HPG Briefing Note

Humanitarian Principles and the Conflict in Iraq

This briefing note describes key humanitarian policy issues as they apply in the context of the war in Iraq. It is aimed at a wide audience, including those not necessarily familiar with these principles and debates. It highlights core principles of humanitarian action and key issues of likely concern, and identifies further sources of information.

Humanitarian principles in times of conflict

Traditionally, humanitarian actors have nothing to say about the justness of conflict or the legitimacy of armed force. Their concern is to limit war's effects on those not actively involved in fighting. To do this successfully, humanitarian agencies have developed key values and principles to guide their actions.

Humanitarian action is inspired and motivated by the moral impulse to relieve the suffering of those caught up in conflict and disaster. Its purpose is to save people's lives, alleviate their suffering and protect their dignity. Because it is a response to human need alone, humanitarian aid is offered *impartially*, without discrimination and irrespective of other considerations such as the race, religion or political affiliation of those being assisted.

Shared *humanity* is the foundation of humanitarianism, and *impartiality* is the fundamental principle of humanitarian action. As a means to ensure these fundamental values and principles, humanitarianism also needs a number of operational principles. The first is *neutrality*: not taking sides in a conflict. Access to the victims of conflict can only by secured by assuring belligerents that aid is provided impartially according to need, not to benefit their opponents. A second key operating principle is *independence*, which is necessary to ensure that humanitarian actors are able to make their own judgements and determine an impartial response to needs. To gain access to populations in need on both sides of a conflict, the perception of neutrality is as important as its actuality. In Iraq, this explains the reluctance of aid agencies to be too closely associated with coalition forces, since this may make it difficult for them to deliver assistance on both sides of the conflict.

The status of humanitarian actors as independent and neutral has to be respected by the warring parties. In Iraq, the International Committee of the Red Cross (ICRC) has reached agreement with both Iraqi and coalition forces permitting it to work, for example, on restoring water supplies in the country's second city, Basra.

The principle of neutrality is contested within the humanitarian community; some aid agencies argue that it limits their freedom to speak out when human rights abuses are occurring, and to advocate publicly on behalf of vulnerable civilians. In the case of Iraq, some aid agencies took a position with regard to the legality and justness of the conflict, and condemned the coalition action on the grounds of its likely humanitarian consequences. Other agencies took no position for or against the war, but stressed their concerns about the possible level of civilian suffering and the need for all sides to respect international humanitarian law.

The obligations of belligerents

While the conflict in Iraq continues, both sides are bound by legal obligations under international humanitarian law (IHL). IHL consists of the four Geneva Conventions and 'Hague' Law. Its purpose is to protect those not (or no longer) taking part in

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Key humanitarian values and principles

The Code of Conduct for the International Red Cross and Red Crescent Movement and NGOs in Disaster Response sets out basic values and principles for humanitarian aid agencies. These include:

Humanity: The right to receive humanitarian assistance and to offer it is a fundamental human principle which should be enjoyed by all citizens of all countries.

Impartiality: 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.

Independence: Agencies endeavour not to act as instruments of government foreign policy.

The Red Cross Movement also works on the basis of the principle of neutrality.

Neutrality: In order to enjoy the confidence of all, the Movement may not take sides in hostilities or engage at any time in controversies of a political, racial, religious or ideological nature.

www.ifrc.org/publicat/conduct
www.ifrc.org/what/values/principles/index.asp

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hostilities (Geneva Law), and to limit the methods and means of warfare (Hague & Geneva Law). IHL represents a pragmatic balance between military necessity and humanitarian principles. Its general principles are:

- *Distinction:* the duty to distinguish between military and civilian targets.
- *Precaution:* the duty to minimise incidental injury to civilians or damage to civilian property.
- *Proportionality:* any such injury or damage must be proportionate to the concrete and direct military advantage anticipated.

At present there is no agreement regarding how Iraq will be governed if the current regime is removed from power. Irrespective of the status of the coalition forces in any post–Saddam era, the Fourth Geneva Convention lays down rules for the parties to the conflict in relation to the civilian population that falls within their sphere of control. The controlling or occupying power in this case may be the Iraqi government and its agents, or the alliance forces where they hold territory in Iraq. The Fourth Convention specifies the duty of an occupying power to ensure the adequate provision of food and medical supplies, and the maintenance of public health in the territory that it controls. All parties to the conflict are under a *prima facie* obligation to allow the ICRC or any other impartial humanitarian organisation to undertake its own humanitarian relief actions.

Unique challenges

In all conflicts, humanitarian actors face challenges in how they position themselves in relation to belligerents, and in different conflicts the quality and quantity of 'humanitarian space' differs. Some of the key humanitarian issues arising in the current Iraq war are discussed below.

Assessing vulnerability and humanitarian need

The combination of military action, dependence on imported food and the breakdown of the UN Oil for Food Programme suggests that there will be high levels of vulnerability in Iraq. It will be crucial for humanitarian agencies to have access to all areas of the country so as to properly assess the level of need. Huge amounts of assistance are being committed with limited information about needs. Without such an assessment, it is not possible to ensure that aid is going where it is most needed.

Limited capacity to deliver

The scale of the conflict, and the fact that there was only minimal international presence in much of the country before the war, means that there is scarce civilian capacity to meet humanitarian need inside Iraq.

Independence

The US and British governments are both parties to the conflict and major funders of humanitarian response. This raises potential difficulties for the independence of humanitarian organisations, and many NGOs and the UN are concerned about their position in relation to key donors. Will they be simply executing agencies for belligerents, or independent humanitarian actors? This is partly a question of having the financial independence to act without being driven by a government donor. But it is also a matter of ideological independence – the ability of an agency to act without being an intentional or unintentional agent and promoter of its government's foreign policy.

These dilemmas are particularly acute in Iraq, but research by the Humanitarian Policy Group notes a long-term global trend towards the greater integration of political, military and humanitarian action. Protecting the independence of humanitarian action will rely in part upon the ability of specialist aid departments, such as the Department for International Development (DFID) in the UK, the European Commission's Humanitarian Aid Office (ECHO) and the US Office of Foreign Disaster Assistance (OFDA), to resist pressures from other departments, senior politicians and even the general public to instrumentalise humanitarian response. Developing more robust international norms governing how aid funds can and should be used will be important.

The role of the military

In the initial stages of the war, the US and British military have assumed a major role in providing assistance. Humanitarian organisations such as the Red Cross and NGOs do not have a monopoly of responsibility to provide assistance and protection to war-affected populations. Indeed, states and belligerents are primarily responsible for ensuring the safety and dignity of populations under their control. However, experience in Kosovo and Afghanistan has highlighted three key risks when the military assumes a major role in relief assistance.

First, so-called 'hearts and minds' operations, which are designed to maximise security, can blur with humanitarian operations, which aim to save and protect life and prevent suffering impartially. Hearts and minds work is premised on the need to secure the support of certain groups because they live in a certain place and are 'friendly', or potentially so. Such a strategy potentially ignores those who are most in need, but who do not constitute a priority for military planners.

Second, an extensive role for the military in the provision of humanitarian assistance makes it difficult for opposing parties and populations themselves to distinguish between independent humanitarian organisations and opposing military forces. This can strip aid workers of their perceived neutrality, and they can become targets for armed forces.

Third, the cost-efficiency and effectiveness of the military as providers of humanitarian assistance remain unproven.

Internationally accepted UN guidelines on the use of military and defence assets to support humanitarian operations state that:

Humanitarian work should be performed by humanitarian organisations. Insofar as military organisations have a role to play in supporting humanitarian work, it should, to the extent possible, not encompass direct assistance in order to retain a clear distinction between the normal functions and roles of humanitarian and military stakeholders.

Patterns of displacement

The Refugee Convention of 1951 states another key principle, namely 'non-refoulement': no refugee shall be sent (back) to a country in which his or her life or freedom would be threatened. At present it is difficult to tell what the patterns of displacement are likely to be in Iraq, and the extent to which such displacement will be international or internal. (A person only becomes a refugee if they cross an international border; people displaced within countries are known as internally displaced persons (IDPs).)

Aid agencies have emphasised the legal responsibility of neighbouring states to keep their borders open, and the need to ensure that civilians fleeing the conflict can be adequately assisted and protected. Again, experience in Kosovo and Afghanistan suggests that border closures can create significant humanitarian problems, and that the international community can play a pivotal role in determining whether borders remain open or closed. Displaced populations forced to live in camps very near to international borders, and in highly militarised closed areas, are at extreme risk of violence, hunger and disease.

Iraq and the world's forgotten crises

While the world's political attention remains captured by Iraq, other places must not be forgotten. This is in part a financial issue. For example, the UN's 2003 appeal for $45m to assist victims of conflict in Liberia attracted around $500,000, or 1.2% of the request. In comparison, the UN has appealed for $2.2 billion to cover the first six months of emergency needs in Iraq.

A US aid agency has estimated that there have been 3.3m excess deaths in the Democratic Republic of Congo in the last six years of war, making it 'the most deadly documented war anywhere in the world over the past half century'. It is also among the world's most forgotten crises. The scale of unmet needs in today's many humanitarian crises is a reminder that the international response to the crisis in Iraq will need to be proportionate, and not serve to detract resources and attention from elsewhere.