Dead letter or living document? Ten years of the Code of Conduct for disaster relief

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This paper examines the present value of the Code of Conduct for the International Red Cross and Red Crescent Movement and Non-Governmental Organizations (NGOs) in Disaster Relief, in view of discussions on neutrality and the Western bias of the humanitarian aid system, and assesses how it can retain its relevance in future.¹ The Code of Conduct was launched just after the Rwanda genocide of April 1994. A decade later, the crises in Afghanistan and Iraq have sparked renewed interest in humanitarian principles and in whether the code can serve as an instrument to define humanitarianism and guide humanitarian decision-making and coordination. More than 300 organisations have now subscribed to it. This paper is based on the findings of a survey of code signatories and the outcomes of a conference on the value and future of the code, held in The Hague, Netherlands, in September 2004 to mark its tenth anniversary.²

Keywords: Code of Conduct, humanitarian NGOs, humanitarian principles, neutrality, standards.

Introduction

Since the Biafra crisis of 1967, when Médecins Sans Frontières (MSF) was formed out of the International Committee of the Red Cross (ICRC) and many organisations were mobilised for an unprecedented airlift, increasing numbers of organisations have become engaged in humanitarian aid. In subsequent decades, many international development and faith-based organisations discovered, or rediscovered, their humanitarian roots, while myriad non-governmental organisations (NGOs) were established in developing countries whenever an emergency manifested itself in their vicinity. With the major famines in the Horn of Africa in the mid-1980s, relief aid became the core or side business of hundreds of organisations. This situation triggered an interest in defining a set of shared principles for these agencies. The Code of Conduct for the International Red Cross and Red Crescent Movement and Non-Governmental Organizations (NGOs) in Disaster Relief drafting process started in 1991, on the initiative of the French Red Cross and later under the auspices of the Steering Committee for Humanitarian Response (SCHR).³ It was drafted by Peter Walker, then of the International Federation of Red Cross and Red Crescent Societies (IFRC), and Tony Vaux, then of Oxfam-UK. Organisations affiliated with the SCHR were consulted.

The code was published in 1994, and in 1995 was ‘welcomed’ by states at the 26th International Conference of the Red Cross and Red Crescent. The number of signatories to the code has risen steadily over the years. The vast majority are European, yet an increasing number of other regions are represented among the 289 signatories:⁴

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Despite some apparent successes and its broad level of acceptance, the code did not come to play a lively role. Participants at a 2001 conference on the quality of humanitarian aid found that while it had inspired other quality initiatives and tools, it had itself become dormant. This impression was confirmed by remarks made in the survey: ‘I dare say that the code has been practically dead for a number of years’; and ‘the code was collecting dust on people’s shelves’. Someone recalled asking participants if they had read the code; ‘Nobody had, but they all knew they had signed up’.

Today, however, there is revived interest in the code. Organisations look to it to help resolve some of the mounting concerns regarding the nature and legitimacy of humanitarian aid as a result of the crises in Afghanistan and Iraq. Gradually, too, the code has found its way into practice. In 2001, it served as the terms of reference for an evaluation of the 2001 Gujarat earthquake. According to Vaux (2002), ‘in using the code evaluators found it a more effective and challenging tool than they had expected primarily’. Furthermore, they found that ‘far from being rigid and outdated the code was surprisingly flexible and “modern”: by triangulating issues between different principles it was possible to pinpoint major dilemmas that agencies had to tackle’. Since then, the Disasters Emergency Committee (DEC) has used the code in several more evaluations and has developed an assessment instrument comprising 28 questions to measure performance against the code.

### Humanitarianism and the Code of Conduct

Before the code was drafted, the ICRC and the IFRC had their Fundamental Principles to guide them. Other organisations also had principles, but there was no common agreement on what constituted good relief aid. As Walker noted during the 2004 conference in The Hague, people became worried about excesses and anomalies in the 1980s, given the abundance of unruly aid programmes. The development of the code would define and regulate humanitarian aid delivered by these different agencies.

Stockton (2003) offers a different interpretation of the original meaning of the Code of Conduct:

> Rather than representing the establishment of new standards in humanitarian action, as is often claimed, in fact the Code really represented the dismantling of old ones. The door to humanitarian (i.e. protected) space was thus opened, with the symbolic endorsement of the Red Cross movement, to an unregulated register of, now over 200, self-elected organisations espousing an enormous variety of political, ideological, and religious beliefs, collectively pursuing a preventative as well as Dunant’s more conventional curative humanitarian agenda.
The fact is that so-called mixed mandate organisations mostly subscribe to the code: organisations that have objectives in addition to the delivery of humanitarian aid, such as development or peacebuilding. Among the international NGOs, there are only two with a pure humanitarian mandate: the ICRC and MSF. It is difficult to see how the Code of Conduct could deregulate the humanitarian relief work of all of these organisations, when it was not regulated in the first place. It is true, however, that the code stretches the meaning of humanitarian aid and, therefore, devalues the relative status of the Fundamental Principles. The code brings together the classical humanitarian principles of humanity, independence, neutrality (although not explicitly, see below) and impartiality, along with modern principles derived from development: accountability, partnership, participation and even sustainability. Because it does not prescribe a hierarchy of principles, one can argue that the Fundamental Principles have become contingent.

Notwithstanding tensions within the code that will be referred to later, the two angles are not the product of a negotiated outcome. Dynamics within the different kinds of organisations led to a convergence of principles. At the time of the code’s drafting, development agencies increasingly faced the question of how to deal with conflict in their areas of intervention, while humanitarians had started to worry about the impact of their efforts, and were seeking ways to maximise the resources at their disposal. Minear and Weiss found, in 1993, that in addition to the classical principles of humanity, impartiality, neutrality and independence, a new set of principles derived from development work, such as accountability and participation, had come to be widely shared by organisations engaged in humanitarian aid (Minear and Weiss, 1993). The code thus accurately reflects mainstream thinking on the humanitarian aid of its time.

During the 1990s, this convergence of principles again came under discussion, partly because of the so-called politicisation of aid. In the 1990s, governments and the United Nations (UN) increasingly called for policy coherence and subsumed humanitarian aid under the integrated policies of development, human rights, governance and security. In trying to disentangle humanitarianism from foreign policy, people have asserted that humanitarians should reinstate more vigorously the principle of neutrality. With regard to the Code of Conduct, Walker (2005) and Stockton (2003) have specifically argued that it must make much stronger reference to the principle of neutrality.

The survey findings of this author suggest that, notwithstanding these renewed discussions, the 10 articles continue to be widely shared among humanitarians. The (electronic) survey, comprising closed and open-ended questions, was sent to all 289 signatories, and a number of individuals and partners of signatory organisations. One hundred and eighteen people responded; 105 represented signatory organisations. For the most part, policy officers in headquarters completed the questionnaire. A group of signatories in India organised a telephone conference on the questions before filling in the form. Eighty percent of survey respondents said that they are involved in multiple domains of intervention, while seven percent work only in relief.

In order to process the survey data, most questions were given a single, aggregate score. The survey raised many concerns about the wording of the articles and the
challenges of upholding them in practice. Nonetheless, the statistical data show that respondents are generally very positive about all of the code’s different articles. As Table 1 illustrates, appreciation of the code’s different articles is roughly the same and invariably high.

According to the survey, then, the code continues to reflect the mainstream thinking of people involved with relief NGOs about what should constitute humanitarian aid. This view is supported by the proliferation of local codes in conflict areas that has occurred in the past few years. Remarkably, these are often partly inspired by the Code of Conduct and incorporate the same breadth of principles.8

The Fundamental Principles and the Code of Conduct

The first four articles of the Code of Conduct roughly correspond with the fundamental humanitarian principles of humanity, impartiality, neutrality and independence. There is no doubt among any of the people consulted that the most fundamental article is

<table>
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<th>Table 1 Appreciation of code articles</th>
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<tr>
<td>Article 1 The humanitarian imperative comes first.</td>
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<td>Article 2 Aid is given regardless of the race, creed or nationality of the recipients and without adverse distinction of any kind. Aid priorities are calculated on the basis of need alone.</td>
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<td>Article 3 Aid will not be used to further a particular political or religious standpoint.</td>
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<td>Article 4 We shall endeavour not to act as instruments of government foreign policy.</td>
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<td>Article 5 We shall respect culture and custom.</td>
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<td>Article 6 We shall attempt to build disaster response on local capacities.</td>
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<td>Article 7 Ways shall be found to involve programme beneficiaries in the management of relief aid.</td>
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<td>Article 8 Relief aid must strive to reduce future vulnerabilities to disaster as well as meeting basic needs.</td>
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<td>Article 9 We hold ourselves accountable to both those we seek to assist and those from whom we accept resources.</td>
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<td>Article 10 In our information, publicity and advertising activities, we shall recognise disaster victims as dignified humans, not hopeless objects.</td>
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that ‘the humanitarian imperative comes first’, defining unlike any other what a humani-
tarian stands for. This does not mean that it straightforwardly dictates humanitarian
policy. NGOs operate in different domains, which they balance in their application
of Article 1. They have other core values to take into account, and acknowledge non
life-threatening realities by respecting budget lines and allocations. Such considerations
can be legitimate, but when they are perceived as out of balance, external critiques
and internal debates crop up—for instance, when organisations are seen to allocate
funding to crises considered not to be the worst.9 One of the recurring lessons is that
these policy considerations must be transparent and explained in relation to the funda-
mental principle of humanity (Slim, 2003).

There are many factors that may inhibit humanitarian agencies from acting in accord-
ance with Article 1. For example, conditions are not conducive to gaining unimpeded
access to affected populations, staff security is not sufficient and the construction of
humanitarian aid as partisan or political is only partly in the hands of the organisations
themselves. There are also variables within humanitarian agencies that lead to compro-
mises regarding Article 1. Several respondents to the survey were critical of the way in
which their own organisational interests sometimes prevail. Organisational interests
may very well coincide with humanitarian principles, such as the desire to appear pro-
fessional, but they can also be at variance. One person wrote, ‘I sometimes ask if the prime
motivation of the relief community’s response to disaster is really to alleviate human suffering or
if is to care primarily for the organisation’s well-being?’ Another commented that, ‘The sustain-
ability of an agency and its reputation can in some cases overshadow the humanitarian imperative’.
When organisational interest is seen to be taking over from the humanitarian impera-
tive, this is especially damning for NGOs. This is because compared to vote-seeking
governments and profit-seeking companies, NGOs find their legitimisation in their
value base (Hilhorst, 2003).

Article 2 concentrates on impartiality, although the concept only appears in the
subtext. Impartiality is the twin of humanity, because it underscores that the right to
receive humanitarian assistance applies equally to all people throughout the world. There
is no ‘us’ and ‘them’ in humanitarian thinking. It is very clear from the allocation of
aid that realities are a far cry from the aspiration embedded in Article 2. Among the
examples that stand out are the aid budgets reserved for Kosovo in 1999 compared to
other crises at the time, the present discrepancy between Iraq and the Democratic
Republic of the Congo (DRC) and the lack of attention paid to forgotten crises (that
is, those not in the media spotlight). The issue of impartiality or the lack thereof is of
course highly related to Article 4, the independence of aid, and Article 6, dealing with
coordination. Impartiality is often compromised by budgetary restrictions, operational
constraints or limitations imposed by militia or other local authorities.

Even though the principle of impartiality is straightforward, its translation in the
policy realm can be problematic and ambiguous. Needs are difficult to measure and
are not universal, they depend on contextual variables. An obvious example is the need
for winter clothes in cold climates. Should minimal humanitarian standards be applied
in contexts where the surrounding host population lives below the threshold set by
these standards? Was the high level of assistance given to the Kosovo population acceptable compared to many situations in Africa? The impartial assessment of needs becomes more complicated where one goes beyond the provision of physical life-saving assistance, when aid reaches into mental rescue and the survival of community life. Many consider the restoration of a mosque or church an act of humanitarian aid; so, too, for instance, is the organisation of football matches as a way of starting to ‘normalise’ life in a community (Rwanda) where the genocide has just been stopped. Defining where humanitarian responsibility starts and ends is a matter that can never be completely resolved.

Article 3 deals with issues of neutrality, but in such an awkward and ambiguous way that it offers little guidance to NGOs working in conflict situations. Article 3 does not mention the word neutrality. The full text and subtext of the article read as follows:

**Article 3.** Aid will not be used to further a particular political or religious standpoint. Humanitarian aid will be given according to the need of individuals, families and communities. Notwithstanding the right of NGHAs [non-governmental humanitarian agencies] to espouse particular political or religious opinions, we affirm that assistance will not be dependent on the adherence of the recipients to those opinions. We will not tie the promise, delivery or distribution of assistance to the embracing or acceptance of a particular political or religious creed.

The article does not explicitly call on agencies to be neutral in the ICRC sense of ‘refraining from taking sides in hostilities or engaging in controversies of a political, racial, religious or ideological nature’. Neutrality is implicated merely because it is hard to see how taking sides in hostilities can be separated from using aid to further political standpoints. It is said that an explicit reference to neutrality is left out to accommodate the principles of justice and human rights, which many organisations cherish.

Faith-based organisations are generally well aware of the restriction of Article 3. While intentional proselytism is avoided for the most part, this does not preclude the fact that faith-based aid may be perceived as signalling religious politics, or that this is never implicitly intended. One respondent remarked that, ‘in some cases the beneficiaries of aid are seen to be tilting towards the faith of the relief providers’. The relation between aid and religion appears to have become more delicate in light of the recent trend towards the politicisation of religion, or the religionisation of politics. This is among other trends apparent in the association between terrorism and Islam, resulting, for example, in the suspicion that some Islamic charities channel funds to terrorist groups, and in the recurrence of the explicit Christian aid politics of the administration of US President George W. Bush (Stoddard, 2003). Whether or not aid agencies forward political standpoints depends partly on the definition of politics. If it includes defence of human rights, many organisations are deliberately political. With human rights increasingly incorporated into the foreign policy of the donor government, the human rights politics of NGOs are likewise becoming more complicated.

A major concern of many respondents and people interviewed is the current politicisation of humanitarian programming and implementation, especially in Afghanistan and Iraq. NGOs struggle with the questions of how to judge the politics of aid, by
intention or by implications, and how to deal ethically with the intersections between politics and humanitarianism. One person stated that, ‘There is a fine line between responding to need and becoming a tool for the Coalition’s pacification agenda in Iraq. For example addressing IDP [internally displaced person] needs reduces unrest in IDP areas. Although need is addressed, this has a political implication’.

Article 4, ‘We shall endeavour not to act as instruments of government foreign policy’, is the expression of the classical humanitarian notion of independence. NGOs must retain their autonomy in order to be able to provide humanitarian assistance according to their own principles and without interference. Through its formulation, this article offers agencies significant room to manoeuvre to develop their own policy practices regarding independence. This follows for the use of the word ‘endeavour’, and because the article’s subtext states that agencies can be implementers of government policy ‘in so far as it coincides with their own independent policy’. Such ambiguity reflects real differences within the humanitarian NGO community about the distance maintained from government policy.

The text of Article 4 mainly deals with financial independence and the use of humanitarian information for intelligence purposes. Over the past 10 years, the trend has been for donors increasingly to earmark funds for humanitarian aid. Reducing the level of dependency on government funding is therefore a deliberate policy of many agencies. At the same time, NGOs seek to increase their independence in other ways. The ICRC, for instance, is completely dependent on government funds but its legal status nevertheless grants it a large degree of independence.

In the past decade, the foreign policy of many countries is increasingly expressed in terms of international humanitarian law and human rights (Macrae and Leader, 2000). Although some welcome the fact that foreign policy increasingly coincides with NGO values, there are strong concerns, too. NGOs fear the abuse of values for foreign policy reasons, criticise the selective application of values by governments, such as addressing human rights abuses in some but not other parts of the world, and find it difficult to define their own identity and approach in relation to the political powers (Slim, 2004a; 2004b; de Torrente, 2004; Donini et al., 2004). The politicisation of aid has significant implications for programming and coordination, such as current concerns pertaining to strategically embedding aid (Afghanistan) or interacting with the military within the framework of civil-military cooperation (CIMIC). There are no references in Article 4 to such operational concerns, making it of little relevance to humanitarians in the field. Several people in the survey stated that Article 4 ought to be changed: ‘the word endeavour is too weak, a code should be more clear-cut or defined. We need to protect our space and identity much more forcefully!’; and ‘the current political situation in the world dictates the updating of this article’.

Neutrality and trust

As elaborated above, recent discussions on the Code of Conduct have tended to focus on its poor respect for the principle of neutrality. There is no doubt that the text of
Article 3 can be sharpened in order to make it less ambiguous. In the course of my research, I have not become convinced, however, that neutrality should be afforded more importance than the other principles. In addition, what guidance can be expected from a stronger article on neutrality?

Making neutrality a more central concern is considered to be a remedy for problems related to the present politicisation of aid, and it is believed that it will restore trust in the humanitarian agencies on the ground (Stockton, 2003; Macrae and Leader, 2000; Walker, 2005). But neutrality is not a panacea for humanitarian policy, providing clear directions for aid. Within the ICRC—the bulwark of neutrality—theory and practice in relation to neutrality are not uniform and do not preclude the espousal of political standpoints, namely to denounce breaches of international humanitarian law (Pictet, 1979; Minear, 1999). The other ‘pure’ humanitarian organisation, MSF, balances neutrality with its core value of witnessing. Practice among other NGOs is even more varied (Leader, 2000).

It is also not clear in what situations neutrality must be given fundamental importance and where it may be a lesser concern. Suggesting that neutrality applies in conflict and not in natural disasters is too much of a simplification of contemporary humanitarian realities. Humanitarian aid operates in many different fields that cannot be covered by the crude distinction between disasters and conflict. They include: work in immediate emergencies; assistance in prolonged and irregular conflicts, such as Operation Lifeline Sudan; post-conflict reconstruction; and a range of long-term programmes in the relative calm of refugee camps. These different fields all fall under the heading of humanitarian aid because the withdrawal of aid would lead to an immediate upsurge in morbidity and mortality, and because of the organisation of funding channels. The different fields set different parameters vis-à-vis the need for neutrality. Whereas a strengthening of Article 3 could help humanitarian NGOs resolve some of their policy dilemmas, it will not provide a blueprint. Decision-making will continue to be contingent on the context, that is, where aid is being delivered.

Neutral practice cannot be fashioned by clearer guidelines. Neutrality is often thwarted by unintended consequences, for instance, because the local composition of staff signals partisanship in ways not realised by international organisations (McIvor, 2003) or simply because all international organisations drive the same white Toyotas. More important, neutrality cannot be declared but needs to be extended. Neutrality is in the eye of the beholder.

There are indications that humanitarian aid is losing credibility on the ground. How many humanitarian workers have been attacked or killed is not known, but the numbers seem to be rising; the security of aid personnel is a major issue (King, 2002). Many believe that trust is being lost in aid because it is not being viewed as neutral and/or because it is associated with Western powers. It is hoped that a stronger policy of neutrality may help to overcome the problem, but this is not likely to happen in the short term. Restoring trust is a long and arduous process.

Finally, while the purpose of neutrality is to forge trust in order to gain access to people in need, it is important to note that neutrality is not the only builder of trust. Professional behaviour, and in particular the need to be accountable to local people
(the focus of Article 9), is perhaps equally important in the creation of trust. Working with local partners (Article 6), having a participatory approach (Article 7) and showing respect for local culture (Article 5) can all contribute to the development of an environment of trust (Bjoreng, 2003). One respondent to the survey made a comment that exemplified the possible correlation between participation and trust: ‘When the Taliban captured the district centre after heavy fighting, our staff was protected and secured from bad incidents. The community elders have taken the responsibility for staff and kept them in their own houses for many days. They returned the staff safely to Qalat office’.

Without dismissing the importance of neutrality, I like to argue that the politics of neutrality are contingent on the context rather than being fundamental and that with regard to the everyday practice of providing humanitarian aid, they have to be weighed against, and made to work with, other strategies designed to forge trust.

**Linkage and the Code of Conduct**

Article 8 of the code calls on relief aid to reduce future vulnerabilities to a disaster as well as to meet basic needs. Linking relief to development, or making relief relevant to structural or sustainable development, was originally postulated in terms of a continuum: in the event of a natural disaster, immediate relief was to be followed by rehabilitation efforts, after which development processes could resume. In relation to conflict, the idea emerged in the 1990s that the different approaches should not be seen as sequential, but rather, that they should be employed simultaneously. Hence, where possible, development activities are to be initiated even during periods of open conflict. The discussion about linking relief to development partly arose as a result of experiences in Sudan, where agencies felt that relief money could be used more effectively if activities were designed to reduce vulnerability. A ‘humanitarian-plus’ approach seemed very appropriate in this country, as active hostilities raged in enclaves surrounded by large tracts of relatively calm territory.

Article 8 is at the heart of the debates between so-called maximalist and minimalist humanitarians. Minimalists put a premium on the strict humanitarian mandate, whereas maximalists broaden the scope to include peacebuilding and/or development objectives to address the causes of conflict. The position of agencies on the linking debate is informed by their pedigree and their intervention modalities. Multiple mandate organisations tend to support the notion of linkage. While the maximalist stance gained popularity in the 1990s (to the extent that it was incorporated into the code), recent publications appear to reconsider support for the minimalist one or even to delegate the field-based notion of linkage to the past. The survey paints a different picture. Although one respondent stated that Article 8 is ‘straying into the realms of longer-term development and so is in danger of muddying the waters’, nine others expressed concern that the article is not upheld enough in practice. Concern about addressing vulnerability and poverty issues in emergency response seems especially strong among humanitarians in the south. An Indian NGO representative remarked, ‘We are very sincere with Article 8 but in case of INGOs [international non-governmental organisations], I doubt their approach in spite of their intention’.
Humanitarian aid and people

Several articles of the code deal with humanitarian aid and people in emergency areas. Article 5, ‘We shall respect culture and custom’, constitutes a firm statement about respecting culture and custom. Its subtext, however—‘We will endeavour to respect the culture, structures and customs of the communities and countries we are working in’—leaves it to humanitarians to guess its meaning. The article does not clarify what is meant by respect. From the interviews and survey it appears that people generally interpret respect in the sense of: ‘to regard as inviolable; avoid intruding upon’. No less than 12 respondents made a qualitative comment about wanting to respect culture, but selectively. Honour killing, genital manipulation, suppression of women and exclusion of rape victims were highlighted as customs that NGOs do not want to condone, as they believe more generally that addressing human rights should be the top priority, ranking above the importance attached to local culture. And is it not, some ask, the very nature of NGOs to bring about change? However, the international Webster comprehensive dictionary of the English language provides several other definitions of respect, including: ‘To treat with propriety or consideration’; and ‘To have differential regard for; esteem’. It is important to consider the other definitions of respect. Culture should at least be treated with propriety, consideration and concern, as conveyed by the other meanings of respect. When NGOs deal with culture, and some even aspire to change it, they should at least have a thorough understanding of the cultural patterns that they are aiming to alter.

Articles 6, 7 and 9 of the Code of Conduct deal with NGOs and people in the disaster-affected areas. Article 6 calls on agencies to attempt to build disaster response using local capacities; Article 7 requests that they involve programme beneficiaries in the management of relief aid; and Article 9 stipulates that they be accountable to those they are seeking to assist (as well as to donors). There are many good reasons to make local people central to humanitarian responses, including acknowledgement of respect and the dignity of people, legitimisation of aid efforts, enhancing the efficiency of aid and improving its knowledge base, sustainability and learning capacity.

Cases of people relying on aid for their immediate survival appear to be on the rise. This is connected to a range of factors, including the degradation of natural resources, such as drinking water, a lack of entitlement to these resources, population pressure, the increasing and diverse impacts of climate change and the damage inflicted by HIV/AIDS. The long-term implications of these trends for the organisation of humanitarian aid have only just begun to be explored, yet it is difficult to imagine how humanitarian aid can continue to be granted without building professional local disaster response capacities.

Humanitarian aid modalities have become increasingly diverse and complicated. The number of development NGOs and humanitarian agencies in crisis areas has grown. Many international agencies work primarily through local partners and constantly seek to find a balance between their own operational capacity, if they have one, and the support they offer to partners. Local NGOs, meanwhile, are not just partners of international NGOs, but also derive support from the UN and bilateral sources, such
as embassies, and from a range of more localised and informal financial sources that are not visible in international statistics. Many international non-governmental organisations (INGOs) work exclusively through local partners and/or belong to a worldwide movement, such as Caritas Internationalis or the IFRC. Nonetheless, a number of survey respondents said that there was much room for improvement, especially with regard to major crises: ‘This article is sinned against in most high-profile crises’; and ‘INGOs tend to bring in their own capacities and do not rely on local capacities’. Several people drew attention to the Gujarat earthquake, where even though many capable local organisations were present, the IFRC, for instance, opted to fly in more than 150 international delegates.

There are two kinds of practical limitations to basing a response on local people and organisations. The first is that lack of capacity may inhibit a quick and good response. ‘Sometimes people just need straightforward assistance’. According to most definitions, natural hazards or conflicts become disasters when they overwhelm the local coping capacity. The size of the response often overwhelms local capacities. However, emergencies do not require personal input per se, frequently funds for local organisations would be sufficient. The capacities of local people and organisations in ‘normal’ times historically vary from country to country. Conflict may severely erode the resilience of local people and the strength of civil society (Harvey, 1998), and the same is true in situations where there is a high prevalence of HIV/AIDS (de Waal, 2002). The possible role that local people can play in humanitarian work is thus diverse, and partly depends on the phase of the disaster response. When, as is frequently the case, humanitarian operations last for years, the lack of involvement of local people and organisations becomes especially problematic.

While more locally organised aid has tremendous advantages, it casts discussions on the politicisation of aid on the ground in a sharper light. In societies that have been severely torn apart, local people often cannot avoid getting involved, because, for example, they cannot withstand the pressure applied by powers that want to control their resources. The crucial factors are whether local partners use the resources to provide aid (and not to feed the conflict) and if they deliver aid based on need rather than on constituency. Local communities are not homogeneous entities and power relations regularly play a role in the allocation of resources. It is important that INGOs are aware of these problems and aim to make well-informed decisions about collaboration. However, I would like to stress that it is vital not to adopt a basic attitude of mistrust in relation to local people. Trust is partly based on reciprocity. When international organisations approach local people with a sense of mistrust, they can hardly expect to receive trust in return.

**De-Westernising humanitarian aid**

Lately, it has been suggested that the current crisis of trust that humanitarians face in many countries may partly result from the association between humanitarian aid and Western values. One way to restore trust, then, is by making humanitarian aid more
universal. The humanity principle is intimately connected with the emergence of the Red Cross movement, and, in most literature on the topic, the underlying notion of compassion is culturally rooted in Judeo-Christian traditions, capitalist value systems and individual-oriented social organisations. Increasingly, people now endeavour to detach the concept from its Western moorings by drawing parallels with concepts in other religious traditions and social forms of organisation. However, one can also turn the argument around. During the 2004 conference in The Hague, the President of the Palestine Red Crescent, Younis El-Khatib, made a powerful plea in his keynote speech to protect the universal value of humanitarian action. He was asked to comment on the relevance of the code to Islamic communities, but instead stressed the international heritage of the code’s humanitarian ideals. No community owns these. ‘Though the code may have drawn on European wars, laws and doctrine it is not limited to the needs of Europeans but is universal’.

Another way to dissociate humanitarianism from the West is by making the roles of non-Western organisations more clear and visible, or in the words of Hugo Slim, to ‘decolonize aid’, starting with mapping the substantial financial aid flows from these areas. Expanding the role of non-Western humanitarian agencies and making their contributions more visible also implies that power differentials within humanitarian communities have to be addressed. The tendency to regard INGOs (with their headquarters in Europe or the US) as superior has also crept into the language of the Code of Conduct. The code is sensitive to the different players involved in humanitarian aid, including people and agencies in operational areas, and provides guidance on their different roles. However, it is written from the perspective of INGOs. Headquarters-based representatives of these bodies drafted the document, and the language makes it an instrument of, and for, INGOs.

Many respondents who filled in the questionnaire made comments along this line. Several argued that Article 4, on independence, appears to be written only with INGOs in mind: ‘This is totally focused on foreign agencies’; and ‘What about local/national agencies who wish to adhere to the code?’ The code does not deal with the particular challenges of maintaining the independence of NGOs residing in conflict or disaster areas. Nor does it address the dependence that local NGOs may have vis-à-vis INGOs, which in some contexts may be regarded as very powerful ‘authorities’. A southern signatory stated that, ‘although there is growing conduct of respect towards beneficiaries culture and costumes, there still persists ways of disrespecting, mainly because of the misuse of power by those who control the resources’.

Article 5 is not very specific and should elaborate on respect for local organisational cultures. INGOs easily forget that their style of organisation, which they take for granted, is just as culturally tainted as that of their partners. This was illustrated when a 1994 evaluation mapping exercise to contrast the perceptions of international agencies and the Somali community discovered that the relief agencies considered themselves ‘structured’, but were perceived by the Somali people as ‘coercive’. People in the INGO labelled themselves as ‘professional’, ‘neutral’ and ‘objective’, while they were seen as ‘bureaucratic’, ‘authoritarian’ and as ‘regulating without dialogue’ (IOB, 1994, p. 98).
On Article 6, a respondent commented: ‘If local organisations exist, they should be strengthened as actors and not as the prolonged arm of international organisations’.

**The use of the code in practice**

The code appears most institutionalised when it comes to education. Many organisations have made it an explicit part of their introductory courses, while others use it in an implicit fashion in their education programmes. Organisations have their own principles, and often adhere to different codes and legal or operational standards. Several people reported that they have incorporated the code’s values into their own principles and strategic plans. Several people said that the Code of Conduct plays a particular role in guiding the humanitarian work of their multiple mandate organisation. Several people offered examples of how they use the code in programme implementation. The general view, though, is that the code is being utilised in an implicit manner, and as such, the degree to which it reaches the field is not sufficient. Overall, there are uneven instances of explicit employment of the code. One person said that, ‘in many cases, the code coincides with the experience of the people. Many colleagues are living illustrations of the principles, they do not quote the principles, the principles are part of them’.

The Code of Conduct is, of course, not the only reference tool available to humanitarians. Its preamble states that, in the event of armed conflict, the present code will be interpreted and applied in accordance with international humanitarian law. In addition, there are other relevant international bodies of law, including human rights conventions. Agencies are also bound by, and can make use of, locally prevailing legislation. Furthermore, there are a number of standard-setting entities specifically focused on humanitarian aid, such as the Active Learning Network for Accountability and Performance in Humanitarian Action (ALNAP), the Inter-Agency Standing Committee, People in Aid and the Sphere Project. Few people saw contradictions between different bodies of law, principles and instruments. Yet, several people pointed to confusion among humanitarians with regard to the different instruments.

Despite the fact that there is little explicit reference to the Code of Conduct, people hold it dear. The appreciation value of the code in the survey was 0.8 on a scale between zero and one. Reasons why the code is considered important are listed below:

- it is a body of commonly shared principles;
- it defines the place of humanitarians next to government and military;
- it provides a common reference point for discussions between NGOs and stakeholders;
- it is a reference tool for discussions about humanitarian and development divisions, and between programme people and marketing representatives;
- it is relatively concise and simple; there is no need for elaborate training; and
- with a 10-year history and 289 signatories (as of July 2004), the code has gained broad recognition.
The value of the code in regulating aid

The Code of Conduct sets parameters in relation to humanitarian aid. With the code in hand, excesses can be singled out. There is wide agreement that using aid to support warlords, distributing bibles and blatant racism is not acceptable humanitarian behaviour. The code does not provide, however, clear proactive regulation with respect to the provision of humanitarian aid. The code is not regulatory because of its cautious language, with phrases like ‘we shall endeavour to’, instead of ‘we shall’. The language is a reminder that humanitarians have limited controls over the humanitarian space and basically depend on other actors. By using this language, room for manoeuvre is also created for INGOs with different approaches. The cautious language makes the code comprehensive and appropriate as an instrument for discussing policy and operational matters and dilemmas. It makes the code less useful, though, for NGOs seeking guidance vis-à-vis their actions and for purposes of accountability.

Furthermore, the code is not regulatory because the different articles can lead to contradictory demands. One person noted that ‘the code is being used in discussions with other NGOs. However, the code does not stop the need for debate to inform decisions, for instance about the question which principle should have priority’. The code accommodates different approaches to humanitarian aid, including the maximalist and minimalist positions referred to above. When debate between these positions was strong in the late 1990s, Jackson and Walker (1999) cautioned against entrenching the two positions and recommended looking at the problem in a more contextual way, whereby it is acknowledged that some situations allow for development-oriented aid, while in others, aid should be limited to relief. When taking the diversity of situations on the ground into account, I tend to agree with them. Indeed, working in the midst of an ethnic conflict requires a different approach than working in the relative calm of a refugee camp, or in a post-conflict situation. Some situations require strict neutrality, while others do not. Some situations provide room for a developmental approach; other emergencies require strict concentration on life-saving activities (Slim, 2003). In extremely tense situations, local organisations cannot be relied on; in others, it would be highly unethical and inefficient not to.

Some people believe that, to be useful in future, the Code of Conduct should define more clearly what humanitarian aid is and, therefore, reserve the humanitarian label for a restricted number of organisations. This viewpoint holds that the code is weak in making the fundamental humanitarian principles contingent. I would argue instead that the contingent wording of the code is its strength. There are no blueprints for humanitarian aid and humanitarian policy needs to be attuned to the situation. To my mind, the code provides an instrument to help such differentiated and contextual humanitarian decision-making. In practice, this means that agencies acknowledge that there are different approaches to aid and base their strategy on the characteristics of the situation they are confronting. Paraphrasing the military canon, ‘As military as necessary, as civilian as possible’, one could identify a doctrine for discussing humanitarian strategy. Such a doctrine, though, would not solve problems, certainly not the problem of neutrality, because neutrality is not a coat one can put on or take off depending on
Monitoring the Code of Conduct

The introduction to the Code of Conduct states that it is a ‘voluntary code, enforced by the will of organisations accepting it to maintain the standards laid down in the code’. Hence, there are no sections on monitoring or complaint procedures. Monitoring or complaint mechanisms sit uneasily in the humanitarian sector. The most radical initiative to date was the Humanitarian Ombudsman Project, which originally aimed to develop a system-wide ombudsman that used the Code of Conduct, the Humanitarian Charter and the Sphere Standards as references to raise and address the concerns of people affected by disaster and conflict (Beyani, 1999; Christoplos, 1999; Apthorpe and Mayhew, 1999). This initiative faced significant opposition because of questions regarding its legitimacy and feasibility. The ‘lighter’ Humanitarian Accountability Project eventually replaced it.

Interestingly, the survey did reveal rather positive interest in monitoring adherence to the Code of Conduct. Many respondents agreed that the articles are binding and that beneficiaries should be able to use the code to complain (0.7). There was also significant agreement about whether signatories should regularly report on their performance vis-à-vis the code (0.65). Hence, there appears to be a constituency that wants to discuss possibilities for complaints and (self-) monitoring. Moreover, it is worth noting that many of the local codes being developed have introduced complaints and monitoring mechanisms.

This is not the place to outline the kind of mechanism that would be suitable for the humanitarian community. Suffice to say that it would not be easy to devise, because humanitarian aid is contingent and because it is difficult to imagine an authoritative body within a community that is so dispersed. One respondent said, ‘I do not know what, but I have the feeling there should be something’. Another added, ‘I think it is time to go into monitoring. Or self-evaluation, in combination with a complaints mechanism. But, who has

**Box 1 Towards a new humanitarian doctrine?**

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the weather. However, it may provide a fresh angle for discussing principles while acknowledging the large variety of humanitarian situations on the ground.
The responsibility of doing that? These are questions with no easy answers, but the survey does highlight that it is time to reopen the discussion in order to find answers. Such answers may lead to the creation of an institution that is able to halt excessive breaches of the code and provide aid recipients with a meaningful space to express their ideas and grievances.

Conclusion: the need for a light mechanism

The revived interest in the Code of Conduct, its high value in the eyes of signatories and its potential use in humanitarian decision-making led the conference in The Hague to conclude that it is worth the effort to keep the code alive. With regard to ownership, there was a strong sense among people that the code belongs to all signatories and that it is up to them to promote its employment. To meet its potential, the code should become more institutionalised. There are many ways that signatories can integrate the code into their internal and external affairs. Examples, based on interviews and the survey, include the following:

- announce on the signatory’s website that the code was signed and provide a link to the text;
- incorporate the code into the reports of the organisation;
- provide internal guidelines or a policy paper that makes clear how the code’s principles relate to the organisation’s own values or other standards that it has adopted;
- make compliance with, or respect for, the code an element of the contracts that staff sign when they take up employment with the organisation;
- make the code part of training curricula;
- work the code into the format of project proposals;
- issue the code as a standard part of terms of reference for an evaluation;
- make respect of the code a condition for partnership;
- refer to the code in general policies;
- provide a complaint mechanism for people served by the organisation;
- conduct a self-assessment to gauge implementation of the code within the organisation; and
- carry out peer reviews to determine the degree to which NGOs act in accordance with the code.

There is also significant scope for initiatives within and between signatories to promote the code. The DEC has taken on this role with regard to the employment of the code in an evaluation. A group of Netherlands-based NGOs organised an international conference on the code in September 2004 and is playing an active role in follow-up activities. Other organisations could likewise take on projects to promote the code.

This is, however, not enough. To become valuable in future, there was broad agreement at The Hague conference that a light mechanism should be put in place to manage the
Code of Conduct. This mechanism should have three objectives. First, it should regulate the signatories. Presently, the IFRC is the code’s caretaker, but it has no mandate to renew periodically signatories or to remove signatories that cease operating or do not qualify. There are no minimal requirements for signatories. Second, it should provide a space to discuss monitoring issues and complaints. Third, it should consider amendments to the wording of the code.

During personal interviews, it became evident that there appears to be some reluctance among key actors to change the articles of the code. The reason given was that ‘tinkering with the principles would be opening a Pandora’s Box’. Is this fear justified? The survey suggests that there is more agreement than anticipated for starting discussions on adjusting the code to meet new demands. To retain its relevance, three key things need to happen:

• Articles 3 and 4, on neutrality and independence, must be clarified;
• Article 5, on respect of local culture, must be elaborated on; and
• the wording of the entire code must be adjusted to eradicate its bias towards INGOs, and to make it equally relevant to local NGOs.

These amendments can be made without altering the spirit of the articles or the scope of the Code of Conduct.

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Endnotes
1 This paper was greatly enriched by discussions within, as well as the support of, the organising group of the conference, comprising Jan de Graaf (Dutch Red Cross), Ton Huijzer (Dutch Red Cross), Russell Kerkhoven (PSO—capacity building in developing countries), Tilleke Kiewied (Novib/Oxfam-Netherlands) and Arthur Molenaar (Coordinator). The conclusions are those of the author and do not necessarily correspond with the policies of the organisations involved.
2 The conference, entitled ‘Ten Years Code of Conduct: Principles in Practice’, took place on 23 September 2004 and was organised by the Dutch Red Cross, PSO and Novib/Oxfam-Netherlands, in cooperation with the International Federation of Red Cross and Red Crescent Societies (IFRC), Cordaid, World Vision Netherlands and other Dutch NGOs. A full version of the research report and the conference proceedings can be downloaded from http://www.pso.nl/knowledgecenter/nieuwsitem.asp?nieuws=50.
3 The SCHR is a coalition of nine of the largest international humanitarian organisations. The present member groups are CARE, Caritas Internationalis, the International Committee of the Red Cross, the International Federation of Red Cross and Red Crescent Societies, the Lutheran World Federation, Médecins Sans Frontières, Oxfam, Save the Children and the World Council of Churches. The ICRC and MSF were not yet members at the time of the code’s drafting (Catholic Relief Services was but
later left), although the ICRC did help to draft language on the application of the code in conflict situations.

4 The number of signatories continues to rise; 289 was the number in July 2004 when this analysis was conducted.


6 The DEC is the UK body that becomes operational during major humanitarian disasters to coordinate fundraising for 14 of the country’s primary aid agencies. See http://www.dec.org.uk.

7 Multi-mandate organisations make up the vast majority of humanitarian aid agencies. This is the case with seven of the nine organisations in the SCHR and almost all of the members of the International Council of Voluntary Agencies.

8 Personal observation by Lewis Sida, who has collected and analysed a number of these local codes.

9 See Vaux (2001) for a candid account of many such debates within Oxfam.

10 See also the work of the Centre for Refugee and Disaster Response at Johns Hopkins University in the US.

11 For a recent review of the debate, see Harmer and Macrae (2004).

12 For a discussion on humanity in Islam, see Benthall (2003).


References


