Pushing the Boundaries of Humanitarianism:
A Survey of the Ethical Landscape

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> *"The humanitarian community…. looks weak. While it is trying to correct the system, putting in place more checks and balances through codes of conduct, ombudsmen and technical standards, it has proved less coherent in waging a war which is more at the level of ideas and ideology. At issue is not only protecting the quality of rations, but the basis of rights and international responsibilities; protecting these values, not simply cashflow, is likely to be the major challenge for the relief community in coming years."[1]*

To any student or practitioner of humanitarianism today, the quote above likely resonates. Yet it is more than 20 years old, drawn from an article that argued humanitarian action was then under "fatal attack," published in a special edition of the journal *Disasters* chronicling the demise of humanitarian principles.[2] Needless to say, but worthy to consider, the interment of humanitarianism was premature, its resilience in the face of purportedly existential threats underestimated.

Judging from a review of current literature and consultation with a cross section of experts in the field, it would seem, however, that humanitarianism is again facing a mortal threat, or more aptly, threats. Variously characterized as broken, atrophied, or no longer fit for purpose[3], the humanitarian system and the ethical principles that animate it face a multiplicity of crises. Perhaps we are now hearing the death knell projected 20 years ago?

This paper desists from pronouncing humanitarianism dead or dying. But it does make the case that serious challenges confront humanitarian action as currently conceptualized, organized, and justified, as well as for those who profess to undertake it. Some of these challenges are perennial, innate to the humanitarian enterprise by dint of its ethical framework that encompasses as many as 33 different (potentially competing) principles within its ostensible purview and with its actions taking place in the most fraught and contested real-world political and military arenas.[4] There never was a mythological "golden age" when humanitarian action was immune from politics and humanitarian principles were not contested and in contest with one another.[5] Yet the way these perennial challenges manifest themselves today may differ from earlier epochs: donor governments' attempts to instrumentalize humanitarian assistance to advance less than humanitarian foreign policy goals, for example, is nothing new. But the goals to which humanitarian aid and actors are co-opted may change in line with geopolitical shifts. On the other hand, some of the challenges facing humanitarianism today are more novel, brought about by

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[1] Macrae, Joanna, "The Death of Humanitarianism? An Anatomy of the Attack," Disasters 22(4), December 1998, pg. 309-317.

[2] Disasters 22(4), December 1998: "Special Issue: The Emperor's New Clothes: Charting the Erosion of Humanitarian Principles."

[3] See, for example, Gharib, Malaka, "Humanitarian Aid is 'Broken,' Says Former Official," Goats and Soda, NPR, June 22, 2017 (https://www.npr.org/sections/goatsandsoda/2017/06/22/533639073/what-s-wrong-with-humanitarian-aid); Healy, Sean, and Tiller, Sandrine, "Where is everyone? Responding to emergencies in the most difficult places," London, Medecins sans Frontieres, 2014; Miliband, David, "Rescue: Refugees and the Political Crisis of Our Time," New York, TED Books, 2017; Scott-Smith, Tom, "Humanitarian Dilemmas in a Mobile World," *Refugee Studies Quarterly* 35, 2016, pgs. 1-21; or Dubois, Marc, "The new humanitarian basics," Humanitarian Policy Group, Overseas Development Institute, 2018.

[4] Slim, Hugo, "Humanitarian Ethics: A Guide to the Morality of Aid in War and Disaster," New York, Oxford University Press, 2015, pg. 40.

[5] Interview with A. Donini, 7 December 2018.

legal, policy, and public sentiment evolutions over the past decade or two which continue to accelerate, or deepen.

This paper explores the various crisis facing the humanitarian enterprise today, outlines how the scope and ambition of humanitarianism is expanding in their wake, and offers some observations on the impact of these changes for humanitarian principles. It also identifies areas for possible future research that could be considered by the IRC, who commissioned the report with the support of Stichting Vluchteling, to delve further into the how some of these challenges have been navigated, or principled humanitarian action understood and pursued, in different operational contexts.

A Proliferation of Crises for Humanitarianism

What is the current state of the humanitarian system? In what kind of world does it operate? Where and how are its constituent elements, foundational values, and mobilizing myths under pressure? At the risk of oversimplification and omission, there are five features of the current global context that together coalesce to generate some of the most severe challenges for humanitarianism. These are referred to as the "five crises for humanitarianism."

The Crisis of Need

The number of people deemed in need of humanitarian assistance is at historically high levels and likely to continue to increase. According to UN OCHA's Global Humanitarian Overview for 2019, there were 131.7 million people in need, of which 93.6 million are targeted for assistance, at a price tag of $21.9 billion.[6] Over $4 billion alone has been requested for Yemen in the UN's largest country appeal in history.[7] The number of people forcibly displaced, at almost 69 million, is at an all-time high.[8] Despite dramatic increases in funding devoted to humanitarian aid, there remains a huge gap (40%) in coverage of the UN's consolidated appeals.[9] In sum, despite dramatic growth, the humanitarian system is woefully unable to meet the identified needs of people it has deemed of concern.[10]

The Crisis of Solutions

Related to the above phenomenon of burgeoning unmet need is the demise of what have traditionally been referred to as the durable solutions for displacement: repatriation, resettlement, and local integration. In 2017 there were 16.2 million new net displacements, the highest number ever recorded.[11] Populations are displaced for much longer as well, as wars and other crises which drove people from their

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[6] UN OCHA, "Global Humanitarian Overview 2019" (https://www.unocha.org/sites/unocha/files/GHO2019.pdf).

[7] Parker, Ben, "UN Appeals for Record $4 Billion To Help the People of Yemen," IRIN, 4 December 2018 (http://www.irinnews.org/news/2018/12/04/un-appeals-record-4-billion-help-people-yemen).

[8] ALNAP, "The State of the Humanitarian System: Summary," London, ALNAP/ODI, 2018 (https://www.alnap.org/our-topics/the-state-of-the-humanitarian-system).

[9] OCHA, "Global Humanitarian Overview 2019".

[10] For a critical analysis of this ironic situation which sees the gap between simultaneously increasing resources/capacity and what is defined as "need" as a structural dilemma ingrained within the current system- which in turn calls for a radical narrowing of the boundaries of humanitarianism in response- see Dubois, "The new humanitarian basics." The trajectory of continued expansion of humanitarianism's boundaries outlined in this paper suggest further exacerbation of this "crisis of need" in the future, rendering Dubois' observations both more salient, and worthy, of further exploration.

[11] Ibid.

homes in the first place are more and more likely to continue for years on end.[12] Where repatriation is considered or undertaken, such as to Myanmar, Syria, Somalia or Afghanistan, it is likely to be neither voluntary, safe or dignified.[13] Despite recent muted euphoria around the signing of the new Global Compacts on Refugees and Migration, resettlement as an option for the most vulnerable is shrinking, facing sustained efforts at further constriction within locales that had typically been the most generous to refugees and asylum seekers.[14] Finally, the prospect of long-term acceptance in a third country to which one has fled may also be diminishing. Deportation and forced returns, whether from Germany to Afghanistan, the USA to El Salvador or Haiti, Lebanon to Syria, or Greece to Turkey have taken pride of place over local integration and clear pathways to citizenship. Those who have moved find themselves increasingly in limbo, with no clear long-term solution for them on the horizon.

The Crisis of Borders

Just as it is getting harder to find a durable solution to one's displacement once one has moved, the very act of movement, especially across international borders, is becoming more and more difficult. Physical barriers to flight are emerging and expanding across the globe. Where ever one looks, walls are going up, from the frontiers of USA/Mexico to Pakistan/Afghanistan to Hungary/Serbia to Turkey/Syria.[15] "#Closed ports"[16] face boats full of desperate people in the Mediterranean, or in the waters outside Australia. A race to the bottom has erupted between Europe, the USA, and Australia to see how few migrants, asylum seekers, and refugees can be permitted to set foot on their soil as their borders are externalized further and further through Orwellian-named "offshore processing centers" and "hotspots." Meanwhile detention is becoming a first rather than last option for reception when one does enter. Refugee and migrant hosting countries around the world are closely observing the behavior of the system's ostensible role models, emulating their policies of deterrence.[17] A new global policy of containment has taken hold and is expanding. But unlike the Cold War, when superpower influence and competing ideologies were its objects, the new global regime of containment takes the migrant's body as its focus of exclusionary attention. As one commentator has observed, borders are themselves a cause of suffering, a humanitarian concern in their own right.[18]

The Crisis of Compassion

The erection of physical and legal barriers to movement has contributed to and been accompanied by the stigmatization and criminalization of those in flight as well as those that seek to help them. With fewer

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[12]Miliband, Op. cit., pgs. 28-29.

[13] See, for example, Crisp, Jeff, "'Primitive People:' The Untold Story of UNHCR's Historical Engagement With Rohingya Refugees," Humanitarian Exchange (73), Humanitarian Practice Network, October 2018.

[14] UNHCR, "Global Trends: Forced Displacement in 2017," 19 June 2018, (https://www.unhcr.org/en-us/statistics/unhcrstats/5b27be547/unhcr-global-trends-2017.html). See reference to a 54% drop in the number of refugees submitted for resettlement in 2017 compared with 2016 on pg. 3.

[15] Hjelmgaard, Kiim, "From 7 to 77: There's been an explosion in building border walls since World War II," USA Today, 24 May 2018 (https://www.usatoday.com/story/news/world/2018/05/24/border-walls-berlin-wall-donald-trump-wall/553250002/).

[16] See Horowitz, Jason, "Italy Orders Seizure of Migrant Rescue Ship," New York Times, 20 November 2018, for reference to Italy's Interior Minister Matteo Salvini's tweet.

[17] Hargrave, Karen, Pantuliano, Sarah, and Idris, Ahmed, "Closing Borders: The ripple effects of Australian and European refugee policy," HPG Working Paper, ODI, London, 2016.

[18] Scott-Smith, Op. cit., pg. 11.

and fewer legal pathways to seek or gain asylum, or to enter another country to make such a claim, people fleeing persecution, war, natural disaster, abuse or abject poverty find themselves in the unenviable position of being considered "irregular" and "illegal." Today's migrants and refugees, rather than being seen as rights-bearing vulnerable people seeking safety and a better life, entitled to respect and protection, are systematically conflated in the public and policy eye with queue jumpers, criminals and terrorists. The humanitarian impulse is still alive and well, and Good Samaritins abound in places from Greece to Bangladesh to Texas.[19] But their very actions are increasing castigated, undermined, and outlawed.[20] Meanwhile search and rescue efforts in the Mediterranean, equated with the aiding and abetting of people smugglers, have floundered on the rocks of sustained legal assault, the latest efforts of which have brought to bear arcane Italian waste disposal laws on the last remaining MSF ship plying the waters off Libya.[21] Anti-terrorism legislation is being more aggressively enforced against agencies working in areas of acute need which are controlled by terrorist sanctioned entities, such as Syria, Somalia, or the Sahel.[22] Criminal penalties are assessed on individuals providing assistance to migrants in Hungary, and charitable organizations receiving foreign funding must declare themselves as "foreign agents" in Russia. The trend towards the "criminalization of compassion" is now well documented,[23] with its twin pronged assault on those on the receiving end as well as those dispensing it. In the wake of these trends many publics are losing trust and faith in humanitarianism and humanitarians. They may also be inured to suffering, the myths of humanitarianism losing some of their ability to mobilize compassion when needed most: Where are the massive civic protest actions in response to the man-made horror that is today's Yemen?[24]

The Crisis of the Cracking Oligopoly

The humanitarian system as currently configured, structured, and resourced is a Western-originated, Western dominated, oligopoly.[25] In 2017 the three largest donors (US, Germany, UK) contributed 59% of all government contributions to humanitarian assistance. 60% of all government aid went to a small handful of UN multilateral agencies. The six largest NGOs[26] accounted for 23% of the total $17 billion in

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[19] Borton, John, "The humanitarian impulse: alive and well among the citizens of Europe," Humanitarian Exchange (67), September 2016, pgs. 23-6.

[20] Fekete, Liz, Webber, Frances, and Edmond-Pettit, Anya, "Humanitarianism: the unacceptable face of solidarity," Institute of Race Relations, 2017.

[21] Markey, Hannah, "How the Debate Over Flags Sidelined Europe's Migrant Rescue Ships," Refugees Deeply, 22 November 2018.

[22] International Rescue Committee, Humanitarian Policy Committee, "Restrictions on humanitarian assistance delivery under counter-terrorism laws," November 2018, draft shared with author. This echoes the sentiments expressed in several interviews conducted to inform the paper.

[23] Serrano, Maria, "How Europe Turned Compassion Into a Crime," Amnesty International, 25 October 2018 (https://www.amnesty.org/en/latest/news/2018/10/how-europe-turned-compassion-into-a-crime/) and International Federation of Red Cross and Red Crescent Societies, "New Walled Order: How barriers to basic services turn migration into a humanitarian crisis," Geneva, July 2018.

[24] Interview with A. Donini.

[25] Donini, Antonio, "The future of humanitarian action: Reflections on impartiality," in Quack, Martin (ed.), "Based on Need Alone? Impartiality in Humanitarian Action," Caritas Germany, Diakonie Katastrophenhilfe, and Doctors Without Borders, July 2018.
pgs. 18-27 See also ALNAP, State of the Humanitarian System 2018, for this characterization.

[26] MSF, IRC, NRC, Save the Children, CRS, World Vision.

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NGO spending 2017 (compared to 0.4% to all national and local NGOs combined).[27] Yet, to paraphrase one long-time observer of the system, "the stranglehold of the West on humanitarian action is loosening."[28] On the one hand the currency of multilateralism has been devalued in the wake of the rise of nationalism, populism, protectionism, and isolationism in the USA, Europe and farther afield. Previous champions and system hegemons, such as the USA, have abdicated their leadership, are turning away from the rights and protection dimensions of humanitarian action and are actively campaigning to undermine or unravel the post- World War II international system, including the UN and EU, which are at the heart of the current humanitarian architecture.[29] On the other hand, there is a gradual relocation, or rebalancing, of global wealth and power away from the West to the East and the South. As new actors like China, India, Turkey, and the Gulf States embrace roles as donors and aid implementers, it is reasonable to expect there to be potentially different, perhaps more statist, sovereignty-focused, and instrumentalized approaches to humanitarian aid put forward which don't align with the current ethical foundations of the enterprise. Southern states as well are exerting more control, and demand for control, over humanitarian action within their borders, some going as far as resisting or declining offers of international assistance all together.[30] If the localization agenda, as promulgated in treatises like the Grand Bargain, is ever seriously embraced and fulfilled, further shifts in power and control away from the Western core would and should be expected. In general global terms democracy is on the decline, many states are becoming more authoritarian and more capable of exerting their authority over aid and aid providers, while national sovereignty as an organizing international principle is resurgent.[31] Finally, new humanitarian actors are coming on to the scene, or becoming more visible, in response to perceived failures or gaps in the current system run by its small coterie of large, Western, NGOs and UN specialized agencies. Diaspora built and managed NGOs have emerged as key players in the provision of relief in the ongoing conflict in Syria and its neighboring countries. Thousands of individual volunteers and hundreds of spontaneously organized groups mobilized to provide support to asylum seekers and migrants in Europe since 2015.[32] The centrality of refugees, their local hosts, and the micro-local organizations they form is being rediscovered as a critical missing link in the response value chain, especially in the very first

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[27] ALNAP, Op. cit.

[28] Interview with A. Donini.

[29] See Donini, Antonio, "The crisis of multilateralism and the future of humanitarian action," IRIN, 30 November 2016 (https://www.irinnews.org/opinion/2016/11/30/crisis-multilateralism-and-future-humanitarian-action) for treatment of this issue.

[30] Interview with T. Hilhorst, 26 October 2018. See Lyons, Kate, "Indonesia orders foreign aid workers helping with tsunami aid effort to leave," The Guardian, 9 October 2018 (https://www.theguardian.com/world/2018/oct/09/indonesia-orders-foreign-aid-workers-helping-with-tsunami-effort-to-leave) for one example.

[31] This position was expressed by multiple interviewees. See also Mclean, Duncan, "Humanitarian implications of a re-assertion of state sovereignty," Humanitarian Alternatives, November 2018, Pg. 20-35 and Freedom House, "Freedom in the World 2018: Democracy in Crisis" (https://freedomhouse.org/report/freedom-world/freedom-world-2018). It is interesting to compare this analysis of sovereignty with the one expressed 20 years ago as part of the aforementioned "fatal attack" on humanitarianism: in the 1990s it seemed that sovereignty was eroding and the right of humanitarian intervention, or Right to Protect (R2P), was ascendant. See Leader, Nicholas, "Proliferating Principles: Or How to Sup With The Devil Without Getting Eaten," Disasters Volume 22(4), December 1998, pg. 288-308.

[32] Borton, Op. cit.

phases of disaster.[33] Each of these groups of actors may bring different perspectives on the value, meaning, or hierarchy of importance of basic humanitarian principles such as neutrality, impartiality, and independence compared to the systems' traditional constituents.

<div align="center">The Elasticity of Humanitarianism's Boundaries</div>

Where humanitarianism begins and where it ends is a recurring theoretical and practical question. As the world changes, so the definition of humanitarian scope and activity is debated and reformulated. In considerations of its limits, humanitarian action can display an elasticity that draws it far beyond its fundamental moral purpose of protecting and saving lives in extremis.[34] How have the boundaries of humanitarian action in today's world been shaped by the current global context?

There are currently four boundary challenges that humanitarians are grappling with which will likely persist or deepen in the years ahead.[35] They concern 1) *Spatial:* the physical spaces in which humanitarian action is considered appropriate, or required; 2) *Demographic*: the populations whom are deemed legitimate and deserving subjects of assistance and protection; 3) *Temporal*: the right and reasonable duration of humanitarian assistance; and 4) *Teleological*: the goals to which humanitarian action should be directed above and beyond the saving of lives and preservation of dignity, if any. The aggregate picture that emerges from the way the sector has responded to these boundary challenges is one of further expansion of humanitarianism's scope and ambition, bringing with it a set of challenges to the core humanitarian principles of impartiality, neutrality, independence.

<div align="center">*Spatial*</div>

The universality of humanity dictates that where ever human life and dignity is at risk, it is reasonable and appropriate that efforts be made to save and protect it. There are no spatial caveats or limitations to the global purview of humanitarian action from a theoretical perspective. Yet the formulation of some spaces as appropriately amenable to humanitarian response is more fraught than others. There are currently four spaces which are challenging humanitarians to reconsider the appropriate physical scope of their interventions, raising thorny ethical and operational questions in their wake.

The first space which has recently re-emerged[36] as within scope for humanitarian action is the Western donor core. In the face of large-scale flight from the Middle East and North Africa since 2015, Europe has become one of the principal arenas for humanitarian action today. It was not self-evident, nor is it universally accepted, that this is an appropriate space for the international humanitarian system to be engaged. When refugees fled from Syria to Lebanon or Jordan, the humanitarian system instinctively mobilized. But when those same people fled to Europe, there was hand-wringing, consternation, and

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[33] Shevach, Sally, Sutton, Kate, Flint, Josie, and Nadiruzzaman, Md, "When the rubber hits the road: local leadership in the first 100 days of the Rohingya crisis response," Humanitarian Exchange (73), Humanitarian Practice Network, October 2018.

[34] Slim, Humanitarian Ethics, Pg. 7-10.

[35] Slim, op. cit., argues that the boundaries of the field are pulled by three forces: actors, methodology, and context. I am indebted to this formulation in conceptualizing this section.

[36] The term re-emerged is used to reflect prior large-scale humanitarian action in Europe, such as during the Balkan crises of the 1990s, the Hungarian crisis of 1956, The Berlin Airlift 1948/9, and massive post WWII population relocations and rebuilding efforts. Yet the more recent interventions in response to large scale refugee and migrant movements generated a visceral reaction among many humanitarian actors that questioned the appropriateness of such action on European soil.

questioning. The delay of the traditional humanitarian system to intervene was due to many causes, but central among them was the disbelief that Europe could or should be the site of sustained humanitarian action. But once agencies began to apply the same business rubrics that guide their decisions to commence operations in other locales- assessing needs along with the degree of capacity and willingness of state authorities and civil society to meet those needs- they overcame what for many was feelings of shame and anger at "Europe" for failing to provide dignified care for recent arrivals to launch assistance and protection operations akin to those they typically operated in the global periphery.

The southern border of the United States has also generated the attention and intervention of humanitarian actors in response to the movement of peoples from Central America coupled with a predatory, harmful, and overwhelmed government response.

As desperate people continue to seek refuge in Europe and the USA, via increasingly dangerous routes as legal pathways disappear and barriers are erected, and while those governmental institutions and politicians charged with providing safe and dignified protection and assistance continue to shirk their duty or compound harm, these locations will continue to pull humanitarians into their orbit. Should a natural or man-made crisis that forces people to flee en masse erupt on their borders again-in Mexico, Turkey, Libya or Egypt- the same questions about appropriate limits of humanitarian action can be expected to resurface. A similar phenomenon might arise in the face of a large-scale natural disaster: given the now well documented poor performance of the US government in response to Hurricane Katrina,[37] for example, why should it not be legitimate for the substantial technical expertise and resources of the international humanitarian system to mobilize in response within the USA?

The second set of spaces that are prompting humanitarians to rethink the appropriate boundaries of the field are "atypical" crises that are causing mass displacement. The economic and governance collapse in Venezuela is now acknowledged as having displaced more people than any other current crisis except Syria. Over 3 million of its citizens have fled to neighboring countries such as Colombia as they search for health care, food and gainful employment. The UN has recently announced its first ever regional response plan for the Venezuelan crisis, as the country's basic infrastructure and social safety nets have collapsed, while numerous international NGOs have commenced operations in response.[38] Gang warfare and violence in Central American states such as El Salvador, Honduras and Guatemala are also driving substantial international movements as people seek safety for their families and themselves. UNHCR has acknowledged that many of those fleeing should be considered refugees, and some humanitarian organizations have begun working in those countries or along their migratory route.[39]

Both cases challenge traditional conceptions of what a "humanitarian crisis" looks like, as people's needs and flight are predicated on neither a clearly defined conflict nor natural disaster. Those fleeing more closely approximate what Betts and Kaytaz described as "survival migrants" in their analysis of the exodus from Zimbabwe from 2005-2008: people from places which are experiencing state collapse, livelihood

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[37] See for example Spike Lee's 5-part TV mini-series "When the Levees Broke: A Requiem in Four Acts," 2006-7.

[38] Parker, Ben, "Venezuela to receive emergency UN aid for the first time," IRIN, 26 November 2018; UNHCR, "Regional Refugee and Migrant Response Plan for Refugees and Migrants from Venezuela, January-December 2019," (https://s3.amazonaws.com/unhcrsharedmedia/2018/RMRP_Venezuela_2019_OnlineVersion.pdf).

[39] UNHCR, "Central American Refugees and Migrants Reach Mexico City," 7 November 2018, (https://www.unhcr.org/news/latest/2018/11/5be2ed814/central-american-refugees-migrants-reach-mexico-city.html)

failure, and/or environmental destruction for whom there is no reasonable domestic remedy.[40] Compared with the international humanitarian system's limited response to the crisis in Zimbabwe 10+ years ago, its characterization of the recent crises in Latin and Central America as "humanitarian" (despite Venezuelan leadership opposition) and mobilization of its resources to respond suggests a potential broadening in the understanding of the physical boundaries of the humanitarian field of play. One may reasonably imagine that other situations of large-scale "survival migration" from states no longer able to care for or protect their citizenry will emerge when confronted with economic, political, or environmental breakdown, extending the boundaries of humanitarianism further in their wake.

Whereas the first two recent spatial challenges to the boundaries of humanitarian action relate to states, the remaining two deal with spaces within, between, and outside the international state system. At the sub-national level, the global regime of containment and deterrence- with its default modus operandi of incarcerating those crossing or desiring to cross a border- increasingly presents humanitarians with the morally fraught questions of whether, and how, to work within the proliferation of spaces of detention without legitimizing them and the system of which they are a part, or being sullied by too close association with the harms they cause.[41] From Libya to Greece, from the southern United States to Nauru, from Manus to Northern Rakhine State in Myanmar to Malakal in South Sudan, some of the most vulnerable, unprotected, and needy people are behind bars, barbed wire, or walls. Fears of complicity and co-optation, with limited options for real remedy or redress, accompany humanitarians who have forayed into these zones. As the drive for externalization of the West's borders intensifies through Africa Compacts, Central American Marshall Plans, and EU-Turkey deals, more of these liminal spaces of incarceration or internment may be the home for greater numbers of displaced and migratory peoples.[42] The compassionate impulse to reach those most in need will continue to bump up against the cold reality of a system that invites humanitarians to be the salves to the structural harm it propagates.[43]

Humanitarianism's spatial boundaries are also being pulled into the interstices of the international state-system: they may be called upon to operate outside of them in the future. Mobilized by the horrific numbers and images of asylum-seeking lives lost at sea while a callous and unwelcoming Europe stood by, a new genre of water-borne humanitarianism emerged in the Mediterranean and Aegean in the past few years. Search and rescue as well as maritime law terms of art became part of the humanitarian vernacular. The drawing and redrawing of lines between international and national waters off the coasts of Libya and Italy became a matter of literal life and death. One port after another closed for disembarkation, humanitarian search and rescue vessels have been forced to drift for days and weeks on

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[40] Betts, Alexander, and Kaytaz, Ezra, "National and international responses to the Zimbabwean exodus: implications for the refugee protection regime," New Issues in Refugee Research No. 175, July 2009.

[41] For an example of the moral challenges posed by operating in such spaces, see Baouab, Tarak Bach, "Burning dilemmas in a simmering conflict," Ins&Outs, MSF OCA Staff Magazine, January 2017, pgs. 7-9. See also Lilly, Damian, "Protection of Civilian Sites: a new type of displacement settlement?" for an interesting treatment of the emergence of such spaces in South Sudan.

[42] Associated Press, "EU Leaders Press Ahead With Tough Plan for Screening African Migrants," CBC News, 28 June 2018 (https://www.cbc.ca/news/world/merkel-bundestag-germany-migrant-speec-1.4725884).

[43] Sanggaran, John-Paul, "First, Do No Harm: Why Doctors Should Boycott Working in Australian Detention Centers," The Guardian, 4 March 2016 (https://www.theguardian.com/commentisfree/2016/mar/05/first-do-no-harm-why-doctors-should-boycott-working-in-australian-detention-centres)

the high seas with hundreds of migrants on board.[44] In what other spaces between or on the margins of the state system might humanitarians be called upon to enter in the years ahead? Other sea lanes such as the Andaman? Airports?[45] The Berm on the border of Jordan and Syria? Calais-like Jungles at other borders? Buffer zones established between countries like Kenya and Somalia? Some pessimistic observers of the global hardening of xenophobic attitudes toward refugees and migrants have gone so far as to propose the creation of extraterritorial zones of habitation for the world's dispossessed.[46] As fanciful as some may seem, if the world's most vulnerable increasingly find themselves in such spaces, or new realms of quasi-extraterritorial relocation or congregation, humanitarians will be systematically forced to consider the moral tradeoffs of entering them in the name of providing succor while legitimizing and perchance enabling the further abdication of states' responsibilities to offer asylum and provide dignified and safe reception under national and international law.

Demographic

Just as the principle of humanity proscribes no limits to the spatial remit of humanitarian action, the principle of impartiality prescribes that assistance and protection should be given on the basis of need, and need alone. There are no a priori restrictions on who, amongst the world's peoples, is a legitimate recipient of humanitarian aid other than the urgency of their need. Humanitarians operate in a messy world, however, which is forcing tough questions about who is, or is not, appropriate to be considered a recipient of humanitarian assistance. Traditional demographic categories which have served as somewhat unspoken guideposts for the boundaries of humanitarianism- "refugee," "internally displaced person," "asylum seeker," "host community," "conflict-affected"- are no longer sufficient, morally satisfying, heuristic devices to guide operational decisions on service. To this lexicon has now been added the "migrant," the "detainee,"[47] and permutations thereof.

The hard reality is that how one is described, and what their legal status is, has life and death consequences. In its analysis of the international humanitarian community's response to crises in South Sudan, DRC, and Jordan, MSF found that "status"-UNHCR recognized refugee or not, for example- rather than need or vulnerability was the principal determinant whether someone received aid.[48] The

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[44]Deutsche Welle, "Spain Will Accept Migrant Ship Aquarius After Italy and Malta Refuse Entry," 6 November 2018 (https://www.dw.com/en/spain-will-accept-migrant-ship-aquarius-after-italy-and-malta-refuse-entry/a-44150793)

[45] It will be interesting to see if the recent case of Rahaf Mohammed Alqunun, the Saudi woman who barricaded herself in a hotel room at Bangkok airport who was granted asylum by Canada, might serve as a model for others, at larger scale? See Gibson, Victoria, "Saudi refugee seeking 'a normal, private life," The Globe and Mail, 15 January 2019 (https://www.theglobeandmail.com/canada/article-saudi-teen-rahaf-mohammed-says-she-wants-to-live-a-normal-private/).

[46] Two such examples are "Refugia" and "Zatopia." See Crawley, Heaven, "Why We Need to Protect Refugees From the 'Big Ideas' Designed to Save Them," The Independent, 28 July 2018 (https://www.independent.co.uk/voices/refugee-immigration-europe-migrants-refugia-self-governance-a8467891.html) for a critique of the former, and Halsema, Femke, "Nergensland: Nieuw Licht Op Migratie," Ambo, Netherlands, 2017, for an elaboration of the latter.

[47] Of course, some of these categories of people have been considered within the boundaries of the mission for some organizations, like the International Committee of the Red Cross and Red Crescent given its work with detainees, and the International Organization for Migration with migrants. But it is the expansion of agencies which understand themselves as humanitarian into work with these populations alongside other more traditional population categories that is novel.

[48] Healy and Tiller, Op. cit.

International Federation of the Red Cross and Red Crescent (IFRC) has identified one's designation as "illegal" or "irregular" as a direct threat to their life and dignity.[49] Being "documented" or "undocumented," the possession of a slip of paper that acknowledges one's existence and confers even a modicum of international or national protection, is and always has been a fundamental feature of differential levels of protection and assistance. But it may be taking on increased importance, and generating more attention from humanitarians, who are questioning whether the "legal/illegal" dichotomy that is imposed on people is a valid and legitimate basis to exclude some from basic services and protection. The IFRC's 2018 World Disasters Report, for example, explicitly considers all migrants as falling within the purview of humanitarian assistance, regardless of legal status and conditions which drove them to move.[50] In a world in which compassion is criminalized, the implementation of such policy decisions risks bringing humanitarian actors into direct conflict with host states, their police, and security organs.

Donor and host government concerns about diversion of aid, particularly to sanctioned individuals or entities designated as terrorists, also present moral challenges related to the drawing of lines around the worthy and unworthy recipient of humanitarian assistance on bases other than need. At a macro level the fear of falling afoul of anti-terrorism legislation has been shown to have a "chilling effect" on the provision of aid in terrorist-controlled areas[51], perhaps creating a more generalized reluctance on the part of the humanitarian community to even consider operation in such areas altogether.[52] The family members of terrorists or alleged terrorists, whether in Syria, Iraq or Northern Nigeria, are one tangible manifestation of the ways in which such laws and their interpretation have created new castes of humanitarian "untouchables."[53] The regulatory and administrative burden placed on humanitarian actors to ensure compliance with such laws is high, increasing, and unlikely to ever be rolled back.[54] The humanitarian sector thus finds itself in a somewhat paradoxical position. Sustained high levels of investment in compliance and oversight capacity have enabled humanitarian agencies to now know where its aid is going, and control its flow, perhaps better than at any time in the past. Yet in its quest to reduce the risk that any aid it disperses makes its way into the hands of those deemed underserving, the countervailing risk that deserving people are being excluded from the benefits of aid may be increasing. An extreme and exclusive focus on ensuring that the undeserving are not included within the remit of humanitarian action

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[49] IFRC, "New Walled Order."

[50] International Federation of Red Cross and Red Crescent Societies, "World Disasters Report 2018: Leaving No One Behind."

[51] Burke, Jason, "Anti-terrorism laws have 'chilling effect' on vital aid deliveries to Somalia," The Guardian, 26 April 2017 (https://www.theguardian.com/global-development/2017/apr/26/anti-terrorism-laws-have-chilling-effect-on-vital-aid-deliveries-to-somalia).

[52] See the analysis of ECHO partners' lack of work in ISIS controlled areas in Iraq in Schenkenberg, Ed, and Wendt, Karin, "Principled Humanitarian Assistance of ECHO Partners in Iraq," HERE-Geneva, May 2017.

[53] Wille, Belkis, "Families in Iraq with Alleged ISIS Ties Denied Aid," Human Rights Watch, 15 February 2018 (https://www.hrw.org/news/2018/02/15/families-iraq-alleged-isis-ties-denied-aid).

[54] Burniske, Jessica, Modirzadeh, Naz, and Lewis, Dustin, "Counter-terrorism laws and regulations: What aid agencies need to know," Humanitarian Practice Network (79), November 2014. The characterization of the current and likely future state of such laws is an amalgam of responses received from various interviewees.

may leave many behind and unserved. In the drive to do no harm, humanitarians may be forgetting to do good, or at least doing less good than they might otherwise be able to.[55]

Temporal

The temporal boundaries of humanitarianism are as equally amenable to renegotiation and contestation as are the geographic and demographic. Indeed, prior recognition of the increasingly protracted nature of displacement and conflict drove earlier iterations of boundary debates within humanitarianism, drawing agencies more "deeply into the solutions to the more structural political and ecological dimensions of a crisis."[56] It is thus not suggested that questions about the right and appropriate duration of humanitarian action are anything new. But what if the trends of protraction not just continue, but deepen and spread, systematically?

According to the UN the average duration of all its 2019 humanitarian response plans is now greater than 9 years, the longest on to date. 75% of people targeted for humanitarian assistance within them in 2018 were in countries affected by crisis for greater than 7 years.[57] Displaced people are spending more time in exile, 10 years, then at any time prior.[58] As wars in Afghanistan and Iraq stretch on, we may have entered into a period of "unending armed conflict," with a concomitant loss of feeling and hope that wars can end as the capacity and will on the part of traditional global peacemakers and peace-brokers diminishes.[59]

The implications of these trends for humanitarianism are morally manifold. On the one hand we are witnessing the increasing "humanitarianization" of distinctly political and military crises.[60] Absent the prospect of wars' end, belligerents' desire to deflect attention away from their direct contribution to suffering on such large scale, and by-standing states' and UN agencies' inability to find leverage to bring the real respite that only peace can provide, humanitarian action becomes a fig leaf in the face of global paralysis. Yemen may perhaps be the starkest example of the "humanitarianization" of crisis today, in which an entire country has been brought to the brink of famine, the laws of war consistently and egregiously violated, the principal perpetrators of harm, Saudi Arabia and its allies, offering hundreds of millions of dollars in humanitarian aid. On the other hand, the permanency of crisis and displacement makes it harder and harder for humanitarian agencies to see clear exits, creating grounds for a permanency of presence (assuming they are not local to the context), with attendant moral risks. Perpetual humanitarian action on the part of international agencies, for example, may undermine the growth of social contracts between those served and those who govern them, or supplant the state altogether.[61] It may also more deeply embed humanitarian agencies in structural systems of oppression

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[55] Thanks to T. Hilhorst for the framing of the changing balance in judgement errors articulated in this paragraph. See also Stockton, Nicholas, "In Defense of Humanitarianism," Disasters, Volume 22(4), December 1998, pgs. 352-360, for a still highly relevant examination of the harm and immorality that can be caused by the effort to define people as "undeserving."

[56] Slim, Humanitarian Ethics, pg. 9

[57] OCHA, Global Humanitarian Overview 2019.

[58] Miliband, Op. cit., pg. 28. Perhaps even more relevant to this line of argument is the statistic, again referenced by Miliband, "that after a person has been a refugee for five years, the average duration of displacement is twenty-one years."

[59] Such sentiments about unending wars and a loss of optimism that traditional diplomacy can bring them to an end was voiced by a few interviewees.

[60] See Scott-Smith, Op. cit., for a discussion of this phenomena.

[61] Interview with M. Dubois, 29 October 2018.

or harm that they have little opportunity to materially improve. MSF's decision to cease its medical operations in Dadaab refugee camp in Kenya, despite unquestionable continuing need demonstrated by its Somali inhabitants, was driven by such logic.[62] The number of places in which such questions will emerge for humanitarians is likely in increase, especially if the gap between resources available and need continues to widen.

Teleological

The ends to which organizations considering themselves humanitarian profess commitment have been stretched beyond the relatively narrow scope of saving and protecting life with dignity for some time.[63] Development, poverty alleviation, social justice, institutional strengthening, the pursuit and defense of human, women's or children's rights, and peace-building have found their way, in whole or part, into the missions of many, if not most, organizations engaged in humanitarian action. Recent global attention to and desire to overcome what has been termed the "humanitarian/development divide" in funding and policy is another version of earlier efforts to link relief, rehabilitation and development (LRRD). That these goals may be in tension with ostensibly core humanitarian principles such as impartiality, neutrality, or independence is well documented, but not often forthrightly acknowledged by agencies who purport to simultaneously pursue them.[64] Questions about the proper ends to which humanitarian action should be directed manifest themselves in three principal ways today, above the afore-mentioned ongoing debates over if and how to incorporate more developmental and rights-based goals.

Firstly, the prolongation of wars, their prosecution in ways that systematically contravene international humanitarian law (IHL) and bring grave harm to civilians and humanitarian aid providers, coupled with the failure of traditional state and multilateral actors to meaningfully redress such behavior, is leading some humanitarian organizations to question whether they can or should remain silent about the conduct of war. Historically the rarified purview of the International Committee of the Red Cross and Red Crescent (ICRC), some other organizations are tentatively exploring ways in which they may contribute to enhanced accountability for alleged war crimes or breaches of IHL, thereby reducing the culture of impunity which currently surrounds such actions.[65]

Humanitarians are also lending their voice to efforts to moderate, or modify, the actual conduct of hostilities on the battlefield, such as in the cases of the sieges of Aleppo, Syria, or Hodeidah, Yemen.[66] Echoes of the humanitarian community's call for military intervention in defense of aid in Somalia in the 1990s can be heard, as well as the moral alarm bells which accompanied such militarization of humanitarianism years past. Deep frustration with unending conflict may also draw some humanitarian

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[62] Chkam, Hakim, "Aid and the Perpetuation of Refugee Camps: The Case of Dadaab in Kenya 1991-2011," Refugee Studies Quarterly 35(2), June 2016, pgs. 79-97.

[63] Macrae, Op. cit.; Slim, Humanitarian Ethics, pg. 8-9.

[64] E. Schenkenberg interview, 25 October 2018.

[65] See ALNAP, State of the Humanitarian System 2018, pgs. 213-226, for an analysis that IHL violations are increasing, humanitarian organizations are facing increased insecurity, and that some are considering a move into advocacy around improved accountability for breaches of IHL.

[66] See Global Center for the Responsibility to Protect, "Joint NGO Statement on the establishments of humanitarian corridors for Aleppo," 2 August 2016 (http://www.globalr2p.org/publications/442) or Wintour, Patrick, "Aid Groups in Yemen Warned Attack Could Endanger All Supplies," The Guardian, 10 June 2018 (https://www.theguardian.com/world/2018/jun/10/aid-groups-in-yemen-warned-attack-could-endanger-all-supplies).

agencies to consider not just peace building but actual peace making. Whereas the former, as currently interpreted and implemented, is a more community-based intervention aimed at fostering social cohesion among local populations in conflict, the latter could envision the transformation of humanitarian agencies into active agents of international diplomacy not unlike the Carter Center or the UN.

While the historical trajectory outlined here depicts an expansionist march of humanitarianism's telos, one can ask whether there is also a contraction going on as well. Contained within the concept of humanity are the twin objectives of "protecting life and health," as well as ensuring "respect for the human being."[67] The preservation of life, with dignity, is thus the fundamental goal of humanitarian action.[68] The humanitarian system's attention to and support for dignity, however, may be eroding. One way this erosion presents itself is the extent to which humanity is being reduced to a narrow technical issue of the provision of material assistance to address people's identified needs.[69] The rights and protection dimensions inherent in a life lived with dignity seem to be declining in importance in the humanitarian lexicon and operational toolbox. As one observer of the system noted, it is becoming harder and harder to find leaders in the humanitarian system who are prepared and able to stand up for and defend the full range of humanitarian principles, including humanity centered on protection of a dignified life. Correspondingly there is a perhaps a greater willingness to accept systematic instrumentalization in ways that allow "assistance" but deny or foreclose on "dignity" as a part of the business model of humanitarian action today.[70] The way in which the international humanitarian community until very recently so fully and unquestioningly accommodated itself to the oppression of the Rohingya in Myanmar, without digesting any of the lessons of the end of Sri Lanka's war, suggests there is a long way to go for the preservation of dignity to achieve parity with the provision of material life-saving assistance as a fundamental component of humanity in the operational calculus of many organizations.[71]

<div align="center">Challenges to Humanitarian Principles</div>

The way in which the crises for humanitarianism and the continued expansion of humanitarianism's scope and ambition present challenges to the core principles around which it is organized differ from one operational context, and one agency, to another. Tensions among and between impartiality, independence, neutrality and humanity; the constraints which are imposed on them; or potential conflict between them and other ethical goals such as accountability and the advancement of rights manifest themselves differently in the detention centers of Libya compared with the refugee camps of Bangladesh. Given different mandates, missions, strategies, histories, precedents, and leadership, two organizations facing similar ethical challenges can take and justify very different operational decisions about how best to advance principled humanitarian action in the same or similar contexts. Further investigation into specific organizational decisions in the face of specific ethical challenges in specific operational contexts

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[67] The Fundamental Principles of the Red Cross and Red Crescent Movement, as presented in Slim, Humanitarian Ethics, pg. 251.

[68] Slim, Humanitarian Ethics, pgs. 46-8.

[69] E. Schenkenberg interview.

[70] A. Donini interview.

[71] Keen, David, "'The camp' and 'the lesser evil': humanitarianism in Sri Lanka," Conflict, Security and Development 14(1), 2014, pgs. 1-31; Mahony, Liam, "Time to break old habits: Shifting from Complicity to Protection of the Rohingya in Myanmar," Fieldview Solutions, June 2018.

is thus warranted to truly understand how an agency has interpreted and balanced humanitarian principles alongside other ethical imperatives in its pursuit of principled humanitarian action.

Under the aegis of the IRC's Humanitarian Policy Committee (HPC) it is anticipated that a series of case studies of IRC's approach to principled humanitarian action in a variety of settings will be undertaken over the next 9-12 months, building upon both this initial global horizon scan and an internal consultation on perceived gaps in humanitarian policy within the organization. The discussion that follows offers some initial thoughts, and potential research questions, for the agency to consider as it decides which contexts and questions it wishes to explore further in its quest to deepen its engagement with and understanding of humanitarian principles.

Impartiality

Several dimensions of the current crises for humanitarianism and the widening of its scope and ambition pose challenges to the principle that assistance, for it to be considered humanitarian, be provided without discrimination on the basis of need, and need alone. At a global level the yawning gap between identified needs and resources starkly reinforces the importance of triage- the act of prioritizing the most severe needs in the face of inadequate resources and capacity to respond to them all- in order to imbue impartiality with real meaning. Yet it has already been well observed, for example, that the humanitarian system allocates its resources in highly partial ways, ignoring hidden crises or dramatically under-resourcing others, in accordance with multiple drivers above and beyond severity of need. [72] As the teleology of humanitarian action further expands, the operationalization of triage becomes more fraught. Alongside the preservation of life and alleviation of suffering ever more goals such as the promotion of accountability for human rights abuse compete for their share of the already inadequate resource envelope.

Humanitarianism's push into places like Europe also raise discomfiting questions about equity. Donor contributions to UN-coordinated appeals in 2017 for the "Europe situation" amounted to $1250 USD per person, compared to an average per person requirement estimated for all other crisis at $190 USD,[73] undermining any pretense that the current humanitarian system follows the utilitarian logic of doing good for the most people possible with the resources under its command.[74] Decisions to intervene in situations like detention centers or sea-borne search and rescue also juxtapose or suggest compromise on global commitments to impartiality against other goals such as témoinage (witnessing) and physical presence to enable stronger advocacy for policy change. The justification for expending scarce financial, management, and reputational resources to serve the relatively few, albeit extremely vulnerable and underserved, migrants in Libya's detention system or at risk at sea is as much about demonstrating solidarity with an abused, invisible population and amassing field based knowledge about the harm that a global system of

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[72] For a discussion of the myriad ways in which impartiality is hard to achieve see Quack, Martin (ed.), "Based on Need Alone? Impartiality in Humanitarian Action," Caritas Germany, Diakonie Katastrophenhilfe, and Doctors Without Borders, July 2018.

[73] ALNAP, State of the Humanitarian System 2018, pg. 88.

[74] For more on utilitarianism as one of the philosophical bases of humanitarianism listen to Hugo Slim's "master class" on humanitarian ethics delivered to the Dutch NGO community on January 29, 2019, available on podcast (https://www.buzzsprout.com/187688/944861-humanitarian-ethics)

migrant containment causes to enable advocacy for changes to that system as it is to alleviate the particular harms that the system creates. Yet such actions are open to an impartiality-based critique that more, and more urgent, needs could be better addressed elsewhere with the same resources and with less organizational risk.[75]

The criminalization of compassion, coupled with the chilling effects of anti-terrorism legislation enforcement, combined with host government and belligerent parties' harassment of, violence against, and denial of access to humanitarian aid providers also poses challenges to pursuit of the principle of impartiality. "Hard to reach" populations demonstrating some of the most acute needs-be they besieged communities in Syria or Yemen; civilian populations under the control of ISIS or Boko Haram; remaining Rohingya communities in Northern Rakhine State in Myanmar; or "irregular" migrants in the cities of Europe-may become more common, but even less accessible. Already increasingly risk averse,[76] humanitarian actors face the difficult choice of coming into more direct conflict with local authorities in their efforts to reach the most-needy or reconciling themselves to serving those that are most proximate, officially recognized, and/or clearly visible.

Neutrality

The prospect that humanitarian actors may feel called upon or compelled to adopt operational practices, or speak out, in ways that appear to be more overtly "political" in nature in order to reach the most-needy in turn pose challenges to the fundamental humanitarian principle of neutrality. The abstention from actions that take, or could be perceived as taking, a position vis a vis hostilities or controversies of a political, racial, or ideological nature is a core tool in the humanitarian toolkit in order to maintain the trust of all parties who may influence access to populations of concern. But if said parties systematically deny or restrict such access, if the provision of certain forms of assistance to certain populations is deemed illegal, humanitarian actors are faced with the morally and legally difficult choice of "taking a position" that potentially undermines their neutral bona fides. In the most extreme cases, such "positions" could entail acts or speech that risk criminal prosecution, threats or acts of retaliatory violence, harassment, or expulsion. They also might entail acting in clandestine ways undermining an organization's transparency, which is a vital component to enable trust and confidence that an agency is acting in a neutral fashion. Such approaches harken back to earlier seminal moments in humanitarian history, be it the International Rescue Committee's work helping persecuted intellectuals and artists flee from Nazi Germany and Vichy France during WWII or Joint Church Aid's nighttime airlifts into the besieged Biafran enclave of Nigeria in the late 1960s.

The prolongation of conflict and displacement coupled with the evaporation of traditional durable solutions is also, as we have seen, pulling humanitarians into forms of advocacy and action that raise stark questions about neutrality. As the humanitarianization of distinctly political crises continues, as humanitarian action becomes not just a fig leaf for inaction on the part of belligerents and multilateral institutions but becomes the only form of action that the international state system seems willing or capable of taking, as those struggling to provide humanitarian aid in accordance with its principles -

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[75] For an examination of the competing ethical justifications underpinning MSF's work in Greek detention centers see Kotsioni, Ioanna, "Detention of Migrants and Asylum-Seekers: The Challenge for Humanitarian Actors," Refugee Studies Quarterly, 35(2), April 2016, pgs. 41-55.

[76] Stoddard, Abby; Haver, Katherine; and Czwarno, Monica, "NGOs and Risk: How International Humanitarian Actors Manage Uncertainty," Humanitarian Outcomes/InterAction, February 2016.

including neutrality- are bombed, attacked, and detained in the field with seeming impunity, it becomes increasingly frustrating, or morally inadequate, for some humanitarian actors to remain "outside" the conduct of hostilities. Whether lending their voice and field presence to efforts to strengthen accountability for breaches of international humanitarian law or war crimes, advocating for changes in the conduct of war to enhance the protection of civilians, or considering direct roles as peace-makers between belligerents, such efforts place actors which engage in them increasingly "within" the conflict. As an analyst of current humanitarian action has observed, if neutrality is a "limited, often undesirable, always impossible, and thoroughly contested concept surely [that] leads to a strong case for aid agencies taking a more explicitly political position."[77] But such positions, and the erosion of neutrality that it entails, are not without their own risks. In today's interconnected world, the actions or advocacy that an operational agency undertakes in one location should be assumed to have the potential to shape that agency's reputation elsewhere. An allegation, let alone forthright admission, of a humanitarian organization's cooperation with national or international institutions focused on accountability for war crimes may not only restrict their access in the theater of war in which such actions take place. They have the potential to brand the organization globally, restricting access or compromising the life-saving work it aspires to perform elsewhere. In a world increasingly hostile to the work of humanitarians, in countries where civil society is under already enormous stress and suspicion, questions about an international organization's neutral bona fides may be all that it takes to further restrict their, and the sector's as whole, autonomy. It is thus incumbent upon each humanitarian organization to understand what it considers to be "too political," to consider its optimal balance between neutrality and justice, for example, and to be able to ascertain when the scale is tipping too far away from that equilibrium.

Independence

Several of the contexts within which humanitarian action is undertaken today also further illustrate the perennial difficultly of promoting and maintaining independence, the humanitarian principle alongside neutrality which is meant to enable and facilitate achievement of humanitarianism's fundamental objectives of saving life based on the criteria of need alone. Defined as "being autonomous from the political, economic, military or other objectives that any actor may hold with regard to areas where humanitarian action is implemented,"[78] the independence of humanitarian action is under pressure on multiple fronts.

At a global level the continuing march of many Western donor nations' reorientation of their foreign policies around the deterrence of migration, restriction of asylum, and containment of crises-affected populations in their home regions raises the specter of the instrumentalization of humanitarian aid for these other than humanitarian purposes which some have argued are themselves causes of grave harm. The IOM's Voluntary Assistance Return and Repatriation Program, for example, has come under fire as an example of "blue-washing," the use of humanitarian language and branding to obscure the extent to which the program functions as a core component of Australia's much criticized offshore migrant

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[77] Scott-Smith, Op. cit., pg. 12.
[78] Schenkenberg van Mierop, Ed, "Coming Clean on Neutrality and Independence: The need to assess the application of humanitarian principles," International Review of the Red Cross, 97 (897/898), 2016, pg. 299.

detention program.[79] Similar concerns have surfaced surrounding humanitarian NGO engagement with detained populations in Greece and Libya wherein front-line aid workers have expressed strong moral discomfort with fears that they are contributing to a dehumanizing, harmful, system of arbitrary immigration detention.[80] As more and more efforts are made to keep people where they are, restrict their access to asylum, incarcerate them when they do cross a border, and send them "back" (even to places which are not their homes), humanitarians will be further called upon to support, facilitate or otherwise serve these purposes. Faced with what are unquestionably extreme needs among such populations caught in this growing web of containment, humanitarians will continue to need to establish their comfort level with such potential instrumentalization and implement measures to mitigate the harms such implication entails.

The manipulation of aid for political and military purposes is another recurrent feature of humanitarian action which is alive and well today. In Syria, for example, humanitarian aid has been and continues to be used by belligerent parties to punish or reward oppositional or supportive communities; entice, coerce or facilitate less than voluntary population transfers and sectarian cleansing; and legitimize refugee returns from neighboring countries to euphemistically termed "safe-zones."[81] Humanitarian aid may also be used to support or undermine regime legitimacy as we are witnessing in the standoff between Venezuelan President Nicolás Maduro and opposition leader Juan Guaidó.[82]

Finally, operational autonomy within many contexts wherein humanitarian aid is being provided is under pressure. At the micro-local level, work within detention settings comes with often extreme limitations on the ability of humanitarian actors to take independent action on even the most mundane of tasks such as health consultations and treatment. In the detention centers of Greece, for example, it has been noted that it was necessary to negotiate and gain approval from multiple authorities every day in order to access patients.[83] The twin trends of stronger, more authoritarian, sovereignty-defending states on the one hand, and the drive for the localization of humanitarian aid, on the other, also suggest that the independence of humanitarian action can expect to be further tested in the future. To the extent that such trends manifest themselves in increased obstruction of, restrictions on, or a decline in the effectiveness of humanitarian action, a defense of the independence of aid will increase in importance. But they also offer the more radical potential for a re-thinking of the value and place of the principle of independence within a reformed humanitarianism of the future. Humanitarian action of the present has often misconstrued and misapplied the principle of independence to be synonymous with avoidance of the state and its institutions. Yet if one is serious about fulfilling the truly transformative aspects of the localization agenda which proffers a real transfer of power, and control, to local actors, and one recognizes the centrality of the state as the principal bearer of obligations and expectations for care to those on its soil as enshrined in international law, state-avoidance is neither practical nor preferable. As aid "goes local," the

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[79] Doig, Cameron, and Hirsch, Asher, "Why Indonesia Shows the IOM Isn't Necessarily Helping Migrants," Refugees Deeply, October 26, 2017. (https://www.newsdeeply.com/refugees/community/2017/10/26/why-indonesia-shows-the-iom-isnt-necessarily-helping-migrants)

[80] See Kotsioni, Op. cit., for a detailed analysis of how these concerns about instrumentalization affected MSF employees working in Greek detention centers.

[81] Anonymous interviewee.

[82] Daniels, Joe Parkin, "Hungry Venezuelans urge help but standoff looms over 'politicised' aid," Guardian, February 13, 2019 (https://www.theguardian.com/world/2019/feb/13/venezuela-maduro-guaido-aid-latest-news)

[83] Kotsioni, Op. cit.

justifications for and utility of a principle which was designed to help those external to a conflict operate within it without being a part of it may no longer hold.[84]

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[84] See Dubois, Op. cit., for a sustained argument for a re-thinking of humanitarianism along more "local" lines in this way.

Appendix 1: Research Questions for Further Consideration

Spatial Boundaries:

1) On what operational and moral foundations does IRC's continued operational presence in Europe lie? How do they compare with those that led the IRC to intervene in Europe initially? What ethical tensions arise with such continued presence?

2) What were the moral and operational variables that came into play in IRC's decision to commence, and then shortly thereafter cease, participation in Search and Rescue operations in the Mediterranean?

3) How has IRC historically responded to "atypical" crises generating large scale displacement that is neither conflict or natural disaster driven? How does the organization's response to the crisis in Zimbabwe in the early 2000s compare with its response to the current crisis in Venezuela? What ethical and operational tensions arose in each, and how were they resolved?

4) What are the ethical tradeoffs and implications associated with IRC's decisions to work with populations in detention in Libya and Greece? What moral hazards were identified and how, if at all, were they mitigated?

5) How has IRC understood and navigated the global regime of migrant and refugee containment? How have concerns about instrumentalization for the goal of migration deterrence and control been surfaced, debated, and mitigated?

Demographic Boundaries:

1) How have anti-terrorism laws and regulations affected, if at all, IRC's decisions on whom to serve, where to work, or how to work? To what extent, if any, have they conflicted with IRC's ability to act in accordance with humanitarian principles, particularly impartiality and independence? Is there any difference in approach or impact in different geographical areas, for example in the Sahel compared with Syria?

2) Where and how is the legal status of populations of concern impacting IRC's ability to fulfill its mission? How has the IRC historically engaged with and served, or not, populations that are undocumented, "irregular" or "illegal?" What challenges have been faced in deciding to and ultimately serving them?

Temporal Boundaries:

1) What ethical and operational criteria does IRC use to plan its exits from countries? What has been IRC's experience with exits and program closures, and what lessons do they offer in terms of any moral hazards associated with prolonged presence?

2) How has IRC responded to situations of forced return historically?[85] How has the agency addressed situations which are less than voluntary, safe and/or dignified? What ethical and operational challenges have these situations presented for IRC?

Teleological Boundaries:

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[85] This question is presented within the temporal boundaries section as it touches on what could be considered the premature and morally problematic conclusion to protracted displacement.

1) Where and how have core principles of humanitarianism come into tension with others associated with the promotion of rights, societal transformation, or development? How has IRC navigated these tensions in Afghanistan, Mali, and/or Myanmar?

2) How does IRC understand, operationalize and situate dignity within its approach to pursuit of the principle of humanity? Where is dignity most at risk in IRC's operations, and how has the agency responded?

3) Where and how has the violation of International Humanitarian Law, including the perpetuation of violence against aid workers, impacted IRC's work? How has IRC responded? What tensions, if any, have been identified between these responses and humanitarian principles and how have they been addressed?

Appendix 2: List of Interviewees

Antonio Donini-Visiting Fellow, Feinstein International Center, Tufts University

Marc Dubois-Independent Consultant and Analyst; Former head of MSF UK

Patrick Duplat-Humanitarian Affairs Officer, UN OCHA

Wendy Fenton-HPN Coordinator, ODI

Thea Hilhorst-Professor of Humanitarian Aid and Reconstruction, International Institute of Social Studies, Netherlands

Naz Modirzadeh-Professor of Practice, Harvard Law School; Director, Harvard Law School Program on International Law and Armed Conflict

Marzia Montemurro-HERE Geneva Research Director

Ed Schenkenberg-HERE Geneva Executive Director; Member Stichting Vluchteling Supervisory Board