

We are witnesses to the ever-increasing vulnerability of civilian populations during international and non-international conflicts. They are hostages trapped in situations beyond their control. Caught in the crossfire, they are murdered, starved, displaced, and pillaged when they should be protected. The events of the last twenty years are unbearable and intolerable. Civilians have never been less protected from violent conflict, despite the fact that the international community has continued to ratify an ever-growing number of legal instruments aimed at protecting them.

Iraq, Somalia, the former Yugoslavia, Rwanda, Burundi, the former Zaire, Chechnya, and Kosovo, are just some of the nations or regions where armed conflicts have taken a heavy toll on civilians. All of these crises are different. Some of them went on under the watchful eye of cameras from all over the world, while others were hidden behind impenetrable borders. But they all have one thing in common: civilians suffered enormously. They have been, either directly or indirectly, the victims of combat. They have been deprived of frequently blocked humanitarian aid and have not been taken into consideration during international negotiations.

Médecins du Monde has assisted people in Iraq, Somalia, Yugoslavia, Rwanda, Burundi, Zaire-Congo, and Chechnya during all of the conflicts endured in these countries. Gaining access to, assisting and providing medical attention to the most vulnerable sectors of the population has become a complex and dangerous exercise.

There are three fundamental objectives to humanitarian missions: assessing needs, reaching the most vulnerable victims, and supervising the aid provided to beneficiaries. Those three aims, in organisations such as Médecins du Monde, are guided by medical ethics. Equal access to medical care for all, without any discrimination, continues to be our driving force. But, imposing these objectives and ethics in times of violent conflict has become a veritable challenge. Combatants increasingly hinder access to combat zones, hence to those in greatest need. Access to these zones is either denied or authorised as best fits combat needs and never in an attempt to protect civilians. The assessment of needs and care given to the people in greatest danger are determined by combat strategy; just as the distribution of aid is subject to the goodwill of civil and military authorities who frequently misappropriate part of it.

The scope of action of humanitarian organisations is constantly growing narrower and more nebulous. In addition to having to adhere to their fundamental principals, non-governmental organisations are constantly assessing the negative effects that ensue from their actions. Humanitarian assistance at all costs can no longer be maintained as our presence may serve to back questionable practices and the aid we provide can be used as an instrument of war.

Over the last twenty years, our presence in most of the conflicts that have arisen has enabled us to observe that civilians lack protection and that the scope of action of humanitarian organisations is diminishing. Our actions are founded on deep convictions: the obligation to help people and to bear witness to their suffering. But they also have a legal basis, international humanitarian law. The latter provides for the protection of military personnel no longer engaged in combat as well as that of civilians. International humanitarian law also stipulates the conditions under which humanitarian aid is to be provided and the protection

guaranteed to humanitarian personnel. But here again international humanitarian law is not applied.

The very nature of humanitarian law explains, in part, why it is not implemented: there is no supranational legislative body to set laws; we have a decentralised system wherein rules have been conceived by states for states. There is no judicial system to interpret and guarantee the implementation of the rules. Lastly, there is no system of sanctions; there is no international armed entity to enforce, if need be, international humanitarian law.

Civilian populations and humanitarian organisations are now confronted with complex conflicts in which factions are not veritable organisations and as such, they bypass any form of control. The existence of these virtually uncontrollable players is characteristic of unstructured conflicts. These are conflicts where the State has disappeared and/or any another authority capable of exercising power. The enforcement of international humanitarian law calls for the goodwill of the powers that be, whereas the number of conflicts where there is a desire to apply the principles of international humanitarian law grow scarcer every day. This is especially true in ethnic conflicts where one of the objectives is ethnic purification or the exclusion of groups other than one's own. In this type of conflict, displacing and exterminating civilians are genuine objectives.

Another contemporary trend is states aggressing their own citizens. International humanitarian law does not contain provisions, even in the absence of organised resistance, that can be applied in cases where the military terrorises or massacres civilians. And yet, such acts may entail serious human rights violations and may even infringe the Geneva Convention of 1948 as relates to the repression of genocide. Internal turmoil is not covered by international humanitarian law because the latter only regulates the relation between opposing factions or extreme cases, such as genocide.

Furthermore, international humanitarian treaties and conventions only apply to international and non-international armed conflicts; they do not cover domestic upheavals, tensions, or internal violence. In addition, existing human rights defence instruments are limited in such cases as major treaties and conventions contain a derogation clause that allows signatories not to comply with most of their duties, with the exception of certain fundamental rights. Consequently, the guarantees stipulated in these legal instruments are not commensurate with the threats encountered by civilians in times of internal crisis.

Continual progress in customary international humanitarian law, the creation of an international criminal court, and the advances made in the organisation of international civil society will, we are hopeful, reinforce the implementation of international humanitarian law; although the solutions needed are complex, as has been proven by the studies conducted for several years now. The risks that accompany such changes are considerable. During the last few years, we have been witnesses to the misappropriation, by politicians, of the founding values of humanitarian organisations. Humanitarian type responses to crisis situations have become an "all too convenient decision" taken by politicians. The incapacity to establish political management of a crisis is increasingly hidden behind a humanitarian reaction on the part of the international community. It is easier to decide on a humanitarian response than it is to enter into a veritable peace process; the years of war in Yugoslavia are an eloquent example. Many conflicts continue even after humanitarian intervention is decided on by the Security Council; the African Great Lakes conflicts and the successive massacres that were perpetrated there speak for themselves.

Humanitarian aid has never solved a conflict or created the conditions necessary to the restoration or the maintenance of peace. Humanitarian aid is a gesture of assistance and of solidarity aimed at people who are suffering hardship; it is neither a system of conflict management nor a means of solving conflicts. Humanitarian aid can never replace political action; although we are already observing attempts at such phenomena. An international criminal court would be an 'easy' response, on the part of politicians, to crisis situations. Sending out a team of inquirers to collect evidence of massacres is an unacceptable way of responding to a situation in which civilians are in grave danger, as with Kosovo. The international community, under the impetus of civil society, runs the great risk of having the very instruments it is arming itself with misused, as has been the case for years with humanitarian aid.

Non-governmental organisations have learned to mobilise international public opinion and to set political strategies: increasing participation in international conferences and in the drafting of treaties are proof of this. The mobilisation of public opinion and better use of political strategies should converge on a single objective: to return the protection of mankind to the heart of the decision-making process of the body politic.