simply or exclusively engage in meeting humanitarian needs, or simply providing humanitarian services. For MSF humanitarian action as both medical action and *temoignage* is a kind of categorical imperative that finds expression by using core humanitarian principles in conjunction with a voluntary proximity to populations in danger. Our aim is not to be solely responsible for humanitarian action, but also to catalyze formally legitimate states and the community of states to engage their duty to both provide and protect humanitarian space. There is a clear distinction between informally legitimate actors who engage and promote humanitarian space, and formally legitimate state actors who have a duty and responsibility to provide and protect humanitarian space.

Over our twenty eight years, MSF has grown from one of its early forms known as the “committee against genocide in Biafra” to a movement rooted in 19 nations with over 400 projects in 80 different countries. During this time we have tried to both engage and push the limits of humanitarian space. Part of this effort has meant creating our own standards of medical humanitarian action, and also working with the WHO, other IGOs, and other NGOs to continually redefine and improve the quality of medical humanitarian action. This in fact, is not a fixed but a permanent process for MSF - as it is for many other humanitarian actors. In this sense, participating in SPHERE has been nothing new for MSF, and the technical aspects of the SPHERE standards are indeed a valuable accomplishment and tool for humanitarian NGO actors. This is particularly true when we remember the poor quality of humanitarian assistance delivered by some actors in Goma, 1994.

MSF has participated creating the SPHERE standards, and indeed endorses them from a technical perspective. But as implicitly emphasized in the Humanitarian Charter which recalls international humanitarian law and refugee law, the ‘tool’ that SPHERE represents should not be confused with the principles with which they are applied, nor with the goal of humanitarian action.

The SPHERE standards are an accomplishment. However, they do not mark a ‘new era’ for humanitarianism, and nor should they be portrayed as such. They are simply a codification and an extension of technical competencies and knowledge to the full range of humanitarian NGOs, but not necessarily to the full range of circumstances and contexts in which they work.

The experience from which the SPHERE standards derive is largely based on grouped populations in relatively stable circumstances, where humanitarian space is possible. This has been highlighted and indeed should be remembered as the standards are tested over the next year. It is likely that the standards will also apply in

stable situations where humanitarian space is possible or de-facto present, as in for example, natural disasters. But their universality, or applicability to all situations is by no means clear. Indeed, one cannot use a particular technical standard where the basic assumptions around the provision and protection of humanitarian space are not respected.

In the Kivu region this very issue challenges us today. Changing and multiplying political and military actors make it difficult if not sometimes impossible to locate legitimate authority. At the same time OCHA and ECHO are organizing NGO actors to implement programs according to rigorous standards, possibly underestimating the fluidity of the political situation and the possibility of being manipulated by that context. NGOs, other humanitarian actors, institutional donors and peripheral states often share immediate interests and goals in a particular situation, but not always. Efforts at humanitarian program coordination and extended coverage is usually good, yet in some situations can be used to limit or control legitimate HNGO actions. In funding humanitarian NGOs and holding them accountable to potentially politicized standard program objectives, there is a risk of coercion of HNGO actions, and an active or passive disregard of humanitarian principles and goals. The Humanitarian Charter emphasizes humanitarian principles. For humanitarian NGOs, impartiality, neutrality and independence in the pursuit of humanitarian goals must inform firstly an ongoing assessment of the viability of humanitarian space, and then and only then must they inform any effort toward achieving any particular technical standard. By definition, this is a very difficult process, not easily open to standardized or algorithmic approaches.

In applying any standard, there is always the risk that the goal and the principles by which it is achieved can become instrumentalized. For example, in the Goma camps during 1994 to 1996 basic humanitarian principles were lost sight of, while technical objectives were achieved to the very highest of standards. To avoid this risk of instrumentalization or coercion, NGOs must absolutely insist on independence of action in their pursuit of humanitarian principles and goals.

The SPHERE standards do not apply to, or take account of the role humanitarian NGOs play in promoting protection of populations in danger. Yet, the very presence of independent, neutral, and impartial humanitarian NGO actors plays a pivotal role in promoting protection of populations in danger. In Rwanda 1994, the ICRC and MSF failed to achieve by any measure adequate humanitarian standards in their medical and surgical care of those who suffered under the most brutal and inhuman of acts, genocide. But both ICRC and MSF, by being proximate or present on the ground, played a pivotal role - the ICRC for the first time in its history - in publicly advocating for international protection of a population against genocide.

Humanitarian action must not be co-opted in a way that allows Nation States or parties recognized by the international community to avoid their duty and responsibility to provide and protect humanitarian space. In August 1998, the SPLA and two consultants conducted an evaluation of MSF's feeding program in Ajep, Sudan. According to established guidelines, MSF failed in its humanitarian action because it

decided to open its therapeutic feeding center only to children who were less than 60% of weight for height. Yet the report grossly underplayed or ignored significant field constraints, the centrality of the political and military environment, that there was no or little access, and the impact of the diversion of food aid. If accountability implies responsibility, then this, under the guise of 'failure to achieve a specified standard', allows recognized parties (and by extension, the international community) to avoid accountability for their failure to achieve and protect an effective humanitarian space. It also potentially shifts the burden of responsibility for both humanitarian space and service from formally legitimate state actors to informally legitimate non-state actors such as Humanitarian NGOs.

Standards of any kind must not become a cover for masking the active or passive failure to achieve humanitarian principles, responsibilities and goals. According to its own figures, the WFP has distributed sufficient food in Sudan to meet its targets. But it has done this by focusing on targets that are relatively easy to access. The result is that less accessible areas - but where the needs are greatest - have received a much smaller ration of food per head. Technical standards appear to have been reached, but not humanitarian principles or goals.

In attempting to achieve minimum standards for humanitarian action, there is a risk that humanitarian action may simply become a technical and purely professional pursuit. This of course, appeals to those who wish to privatize humanitarian action so that it becomes a commodity or service product, open to subcontracting. Again, the SPHERE standards are, and must remain firmly embedded in the principles of international humanitarian law that entrusts disinterested - and I emphasize 'disinterested'- neutral, impartial and independent agencies with the responsibility to assess needs, and provide and monitor assistance. This will be a challenge against a growing trend among some governments or donor agencies that themselves seek to identify need, define response, and essentially sub-contract a technical response to a willing agent.

Speaking for MSF, humanitarian action is both medical action and temoignage, and depends vitally on volunteerism and proximity. For humanitarian NGOs in general - including MSF- humanitarian action depends too on initiative. In closing, let me say that there is no formal obligation for informally legitimate humanitarian NGOs to impose humanitarian action. There is however a formal obligation and duty for formally legitimate states and the international community to both provide and protect humanitarian space. Under cover of standards that can potentially discipline the action of humanitarian NGOs, we must ensure that the rights of peoples to humanitarian assistance and the duties of states to both provide and protect that space are not displaced.

As noted already, the SPHERE standards are rooted in the legal framework of international humanitarian and refugee law. This is particularly relevant to the issue of accountability for humanitarian space, which rests not ultimately, but primarily with nation states and the nation state system, and not with informally legitimate non-state

actors such as humanitarian NGOs. This is not to say that humanitarian NGOs are not accountable: they certainly are, but not simply to standards, but like states, also to humanitarian principles and goals.

Within the parameters and constraints that I have raised here today, MSF is pleased to have participated in Phase 1 of SPHERE, and we look forward to a continued open and constructive process in the dissemination and training phase of SPHERE in the year ahead. Thank you.