

The new International Development Act: the case for definition of humanitarian assistance

Notes for a presentation to a meeting of DFID officials/members of the International Development Committee, ODI 27 January 1999

Introduction

Once again, I would like to welcome you to ODI and thank you for making the time to be here today.

As you know, the focus of today's meeting is to examine the issue of whether the new International Development Act might usefully include an explicit definition of the purpose and character of humanitarian assistance.

By way of introduction, it may be useful to outline briefly the research which has led us to the conclusion that such a statutory definition of humanitarian assistance would be useful and would constitute a logical progression of current DFID policy trends in the humanitarian sphere. The research study is called: 'The Politics of Coherence' and is an attempt to map out the changing conceptual boundaries between humanitarian, foreign and defence policy.

As such, it is concerned with two things:

- The changing role of diplomatic actors in the formulation and implementation of humanitarian policy, broadly defined;
- The idea of humanitarian assistance as part of a strategy of conflict

management.

Put more crudely, it is concerned to analyze carefully the concept of 'politicisation' of humanitarian action.

The study includes two government case studies (UK and the Netherlands). It is also examining aspects of these governments' responses to humanitarian crises in the Balkans and Afghanistan. The project is co-funded by: The Disasters Emergency Committee, DfID (Conflict and Humanitarian Aid Department), the Henry Dunant Centre and ActionAid. The project draws on an advisory group comprising representatives from the bilateral, UN, NGO and academic communities. Over 60 people have been interviewed to date in London, New York, Geneva and the Netherlands, and over 300 documents have been collected and reviewed. The project should be completed by late March 1999.

Humanitarian assistance: current UK policy definition

- The 1980 Overseas Development Cooperation Act (1980) makes no mention of humanitarian assistance;
- DFID defines humanitarian assistance as:
 "...all measures in situations of conflicts, disasters and emergencies, which are intended to save lives, relieve suffering, hasten recovery, protect and rebuild livelihoods and community, and reduce vulnerability to future crises. This includes, disaster relief, preparedness, prevention and mitigation, food aid and assistance to refugees and other displaced

populations. It also includes essential measures to re-establish structures and systems to govern and administer services where these have broken down due to the crisis or disaster.

The DAC defines emergencies rather than humanitarian assistance. It states that:

‘an emergency is an urgent situation created by an abnormal event which a government cannot meet out of its own resources and which results in human suffering and/or loss of crops or livestock...This item also includes support for disaster preparedness ..[and] aid to refugees’.¹

There are two points to note about the existing of definition of humanitarian assistance. First, it is not statutory. Second, the bureaucratic definition of emergency aid used by UK and international officials is concerned with primarily with the *content* of assistance and a particular analysis of the nature of need.

Beyond relief: The implications of the ‘new’ humanitarianism

The emphasis of existing definitions is on the provision of material supplies to alleviate the effects of what are seen as temporary, unfortunate interruptions to development.

These definitions do justice neither to the complexity of contemporary emergencies, nor indeed to the evolution of more sophisticated policies to deal with them.

The end of the Cold War not only signalled major shifts in the nature of conflict, but it

¹ DAC Guidelines on Reporting as Official Development Assistance

also provided a new space for an analysis of the nature of the humanitarian crises it spawned. In particular, during the 1990s there was an increasing recognition of the chronic, inherently political nature of contemporary crises - hence the emergence of the term 'complex political emergencies'. At the same time, in both these and so-called natural disasters, there was a recognition of the need to 'link' relief and development, in order to reduce populations' vulnerability to disasters. This reappraisal coincided with a massive expansion in humanitarian assistance in the UK and internationally throughout the 1980s and into the 1990s. This trend was sustained in the 1990s, with UK emergency aid expenditure increasing from £133 million in 1990/1 to £240 million in 1996/7.

The new humanitarianism: key policy innovations

The UK government has been among those leading the development of new concepts and instruments to engage in these complex environments.

- In 1995 it was agreed to extend the scope of the aid programme to embrace 'conflict handling. Responsibility for development of this work rested in the Emergency Aid Department. The rationale for such involvement drew in part on the idea of linking relief and development assistance - in other words, identifying ways in which aid could be used to reduce populations' vulnerability to the hazard of conflict.
- In 1997 the White Paper on International Development further cemented this process. As part of a broader redefinition of the role of the newly formed Department, aid was no longer the only instrument available to contribute to

conflict reduction, rather the political weight of the Department would be used nationally and internationally to 'promote political stability and social cohesion and to respond effectively to conflict. This approach highlighted the need to achieve coherence between different dimensions of international responses to conflict. For example, the importance of ensuring that humanitarian issues are properly taken into account by international political and peace-keeping interventions.

- In April 1998 - DFID launched its Principles for a New Humanitarianism. These presented one of the first attempts by a donor government to articulate the principles for humanitarian action. These principles, the reorganisation of the Emergency Aid Department to form the Conflict and Humanitarian Aid Department, and the subsequent Policy Statement on the Conflict and Humanitarian Assistance Policy Statement published in 1999, confronted head on the mounting concerns that, humanitarian assistance, far from doing good, was in fact fuelling conflict in some situations. Thus, it argued '....it is essential that the humanitarian response takes into account the wider context. In some circumstances intervention may not help resolve the problem or may even prolong conflict. When considering its humanitarian response, DFID's policy is to look at the conditions that have brought about the conflict and assess what can be done to reduce violence and lasting peace'. (page 2). In other words, an explicit link was made between humanitarian assistance and conflict management objectives.

The New Humanitarianism in Practice

As indicated above, DFID is not alone in seeking solutions to the enormous political and humanitarian challenges posed by contemporary conflict. As also indicated, DFID has shown a sustained ability to innovate, often proposing radical new policy approaches. It has been particularly supportive of initiatives undertaken by the United Nations, NGO and academic communities which seek to better understand and respond to complex political emergencies. In sum, it has shown international leadership in humanitarian debates and practice.

Perhaps unsurprisingly, however, some of these policy innovations have proved controversial and difficult in practice. In her opening statement to a DFID-NGO roundtable on humanitarian issues in February 1999, the Secretary of State acknowledged that, and I quote:

.....there has been active disagreement and different interpretations between DFID and a number of NGOs about the linkages between humanitarian life-saving objectives and longer-term conflict prevention/management objectives.

Most public, was the disagreement between NGOs and DFID regarding the decision to suspend the provision of humanitarian assistance to Sierra Leone in June 1997. DFID provided four key reasons provided for this decision: unproven humanitarian need, lack of security, the risk that aid would fuel the conflict and that it would serve to legitimise the illegal regime, and therefore run counter to the UK's stated policy objective of restoring the Kabbah government.

It is not our wish to reopen the details of this controversy, which have been reported fully in the International Development Committee's report last year, and the Government's response to it..

Interviews with DFID officials, together with the Secretary of State's address to the NGO forum this time last year, indicate that since 1997 there has been increasing recognition of the potential for conflict between the humanitarian principles of impartiality and neutrality and the demands of conflict management.

For example, the reorganisation of CHAD last year marked a bureaucratic separation of the conflict management and humanitarian aspects of the Department's work, while the Secretary of State was unequivocal in February last year in stating that:

“Whilst humanitarian aid must always take account of the political context in which it is given, it should never be used (through withholding it or granting it) as a lever in an attempt to achieve political aims or manage a conflict. There is a clear need for an on-going, open and constructive dialogue between DFID (and the Foreign and Commonwealth Office) and NGOs, to explore the potential of policy coherence, and the respective boundaries of and differences between humanitarian and foreign policy objectives’.

Despite these reassurances, our research suggests that significant unease remains within the NGO, UN and Red Cross movement that UK humanitarian assistance is becoming more politicised.

Unpacking 'politicisation'

The term 'politicisation' is a broad one. In the context of humanitarian assistance, common understanding would seem to imply that foreign policy objectives influence the provision (or non-provision) of humanitarian assistance.

With the partial exception of the UK's stance in relation to the EU's Energy for Democracy project in Serbia, however, there is little evidence of direct Foreign Office involvement in the allocation and management of humanitarian assistance. (However, the use of the term 'humanitarian' by FCO actors to describe such an initiative arguably diminishes its currency).

More commonly, those countries worst affected by conflict tend to be off the main diplomatic map. Responsibility for the definition and implementation of humanitarian policy rests with DFID officials, who may consult with, but are clearly not directed by, FCO officials.

There is a perception that individual bureaucrats interpret differently the humanitarian principles laid out by the Secretary of State across the Department, reflecting not so much the different contexts, but rather the emphasis placed on the different elements of the 'code'. This is recognised as a problem within DFID and discussions are underway regarding how it can be addressed. One point that will need to be considered by such debate will be how officials prioritise the ten principles when these compete. At present there is no overarching objective or principle to guide them.

A further trend appears to be towards the bilateralization of humanitarian policy.

Historically, emergency aid departments were characterised as providing a 'cheque book' to fund emergency appeals, with little policy analysis of their own, and making only minimal demands of their partners in terms of accountability. This has changed markedly in the past decade. The failures of international humanitarian organisations have been highlighted by independent research and evaluation and by the popular press, particularly since the Rwanda crisis in 1994. At the same time, all government departments have come under ever greater scrutiny, needing to ensure much higher levels of accountability and to demonstrate effective use of public funds. The last ten years have witnessed what has been called an accountability revolution in the humanitarian sphere. DFID has been an important advocate in that revolution.

The strategies for enhancing accountability have been multilateral, for example, strengthening OCHA and contributing (financially and otherwise) to joint evaluations. DFID has also contributed to a number of non-governmental initiatives to enhance accountability, such as the SPHERE project on technical standards, the Active Learning Network on Accountability and Performance and the International Ombudsman project. Through its Institutional Strategy Papers with organisations such as the International Committee of the Red Cross, DFID has sought to balance the need for accountability, with the recipient organisation's need for flexible and secure funding. The ISPs thus constitute a form of conditional, unearmarked funding.

Another tactic has been to increase its capacity to monitor humanitarian activities at

field level - there are reportedly seven DFID field offices worldwide. More generally, there is a sense among NGOs in particular that DFID is becoming more involved in detailed analysis of requests for funding and that there is more selectivity in terms of the countries where humanitarian support is provided, and through which channels assistance is given. For example, DFID is involving itself in decisions regarding the security of staff employed by partner agencies, and in assessing the scope for impartial and effective humanitarian action.

Whatever the intent, the impression is that a donor government is coming nearer and nearer to the domain of humanitarian operations. In so doing, the impartiality and independence of humanitarian action may be compromised. As a government (rather than just a donor), the UK necessarily and rightly has a political view on any particular conflict. Perhaps inevitably, the proximity of government to humanitarian decision-making leads to the impression of a 'politicisation' of humanitarian operations.

Towards a definition of humanitarian aid

There are five reasons why it would be both useful and logical for the new International Development Act to include a more precise definition of humanitarian assistance:

Rationale:

- It would reiterate in law existing DFID policy commitment to uphold international law and humanitarian principles;

- It is a central plank of this Government's commitment to a rights-based approach to development. The principles of impartiality and humanity are the cornerstone of human rights law and of international humanitarian law.
- Such a legal commitment to principled humanitarianism is also complementary with an ethical dimension to foreign policy, while cementing DFID's independence from FCO;
- It would provide a statutory base for policy which might prove more robust against changes in 'soft' policy set through purely internal Departmental procedures.
- Finally, it would correspond with public expectations and understanding of humanitarian assistance, as primarily concerned with the relief of distress not a part of a political process.

Elements of a definition of humanitarian assistance

- *Content* is not a primary issue in definition. The demands of working in diverse conflict situations means that defining a single package of assistance is neither feasible nor desirable. More important are issues of *context*, *objectives* and *principle*.
- *Context*. As indicated by the existing DAC definition, an 'emergency' is a situation where the capacity of government (and indeed other authorities and the community) is overwhelmed and thus a population is unable to meet its basic

needs. Emergency in armed conflict may be created by the magnitude of or gravity of the humanitarian needs or by the fact that the acts that have given rise to the needs are very recent. The situation then requires emergency tools.

- In June 1986, the International Court of Justice gave its judgement in the case of military and paramilitary activities in Nicaragua. In the view of the Court, if the provision of humanitarian assistance is to escape condemnation as [political] intervention in the internal affairs of a country then its objective and methodology must conform to the standards laid out by the Red Cross.
- In other words, the *objective* of humanitarian assistance must be limited to the prevention and alleviation of suffering, to protect life and health and to ensure respect for the human being. Arguably, this definition provides for protecting and re-establishing livelihoods, not just life-saving assistance, without diminishing its intent.
- Furthermore, the ICJ argued, to be humanitarian, aid it must conform to two central principles of impartiality and humanity. *The principle of impartiality* is the corollary of the principle of humanity and is defined by the ICRC as follows: making 'no discrimination as to nationality, race, religious beliefs, class or political opinions. It endeavours to relieve the suffering of individuals, being guided solely by their needs, and to give priority to the most urgent cases of distress'. Such impartiality is not only a legal and ethical matter it is highly practical. During the course of this research a number of agencies have raised concerns that the

security of staff (and therefore the access of populations to humanitarian assistance) has been threatened when their impartiality has been compromised, by donor positioning.

- *The principle of independence of humanitarian action should be guaranteed in law.* The legitimacy of intervention by international humanitarian organisations is contingent upon their maintaining the independence of their action from governments. As the outgoing President of ICRC put it in 1993:

“ [Impartial humanitarian organisations and states] have entirely different functions. The function of states, in fulfilment of their duty to dispense justice is to ensure that the law is respected and to take appropriate measures against States violating it. While that of relief organisations is solely to assist the victims according to the principles of humanity. To merge these two roles...would result in a situation whereby States, substituting themselves for humanitarian organisations would impose humanitarian action by force. This would inevitably lead to the politicisation of the humanitarian mission. Sommaragua, IRRC, May/June 1993). In the light of events in Kosovo last year, this warning seems particularly prescient.

In summary, we would propose that the new Act includes a statement which sets out in law the existing commitments by the UK government to the values of impartiality, humanity and independence of humanitarian action. In so doing, we believe that not only would the consistency and international reputation of UK

policy be enhanced, but ultimately the needs of conflict-affected communities would be better served.