

# ETHICAL EVOLUTION OF THE HUMANITARIAN IDEA

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## LIST OF ACRONYMS

ACF	Action Contre le Faim
AI	Amnesty International
AMI	Aide Médicale Internationale
CARE	Co-operative for American Remittances Everywhere
CISP	Comitato Italiano per il Sviluppo di Poppolo
CRS	Catholic Relief Service
CWS	Church World Service
DFID	Department for International Development (Britain)
DHA	United Nations Department of Humanitarian Affairs
ECHO	European Community Humanitarian Office
HF	High Frequency
HI	Handicap International
HRW	Human Rights Watch
ICRC	International Committee of the Red Cross
IDP	Internally Displaced Person
IGO	Intergovernmental Organization
IRC	International Rescue Committee
LWF	Lutheran World Federation
MERLIN	Medical Emergency Relief International
MDM	Médecins du Monde
MRG	Minority Rights Group
MSF	Médecins Sans Frontières
NGO	Non-Governmental Organization
NGG	Non-Governmental Government
NNGO	Non-Non-Governmental Organization
OAU	Organization of African Unity
OXFAM	Oxford Committee for Famine Relief
RPA	Rwandan Patriotic Army
UN	United Nations
UNITAF	Unified Task Force (Somalia)
UNOSOM	United Nations Operation in Somalia
WW II	World War II

## INTRODUCTION: THE DANGEROUS PIETY

Khaled and I were happy. After several weeks of negotiations and despair blocked in Kandahar, we managed to meet the leaders of the, at that time unknown and intriguing, Taliban. With the written safe-conduct provided by them, the following morning we jumped into our shaky Toyota overloaded with medicines, high energy biscuits and blankets and set off for Tarin-Kowt, the capital of the mountainous province of Uruzgan and one of the battle front-lines. It was January 1995, the wind was freezing, the road impassable and the landscape of the snowed high plateau dappled with tank wreckage breathtaking. It was thanks to these long trips throughout Afghanistan and endless games of chess, that Khaled, a Pusthun surgeon, and I, a Spanish humanitarian worker, became close friends and tireless talkers. That day the conversation turned to war, its origins and what it meant to each one of us. By the time we reached Tarin-Kowt it was dark and we were tired and hungry. The Taliban garrison welcomed us warmly and after sharing their food with the newcomers, we were accommodated in what used to be the maternity ward of the provincial hospital converted, since the times of the Soviet occupation, in an arms depot. Amongst piles of rusty Kalashnikov, grenades and mortar shells Khaled wished me a goodnight. I asked him why did he think I was there. ‘What unites you and I is not humanity, but war. Nothing is more human than war’ was his reply.

His answer made me feel uneasy but Khaled was right. On the one hand, war is unknown to the rest of animals, it is not a natural instinct: war is a purely human invention. On the other hand, humans are the only creatures that do not recognize one another.<sup>1</sup> The rest of species, regardless of race, customs or habitat, identify immediately alien individuals or herds as members of their own universal animality or more precisely *dogity*, *storkity*, *codity*, and so on. However, since *homo sapiens* populated the planet, different communities established strict biological, social and cultural conditions before recognizing other similar living organisms as human. Historically humanity ended at the family, tribal, religious, racial, idiomatic border and while nowadays it is not difficult to recognize humanity as a biological reality, the same can not be said from the social point of view. ‘Myself against my brother, my brother and I against my cousins, my cousins and I against my clan, my clan against your clan, the Somalis against the world’; the ancient Somali maxim could not seem more up-to-date.

Affirming the membership to a universal humanity is in fact an attempt to establish it as a value, as a condition that will have to be defined in moral and legal terms. Religion and philosophy have left a trail all through history of principles of human conduct towards the deprived, the sick, the needy or the war victims. Either in peacetime or war-torn periods, individual rights emerged while, at the same time, the categories of individuals deserving such rights expanded via the universalization phenomenon that has been taking place from the sixteenth century onwards. The heritage of these two parallel normative revolutions, nowadays partially codified in juridical jargon in what is known as human rights and international humanitarian law and in their modern moral counterparts of global justice and solidarity, is the basis for the justification of humanitarian intervention, one of the favourite sons of modernity.<sup>2</sup>

Yet the ‘humanist’ and the ‘humanitarian’ emanate from two very different moral standpoints which have been used, abused, intermingled and instrumentalized to create permissive conditions for actions ranging from the Crusades to the Operation Lifeline Sudan, from the European colonization to the US intervention in Grenada. Who is human, what is humanitarian and what is unnecessary suffering vary from one generation to the next, but “[m]odern moral universalism is built upon the experience of a new kind of crime: the crime against humanity.”<sup>3</sup> The widespread social consternation caused by the opening of the gates of Auschwitz at the end of WW II provoked a wave of moral self-recrimination. Luckily the lifesaver was at hand: if nothing had been done it was only because we did not know, unawareness, not indifference, was the sole cause of inaction, and this was not going to happen again. Lesson learnt, the humanitarian illusions machine switched to full speed to narrow “the gap between what is ethically

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<sup>1</sup> See Alain Finkielkraut, *L’Humanité Perdue* (Paris: Seuil, 1996), p. 13. Paradoxically, we are taught to love other species of animals not for what they are but for their ‘human’ attributes. From children’s cartoons to animal rights organizations’ posters, animals cry, smile, talk, fall in love... But that is another essay.

<sup>2</sup> See Ricardo Parvex, ‘L’humanitaire signe des temps’ in Luc Boltanski; Rony Brauman; Pierre Cosigny; Pascal Empereur-Bissonet; Gabriel Ersler; François Jean; Paul Keller; Noelle Lasne; Jacques Lebas; Bertrand Lebeau; Jean-Paul Nuñez; Ricardo Parvex; Jean Rigal and Christiane Vollaire, ‘Le désordre humanitaire’, *La Revue Agora*, Autumn, No. 36 (1995), pp. 57-62.

<sup>3</sup> Michael Ignatieff, *The Warrior’s Honor. Ethnic War and the Modern Conscience* (New York: Henry Holt, 1997), p. 19.

desirable and what is politically likely and possible.”<sup>4</sup> But the dream was not to be. Few decades later nothing would be done to stop a genocide broadcast live from Rwanda. This time ignorance would not be a valid excuse.

Not long time ago our compassion towards foreign populations was administered by missionaries. Today aid workers, diplomats, soldiers, politicians, consultants, observers, lawyers or journalists act as charity intermediaries and shape our virtuous impulses. ‘International, World, Friends, Concern, Save, *du Monde, Sans Frontières...*’ are part of humanitarian global trade names that convey the existence of a universal human identity against the moral and territorial standing of states. Their constituency is of planetary scale, they allege to represent both their own societies and the victims, and their message has been extremely successful. Still, “[a] community of vocabulary is not the same thing as a community of values,”<sup>5</sup> and when it comes to humanitarian intervention, allegedly the most radical form of contemporary generosity, the normative scene remains very poor and the extent to which it has moved beyond the traditional one remains in doubt.<sup>6</sup>

At the end of a century that has witnessed two world wars, dozens of peripheral conflicts, the nuclear horror, the goulag, the genocide in Nazi Germany, Cambodia and Rwanda, the ‘human-humanitarian’ falls victim of its own social success and moral failure. Unable to overcome the eternal dilemma between deontological and teleological ethics,<sup>7</sup> trapped in the legal paradigm they helped to create, incapable of agreeing what humanitarian intervention aims at, and reducing human rights to the right to be alive, humanitarianism has replaced the imperialist and ideological discourses to become a substitute for politics and justice. The palliative ideology, the morality of urgency, the ambulance politics are supported by a morally indolent constituency that loves cheering its humanitarian heroes<sup>8</sup> and sanctifying the victims incarnated in the ultimate humanitarian object of mass consumption of the nineties: the refugee. Contemporary humanitarianism is a shelter value, a minimalist morality not based in a categorical imperative but in emotions over circumstances.

These are the issues this paper is concerned with. We should enter into the ethics department<sup>9</sup> of the humanitarian laboratory to analyse in Part I the normative evolution that provided the two basic moral ingredients to catapult humanism and humanitarianism to a prominent place on the international scene. Part II will deal with the star remedy developed by the charity alchemists of the second half of this century: humanitarian intervention. It will go through its different versions and respective moral formulas, and confront some especially embarrassing side effects such as why taking the side of the victims has turned out to be a way of not taking side at all, a sort of disguised disengagement that can eventually do more harm than good to the people it is intended to help? Are the provision of relief (humanitarianism) and the protection of human rights (justice) compatible? Why humanitarian intervention seems to be the last refuge of humanism?<sup>10</sup> What do we mean by humanitarian intervention? What is more humanitarian to eliminate the evil or to do good? Are not we talking about an ideal that only exists in our minds? In other words, has there ever been any genuinely humanitarian intervention?

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<sup>4</sup> Stanley Hoffmann, ‘The Politics and Ethics of Military Intervention’, *Survival*, Vol. 37, No. 4 (1995-96), p. 45.

<sup>5</sup> Stanley Hoffmann, *Duties Beyond Borders: On the Limits and Possibilities of Ethical International Politics*, (New York: Syracuse University Press, 1981), p. 20.

<sup>6</sup> See Stanley Hoffmann, *The Ethics and Politics of Humanitarian Intervention* (Indiana: University of Notre Dame Press, 1997), p. 30.

<sup>7</sup> Duty-based and goal-based ethics respectively. See Hugo Slim, ‘Doing the Right Thing. Relief Agencies, Moral Dilemmas and Moral Responsibility in Political Emergencies and War’, *Studies on Emergencies and Disaster Relief*, No.6, Nordiska Afrikainstitutet (1997), pp. 7-8.

<sup>8</sup> One of the latest examples of the humanitarian worker enthronement can be seen in Ignatieff, *op. cit.*, pp. 109-163.

<sup>9</sup> Humanitarian ethics cannot be completely isolated from law and politics with which maintains a complex interaction that in the end shapes the final action (or inaction) on the ground. Thus we should visit as well, albeit incidentally, these two departments.

<sup>10</sup> See Jean-Paul Nuñez, ‘L’humanitaire comme croisade’ in Boltanski et al., *op. cit.*, p. 20.

## PART I: UNTYING THE MORAL KNOT

### FROM THE CATACOMBS TO THE UNITED NATIONS

During the classical era, Hellenic people considered themselves superior to barbarians (the rest of the known world) who were not entitled to the same treatment as Greeks. In the Roman Empire only few privileged individuals were citizens, the rest were slaves. When the Christian revelation confronted this partition with the promise of universal eternal life after death its followers were persecuted by the Roman authorities, however, a powerful organization that spread the new ideology was created underground. Churches were founded, and a charity<sup>11</sup> network assisted the believers in need, in jail or affected by hunger and epidemics. By the year 313, when the Emperor Constantine and Licinius proclaimed the Edict of Milan whereby Christianity was officially recognized, the heart of the movement was already deeply divided by internal ethical differences regarding charity and war. Firstly there was a stagnant understanding of charity as an act of compulsory nature which was the necessary key to open heaven's gates. Opposing this view there were those who championed a combative charity that fought injustice and revolted against the established order if required. Secondly there existed also disagreements between those that denied the legitimacy of using violent means to reach an objective and the advocates of a just war doctrine. These deep and irreconcilable ethical fault-lines can be traced, not without difficulty due to vested interests, throughout history.

To make a long story short, the Middle Ages witnessed both the emergence of the belief in a mystical universal body that connected all people and the elaboration of the just war theory by St. Thomas Aquinas. But the discourse on human dignity was applicable only to humans, namely white Christian Europeans, it was the era of the armed charity of the Orders of Knighthood: all love for the believer, implacable with the infidel. It was Fray Bartolomé de Las Casas who attempted to expand the human category membership by questioning the legitimacy of the Spanish *conquistadores* war against the indigenous unbelievers, in other words he strove to detach human condition from Christian faith. Later, during the Age of Reason, Hugo Grotius synthesised Aquinas's thinking with the abstraction of common humanity in his book 'On the Rights of War and Peace,' and, already under the Westphalian order, Kant's vision of moral interconnectedness widened the notion of global solidarity by linking the idea of international peace and security with the protection of individual human dignity. Nonetheless, it was not until the last 150 years that the spread of humanitarianism and human rights led to the truly expansion of humanity on the ethical and legal spheres. Key developments during this period were the abolition of slavery, the codification of the laws of war in the Geneva Conventions, the Universal Declaration of Human Rights and the de-colonization process.

While Galileo removed the man from the centre of the universe and Darwin overthrew him from the centre of Creation, the mankind strove to build up an idea of universal human brotherhood by using the normative weapon to undermine the borders between civilized and savage, Christian and infidel, citizen and slave, white and black, men and women. Though, "this whole story cannot be written as a progressive unfolding of moral enlightenment, but rather as a struggle to reconcile universalist moral impulses with their often uncomfortable consequences."<sup>12</sup> Certainly, millions of lives have been saved and millions of persons have been killed in the name of the very same principles of humanity. And, true enough, there are still many obstacles that have not been surmounted yet,<sup>13</sup> thus the borders of the national state and the assertions of moral and cultural relativism,<sup>14</sup> to mention only a few, are major roadblocks on the route to universalization. Nevertheless it is undeniable that the situation has improved, actually, the belief that human beings are part of one and only humanity, that they have equal rights and

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<sup>11</sup> Saint Paul describes charity in a letter to the Corinthians, see *The Bible*, Corinthians 13,4-13,7. Needless to say, Christianity does not have the monopoly of goodwill: African beliefs, Buddhism, Hinduism or Islam have also plenty of accounts of community obligations and generosity before adversity.

<sup>12</sup> Ignatieff, *op. cit.*, p. 14.

<sup>13</sup> Of course this is not to say that the hurdles mentioned before have been overcome. Christian intolerance, slavery, racism and sex discrimination are still very much part of today's world, but the legitimacy of their ethical discourse is minimal compared to what it used to be only a century ago.

<sup>14</sup> However interesting it might be, it is not the intention of this paper to further explore these issues. Excellent discussions on human rights and cultural relativism and the extent of its universality can be seen in R. J. Vincent, *Human Rights and International Relations* (Cambridge: Cambridge University Press, 1986), pp. 37-57 and Jack Donnelly, *International Human Rights* (Boulder: Westview Press, 1993), pp. 34-38.

deserve protection from unnecessary suffering is becoming a more universally accepted truth.<sup>15</sup> Furthermore, pierced by international law on behalf of the universality of humanity, sovereignty faces foreign intervention on behalf of a link that unites human rights and preservation of peace.<sup>16</sup>

But the crucial question for us here is: after so much normative developments, legal codification and political and non-governmental institutionalization have we solved the ethical dilemmas that disturbed the early Christians hidden in the catacombs of Rome? The answer is: no. A secularized-legalized version of the same discussion can be still heard nowadays not underground but in the international fora. Humanism and humanitarianism have cohabited for centuries, they have evolved, they have been manipulated and reinvented several times, but all the attempts made to fuse them together not only ended up in failure, but have also created a minimalist mixture of user-friendly, simplistic and misleading ethics of contemporary humanitarian intervention. The level of moral morass is such that if we say that children's rights or female genital mutilation are not humanitarian issues more than a pair of eyebrows will raise. And still, they are not. The problem lies in the schizophrenic attempt to combine the uncombinable: the two different and often intrinsically antagonistic moralities, practices and goals that underlie the humanist and the humanitarian doctrines.

### THE ETHICAL DICHOTOMY

History talks about the emergence of the individual and its universalization. But the sort of individual that emerged during peacetime is different from the type of individual that emerged in wartime. The former represents the domain of the entire human specie, the latter belongs to the domain of the victims. At first sight the distinction might seem futile or capricious as victims are certainly human beings too, however, as we should see, the core values that shape the ideals and actions of the proponents of each interpretation are at odds.

Much of the rhetoric of universal human rights can be traced back to the Middle Ages when the doctrine of natural law provided the basis for a theory of rights. The central idea was the existence of universal moral standards and individual rights based on them. This interpretation would be carried over into the modern period by liberal thinkers, first in a restrictive contractarian version of universalism of rights within the limits of the norms of sovereignty and non-intervention, later, after WW II, in a more interventionist direction. The Universal Declaration of Human Rights of 1948 is symbolically central.<sup>17</sup> "Human rights are the demands of all of humanity on all of humanity,"<sup>18</sup> in other words they are the "rights that everyone has, and everyone equally, by virtue of their very humanity."<sup>19</sup> This is the territory of humanism inhabited by human rights activists whose moral rationale is the indivisibility of human interests the protection of which escapes to the exclusive competence of the state. It is the revolution of the double citizenship.<sup>20</sup> national and international, humanity is a community of exceptions.<sup>21</sup> The liberal and secular contemporary human rights tradition regards war as immoral and its cosmopolitanist morality pursues to heighten the sensitivity of people in one place to wrongs done in another in the interest of the achievement of global justice.<sup>22</sup> "We have human rights not to what we need for health but to what we need for human dignity."<sup>23</sup>

Confronting these conceptions there is war. "War is a world apart, where life itself is at stake, where human nature is reduced to its elemental forms, where self-interest and necessity prevail ... [here] morality and law have no place."<sup>24</sup> And this is the world of humanitarianism, the globalized and secularized modern offspring of Christian charity. The ancient theories of just war based in a moral

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<sup>15</sup> See Thomas G. Weiss and Cindy Collins, *Humanitarian Challenges and Intervention* (Boulder: Westview Press, 1996), p. 16.

<sup>16</sup> See Mario Bettati, *Le Droit d'Ingérence. Mutation de l'ordre international* (Paris: Odile Jacob, 1996), p. 46.

<sup>17</sup> The other central normative texts in the field of international human rights are the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights.

<sup>18</sup> David Luban, 'Just War and Human Rights' in Charles R. Beitz; Marshall Cohen; Thomas Scanlon and John A. Simmons (eds.), *International Ethics* (Princeton: Princeton University Press, 1990), p. 209.

<sup>19</sup> Vincent, *op. cit.*, p. 13.

<sup>20</sup> See Bettati, *op. cit.*, p. 37.

<sup>21</sup> See Finkelkraut, *op. cit.*, p. 115.

<sup>22</sup> See Vincent, *op. cit.*, p. 118.

<sup>23</sup> Donnelly, *International Human Rights*, p. 21.

<sup>24</sup> Michael Walzer, *Just and Unjust Wars* (New York: BasicBooks, 1977), p. 3.

understanding of violent conflict provide de historical reference to contemporary international humanitarian law.<sup>25</sup> War was invented by humans as a way to solve certain conflicts and giving absolute primacy to the world community's interest in peace does not suppress those conflicts. Humanitarianism is neither violent nor pacifist, it accepts war as a human reality and endeavours to humanize it. Humanitarianism does not seek to protect humanity but war victims. The Geneva Conventions are not about human solidarity or justice, they are about good treatment of non-combatants, prisoners, wounded and health personnel on the battlefield. Normally acting on the basis of consent and neutrality, the overall mission of humanitarianism is to preserve life and assuage human agony,<sup>26</sup> to help victims overcome a transitional period of crisis.

Therefore, on the one hand humanism attempts to humanize the world, to pacify it, to change it, while on the other humanitarianism struggles to humanize war, to limit its effects. One cares about quality of life, the other about life itself; one is about rights, the other about health; in one humans recognize each other by their common natural characteristics (all humans are equal), in the other suffering is the identifying element (all victims are equal). These discrepancies were very well illustrated in 1901 in Oslo. Frédéric Passy, an eminent economist and pacifist leader of the International Peace League was a strong critic of the work of Henry Dunant, the Swiss businessman founder of the ICRC and father of the Geneva Conventions, on the basis that Dunant was renouncing to the greater good of peace and justice and making it easier for states to resort to war. Both were nominated as candidates for the first Nobel Peace Prize in history. After much deliberation, unable to choose between them, the selection committee decided to split the prize.<sup>27</sup> The controversy still goes on nowadays if we compare the standpoints of the president of the ICRC, classical example humanitarian organization, and the thinking of the co-directors of African Rights, excellent example of human rights organization. According to the former, "humanitarian action deals only with the symptoms of crisis, not the crisis itself or its causes. It seeks only to relieve the victims of suffering, not to punish their tormentors. It is essentially an act of charity, which is not necessarily an act of justice."<sup>28</sup> However for the latter "relief organizations will always make charitable works their priority, ... some people may be fed or treated as a result ... but this is at the cost of addressing more fundamental political and human rights concerns."<sup>29</sup>

At this point some could say: 'well, after all, what is the problem of having two different normative approaches with two different objectives? Could not those different organizations work jointly in order to ensure that in wartime both international humanitarian law and human rights are respected, and that in peacetime the latter are observed?' If I may answer the second question first, I would say that, despite some laudable attempts to co-ordinate activities, the ethical barrier (and more mundane interests) that separate these organizations devalues in the best of cases collaboration to a mere exercise of sharing information. Concerning the first question my reply would be: none. Although I could prefer a single ethical code to respond to injustices suffered by members of humanity, I see no problem at all in having two or more interpretations of which course of action is better to achieve a given objective. After all, albeit their clients are from the same specie, humanism and humanitarianism final objectives are, as we have seen, very different, so no wonder they are backed by different sets of principles. Therefore this is not the issue at stake here.

So far, to better illustrate the argument, we have spoken of organizations whose actions and words are rather consistent with their principles because they stick to one of the moral codes. However, as mentioned in the previous section, the problem we want to address is the outcome of the attempts

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<sup>25</sup> International Humanitarian Law includes the Law of the Hague (Hague Conventions of 1899, 1907 and 1954) dealing primarily with interstate rules governing the use of force, and the Law of Geneva (Geneva Conventions of 1864, 1906, 1929 and 1949 and the two Additional Protocols of 1977) concerning the protection of persons from the effects of armed conflict.

<sup>26</sup> See Médecins Sans Frontières, 'Inter-Action', *International Newsletter* (1995), p. 2.

<sup>27</sup> See John F. Hutchinson, *Champions of Charity. War and the Rise of the Red Cross* (Boulder: Westview Press, 1996), pp. 108 and 192-193. See also Jean-Christophe Rufin, *L'aventure humanitaire* (Paris: Gallimard, 1994), p. 65.

<sup>28</sup> Cornelio Sommaruga, President of the ICRC, quoted in United Nations High Commissioner for Refugees, *The State of the World's Refugees. A Humanitarian Agenda* (Oxford: Oxford University Press, 1997), p. 267.

<sup>29</sup> Rayika Omar and Alex de Waal, 'Humanitarianism Unbound? Current Dilemmas Facing Multi-Mandate Relief Operations in Political Emergencies', *African Rights Discussion Paper*, No. 5 (1994), p. 40.

made by other contemporary humanitarian actors to combine the two ethical kits.<sup>30</sup> Dissecting the modern bicephalous humanitarian creature could help us understand the humanitarian NGOs boom, their ambiguous and contradictory messages, the excitement of western society for anything labelled humanitarian or non-profit, and the moral confusion and quarrels over humanitarian intervention between governments, IGOs and NGOs; human rights and humanitarian organizations; development and emergency oriented agencies; politicians, donors, academics, expatriates, journalists...

It all started in 1968 during the war of Biafra, cradle of a new generation of NGOs, and worsened with the end of the Cold War, trigger of a new style of humanitarianized international relations. But these issues will be dealt with in Part II by exploring the evolution of humanitarian interventionism.

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<sup>30</sup> We should not examine in this paper the outcome of the attempts made by human rights organizations to integrate humanitarianism' convictions. Although interesting, the extent to which this is happening is extremely low compared with the phenomenon we are trying to address.

## PART II: MODERN HUMANITARIAN INTERVENTION PHYLOGENY

### HUMANITARIAN INTERVENTION VS. HUMANITARIAN NON-INTERVENTION

In the eighteenth century blacks were property, several decades later they were humans. Colonization and de-colonization were done on humanitarian grounds. Until the American Civil War the bones of combatants dead on the battlefield were triturated and used as fertilizer, today armies risk the lives of their soldiers to recover the bodies of fellow nationals killed and the figure of the unknown soldier is praised world-wide. One hundred and fifty years ago only Christians deserved humanitarian intervention, nowadays massacres of Muslims trigger it off as well.

Humanitarian intervention is not new but the normative understanding of what means to be human, what counts as human suffering, what is humanitarian, what is intervention and who deserves humanitarian intervention, keep changing from one historical epoch to another altering the focus of humanitarian justifications. Therefore the “pattern of intervention cannot be understood apart from the changing normative context in which it occurs.”<sup>31</sup> Morality informs the law and values become enshrined in legal codes and institutions further increasing the power of the normative claims,<sup>32</sup> a power which, by a process of natural evolution, will be contested by new (usually ancient refurbished) emerging moral understandings. During the past decades the de-colonization process, the principle of self-determination, the codification of human rights, the rise and demise of the Cold War and the communications revolution, played a fundamental role in modelling the moral judgements we make on today’s humanitarian intervention. All this is said to have provoked the erosion of the principle of sovereignty but, while this remains to be seen, what seems clear is that for the time being humanity has expanded more than humanitarian intervention.

“Morality provides the strongest justification for humanitarian intervention: simply because atrocious violations of human rights take place overseas hardly seems sufficient to justify turning one’s back,”<sup>33</sup> doing otherwise would be accepting a moral difference between the human rights of citizens and those of foreigners. Therefore humanitarian intervention is an action that “belongs in the realm not of law but of moral choice.”<sup>34</sup> One of the reasons why a moral defence of humanitarian intervention is so puzzling is because intervention and non-intervention are two sides of the same coin: “non-intervention is a term of political metaphysics signifying almost the same thing as intervention.”<sup>35</sup> It is not the morality of humanitarian intervention against the amorality of non-intervention, but rather the clash between two morally based rules. Humanitarian intervention is seen as a mechanism for enforcing minimal compliance with communal standards of human dignity while non-intervention rests on the right of self-determination and on the moral respect from outsiders that national communities deserve.<sup>36</sup> Consequently we should not confuse the injustice of a given regime with the right of others to remedy that injustice. Thus, at the end of the day, not only both intervention and non-intervention claim to pursue the well-being of individuals but both use human rights ethics to rationalize their contentions. Before this debate there are three basic stances:<sup>37</sup> absolute non-intervention; limited interventionism in response “to acts that shock the moral conscience of mankind,”<sup>38</sup> and broad interventionism in cases of serious violations of human rights. However, albeit the obvious disparity between them, nowadays there exists a common baseline agreement to be found in the ethical dimension: nobody doubts that intervention is justified in

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<sup>31</sup> Martha Finnemore, ‘Constructing Norms of Humanitarian Intervention’ in Peter J. Katzenstein, (ed.), *The Culture of National Security: Norms and Identity in World Politics* (New York: Columbia University Press, 1996), p. 154.

<sup>32</sup> See *ibid*, p. 161.

<sup>33</sup> Jack Donnelly, ‘Human Rights, Humanitarian Intervention and American Foreign Policy: Law, Morality and Politics’, *Journal of International Affairs*, Vol. 37, No. 2 (1984), p. 319.

<sup>34</sup> Thomas M. Franck and Nigel S. Rodley quoted in Walzer, *op. cit.*, p. 106.

<sup>35</sup> Talleyrand quoted in Michael J. Smith, ‘Ethics and Intervention’, *Ethics & International Affairs*, Vol. 3 (1989), p. 4.

<sup>36</sup> See Jack Donnelly, ‘Human Rights, Humanitarian Intervention...’, p. 319.

<sup>37</sup> See Fernando R. Tesón, *Humanitarian Intervention. An Inquiry into Law and Morality* (New York: Transnational Publishers, 1988), pp. 21-22.

<sup>38</sup> Walzer, *op. cit.*, p. 107. This is a very famous and dangerous assertion since, as we should see later, the shocks suffered by the moral conscience of mankind have less to do with morals than with global media agendas. J. S. Mill is also a defendant of this middle way position, see Hoffmann, ‘The Politics and Ethics of Military Intervention’, pp. 33-36 and John Stuart Mill, ‘A Few Words on Non-Intervention’, *Dissertations and Discussions*, Vol. III (London: Longmans, 1867).

the cases of genocide and enslavement.<sup>39</sup> Unfortunately, this is poor consolation as it demonstrates that there is a consensus that humanitarian intervention is not always ethically justified.<sup>40</sup> And finally, adding reality to ethics, this however minimal consensus on the ethical domain falls apart in the practical dimension: we all agree that a humanitarian intervention would be morally justified to stop a genocide and we would disagree about when a specific situation is a genocide.<sup>41</sup>

#### CONTRANATURAL HUMANITARIANISM

The ambiguity of concepts such as genocide shows how important terminology is if we are to sustain a coherent discussion. Inevitably, before getting into the various breeds of humanitarian intervention, we will have to find our way through the always-entangled forest of definitions.

In the case of plain intervention, notwithstanding the numerous discrepancies regarding the threshold of involvement by which a given action is to be considered interventionist,<sup>42</sup> at least there seems to be general agreement on the fact that intervention is always without the consent of the host country. In our case we should define intervention as 'actions carried out by outside actors attempted to affect the internal affairs of another state without its consent.' Thus intervention may take a multitude of forms: from conditional aid or accusatory reports to dispatching troops; and a variety of ends: from forcing a country to open-up its market or hold democratic elections to toppling its government.

When the intervention is aimed at stopping violations of human rights or alleviating the suffering of victims we should call it humanitarian intervention. Yes this is the contranatural bi-headed animal we were talking about with a single humanitarian body and two separated brains, one humanist and another humanitarian, thinking in different ethical levels. Despite the inherent paranoia this may produce, this approach to humanitarian intervention is the most popularly accepted one and represents the integrationist thesis whereby international humanitarian law is only a part of human rights. At this point it is clear that my view is based on the idea that human rights and international humanitarian law are different and separated branches of international law the mixture of which may provoke a nefarious confusion when it comes to its application. Human rights protect the individual against the arbitrariness of internal order; international humanitarian law protects de individual when internal order has collapsed,

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<sup>39</sup> A. Mathias adds to genocide and enslavement the case of mass murder, an ambiguous category with which I disagree there is moral consensus. See Albert Mathias, 'Impossible limits of justice? Humanitarian intervention and infinite responsibility' in Wright Moorhead, (ed.), *Morality and International Relations* (Aldershot: Avebury, 1996), p. 137.

<sup>40</sup> *Ibid*, p. 138.

<sup>41</sup> Following the description given in Article II of the Convention on the Prevention and Punishment of the Crime of Genocide, genocide can be summarized as a criminal act done with the intention of destroying and ethnic, national or religious group targeted as such. Genocide is distinguishable from all other crimes by the motivation behind, but this term has progressively lost its initial meaning and is becoming dangerously commonplace. Nowadays in order to shock people and gain public attention to situations of violence or injustice, massacres, repression or any disaster with a large number of victims is, regardless of the cause, deemed as genocide. This situation makes no favour to the crime of genocide as its intrinsic meaning and power is lost when is confounded with any massacre or even famine and, in the end, nobody knows exactly what a genocide is and there is no agreement on the number of genocides. Some authors like A. Destexhe defend that there have been only three genocides during the twentieth century: those of the Armenians in 1915, Jews during WWII and Tutsis in 1994. Meanwhile Y. Sadowsky reckons fourteen major genocides since WWII. See Alain Destexhe, *Rwanda and Genocide in the Twentieth Century* (London: Pluto Press, 1995), pp. 21-35 and 75-76; and Yahya Sadowski, 'Think Again: Ethnic Conflict', *Foreign Policy*, No. 111 (1998), p. 18.

<sup>42</sup> 'Direct involvement;' 'forcible, coercive or dictatorial interference;' or 'discrete acts' are some of the terms used when defining intervention. Some definitions are very restrictive and only consider intervention when there is direct presence of alien government officials on the territory of the host state. Others have a much wider conception and describe intervention as any action by any sort of actor aimed at affecting the domestic affairs of another state. See Smith, *op. cit.*, pp. 1-2; Paul Taylor, 'The United Nations and International Organization' in John Baylis & Steve Smith, (eds.), *The Globalization of World Politics* (New York: Oxford University Press, 1997), p. 270; and Vincent's definition in Nicholas J. Wheeler, 'Humanitarian Intervention and World Politics' in Baylis, *op. cit.*, p. 393.

when is victim of an armed conflict.<sup>43</sup> This will imply redefining humanitarian intervention but, for the time being, we will stick to the definition given above and come back to this issue later.

From now on we should explore the role of the two ethical outfits presented in Part I in shaping the main patterns of humanitarian intervention over the past fifty years. Despite we will examine the appearance of several forms of humanitarian intervention chronologically, it should be noted that this is not a substitutive type of development. It is rather a sort of Darwinian natural evolution in which the formation of new species or their hybrids does not imply the immediate extinction of the ancestors but the coexistence, and subsequent competition, of all of them.

## METAPHYSICAL INTERVENTION

The Holocaust and the Nuremberg Tribunals were the catalyst that crystallized the emergence of human rights as a standard subject of international relations. The 1948 Universal Declaration of Human Rights, unanimously approved by the General Assembly of the UN, is the most authoritative statement of international human rights norms.<sup>44</sup> It is also, however, a non-binding document silent about enforcement that only sets standards of achievement. The Human Rights Declaration constitutes the fundamental guideline and the starting point of contemporary metaphysical intervention.

This is the type of intervention practised by human rights organizations. A human rights agency does not need to wait for a visa to get into a country, its action cannot be blocked by denying authorisation to cross a border because its weapon is the word, the speech, the information, the denunciation. A situation very different from that of the ICRC and many other humanitarian NGOs whose activities require physical presence beside the victim and subordinate their operations to the consent of the local authorities. The ethical bedrock of metaphysical intervention is the idea of universality of human rights and equality of humans, the view that human rights express natural law so the international community has the legitimate right to call governments to account for the treatment given to its citizens. Human rights are, in their most fundamental sense, paramount moral rights and the principal use of human rights claims is to challenge or seek to alter national, legal or political practices.<sup>45</sup> In this regard, metaphysical intervention also relies on the more pragmatic view that, despite the non-binding character of the Human Rights Declaration, reputation is something that matters to governments so “their actions can be affected by pointing out the harm or the good that might result from the publicity that will follow certain choices.”<sup>46</sup>

A metaphysical intervention may be carried out by individual states or intergovernmental organizations such as the UN and its numerous commissions of human rights. Yet, the frequent reluctance of governmental actors to criticize their counterparts, their limited independent sources of information and the suspicions upon the disinterested character of their moves, have contributed to make human rights NGOs “the lynchpins of the system as a whole.”<sup>47</sup> Generally speaking non-governmental methods of action include publishing reports, testifying before national legislatures or IGOs, making public statements and appearances in the media, letter-writing campaigns, demonstrations, pressing authorities for information on particular cases... In short, they agitate for the wider adherence to their principles, “they belong ... in the liberal tradition of belief in the power of opinion.”<sup>48</sup> These are their medicines to provide moral, psychological, legal and political support to those whose human rights have been violated, and their strategy to fight for a fairer world.

The classical prototype of human rights organization is AI, Nobel Peace Prize in 1977, which object is “to contribute to the observance throughout the world of human rights as set out in the Universal Declaration of Human Rights.”<sup>49</sup> During the last decades similar groups have proliferated world-wide

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<sup>43</sup> On top of the integrationist and separatist thesis there are still two more views: the first one claims that given that humanitarian law is older than the human rights declaration, the former is the base of the latter; the second one defends that they are completely separated but complementary doctrines. See Christophe Swinarski, *Derecho Internacional Humanitario* (Geneva: CICR, 1984), pp. 16-17.

<sup>44</sup> Obviously, there are many more conventions, covenants, charters and protocols on human rights a selection of which can be seen in Henry J. Steiner and Philip Alston, *International Human Rights in Context. Law Politics and Morals* (New York: Oxford University Press, 1996), pp. 1146-1234. See also footnote 17.

<sup>45</sup> See Donnelly, *International Human Rights*, p. 20.

<sup>46</sup> Vincent, *op. cit.*, p. 98.

<sup>47</sup> Steiner, *op. cit.*, p. 456.

<sup>48</sup> Vincent, *op. cit.*, p. 98.

<sup>49</sup> Statute of Amnesty International in [www.amnesty.org/aboutai/statute.htm](http://www.amnesty.org/aboutai/statute.htm)

each responding to its own mandates, priorities and methods of action: the International League for Human Rights, HRW, African Rights, MRG, International Commission of Jurists or Article 19, are popular examples. Some of them are NGOs and entirely private, others should get rid of the 'N' and are less than independent, but the principles they all seek to uphold are primarily those associated with the western list of civil and political rights,<sup>50</sup> the rights of the 'peacetime individual.' This western conception of rights is grounded in an individualistic ethic that takes as a philosophical dogma that social patterns are homogeneous and consequently docile to universal formulations of individual and community, liberty and democracy. But the universal status of human rights has come to be challenged by both, external critics who stress the western, masculine, elitist and intolerant nature of this universalism and, ironically, by the human rights organizations themselves.

Although human rights agencies defend human rights as an indivisible and universal entity, the first moral dilemma they face is the 'need' of chopping them up for 'practical effectiveness reasons' and concentrate on specific rights or population groups. Some organizations focus in one specific claim or in a collection of rights such as freedom of opinion, of movement, of political participation, right to a fair trial, freedom from torture or death penalty. Other agencies take upon the defense of families of rights such as social, economic or political rights while a group of NGOs prefer to work for a target population such as children, women, Africans, indigenous, lesbians or minorities. From the moral point of view this attitude equals to putting one principle or a portion of humankind above the other. Hence, contradicting their own rhetoric of universality, indivisibility and equality, many human rights organizations perpetrate an operational assault against the ethical principles spelled out in their mandates. Some may suggest that, leaving aside the moral flaw, at practical level the problem could be eased by improving co-ordination between organizations. Nonetheless these are normally too "keen on retaining their specialized identities and afraid of being swamped by a generalised platform or body ... [thus pushing] human rights activists towards playing a specialized role."<sup>51</sup>

The potential impact of metaphysical intervention is further reduced by the state-centred, pacifist and individualistic orientation of the majority of well-know human rights NGOs. Firstly, "the very state that the human rights movement is trying to struggle against defines the terms of the latter's thinking and action, and in fact receives further endorsement from it."<sup>52</sup> Secondly, campaigning for human rights should be a subversive activity something it cannot be done by those who refuse to accept any justification for violent change<sup>53</sup> and whose main concern is maintaining their apolitical credibility before the very institutions they should be subverting.<sup>54</sup> And finally, despite the fact that the Universal Declaration of Human Rights does not specify under what conditions the rights of individuals supersede the rights of the collective, an individualistic orientation characterizes the work of most NGOs. Such understanding is based in the western liberal principles that place individual liberty over any other group value and in the marketinian rule of 'human rights with a human face.' This pattern of behaviour has been passed on to many Third World NGOs that, funded as they are by their Western counter-parts, rarely expose the crimes of their own states spending much of their time discussing legal concepts and the machinery for its implementation.<sup>55</sup>

While, undeniably, human rights organizations have helped to legitimize international concern with human rights, this has been done by compartmentalizing the universal, dividing the indivisible and individualizing the collective. This strategy has allowed these agencies not to solve the moral dilemmas of metaphysical intervention but to elude them transforming themselves in statisticians of violence that use propaganda to fight against violations committed by the state, but not against the sources of these violations in the structure of the society. The logic of specificity of the human rights movement goes against the logic of inseparability of the very same human rights they aim to defend. The rhetoric stays the one of universality of humanity but "[t]he task is not to save society but to save a victim or punish a victimizer,"<sup>56</sup> a dangerous minimalist humanism which will be further simplified by the true experts in victims: the humanitarians.

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<sup>50</sup> See Vincent, *op. cit.*, p. 97.

<sup>51</sup> Rajni Kothari, 'Human Rights. A Movement in Search of a Theory' in Steiner, *op. cit.*, p. 460.

<sup>52</sup> *Ibid*, p. 461. Besides, some human rights NGOs still do not recognize the violation of human rights by non-governmental entities with a political character such as a group claiming partial political control or an armed opposition that rules over a population. AI did so during its 1991 International Council.

<sup>53</sup> For instance AI does not call for the release of political prisoners who have used or advocated violence.

<sup>54</sup> See Vincent, *op. cit.*, p. 102.

<sup>55</sup> Issa Shiyji, 'The Concept of Human Rights in Africa' in Steiner, *op. cit.*, p. 467.

<sup>56</sup> Henry Steiner, 'Diverse Patterns: Non-Governmental Organizations in the Human Rights Movement' in Steiner, *op. cit.*, p. 462.

This type of humanitarian intervention will be the only one between 1948 and 1968. During this period the right to look from outside over the borders of the state has come to be reluctantly tolerated. Though, charitable intervention, breaking a frontier to perform a medical act, is still something beyond the question. This is about to change in Nigeria, and it is going to happen not in the domain of human rights but within the sphere of the older<sup>57</sup> and less developed international humanitarian law.

#### CHARITABLE INTERVENTION

Beyond this point we enter the dominion of war and sovereignty, the theatre where the extremely controversial material intervention, an action that implies the physical presence of the helper beside the helped, takes place. The ICRC has been working in this scenario during more than a hundred and thirty years performing humanitarian operations, not interventions. This organization is guided by a humanitarian imperative: provide assistance to the victims wherever is needed regardless of political considerations or potential negative effects of the involvement. "In order to enjoy the confidence of all, the [Red Cross] Movement may not take sides in hostilities or engage at any time in controversies of a political, racial, religious or ideological nature."<sup>58</sup> Neutrality-respect of sovereignty-confidentiality is the fundamental triad behind its activities. Thus, the ICRC bases its approach on the International Red Cross Statutes, not on the Human Rights Declaration, framing its actions within the confines of International Humanitarian Law. Back to our previous discussion on the differences between the individuals that emerged in peacetime and wartime, the Swiss organization is better prepared "to promote respect of humanitarian law in time of war than to safeguard human rights in time of peace; this shows how important it is to distinguish institutions created by the international community for the maintenance and safeguard of peace and human rights from other organizations with a specific object, such our own."<sup>59</sup>

A group of doctors working for the Red Cross in Biafra during the secessionist war of 1968 decided to blur this distinction and turn the fundamental triad up side down. Biafra was not just another war, it was the humanitarian war par excellence. The strict blockade imposed by the central government over the region starved to death the civilian Ibo population whose agony was broadcast live to an audience still not used to it. Most of the NGOs existing at that time, born during the depression of the 30's and after WW II, had a religious background and were development and Europe oriented. Some examples are the CRS, CWS, CARE, OXFAM, World Vision, IRC, LWF and Caritas. The UN was paralysed before an internal conflict and the Red Cross was stranded during months negotiating the consent of the government and the rebels for the delivery of food. The Swiss organization principles blocked its action and impeded denouncing publicly<sup>60</sup> the outrageous intentional obstruction of humanitarian supplies orchestrated by both sides for different purposes: the government to quell the rebellion by killing the population, the rebels to give more publicity to their cause ensuring a good supply of walking skeletons for the cameras.

The dissenting doctors compared the situation of the Red Cross in Nigeria to its silence in front of Nazi atrocities, which in fact had also been a criticism of the ICRC during WW II. They recognized that, regardless of apolitical claims, humanitarian action takes place in an intensely political arena where neutrality is confused with impartiality and withholding knowledge of human rights violations was a morally lazy approach. In their view, humanitarian aid was in the hands of bureaucrats and states<sup>61</sup> and there was a moral duty to transgress any legal rule used against humanity. The logic was simple: 'human beings were more important than sovereignty.' Thus sovereignty was the target, rendering humanitarian

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<sup>57</sup> The laws of war predate human rights by many centuries. The idea that combatants should show compassion to their victims is much older than the idea that all humans have rights and deserve equal treatment.

<sup>58</sup> Red Cross' principle of neutrality. ICRC, *Fundamental Principles of the Red Cross and the Red Crescent Movement* (Geneva: ICRC publications, 1996), p. 2.

<sup>59</sup> J. Moreillon quoted in Nick Lewer and Oliver Ramsbotham, 'Something Must Be Done: Towards an ethical framework for humanitarian intervention in international social conflict', *University of Bradford Peace Research Report*, No. 33 (1993), p. 71.

<sup>60</sup> The ICRC has been on very specific occasions, such as in Banja Luka in 1992 and Chechnya in 1995, more prone to breaking its silence but this is in no way a change of statutes or policy.

<sup>61</sup> The status of the ICRC is a very controversial issue. To some is an NGO, to others is an IGO and they normally describe themselves as an 'International Movement.' Whatever the answer is, many regard the ICRC as an IGO as the states parties to the Geneva Conventions participate in the Red Cross International Conference that takes place every four years and some 90% of its budget comes from those states.

aid autonomous and widening it to the promotion of justice were the objectives and using the new media and public opinion power was the key instrument. In 1971 they created MSF, the illegitimate son of a doctor and a journalist, “based on the principles of humanity, the defence of human rights, international humanitarian law and medical ethics.”<sup>62</sup> With MSF, contemporary charitable intervention was born and a new generation of private, secular and outspoken NGOs exploded: engineers, sailors, pilots, biologists, clowns, architects, psychologists, homeopaths, all of them ‘*sans frontières*,’ and MDM, ACF, AMI, MERLIN, HI... are only few examples of the prolific offspring of the ‘*sans-frontiérisme*.’<sup>63</sup>

The new breed of humanitarian intervention was soon put into practice in cross-border clandestine charitable interventions in mujahideen controlled areas of Afghanistan, Laos and Papua New Guinea where doctors got in disguising their medical equipment in musical instruments’ cases during a rock festival taking place on the island.<sup>64</sup> The famine in Ethiopia during the mid eighties marked the first global humanitarian hit facilitated by the media oriented policy of these NGOs. It was the era of ‘We are the World’ and ‘USA for Africa’ massive solidarity concerts. And it was also when the moral dilemma inherent to this new humanitarianism became a reality shadowing such a display of ethical and operational adventurous naïveté. The government of Mengistu Hailé-Mariam was engaged in a coercive policy of depopulation of the north of the country aimed at isolating the pro-independence guerrillas of Tigray and Eritrea, using international humanitarian aid as bait and to pay for arms. MSF decided to speak out about violations of human rights and was expelled from the country having to abandon its emergency projects. The rest of NGOs working in Ethiopia did not say a word publicly and continued assisting the victims. So, at the end of the day, are they that different from the ICRC?

Yes. At least the ICRC, regardless whether you agree or not with its principles, is reasonably coherent. This is possible because it works under one fundamental ethical golden rule: respond to human suffering. The new relief NGOs, however, have built into their mission statements and objectives the values of the human rights and those of the international humanitarian law, they have mixed the idealism of the former with the cynicism of the latter, a sure recipe for moral unease, operational stress and popular success. The transformation of ICRC’s humanitarian activities into charitable interventions broadened for the promotion of human rights and justice has trapped these NGOs into truly moral dilemmas that force them to choose between the wartime and the peacetime individuals, between “the apples of human life and the pears of human freedom.”<sup>65</sup> The million dollars question goes: ‘should we speak out against human rights abuses and risk expulsion abandoning the victims at their fate in the pursuit of an uncertain end of the violations, or should we continue providing relief in silence saving lives that may be lost later because we have not denounced the atrocities?’ Whatever way the bi-ethically mandated NGOs choose it will go against their principles: if they accuse jeopardizing the aid provided to the victims they will contravene the very humanitarian value of alleviating human suffering. If they remain silent, they will go against the protection of human rights and become passive accomplices of the aggressor.

The ethical morass in which relief NGOs take their decisions explains<sup>66</sup> the often inconsistent and contradictory messages and attitudes between organizations with similar statutes, different national sections of the same NGO, the same NGO in different countries or the same NGO in a given country. For instance, many agencies called for a military intervention under Chapter VII in Somalia only to bitterly criticize it few weeks later for using force. Then, after claiming that the solution was political, they criticized UNOSOM for being ‘too political’ and ‘little humanitarian.’ In Ethiopia it was MSF who spoke out, the rest of organizations, the majority of which agreed with MSF, remained silent. All relief agencies declare to support peaceful means but all hired armed guards in Somalia and some like CISP even gave them T-shirts with organization’s logo constituting a uniformed, fully armed, regular NGO army. After the killings in Bosnia and Rwanda many organizations demanded justice and the setting up of a tribunal only to refuse later to testify before the ad hoc International Criminal Tribunals sheltering in their ‘neutrality.’ Many of the agencies that defend charitable intervention and entered illegally in Afghanistan

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<sup>62</sup> Médecins Sans Frontières, *op. cit.*, p. 2.

<sup>63</sup> It is worth clarifying that these organizations do not always practice interventions, in fact operations with the consent of the authorities are more usual than interventions without it. The difference is that the new NGOs contemplate this possibility. Anyway, moral dilemmas arise from both interventions and operations.

<sup>64</sup> See Jean-Christophe Rufin, *Le piège humanitaire* (Paris: Pluriel, 1986), p. 73.

<sup>65</sup> Slim, *op. cit.*, p. 6.

<sup>66</sup> I am only talking here on the ethical plane. Of course, there are also more earthly motives conditioning a given decision such as willingness to prove to their private and official donors that they have successfully supplied food in order to avoid slashes in funding.

where pathetically blocked during weeks on the borders of Cyangugu and Gisenyi respecting the sovereignty of former Zaire where Hutu refugees were being massacred.<sup>67</sup> Today they criticize human rights NGOs for being too outspoken and curtailing the delivery of aid with their accusations; tomorrow they condemn the ICRC for not reporting publicly human rights violations it witnesses. If contemporary relief NGOs are unable to find their way through their internal confusion of moral and operational priorities, how are they supposed to co-ordinate one another? And, if co-ordination is so difficult, hence there will always be a bunch of NGOs prepared to operate in a given situation, what is the strength of say MSF-France pulling out the Hutu refugee camps in 1995 not to contribute to the political strategies of a genocidal regime now based in these camps, if there is a hundred NGOs willing to take over its projects?

The well-meaning morality of these organizations has provoked an unforeseen ethical paranoia due to the combination of competing principles. And the problem has not been solved. On the contrary, the strategy of modern humanitarianism is to avoid the dilemma by further devaluing human rights values (already simplified by human rights organizations) practising an ambiguous, timorous and prudish denunciation of violations which rarely censures the atrocities of the aggressor but talks about numbers of victims and blame the ethereal international community (to which they belong) for not 'assuming its responsibilities.' While it is true that humanitarian NGOs cannot solve the problems of the world, they cannot escape the moral responsibilities of their power, of using a public rhetoric of human rights and being purely humanitarian on the spot. This is an ethical assault that has equated human rights to international humanitarian law reducing the former to the first six words of its Article 3: "Everyone has the right to life,"<sup>68</sup> thus degrading the morality behind both understandings. It is the enthronement, the sanctification of the victims, the creation of a universal victimhood.<sup>69</sup> Today's humanitarian creature lets himself go into the arms of suffering: unable to differentiate between aggression and accident he only sees interchangeable and innocent victims everywhere,<sup>70</sup> there is no difference between massacres and floods. The blameless victim represents the humankind, life is the supreme value and human rights are the right to receive humanitarian assistance: to be kept alive with food and drugs. It is not the human being what is loved, what is loved is to take care of him. People are not protected, are nourished. It is not a matter of quality but of quantity of life. Human dignity means to be alive.

Not surprisingly, the clever alliance with the media has made many of these organizations extremely popular. They have created a humanitarian demand which is satisfied by staging humanitarian blockbusters full of spectacular cargo planes, four wheel drive Toyotas packed with HF radio antennas, stickers and flags, and hi-tech rescuers enduring harsh conditions saving primitive lives with tetracycline and BP5.<sup>71</sup> They demystify the border, break the silence, represent the victims, risk their lives, blame the politicians... It is not only its anti-politics in an era of ideological disenchantment what has made them so popular; it is above all the reductionism of its principles: they provide us moral role models<sup>72</sup> and have reduced our obligations towards humanity to the superlative act of charity of giving money to an NGO to feed people in a distant country we hardly locate in our wall map. An engagement that is indeed a covered disengagement in which you have nothing to lose and everything to win. Something that has not gone unnoticed to governments.

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<sup>67</sup> Many, with some reason, will claim that it was done in purpose to highlight the plight of the victims or to raise more money by prolonging the situation.

<sup>68</sup> 'Universal Declaration of Human Rights' in Steiner, *op. cit.*, p. 1157.

<sup>69</sup> Which has been extended to plants, animals, air, water, the Earth...

<sup>70</sup> Finkielkraut, *op. cit.*, p. 130.

<sup>71</sup> BP5 is a compact, dry, energy and protein-rich biscuit. It is reasonably inexpensive, has a shelf life of five years, it is very easy to transport and to store and is a favourite amongst relief agencies when it comes to nutritional programmes. All refugees know what BP5 is, some love it and approach every expatriate on sight uttering: 'biscuit, biscuit.' Others hate it and once I witnessed a hunger strike in nutritional centre ruled by expatriates suffering of what I call the 'BP5 syndrome,' namely using BP5 as magical solution for any nutritional disorder. By the way, it is very pasty and makes you thirsty, a problem when there is no safe drinking water around.

<sup>72</sup> Lady Diana was the ultimate humanitarian moral role model and her death triggered a fierce VIP battle to replace her and get the next ticket to sanctification. One of the problems of humanitarian stars is that they end up replacing on TV debates or magazines the experts on say landmines or underdevelopment, thus simplifying the message and the problem. Naturally, not all humanitarian moral role models are princesses, many come from religious backgrounds such as Mother Teresa, from relief or development organizations like Rigorberta Menchu, Henry Dunant or Florence Nightingale, from politics like E. Bonino...

## STATE & MILITARY HUMANITARIAN INTERVENTION

Humanitarian justifications for uses and threats of force are old. In the nineteenth century England seized foreign ships carrying slaves on behalf of humanitarian principles against slave trade. Several European states sent their troops in humanitarian missions to stop the massacres of Christians in the Greek War for independence and the slaughter of Maronites during the Lebanon/Syria conflict. However, it would be hard to argue that humanitarian concerns were decisive in these interventions: while England wanted to consolidate its position as world's first maritime power, Russia desired to weaken Turkey in Greece and France sought to strengthen its strategic position vis-à-vis England in Lebanon. A key factor in using humanitarian justifications was the existence of an already rather influential public opinion in many European countries pressing their governments to do something. Yet, the killings in Armenia widely reported by European press generated, especially in Britain and France, a huge movement of public opinion and campaigns lobbying for humanitarian intervention, but Germany and Russia were against it and nothing was done to stop what has come to be known as the first genocide of the twentieth century.<sup>73</sup> The lesson to be learned from these experiences is that although political ambitions prevailed, the humanitarian was beginning to be seen by states as a useful technique of public communication strategy.

Nevertheless, this tactics was reduced to the minimum due to the strategic and ideological imperatives of the Cold War when the issue of intervention was not linked to humanitarian issues but to the different political conceptions of the superpowers. Even Tanzania's 1978 intervention in Uganda to remove Idi Amin's murderous government and Vietnam's 1979 intervention in Cambodia to overthrow the Khmer Rouge from power, were not justified by the intervening states on humanitarian basis but on claims of self-defence. Furthermore both Tanzania and Vietnam were internationally condemned for breaching the principles of non-intervention and non-use of force. The Cold War silenced the debate between pluralists, who defend the principles of sovereignty and non-intervention as rules of coexistence, and solidarists, those who hold that sovereignty is conditional.<sup>74</sup> As seen in the previous section, by early seventies some NGOs had already decided to intervene on humanitarian grounds with or without the consent of the authorities, but this right to receive humanitarian assistance belonged in the ethical realm. Bernard Kouchner, one of the founders of MSF, jumped from the private to the governmental when appointed Secretary of State for Humanitarian Action of the French administration, bringing from the ethical to the legal the *droit d'ingérence*: a right to intervention for humanitarian reasons that overrides sovereignty. The UN General Assembly recognized such a right in its Resolution 43/131 of 1988.<sup>75</sup> The following day, Russia was the first country to apply the new principle of free access to victims by cancelling the visa and customs requirements and opening its borders to international aid after a devastating earthquake in Armenia. Various governments sent in soldiers, firemen and supplies. The following year, the Berlin Wall was smashed to smithereens and the idea of state humanitarian obligations was completely taken out of the Cold War storage. Euphoria about collective action for good causes leading to a new and better world order took off. And what Debray calls "The Seductive State"<sup>76</sup> and I call NGGs: Non-Governmental Governments were born.

The UN became the focus of global conscience; the Security Council, who had systematically ignored humanitarian crisis until 1990, began issuing resolutions imbued with humanitarian rhetoric; the DHA and ECHO were created; there was a radical shift from superpower confrontation to ethnic strife and humanitarian disasters. The private sentiment of disinterested compassion that inspires the humanitarian was absorbed by the inherently strategic and selfish states, something that "could only be explained in terms of the synthesis of morality and interest, [r]eputation in the United Nations context had become for some states an important national good."<sup>77</sup> Thus post-Cold War main players, uncertain about the kind of international order they wish to support, have borrowed the ethical principles of the morally reductionist charitable intervention to create humanitarian states that perform state humanitarian interventions (non-forcible) and military humanitarian interventions (forcible) to protect human rights. A

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<sup>73</sup> See Destexhe, *op. cit.*, pp. 21-25.

<sup>74</sup> See James Mayall (ed.), *The New Interventionism 1991-1994. United Nations experience in Cambodia, former Yugoslavia and Somalia* (Cambridge: Cambridge University Press, 1996), pp. 3-5.

<sup>75</sup> It was later recognized again in Resolution 45/100 of 1990. Anyhow, it has to be said that both resolutions reaffirmed the sovereignty and territorial integrity of states and their right to take care of victims of natural catastrophes or man-made disasters within their territory. For the full text of these resolutions see Bettati, *op. cit.*, pp. 325-329.

<sup>76</sup> See Régis Debray, *L'État séducteur. Les révolutions médiologiques du pouvoir* (Paris: Gallimard, 1993). (Translation my own).

<sup>77</sup> Taylor, *op. cit.*, p. 269.

move that has proven badly damaging for both humanism and humanitarianism, for both the peacetime and wartime individuals.

The resources allocated by France to evacuate citizens of other African countries from Liberia or the projects directly implemented by ECHO in former Yugoslavia are good examples of the non-forcible state humanitarianism.<sup>78</sup> Initially, the excuse for this twenty-first century philanthropic diplomacy was that the scale of some human tragedies exceeded private organizations' ability to cope in terms of staff, money and materials. Yet, states knew that aid handed out to governments and intergovernmental bodies was much more costly and yielded fewer results than that provided by private organizations run chiefly by volunteers whom, besides, had an aura of sanctity and popularity. Consequently many governments decided to subsidize NGOs and give birth to NNGOs (Non-Non-Governmental Organizations). To speak clearly, should ECHO close down tomorrow, hundreds of European NGOs would disappear overnight as they depend almost entirely on public funds. At best, states choose the victims deserving official compassion and send their proxy NGOs to do the job<sup>79</sup> without more substantial commitment of military resources. At worst, humanitarianism becomes an after-sales official service of the political and military excesses as it happened during the televised Gulf War when IGOs and NGOs "were called upon to deal with the humanitarian debris caused by the actions of the international community."<sup>80</sup> Thus governments developed a humanitarian market that runs parallel to the arms market. Humanitarianism degraded in state moralism and audio-visual sentimentalism; just a further cynical twist in the distortion of the ethical principles behind human rights and humanitarian law.

Security Council Resolution 688 framing the plight of some 1.5 million Kurds in northern Iraq was the precedent for the new doctrine of military humanitarian intervention. Later, Somalia, Haiti, Rwanda, Liberia or Yugoslavia, amongst others, would be 'invaded' by armies blessed by the UN professing humanitarian motives. Weiss thinks that this type of intervention that involves coercion goes beyond traditional peacekeeping as it focuses more on 'relieving suffering civilian populations' placing 'human rights' above the approval of the state.<sup>81</sup> The ever-present confusion of ethical codes again, and this time is armed. But it is no surprise: if governments decided to humanitarianize themselves, why should not they humanitarianize their armies too? The move suited very well to the military. If during the Cold War armies were to defend national security, now that the communist enemy was gone will be used to protect human rights. Humanitarian varnish helps to make armies (violence) more acceptable to public, justifies defence budgets, keeps the moral of the military high and the arms industry producing, is a platform for career promotion,<sup>82</sup> a source of money and reputation,<sup>83</sup> and... it is a disaster. There are many examples of wrongdoing in different countries, mostly caused by operational incompetence derived from the moral complacency of the belief that the simple fact of their very presence in a country is a

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<sup>78</sup> There is nothing illegal in the irruption (in fact the return) of the state in the new humanitarian sphere. On the contrary, a government of a democratic country cannot remain indifferent before the demands of international solidarity of its voters. It is rather the moral quality of the responses that states give to those demands what is more doubtful.

<sup>79</sup> You literally get calls from donors asking you to send a.s.a.p. a project for say distribution of insulin in Cuba because they got the money or a donation from a pharmaceutical company (the example is real). Refusing to do so may affect the renewal of funds you have got for other countries, or can make your life a lot harder when donors start finding 'too many errors' in your financial reports and decide to keep you busy repeating them endlessly or asking for more details on specific budget lines.

<sup>80</sup> Weiss, *op. cit.*, p. 127.

<sup>81</sup> See *ibid.*, p. 33.

<sup>82</sup> The farfetched number of officials fishing for merits compared to the amount of troops on the ground was a regular complaint of many US marines.

<sup>83</sup> This applies especially to some Third World countries such as Pakistan, Bangladesh or Nigeria that have become professional suppliers of blue helmets. Firstly, international troops are an excellent source of foreign currency as the UN pays no less than a \$1,000 per month per soldier to the contributing government, which for these countries is a good business as they simply send the soldiers with no vehicles, no food stocks, no logistic support, sometimes even with no weapons at all. Secondly, participating in military humanitarian interventions gives good reputation to your country despite the irony that most of these armies have been accused of grave violations of human rights against their own population. The Nigerians have been charged in Liberia and Somalia of robbery at gunpoint (blue helmet included in Somalia) in the roadblocks they set up. After all, if they did it in Nigeria, why should not be done in Liberia? I know: Canadians, Italians, Belgians, and many more we will never hear about, were not angels in Somalia either.

moral good in itself.<sup>84</sup> But probably the archetype and guinea-pig of military humanitarian intervention was Somalia, as it seemed to attract all possible misdeeds at once. On top of vague and ever changing mandates, co-ordination was a parody, each army received orders from its government, the quarrels between US and Italian officials were open and Americans did not listen to the UN even when Admiral Howe was appointed UN Secretary General's special representative. When UNITAF arrived to establish "a secure environment for humanitarian relief operations"<sup>85</sup> all NGO projects were cancelled during at least one month due to the rise of insecurity outside Mogadishu. Anyway, security never improved very much<sup>86</sup> as the military spent most of the time defending themselves and Americans' main concern was protecting their embassy so Pakistani soldiers were sent to the risky missions (no wonder why Pakistan took most of the casualties). The body-bag obsession paralyzed the troops, one of the first demands of NGOs to UNITAF was to open and establish a round the clock checkpoint at the Green Line so people, vehicles and aid could go safely between the north and south sides of Mogadishu. I still remember Col. Kennedy's answer: 'that is too dangerous you have to understand that we also have wives and children.'<sup>87</sup> In the end, after the killing of 23 Pakistani soldiers, 'Animal Howe,' as he was known to Somalis by then, proclaimed Mohamed Aideed, whose weapons had been authorized by the UN, an outlaw offering a reward of US \$20,000. Operations shifted from famine relief to war making killing hundreds of the civilian Somalis they were supposed to be helping in the name of humanity.<sup>88</sup> Many NGOs were understandably disturbed as they have asked for this intervention, however, they will call for more in the coming years only to be disappointed again!

The early optimism associated with the international intervention to rescue the Kurds gave way to a mood of pessimism and ethical cynicism. The failures in Bosnia, Somalia and the moral abdication in Rwanda, where a well publicized genocide was not stopped, have led to a questioning of the efficacy of military force in promoting humanitarian ends while, at the ethical level, the question remains whether states can be trusted with the responsibility to act as agents of common humanity. Therefore, are all these 'humanitarian' Security Council resolutions a new principle of humanitarian intervention or a simple extension of the classical collective security operation? I am afraid the second is right as official interventions were proposed in order to strengthen rather than weaken sovereign states as primary actors in international society.<sup>89</sup> "Humanitarian norms create only permissive conditions for intervention,... [t]hey do not eliminate other competing interests, such as political or strategic interests."<sup>90</sup> And this is precisely what Humanitarian States try to hide from the public creating several cunning fictions of which we will revise only three. Firstly there is the fantasy that each time Chapter VII is invoked for humanitarian reasons the legitimacy and sanctity of state sovereignty lose ground to basic human rights. Yet Chapter VII is neither impartial nor neutral thus "pursuing a traditional humanitarian style within a Chapter VII operation is to try forcing what is definitely a square peg into a round hole."<sup>91</sup> As said before many NGOs, trapped by donors and out of their moral nebula, have been calling for military humanitarian interventions in several countries only to find out, much to their naïve surprise, that is not

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<sup>84</sup> When, on the contrary, having to send an army is already a sign of failure.

<sup>85</sup> Resolution 794 (1992), para. 10, in Mayall, *op. cit.*, p. 200.

<sup>86</sup> NGOs always kept their armed guards as they used to do when the UN was not yet in the country. Organizations were advised to close down projects in places where there was no military presence and open new ones in the areas 'protected.' Many organizations refused to do so as most projects were older than the UN operations. However, a lot of NGOs ceded to such manipulation converting military presence, and not people's needs, in the effective criteria for choosing project sites.

<sup>87</sup> What an irony, we had been crossing that dangerous line several times a week at our own risk and before us we had a humanitarian army armed to the teeth taking less risks than humanitarian NGOs. Even worse, at one point our Somali armed guards escorted the American soldiers back to south Mogadishu after they visited our projects in the north side of the city.

<sup>88</sup> As they did in the Gulf War, during the air raids over Mogadishu UNITAF put forward before us one of today's most hideous myths: the surgical strike. Despite their cynical insistence such a thing does not exist and, as it happened in Baghdad, in Mogadishu hundreds of civilians were surgically killed and the offices of AICF and UNICEF were surgically bombed.

<sup>89</sup> All resolutions of course use humanitarian rhetoric but international security is their main concern. Even Resolution 688, referred to above, ambiguously tried to say that Saddam Hussein had approved the operation to protect the Kurds from himself. And Resolution 733, which sanctioned UN involvement in Somalia, was an action in response to a request of a local government that did not exist anymore.

<sup>90</sup> Finnemore, *op. cit.*, p. 170, note 35.

<sup>91</sup> Weiss, *op. cit.*, p. 124.

the victims who are protected<sup>92</sup> but the expatriates; it is not an army was is sent but a platoon of humanitarian soldiers worried about their security that duplicate the work of the NGOs distributing food, blankets and medicines and have nothing to do with stopping the killings or justice. Secondly there is the mystification that humankind is represented by the UN and this by the Security Council. Still, how many military humanitarian interventions would have been approved if the decisions have had to be taken by the General Assembly?<sup>93</sup> Surely none as there is big resistance against any kind of intervention amongst Third World countries and the OAU has been particularly insistent on non-intervention.<sup>94</sup> Humanitarian intervention is a western product based on the western conceptions of rights, suffering and compassion. Strategic and political interests confine forcible state humanitarianism to incursions in weak peripheral non-democratic countries: what government would dare to send troops to Tibet? Why there were no international troops to stop the bloodbath in Chechnya? Thirdly, and most important to us, there is the fiction that collective security and humanitarian intervention are related thanks to the myth that refugee displacements constitute a threat to international peace.<sup>95</sup> While Hoffmann sees it as progress<sup>96</sup> I see it as a moral alienation. When the normative expansion for the protection of human rights is done based on the rationale that violations of human rights constitute a threat to peace, the moral contents of the doctrine is being washed away. In an extraordinary distortion the victim turns out to be the danger, so we have to assist them not because of the rights they are entitled to, but because they threaten regional stability and will be knocking our door if we do not stop the outflow.<sup>97</sup>

Dunant separated the humanitarian from its political tutelage, what would he think of such a backwards step? In his times, humanitarianism was used to justify the actions of international politics; today it is indispensable to justify the international politics of inaction. Confused NGOs are entangled in a vicious ethical circle: 'should we step up humanitarian action even though this allows the politicians to get away with taking no action? Or, on the contrary, should we assert that the answer to human tragedies lies in political and military intervention, at the risk of turning this argument an alibi for humanitarian passivity?' Paradoxically, each time NGOs denounce the humanitarian triumphalism of the politicians asking them to assume their responsibilities and stop behaving like an NGO, these organizations are helping to rehabilitate the very politics they revolted against when were created. "Humanitarianism is the opium of politicians"<sup>98</sup> and their societies. A humanitarian expedition has the immense advantage of not having a defined enemy, only friendly and thankful victims to be helped neutrally, one takes the side of the victims as a way of not taking sides thus not solving the problem and subsequently not helping the victims.

Human rights, relief and development agencies claim the solution is not humanitarian but political. Ironically, many (cynical) politicians agree saying: 'we the humanitarians do not have the solution, the solution is political.'<sup>99</sup> It is the absolute triumph of the humanitarian rhetoric and the most scandalous failure of its moral principles, which altered, misinterpreted, simplified and distorted have been used to manufacture a simplistic, ready to use doctrine of delusive ethics of contemporary humanitarian intervention. Humanism has been reduced to humanitarianism, humanitarianism has become a substitute for politics, worst of all, humanitarianism has become a politics in itself. We all played a part in this evolution. A moral desert stretches out before us.

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<sup>92</sup> Will Srebrenica ever be forgotten and forgiven?

<sup>93</sup> Which by the way does not represent humankind either.

<sup>94</sup> Hoffmann, 'The Politics and Ethics of Military Intervention', p. 46.

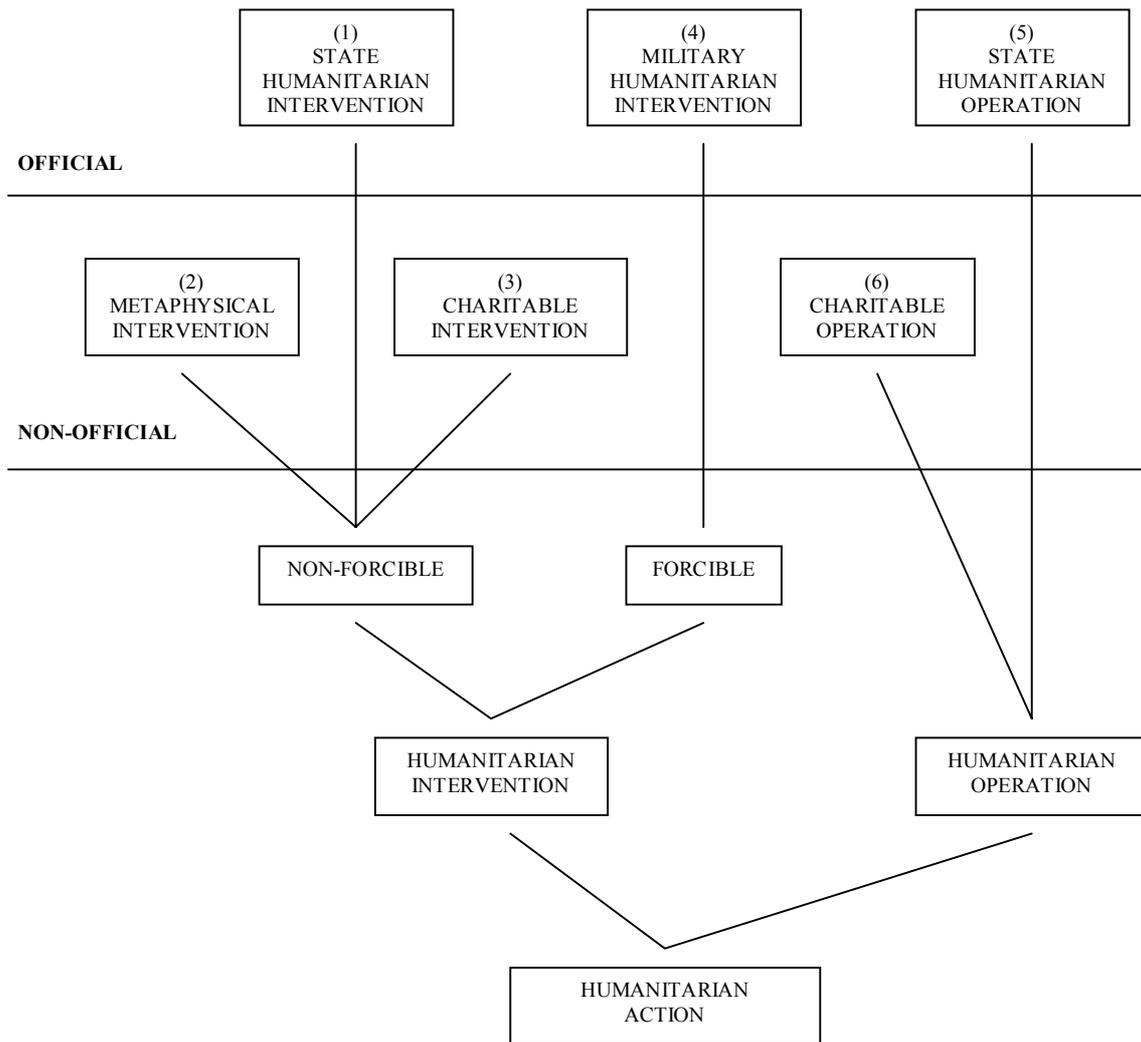
<sup>95</sup> Many resolutions are worded along the lines: 'Determining that the magnitude of the human tragedy ... constitutes a threat to international peace and security.' Resolution 794 (3 December 1992) on Somalia in Mayall, *op. cit.*, p. 198.

<sup>96</sup> Hoffmann, *The Ethics and Politics of Humanitarian Intervention*, p. 35.

<sup>97</sup> Military Humanitarian Interventions with no refugees and only IDPs are rare.

<sup>98</sup> Debray, *op. cit.*, p. 27. (Translation my own.)

<sup>99</sup> Is not Emma Bonino the best example of a politician behaving like a non-governmental humanitarian blaming all the time other politicians for not doing their job as if the situation had nothing to do with her?



**Family tree of contemporary humanitarian action.**

Examples:

- (1)-French Government operation ‘Rice for Somalia’ (1992).
- (2)-AI report: ‘China: Torture and Ill-treatment’ (April 1996).
- (3)-MSF cross-border interventions in Afghanistan (80s).
- (4)-UN-authorized French ‘Operation Turquoise’ in Rwanda (July 1994).
- (5)-British DFID bilateral emergency aid to Angola (1992 onwards).
- (6)-ICRC operations in Sri Lanka (1984 onwards).

## PART III: THE BROKEN HUMANITARIAN COMPASS

### WHAT IS HUMANITARIAN INTERVENTION?

Clearly much of the controversy over the ethics of intervention focuses on precisely its humanitarian version, on how we define and justify it.<sup>100</sup> We have seen the evolution of the humanitarian idea, the emergence of the free individual and the victim, and many of the justifications given for intervening beyond borders. However, it is time we return to the concept of humanitarian intervention itself. This is a murky area partly because too often we do not know exactly what do we mean by such abstraction. Nowadays, interventions aimed at promoting human rights, distributing food or medicines, enforcing humanitarian law, protecting the return of refugees, opening-up an airport, stopping killings or even supplying arms to victims of an armed aggression, are grouped together in the category of humanitarian interventions.

The list of definitions is endless.<sup>101</sup> The majority of them talk about forcible interference by a foreign government, or an IGO, to stop mass violations of human rights perpetrated by the authorities of another state upon its own population and obviously without the consent of the local government against which the action is directed. Some interpretations are even contradictory in terms such as the so-called consensual and non-coercive humanitarian interventions.<sup>102</sup> Firstly, many definitions are conceptually statist<sup>103</sup> and violent ignoring the existence of variety of non-state actors than can either violate human rights or intervene to face the atrocities in a peaceful way. Thus, on the one hand, paramilitary groups, extremist bands, private armies of druglords or ranchers may violate the rights of entire populations without the local governments having the power, the will or the courage to stop them. In some cases, such as in Somalia, there is not even a government to be blamed for the violence. On the other hand, certain NGOs sneak themselves illegally into foreign countries to alleviate the suffering of the victims. Secondly, almost all descriptions are morally deficient as they do specify the purpose but not the ethical principles that should guide the action nor the consequences. Humanitarian motives should encompass humanitarian outcomes to achieve congenial outputs. Finally, many definitions are normatively misleading as they appeal to the defense of human rights when, as outlined in the previous chapters, humanitarianism has a marginal relation with human rights and has everything to do with international humanitarian law and the protection and good treatment of victims. Mixing the peacetime individual and the wartime victim has created the moral and operational mess described throughout this paper: principles have been debased, the application of the two legal codes confused, justice has been ridiculized, and the human suffering protracted ... In the long run, we have done more harm than good.

Consequently, I propose to redefine humanitarian intervention as 'actions by outside parties, primarily guided by the sentiment of compassion or fellow-feeling,<sup>104</sup> whose principal purpose and outcome is the alleviation of the human suffering of a foreign population without the consent of the host state.' A humanitarian operation would be exactly the same but with the express consent of the host country. Actually, humanitarian operations are much more frequent than humanitarian interventions but the widespread confusion prevailing makes politicians, journalists, relief workers, academics and public in general, talk about 'intervention' when they should be talking about 'operation.'<sup>105</sup> In the same fashion, when talking about humanitarian intervention everybody seems to understand protecting human rights, an action that should be called 'Humanity Intervention.'

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<sup>100</sup> See Smith, *op. cit.*, p. 4.

<sup>101</sup> See Robert C. Johansen, 'Limits and Opportunities in Humanitarian Intervention' in Hoffmann, *The Ethics and Politics of Humanitarian Intervention*, p. 66; Donnelly, 'Human Rights, Humanitarian Intervention ...', p. 313; Tesón, *op. cit.*, p. 5; Vincent, *op. cit.*, p. 45; Wheeler, *op. cit.*, p. 393; Lewer, *op. cit.*, p. 25 and Weiss, *op. cit.*, p. 219.

<sup>102</sup> See Wheeler, *op. cit.*, p. 405 and Lewer, *op. cit.*, p. 27. Interventions are by definition non-consensual and coercive, which should not be confused with forcible.

<sup>103</sup> Lewer and Ramsbotham are one of the few exceptions advocating for a broad definition of humanitarian intervention embracing non-state actors and non-forcible interventions. See Lewer, *op. cit.*, p. 26.

<sup>104</sup> Following Bhikhu Parekh's advice. See Wheeler, *op. cit.*, p. 400.

<sup>105</sup> For instance Lewer and Ramsbotham talk about 'ICRC interventions,' something contradictory in terms as the Swiss organization acts always with the consent of the authorities of the country they operate in. See Lewer, *op. cit.*, p. 71.

The definition given in Part II<sup>106</sup> was a broader version of the usually accepted understanding of what actors and what means fall within the domain of humanitarian intervention. In this regard, that definition contemplated already the role of non-state actors and non-forcible actions. While this remains in the new definition just proposed above, the objectives of the redefined version have been narrowed to exclude the protection of human rights and the pursuit of justice. But, why worry so much about words? Why not attempting to reform humanitarian intervention itself instead of its definition? Firstly because definitions, like language, should not be static, they should evolve to better describe our world and help expose those who hide behind rhetoric. And secondly because reality shows the insanity of the efforts (I should say obsession) and catastrophic results of insisting in combining the water and oil of peacetime and wartime rights.

In fairness I have to say that I am not especially delighted in proposing this new version. Ideally I would rather believe that the broader one is better and is true. But the wider definition and the reality of humanitarian intervention are two worlds apart. The new approach proposed allows us, for humanitarian and human rights ethics' sake, to try to reform humanitarian intervention and to create a new specie called Humanity Intervention. This new brand would not save lives, the humanitarians would do that, but it would work to stop wrongdoing, reinforce institutions and bring justice to avoid future misdeeds. This proposition separates in a rational way objectives and moral codes reducing (not eliminating) moral dilemmas and operational paranoia. The narrow definition reflects much better not what humanitarian intervention is but what it should ideally be, while liberates human rights giving an opportunity to both humanism and humanitarianism to cut the threats of the immoral humanitarian marionette we have created.

#### THE SENTIMENTAL ALIENATION

People tend to feel good about what they do when they are told that what they are doing is right. "New or changed norms enable new or different behaviors [but] they do not ensure such behaviors."<sup>107</sup> Likewise, the existence of the Human Rights Declaration or International Humanitarian Law may reflect some moral common understandings, yet they do not mean that the world is more virtuous or that the actions taken in pursuance of the law are necessarily moral ones. The fact is that while the demise of the Cold War has not altered fundamentally the problem of power in international relations,<sup>108</sup> it has cynically humanitarianized them making even more difficult to decipher what is included in an actor's array of interests.

I am not saying that actors should behave out of personal duty alone, I do not believe in an ethics of pure conviction because life is more than morality and one cannot ignore the vast collection of competing political, economic and personal interests. We have to act in the world as it is and here the choice is not between acting immorally or morally but between indiscriminate immorality and morally acceptable behaviour. In that sense Walzer is right in pointing out that "practical morality is casuistic in character,"<sup>109</sup> thus what is right must be derived from what is possible. However, I think that much more is possible, that individuals and states have to be exhorted to adhere to a much higher standard of conduct and that this is primarily the task of morality.<sup>110</sup> While it is true that we have to act in the world as it is, this does not mean that we have to accept the way it is as if it were the only way it can be. Doing otherwise would mean understanding morality as the maximization of an immoral good such as utility jumping irresponsibly into the pool of moral complacency. Sadly, this is, in essence, what it is being done nowadays with the humanist and humanitarian doctrines.

Today's humanitarianism is the last sanctuary of a crippled humanism, a minimal value guided by sentimentalism and a superficial transient compassion programmed by television, the global icon of our universal culture and identity. The so-called public opinion does not exist, instead is the 'prevailing mood'<sup>111</sup> what determines humanitarian actors' moves. Unless apocalyptic killings are brought to our dining rooms and relevant security, political or economic interests are absent, humanitarian intervention meets inaction. Yet, once the humanitarian circus is in place, NGOs, and almost everyone else, make their best to keep it going even by staging amoral parades. Sending empty cargo planes with the president of the organization concerned and a bunch of TV crews and photographers just to land in Kigali or

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<sup>106</sup> See chapter: Contranatural humanitarianism.

<sup>107</sup> Finnemore, *op. cit.*, p. 158.

<sup>108</sup> See Mayall, *op. cit.*, p. 18.

<sup>109</sup> Walzer, *op. cit.*, p. xxx.

<sup>110</sup> See Donnelly, 'Human Rights, Humanitarian Intervention ...', p. 323.

<sup>111</sup> See Hoffmann, 'The Politics and Ethics of Military Intervention', p. 32.

Goma, hug a few malnourish babies, claim to have lots of projects in the country, make an appeal for money and take off back home few hours later, is only an example widely practised in the Great Lakes since 1994. The show goes on until something else replaces it, thus the 1995 forcible repatriation of Hutu refugees along the Lake Kivu was replaced three weeks later by the French transport sector strike that was paralyzing Europe. At that moment, our generosity switches off. Our solicitude has the expiry date of television footage: if it is not on the screen it does not exist. Following the moral fashion our response is an impulsive, selective and ephemeral generosity at the expense of sustained solidarity. "Jan Pronk, aid minister for the usually generous Dutch, said recently the donors could not be expected to go on paying for man-made disasters. But the pictures on the world's television screens meant that, in the end, they will have to pay up."<sup>112</sup> Ours is a sentimentally mediatized society in which the spectator, voyeur of other's suffering, is the arbiter that establishes the level of humanitarian involvement judging by the spectacular calibre of the images, the longitude of the refugee queue, and the number of victims.

According to Rousseau pity stems from the intervener's capacity of identification with those in distress. Helped by the media, humanitarianism has reduced contemporary crisis to a simple account explained in terms of victims and human suffering. We feel identified with the victims when we are capable to imagine ourselves in their place, we are moved because we are both able of feeling pain, not because we are both humans. The times of the martyrs are back, life has become the ultimate value and preserving it is the only good cause left in an era of ideological and political discredit. A sentimental alienation of misery whereby victims are rescued not as citizens whose rights have to be restored but as stomachs that have to be filled. It is not a matter of rights, freedom, protection or justice, is a matter of keeping them alive, it is indeed a way of saving ourselves. The humanitarian creature cedes to pure compassion dropping its narrative of engagement. Doctor, spectator or politician, he stops reasoning and in a war or a massacre only sees victims, and on every victim only sees a saint.

#### THE SEDUCTIVENESS OF INNOCENCE

We like to think of ourselves as blameless people, and so we like to think of the victims we feel sorry about, we need them to be innocent and all our generosity rests on that assumption. When the victims prove to be not so innocent we either simply refuse to believe it or get morally disappointed and disengage ourselves a little bit more. However, victims' sanctity is one of the myths we have created that has to be destroyed: firstly because, contrary to the popular belief, it does not eliminate the dilemma of what is the best way to help them; and secondly because, despite guilty victims have also rights, justice is being mocked. Moral dilemmas derived from this myth are amongst the most difficult to solve because they confront directly our most basic understanding of moral behaviour. There is no shortage of examples. Genocide responsible converted in victims after the RPA took control of Rwanda, were using the refugee camps in Tanzania and former Zaire as military bases, maintained by international aid, to prepare a counteroffensive. Some organizations pulled out, others stayed behind, most of them were traumatized when forced by the circumstances to choose between their humanist and humanitarian role. Similarly, international aid is still very much part of the war economy in Somalia by feeding victims loyal to local warlords and employing their gunmen as security guards. Kurdish factions receiving aid because of Saddam Hussein's policies, kept fighting and killing each other and a group even made an alliance with Baghdad. Are Croats the blameless victims of Serbian aggression they claim to be? Not all examples are so politically tinted: many mothers undernourish deliberately several of their children in order to have access to feeding centres and get a surplus of food for themselves that is later sold in the black market or to other mothers. And we also have to face the abuse of creating what I call 'professional victims': refugees or IDPs that simply refuse to return back home because in the 'provisional' camps we set up the standard of life is much higher than the one in their home village where there was no school, no latrines, no hospital, no pharmacy and had to work hard to get food...

Before situations like these, and several others we have seen in this paper, many humanitarian actors tend to ask themselves the right questions only to reach the wrong answers out of their inconsistent moral criteria. Neutrality is one of the biggest erroneous most common answers. "Neutrality provides the most sanguine explanation for preferring humanitarian assistance over human rights protection; it amounts to 'looking the other way.'<sup>113</sup> Is neutrality possible or even advisable in humanitarian operations? This is a tricky question as neutrality is a rather elusive concept, but saying as so many organizations do: 'we are not neutral we are on the victim's side,' is only a way to dodge the problem by not compromising ourselves and reinforcing victims' sanctity myth. Let us face it, *vibrio cholerae* is

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<sup>112</sup> 'Southern Sudan's Starvation' in *The Economist* Vol. 348, No. 8077 (July 18<sup>th</sup>-24<sup>th</sup> 1998), p. 65.

<sup>113</sup> Weiss, *op. cit.*, p. 112.

neutral as it attacks indistinctly innocents and culprits, but the organizations and states treating the cholera it produces are not, and should stop pretending to be, neutral and put an end to their deliberated political blindness.

The first casualty of neutrality, life as supreme value and all-innocent policies is justice. Victimizers become victims, human rights are reduced to basic needs<sup>114</sup> and basic needs turn out to be the right of subsistence. In the end, if we manage to keep you alive, then justice has been done. We will not go through the pantomime that the International Tribunals for Rwanda and Yugoslavia are, it is enough to note that is not by chance that the former has a lot of accused and no money and the latter has the money but not the accused. Furthermore, justice should be twofold: it should not only be taking action against those responsible of hideous acts, but action should be taken as well against irresponsible humanitarians both governmental and non-governmental. Helpers may become bystanders and colluders in the violence they operate. Assistance may further endanger the person is trying to help, aid may fuel the war, may prolong the suffering, may be carried out by irresponsible agencies with no experience that give Gatorade to dehydrated patients,<sup>115</sup> and may be an obstacle to justice or an excuse for political inaction. From the idea that aid can only do good because is, in principle, well intentioned derives the injustice of humanitarian impunity, a fact still largely ignored in today's humanitarian scenarios.

### CONCLUSION: HUMANITARIAN IMMORALITY

Moral action is intended at transforming the world. Humanitarian intervention should be a disinterested response guided by the sentiment of humanity that, however, must be judged not only by its motives but also by its outcomes. In this regard, if an imaginary International Court of Moral Justice, basing its judgement on the broad and most widely accepted definition given in Part II, had to determine the number of cases of purely humanitarian intervention during this century, the verdict would probably be: 'none.'

First, the very idea of intervening only when there are massive violations of human rights is already an unethical approach as it takes for granted the acceptability of a considerable degree of atrocities. This amounts to dividing the indivisible human rights and establishing a threshold of deaths before your humanity wakes up. But where do you draw the line? How many deaths do we need, a thousand, a hundred thousand... ? Nobody knows and anyway this approach is morally unacceptable from the start.<sup>116</sup> Second, if human rights violations are so grave that trigger off humanitarian intervention, then any intervention short of stopping those violations should be regarded as immoral. Third, humanitarian interventions launched to appease domestic publics, responding to the popular demand, are not based on humanitarian motives and therefore should not be considered as such. In these cases "human rights becomes part of the calculation of *raison d'état*"<sup>117</sup> or *raison d'NGO*.

It is not the purpose of this paper to demonstrate the non-existence of truly humanitarian interventions under the broad version of its definition. But it is useful for pointing out the idea of the need to have an ethics of consequences. Somalia is portrayed regularly as the best example of purely humanitarian intervention because of the absence of strategic motives involved.<sup>118</sup> Yet, the intervention was initiated and ended by public pressure and, despite famine was arguably and provisionally alleviated, drought does not violate human rights, it is the warlords who do it and their tyranny was not stopped. Somalia was by no means a humanitarian intervention. When aid is likely to become part of the logic of war and is only aimed at saving lives but not addressing the causes of humanitarian disasters; when, in other words, the agony is prolonged and "Sarajevans are kept alive so that snipers can pick them off,"<sup>119</sup> an ethical decision can be made not to get involved or withdraw.<sup>120</sup>

So, am I saying that we should leave the people die? Obviously not. Lives have to be saved including those of the perpetrators of atrocities. What I am saying is that saving lives may not be the most

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<sup>114</sup> See Vincent, *op. cit.*, p. 2.

<sup>115</sup> Gatorade, an isotonic drink for sportsmen, was used by and NGO to treat patients of cholera in Goma in 1994.

<sup>116</sup> Lewer and Ramsbotham dare to talk about 'trivialities' when the number of people threatened or abused is not significant (?) and the suffering is not intense enough (?). See Lewer, *op. cit.*, p. 90.

<sup>117</sup> Vincent, *op. cit.*, p. 106.

<sup>118</sup> See Mayall, *op. cit.*, p. 9.

<sup>119</sup> Hoffmann, 'The Politics and Ethics of Military Intervention', p. 41.

<sup>120</sup> Hoffmann defends the opposite view whereby 'every opportunity for a morally justified intervention - whether is created by the media or by atrocities that shake the public out of its complacency- ... should be seized.' *Ibid*, p. 49.

important goal, that saving them without solving the problem is ethically reprehensible and inhuman. I am against the generalized humanitarian triumphalism and against the reductionism of the humanitarian lenses. I oppose this false, immoral and complacent picture of 'job done' when lives are saved. I am contra the trivialization of human lives, exactly what we did when the Security Council never recognized the acts that took place in Rwanda and the genocide was banalized being replaced by a 'humanitarian disaster' and an exhibition of solidarity. I reject the dishonesty embedded in any pretension that humanitarianism can provide a political and human rights programme, that is why I proposed a new definition of humanitarian intervention for saving lives and the creation of interventions of humanity in pursuance of justice.

In addition to that, humanitarianism justifies a form of moral and human relativism not that far from the one that acquitted, not long time ago, the classification of humans according to their grade of civilization. Nowadays our generosity to save black victims overseas collides with our attitude regarding the blacks next door. Intervention takes place between supra-humans and infra-humans,<sup>121</sup> where death is regarded as something far away; it is not us who are going to die and, still, we feel compelled to do something about it. Contemporary humanitarianism is based in the moral relativism by which victims' fate and ours "are indeed severed, by history, fortune, and good luck; and that if we owe them our pity, we do not share their fate."<sup>122</sup> The only universal thing about human rights is its violation, and the only universal thing about human equality is the cult to the difference. The former comes from the fact that war is a human invention and terror attacks without previous notice: it starts killing the legal person, later executes the moral one and ends up with its physical extermination. The latter is a reaction to the attempts of homogenizing the world: "the more equal conditions are, the less explanation there is for the differences that actually exist between people, and thus all the more unequal do individuals and groups become."<sup>123</sup> When we talk about humanitarian intervention we are talking about an ideal that does not exist yet.

Modern humanitarianism is a doctrine without general discourse, an erratic practice that does not want to know, no ears and all heart. In the age of ideology we though we knew everything, now we prefer to ignore. Before, in the name of ideology we refused to be conditioned by human suffering; today, in the name of suffering we refuse to be conditioned by ideology.<sup>124</sup> Humanitarianism may be what we have made of it, but this does not mean it has to stay this way. Humanitarianism is in a state of confusion and transition where it cannot remain, "a revolution of the imagination is required to carry the international humanitarian system out of its turbulence."<sup>125</sup> It is time to recognize the urgent need of strengthening the international normative structure and clarifying the moral codes and actions to be taken by different actors. And time has come as well for a more strategic alliance between them. It might well be that none "of the currently leading moral theories ... can really help us to decide when we should rescue ... and how,"<sup>126</sup> but this is no excuse to be morally indolent and complacent.

Today's humanitarianism is a moral imposture. While its limits as practical philosophy are becoming painfully evident, the wartime individual is morally murdering its peacetime counterpart. Caught in an ambivalent discourse fluctuating between humanism and religion, and acting amidst a national disorder that does not integrate it and an international order that manipulates it, humanitarianism may soon become dead letter, an extinct doctrine.

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<sup>121</sup> See Christiane Vollaire, 'Comment peut-on être homme?', in Boltanski et al., *op. cit.*, p. 89.

<sup>122</sup> Ignatieff, *op. cit.*, p. 108.

<sup>123</sup> See Hannah Arendt, *The Origins of Totalitarianism* (New York: Harvest, 1951), p. 54.

<sup>124</sup> See Finkelkraut, *op. cit.*, pp. 132 and 136.

<sup>125</sup> Weiss, *op. cit.*, p. 136.

<sup>126</sup> O. Kallscheuer quoted in Hoffmann, 'The Politics and Ethics of Military Intervention', p. 36.

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