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POLICY GROUP

The Humanitarian Policy Group at the Overseas Development Institute is Europe's leading team of independent policy researchers dedicated to improving humanitarian policy and practice in response to conflict, instability and disasters.

Report

Humanitarian action and the 'global war on terror': a review of trends and issues

Edited by
Joanna Macrae and Adele Harmer

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July 2003

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Chapter 1

Humanitarian action and the 'war on terror': a review of issues

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1.1 Introduction

This report, the second in an annual series in which the Humanitarian Policy Group (HPG) reviews key trends in humanitarian policy, focuses on the implications for humanitarian action of the global 'war on terrorism'. As in the previous year's study, commissioned specialists provide personal reflections on specific themes, reported in full in subsequent chapters:

- the legal implications of 9/11, by Chaloka Beyani;
- the implications of 9/11 for humanitarian NGOs, by Abby Stoddard;
- humanitarianism and Islam, by Jonathan Benthall; and
- Afghanistan after 9/11, by Chris Johnson.

This chapter draws upon these contributions, and places them within a wider review of the burgeoning literature concerning the origins, nature and dynamics of the war on terrorism.

Historically, humanitarian actors have not concerned themselves about the rights and wrongs of war *per se* (in legal terms, the *ius ad bellum*), but rather with the way in which wars are fought, and how to mitigate their effects on civilians and others not directly engaged in combat (*ius in bello*). In many respects, the global war on terrorism (or 'GWOT', as it has become known in some quarters) is just another war, or series of wars, in which battles are fought and won, regimes changed and people killed, wounded and displaced from their homes. In this sense, the obligations of humanitarian actors have changed little since that fateful September day, both in the main theatres of the global war on terrorism (from Afghanistan to Iraq to Chechnya and Colombia), and on the periphery of the conflict - in the Democratic Republic of Congo and West Africa, for example.

At the same time, the war on terrorism constitutes not only a series of actual and potential armed conflicts, but also a framework within which international and national policy, including humanitarian aid policy, will be defined and implemented. The humanitarian enterprise has, of course, always been influenced and shaped by its geopolitical environment. In Afghanistan during the Cold War, for example, the majority of humanitarian agencies saw themselves as being in solidarity with the anti-Communist movements, with principles of impartiality and neutrality

virtually absent from the discourse on relief. The language of principles, if not the systematic adherence to them, became mainstreamed into relief programming only when agencies started to engage with the Taliban (Stockton, forthcoming 2003).

Last year's review of trends proposed that, having enjoyed a brief period towards the fore of international relations, humanitarian concerns were being relegated to their more traditional position at the sidelines, with security now centre stage. However, the report also argued that, just because humanitarian affairs were being pushed further down the international policy agenda, this did not mean that they did not continue to serve an important function in international politics. Rather, demonstrating the legitimacy of international political and military intervention in sovereign countries was increasingly contingent upon Western powers being able to demonstrate that security objectives could be achieved at minimal human cost. Humanitarian aid, as well as 'smarter' weapons, were seen as a means of achieving this. The provision of humanitarian assistance to mitigate the effects of war can thus be seen as contributing to the legitimisation of intervention. At the same time, the ability to demonstrate humanitarian concern and to reduce human suffering in prominent crises was no longer seen to rely solely on engagement with traditional humanitarian organisations; other potential partners have emerged in the humanitarian enterprise, including military, paramilitary and private providers (Macrae, 2002).

Events since suggest that these arguments remain valid. But the period since 9/11 has also highlighted further issues that merit attention. Specifically, the global war on terrorism has highlighted the difficulties humanitarian organisations face in positioning themselves within a geopolitical framework in which they are deeply embedded, culturally, politically and financially. This integration of humanitarian action within international politics is in part by virtue of the fact that the cultural, religious and political values of humanitarian organisations reflect the values of the societies and communities of which they are a part. The increasing integration of humanitarian policy within international security policy, the complex cultural questions involved, the transnational nature of terrorism and counter-terrorist measures and the major upheavals in the international architecture responsible for

defining and implementing humanitarian action – all of these factors imply that identifying the humanitarian agenda, and positioning it as a distinct sphere of international behaviour, is becoming an increasingly difficult task.

For Western humanitarian organisations, this is reflected in the so-called ‘bilateralisation’ of humanitarian aid, whereby donor governments have become more active in, and closer to, humanitarian decision-making than was the case historically (Macrae et al, 2002). As Abby Stoddard notes in her chapter, humanitarian agencies need to remain sensitive to shifts in public opinion in Western countries, particularly in the US, where a more ambivalent mood has set in with regard to private investment in international welfare. Jonathan Benthall’s chapter explores similar trends and dilemmas facing Islamic humanitarian organisations, which draw their support not only from states, but also from individuals and transnational groupings for whom almsgiving is a religious responsibility.

At the same time, the conventional mechanisms insulating humanitarian action and principles from geopolitical influence, in particular the appeal to universal and global norms, are apparently being eroded by the weakening of multilateralism. By working through a set of bilateral relationships, rather than through a single multilateral body such as NATO or the UN, the US administration seems to have overcome the perceived constraints of international decision-making. While many countries share an interest in its success, the coalition that the US has created to fight the war on terrorism has effectively acted as an international vehicle for prosecuting US defence and foreign policy. The global war on terrorism has also resulted in important shifts in the interpretation of the international legal framework pertaining to the use of force, as well as international humanitarian law, human rights and refugee law. These questions are examined in Chaloka Beyani’s chapter.

As well as these newer concerns, the prosecution of the global war on terrorism has highlighted, and made more urgent, a familiar set of issues in humanitarian policy, namely the roles and responsibilities of humanitarian actors not simply in providing a palliative for the worst excesses of war, but also for resolving conflict. Interventions in Afghanistan and Iraq since 2001 have shown the implications of blurring the line between humanitarian action and peace-building. This has underscored the conceptual, legal and operational links between instruments of ‘hard’ power, in other words the use of force, and ‘soft’ instruments of achieving power, including aid. The global war on terrorism has also revitalised discussions about how humanitarian actors interact with states, particularly in situations of political transition. These issues are explored in Chris Johnson’s account of the evolution of aid management in Afghanistan before and after 11 September.

The remainder of this chapter comprises four parts. Section 1.2 explores definitions of terrorism and the legal status of

the war against it. Section 1.3 analyses the strategies that have emerged to confront terrorism, setting out the policy framework and rehearsing the key milestones in its prosecution. Section 1.4 examines the evolution of aid strategies as a tool in conflict reduction and in the containment of terrorism, including the role of humanitarian actors in peace-building. Section 1.5 concludes the chapter with a summary and an outline of key issues and implications.

1.2 Defining terrorism and the war against it

1.2.1 Defining terrorism

The force with which the two hijacked planes hit the World Trade Center on 11 September has been equated to a small nuclear device (Kaldor, 2002). The attacks killed 2,792 people in New York, with further deaths from the attack on the Pentagon and the crash of the fourth hijacked plane in Pennsylvania. The scale of the strike, and its organised and premeditated character, led American officials to describe the events of that day as an ‘armed attack’, and paved the way for the US to take measures in self-defence in accordance with the UN Charter.¹ Terrorism, which previously had been primarily a matter of domestic policing, became an issue of international peace and security.

The US declared war not only on al-Qa’eda, but on terrorism as a phenomenon. ‘Terrorism’ is generally understood to refer to the deliberate or reckless killing of civilians, or to the doing of extensive damage to their property, with the intention of spreading fear through a population and communicating a political message to a third party, usually a government (Waltzer, 2002). As a term, it dates back at least to the French revolution. It was used in 1794 to refer to the use of terror by the French revolutionary state against its opponents, and the Bolsheviks used it to legitimise their actions against enemies of the state (Halliday, 2001).

Despite its long history, there is no precise, internationally-accepted definition of terrorism (see chapter 2). Certain conventions determine specific responsibilities for states in confronting terrorism, and Security Council resolutions make reference to it.² Yet neither experts in international

¹ On 7 October 2001, the US reported to the UN that it had been the victim of ‘massive and brutal attacks’, and would exercise its right to self-defence in accordance with the UN Charter by taking action against al-Qa’eda and the Taliban government in Afghanistan (see Dixon and McCorquodale, 2003: 540-41, cited in Beyani (chapter 2)).

² Key instruments include the Convention for the Suppression of Terrorist Bombings (1997) and the Convention for the Suppression of the Financing of Terrorism (1999).

law nor governments have agreed on a comprehensive and widely-acceptable definition.³

This elusiveness reflects the fact that the meaning of the term terrorism remains contested. It can be used in relation to violence by states against their subjects, sometimes referred to as 'enforcement terrorism' or 'terrorism from above'. It can be used more broadly to describe violent actions in a civil war or other conflict. It can also describe isolated acts of violence separate from a situation of war, intended to cause terror rather than contribute to a broader conflict. By extension, this type of terrorism can refer to acts of violence carried out internationally, in a third country apart from the location of its political cause.

The notion of terrorism has shifted substantially over time, so that now it is seen to have a stronger connotation of the subversive (Gearty, 2003). Gearty argues that, today, the terrorist is someone who opposes the established order – either at the national level or internationally. Even if engaged in a restrained military campaign against an undemocratic, racist or repressive regime, these individuals are still 'terrorists', and the government forces that oppose them 'counter-terrorists'. Thus, the notion of 'terrorism from above' no longer carries as much credence, regardless of how violent or terror-inducing 'counter-terrorist' forces are. A moral judgement has insinuated itself into the language of terrorism: 'what the terrorist does is always wrong, what the counter-terrorist (the established order) has to do to defeat them is invariably, necessarily right' (Gearty, 2003).

1.2.2 Terrorism and international humanitarian law

International humanitarian law (IHL) governing armed conflict is one plank in the legal framework of the global war on terrorism. However, the degree to which terrorist acts fall within the framework of IHL, as opposed to domestic criminal law, is contested, and varies from one situation to another. IHL is concerned with the conduct of international and non-international armed conflicts, carried out by armed groups, and is understood to apply once an armed attack against one state by another takes place; or once a certain (undefined) threshold of internal violence has been crossed, such as to distinguish 'internal disturbances' from armed conflict. In practice, the state in question is usually the arbiter of whether an armed conflict exists, regulated by IHL, or whether the situation constitutes a matter of law and order, and is thus subject to domestic criminal law.

³ Hans-Peter Gasser (2002) notes that the only attempt to establish a definition dates back to the 1937 Convention for the Prevention and Punishment of Terrorism, which defined terrorism as 'criminal acts directed against a State or intended to create a state of terror in the minds of particular persons, or a group of persons or the general public'. However, the treaty never entered into force and the definition is not explicit, as the text only refers to 'criminal acts' and does not specify which acts are illegal in the context of terrorism.

In order for an entity to constitute a party to the conflict within the framework of IHL, a number of criteria have to be met. Such a group must be an 'organised armed group' under 'responsible command', and exercise 'such control over a part of [the state's] territory as to enable [it] to carry out sustained and concerted military operations' and to implement the provisions of Additional Protocol II of the Geneva Conventions. Although many terrorist groups have an organised structure, with a capacity for establishing internal discipline, they are less likely to comply with the rules of armed conflict. This may indicate a lack of effective control, and so affect the status of the 'conflict'; but even where non-compliance is a matter of deliberate policy, this does not alter the responsibility of other parties to abide by the terms of IHL. In other words, just because one side does not follow the rules of war, this does not mean that the other can violate them, even in its own defence (see chapter 2).

According to Anderson (2003), there is an inherent asymmetry when those who seek to adhere to IHL are confronted by an enemy who refuses to do so; in other words, when respect for IHL is not reciprocated. Since their inception, the laws of war have sought to balance military necessity with the need to protect civilians and those who are *hors de combat*. Anderson argues that this balance is always in flux, reflecting the changing nature of warfare and changing social norms and values.

These debates regarding the balance between military necessity and humanitarian concerns have been given renewed salience in an era of global terrorism. In particular, they have reopened the question of how to apply and enforce the laws of war in a context in which terrorist groups are adopting non-conventional military tactics and are not conducting their actions according to IHL, and in which counter-terrorism operations are being led by a nation whose military power is unsurpassed by any other country. Anderson (2003) notes that there is an asymmetry of military force between terrorist and counter-terrorist operations. But there is also potential to argue that existing definitions of IHL, and in particular Additional Protocol I, result in asymmetry in terms of the ability of those defending themselves lawfully against a terrorists who do not adhere to IHL. The suicide bombers dressed in civilian clothes who hurl themselves at US military targets are difficult to defend against.

Given that many of those groups at the centre of the global war on terrorism have associated themselves with radical Islamic movements, the relationship between Islam and international humanitarian law is also important in any discussion of the legal framework of the war. Cockayne (2002) argues that, during the 1950s and 1960s, states and liberation groups in the Islamic world had an incentive to invest in the apparatus of modern states, including participation in international legal frameworks. However, Cockayne suggests that, since the late 1970s, the focus of political discourse in the Islamic world has moved in favour of a radical and universalist Islam, which is seen to provide

an alternative framework for political organisation and international behaviour transcending states' interests.

During the Iran-Iraq conflict in the 1980s, for example, Cockayne argues that the Iranian government appealed to the concept of an Islamic war, in which 'victory was to be defined not by outcomes (destruction of the enemy's military) but by process (the manifestation of self sacrifice as a manifestation of subjugation (*islam*) to Allah) (Cockayne, 2002: 618). In so doing, 'Iran had, in effect, issued a direct challenge to Islamic players to consider whether their conduct in war was governed by IHL, seen to be the product of modern, secular states, or by Islam'. While both Cockayne and, in this report, Jonathan Benthall show that this interpretation of the laws of war is not shared by all Islamic states or non-state actors, it is important to acknowledge its existence.

As well as examining the actual content of IHL, it is also important to recognise how this framework is interpreted, politically and by military forces. This will reflect notions of the importance of states and sovereignty, of the values and principles that organise national and international governance, and ideas around the legitimacy or otherwise of new and different forms of warfare. Thus, while the formal language of international treaties and law provide an important framework within which the global war on terrorism can be understood, the interpretation of that law fluctuates in line with domestic and international politics.

Most obviously, there has been a more explicit questioning of the utility of conforming to international humanitarian law, both as a matter of principle and in terms of military efficacy. This is likely to manifest itself not simply in the way that warfare is conducted, but also in a reduction in the leverage that might be exerted on parties to encourage closer adherence to IHL. In other words, the protection of civilians may be undermined. Equally, it may prove more difficult to appeal to humanitarian principles and values if humanitarian organisations are perceived to be allied with particular parties and traditions, and where the value of independent and impartial humanitarian action is in question.

1.2.3 One war or many?

Since 9/11, a diverse assemblage of conflicts have been relabelled as 'terrorist' and 'counter-terrorist' operations. These include the confrontations in Chechnya, the Palestinian territories and Kashmir. In China, government repression has apparently intensified in the Muslim-dominated province of Xinjiang, and in Uzbekistan the government has stepped up its persecution of religious dissidents; in both cases, the threat of 'terrorism' has been invoked (Human Rights Watch, 2003). In countries as far apart as Tunisia, Colombia and Uganda, the label 'terrorism' has been used by governments against opponents and critics as justification for derogating obligations with

respect to human rights (Human Rights Watch, 2003). Former Yugoslav President Slobodan Milosevic has defended himself against war crimes charges by contending that the troops under his command had been combating terrorism (Human Rights Watch, 2003).

What is striking about the international interpretation of the nature of the terrorist threat is its diverse character. It is linked to a wide range of ideologies, in particular to the resurgence of Islam as an organising political force. It is about the politics of opposition. And it is about the production of, and trafficking in, illicit goods and services. The global war on terrorism thus provides a label which can be applied to a very wide range of political and military conflicts. Some constitute armed conflicts, while others are in the realm of national and international policing and governance.

However states choose to describe threats to their security, the extent to which these local conflicts become incorporated into the US-led war on terrorism varies in line with their perceived link to US security interests, and international peace and security more broadly. In this sense, there are echoes of the Cold War, where superpower interests overlay more localised conflicts. In other words, while the geography of the war against terrorism may be global, the 'Global War on Terrorism' is in fact closely associated with the national interests of the United States.

The US National Security Strategy published in September 2002 described the war on terrorism as a 'struggle against global terror ... different from any other war in our history. It will be fought on many fronts against a particularly elusive enemy over an extended period of time ... progress will come through the persistent accumulation of success - some seen, some unseen'. Thus, the war has no clear temporal or spatial limits, nor clearly-defined enemies. Any country may be drawn into military conflict; no one knows how far the war will spread, and on what scale, or with what long-term effects on the world's economy and on international relations. No one can be sure how many of the regimes associated with the West will still be in place in a decade's time (Halliday, 2002: 215). In such circumstances, it is difficult to see whether it could ever be shown that the war had been won, and the risk of terrorism ended. In this way, there are again many parallels to the Cold War in terms of its global character and the difficulties of establishing clear end points.

1.3 The war on terror: key principles and milestones

1.3.1 Ad hoc coalitions and national policy change

The US began building an international coalition against terrorism on 12 September 2001. For the first time in its

52-year history, NATO invoked the North Atlantic Treaty's mutual defence clause, declaring that the assault on the US could be considered an attack on the entire 19-nation alliance. The US held talks with a range of countries around the world, to gather military support, access to bases and over-flight rights. The British government published a set of 'Campaign Objectives', and European Union (EU) heads of state agreed to the introduction of a counter-terrorism Plan of Action, which defined over 60 objectives covering foreign policy, home affairs, judicial cooperation and financial and economic policy. Many European countries gave their police forces new powers of investigation and detention.

As well as a shared project between states, countering terrorism has become an overarching objective within individual governments. In June 2002, for example, President George W. Bush announced a plan to create a single permanent government department 'whose primary mission is to protect the American homeland'. The initiative consolidated 22 federal agencies, offices and research centres comprising more than 169,000 employees into a new cabinet-level Department of Homeland Security, with a budget of \$37.4 billion.⁴ The initiative constituted the most extensive restructuring of the US federal government since the creation of a centralised defence establishment in the late 1940s (Rensselaer and Perl, 8 January 2003).

By linking military responses to conflict with non-military instruments, such as trade, aid and diplomacy, and by linking national and international public policy, policy-making in relation to 9/11 has much in common with approaches to conflict management throughout the 1990s, particularly in relation to developing countries at the periphery of international relations. These efforts were governed by a vision of human security and liberal values, advocated by the UN and accepted by many Western governments. Developmental, humanitarian and security interests were seen as complementary, if not identical. The line between domestic and international policy became blurred, as the nature of the security threat to these governments was re-evaluated to include issues such as large-scale migration, environmental change and disease (Macrae and Leader, 2000).

There is a considerable degree of continuity between the ideas governing human security and how it can be realised, and those shaping the global war on terrorism. What has changed is the recognition that notions of human security - what it means and how it can be achieved - are highly contested. What has changed too is how this agenda is being shaped, and also the ways in which objectives

⁴ Major agencies affected include the Customs Service, the Coast Guard, the Immigration and Naturalization Service, the Transportation Security Agency and the Secret Service. Primary responsibility for combating international terrorism remains with the Departments of State and Defence, and components of the law-enforcement and intelligence communities.

regarding values, principles and legal norms intersect with immediate concerns to protect security. In this regard, Beyani (chapter 2) describes how, for example, the rationale for increasingly restrictive international refugee policy, and containment of large refugee movements, has become justified by appeal to the potential links between migration, refugees and security. So, for example, arguments in favour of investing humanitarian aid and development aid in refugee-producing countries are being linked to the need to prevent migration into donor countries, because such migration is seen to be associated with security.

How international refugee organisations respond to such trends, and to an increasingly restrictive asylum regime in Western countries, will be important questions for the protection of refugees. It will also be important in determining the vulnerability of populations remaining in conflict-affected countries, given the dependence of many people on remittances (see, for example, Bhatia et al, in Collinson, 2003). Links between migration policy and security are also evident in the increasing diversity of funding sources, which have broadened to include contributions from ministries of the interior, alongside more conventional aid budget lines. The chapters by Beyani and Johnson examine how these questions have played out in Afghanistan.

Over the past decade, humanitarian action has become increasingly embedded - conceptually, culturally and operationally - within a framework of international peace and security. The majority of international organisations, including humanitarian organisations, initially welcomed this more integrated approach to international public policy when it was presented in terms of human security. In the wake of 9/11, however, it has become much more difficult to distinguish this agenda, and the mechanisms by which it will be achieved, from the more politicised and contested security agenda of the global war on terror. However they may seek to distance themselves from the politics of the global war on terrorism, in operational terms humanitarian actors have played a key role in its major theatres. The following sections review the main milestones in the war.

1.3.2 Stage 1: confronting al-Qa'eda

The first most visible battle in the war against terrorism began in Afghanistan on 7 October 2001. It was fought, at least initially, within a conventional political and legal framework. The groundwork was laid on 12 and 28 September 2001, when the UN Security Council adopted Resolutions 1368 and 1373. The Council condemned the 11 September attacks, and recognised the inherent right of individual or collective self-defence in accordance with the Charter. Resolution 1373 also reaffirmed the duty of every state to refrain from organising, instigating or assisting in terrorist acts in another state, or acquiescing in activities on its territory directed towards the commission of such acts (see chapter 2).

When the Taliban failed to hand over Osama bin Laden, the Security Council sanctioned military intervention in Afghanistan. Although sanctioned by the UN, the conflict was prosecuted by an ad hoc coalition of forces, led by the US. In all, 15,000 non-Afghan troops, including contingents from the UK, Norway, Australia, France and Canada, conducted military operations in Afghanistan, drawing on support from the large number of anti-Taliban factions in the country. By 13 November, the Northern Alliance had taken control of Kabul. However, the majority of al-Qa'eda leaders, including bin Laden, eluded capture.

The war in Afghanistan brought to the fore a number of issues regarding the conduct of a war against terrorists, as opposed to states accused of supporting terrorism. The first concerns the legal framework governing such a conflict. The war to oust the Taliban clearly constituted an international armed conflict, and therefore was bound by the Geneva Conventions. The status of captured al-Qa'eda fighters has, however, proved more difficult and controversial. The US government designated these individuals, who included children under 16 years of age, as unlawful combatants, so denying them prisoner of war status. The decision to transport them to the US military base at Guantanamo Bay in Cuba ignored precedent.⁵ The US government has contended that these 'enemy combatants' have no rights to the due process of American law, meaning that they can be denied access to a lawyer and may be detained indefinitely without trial.

The Afghanistan campaign also highlighted the difficulties of prosecuting a war on terrorism, while at the same time engaging in state-building (see chapter 2). On the one hand, the ousting of the Taliban provided an opportunity for a significant expansion of international engagement, including aid engagement, to address underdevelopment and structural vulnerability. On the other, it has raised questions regarding how the international community engages with a transitional administration suffering from weak capacity and uncertain legitimacy, and which is struggling to maintain minimal levels of security. The anti-Taliban warlords who fought with the coalition are themselves responsible for large-scale abuses of human rights, and have competing economic and political interests, all of which are inimical to building a secure and democratic state. While humanitarian aid has remained the default method of engagement, increasing claims have been made for its developmental objectives. This has generated tensions between humanitarian actors, who wish to maintain their independence from government, and the

interim administration, which is concerned to legitimise and stabilise its fragile grip on power, in part by exerting control over the development agenda.

1.3.3 Stage 2: the doctrine of pre-emption

Events in 2002 and 2003 underscored the significance of the global war on terrorism for international relations, and revealed not only the multiplicity of fronts on which it would be fought, but also how it would stretch existing concepts of international relations and how they would be governed.

The US National Security Strategy of September 2002 set out a new doctrine: the pre-emptive strike. This stated that the US 'will not hesitate to act alone, if necessary, to exercise our right of self-defence by acting pre-emptively against such terrorists, to prevent them from doing harm against our people and our country' (NSS, 2002). This doctrine is contested (see chapter 2). Critics argue that Article 51 of the UN Charter only authorises self-defence if an armed attack occurs, not before one has taken place. It is argued that the right to 'pre-emptive' defence is potentially destabilising since it permits military action outside the framework of the UN, raising the question of how military intervention will be governed and regulated. Tom Farer (2003) argues that the US concedes similar rights to self-defence to some states (for example Israel, France and India) but not to others (for example Iran). The extent to which this view that pre-emption is a privilege rather than a right will be shared globally remains to be seen, in particular whether some states will seek to intervene militarily outside their borders without the consent of either the UN or the US. This would clearly be destabilising, and could threaten a new wave of international conflicts, with obvious humanitarian implications.

Advocates of the doctrine maintain that, in an age of global terrorism and weapons of mass destruction (WMD), Article 51 is no longer adequate. Thus, the US argues that the goal of its security strategy is to eliminate potential threats *before* they can strike, and that this is justified because of the scale of the potential threat posed, for example by biological, nuclear and chemical weapons.

Recourse to military intervention without the sanction of the UN Security Council is not new; NATO's campaign in Kosovo in 1999, for example, was implemented without a Security Council Resolution. The war on terrorism has, however, added further weight to arguments that respect for states' sovereignty is conditional, not absolute (Jackson 1990). Both 'humanitarian' and security grounds are now seen by some states as sufficient to justify the use of force outside the framework of the Security Council; thus, the Kosovo intervention was justified on the basis of a threat to international peace and security and the risk of massive human-rights abuse. In Afghanistan, while the overthrow of

⁵ See Hans-Peter Gasser for comparison to similar issues the US government had to deal with in the Vietnam War. Then, captured enemy personnel either belonged to the North Vietnamese armed forces or were members of the Vietcong, and thus not recognised as combatants within the meaning of the law of war. Despite this, all those captured were granted POW status, or treated as POWs as defined by the Third Geneva Convention, provided that they were caught while engaged in military operations and/or carrying arms openly.

the Taliban and the capture of al-Qa'eda suspects were the primary objectives of the intervention, the benefits to the Afghan population, in human rights, participation in governance and well-being, were also widely advertised, particularly by European leaders, as major benefits arising from the war. While security remained the overriding concern, in prosecuting the war in Afghanistan the rationale of humanitarian intervention was often invoked, and the two arguments frequently elided.

Efforts to codify the conditions under which a limitation of national sovereignty might be justified on humanitarian grounds remain on the international agenda. However, disagreement persists as to whether there is a legal right of intervention on such grounds; how and when it should be exercised; and under whose authority. Progress towards consensus on these questions is dependent on agreement between the five Permanent Members of the Security Council, and more generally upon a willingness within the international community to take the necessary action and commit the necessary resources. The major initiative which aimed to provide a framework for international intervention on humanitarian grounds, the International Commission on Intervention and State Sovereignty, was not designed to address the kind of challenges posed by the 11 September attacks, or the resulting counter-terrorist actions (International Commission on Intervention and State Sovereignty, 2001). This initiative is founded on respect for the principles of state sovereignty and non-intervention, locating the responsibility to protect primarily with national authorities, and defining a limited set of circumstances in which international armed intervention may be warranted. Such intervention is taken to be governed by the 'just war' principles of right intention, last resort, proportional means and reasonable prospects of success. It is also understood to be subject to the authority of the Security Council – premised on the understanding that the Permanent Members will refrain from unreasonable use of their veto.

Iraq has proved the test-case of the doctrine of pre-emptive strikes. Throughout 2002, the US pursued the question of Iraq's disarmament in bilateral discussions and international forums. Drawing on its National Security Strategy, the administration warned that states such as Iraq might be willing to provide transnational terrorist groups with weapons of mass destruction. On 8 November 2002, the UN Security Council adopted Resolution 1441, which stated that 'the Council has repeatedly warned Iraq that it will face serious consequences as a result of its continued violations of its obligations concerning disarmament of weapons of mass destruction'. Although a UN inspection team found no substantive evidence that the Iraqi government possessed WMD, or was developing such weapons, the US and British governments doubted the team's ability to uncover such evidence, and reported that their intelligence services had definitive proof of Iraq's weapons capabilities. In the face of continued disagreement on the use of force, the US, the UK and Spain launched

military action in March 2003 without resort to the Security Council. Saddam Hussein's regime collapsed the following month, and on 20 April former US General Jay Garner, arrived in Iraq to take up his post as head of the Office for Reconstruction and Humanitarian Assistance (ORHA).⁶

The view advanced by the US and its allies to justify the Iraq conflict was that, taken together, the various UN resolutions since 1990-91 cumulatively provided sufficient legal authority to use force in 2003. The opposing view argued that, while Resolution 1441 found Iraq to be in material breach of previous resolutions, it stopped short of authorising the use of force on that basis. Critics also pointed to the shifting objectives of the campaign, from disarming Iraq to removing its regime and 'liberating' its people. Critics contend that regime change in Iraq goes beyond the original premise on which the use of force against Iraq had been authorised in 1991.

Arguments around the legality and legitimacy of war in Iraq quickly became intertwined with humanitarian policy and practice. In advance of the conflict, some NGOs questioned the legality and the legitimacy of the war itself, so going beyond a more conventional humanitarian position of commenting only on the humanitarian implications of such a war. Investment in humanitarian preparedness was slowed because the UN and member states feared that such preparations would signal that war was inevitable, and so undermine diplomacy (IDC, 2003). Such political obstacles to humanitarian preparedness are, of course, neither new nor unique to the Iraqi conflict. In what was then Zaire, for example, the government resisted UNHCR's efforts to prepare for what was to prove an overwhelming influx of refugees in the aftermath of the Rwandan genocide in 1994 (Borton et al, 1996). Similarly, the Macedonian government refused to allow preparations for an expected major influx of Kosovar refugees in 1999 (Suhrke et al., 2000). What was different in Iraq was that these political blockages were associated with the very governments that were the primary supporters and financiers of humanitarian action.

Once hostilities started in Iraq, new dilemmas emerged. In addition to problems of humanitarian access, which severely restricted the scope of independent humanitarian organisations, questions quickly surfaced regarding the role of the military in the provision of humanitarian assistance. On the one hand, the Fourth Geneva Convention sets out the coalition's obligations, as an occupying power, to protect civilians and to ensure adequate supplies of food and water. On the other, there were concerns about the ability of military actors to provide such assistance efficiently and impartially. As of May 2003, while there had been no major humanitarian crisis, Iraq remained extremely vulnerable, both economically and politically. The security environment was poor, with humanitarian

⁶ General Garner was replaced by Paul Bremer in May 2003.

organisations complaining that it was much more difficult to secure access than it had been during the conflict itself, when at least there were clear interlocutors with whom to negotiate access.

The decision not to entrust the UN with the task of political transition has created a very different political framework for humanitarian action from that in, for example, Afghanistan or East Timor. The establishment of ORHA marks a new moment in integrated approaches to peace-building, and in the bilateral management of political transition which may constitute a model for the future. While the responsibilities of the coalition forces are clear in relation to the Geneva Conventions, ambiguities remain regarding how the international community more broadly will engage with the occupying powers. These relate to the future of sanctions, the financing and management of the Oil for Food Programme and reconstruction, including by private firms.

These are sensitive questions, not only or primarily because of the uncertain legal status of decision-making, but also because the coalition's occupation remains contested politically within Iraq. Association with US and other forces, contractually or otherwise, risks aligning agencies with one side in a battle which may be won militarily, but is yet to be resolved politically. US and British NGO groups have written to their respective governments asking for the UN's role in the coordination of relief to be clarified and confirmed (see ReliefWeb, 2 May 2003; Oxfam, 6 May 2003). In particular, it is unclear how the UN will position itself in relation to the ORHA, and how it will separate its responsibilities for delivering humanitarian assistance from its political roles. Will UN agencies and NGOs which receive funds from the US and UK governments in effect be mobilising and allocating funds to enable the occupying powers to fulfil their responsibilities, or will they be working as independent humanitarian actors? How should these agencies position themselves in relation to US civilian and military authorities, to any emerging Iraqi administration and to private contractors brought in to assist in the reconstruction of the country?

Like Afghanistan, Iraq demonstrates that, while 'regime change' can be achieved relatively quickly, rebuilding and stabilising states is much more difficult. In both countries, there are multiple layers of conflict, unrelated to the global war on terror. The security environment is complex and difficult, and people's livelihoods and access to basic services are precarious. It is in this process of consolidating the peace that humanitarian assistance has proved a very important plank in international responses.

The scale of assistance in post-Taliban Afghanistan was very large compared with what it was during their rule. However, its extent is dwarfed by the scale of appeals and pledges for Iraq. The World Food Programme (WFP) alone has put out appeals for \$1.3 billion, equivalent to nearly

20% of total global spending on official humanitarian assistance in 2000. The UK's Department for International Development (DFID) has earmarked £210 million to Iraq, nearly double its total humanitarian aid budget for 2001 (McClelland, 2003). While assurances have been given that such investment will not detract from spending elsewhere, with nearly half the amount coming from government contingency reserves rather than from DFID's own budget, there are questions regarding the proportionality of the response, and indeed whether there is capacity within the system as a whole, and within Iraq in particular, to absorb such funds effectively.

Despite the very different political frameworks in Afghanistan and Iraq, both countries face similar challenges. Thus, it is unclear who constitutes a legitimate interlocutor who can speak for the long-term future of the country. It is also unclear how security can be maintained so that such legitimacy can be built. In both countries, humanitarian aid, particularly large volumes of food aid, remains an important instrument for engagement, and is seen to play an important role in stabilisation. The role of the military in the delivery of assistance has proved controversial, and it has been difficult to distinguish 'humanitarian aid' from 'stabilisation aid', and on occasion between civilian and military actors engaged in rehabilitation and relief work.

1.3.4 NGOs and the war on terrorism: new challenges

This changing geopolitical context has proved challenging for NGOs. Important questions have emerged concerning donor relations, funding and issues of independence; the place of advocacy; the relationship between NGOs and military and security issues; rights-based approaches; standards, rules and cooperation within the NGO community; and the relationship of aid to conflict. The particular nature of the challenge in part reflects the different traditions of humanitarian action within the NGO community. In her chapter, Stoddard distinguishes between two such traditions: the 'Dunantist' and the 'Wilsonian'. In Stoddard's classification, 'Dunantist' organisations, which include major European agencies like Oxfam and Médecins Sans Frontières, seek to position themselves outside of state interests.

By contrast, the 'Wilsonian' tradition, in which Stoddard places many US agencies, tend to see a basic compatibility between humanitarian aims and US foreign policy. The position of humanitarian agencies, particularly faith-based agencies, is further complicated by the religious dimension that the global war on terrorism has assumed. Benthall's chapter on Islam and humanitarian action echoes Stoddard's analysis that organisations with a religious base differ considerably in the degree to which their interventions are linked to proselytising, or reflect values of service and free giving. Clearly, the extent to which

humanitarian organisations promote cross-cultural understanding and build consensus regarding universal values and principles will be important at a time when political divisions are often presented in religious terms. Religious NGOs are likely to be able to generate significant resources from private actors, as opposed to states, giving them a high degree of autonomy and providing the basis for transnational networks. Thus, Benthall describes how international Islamic charities have benefited from the system of *zakat*, or charitable giving. Stoddard notes that, in the US, religious NGOs are less dependent on government funding than their secular counterparts. In addition, in Iraq the US government has turned to American firms not only for large-scale infrastructure repair, but also in areas traditionally handled by the UN and NGOs, such as water, healthcare and education. It is unclear whether Iraq will prove a special case, or whether it marks the beginning of a new relief 'industry', in which for-profit providers compete with NGOs.

In this environment, larger NGOs are increasingly likely to predominate. Donors prefer to concentrate their funds on larger NGOs, which have a global capacity, are able to invest in the security required to work in challenging situations and are seen to be able to invest in highly professional service provision. As both Stoddard and Benthall note, this pressure to emphasise professionalism, as opposed to witnessing, solidarity or religious duty, has attracted the attention of both Western and Islamic NGOs. Salih (2003, quoted by Benthall) argues that:

As there is no distinction between ethics and law in Islam, so there is also no distinction between NGOs' social, economic, political and religious functions ... If Islamic philanthropic organisations seek to become truly professionalised, they need to submit to the same kinds of professional standards and codes of conduct that are increasingly demanded of Western NGOs and private sector companies. Should they take this route, then they will lose much of their specific Islamic character.

Some NGOs, notably the MSF movement, have been concerned that, in the pursuit of standards and principles, humanitarian action will become commodified, with NGOs becoming little more than the executing agencies for governmental policy. It will be interesting to watch the extent to which the new political framework will encourage high levels of pluralism in the interpretation of humanitarian action, reflecting the diverse cultural, political and religious bases of different humanitarian organisations, or whether there will be a tendency towards greater consistency in agencies' modus operandi as the market consolidates.

1.3.5 Peace-building and 'soft' security

The Afghanistan and Iraq campaigns militarised what had previously been a sanctions-oriented approach to

countering state-sponsored terrorism. This new approach acknowledged the weakness of conventional instruments, including diplomacy, sanctions and inducements, extradition/law-enforcement cooperation and international anti-terrorism conventions. This weakness was twofold. First, while these tools provided a means of containing states such as Iraq that acted outside of international norms, they did not resolve the problems that these states posed. Second, these instruments proved ill-adapted to confronting what Mark Duffield has called the 'seething pre-modern world of failed or failing states', and the non-state armed groups within them (Duffield, 2003). It is no coincidence that al-Qa'eda has been sustained in countries with very weak or non-existent states, such as Afghanistan and Somalia.⁷

Duffield (forthcoming, 2003) argues that the weakness of traditional tools in the current war on terrorism is part of a wider failure to confront the dynamics of conflict more broadly, particularly in countries at the periphery of international relations. In many parts of Africa, Asia and Latin America, largely excluded from participation in the formal globalised economy of regulated trade and international governance, a process of political and economic adaptation has taken place. Resort to the informal economy outside of state control, and across international borders, has become a means of survival for millions of people living in countries characterised by weak and predatory governance. Such strategies include illegal migration, a reliance on social networks to maintain capital and functioning institutions, and participation in the extractive economies and in the production of illicit goods, such as narcotics. Duffield and others (see, for example, Collinson et al, 2003) note that the systems on which 'ordinary' people rely to maintain their livelihoods are often also associated with violence, including national and international terrorism. Duffield suggests that these processes have led hitherto internal conflicts to assume a more transnational character.

The strategic significance of failed states has attracted considerable interest in the aftermath of 9/11. The US National Security Strategy marked a new departure in US policy in its focus on the dangers that such states posed: 'America is now threatened less by conquering states than we are by failing ones' (Rice, 2002). British Foreign Secretary Jack Straw has argued that 'turning a blind eye to the breakdown of order in any part of the world, however distant, invites direct threats to our national security and well-being ... preventing states from failing and resuscitating those that fail is one of the strategic imperatives of our time' (Straw, 2002).

⁷ Military intervention in Somalia was ruled out because of the lack of obvious targets. However, much attention has been paid to the financial systems operating out of the country. Al Barakat, which transfers remittances into Somalia from the Somali diaspora, has come under particular scrutiny.

In parallel, the failed states agenda has been slowly emerging within bilateral donor aid policies, and in the policies of international development organisations. The risks associated with disengagement are beginning to be acknowledged. Thus, for example, USAID in 2003 released a policy statement on its role in the war on terrorism, which stated that 'the Agency may need to overcome its reluctance to work in failed states'. USAID states that it is going 'Back to Basics', enabling people 'to feed themselves and support their families', and so help to 'normalise and stabilise societies in stress' (USAID, 2003). In the UK, DFID has examined the potential linkages between its development cooperation programme and counter-terrorism. The International Financing for Development Conference in Monterrey in March 2002 saw unprecedented levels of new commitments to international development spending, driven in part by the belief that such investment would contribute to greater security.

This merging of the failed states agenda with the war on terrorism, and the pursuit of soft power, has direct relevance for international aid actors in general, and for the conduct of humanitarian operations in particular. It is the most immediate expression of attempts to enhance the 'coherence' of military, political and humanitarian responses to countries experiencing protracted crises of governance and underdevelopment (Macrae and Leader, 2000; Centre for Humanitarian Dialogue, 2003). What we are seeing, in other words, is the securitisation of aid.

As Benthall demonstrates (chapter 4), this is not confined to Western policy domains, but is also important in the Islamic world, where it is difficult to distinguish between the political, military and welfare functions of radical Islamic groups. While a group such as Hizbollah has become notorious in the West for its suicide attacks, it also manages an extensive network of hospitals and other welfare and educational services.

At the same time, there are important differences between Western countries over the relative importance of the various strategies to counter terrorism. Duffield (forthcoming, 2003) argues that differences between America and Western Europe over how to pursue the war on terrorism can be seen partly in terms of a divergence between hard and soft power. Thus, while the US broadly favours military options, the Europeans prefer the soft-power technologies of human security: diplomacy, disarmament, social reconstruction, aid, poverty reduction and information and education programmes. Duffield compares Latin America, an area of US influence and the site of the militarised 'war on drugs', with Africa, a European sphere of interest where an aid-based human security agenda tends to predominate. While there are differences of approach, the Latin American and African cases also caution that, in achieving their stated goals, neither hard nor soft power seems to work particularly well.

While there may be disagreement over tactics, there is at least a minimum level of consensus regarding strategy. British Foreign Secretary Jack Straw has stressed that 'we need to develop a more coherent and effective international response which utilises all of the tools at our disposal, ranging from aid and humanitarian assistance to support for institution building' (Straw, 2002). British Prime Minister Tony Blair has stated that, while it is 'absolutely right' to tackle terrorism and WMD, the world also needs a 'broader agenda', which includes dealing with, for example, 'the famine in Ethiopia'. Blair argues that 'if a unified international community is the surest way to defeat these new dangers, we need to construct the broad agenda around which unity can coalesce' (Blair, 2002).

The growing interest within development aid policy in re-engaging with states affected by protracted political and economic crises marks a shift away from previous development cooperation policy, which had emphasised investing aid resources in countries whose policy environment was considered favourable for long-term development, and which had embraced economic and institutional reform. However, the policy framework to steer investment in soft security in so-called 'poorly performing countries'⁸ remains weak; renewed interest in these states has not been accompanied by any significant breakthroughs in how development aid (as opposed to relief aid) will be managed to avert the risks associated with engaging with contested or illegitimate states.

One possibility is that concerns regarding aid effectiveness and the linkage between aid and respect for human rights will be relegated to the sidelines of aid decision-making, much as they were during the Cold War. There are signs that this is happening. For example, throughout the 1990s Pakistan was the target of US economic sanctions. After 11 September, Pakistan's military regime became one of the most important of America's partners in the war against the Taliban, and aid flows increased. While this may be effective in maintaining strategic alliances in strong states with functioning governments, evidence from the Cold War suggests that, if such resources do not generate internal legitimacy for a regime, their effectiveness as an investment in soft security is not guaranteed. Such aid transfers may buy the loyalty of states, but not necessarily of their people.

Nor do efforts to link aid and security provide a vehicle for engaging in those countries where central governments are not in full control of their territory, and/or where governments are not prepared to play their expected role in counter-terrorism. In these environments, humanitarian aid, which works largely outside state institutions and which is amenable to sub-contracting by non-governmental, private and even military organisations, is likely to remain important, not only for the provision of

⁸ The World Bank calls these countries 'Low Income Countries Under Stress' (LICUS). The Development Assistance Committee of the OECD uses the term 'difficult partnerships'.

relief, but also more broadly in the initial phases of rehabilitation and reconstruction. Indeed, new, more flexible instruments are likely to continue to emerge outside of conventional emergency aid lines (Macrae, 2002). The monopoly of NGOs and the conventional aid system in the delivery of soft security is thus likely to be broken in these environments as well.

1.4 Issues and implications

The global war on terrorism promises to remain a central feature of the international landscape for many years to come. Experience since 2001 suggests that this 'war' will take many forms, ranging from full-scale international armed conflict to low-level policing actions, through to investments in soft security that aim to confront and contain the perceived root causes of conflict and terrorism. This is not one war, but potentially many, which take different forms at different times, governed by different rules and executed through a varied network of alliances. As such, it is likely to be destabilising and unpredictable, at least in the short term.

While the *object* of the conflict may be new, many of the mechanisms and concepts being used to implement it are not. The explicit linkage of the security and humanitarian agendas has been shaping responses to complex political crises for at least a decade. This includes the shift towards greater interventionism; the increasing proximity of military and humanitarian objectives and delivery mechanisms; and an increased emphasis on the coherent management of international policy. The hardening of the security edge to international relations has accelerated the rate of policy formulation, and has made it easier to jettison some of the baggage of multilateralism, as effectiveness of outcome is prioritised over legitimacy of process.

Events since September 2001 have intensified these trends, and provided them with new urgency. They have also revealed the fragility of the consensus regarding not only the means by which peace and security can best be achieved, but also the nature of the political order that is being sought. Human security, which served as a broad framework for ordering international relations during the 1990s, took for granted that the post-Cold War order would be characterised by a shared aspiration for a liberalised and deregulated international trade regime, Western-style democracy and modernity. It had oddly little

to say about what would or could be done if and when those norms and values were not shared, or were rejected outright, other than excluding 'rogue states' from the mainstream of international society.

Conventional mechanisms for punishing non-compliance with international norms and values, including sanctions, diplomacy and aid conditionality, proved relatively blunt instruments in responding to new security threats, both in engaging with rogue regimes, such as those in Iraq and Afghanistan, and in targeting non-state actors. However, the attempt to find new approaches has proved controversial, and has yielded questionable results. The points of contest are about ends, as well as about means, and in the midst of the quarrel the very mechanisms established to manage disputes have been badly weakened.

For humanitarian actors, this troubled environment is likely to complicate rather than ease their work. The challenge facing Western organisations is not only how to position themselves in relation to someone else's war or another society's culture, but also how to do so in relation to their own. In navigating this fraught environment, it will be important to distinguish between the legitimacy and even legality of the multiple struggles being waged, the means by which they are being fought, and their impacts on civilians. In other words, humanitarians will need to be clear precisely which of the many ethical and legal dilemmas are humanitarian in nature, and which are not.

In doing so, the traditional humanitarian principles of universality, impartiality and neutrality may prove to be just as valuable as before. Sustaining their perceived value within and outside of the humanitarian community will depend on achieving consensus that instrumentalising humanitarian action is likely to prove counter-productive and ineffective. At present, that debate has hardly begun. It is notable that very few humanitarian organisations, either within the NGO community or in the UN, have developed formal policy statements regarding their position on the global war on terror. There remains, therefore, a need to invest in such a dialogue, in which the distinctiveness of the humanitarian agenda is asserted, and its relationship with other political, military and developmental forms of international engagement clarified. Ensuring that the principles of humanitarian action are, and are perceived to be, truly universal in their aspiration and practice will be crucial.

Chapter 2 International law and the 'war on terror'

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2.1 Introduction

With the exception of self-defence, international law has prohibited the use of force as an instrument of national policy in international relations since the late 1920s. Since 1945, a multilateral framework has maintained this prohibition, and has regulated the use of force in self-defence and in the collective enforcement of international peace and security through the UN Security Council. In the wake of 11 September, this system of public international order has come under unprecedented strain. The so-called 'war on terror' is said to have changed the world; has it also changed how international law is interpreted with respect to the use of force and the conduct of hostilities?

This chapter examines this question in the context of the legal and humanitarian dimensions of the events of 11 September and their aftermath, in particular the very different legal environments of the conflicts in Afghanistan and Iraq. This is not an easy task; the interpretation of international law has always raised passionate debate among international lawyers, either in justification or in opposition to the use of force (Kritsiotis, 1998; Brownlie et al., 2000). In addition, laws on the use of force are particularly prone to unilateral legal and political interpretations. This chapter lays out authoritative positions or interpretations taken by international tribunals where they apply; indicates the extent to which 'interpretations' of international law are a matter of dispute amongst lawyers or political actors; and assesses whether particular political postures are justified by mainstream interpretations of international law.

In addition to questions around the law applicable to the use of force (the *ius ad bellum*), this chapter also discusses the law regulating the conduct of hostilities (the *ius in bello*), commonly referred to as international humanitarian law. The interface between these two bodies of law is of particular interest to humanitarian agencies; how force is used, with or without the authorisation of the Security Council, will influence how aid agencies respond, and will affect the conditions in which they work, including their access to civilians and their ability to deliver aid and assistance. Moreover, humanitarian grounds have increasingly been invoked in recent years to justify the use of force by international actors, raising difficult moral and legal issues.

This chapter begins with a consideration of interpretations of the law prohibiting and governing the use of armed

force, by reference to Articles 2 and 51 and Chapter VII of the UN Charter. It then examines the application of international humanitarian law to specific issues arising from the wars in Afghanistan and Iraq; looks at the war on terror and trends in the interpretation of refugee law; and gives an overview of issues related to human rights.

2.2 The legal framework governing the use of force

The law applicable to the use of force resides primarily in the UN Charter of 1945. The relevant provisions - Article 2(4) concerning the prohibition on the use of force, Article 51 regarding self-defence, and Chapter VII relating to the collective use of force - all establish principles that co-exist with customary international law. Customary international law is binding on all states independently of specific treaties or international agreements.

2.2.1 The prohibition on the use of force

A key development in prohibiting the use of force in international law prior to the UN Charter came with the conclusion on 27 August 1928 of the General Treaty for the Renunciation of War as an Instrument of National Policy (94 LNTS 57). This agreement, commonly known as the Kellogg-Briand Pact, obliged state parties to 'solemnly declare in the names of their respective peoples that they condemn recourse to war for the solution of international controversies, and renounce it as an instrument of national policy in their relations with one another'.

The Kellogg-Briand Pact rapidly became accepted within customary international law. It is still in force, and has been ratified by the US and the UK amongst others. The Pact's principal relevant elements include:

- the obligation not to use war to solve international controversies;
- the obligation to settle disputes exclusively by peaceful means; and
- the reservation of the right of self-defence and of collective self-defence (Brownlie, 2001).

The Pact constituted a basis for the law relating to the regulation of the use of force when the UN Charter was adopted in 1945. Article 2(4) of the Charter states that: 'All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or

political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations'. No international lawyer disputes the status of this Article and its special standing in *jus cogens* – that is, a peremptory and unconditional norm binding on all, from which no derogation is permitted. However, the meaning and scope of the principle that it expresses has been subject to differing interpretations.

The authoritative interpretation of the International Court of Justice (ICJ), the principal judicial organ of the UN, on the use of force with regard to matters covered by Article 2(4) is illustrated in two ICJ decisions: the *Corfu Channel Case(Merits)* and the case of *Nicaragua v the United States* (ICJ, 1949; ICJ, 1986).

The *Corfu Channel Case(Merits)* concerns a dispute between Albania and the UK in 1946. On 22 October 1946, two British destroyers were seriously damaged and over 40 sailors killed when the ships struck mines in the North Corfu Strait, in Albanian waters. On 12 and 13 November, the British navy swept the channel, against the wishes of the Albanian government. Albania and the UK asked the ICJ to give a judgment on two questions: first, whether Albania was responsible for the mine explosions, and thus liable to pay compensation; and second, whether the UK's actions had violated international law. On the first, the ICJ declared that Albania was indeed responsible. On the second, it declared that the UK did not violate Albanian sovereignty when its ships entered the Channel on 22 October because the passage was 'innocent', but did do so on 12 and 13 November, because the action 'could not be justified as the exercise of the right of innocent passage':

The United Kingdom has stated that its object was to secure the mines as quickly as possible ... this was presented either as a new and special application of the theory of intervention ... or as a method of self-protection or self-help. The Court cannot accept these lines of defence. It can only regard the alleged right of intervention as the manifestation of a policy of force which cannot find a place in international law. As regards the notion of self-help, the Court is also unable to accept it: between independent States the respect for territorial sovereignty is an essential foundation for international relations.

This decision has been criticised on the grounds that the ICJ 'failed to express itself in the clearest terms on such a vital subject' (Brownlie, 1963: 283). International lawyers thus remain divided over whether the prohibition in Article 2(4) covers all use of force (the strict view), or whether it only prohibits force aimed at the territorial integrity and political independence of a state (the permissive view) (Brownlie, 1963: 269; Bowett, 1958: 185–86). This latter position argues that Article 2(4) allows the limited use of force for certain humanitarian purposes, including rescuing endangered nationals in a foreign country, provided that the aim is not to occupy the territory of that state, or remove its government.

The second ICJ decision, in 1984, concerns the case of *Nicaragua v the United States*. In this case, Nicaragua alleged that the US was responsible for military operations within Nicaragua that aimed to dislodge the government, including through its military support for Contra rebels. Three aspects of the Court's judgement are important. First, the ICJ leaned towards a strict interpretation of the prohibition on the use of force, stating that sending armed bands across a frontier into the territory of another state was a violation of that state's territorial integrity and political independence. Second, the Court rejected the US argument of humanitarian intervention to protect human rights in Nicaragua. Third, the ICJ ruled that the attacks perpetrated by the Contras constituted an 'armed attack' on Nicaragua. According to this ruling, irregular armed bands (a usage that includes terrorist groups) are capable of carrying out an armed attack if that attack is of such gravity as to equate to an armed attack conducted by regular armed forces. It is for the state concerned to qualify the attack as amounting to an armed attack, and to declare that such an attack has taken place on its territory. In other words, there is a subjective and objective aspect to the test of whether an armed attack has occurred. The events of 11 September have been regarded as being on such a scale as to qualify as an armed attack, entitling the US to exercise its right of self-defence (Murphy, 2002: 236).

2.2.2 The right of self-defence

The right of self-defence exists in customary international law, and is enshrined in Article 51 of the UN Charter, which states that 'Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations'. The occurrence of an armed attack, the necessity of self-defence, and proportionality of the means used to defend in relation to the attack are all important elements of the right of self-defence in international law. There is a difference of opinion as to whether the words 'inherent right of self-defence' carry a pre-emptive element – that is, whether self-defence is justified in view of an impending attack or threat to attack. Proponents of this argument rely on the *Caroline* incident of 1842. In this incident, in which British forces attacked the US ship *Caroline* on the Canadian border, the UK was required to show 'necessity of self-defence, instant, overwhelming, leaving no choice of means, and no moment of deliberation'. The contrary view is that the doctrine of pre-emptive self-defence as stipulated in the *Caroline* incident was superseded by the Kellogg-Briand Pact. There is general consensus that the doctrine of pre-emptive self-defence has been rejected in view of the fact that a state acting on that basis may itself be committing an act of aggression (Henkin, 1963: 166; Brownlie, 1963: 275; Schachter, 1984). In the *Corfu Channel Case*, self-help was rejected as a means of self-defence, and in *Nicaragua v the United States*, it was stated that the right of self-defence is predicated on the occurrence of an armed attack.

Against this, it has been argued that the requirement that an armed attack has occurred applies to circumstances where a threat could reasonably be contained, but does not apply in a situation where such an attack would have potentially devastating consequences: 'in the nuclear age, common sense cannot require one to interpret an ambiguous provision in a text in a way that requires a state passively to accept its fate before it can defend itself' (Higgins, 1984: 246). The weight of this argument rests on imminent threats of an attack by nuclear weapons. The authoritative interpretation by the ICJ of the use of force in this context came in its Opinion on *The Legality of the Threat or Use of Nuclear Weapons* (ICJ, 1996: paras 47-48). From the ICJ's point of view, the provisions of the UN Charter concerning the use of force, including the right of self-defence, apply to any use of force, regardless of the weapons used by the attacker. The resort to self-defence under Article 51 is subject to constraints of necessity and proportionality, which are inherent in the concept of self-defence; other requirements, in this case that an armed attack has occurred, are specified in Article 51. This effectively rejects any recourse to pre-emptive or anticipatory self-defence, whether in the context of nuclear weapons or acts of terror. If this position were to change or be reversed, there must be evidence of a body of practice, or an emerging body of practice, on pre-emptive self-defence by a majority of states. As yet, no conclusive evidence to that effect exists.

The argument over pre-emptive self-defence was sharpened in September 2002, when the US government unveiled its doctrine calling for unilateral pre-emptive strikes against countries considered to be a threat to the US. The US has not acted pre-emptively since it invoked this doctrine, though it has acted unilaterally against Iraq. Conversely, this doctrine would have permitted Iraq to carry out pre-emptive strikes against US forces in Kuwait on the grounds that these forces constituted a credible threat. Although the right of self-defence can be exercised individually and collectively, the Security Council has not established a unilateral doctrine of pre-emptive self-defence, and the resort to pre-emptive self-defence is not supported by the existing body of practice which emerged with the Kellogg-Briand Pact, and became consolidated in the UN Charter. While the political times may well have changed after the events of 11 September, political change does not bring about legal change unless it leads to legal developments evident in declarations, treaties or resolutions of the General Assembly and the Security Council, or changes in state practice.

Since 11 September, the Security Council has passed a number of resolutions which aim to counter terrorism; these are discussed more fully below. The important point to note here is that the adoption of these resolutions, together with a host of legal conventions against terrorism, show that the international legal framework is capable of responding to the threat. There exist legal grounds for self-defence as well as enforcement action to counter acts of

international terror which threaten international peace and security. This means that the use of force can be employed against terrorist groups threatening international peace and security *before* such groups carry out the attack. But the legal basis for this is not pre-emptive self-defence – it is the enforcement of international peace and security within the framework established and authorised by the Security Council.

2.2.3 Authorisation of the use of force by the UN Security Council

The UN Security Council has primary responsibility for maintaining international peace and security. It is the embodiment of the concept of the collective security of states, with powers to authorise the use of force if it determines that there is a threat to international peace and security under Chapter VII of the Charter. Such authorisation requires nine votes: from the five permanent members of the Security Council (China, France, Russia, the UK and the US), plus any four non-permanent members. This formula was adopted to maintain a balance between the five permanent members in the Council's substantive decisions, including on the use of force. The Security Council may authorise the collective use of force under Article 39 of the UN Charter by determining that a threat to peace exists, that a breach of the peace has occurred, or that an act of aggression has taken place.

In recent years, several military actions have been justified by reference to an alleged right of 'humanitarian intervention'. The argument for the use of force for humanitarian purposes has its origins in the 1860s, when it was invoked in response to massacres of Maronite Christians in Syria. In the UN period, the major debate was whether this 'right' had become part of the collective approach to international peace and security, or whether it existed alongside the Charter. When NATO's military intervention in Kosovo began in March 1999, George Robertson, then the UK's Defence Secretary and later NATO Secretary-General, stated that 'we are in no doubt that NATO is acting within international law and our legal justification rests upon the accepted principle that force may be used in extreme circumstances to avert a humanitarian catastrophe'.

Both sides of the argument were put before the Foreign Affairs Select Committee of the British House of Commons in 2000 (UK Parliamentary Select Committee, 2000; Brownlie and Apperly, 2000: 886-94; Brownlie, 2001). On one side, it was argued that there was insufficient evidence to support a right of humanitarian intervention, and that the motives for intervention were political and punitive. With insufficient definitive state practice, few lawyers would claim that the right to intervene on humanitarian grounds is established in international law. On the other side, it was maintained that international law cannot be rigidly interpreted, and that the values on which

the international legal system rests also include respect for human rights. Therefore, modern customary international law should not exclude, as a last resort, military intervention on humanitarian grounds if there exists, or if there is an immediate threat of, a humanitarian emergency involving large-scale loss of life, and when military intervention is a necessary and practicable means by which that loss can be ended or prevented (Greenwood, 2000: 929-34).

The Foreign Affairs Committee concluded that, at the very least, the doctrine of humanitarian intervention has a tenuous basis in international customary law, and that this rendered NATO's action legally questionable (UK Parliamentary Select Committee, 2000: 132; Dixon and McCorquodale, 2003: 554, 546-53). Almost at the same time, in the political sphere, the International Commission on Intervention and State Sovereignty reframed the issue of humanitarian intervention in terms of a new approach based on 'the responsibility to protect'. A high threshold ('just cause') is set for intervention, limited to situations involving actual or apprehended large-scale loss of life or ethnic cleansing, as the basis for a 'responsibility to react' (IRDC, 2001). The concept of protection is extended to include a 'responsibility to prevent' (that is, to address the root causes of conflict) and a 'responsibility to rebuild' after intervention.

2.3 International law and the 'war against terror'

2.3.1 Terrorism and international law

The events of 11 September catapulted terrorism into the realm of international peace and security, and galvanised international action on a subject on which there had been no previous consensus in international law. The very use of the term 'terrorism' was hotly debated; it was specifically avoided in the official documents of the UN, which referred instead to 'unlawful acts'. Accordingly, international law concerning terrorism has moved incrementally, with international treaties from the 1960s to the 1990s aimed at tackling specific acts: against, for example, aircraft, airports, diplomats, shipping and oil platforms. Conventions also prohibited hostage-taking and the use of nuclear material and explosives, terrorist bombings and the financing of terrorism.

The period between 1995, when the Oklahoma City bombing took place, and 1999 marked a watershed in the practice of states, from prohibiting specific acts of terror to a prohibition on terrorism itself, and the international acceptance of the term. In its Declaration on Measures to Eliminate International Terrorism of 9 December 1995 (Resolution 49/60), the UN General Assembly declared that 'criminal acts intended or calculated to provoke a state of terror in the general public' were 'unjustifiable, whatever the consideration of a political, philosophical, ideological,

racial, ethnic, religious or other nature that may be invoked to justify them'. The International Convention on Terrorist Bombing was adopted in 1997, followed two years later by the International Convention for the Suppression of the Financing of Terrorism. Conventions aimed at terrorism were also adopted by the Organisation of the Islamic Conference (OIC) and by the Organisation of African Unity (OAU) in 1999.

In the aftermath of 11 September, terrorism was elevated to the status of a threat to international peace and security, and a comprehensive framework of legal measures was established aimed at preventing and eliminating it. Resolution 1368 of 12 September 2001 expressed the readiness of the Security Council to take all necessary steps to respond to the attacks, and to combat all forms of terrorism, in accordance with its responsibilities under the Charter. The Resolution unequivocally condemned the attacks, and recognised the inherent right of individual or collective self-defence in accordance with the Charter. Furthermore, the Resolution stressed the accountability of the perpetrators, organisers and sponsors of the attacks, and of those responsible for aiding, supporting or harbouring them.

Two weeks later, on 28 September, Security Council Resolution 1373 laid down a legal framework in which specified measures must be taken by states in order to prevent and eliminate terrorism (the text of the Resolution is in Annex 1). This resolution falls within the scope of enforcement action by the Security Council under Chapter VII of the Charter. However, it does not envisage the use of force as an exclusive, or regular, means of dealing with terrorism. Rather, it deploys a wide range of measures, with cooperation between states and the establishment of a standing committee to monitor implementation forming the centre-piece. The Resolution reaffirmed that the attacks, like any other act of international terrorism, constituted a threat to international peace and security, and restated the individual and collective right of states to self-defence. It also recalled an earlier resolution, Resolution 1189 of 1998, which affirmed the duty of every state to refrain from organising, instigating, assisting or participating in terrorist acts in another state, or acquiescing in organised activities within its territory directed towards the commission of such acts.

2.3.2 International law and the war in Afghanistan

On 7 October 2001, the US reported to the Security Council that it had been the victim of 'massive and brutal attacks', and that it was exercising its right of self-defence in accordance with Article 51 of the Charter in taking action, together with other states, against al-Qa'eda camps and Taliban military installations in Afghanistan (Dixon and McCorquodale, 2003: 540-41). The Security Council signalled its approval, with the President of the Council

stating that the unanimity of support expressed in resolutions 1368 and 1373 was 'absolutely maintained'. On the same day, the US, the UK and other allied states began military operations in Afghanistan against the Taliban government and al-Qa'eda after the Taliban refused to hand over the al-Qa'eda leadership. The regime was removed from power; its leaders and those of al-Qa'eda took to the mountains. A new government was installed on 3 December 2001, although military operations against remnants of the Taliban and al-Qa'eda continued.

Several considerations indicate that the right of self-defence by the US was justifiably and proportionately directed against Afghanistan. Afghan territory was unlawfully being used as a base for terrorist acts to the detriment of other states, contrary to Security Council Resolution 1189. In addition, Resolution 1368 expressed the readiness of the Council to take all necessary steps to respond to the terrorist attacks of 11 September, and to combat all forms of terrorism, in accordance with its responsibilities under the Charter. The refusal by the Taliban government to hand over individuals sought in connection with the attacks may have ranked as an act of acquiescence, in keeping with Security Council Resolution 1368, in activities organised by armed groups within Afghanistan and directed towards the US and other states. Resolution 1368 called on all states to work together to bring the perpetrators, organisers and sponsors of terrorist attacks to justice, and stressed that those responsible for aiding, supporting or harbouring perpetrators, organisers and sponsors would be held accountable. Finally, Security Council Resolution 1378 of November 2001 condemned the Taliban for allowing Afghanistan to be used as a terrorist base, and expressly welcomed attempts by the Afghan people to establish a new administration.

2.3.3 International law and the war in Iraq

In Afghanistan, the US and its allies used force in collective self-defence with the endorsement of the Security Council. By contrast, the war to disarm Iraq and remove its government in 2003 took place without the explicit authorisation of the Security Council. The use of force against Iraq in 2003 must be viewed against the background of the use of force against the country in 1991. When Iraq invaded Kuwait in 1990, the Security Council determined, through Resolution 678, that its conduct met all three of the criteria which, under Article 39, justified the collective use of force: a threat to peace, a breach of the peace and an act of aggression. The situation in 2002-2003 was much more complex.

On 8 November 2002, the Security Council adopted Resolution 1441. This recalled 'that the Council has repeatedly warned Iraq that it will face serious consequences as a result of its continued violations of its obligations concerning disarmament of weapons of mass destruction'. Resolution 1441 sought to provide a 'road map' for the disarmament of Iraq. However, serious

differences arose over how to implement it. The view advanced by the US and its allies was that the resolution, taken with pre-existing resolutions, in particular Resolution 678, cumulatively provided sufficient legal authority to use force. The opposing view argued that, while Resolution 1441 found Iraq to be in material breach of previous Security Council resolutions, it stopped short of authorising the use of force on that basis. Instead, it gave Iraq one final chance to comply with its disarmament obligations, and warned ambiguously of 'serious consequences' if Baghdad were to be in material breach of Resolution 1441. This language contrasts with threats of 'grave consequences' in previous resolutions which authorised the use of force against Iraq.

During the debate on Resolution 1441, the 'automaticity' that would trigger the use of force without further recourse to the Security Council was rejected. Thus, it was for the Security Council, as a body, not only to decide that a material breach of Resolution 1441 had occurred, but also what 'serious consequences' would follow. Subsequent draft resolutions setting out such consequences were either rejected or withdrawn in the face of objections to the use of force by France, Russia and China, all permanent members of the Security Council. On 16 March 2003, the US, the UK and Spain jointly announced their intention to launch military action. On 19 March, the US began a military attack aimed at 'decapitating' the senior leadership. The main military operation followed, conducted principally by the US and the UK.

In assessing the cumulative effect argument as a basis for the use of force against Iraq, it has to be recalled that previous resolutions, Resolution 687 in particular, did not include regime change in Iraq, and reaffirmed the country's territorial integrity and political independence. Thus, it can be argued that regime change finds no basis in Resolutions 678, 687 and 1441, and is legally out of proportion to the original premises on which the use of force had been authorised in 1991. A further problem is that, as the war progressed, its stated objectives changed, from disarmament to regime change and 'liberation', to the introduction of democracy, and ensuring the welfare of the people of Iraq. By May 2003, the central objective and key basis for the use of force - to rid Iraq of weapons of mass destruction - had neither been met nor proven, as no such weapons had been found. Evidence regarding the nature and level of the threat that a state poses to international peace and security is important to determine the legal justification of the use of force against that state. It is also crucial to the interpretation of the legality of the use of force. On this basis, the failure to find weapons of mass destruction in Iraq casts doubt on the legal justification for the use of force, and the credibility of the evidence used to determine that Iraq posed a threat to international peace and security.

With hindsight, the view that the use of force against Iraq was illegal appears to be reinforced. Regime change raises the possibility of the punitive use of force as a reprisal for

not complying with disarmament obligations. But such reprisals would, in this particular form, run counter to the principle of the political independence of states, which is a legal guarantee against the removal of governments by force, and territorial integrity, which prohibits and safeguards against the occupation and annexation of territory by other states.

2.4 International humanitarian law and the regulation of armed conflict

International humanitarian law regulates the conduct of armed conflicts. It is embodied in a range of treaties that regulate the methods and means of warfare (including the use of inhumane weapons), the way in which hostilities are conducted and how civilians and those not taking an active part in hostilities are protected. These treaties are the four Geneva Conventions of 1949, and the two Additional Protocols of 1977. The four Conventions and the first Additional Protocol deal with international armed conflicts, and the second Additional Protocol deals with non-international armed conflicts.¹ The former are conflicts between states, or conflicts involving states and armed groups, including terrorist groups, in the territory of another state. The latter are conflicts between states and organised armed groups, including terrorist groups, within the territories of these same states. International humanitarian law is unique in the sense that it is binding on state and non-state actors, including armed groups, and on individuals who take an active part in hostilities. It establishes individual criminal responsibility for 'grave breaches' of humanitarian law.² The laws of war apply to all situations of 'armed conflict' whether formally defined or not as long as there is in practice a certain level of intensity of hostilities. Under Article 49 of Protocol 1, international humanitarian law applies equally to acts in attack and in defence, both by states and terrorist groups.

International humanitarian law does not determine the legality of the use of force. Its function is to regulate the conduct of the parties to an armed conflict, including in the means of warfare employed. However, there is a basic interface between the use of force and the regulation of the conduct of the parties to a conflict. This lies in the nature and application of the principles governing the occurrence and character of an armed attack, whether by states or armed and terrorist groups; the proportionate use of force with respect to attack and defence; the status of armed bands; the prohibition on terrorism and weapons connected with chemical and biological warfare; and the protection and welfare of the civilian population.

¹ Common Article 3 of the Geneva Conventions applies to non-international armed conflicts.

² The jurisdiction of the International Criminal Court (ICC), established by the Rome Statute of 1998, extends (inter alia) to war crimes and crimes against humanity, as defined in the Statute. The Court has yet to begin functioning, and is limited in its effective jurisdiction by the Statute's limited ratification.

In the context of the war against terror, it is important to recognise that the boundaries between 'international' and 'non-international' armed conflict will shift from case to case, as will the parties to the conflict. However, regardless of the character of the conflict, the basic principles of international humanitarian law apply in the same way to all parties to all armed conflicts. In *Nicaragua v the United States*, the ICJ determined that the minimum rules applicable to international and non-international armed conflicts are identical. This was taken further by the International Criminal Tribunals for the Former Yugoslavia and Rwanda, which concluded that individuals could be prosecuted for war crimes even when these acts were committed in an internal conflict. Previously, the traditional view was that war crimes were committed only in international armed conflicts.

The ICJ's pronouncements on the question of an armed attack in *Nicaragua* are also significant to the application of international humanitarian law in the war against terror. International humanitarian law applies once an 'armed attack' has taken place, and is acknowledged as such by the state subject to the attack. In its ruling, the ICJ required such an attack by irregular bands or, in this case, terror groups, to be equivalent in scale to an attack by regular armed forces. As discussed above, the 11 September attacks are acknowledged to constitute such an attack, and were declared as such by the US.

In the context of the decision in *Nicaragua*, for international humanitarian law to apply there must be an organised armed group which can be characterised as a party to the conflict. Article 43(1) of Additional Protocol 1 states that 'the armed forces of a Party to a conflict consist of all organized armed forces, groups and units which are under a command responsible to that Party for the conduct of its subordinates, even if that Party is represented by a government or an authority not recognized by an adverse Party'. In the war against terror, global networks of terrorist groups or units may be said to operate under such a system of command, and the Taliban constituted an organised armed force.

International humanitarian law also requires that the armed forces of a party to the conflict are subject to an internal disciplinary system which enforces compliance with laws applicable in armed conflict. Although terrorist groups are likely to have an internal disciplinary system, they are less likely to comply with the rules of armed conflict. However, these are grounds for prosecuting members of such groups when captured, and do not constitute grounds for denying the application of international humanitarian law to them.

2.4.1 Distinction and proportionality

The principle of distinction forms one of the founding bases of international humanitarian law. It obliges parties to

an armed conflict to distinguish between civilians and combatants at all times, and to direct hostilities only against military targets and combatants who are directly and actively engaged in the conflict. Combatants are members of organised armed forces, or groups or units possessing a right to participate directly in hostilities. Civilians are those who are not combatants; that is, they take no direct part in the conflict. A civilian is not a member of the armed forces of the states that are party to an international conflict.

In internal armed conflicts, Article 13 of Protocol 2 stipulates that:

1. *The civilian population and individual civilians shall enjoy general protection against the dangers arising from military operations. To give effect to this protection, the following rules shall be observed in all circumstances.*
2. *The civilian population as such, as well as individual civilians, shall not be the object of attack. Acts or threats of violence the primary purpose of which is to spread terror among the civilian population are prohibited*
3. *Civilians shall enjoy the protection afforded by this part, unless and for such time as they take a direct part in hostilities.*

This protection is not to be abused by civilians, or by combatants posing as civilians in internal armed conflicts. (This is punishable as 'perfidy', which also includes feigning an intent to negotiate under a flag of truce or surrender; feigning incapacitation; and feigning protected status by using signs, emblems or uniforms of the UN or of neutral or other states not party to the conflict.) Civilians can be prosecuted for the mere act of participating in hostilities, and those who commit acts or threats of terror with the primary purpose of spreading terror amongst the civilian population are liable to prosecution for breaches of international humanitarian law. It remains the formal position of international humanitarian law that the presence of combatants among the civilian population does not by itself deprive that population as a whole of its civilian character, and of its protection from the effects of hostilities.

In the war against terror, clear lines distinguishing between civilians and combatants do not always exist. In Afghanistan, Taliban and al-Qa'eda forces did not wear uniforms, and combatants belonging to coalition forces sometimes posed as civilians delivering aid to the civilian population. Some members of Iraq's armed forces also abandoned their military formations and posed as civilians. These difficulties do not by themselves render international humanitarian law inapplicable, but they do create practical problems for the applicability of the principle of identification.

International humanitarian law has always recognised this difficulty.³ Yet however difficult it is to distinguish between combatants and civilians, the status of a combatant is

retained and protected in international armed conflicts, provided that combatants carry arms openly during military engagements, and are visible as such to the adversary while engaged in a military deployment preceding the launch of an attack in which they are to participate. Failure to do this may deprive a combatant of prisoner of war status while remaining entitled to equivalent protection. However, the category of 'illegal combatant' is unknown to international humanitarian law.

The principle of distinction also applies with respect to civilian and military objects. A civilian object is generally defined by subtraction as anything that is not a military objective. Additional Protocol 1 specifies military objectives as 'those objectives which by their nature, location, purpose or use make an effective contribution to military action and whose total or partial destruction, capture or neutralisation in the circumstances ruling at the time offers a definite military advantage'. Whether a specific object is or is not a military objective will vary from situation to situation. In case of doubt, a legal presumption is applied in favour of classifying as civilian those objects normally dedicated to civilian purposes, such as places of worship, dwellings and schools. Attacks on places of worship, cultural objects, hospitals and medical facilities are prohibited.

A distinction also applies between indiscriminate attacks and attacks on military targets. Indiscriminate attacks are generally those which: (a) are not directed at a specific military objective, or which employ methods which cannot be limited to a specific objective; (b) the weapons used are such that they cannot specifically target a military objective; (c) attacks which may be expected to cause incidental loss of civilian life or injury to civilians; and (d) damage to civilian objects which is excessive in relation to the concrete and direct military advantage anticipated from the attack.

Under the principle of proportionality, the military attack must be proportionate to attaining lawful military objectives. All feasible precautions must be taken in choosing the means and methods of attack to avoid or minimise incidental loss of civilian life, injury and damage, even after it has been determined that the target is a military objective. For this reason, parties to a conflict have a duty, whenever possible, to warn of an attack which may affect the civilian population.

To avoid falling foul of the principle of proportionality, the attack has to create a concrete military advantage in the context of the scale of the conflict as a whole. This is obviously difficult to judge, but the guidance from the ICRC is that the advantage gained has to be substantial and relatively close to the associated action to ensure that the objectives of the attack are in fact military objectives. Thus, parties to a conflict are required to cancel or suspend an attack on a military target zone or legitimate target if it may be expected to cause incidental loss of civilian life, injury to civilians or damage to civilian property which would be

³ See Article 44 (3)(a)(b), Protocol I.

excessive in relation to the concrete and direct military advantage anticipated.

The principle of proportionality also extends to means and methods of warfare. Parties to a conflict are obliged to use methods and means that do not cause superfluous injury or unnecessary suffering. To that end, parties to an armed conflict are prohibited from using civilians to shield military targets from military operations; they are also prohibited from using starvation as a method of warfare, destroying objects indispensable to the survival of the civilian population and forcibly displacing civilians for reasons related to the war.

2.4.2 Military necessity versus humanity

The traditional approach to the application of international humanitarian law saw as its major purpose the enabling of the prosecution of armed conflict to attain military objectives (Green, 1995). The modern approach balances military necessity and humanity in the conduct of war. Thus, in its Opinion on the *Legality of the Threat or Use of Nuclear Weapons*, the ICJ advised that human rights were applicable in armed conflict to the extent determined by international humanitarian law (Boisson et al., 1999: chapters 16, 18, 20). This is particularly important in view of the protection of the civilian population in armed conflict, as well as the requirement to grant humanitarian agencies access to the civilian population for the purpose of rendering humanitarian assistance. The applicable rules are as follows:

*If the civilian population of any territory under the control of a Party to the conflict, other than occupied territory, is not adequately provided with the supplies ... relief actions which are humanitarian and impartial in character and conducted without any adverse distinction shall be undertaken, subject to the agreement of the Parties concerned in such relief actions. Offers of such relief shall not be regarded as interference in the armed conflict or as unfriendly acts.*⁴

In addition, 'the Parties to the conflict and each High Contracting Party shall allow and facilitate the rapid and unimpeded passage of all relief consignments, equipment and personnel provided in accordance with this Section, even if such assistance is destined for the civilian population of the adverse Party'.⁵

To a certain extent, there was in Afghanistan a lack of balance between the necessity to attain military objectives in the war against terror, and the grant of access to the civilian population so that humanitarian agencies could provide humanitarian supplies. Calls by humanitarian

agencies to be granted safe access were ignored in favour of the continued bombing of enemy positions. In the course of the war in Iraq, both the port of Umm Qasr, and the city of Basra became designated as military objectives for the purpose of delivering humanitarian assistance. This shows that military objectives can change as dictated by what are considered to be the overriding requirements of military necessity in the course of an armed conflict.

2.4.3 The law of occupation

In the absence of either a UN-led or UN-mandated administration, or a self-determining interim administration in Iraq, the US-led coalition was in the temporary position of being an occupying power, with responsibilities and obligations regulated by international humanitarian law. Section III of the Fourth Geneva Convention of 1949 regulates the conduct of an occupying power with respect to the protection of civilians in the occupied territory. Occupation is a distinct, abnormal and temporary legal category. In place of a defeated government, an occupying power fills the administrative vacuum and assumes special responsibilities for administering the occupied territory and for meeting the humanitarian needs of the civilian population.

Article 55 of the Fourth Geneva Convention states that 'To the fullest extent of the means available to it, the Occupying Power has the duty of ensuring the food and medical supplies of the population; it should, in particular, bring in the necessary foodstuffs, medical stores and other articles if the resources of the occupied territory are inadequate'. In the latter case, the provisions of Article 70 of Additional Protocol 1 apply: 'if inadequately supplied with food, medical supplies, clothing and shelter materials, relief actions which are humanitarian and impartial in character and conducted without adverse distinction shall be undertaken subject to the agreement of the party concerned'.

However, the role of aid agencies can be circumscribed in several ways. First, it is for the occupying power to verify the state of the food and medical supplies in the territory it occupies. It is possible that an occupying power could verify that this is adequate when it is not, in order to avoid having aid agencies in occupied territory. In such an eventuality, the occupying power would be acting in breach of Article 70. Second, an occupying power may invoke military necessity to avoid responsibility for verifying the state of food and medical supplies. This also may have the effect of excluding aid agencies from occupied territories. The third difficulty relates to requisitioned goods. An occupying power is permitted to use foodstuffs, articles or medical supplies on the exclusive condition that the requirements of the civilian population have been taken into account. In that event, there is a further obligation on the occupying power to make arrangements to ensure that a fair price is paid for any requisitioned goods. However,

⁴ Article 70 (1), Protocol 1; Art. 18, *Protocol II* expresses the same principle with respect to internal armed conflicts.

⁵ Article 70 (2), Protocol 1.

this may not be ethically acceptable to humanitarian agencies. Fourth, the occupying power may not be able to restore order and stability in the aftermath of war. Continued instability may deter aid agencies from working in occupied territory. This was clearly the case in the aftermath of the war in Iraq.

2.5 The war on terror and refugee protection

In terms of the protection of refugees, the war on terror and the use of force against Iraq need to be understood in the context of wider international trends. First, the protection of displaced persons during armed conflict has become an important objective of war and peacekeeping, as with the safe havens for Kurds during the first Gulf war in 1990, and for civilians in Bosnia in the mid-1990s. Both cases involved humanitarian agencies and the military in delivering food and other supplies to displaced populations. International initiatives have sought to develop standards and bases for the protection of internally displaced people.

The second trend, underlying the first, has seen increased restrictions on granting asylum and attempts to limit entry, for instance by using detention as a deterrent, imposing visa requirements on asylum-seekers and bringing to bear punitive sanctions on carriers transporting asylum-seekers.

The third development has involved the concept of temporary protection. This was developed in Europe for victims of the war in the former Yugoslavia, and was designed as a flexible, ad hoc policy for admitting individuals fleeing armed conflict. These individuals were to be returned to their countries of origin when circumstances permitted. The quality of this protection initially varied from state to state, though a basis for temporary protection now exists under the Treaty of Amsterdam, which entered into force in May 1999. However, temporary protection remains an exception to the regular system of refugee protection.

In the war against Iraq, temporary protection would have provided a viable means of protecting people fleeing from war and its consequences. However, no formal preparations for the protection of refugees from Iraq had been made in the context of the war itself. In the event, there was no mass outflow of refugees. Of the neighbouring states, only Iran signalled a willingness to receive refugees from Iraq. Others were wary of the political effect that refugees arriving from Iraq may have generated amongst their own populations, and the instability that this may have caused. Ad hoc arrangements included positioning displaced persons along the border inside Iraq, and the reception in Jordan of third-country nationals, mainly Sudanese and Egyptians.

The fourth trend is the alignment of refugee policy and legislation with national security in the wake of 11 September. Security Council Resolution 1373 obliged

states not to grant safe haven to suspected terrorists. Many countries established powers to detain or remove asylum-seekers or refugees from their territories in ways contrary to the Refugee Convention of 1951. The fear is that terrorists may use the refugee system to gain entry for the purpose of perpetrating terrorist acts. Against that concern is the fact that the system for the determination of refugee status provides a channel for investigating the background and conduct of claimants. It is unlikely therefore that terrorists would use the refugee system to gain entry. At the same time, the lack of adequate care and protection for refugees or asylum-seekers means that some are potentially vulnerable to being recruited by terrorist groups after their entry into host states.

The fifth trend is the increased application of exclusion clauses against individuals believed to have committed international crimes, serious non-political crimes and acts contrary to the United Nations. For the purpose of exclusion, terrorism now falls under the category of crimes against humanity. However, much regard is to be paid to the fairness of the procedures under which exclusion takes place; the credibility of evidence which would necessitate exclusion from refugee status; and the treatment of excluded persons in accordance with human rights.

2.6 Human rights

The war against terror has also raised questions concerning the protection of human rights. Many states, including the UK, have entered formal derogations which permit them not to comply with some of their human rights obligations during states of emergency. The major issue is ensuring that measures taken in the fight against terrorism have a demonstrable legitimate aim proportionate to maintaining public order, public security and public safety. This is an area where the law of human rights is well settled; the problems lie in the quality of derogation from human rights and the lawfulness of such derogation in specific cases, particularly those involving detention or the deprivation of liberty.

As a basis for derogation, an exceptional threat needs to exist. There needs to be an official proclamation and notification of the existence of a state of emergency, and the measures taken need to be proportional to the threat. Non-derogable rights must be respected, particularly the prohibition on torture and on inhuman and degrading treatment; there must be respect for the principle of non-discrimination, the right to a fair trial, and the freedom to hold a religion; and there must be compliance with general obligations of international law.

Although terrorist acts violate the human rights of individuals, those committing terrorist acts themselves must be treated in accordance with human rights law, particularly where detention, fair trial and non-discrimination is concerned. Major human rights concerns in the war against terror include:

- Profiling on the grounds of race or religious belief, so that in some cases measures of derogation apply only to foreign nationals. Apart from being discriminatory, such measures ignore the fact that a state's own nationals may be recruited by terrorist groups, and yet the measures of derogation do not cover them. This leaves a legal difficulty in dealing with nationals engaged in terrorist acts.
- Administrative detention of terrorist suspects without trial, sometimes within the jurisdiction of a state, and sometimes outside the jurisdiction of the state, as in Guantanamo Bay. In either case, legal responsibility for the detainees remains with the state in control of the circumstances relating to such detention.
- Sending or returning individuals, including asylum-seekers, to states where they are likely to face torture or inhuman and degrading treatment. Prohibitions on such actions are binding by virtue of customary international law, and any reassessment of treaty obligations will not affect existing customary obligations.
- Surrendering suspected terrorists to states that perpetrate torture or inhuman and degrading treatment for the purpose of extracting information. Legal responsibility and liability attaches both to the sending state and to the perpetrating state.

In 2001, the UN High Commissioner for Human Rights appointed a Special Rapporteur, Kalliopi Koufa, for Terrorism and Human Rights. The Special Rapporteur's task is to examine terrorism in the context of human rights, and to prepare the basis for future activity by the UN and its human rights bodies in the fight against terrorism. In her progress report (UN, 2001), Koufa argues that terrorism cannot be dealt with effectively under measures designed to control more conventional forms of international armed conflicts, or under human rights conventions that are directed only against violations by states.

2.7 Conclusions

International law regarding the use of force will remain dogged by disagreements between international lawyers, particularly as it relates to terrorism and the unilateral use of force by states. Behind these disagreements lie ideological approaches which lead to different interpretations. Three main perspectives can be identified.

The first is the contextual approach, whereby the legality of the use of force is examined by reference to the prohibition in Article 2(4), the right of self-defence in Article 51 and the authorisation of the collective use of force by Security Council Resolutions under Chapter VII of the Charter. This situates the interpretation of these provisions and the Resolutions of the Security Council in the context of existing state practice and evidence of the actual or changing behaviour of the majority of states.

This approach takes a strict view of Articles 2(4) and 51 and Chapter VII, including Security Council resolutions, from the standpoint of the interests of public international order as a whole. Inadequacies in international law should be handled through international consensus and agreements, for example in new or amended treaties, or through evidence of new practice followed by the majority of states, and which is accepted as law. In this view, international law as it currently stands, whatever its defects, is applicable to all use of force by states and armed bands. Humanitarian intervention is regarded as unlawful, and there is insufficient evidence in state practice for the existence of such a right. The use of force in Afghanistan would be justified as collective self-defence (though others might see it as a reprisal); the right of self-defence is broadly confined to responding to an armed attack, and does not extend to the protection of nationals abroad against terrorism. The unilateral use of force against Iraq is illegal. The contextual approach relates closely to the rulings and opinions of the ICJ on the use of force, from the *Corfu Channel* case to *Nicaragua* and the *Legality of the Threat or Use of Nuclear Weapons*; it would appear that this is the mainstream position followed by the majority of international lawyers.

The second perspective also acknowledges the role and purposes of Articles 2(4) and 51, and Chapter VII, together with the relevant resolutions of the Security Council, in so far as the use of force is concerned. However, this approach argues that these provisions and resolutions should be interpreted 'realistically'; they were designed to deal with the use of force between states in the circumstances of 1945, and the present political reality is such that they can no longer serve important goals of the international community, such as responding to horrific terrorist attacks against nationals abroad or the need to disarm dangerous regimes. In this approach, non-compliance with international law on the use of force is taken as evidence of emerging change in the practice of states. Humanitarian intervention is seen as having been tolerated, and the use of force in defence of nationals abroad in the context of terrorist attacks is viewed as a realistic response. Political action by powerful states in defence of their interests is justified; difficulties arise when breaches of the law are neither widespread nor systematic, as in the case of Iraq.

The third perspective interprets the legality of the use of force based on the combined or cumulative effect of provisions prohibiting and authorising the use of force, together with resolutions of the Security Council, or declarations by NATO and its members in the case of Kosovo, as well as on the basis of human rights. In this view, there is a right of humanitarian intervention to prevent an overwhelming humanitarian catastrophe; the war against terror is justified, and self-defence is applicable to deal with threats or acts of terrorism against nationals abroad. The use of force against Iraq is lawful by virtue of the combined or cumulative effect of Security Council Resolutions on disarmament; regime change in Iraq is characterised as a

by-product of disarmament, and hence no explicit authorisation by the Security Council was required.

Whatever view one takes, it is clear that the use of force has significant implications for international humanitarian law. Resort to the use of force usually involves the parties to the conflict in international humanitarian law applicable in armed conflict, with its concepts of armed attack, necessity and proportionality. There is no doubt that the detailed codification of international humanitarian law has helped to avoid the problems of interpretation that are inherent in the law on the use of force. The difficulties besetting international humanitarian law revolve around the parties to which it is applied, when and how - particularly with respect to armed bands or terrorist groups in the war against terrorism. The important factor is that international

humanitarian law applies equally to all parties in an armed conflict, and all parties are obliged to respect the principles of distinction between civilians and combatants, between combatants and prisoners of war, and between military and civilian objects. It is true that these principles have been strained in the war against terror, but this is true of any war. The resilience of the laws of armed conflict lies in the fact that they are intended to protect those involved, as well as those affected, and in the fact that the laws themselves have evolved out of the experience of war. Each major war generates its own experiences, and where these find the law wanting, a re-appraisal is justified. This is not the case with the war against terrorism since terror, as a method of warfare, has long been part of the experience of armed conflict.

Chapter 3

Humanitarian NGOs: challenges and trends

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3.1 Introduction

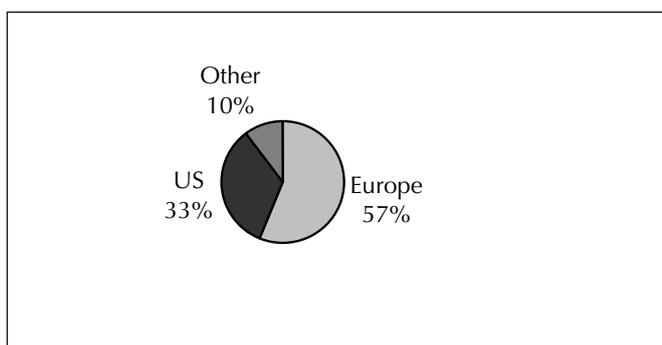
Over the past three decades, non-governmental humanitarian organisations have evolved into a crucial pillar of the international humanitarian architecture. This diverse conglomeration of agencies is dominated by fewer than a dozen 'giants' in the US and Europe. This chapter reviews the issues and trends affecting the humanitarian non-governmental sector in the wake of the sea-change in the geopolitical agenda after 11 September. It argues that events since threaten to change the landscape of non-governmental humanitarian action in important ways, and are likely to widen the rift between US and European NGOs. Old questions, to do with relations with governments or armed forces or the shape and proper place of advocacy, have become sharper, while new challenges, such as the consolidation of the aid oligopoly, have emerged. While humanitarian agencies have to a surprising extent carried on 'business as usual', they are steeling themselves for uncertain times ahead.

3.2 The NGO landscape: an overview

Private humanitarian organisations are the primary implementing agencies of, and at times the driving force behind, international humanitarian action. Especially since 1989, when they began to work in the conflict zones traditionally the preserve of the Red Cross, non-governmental humanitarian agencies have inserted and asserted themselves as actors to be reckoned with in conflicts and emergency settings. Western governments' failure to tackle many of the conflicts in the developing world, combined with the weakness of beleaguered UN agencies, gave NGOs prominent roles on the ground, acting not only as the primary representatives of the 'international community', but also increasingly providing public goods in the absence of functional states. Humanitarian NGOs have become stop-gap public sectors for failed or paralysed governments, as in Somalia and Haiti, and have delivered vital services to civilians in areas of acute risk, as in Chechnya, the African Great Lakes and Sierra Leone. The media attention that these organisations' increasingly visible and intrepid operations in humanitarian crises has attracted has made the term 'NGO' virtually a household word. With donor government funds increasingly channelled bilaterally, rather than as unrestricted contributions to multilateral organisations such as the UN, NGOs are controlling a larger share of humanitarian resources than ever before (Macrae et al., 2002).

Globally the NGO population remained quite small in the first half of the twentieth century, and exploded in the second. According to one calculation, between 1980 and 1990 the number of northern NGOs nearly doubled, from 1,600 to more than 2,500 (Lindenberg and Bryant, 2001: 3). Today, there may be between 3,000 and 4,000 international NGOs in the Northern industrialised states, including development, relief and social organisations (Stoddard and Forman, 2002). The UN Office for the Coordination of Humanitarian Assistance (OCHA) currently registers 260 Western NGOs and NGO consortia engaged in international humanitarian assistance (excluding development-only organisations and the numerous 'briefcase' NGOs that spring up in response to specific emergencies). As Figure 3.1 shows, the US is home to the largest single number of these organisations, with around 90, though Europe combined accounts for a bigger overall share. Similarly, while US NGOs attract the largest single share of overall overseas development assistance (ODA), this has declined, from 50% in 1970 to 38% in 1997 (Lindenberg and Bryant, 2001).

Figure 3.1: Operational humanitarian NGOs based in industrialised states



Although there are no hard figures for how much humanitarian aid goes through NGOs, it is estimated that they receive around a quarter of governmental humanitarian spending. Denmark channels 36% of its humanitarian funding through (Danish) NGOs, France 40% and the US upwards of 60% (Randel and German, 2002: 23-24). In 2000, \$2.5 billion in US government relief and development assistance was programmed in grants and contracts to over 400 NGOs. The total overall figure would be higher if sub-grants were included from UN agencies such as UNICEF and UNHCR, which rely on NGOs as 'implementing partners'. In 2000, 44% of UNHCR's budget was programmed through NGOs (Randel and German, 2002).

3.2.1 The major players

A handful of major players – CARE, Catholic Relief Services (CRS), Médecins Sans Frontières (MSF), Oxfam, Save the Children and World Vision – dominate the international non-governmental landscape. One-quarter of the \$2.5bn of US government funding for relief and development aid in 2000 went to just four NGOs, CARE, CRS, Save the Children and World Vision (USAID, 2000). World Vision and CARE rival each other for the number-one position (World Vision USA's revenues increased by nearly \$200 million between 1997 and 2001, edging CARE USA out of the top slot in 2000), while Oxfam, MSF and Save move within the second tier. Although all of these agencies conduct programmes across sectors, most also occupy a specific operational niche. Thus, CARE is known for food delivery and logistics, MSF provides medical and primary healthcare, Oxfam has become the expert at water and sanitation and Save focuses on the needs of children. In emergencies, these NGOs often serve as coordinator or lead agency for other, smaller organisations working in their niche area.

The largest NGOs comprise multiple national affiliates under various forms of confederation. Some are purely fundraising and recruitment vehicles, while others operate independent programmes. These federations or 'families' have grown up around founding members that are powerhouses in their own right; the two largest, CARE and World Vision, are heavily weighted towards their US members. CARE USA has an annual budget in excess of \$400m, and accounts for nearly 80% of the total combined revenues of the ten CARE International members. CARE Canada is a distant second, at 15%. Similarly, World Vision US provides 54% of total revenue, dwarfing the other 64 national members. Revenues for Oxfam International are more evenly split between two members, with Oxfam GB providing 39% and the Dutch 36%, with the other nine contributing much smaller amounts. Likewise, Save the Children UK and Save the Children US dominate their federations, accounting for 35% and 32% of revenues respectively.

With the exception of MSF, the youngest and most relief-oriented of the group, each of these 'super NGOs' has

expanded its programme portfolios from initial emergency aid deliveries to long-term, anti-poverty activities throughout the developing world. Calculating the relative importance of emergency relief as against rehabilitative or developmental work is, however, difficult because most NGOs' budgets do not differentiate between 'emergency' and 'development', showing amounts instead by programme sector; expenditures for water and sanitation, for example, can cover either relief or development scenarios. An exception is CARE USA, which in 1998 began to detail its expenses in 'emergency', 'rehabilitation' and 'development' work (see Table 3.2). Overall, CARE's humanitarian activities (understood as both emergency response and rehabilitation) comprise on average 28% of its programming budget. In general, very few NGOs doing humanitarian work bill themselves as exclusively relief organisations. (Notable exceptions are NGOs specialising in single bulk deliveries of commodities, such as Americares, Feed the Children and Gifts in Kind International.) The vast majority maintain both relief and development programmes and long-term missions.

Table 3.2: CARE USA expenses by type: 1998-2002 (US\$ thousands)

	1998	1999	2000	2001	2002
Emergency	64,105	60,979	58,842	55,159	45,406
Rehabilitation		17,573	37,043	38,307	34,005
Development	275,179	297,348	313,404	286,130	312,146

Source: CARE USA audited financial statements, 1998-2002

Governance structures within the largest NGO federations vary depending on their organisational cultures. Some, such as CARE and World Vision, began with a strong corporate model, while others, such as MSF and Oxfam, started out as looser umbrella organisations with more of a coordinating function. By the 1990s, a more confederated style of governance had begun to emerge across these organisations. In part, this reflected the perceived need for tighter policy coherence among national members, and the desire to increase southern participation (Forman and

Table 3.1: NGO federation profiles

Organisation	National affiliates	Countries of operation	Founding member	Year founded	Total revenue 1999* (US\$m)	Total revenue 2001 (US\$m)
CARE	10	70	US	1945	525	446
MSF	18	80	France	1971	304	349
Oxfam	11	117	UK	1942	504	303
Save the Children	32	121	UK	1919	368	253
World Vision	65	92	US	1950	600	712

Source: Agency annual reports for 2001; * Lindenberg and Bryant (2001)

Stoddard, 2002). Of these organisations, World Vision International is the most fully transnational. Approximately 40 World Vision country offices are indigenous, from their boards down, and the rest are to follow suit. Organisations like CARE and Oxfam have moved in a similar direction, cultivating partnerships with indigenous NGOs and focusing on project spin-offs that build indigenous capacity.

This movement is still, however, at an early stage; despite the newly 'globalised' governance structures of some of these federations, their identities, and at times their policies and programming preferences, remain closely associated with their country of origin, and they can display a striking tendency to mirror the policies and preferences of the home government. During the NATO airstrikes on Kosovo in 1998, for example, the US and French affiliates of Médecins du Monde (MDM) followed the flood of Albanian Kosovars out of the province to set up refugee camps for them in Macedonia, while the Greek affiliate decided to enter Kosovo to help the Serbs who stayed. The actions of MDM Greece reflected widespread criticism in Greek government circles of the NATO action, and public feelings of solidarity with the Serbs as a fellow Christian Orthodox population. It also made for very tense relations within the MDM federation.

3.3 Traditions and typologies

3.3.1 Three traditions

Today's 'super NGOs' have evolved from one of three main historical strands: the religious, the 'Dunantist' and the 'Wilsonian'. The religious humanitarian tradition is the oldest of the three, and is predicated on the basic tenets of compassion and charitable service. Although religious humanitarianism has its antecedent in missionary work in the European colonial empires, most religious humanitarian agencies, certainly the largest and most reputable ones, do not proselytise in any direct way, though many may combine religious values with social goals. Of the Christian faiths, Catholicism provides some of the largest and most visible aid organisations; CRS, Caritas and CAFOD, for instance, are all Catholic organisations. Catholic agencies have a religious purpose in 'preaching the coming kingdom', but this does not include evangelisation, and aid is delivered in the spirit of service and free giving, and as a vehicle for ecumenical rapprochement between the Catholic Church and other faiths.

Of the Christian faith-based agencies, World Vision International is unusual in that, while it has a distinctly Christian message, it is not governed by an established Church. Rather, it defines itself as a 'trans-denominational' organisation, albeit one with Protestant leanings. Its field offices work in partnership with local secular and religious organisations of all faiths, and integrate faith into their activities in varying degrees depending on the country

concerned. In Afghanistan, for instance, the organisation consists of a mostly Muslim staff, and its programmes are indistinguishable from those of secular agencies.

Although their faith influences decisions about where they operate, propagation is less of a concern for Jewish organisations, since Judaism holds that God's 'universal covenant' with mankind precludes the need to convert non-Jews (Wechsler, 2002). Similarly, some Islamic humanitarian organisations such as the Aga Khan Foundation or Islamic Relief work within a wider framework of universal human values, and do not necessarily seek conversions to their faith (see chapter 4).

The second strand could be labelled the 'Dunantist' tradition, for Henri Dunant, whose horrified reaction to the aftermath of the Battle of Solferino in 1859 launched the Red Cross as a humanitarian movement based on the protection of civilians in war. Although its legal status, embodied in the Geneva Conventions, means that the International Committee of the Red Cross (ICRC) is not an NGO, having the status of an international organisation, it was the originating humanitarian organisation in this tradition and the codifier of the core humanitarian principles. Some of today's largest humanitarian NGOs have their roots in this tradition: Save the Children UK, for instance, was created in the Dunantist image at the end of the First World War to help war orphans, and to protect the rights of war-affected children. Oxfam began as a university movement to send food relief to Nazi-occupied Greece in opposition to British legislation barring aid to countries under occupation. MSE, though it emerged much later, is also firmly within the Dunantist tradition.

The third strand, the 'Wilsonian' tradition, characterises most US NGOs. It stems from US President Woodrow Wilson's ambition of projecting US values and influence as a force for good in the world. Unlike European organisations, with their political and intellectual roots and opposition to the actions of governments, Wilsonians see a basic compatibility between humanitarian aims and US foreign policy, albeit not necessarily particular policy acts (Rieff, 2002). Thus, CARE, the largest American NGO and a quintessential member of the Wilsonian tradition, came into being after the Second World War as the 'Cooperative for American Remittances to Europe', delivering surplus US army food parcels during the Marshall Plan. Wilsonian NGOs tend to have a practical, operational bent, and practitioners move back and forth between NGOs and government. In part, this closer identification with government emerged as a result of the particular trajectories of the American left. Whereas in Europe, the founders of humanitarian NGOs came from leftist movements, left-wingers in the US tended to gravitate towards human rights. One consequence of this has been a clearer demarcation than in Europe between human rights and humanitarianism (Rieff, 2002).

Dutch NGOs may also be included in the Wilsonian realm.

The Dutch government gives generously to humanitarian causes and is politically liberal, so that its NGO recipients have few qualms about accepting large government donations (O'Malley and Dijkzeul 2002; Lindenberg and Bryant, 2002). Although Dutch agencies are more to the left than their US counterparts and have been vocal critics of the links between US agencies and Washington, they too approach humanitarian action in a spirit more of cooperation with their government than of opposition.

3.3.2 Three typologies

Attempts at producing a typology to describe the NGO 'community' have tended to revolve around the importance different agencies attach to the various humanitarian principles. This approach has, however, tended to exaggerate philosophical differences, while downplaying basic practical similarities. It also obscures the fact that, even within one organisation, different principles are stressed at different times. Weiss (1999), for example, offers a spectrum, from the 'Classicist' (where he puts ICRC) to the 'Solidarist' (where he puts MSF). Yet while it is true that ICRC and MSF have very different positions regarding the value of public advocacy and political action, both MSF and ICRC are rooted in the same Dunantist tradition, are independent from government and enjoy close coordination in the field. This kind of classification also ignores the more basic difference between MSF's brand of 'disobedient humanitarianism' and the Wilsonian 'state humanitarianism' of most US NGOs.

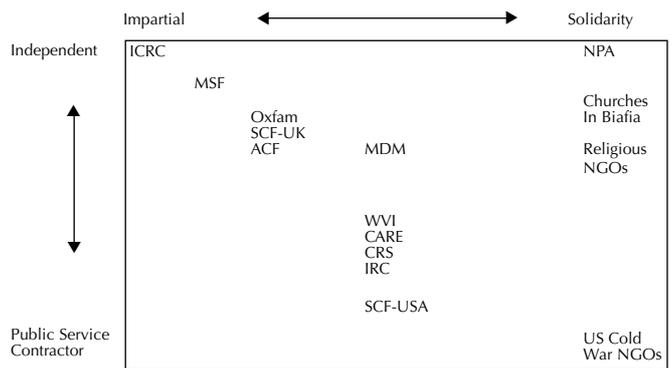
Figure 3.2: Weiss's 'Political Spectrum of Humanitarians and their Attitudes Toward Traditional Operating Principles' (1999)

	Classicists ↔	Minimalists ↔	Maximalists ↔	Solidarists
Engagement with political authorities	Eschew public confrontations	↔		Advocate controversial public policy
Neutrality	Avoid taking sides	↔		Take the side of selected victims
Impartiality	Deliver aid using proportionality and nondiscrimination	↔		Skew the balance of resource allocation
Consent	Pursue as sine qua non	↔		Override sovereignty as necessary

There may in fact be no satisfactory way of categorising NGOs according to their philosophy, and there are potentially unlimited ways of carving up the community according to which of the humanitarian principles and values are emphasised, and in what operational context. On the ground and in debate, the line is typically drawn between US and European NGOs, but there are also pronounced divisions on matters of coordination between francophone and anglophone agencies; there are also divisions between the majority of agencies that adhere to varying degrees of neutrality, versus the unapologetic solidarity of the Nordic agencies.

An alternative typology, offered by O'Malley and Dijkzeul (2002), is based less on humanitarian principles, and more on the nature of the relationships between governments and NGOs. Reconfiguring Weiss' categories, this plots agencies along two axes: from 'Independent' to 'Public Service Contractor' on one, and from 'Impartial' to 'Solidarity' on the other (O'Malley and Dijkzeul, 2002).

Figure 3.3: O'Malley and Dijkzeul's 'Mental Map of Large International NGOs' (2002)



By addressing the way that non-governmental organisations relate to governments, the O'Malley-Dijkzeul method tackles what is perhaps the most important differentiation between NGOs. This relationship encompasses both the extent of agencies' independence from donors, and their means of exercising influence, that is, the relative weight of advocacy as against operations. This method does not, however, address another basic split, namely how willing organisations are to link with each other to advance shared values, under rule-based codes and self-policing mechanisms.

Another way of categorising NGOs looks at the question of what sort of community they would like to institute among themselves: one based on shared codes and rules and eventually a formal accountability structure, or a more atomistic structure containing a collection of independent and diverse entities. Figure 3.4 (see overleaf) attempts this new typology by superimposing this question onto the Dunantist and Wilsonian categorisation described above. Viewed in this way, NGOs may be clustered not only by political independence and operational approach, but also by where they stand regarding the cohesiveness of their community. This also illustrates the cross-cutting alliances between segments of NGOs, for instance the shared enthusiasm for more formal cooperation between a portion of the Wilsonian camp and the anglophone Dunantists.

3.4 Aid, NGOs and 11 September

The 1990s saw the highpoint of the NGO population explosion, and complex humanitarian emergencies of unprecedented scale. It also witnessed the so-called 'crisis in humanitarianism', as critics charged that aid, instead of assisting civilians, was in fact prolonging their suffering by

helping to fuel conflict. The subsequent soul-searching that humanitarian agencies underwent ignited debates and put in motion trends and policies that still very much pertain in the post-11 September world. Developments since 11 September have not revolutionised the terms of the debate, but they have made some questions and challenges sharper and threaten to widen the rift between US NGOs and their European counterparts. This section looks at six key areas:

- donor relations, funding and issues of independence;
- the place of advocacy;
- the relationship between NGOs and military and security issues;
- rights-based approaches;
- standard-setting and rule-based cooperation within the NGO community; and
- the relationship of aid to conflict.

Figure 3.4: Lines of demarcation within the secular NGO traditions

In favour of rule-based coordination	CARE Save the Children US IRC	Oxfam Save the Children UK Concern Worldwide
	Americares other in-kind donation orgs.	Médecins sans Frontières Action contre la Faim Médecins du Monde

Wilsonian

More dependent on and cooperative with governments
Short time horizon
Service delivery emphasis

Dunantist

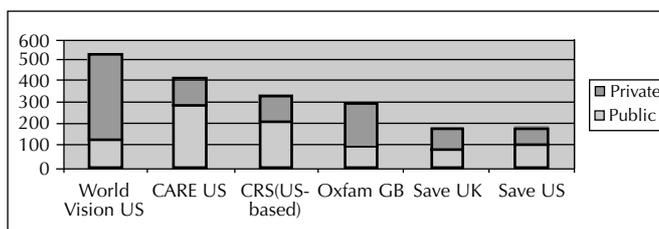
More independent of and oppositional toward government
Long time horizon
Advocacy emphasis

3.4.1 The hand that feeds: funding and donor-NGO relations

The major secular US NGOs could not operate at their current level without funding from the US government. CARE and Save the Children US receive close to half of their funding through the US government; over 70% of the International Rescue Committee (IRC)'s funding comes from public sources. To be able to regularly refuse government dollars, these agencies would have to radically reduce the size of their organisations. The private funding raised by Save the Children US, for example, would not be sufficient to support significant programming by any one of its individual country field offices if its public funding were to disappear (von Bernuth, 2002). During the 1990s, this dependence was expressed geographically, as the headquarters of major NGOs like CARE and CRS relocated from New York to cities closer to Washington. The two US NGO consortia, PACT and InterAction, left New York for Washington in the 1980s. Although cost reasons were cited, it is notable how many NGOs have ended up clustered around the seat of US federal government. Since the presence of the UN secretariat in New York was the reason why so many NGOs initially set up there, the move towards Washington was symbolically important.

In Europe, and indeed for the US components of European NGOs, the picture is very different. Oxfam US is three-quarters privately funded, and Oxfam GB takes only about a quarter of its funding from the British government. MSF maintains a 70% private-to-public ratio, with a strict policy of allowing no more than 50% of their total funds to come from governments. As a matter of policy, MSF refuses funding from governments that are belligerents in a conflict, or whose neutrality is otherwise compromised. It does not take French money in Rwanda, for example, or US money in Afghanistan.

Figure 3.5: Public versus private funding for six major NGOs, 2001 (US\$m)



Source: Annual reports and financial statements

This difference is reflected in different techniques and mechanisms of fund-raising. MSF and other European NGOs have built up formidable direct-mail bases, and repeat credit-card donations provide a reliable source of funds independent of direct appeals in response to individual emergencies. The US public, by contrast, is less easily tapped, and its charitable giving tends to focus predominately on domestic issues; only 1-2% goes to international causes, and much of this is raised by faith-based agencies. This explains why World Vision and CRS are much less dependent than secular US organisations on public funds; 80% of World Vision's funding, for instance, is private. Of this, a further 80% comes from individual donors, largely through child sponsorship and other direct appeals. The remaining 20% is from corporate or other large donors.

Not only are European NGOs able to maintain higher levels of private funding, but thanks to European economic integration they enjoy considerably more latitude in choosing between government funding sources, as for instance in cases where to accept funds from particular governments would compromise their neutrality. Conversely, US NGOs are finding their alternatives to US funding increasingly limited. Immediately after 11 September, private donations to US NGOs dramatically declined as Americans focused on domestic recovery and support for the victims of the attacks. At the same time, however, other factors, notably recession and the plummeting stock market, appear to have been more significant in the long term. Thus, in 2000-2001 direct mail was generating half as much revenue for many NGOs than in the previous year. NGOs that invested in the stock market lost a large portion of their reserve funds. CARE

cut its budgets and imposed a hiring freeze, and in December 2001 asked all its employees worldwide to forfeit one week's pay to make up for the shortfall.

In a move that has reinforced the dependence of US NGOs on the US government, ECHO has chosen not to negotiate any further framework partnership agreements with non-European NGOs. This means that European public funding will end for all but the largest US NGOs, which have affiliates or fund-raising offices registered in a European Union country. On the other hand, US NGOs have not reported significant reductions in US funding for their programmes, and early fears that, after 11 September, funding would be concentrated on areas of strategic concern to the US administration appear to have been unfounded.

In an effort to access new funding sources, over the past several years some NGOs have aggressively courted private sector partners, carving out public relations alliances with international corporations seeking to raise their philanthropic profile. However private sector involvement in humanitarian assistance may present a threat, as well as an opportunity. Corporate bodies have always been active in emergency relief, providing aid commodities, equipment and overseas transport services for large and small agencies, and doing billions of dollars' worth of business with the UN each year. In the 'humanitarian interventions' of the 1990s, UN peacekeeping forces and national militaries subcontracted to the private sector such functions as facilities installation, logistics/communications and demining. Firms specialising in relief packages or equipment can experience rapid growth in a short period of time over the course of one major emergency as they secure lucrative contracts as suppliers to NGOs or multilateral agencies. The private sector role in emergency rehabilitation and reconstruction is poised to increase in the wake of 11 September, and NGOs are likely to be confronted with new corporate competitors. When military action began in Iraq, for example, the US government tendered for bids from large (and exclusively American) corporations for post-war reconstruction. The US Agency for International Development (USAID) plans to award massive contracts not only in large-scale infrastructure repair, but also in areas traditionally handled by the UN and NGOs, such as clean water, healthcare, education and training. Although Iraq is in many ways a unique situation, with the US as a fully-fledged occupying power, to many in the non-government relief community this forebodes the growth of a new 'relief industry', where humanitarians will be increasingly marginalised.

The NGO expansion of the 1980s and 1990s is likely to slow in the coming decade as the market shrinks and the giants struggle to maintain their positions. Public donors have clearly expressed a preference for working with larger NGOs with solid reputations and operational infrastructures. Direct mail markets have become increasingly saturated by the better-known humanitarian

entities, while southern NGOs are poised to take on larger roles in programming within their own regions. Overall, this implies that there will be fewer opportunities for new Northern-based NGOs to enter the market in the coming years (Forman and Stoddard, 2002: 264).

The way that public funds are allocated is also likely to have an important impact on the relations between NGOs and their funding governments. Governments' bilateral contributions towards humanitarian assistance have grown much faster than their multilateral contributions, which have risen in absolute terms but fallen relative to total aid given (Macrae et al., 2002). Bilateral funding, defined both as project-based grants to NGOs and earmarked contributions to UN agencies, increased from 50% of the total in the late 1980s to over 60% in the 1990s. In 2002, USAID's Office of Foreign Disaster Assistance (OFDA) programmed 77% of its grant money through NGOs. More government aid funding is flowing through NGOs, or more precisely through the largest NGOs that receive the bulk of these funds. As funding becomes more bilateral, so donors are likely to move closer to NGO programming. There will be greater pressure for accountability to donor-defined performance measures, and project design guidelines and frameworks will become increasingly detailed (Stoddard, 2002). This deepening donor involvement in the design and management of aid projects has raised the prospect of NGOs becoming - or being seen as - little more than 'government contractors'. This will have obvious implications for perceptions of NGOs' neutrality on the ground.

3.4.2 The place of advocacy

NGOs' efforts in advocacy are directed at governments, to effect policy change, and at the general public, to educate and build constituencies behind certain values and ideas. Advocacy can be conducted through a variety of means, including lobbying, public statements, publications, press articles and editorials, or through public demonstrations or petitions, in international fora, government offices or on the streets of major cities. It can be oppositional, through 'naming and shaming' campaigns, for instance, or collegial, such as joint donor-implementer committees or an NGO acting as an expert advisor to a government. In the past five years, as advocacy has become more important to NGOs, many have added new internal structures and training to enable them to develop and disseminate clearer messages on key issues.

For many of the major European NGOs, political activism can be as important as the technical delivery of assistance; while MSF's technical expertise is clear, the agency began as a dramatic humanitarian statement, and its advocacy through witnessing - its *témoignage* - remains its driving force. Oxfam, though the acknowledged leader in the technical provision of water and sanitation, still sees its core mission as advocating on behalf of the world's poor and

disenfranchised. By definition, such advocacy work is often high-profile and confrontational, including on occasion against the policies of the home government.

By contrast, Wilsonian NGOs are fundamentally pragmatists, and focus on the technical and logistical tasks of aid in the specific situation at hand, rather than on advocacy (von Bernuth, 2002). Where US NGOs challenge government policy, they tend to do so not through high-profile media campaigns, but by suasion and policy advice, either singly in their donor communications, or through the umbrella group InterAction, whose Disaster Relief Committee provides regular channels of access to State Department, USAID and other government officials. The level of dependence on government funding may not be the crucial factor in determining an agency's position, but it clearly plays a role: USAID-funded NGOs have to tailor their advocacy activities *vis-à-vis* the US government to avoid falling foul of grant rules against 'lobbying'.

Through groups such as the International Council of Voluntary Agencies (ICVA), based in Switzerland, and InterAction in the US, NGOs have unified their advocacy *vis-à-vis* governments and international organisations. All of the major NGOs maintain liaison and policy offices at the UN. The broader community at the UN, known as the NGO Working Group, comprises 40 members, and is chaired by the Global Policy Forum, a research NGO focused on Security Council reform. Through this body, NGOs have developed strong relationships with representatives of Security Council members. The provision of information on humanitarian conditions on the ground is one of the NGOs' most important roles. In emergencies, member states find that their own embassies and missions generally cannot give them first-hand information because their movements are heavily restricted.

In the changed security atmosphere following 11 September, some avenues of NGO advocacy have been closed off, while others have opened, notably for the US agencies. UN member states have largely shelved the kind of low-level security issues that have been prominent in NGO lobbying, such as landmines or small arms; it is doubtful whether the campaign to ban landmines would achieve the same success if it started today, for example. On the other hand, for agencies in the US there appeared to be a new opportunity to engage the traditionally introspective American public in international issues. Whether this opportunity can be fully exploited is, however, open to question; many NGOs appear flummoxed as to how best to present the kind of complex issues that concern them in a simple and compelling way. Programme staffers at many NGOs, especially in the US, tend to cede this responsibility to the public relations and fundraising departments, but often cringe at the self-congratulatory or exploitative tone of some of the materials that result.

More significantly perhaps, events since 11 September, particularly the US administration's embrace of pre-

emptive security, may challenge the traditional Wilsonian identification with US government policy; US NGOs were among the most robust in confronting the US government over its policies in Afghanistan, particularly its refusal to expand the International Security Assistance Force (ISAF)'s mandate beyond Kabul to provide a security umbrella for the rest of the country, and its decision to allow non-uniformed military personnel to engage in small-scale humanitarian programming. US foreign policy may have crossed a line over which even the Wilsonian agencies will not go. In the case of Iraq, agencies including CARE and Save the Children US indicated that they would not participate in planning exercises or accept grants from the US government for new programmes (joining Oxfam and MSF, which have stated their decision not to accept either US or British money for the purpose). However, a greater number of US-based NGOs established bases and pre-positioned supplies in neighbouring countries in anticipation of refugee outflows and war-related emergency needs, signalling their decision to accept US funds for Iraqi reconstruction.

3.4.3 NGOs and the military

Events since 11 September have rendered more difficult the already fraught relationship between humanitarian NGOs and Western militaries. Most NGOs at one time or another have coordinated with military forces in the execution of their aid activities. This is done with varying degrees of caution and reluctance; typically, US organisations are the most amenable. However, virtually all NGOs see a significant difference between coordinating with the military as a temporary marriage of convenience, and being coordinated by the military (Slim, 2001). During the Kosovo campaign, MSF USA was so concerned by the blurring of the lines between the military and humanitarian spheres, and the seeming acquiescence of its counterparts, that it quit InterAction's Disaster Response Committee in protest.

Agencies have yet to find a comfortable position *vis-à-vis* the counter-terror agenda (Minear, 2002). Some have tried to distance themselves, while others take the aid funds available to them and the context of their provision as political realities that define their operational universe. The most extreme Wilsonian stance has some NGOs accepting their role in the military effort - as a 'second front' (Allison, quoted in Minear, 2002: 14) or, in Secretary of State Colin Powell's phrase, a 'force multiplier' for the US military. This is emblematic of the Wilsonian mindset, which draws the line at using humanitarian deliveries for specific political aims (for instance, targeting food to Sudanese rebels as was contemplated by the US government in the 1990s), but sees no inherent conflict between the work of humanitarian organisations and the US military in Afghanistan.

Of the military's three possible roles in humanitarian assistance - providing security for humanitarians to operate,

supporting agencies' work with logistical and protection services, or providing direct assistance to populations themselves, in parallel with humanitarian groups – its comparative advantage lies in the first. However, Western armed forces have increasingly focused on the third, most obviously in Afghanistan. From the early days of the post-conflict response, NGOs have called for the expansion of ISAF beyond Kabul, to allow humanitarian agencies to travel and do their work safely. Instead, military teams have been sent out to do small-scale projects for which they possess no unique skills or special capacities, beyond the benefit of carrying side-arms to protect themselves. Officers appear surprised and put out that humanitarian workers do not welcome their efforts, or try to collaborate with them.

A related, and perennial, concern is to do with security. Security concerns have at times led NGOs to press for military intervention where none was present. In the 1990s, for instance, CARE USA lobbied intensely for an intervention in Somalia, while Oxfam publicly appealed for military help in Rwanda and eastern Zaire. Their experiences in Somalia and Bosnia had a militarising effect on many NGOs, who for the first time had to address such matters as ransom policies, war-risk insurance, armoured vehicles and armed guards. NGOs have coordinated among themselves and with the UN on security and evacuation measures in crisis situations, and most have participated in inter-agency security training. Many have instituted their first comprehensive protocols and practices to safeguard personnel. It is likely that security risks will continue to grow for NGOs, and particularly for US expatriates, as a result of the US 'war on terror'. In turn, insurance costs are likely to rise as one of the 'ripple effects' of 11 September (Forman and Stoddard, 2002).

3.4.4 Rights-based approaches

An important philosophical consensus has formed around a rights-based, as opposed to a needs-based or welfarist, approach to humanitarian action. As MSF's Fiona Terry puts it: 'International humanitarian law imposes limits on permissible behavior during war; human rights law sets the minimum standards to which individuals are entitled by virtue of their membership in humanity; and humanitarian action seeks to restore some of those rights when individuals are deprived of them by circumstance.' The adoption of rights-based approaches signifies concurrence among a growing number of NGOs that the motives of humanitarian aid – an attempt to protect people's fundamental rights, rather than a voluntary act of charity – matter a great deal to its success.

Whereas these concepts have long been embedded in the Dunantist tradition, their appearance in the Wilsonian sphere is relatively recent. US NGOs like IRC have created policy offices or departments to coordinate advocacy and 'mainstream' issues such as aid and human rights into

programming through training and research. World Vision's child focus has evolved over the years into a children's rights approach, despite a certain wariness of the human rights agenda among the organisation's religious leadership (Scott, 2002). CARE, under its president Peter Bell, has adopted a rights-based approach, and stepped up its policy and advocacy activities (going from no policy staff in headquarters in 1996 to a department of more than ten people by 2002).

Author David Reiff has argued that the human rights focus jeopardises the very concept of independent humanitarianism: in 'coming to view its commitments as going beyond providing relief, in allying itself with the human rights movement, and in committing itself to an interpretation of international law in which aid must be allowed ... [humanitarian aid] ... may never recover' (Reiff, 2002: 302). Reiff believes that rights-based humanitarianism is impossible because human rights are law-based and absolutist, while humanitarian aid requires flexibility, compromise and occasional deals with the devil. Such warnings of humanitarianism's demise may be premature; for the time being, this remains more of a problem for the thinkers in headquarters than for operational staff in the field, where the rights-based approach is naturally subject to the practical concerns of day-to-day aid work, as delimited by the organisation's mission and risk threshold, and the individual staff member's own values.

3.4.5 A new community?

By their nature, NGOs inhabit relationships of mutual dependence. The scale of modern humanitarian emergencies, and the comparatively limited capacities of NGOs, demand that they coordinate their activities with each other and with multilateral agencies. In most emergencies, not even the largest NGO is capable of launching an effective response individually, but can function only in tandem with other agencies, international organisations and host and donor governments. Humanitarian organisations work in symbiotic, if not always harmonious, relationships with each other, with donor agencies and with the media, on whom they depend to get their messages out to the donor public.

Some practitioners dismiss the term 'humanitarian community' as a fiction, much like 'international community'. Yet despite their different mandates, histories, cultures and interests, the epistemic and collegial links among staff members of the major NGOs are strong. Over the past ten years, NGOs have increased coordination among themselves, in practice and in principle, covering virtually every aspect of their work. Umbrella groups and consortia such as the Steering Committee for Humanitarian Response (SCHR), ICVA, InterAction and VOICE have acted as forums for dialogue and information-

sharing, and as vehicles for joint advocacy. In turn, agencies have responded to failures and criticism by working together to enhance the performance and effectiveness of humanitarian aid, to strengthen accountability and to restore public trust in the humanitarian enterprise. Thus, the 1990s saw statements of principle such as the Red Cross Code of Conduct and the Sphere Project's Humanitarian Charter, together with operational and best practice guidelines such as the NGO Field Cooperation Protocol, the People in Aid Code of Best Practice in the Management and Support of Personnel and Sphere's Minimum Standards in Disaster Response.

Despite these collaborative initiatives, disagreement persists over how far the humanitarian NGO sector should elaborate rules to govern agency behaviour. One group, led by Oxfam and comprising mainly British NGOs, wishes to see a tighter, more rule-based community, where codes have teeth and NGOs can be held to account against agreed performance standards. The centrepiece of this movement has been the Humanitarian Accountability Project (HAP), which seeks to establish an ombudsman or watchdog office in the field. The major US humanitarian NGOs, which have generally been strong supporters of operational codes and standardisation initiatives, nonetheless express ambivalence about the HAP. Some argue that they fear adding a new, cumbersome layer of bureaucracy to already overstretched field offices. Others admit that the HAP raises the spectre of potential litigation - that particularly American scourge.

The greatest opposition to the formulation of inter-agency rules has come from NGOs based in France, led by MSF. Despite being one of the initiators of Sphere, MSF withdrew its support in response to concerns that the initiative would become a set of rigid, lowest-common-denominator standards inhibiting innovation and limiting independence. MSF, MDM and Action Contre la Faim (ACF) have all argued that Sphere has too great a flavour of corporate collaboration, that it could too easily be manipulated by donor governments in pursuing their own interests, and that its main result would be to solidify the dominance of the core group of major NGOs. MSF was also critical of the code of conduct that emerged in response to sex scandals in West African refugee camps. MSF maintains that, in general, codes of conduct are knee-jerk, media-friendly reactions that do not address the root of the problem, which in this instance was the whole system of camp structure and management. MSF is also concerned that the professionalisation of NGOs is serving to further 'marketise' the humanitarian community, particularly in America. MSF's strongest objections stem from its belief that, whatever the problems of technical competence displayed by small NGOs, these are far outweighed by the accountability and political and ethical problems facing the larger organisations. In MSF's view, NGOs seem to care more for logistical ease and technical efficiency than for humanitarian values, or for addressing the proper relationship between aid and politics.

Ultimately, NGOs can choose to work together and with donor governments in a wide range of different ways. They can act as a group, singly, behind the scenes, or in a public confrontation. The major NGO networks, ICVA, SCHR and InterAction, are all represented on the UN's InterAgency Standing Committee, and NGOs typically belong to more than one, using them as they see fit. However, some NGO observers question whether such international and donor fora accurately reflect the financial and operational importance of humanitarian NGOs, and are concerned that they are little more than sops to NGO demands for increased participation in decision-making. The IASC guidelines, for example, call for NGO inclusion only on an ad hoc basis; with NGO membership confined to umbrella group representatives, this does not afford commensurate weight and voice to the NGO powerhouses on the ground.

3.4.6 Aid and war revisited

One of the key themes of the 1990s was that humanitarians were allowing their aid resources to be manipulated by belligerents, thus fuelling economies of war and perpetuating violence. The 'Do No Harm' approach (Anderson, 1996) fashioned in response sought to minimise this risk by studying the conflict dynamics and the impacts of the humanitarian effort in each case, and taking care to position the aid effort, through staffing and beneficiary targeting, in the most balanced and neutral fashion possible. Later, a more activist agenda emerged, which reasoned that, if aid could do harm, it could also conceivably do good, and might in fact be instrumental to peacebuilding (Macrae, 2002). By the end of the decade, a backlash had started to develop; commentators began to question the assumption that aid fuelled conflict, while disappointing experiences with aid conditionality suggested that it could also do little to help build peace (Stockton, 1998; Martone, 2002; Terry, 2002; Macrae and Leader, 2000).

Although Fiona Terry has calculated that MSF alone contributed some \$11,000 per month to the war economy of the Goma refugee camps, Terry and others have also pointed out that this is the *only* case where NGOs can be held primarily culpable. In every other instance, the real culprits exacerbating or prolonging conflicts are national governments. After much intense and painful debate within MSF International, ultimately only the French segment withdrew from the Goma camps in December 1994; the other national organisations, and nearly all other NGOs, stayed. This prompts a second question, again posed by Terry, as to where NGOs draw their 'bottom line': when do they decide that their aid is doing more harm than good, and stop delivering it? (Terry, 2002). In Taliban-controlled Afghanistan, most agencies never reached this point because, despite the compromises made, the dire needs of the Afghan people outweighed arguments for withdrawal, however bad the human rights position of the regime (Rieff, 2002).

By confronting questions such as these, NGOs come up against precisely the same issues that surround rights-based programming. Thus, Terry has argued that the basic problem with the 'coherence' agenda was that the UN was insisting that all agencies band together to apply political conditionality to aid in the service of peacebuilding. Yet Terry believes that humanitarians have no business becoming involved in peacebuilding, just as Rieff contends that they have no business with rights-based programming. What is important is not experiments with conflict resolution but the core principles of impartiality, neutrality and independence. These should guide NGOs in deciding whether to withdraw from a conflict situation, and each agency should take this decision for itself. It may seem a paradox of humanitarian history that MSF, the great rebel that came into being by breaking free from the overly rigid principles of the ICRC, is now calling for a return to humanitarian orthodoxy. But the fundamental position for MSF is simple, and echoes ICRC's own: the agency will withdraw if it finds that the aid it is providing is being used against the people it is trying to assist.

Post-war Iraq presents some of the most complex political and moral challenges that the NGO community has faced. Humanitarian organisations determined to provide aid to Iraq must grapple with the fact that the US military will be in full control of the resources and will set the parameters of the relief and reconstruction effort. Indeed, the humanitarian operations centre will be run not out of USAID, but the Pentagon. Under the Geneva Conventions, the United States, as the occupying force, is legally required to provide relief and reconstruction aid, which means that refusing US government funds for reasons of neutrality may also not be straightforward.

3.4.7 The question of faith

Religious NGOs face an additional and more delicate set of issues in the aftermath of 11 September. The perpetrators of the terrorist attacks and their sympathisers have framed the issue as a holy war in defence of Islam. This means that Christian and Jewish NGOs operating with US public funding in Afghanistan, for instance, must make Herculean efforts to demonstrate their neutrality and impartiality, both in politics and in religion. Islamic NGOs face an even harder task. Muslim organisations, especially those based in North America that deal in the international transfer of cash, goods and services overseas, have come under relentless scrutiny, and several have had their assets frozen and operations effectively halted by the US and Canadian governments (Minear, 2002: 8).

Before 11 September, a good deal of attention was paid to the US administration's so-called 'faith-based initiative', which supports and encourages the charitable works of religious NGOs within a wider promotion of voluntarism. USAID Director Andrew Natsios has a personal stake in this effort, and the agency has been showing signs of

loosening its restrictions on funding religious organisations, despite arguments that this violates US constitutional prohibitions against the intermingling of church and state. President George W. Bush signed an executive order in 2002 establishing a centre for faith-based initiatives within USAID as part of an overall effort to make 'it easier for faith-based organizations to work with the federal government' (USAID Press Release, 12 December 2002). One noticeable outcome has seen World Vision do away with the dual registration that was previously required under USAID regulations to separate religious activities, which were ineligible for funds, from non-religious work, which was eligible. World Vision's actual structure has not changed (Scott, 2002). It is not yet clear what stresses the faith-based initiative will face in the wake of 11 September; indeed, the administration may seek to downplay it given its insistence that US counter-terror efforts have nothing to do with a rejection of Islam, and the fact that the majority of beneficiaries of this initiative are Christian organisations.

3.5 Serving many masters

Humanitarian NGO personnel face peculiar tensions in their work. Whereas an employee of a business venture has the relatively clear-cut goal of increasing profits, growth and market share, the typical NGO worker must juggle competing loyalties: the needs and interests of the beneficiary, the desires of the donor and the interest of the organisation to survive and grow. These three sets of interests conflict with each other at least as often as they overlap.

Creating an additional layer of loyalties for NGOs in the form of allegiance to community norms and standards is thus no easy proposition, and the francophone Dunantists have made clear their opposition to attempting it. Nonetheless, there already exist strong horizontal ties between organisations, and these may hold the promise of closer cohesion in the future. Although it has not received much scholarly attention, an epistemic community has developed among humanitarian practitioners and decision-makers, both in the field and at headquarters, where programming experience, technical know-how, values and ideas are shared, often apart from or in defiance of an individual organisation's expressed mandate, or its board's wishes. The technical learning consortia and networks created during the past decade, such as the Humanitarian Practice Network (HPN), the Active Learning Network for Accountability and Performance (ALNAP) and Sphere, have led thoughtful practitioners deeper into issues than either their boards or their supporters and critics in government, academia and the media have delved. These horizontal links between agencies, irrespective of their various forms of governance, seem to drive the humanitarian agenda. These networks not only cultivate an external image of NGO expertise and proficiency, but also serve as important legitimising measures for small or young organisations, and foster a spirit of collaboration and

collegial ties among practitioners. In the end, these epistemic networks and operational linkages between NGOs may hold the greatest potential for building bridges between the US and Europe, and between the anglophone and francophone worlds.

As the implications of the new US security agenda make themselves manifest in Iraq, NGOs find their 'community' at a crossroads. Although political divisions may grow

between the different segments of the NGO population, agencies may discover more compelling arguments in favour of increased unity. With the military no longer simply encroaching upon, but devouring, humanitarian space, and the rise of 'for-profit humanitarianism', NGOs may well reach the conclusion that they must band together in a more cohesive unit if the voice of humanitarianism is to be heard at all.

Chapter 4

Humanitarianism and Islam after 11 September

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4.1 Introduction

This chapter traces the roots of charitable action in the concepts and teachings of Islam, and explores the role of religion in the development of distinctively Islamic conceptions of humanitarian relief. It describes the points of contact and divergence between Islamic and Western interpretations of humanitarian action, and offers an overview of some of the major agencies involved, tracing the organisational principles they embrace and how these relate to their operations in different political contexts. It then surveys the implications of 11 September and its aftermath for Islamic charities, some of which have come under particular scrutiny for alleged links with 'terrorism'. One of the key questions that emerges from this analysis is whether humanitarianism rests on an absolute set of principles, developed in the West but universally applicable, or whether there are various distinct humanitarian traditions, including the Christian and the Islamic, each reflecting a particular cultural past.

4.2 The Islamic resurgence

There are 1.2 billion Muslims in the world, about one-fifth of the global population. Despite the special status within Islam of Arabic as the language of divine revelation, and of the sacred pilgrimage centres in Saudi Arabia, the spread of Islam in the Indian subcontinent, Indonesia and elsewhere in Asia has meant that the Middle East has long ceased to be the demographic centre of gravity. Fewer than 15% of Muslims are now Arabs, and some 69% live in Asia. However, research on Islamic charities has tended to focus on Sunni Muslim populations in the Arab-Islamic world, Pakistan, Muslim Africa and the Balkans, thus passing over most of Asian Islam.

Many Muslims present a picture of Islam as the undivided *umma* or community of believers. Often, the image of Islam among non-Muslims is equally monolithic. It is true that one of Islam's great strengths has been that, like Christianity, it has been able to transcend ethnic and linguistic divides, and that it succeeds in maintaining a high degree of commonality in its buildings and rituals despite the lack of centralised authority. However, scholars of the Islamic world emphasise that it is as heterogeneous as Christendom, and has been much influenced by modern

Western-style nationalism. Moreover, Islam is notable for its ability to adapt to local people's beliefs and practices, provided that they commit themselves to a few basic articles of faith. As a Malian Sufi leader put it in the 1950s, 'Like water, Islam takes on the colour of the earth across which it flows'. This adaptability is as characteristic of most of Asian Islam as it is of Africa's Muslim belt. Purist schools of Islam have tried for over a century to impose doctrinal strictness, but the vast majority of Muslims inherit their religious status by birth, and do not necessarily regard it as the foreground of their daily lives so much as a backdrop that is taken for granted.

Islamic charities in their modern form, like the Islamic resurgence in general, date back to the time of the Arab defeat by Israel in 1967. Although the Islamic resurgence has much older roots, it was only in the late 1960s that it began to succeed revolutionary socialism and pan-Arabism as a political cause in the region, partly because Zionism was locally interpreted as an effective mobilisation of religion, to which pan-Islamism would provide an antidote.

Research on the Islamic resurgence is plentiful, but divided in its interpretations between an 'empathising' school and a 'diagnostic' school. The empathising school, represented for instance by French political scientist François Burgat, sees this resurgence primarily as a form of cultural and political resistance to American, European and Israeli power, and to the repressive regimes hitherto kept in being by the West in small nation-states with artificial borders (Burgat, 2003). The diagnostic school, represented by Princeton historian Bernard Lewis, sees the Islamic resurgence as an unpersuasive and unreasoning reaction to the West's technological supremacy - a symptom of political and economic failure. That supremacy, according to this view, is a historical outcome of political freedoms and the separation of religion from the state: the Islamic reaction is fed by resentment and by nostalgia for the vanished prestige of Muslim empires and cultural achievements (Lewis, 2002; see also Roy, 1998).

4.2.1 The 'clash of civilisations' debate

Any discussion of the West and the Muslim world cannot easily avoid Samuel Huntington's *Clash of Civilizations* (Huntington, 1996). Huntington's thesis has been credited

with predictive power since 11 September: it underlies much public debate and some of the thinking of the current US administration, and the book is reportedly a bestseller in the Middle East. Huntington presents his model as a precaution against threats to world peace, synthesising nineteenth-century balance of power principles with a definition of 'civilisations' as the highest unit of cultural analysis. The civilisations identified by Huntington are the Western (Catholic and Protestant), the Christian Orthodox, the Islamic, the Hindu and the Chinese, with others admitted to a kind of associate status.

Huntington's thesis has been sharply criticised by scholars, especially by experts on the Muslim world, mainly for grossly underrating influences and interdependences between 'civilisations', and for being politically inflammatory. However, some aspects of the thesis merit further investigation (Ruthven, 2002), such as Huntington's attempt to avoid ethnocentrism. Huntington draws attention to the heritage of religious values in different civilisations, which has generally been neglected - by political scientists, by proponents of 'secularisation theory', and by those who have seen class or race as inevitably the sharpest source of global division. He also proposes that states' interests are not the only or primary organising principle for international or transnational relations.

Huntington's use of emotive language, such as the accusation that Islam has 'bloody borders' - an alleged predisposition to violence - has attracted particular condemnation. He is more convincing when he reflects on the absence of an accepted 'core state' within Islam, comparable to the US in the Western world or China in East Asia. He regards core states within each geographical region as an essential for maintaining a balance of power. It may be agreed that competition for this status limits the cohesion and stability of the Muslim world. It has also limited the impact of Islamic charities.

4.3 Charity, humanitarianism and religion in the Christian world

4.3.1 Humanitarianism and religion

In the West, the term 'humanitarian' has become elastic. It can be a straight synonym for 'compassionate'; or it can embrace a wide spectrum of aid based on a commitment to a shared humanity; or it can refer more specifically to the technical delivery of relief in zones of disaster or conflict. It has a legal dimension embodied in formal conventions governing the treatment of combatants, the protection of civilians and the conduct of hostilities. And it refers to core concepts and fundamental principles of action as its moral core: neutrality, impartiality and universality. The word 'charity', with its particular Christian resonances, is similarly multifaceted, referring both to the virtue of spiritual love, extolled by St Paul as the essence of

Christianity, and to philanthropic alms. In the latter sense, it also serves as the basis for legal regulation of the voluntary sector and its tax exemptions in some jurisdictions.

The US aside, it is likely that practising Christians are now in a minority among the personnel who work for Western humanitarian agencies. From without, however, the West is widely perceived as Christian, and the liberal humanism underpinning Western humanitarianism, even in its 'secular' form, is arguably itself underpinned by a heritage of Judaeo-Christian values. This problem has long afflicted the Red Cross movement, which was founded with non-confessional aims in 1863: as early as 1876, during the Serbian war, Turkish soldiers refused to recognise the red cross emblem because it reminded them of the Crusaders. An alternative emblem, the red crescent, was adopted internationally. But controversy over the emblems still dogs the movement, especially in its relations with Israel. A move in Geneva to resolve the problem by substituting a symbolically neutral emblem, a red crystal, was recently blocked.

Western humanitarianism was historically moulded by the Catholic monastic orders that founded hospitals, by the Geneva Calvinist founders of the Red Cross, by the Salvation Army, by the Leprosy Mission and by the Oxford Quakers who helped to found Oxfam. Church organisations dominated international aid until the Nigerian civil war of the late 1960s, with the founding of the secular agency Médecins Sans Frontières (MSF). Even today, various strands of Christian humanitarianism are strongly represented by Caritas, World Vision, the Order of Malta, Christian Aid and the Nordic churches. President George W. Bush's controversial White House Office of Faith-Based and Community Initiatives is currently restricted to domestic US welfare programmes, but may eventually expand to include international aid.

4.3.2 State aid and private charity

Private charity in the West has a mixed reputation with social reformers. The Marxist tradition, for instance, took the radical position of opposing it as retrogressive, alleviating symptoms rather than addressing causes, and thus delaying the proletarian revolution. The fickleness, condescension or grandiosity of personal donors has also been criticised since the nineteenth century. With the rise of non-governmental organisations since the 1980s, the positive aspects of charity have become more prominent, especially its pluralism and the personal commitment it can inspire in individuals. Thus, former Communist states seeking to rebuild their voluntary sectors after decades of frosty centralisation face enormous difficulties when the roots of voluntary service have been so extensively damaged.

Although in the West, a distinction is usually drawn between private charity and state aid, this needs to be

qualified in the field of overseas relief and development. Many international NGOs constituted as private charities also derive a considerable portion of their income from official government sources, effectively acting as contractual middle-men between donor governments and beneficiaries. At the same time, the politicians and administrators who dispense state aid try to distance themselves from the idiom of charity in favour of norms such as the Millennium Development Goals. But in fact, state aid, being voluntarily given, relies by necessity on much the same moral basis as personal charity. While governments have treaty obligations to provide financial support to inter-governmental institutions, overall volumes of aid funding remain in the gift of governments, and can be increased or reduced in line with domestic priorities.

Western charity has become a mainstream topic for historians, both in itself and as a way of approaching other subjects, such as colonialism, the solidarity of immigrant communities or the survival strategies of monarchies. Histories of major humanitarian organisations such as the Red Cross, Oxfam and the UN Children's Fund (UNICEF) have been published. Non-Western philanthropic traditions have only recently begun to be studied with equal seriousness (see, for example, Ilchman, Katz and Queen, 1998). Examining these traditions does not reveal a new universe of charity, free from objectionable aspects, but it does unsettle the preconceived idea of the West as a privileged aid provider to a disempowered non-Western world.

4.4 Religion, charity and humanitarianism in Islam

As in the Judeo-Christian West, the charitable traditions of the Middle East and Asia are embedded in religious doctrines and practice – including those of Islam. Neither the word 'humanitarianism' nor 'charity' has an exact equivalent in Arabic, the formal language of Islam. Nonetheless, broad injunctions to be generous towards those in need are certainly part of Islamic, just as much as Judaeo-Christian, doctrine; the emphasis on charitable giving is at least as great as in any other religious tradition, and Islam is justly credited with having developed the principles of a welfare state long before Christian Europe. Although much Islamic teaching is based on tradition – especially on *hadiths*, sayings and actions ascribed to the Prophet Muhammad – the Quran is considered the ultimate authority by all schools of law, as the directly inspired word of God. While the Arabic of the Quran has many equivalents for the English words 'kindness', 'compassion' and 'spiritual love', the terms it uses for charitable giving (*zakat* and *sadaqa*) have overtones more of purity, growth and justice.

Zakat is one of the five 'pillars' of the religion (the others are faith, prayer, fasting and pilgrimage, or the *hajj*). *Sadaqa* is voluntary alms, or giving over and above *zakat*. *Zakat*

signifies the obligation to donate one-fortieth of one's assets every year to a specific list of eight categories of people. These are (to borrow the most usual descriptions): poor people; the destitute; those employed to administer the *zakat*; those who might be converted to Islam, or assist in the cause; slaves; debtors; those committed to the 'way of God'; and, finally, travellers in need. A large theological literature exists on the interpretation of these categories. For instance, 'slaves' can be deemed to include prisoners of war, or the subjects of oppressive political regimes.

The 'way of God' is synonymous with *jihad*, and may be interpreted either as a spiritual engagement or as a more militant type of campaign. *Jihad* is a key – and ambiguous – term, conveying different meanings in different contexts. It can signify merely a commitment by individuals to mastering their personal weaknesses and leading a better life, of which one outcome is effective compassion for the disadvantaged. It can also have more aggressive connotations. The nearest equivalent for Christians is the idea of the Church Militant warring against the powers of evil.

Not only does the Quran urge generosity, but it also says that a Muslim should encourage others to be generous. In common with Judaism and Christianity, Islam teaches that all wealth belongs to God. *Zakat* is held to purify both the wealth itself and the individual. It is specially enjoined, and bestows special merit, during the annual holy month of Ramadan. Alms given discreetly are better than those that are publicised. Those whose personal wealth is beneath a fixed threshold are exempt from almsgiving.

Zakat has inspired a body of didactic texts explaining how the original prescriptions should be interpreted in response to economic realities. For instance, mineral rights are subject to a lower rate of *zakat* than materials that are cheap to process. At various junctures in Islamic history *zakat* became a mere vehicle for extracting taxes. Today, no state in the world has *zakat* organised as Islamic teaching prescribes. In a few, such as Pakistan, it is incorporated into the government tax system, while in Saudi Arabia or Kuwait it serves as a substitute for tax that is voluntary only in name. In others, such as Oman, the government leaves almsgiving to the individual conscience, so that help is given to people known to the donor. An intermediate solution has been found in other countries such as Jordan, where Muslims may contribute a voluntary *zakat* either to a state fund or to local *zakat* committees. *Zakat* is used as a fund-raising device by charities both in the Islamic world and among Muslims resident in Western countries. British Islamic charities supply their supporters with tables to enable them to calculate their *zakat* liability.

Another major Islamic institution is the *waqf*, also known in North Africa as *hubs*, which is broadly speaking the equivalent of a charitable foundation in Europe. Although not grounded in the Quran, *waqf* is based on the tradition that the Prophet Muhammad bequeathed almost nothing

except a small plot of land for public use. *Waqf* in Arabic means ‘stopping’, that is, the property is barred from any other ownership. It spread all over the Muslim world except West Africa: at the beginning of the nineteenth century, over half the land in the Ottoman Empire was legally tied up in this way, either for use or investment. Fountains, roads, hospitals or schools could be nominated as *waqf*, even (at one time in Morocco) refuges for sick storks. The institution met not only social needs, but also the need of donors for prestige and spiritual merit, especially as it was possible to endow a ‘private’ *waqf* and keep some of the benefits for one’s own family. Almost all Muslim countries have nationalised their *waqfs* over the last two centuries. Although Ministries of *Awqaf* are now generally limited to looking after mosques and religious schools, the institution has been revived in several countries as a vehicle for charitable activity with an Islamic face.

Further doctrinal support for Islamic charities comes from the concept of Islamic finance. This is based on the Quranic prohibition on usury, interpreted as bank interest payments. Islamic investment companies have grown rapidly since the 1970s, and funds placed with them worldwide are thought to exceed \$3bn. There is a Dow Jones Islamic Investment Index. One way these companies can provide funds for Islamic charities is through remitting to them interest received from banks, which is thus religiously purified. Particularly in the wake of 11 September, the reputation of some of these financial networks has been tarnished by allegations that they have been used by Islamic extremists.

4.5 Movements and schools

This section sketches out the key movements in Islam, with a special focus on those that have shaped the Islamic resurgence (see also Kepel, 2002; Esposito 1992).

4.5.1 Shiism

Shia Muslims comprise about a tenth of the world’s Muslim population. Shiism is the official branch of Islam in Iran, and Shia form an important minority in some Arab countries and in Pakistan and Turkey. They also comprise the majority in Bahrain and Iraq, and among Lebanese Muslims. Shia have another religious tax in addition to *zakat*, known as *khoms* (‘one-fifth’), which is levied annually on net income and wealth and paid to Shia religious scholars (*ulama*). These contributions are applied towards the expenses of religious institutions, as well as for hospitals and poverty relief.

In Iran, huge charitable foundations were set up after the Revolution in 1979 with assets confiscated from the Shah and his court. Some of these have large commercial investments, for instance in real estate and airlines, amounting to a substantial proportion of the Iranian economy. Their control by the religious authorities has

resulted in allegations of corruption, as well as preventing the government itself from gaining control of economic policy. Some of these foundations have been active overseas, but unlike many Sunni states Iran has not set up Islamic NGOs as direct counterparts to Western organisations. More typical is the kind of mobilisation that took place during the nationwide ‘day of solidarity with the Kosovar Muslims’ organised in May 1999 (Ghandour, 2002: 124–25).

Iran supports Hizbollah (the ‘party of God’), the Lebanese resistance movement founded in 1982. Hizbollah is marked by the Shia doctrines of self-sacrifice and martyrdom that generated, in the mid-1980s, the first suicide bombings in the region. Hizbollah also manages a formidable network of hospitals and other welfare and educational services, including the Shahid (‘martyr’) Foundation, set up to support casualties of the war with Israel and their families, and Jihad al Bina (‘construction’ – also the name of a major Iranian foundation), which aims to improve conditions in areas of Lebanon devastated by conflict. Through these and other initiatives, Hizbollah has won a powerful political base. However, like other Islamist movements it is split internally between moderate and radical factions.

The Ismaili sect, a branch of Shiism, has spread over many parts of East Africa and Asia. It is especially well-known for its strong tradition of solidarity and philanthropy. The Aga Khan Foundation, though formally a non-denominational development agency, is strongly identified with the Ismaili community and operates mainly in regions where there are Ismaili minorities. Established in 1967 as a private foundation under Swiss law, its annual income is about \$100 million, and it enjoys stronger relations with Western NGOs than with more mainstream Muslim organisations.

4.5.2 Sufism

Sufism, Islam’s principal mystical school, is named from the wool (*suf*) that its original members wore as a badge of poverty. Sufi brotherhoods have played a major missionary role for Islam, especially in Africa and parts of Asia, partly because their openness to linkages with other religions and customs has softened some of the rigours of orthodoxy. Sufi ‘lodges’ or fraternities have acted as hostels, sanctuaries for outlaws, and granaries, and as channels for poverty relief. In general, however, direct Sufi influence on contemporary Islamic NGOs has been limited.

4.5.3 Wahhabism

The Wahhabi school derives from the ultra-conservative eighteenth century religious reformer Muhammad ibn Abd al-Wahhab, who was opposed to popular Arab customs such as visiting saints and tombs as deviating from belief in the absolute unity of God. The school is the official version of Islam in Saudi Arabia. The king is the leading sheikh,

chief *imam*, head of the al-Saud clan, and head of state, though still subject to Islamic law (*sharia*) and dependent on the consent of the religious authorities. The Saudi regime performs a delicate balancing act between its alliance with the US and its promotion of Islamist movements of various complexions outside its own borders. Among the vehicles for this proselytisation are a number of inter-governmental Islamic organisations, and a network of charitable agencies including the World Assembly of Muslim Youth and the International Islamic Relief Organisation (IIRO). Several Saudi-funded organisations provided relief aid during the Afghan conflict of the 1980s, and the Bosnian war of the 1990s.

4.5.4 The Muslim Brothers

The highly influential Muslim Brothers organisation was founded in Egypt in 1928 by Hassan al-Banna, a schoolteacher opposed to European colonialism and the Westernisation of Islam. It has always pursued a dual goal of socio-economic development and political campaigning. In 1945, at the height of its success, it was required by the Egyptian government to split into two: a section concerned with politics and a section concerned with welfare. Today, it is denied registration either as a political party or as an NGO, but it continues to enjoy popularity. Among its traditional roles have been public health and responding to crises such as epidemics: during the 1990s, its response to disasters such as floods and earthquakes was notably more effective than the Egyptian government's. Although the movement has been compared to Latin American liberation theology, it is not based on any belief in liberating the poor, but aims rather to Islamicise the whole of society. It is generally paternalistic, supported by politically marginalised professionals as much as by the poor, and with a strong emphasis on service provision rather than empowerment.

The Muslim Brothers acquired a martyr in the intransigent, charismatic Sayyid Qutb, an Egyptian intellectual who travelled to the US in 1949 and returned with a contempt for what he saw as Western racism and sexual permissiveness. Imprisoned as a subversive by the Egyptian government and finally hanged in 1966, Qutb left behind him militant tracts urging violence against infidel governments and commending *zakat* as the basis of an ideal Islamic state. He condemned Muslims who refused this challenge, as well as the whole of the West, as belonging to the *jahiliyya*, the 'time of ignorance' before the Islamic revelation. Qutb's influence pervades Islamist extremism to this day.

In contrast to Egypt, the Muslim Brothers in Jordan have a reputation for moderation, constituting a kind of 'loyal opposition' to the monarchy while adhering to the principles established by the Egyptian founders, which include deep-seated hostility to Zionism and building up effective welfare services as an adjunct to their political commitment. In Syria, the organisation was violently

suppressed in the early 1980s. The Muslim Brothers have had a strong influence on Islamist trends in the Sudanese government, and on the Palestinian resistance movement Hamas.

4.5.5 Jamaat-i-Islami

The Jamaat-i-Islami (Islamic Society) was founded in 1941 in India by Mawlana Mawdudi, a journalist who embraced pan-Islamism in reaction to what he saw as the erosion of Muslim power. After independence and the partition of India in 1947, the Jamaat-i-Islami became a leading political party in Pakistan and contributed to the setting up of an Islamic state. As well as running numerous institutions in Pakistan, including hospitals, Jamaat-i-Islami has inspired a network of militant organisations, for instance the Islamic Foundation in the UK and the Islamic Circle in North America. Like the Muslim Brothers, the Jamaat-i-Islami has received funding and support from Saudi sources. It sponsored relief operations in both the Afghan and the Bosnian conflicts.

4.5.6 The Front Islamique du Salut

The Muslim Brothers' example was influential in the founding of the Front Islamique du Salut (the Islamic Salvation Front, FIS) in Algeria in 1989. The FIS' challenge to the unpopular army-dominated regime was facilitated by new legislation that encouraged the growth of voluntary associations and political parties. 'Free mosques' were built outside government control and in defiance of planning regulations, and Islamists focused on local community services in deprived urban areas. Like their counterparts in Egypt, they provided effective and conspicuous relief aid after an earthquake which devastated the Tipasa region of Algeria in 1989. The FIS' victory in municipal elections in 1990 provoked a military coup in 1992, and civil war between armed Islamist groups and the government. Today, moderate Islamic voluntary associations are still active throughout Algeria, and play a substantial role in meeting humanitarian needs, with extensive cultural roots in the communities they serve. They remain distrusted by the government, and subject to frequent restrictions and closures.

4.5.7 Red Crescent national societies

The first Red Crescent society was founded by the Ottomans in 1877. Today, there are 30 national societies, carrying out a wide variety of functions. Some are of major national importance, such as the large Iranian society with its expertise in earthquake relief; others, such as the organisation in Syria, boast an impressive branch structure with strong local participation. As part of the Red Cross and Red Crescent movement, Red Crescent national societies are supposed to be non-confessional. However,

since their choice of emblem reflects the fact that these nations are predominantly Muslim, many have acquired a characteristically Muslim flavour, for instance in their publicity and in their operational priorities.

It is by no means only the Muslim national societies that occasionally put the Movement's commitment to neutrality and impartiality under strain. However, relations with the Muslim national societies have attracted special concern. The Red Crescent societies have formed regional groups, one of which – the Conference of Arab Red Crescent and Red Cross Societies – is independent of the Federation, with its own secretariat in Jeddah, Saudi Arabia. There have been attempts since the early 1980s to establish an Islamic Committee of the International Crescent as a potential competitor to the ICRC, but little progress has been made. At the national level, the Muslim Brothers of Jordan founded a Green Crescent in 1990 to provide medical and other services.

4.5.8 The Edhi Foundation

The Edhi Foundation, built up from nothing in Pakistan by a refugee from India, Abdul Sattar Edhi, is now a prominent national and international agency specialising in emergency relief, medical care and refugee aid. Edhi started by opening a dispensary in Karachi in 1951, largely funded by *zakat* and *sadaqa* donations. Edhi rejects material comforts and attacks such extravagances as the building of mosques and NGOs' overhead costs (Edhi, 1996). Seen as untainted by corruption, he is supported by Pakistanis in all walks of life.

4.6 Common features

There is no 'Islamist International'. Some Islamic 'charities' are organs of autocratic states; others are entirely independent of government. Some concentrate on proselytisation and spreading the Islamic faith; energetic proselytisation is, for example, taking place in hitherto Christian parts of sub-Saharan Africa. Others seek to work more cooperatively with their secular and Christian counterparts. British Muslim agencies, for instance, emulate Christian organisations like CAFOD in seeking as much common ground as possible with other faiths. In others, relief may combine with proselytising aims, with one or the other stressed or downplayed at different times. Many international Islamic charities have classified themselves as NGOs and use the jargon of Western aid professionals, while their techniques of publicity and fund-raising are clearly borrowed from their Western counterparts.

Despite these distinctions, there is a family resemblance among Islamic organisations, and some common features can be identified. For the most part, they concentrate on relief and service provision with an Islamic flavour. Some simple development programmes such as income-

generating projects are undertaken, but concepts such as empowerment, capacity-building or advocacy are less prominent.

4.6.1 References to religious tradition

These include not only allusions to *zakat*, *sadaqa* and *waqfs*, but also familiar Quranic verses and *hadiths*. Muslim Aid's motto is the Quranic verse 'Whoever saved a life, it would be as if he saved the life of the whole of humanity'. The IIRO uses as its logo an ear of corn, recalling another verse that likens charitable giving to a grain of corn that 'fructifies seven-hundredfold'. Other favoured visual motifs are the crescent, minarets, and the Dome of the Rock in Jerusalem. One Jordanian *zakat* committee has used a small plastic model of this shrine as a collecting-box. Green is favoured as a colour especially associated with the Prophet Muhammad.

4.6.2 Orphans

The Prophet Muhammad was an orphan, and almost all Islamic charities run projects to support orphans, and publish appeals on their behalf. To a Muslim, the gesture of crossing two fingers alludes to a saying of the Prophet that whoever looks after an orphan will be 'like this' with him in Paradise. 'Orphan' is generally defined as a child who has lost his or her father (that is, the family breadwinner), but the category may also include illegitimate children. Islamic charities provide a wide range of services, from residential homes and day-care centres to individual sponsorship, and paying for school uniforms, textbooks or special clothes for festival days.

4.6.3 Refugees and the displaced

Aid to refugees is another widely recognised priority. In Islam, as in both Judaism and Christianity, the idea of a forced journey has theological resonance. According to tradition, the Prophet Muhammad had to leave his home town, Mecca, and seek refuge with his supporters in Medina, so that the year of his departure, the *hijra* (622 CE), became the first year of the Muslim calendar. Refugees are eligible for *zakat* as 'people of the road', and Muslim charities often point out that the majority of the world's refugees are Muslim. Interventions by Islamic charities in relation to displaced people have sometimes proved controversial. Islamic charities based in northern Sudan have been accused of applying undue proselytising pressure on displaced people from the non-Muslim south during the long-running civil war. During the Bosnian conflict in the 1990s, Muslim agencies were concerned to keep refugees in place so that their Muslim identity could be maintained, contrary to the apparent policy of the UN High Commissioner for Refugees (UNHCR), which was to disperse them.

4.6.4 The religious calendar and lifecycle

Islamic festivals are based on the lunar month and so move through the solar year. The month of Ramadan is both the main time of the year for Muslim fund-raising, as Christmas is for Christians, and an occasion for special food to be provided to the needy. In 2001, Islamic Relief distributed 10kg food packets to nearly half a million of the world's poorest people. The Id al-Kabir (Id al-Adha) or great feast is traditionally when a sheep or other animal is sacrificed in memory of the sacrifice that the Prophet Abraham made to God in substitution for his own son. Some charities in the Arab world import live sheep from Australia for this purpose. Islamic Relief supplies canned, pre-cooked mutton to Muslim countries, the sheep having been sacrificed in New Zealand according to Islamic guidelines (*halal*) approved by the Islamic Council of New Zealand. Some charities also subsidise circumcision ceremonies for young boys, which are usually carried out at the age of about seven years. Children are also sent on the *umra* (lesser pilgrimage) to Mecca, as a reward for good schoolwork.

4.6.5 Gender issues

As in other areas, there is no single Islamic approach to gender issues in humanitarian action. Diverse activities address the needs of men and women in crisis-affected countries. Overall, however, the direct provision of assistance to women in the form of empowerment and capacity-building remains a sensitive subject for Islamic charities, and for NGOs working in Islamic communities. Some operate a 'whole family' policy, which seeks to respect traditional family structures, in particular maintaining the position of men as primary providers, decision-makers and representatives in public life. Situations of conflict or mass displacement can, however, make this policy difficult to operationalise. In such circumstances, gender-sensitive activities for widows and single mothers are becoming increasingly acceptable, including the identification of traumatised widows and orphaned families and their needs, the provision of micro-credit to women for household-based income-generation projects, and the provision of skills training to enable women to find employment, earn an income and provide care for themselves and their families. Organisations such as Islamic Relief have challenged significant forms of discrimination against women; for example, it produced a notable video film during the Bosnian war in support of raped women, seeking to dispel the popular prejudices that often stigmatise them. At the same time, in some socially conservative Muslim countries, traditionalists have accused secular NGOs of creating friction and undermining the social base by empowering and training women.

4.6.6 Muslim schools

Several Islamic charities support schools, including traditional *madrasas*, attached to mosques. In the mid-1990s,

IIRO ran its own schools in Sierra Leone and Uganda, and supported many others. IIRO's main stated aim has been to boost literacy and provide vocational training. In 2002, the International Crisis Group claimed that Pakistan's network of *madrasas* was receiving more than £800m a year from Muslim charitable donations, much of it coming from British-based organisations such as Mercy International. Religious parties in Pakistan are campaigning against moves to clamp down on these schools, which the country's president Pervaiz Musharraf claims are promoting violence, especially against Christians (The Times, 10 August 2002). In Bangladesh, competition between secular, Western-backed schools and boys-only *madrasas* has increased antagonism between Christians and Muslims. In Africa, Islamic NGOs such as the Young Muslim Association of Kenya are transforming traditional Quranic schools into more activist institutions, including the provision of food (Salih, 2003).

4.7 Accountability, transparency and professionalism

Accountability – to beneficiaries as well as to donors – is an important point of difference between Islamic agencies and their Western counterparts. In the West, transparency and accountability now occupy an important place in the work of humanitarian agencies. By contrast, the majority of Islamic charities regard accountability as merely a courtesy owed to donors; most have not adopted the kind of procedures common in the West. This lack of financial transparency also makes studying Islamic humanitarianism particularly difficult.

The IIRO exemplifies this tendency. The organisation was founded by the Saudi Arabia-based Muslim World League in 1978, initially to take charge of a number of hospitals in Africa. By the 1990s, it had become the largest Islamic relief agency, enjoying the personal patronage of senior Saudi princes. In 2001, it is reported to have spent some \$33m on 2,800 projects in about 95 countries. Funding is largely from *zakat* contributions from Saudi citizens and businesses.

The IIRO's high-point came in 1994–95, under the dynamic direction of Dr Farid Gurashi, when it opened up relationships with many other agencies, Western as well as Muslim, diversified into new fields such as the protection of women refugees and published a glossy newsletter in English – though not an annual report and accounts. According to Gurashi (personal interview, January 1995), the IIRO was committed to helping anyone in need without distinction, 'even Serbs', and it was one of the first agencies to help the non-Muslim victims of the Rwandan war. At the same time, however, emotive Arabic fund-raising videos stressed the damage done to the Muslim *umma* by 70 years of Soviet communism, which had divided Muslim nations and imposed atheism, leaving the IIRO with the task of helping to restore a mutilated

cultural tradition as well as satisfying material needs. Gurashi left the IIRO soon afterwards, reportedly because his high-profile policy fell out of favour with the Saudi authorities. There is no reason to doubt that most of its health, education and other programmes continue to be professionally managed. However, the IIRO has ceased to make available any up-to-date information on its activities, and so cannot effectively defend itself publicly against accusations that it has been involved in subversion in Kenya, the Philippines and India.

Islamic NGOs face a tension between maintaining a distinctive religious character, and encouraging the professionalisation of relief, thus bringing them more into line with their Western counterparts. An analyst of Islamic NGOs in Africa argues:

As there is no distinction between ethics and law in Islam, there is also no distinction between NGOs' social, economic, political and religious functions ... If Islamic philanthropic organisations seek to become truly professionalised, they need to submit to the kinds of professional standards and codes of conduct that are increasingly demanded of western NGOs and private sector companies. Should they take this route, then they will lose much of their specifically Islamic character (Salih, forthcoming 2003).

This 'seamlessness' of Islam may be exaggerated. Islamic NGOs in the UK, for instance, have shown that it is possible to maintain a distinctive religious character, while also adapting their organisation and financial procedures. Despite criticism from militants for abandoning Islamic ideals, the two major British Muslim agencies, Islamic Relief and Muslim Aid, have adopted the standards of accountability that prevail among their non-Muslim equivalents: strict rules operated by audit authorities and the UK government's Charity Commission; and conditions imposed by the British government and the European Union as major donors and partners.

Islamic Relief, the senior of the two agencies, was founded in 1984 by a group of medical students responding to the famines in Ethiopia and Sudan by means of street collections. Its principal founder, Egyptian doctor Hany El-Banna, is still managing director. Although based in Britain, where it has six branches, Islamic Relief has also built a substantial fund-raising base overseas. Of its £15.1m revenues for 2000, £2.8m came from the US, £2.2m from France and £1.9m from Belgium, Germany, the Netherlands, Sweden and Mauritius. Its programme includes major emergency projects in Afghanistan, Palestine and Ingushetia, where it is helping war-displaced Chechens. A small proportion of its effort is devoted to work that benefits non-Muslims. Like other organisations that have grown from nothing with charismatic leadership, Islamic Relief is currently experiencing a 'pioneer crisis' as it seeks to set up more formal management structures in keeping with its size. Unusually for a high-profile charity, none of its trustees is a public figure.

Like the Aga Khan Foundation, Islamic Relief has used African religious networks innovatively. In Mali, an almost totally Muslim country, it works with local Islamic organisations to promote vital services, community development and conflict resolution. Since Christian agencies such as Christian Aid have had considerable success in working through local churches in Africa, it is a logical step for an international Muslim agency to seek to do the same with local mosque committees in Africa's large Muslim belt - an experiment which could have fruitful results through reaching grass-roots organisations barely accessible to secular or Christian NGOs.

The UK's other leading Islamic relief agency, Muslim Aid, was founded in 1985 by the singer Cat Stevens, after he took the Muslim name of Yusuf Islam following his conversion. Yusuf Islam later left the organisation, and in 1999 founded a new charity, Small Kindness, focused on relief aid in the Balkans. A prominent moderate Muslim leader now chairs Muslim Aid's board of trustees. Its annual budgets are smaller than Islamic Relief's (£3.7m in 2000-2001), it has no overseas fund-raising branches and it is more conservative and arguably less innovative in its projects. For instance, it places more emphasis on building mosques and less on extending aid to non-Muslims, adhering to a conservative interpretation of the Quran, rejected by Islamic Relief and a number of more liberal religious authorities, which holds that *zakat* benefits should be restricted to Muslims. The areas benefiting most from its programmes in 2000-2001 were (in order of spend size) the Indian subcontinent, Afghanistan, Palestine and Chechnya.

4.8 Islamic charities and 11 September

Although the attacks on the US on 11 September caught observers of the Muslim world unawares in their scale and destructiveness, the intentions of their instigators were less of a surprise. The view that al-Qa'eda has nothing to do with Islam is untenable: all religious - like political - doctrines are capable of leading to extremism and violence. A more pertinent question is whether Islam may be especially vulnerable to distortion by such movements as al-Qa'eda - for various historical reasons, principally the institutional weakness and marginality of its modernising or reformist tendencies. Some analysts take this view, but others hold that today's violent Islamist movements, drawing selectively on fragments of religious tradition, are intelligible only when we consider the social costs of decolonisation, as after the partition of India, and the impact of the Cold War on peripheral regions such as Afghanistan.

Even though al-Qa'eda has more in common with European fascism or fringe cults than with traditional Islam, its use of religious idioms and symbols attracts sympathy from a wider circle of co-religionists - just as peaceable Irish Catholics could be swayed by sympathy for

militant Republican organisations. There are Muslims sympathetic to Western liberal values, and opposed both to autocratic governments in the Arab world and to radical Islam, who now feel the middle ground eroded and their loyalties torn.

Since the attacks, Islamic charities have faced increasingly intense scrutiny for alleged links with extremist groups. Such allegations are not, in fact, new; in 1996, for example, the US extradited to Israel a Palestinian member of the militant group Hamas who had allegedly been raising money for arms purchases under the cover of fund-raising for hospitals, schools and mosques in the Middle East (The Times, 10 May 1996). An estimated 10% of the substantial funds remitted to Hamas from sympathisers around the world is spent on armed resistance, with the rest going on its extensive welfare services for Palestinians (Jane's Intelligence Review, May 2002: 17-19). The US was itself alleged to have used charitable organisations as a channel for arms to the Afghan *mujahideen* during the Soviet war in the 1980s (Rubin, 1997: 191). Nor are links between charity and military activity a monopoly of Islam: during the Nigerian civil war of 1967-70, for example, the separatist Biafran enclave was supported by 'mixed cargoes' of arms and aid condoned by Christian donor churches (de St Jorre, 1975: 241).

Although Osama bin Laden personally funded relief and development programmes in Sudan and Afghanistan in the 1990s, clear associations between Islamic charity and anti-Western violence are rare. Organisations such as the Muslim World League, the IIRO, Benevolence International and the Saar Foundation have vigorously denied nearly all the published allegations against them, many of which appear to be speculative and/or inaccurate. One legal defence submitted on behalf of Benevolence International is that, even if such allegations could be proved by the US government, they date back to periods when the US administration was supporting the same groups that the charity is alleged to have financed (Financial Times, 18 October 2002). Although it has not been able to avoid the general suspicion of Islamic charities after 11 September, Islamic Relief has maintained the support of prominent British government and royal personalities, and has kept a low profile over controversial issues such as the war against the Taliban in Afghanistan. In September 2002, however, it joined with other leading British aid agencies to warn against the humanitarian consequences of war against Iraq.

The US has sought to identify Islamic charities engaged in facilitating 'terrorist' activities and to cut off funds channelled through them, but progress has been slow. In March 2002, Saudi Arabia was persuaded to block the funds of the Somali and Bosnian branches of the Al-Haramain Islamic Foundation, headquartered in Riyadh (the name refers to the 'two holy places', Mecca and Medina). However, in September 2002 Saudi newspapers reported that the same foundation was expanding its operations in

both Somalia and Bosnia. Critics of the current US administration claim that its efforts to crack down on the funding of 'terrorism' have been compromised by a reluctance to embarrass its allies in Saudi Arabia. The US government's campaign is also weakened by its insistence on placing international networks of the al-Qa'eda type in the same category as groups like Hamas and Hizbollah, which are widely viewed in the Arab world as legitimate movements of national resistance.

4.9 Politics, principles and law: the West and Islam compared

4.9.1 The politics of Islamic relief

In the West, expressions such as 'humanitarian intervention', used to justify the Kosovo campaign and the war against the Taliban, jar with those humanitarian NGOs that have sought to stake out a field of action free from the considerations of politics. At the same time, it has been accepted that humanitarian aid is unavoidably part of a wider political and economic agenda (de Waal, 1997; Macrae, 2002).

A similar historical intent to create a sphere of 'pure' charity may be inferred from the Muslim tradition of the public *waqf* and from the Quranic injunctions to aid the helpless. However, the founders of modern Islamic charities have since the 1970s appreciated the political opportunities humanitarianism can offer. In some countries, Sudan and Bangladesh for example, they have come into conflict with Western NGOs, accusing of them of importing either Christianity or - even more objectionable to traditional Muslims - godlessness. If so much of their energies had not gone into intra-Islamic competition, Islamic agencies might have presented a more formidable challenge to the Western aid system; as it is, they are already making a major impact among Muslim populations such as displaced Chechens, who feel neglected or abused by non-Muslims. In some places, non-Muslim NGOs tend to be seen by their intended beneficiaries as dominated by local elites and offering sophisticated forms of development aid that do not answer immediate needs (Ghandour, 2002: 174-75).

A doctrine of 'cultural proximity', or communitarian aid, seems to be developing in parts of the Muslim world; that is to say, there is a belief that Muslims are best at helping fellow Muslims. However, this position rests on the principle of the undivided *umma*. During the Bosnian conflict of the 1990s, efforts by Arab-Islamic aid organisations to 're-Islamise' Bosnian Muslims, after nearly half a century under Communist rule in a European state, were frustrated both by the diversity of the Muslim influences brought to bear through humanitarian aid, and by the poor reception given by the Bosnian Muslims to symbols of Islamist revivalism, such as beards for men and veils for women (Bellion-Jourdan, 2003: Chapter 7). By contrast, rural Kosovo has been targeted with some success

by the Saudi Joint Committee for the Relief of Kosovo and Chechnya, which is introducing a rigid interpretation of Islam through relief aid and schools (Blumi, 2002).

4.9.2 Universal versus relative

Western humanitarianism is grounded in a set of shared principles and a corpus of international law that encapsulate the notion of a shared humanity. Principles of humanitarian action state that assistance is offered impartially, without discrimination and irrespective of other considerations such as the race, religion or political affiliation of those being assisted, and that assisting agencies occupy a neutral space and do not take sides. International law governs the treatment and protection of conflict-affected populations, and sets out basic human rights and freedoms. While international courts have been set up to articulate and clarify this body of law, their power is limited and the law's application in concrete cases is often in dispute or flouted.

To what extent are legal instruments such as International Humanitarian Law (IHL) and the Universal Declaration of Human Rights compatible with Islamic legal tradition? Ameer Zemmali, an Islamic scholar and senior official of the ICRC, has compared the provisions of the Geneva Conventions and the Additional Protocols relating to combatants and prisoners of war with the corresponding principles as embodied in Islamic tradition. Islamic law addressed the 'laws of war' long before Christian Europe, but these ideas draw their strength from a religious order that recognised no sharp line between spiritual and temporal matters, and from a time when such practices as enslavement and plunder were considered an inevitable part of war (Zemmali, 1996). In the West, by contrast, IHL has emerged from a movement of ideas rooted in the seventeenth century Enlightenment and nineteenth century philanthropy. Nonetheless, there is much common ground between these two traditions. Both, for instance, recognise the important principle of mutual respect between opposing armies in combat, and both share a commitment to the protection of children and the elderly, and to the preservation of natural resources.

Since the 1960s, the ICRC and some of its associates have devoted considerable efforts to seeking parallels in Islamic and other non-Western doctrines for its humanitarian principles and for the essentials of IHL. This has been criticised for assuming the superiority of a Western yardstick (Bitter, 2003). However, it is only by means of making this effort that the ICRC has equipped itself to enter discussions with such organisations as Hizbollah and Hamas about issues of military ethics such as attacks on non-combatants and the treatment of alleged collaborators (personal interviews, 1993 and 2002).

Attention has also been paid to the relationship between Islamic principles and international law on human rights,

which emerged from a number of turning-points in Euro-American political history. A leading Western authority on this subject, Ann Elizabeth Mayer, takes as her analytical starting-point her belief in 'the normative character of the human rights principles set forth in international law and in their universality' (Mayer, 1999: xvi). Mayer has, however, been criticised for her assumption of the axiomatic superiority of international human rights over Islamic law, when twentieth century Europe saw massive violations of human rights (Strawson, 1996). Certainly, the principle of justice pervades Islamic doctrine, and it is significant that the promoters of the abortive Islamic Crescent sought to add this to the Red Cross and Red Crescent Movement's seven fundamental principles. It has been argued that, although Islamic theology strongly enjoins compassion, generosity and moderation, its cardinal virtue is justice (Boisard, 1979: 117-34). The historical origins of IHL and human rights law are distinct from each other, and IHL applies during times of conflict when some human rights are on occasion deemed to be suspended. However, there is considerable convergence between the two developing fields today. The fact that Islamic law does not compartmentalise the two concepts could in future facilitate a broad-based dialogue with Muslim spiritual leaders about core values.

Western humanitarians are often faced by local cultural variations from norms that they may have taken for granted. For instance, in traditional households in many non-Western societies the oldest members are obeyed unquestioningly and daughters-in-law are expected to be subservient. Islamic doctrine does not invite us to make allowances for it as a cultural exception. It is an alternative universalist model for living, offering a critique both of Christian universalism and of its successor, secular post-Christian universalism. We need to ask how Western universalism appears to non-Western eyes. A humanitarian with professional knowledge of both has asked the 'what if?' question (Ghandour, 2002: 323): what if the West had undergone *Islamic* crusades, and was now emerging from the Arab-Muslim colonial yoke. Islamic charities might then be seen as the norm, with Christian organisations threatening their dominance.

Writers such as the British political scientist Fred Halliday defend universalism and contend that there will be no progress in the Muslim world without a separation of religion from the state, as in modern Turkey (Halliday, 1996) - though there this separation is under threat. The Muslim world is indeed caught between the attractions of secularisation, seen by many as an imperative for fruitful interaction with the West, and the reassurances of religious tradition. These conflicting motivations are played on by ideologues and politicians of all leanings.

4.10 Conclusion

The global trend is towards secularisation, but all the world religions have generated countervailing revival movements

looking back to an imagined lost integrity. The Islamic resurgence is part of this pattern. Political and military turbulence in the Muslim world will sharpen these tensions. Islamic charities reflect this, but also offer an opportunity for building bridges between Islam and the West.

Both the key English terms 'humanitarian' and 'charity', though differing in their exact connotations, designate bounded fields of action that aim to keep politics at bay. It may be that boundaries between these privileged spheres and the political sphere are a necessary cultural device on which a civilised society depends. It is nonetheless

legitimate to apply a political analysis to all that is done under the auspices of 'humanitarianism', however defined, but without assuming that such analysis can provide a full understanding of its motivations. The political intentions of many Islamic humanitarians seem obvious to non-Muslim observers. At the same time, Islamic humanitarianism cannot be reduced to politics alone. Traditions such as *zakat*, *sadaqa* and *waqf*, and the rich verbal imagery of the Quran, constitute a form of 'social capital'. Dialogue on issues of this kind – not merely between different faiths, but between the religiously inclined and the secular – is an alternative to accepting the clash of civilisations as inevitable.

Chapter 5 Afghanistan and the 'war on terror'

Chris Johnson

5.1 Introduction and overview

After a decade of international political neglect, the events of September 2001 served to shift the world's attention on to Afghanistan. This chapter analyses how the changes in the geopolitical environment not only had major implications for the nature of security and political institutions within the country, but also how it influenced the definition of, and response to, humanitarian need. It argues that, while the overthrow of the Taliban has created opportunities for security, the protection of human rights, development and enhanced government, these remain largely unrealised. The new political context has seen a redefinition of the architecture of international engagement, but the extent to which this reflected radical changes in either humanitarian need or the programmatic responses to that need remains much less clear.

5.2 Afghanistan 1991-2001: from the mujahideen to Bonn

5.2.1 The rise of the Taliban

The history of contemporary conflict in Afghanistan is nearly three decades long, complex and multi-layered. The collapse of the Soviet Union removed one layer - that of a Cold War proxy conflict - but revealed many more. Once Soviet troops left and the Soviet Union itself disintegrated in 1991, Afghanistan became a largely forgotten country. The *mujahideen*, armed against the Soviets by the West, Saudi Arabia, Iran and Pakistan, were left to fight each other and to pillage their own country. Shifting alliances between factions, and the Taliban's later military successes, left little scope for a peace settlement; although the UN maintained a mission in the country, without high-level engagement from the major powers political efforts to resolve the conflict ground to a halt.

By the end of 1996, the Taliban controlled more than half the country, including Kabul. In the areas they captured, they systematically disarmed the population, an action that led to much relief for ordinary Afghans, and brought the Taliban a measure of support, despite the repressive policies they introduced. In March 1997, the Taliban made their first attempt to capture the northern capital of Mazar-i Sharif, one of the country's main cities, base for the Junbish commander General Dostum and key to supply routes for the Northern Alliance. Taliban forces occupied the city briefly before being driven out. In the first of what was to become a series of massacres in the north, a large number

of Taliban prisoners were either suffocated in the containers into which they had been herded or summarily executed. Meanwhile, fear of an exodus of refugees led to the closure of the Uzbek border. A second Taliban attack on Mazar-i Sharif in September 1997 was repulsed, but led to a period of anarchy in which there were more human rights abuses, largely against civilians. Mazar was finally taken by the Taliban in August 1998, with backing from Saudi Arabia and Pakistan (Rashid, 2000: 72). In the process, some thousands of people were massacred, partly in retaliation for what happened in 1997.

At the same time, the Taliban put pressure on the central area of Hazarajat through the imposition of a trade blockade. Although some food continued to make its way into the area, people were prevented from getting their livestock to market, causing a collapse in prices and depriving many families of income (Johnson, March 2000). Families were often found trading their animals for as little as a single sack of wheat.¹ The blockade ended in the latter half of 1998, when the Taliban finally took control of the area. Pockets of conflict persisted in Hazarajat and along the front line in the north-east in 1999, but the main fighting was a Taliban offensive in Shamali, just to the north of Kabul. This displaced some 200,000 people to Kabul and up into the Panjshir valley (Rashid, 2000), and included the destruction of household and agricultural assets. By 1999, the Taliban controlled 90% of the country, but were still recognised only by Pakistan, the United Arab Emirates and Saudi Arabia.

In 1997, the UN had appointed a senior diplomat, Lakhdar Brahimi, as Special Envoy to Afghanistan, and made a serious attempt to make progress in bringing peace to the country. Brahimi formed what was known as the 6+2 group, comprising Afghanistan's neighbours - Tajikistan, Turkmenistan, Uzbekistan, Iran, Pakistan and China - plus Russia and the US, but the Taliban's military victories gave them little cause to negotiate, the factions within the Northern Alliance were fighting among themselves (Rashid, 2000), and neighbouring countries continued to pursue their own interests in Afghanistan. This, combined with the lack of sustained engagement by the major Western powers, meant that Brahimi was able to accomplish little, and he resigned in October 1999 (Maley, 2002). As the decade drew to a close, Western, particularly US, attitudes began to harden significantly, and both 1999

¹ This information is taken from unpublished studies undertaken by Oxfam for WFP's Vulnerability and Mapping (VAM) Unit.

and 2000 saw the passing of UN sanctions against the regime.

Meanwhile, the majority of the population became increasingly disenchanted with the Taliban and with the large numbers of foreign fighters they had brought into Afghanistan. In urban areas, Taliban restrictions on women, especially the prohibition on working outside the home, plunged many families further into poverty. At the same time, there were also increasingly repressive measures against women's freedom in non-Taliban areas, though these were not so systematically pursued.² Government structures functioned fitfully, if at all, and much of the country's infrastructure was destroyed.

5.3 September 11 and its aftermath

5.3.1 The overthrow of the Taliban

In the wake of the attacks of 11 September, it rapidly became clear that the US would retaliate against the Taliban regime for harbouring Osama bin Laden. While initially security in the country remained reasonably stable, this started to change once the US-led bombing began in October 2001. This was in part as a direct result of the air campaign, and partly because of the security vacuum that opened up as the Taliban's control over the population began to slip and access to arms increased with the influx of weapons to opposition groups from the US and its allies (Woodward, 2002). On 9 November 2001, Mazar fell to Northern Alliance forces, followed shortly afterwards by most of the other northern cities; by 13 November, the Taliban had deserted Kabul and the Northern Alliance entered the city unopposed. The Taliban capital, Qandahar, fell in early December.

The number of civilian deaths is disputed; estimates range from 1,000 to at least 3,767 (Herold, 2001) in eight and a half weeks, largely due to high-level bombing, and the war continued to claim civilian lives in the months that followed as coalition forces tried to round up al-Qa'eda remnants. A number of villages were bombed due to mistaken information, and civilians were wrongly detained, including people seized from their homes in Pakistan and transported to Afghanistan (Fisk, 2002). Concerns were also raised about the treatment of prisoners of war, particularly Taliban soldiers taken in the northern town of Kunduz by Northern Alliance troops working with coalition forces. These were transported to Mazar and on to Dashte Leili, where a substantial number seem to have met their death either by suffocation en route, or by summary execution. A

² For example, in Mazar in 1997 women were forbidden to work in international agencies unless they had a female head of mission; in Faizabad, capital of the north-eastern province of Badakhshan, women increasingly found themselves unable to go to their offices.

number of prisoners held in the Qala-e Jangi fort in Mazar also met their death in suspicious circumstances, either by shooting or when the Coalition forces bombed the fort (PHR).

The military campaign received a mixed reception from Afghans themselves. On the one hand, most were delighted to be rid of the Taliban. On the other, they had memories of the destruction wrought previously by many of the groups now allied with the Coalition. These fears were accentuated by the fact that the Northern Alliance (in particular the Panjshiris) occupied Kabul in advance of a political settlement. This, along with the reestablishment of warlord power at the provincial level, constrained what was possible at Bonn, and political progress thereafter.

5.3.2 Bonn and beyond

The fall of Kabul in November 2001 was followed by a meeting of representatives of the key Afghan groups at Petersburg near Bonn in Germany. The accord signed there on 5 December, commonly known as the Bonn Agreement, was in effect a deal between victors in a war won largely by an external power. Moreover, Afghanistan was far from being at peace. While the war to remove the Taliban from power had been won (at least for the time being), two further conflicts continued: the Coalition's pursuit of al-Qa'eda, and the struggle for power between the Afghan factions. While US airpower kept the latter from breaking out into the kind of open warfare seen in the early 1990s, sporadic outbreaks of fighting occurred in many parts of the country, and the overall security situation remained poor.

The Bonn Agreement brought into being the Afghanistan Interim Authority (AIA), to which power was officially transferred on 22 December 2001, and laid down a transition process. The key components of this process were:

- the holding of an Emergency *loya jirga* (ELJ) or grand assembly after six months to select an Afghanistan Transitional Authority (ATA), which would succeed the AIA;
- the establishment of a Constitutional Commission to draft a new constitution for Afghanistan, which would be subject to discussion and approval by a Constitutional *loya jirga*, to be held no less than 18 months after the ELJ; and
- holding 'free and fair' elections no less than two years after the ELJ.

In addition to the Constitutional Commission, the Bonn Agreement provided for the setting up of a Civil Service Commission, a Judicial Commission and an independent Human Rights Commission. Annexes also dealt with the role of an international security force and the UN, including requesting the UN to undertake voter registration for elections.

The Bonn Agreement left a number of important matters to be worked out as part of the transition process. These included the demobilisation, disarmament and reintegration of armed forces (DDR), and the formation of a national army and police force. Moreover, a number of key provisions – crucially, the demilitarisation of Kabul – were not adhered to. This inevitably sent out a message that warlord power would not be challenged, and it paved the way for much of the intimidation that has followed.

The countrywide delegate selection for the ELJ, facilitated by the UN in the form of the UN Assistance Mission in Afghanistan (UNAMA), was marred by violence and intimidation in some parts of the country. Nevertheless, it was generally agreed to be the most democratic process that Afghanistan had seen, and many Afghans stood for selection in the face of opposition from commanders and warlords. The real problems, however, occurred in the ELJ itself. The admission of last-minute participants, along with behind-the-scenes manoeuvring and procedural irregularities, led many to believe that the outcome had been manipulated. The presence of intelligence personnel from the faction controlled by the Minister of Defence led to widespread feelings of intimidation (ICG, 2002). Thus, while the ELJ did result in the establishment of the planned Afghan Transitional Administration (ATA), this did not deliver the fundamental shift in power away from the warlords that many had hoped for. The apparent acquiescence of the UN and the major Western powers in this intimidation only served to embolden the commanders (Johnson et al, 2003).

Throughout the rest of 2002, pockets of fighting continued, and factional politics remained as complicated as ever. The ATA's narrow political base compromised its legitimacy nationally and internationally. The process of disarmament and demobilisation and the formation of a national army and police force remained slow, as did the work of the various commissions agreed at Bonn. Meanwhile, attacks on civilians and on international forces from those opposed to the settlement became more frequent, and by early 2003 the security situation in several parts of the country had significantly worsened. Despite numerous requests, from UN Secretary-General Kofi Annan, President Karzai and Afghan and international NGOs, the international peacekeeping presence remained confined to Kabul.

5.4 Humanitarian need and response: continuity and change

Afghanistan has long been on the list of extremely poor countries, and the subject of successive appeals for emergency relief to mitigate the combined effects of war, prolonged economic and political instability and natural disasters. A review of trends over the past decade, in particular a comparison of humanitarian response before and after 11 September, suggests that the international community has struggled both to define the nature of

vulnerability in Afghanistan, and to respond to it. Specifically, it suggests that humanitarian action remains profoundly shaped by the geopolitical, as well as the local, contexts within which it works. Furthermore, there remain real challenges regarding defining the scope of humanitarian action in responding to the structural economic and institutional problems inherent in protracted crises.

5.4.1 The politics of hunger: constructing need in a complex political emergency

While there has been widespread humanitarian need in Afghanistan, this has not been associated with starvation, as seen in Africa throughout the 1990s, and in countries such as Cambodia in the 1970s. Nevertheless, the bulk of aid received in Afghanistan in recent years has been in the form of food aid. This section examines the assumptions that have underpinned international efforts to enhance food security in the country, and how they changed in the aftermath of 11 September.

The improved security environment that followed from the Taliban's expanding control in the country provided at least modest opportunities for the recovery of the economy in some areas. However, these were quickly undermined by the onset in 1999 of a severe drought in the central highlands. By 2000, this had spread to almost all of the country.

While the drought was undoubtedly severe, its precise impact remains difficult to determine because of the paucity of food security data in Afghanistan. Despite the presence of major relief operations over at least a decade, before the drought hit there were no accurate records of harvest levels or numbers of livestock. There was no good understanding of how Afghans made up their livelihoods, or the diversity of sources of income upon which they relied (Pain and Lautze, 2002). Nor was there adequate understanding of the strategies that communities have deployed to survive the severe droughts which on average hit the country every 30 years.

A WFP Vulnerability and Mapping Unit (VAM) survey undertaken in July–August 2001 stated that at least three million Afghans would not have access to sufficient food to meet their requirements up until the next harvest (WFP, 2001). Food requirements were estimated at 170,000 tonnes over the coming six months. For many families, however, the problem was less the loss of crops – poor families in Afghanistan are never self-sufficient in grain – but the loss of the ability to *purchase* food. Livestock prices collapsed, large numbers of animals were lost, the migration of families and individuals increased and levels of indebtedness grew.

The drought prompted a large number of information-gathering exercises, but most of the results were debatable,

not least because answers to the questions aid workers posed were understandably aimed at maximising the likelihood of assistance. Nor was there sufficient baseline data regarding health indicators to allow an accurate understanding of the extent to which mortality and morbidity increased as a result of the drought. Even basic population figures were contested.

Who was most affected where, and how they survived, was also far from clear. Although the chronically food insecure central highlands suffered the most prolonged period of drought, in 2000 and 2001 the areas that saw the most dramatic decline in yields were the rain-fed northern districts, while livestock losses were at their most obvious in the south. WFP estimated that, in the northern districts in 2001, the great majority of households could only meet half of their food needs for the year. However, the methodology used to reach this conclusion relied on current sources of income and production, and did not take into account assets that could be sold in order to purchase food. In this respect, the northern districts, which generally have good harvests and a better asset base, fare better than the chronically food-insecure districts in the centre, which have long practised labour migration as a means of maintaining their livelihoods. On the other hand, it has been argued that, precisely because they were generally better off, households in the northern areas had weaker coping strategies (WFP, 2003).

In chronically food-insecure areas, many people had by 2000 used up all their assets, and out-migration had increased as family members, and sometimes whole families, went in search of the means to purchase food and other requirements (Office of the UN Coordinator, 2000). Afghanistan's *kuchi* (nomad) population also suffered greatly: poor families lost all their animals, and even the rich lost large portions of their flock, although the better-off were able to truck at least some of their animals to areas of the country that still had grazing - and many had substantial non-livestock assets. The *kuchis* are, however, well adapted to coping with cyclical losses and there were clear signs of recovery in 2003. The loss of livestock, along with the drying up of water sources, caused many people to become IDPs seeking assistance, often on the edges of towns. Urban areas also suffered. Kabul became more impoverished as economic recovery, such as it was, passed it by and IDPs from drought and conflict sought refugee and assistance in the city.

Generally, it was accepted that while chronic malnutrition was a problem in Afghanistan, acute malnutrition was not, despite the fact that the amount of food delivered by international aid was considerably less than the predicted deficit. Either people got through primarily by their own survival skills, or the figures were wrong, or a combination of both. Strong patterns of reciprocal obligation exist, both within wider family networks and, in the rural areas, within and between villages. However, by 2001 a number of experienced aid workers were beginning to question

whether these social networks were nearing breaking point in some places, and it was noted that in some areas even those who were well off had little left to share.

5.4.2 Redefining needs: food security and food aid post-9/11

With the evacuation of international staff after 11 September, WFP stopped all food deliveries, and in places suspended the distribution of food already in its warehouses. Given the food situation in Afghanistan, and with winter approaching, this decision was heavily criticised, especially as security did not initially markedly deteriorate and there was no reason to believe that Afghan staff could not have competently distributed the food and undertaken the necessary monitoring. Perhaps because of pressure from NGOs and donors, WFP resumed deliveries. Large amounts were delivered: WFP sent in more than 212,000 tons of food in the last three months of 2001 (WFP, 2001). In December 2001, WFP decided to distribute a three-month ration to all residents of the major cities, a decision for which there appeared to be little programme logic as untargeted, one-off urban food distributions do little to improve food security (Lautze et al., 2002).

The suspension and then resumption of food aid deliveries coincided with a revision in the estimates of the numbers of people in need. After 11 September, estimates of those at risk from food shortages rose from three million to seven million, and later climbed to over nine million (IRIN, 2001). Although WFP may have under-estimated the original problem, it remains unclear on what basis the rapid increase in the estimated food deficit is based, particularly since the main factor determining vulnerability - drought and the long-term effects of impoverishment - had not changed significantly in this period. In this context, claims by the US Agency for International Development (USAID) that a major famine had been averted by enhanced delivery of assistance remain based on scant evidence (Natsios, November 2001).

Meanwhile, some of the more food-insecure areas of the country were still receiving little or no food aid. The areas of greatest food insecurity were generally the most remote parts of the country, and while major shipments were sent to rural areas these did not always get to where they were needed. In one example, 2,000 tonnes of food aid were delivered to the fertile valley of Yakawlang, well in excess of needs, whereas the much more needy district of Dai Kundi remained without food. A number of NGOs reported food being simply dumped at roadsides, or complained that free distributions were undermining longer-term work.

The general consensus that, outside of the most acutely affected areas, cash for work programmes should replace free food aid was reinforced by a report commissioned by USAID on food security in Afghanistan (Lautze et al.,

2002). In practice, however, food was what the international community had, and to a large extent food was what Afghanistan got (House of Commons, 2002–2003).

While the drought undoubtedly increased poverty and indebtedness, there was clearly more capacity to recover than was predicted. Despite claims that all assets have been expended, and that recovery will take years and require much assistance, Afghan agriculture is proving resilient. In the north and west of the country, the 2002 harvest was in most places excellent; the Food and Agriculture Organisation (FAO) reported harvests up by 82% over 2001, and only 4% below the levels of 1998.³ This did not, of course, mean that all families had enough food, and some areas were still experiencing drought in 2002. Excellent rains were also experienced in the spring and summer of 2003. Moreover, the substantial planting of poppy in 2002, and even more so in 2003, in some of the poorest areas most prone to food insecurity meant that many families were able to recover in a way that was not predicted.

The drought has not only affected agriculture; in many areas there is also a serious drinking water problem, sometimes exacerbated by well-drilling programmes and the lack of an overall water management strategy. The water table remains very low in some areas and it will take many years of good rains to restore. In Kabul, even before the drought, there was a danger of contamination of the water table through over-reliance on wells (Oxfam, 1999), and 85% of the population (over two million people) do not have access to running water.

One of the consequences of the drought is increased inequality. The poorest families lost all of their livestock and are usually badly in debt. It is also unclear what impact the return of refugees from neighbouring countries will have on the Afghan economy, in terms of the opportunities for livelihoods, increased pressure on local services and the loss of remittances.

5.4.3 Displacement and response: trends in displacement and international policy towards Afghan refugees

The major waves of displacement in Afghanistan were caused first by the Soviet bombardments of the 1980s, then by the mujahideen's destruction of Kabul between 1992 and 1994.⁴ Smaller but still significant displacement continued throughout the late 1990s, associated with both the fighting and the drought. Fighting tended to uproot whole families, but they often remained internally

displaced, while the most common response to the drought was for individual family members to migrate in search of income to support the rest of the household. There was also a steady drain of people seeking refuge outside the country, not in response to specific events, but because of a general deterioration in living conditions; in the late 1990s, for example, many educated families chose to leave in search of a decent education for their children. Although some managed to obtain official refugee status, many more bought illegal passage. Those with the best contacts and most money ended up in the Gulf, Russia or the West; those with no other options went to Iran and Pakistan.

The situation of Afghan refugees has been a contentious political issue in Iran and Pakistan⁵ for many years. Even refugees with legitimate papers have suffered harassment, and both countries have passed laws and adopted policies that go against refugees' rights (Human Rights Watch, 2001). The three and a half million refugees that live in these two countries have long constituted an economic and political problem for their governments, which are struggling with unemployment and poverty at home and with political dynamics that, in different ways, are difficult. Even before 11 September, Iran and Pakistan had made it clear that they were not prepared to continue to pay for the instability in Afghanistan.⁶ Both countries stopped giving official refugee status to new arrivals many years ago, yet significant numbers of Afghans continued to enter and live illegally, their lack of status meaning that they often worked in appalling conditions. Meanwhile, levels of donor support to the refugee populations in both countries continued to decline.

When the coalition bombing campaign began in October 2001, security problems combined with uncertainties about the food situation to prompt significant displacement. Most was temporary and internal, as people left urban centres for safer rural locations. However, some also fled to neighbouring countries. Despite closing their borders, Pakistan housed more than 70,000 refugees in camps in Baluchistan and the North-West Frontier Province (NWFP), and Iran received an estimated 60,000 new arrivals, most of whom moved into existing settlements and did not receive international assistance (Turton and Marsden, 2002). Those unable to cross lived in squalor, without food, water or latrines, or set up makeshift camps along the borders. Others resorted to dangerous illegal routes; refugees interviewed by Human Rights Watch reported that they were beaten at unofficial checkpoints when they could not afford to pay the heavy bribes

³ Interviews with WFP for this study; FAO/WFP Crop Assessment reports. The 2002–2003 VAM report states that only 30% of land was planted in the north because of a lack of inputs.

⁴ By 1990, there were more than six million Afghan refugees in Pakistan and Iran. In 1994 alone, 65,000 fled Kabul.

⁵ The situation is further complicated by the fact that Pashtuns do not recognise the border with Pakistan (an artificial creation of the British) and have been migrating across it for years. Despite the problems, the money refugees send back is often critical to their families, the services they have are generally better than they can get in Afghanistan, and many have preferred being a refugee to the difficulties and uncertain security of home.

⁶ Through their interference in Afghanistan, both countries were also, of course, partly responsible for creating this instability.

demanded. Afghans who slipped across the borders faced harassment and imprisonment because they did not have proper identity documents (HRW, February 2002). Despite pressure from UNHCR, borders remained sealed, apparently with the approval of Coalition forces, who claimed to be concerned about the movement of al-Qa'eda and Taliban personnel.

With the fall of the Taliban, the main population movement has been return, predominately to Kabul and Nangahar. By September 2002, 1.5m people had returned from Pakistan, and a further 220,000 from Iran.⁷ Although this was partly a result of the difficulties refugees faced in these countries, the extensive publicity about peace and aid undoubtedly fuelled expectations of a better life in Afghanistan. As one returnee to Shamali put it: 'All the world was telling us they were rebuilding Afghanistan'. The notable hardening of the authorities' attitude to the continued presence of refugees coincided with a bombardment of messages conveyed by the BBC's Dari and Pashtu services and by Iranian and Pakistan television, radio and press, telling Afghans that there would be huge amounts of aid for Afghanistan, that security would be assured and that the UN would help them to return home (Turton and Marsden, 2002).

The refugee return programmes have come in for criticism from many organisations. One of the key issues has been the lack of accurate information for prospective returnees on the conditions in Afghanistan. For example, it was reported that the only official information returnees from Iran received was in the UNHCR office at the border, by which time they had already given their documents back to the Iranian authorities. There was reportedly no warning about the conditions they would face on return, even though many came from areas affected by drought and/or conflict; the information on support for travel was reportedly misleading, and there was apparently little or no support for returnees once they returned to their villages. A number of families have taken advantage of short-term assistance packages to visit their home areas and then, for whatever reason, have moved on, either back to their adopted country or to the urban areas of Afghanistan. Some families appeared to be stranded, unable to reach their place of origin (or establish a livelihood once they did so), and unable to return.

In many ways, the Bonn Agreement has worsened the situation of refugees because many countries no longer accept *a priori* that fears of persecution are well-founded. At the same time, the security and economic situation in Afghanistan has not measurably improved.

The kind of problem being faced was well illustrated by the situation of the displaced at Spin Boldak-Chamman, on Afghanistan's southern border. UNHCR estimated that

roughly one-third were Pashtuns fleeing persecution in the north, one-third were fleeing US bombing in and around Qandahar and one-third were displaced because of the drought. The Afghan authorities were clear that they did not want the camps to become semi-permanent settlements, and Pakistan was clear that it was not offering asylum (UNHCR, 2002). Eventually, agreement was reached to establish a resettlement camp some 40 miles west of Kandahar, in a hot dusty desert, reached on a track through minefields (Fisk, 2002). Although the level of services that went to the camp was reportedly good, it was not in a favourable location for employment and a number of displaced people chose to remain at Spin Boldak-Chamman, despite no longer receiving international assistance. In December 2002, a number of children died in a particularly cold spell of weather, bringing fresh controversy and recriminations over the treatment of this displaced population.

5.5 Funding patterns

One of the difficulties in trying to map what has happened to humanitarian assistance in Afghanistan is that the nature of what is being looked at changes. During the Taliban era, while some humanitarian assistance went on classic humanitarian activities, for example responding to earthquakes and displacement, some also went on a much broader range of activities. The fact that the Taliban government was not recognised as legitimate internationally meant that few donors were prepared to grant long-term funding for development programmes - not just to the authorities themselves, but also to organisations working there. Although there were exceptions (the EC, for example, gave long-term grants to NGOs through its DG1 line), in general most agencies had to rely on short-term humanitarian lines. At the same time, most donors recognised that the situation was not a 'classic' emergency, and that it required a different kind of response; as a result, they were prepared to 'stretch' their humanitarian budget lines to include such things as education and long-term support to health, although this had to be given through a series of short-term grants. As a consequence, funding necessity determined the definition of the problem.

The problems of this approach were clearly evident after 11 September, when the emphasis in the language suddenly shifted to recovery and reconstruction. Not only could the same projects be seen occurring under both humanitarian and recovery/reconstruction headings - as one NGO worker put it, 'we define our work how donors define their money' - but in the debates about whether 'humanitarian' assistance should be given through the government or be independent of it, it was unclear exactly what assistance was being referred to. Was, for example, spending on healthcare to try and reduce maternal mortality a development programme or a humanitarian one? Should assistance be channelled through the government, or independent of it?

⁷ Statement by UNHCR Chief of Mission in Kabul, 6 October 2002, quoted in Turton and Marsden, 2002.

5.5.1 Funding before 11 September

Obtaining an accurate picture of total aid funds disbursed before 11 September is almost impossible; there are no consolidated figures, and some figures refer to pledges, others to disbursements. Experience from the field suggests that, despite perceptions within the UN during the late 1990s of possible donor fatigue, the funding for core humanitarian activities in Afghanistan was remarkably consistent, given the levels of instability and uncertainty that prevailed. While agencies did not receive the total funding requested within the Consolidated Appeals Process (CAP), this was partly due to a perception on the part of donors that CAPs made little reference to programming priorities or implementing capacity. Moreover, CAP funds formed only part of the picture; significant funding was given outside of the appeal.

5.5.2 Funding after 11 September

In the immediate aftermath of 11 September, all international aid workers, with the exception of a handful in Northern Alliance-controlled territory, evacuated Afghanistan, and remained outside the country until the Northern Alliance took Kabul at the end of November. As soon as Kabul fell, agencies scrambled to reach the city. Many felt strong pressure to respond to the high level of media coverage of Afghanistan in order to position their work visibly in the new order. Large sums of money were paid for seats on the UN plane into the city for senior UN officials and their public information staff.⁸ One agency head, asked why he was going to warlord-occupied Kabul before a political settlement had been signed, replied that, as others were going, he had no option but to do the same.

By November 2002, the number of NGOs registered with the Ministry of Planning had risen from 250 in 1999 (of which 46 were international) to 1,005 (350 international). By mid-2002, there were 670 UN international staff in Afghanistan. In addition, large numbers of embassies returned to Kabul after an absence of many years. Despite talk of an 'Afghan-led' process, this increased international involvement did not necessarily serve to legitimise and empower Afghan institutions. Rather, it risked undermining them. In some instances, experienced Afghan workers found themselves demoted. The influx of new staff into the UN and international NGOs and the appearance of a rash of new NGOs created many problems, from undermining long-term approaches to building partnerships with communities to causing offence through a lack of cultural sensitivity and a failure to appreciate the conservatism of much of Afghan society, especially in the countryside. In a number of places, for example in Herat, this caused a backlash.

⁸ Heavy insurance premiums meant that one-way tickets initially cost \$3,500.

As the international assistance sector burgeoned, so property rents significantly increased, making a handful of Afghans rich but forcing many more from their homes, and Afghan NGOs from their offices. Wage levels distorted the local market, and most NGOs lost staff to the UN and the embassies. Interviewees for this study felt that the quality of work was declining in the push for quantity, and that inappropriate aid was being given. Meanwhile, little progress was made in establishing a sustainable civil service structure with realistic rates of pay. Faced with an impossible gap between government salaries and salaries in the international sector, a number of ministries created what was in effect a parallel structure with a few highly paid staff on special contracts.

Although several donors pledged large amounts of funds immediately after the Bonn Agreement was reached, the main pledging conference for Afghanistan was held in Tokyo in January 2002. Before the conference, it was estimated that Afghanistan would need \$14.6 billion over ten years (ADB, UNDP, World Bank, 2002). In the event, some 35 donors pledged \$4.8bn over five years, including grants and loans. Of that, \$1.9bn was to be spent in 2002.⁹ Large pledges were made by Iran and Pakistan, and non-DAC countries accounted for about a third of total monies. Additional pledges after Tokyo brought the total to about \$5.8bn. By October 2002, \$1.8bn had been committed to specific agencies, and \$1.4bn disbursed.¹⁰ However, despite relatively rapid disbursement, there has been little in the way of visible signs of change in Kabul, let alone in the provinces. Major road programmes were funded only in late 2002, despite repeated pleas by Karzai for road construction. The Asian Development Bank pulled out of a commitment to improve the Kabul-Qandahar road, at a cost of about \$150m, and the project was finally funded by USAID.¹¹ Yet as late as June 2003, little work on this or any other of the major roads had actually been completed.

Aid is channelled in a variety of ways. Some goes directly to the ATA, some goes through implementing partners such as NGOs (either directly or via UNAMA), and some goes to the UN. UN money can either go directly to the UN agency or via UNAMA; DFID, for example, channels most of its funding to the UN directly to the agency concerned rather than to UNAMA (HoC, 2002/3: 14). Aid also goes to the Afghanistan Reconstruction Trust Fund (ARTF), a multilateral arrangement operated by the World Bank, with a management committee including the Asian Development Bank, the Islamic Development Bank, UNDP, the World Bank and the Afghan Ministry of Finance. Key Afghan ministers have called on donors to

⁹ This does not include money spent by the International Security Assistance Force (ISAF) or the coalition forces on humanitarian programmes.

¹⁰ Development Initiatives, quoted in House of Commons, 2002-2003.

¹¹ *Washington Post*, 7 August 2002.

channel funds directly through the transitional authority or the ARTF rather than through the UN system, partly because they fear that the UN agencies are costly and might represent a partial parallel government. However, although an estimated \$24m has been spent on payments for civil service salaries, most assistance has gone to the UN and NGOs rather than to the government. Information from the ITAP update (February 2002) showed that UN agencies required 85% (over \$1bn) of the request for Afghanistan. The rest was for NGOs.

Although Tokyo was meant to raise money for reconstruction, much of the aid pledged was subsequently accounted for by humanitarian relief (though it is hard to estimate how much of the funding overall could be said to be 'humanitarian' as different donors have categorised activities in different ways; the provision of drinking water, for example, could be a humanitarian or a development activity, or programmes have had more than one objective). Of the US contribution of \$500m, \$200m was in food aid, and about two-thirds of the UK's contribution has been in the form of humanitarian relief. It is estimated that at least 60% of all money pledged to Afghanistan has been spent on humanitarian assistance. The ATA sees this as a major problem; Afghan ministers report that the high proportion spent on food aid - 25% of the total - is 'only postponing death rather than strengthening lives and livelihoods' (HoC, 2003).

With the exception of mine action, food assistance has had more of its funding requirements met than any other sector. Almost all of this funding was for WFP, roughly half for straight relief and the rest for projects in areas such as education, income generation and employment, agriculture and refugees. Yet despite being one of the better-funded agencies, WFP reported that only 64% of operating requirements had been met, and that shortages had led to the suspension of a number of programmes and reduced rations in others. Refugee return programmes were particularly affected, in part because numbers were greater than expected; rations were reduced from 150kg to 100kg, with 50kg to be given on return and a coupon to be given for the other 50kg, redeemable when food supplies are available. UNHCR was also forced to reduce the non-food component of the package, and the International Organisation for Migration (IOM) stopped operations altogether, leaving UNHCR to take over responsibility for IDP camps. However, as a recent report argues (AREU, 2003), the answer to the returnee problem was actually not more relief, which arguably only made the problem worse by acting as a magnet, but to stop encouraging refugee return until such time as the situation in Afghanistan became more sustainable for returnees. Similarly, care is required in interpreting funding shortfalls for WFP, as the Afghan authorities have clearly stated at a number of meetings in Kabul that they do not see food relief as the answer to Afghanistan's problems. Meanwhile, a number of NGOs report serious shortfalls in funding, largely because they used short-term funding to extend their programming

to meet emergency needs, and then had difficulty covering the gap until new funding arrived.

5.6 The evolving architecture of humanitarian response

Efforts to establish robust mechanisms for the coordination of humanitarian assistance have a long and fraught history in Afghanistan. They have reflected both the struggle of international organisations to assert a framework to decide how sizeable public funds should be distributed in a context of contested statehood, and to position the humanitarian agenda in relation to wider political and developmental concerns. As the following section shows, while there have been changes in the architecture of aid coordination in Afghanistan, many of the same dilemmas persist in terms of defining strategic and operational coordination mechanisms.

5.6.1 UN coordination structures before 11 September

In 1997, the UN selected Afghanistan for the development of a 'Strategic Framework'. The Strategic Framework approach was an ambitious attempt by the UN to provide 'a more coherent, effective and integrated political strategy and assistance programme' in order to facilitate 'the transition from a state of internal conflict to a just and sustainable peace through mutually reinforcing political and assistance initiatives', and to ensure 'no "disconnects" between political, human rights, humanitarian and developmental aspects of the [international] response' (UN, 1998). On the assistance side, the aim was to achieve greater coherence and effectiveness between the various UN and NGO agencies through collective analysis and priority setting, leading to what was known as 'principled common programming', or PCP (OCHA, 1998).

In line with the aims of the Strategic Framework and PCP, the UN's coordination mechanisms were extensively restructured after 1998. However, the failure of the UN to undertake comprehensive reform of the management within and between the agencies concerned made it more difficult to establish a common position on a range of key assistance issues (Newberg, 1999). The large UN agencies remained more responsive to their respective headquarters than to any coordination mechanism in the field.

Meanwhile, non-UN agencies, notably Médecins Sans Frontières (MSF), were sceptical of the UN's coordination efforts because the UN was seen to have a political agenda. UN coordinators had no authority over other actors, whether fellow UN agencies, donors or NGOs. Official donors rarely used coordination structures for anything more than information sharing, and there were few cases where they collectively explored funding gaps and shifted their priorities to meet these needs (Johnson and Leslie,

2002). Funding decisions bore only an incidental relationship to the priorities articulated in the SFA and PCB, and appeared in many cases to be driven more by specific issues of concern to the donor country and its broad political attitudes towards Afghanistan.¹² While coordination in Afghanistan was believed to be better than in many countries, it never made the leap required of it by the SFA idea (Duffield et al, 2002).

5.6.2 UN coordination structures after 11 September

From early in the conflict, it was agreed by Security Council members that the UN would take the lead role in supporting the post-Bonn transition process. To this end, the UN structures set up under the SFA were replaced by the UN Assistance Mission in Afghanistan (UNAMA). It was also agreed that the UN would not have any direct governance role, and would have no responsibilities for administering any part of Afghanistan. An integrated mission was mooted from the beginning, but debate about its structure went on for months, and the mission was not formally established until 28 March 2002. Initial suggestions that the management of all the UN agencies might come under this mission were dropped early in the discussion, and the normal UN country office structure was maintained, with UNAMA having a 'facilitative' coordination role.

UNAMA was set up with two pillars: political (Pillar 1) and assistance (Pillar 2), each headed by a Deputy Special Representative of the Secretary-General (DSRSG), with a Special Representative (SRSG) in overall charge. Human rights and gender advisers were part of the SRSG's office, with human rights responsibilities also within each pillar. Pillar 1 was responsible for monitoring, analysing and reporting on the overall political and human-rights situation and the status of implementation of the Bonn Agreement; maintaining contact with Afghan leaders, political parties and civil society groups; performing 'good offices' in such areas as confidence-building and governance; providing information and guidance on political issues for other UNAMA activities; and investigating human-rights violations and, where necessary, recommending corrective action. Pillar 2 was responsible for relief, recovery and reconstruction.

The office of the Pillar 2 DSRSG was supposed to ensure a strategic partnership with the Afghan authorities and to directly assist the administration in articulating a national development framework, and in coordinating international assistance to ensure that it was strategically targeted and

supportive of immediate and longer-term national priorities. The old Civil Affairs Unit, which used to be part of UNSMA, was located in Pillar 1 of UNAMA, and the UN Office for the Coordination of Humanitarian Affairs (OCHA) was absorbed into Pillar 2. The Regional Coordination Officers (RCOs) became Area Based Coordinators, and some additional area offices were created. Despite hopes for a 'light footprint', UNAMA was in fact relatively large, with a ceiling of 232 international personnel, half of whom were support staff. Most of these remained in Kabul, where they contributed to the large and highly visible expatriate presence. If fully staffed, UNAMA would account for about a third of all UN personnel in Afghanistan (Conflict, Security and Development Group, 2003).

There have been tensions between UNAMA's political and its assistance wing. The SRSG had been working in Kabul since December 2001, concentrating on political tasks, while the DSRSG for Pillar 2 was not appointed until February 2002. A carryover of attitudes may also have accompanied the carryover of staff from OCHA. The situation was not helped by the fact that the UNAMA office was for some time split over several sites; combined with a management split at the level below the SRSG, this meant that integration was more theoretical than real.¹³

A variety of operational units have also been established in support of coordination. The UN's Integrated Regional Information Networks (IRIN) has set up an office in Kabul; the UN Joint Logistics Centre (JLC) has been set up, with offices in Islamabad, Mazar, Herat and Quetta; and the Afghanistan Information Management Service (AIMS), a joint venture between OCHA and the UN Development Programme (UNDP), moved from Islamabad to Kabul.

5.6.3 Donor coordination

The US initiated a new forum for donor assistance, the Afghanistan Reconstruction Support Group, which met for the first time in Washington on 20 November 2001 - that is, before there was an agreement at Bonn. The Implementation Group (IG) was created at the Tokyo donors' meeting in January 2002, with the aim of achieving coordination between the Afghan authorities, donors, the UN, the international financial institutions and NGOs. The Afghanistan Programming Body (APB) was merged into the IG. The Afghan Support Group (ASG) continued to meet throughout 2002, but was formally disbanded at the end of the year, and responsibility for coordination was handed to the ATA. The Afghan Reconstruction Steering Group and the IG were scheduled to be brought together, along with those who were part of the ASG, in a new body,

¹² For example, only 12% of proposals put forward in the 2000 Consolidated Appeals Process (CAP) under the theme of 'Sustainable Livelihoods' were funded, despite the fact that this had been one of the key areas within the Strategic Framework: OCHA, 2000.

¹³ In April 2003 it was reported that a decision had been taken to collapse the two pillars into a single structure, but the implications of this are not as yet clear.

the Development Forum, in March 2003 (House of Commons 2002–2003: 21).

5.6.4 Coordination and the role of the Afghan authorities

In theory, the international community is keen to see the Afghan authorities take the lead in the coordination of assistance. In practice, however, donors have remained ambivalent in their dealings with the new government. The ATA has struggled to gain control over assistance spending, and a number of agencies have tended to plan their own programmes with little or no reference to the authorities, or any serious consideration of how resources could be used to allow the government to play its part.¹⁴ Although pressure from key ATA members has had some effect in Kabul, in the provinces many agencies still feel that there is no need even to inform the authorities of their activities.

As the first step towards government control, the Afghanistan Assistance and Coordination Authority (AACAA) was formed immediately after the Bonn conference. It reviewed the Interim Transitional Assistance Programme (ITAP) the day it came out, and put all longer-term programmes on hold until the release of the National Development Framework, the government's first development strategy. The AACAA's role in coordination has been less clear since the interim administration gave way to the transitional government, as its head Ashraf Ghani, an Afghan who formerly worked with the World Bank in Washington, became the Minister of Finance in the ATA. A number of functions of the AACAA have now been incorporated into the Ministry of Finance. As part of its efforts to gain some control over external aid, the AACAA created Programme Secretariats, each of which had a lead agency (normally a UN agency) and a node within the relevant department. Many struggled to gear up to the level of planning required for running government programmes, and by late 2002 the secretariats were replaced by an alternative coordination scheme promoted by the Ministry of Finance (CSDG, 2003).

Quite where humanitarian assistance fits into the coordination framework has been a matter of some debate. Security Council Resolution 1401 states that 'although humanitarian assistance should be provided wherever there is a need, recovery and reconstruction assistance ought to be provided through the Afghan Interim Administration and its successors'. This would seem to indicate that, in contrast to recovery and reconstruction assistance, humanitarian assistance should not be provided through the AIA/ATA. This was, however, challenged at an early stage by the AACAA, which clearly saw humanitarian aid as part of overall assistance to Afghanistan (and thus coming under the overall policy control of the AIA/ATA).

¹⁴ See, for example, early drafts of the area-based programme (UNDP), or the National Solidarity programme (World Bank/Habitat).

5.6.5 Aid coordination in practice

At the highest level, there appears to be a clear attempt at strategic – as opposed to merely operational – coordination. In the early part of 2002, it was reported that weekly telephone conferences were convened by the US State Department, involving the heads of the World Bank, the UNDP, USAID, DFID, the SRSG and the DSRSG for Pillar 2. However, at a practical level coordination has in many ways become more problematic. The delay in establishing UNAMA's assistance pillar created a gap in the UN's coordination structure just as the major agencies (UNICEF, UNHCR and WFP) were developing large new programmes. Once Pillar 2 became operational coordination did improve, largely it seems because the DSRSG was committed to coordinating by building consensus, and is generally respected for doing so (Werminster, 2002).

Outside of Kabul, coordination on the ground seems to be of variable quality. Agencies still tend to cluster in places of easy access, leaving remote areas under-served. Sometimes, this is due to the fact that NGOs lack the resources and skills, vehicles and communications equipment, and staff with the experience and knowledge that would allow them to work in remote areas. Yet resources are not always to blame: the large UN agencies can be the worst offenders. There have, however, also been notable exceptions where agencies have set up in very remote areas to meet pressing need. Political decisions have also had an impact. The UN's regional office for the north-east used to be based in Faizabad, the provincial capital of Badakhshan, one of the poorest provinces in the country. With the new administration, the UN moved its office to Kunduz, a day and a half's drive away, where the government's regional offices were based, and many NGOs followed suit. With the relocation has gone a visible decline in agency activity in Badakhshan; in effect, resources have moved from a poor area to a relatively wealthy one.

NGOs have struggled with the increased burden of coordination, not least because the main coordination body, ACBAR, was only just emerging from a protracted funding crisis when the events of 11 September occurred. Parallel working groups, designed to ensure effective NGO input into the AACAA Programme Secretariats, struggled to establish themselves; by their own admission, the NGOs involved failed to organise themselves adequately, and were frustrated by the Secretariats' focus on producing budgets. NGOs also admit that they do not have the resources to keep up with all the coordination meetings taking place, that communication is poor and that deadlines are hastily imposed.¹⁵

¹⁵ As an example of the problems, UNICEF, as the Secretariat to the Education Programme Area, called a meeting to discuss objectives for the education strategy – NGOs received notices at best the day before, the specific NGO working group dealing with education was missed out and the Ministry was not at the meeting.

5.7 Aid and conditionality

5.7.1 Aid, conditionality and the Taliban

Aid conditionality had been part of the international community's attempts to impel the Taliban towards more acceptable policies since the capture of Kabul in 1996. A number of agencies, notably Oxfam, used the withholding of aid in a bid to induce the Taliban to rescind their ban on women working, for example. The intent of PCP had been to agree common principles to which the aid community could sign up, thus establishing 'bottom lines' for negotiations. However, both donors and agencies found this difficult in practice. Part of the problem was that there were too many principles and no agreement as to what took precedence when there were contradictions between them; PCP, for example, exhorted that women should play an equal role, but also that there should be local control. Yet local structures were almost invariably male-dominated (Leader, 2001). Most of all, the problem was how to make progress when the Taliban were not concerned with the West's ideas of principle, and did not care enough for Western aid to be forced into such concern.

As the attitudes of the international community towards the Taliban hardened in the late 1990s, the level of aid conditionality increased significantly.¹⁶ WFP, for example, required that at least half of the direct beneficiaries of its food-for-work projects should be women, even in the case of rehabilitation activities which involved manual labour (Johnson and Leslie, 2002). Ultimately, however, agencies rarely carried through their threats to withdraw if political conditions were not met. For example, WFP insisted that it be allowed to employ female staff to undertake a city-wide house-to-house survey in Kabul in order to address corruption on the beneficiary lists for its bakeries programme, and threatened to close the programme if this were not agreed. After attempts to reach agreement failed in summer 2000, the issue was postponed for a year because of the drought. In summer 2001, the issue was reopened. The Taliban authorities offered a compromise, whereby women from the Ministry of Public Health would do the survey, which WFP refused to accept.¹⁷ A month of threats later, WFP agreed to the (unchanged) offer.

Nor did the Taliban authorities see themselves as gaining much advantage even when they met Western conditions. The opium trade is a good example. Drug production and trafficking began to expand during the Soviet war and

continued thereafter. By 1999, Afghanistan was producing an estimated 4,600 metric tonnes of fresh opium, accounting for 75% of global production (UNDCP, 2000). The revenues benefited both the Northern Alliance and the Taliban administrations. In 2000–2001, the Taliban imposed a successful ban on opium production, and both the UN Office for Drug Control and Crime Prevention (UNODCCP) and the US administration confirmed the eradication of poppy-growing from Taliban-controlled territory (UNODCCP, 2000). However, there was no matching international support for crop-substitution programmes.¹⁸

5.7.2 Aid conditionality and the pursuit of principle post-9/11

The absence of aid conditionality from the current international agenda in Afghanistan is in stark contrast to its previous central importance. Although Security Council Resolution 1401 states that 'recovery and reconstruction assistance ought to be provided ... where local authorities contribute to the maintenance of a secure environment and demonstrate respect for human rights', UNAMA's Pillar 2 management plan has no guidelines for what might be done when these conditions are not met, and there seems to be a reluctance to take action for fear of undermining short-term stability (Stockton, 2002).

The international response to human rights – both past abuse, and present protection – has been one of the most contentious issues of the post-Bonn period. Questions have been raised around the violence and intimidation that took place during the ELJ, about the disappearance of some of the witnesses to the Dashte Leili massacres and the imprisonment and alleged torture of others, and about the abuses suffered by Pashtuns in the north (CESR, 2002), including serious intimidation in displacement camps where residents of certain groups were armed by local factions (HRW, 2002; UN Coordinator for Northern Afghanistan, 2002). This violence was carried out by Coalition-allied groups – Jamiat, Junbish and Hizb-i Wahdat forces – as well as by unaligned factions taking advantage of the general insecurity.

Beginning in December 2001, the factional leadership in the north signed numerous resolutions to establish a multi-ethnic indigenous security structure and to improve security. However, despite the involvement of the highest levels of UNAMA the situation only began to improve in the middle of 2002, partly because of the intervention of the UN and partly as a result of a change in the local political situation. As the two main factions, Junbish under Dostum and Jamiat under Atta, struggled for power, it became useful to them to make alliances with Pashtun

¹⁶ Mohammad Haneef Atmar, *Politicisation of Humanitarian Aid and its Consequences for Afghanistan*, in *Disasters*, Vol 25, No. 4, December 2001. For a more general discussion of the global moves towards more aid conditionality see, among others, *Global Governance and the New Wars*, Mark Duffield, Zed, London, 2001.

¹⁷ This had become a common practice for circumventing restrictions on women's employment.

¹⁸ In part, this was due to a suspicion that the ban was only brought in to keep prices up.

communities, which thereby gained a measure of protection.

The Special Rapporteur on Extra-judicial Executions has called for an international inquiry into human-rights violations. Yet compared to the past, the international community has been reluctant to speak out, let alone attach conditionality on its aid. The SRSG has stated that it is currently not possible to have both justice and peace in Afghanistan, and that maintaining the fragile peace has to be the priority (UN document A/57/487-S/2002/1173).¹⁹ The UN's weakness in tackling the problem has, however, left many feeling that the message that is given to warlords, including those who are part of the current administration, is that they have impunity. The lead agency on human rights, the Afghan Independent Human Rights Commission, will inevitably take some time to build its capacity, and has suffered from lack of adequate technical, financial and political support. As of May 2003, 11 months into the two-year life of the Commission, the Chief Technical Advisor (UNAMA/OHCHR) had still to take up his post. There also appears to be a lack of coordination between UNAMA and the Human Rights Commission on how to progress human rights issues.

Similarly in relation to women, while there is undoubtedly more space to work on gender issues, there is equally little doubt that Afghanistan remains extremely conservative on women's rights, and improvements in the situation for women have been partial. According to UNICEF, in 2002 only about 10% of the pupils registered for school in the five, and most conservative, southern provinces were girls; in Kandahar girls account for just over 8,000 of the city's 60,420 registered students.²⁰ While women can once again work outside their homes, this has largely benefited the few with a good level of education. Most women continue to suffer from poverty, lack of healthcare and poor security. Even in Kabul, the most secure and relaxed of Afghanistan's cities, few women have stopped wearing the *burqa*, once seen by the West as such a powerful symbol of oppression. History – not only in the experience of working with the Taliban but also in earlier attempts by the Communist government to push through rapid change – suggests that social change in Afghanistan cannot be pressed from outside. Nonetheless, there are opportunities for the international community to support the indigenous changes that are taking place, for example in the demands for education for girls or requests for healthcare for women.

In relation to opium production, the international community has also shied away from using its potential leverage post-9/11. Poppy planting resumed on a large scale

once the Taliban lost control of the country. In 2002, opium production reached its highest-ever level, and drug dealers were operating openly in a number of cities. The AIA/ATA have stated their intention to control cultivation and production, but the ban only came into force after the planting season was over, and in any case the authorities had no power to implement it – indeed, some of their members have long been involved with the trade (Cooley, 1999). Yet in contrast to their earlier hardline stance, donors now seem flexible in responding to requests for support for eradication and substitution programmes.²¹ In late 2002, reports from the east of the country suggested not only that the eradication programme had been markedly unsuccessful (satellite photos apparently show a maximum eradication level of 11%, and that only in some districts), but also that some large landlords/warlords have taken the payments for eradication and given nothing to the sharecroppers who worked the land. Meanwhile, despite a bumper crop the price remained at the same level as the previous year (\$400 a kilo), when poppies were only grown in the north-east. In 2003, further new areas have been planted to poppy. While the ATA remains formally pledged to eradicate the crop, it is hard to see how it will be able to make much progress.

5.8 Aid and security

A comparative analysis of the impact of security concerns on aid programming before and after 11 September suggests that the way in which security is interpreted is strongly mediated by political considerations. Interpretations of security conditions thus provide one means of influencing the pattern of humanitarian response, and determining the type of assistance populations may be able to access. It also reveals how aid programming has become linked with international military strategy to stabilise Afghanistan since 9/11. This strategy has evolved while the 'war on terrorism' is still being prosecuted, leading to tensions between the aid and security agendas.

The second half of the 1990s saw increasingly stringent security regulations for international personnel working in Afghanistan. In 1998, following bombings against US embassies in Tanzania and Kenya, the US launched cruise-missile attacks at training camps in Afghanistan. It was clear that the raid would prompt an angry response. Although the UN instructed staff to stay indoors on the following day, a UN Special Mission to Afghanistan (UNAMA) official, Lt Calo, ventured out and was shot and killed on a Kabul street. This triggered the evacuation of UN staff and agency personnel. Staff only began to return six months later, and strict security procedures remained in place until September 2001. UN headquarters in New York became

¹⁹ This point was also made in an address by the SRSG to UNAMA staff in Kabul, September 2002.

²⁰ By contrast, in Kabul girls make up about 45% of students. Figures from UNICEF, quoted by Associated Press, 8 July 2002.

²¹ In April 2002, EU Commissioner for External Relations Chris Patten announced support for longer-term crop substitution programmes to regions 'dependent on poppy production'.

heavily involved in security decisions, often to the frustration of field-based staff. Part of the response to Calo's death was an unprecedented ban by the US and UK governments preventing their nationals from serving with the UN in Afghanistan. DFID also withdrew funding from NGOs where expatriate staff worked in or visited Afghanistan, citing security concerns. This funding restriction was lifted in mid-2001, but funding was still contingent upon stringent security assessments of the agencies concerned.²²

Once the Taliban authorities fell, the security procedures of international agencies became suddenly and notably less stringent. The number of UN expatriate staff authorised to be in Kabul increased from 15 people in 2000 to 450 in October 2002 (CSDG, 2003), despite armed attacks on ISAF patrols in the city, an ongoing military campaign by coalition forces and attacks on aid agency convoys, facilities and personnel. A UN report in June 2002 (UN Coordinator for Northern Afghanistan, 2002) documents 79 security incidents in the north of Afghanistan between November 2001 and June 2002. In addition to attacks on civilians, there was harassment of agency staff, particularly Afghan nationals. Little attention was paid to security problems until the rape of an international aid worker in June 2002; even then, the response was relatively mild, although USAID did withdraw all non-emergency funding until such time as security improved. NGOs admitted to a more relaxed approach to security than in the past. Large amounts of money were transported by road and agencies travelled after dark on roads known to be unsafe.

The war against al-Qa'eda has also brought assistance actors much closer to the security agenda. Coalition forces are combatants, not peacekeepers, yet while fighting a war on one front (against al-Qa'eda), they are trying to maintain and extend a fragile peace on another (among the country's contending factions). The combination of these two factors has meant that the military has become engaged in an extensive range of civilian activities. Mixed teams of US military reservists and civilian aid personnel have been set up in eight regional centres in an initiative that, according to the US Civil Affairs Team, is designed to 'remove causes of instability' by engaging with local leaders on the ATA's behalf. These 'Provincial Reconstruction Teams' (PRTs) have a broad remit, not only playing a role in reconstruction but also in strengthening local government, negotiating between commanders, disseminating information from central government, and 'assist[ing] in the establishing of national legal codes'. At a time when a war is still being actively pursued, this has blurred the lines between military and assistance actors, and both NGOs and the ICRC have voiced concerns over these proposals.

5.9 Conclusions: the implications for humanitarian space

The events of 11 September and their aftermath changed the political landscape in Afghanistan, and the Bonn settlement and the emergence of an internationally-recognised authority brought increased assistance spending. Despite the discourse centring on recovery, reconstruction and the primacy of the peace process, in the first year of the transition, most of this money still went on humanitarian relief. For all the talk of peace, security – the issue of most importance to Afghans – has not improved; indeed, in many parts of the country it has deteriorated.

The various layers of conflict taking place all have implications for the space in which assistance actors, Afghan and international, can work, giving rise to serious security problems in parts of the country, blocking assistance and threatening lives. The strategy the US has followed to fight its war has brought more arms into the country and empowered the warlords. At the same time, the international community has failed to respond to repeated requests to expand the international security force outside of Kabul. Instead, there has been greater use of civil-military operations to try and secure the peace, a strategy which risks compromising assistance and, in the absence of a specific peacekeeping mandate and the resources to accomplish such a task, doing little to improve security (House of Commons, 2002–2003).

The changed political situation also brought with it a changed architecture for assistance, with a UN integrated mission and a move towards working with the Afghan authorities, rather than independently of them. Yet many of the old ways of working have remained, the UN agencies have not been integrated into the UNAMA structure and coordination has frequently been worse than in Taliban times. The idea of principled assistance, so prominent at the time of the Taliban, has largely been dropped in favour of the rhetoric of Afghan ownership. Yet the ATA is dominated by factional power and is far from being the broad-based and representative government envisaged at Bonn. Meanwhile, poverty runs deep and basic public services in many places are non-existent. Although the end of the drought has led to some easing of the overall food security situation, the return of some 1.7m refugees to a poor country with fragile politics has created new needs. This suggests that, until the process envisaged at Bonn is complete and Afghanistan has a fully representative government, the international community should retain some responsibility for ensuring that assistance is given on the basis of need, not political advantage.

This is not to suggest that the ATA should not be supported, but it needs to be recognised that the ATA is not a homogenous whole, but rather a site of struggle for power and resources. Aid currently comprises 89% of the ATA's recurrent budget. How this is used will have an impact on

²² British government funding for the ICRC, which continued to field expatriate staff of various nationalities throughout this period, seems not to have been similarly affected.

the outcome of this contest. Assistance needs to support the process of building a legitimate government, not the consolidation of warlord power. Arguably the largest loss in the current process has been the failure to challenge the climate of impunity, and the willingness to allow continuing human-rights abuses to go unchallenged.

Within the overall question of assistance lies the specific issue of meeting humanitarian need. Afghanistan's problems are deep-seated and require long-term solutions. At times, the way in which relief has been provided has meant that it has arguably not been able to respond to real vulnerabilities, and has made matters worse not better. For example, the emphasis on food aid rather than maintaining purchasing power has served to undermine local capacities (as with the depressive effect of free food on wheat prices), while having limited effect in terms of food security and uncertain outcome in terms of nutritional status. After 24 years of war, people desperately wanted it to be different. Afghans needed not just immediate relief, but also tangible investment for long-term improvement through programmes in, for example, education, road construction and electricity. Yet in the early phase of the transition, the

bulk of the funding has remained concentrated on short-term 'humanitarian' budget lines.

Although it has often been said (and rightly) that the funding coming to Afghanistan is not adequate to meet need, the crucial limitation – at least in the short term – is not funding, but capacity. It is not just a question of Afghan capacity, though this is the most important dimension. Experienced, qualified international staff willing to come and work in Afghanistan are also in short supply, and there is anger at the perceived waste of resources which Afghans believe should be theirs. It needs to be recognised that not everything can be done, and clear priorities need to be set. Alongside this, there needs to be a commitment from donors to long-term funding that builds as capacity builds.

The Afghanistan experience reminds us once again of the sensitivity of the humanitarian agenda to rapid changes in the political context, not only within conflict-affected countries but also at the geopolitical level. While the events of 9/11 promised to open up opportunities for ordinary Afghans, enabling them to participate in governance and to rebuild their lives and livelihoods, at present they might be forgiven for questioning how much has really changed.

Annex 1

Security Council Resolution 1373, 28 September 2001

The Security Council,

Reaffirming its resolutions 1269 (1999) of 19 October 1999 and 1368 (2001) of 12 September 2001,

Reaffirming also its unequivocal condemnation of the terrorist attacks which took place in New York, Washington, D.C., and Pennsylvania on 11 September 2001, and expressing its determination to prevent all such acts,

Reaffirming further that such acts, like any act of international terrorism, constitute a threat to international peace and security,

Reaffirming the inherent right of individual or collective self-defence as recognized by the Charter of the United Nations as reiterated in resolution 1368 (2001),

Reaffirming the need to combat by all means, in accordance with the Charter of the United Nations, threats to international peace and security caused by terrorist acts,

Deeply concerned by the increase, in various regions of the world, of acts of terrorism motivated by intolerance or extremism,

Calling on States to work together urgently to prevent and suppress terrorist acts, including through increased cooperation and full implementation of the relevant international conventions relating to terrorism,

Recognizing the need for States to complement international cooperation by taking additional measures to prevent and suppress, in their territories through all lawful means, the financing and preparation of any acts of terrorism,

Reaffirming the principle established by the General Assembly in its declaration of October 1970 (resolution 2625 (XXV)) and reiterated by the Security Council in its resolution 1189 (1998) of 13 August 1998, namely that every State has the duty to refrain from organizing, instigating, assisting or participating in terrorist acts in another State or acquiescing in organized activities within its territory directed towards the commission of such acts,

Acting under Chapter VII of the Charter of the United Nations,

1. *Decides* that all States shall:

(a) Prevent and suppress the financing of terrorist acts;

(b) Criminalize the wilful provision or collection, by any means, directly or indirectly, of funds by their nationals or in their territories with the intention that the funds should be used, or in the knowledge that they are to be used, in order to carry out terrorist acts;

(c) Freeze without delay funds and other financial assets or economic resources of persons who commit, or attempt to commit, terrorist acts or participate in or facilitate the commission of terrorist acts; of entities owned or controlled directly or indirectly by such persons; and of persons and entities acting on behalf of, or at the direction of such persons and entities, including funds derived or generated from property owned or controlled directly or indirectly by such persons and associated persons and entities;

(d) Prohibit their nationals or any persons and entities within their territories from making any funds, financial assets or economic resources or financial or other related services available, directly or indirectly, for the benefit of persons who commit or attempt to commit or facilitate or participate in the commission of terrorist acts, of entities owned or controlled, directly or indirectly, by such persons and of persons and entities acting on behalf of or at the direction of such persons;

2. *Decides also* that all States shall:

(a) Refrain from providing any form of support, active or passive, to entities or persons involved in terrorist acts, including by suppressing recruitment of members of terrorist groups and eliminating the supply of weapons to terrorists;

(b) Take the necessary steps to prevent the commission of terrorist acts, including by provision of early warning to other States by exchange of information;

(c) Deny safe haven to those who finance, plan, support, or commit terrorist acts, or provide safe havens;

(d) Prevent those who finance, plan, facilitate or commit terrorist acts from using their respective territories for those purposes against other States or their citizens;

(e) Ensure that any person who participates in the financing, planning, preparation or perpetration of terrorist acts or in supporting terrorist acts is brought to justice and ensure that, in addition to any other measures against them, such terrorist acts are established as serious criminal offences in domestic laws and regulations and that the punishment duly reflects the seriousness of such terrorist acts;

(f) Afford one another the greatest measure of assistance in connection with criminal investigations or criminal proceedings relating to the financing or support of terrorist acts, including assistance in obtaining evidence in their possession necessary for the proceedings;

(g) Prevent the movement of terrorists or terrorist groups by effective border controls and controls on issuance of identity papers and travel documents, and through measures for preventing counterfeiting, forgery or fraudulent use of identity papers and travel documents;

3. *Calls upon* all States to:

(a) Find ways of intensifying and accelerating the exchange of operational information, especially regarding actions or movements of terrorist persons or networks; forged or falsified travel documents; traffic in arms, explosives or sensitive materials; use of communications technologies by terrorist groups; and the threat posed by the possession of weapons of mass destruction by terrorist groups;

(b) Exchange information in accordance with international and domestic law and cooperate on administrative and judicial matters to prevent the commission of terrorist acts;

(c) Cooperate, particularly through bilateral and multilateral arrangements and agreements, to prevent and suppress terrorist attacks and take action against perpetrators of such acts;

(d) Become parties as soon as possible to the relevant international conventions and protocols relating to terrorism, including the International Convention for the Suppression of the Financing of Terrorism of 9 December 1999;

(e) Increase cooperation and fully implement the relevant international conventions and protocols relating to terrorism and Security Council resolutions 1269 (1999) and 1368 (2001);

(f) Take appropriate measures in conformity with the relevant provisions of national and international law, including international standards of human rights, before granting refugee status, for the purpose of ensuring that the asylum seeker has not planned, facilitated or participated in the commission of terrorist acts;

(g) Ensure, in conformity with international law, that refugee status is not abused by the perpetrators, organizers or facilitators of terrorist acts, and that claims of political motivation are not recognized as grounds for refusing requests for the extradition of alleged terrorists;

4. *Notes* with concern the close connection between international terrorism and transnational organized crime, illicit drugs, money-laundering, illegal arms-trafficking, and illegal movement of nuclear, chemical, biological and other potentially deadly materials, and in this regard emphasizes the need to enhance coordination of efforts on national, subregional, regional and international levels in order to strengthen a global response to this serious challenge and threat to international security;

5. *Declares* that acts, methods, and practices of terrorism are contrary to the purposes and principles of the United Nations and that knowingly financing, planning and inciting terrorist acts are also contrary to the purposes and principles of the United Nations;

6. *Decides* to establish, in accordance with rule 28 of its provisional rules of procedure, a Committee of the Security Council, consisting of all the members of the Council, to monitor implementation of this resolution, with the assistance of appropriate expertise, and *calls upon* all States to report to the Committee, no later than 90 days from the date of adoption of this resolution and thereafter according to a timetable to be proposed by the Committee, on the steps they have taken to implement this resolution;

7. *Directs* the Committee to delineate its tasks, submit a work programme within 30 days of the adoption of this resolution, and to consider the support it requires, in consultation with the Secretary-General;

8. *Expresses* its determination to take all necessary steps in order to ensure the full implementation of this resolution, in accordance with its responsibilities under the Charter;

9. *Decides* to remain seized of this matter.

List of references

- Anderson, K. (13 April 2003) 'Who Owns the Laws of War?' *New York Times*.
- Bellion-Jourdan, J. (2002) 'Prédication, secours, combat: l'action humanitaire des ONG islamiques entre *da'wa* et *jihad*', unpublished PhD thesis, Institut d'Etudes Politiques de Paris.
- Benthall, J. and J. Bellion-Jourdan (forthcoming, August 2003) *The Charitable Crescent: Politics of Aid in the Muslim World*. London: I. B. Tauris.
- Bitter, J.-N. (2003) *Les dieux embusqués: une approche pragmatique de la dimension religieuse des conflits*. Geneva: Droz.
- Blair, T. (11 November 2002) Speech at the Lord Mayor's Banquet, London.
- Blumi, I. (2002) 'Indoctrinating Albanians: Dynamics of Islamic Aid', *ISIM Newsletter*, Leiden.
- Boisard, M. A. (1985) *L'Humanisme de l'Islam*. Paris: Albin Michel (3rd ed.).
- Boisson de Chazournes, L. and P. Sands (eds) (1999) *International Law, the International Court and Nuclear Weapons*. Cambridge: Cambridge University Press.
- Bowett, D. (1958) *Self-Defence in International Law*. Manchester: Manchester University Press.
- Brownlie, I. (2001) 'International Law and the Use of Force by States Revisited', *Australian Yearbook of International Law*, 21.
- Brownlie, I. (1963) *International Law and the Use of Force by States*. Oxford: Oxford University Press.
- Brownlie, I. and C. Apperly (2000) 'Kosovo Crisis Inquiry: Memorandum on International Law Aspects', *International and Comparative Law Quarterly*, 49.
- Brownlie, I., C. Chinkin, C. Greenwood and V. Lowe (2000) 'Kosovo: House of Commons Foreign Affairs Committee Fourth Report, June 2000, Memoranda', *International and Comparative Law Quarterly*, vol. 49, June.
- Burgat, F. (forthcoming, 2003) *Face to Face with Political Islam*. London: I. B. Tauris.
- Centre for Economic and Social Rights, *Human Rights and Reconstruction in Afghanistan*, New York, May 2002.
- Cockayne, J. (2002) 'Islam and Humanitarian Law: From a Clash to a Conversation between Civilisations', *International Review of the Red Cross*, vol. 84, no. 847, pp. 597-625.
- Collinson, S. (ed.) *Power, Livelihoods and Conflict: Case Studies in Political Economy Analysis for Humanitarian Action*, HPG Report 13. London: ODI, 2003.
- Conflict Security and Development Group (CSDG) (2003) *A Review of Peace Operations: A Case for Change, Afghanistan (A Snapshot Study)*. London: King's College.
- Cooley, J. (1999) *Unholy Wars*. London: Pluto Press.
- Cooper, R. (2003) 'The Post Modern State', in *Reordering the World: The long-term implications of September 11*. London: Foreign Policy Centre.
- Cosgrave, J. (1999) *Making Omelettes with Other People's Eggs: An Evaluation of the Logar Water Project in Kabul, Afghanistan*, unpublished report for Oxfam.
- Development Initiatives (2000), *Global Humanitarian Assistance 2000*. Geneva: InterAgency Standing Committee.
- Dixon, M. and R. McCorquodale (fourth edition, 2003) *Cases and Materials on International Law*. Oxford: Oxford University Press.
- Duffield, M. (forthcoming, 2003) 'Human Security: The Privatisation of Pacification and Counter-Threat', in S. Kurtenbach and P. Lock (eds) *War as Worlds of Survival: Shadow Globalisation, War Economies and Isles of Civility*. Bonn: Development and Peace Foundation.
- Duffield, M., P. Gossman and N. Leader (2002) *A Review of the Strategic Framework for Afghanistan*. Kabul: AREU.
- Dwyer, K. (1997) 'Beyond a Boundary? "Universal Human Rights" and the Middle East', *Anthropology Today*, 13.6, December.
- Edhi, A. S. (1996) *Edhi, an Autobiography: A Mirror to the Blind*, as narrated to Tehmina Durrani. Islamabad: National Bureau of Publications.
- Esposito, J. L. (1992) *The Islamic Threat: Myth or Reality?* New York and Oxford: Oxford University Press.
- Evans, G. (2002) 'Confronting the Challenge of Terrorism: International Relations After 9/11', Cohen Lecture in International Relations, Lehigh University, Pennsylvania, PA.

- FAO/WFP (2002) Crop Assessment Report.
- Farer, T. J. (2003) 'Humanitarian Intervention Before and After 9/11', in J. L. Holzgrefe and R. O. Keohane (eds) *Humanitarian Intervention: Ethical, legal and Political Dilemmas*. Cambridge: Cambridge University Press.
- Fisk, R. (5 August 2002) 'One Year On in Afghanistan', *The Independent*.
- Forman, S. and A. Stoddard (2002) 'International Assistance', in L. Salamon (ed.), *The State of Nonprofit America*. Washington DC: Brookings.
- Galeotti, M. (2 December 2001) 'Business as Usual for Afghan Drugs', *The Observer*.
- Gearty, C. (2003) 'Terrorism and Morality', paper delivered at the London School of Economics, London, January.
- Gasser, H.-P. (2002) 'Acts of Terror, Terrorism and International Humanitarian Law', *International Review of the Red Cross*, vol. 83, no. 847, September.
- Ghandour, A.-R. (2002) *Jihad Humanitaire: Enquête sur les ONG Islamiques*. Paris: Flammarion.
- Green, L. C. (1995) *The Contemporary Law of Armed Conflict*. Manchester: Manchester University Press.
- Greenwood, C. (2000) 'International Law and the NATO Intervention in Kosovo: Memorandum Submitted to the Foreign Affairs Committee of the House of Commons', *International and Comparative Law Quarterly*, 49.
- Grunewald, F. (1998) 'Questioning the Sphere'. Plaisians: Groupe URD.
- Halliday, F. (2001) *Two Hours That Shook The World: September 11, 2001*, Causes and Consequences. London: Saqi.
- Halliday, F. (1996) *Islam and the Myth of Confrontation*. London: I. B Tauris.
- Henkin, L. (1963) 'Force, Intervention, and Neutrality in Contemporary International Law', *Proceedings of the American Society of International Law*.
- Higgins, R. (1984) *Problems and Process: International Law and How We Use It*. Oxford: Oxford University Press.
- House of Commons International Development Committee (2002-2003) *Afghanistan: The Transition from Humanitarian Relief to Reconstruction and Development Assistance*, First Report of Session 2002-3, HC 84.
- Human Rights Watch (2003) *Human Rights Watch World Report 2003*. New York: Human Rights Watch.
- Human Rights Watch (April 2002) *Afghanistan: Paying for the Taliban's Crimes*.
- Human Rights Watch (February 2002) *Closed Door Policy: Afghan Refugees in Pakistan and Iran*.
- Huntington, S. P. (1996) *The Clash of Civilizations and the Remaking of World Order*. London: Simon & Schuster.
- ICG (July 2002) *The Afghanistan Transitional Administration: Prospects and Perils*.
- ICJ (1996) *The Legality of the Threat or Use of Nuclear Weapons*.
- ICJ (1986) *Military and Paramilitary Activities In and Against Nicaragua (Nicaragua v United States of America)*, www.icj-cij.org.
- ICJ (1949) *Corfu Channel (United Kingdom v Albania)*, www.icj-cij.org.
- IDC (2003) *Preparing for the Humanitarian Consequences of Possible Military Action Against Iraq*, House of Commons, Fourth Report of Session 2002-03 (Volume 1-HC444-1). London: The Stationary Office.
- Ilchman, W. F., S. N. Katz and E. L. Queen II (eds) (1998) *Philanthropy in the World's Traditions*. Bloomington, IN: Indiana University Press.
- International Commission on Intervention and State Sovereignty (2001) 'The Responsibility to Protect', www.dfait-maeci.gc.ca/iciss-ciise/menu-en.asp.
- International Council on Human Rights Policy (2002), 'Human Rights After September 11', main report from the international symposium, 10-12 January 2002, Geneva, Switzerland.
- IRDC (2001) *Report of the International Commission on Intervention and State Sovereignty*. Ottawa: International Research Development Centre.
- IRIN Afghanistan news, 4 June 2002.
- IRIN (29 September 2001), Press release, Islamabad.
- Jackson, R. (1990) *Quasi-states: Sovereignty, International Relations and the Third World*. Cambridge: Cambridge University Press.
- Johnson, C. (March 2000) *Hazarajat Baseline Study - Interim Report for the UN Coordinator's Office*.
- Johnson, C., W. Maley, A. Thier and A. Wardak (2003) *Afghanistan's Political and Constitutional Development*. London: ODI.

- Johnson, C. and J. Leslie J (2002) *Coordination Structures in Afghanistan*, background report for HPG.
- Kepel, G. (2002) *Jihad: The Trail of Political Islam*. London: I. B. Tauris.
- Kritsiotis, D. (1998) 'Reappraising Policy Objections to Humanitarian Intervention', *Michigan Journal of International Law*, 19(4).
- LaFeber, W. (2002) 'The Bush Doctrine', in 'The Road To and From September 11th: A Roundtable', *Diplomatic History*, vol. 26, no. 4, Autumn.
- Lautze, S, N. Nojumi and F. Najimi (2002) *Qaht-e Pool 'A Cash Famine'*, *Food Security, Malnutrition and the Political Economy of Survival*. Medford, MA: Feinstein International Famine Center, Tufts University (draft).
- Levitt, M. A. (2002) 'Charitable and Humanitarian Organizations in the Network of International Terrorist Funding', testimony before the US Subcommittee on International Trade and Finance, Committee on Banking, Housing, and Urban Affairs.
- Lewis, B. (2002) *What Went Wrong?* London: Weidenfeld & Nicolson.
- Lindenberg, M. and C. Bryant (2001) *Going Global: Transforming Relief and Development NGOs*. Bloomfield, CT: Kumarian.
- Macrae, J. et al. (2002) *Uncertain Power: The Changing Role of Official Donors in Humanitarian Action*, HPG Report 12. London: ODI.
- Macrae, J. (ed.) (2002) *The New Humanitarianisms: A Review of Trends in Global Humanitarian Action*. HPG Report 11. London: ODI.
- Martone, G. (2002) 'The Peculiar Compartmentalization of Humanitarian Action' and 'Relentless Humanitarianism', papers presented at the International Expert Conference 'Security and Humanitarian Action: Who is Winning? A US-Europe Dialogue in the Wake of September 11', Columbia University, 24-25 May.
- Mayer, A. E. (1999, third edition) *Islam and Human Rights: Tradition and Politics*. Boulder, CO: Westview Press.
- McClelland, S. (2003) Remarks at the HPG debate 'How Should Humanitarian Needs Be Met in Iraq?', London, 10 April 2003, www.odi.org.uk/hpg/papers/iraq2.pdf.
- Minear, L. (2002) 'Humanitarian Action in the Age of Terrorism', background paper for the International Expert Conference 'Security and Humanitarian Action: Who is Winning? A US-Europe Dialogue in the Wake of September 11', Columbia University, 24-25 May.
- Minear, L. (2002) *The Humanitarian Enterprise*. Bloomfield, CT: Kumarian.
- O'Malley, S. and D. Dijkzeul (2002) 'A Typology of International Humanitarian Organizations', paper prepared for the International Expert Conference 'Security and Humanitarian Action: Who is Winning? A US-Europe Dialogue in the Wake of September 11', Columbia University, 24-25 May.
- Murphy, S. (ed.) (2002) 'Contemporary Practice of the United States Relating to International Law', *American Journal of International Law*, 96.
- Natsios, A. (November 2001), Statement to the House Committee on International Relations, Washington DC.
- Newberg, P. (1999) *Politics at the Heart*. Washington DC: Carnegie Endowment.
- NSS (September 2002) *National Security Strategy of the United States*. Washington DC: USGPO.
- OCHA (April 1998) *Making a Reality of Principled Common Programming*. Islamabad: OCHA.
- Open Society Institute/International Medical Corps (2001) 'Development and Humanitarian Assistance Post-September 11: Sharing Perspectives', conference of US NGO CEOs hosted by the Open Society Institute and International Medical Corps, New York, 5 October 5.
- Oxfam (6 May 2003) 'Joint Humanitarian Agency Statement on Iraq', www.oxfam.org.uk/atwork/emerg/iraq/iraq05may03b.html.
- Paul, J. (2000) 'NGOs and Global Policy-Making', Global Policy Forum, June.
- Rashid, A. (2000) *Taliban: Militant Islam, Oil and Fundamentalism in Central Asia*. New Haven, CT: Yale University Press.
- ReliefWeb (2 May 2003) 'Joint Agency Statement on Iraq'.
- Rensseler, L. and R. Perl (8 January 2003) 'Terrorism, the Future and US Foreign Policy', Issue Brief for Congress, Congressional Research Service, Library of Congress.
- Rice, S. E. (25 November 2002) 'US Foreign Assistance and Failed States', Working Paper. Washington DC: The Brookings Institution.
- Rieff, D. (2002) *A Bed for the Night: Humanitarianism in Crisis*. New York: Simon and Schuster.
- Roy, O. (1998) *The Failure of Political Islam*. Cambridge, MA: Harvard University Press.

- Rubin, B. (1995) *The Search for Peace in Afghanistan: From Buffer State to Failed State*. New Haven, CT: Yale University Press.
- Ruthven, M. (2002) *A Fury for God: The Islamist Attack on America*. London: Granta Books.
- de St Jorre, J. (1975) *The Nigerian Civil War*. London: Hodder and Stoughton.
- Salih, M. A. M. (forthcoming, 2003) 'Islamic NGOs in Africa: The Promise and Peril of Islamic Voluntarism', in de Waal, A. (ed.) *The Islamic Project and Its Enemies: Jihad, Civil Society and Humanitarianism in North-East Africa*. London: C. Hurst.
- Schachter, O. (1984) 'The Right of States To Use Armed Force', *Michigan Law Review*, 82.
- Slim, H. (2002) 'By What Authority? The Legitimacy and Accountability of Non-governmental Organisations', paper prepared for the International Council on Human Rights Policy International Meeting on Global Trends and Human Rights Before and after September 11, Geneva, 10-12 January, www.jha.ac/articles/a082.htm.
- Slim, H. (2001) 'Military Intervention to Protect Human Rights: The Humanitarian Agency Perspective', background paper for the International Council on Human Rights' Meeting 'Humanitarian Intervention: Responses and Dilemmas for Human Rights Organisations', Geneva, 31 March-1 April.
- Stapleton, B. (2003) Briefing paper on the development of joint regional teams in Afghanistan. London: BAAG.
- Stockton, N. (forthcoming, 2003) in A. Donini, N. Niland and K. Wermester, *Aid, Peace and Justice in Afghanistan*. New York: Kumarian Press.
- Stockton, N. (2002) *Strategic Coordination in Afghanistan*. Kabul: AREU.
- Stockton, N. (1998) 'In Defence of Humanitarian Principles', *Disasters*, vol. 22, no. 4.
- Stoddard, A. (1999) *Background Paper on Issues in Humanitarian Aid*. New York: Center on International Cooperation.
- Straw, J. (6 August 2002) 'Failed and Failing States', speech at the European Research Institute, Birmingham.
- Strawson, J. (1996) 'Encountering Islamic Law', *Pakistan Law Review*, www.geocities.com/paklawreview/strawson1.html.
- Sullivan, D. J. (1992) *Private Voluntary Organizations in Egypt: Islamic Development, Private Initiative and State Control*. Gainesville, FL: University Press of Florida.
- Suhrke, A., M. Barutciski, P. Sandison and R. Garlock (2000) *The Kosovo Refugee Crisis: An Independent Evaluation of UNHCR's Emergency Preparedness and Response*. Geneva: UNHCR.
- Terry, F. (2002) *Condemned to Repeat? The Paradox of Humanitarian Action*. Ithaca, NY: Cornell University Press.
- Turton, D. and P. Marsden (2002) *Taking Refugees for a Ride: The Politics of Refugee Return to Afghanistan*. Kabul: AREU.
- UN (2002) Immediate and Transitional Assistance Programme for the Afghan People, January.
- UN Coordinator for Northern Afghanistan (2002) Chronology of Incidents in Northern Afghanistan, November 2001-June 2002, unpublished document.
- UNODC (2003) *The Opium Economy in Afghanistan: An International Problem*. New York: UN.
- UNODCCP (2000), *Annual Opium Poppy Survey 2000*. Islamabad: UNODCCP.
- UNODCCP (2000) Press release, 15 September.
- UK government (2001) 'War on Terrorism - Defeating International Terrorism: Campaign Objectives', Prime Minister's Office, www.pm.gov.uk.
- UK Parliamentary Select Committee (2000), Fourth Report.
- USAID (2003) 'USAID's Role in the War on Terrorism', Issue Brief, Roundtable Discussion on Terrorism.
- USAID (2002) 'Foreign Aid in the National Interest: Promoting Freedom, Security and National Interest'.
- Wechsler, Rabbi H. J. (2002) speaking at the symposium 'Traditions, Values and Humanitarian Action', Center for International Health and Cooperation and the Institute of International Humanitarian Affairs, Fordham University, New York, 20 November.
- Weiss, T. (1999) 'Principles, Politics, and Humanitarian Action', *Ethics and International Affairs*, vol. 13, pp. 1-22.
- USAID (2003) 'USAID's Role in the War on Terrorism', Issue Brief, Roundtable Discussion on Terrorism.
- USAID (2002) *Voluntary Foreign Aid Programs: Report of Voluntary Agencies Engaged in Overseas Relief and Development (Volag Report)*, www.info.usaid.gov/hum_response/pvc/pvcpubs.html.

- US UN Press (2001), 'Remarks by Secretary of State Colin Powell to the National Foreign Policy Conference for Leaders of NGOs in Washington DC', 26 October, www.USUNPRESS@state.gov.
- de Waal, A. (1997) *Famine Crimes: Politics and the Disaster Relief Industry in Africa*. Oxford: James Currey.
- Waltzer, M. (2002) 'Five Questions about Terrorism', *Dissent*, vol. 49, no. 1.
- Weiss, H. (ed.) (2002) *Social Welfare in Muslim Societies in Africa*. Uppsala: Nordiska Akrikainstitutet.
- Wermester, K. (2002) The Interaction of Political and Humanitarian Action in Afghanistan: A View from the UN Assistance Mission to Afghanistan (UNAMA), draft report. Geneva: HDC.
- WFP (2001) *Annual Report*. Rome: WFP.
- WFP (2001) WFP VAM September 2001.
- WFP VAM Unit and partners, Afghanistan Countrywide Foods Needs Assessment of Rural Settled Population, 2002-2003, Kabul.
- Woodward, B. (2002) *Bush at War*. New York: Simon and Schuster
- Zemmali, A. (1997) *Combattants et Prisonniers de Guerre en Droit Islamique et en Droit International Humanitaire*. Paris: Editions A. Pedone.

List of interviewees

Nicola Reindorp, Head, Oxfam International

Matthew Scott, Policy Advisor, World Vision International

Fiona Terry, Director of Research, Médecins Sans
Frontières

Karen Thomson, Advocacy Director, CARE USA

Rudolph von Bernuth, Associate Vice-President, Division
for Humanitarian Response, Save the Children US

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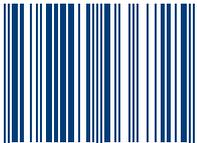
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