

Review of New Challenges and Solutions for the Improvement of Humanitarian Aid



By: Farzaneh Mostofifar
PHD candidate for international Relations

In today's world we witness that obstacles in the way of access to humanitarian aid have turned into an international challenge. Therefore the need for identification and analysis of these obstacles for the protection of Mankind which is one of the humanitarian objectives is vital. Therefore, the main question is what are limitations and obstacles – be they international or national – in the way of relief operations during natural disasters influenced by?

Our initial assumption is in view of the approval of the country targeted for receiving humanitarian aid, is conditional challenges in the way of provision of humanitarian aid during natural disasters as a result of internal issues (failure to intervene principle) and legal issues (protection responsibility). With the study of new cases such as humanitarian aid for a country under economic sanctions, as well as traditional challenges, we see the appearance of new challenges. Based on the country under sanctions in various aspects is similar to having war conditions. This is while humanitarian aid to country under sanction do not full under humanitarian law (international humanitarian law, conventions and Geneva Four Convention) which are pertinent during war, and furthermore the situation is not like normal conditions (peace conditions) where aid is freely supplied. What we are reviewing in this article is the presentation of a picture of these complex conditions so that suitable solutions are also thought of.

Ultimately we reach the conclusion that respect to existing humanitarian principles and teaching of these principles, effective definition of principles and in instance the adoption of new laws according to conditions and enjoyment of humanitarian diplomacy will result in the protection of Mankind and further access to humanitarian aid during special conditions.

Introduction

Today the provision of humanitarian aid during various national and international armed conflicts and natural disasters to respond to the extensive human needs is commonplace. Nonetheless, the provision of these aids during natural disasters is not as easy as humanitarian aid in war conditions. (A/63/10, 2008: para 228) ¹

The current global humanitarian system is widely acknowledged as no longer being fit for purpose. As natural disasters and internal conflicts increase over the years, there is a corresponding increase in the number of actors involved in humanitarian assistance and disaster relief [HADR]. However, the growth in the number of actors has not translated into increased effectiveness and

efficiency in HADR operations. The lack of coordination among the various actors is one of the key identified problems which has resulted in unnecessary duplicity of effort, wastage of resources, tensions among various parties involved, and delays in ensuring timely relief to affected populations. Different actors have competing agendas and biases, despite having the stated common goal to deliver humanitarian assistance to those in need. ²

Nevertheless, while in war conditions aid to the victims in accordance with international laws is done with further ease, there are no similar laws for natural disaster conditions, and this itself brings about challenges in the provision of humanitarian aid.

“
One of the most
fundamental challenges
during armed
conflict is double-
standard positions and
politicization in provision
of humanitarian aid

Challenges in the way of humanitarian aid during war

One of the most fundamental challenges during armed conflict is double-standard positions and politicization in provision of humanitarian aid. A lot of these conditions are in the hands of politicians, where counter-humanitarian activities below can be pointed out:

¹ https://books.google.com/books?id=FuwkAwAAQBAJ&pg=PA189&lpg=PA189&dq=A/63/10,+2008:+para+228&source=bl&ots=5X1Drwplq5&sig=ACfU3U08-h3hNTz_bvUWZAZItqbgxT4e1A&hl=en&sa=X&ved=2ahUKEwj16LnonfXiAhVDURUIHXa4CBEQ6AEWAHoECAgQAQ#v=onepage&q=A%2F63%2F10%2C%202008%3A%20para%20228&f=false
² <https://reliefweb.int/report/world/roundtable-challenges-humanitarian-assistance-and-disaster-relief-asia-pacific>

Counter-humanitarianism as criminality

The most visible form of counter-humanitarianism today is in Yemen. Since 2015 a proxy war, a near-total economic blockade and the obstruction of relief efforts, driven by Saudi Arabia and its Gulf allies, have left 24 million people in need of aid.

Counter-humanitarianism as a trump card

In the US, President Trump is using counter-humanitarian practices to fuel anti-immigration sentiment and gain political advantage.

His separation of 2,654 children from their families at the US's southern border last spring directly contravened global and national refugee and anti-human trafficking conventions.

His counter-factual narrative regarding crisis-level rises in cross-border movements and the 'illegal' status of Central American arrivals also gained traction, despite the fact that Central Americans have a legal right to seek and apply for asylum.



In the US, President Trump is using counter-humanitarian practices to fuel anti-immigration sentiment and gain political advantage

Counter-humanitarianism as nationalism

Whether it's the long-standing abuses against the Rohingya in Rakhine State or the long-simmering borderland conflict in Kachin province, the government of Myanmar and its army have used the denial of humanitarian assistance at the expense of the protections and rights of its minority communities.³

Although the abovementioned challenges, the presentation of humanitarian aid are within the framework of humanitarian law and Geneva Four Conventions and Additional Protocols, but the presentation of aid in each situation is faced with very difficult situations.

Challenges in the way of humanitarian aid in natural disasters

Presentation of humanitarian aid during natural disasters is not subject to legislated law. This, alongside the nonintervention principle and the governance principle which are two internationally recognized principles and result in the acceptance of humanitarian aid receiving country, result in the appearance of challenges in the way of presentation of humanitarian aid during natural disasters. (ERIC ADJEI, 2005: 2)

³ <https://www.odi.org/blogs/10721-2019s-biggest-challenge-humanitarian-sell-out>

The principle of “non-intervention” in internal affairs of countries is one of the fundamental principles of international law upon which, the countries are prohibited to intervene in the internal affairs of each other. Respecting this principle would result in the sovereignty and independence of the countries and also maintains international peace and security. The constituents of UN Charter attempted to prevent the governments from interfering in each other’s affairs based on the principle of the “non-use of force”⁴

With regards to the occurrence of natural disasters, the principle of nonintervention shows that the suffering country is free to adopt any measure to send aid and assistance to its citizens. Furthermore the outcome is that other countries do not have the right to unilaterally and without the approval or

request of the affected country, provide aid. Provision of aid to them must be done within the framework of the cooperation with the affected country. (A/CN.4/629,2010: para 74)

According to the Mohonk Criteria for Humanitarian Assistance in Complex Emergencies⁵, the principle of nonintervention like the principle of governance, must not disrupt the provision of humanitarian aid.

Nonetheless, with regards to humanitarian action during armed conflict, international humanitarian law is based on human and neutrality principles and often with the use of conventions and Geneva Conventions and 1997 and 2005 Additional Protocols and international customary law, include

principles for support for humanitarian aid during armed conflict.(HIDER, 2013:6)

This is while as it has been stated in the year 2000 Natural Disasters Report, in the event of the occurrence of natural disasters, in spite of the existence of a number of treaties for aid provision during natural disasters, there is still no specific legal framework for aid provision and support for victims and reduction of the destructive effects of these disasters, and humanitarian actions in provision of aid during natural disasters has not been in proportion with the advancement of international law in many other areas and including international humanitarian law with regards to armed conflicts.(WORLD

⁴ http://prb.iauctb.ac.ir/article_524477.html

⁵ https://www.researchgate.net/publication/236802266_The_Mohonk_Criteria_for_Humanitarian_Assistance_in_Complex_Emergencies_Task_Force_on_Ethical_and_Legal_Issues_in_Humanitarian_Assistance



With regards to the occurrence of natural disasters, the principle of nonintervention shows that the suffering country is free to adopt any measure to send aid and assistance to its citizens

disaster report 2000:147) ⁶

Efforts for the adoption of humanitarian laws during natural disasters has resulted in the International Disaster Responsible Law's adoption.

International disaster relief law (IDRL) is an emerging area of international law designed specifically to improve the humanitarian response to natural disasters. It thus fills both a gap and a need, given the focus of IHL upon conflict situations and the increasing frequency and impact of natural disasters. In a process led by the IFRC, IDRL draws on existing law, rules, principles and guidance. It aims to contribute to a more effective oversight and regulation of the disaster response by local authorities while pushing towards more effective and accountable relief efforts. ⁷

Recent experience has shown that even the best prepared governments may need international support when a major disasters strike. Unfortunately, few governments have adequate systems in place to facilitate and regulate outside relief.

After years of intensive research and consultations on problems and best practice in the regulation of international disaster relief, the IFRC spearheaded negotiations to develop a new set of international guidelines to help governments strengthen their domestic laws and policies.

On 30 November 2007, the state parties to the Geneva Conventions and the International Red Cross Red Crescent Movement unanimously adopted the



The IDRL Guidelines are meant to assist governments to become better prepared for the common legal problems in international response operations

“Guidelines for the domestic facilitation and regulation of international disaster relief and initial recovery assistance” (also known as the “IDRL Guidelines”) at the 30th International Conference of the Movement. In 2008, the UN General Assembly adopted three resolutions (Res. 63/139 63/141, and 63/137) ⁸encouraging states to make use of them.

⁶ https://www.google.co.uk/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=2ahUKEwi8o-jfl_XiAhVjqHEKHSzIA10QFjAAegQIABAC&url=https%3A%2F%2Fwww.ifrc.org%2FGlobal%2FPublications%2Fdisasters%2FWDR%2F9000-WDR2000.pdf&usg=AOvVaw22IBAAjx2JhruzIDUKhZkf

⁷ https://phap.org/PHAP/Sector_Monitoring/Themes/Law_and_protection/IDRL/PHAP/Themes/IDRL.asp

⁸ [https://books.google.com/books?id=YKLF_j_RgdgC&pg=PA94&lpg=PA94&dq=Res.+63/139+63/141,+and+63/137\)&source=bl&ots=AoRx5yKk6x&sig=ACfU3U1aGeLwFib_Y6iqXXzCZIWKy_fl_w&hl=en&sa=X&ved=2ahUKEwjGiqPVmPXiAhUjUxUIHQBUCPAQ6AEwAnoECAkQAQ#v=onepage&q=Res.%2063%2F139%2063%2F141%2C%20and%2063%2F137\)&f=false](https://books.google.com/books?id=YKLF_j_RgdgC&pg=PA94&lpg=PA94&dq=Res.+63/139+63/141,+and+63/137)&source=bl&ots=AoRx5yKk6x&sig=ACfU3U1aGeLwFib_Y6iqXXzCZIWKy_fl_w&hl=en&sa=X&ved=2ahUKEwjGiqPVmPXiAhUjUxUIHQBUCPAQ6AEwAnoECAkQAQ#v=onepage&q=Res.%2063%2F139%2063%2F141%2C%20and%2063%2F137)&f=false)

The IDRL Guidelines are meant to assist governments to become better prepared for the common legal problems in international response operations. Using the Guidelines, governments can avoid needless delays in the dissemination of humanitarian relief while at the same time ensuring better coordination and quality of the assistance provided.⁹

Challenges in the way of humanitarian aid in special conditions

Unilateral coercive measures against a country with direct effects on the economic, health and hygiene conditions of the people of the sanctions targeted country, results in the violation of human rights. This fact has been stressed in many UN international documents such as the UN Special Rapporteur on Unilateral

Coercive Measures reports. Complex and difficult conditions due to sanctions which affect all financial transactions, affect the imports and exports of goods. When the negative effects of these measures show themselves during natural disasters and affect international humanitarian aid and assistance, the issue turns into a grave human rights violation. In view of the aforementioned two conditions, do not fit into humanitarian aid during conflict and also humanitarian aid during peace, these conditions are called special conditions. The country target of sanctions is in special conditions. In various aspects it has similarities with war conditions. This is while humanitarian aid to the country target of sanctions do not abide by humanitarian law (humanitarian law,

Geneva Four Conventions) which are pertinent during war. Furthermore, the situation is not like normal conditions (peace conditions) where aid is sent freely. This is while, the officials of the country imposing the sanctions (the United States) have stressed on no restrictions on humanitarian aid, but what takes place in practice, based on humanitarian law organizations such as ICRC and Red Crescent Society, the lack of the transfer of financial aid have also been a challenge in the way of non-financial aid.¹⁰ This double-standard in remarks

“ “
Unilateral coercive measures against a country with direct effects on the economic, health and hygiene conditions of the people of the sanctions targeted country, results in the violation of human rights

⁹ <https://www.ifrc.org/en/what-we-do/disaster-law/about-disaster-law/international-disaster-response-laws-rules-and-principles/idrl-guidelines/>

¹⁰ <https://www.globalpolicy.org/global-taxes/42501-the-adverse-consequences-of-economic-sanctions.html>

https://www.washingtonpost.com/world/middle_east/fresh-sanctions-on-iran-are-already-choking-off-medicine-imports-economists-say/2018/11/17/c94ce574-e763-11e8-8449-1ff263609a31_story.html

<http://www.bbc.com/persian/blog-viewpoints-47909336>

<https://www.nytimes.com/2019/04/02/world/middleeast/iran-floods-trump-sanctions.html>

and practice add complexity to special conditions and make it more difficult to come up with solutions to remove obstacles.

Conclusion

By reviewing the three conditions: conflict, peace and special conditions in sending humanitarian aid we can see an overall challenge.

One of the most challenges to humanitarian action depend in part on how you define humanitarian action. There is no single definition, and no one owns the concept. Humanitarian action is clearly to do with notions of man, and the value of humanity. If you define humanitarian action as mobilisation by human beings in response to the needless suffering of other human beings for the sake of a common humanity, then

humanitarian action becomes a small and limited ideology. It must be action oriented; it must be non-coercive; it must be provided solely for the benefit of those we seek to assist. But in addition, humanitarian action must demonstrate an ethic of restraint. Humanitarian action cannot be subordinated to political interests, military rationales or even socially progressive moves towards peace and democracy. These are different ideologies and actions. Humanitarian action is smaller, more precise, self-limiting but no less idealistic or important for that.¹¹

Also as it has been stressed in this narrative, humanitarian aid is provide in two conditions of conflict and peace

(natural disasters), each of which have their own specific laws and regulations. The complexity of today's human communities has brought about a condition which is outside of the said two conditions, and that is the occurrence of natural disasters in a country which is target of unilateral coercive measures. In the recent case, although countries that impose the sanctions claim that humanitarian targets are not included in sanctions but what we see in practice (thematic study of the recent floods in Iran) shows that humanitarian aid is directly affected by sanctions.

In today's world the ferocity and extent of armed conflicts and natural or manmade disasters increase on a daily basis. Accountability to these situations often is out of the control of the governments where these disasters take place, and furthermore, classic government diplomacy is a pivot and basis of the



By reviewing the three conditions: conflict, peace and special conditions in sending humanitarian aid we can see an overall challenge

¹¹ <https://odihpn.org/magazine/the-challenges-to-humanitarian-action/>

interests of governments, and cannot guarantee an effective and practical humanitarian response to these conditions. It is under such circumstances where humanitarian diplomacy has a chance to appear. Humanitarian diplomacy is faced with numerous challenges with regards to guaranteeing victims of conflicts access, effects of sanctions and humanitarian interventions, private sector interventions, inter-organizational interventions and new information technologies.

The aim of humanitarian diplomacy is to convince others to adopt measures for protection or assistance to victims of conflicts or disasters, or letting these individuals to directly conduct these activities. Humanitarian diplomacy are talks, communication and information dissemination activities which are done from the headquarters of organizations or in the field. The beneficiaries of this diplomacy are the victims and other vulnerable groups who have been affected by natural or manmade disasters (Siah Rostami, 2015:83).

Overall, respecting existing humanitarian law and its teaching, effective definition of principles and in instances adoption of new principles based on conditions and benefiting from humanitarian diplomacy will result in the protection of Mankind and further access to humanitarian aid during special conditions.

Sources:

Siah Rostami, Hajer (2015), Humanitarian Diplomacy, Concepts and Challenges, Humanitarian Studies Quarterly No. 16

Solhchi, Mohammad Ali (2002), Humanitarian Intervention in International Law.

Adjei, Eric; "The legality of Humanitarian Intervention", University of Georgia School of Law (2005). LLM Theses and Essays.; available at: http://digitalcommons.law.uga.edu/stu_llm/2.

Alex J. Bellamy & Mark Beeson (2010): The Responsibility to Protect in Southeast Asia: Can ASEAN Reconcile Humanitarianism and Sovereignty?, *Asian Security*, 6:3, 262-279.

Haider, Huma (2013), International legal frameworks for humanitarian action: Topic guide, Birmingham, UK: GSDRC, University of Birmingham.