

**Inter-Agency Standing Committee Working Group  
XXXIInd Meeting  
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**Item 6: Interface between Human Rights and Humanitarian Action.**

**Purpose**

1. The purpose of this informal, preliminary discussion paper is to facilitate a debate within the IASC and ECHA, and to help identify further steps aimed at enhancing the ability of humanitarian agencies to address the issue of the rights of affected populations in violent or protracted crisis situations. As the issue of human rights mainstreaming, including human rights and peacekeeping, is being reviewed in other UN fora, and the role of human rights in both pre-crisis (Early Warning and Prevention) and post-ceasefire situations has been well articulated, this discussion is concerned with human rights issues pertinent to humanitarian action in violent and protracted crises.

This paper sets out some of the human rights related concerns which confront humanitarian actors in war zones; these and other issues have been the subject of much discussion within the humanitarian arena but there is, as yet, no consensus or policy guidance on the most appropriate means of addressing them. Indeed, the extent to which human rights concerns are integrated in to programme planning and execution vary considerably from one humanitarian programme to another.

**Background**

2. Traditionally, human rights activism has been primarily concerned with violations of civil and political rights and promotion of respect for these. In recent times, and particularly after the ending of the Cold War, a much broader range of actors have engaged with the issue of rights and have given new meaning to the goal of universal respect for the dignity and worth of all human beings. There is greater appreciation of the centrality of human rights to justice, peace, security, social equity and economic well-being and of the relationship between human rights violations and complex, protracted crises. There is also greater awareness of the interrelated and interdependent nature of civil, social, cultural, economic and political rights and the importance of taking a comprehensive approach to crises.

3. Recognition that the enjoyment of civil and political rights cannot be achieved in the absence of economic, social and cultural rights and vice-versa means that one set of rights cannot be sacrificed for another. In complex crises where violent and protracted conflict are often dominant features as different groups vie for power, including control of material and other resources, humanitarian action cannot be effective if it does not squarely address the issue of rights. The original intent of Henri Dunant was not merely to end suffering but to bring about conditions which would allow those who were adversely affected to overcome the crisis which provoked the need for humanitarian assistance. In other words, the overall outcome must be positive. As noted by Macalister-Smith "relief which only perpetuates a state of marginal survival" is, at best, a questionable exercise. The purpose of effective humanitarian action "is not simply to efficiently administer a state of destitution, dependency and misery..." In *International Humanitarian Assistance, Disaster Relief Actions in International Law and Organization* by Peter Macalister-Smith, Martinus Nijhoff Publishers, (1985)

## Challenges Confronting Humanitarian Action in Conflict Settings

4. The issue of rights has also gained increasing prominence because of the changing nature of warfare. Abuse of human rights is no longer a by-product of conflict, but increasingly a tactic of war: Combatants avoid direct confrontation but instead terrorise civilian populations. When the purpose of war is to maximize the suffering of civilians, or to displace or eliminate a particular group, it challenges the very purpose of humanitarian action and limits the ability of agencies to meet their humanitarian objectives. By the same token, attacks against civilians and denial of access go to the very heart of the human rights agenda. The underlying sources of conflict, the way war is conducted, and the implications of violent and protracted crises for both the immediate and future survival of affected populations, require humanitarian actors to re-assess their attitude and approach to the issue of rights and the way in which *effective* humanitarian action is defined and undertaken.

5. In contemporary war zones the central issue is how humanitarian action helps ensure that civilians are protected from violence and threats to their physical and psychological well-being. Relief operations tend to focus on the provision of life-saving material supplies and in some cases inadequate attention is given to the protection needs of threatened population groups. Ensuring protection, in particular protection from physical harm, however, often goes beyond the ability of the humanitarian community.

6. The issue of access or respect for humanitarian norms is central to the issue of rights and effective humanitarian action in complex crises. When military and political agendas disregard the rights of individuals there are obvious limitations to what can be achieved on the humanitarian front. Failure to address or counter the deliberate targeting of civilians in crises such as Rwanda and Bosnia has led to the so-called phenomenon of “the well-fed dead” and raises questions about the overall objectives and strategy of the humanitarian community in such situations.

7. Within the humanitarian community there are varying understandings of the relationship of humanitarian action and the promotion of respect for human rights. Some see humanitarian action as an integral part, a sub-activity, of global, international efforts to promote human rights. Others see humanitarian action as a separate, distinct if related activity. They emphasize that humanitarian action is based on international humanitarian law, which predates the codification of international human rights law and is distinct both by origin, nature and application. They emphasize that the humanitarian action understood as the promotion of human rights can compromise the fundamental humanitarian principles of neutrality and independence. These varying paradigms can effect how humanitarian actors respond to specific challenges on the ground, which in turn effects the lives of beneficiaries.

8. There is still a tendency to perceive “human rights work” exclusively as the **monitoring and reporting of civil and political rights violations**. This has fed a continuing concern about humanitarian personnel being actively engaged in documenting and reporting violations which directly affect the safety and security of people they are attempting to help. Humanitarian agencies are concerned that their personnel and the crisis victims they are trying to help will be endangered or their access curtailed if violations are reported or denounced. Human rights advocacy is seen as potentially undermining humanitarian action. There is equal concern, however, that silence or what may be perceived as acquiescence to, or collusion with abuse is not in the interests of victims and works against the effectiveness of the humanitarian endeavour.

9. Closely associated with the issue of access and the provision of assistance in war zones **is the need to avoid unintended consequences** which directly or indirectly work against the ability of civilians to enjoy basic rights and freedoms. There is greater awareness

within the humanitarian community that it has a responsibility not to collude directly or indirectly with the war aims of particular groups and that, at a minimum, it must avoid contributing to the dynamics of a crisis or the continuation of conflict. However, the humanitarian community has only a limited capacity to analyse and define the potential negative consequences of providing aid in situations where it is likely to be abused. In the midst of a crisis where a rapid response is required, the possibility of standing back and undertaking analysis prior to decision making is restricted.

10. A related issue is **the relationship of the humanitarian imperative to a human rights based approach to humanitarian action**. One interpretation of the humanitarian imperative suggests that humanitarian aid should be delivered wherever there is a need. Delivering aid without adequate attention to the rights of the victims has led to accusations that aid lengthens conflict or perpetuates abuses. This gives rise to the question as to the extent to which aid can or should be made conditional. Conditionality, that arises from a principled, that is a rights based approach, can however adversely affect beneficiaries. At what point does the promotion of principles begin to occur at the expense of people the principles are intended to protect ?

11. A further point is related to the continuing debate on ways and means of giving positive effect to the relief-development relationship. This has highlighted the importance of a strategy which allows the humanitarian community to contribute to recovery initiatives which complement the realization of humanitarian objectives. However, there is still a very limited understanding of the **relationship between relief inputs, the political economy of war, and structural inequalities** which undermine the ability of particular groups to enjoy basic rights.

12. In conflicts where the space available to humanitarian agencies has been so limited and contorted as to negate the possibility of effective action, the concept of **Safe Havens** has been tried with mixed results. There is a need to better understand the conditions essential to meeting the protection objectives of designated “safe areas”.

13. Disrespect by state and non-state actors for the fundamental rights of civilians has been paralleled by a rapid escalation in the **abuse of humanitarian assistance and relief personnel**, a significant number of whom have been killed and wounded in the course of their official duties. Member States have attempted to address this issue both in the Security Council and the General Assembly in recent years. However, there is still a marked reluctance to take a concerted approach to address such abuses including the denial of relief to people in need of assistance for their survival.

14. It has become a truism that **humanitarian work should not become a substitute for the action needed to resolve the underlying causes of conflict**. However, there is a thin line separating the maintenance of humanitarian neutrality and impartiality and pushing for political action which often works against the objectives of warring parties. It is thus necessary to identify where rights-based interests converge and when humanitarian and other agendas are best addressed separately.

### **Issues: Humanitarian Action and Enhancement of Human Rights**

15. The issues confronting the humanitarian community have been described in the preceding paragraphs. The following priority issues are proposed for further study, through inter-agency mechanisms, with a view to enhancing the capacity of relief and other personnel to address human rights concerns.

(a) Develop **guidelines or ground rules to assist humanitarian workers to deal with human rights abuses** which are life threatening and point to the absence of adequate protection for war-affected people.

- (b) Examine the **relationship between relief inputs, war economies, and structural inequalities** in different settings so that appropriate guidance is available for future crisis situations.
- (c) Review ways in which **humanitarian strategies can work with rights-based agendas geared to securing immediate and longer term** solutions to violent conflict without adversely affecting access and the security of relief personnel.
- (d) **Examining the relationship of international humanitarian law and human rights law**, with a view to developing a common understanding with the humanitarian community of the relationship between the promotion of respect for human rights and humanitarian action.
- (e) Identify **training** needs and materials for humanitarian, human rights and other personnel involved in assisting people adversely affected by conflict and crises.