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Fabien Dubuet

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What is humanitarian accountability?

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Fabien Dubuet is a lawyer with Médecins sans frontières (MSF), specialized in international humanitarian law, and a researcher with the MSF Foundation.

Following the humanitarian operations carried out in the Great Lakes region after the genocide in Rwanda in 1994, various criticisms were made of the quality and accountability of relief work — initially by non-governmental organizations (NGOs), who were soon joined by State representatives.

Initiatives to improve the quality of humanitarian work and the accountability of the organizations carrying it out then began to appear. Among these initiatives, the Sphere Project in particular was to the forefront on the humanitarian scene. Started by a coalition of English-speaking NGOs and funded by a dozen or so States, Sphere proposed the Humanitarian Charter and Minimum Standards for humanitarian work as a single yardstick for donors.

Without denying the importance of standard methods for making humanitarian work more effective, Médecins sans frontières (MSF) and many other NGOs hold that the Sphere Project places too much emphasis on the technical quality of aid, even though it was the woefully inadequate protection of the victims that had the most serious consequences for the people concerned.

The "governmentalization" of humanitarian organizations

The quality and accountability of aid work cannot be improved by treating it as an ordinary market with its own needs, suppliers, clients to be satisfied (the "beneficiaries"), and its own specialized vocabulary and techniques. By restricting NGOs to the role of mere service providers, the Sphere Project intensifies a disturbing trend in humanitarian activities. Since the beginning of the 1990s, when huge sums of money began to flow in connection with a shift from development to humanitarian aid, the number of humanitarian organizations has increased dramatically. The organizations' proliferation has, however, been accompanied by their "governmentalization" brought about by the ever greater share of public funds in NGO budgets. Accordingly, the NGO label is now applied to a wide variety of organizations. Some are truly independent and free to adopt their own strategies, while others are nothing more than subcontractors for donors whose policies are decided by politics or economics, or with media coverage in mind.

The quality and accountability of humanitarian operations cannot be reduced to technical performance-related considerations. International humanitarian law, the natural legal framework for humanitarian activities in conflict situations, does not require NGOs to guarantee that they will meet technical aid standards. Such a measure would cause agencies to hold back from providing relief in situations where they could not meet the standards. On the contrary, international humanitarian law requires NGOs to take risks to protect and assist victims of conflict. The humanitarian right of initiative is an obligation to find solutions to the problems inherent in difficult situations. Humanitarian law has not chosen to go about achieving protection for conflict victims by linking the NGOs' obligation to come to their

assistance with a duty to meet technical standards. But it does play a part in protecting the victims by forbidding NGOs to dissociate the obligation to assist from the obligation to protect.

The quality and accountability of a humanitarian operation also lie in its ability to protect the aid until it reaches the victims. It would be regrettable if NGOs were to be judged only on their capacity to meet technical standards rather than on their ability to ensure respect for the type of environment that is necessary both for the survival of the victims and for the independence of the relief work. Médecins sans frontières holds that a satisfactory environment for humanitarian work depends in practice on respect for three operational principles that are vital to the protection and assistance of people in need:

- there must be unrestricted access and an independent assessment of needs;
- there must be control over the distribution of aid, which must be brought first to those who need it most;
- there must be freedom to engage in dialogue with people in need.

The application of these operational principles by relief organizations provides a basic guarantee for the protection and assistance of people in need. For this reason, the concept of the quality and accountability of humanitarian work should include the way in which each NGO manages to respect and ensure respect for these principles in its relief operations.

Finally, the necessary debate on the quality and accountability of humanitarian work should not make us lose sight of the key fact that deaths among people in need are more often caused by serious violations of humanitarian law than by poor-quality relief. Yet the accountability, in humanitarian terms, of NGOs in situations of violence is not clarified by the Sphere Project.

For Médecins sans frontières, the accountability of humanitarian workers takes two main forms: as potential witnesses of serious crimes against groups of people, and as participants in relief operations.

Accountability: as potential witnesses of crimes

By their presence in the field, members of humanitarian organizations may be direct witnesses of crimes and atrocities committed against civilians in conflict situations.

Humanitarian organizations do not have the task of promoting or defending human rights in general. Nonetheless, they do have responsibilities when it comes to serious violations of humanitarian law (war crimes and crimes against humanity), inasmuch as they must report any serious violations they witness to the competent national or international authorities and demand that the violations be stopped. Denunciations of this kind made by humanitarian organizations do not have a moral or legal basis. Their aim is to obtain, whether through dialogue or confrontation, an immediate improvement in the conditions for protecting and assisting the endangered group in question. The quality and effectiveness of the dialogue or confrontation between relief organizations and public authorities stem from the organizations' readiness to

speak out directly, and to initiate public debate at national and international levels on the issue of the violations.

Humanitarian organizations come up against several problems in deciding what attitude to adopt in this type of situation. The first is the fact that any public action they take with regard to the crime is likely to jeopardize the security — and therefore the presence and work — of the organization in the field. For a long time, humanitarian organizations solved this problem by falling back on an absolutist interpretation of the principle of neutrality. Neutrality forbade them to take any stand in relation to the warring parties or their combat methods. But in the face of genocide, or acts of extermination, the argument for continuing relief operations on behalf of the population no longer makes sense. Silence can no longer be taken as dogma by humanitarian organizations. It has to be put into perspective with the real impact of the protection and assistance that are actually being provided. It should be noted that during the conflict in the former Yugoslavia the International Committee of the Red Cross held that condemning serious violations of humanitarian law did not constitute a violation of the principle of neutrality.

Some organizations may wish to pass on their information on serious acts of violence, in confidence, to human rights organizations, which could publicize them without jeopardizing their security in the field. There are also various mechanisms in the United Nations for making this type of information known while protecting the anonymity of its source. These procedures, however, can never give the source a 100% guarantee of anonymity or, therefore, of safety. They may sometimes involve sharing out the responsibility between organizations, which always have different aims and work under different time constraints. Broadly speaking, actions taken by humanitarian organizations should be geared towards immediate prevention rather than condemnation and legal documentation of the crime after the event.

Another problem lies in the fact that very often there is no legal or public-order body at local level to which such an occurrence can be reported. This factor is not relevant for humanitarian law, since those who commit serious violations of this law may be brought to trial before any court in any country, and possibly before an ad hoc international criminal tribunal or even, in the future — once its Statute has come into force — before the International Criminal Court. It should further be noted that for some crimes there is no statute of limitations. In other words, there is no time limit on the initiation of criminal proceedings, which makes it possible to wait until political and military conditions have changed. In the meantime, it is important for humanitarian organizations to make known the crimes committed so as to get them stopped. They can also document a situation before the evidence disappears, and they may issue victims with medical certificates or other official papers which will enable them to assert their rights if and when they can.

In any event, humanitarian organizations need to be able to establish the legal nature of the situations in which they become involved, in order to be in a position to demand the application of humanitarian law designed to protect civilians in each particular situation. Establishing the nature of the situation is the first stage in an accountable relief operation. This presupposes that the organizations both know and understand the plight of the groups involved and the acts of violence to which they

are subjected. The work of gathering information and documenting violations of humanitarian law is thus an integral part of an accountable relief operation.

Accountability: as participants in relief operations

Humanitarian law lays down specific rights for those protecting and assisting a civilian population in time of conflict. Humanitarian organizations involved in these situations bear responsibility for negotiating working conditions with the warring parties that comply with the guarantees laid down in the law. They are also responsible for stating to what extent they are prevented from, or are succeeding in, ensuring the protection and survival of the groups concerned. This responsibility cannot be confined to mere monitoring of the proper financial use of the funds allocated to them in the name of international solidarity with people in danger, nor can it be delegated to other organizations, not even to those specializing in human rights. It takes a variety of forms.

- Humanitarian organizations are responsible for negotiating with the authorities to ensure that working conditions comply with the guarantees laid down by humanitarian law.
- Humanitarian organizations are responsible for identifying and making known — locally, nationally and internationally — any obstacles or prohibitions put in the way of their relief work. This is vital, as it makes evident the defects in the application of humanitarian law and, thus, the kinds of dangers facing people despite the deployment of organizations on the ground and the volume of aid provided.
- Humanitarian organizations are responsible for denouncing situations where relief work is diverted from its target, or where it is being used to endanger the group it was intended to protect. These situations are particularly serious as the presence of humanitarian organizations, and their work, are used against the interests of the intended beneficiaries. This is what happens, for example, when relief organizations are used to locate the places where there are groups of vulnerable people, who can then be attacked, or when aid distribution is used to bring together people who can similarly be attacked, or put through a selection process or forcibly displaced. It can also happen that relief organizations are authorized to provide material aid in order to give a semblance of normality to places where, despite the aid, people are being subjected to violence and atrocities. In this kind of situation it is important that relief agencies be able to analyse the real nature of their activities. They must not allow their silence and their presence to lend support to situations where, despite the distribution of relief, the safety and lives of the people remain under threat.