

UNAMIR

REPORTS - MISCELLANEOUS

1 DEC 1994 - 8 AUG 1995

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ORIGINAL ORDER

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FILE 5

ACC. 1998/0278

15 June 1995

To : Mr. W. de Souza  
Executive Director

From : Zena Zelleké  
Political Information Officer  
Sector V

Sub : **SITUATION REPORT**

Attached please find the **SITUATION REPORT** covering the period 1 June to 14 June 1995.

Best regards.

cc : Political Adviser

victims for either robbery or killings. This information is relayed across the border and invariably is followed by a criminal act. Example of such incidents include :

- RUBAVU commune : band of individuals numbering between 15 to 30 people, around 6/7 June, most wearing uniforms and carrying guns, surrounded BUZUTA cellule stole everything they could find from several houses and in the ensuing struggle one person was killed and six badly beaten. They departed on cue when one of them blew a whistle.
- REWERERE commune : a similar incident occurred in this commune on 2 June, where one woman, suspected of belonging to interhame was intercepted and killed, while one person was accidentally killed.
- KAYOVE commune : acts of banditry and infiltration by interhame/militia continues in this area despite strengthened presence of RPA specially in the forest area bordering lake Kivu.


In Ruhengeri prefecture a political/security meeting was held on 2 June at the stadium (about 5 000 persons present). The authorities indicated that the population are harbouring subversive elements in the community. To strengthen the security suggestion was made to organize the community into " NYUMBA KHUMI" which means a grouping of ten house sectors who will be responsible to ensure the security and conduct night patrol of their area. The military (RPA) will patrol and guard strategic points. In addition the authorities urged those responsible for arrest and detention to exercise restraint and undertake a thorough investigation before laying charges against suspects of criminal activities.

### III. MOVEMENT OF REFUGEES

Organized repatriation from north Kivu is still suspended. While spontaneous returns continue but at a much reduced rate. For the period covered in this report, the figure is 1 513, of which 189 came through the Cyanika border. Again 89 % of this total are from the 59/60 caseload. One detrimental factor which inhibits the repatriation of the refugees, especially the "new", is the high number of arrests for alleged involvement in the genocide. Thus creating a sense of insecurity within the communes.

### IV. SETTLEMENT

PIO visited some of the settlement sites for the 599/60 refugees, in Gisenyi prefecture to evaluate and assess the situation, including humanitarian assistance needs. The communes where the returnees have been settled are : KANAMA, KARAGO, KAYOVE, MUTURA, NYAMYUMBA and RUBAVU. The highest concentration of settlement operation is in Mutura commune, comprising of ten sites where 2 481 families are settled. This is a government identified



land and parcels of 1.3 hectares have been allotted per family. The majority are living in plastic shelters, except at two sites where the returnees are occupying abandoned houses or are lodged in empty houses belonging to those still in exile.

Another government identified area is inb GISHWATE forest, Kayove commune. There are 310 families settled in the area, 200 actually in the forest. They have been given 100 sq.m of land to install the plastic shelter and are awaiting to be given land for cultivation purpose. According to the Bourgmestre of Kayove there is disagreement between the ministries of Rehab, Agriculture and Environment to use this area for settlement purpose (to which he concurs).

Concerning the situation in the remaining communes, these sites resemble a de facto refugee camps. The communes do not possess extra land for distribution. In fact UNHCR has been requested by KIBUYE prefecture, where a number of the returnees have been transported, not to send any more returnees for settlement as the as the prefecture is unable to absorb such numbers.

The situation has now been compounded by the decision of MINIRIESO to close the reception centre at the " College"(Gisenyi) and HCR has been given a week to move out the remianing ( about 5 000 ) returnees, hence the dilema where to settle these people.

The massive return of the 59/60 caseloads has placed heavy demands on the communes, many of which are already in fragile state. These people are likely to remain without cultivable land for sometime to come and hence will require sustained food assistance for the foreseeable future.

29 June 1995

To : Mr. W. De Souza  
Executive Director

From : Zena Zelleke  
Political Information Officer  
Sector V

Sub : SITUATION REPORT

Attached please find the SITUATION REPORT covering the  
period 15 June to 29 June 1995.

Best regards.

cc : Political Adviser

**SITUATION REPORT**  
15- 29 June 1995

**I. GENERAL**

During this period the situation has been extremely calm; no major incident was reported except the continued infiltration by forces from the other side. However, rumours abound of the likely attack (round July) from across the border. Also some NGOs, working in Goma, have reported on the increased military activity in the camps. However there is no way to verify the veracity of these allegations.

Clashes between Rwandan refugees, Interhware/militia, and local inhabitants are also reported around **MASISI** area (see attached clipping). Otherwise the following events took place :

- A seminar on the " Procedures for arrest and detention ", organized by HRFO and UNHCR, was held from 23-25 June 1995 for Gisenyi prefecture. Participants were bourgmestres, gendarmerie and RPA. The subjects covered included :  
(a) arrest procedures and how they have been adopted and the Arusha Accord; (b) international human rights standard concerning arrests; (c) rights of prisoners under international law and meaning of these rights; (d) UNHCR's concern with arrested and detained persons, etc.  
The seminar was a resounding success and the same will be organized for Ruhengeri prefecture.
- On 16 and 20 June 1995, the "Day of the Child" and the "Day of African Refugee", organized by MINIFAPRO and UNHCR respectively, was celebrated.
- NGOs operating in Goma are planning to have a mock evacuation exercise on 1-2 July. Such exercise might impact negatively and cause unnecessary tension within the camp population.

**II. GOMA**

PIO and HRFO team held a meeting with Protection Officer of UNHCR Goma on 15 and 26 June to evaluate and exchange information on the security situation prevailing in both Rwanda and the camps in Goma. HCR Goma are seeking information on a wide range of issues ( security, judiciary, military presence in communes, detention and arrests, occupied houses and procedure of claim, etc.)

for the prefectures of Byumba, Gitarama. Gisenyi, Kigali and Ruhengeri as these areas will be the major destinations for the returnees. The information is to be disseminated throughout the camps with the view to encourage refugees to regain their home communes.

HCR Goma also reported that there are a number of Rwandese coming into the camps clandestinely. Alleged reasons for fleeing Rwanda were : risk of being detained under accusation of involvement in the genocide; member of interhwa/militia; fear of looting, etc. A random interview is undertaken by HCR, about five per camp weekly, in order to determine main reasons for fleeing Rwanda. The exact number of these new comers is not known . However, between March and June 15, 1995 a total of 2 509 have been identified, which is an insignificant number as compared to the population in the camps. Once in the camps, each refugee presents itself to the camp authorities of their commune of origin for screening. There is a systematic distrust of new arrivals as there is a strong fear amongst camp habitants of infiltration by RPA.

## **II. REFUGEE MOVEMENT**

The number of "new" refugees returning into the country continues to decline. This reduction is not only due to intimidation and dissuasion by the militia or political leaders at the camps but also of rumours, brought by new comers at the camps (see above), of insecurity within the country and fear of reprisals by the government.

The number of 1994 returnees for the period covered amounted to only 43 persons, while the pre-1994 returnee figures continued to rise with the arrival of over 800 persons, mainly from the **MASISI** region. HCR Goma is attempting to restart organized repatriation by mid-July. They expect to handle about 600 persons daily.

## **III. SETTLEMENT**

The reception centre at the " College " in Gisenyi, which housed mainly the 59/60 returnees, was officially closed on 21 June. About 4 000 persons were transported to various prefectures in the country. Some vulnerable and needy persons, without families, were identified and MINIRIESO is seeking temporary relief and humanitarian assistance for this group. About 100 persons refused to vacate the location and the local authorities have given them houses (presumably belonging to those still in exile) around Gisenyi town.

The closure of the " College " has left the surrounding inhabitants, who were dependent for food distribution from this location, destitute. HCR (Gisenyi) is searching for a suitable location to establish a new reception centre. However, the local authorities have indicated that such centre should not be located in the vicinity of Gisenyi area.

In Ruhengeri registration of returnees was completed. Most have opted to settle around the periphery of the town, while a large number are found in KINIGI commune. UNHCR and MINIRIESO undertook a joint recece to identify government-owned land. It will be recalled that the local authorities have consented to settle over 4 000 families in the prefecture.

After a successful discussion between MINIRIESO and authorities in Kibuye, the latter has agreed to receive additional returnees of 59/60 group into the prefecture. Following is a table showing settlement of returnees that were lodged at the College and transported between 1 and 22 June 1995 :

From/to	No.of families	No. of persons
College : Bugesera	30	102
Kibungo	418	1 109
Kibuye	566	1 376
Kayove	60	127
Kinigi	12	55
Total	1 086	2 769

Although not entitled to land or property under the Arusha accords, the expectations of this group is high and many are likely to take, if the opportunity arises, land and property belonging to refugees and displaced persons.

#### IV. OBSERVATION

While a climate of relative stability and calm prevails in the area, nevertheless the general atmosphere is pregnant with tension and uncertainty. The persistent rumour of attack from across the border continues. Despite RPA 's tight security and strict monitoring of the border area, including patrolling by boat on lake Kivu, cross-border incursion and infiltration by interhwame/militia elements occurs regularly. In fact infifltrators are known to have taken residence in certain communes, specially in Ruhengeri prefecture and an armed gang of 15-30 persons operating in Mutura



(Gisenyi) have been identified locally as employee of FRGF. I should imagine that RPA's concern would be not only a direct attack from across but also the extent of penetration and support existing within the country.

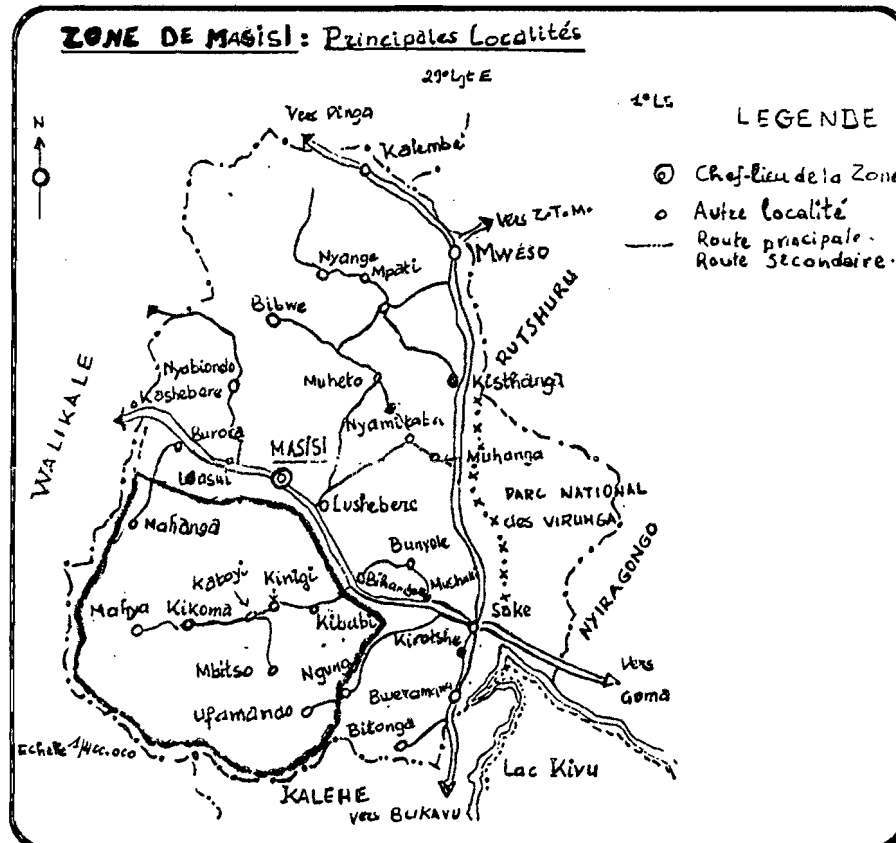
According to RPA LO, there are about 5 - 6 battalions spread out throughout Sector V, i.e. at Gisenyi (Gr.1712), Bigogwe (Gr3520), Mukamira (Gr 4521), Kinigi (Gr 5440) and Ruhengeri (Gr 5834). If we are to believe the reports of Human Rights Watch and Amnesty International on the state of preparedness and arms and weapons availability to the FRG, then sheer determination and the will power to survive would be the only ammunition left to the government in power. However, in the event of an attack there are two possible scenarios foreseen :

- ( a ) a hit-and-run attack all along the border causing both economic and political destabilization, including killings;
- ( b ) a concentrated attack either in Gisenyi or across from Bukavu in the south with a view to occupy and control a portion of the country ( as did RPA in the north ). This could be used as a lever to negotiate with the government for a political settlement.

At this stage option (a) is the most likely to occur

## KATOYI SOUS LA BOTTE DES REFUGIES RWANDAIS

Albert TULINABO Mapfume





UNAMIR-MINUAR

23 May 1995

To : Mr. S. K. Buo  
Political Adviser

From: Zena Zelleke  
Political Information Officer  
Sector V

sub : **SITUATION REPORT**

Please find attached **SITUATION REPORT** covering the period shown.

Best regards.

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## SITUATION REPORT

15 April 1995 to 15 May 1995

### I. GENERAL

Although isolated infiltrations continue to occur along the Zairean border with Mutura and Rwerere communes, the overall situation in Sector V remains calm. However, of late there have been instances of isolated NGO posts becoming targets of armed robbery by uniformed miscreants.

The border with Zaire remained closed intermittantly due to problems in trade between the two governments and tension during the commemoration week. As a protest against frequent stealing of cattle belonging to returnees during border crossing, the locals blocked all commercial traffic into Goma. Despite a successful outcome of the meeting between Rwandese and Zairean authorities, as a result of which the Gisenyi/Goma border was declared open to all traffic, including WFP trucks, reality has meanwhile proven that the border continues to remain closed for humanitarian aid destined for the refugees in Goma.

During the reporting period, the following incidents have been reported :

- the NGOs running the Karisoke research centre reported that on 26 April, an RPA patrol consisting of about 30 soldiers accompanied by two local staffs employed by the centre, came upon a group of 8 men removing the roof of the research centre. In the ensuing fire-fight the RPA killed one and wounded the other. The killed intruder was later identified as member of the FRG. The group is believed to have crossed into Rwanda from Kibumba camp.

Damage to the research centre was extensive and 85 % of the roofing was stolen. The population feels insecure because of the increased banditry in the area.

- a joint MILOB/HR/RPA-LO team patrolled the border area **MUTOVU** and **RWERERE**. On the night of 12/13 May there was an attempted incursion resulting in a shoot-out. According to locals RPA has established good relations in the community. A sharp drop in the rate of infiltration is evident as is the decline in interhware activities. The tightening of security by the RPA and the hardening of attitude by Zairean authorities towards the FRG appears to account for this marked change.
  - 10 persons were reported killed in a shoot out on Lake Kivu near the Gisenyi brewery. The victims were fishermen shot by mistake by RPA assuming them to be infiltrators. The
-

fishermen were out fishing in the night without proper authorization.

- a mine explosion was reported on 11 May in the Ngororero area. Investigation reveals that the incident was a case of ambush by infiltrators along the RPA routine patrol route. The mine in question was an anti-transport mine which exploded and killed two RPA soldiers and injured three others. No other mine was found in the vicinity and there is no trace of the culprits.
- in Ruhengeri the electric tower was destroyed. It seems to have been a sabotage by experts. Plastic explosives were used and the transformer completely destroyed. Furthermore, another electric pylon in Mukingo commune was damaged by an explosion. Also an employee of elctrogaz, trying to repair the earlier damaged transformer, stepped on a land mine and was seriously injured.
- RPA Liaison Officer reported that the son of a former government minister, who was imprisoned in Gitarama, was smuggled out from the prison and transported to Kigali by UN helicopter. Threafter he was brought to the TUNBATT HQ at Mareru and released to escape to Zaire. UN complicity has been alleged in this matter. The date of this incident is believed to be 15 May 1995. Appreciate receiving clarification in this matter to prevent damage to UNAMIR image.

## II. IDPS

Over the last two months NDUSU commune (Ruhengeri prefecture) has been receiving a steady influx of IDPs from Gitarama, Kigali and Byumba sectors. As of 20 May an estimated number of over 1 000 are found to be in the area. The presence of the IDPs was actually reported earlier in the year (see Sitrep of 29.12.94 - 06.01.95) but their number was negligible ( see also Sitrep 16.03.95 - 30.03.95 ).

On 5 May 1995 the Prefet of Ruhengeri addressed a gathering of the IDPs in Ndusu urging them to return to their home communes. A seven days notice was accorded to them. Certain measures were to be taken if they do not comply, e.g. UNHCR to stop distributing food to discourage their continued stay in Ndusu; NGOs to curtail humanitarian assistance. If these failed, the Prefet warned the IDPs of the inevitable use of force. Reason given by the authorities for the removal of the IDPs at such a short notice was the increasing tension between locals and IDPs and the shortage of food.

MILOB teams monitoring the situation with effect from 5 May had two conflicting versions to report. As per information provided by the Bourgmestre of Ndusu 1 000 had already departed to their home

communes. Those remaining, about 161, comprised of the sick and old people and children. However, talking to the locals and some IDPs reveals that these people are afraid to return because of fear of reprisal of "TUTSI DEATH SQUADS", apparently still active in some communes in Gitarama. Consequently most of the IDPs have not moved to their home communes but are scattered within the area, including Nemba where there are about 100 IDPs camped near TUNCOY. There was also a report that RPA had marked the houses of IDPs for identification purpose but this could not be verified. However, 12 IDPs were found in the commune prison on charges as varied as genocide, theft and adventist tendencies (?). Other IDPs are still in Ndusu co-located with the TUNBATT. These have expressed unwillingness to return to their commune of origin and have requested for UNAMIR protection.

In light of the above, it is apparent that a large number of the IDPs have not regained their home commune but relocated themselves in other areas in Kigali and Gitarama prefectures, frequently changing location to avoid arrest. There is also the possibility that the IDPs have returned to the said prefectures but not necessarily to their home commune.

### III. MOVEMENT OF REFUGEES

A total of 4 245 refugees returned from Zaire and Uganda for the month of April as compared to 15 557 in February and 6 800 in March, reflecting a drastic fall of 40 percent. Several reasons could be attributed for this reduction : closing of border during the commemoration week, suspension of IOM operations indefinitely, withdrawal of IOM trucks for the operation in southern Rwanda and increased activities of interhwama/FRG on the border.

During the week 15 - 22 April, 203 were repatriated under the "organized repatriation scheme" from North Kivu. Since that time this mode of repatriation has been suspended indefinitely because of events that took place in Kibeho.

Spontaneous returnees continue to trickle in consisting mainly of 59/60 caseloads. According to information received from UNHCR/Goma, most camp residents do not wish to return. The returnee figures for the period 1 - 20 May 1995 is 2 840 of which 86 percent are 59/60 caseloads.

With the closing down of the reception centre in Giseenye town, the reception centre at the "College" wears the looks of a near ghetto. It has as of now almost 13 000 old caseloads awaiting resettlement. This is a very volatile group capable of being provoked at the slightest pretext. This was demonstrated when this group demonstrated against UNAMIR and mounted road blocks against all UNAMIR cars during the week of commemoration.

The resettlement programme for this group is progressing very slowly because some of the government identified lands are inaccessible for the type of transport available (Kanama commune)

and additional government land has not been made available. The Ruhengeri MINIREISO representative has submitted a settlement plan for 4 600 families (i.e 23 300 persons) currently residing in various communes of the prefecture. Except for the communes of Nkuli and Mukingo settlement lands have been identified .

#### IV. SECURITY / RPA

In general the treatment meted out to returnees by RPA seems to have taken a better turn for the better, except in Kayove commune. There are fewer reports of arrests and excesses as compared to earlier months. The same is however not true for Kayove commune where frequent arrests of locals on charges of genocide has recommenced.

The border region in the northwest remains sensitive and the trend of destabilization of the security situation continues. In Gisenyi prefecture, the area of Mutovu and Rwerere sees frequent small scale probing attacks and infiltration attempts. The proximity of Kibumba camp on the Zairean side with the Rwandese border makes it a safe haven for the interhwa to operate from. There are plans to shift this camp further inward into Zaire.

The RPA has complete control of the situation in this area with increased strength and heavy patrolling. One significant incident was the murder of the Assistant Bourgmestre of Mutura who was attacked and killed by a group of armed interhwa infiltrators. The deceased was a Hutu returnee.

In Ruhengeri prefecture, the RPA reports frequent fire fights and arrests of armed persons in the border area stretching along the National Volcano park to Kidaho. Here again the RPA has stepped-up its forces in the general area of Kinigi.



31 May 1995

To : Mr. S. K. Buo  
Political Adviser

From : Zena Zelleke  
Political Information Officer  
Sector V

Sub : SITUATION REPORT

Attached please find " SITUATION REPORT " covering the period 21 May to 31 May 1995.

Best regards.

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## SITUATION REPORT

21 May to 31 May 1995

### I. GENERAL

In both prefectures of Gisenyi and Ruhengeri the general atmosphere outwardly appears calm. However, some new incidents have occurred and additional information provided on those incidents reported in the last " situation report ". These include the following :

- a) in **KAYOVE** commune a husband and wife were murdered on the night of 16/17 May. The culprits stole 50 000 RF. Eight suspects were arrested and are detained at the commune prison. In **SYIKI** (same commune) ten persons were arrested on charges of genocide as well as sympathizing with interhware. The accused are now detained at Gisenyi and Ruhengeri prisons.
- b) in **KIBILIRA** commune the law and order situation has deteriorated ever since the RPA pulled out from the area. According to the Bourgmestre IDPs are now moving into the area and carrying out banditry. So far one man was injured and one killed by machet during such attack.
- c) in **NYAMYUMBA** commune three persons were killed, a 16 year old and his grand-parents, by an RPA soldier during the night of 26/27 May. According to investigations carried out, the victims were unknown to the assailant since he was recently deployed to the area. The RPA has arrested the culprit and presently detained in Gisenyi prison.
- d) The killing reported last week in **MUTURA** commune was investigated this week. The victim was a Tutsi resident of the area who fled to Zaire in 1993 and returned in July 1994. As his house was destroyed, he occupied that of a Hutu neighbour presently in exile in Zaire. The neighbour and two accomplices are reported to have infiltrated into Mutura through the forest from Kibumba camp killed the victim and escaped using same track.
- e) There was an attempted robbery at the residence of the NGO INTER-SOS, implementing partner of UNHCR, during the early hours of 28 May. In the ensuing mele one NGO staff was stabbed and sustained injury on his stomach. No trace of the intruder.
- f) The rumoured demonstration against UNAMIR, planned for the afternoon of 27 May, did not materialize. This was in protest

of UNAMIR's helicopter involvement in the transport of two fugitives on 15 May from Kigali to TUNBATT HQ at Gisenyi.

- g) The Bte. Commd. of Ruhengeri informed UNAMIR/MILOBs to suspend all heli recce in the sector. According to latest information new procedures are to be introduced soon in respect of heli flights throughout the country.

## **II. REFUGEE MOVEMENT**

Although UNAMIR is fulfilling its mandate of facilitating refugee repatriation, in collaboration with UNHCR and IOM, at the present time there are a number of obstacles which are impeding the process of spontaneous repatriation, namely : (a) the incident that took place in Kibeho; (b) interhware and militia and hardline elements which continue to intimidate refugees to prevent repatriation; (c) continued distabilization attempts made by infiltrators outside and within the country; and (d) fear of reprisal by the government for suspected involvement in the genocide.

During the the period covered in the report spontaneous repatriation has dwindled, the lowest recorded for one day was three. Total for the week from both Gisenyi and Cyanika border was 1 068, of which 86 percent were of the 59/60 caseload.

## **III. RESETTLEMENT**

In an attempt to reduce the congestion at the reception centre in Gisenyi, UNHCR, in collaboration with MINIREISO, have continued to transport families to several communes, mainly in Gisenyi and Kigali prefectures. Between 21 and 31 of May a total of 550 families have been transported to and resettled in the communes of KAYOVE (Gisenyi prefecture), KIBUNGO , NGENDA (Kighali prefecture) and KIBUYE. UNHCR and MINIREISO plan to empty out the congested reception centre within the coming two weeks.

With the end of the emergency period, the authorities in this sector have expressed their readiness to launch, as soon as possible, the rehabilitation phase in order to avoid social conflicts between the 59/60 old caseload and the local population. Moreover, the problems evolving around the allocation of land and resettlement of returnees have evoked the necessity to draw-up an action plan. To this end the representatives of MINIRIESO of Gisenyi and Ruhengeri prefectures have decided and prepared a joint plan which will be submitted for approval by the Council of Ministers.

## **IV. LOCAL AUTHORITIES ACTIVITIES**

The Prefet of Gisenyi held a mass gathering ( between 600 - 800 persons ) in NYAMYUMBA commune on 28 May 1995. Also present were the Bde. Commd., Head of the Gendarmerie of Gisenyi and other high

officials from the prefecture. The theme was "security". This was chosen as a result of incidents that took place on 27 May ( see in I (C) above). It appears that there is considerable amount of weapons (guns, grenades, etc.) in possession with the locals. The Prefet appealed to the crowd to handover these weapons and also requested the RPA to show some restraint in their relation with the local population.

During question time, the main issue raised was the question of property rights. The local population accused the Bourgmestre of distributing land indiscriminately to the 59/60 returnees.

With so many of this group in the process of being settled in the various communes of the sector, there is a possibility for land dispute to escalate because not all the returnees are given government-owned land but allotted properties whose owners are still in exile. This was confirmed to PIO by the representative MINIRIESO who forsee an acute problem in the near future.

On 22 May, upon invitation by the Bourgmestre of Giciye commune, Human Rights and UNHCR conducted a workshop. The workshop covered a variety of subjects on human rights and protection issues. Participants included all relevant communal authorities, including representatives from women's organizations.

PIO met with Prefet oif Gisenyi on 30 May and discussed the issues of (i) security; (ii) the dwindling return of refugees; and (iii) the question of the rehabilitation of the civil administration. He was particularly concerned with (ii) as this constituted a factor of peace, national unity and reconciliation. However, he was apprehensive of the fact that the situation which prevailed in Kibeho could have impacted negatively.

On the question of reconciliation, as perceived in the Arusha accord, he said that it would not be possible at this stage but every effort should be made to sensetize the population within the country by organizing workshops/seminars on pertinent issues.

Concerning the rehabilitation of the civil administration, I informed him that this is still in the pipeline but given the situatiion prevailing in the country, it is put on HOLD.

f Report  
misc

14 January 1995

NOTE FOR THE FILE

As you are aware the administration is disorganized more so at the Prefecture and commune level. The structures are paralyzed because of the non-existence of human and material resources : lack of trained personnel, absence of office material and equipment, including transportation, etc.

One of the tasks which the PIO is to undertake, is to render assistance to the local government in the re-establishment of the civil administration. This is highly appreciated by all concerned but, at this point in time it has become pointless to talk about giving assistance towards the re-building of the administration since we are unable either to meet the expectations or to deliver the goods needed to bolster the administration. Please find attached the request submitted by the Prefects of Gisenyi and Ryhengeri (Annex A and B)

Another concern is that both Prefet have no means of transport and rely heavily either on PIO or MILOBs for their displacement during their visits to the communes for political rallies. These political rallies are important instruments for reducing the mistrust that prevails between the different political and ethnic groups and also meets UNAMIR's overall objective of promoting peace and reconciliation in Rwanda.

I understand that this is a matter to be decided at the national level but since some sectors have received assistance from UNAMIR, e.g. car for the Kibuye Prefet, I wonder if it would not be possible to render some assistance to this sector. This would not only boost the local administration but also improve UNAMIR's image and credibility which at present is practically nil.

Zena Zelleke

Political Information Officer

cc: Senior Political Adviser ✓

Political Adviser

REPUBLIQUE RWANDAISE  
PREFECTURE GISENYI  
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*Annex A*

FOURNITURES DE BUREAU DONT ON A BESOIN DANS LA PREFECTURE GISENYI.

! N° !	DESIGNATION	QUANTITE
! 01 !	TABLES DU BUREAU / PREFET	! 4 !
! 02 !	ARMOIRES POUR CLASSEMENT	! 5 !
! 03 !	COMPUTER ou ORDINATEUR	! 2 !
! 04 !	MACHINES ELECTRIQUES	! 2 !
! 05 !	MACHINES MECANIQUES	! 10 !
! 06 !	MACHINES PHOTOCOPIEUSES	! 2 !
! 07 !	MACHINES STENCILEUSES	! 2 !
! 08 !	DICTIONNAIRE : LAROUSSE FRANCAIS	! 10 !
! 09 !	DICTIONNAIRE : ANGLAIS - FRANCAIS	! 4 !
! 10 !	PAPIERS DUPLICATEURS (Grand Form.)	! 200 rames !
! 11 !	PAPIERS DUPLICATEURS (Petit Form.)	! 200 rames !
! 12 !	PAPIERS PELULES	! 100 rames !
! 13 !	PAPIERS MINISTRES	! 50 rames !
! 14 !	CARBONES A MACHINE	! 100 Paquets !
! 15 !	REGISTRES LIGNES	! 50 !
! 16 !	FARDES A ETRINGLE	! 50 !
! 17 !	REGISTRES QUADRILLES	! 50 !
! 18 !	FARDES CHEMISES	! 50 !
! 19 !	CLASSEURS A LEVIER	! 100 !
! 20 !	SIGNATAIRES	! 20 !
! 21 !	CAHIERS DE TRANSMISSION	! 20 !
! 22 !	CLASSEURS A TABLE	! 15 !
! 23 !	BLOCS NOTES	! 50 !
! 24 !	CALENDRIERS	! 30 !
! 25 !	RUBANS / MACHINE	! 50 !
! 26 !	ENVELOPPES KAKI (Grand Format)	! 200 !
! 27 !	ENVELOPPES KAKI (Moyennes)	! 200 !
! 28 !	ENVELOPPES ORDINAIRES	! 1000 !
! 29 !	AGRAFFEUSES	! 50 !
! 30 !	DESAGRAFFEUSES	! 50 !
! 31 !	PERFORATEUR	! 50 !
! 32 !	ATTACHE-LOU	! 50 !

... / ...

! N° !	DESIGNATION	! QUANTITE !
! 33 !	AGRAFFES	! 50 Boîtes !
! 34 !	LIQUIDES DE CORRECTION	! 50 FLANCONS !
! 35 !	DILUANT	! 30 FLANCONS !
! 36 !	ENCRE A TAMPON	! 20 !
! 37 !	TAMPON	! 30 !
! 38 !	LATTES	! 50 !
! 39 !	PAPIERS COLLANT	! 50 !
! 40 !	COLLES	! 30 !
! 41 !	CRAYONS NOIRS	! 50 !
! 42 !	GOMMES	! 50 !
! 43 !	BICS MARQUEURS / FEUTRES	! 10 Boîtes. !
! !		! !

Fait à Gisenyi, le 10 janvier 1995



ZILIMWABAGABO CHARLES

*Charles*

PREFET DE GISENYI.

ETAT DE BESOIN PREFECTURE.

Annex B

N°	D E S I G N A T I O N	Q U A N T I T E
01	Ordinateur	2
02	Machine à écrire électronique	13
03	Ruban pour machine électrique	50
04	Machine à écrire mécanique	32
05	Ruban pour machine mécanique	64
06	Photocopieuse	5
07	Stencileuse électrique	2
08	Stencileuse mécanique	5
09	Encre pour stencil	50 tubes
10	Rame pour stencil électrique	10
11	Rame stencil mécanique	30
12	Stylen pour signer sur stencil	10
13	Papier duplicateur A4	40 Rames
14	Papier duplicateur A5	40 "
15	Papier pelure	40 "
16	Agrafeuse	30
17	Boîte d'agrafe	30 boîtes
18	Encre correcteur	20
19	Vernis correcteur	20
20	Encre pour tampon	15
21	Registre indicateur des lettres	25
22	Registre de commerce	1
23	Registre	20
24	Dictionnaire Petit Larousse	15
25	Dictionnaire Français - Anglais	4
26	Agenda 1995	20
27	Note - book	30
28	Calendrier 1995	20
29	Coupe papiers	10
30	Classeurs à suspendre	4.000
31	Chemises pour dossiers	1.000
32	Classeurs	400
33	Lettre - graduée	18
34	Marqueur	40
35	Crayon	2 boîtes
36	gomme	20

*****			
N°	D E S I G N A T I O N	Q U A N T I T E	
37	Rice bleu	10 boîtes	
38	Rice noire	10 "	
39	Rice rouges	10 "	
40	Perforateur	20	
41	Enveloppe moyen format	10 boîtes	
42	Enveloppe grand format	10 "	
43	Enveloppe petit format	10 "	
44	Enveloppe sac petit format	1.100	
45	Enveloppe sac grand format	1.100	
46	Enveloppe sac moyen format	1.100	
47	Enveloppe ordinaire par Avion	20 paquets	
48	Agrafe - agrafe	10	
49	Attache tous	10	
50	Calculatrice scientifique	20	
51	Papier calant	15	
52	Colle papier liquide	6 flacons	
53	Rame papier carbone	25	
54	Testeur de monnaie \$	1	
55	Cadre - fort	2	
56	Dateur	20	

Fait à Bhangari, le 28 / 12 / 1994 .

- : Ignace KAMUKUJE : -

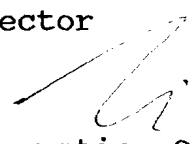
Préfet de Bhangari .



F. .

9 February 1995

To : Dr. A. H. Kabia  
Executive Director

From : Zena Zelleke   
Political Information Officer  
Sector V

Sub : SITUATION REPORT

Attached please find situation report covering the period  
1 February to 10 February 1995.

Best regards.

cc : Political Adviser

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**SITUATION REPORT**  
1 February to 8 February 1995

**I. GENERAL**

Distribution of seeds and tools to all communes in the sector is now crucial. Failure to meet this deadline, which is Feb.-Mar. 1995, would result in food shortage. UNHCR/WFP, through their implementing partners, are expected to start distribution within the coming weeks. However, there is one danger which some communes have experienced and that is the unsuitability of the seeds for a particular terrain. Should this occur, it would aggravate further the food question. In addition, farmers are also requesting fertilizers to enhance the crop yield.

Returnees, especially the 59/60 caseloads, continue to occupy vacant houses and land in the region. This is done with the blessing of the Prefecture's Housing Committee but on condition that they must vacate when the rightful owner returns.

The local authorities still face the same problems as stated in previous reports. Thus their efforts in establishing an effective administration is restricted. PIO held discussion with the Field Officer of UNHCR to introduce some form of 'BUREAU DE COMMUNE START-UP KIT' which will contain basic furnitures (table/desk, chairs), stationary supplies and typewriters. For the time being UNHCR has only stationary supplies. Is it possible for UNAMIR to contribute some items to the KIT?

Civil servants still continue to receive a token salary obtained from market taxes and rent paid on communal properties.

The Zairean border is still closed to UNAMIR personnel. In addition, all trucks crossing to Zaire are now routinely searched requiring the employment of un-loading personnel by WFP on a full time basis.

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## II.SITUATION GOMA

According tot information received from Goma, it appears that the security situation in the camps has improved considerably allowing UNHCR to commence registration of 730 000 refugees. A more secure atmosphere is expected in the camps once the agreemeent between UNHCR and Zairean authorities on the use oif 1 500 elite troops is finalized.

On the other hand, experts have predicted the imminent eruption of the two volcanos in Zaire because of increased seismic activity in the crater. While the smaller volcano **NYAMULAGIRA** is not expected to erupt (last eruption July 1994 ) the big one **NYIRAGONGO** is considered to be a major threat (see attached map ). Although no viable long-term alternative had been found for the most threatened camp " **MUGUNGA** "which holds over 200 000 refugees HCR Goma has prepared a temporary site in case of emergency evacuation.

A meeting was held on 06.02.95 at this location to work out certain modalities to cater for the contingency in case of eruption of the volcano. Participants included : PIO, MILOB , UNHCR, TUNBATT, RPA, HAC (Kigali) and representatives of the International Federation of Red Crosses (IFRC). The representative of IFRC briefed the meeting on the current situation and opinion held by experts presently monitoring the volcano.

The MILOB Humanitarian Team presented the contingency plan prepared in collaboration with UNHCR which involved two scenarios:

A. increased rate (orderly) of returnees, 3 -4 000 per day , ( at present capacity of processing 2 000 per day ) because of eruption or changes in situation in the camps;

B. mass exodus ( disorderly ) from **KIBUMBA** camp and possibly from **MUGUNGA** camp probably caused by violent eruption of volcano.

In either case the general outline involves two phases with three important and essential elements :

### PHASE I

- (i) up-grade existing reception centres, establish transit camps at CERAI, to accomodate 1 000 persons and **NYUNDO**, including improvement of RPA inspection points ( provide shelter, lighting and water );

- (ii) pre-position of emergency aid supplies at key sites for rapid distribution in NYUNDO and NKAMIRA, security to be provided by UNAMIR.

#### PHASE II

- (iii) deployment of required transportation and staff resources, including medical facility, water and fuel supplies.

RPA has been requested to open-up border post 4, right opposite Kibumba camp in Zaire, and also facilitate the movement of UNAMIR and humanitarian aid agencies in the event that such emergency develops.

In the case of mass and essentially uncontrolled exodus large numbers of returnees crossing into Rwanda at no fixed point are likely to concentrate in MUTURA area. This concentration would essentially be an "IDP camp" (or camps) similar to those found in the SW. These centres would be provided emergency and sustenance assistance from the sites of the pre-positioned aid supplies. Furthermore, these centres would be administered under the same procedures agreed to in the SW, i.e. UNAMIR to provide security for the camps and aid workers. RPA activities to be co-ordinated through UNAMIR.

From the logistic point, actual up-grading requirement of sites, composition of aid pack, including water bladders and availability of IOM/UNAMIR transportation must be identified immediately. It is expected that at least 200 - 300 000 will re-enter (including Zairean nationals). Hence the pre-positioning of supplies will be based on this figure.

#### III. REFUGEE MOVEMENTS

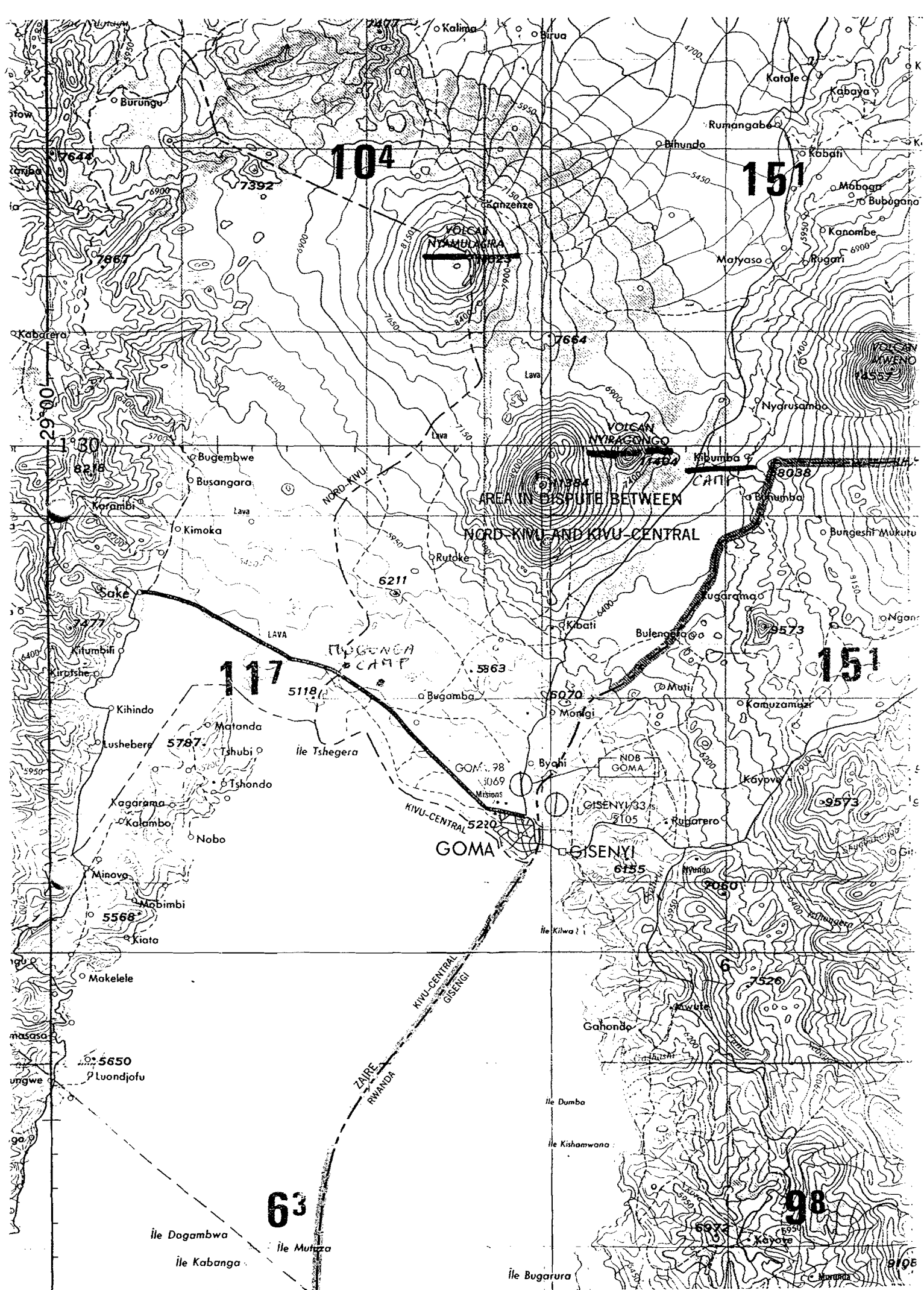
There is an increased number of returnees from Mugunga and Kibumba camps in Zaire. Total number of UNHCR organized repatriation for the period covered in this report is about 2 000. The number of returnees settling in this sector has averaged 300 per day. Approximately 70% of all returnees are from the 59/60 caseloads. However crossing from Zaire to Rwanda by boat has dwindled, probably because of RPA use of lake Kivu as a firing range.

According to figures obtained from immigration official at the border posts in Gisenyi, the number of returnees for the period 1 to 8 February totalled 3 961, of which on 7 February alone 1 000 were of the organized repatriation group

#### IV. SECURITY

While security in the region continues to be calm, the increasing problem of cattle stealing is a major concern. This has decreased the population's confidence in the RPAs ability to provide them with adequate protection. In some communes locals suspect RPA collaboration but there is no tangible evidence to support such claim.

Rumours of impending attack by FAR continues unabated. It was interesting to note that some people kept supplies of the " old currency " in the event of the return of ex-government.



*copy*

13 FEBRUARY 1995  
FLORENCE AS DISCUSSED:

ON THE WORLD VISION PAPER  
RECONCILIATION INITIATIVE

EVERY EFFORT MADE IN THIS DIRECTION SHOULD BE WELCOMED

THE CHURCH'S ROLE BEFORE AND DURING THE WAR HAS TO BE EVALUATED BEFORE  
ENLISTING "IT" IN THESE EFFORTS. CREDIBLE CHURCH LEADERS SHOULD BE  
IDENTIFIED.

RECONCILIATION AS SUCH IS A VERY SLOW PROCESS WHICH IS BASED ON RECOGNITION OF  
BLAME AND BUILDING OF TRUST

A MEMORIAL TO THE VICTIMS BOTH TUTSI AND HUTU SHOULD BE CONTEMPLATED AS A  
LIVING SYMBOL OF WHAT HAS HAPPENED; IN THIS REGARD THE EFFORTS OF THE FONDATION  
INTERNATIONAL AGATHE UWILINGIYIMANA WHOSE FOUNDER IS MONIQUE MUJAWAMARIYA  
SHOULD BE RECOGNIZED AND SUPPORTED.

MORE THAN HAVING A FOREIGN NGO DOING THE THING, IT SHOULD BE A NATIONAL NGO  
WITH ASSISTANCE FUNDING FROM WITHOUT; RECONCILIATION HAS TO BE NATIONALLY  
GENERATED OTHERWISE IT WILL BE FELT AS AN EFFORT FROM THE TOP, IMPOSED, RATHER  
THAN EMANATING OUT OF A SENSE OF CONVICTION.

A NETWORK OF RWANDANS IN RWANDA COMMITTED TO RECONCILIATION SHOULD BE PLACED  
AS RESOURCE AND MOTIVATORS IN DIFFERENT IMPORTANT COMMUNES. CHURCH LEADERS AND  
CHURCH NETWORKS SHOULD ONLY BE USED WHEN A CREDIBLE PRIEST OR REVEREND HAS HAD  
POSITIVE ROLE IN A GIVEN COMMUNITY.

THERE IS A PLETHORA OF CHURCH AND PEACE NGOS OPERATING OUT OF BRUSSELS WHICH  
ARE SUSPECT TO THE GOVERNMENT, THIS SHOULD NOT BE OVERLOOKED.

THE WORK OF THE TRIBUNAL IS KEY TO ANY PROCESS OF RECONCILIATION FOR NOT UNTIL  
THE RWANDANS FEEL THAT JUSTICE HAS BEEN EFFECTED WILL THERE BE ANY REPEAT ANY  
HOPE AT TRUE DEEP RECONCILIATION, THERE WILL ALWAYS BE THE CONTENTIONS OF  
EXPROPRIATIONS, INVASIONS, FAMILIES DECIMATED EVEN AFTER THE PLANTING FOR  
SURVIVAL HAS TAKEN OFF. YOU MIGHT GET A FALSE SENSE OF RECONCILIATION OUT OF  
THE DRIVE TO SURVIVE TOGETHER, BUT JUDGING BY THE YUGOSLAVIA AND BURUNDI  
EXPERIENCES, HATE AND RETRIBUTION FESTER FOR A LONG TIME, CENTURIES EVEN.

TO SEEK TRUE RECONCILIATION, BUT I  
IS NOT RUSHED, AND THE PEOPLE THEMSELVES  
CONTRIBUTE TO THE PROCESS. THEN WE WILL BE  
WHO WILL ALWAYS INFLUENCE THE BALANCE

Post-it routing request pad 7664

ROUTING - REQUEST

Please

- ☐ READ
- ☐ HANDLE
- ☐ APPROVE
- and
- ☐ FORWARD
- ☐ RETURN
- ☐ KEEP OR DISCARD
- ☐ REVIEW WITH ME

Date 13/2/95

To *SRSG* *Thanks.*  
*gr.*  
*This paper summarizes*  
*my discussions with*  
*YME.D.P. on the attached*  
*proposal by World Vision*  
*Hope - You agree. -*  
From *Ikel*

ISEL *(Signature)*

CR

World Vision Relief & Development, Inc.

**RWANDA/BURUNDI RECONCILIATION INITIATIVE**  
**CONCEPT PAPER**

November 15, 1994 to November 14, 1996

World Vision Contact:  
220 I Street, NE  
Washington, D.C. 20002  
tel: (202) 547-3743  
fax: (202) 547-4834

October 17, 1994



## **I. EXECUTIVE SUMMARY**

In the aftermath of the humanitarian catastrophe in Rwanda where an estimated 500,000 people have been killed, international assistance efforts are gathering momentum—feeding displaced persons and refugees, caring for unaccompanied children, supporting farmers who are trying to resume food production, and rekindling a basic health infrastructure among other vital tasks. However, despite the progress being made on the recovery front, there remains a foreboding malaise among Rwandans and international aid workers alike, that all of these efforts could go for naught unless the root causes of the crisis—hate and fear—are addressed. The situation is discouraging, as the perpetrators of the atrocities, now largely outside the country, have shown little sense of remorse or acknowledgement of wrongdoing. In short, without genuine reconciliation, the massive genocide the world has recently witnessed is bound to occur again, as history has demonstrated.

Observers inside and outside of Rwanda have recognized the vital need for reconciliation, and this has been widely discussed across many circles, including at World Vision. However, while many have identified the need for reconciliation, few people or organizations know what they can constructively do to contribute to a solution. In grappling with this question, World Vision has begun a dialogue with professionals experienced in other conflict resolution situations in general and Mr. Joe Montville, a leading thinker and writer in the field of conflict resolution from the Center for Strategic and International Studies, in particular.

Through his study, analysis, and participation in conflict resolution efforts in the Middle East, Northern Ireland, Bosnia, Nicaragua, El Salvador, Eastern Europe, and the former Soviet Union, Mr. Montville has identified a series of steps that have been effective in facilitating a conflict resolution process. Using this framework, coupled with its own experience and presence in the region, World Vision is proposing to support a systematic reconciliation process in Rwanda and Burundi.

While this concept paper covers a two-year time frame, World Vision anticipates being involved in this process for a much longer period, perhaps up to a generation, given the deep-seated, attitudinal factors that are underlying this conflict. As the reconciliation process will ultimately affect all of the citizens in Rwanda and Burundi, the beneficiaries from this initiative would be the combined total population of these countries of 13 million people. The overall cost of this initiative is expected to be \$700,728.

## **II. BACKGROUND**

Widespread carnage, precipitated by the suspicious plane crash killing Rwandan President Juvenal Habyarimana and Burundian President Cyprien Ntaryamira on April 6, 1994 left an unknown number of Rwandans dead and mutilated. Estimates vary greatly, though close observers speculate that some 500,000–1,000,000 people may have been massacred in the time since the plane crash. Many more people have been displaced internally (an estimated 1.3 million), are in hiding, or have become refugees (over 450,000) in the neighboring countries of Tanzania, Uganda, Burundi, and Zaire. Those who have survived are suffering from trauma wounds, particularly on their arms and heads; shock at the loss of loved ones and the violence they have witnessed; fear of assaults; and uncertainty over how they will provide for themselves.

In the hours and days following the plane crash, most of the moderate Hutu and Tutsi leadership were systematically targeted for execution. Independent United Nations and humanitarian assistance staff have not been spared, with numerous staff dying when they tried to intervene or assist. Most observers agree that the minority Tutsi population has suffered the majority of deaths. With the onset of the killings, the dormant civil war in Rwanda was rekindled. By mid-July, the rebel Rwandan Patriot Front (RPF) gained control

of the country, causing an estimated 1.5 million Hutus, including the bulk of the military and political leadership, to flee to Zaire, where they remain today.

Underlying causes for the ethnic conflict are complex and long-standing. There has been an established caste system in Rwanda, divided along ethnic lines since the 17th century. The ruling class were the minority Tutsi (14 percent) who controlled the poorer, mostly agrarian Hutus (85 percent). Forty years of colonization of the region by Belgium starting in 1919 deepened this class and ethnic division. The domination of the majority by the minority without any institutionalized opportunities for change created widespread and deep-seated resentment among the Hutu. While the Hutu ultimately gained control over the government in 1959, retributions and counter-retributions have continued in various forms since independence in 1961. The transition of power to the Hutus led to the exodus of roughly 40–70% of Rwanda's Tutsi population between 1959 and 1964. Many of these went to Uganda, where a large Tutsi refugee population has remained until the present. The stateless status of these Tutsi was an important underlying catalyst for today's friction.

Other periods of intense ethnic violence occurred in 1959, 1961, 1963, 1973, and during the civil war of 1990–1993. However, none of those previous episodes were as widespread and condensed in their killing as the present. The issue of overpopulation is undoubtedly a contributing element to the current crisis. With a population density of 255/km<sup>2</sup>, Rwanda is the most densely populated country in Africa. As some 93 percent of the inhabitants earn their subsistence through agriculture (with an average landholding of .5 ha), competition for available land area is intense.

World Vision is currently operationally involved in agriculture, health, targeted food assistance, care for unaccompanied children, and refugee assistance in Rwanda and eastern Zaire, covering six geographic areas and benefitting approximately 635,000 people. The value of this humanitarian assistance operation is roughly \$15 million. As is its tradition, World Vision intends to follow its immediate emergency response in Rwanda with a long-term commitment aimed at ameliorating the underlying social and economic conditions that have contributed to the current crisis.

World Vision's response to Rwanda was facilitated by its involvement in Rwanda prior to this crisis, assisting Burundi refugees in the Butare and Kibungo prefectures of the south. In addition, World Vision has large ongoing programs in Uganda and Tanzania that have given World Vision built-in staging points for the current emergency operations. The Rwandan effort has also been assisted through World Vision's established emergency programs in the East Africa region in Somalia and Sudan.

World Vision has been involved in reconciliation efforts in Burundi through local churches following the ethnic conflict that claimed an estimated 50,000 lives there in October 1993. Recognizing that the recourse to violence to resolve political or ethnic differences was a never-ending solution, the local church leaders set out to try and shift public attitudes towards greater tolerance. With this aim in mind, the church leaders with the financial and technical support of World Vision, produced a series of radio broadcasts for the general population on topics concerning alternatives to violence to resolve differences, valuing diversity in a modern society, the never-ending cycle of violence and revenge, respect for human life, the importance of stability for economic progress to occur, etc. With the cooperation of the national radio station, these programs have been airing for 14 hours per week since early in 1994.

While World Vision does not have extensive experience in the arena of conflict resolution, it is aware that its extensive grass-roots linkages through the local churches in these overwhelmingly Christian nations present it a rare opportunity to reach nonpolitical leaders who carry the moral influence of their communities and are committed to reaching a solution. Moreover, calling upon Christian values, which extend to followers of all ethnic and political persuasions in these conflicts, offers an immediate point of common ground. Finally, as

researchers in the field of conflict resolution have recognized, non-official channels of dialogue or track II diplomacy are often the most effective in intra-national disputes such as this. This effort would be consistent with that emphasis.

### **III. GOAL AND OBJECTIVES**

**Goal:** To help create a social environment among the general population in Burundi and Rwanda that is supportive of peaceful conflict resolution.

**Objectives:**

1. Positive attitudes toward peaceful resolution of ethnic conflict among the general population will be expressed by at least 70 percent of people surveyed in October 1996.
2. There will be public acknowledgement by respected Hutu and Tutsi leaders of past wrongs committed by their respective populations by October 1996.

### **IV. IMPLEMENTATION PLAN**

The conflict resolution process to be pursued will involve a series of steps aimed at bringing leaders of each of the warring ethnic groups to a point of acknowledging past wrongs committed by their brethren, expressing regret, and fostering forgiveness on the part of the population as a whole for hurtful actions taken in the past. This process will be implemented by working with respected nonpolitical leaders from each side of the conflict to examine the past, come to an understanding of why there have been acts of violence between the groups, and jointly develop a strategy for changing public attitudes that lead to attacks and retribution between Hutus and Tutsis.

#### **A. Planning**

The first steps will be to meet with leaders of local communities, church leaders, government officials, and national NGOs to gain a better understanding of the issues involved, program possibilities, and potential partners in the country suffering conflict. This essential first step provides a reconciliation effort with a initial "lay of the land" as to what the real issues are among the opposing communities, as well as which individuals and entities involved exert most influence in the conflict.

**Actions Taken:**

- World Vision has already begun the process of collecting information and networking with local leaders—making key contacts with the African Evangelistic Enterprise (AEE) in Rwanda, the Protestant Council of Rwanda (CPR), and the Catholic Rwandan Bishop's Council. All of these groups have indicated interest in pursuing a reconciliation strategy.
- James Mageria, World Vision's Vice President for Africa, has been actively engaged in the dialogue, drawing on his own contacts in the region, and is currently in Rwanda, travelling with respected regional leaders in the effort to meet and talk to Rwandan leaders who would be part of the reconciliation strategy.
- World Vision has identified an individual, David Montague, who will serve as the on-the-ground point person for continuing discussions in Rwanda. David is the former President of the AEE—U.S. Office and, given his previous relationships from living in East and Southern Africa, brings many pertinent associations to the task.

## **B. Selection of Leadership Group**

A group of leaders representing different sectors of each community, not to exceed 15 people, would be recruited and then selected through a three- to five-day problem-solving workshop. Leaders would be sought among political activists, the intelligentsia, church leaders, former military, teachers, the medical and mental health community, trade unions, print and electronic media, business, and the arts. A key criteria in the selection of each individual is that they carry a far-reaching projection of moral authority within their respective communities. In addition, these individuals would clearly acknowledge the individual and human rights of the other side and value them as people. Most importantly, the leadership group should be willing to commit themselves to working to develop the intellectual and moral basis of a settlement of the conflict.

The workshop is an intensive engagement that aims to facilitate revelation of the underlying fears and resentments driving ethnic tensions while simultaneously promoting the development of "working trust" and personal alliances among the multi-ethnic leaders. The workshop would eventually evolve into a steering committee for the overall reconciliation effort. It would provide a sounding board on the status of intercommunal relationships, as well as a prescriptive mechanism for proposing specific programs.

The selection of the leadership group is considered the most important step, as they will act as a steering group for the reconciliation effort and therefore will influence all other actions taken in this process.

### ***Action Steps:***

- As a follow-up to the planning process, nominations of leadership group committee candidates would be made from the network of contacts developed. Candidates would be interviewed to determine their commitment to the principles of the reconciliation learning process. Additional assessments as to the moral influence these leaders would have with their respective communities would be made at this stage. Decisions on who is selected would be made by a committee including local independent leadership, David Montague, and an experienced reconciliation consultant(s) after the three- to five-day problem-solving workshop.

## **C. Walk Through History**

A small commission of respected historians from the groups in conflict is to be recruited. After initially creating a sense of safe space for the participants, the chosen historians will "walk through the history" of their relationship together. The commission's task, begun initially with several consultants as third-party facilitators, will be to underline the historic grievances that are contended to have gone unacknowledged and unatoned for and to acknowledge the wounds for which their people have been responsible. The record of the commission's deliberations will, first, become the "agenda for healing" in the interethnic relationship, and second, will be the basis for the revision of published histories in general and school texts at all levels in particular.

The "walk through history" is a tool to achieve the broader aim of getting both sides to begin acknowledging responsibility for group disrespect, repression, crimes, and aggressions in the past. *Acknowledgement* of the injustice of the acts committed is a prerequisite for dealing with the genuine fear of future ethnic-based atrocities and therefore the incentive for preemptive actions by the threatened side—referred to as

"victimhood psychology," an attitude that inhibits concrete movement towards reconciliation.

Another means of establishing the acknowledgement of past wrongs is through "truth commissions," which factually verify and document atrocities committed. While this level of activity is normally taken at the national and international level, it tangentially is achieving the same end of moving a people towards acknowledgement of evil. This step in the reconciliation process allows for justice (as supported by the international observers) to be carried out and removes the compulsion of the aggrieved group to take revenge.

One of the most difficult tasks to international conflict resolution is to persuade victimizers or their descendants to offer a meaningful, unambiguous, and unqualified apology to the victimized group or nation. Such an apology coming from a national leader who is seen as speaking for a people requires moral courage. However, apologies are at the heart of the reconciliation process and long-term resolution of conflict. Despite the difficulties in offering public *contrition* from victimizers to their victims, there are signs that the idea is becoming more powerful in the public discussion of the resolution of protracted ethnic and sectarian conflict. Contemporary examples of public apology include President Yeltsin's admission of Soviet responsibility for the Katyn massacre in World War II, President Walesa's formal apology to the Jewish people for Polish anti-semitism and complicity in the holocaust, Chancellor of Austria Franz Vranitsky's accepting responsibility for Austria's collusion in the extermination of Jews, and public apologies offered by the Government of Japan to the various peoples in Asia it oppressed during WWII.

*Forgiveness* completes the reconciliation process and allows a people to realize freedom from their past and move on. With the acknowledgement and contrition offered by a group's former tormentors, the victimized people are more secure in their need to ensure the wrong committed has been publicly recognized and established in history. With this assurance completed, the openness and ability of antagonists to forgive rather than seek revenge is vastly improved.

**Action Steps:**

- Building on the experience of other reconciliation initiatives, the identification of able, honest, and courageous historians can be assisted through the use of international historians who would spend time identifying and speaking with potential participants. The identification of likely candidates would be assisted through contacts during the planning stage as well.

**D. Agenda for Healing**

At an appropriate point in the process, the "agenda for healing" developed by the historians will be presented to the leadership group in a problem-solving workshop for the purpose of trying to set into motion the most effective acknowledgement/contrition/forgiveness transactions that are feasible. The steering committee would also consider the most effective means via mass media and otherwise to make the findings of the historians available to the public. It would also consider proposals to key political leaders for major speeches, declarations and symbolic acts of acknowledgement of past wrongs, the mourning of losses, and appropriate expressions of regret.

**Action Steps:**

- Facilitate leadership group in conceptualization and articulation of "agenda for healing." This will serve as the implementation plan that will be followed thereafter.
- In the articulation of a reconciliation agenda, key players who will be responsible for certain roles must be identified. Coordination of whatever activities are decided upon will be necessary to ensure coherence to the established strategy is maintained.

#### **E. Information Dissemination Strategies**

Once a reconciliation strategy has been developed by the leadership group, there are numerous vehicles to disseminate this message. Some common techniques include:

- Using news and information media, theater, art, and educational programs to reach the general population and promote alternative means of solving disputes.
- Establishing a network of NGOs—To further expand and disseminate the adages of reconciliation, a network of NGOs engaged in projects that bring ethnic groups together in the pursuit of mutually beneficial goals is to be formed and supported. Projects that are seen as benefitting all sectors of a society are particularly effective in this technique (e.g., water resource development in the Arab-Israeli dispute). This network would serve as a transmission vehicle to everyday citizens for new insights and new ways of thinking about the relationship between ethnic groups, which would be generated in the leadership group and commission of historians.
- Network of clergy—Similar to the creation of a NGO network, creating a network of ethnically diverse clergy who accepted the task of using their moral authority for dialogue and healing would provide another avenue to disseminate a message of reconciliation and mutual respect. Given their daily opportunities to communicate to the grass-roots of a community, the engagement of church leaders in this mechanism of the effort could generate significant impacts in attitudinal shifts. Likewise, the clergy could benefit from the insights and perspective of the steering committee and historians.

#### **Action Steps:**

- Information dissemination is a key area in which World Vision could make a valuable contribution through funding support, as well as applying its media resource capacity.
- Build on the experience gained in Burundi where World Vision is currently supporting partner agencies in the development of radio programs on the value of tolerance, the futility of violence as a means of settling disputes, and promoting an attitude of reconciliation in general. These programs are of a high quality and through arrangements with local radio stations are aired over 14 hours per week. Given the similarity in ethnic make-up between Burundi and Rwanda, these broadcasts could be copied and used in the reconciliation dissemination strategy for Rwanda. This would save on production costs and time.
- The production of additional radio broadcasts may also be required. The AEE, in collaboration with the Rwanda Protestant Council, has expressed interest and has the basic resources (human and technical) to produce additional reconciliation programming. Financial support for the production of the programming and the purchase of air time would be required.

- Negotiations with the national radio station in Rwanda to buy air time would be required. Given that there is only one main radio station, support for smaller emissions should also be considered. Another alternative is to work with the French NGO Reporters Without Borders which is currently broadcasting news and health information in Rwanda and Zaire in the effort to counteract earlier ethnically biased reporting, assist in the public health campaigns, and give refugees information about conditions in Rwanda.
- In addition to radio broadcasts, a reconciliation strategy could also effectively use the print media through editorials, front page articles, or ads. The AEE indicates that such articles are already being written and will soon be ready. Financial support primarily involving access to computers and costs for space is required to support this activity.
- A national conference among church leaders in Rwanda would be a method of organizing the nation's clergy around common reconciliation themes, which they could take back to their congregations. This would be consistent with the networking of religious leaders suggested in the conceptual framework. If deemed appropriate, the conference could be facilitated by a high-profile church leader such as Desmond Tutu.
- Support the costs for the revision and dissemination of history books in Rwanda and Burundi based on the findings from the historians' "walk through history."

**F. Training in the Art and Science of Conciliation, Mediation, and Interest-Based Negotiation**

In the attempt to introduce and institutionalize a mindset of peaceful conflict resolution, training workshops on the concept and mechanics of mediation are facilitated. Ideally, these are organized around specific areas such as management/labor relations, local government authorities, and law enforcement officials. In addition to contributing to improved resolution of conflict in these specific tasks, the skills learned would eventually become part of the social fabric. These workshops would be facilitated by experienced mediators and trainers.

**Action Steps:**

- Organize regional workshops of lay and religious leaders who have daily contact with the general population and who could be in positions of mediating conflict (i.e., teachers, nurses, doctors, local government officials, sports figures, university professors, farmer leaders, etc.).
- To assist children in coping with the trauma they have endured through the violence, displacement, separation, and anxiety over the future, World Vision has been planning for the introduction of counseling services to the unaccompanied minors it is currently caring for. The costs and cultural barriers of bringing in psychiatrists to provide one-on-one counseling are seen as prohibitive. However, the current strategy is to conduct training workshops among the caretakers or other adult authorities who have contact with the children. In this way, these figures of stability in the lives of the children will possess some skills with which to talk to the children. Getting the children to talk about their experiences rather than hold them in is seen as the most essential achievement. While this initiative is being administered under the unaccompanied minors sector, it would overlap with a broad reconciliation strategy and therefore could be targeted as such.

## G. Implementation Plan Timeline

Activity	August- November '94	December '94- May '95	June- November '95	December '95- May '96	June- November '96
Planning	***	***			
Selection of Leadership Group		***			
Walk through History		***	***		
Agenda for Healing			***	***	
Information Dissemination	***	***	***	***	***
Mediation Training				***	***

## V. MANAGEMENT AND MONITORING

As the initiatives outlined above rely heavily on local leadership and community institutions for their implementation, World Vision does not expect to have a large number of staff in Rwanda managing this activity. Rather, World Vision sees its role as a facilitator of the process and, in fact, sees its remaining in the background as essential for the long-term success of this effort.

World Vision will have a senior-level team leader to coordinate its reconciliation initiatives. As mentioned earlier, this individual will be David Montague, who has an extensive institutional network in the region as well as significant negotiating experience. He will be assisted by two deputies who will participate in the initial canvassing of local ideas and leadership in the early stages of the process as well as follow up on discussions with key players during the course of the dialogue to keep momentum moving forward. Given the numerous meetings and workshops this process would involve, World Vision would engage a full-time administrator to organize the planning and undertaking of each of these events. This initiative would have an administrative support person as well.

The progress the initiative was having on public attitudes towards reconciliation in Burundi and Rwanda would be assessed through biennial surveys that would be conducted. These would be undertaken in a culturally appropriate and sensitive manner using cluster samples of the general population randomly selected or through responses provided by focus groups.



# COMMONWEALTH SECRETARIAT

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Your ref:  
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21 December 1994

*Dear Mr Khan,*

## Intergovernmental Group on the Emergence of a Global Humanitarian Order

In his letters of 12 August 1994 and 9 November 1994, The Secretary-General apprised you of progress made on the study and report which the Intergovernmental Group on the Emergence of a Global Humanitarian Order had requested for consideration at its next meeting, scheduled for 14 - 16 February 1995.

The study and report have now been completed by Professor Adam Roberts and Dr Stephen Chan respectively, the consultants engaged for this purpose. We are attaching both documents herewith, in keeping with the Secretary-General's undertaking to circulate them to all members of the Intergovernmental Group by the end of December 1994.

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page is interest  
12.2  
ED  
Sawyer  
18/1*

*Yours sincerely  
M.J. Gaylard*

M.J. Gaylard  
Director  
Political Affairs Division

Mr Shaharyar M Khan  
SRSG for Rwanda  
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P.O Box 30552  
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Attachment:

A MORE HUMANE WORLD?

The Evolution of International Responses to Situations  
Involving Massive Human Suffering

Study for the Commonwealth Secretariat for the  
Intergovernmental Group on the  
Emergence of a Global Humanitarian Order

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December 1994

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## CONTENTS

	<u>Page No.</u>
1. INTRODUCTION	1
2. COMMONWEALTH BACKGROUND	3
3. THE CHANGING CONTEXT OF HUMANITARIAN ACTION	4
a. Why humanitarian action has become a central issue	4
b. Different types of 'situations involving massive human suffering'	5
c. Changes in the practice of the UN Security Council	6
4. THE QUESTION OF HUMANITARIAN INTERVENTION	7
a. Humanitarian intervention vs. the principle of non-intervention	7
b. Security Council decisions since 1991	8
c. Questions about consistency of UN decisions	10
d. Purposes and results of interventions with a humanitarian rationale	12
e. Problems of the idea of 'humanitarian intervention'	14
5. SPECIFIC FORMS AND PROBLEMS OF HUMANITARIAN ACTION	16
a. Humanitarian problems involved in the use of international economic sanctions	16
b. Use of UN peacekeeping forces for humanitarian purposes	17
c. Trusteeship and other administrative roles	20
d. Difficulties of implementing international humanitarian law	21

e.	Proposals for special legal protection for UN peacekeeping forces and for humanitarian workers	24
f.	Proposals for a UN 'Humanitarian Security Police'	25
g.	Conflicts between humanitarianism and human rights	26
h.	Can humanitarian issues be separated from more political ones?	27
6.	THE ORGANIZATION OF HUMANITARIAN ACTION	29
a.	Proliferation of different bodies and specialized agencies	29
b.	The UN Department of Humanitarian Affairs	30
c.	Early warning	32
7.	THE PREVENTION OF DISASTERS	34
a.	Preventive diplomacy	34
b.	Preventing civil war	35
c.	Changing meanings of 'self-determination'	36
d.	Democracy and good governance as mechanisms for the prevention of disasters	37
8.	COMMONWEALTH CONSIDERATIONS	39
9.	CONCLUSIONS	41

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## 1. INTRODUCTION

This is a descriptive study, with prescriptive implications. It explores the various ways in which the international community has responded to situations involving massive human suffering, especially since 1989. The key criterion defining these situations is not just loss of rights generally, but loss of life and vast population displacements. The most obvious and important such situations have all involved some element of civil war, consideration of which runs like a thread through this study.

The particular focus of this study is humanitarian action, taken in response to various situations of war and massive suffering. The term 'humanitarian action' is used here to refer to actions specifically aimed at the reduction of human suffering: the clearest examples of such action are provision of food, shelter and protection to victims of war and famine, and assistance to refugees. More controversially, humanitarian action is sometimes seen to encompass, or require, the use of outside armed force in situations of chaos, warlordism, or tyrannical government. The question of the legitimate boundaries of humanitarian action has been raised sharply by many events since 1989, and is a central issue in this study.

The study looks at the underlying ideas on which responses to such situations have been based. It seeks to identify trends, and to assess the direction of those trends. It considers international responses generally, including those under UN auspices, as well as taking into account the Commonwealth's experience and practice. It considers the question of preventive action as well as responses to actual disasters. It examines some of the criticisms which have been made of the international community's responses. It looks at some possible improvements in, and alternatives to, the types of humanitarian action which have developed.

On the basis of events since 1989, is there evidence of an emerging global humanitarian order or, to use the phrase of the title of this study, a more humane world? There is evidence favouring such propositions, but there are also grounds for doubt as to whether we yet have, even in embryo, a fundamentally new international order, or a new system of global governance. The conclusions of this study include some deductions from recent experience, and recommendations for the way forward.

In preparing this report I have drawn on some previous work, including that done for articles published in International Affairs, London, July 1993, and Survival, London, Autumn 1994; and for Adam Roberts and Benedict Kingsbury (eds.), United Nations, Divided World: The UN's Roles in International Relations, 2nd edition, Oxford University Press, 1993. Additionally, I have had the benefit of considerable assistance from the Commonwealth Secretariat; from individuals working in the UN and its various agencies in New York and Geneva, and also

in former Yugoslavia; from officials and diplomats working for many governments; and from many academic colleagues at Oxford and elsewhere. The faults of the present study, of which there will certainly be many in a subject as difficult as this, are all mine.

Adam Roberts, Oxford, December 1994

## 2. COMMONWEALTH BACKGROUND

Unlike the United Nations, the Commonwealth does not have specific organizational frameworks for addressing situations involving massive human suffering. However, it does have a tradition of addressing issues relating to the human dimensions of international relations generally. The Declaration of Commonwealth Principles, approved at the Commonwealth Heads of Government Meeting (CHOGM) in Singapore in January 1971, identified many of these dimensions: it placed great emphasis on the multi-national character and approach of the Commonwealth in general and its members.

The 1991 Harare Declaration developed this concern with a wide range of proposals, including its emphasis on democracy, just and honest government, and fundamental human rights. The range of issues preoccupying Commonwealth member states was subtly changing. In the wake of the end of the Cold War, with the South African issue ceasing to be so central in Commonwealth deliberations, with extensive discussion of the nature of the new international order, and with issues of humanitarian action already playing a major role in international diplomacy, many members of the Commonwealth believed that it was necessary to put emphasis on new priorities and modes of action, appropriate to a new era.

The 1993 Commonwealth Heads of Government meeting at Limassol had as a Special Theme of the Meeting: 'The Emergence of a Global Humanitarian Order'. This order proved difficult to flesh out, the result being the undeniably modest paragraph 6 of the communiqué:

Having discussed the Special Theme of the Meeting: 'The Emergence of a Global Humanitarian Order', and acknowledging its importance, Heads of Government requested the Commonwealth Secretary-General to constitute, in consultation with Commonwealth governments, a high-level intergovernmental group to examine specific ways in which the Commonwealth could make the fullest possible contribution to the work of the international community on this theme. The report of the group would be for consideration by governments.

The 'Inter-Governmental Group on the Emergence of a Global Humanitarian Order', set up after Limassol, under the chairmanship of Bryce Harland, is to report to the next CHOGM (at Auckland, New Zealand, in November 1995) on various questions relating to the emergence of a global humanitarian order, and will encompass challenges arising from socio-economic as well as political problems.

Clearly a more direct Commonwealth involvement than hitherto in humanitarian issues would not necessarily be inconsistent with past positions; and could indeed be viewed as a natural development of past concerns. However, such an involvement raises many difficult issues, discussed in this study. Above all, there is no escaping the fact that there are hard lessons to be drawn from recent experience of humanitarian action. Moreover, there are, and quite legitimately so, many different intellectual and

national perspectives on the proper place of humanitarian action in international politics. Any Commonwealth approach will have to take account of these lessons and perspectives.

### **3. THE CHANGING CONTEXT OF HUMANITARIAN ACTION**

There is no doubt about the fact that humanitarian issues have been the subject of increased attention in international relations since the end of the Cold War. One obvious measure of this increased attention is the unprecedented attention given to a wide range of humanitarian issues in UN Security Council resolutions. Another is the increase in the activities and budgets of the relevant international agencies: the budget of the UN High Commissioner for Refugees more than doubled between 1990 (\$500m.) and 1991 (\$1,200m.), and has increased still further since (the 1994 figure being \$1,300m.); in an only slightly less dramatic increase, the ICRC budget increased from under SFR (Swiss francs) 400 million in 1987 to almost SFR 800 million in 1994.

#### **a. Why humanitarian action has become a central issue**

There are many reasons why humanitarian issues have received such extensive international attention in the post-Cold War world. They include:

- \* The conclusion of partial or general peace agreements in respect of particular conflicts, requiring large-scale humanitarian action (as in Mozambique) to repatriate refugees and rebuild social and economic institutions.
- \* The emergence of new and severe conflicts in the former Yugoslavia and former Soviet Union, as these large communist-cum-federal states collapsed.
- \* The eruption of civil war in several other states, especially in Africa.
- \* Extensive global reporting of such crises, including on television, leading to strong public pressure on outside governments to act.
- \* New possibilities for united action by states under the auspices of the UN Security Council, once the East-West divide and consequential uses of the veto were seen as having been overcome.
- \* A hope that humanitarian action could overcome political divides, could constitute a basis for a united and effective response to a wide range of crises, and could even point the way to a new order which transcends some of the limits of the system of sovereign states.

Despite the problems and disappointments which have been encountered, many of the underlying factors which led to this concentration on humanitarian action are unlikely to disappear.



**b. Different types of 'situations involving massive human suffering'**

Several totally different types of problem could be considered under the common rubric of 'situations involving massive human suffering'. Causes of such situations involving loss of life on a large scale may include:

- \* Civil war, and general collapse of the state;
- \* Dictatorial government;
- \* Economic backwardness and massive unemployment; and
- \* Natural disasters.

Wars, especially civil wars, and the collapse of existing state structures, have been central features of many post-Cold War crises involving massive suffering. This has been so in recent and ongoing crises in former Yugoslavia, the former Soviet Union, Afghanistan, Somalia, southern Sudan, Rwanda, and elsewhere. In such situations there is often some degree of willingness to accept outside assistance, or some vulnerability to outside pressure to do so. However, civil wars are notoriously bitter and difficult to control, and present some especially difficult problems for humanitarian action.

Crises caused by dictatorial governments acting so as to cause massive suffering within their own territory pose special problems for humanitarian action. When the problem is essentially one of over-powerful government, humanitarian agencies may find it difficult to act within the country concerned; and the UN Security Council may lack a clear Charter basis for taking action. The issue is a serious and difficult one, as the responses and non-responses of the international community to the crisis in Cambodia during the years of the Khmer Rouge regime (1975-79) showed. The question has not been at the forefront of debate in the post-Cold War period, but will not disappear. It is discussed further below in the context of the debate over 'humanitarian intervention'.

Problems of economic backwardness and massive unemployment can cause vast suffering. Poor nutrition, impure water supplies, and inadequate health facilities, can all cause massive human suffering and loss of life. It is possible that more lives might be saved by addressing these enduring problems in a wide range of countries, than by concentrating so many resources on a limited number of war-torn countries. Yet in reality the problems overlap: there is a link, though not an automatic one, between economic backwardness on the one hand and the breakdown of states on the other. In any case, governments and international bodies do not have the option of choosing between addressing the suffering caused by war or the suffering caused by economic backwardness: both are bound to be the subject of concern and, in some degree at least, action.

Natural disasters such as earthquakes, floods and famines are not excluded from this study, but are not its main focus. The practice of states co-operating in the provision of assistance

to areas which have experienced natural disasters is of long standing, and has raised relatively few problems. The practice, like some other forms of humanitarian action, constitutes evidence that states can sometimes take action of a disinterested character, and do so effectively.

Other types of situation may also cause massive human suffering and loss of life. Various man-made disasters, evoked by such names as Bhopal and Chernobyl, may lead to a need for international technical and humanitarian assistance.

These various types of cause tend to require very different responses. They can all be lumped together under the single label of 'humanitarian crises', but the label does not suggest a prescription. Some crises may be appropriately addressed by a primarily humanitarian response, whereas others require a more complex and multi-faceted approach.

#### **c. Changes in the practice of the UN Security Council**

The changes in the practice of the UN Security Council have had a huge impact on the whole question of humanitarian action. A small but significant measure of the increased capacity for agreement on the Security Council is the number of resolutions passed. From 1945 to 1988 the average number of resolutions passed by the Security Council each year had been about fifteen. Subsequent figures are:

1990: 37  
1991: 42  
1992: 74  
1993: 93

Many of these resolutions dealt with situations involving massive human suffering. In addition, many specifically drew attention to humanitarian issues of one kind or another; and many actions of peacekeeping and other forces operating under Security Council resolutions have been directly concerned with humanitarian action.

One reason for the Security Council's unprecedented attention to humanitarian issues may be the need to get maximum support for any given operation from among its fifteen members. Especially when dealing with complex conflicts and civil wars, it may be genuinely difficult to get agreement on a definite political line, such as supporting one side, or imposing a settlement by force: but it may be relatively easier to get international agreement on more modest and apparently less risky action, aimed not at the use of force but rather at the alleviation of suffering combined with efforts to induce the parties to reach a settlement. In the end, as explored further below, humanitarian policies frequently come under criticism, from several distinct quarters. Yet it is not surprising that in the framework of a large multilateral institution such as the UN there is a tendency to respond to crises by operating in humanitarian mode.

#### 4. THE QUESTION OF HUMANITARIAN INTERVENTION

The question of whether there is, or is not, a right of humanitarian intervention is not necessarily the central issue in considering possibilities of international humanitarian action. However, it has been a central question in recent practice and in international diplomacy. It hangs heavily over all contemporary debates over the role of humanitarian action in international relations. The debate in the Commonwealth has been no exception.

##### a. Humanitarian intervention vs. the principle of non-intervention

'Humanitarian intervention' may be defined as military intervention in a state, without the approval of its authorities, and with the purpose of preventing widespread suffering or death among the inhabitants. The concept has a long and controversial history. Recent practice has reopened old controversies, and added new elements. The idea of humanitarian intervention does undeniably involve some departure, in exceptional circumstances, from the principle of non-intervention.

The non-intervention rule--the prohibition of military incursions into states without the consent of the government--is often criticized as a principle based more on order than on justice, but it does have a serious moral basis. Non-intervention provides a clear rule for limiting the uses of armed force, and reducing the risk of war between the armies of different states. It involves respect for different societies, with their different religions, economic systems, and political arrangements. It acts as a brake on the territorial and imperial ambitions of states. It has not served badly as an ordering principle of international relations in the post-1945 era.

Because non-intervention remains so important a principle, it is not surprising that the idea of 'humanitarian intervention' has never been formally accepted in any general legal instrument; but the continued life of humanitarian intervention in international scholarly debate (and, to a lesser extent, in practice) is evidence of the seriousness and perennial character of the issues with which it deals.

The actual observance of the non-intervention rule has been very imperfect. States have violated it on many occasions and for many reasons, including the protection of nationals, the prevention of changes to the balance of power, and counter-intervention in response to another state which is deemed to have intervened first. Yet the rule has not collapsed: evidence, perhaps, that a robust rule can outlive its occasional violation.

The idea of humanitarian intervention is not necessarily the incorrigible enemy of the general rule of non-intervention. Even the stoutest defender of non-intervention must concede one of its more glaring weaknesses. Can that rule really apply when the situation in a country is so serious that the moral conscience of mankind is indeed affronted? What is the ethical or logical foundation of the rule that makes it so rigid, so uncomprehending of the evidence of misery, that it cannot allow for exceptions?

One might even say that if a coherent philosophy and practice of humanitarian intervention could be developed, it could have the potential to save the non-intervention rule from its own logical absurdities and occasional inhumanities.

There can be no disputing the sheer force of circumstance which brought about the new practice, and doctrine, of humanitarian intervention. The age-old problem of whether forcible military intervention in another state to protect the lives of its inhabitants can ever be justified became politically sensitive in recent years when harrowing situations, especially when reported on TV, led to calls for action; and when the UN Security Council, no longer hamstrung by East-West disagreement, was able at least to reach authoritative decisions, giving a degree of legitimacy to interventions which might otherwise have been hotly contested.

Any possibilities of developing a coherent notion of humanitarian intervention involve, crucially, questions about the authorization of such intervention. The possibility that the society of states, acting through regional or global bodies, might in some way authorize particular acts of intervention significantly weakens the traditional objection to humanitarian intervention. The issue of authorization looms especially large in view of the fact that main foundations of the non-intervention rule have been concerns about states acting unilaterally, pursuing their own interests, dominating other societies, and getting into clashes and wars with each other. If an intervention is authorized by an international body, and has specific stated purposes, all these concerns begin to dissolve.

In the past half century there has been a particularly strong tendency for a wide range of military interventions to be conducted on a multilateral basis, or at least with multilateral fig-leaves: hence the frequent use of regional organizations to sanctify such interventions as those of the Soviet Union in Czechoslovakia, of Syria in Lebanon, or of the United States in Grenada. Now that the UN Security Council is more capable than before of reaching decisions on major matters, it is emerging as the main instrument for sanctifying interventions, including humanitarian ones, and for enunciating their purposes. In this matter the United Nations has obvious advantages over bodies with more limited membership. If intervention is permitted only if it has UN Security Council authorization, the risks of competitive chaos and insecurity, and of pursuit of unilateral advantage, are greatly reduced.

#### **b. Security Council decisions since 1991**

The role of the United Nations, especially the Security Council, is the principal new element in recent acts of intervention. Its decisions giving legitimacy to uses of force have been of great importance. Decisions in respect of northern Iraq, former Yugoslavia, Somalia, Rwanda and Haiti have all put great emphasis on humanitarian issues as justifications for the use of outside forces.

However, these have not all been pure cases of humanitarian intervention. One factor distinguishing them from the textbook

case has concerned the question of consent. In several of the cases in which the UN Security Council has used a humanitarian justification for a military involvement, the whole question of the consent of the host state has proved to be far more subtle in fact than ever it was in legal theory.

On northern Iraq, the UN required in the Delphic terms of Resolution 688 of 5 April 1991, that 'Iraq allow immediate access by international humanitarian organizations to all those in need of assistance in all parts of Iraq', which was less than a formal authorization of intervention, but was nevertheless of considerable help to the Americans and their coalition partners. The operation has to be seen partly in the special context of post-war actions by victors in the territory of defeated adversaries. Further, there were elements of Iraqi consent in the subsequent presence of UN guards in northern Iraq.

In former Yugoslavia, although UNPROFOR's initial deployment in February 1992 was with the consent of the parties to the conflict, successive UN Security Council resolutions were so phrased as to suggest that the UN might actually require the parties involved to accept the continued presence of peacekeeping forces with a humanitarian role whether they wanted them or not; and there were also suggestions in these resolutions that if UNPROFOR and its humanitarian activities were obstructed, further measures not based on the consent of the parties would be taken to deliver humanitarian assistance. In practice, the experience of UNPROFOR in the midst of an ongoing war in Yugoslavia has proved that there are extremely difficult problems involved in any action not based on consent.

On Somalia, the US-led invasion of 9 December 1992 had the full blessing of Resolution 794--the first UN resolution to authorize explicitly a massive military intervention by member states within a country without an invitation from the government. However, there was no Somali government to give or refuse consent, so the UN-authorized intervention by UNITAF in December 1992, and its continuation by UNOSOM II in May 1993, was hardly a classic case of humanitarian intervention. Further, as discussed below, its actual conduct raised questions about the label 'humanitarian intervention'.

On Rwanda, the initial deployment of UNAMIR in November 1993 was by consent of both the government of Rwanda and the Rwandese Patriotic Front (RPF). However, subsequent revisions of UNAMIR's mandate, in a series of Security Council resolutions from April 1994 onwards, gave it additional roles. These new roles were not based on the consent of the government. This was because it was precisely the government of Rwanda that was instigating or tolerating mass killings that the UN sought to prevent. Resolution 918 of 17 May 1994 expressed concern over 'a humanitarian crisis of enormous proportions' and decided on an expansion of UNAMIR's mandate:

- (a) To contribute to the security and protection of displaced persons, refugees and civilians at risk in Rwanda, including through the establishment and maintenance, where feasible, of secure humanitarian areas;

- (b) To provide security and support for the distribution of relief supplies and humanitarian relief operations.

This mandate was repeated and reaffirmed in Resolution 925 of 8 June 1994, which referred to 'reports indicating that acts of genocide have occurred in Rwanda', and underscored that 'the internal displacement of some 1.5 million Rwandans facing starvation and disease and the massive exodus of refugees to neighbouring countries constitute a humanitarian crisis of enormous proportions'. Great difficulties arose in obtaining forces to go to Rwanda to carry out the mandate. In a further decision on Rwanda, Resolution 929 of 22 June 1994, the Security Council accepted an offer from France and other member states to establish a temporary operation there under French command and control. The Council stated that in doing so it was acting under Chapter VII of the Charter, and it authorized France to use 'all necessary means to achieve the humanitarian objectives' set out in Resolution 925 (and also in Resolution 918 as quoted above). This was the prelude to the French-led 'Operation Turquoise' in western Rwanda in summer 1994.

There was much controversy about the French action in Rwanda, as indeed there was about the entire UN role in response to the Rwanda crisis. Most of the controversy, however, was based on the view that there should have been earlier, larger, and more decisive humanitarian intervention. There was especially heavy criticism of Security Council Resolution 912 of 21 April 1994, in which, at the height of the crisis within Rwanda, the Council had actually decided to reduce the size of UNAMIR from 1,700 to 270 personnel--a decision that was never fully implemented.

The crisis in Haiti following the September 1991 coup d'etat which had toppled President Aristide led to numerous resolutions of the UN Security Council. These resolutions imposed economic sanctions and expressed repeated concern about the humanitarian situation. The General Assembly, too, expressed its concern, for example in its resolution 47/20 of 22 March 1993, which urged members 'to increase their humanitarian assistance to the Haitian people'. Abortive attempts to secure a negotiated transfer of power led to the passing of Security Council resolution 940 of 31 July 1994, which authorized the use of 'all necessary means to facilitate the departure from Haiti of the military leadership ... and to establish and maintain a secure and stable environment'. This resolution is remarkable for its unequivocal call for action to topple an existing regime. It did so partly on the basis of humanitarian considerations. Following this, a US-led force intervened in Haiti in September 1994, but only after a last-minute agreement providing a basis for a US military role in Haiti, signed in Port-au-Prince by Jimmy Carter and Haiti's military-installed President, Emile Jonassaint. Thus even in this case where the UN Security Council was operating in enforcement mode, there was some hesitation in using force: some element of consent of the government in place was sought and obtained.

**c. Questions about consistency of UN decisions**

None of the five cases outlined above is a pure textbook case of humanitarian intervention. Yet all contain some elements

of humanitarian intervention. The situation in Rwanda perhaps corresponded most closely to that picture of an utterly oppressive regime slaughtering its own people which has been at the heart of much past theorizing about humanitarian intervention: yet the actual intervention that followed was in many respects more hesitant and equivocal than in some of the other cases.

These cases of uses of armed force with a humanitarian rationale raise questions about the consistency and seriousness of recent UN practice.

The first question has to do with the terms of the UN Charter. It is sometimes suggested that the Security Council is a structurally flawed body when it comes to considering the matter of humanitarian intervention, because under the Charter and its own past practices it cannot authorize a military action purely on the grounds of the existence of grave human rights violations. In order to act under Chapter VII of the Charter, as it did in each of these cases, the Security Council's action must be premised upon a legal determination of the existence of a threat to international peace and security. The contrast between the legal and the real grounds of action is clearest in resolution 794 of 3 December 1992 on Somalia. It mentions 'a threat to international peace and security' once, almost ritualistically, as if to get over a necessary legal hurdle; but it mentions the word 'humanitarian' no less than eighteen times--a dismal record for a UN Security Council resolution, but an indication of the reasoning and intentions behind the authorization of intervention. In general, it would be hard to argue that the need to prove a threat to international peace and security has seriously distorted UN practice in the matter of humanitarian intervention. Once a consensus has emerged that action is warranted (whether on humanitarian or other grounds), this requirement has not proved a major obstacle.

A second ground for doubt about recent UN practice has to do with selectivity and so-called 'double standards'. Undoubtedly, the conscience of mankind was shocked by the plight of Iraqi Kurds, the vicious fighting and sieges in ex-Yugoslavia, the starvation in Somalia, and the genocide in Rwanda. But there have been other perhaps equally shocking situations in the past few decades. The fact that genocide in Cambodia, shootings in Beijing, ruthless dictatorship in Burma, or catastrophe in Sudan did not lead to humanitarian interventions suggests that some other factors are involved in decision-making. Humanitarian intervention seems for the most part to be confined to cases in which there has been extensive TV coverage, there is some particular interest in intervention, and in which there is not likely to be great power dissent or massive military opposition. In short, it may largely be confined to highly publicized situations of chaos and disintegration, Somalia and Yugoslavia being prime examples; or to interventions in small states not capable of offering serious military opposition, such as Haiti. It will not be an answer to the often more serious problem of the over-powerful and brutal state. True, the operation in northern Iraq in 1991 was an intervention in a state with an all-too-powerful government, but that was in the exceptional circumstance of a state recently defeated in war, and about which the victors

felt an unusually high degree of responsibility, not least because of the US encouragement to the people of Iraq to engage in an ill-starred and brutally suppressed rebellion.

Overall, the practice of the Security Council does suggest a high degree of selectivity about the situations in which humanitarian intervention might be authorized: and the selectivity involves many factors other than the plight of the people whom an intervention might be intended to assist. This is the exact equivalent of the Security Council's familiar selectivity in certain other spheres, such as in the question of which invaded states it assists with forceful measures. The same defence can be made of Security Council practice in both cases: that prudence is not a bad guide to action, that some degree of selectivity is inevitable, and that it is better to uphold basic principles selectively than not at all.

A third problem with recent UN practice involving elements of humanitarian intervention is that it is extremely hard to divine anything like a doctrine from so variegated a set of cases and approaches. Security Council resolutions have moved the matter forward inch by inch, in a thoroughly pragmatic way. There is plenty reference to exceptional circumstances, but no general defence of humanitarian intervention. When the Security Council passed resolution 794 of 3 December 1992 authorizing Operation Restore Hope in Somalia, the following wording was put at the beginning of the preamble at the express wish of African states: 'Recognizing the unique character of the present situation in Somalia and mindful of its deteriorating, complex and extraordinary nature, requiring an immediate and exceptional response'. In other words, they did not want the invasion of Somalia to be viewed as a precedent for invasions of other sovereign states.

**d. Purposes and results of interventions with a humanitarian rationale**

Perhaps the greatest difficulties arising from contemporary practice of interventions with a humanitarian rationale have to do with their uncertainty of purpose, and their questionable consequences.

What on earth does the word 'humanitarian' mean, and does it accurately describe anything beyond the original supposed motive of an action? How does such a motive translate into actual policies to transform a situation? Does it make sense to call an intervention in a country 'humanitarian' when the troops involved may have to fight and kill those who, for whatever reasons, seek to obstruct them? Or when the troops involved fail to provide what the inhabitants most desperately need--especially security?

In many of the recent cases involving some element of humanitarian intervention, the repeated emphasis on the word 'humanitarian' has been a natural corollary of the absence of a serious long-term policy in respect of the target country, except in the limited matters of saving lives and trying to get rival factions to reach a peace accord. Some of the emphasis on humanitarianism is vulnerable to the criticism that it reflects the natural desire to do something in face of disaster, and a



tendency to forget that in all these cases the disaster has been man-made, and requires changes in policies, in institutions, and possibly even in the structure of states and their boundaries.

The vagueness and incompleteness of aims in some recent cases is striking. In northern Iraq, there has been ambiguity about the extent to which Kurdish autonomy is or is not supported. In former Yugoslavia, the mandates of UNPROFOR have varied from place to place and from time to time, but have been widely viewed by the inhabitants as inadequate. In Somalia, the mandates of the forces intervening under UN auspices were never clear on the key matters of who was supposed to be in charge in Somalia, and what was supposed to be done about the weapons and warfare of the clans and warlords. In Rwanda, many critics have asserted that the UN should have had a more forceful policy, and should perhaps have sided with the RPF forces. In all these cases, there are understandable reasons for the vagueness of aims: more precision would have implied a willingness to impose a pre-determined outcome, and would be open to the accusation of dictatorial interference.

The outcomes of recent cases of humanitarian intervention have been mixed. In the first of the recent cases, Operation Provide Comfort in northern Iraq, the results have shown signs of enduring: yet even there, such modest security for the Kurds as has been achieved is under constant threat, with much nervousness about whether Saddam Hussein's government and armed forces can be kept indefinitely from wreaking vengeance in the region. A further worry about northern Iraq is that it provides some evidence in support of the proposition that intervention is a step onto a slippery slope, reducing the inhibitions against further interventions: from August 1991 onwards, in a purely unilateral move, Turkish forces launched attacks in northern Iraq against their foes in the Kurdish Workers Party (PKK).

In ex-Yugoslavia, the UN Protection Force (UNPROFOR) has fulfilled at least some humanitarian purposes: it has done solid work in getting food convoys in to Sarajevo, and in building up Muslim-Croat relations in Central Bosnia. However, it has failed conspicuously to actually protect the inhabitants, at least in Bosnia; and it has also failed to demilitarize the Serb-held areas of Croatia. To the modest extent that Yugoslavia can be considered a case of humanitarian intervention, it is one which cruelly exposes the limitations of the idea.

In Somalia, the follow-up to Operation Restore Hope of December 1992 was sadly reminiscent of colonial policing. The words of the UN military spokesman in Mogadishu on 10 September 1993, the day after yet another incident in which UN troops had killed a number of civilians, are an appropriate epitaph for a short-sighted optimism about humanitarian intervention: 'Everyone on the ground in that vicinity was a combatant, because they meant to do us harm.' The UNOSOM II peacekeeping operation is leaving the country having saved many who would otherwise have starved, but without having achieved a major change in the chaotic clan warfare which led to the UN's initial involvement in 1992.

In Rwanda, the interventions under UN auspices within the country were throughout limited in size, in duration, and in goals. This sad experience illustrates the reluctance of states to take decisive and enduring action in situations of great danger, and where the domestic interests of the intervening states are involved only to a limited degree.

The operation in Haiti had an unusually clear purpose: the restoration of a democratically elected government. Here intervention seems to have been successful, though any optimism must be tempered by awareness of the very limited long-term results of previous US interventions, and the difficulties that have been encountered in the past in trying to eradicate violence from Haitian politics.

In general, the results of international intervention in internal conflicts since 1991 have been mixed. As Lori Fisler Damrosch has written, on the basis of examining six cases: 'In the eyes of many, collective institutions have done little to restrain internal conflicts: rather, it is the institutions themselves that seem under restraint.'<sup>1</sup>

e. Problems of the idea of 'humanitarian intervention'

Recent practice involving elements of humanitarian intervention has resulted from real and urgent crises. It has also introduced innovatory features, of which the most significant is the emphasis on the UN Security Council as the authorizing body. While it has undoubtedly saved many lives, there have been serious problems and defects.

1. Increasingly the term 'humanitarian intervention' seems a misnomer. It is a form of justification, and one which deserves to be viewed sceptically. It carries the implication that a military intervention in another country can be humanitarian in four respects: in its original motives, in its stated purposes, in its methods of operation, and in its actual results. Recent practice confirms doubts as to whether it can really be humanitarian in any, let alone all, of these ways.
2. The claim that an intervention by one's own forces is 'humanitarian'--the provision of assistance to unfortunate peoples incapable of providing for themselves--appeals too easily to the ethnocentrism which lurks in all of us. An operation may be characterized by a sense of moral rectitude--of operating, on behalf of the UN, on a higher plane than the local forces. This mix of factors can degenerate into arrogance, anger, bathos and despair.

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Lori Fisler Damrosch (ed.), Enforcing Restraint: Collective Intervention in Internal Conflicts, Council on Foreign Relations Press, New York, 1993, p. 1. The book was written when enthusiasm for collective intervention was widespread. Despite its title and in places hopeful tone, its analysis of particular cases may contribute to the more sober analysis which is now rife.

3. Any intervention is liable, sooner or later, to provoke local opposition. Even humanitarian assistance can provoke strong local resentment, especially if the very necessity for its presence cruelly exposes failings in the target society, or if the forces involved are substantially ignorant of, or arrogant towards, local forces and customs, with which they have no long-term relationship. Thus what begins as humanitarian intervention is at risk of ending in humiliating exit.
4. A multilateral intervention, authorized by the Security Council, is especially at risk in several respects. These derive partly from inevitable features of the way the UN does its collective business: compromise, inertia, and (sometimes) avoidance of difficult issues. There may be a lack of clear strategic direction in any operation, a lack of knowledge of the country and its languages, and a lack of any deep commitment or sense of responsibility on the part of troop-contributing states. In fractured societies there may be a need to take on governmental functions, but there is often a reluctance to do so.
5. In the current state of international society, there is absolutely no possibility of securing general agreement among states about the legitimacy of humanitarian intervention. The many interesting attempts to devise formal criteria for intervention are not likely to get formal approval.<sup>2</sup> Humanitarian intervention will, and perhaps should, remain in a legal penumbra: something which may occasionally be approved by the Security Council or by other bodies, may reluctantly be tolerated by states, but cannot be given a sort of generic advance legitimation--not only because it involves breaking a valued norm, but also because it would be impossible to spell out in advance the circumstances in which it might conceivably be justified.
6. Despite the frequency of recent cases in which there are strong elements of humanitarian intervention, the twin principles of sovereignty and non-intervention remain of fundamental importance in the international system. Only in very extreme cases, and with a wide range of procedural and substantive safeguards, can these twin principles be overridden. Even then there are bound to be doubts. The fear of a pattern of interventions getting out of hand is not unreasonable. In too many states there are living memories of external domination, and real fears that outsiders, in the name of humanitarianism, could find more or less

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In his notable book, Gareth Evans, Australian Foreign Minister, has enumerated a comprehensive list of conditions that would need to be satisfied in any case of intervention, and which are seen a necessity if a 'right of humanitarian intervention' is to be recognized. Gareth Evans, Cooperating for Peace: The Global Agenda for the 1990s and Beyond, Allen & Unwin, St Leonards, NSW, 1993, p. 156.

plausible grounds for intervention. To reopen the door to external interventions in any general way would be deeply unpopular in many states, often for very good reasons.

## 5. SPECIFIC FORMS AND PROBLEMS OF HUMANITARIAN ACTION

The apparent rise of humanitarian considerations as part of the conduct of international relations has by no means been limited to actions with some element of 'humanitarian intervention'. Many other forms of action, and kinds of humanitarian consideration, have been conspicuous parts of international diplomacy in the post-Cold War period. These include actions which, because they are non-military, or because they are conducted on the basis of full consent of host states and other parties, certainly do not constitute humanitarian intervention. Any claim that the world is moving towards a new humanitarian order must depend very largely on the significance of this broader body of humanitarian considerations and action--or else on very general claims about the growth of good government, democracy, and human rights, which are considered later in this study.

One of the problems of any attempt to construct a humanitarian order is that good things do not always go well together. Different actions taken for different humanitarian purposes can, and often do, conflict with each other. The discussion under each of the headings below illustrates this theme.

### a. Humanitarian problems involved in the use of international economic sanctions

In the post-Cold War world there has been a significant increase in the use of international economic sanctions under UN auspices. Sanctions, which are provided for in Article 41 of the UN Charter, are an important tool available to the Security Council in responding to conflicts and threats to international peace under Chapter VII of the Charter. They are often seen as having a special claim to favourable consideration, because they constitute a form of international pressure that falls short of war.

The UN's use of sanctions, fairly rare until 1990, has increased significantly since then, as the following survey indicates.<sup>3</sup> General economic sanctions were applied to Rhodesia (1966-79); Iraq following its invasion of Kuwait (1990- ); and Serbia and Montenegro (1992- ). An arms and air traffic embargo

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<sup>3</sup> See generally Margaret Doxey, International Sanctions in Contemporary Perspective, London, 1987; David Leyton-Brown (ed.), The Utility of Economic Sanctions, New York, 1987; David A. Baldwin, Economic Statecraft, Princeton, 1985; Barry E. Carter, International Economic Sanctions: Improving the Haphazard US Legal Regime, Cambridge, 1988; Gary Hufbauer et al., Economic Sanctions Reconsidered, Institute for International Economics, Washington DC, 1990; and Patrick Clawson, 'Sanctions as Punishment, Enforcement, and Prelude to Further Action', Ethics and International Affairs, New York, 7 (1993), pp. 17-37.

was imposed on Libya (1992- ). There were also embargoes on the supply of arms to South Africa (1977- ); former Yugoslavia (1991- ); Somalia (1992- ); Liberia (1992- ); and Rwanda (1994). Arms and petroleum sanctions were imposed on Haiti in June 1993 (expanded to general economic sanctions in May 1994), and on the Unita rebel movement in Angola in September 1993.<sup>4</sup>

While the humanitarian or other rationales for using sanctions as distinct from other forms of pressure are often very persuasive, the experience of many of these cases suggests certain limitations of sanctions. Frequently (as in the cases of Iraq in 1991 and Haiti in 1994) they are preludes to the use of more forceful measures involving the use of armed force. Further, sanctions pose difficult humanitarian problems. There can in some cases be serious questions about their compatibility with the human rights of the target state population. Ordinary citizens, especially the poor and the vulnerable, normally suffer adverse effects of sanctions more than the government and its armed forces. The instrumentalist calculation behind sanctions is sometimes that if there is enough domestic suffering the people will rise up against their government. To the extent that this is the calculation, sanctions are obviously in tension with humanitarian priorities.

In two of the major cases of general economic sanctions in the post-Cold War period--Iraq and Serbia/Montenegro--the UN Security Council has made particular efforts to address the question of permitting exceptions on humanitarian grounds: for example, where there was a demonstrated need for food or medicine for vulnerable sections of the population. The imperatives that led to provision for exceptions were obviously overwhelming; yet the experience of allowing exceptions has left questions in the minds of those involved in managing such policies. Any regime that is the target of sanctions can, by denying supplies to a particular section of the population, produce hardship cases; and if supplies are obtained by such means, their overall effect may be to reduce the inconvenience and suffering caused by the sanctions, and so weaken their already uncertain effects. In short, the strength of the peaceful weapon of sanctions may sometimes risk being eroded by humanitarian concerns.

**b. Use of UN peacekeeping forces for humanitarian purposes**

In the post-Cold War world, to an unprecedented extent, forces operating under a UN mandate have become involved in the performance of a wide range of humanitarian tasks. These have taken three main forms:

- \* Assuring the delivery of humanitarian relief supplies, the maintenance of essential services, and reconstruction of damaged buildings.

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<sup>4</sup> In December 1992 the Security Council condemned the failure of the Khmer Rouge to comply with the Paris Agreements on Cambodia and called on 'those concerned to ensure that measures are taken... to prevent the supply of petroleum products to the areas occupied by any Cambodian party not complying with the military provisions of those Agreements'. However this resolution did not refer to Chapter VII of the UN Charter.

- \* Facilitating contacts between adversaries over such matters as resettlement of refugees and visits to graves.
- \* Establishing certain designated areas--variously described as 'safe areas', 'protected areas', or 'secure humanitarian areas'--where there is intended to be a high degree of protection for the inhabitants from the threat or use of force.

Such tasks have been a key part of the UN's effort in several war situations, including in former Yugoslavia, Somalia and Rwanda. Peacekeeping forces have been deeply involved in such activities, sometimes in almost complete substitution for traditional peacekeeping activities such as manning cease-fire lines, since there may be no peace of this kind to keep. Other forces and agencies operating in association with the UN have also been involved in these various humanitarian tasks. For an international organization to attempt such action in the midst of ongoing wars is historically unprecedented. The tasks are by nature extremely difficult, and also controversial.

There have been some remarkable successes in using UN peacekeeping forces for humanitarian purposes in situations of war, civil war, and breakdown of government. Very many lives have been saved, and refugee flows limited, by some of these humanitarian actions. The sheer logistic achievement of getting so many flights into besieged Sarajevo, as well as numerous land convoys, bears comparison with the 1948 Berlin airlift. Many of the extreme cruelties of siege warfare have been mitigated. Even if such achievements are only temporary, they deserve respect.

The problems attendant upon such efforts by peacekeeping forces in situations of great violence are well publicized. They can be summarized under the following headings:

- \* Humanitarian action in the midst of an ongoing conflict requires consent of the parties on the ground. Convoys cannot move, aircraft cannot fly, and hospitals cannot work, if there is no such consent. Thus peacekeepers inevitably find themselves having to make compromises with one belligerent or another.
- \* A proportion of humanitarian aid inevitably ends up in the hands of belligerent forces, either because they commandeer it at gunpoint, or because it is almost impossible to devise a distribution system within a society that will not allow supplies to get through to its armed forces.
- \* A perception that peacekeepers are reasonably impartial is essential if their humanitarian work is to continue during an ongoing conflict. Yet it is extremely hard to maintain impartiality in circumstances where aid tends (as it frequently does) to favour one side more than the other; where specially designated protected areas are used by one party as a springboard for military attacks; or where humanitarian considerations point to the need to take military action to protect safe areas, and to punish those who violate such areas.

- \* There may be powerful policy reasons, based on the cause and nature of the conflict as a whole, pointing to the need for the UN to act in enforcement mode, or to press coercively for a particular outcome even if that is rejected by one belligerent. Such coercive action may well undermine perceptions of impartiality.
- \* Personnel carrying out humanitarian work in the midst of ongoing conflict usually have to be dispersed in many parts of a war zone. They are exceptionally vulnerable to reprisals and hostage-taking by belligerents. This vulnerability can inhibit powers from taking forceful action even when it seems to be required.
- \* It can be very difficult to get and maintain troops with the necessary training and discipline to carry out such tasks; and generally to mobilize political, diplomatic and financial support for major peacekeeping operations over a long period, especially where major powers do not see their own interests as directly affected.
- \* The heavy demands of running peacekeeping-cum-humanitarian missions in a large number of conflicts simultaneously has exposed certain limits in the UN's capacity to manage operations, and (even more dramatically) the political and resource limits within which the UN has to operate. Many states have been unwilling to provide all the forces, materiel and finance required for such operations. Consequently there have been great pressures for more problems to be handled on a regional basis, for example by regional organizations--a matter explored further in Chapter 8 of this study.

These problems have proved exceptionally serious in Somalia, Rwanda and Bosnia. There has been a tendency to apply lessons learned from one situation in the next one. Thus the widespread perception that US forces in Somalia ceased to be impartial, and used too much force, led many to rely on a more cautious and discriminate approach in Bosnia: yet that approach, too, had its weaknesses, leading to repeated demands for a more robust policy in relation to challenges from Serb forces.

Peacekeeping operations with humanitarian tasks are sometimes accused of actually prolonging the conflicts which they are intended to alleviate and damp down. Such accusations have been made with particular frequency in respect of former Yugoslavia, but have also cropped up elsewhere. There are several possible responses to such accusations: that it is impossible to know how long a war would have continued in the absence of such an effort; that even if it did last longer, many lives were still saved; that the presence of a peacekeeping force with a humanitarian mission reduced the risk of extreme atrocities; that it helped prevent the creeping internationalization of a war; or that it prepared the way for a peace settlement by demonstrating the readiness of the international community to assist and monitor such an outcome.

Within the UN, against a background of multiple and difficult commitments of peacekeeping forces, there has been a

tendency to try to establish criteria to consider before new tasks are undertaken. A Security Council Presidential Statement on Peacekeeping, issued on 3 May 1994, listed six factors which must be taken into account when the establishment of a new operation is under consideration. These were: the existence of a threat to international peace and security; whether regional bodies are ready to assist; the existence of a cease-fire; a clear political goal which can be reflected in the mandate; a precise mandate; and reasonable assurances on the safety of UN personnel.<sup>5</sup> What is striking about these six factors is their complete omission of humanitarian operations in the midst of continuing hostilities; and indeed the six factors suggest a natural desire to return to something more like normal peacekeeping.

Two days later, on 5 May 1994, the Clinton Administration's long-planned Presidential Decision Directive 25, on 'multilateral peace operations', was unveiled. This did suggest that one relevant consideration when the US was deciding whether to vote for a military operation under UN auspices would be whether there was an 'urgent humanitarian disaster coupled with violence'. There would also have to be consideration of 'the political, economic and humanitarian consequences of inaction by the international community'.<sup>6</sup>

Despite the grounds for doubt about peacekeeping operations with predominantly humanitarian missions, they have shown much promise, and achieved significant results. The pressures of the last few years which led to this development of peacekeeping are not likely to subside. This is one of many aspects of international peacekeeping on which there is a need to learn from hard experience, but not to give up the effort.

#### **c. Trusteeship and other administrative roles**

A logical consequence of the international community's increased emphasis on humanitarian action might well seem to be the establishment of temporary trustee-type administrations in areas undergoing social and political breakdown. Such administrations might in some cases be established with the consent of local parties, or in other cases in a framework of coercive 'humanitarian intervention'.

In countries in which the UN has become involved in peacekeeping and humanitarian activities because of a general breakdown of government, the organization and its leading members have been deeply reluctant to take over responsibility for government. For the most part the UN roles in government have

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<sup>5</sup> Statement by the President of the Security Council, UN doc. S/PRST/1994/22 of 3 May 1994, p. 2, discussing the Secretary-General's report 'Improving the Capacity of the United Nations for Peace-keeping', UN doc. S/26450 of 14 March 1994.

<sup>6</sup> The Clinton Administration's Policy on Reforming Multilateral Peace Operations, US Department of State Publication 10161, Washington DC, May 1994, 15 pp. This is virtually the text of PDD 25, less some appendices. The two factors cited are both on p. 4.



been confined to administrative assistance, civil affairs programmes, training, helping to hold or monitor elections, and generally giving advice. In some countries where government scarcely exists, or is itself part of the problem that needs to be addressed, such roles may be inadequate. The absence of a direct administrative role may sometimes have the effect of restricting the options available to UN forces to primarily military ones. The question of a more direct if hopefully temporary administration has to be addressed.

A major difficulty is that the historical record of various forms of mandate, trusteeship, and international administration has been mixed: Iraq and Rwanda, both of which were under trusteeship for substantial periods in the first half of this century, serve as reminders that trusteeship is no simple cure-all. However, proposals for such arrangements have continued to appear in international diplomacy, and the concept certainly merits contemporary reconsideration.<sup>7</sup>

There has been little sign of willingness on the part of the UN or its leading members to accept some kind of trusteeship role as one possible consequence of taking on responsibilities in areas where order has broken down. Although the UN Trusteeship Council is in process of completing its last remaining task, with the ending of the special status of Palau, there is not much sign of the emergence of a new formal system of trusteeship. We may in some respects be in an imperial situation today, but who are the imperialists? Except in cases of regional hegemony, old-fashioned forms of the direct exercise of dominance are out of fashion. No country is rushing to take up the White Man's Burden. In some circumstances there may be good reasons to establish a temporary externally-based administrative system, especially when such a proposal has the active support of all parties to a dispute. The probability is that, if this is done at all, it will be done indirectly, by the accretion of functions to various UN or other agencies and forces in a particular country: not by the proclamation of a new general system of trusteeship.

#### **d. Difficulties of implementing international humanitarian law**

One branch of humanitarian consideration that has come into sharp focus in recent conflicts is international humanitarian law. This body of law, also known as the laws of war, is intended to guide the conduct of belligerents and occupying powers, and to ensure particularly that certain basic rules are observed, including proper treatment of prisoners, respect for inhabitants of occupied territories, and non-use of prohibited means and methods of warfare.

In the past ten years, the United Nations has been more involved than ever before in matters concerning the implementation of international humanitarian law. Evidence of

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See Gerald B. Helman and Steven R. Ratner, 'Saving Failed States', Foreign Policy, no. 89, Winter 1992-93, pp. 3-20; and Peter Lyon, 'The Rise and Fall and Possible Revival of International Trusteeship', Journal of Commonwealth and Comparative Politics, no. 31, March 1993, pp. 96-110.

this growing UN role includes:

- \* In January 1985, acting on his own behalf, the UN Secretary-General dispatched a mission to Iran and Iraq to investigate conditions under which POWs were being held.
- \* On 21 March 1986 a UN Security Council statement for the first time criticized Iraq by name over the use of gas.<sup>8</sup> On 26 August 1988 the Security Council unanimously adopted a resolution condemning 'the use of chemical weapons in the conflict between Iran and Iraq.'<sup>9</sup>
- \* From August 1990 onwards, several UN Security Council resolutions criticized Iraqi violations on international humanitarian law, including seizure of hostages, in connection with Iraq's occupation of Kuwait.
- \* In respect of the war in former Yugoslavia, Resolution 764 of 13 July 1992 reaffirmed that all parties to the conflict are bound to comply with their obligations under international humanitarian law, and that persons who commit or order the commission of grave breaches are individually responsible.

Resolution 771 of 13 August 1992 called on states to collate substantiated information on violations of humanitarian law, and also said that if the parties failed to comply, then the Council would take 'further measures'.

Resolution 780 of 6 October 1992 asked the Secretary-General to establish an impartial Commission of Experts, which was done that same month.

Resolution 808 of 22 February 1993 decided to establish an international tribunal regarding violations of international humanitarian law in former Yugoslavia since 1991.

Resolution 827 of 25 May 1993 approved the Statute of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia Since 1991, which was subsequently established in The Hague.

- \* On Somalia, Resolution 794 of 3 December 1992 made several references to international humanitarian law, deploring widespread violations, and stating that it 'strongly condemns all violations of international humanitarian law occurring in Somalia, including in particular the deliberate impeding of the delivery of food and medical supplies essential for the survival of the civilian

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<sup>8</sup>  
UN Security Council Statement S/PV.2667 of 21 March 1986.

<sup>9</sup>  
Security Council Resolution 620 of 26 August 1988.

population, and affirms that those who commit or order the commission of such acts will be held individually responsible in respect of such acts ...' This was the resolution that authorized the US-led Unified Task Force (UNITAF) to intervene in Somalia: the citing of violations of international humanitarian law as part of the justification for intervention was unusual.

- \* Over Rwanda, Security Council Resolution 918 of 17 May 1994 requested the Secretary-General 'to present a report as soon as possible on the investigation of serious violations of international humanitarian law committed in Rwanda during the conflict.'

Apart from the Security Council, other international bodies have been increasingly preoccupied with issues relating to the implementation, or failure to implement, international humanitarian law. This was an important aspect of two cases taken to the International Court of Justice. The first was Nicaragua v. USA, on which judgment was given on 27 June 1986: this case was centrally about the legitimacy of planting mines in Nicaraguan waters, but also involved a number of other issues of international humanitarian law. The second was the case brought by Bosnia and Herzegovina against the Federal Republic of Yugoslavia, Case Concerning the Application of the Convention on the Prevention and Punishment of the Crime of Genocide.

One effort to call for more effective implementation of international humanitarian law was the International Conference on the Protection of War Victims, held in Geneva from 30 August to 1 September 1993. Representatives of 160 states attended. Like the 1989 Paris conference on Chemical Weapons, this tried to restore the sanctity of battered norms. Virtually all the recommendations in the declaration agreed at the conference were on the subject of increasing the number of formal adherents to the existing rules of international humanitarian law, and improving the dissemination and practical implementation of those rules.

Thus since the mid-1980s there has been an exceptional amount of high-level activity aimed at improving the implementation of the laws of war (or international humanitarian law). In particular, the UN Security Council has acquired a role in the implementation of the laws of war which was foreseen neither in the conventions themselves nor, it appears, the Council's own deliberations. This role has proved extremely problematical. It has involved the UN in upholding standards in circumstances where it cannot ensure their application; or where its involvement could be counter-productive; or where forces operating under the Security Council may themselves, as in Somalia, be the subject of accusations of violations.

Several conflicts, especially in former Yugoslavia and Rwanda, have forced UN peacekeeping forces to confront the issue of how to respond to massive violations of the most basic humanitarian rules by belligerents. Inasmuch as a clear answer has emerged, it appears to be that information on violations may be recorded and passed on, at least by some national contingents through their own national authorities. However, UN peacekeepers

have not yet any formal mandate to actually arrest suspected war criminals and hold them for possible trial, nor have they actually done so. Clearly there would be some built-in problems for peacekeepers if they were expected to negotiate with belligerents on a wide range of matters (such as allowing the transit of relief convoys, and helping arrange a peace settlement), while at the same time they were asked to arrest the same belligerents on war crimes charges. The establishment under UN auspices of the International Criminal Tribunal for the former Yugoslavia in The Hague in 1993-4 has not yet changed this pattern of limited involvement of peacekeepers in seeing to the implementation of international humanitarian law.

The question of punishment of war crimes exposes the continuing tension between the power of states on the one hand, and ideas of an over-arching international order on the other. For most of the time the laws of war, like other parts of international law, must be implemented through national mechanisms of various kinds: national laws, manuals of military law, government-established commissions of inquiry, and courts and courts-martial. The weaknesses of relying on national implementation are notorious; and the record of non-state entities in applying the laws of war is even more problematical. Yet we are not yet at a point where implementation on a supra-national level is proven.

The demand for effective action to implement international humanitarian law, or the laws of war, is likely to remain very strong, and to be very difficult to translate into effective policies. The issue of land mines, which in many countries are killing and maiming thousands even after wars have ended, is one on which the public outcry against inhuman means of carrying on warfare will not go away.

**e. Proposals for special legal protection for UN peacekeeping forces and for humanitarian workers**

Negotiations on a draft convention on the safety of peacekeeping personnel are in an advanced stage at the United Nations in New York. The question has also arisen as to whether such protection should be extended to humanitarian workers more generally.

The problem being addressed is serious. UN peacekeeping troops, and also humanitarian workers, have been in obvious danger in many recent conflicts, and the number of casualties has been higher than in earlier operations. When UN peacekeeping forces are involved in hostilities, are they to be regarded (at least for the purposes of the operation of the laws of armed conflict) simply as belligerents, on an equal footing with other parties? Or are they in some way in a superior position?<sup>10</sup> In recent years there has been a revival of the idea that UN forces

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For earlier discussions, see e.g. the 1971 Zagreb Resolution of the Institute of International Law on 'Conditions of Application of Humanitarian Rules of Armed Conflict to Hostilities in which United Nations Forces May Be Engaged', reprinted in Adam Roberts and Richard Guelff (eds.), Documents on the Laws of War, 2nd edn. (Oxford: Oxford University Press, 1989), pp. 371-5.

are entitled to receive assistance and cooperation from local parties, at least when carrying out such tasks as delivery of humanitarian aid. The draft international convention currently being negotiated under UN auspices would provide a special status for individuals serving in peacekeeping and peace enforcement operations under a UN mandate.

It is natural to want to give UN forces a privileged status as against other parties. Indeed, many Security Council resolutions have already sought to secure respect for both peacekeeping personnel and humanitarian workers. A typical example is Resolution 925 of 8 June 1994, on Rwanda, which

Demands that all parties in Rwanda strictly respect the persons and premises of the United Nations and other organizations serving in Rwanda, and refrain from any acts of intimidation or violence against personnel engaged in humanitarian and peace-keeping work.

There are potential dangers in taking the desire to protect peacekeepers and humanitarian workers to the logical conclusion of a special legal status. Such an approach raises the question, all too pertinent after events in Mogadishu in 1993, of whether all those who oppose or threaten UN forces are in some way 'outlaws'. Special protection, if not implemented with considerable caution and skill, could lead to a new kind of colonial mentality. It could also reduce the already none-too-strong incentives for some belligerents to observe the rules of war, since the idea that the rules are the same for all those involved in a conflict has been at the heart of the modern laws of war.

**f. Proposals for a UN 'Humanitarian Security Police'**

The idea that humanitarian workers, whether working for UN or for other agencies, should in certain circumstances receive armed protection from specially constituted forces has been proposed quite often in the post-Cold War era. The situation of such workers in Somalia before the intervention by UNITAF in December 1992 illustrates the problems. The demand for protection has arisen from a series of frustrating and tragic experiences. It has had high-level support. For example, UN Under Secretary-General Jan Eliasson said in February 1993:

Additional measures for respect of humanitarian aid and for protection of relief personnel are now necessary. The blue ensign of the United Nations and the symbols of the International Red Cross and Red Crescent, and of other relief agencies, no longer provide sufficient protection.<sup>11</sup>

Citing such concerns, Childers and Urquhart have suggested the possibility of setting up 'a separate and distinctive United

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Jan Eliasson, speech in Atlanta, Georgia, 17 February 1993. Cited in Erskine Childers and Brian Urquhart, Renewing the United Nations System, Dag Hammarskjöld Foundation, Uppsala, 1994, p. 118.

Nations Humanitarian Security Police'.<sup>12</sup> Humanitarian personnel, they argue, may need protection before there is a UN military intervention; and may also need to keep some visible distance from UN military forces. This and related proposals, for example for 'white helmets' to protect international humanitarian workers, have not received a vast amount of support. Three considerations against such a force are: that it might complicate yet further the already Byzantine complexity of UN force structures in the field; that it could cause resentment in many host countries; and that many humanitarian workers and organizations, both inside and outside the UN system, do not want this kind of protection.

**g. Conflicts between humanitarianism and human rights**

One worrying feature of UN operations in the post-Cold War era is the emergence of a clash between peacekeeping and humanitarianism on the one hand, and human rights on the other. Non-governmental organizations concerned with human rights have made trenchant criticisms of the even-handedness, tentativeness, and ineffectual character of many UN peacekeeping and humanitarian operations.<sup>13</sup>

Non-governmental bodies, especially those concerned with human rights, start from strongly held principles about fundamental and inalienable rights of individuals. Thus two leading non-governmental aid agencies have stated:

The principle of sovereignty should not block the protection of the basic rights of women, men and children (including the right to emergency relief and safety) which we believe all governments are obliged to protect through the UN.<sup>14</sup>

Despite a strong suspicion of military interventions, and scepticism about their actual management, NGOs do sometimes see a need to take sides in a conflict; or to intervene with considerable resources, perhaps even a new administration, to put right the wrongs of a failed state. They would like the international community to devote vast resources to right wrongs. They are suspicious of the compromises which UN peacekeeping forces have to make if they are to continue to operate with the consent of governments and belligerents. Over Bosnia and Rwanda, for example, many argued that there should have been a much more forceful role against the main groups engaged in mass killings--

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<sup>12</sup>

Ibid., pp. 118 and 204.

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See especially The Lost Agenda: Human Rights and UN Field Operations (New York: Human Rights Watch, 1993); and Peace-keeping and Human Rights (London: Amnesty International, January 1994).

<sup>14</sup>

'United Nations Interventions in Conflict Situations', a submission from Community Aid Abroad Australia, and Oxfam UK & Ireland, to Ambassador Richard Butler, Chair of the UN Preparatory Committee for the Fiftieth Anniversary, [February 1994], p. 10.

the Serbs in the one case, the Hutu governmental forces in the other.

Against this, those involved in peacekeeping and humanitarian operations can point out that states, whatever their rhetoric, still follow their interests, and do not give unlimited support to distant causes. That being so, operations have to be conducted in co-operation with local forces, and on a basis of consent. The local armed forces and political entities with which peacekeepers have to deal may only have a limited respect for human rights. They may indeed have a conception of society radically different from that of human rights advocates. It may be necessary to work with such bodies if anything in the peacekeeping or humanitarian field is to be achieved.

In theory, at least in certain hard cases, there is no way of reconciling the humanitarian and human rights approaches: they simply call for different and apparently incompatible policies. In practice the UN has incorporated a human rights element in some of its operations, especially for example in Cambodia and El Salvador, in its contributions to post-war reconstruction after long civil wars.

**h. Can humanitarian issues be separated from more political ones?**

There is a long and respected tradition of viewing certain types of crises in essentially or even exclusively humanitarian terms. For example, a famine may be viewed by some as a natural disaster, for which no particular person or policy is to blame, and to which a humanitarian response is appropriate. In the past, aid charities sometimes presented crises in essentially these terms: as for example in Ethiopia in the 1980s, where repeated humanitarian crises were caused largely by disastrous government policies, ongoing civil war, and the absence of free institutions through which changes could be introduced.

In tackling wars and civil wars, even though they are obviously man-made, the tradition of impartial humanitarian action is particularly strong. The work of the International Committee of the Red Cross exemplifies this tradition. At a time when other agencies are often caught up in larger political issues, whether because of the policies they advocate or because of their organizational bases and associations with particular protecting forces, the ICRC's reputation for independence and impartiality is particularly important. Indeed it is essential if the ICRC is to carry out such tasks as negotiating release of prisoners of war, or organizing medical transport. The same is true, if to a slightly lesser degree, of many other humanitarian organizations.

Because the crises in the post-Cold War world have for the most part been man-made, the pressure to find political solutions has been great. It is likely to remain so. In most disasters, especially man-made ones, there is no substitute for clear policies as to what is actually to be the basis of a future order. Such policies may point to action along very different lines from humanitarian action.

Yet in respect of many crises, including man-made ones, it simply is not possible for outsiders to agree on a political course of action, still less to impose it. That is one reason why, in both Rwanda and Bosnia, the UN has not sought to impose a particular outcome. Rather it has tried to help a new local balance to emerge--preferably from negotiation, but in the last resort from the fortunes of war. In such circumstances, humanitarian action has a definite but very limited function.

Wherever humanitarian action is taken, whether on its own or in conjunction with other measures, it may seem impartial and disinterested to the outsiders engaging in it, but it may well be viewed differently by the local forces. The history of humanitarian actions in the post-Cold War period suggests that it is indeed difficult for it to remain impartial, especially in circumstances of ongoing civil war. The attempt to keep it impartial is a necessary but uphill struggle.

It is quite widely agreed that the effective administration of humanitarian relief calls for a high degree of impartiality. As the President of the ICRC said in an address to the UN General Assembly in December 1992:

Humanitarian endeavour and political action must go their separate ways if the neutrality and impartiality of humanitarian work is not to be jeopardized... It is dangerous to link humanitarian activities aimed at meeting the needs of victims of a conflict with political measures designed to bring about the settlement of the dispute between the parties.

This points to a serious structural problem of the UN efforts in this area. It is undeniably difficult for the UN, and for agencies within the UN system, to maintain impartiality, when the UN system is by nature involved in a wide range of political decision-making, and when its security responsibilities may lead it to advocate enforcement measures against a particular party. This consideration, as well as the complex and cumbersome character of UN structures, has led some to conclude that the UN should not be in the humanitarian relief business at all. As James Ingram, Executive Director of the World Food Programme (WFP) from 1982 to 1992, has put it:

The question arises whether humanitarian goals may not be better achieved under a new and different regime. I believe they would. The United Nations should confine its role to political functions associated with the resolution of disputes, the prevention of conflict and coercive interventions to end it. Reaching and succouring the victims of conflict and coordinating the relief efforts of the international community should cease to be a United Nations responsibility.<sup>15</sup>

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James C. Ingram, 'The Politics of Human Suffering', The National Interest, Washington DC, Spring 1993, p. 59. Adapted from his chapter in Thomas G. Weiss and Larry Minear (eds.), Humanitarianism Across Borders, Lynne Rienner, Boulder, Colorado, 1994.



Ingram proposes instead that the humanitarian goal of saving lives should be performed by an enlarged and internationalized ICRC, or else by a new organization established by governments, preferably outside the UN framework. These proposals, for various reasons, are not likely to be implemented. The political pressures in the UN system militate in favour of UN involvement in this field, and despite all the difficulties some UN agencies have developed impressive skills and reputations. However, these proposals do usefully focus attention on the unavoidable conflicts between the UN's political and humanitarian roles. They also focus attention on the cumbersome nature of the UN's present structures.

## **6. THE ORGANIZATION OF HUMANITARIAN ACTION**

Suggestions that the Commonwealth or other regional bodies might have a major role in international humanitarian activities of one kind or another need to be based on some analysis, not only of the performance and limitations of existing humanitarian work world-wide, but also of the organizational strengths and weaknesses of such work. What follows is an extremely short summary of certain aspects of a large and multi-faceted problem.

### **a. Proliferation of different bodies and specialized agencies**

Both within and outside the UN system, an astonishing number of different bodies and specialized agencies deal with different types and aspects of humanitarian work. This is frequently seen as a source of weakness.

Within the UN system, it is sometimes suggested that the different and overlapping mandates of different agencies make effective responses impossible; that there is a need for overall strategic direction, for a clearer division of labour, for greater co-ordination between them; or that the number of such agencies should simply be reduced. As Gareth Evans has put it:

There are widely acknowledged inadequacies in the present UN international system, and structural reasons lie at the heart of them. In the first place, the post-Second World War relief system evolved from a structure created for different purposes. Apart from UNHCR and UNICEF, all the main agencies now involved in emergencies--i.e. WFP, UNDP, FAO and WHO--acquired that role as a secondary function, the main role being seen as the promotion of economic and social development. Notwithstanding the dramatic upsurge in their humanitarian relief work in the 1980s, the organisation of the agencies underwent no fundamental change.<sup>16</sup>

Furthermore, beyond the UN system there are literally thousands of relief agencies with very different structures, functions, and capacities. Many are proud of their independence,

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<sup>16</sup>

Evans, Cooperating for Peace, pp. 158-9.

and of their ability to act quickly without waiting for cumbersome international machinery to reach decisions. In general, each of the numerous bodies concerned with humanitarian action has its own special skills and capacities to act, and the situations in which they act are different. For example, the willingness of Médecins sans Frontières to act anywhere, without waiting for formal political agreement, has evoked much support, even though this group has found that it has had to withdraw from some impossibly dangerous situations, as in Somalia after the UN-backed UNITAF military intervention.

The picture of a large number of agencies, within and beyond the UN system, which were designed for one set of problems and is having trouble adapting to another set, is not altogether fair. Many agencies have, in accord with the spirit of much of the UN system, moved gradually beyond their original constitutive documents: they have tackled problems over and above those they were originally set up to address. For example, in accord with its Statute UNHCR was traditionally involved mainly in assistance to refugees who had left their own countries. Over the years, in response to a series of practical imperatives, UNHCR has come to concern itself very substantially with internally displaced persons, such as people forced to leave their homes, but who can be looked after within their own country.<sup>17</sup>

There have been several proposals to remedy the problem of the proliferation of agencies in the humanitarian field. These have included proposals for the establishment of one single consolidated UN body, for which various titles have been suggested: UN Relief Agency, or UN Disaster Response Agency. The idea of a single agency of this kind carries with it two main risks: first, all UN agencies go through periods of poor performance, so having all eggs in a single basket seems unwise; and second, consolidating everything under one roof would emphasise a divide, which is already serious enough and is outlined further below, between humanitarian relief and economic development.

#### **b. The UN Department of Humanitarian Affairs**

At present, the main effort is in co-ordination, not consolidation within a single agency. The co-ordination effort is centred on the UN Department of Humanitarian Affairs (DHA), based in New York and Geneva. The DHA was set up in March 1992, following General Assembly Resolution 46/182 of December 1991. The DHA has a lead role within the UN system in providing early warnings of humanitarian disasters. It also has a key role in co-ordinating action in the field. Despite understandable reservations, UN agencies have by and large accepted this, and a degree of co-ordination has begun to develop. Under the DHA, an Inter-Agency Standing Committee (IASC) meets quarterly, with representation from the heads of key UN agencies, of ICRC and the Federation of Red Cross Societies, and from three groupings of NGOs. In respect of particular countries in crisis there are now

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The expanded function was frankly recognized in a UNHCR document, 'Protection Aspects of UNHCR Activities on Behalf of Internally Displaced Persons', EC/1994/SCP/CRP.2, 4 May 1994.

single needs assessments, and consolidated financial appeals. In certain countries (as has happened, for example, in Mozambique, Rwanda and Somalia), the DHA can appoint a Humanitarian Coordinator to have overall responsibility for relief efforts. Sometimes this has worked. As two NGOs have said:

Our experience of working with UN agencies in emergencies is varied, but one thing we have learnt is that it is vital for the in-country UN authority to build a consensus among the various relief agencies and NGOs involved. In Mozambique, the Humanitarian Coordinator, whose authority is delegated from the Special Representative, has on the whole been able to do this.<sup>18</sup>

The emerging system of co-ordination under the DHA is gradually replacing a previous system, whereby in a particular country the UN Secretary-General designated a particular UN agency as the 'lead agency' which had overall responsibilities in respect of humanitarian relief operations. In Cambodia the lead agency was UNICEF; and in former Yugoslavia (where the operation began shortly before DHA was set up) it was, and remains, UNHCR.

Inevitably, within the new system a number of problems in co-ordinating humanitarian action remain. The system of co-ordination is not fundamentally different from one instituted twenty years earlier, on the basis of General Assembly Resolution 2816 (XXVI), calling on the Secretary-General to appoint a Disaster Relief Co-ordinator. The DHA itself has few resources compared to the other agencies it is intended to co-ordinate. It does not have executive power to direct aid in a particular crisis. The idea of co-ordination does not itself address the wider problem of overlapping mandates of different agencies. Pressures for centralized and co-ordinated decision-making can reduce operational effectiveness and flexibility in the field. The role of individual states, especially donors (whether of finance or services), has not diminished, and adds a layer of complexity to efforts at co-ordination. The emphasis on co-ordination within a country under a Humanitarian Co-ordinator does not itself solve the problem of crises which, as frequently happens, spill over frontiers and involve the territory of several states; nor does it solve the problem of relations with special envoys to a region, appointed by the UN Secretary-General. Somalia and Rwanda have been baptisms of fire for the system, and served as a reminder that when problems on the ground are extremely difficult, and the political responses to them are flawed, to expect a system of co-ordination to achieve success is to expect miracles. There remains, as there was before, an element of personal chemistry and happenstance in whether the different aspects of a relief effort do or do not meld into an effective whole in a particular crisis.

One notable practical and political problem of the new system under the DHA is the division of responsibilities in the field between the UNDP, concerned with long-term development

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<sup>18</sup>

'United Nations Interventions in Conflict Situations', submission from Community Aid Abroad Australia, and Oxfam UK & Ireland, p. 14.

projects, and the DHA, concerned with emergency relief. There are genuine uncertainties about where their respective responsibilities end: the area of rehabilitation lies uneasily between development and relief. Also, many governments, especially in the Group of 77, are critical of the idea of the Humanitarian Co-ordinator for a particular country: they fear that this might involve meddling in their internal affairs. The fact that the appointment of a Humanitarian Coordinator is not subject to the agrément of the country concerned has strengthened such fears, reinforcing as it does ideas that humanitarian action and humanitarian intervention are intimately linked. There has been similar concern over the post of Emergency Relief Coordinator, also established on the basis of General Assembly Resolution 46/182.<sup>19</sup>

Attempts at co-ordination, including those taking place under DHA auspices, naturally meet a mixed response from some non-UN bodies, who could reasonably fear some loss of identity or capacity to act independently. The ICRC, which is of course a special case, has participated in various DHA initiatives, but in that context has had to specifically reiterate its independence and impartiality.

By its nature, the question of strengthening co-ordination of humanitarian activities is politically sensitive and needs continuous attention. It was debated by the UN General Assembly on 23 and 25 November 1994, with many Group of 77 states expressing reservations about the direction in which co-ordination has been moving. Work needs to be done to try to develop understanding between the DHA approach and members of the Group of 77. However, those involved in UN humanitarian operations in the field generally take the view that the most worrying problem is not co-ordination, but actual capacity. The inadequacy of resources, which of course reflects the limited character of states' commitment to humanitarian relief, remains the largest constraint on effective action.

#### c. Early warning

A key element in any organization's response to challenges is early warning. Such warning may be valuable if it can assist efforts at prevention of crises, for example through diplomatic initiatives; and indeed early warning is quite often considered as part of 'preventive diplomacy'.<sup>20</sup> However, early warning also has a key role in the prompt and efficient delivery of humanitarian relief. Further, an efficient system of warning has a crucial role to play in the perceived fairness of any system of relief.

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<sup>19</sup>

For a brief account, see Tom J. Farer and Felice Gaer, 'The UN and Human Rights: At the End of the Beginning', in Roberts & Kingsbury, United Nations, Divided World, 2nd edn., p. 256.

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Early warning is discussed as a sub-category of preventive diplomacy in Boutros Boutros-Ghali, An Agenda for Peace, UN, New York, June 1992, paragraphs 26 and 27.

If governments and international agencies simply react to the latest TV reports, certain crises will be favoured, others ignored--as the continuing tragedy in Afghanistan has largely been ignored in the West in the post-Cold War period. There is a need a more systematic form of situation assessment. There is also a need for the media which report on humanitarian disasters to encourage more thoughtful and judicious discussion of possible responses, rather than simply implying, as they sometimes do, that large-scale external intervention, overwhelmingly military in character, is the only mode of response meriting consideration.

Within many parts of the UN system there are means of gathering information and issuing warnings about impending disasters. Leading figures in such UN bodies as UNHCR and DHA, and also in non-UN bodies such as ICRC, can point to the stream of reports, press releases and memoranda they have issued, and which have not been followed by action. Partly this may be the problem of 'clutter', which is familiar to students of intelligence agencies. There are so many warnings, of so many impending crises, that it is hard for governments or UN bodies to know which ones really matter. As Gareth Evans has put it:

While there is little doubt that it is important for the UN to have good sources of information about the whole range of emerging threats, disputes, conflicts and other security crises, the problem is not only the lack of information, but also the system's ability to absorb the enormous amount of incoming information, analyse and apply it in a meaningful way.<sup>21</sup>

The problem of early warning is sometimes in reality a problem of will and capacity. Information is received by not acted upon. Governments, and international bodies, can suffer from 'compassion fatigue' every bit as much as individuals; and also from the all-too-human tendency to put off problems till tomorrow. They may only be stirred from inactivity by the actual advent of disaster, or by powerful media campaigns.

Not surprisingly, the idea that a particular body should be charged with amassing relevant information and issuing a formal warning of impending disaster has gained strength. To an extent, the DHA has this function. Yet there is evidence of practical difficulties in the idea of formal early warning. Some countries would vehemently object to being publicly named as the location of incipient catastrophe, and many UN officials sympathise with this opposition. To take an example almost at random, if there were to be a move to say that Algeria was on the brink of civil war, the diplomatic earthquake that would follow would be huge, and any advantage minimal.

Some have suggested that the ICRC, being impartial and independent, should have a role as an independent issuer of warnings. The political constraints on the ICRC making public pronouncements have decreased with the passing of the Cold War,

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<sup>21</sup>

Evans, Cooperating for Peace, p. 70.

There is certainly a long and distinguished history of 'good offices' negotiations initiated by Secretary-Generals of the UN, not all of which were publicized at the time.<sup>24</sup> A more visible form of preventive action is the deployment of peacekeeping forces in an effort to discourage an outbreak of conflict in a particularly vulnerable area. Since December 1992, a segment of UNPROFOR in former Yugoslavia has been stationed in Macedonia, partly with the purpose of discouraging possible attacks on that former Yugoslav republic. This is an interesting beginning, whose end is not yet known, but which is tiny in comparison to the vast effort which has had to be made to deal with actual ongoing conflicts.

Throughout the centuries, one of the main functions of diplomacy has been to identify points of friction in advance, and to try to deal with them. There is a strong tendency in UN, and also some military, circles to talk of 'preventive diplomacy', 'preventive deployment', 'peacekeeping', 'peace-making', and 'peace-enforcement', as if between them these techniques constituted a full set of UN tools for addressing virtually any problem. They do not. There are many problems, of many types, which have eluded the best efforts of statesmen to address them over centuries, and will do so again. If the opportunities which the present moment in international history offers are to be grasped, there is a need to temper enthusiasm with a sense of tragedy, an awareness of the sheer difficulty of problems now being faced, and a recognition that every crisis is unique. There are no reach-me-down tool-kits or all-purpose answers.

Some aspects of preventive work can particularly affect sensitivities about sovereignty. They also involve difficult questions of intelligence gathering. If the idea of preventive diplomacy becomes associated exclusively with supranationalism, it could suffer. For these reasons, there may be advantages in many aspects of preventive diplomacy still being conducted by states--whether bilaterally, or in multilateral fora that raise fewer concerns about sovereignty than the UN system currently does.

#### b. Preventing civil war

The experience of the post-war period, and especially of the post-Cold War period, suggests that civil wars are a central problem of international relations, and the major cause of humanitarian disasters.

The term 'civil war' is here taken to encompass a wide range of communal conflicts, for example between different ethnic, religious, clan or other groups in a country. It is also used here to refer to wars of succession, such as that in Bosnia, which have a part communal, and part international, character.

In the past, most discussion of preventive diplomacy has been centred on the idea of conflict between states, not conflict

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See especially Thomas M. Franck and Georg Nolte, 'The Good Offices Function of the UN Secretary-General', in Roberts & Kingsbury (eds.), United Nations, Divided World, 2nd edn., pp. 143-82.

example, the 1960 Declaration on the Granting of Independence to Colonial Countries and Peoples.<sup>27</sup> In much more general terms, Article 1 of the International Covenant on Civil and Political Rights, adopted in 1966, said: 'All peoples have the right of self-determination.'

What exactly does 'self-determination', freed of the adjective 'national', mean? In much advocacy of self-determination, including in deliberations in a UN framework, difficult aspects of this question were avoided. The delicate question of who the appropriate candidates for self-determination are, and whether secession from existing states can be permitted, was for the most part neglected. Underlying all this is the more basic question of exactly what the purported right to self-determination actually entails. Self-determination can reasonably be interpreted not in terms of one single end result, namely sovereign statehood, but in terms of process. It can imply a commitment to democracy within existing larger political frameworks. In UN debates in recent years there has been a tendency to free the idea of 'self-determination' from its earlier association with the idea of sovereignty, and to view it much more as an entitlement to democracy, or simply as a much more open-ended concept.

There have been many signs of recognition that the theory of national self-determination, taken to its logical conclusion, is disruptive. Some even see it as potentially leading to infinite and permanent fission of states. An Agenda for Peace says bravely that 'if every ethnic, religious or linguistic group claimed statehood, there would be no limit to fragmentation, and peace, security and economic well-being for all would become ever more difficult to achieve.'<sup>28</sup> That is a clear signal that there has to be some limit to the process of national self-determination. The well-known difficulties of the idea need to be much more widely understood, not to stop all self-determination--which is manifestly impossible--but to question whether national self-determination leading to statehood is the only legitimate goal, and to assist an understanding of why in so many cases it leads to such severe conflict.

**d. Democracy and good governance as mechanisms for the prevention of disasters**

In the post-Cold War period, a school of thought has emerged that stresses democracy, human rights and good governance as central to the prevention of humanitarian crises. This view, which has been advanced strongly by the Clinton administration, can draw on a number of persuasive arguments and observations. On the whole, it is claimed, democracies do not fight each other. Their mechanisms for achieving consensual change are the best alternative to political violence yet devised by man. Further, free institutions, especially a free press, can be a powerful

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<sup>27</sup>

Annexed to GA Res. 1514 (XV) of 14 December 1960.

<sup>28</sup>

Boutros Boutros-Ghali, An Agenda for Peace, para. 17.

traditions.

Naturally, such arguments about democracy should be viewed with scepticism. They may represent little more than convenient excuses for autocratic rulers to carry on in their accustomed ways. Many see such arguments as inherently weak, and unwelcome inasmuch as they might slow a historic trend toward democracy. However, different societies genuinely are different, and a healthy respect for their special characteristics is a necessary starting point for understanding them. It is certain that in many societies the movement towards democracy will take time. Forcing the pace from outside requires careful thought.

The question of outside pressure to assist the development of democracy is complex. One form of such pressure has been the IMF and World Bank emphasis on 'conditionality'--an emphasis which sometimes takes the form of insisting on particular democratic processes being carried out. Global institutions are not always good at understanding the particularities of different societies, and at varying their prescriptions accordingly--especially where deeply held principles are involved. Regional institutions may sometimes be more appropriate bearers of such torches.

Further, even if there is agreement on its merits, democracy can assume a large variety of different forms, and it is hardly for outsiders to decide which of these is appropriate to a particular society.

In many situations there may be value in the international community putting emphasis on human rights rather than on democracy. This was one key aspect of the 1975 Helsinki Final Act and the follow-up conferences, and perhaps had a more pervasive long-term impact than direct advocacy of democracy could have done. Further, the increased emphasis in the international community on election assistance and monitoring may be the most useful contribution than can be made to an effective introduction of democratic norms and practices.

#### 8. COMMONWEALTH CONSIDERATIONS

Suggestions that the Commonwealth as such might have a major part to play in the kind of humanitarian activities that have increased so dramatically in the post-Cold War World often meet a sceptical response from practitioners in the field. Their almost invariable view is that the Commonwealth is not a large organization, and is not particularly geared to taking large-scale action in such matters as humanitarian relief. Their experience is of valuable co-operation from numerous Commonwealth countries, but they note that this has almost always operated within the framework of UN agencies and peacekeeping operations.

This is not to say that the Commonwealth as such can never be the most appropriate vehicle for certain types of action, whether in peacekeeping or emergency relief. It is not difficult to imagine a crisis, for example affecting a Commonwealth state, in which the UN was reluctant or powerless to act. Nor is it difficult to imagine circumstances in which the elements of



Entire countries and communities are being savagely torn apart by conflicts fuelled by ethnic, religious, racial and other divisive tendencies. And we cannot rule out the possibility of such conflicts becoming more widespread in the future as societies become more cosmopolitan in many parts of the world. We should therefore begin to place greater emphasis on the need for the successful governance of pluralistic societies if we are to preempt some of the emerging threats to international peace and security.<sup>31</sup>

In seeking to promote values such as human rights, democracy, pluralism and tolerance, international organizations, including the Commonwealth, should put at least as much emphasis on slow processes aimed at bringing about positive change, as on direct outside pressure, intervention, and emergency action.

## 9. CONCLUSIONS

1. There has been a major and impressive increase in international humanitarian action since 1989, especially as a response to humanitarian crises in civil wars and failed states.

2. The main organizational framework for this increase in humanitarian action has been the UN system, but other bodies, not least the ICRC, have also seen a dramatic expansion of their activities.

3. In the post-Cold War era, the UN Security Council has a greatly enhanced capacity to agree on action, and has put great emphasis on humanitarian action in response to crisis situations, and on international humanitarian law. One reason why the Security Council has emphasized humanitarian issues may be that, faced with complex conflicts on which they have different perspectives, powers can more easily agree on measures of humanitarian relief than on definite political prescriptions.

4. The old and highly contested idea of 'humanitarian intervention' has been revived in the post-Cold War era, with certain new elements of which the most important is the requirement for a degree of authorization from the UN Security Council. However, there is no general agreement in the international community on the legitimacy of humanitarian intervention, nor is there likely to be. The experience of recent cases shows that there is a lack of willingness of powers to take part in interventions where the costs may be high. The actual practice of interventions in Somalia, Rwanda and elsewhere casts doubt on whether 'humanitarian intervention' is an appropriate term to describe such activities. The principle of non-intervention retains its importance, and only in the most exceptional cases is the international community likely to tolerate multilateral military involvements which do not have the consent of the country concerned. There is evidence of an ebbing of the interventionism of recent years.

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Emeka Anyaoku, Commonwealth Secretary-General, at a meeting on co-operation between the UN and regional organizations on the maintenance of international peace and security, UN Headquarters, New York, 1 August 1994.

humane world. States and international agencies are evidently nervous of taking on further burdens in the international humanitarian sphere. Furthermore, despite elements of supranationalism in many recent developments, states remain important decision-making bodies in international relations, and important means of seeing that international standards are in fact applied. Without increased great power effort, the world is not likely to be significantly more humane.

11. States and international organizations are placing increasing emphasis on preventive action. Inasmuch as civil war, broadly conceived, is the principal problem causing major humanitarian disasters in the contemporary world, the main need is not inter-state preventive diplomacy as traditionally conceived, but rather the encouragement of political tolerance; of less divisive ideas of 'self-determination'; of non-violent forms of political action; and of good government generally.

12. Democracy has made an impressive contribution to conflict prevention within many societies: it therefore is an important contributor to the avoidance of humanitarian disasters. However, democracy is not necessarily a solution to communal conflict, nor is it instantly applicable in all societies. Pressure for its adoption or reinstatement needs to be applied with understanding of the difficulties involved.

13. Suggestions of a major role for the Commonwealth in humanitarian activities often meet a sceptical response. Any Commonwealth involvement in issues concerned with humanitarian action, whether in the fields of assistance or peacekeeping, must of necessity be based on careful consideration both of where the greatest needs lie, and of where the Commonwealth's greatest assets lie. There could be possibilities for major Commonwealth action in circumstances where UN bodies were unable to act or the Commonwealth had a comparative advantage. There may be scope for a peacekeeping and assistance role in southern Africa.

14. The political role of the Commonwealth, as a body which combines a commitment to democracy with a wealth of shared knowledge and understanding, may be of particular value in acting as one forum for discussion of democratic ways forward. It has a valuable agenda-setting function, and a tradition of pragmatism. It is a useful forum for discussion of North-South issues, and could usefully address the currently contentious issue of development versus humanitarian assistance. It should put at least as much emphasis on slow processes aimed at bringing about positive change, as on direct outside pressure, intervention, and emergency action. These may be equally as important as humanitarian relief operations in pointing the way forward to a more humane world.

TOWARDS A COMMONWEALTH HUMANITARIAN ORDER

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## PREFACE

*The aim here has been to write as concise a document as possible, one that might be seriously regarded by policy-makers or advisers, but one that does not ignore the intellectual foundations for a humanitarian order. Above all, it seeks to work within Commonwealth limits, and, although critical, not to be critical of the Commonwealth for being unable to operate outside its limits. As well as being concise, it has sought to make a number of highly specific recommendations.*

## 1. INTRODUCTION

Much has been made of the triumph of liberal values after the Cold War, and of the emergence of a global humanitarian order. No such global order has emerged. There exists, however, a tentative global agenda which is humanitarian in tone. Much of it is ameliorative, attempting to limit suffering once it has begun. Peace-keeping and refugee provision would be included here, as would be famine relief. Some of it is what might be called a "one shot" effort on behalf of some of the preconditions felt necessary for local humanitarian orders. Election observer groups would fall into this category. Finally, often very publicly, some of it is declaratory, and there is no end of rhetoric on humanitarian issues, and on the related issue of human rights. Although some of this global phraseology might enter local and national discourse, and might even be reflected in constitutional provisions or ministerial apparatus, the problems here are to do with the justiciability of constitutions, and the operational funds available to ministries. International assistance or intervention cannot be unilateral, because of the concept of state sovereignty and, often, because intervention in one state might accord advantage to a rival state and upset regional balances.

Where official discourse fears to tread, however, non-governmental organizations are prepared to go. The very naming of a group "Médécias sans Frontiers" is a complaint against the

concept of state sovereignty. Like all utilitarian concepts, that of state sovereignty holds power if that sovereignty benefits its citizens more than it denies them. A distinction can be drawn between an official international humanitarian agenda, and an unofficial one. The first respects sovereignty as a limit upon its assistance and intervention. The second is prepared to seek means of circumventing sovereignty, if people are denied humanitarian needs.

Here, some work with distinctions is necessary. A humanitarian need is related to but is not the same as a human right. As noted above, in practice sovereignty is a utilitarian concept and must pass utilitarian tests. It is also, however, a concept in political philosophy and, here, it is linked with the concept of citizenship. Historically, the two emerged in their modern forms simultaneously. Citizens are distinguished from subjects because citizens have rights. The extent of these rights has been debated but, at base, there is common agreement that citizens have a right to their basic needs. If these needs are not met, many would argue their right exists to demand their needs, and finally, to replace governments that consistently fail to provide for them. In this document, the idea of a humanitarian order begins with need but extends to right. In practical terms, it begins with redress and amelioration, and extends to democratic practice.

Of course, in daily diplomacy, particularly at high levels,

the concept of sovereignty is more flexible than it often seems. Judicious behind-the-scenes telephone calls and meetings can have greater effect than sabre-rattling. The Commonwealth has had recent successes of this sort, notably in Kenya and Lesotho. This is a discharge of the Secretary-General's duties, implied strongly in the provision for his access to heads of government, and sanctioned by three decades of practice. However, this is both a secret diplomacy - so is not itself a transparent process - and it is essentially ad hoc. It can work from time to time, but it is not necessarily reliable. This document proposes, therefore, a series of transparent, well-defined mechanisms for Commonwealth action, building of course on achievements to date, but with the idea also of built-in "trigger" mechanisms. Since, however, the Commonwealth concern with a humanitarian order began with the Harare CHOGM in 1991, it might be well to return to that point before proceeding further.

#### Harare to Auckland

Harare was a turning point in Commonwealth history, and its emphasis on humanitarian issues was made possible by the conjuncture of three events:

1. the ending of the Cold War and the so-called triumph of liberal values;
2. the ending of the apartheid regime in South

Africa and, with it, the successful completion of a central Commonwealth campaign;

3. the final closing of the door to major institutional reform of the global financial bodies, the belated burial of the New International Economic Order - but this also meant little international finance for any global humanitarian order.

Nevertheless, the intent of Limassol was to give flesh to Harare, although it is unlikely that the Commonwealth can provide major funding either for a Commonwealth dimension to a global humanitarian order, or for a Commonwealth model for the world. Nevertheless, this paper will suggest a low-cost Commonwealth model in key humanitarian areas. Before it can do so, some of the problems of Harare should be addressed.

Forewarned of the Harare agenda, non-governmental organizations were present at the CHOGM and distributed literature critical of the human rights records of Commonwealth countries. The Human Rights Watch group, for instance, published a document entitled, "Abdication of Responsibility - The Commonwealth and Human Rights", in which it criticized specifically the human rights records of nine governments officially participating in the CHOGM, including the host



government. The document did not represent new findings or criticisms and, for the most part, reflected the findings of annually-released compendia published by Amnesty International and the U.S. State Department. What it did do, however, was to lodge two major implications for future Commonwealth work in the humanitarian field. The first was that the Commonwealth had, in some way, to keep a neighbourhood watch on its own backyard before it could suggest global action. The second was that Commonwealth performance would henceforth be monitored. A humanitarian order goes beyond what satisfies heads of government and the Commonwealth has entered a more contentious realm than was ever provided by South Africa. Auckland should either withdraw as gracefully as possible from this arena, or make specific and meaningful provision for Commonwealth action. It should avoid further unaccompanied declaratory work.

Some non-governmental groups accept the Commonwealth must work with what it's got, but suggest strict criteria for new membership. Auckland will deal directly with the case of Cameroonian membership, accepted in principle but also conditionally. Cameroon was given time to complete a constitutional process leading to greater human rights and democratic guarantees. Notwithstanding the often heated exchanges between the Cameroon Government and, e.g. the Committee for Human Rights in Cameroon, the issue of admission to the Commonwealth will provide material for non-governmental and press reaction to

the seriousness or otherwise of Auckland. It will be the test of any Declaration.

Press reaction to Harare was often sceptical. The Observer (13 October 1991) criticized the proposal to Harare of a Commonwealth human rights programme that merely sought to educate ('a diplomat's euphemism for propaganda') rather than criticize, judge and scrutinize. It is, however, easy to indulge a journalistic scepticism, harder to make real progress within real constraints. There is never going to be a Commonwealth Court of Human Rights, for instance, and nor should there be until global juridical institutions are themselves strengthened and respected. A Commonwealth programme cannot be merely aspirational, but it can proceed beyond lowest common denominators. It can provide models, a role often advertised for the Commonwealth. What follows is a series of definitional and practical actions the Commonwealth can take, bearing in mind all the considerations of this introduction.

## 2. PROTECTION OF REFUGEES

The Commonwealth cannot and should not provide large-scale relief for refugees. That is properly the role of more specialized agencies which are themselves under-funded. It can, however, make an important definitional contribution which might properly be via the work of an expert group, working closely with the Secretariat's Legal Division, reporting to heads of government

who would then issue a Declaration different in nature and intent to existing Commonwealth declarations. Its provisions would be voluntary, but its proclamation would be a model or example, defining not a Commonwealth view of international relations but a Commonwealth contribution - carrying with it the imprimatur of heads of government - to an eventual international treaty.

Current refugee law is rooted in the 1951 Geneva Convention Relating to the Status of Refugees. Particular rights and level of rights are detailed in 22 Articles. These are both extensive and applicable to refugees as a "permanent" category, i.e. the idea of temporary protection, although available in some national laws, does not exist in international law. The extent of rights to be accorded refugees by host states, and the permanent residence of such refugees within host states, has led to increasingly stricter definitions of who is a refugee. It is arguable that many people denied rights and fearing persecution in their home states cannot find both refuge and refugee rights in other states.

The influx of refugees can be dealt with on two bases. The first is via restriction of entry. The second is often overlooked and that is to do with the idea of temporary, rather than permanent protection. At present, two global regions subscribe to agreements which include provisions for temporary protection. These are the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, and the 1984 Cartagena

Declaration, a voluntary agreement of Central American states meant to demonstrate the efforts made by Latin American governments to adapt the tradition of asylum to the new conditions of massive displacement.

Those conditions of massive displacement - an almost clinical term that should not conceal massive suffering - have meant severe pressures on Commonwealth countries and have often led to the poorest countries providing a humanitarian example to those richer. Membership of an expert group should represent such exemplary effort. The compassion of the south can inform the north.

### 3. EARLY WARNING

By the time refugees appear, conflict has already developed. The Commonwealth can play a greater role in predicting and attempting to provide settlements of differences. The Secretary-General, as noted above, already utilizes his access to heads of government and is able to play an advisory and even privately admonishing role. In Kenya, with the knowledge of government, he performed such a role with regard to the opposition parties. The Memorandum of Understanding only provides for his access to heads of government, so that unilateral access by the Secretary-General to opposition groups is outside his remit. What is proposed here is a practice that requires reportage to heads of government but, included in such reportage, will be the results of the Secretary-

General's enquiries among all parties to a possibly violent dispute. The idea here is of early warning, but develops from existing Commonwealth practice in three ways.

1. Instead of a two-yearly commentary on important political issues, in his report to CHOGMs, the Secretary-General should be able to warn of conflict at any time. This may be either to a "star chamber" of agreed heads of government, or to a committee of the whole of all Commonwealth high commissioners in London, using the Commonwealth Committee on Southern Africa as a model.
2. In warning of violent conflict, the Secretary-General should also be in a position to advise on the grounds upon which mediation may be possible, based on his consultations with all parties involved.
3. The Secretary-General cannot do this by himself and it is suggested he have a "trouble-shooting" staff capacity. This is described below, under the rubric of mediation.

Neither the Commonwealth generally, nor specific directly-

affected states, need accept the Secretary-General's early warnings. In this way the practice of sovereignty is maintained. It should be maintained, however, in the full knowledge of a growing international consensus against violence and the suffering it causes.

#### 4. MEDIATION

Mediation may be to settle a conflict already begun, but might profitably seek to settle an incipient conflict before the stage of violence.

Analysts have traditionally described two major types of mediation. Track One is conducted by official actors, i.e. governmental or especially commissioned or sanctioned inter-governmental personnel. Track Two mediation is conducted by unofficial actors, e.g. the Catholic Church in what became the preparatory stages leading to the Rome talks between the parties to the Mozambique conflict; Norwegian academics and trades unionists in the early stages of the Oslo meetings leading to agreement on a Palestinian National Authority. In both the Mozambican and Oslo cases, Track Two merged with or handed over to Track One. In many cases, official mediation requires an entry-point crafted by unofficial means or personnel. Increasingly, the two tracks are deployed in a conscious strategy of inter-related roles. The Carter mediations in Iraq and Haiti illustrate such a development and University of Kent analysts

have coined the term Track Three for such conscious interplay of Tracks One and Two.

The Commonwealth Secretary-General has, from the beginning, played a mediation role. Arnold Smith sought to mediate at the very beginning of the Nigerian civil war. The Secretariat played a third-party facilitating role at Geneva and Lancaster House for the Zimbabwean Patriotic Front - facilitation often being seen as an adjunct to mediation, both being aids or spurs to negotiation; one helps or even chairs the negotiating process, the other helps parties actually to negotiate. This latter has been particularly important with guerilla parties unable to equal the negotiating expertise of an experienced government. Very recently, RENAMO would not have negotiated at Rome, subjected itself to mediation, without first having had its position, and the expression of that position, facilitated. Mediation in South African townships very often consisted in the facilitation of township negotiating expertise in meetings with the police. But this means that controversy is in-built to mediation; it can give the appearance of taking sides, and that is a significant risk in an inter-governmental organization. It is, however, a risk which can be accommodated within the apparatus outlined below.

There are four mechanisms within a Commonwealth mediation apparatus which might be utilized by an appropriately provisioned Secretary-General, including aspects of both Track One and Track Two mediation.

1. Mediation by the Secretary-General personally, as in the case of Arnold Smith in the Nigerian civil war; Shridath Ramphal at the Lusaka CHOGM in seeking a consensus between the British and other delegations over Rhodesia; Emeka Anyaoku in Kenya in securing the cooperation of all parties to enter parliament.
2. Mediation, under the Secretary-General's guidance, by Secretariat officers, as in the recent case involving king, army, and government in Lesotho. These officers, however, who made continuous visits to Lesotho over a protracted period, were also holders of other responsibilities, including the directorship of an important Secretariat division. It is proposed, therefore, that there should be
3. mediation by a special "rapid response" team within the Secretariat. These would be specially recruited and have few other responsibilities, except also to help the Secretary-General in the early warning and "trouble-shooting" activity suggested above. The operational model here would be the CFTC Technical Assistance Group, a small collection of advisers who could be dispatched at a moment's notice to assist governments with sudden technical difficulties.



4. Mediation by distinguished Commonwealth citizens outside the Secretariat. The closest model to this within the Commonwealth was the Eminent Persons Group to South Africa - although individual distinguished citizens, such as Obasanjo of Nigeria and Kaunda of Zambia (as in the non-Commonwealth cases of Carter of the U.S.A.) have acted as wise men on their own account, though often linked to a more official agenda. Groupings of this sort could also, outside the Secretariat and its limitations, engage in the work of facilitation. It may be that a special Commonwealth fund, subscribed voluntarily, could finance such preventive and ameliorative diplomacy by such groups.

Such apparatus could not only mediate before and during conflict, but assist in post-conflict trauma stabilization, an essential activity to prevent conflicts re-erupting.

#### 5. ELECTION OBSERVER GROUPS

Independent groups, but under Secretariat briefing, with Secretariat support, and chosen finally (though having consulted with heads of government) by the Secretary-General, have observed elections since 1980. (There were proto-types before this time, but the style of composition, operation and regularity of such groups date from 1980.) In that year, the Commonwealth Observer

Group in Zimbabwe was a great success, but that in Uganda was disastrous, described as 'shameful' in the Economist (25-31 August 1984). Since then, such groups have stabilized their operations and standards to the extent that they may fairly be described as generally successful and fair. Four major criticisms may, however, be attached to observer groups, both Commonwealth and non-Commonwealth groups.

1. They often lack local knowledge and are likely to miss or misunderstand the nuances of intimidation, bribery and vote-related patronage.

2. Elections, even if free and fair, are a tip of an ice-berg of what constitutes democracy. Concentration on elections alone, the fetishisation of elections, may mean an essentially undemocratic style of government is validated because of a single democratic exercise. In this argument, of far greater importance is a means of gauging the health of "civil society", that area where the rights of citizens, particularly in their non-governmental organized groups, meet the operations of the state. If operational necessity frequently diminishes citizen rights, then the state may be said not to be operating democratically.

3. With the increasing popularity of election observer groups has come the question of standards of observation. Just as there are now the phenomena of "development tourism", and "disaster tourism", in which experts descend briefly and then make decisions that change people's lives, there may now be said to be an "electoral tourism", in which observation groups pass judgements on the basis of brief, cursory investigation.

4. In 1979, as the Lancaster House talks over the independence of Zimbabwe concluded, Lord Carrington issued an open invitation to all Commonwealth countries to send observers. The Commonwealth Secretary-General fought hard to have accepted a single, official and well-coordinated observer group. Fragmentation of observation into several uncoordinated groups, no matter how well-meaning, might have meant that an unpopular or questionable election result might have received validation by at least some of the groups present. The more groups present, the more the law of averages will favour divided conclusions. Fifteen years after the pioneering Commonwealth Observer Group in Zimbabwe, the very success of that group has led to a

proliferation of them. The UN, EU, OAU, a host of non-governmental groups, and the Commonwealth, not to mention groups sent by individual governments, were all present in the 1994 South African elections. All declared those elections free and fair, but none could comment in specific terms on irregularities in the Natal counting, and none had the expertise to monitor computer break-downs during the national counting. The prospect for divided opinion in jurisdictions smaller than South Africa's is great. Only the size of the country and the generality of freeness and fairness throughout most of a large country allowed general agreement among the groups. A calculating government of a smaller country may in future, however, invite as many observer groups as possible.

Added to these four major criticisms may be three ancillary ones.

1. Election observation in a period of violence is very difficult unless the protection of observers is secured. Many UN workers died in Cambodia. Military violence heralded the transition period in Namibia. Had this occurred closer to the elections themselves, observers, particularly the very small Commonwealth Observer Group, could not have safely investigated it.

2. There is a temptation that official observer groups might bow to regional pressures if a particular result in a closely-fought election might seem to increase the prospects of regional security.

3. There is a temptation that official observer groups might favour a particular result in a closely-fought election if the defending government has been important in the international councils to which the observer groups themselves are affiliated. The criticism of the Independent (25 January 1993) of the Commonwealth observation of the Kenyan elections was that the findings of the group had not been 'above politics'.

The Independent made a less contentious point when it argued 'that the very presence of "eminent persons" from India, Jamaica, Britain, Canada and other Commonwealth countries' could not by itself ensure a free election. Impartiality of observation; its thoroughness based on the widest access to all stages, levels, and physical locations of the electoral process; and the eminence of the observers are all key ingredients to a respected judgement. Some defence must also be capable of being raised to the seven criticisms outlined above. The point here, in partial agreement at least with the Independent, is that eminence by

itself is not enough. These exercises cannot be located on the reputations of the groups or of their members.

Nor can they become routine or conducted according to an old formula. Both for the sake of future Commonwealth observer groups and other such groups, a definitional and standard-setting exercise might profitably be undertaken. This involves the second expert group to be recommended in this document. Its remit would be to examine the procedures of election observation and to establish standards. This should not involve the imposition of field criteria that standardizes the filling in of forms but leaves the observer no time to exercise his or her judgement. It should be to do with minimum thresholds of

1. voter registration
2. voter access to stations
3. conditions of privacy
4. box collection and ballot counting

in addition to reporting systems to do with

5. violence and coercion and other inducements  
towards voters
6. violence and coercion of candidates
7. availability of media to parties

and standards to do with the composition of

8. electoral commissions.

These are reasonably common-place considerations in the work of observer groups. However, what should be especially considered is the capacity of groups to observe whether particular thresholds have indeed been reached or crossed. Commonwealth observer groups tend to work to the model established by their ancestor group in Zimbabwe. That group was not only successful but plain lucky. It was so "fat-free", and spread so thinly, improvising its infra-structure, that it could as easily have been unsuccessful, and its operational methods subsequently derided as being simplistic and naive. Although Commonwealth groups have since grown in experience, not all such risks have been overcome. Observation groups have been funded cheaply and cannot persistently be expected to do well. Moreover, other non-Commonwealth groups keep repeating mistakes or have omissions in their work and judgements that Commonwealth groups may now largely avoid. Moreover, very few groups of any sort can provide comprehensive election coverage and the work of an expert group should consider what is a threshold of representativeness and what is not. Without being as monolithic and expensive as UN exercises, Commonwealth groups may well benefit from being slightly better provisioned and staffed. In the Commonwealth record of achievement in human rights-related activity, the work of observer groups is its largest testimony. A firm basis for operation, with clearly-defined and exemplary standards, might now secure their success into the future.

## 6. THE MONITORING OF HUMAN RIGHTS

The success thus far of election observer groups should not be seen as a full discharge of Commonwealth responsibilities in human rights. The Commonwealth reached a stage of maturity in 1971 with the Singapore Declaration. Sir William Dale, the eminent jurist, saw this as giving the Commonwealth both a legal personality and an agreed sense of purpose. Its brief but definite concern with human rights was amplified in the 1979 Lusaka Declaration on Racism and Racial Prejudice which viewed racial equality and the anticipation of non-discrimination as fundamental rights. At Harare in 1991, the Declaration - seen by many as a coming of age for a Commonwealth agenda begun twenty years earlier in Singapore - was unambiguously centred on democratic practice, human security and human rights. What then to do about the monitoring and promotion of human rights in the face of the sovereignty of Commonwealth members? The Commonwealth Secretariat, as an inter-governmental body, can neither intervene in the domestic affairs of its members, nor criticise them beyond a carefully modulated point. The result is at least press scepticism of the seriousness of the enterprise begun in Harare, and no public consciousness at all that the Commonwealth has a central human rights concern.

The penultimate paragraph of the Harare Declaration, however, called upon 'the Commonwealth Parliamentary Association and non-governmental Commonwealth organizations to play their



full part in promoting these objectives' of democratic practice, human security and human rights (para.12). It is this area of action with which this document now turns, bearing in mind NGO reaction to the Harare Declaration: The group, Article 19, lamented the absence of 'genuine mechanisms for implementation', and the absence also of declared measures to do with 'sanctions and expulsion' for states violating human rights'; the Commonwealth Human Rights Initiative was disappointed that its recommendation of a 'Standing Commission on Human Rights' had not been approved by the Declaration.

As noted above, press reaction to the Commonwealth Observer Group in Kenya concluded that 'the very presence of "eminent persons"' ... could not by itself ensure a free election. So also NGO reaction at Harare stressed that it is 'unrealistic to suppose that peer pressure alone will ensure that its peoples enjoy satisfactory human rights'.

A very great deal of this criticism was conceptually pertinent, but impossible to discharge within the scope of an inter-governmental body. If such criticisms are left unanswered, however, the Commonwealth human rights initiative can never be taken seriously. Here, it is proposed to locate the tasks of monitoring human rights, approbation and further criticism firmly within the non-governmental sector with which Harare sought a 'spirit of co-operation and mutual support' (para.12).

So that the official Commonwealth is seen as supporting the

initiative, the Secretariat should seek to organize a fund to finance an independent group of eminent and wise persons, just persons, who will sit outside the sphere of Secretariat operations, but who will constitute a Commonwealth Human Rights Commission. Given the nature and limits of inter-governmental work, the Commissioners can have no powers to impose their views or recommendations upon the Secretariat or upon Commonwealth states. It should not constitute a court or tribunal. It should, however, act as a monitor and warn of steps over the threshold of human rights acceptability. However, it may be that future applications for Commonwealth membership might properly be accompanied by a clean bill of health from the Commissioners. Moreover, the Commissioners might properly meet every two years, both to consider evidence and to allow Commonwealth senior officials to present country positions; their report might then become an input, a customary though not official input, to the subsequent CHOGM. The report should be a public document just as the U.S. State Department's and Amnesty's are.

Some twelve Commissioners, comprising retired or active members of independent judiciaries, distinguished scholars and other eminent persons should be sufficient both for the task at hand and the need for geographical spread.

## 7. THE SCOPE OF THE ARGUMENT

### a. The Secretary-General's Remarks of 25 May 1994

In his "Lessons from Commonwealth Experience" remarks to the first meeting of the Inter-Governmental Group on the Emergence of a Global Humanitarian Order, the Secretary-General made a number of points. The 'promotion of fundamental political values' was firmly associated with assistance in the process towards democratic rule. He discoursed on a three-phased Commonwealth approach, involving pre-election, in-election, and post-election activity. The in-election phase, to do with observer groups has been considered above. The other two phases, consisting mainly in the use of good offices and technical services and advice, makes use of both the Secretary-General's access to heads of government and existing Secretariat divisions, personnel and apparatus. In the more extensive and prolonged use of good offices, as in the case of Lesotho, Secretariat staff usage was equally prolonged. It has thus been recommended above that specialist personnel be recruited for such work, thus reducing the burden on existing staff. If good offices had been required in more states than just one, the Secretariat may well not have coped.

In other Remarks, however, and outside the historical conditions that allowed Commonwealth influence in South Africa, the limits of Commonwealth activity are revealed. The Commonwealth has firmly supported the territorial integrity of

Cyprus and Belize - but has not been able to act in a major fashion over Cyprus, and it was British troops who for long guaranteed the integrity of Belize. Similarly, although there was a deliberately-named Commonwealth Monitoring Force that oversaw the cease-fire in Zimbabwe, this was British-organized and key Commonwealth armed forces deliberately not invited to participate. The Commonwealth has no independent capacity to organize peace-keeping and, at time of writing, member states are hard pressed to sustain their roles in UN or ECOWAS peace-keeping, with little or no capacity for further participations.

The weight of the Secretary-General's Remarks are clear. Whenever situations require the established Commonwealth facilities of good offices and access to heads of government, the Commonwealth, through the Secretary-General, can respond - often well - but the point has been made that prolonged Secretariat involvement, particularly in long-running disputes, is painfully under-staffed. Apart from good offices, advice, etc., the sole existing organized and public apparatus to sustain fundamental political values are the election observer groups. These have their own limits and, even without them, cannot solely represent an extensive Commonwealth contribution to any global humanitarian order. This paper, therefore, has sought to extend - within Commonwealth limits - such a contribution.

b. The Conceptual Foundation

Commonwealth limits may be narrowly drawn; this is not the same as cautiously drawn. There are democratic and human principles and values, and there are local customs, traditions and practices. There is a bedrock of the former which should not be compromised by the latter. Where that bedrock is has often been debated. However, its general location is clear enough in the Harare Declaration; moreover, it is clear enough in all great religions which infuse Commonwealth countries - Christianity, Islam, Hinduism, and Buddhism all preach tolerance, liberal and just governmental administration, and the rights of individuals within material society. They, together with Confucianism, set strict parameters beyond which the just ruler cannot go. The onus is on rulers and governments who, historically and in the twentieth century, have done greater harm to their peoples than their peoples have done to them. The Report of the Commission for a New Asia (1994) recognized that authoritarian systems have grown and provide a rocky foundation for democratic growth. 'The foundation will take time to change and to be changed. But change there must be.' (p.58)

In this context the Remark of the Secretary-General on differing responses to heckling at political rallies is inopportune. In some societies, he wrote, hecklers would be verbally engaged. In others, however, they might be manhandled 'not because the people love freedom less but because the local

culture demands greater respect for holders of high office.' (pp.10-11) Many would say there is only a short step from the idea that rulers should only be challenged in a respectful manner to the idea that rulers should not be challenged at all. A Commonwealth that supported often impolite freedom struggles must find a line that cannot be crossed or, if unable to do so itself, support and even sponsor the independent work of those who can, and election observer groups briefed as to where the River Rubicon flows.

c. The List of Recommendations

- i. Protection of Refugees. The creation of an expert group to consider the question of temporary protection, as yet unprovided for in international law.
- ii. Early Warning. The institutionalized practice of the Commonwealth Secretary-General giving early information on conflict within or affecting Commonwealth regions, either to a "star chamber" of governments or to a Committee of the whole of High Commissioners in London, using the Commonwealth Committee on Southern Africa as a model.

iii. Mediation

a. The creation of a "rapid response" mediation team of specialized officers within the Secretariat, along the lines of the CFTC Technical Assistance Group.

b. Further use of "eminent persons", either singly or in groups.

iv. Election Observer Groups. The creation of an expert group to consider the scope and standards required of Commonwealth and other observer groups, both to defuse growing criticism and scepticism of such groups, and to prevent a species of international electoral "tourism". Commonwealth groups, as the largest, most public Commonwealth expression of concern for rights and political values, should be exemplary.

v. Human Rights Monitoring. The utilization of partnership with selected eminent persons in the non-governmental area to create an unofficial Commonwealth Human Rights Commission which, nevertheless, will be invited to report to CHOGMs.

d. The cost of the recommendations

Over recent years the Commonwealth has been financially squeezed. The same governments that have led the squeeze also lead the move towards humanitarian provision and human rights. Such governments cannot have it both ways. The above recommendations concern

elements of a programme attainable within Commonwealth political limits; extensive enough to answer public criticism of the Commonwealth and human rights; but also free from grand expenditure plans. The cost of the recommendations can be calculated to cover:

- i. The cost of two expert groups, one on temporary protection and one on observer groups. There is probably existing budget for these.
- ii. The recruitment of a three-person "rapid response" mediation team. These should be at Assistant Director/Special Adviser level. There is no existing budget for these and they will add to establishment costs.
- iii. The subscription towards two Commonwealth funds, one to support mediation by eminent persons, and one to support a Commonwealth Human Rights Commission. These would not be part of establishment costs and would be financed from voluntary as opposed to assessed contributions.



In total, therefore, what is presented is a minimum-cost endeavour, in which the only additional establishment costs, to be met from assessed contributions, are the appointment, support, and travel component related to the mediation team.

## 8. CONCLUSION

There is a moral impetus towards humanitarian provision and human rights. When this impetus meets political constraints the course of action should not be to seek the lowest common denominator. Doing so will only raise public doubts as to which has greater weight for the Commonwealth: human and political values, or a form of governmental accommodation. Following the latter path will damage the Commonwealth's credibility more greatly than not. What this paper has tried to do has been threefold: firstly, it has sought to clarify some intellectual foundations; secondly, it has sought to put forward a programme of action within the constraints of the Commonwealth as an organization; thirdly, it has sought to conceive of such action also in ways that will meet public expectations, and budgets that cannot be dramatically expanded.

As noted above, however, what was embarked upon at Harare has the potential to become far more contentious than South Africa ever was for the Commonwealth. The organization has no funds to be a major actor in humanitarian relief. If it has also no political desire to carry forward less costly activity to do

with humanitarian and political values, it would be good public relations to withdraw from further declaratory work at Auckland and thereafter.