

A LIVING DOCUMENT?

The Code of Conduct of the Red Cross and Red Crescent Movement and NGOs in Disaster Relief

1. The Humanitarian imperative comes first 2. Aid is given regardless of the race, creed or nationality of the recipients and without adverse distinction of any kind. Aid priorities are calculated on the basis of need alone 3. Aid will not be used to further a particular political or religious standpoint 4. We shall endeavour not to act as instruments of government foreign policy 5. We shall respect culture and custom 6. We shall attempt to build disaster response on local capacities 7. Ways shall be found to involve programme beneficiaries in the management of relief aid 8. Relief aid must strive to reduce future vulnerabilities to disaster as well as meeting basic needs 9. We hold ourselves accountable to both those we seek to assist and those from whom we accept resources 10. In our information, publicity and advertising activities, we shall recognise disaster victims as dignified human beings, not hopeless objects.

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The Code of Conduct of the Red Cross and Red Crescent Movement and NGOs in Disaster Relief

Research paper produced for the conference Ten Years Code of Conduct: Principles in Practice

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INTRODUCTION

Ten years have passed since the Code of Conduct for the International Red Cross and Red Crescent Movement and NGOs in Disaster Relief was drafted. The 10th anniversary of the Code is a good moment to derive lessons from experience with the Code. On the 20th of September 2004, an international conference in The Hague in the Netherlands brought together signatories of the Code, implementing partners from signatories in emergency areas, donors, and support NGOs concerned with the quality of humanitarian aid. The conference was organised by the Netherlands Red Cross, PSO, and Novib/ Oxfam Netherlands, with support from Disaster Studies Wageningen in co-operation with IFRC, Cordaid, World Vision Netherlands, and other Dutch NGOs.

The conference aimed at reinforcing the Code as a living document, within various realities and in changing environments. It wanted to inspire participants to promote further the use of the Code in their own organisation and to discuss the future of the Code. This discussion paper formed input for the conference. It is based on research by Disaster Studies Wageningen¹. Apart from a literature review and a number of personal and email interviews (see annex), the research mainly consisted of a survey. This methodology was chosen in line with the objectives of the conference. The survey would both remind all signatories of the Code, and allow people to add their voice to discussions about its future.

The response to the survey is already an indication that people find the Code important. 118 people have found time to fill in the elaborate questionnaire. 105 of these are signatories of the Code. Several people mentioned during personal interviews that they had enjoyed this opportunity to re-read the Code. One respondent remarked: 'this survey gives some good ideas on how to use the Code in areas often neglected!'

To process the data from the survey, most questions are given a single, aggregate score. The score was calculated by adding up the number of respondents multiplied by a score that divided the answer categories on a scale from 0 to 1².

The research is independent. It was greatly enriched by discussions and support of the organising group, Jan de Graaf (Dutch Red Cross), Ton Huijzer (Dutch Red Cross), Russell Kerkhoven (PSO) Tilleke Kiewied (Novib/ Oxfam-nl), and Arthur Molenaar (co-ordinator). The conclusions are drawn

¹ www.disasterstudies.nl

² For example, the question if the Code was used in staff training gave the following results: never: 3 respondents, rarely: 34, often: 33, always/standard: 42, not applicable: 6. The score for this item, representing an average estimated use of the Code for staff training, was calculated as: $(3 * 0 + 34 * 0,33 + 33 * 0,66 + 42 * 1)$ divided by $(3+34+33+42) = 0,69$

by the researcher and do not necessarily correspond with the policies of the organisations involved. Exchanges with Lewis Sida greatly contributed to the research. He is conducting, together with Sean Lowrie, a field-based study on the Code of Conduct that will result in a commentary to the Code for a project of ICVA and SCHR. Finally, I would like to thank Arthur Molenaar for his wonderful help with the data collection, especially the processing of the survey, and Fred Claasen for his loving support.

The first part of the report presents the background to the Code and some issues and trends of humanitarian aid, the second discusses each article of the Code and the final part the ownership and management of the Code, its use, institutionalisation and future.

PART 1 TEN YEARS CODE OF CONDUCT

This part of the research paper discusses background and characteristics of the Code of Conduct, as well as some trends and issues that are relevant for the discussion on the future of the Code.

Ten years Code of Conduct

Since the Biafra crisis in 1967 when Médecins-Sans-Frontières was formed out of the ICRC and many organisations were mobilised for an unprecedented and first televised airlift, increasing numbers of organisations started to engage in humanitarian aid. In the decades to follow many international development and faith-based organisations discovered, or re-discovered their humanitarian roots, while increasing numbers of NGOs were formed in the developing countries that naturally became involved in relief aid whenever an emergency occurred in their vicinity. With the large famines in the Horn of Africa of the mid-1980s, relief aid became the core or side business of hundreds of organisations. ICRC and IFRC had their fundamental principles to guide them. Other organisations too had principles, but there was no common agreement on what constituted good relief aid. As Peter Walker related, people got worried about excesses and anomalies happening in this abundance of unruly aid programmes³.

Towards the end of the 1980s, different initiatives emerged around principles for humanitarian aid. Minear and Weiss, for instance, surveyed agencies to find out that in addition to the classical principles of humanity, impartiality, neutrality and independence, a new set of principles mainly derived from development work such as accountability and participation had come to be cherished by organisations engaged in humanitarian aid. Hugo Slim, who then worked at Save the Children, recalled that the Code of Conduct for relief aid was particularly welcomed because agencies were confused or divided about the US-led military intervention in Somalia in 1992, which was the first post-Cold War intervention motivated by humanitarian concerns. The controversial and tragic events in Somalia threw many humanitarians into a quest for identity and legitimisation⁴. The drafting process of the Code of Conduct started in 1991, under the initiative of the French Red Cross and was brought under the Steering Committee for Humanitarian Response⁵. It was drafted by Peter Walker, then of the IFRC, and Tony Vaux, then of OXFAM-GB and the organisations affiliated to the SCHR were consulted on it.

3 Interview, September 2004

4 Interview, April 2004

5 The Steering Committee for Humanitarian Response (SCHR) is a coalition of nine of the largest international humanitarian organisations. The present member groups are Oxfam, Save the Children, International Committee of the Red Cross (ICRC), International Federation of the Red Cross (IFRC), World Council of Churches, Caritas, Lutheran World Federation and Médecins Sans Frontières (MSF). MSF and Care were not yet included at the time the Code was drafted.

When the Code was finished in 1993, it was not immediately clear if it was going to be successful. John Borton wrote in 1994: “It will be interesting to see how other large international NGOs (...) react to the guidelines. Such agencies have been placed in a potentially awkward situation by the appearance of the Code, for if they do not feel comfortable with the wording(...) their choice lies between ‘joining in’ or ‘staying out’⁶”. This fear turned out to be unfounded: the number of signatories has steadily grown throughout the years. A large majority is European, but increasingly other continents too, are represented among the 289 signatories⁷.

Number of signatories per continent

Europe	Asia	North America	Africa	Australia / New Zealand	South and Central America
197	39	25	14	9	5

Number of signatories throughout the years

Notwithstanding its apparent success and broad acceptance, the Code did not come to play a lively role. Participants to a 2001 conference on the quality of humanitarian aid⁸ found that the Code had had a very significant contribution to inspiring other quality initiatives and tools, but had itself become dormant. This impression was confirmed by remarks in the survey: ‘I dare say that the Code has been practically dead for a number of years’. ‘The Code was collecting dust on people shelves’. Someone recalled giving training and asking participants if they had read the Code. ‘Nobody had, but they all knew they had signed up’.

However, the interest in the Code is presently reviving. Organisations look upon the Code to help resolve some of the intensified concerns about the nature and legitimisation of humanitarian aid as a result of the crises in Afghanistan and Iraq. The chairperson’s summary of the high-level humanitarian forum of March 2004⁹ said for example that: ‘We can address areas where we have contributed to the blurring of humanitarian identity by being clearer in our adherence to the humanitarian principles expressed in the Red Cross and Red Crescent Code of Conduct and the General Assembly Resolution 46/ 182’¹⁰.

Gradually the Code has found its way into practice. In 2001, the Code was used as terms of reference in an evaluation of the Gujarat earthquake. In the words of Tony Vaux: ‘in using the Code evaluators found it a more effective and challenging tool than they had expected primarily’ and they found that

6 *Code of Conduct for the International Red Cross and Red Crescent Movement and NGOs in Disaster Relief*. Relief and Rehabilitation Network Paper 7. www.odihpn.org/documents/networkpaper07.pdf

7 The number of signatories continues to grow, 289 was the number in July 2004 when this analysis was made.

8 International work conference: Enhancing the quality of humanitarian assistance, 12 October 2001, Netherlands, Ministry of Foreign Affairs.

9 This high-level humanitarian forum was convened by Inter-Agency Standing Committee (IASC) for 40 humanitarian and UN agencies. IASC provides a forum that brings together a broad range of UN and non-UN humanitarian partners, including a number of UN agencies and standing invitees include the ICRC, IFRC, and three NGO consortia. The primary role of the IASC is to formulate humanitarian policy to ensure coordinated and effective humanitarian response to both complex emergency and to natural disasters. www.humanitarianinfo.org/iasc

10 General Assembly Resolution 46/182 led to the creation of the Department of Humanitarian Affairs (DHA, later turned into the Office for the Coordination of Humanitarian Affairs OCHA) in 1991 and lays down its guiding principles. It can be considered the UN counterpart of the NGO Code of conduct. www.un.org/documents/ga/res/46/a46r182.htm

far from being rigid and outdated the Code was surprisingly flexible and ‘modern’: by triangulating issues between different principles it was possible to pinpoint major dilemmas that agencies had to tackle’¹¹. Since then the DEC¹² has used the Code in several more evaluations and developed an evaluation instrument with 28 questions to assess performance against the Code. Another example is the agency Concern International that has conducted a self-assessment on their compliance to the Code of Conduct, also after Gujarat.

Characterising the Code

The Code is very basic. After brief sections on purpose and definitions, the ten principles are outlined followed by three annexes with recommendations for actors in the working environment of NGOs. There are no sections about monitoring or complaint procedures. This is consistent with the intention of the Code to be a ‘voluntary code, enforced by the will of organisations accepting it to maintain the standards laid down in the Code’. There are, however, also no sections about the ownership and management of the Code, its implementation process, requirements of signatories, how the Code can be amended through time, or advice to signatories about how they can institutionalise the Code in their organisations.

The Code brings together classical humanitarian principles such as humanity, independence and impartiality, along with modern principles derived from development: accountability, partnership, participation and even sustainability. It is usually considered as a needs-based rather than a rights-based document. In discussions about the Code Articles one to four and five to ten are sometimes presented as opposites, as if the Code has melted the unfitting principles together from two different brands of agencies. Notwithstanding tensions within the Code that will be referred to later, the two angles are not the result of a negotiated outcome. They have evolved from developments in the different kinds of organisations at the time of drafting the Code that led to a convergence of principles. At that time development agencies were increasingly faced with the question of how to deal with conflict in their areas of intervention. Humanitarians on the other hand had started to worry about the impact of their efforts, and sought ways to maximise the resources at their disposal¹³.

While the classical principles of humanity, impartiality and independence are incorporated in the Code, neutrality is not. Article three deals with the concern of neutrality but is ambiguous and does not mention the concept itself. This aspect of the Code is seen as a compromise. Faith-based and development organisations wanted to retain their freedom to side with poor and oppressed people and advocate on their behalf¹⁴. It is also related to the history of the Code, which started as an initiative to provide guidance for the response to disasters caused by natural hazards.

The Code reflects the fact that it is an instrument of organisations with different mandates. Multi-mandate organisations comprise the vast majority of agencies in humanitarian aid. This is the case with seven out of nine organisations in the SCHR and almost all members of the International

11 Tony Vaux, The DEC and the Red Cross Code - a policy proposal.

12 Disasters Emergency Committee (DEC) is the UK body set up at times of major humanitarian disasters to co-ordinate fundraising for 14 of the UK’s major aid agencies. www.dec.org.uk

13 In this respect, it may be good to correct the image of the ICRC as being only interested in the rules of war. The subtext of the first principle of the Red Cross and Red Crescent Movement sets out the ideal behind the movement as follows: ‘It promotes mutual understanding, friendship, co-operation and lasting peace amongst all peoples’.

14 See Hugo Slim (1997) ‘Relief Agencies and Moral Standing in War: Principles of Humanity, Neutrality, Impartiality and Solidarity’, in: *Development in Practice*, Vol.7, no4, 342-352.

Council of Voluntary Agencies¹⁵. 80% of the respondents to the survey report they are involved in multiple domains of intervention. 7% work in relief only.

The Code is sensitive to the different players in humanitarian aid including people and agencies in the areas of work and provides guidance for their different roles. However, the Code is written from the perspective of international NGOs. Technically speaking, many non-Western organisations have been involved in drafting the Code, as shown by the fact that some of the initiators comprise families with world-wide membership. The actual drafting is done by representatives from the headquarters of these families, and the language of the Code makes it an instrument by, and for, INGOs.

The language of the Code is cautious, in the use of phrases like 'we shall endeavour to', instead of 'we shall'. The language is a reminder that humanitarians have limited control over humanitarian space and basically depend on other actors. By using this language, room for manoeuvre is also created for INGOs with different approaches. By stating in Article four, for instance, that government policy cannot be implemented except in so far as it coincides with NGOs' own independent policy, a formulation is found that accommodates both so-called Dunantist and Wilsonian NGOs. The distinction is made by Abby Stoddard whereby predominantly European Dunantists are more strictly independent by comparison with predominantly American Wilsonians, who have a more pragmatic approach or find much in common with their government's policies¹⁶. The cautious language makes the Code comprehensive and very appropriate as an instrument to discuss policy and operational decisions and dilemmas. It makes the Code less useful for NGOs seeking guidance for their actions and for purposes of accountability.

Because the Code accommodates different approaches to humanitarian aid, it lends itself perfectly for discussing humanitarian strategy. The Code was drafted around the assumption that humanitarian and developmental approaches could be reconciled in practice. In the course of the 1990s, there was a lot of debate on this possibility and on the question what the right mandate should be for humanitarian aid? Recently, there has been more recognition that humanitarian strategy should be contextual. Working in the midst of an ethnic conflict requires a different approach than working in the relative calm of a refugee camp, or in a post-conflict situation. Some situations require strict neutrality others do not. Some situations give room for a developmental approach; other emergencies require a strict concentration on life-saving activities. In extremely tense situations, local organisations may not be relied on, in others it would be highly unethical and inefficient not to. One could say that a new doctrine is evolving seeking to suit humanitarian approaches to particular situations. The Code provides an instrument to help decision-making in such a differentiated and contextual way.

Towards a new humanitarian doctrine?	
Using the Code to discuss humanitarian strategy:	
As neutral as necessary	As rights-based as possible
As relief-oriented as necessary	As developmental as possible
As expatriate as necessary	As local as possible
As dirigiste as necessary	As participatory as possible

¹⁵ www.icva.ch

¹⁶ Abby Stoddard (2003). 'Humanitarian NGOs: Challenges and Trends.' In: Joanna Macrae and Adele Harmer (eds) *Humanitarian Action and the 'Global War on terror': a Review of Trends and Issues*. HPG Report 14. www.odi.org.uk/hpg/papers/hpgreport14.pdf

Issues and trends in humanitarian aid

In the ten years that have passed since the Code was drafted, certain issues and trends in humanitarian aid have emerged or become more pertinent. Some major ones are:

- Situations, where people rely on aid for their immediate survival appear to be on the increase. This is related to a range of factors such as the degradation of natural resources, including drinking water, a lack of entitlement to these resources, population pressure, the increasing and diverse impacts of climate change, and the damage inflicted by HIV/AIDS. The long-term implications of these trends for the organisation of humanitarian aid have only begun to be explored¹⁷.
- Conflicts in the last two decades have often made the achievement of humanitarian space extremely complicated, because belligerents do not respect international humanitarian law and civilians are directly targeted in conflict. The upsurge of terrorist movements has severely added to this problem. Terrorists have no relation to a particular area or people, and their leaders operate in the dark.
- In international policy, the politicisation of aid during the Cold War era was taken for granted, but has in the last ten years taken a different shape. Humanitarian aid has increasingly been incorporated as an instrument of foreign policy, and policy is increasingly expressed in terms of International Humanitarian Law and Human Rights. Although it could be welcomed that foreign policy increasingly coincides with NGO values, there are strong concerns too. NGOs fear the abuse of values for foreign policy interests, criticise the selective application of values by governments such as in addressing human rights abuses in some but not other parts of the world, and find it difficult to define their own identity and approach in relation to the political powers. This is exacerbated since the Kosovo, Afghanistan and Iraq crises when the major donor countries of humanitarian aid, and the cradle and residence of the large international NGOs, were themselves belligerent parties.
- There are indications that humanitarian aid is losing credibility on the ground. How many humanitarian workers have been attacked or killed is not known, but their numbers seem to be growing and the security of aid personnel is a major concern¹⁸. It is difficult to assess and generalise about the motivation and strategies of opponents to aid, and deeper insights into the perceptions of local people about aid are badly needed. Many share the assumption that aid is losing trust because it is not being viewed as neutral and/ or because it is associated with Western powers. The problem is exacerbated by a parallel process in the United Nations where the trust in organisations expressing the 'We-the-peoples' nature of the UN is tainted by their association with the political Security Council¹⁹.
- Humanitarian aid operates in many different fields that cannot be covered by the crude distinction between disasters and conflict. They include: work in immediate emergencies; aid in prolon-

17 For the discussion on HIV/AIDS see Alex de Waal (2002) *New-Variant Famine: How Aids Has Changed the Hunger Equation*, <http://allafrica.com/stories/200211200471.html>, and www.odi.org.uk/hpg/aidsresources.html

18 Dennis King, *Paying the ultimate price: an analysis of aid-worker fatalities*. ODI, 2002. www.reliefweb.int/w/rwb.nsf/s/E406653389A0B17C85256C0F006C9946. See also research of The Centre for International Emergency, Disaster, and Refugee Studies of John Hopkins University

19 *The Future of Humanitarian Action. Implications of Iraq and Other Recent Crises*. Report of an International Mapping Exercise by Feinstein International Famine Centre, Tufts University, <http://famine.tufts.edu/pdf/Humanitarian.mapping.final.report.jan14.pdf>

ged and irregular conflicts, for instance Operation Lifeline Sudan; post-conflict reconstruction; and a range of long-term programmes in the relative safety of refugee camps. These different fields all fall under the heading of humanitarian aid because the withdrawal of aid would lead to an immediate upsurge of morbidity and mortality, and because of the organisation of funding channels. The different fields set different parameters to the demands on aid organisations, the possibilities to address vulnerability, and the way aid can be organised.

- Implementing modalities of humanitarian aid have become increasingly diverse and complicated. The numbers of development NGOs and humanitarian agencies in crisis areas have grown. Many international agencies work primarily through local partners and constantly seek a balance between their own operational capacity, if they have any, and their support for partners. Local NGOs, on the other hand, are not just partners of international NGOs but derive support from UN and bilateral sources, such as through embassies, and from a range of more localised and informal financial sources that do not become visible in international statistics. The different modalities of aid set different parameters for discussions on principles, humanitarian policy and the decision-making space of agencies. While more locally organised aid has tremendous advantages, it casts discussions on the politicisation of aid on the ground in sharper relief. The upsurge of NGOs in disaster affected areas also brings about discussions on power relations among humanitarians and the representation of non-Western NGOs in international humanitarian communities.
- New actors have increasingly entered the scene of humanitarian aid, in particular military and private companies. NGOs are concerned by these developments because they may further jeopardise the image of humanitarian aid as independent. There is also the organisational concern that NGOs may find these other actors competing for funds.

These different issues and trends are interrelated, and discussions on the future of aid should take them into account in an integrated way. With regard to the problems related to the present politicisation of aid, several ways forward are being proposed:

- Restore trust in humanitarian aid by making neutrality a more central concern²⁰. Solutions in this line will have to consider how this can fit into the diverse and predominantly multi-mandate modalities of aid, as well as the different fields of aid that are too complicated to dichotomise, conflict versus non-conflict, or emergency versus non-emergency. They will also have to consider that neutrality is not a uniform concept providing clear directions for aid²¹.
- Restore trust in humanitarian aid by making it more universal. This line of thinking aims to dissociate aid from Western powers, among others by a quest for universal humanitarian values.

20 See Nick Stockton, *Humanitarian Values: Under Siege from Geopolitics* (unpublished paper), and Joanna Macrae and Nicholas Leader, 'The Politics of Coherence: Humanitarianism and Foreign Policy in the post-Cold War Era', *HPG briefing number 1*. www.odi.org.uk/hpg/papers/hpgbrief1.pdf

21 For the variate ways in which ICRC defines and uses neutrality see Jean Pictet (1979) *The Fundamental Principles of the Red Cross*, Henri Dunant Institute, Geneva; and Larry Minear, *The Theory and practice of Neutrality: Some Thoughts on the Tensions*. http://hwproject.tufts.edu/publications/electronic/e_tapon.html On neutrality in NGOs see Leader, N. (2000) *The Politics of Principle: the Principles of Humanitarian Action in Practice*. HPG Report 2, Overseas Development Institute and Humanitarian Exchange Number 25, December 2003.

22 Hugo Slim, *With or Against: Humanitarian agencies and coalition counter-insurgencies*, July 2004 www.hdcentre.org/datastore/shaping%20opinion/With%20or%20Against%20.pdf

23 Eva Bjoreng, 'Norwegian People's Aid: Taking a Stand: Solidarity and Neutrality in Humanitarian Action'. In: *Humanitarian Exchange* number 25, December 2003. www.odihpn.org

Developments along this line should also seek ways to expand the role of non-Western humanitarian agencies, make their contributions more visible and address power relations within humanitarian communities. This must be done, however, without losing sight of how aid operations can be organised effectively and on the effects of the politicisation of aid on the ground.

- Restore trust in humanitarian aid by being clear what values and especially methodologies make NGOs different from other actors²². This includes, for example, the denouncement of humanitarian bombing while advocating more participatory and bottom-up approaches to aid²³. Solutions along this line face similar challenges as solutions seeking to make humanitarianism more universal.

Needless to say, different solutions have different implications for the future of the Code of Conduct. This question will be returned to in the conclusion of this paper.

PART 2 THE ARTICLES OF THE CODE

This part discusses the articles of the Code, based on comments made in interviews and surveys and some highlights of the literature and developments of the past ten years. As quotes from the survey show, there are many concerns about the articles, both with regard to their wording and to the challenges to uphold them in practice.

Nonetheless the statistical data show that respondents are generally very positive about all the articles of the Code. As the table below shows, the appreciation of the different articles of the Code of Conduct is roughly the same and invariably high. The estimated level of accordance was almost the same for each article of the Code. People generally think that their own organisations are better at implementing the articles than the humanitarian sector as a whole. On a scale from one to ten respondents gave their own organisation the average mark of 7.2 and other agencies a 6.

<i>Article</i>		<i>Useful in practice</i>	<i>Fine as is</i>	<i>To be updated</i>	<i>Redundant</i>
1	The Humanitarian imperative comes first	86%	88%	28%	3%
2	Aid is given regardless of the race, creed or nationality of the recipients and without adverse distinction of any kind. Aid priorities are calculated on the basis of need alone	90%	90%	25%	3%
3	Aid will not be used to further a particular political or religious standpoint	86%	86%	26%	5%
4	We shall endeavour not to act as instruments of government foreign policy	81%	86%	32%	9%
5	We shall respect culture and custom	84%	79%	31%	3%
6	We shall attempt to build disaster response on local capacities	86%	88%	29%	4%
7	Ways shall be found to involve programme beneficiaries in the management of relief aid	86%	83%	31%	6%
8	Relief aid must strive to reduce future vulnerabilities to disaster as well as meeting basic needs	90%	86%	31%	6%
9	We hold ourselves accountable to both those we seek to assist and those from whom we accept resource	91%	94%	20%	4%
10	In our information, publicity and advertising activities, we shall recognise disaster victims as dignified humans, not hopeless objects	94%	92%	23%	4%

ARTICLE ONE

The humanitarian imperative comes first

The right to receive humanitarian assistance, and to offer it, is a fundamental humanitarian principle which should be enjoyed by all citizens of all countries. As members of the international community, we recognise our obligation to provide humanitarian assistance wherever it is needed. Hence the need for unimpeded access to affected populations, is of fundamental importance in exercising that responsibility. The prime motivation of our response to disaster is to alleviate human suffering amongst those least able to withstand the stress caused by disaster. When we give humanitarian aid it is not a partisan or political act and should not be viewed as such.

There is no doubt by anybody consulted that number one is the most fundamental article that defines as no other what a humanitarian stands for. As one respondent pointedly expressed this: 'We believe in this article'. The wording of the article, however, is not undisputed. Two respondents remarked that by using the phrase of humanitarian imperative reflects a focus on the *right* to protection and assistance of humans suffering life-threatening circumstances. As a consequence, the humanitarian community would have the obligation to offer this aid. Another line of thinking emphasises the *esprit humanitaire*, expressing that humanitarian action is voluntary. The difference lies in defining what the responsibility of humanitarians is in relation to other political actors. Notwithstanding the use of the phrase humanitarian imperative, many perceive the Code as being needs-based, for instance in comparing the Code to the more rights-based Humanitarian Charter²⁴.

The principle of humanity is intimately associated with the emergence of the Red Cross movement and in most literature on the topic the underlying notion of compassion is culturally rooted in Judeo-Christian traditions, capitalist value systems, and individual-oriented social organisations. Increasingly, people now endeavour to denude the concept from its Western connotation by drawing parallels with concepts in other religious traditions and social forms of organisations²⁵.

There is an array of implicit and explicit interpretations and practice of the article depending on NGO tradition and mandate. Aid in conflict has different pedigrees world-wide in charity, solidarity movements, humanitarianism, and political aid to win the hearts and minds of subjected people. This continues to be reflected in today's organisational diversity. NGOs can also have mandatory obligations such as a focus on children.

NGOs operate in different domains, which they balance in their application of Article one. They often have more core values to take into account. To abbreviate one comment: 'Faith based agencies would disagree that secular humanism is the whole answer to the situation. There should be recognition that there is a spiritual element to people and that this has an eternal dimension'. NGOs also reckon with the responsibilities for the security of their staff. They consider expectations from their constituency as all the people giving donations expect them to do something. They also acknowledge non life-threatening realities by respecting budget lines and allocations. There is no example of INGOs diverting or concentrating development budgets when emergencies occur. This may be diffe-

²⁴ For the Humanitarian Charter, see: www.sphereproject.org/handbook/hdbkpdf/hdbk_hc.pdf

²⁵ For a discussion on humanity in Islam, see Jonathan Benthall (2003) 'Humanitarianism and Islam after 11 September', in: Joanna Macrae and Adele Harmer (eds) *Humanitarian Action and the 'Global War on terror': a Review of Trends and Issues*. HPG Report 14. www.odi.org.uk/hpg/papers/hpgreport14.pdf and for a comparison between the notion of humanity to the concept of Ubuntu see Tony Vaux (2001) *The Selfish Altruist*: London, Earthscan.

rent for NGOs located in emergency areas. As a Philippine NGO acknowledged ‘When the earthquake happened we just used the money we had in the bank and figured we would later sort it out with our donors’²⁶.

All these considerations can be legitimate. When they are perceived out of balance, external critiques and internal debates crop up. Tony Vaux’ book the ‘Selfish Altruist’ testifies candidly about many such debates within Oxfam. One of the lessons that recurs is that these considerations must be transparent and explained in relation to the fundamental principle of humanity²⁷.

There are often many factors inhibiting humanitarian agencies from acting in accordance with Article one because conditions are lacking for unimpeded access to affected populations and because the construction of humanitarian aid as partisan or political is only partly in the hands of the organisations themselves. There are also factors *within* humanitarian agencies that lead to compromises regarding Article one. Many people are critical about the way in which their own organisational interests sometimes prevail. Someone wrote: ‘I sometimes ask if the prime motivation of the relief community’s response to disaster is really to alleviate human suffering or if it is to care primarily for the organisation’s well-being?’. Other comments to the survey stated: ‘NGOs have professionalised and the interests become various, for example the sustainability of an agency and its reputation can in some cases overshadow the humanitarian imperative’; and ‘tragedies are unfolding on a daily basis, and NGOs do not necessarily put these on the top of their agendas’. When organisational interest is seen to take over from the humanitarian imperative, this is especially damning for NGOs because compared to vote-seeking governments and profit-seeking companies, NGOs find their basis of legitimisation in their value-base²⁸.

ARTICLE TWO

Aid is given regardless of the race, creed or nationality of the recipients and without adverse distinction of any kind. Aid priorities are calculated on the basis of need alone.

Wherever possible, we will base the provision of relief aid upon a thorough assessment of the needs of the disaster victims and the local capacities already in place to meet those needs. Within the entirety of our programmes, we will reflect considerations of proportionality. Human suffering must be alleviated whenever it is found; life is as precious in one part of a country as another. Thus, our provision of aid will reflect the degree of suffering it seeks to alleviate. In implementing this approach, we recognise the crucial role played by women in disaster prone communities and will ensure that this role is supported, not diminished, by our aid programmes. The implementation of such a universal, impartial and independent policy, can only be effective if we and our partners have access to the necessary resources to provide for such equitable relief, and have equal access to all disaster victims.

Article two is the impartiality article, although the concept as such only appears in the subtext. Impartiality is the twin concept of humanity, because it underscores that the right to receive humanitarian assistance applies equally to all people in the world. There is no ‘us’ and ‘them’ in humanitarian thinking. It is very clear from the allocation of aid that realities are a far cry from the aspiration embedded in Article two. Among the examples standing out are the aid budgets reserved for Kosovo

26 Fieldnotes 1995, DH

27 Hugo Slim, *Humanitarian ethics in disaster and war*. www.ifrc.org/publicat/wdr2003/

28 Dorothea Hilhorst (2003) *The Real World of NGOs. Discourses, Diversity and Development*. London: Zedbooks.

in 1999 compared to other crises at the time, the present discrepancy between Iraq and the DRC, and the lack of attention for out-of-media forgotten crises. The issue of impartiality or lack thereof is of course highly related to Article four, the independence of aid and Article six dealing with co-ordination.

The assessment of need is complicated by a lack of objective definition of need. Different approaches to measure need are all to some extent subjective, even more so when assessments have to be made with time pressure and without sufficient baseline data. And as someone said: 'in practice need is a product of social context'. Needs are not universal, they depend on contextual variables. An obvious example is the need for winter clothes in cold climates. Debates concern questions about the extent in which agencies can take into account the socio-economic context and yet maintain impartiality. Should minimal humanitarian standards be applied in contexts where the surrounding host population lives below these standards? During the Kosovo crisis in particular, humanitarian agencies were accused of using double standards considering the level of assistance given to the population in Kosovo compared to many situations in Africa.

The impartial assessment of needs becomes more complicated beyond the provision of physical life-saving assistance, when aid reaches into mental rescue and the survival of community-life. The restoration of a mosque or church is considered by many organisations an act of humanitarian assistance, and so is for example the organisation of soccer games as a start to 'normalise' life in a Rwanda community where the genocide has just been stopped. While much has been achieved in developing methods and criteria to establish needs, defining where humanitarian responsibility starts and ends, is a discussion that can never be completely closed or resolved. Another point of concern is to adjust the provision of aid to people's needs and modalities instead of the formats of agencies, and not favour refugees over internally displaced people, or camp inhabitants over people having found refuge with relatives or other hosts.

The principle of impartiality can be compromised in practice when it conflicts with other principles. 'In conflict situations, this article can put at risk the neutrality of the NGO'. Considerations of neutrality can bring agencies to divide aid evenly between conflicting parties rather than basing it on the notion of proportionality alone. Article two is often compromised because of budget restrictions (see Article four), by constraints in the operating context of a militia or other local authority. Someone also mentioned cultural constraints that cannot always be circumvented, for example 'if the local culture gives less prominence to girls than boys'. It is also compromised for reasons of humanitarian politics, for example when the diversion of aid becomes unacceptably high, raising questions about where to establish the threshold, or for security reasons: 'often the areas of greatest need are not able to be accessed safely'. Humanitarians are generally weary about making aid explicitly conditional and cases where this was experimented on by NGOs for concerns of human rights, do-no-harm, or restoring state responsibility for its citizens are contentious or even regretted.

Some people acknowledged that Article two is also compromised by NGOs in order to maintain smooth stakeholder relations. INGOs may condone that local implementing partners only serve their own constituency, while trying to change this through discussion. 'Since we work through local organisations we have discussions with some counterparts that do not accept beneficiaries with strong links to one of the armed actors in the Colombian conflict'. Somebody else related the story how his organisation built 3,500 houses in an area not considered most needy after hurricane Mitch, upon the request of a government with which they wanted to maintain good relations. 'I think we then forgot the Code of Conduct'.

Some people remarked in the survey that the wording of the subtext of this article should be more explicitly addressing vulnerability. 'Article two needs to refer to gender-based discriminations and social vulnerabilities in a stratified society', and 'children should be mentioned as a particularly vulnerable group in Article two of the Code'. Someone else commented that 'the role and the rights of children in the implementation of programmes is ignored'.

ARTICLE THREE

Aid will not be used to further a particular political or religious standpoint

Humanitarian aid will be given according to the need of individuals, families and communities. Notwithstanding the right of NGHAs to espouse particular political or religious opinions, we affirm that assistance will not be dependent on the adherence of the recipients to those opinions. We will not tie the promise, delivery or distribution of assistance to the embracing or acceptance of a particular political or religious creed.

Articles three and four are closely related and many respondents to the survey cross-reference their answers between the two. The formulation in Article three that NGHAs have the right to espouse opinions as long as they do not make assistance dependent on the adherence of these opinions is believed to be the compromise between traditional humanitarian organisations and religious and rights-based organisations.

Reference to neutrality was left out to accommodate the principles of justice and human rights that are cherished by many organisations. The article does not explicitly call upon agencies to be neutral in the sense of 'refraining from taking sides in hostilities or engage in controversies of a political, racial, religious or ideological nature', but it is hard to see how taking sides in hostilities could be separated from using aid to further political standpoints. Article three thus appears to be ambiguous, and gives little guidance to NGOs working in conflict situations.

Faith-based organisations are generally well aware of the restriction of Article three, sometimes to the extent that, in the words of a Christian aid representative: 'We rather give money for a Mosque than for a Church to avoid the impression of proselytism'. A long-time observer of aid noted that: 'I have seen little evidence of aid tied to religious choice'. The events that led up to the arrest of Shelter Now staff in Afghanistan in 2001 appear to be rare. This does not preclude that faith-based aid affects recipients, or that this is never intended. One respondent remarked that 'aid is not given to directly further the Christian viewpoint, but it is hoped that beneficiaries might in the longer term reflect on Christian values'. Somebody also said: 'in some cases the beneficiaries of aid are seen to be tilting towards the faith of the relief providers'.

The relation between aid and religion appears to become more delicate with the recent trend towards the politicisation of religion, or the religionisation of politics. This is amongst others apparent in the association of terrorism with Islam, resulting for instance in the suspicion that some Islamic charities channel funds to terrorist groups, and the recurrence of explicit Christian aid politics of the Bush administration²⁹. Whether or not aid agencies forward political standpoints depends partly on the definition of politics. If this includes the defence of human rights, many organisations are deliberately political. With human rights increasingly incorporated in donor government's foreign policy, NGO human rights politics are likewise becoming more complicated.

29 Abby Stoddard, 'With us or against us? NGO neutrality on the line'. In: *Humanitarian Exchange Number 25*, December 2003

A major concern of many respondents and people interviewed is the current politicisation of humanitarianism itself. Some responses:

- 'The situation in Iraq and Afghanistan can contradict this article'.
- 'At the macro level when decisions are made as to aid flows, this article is largely ignored. Aid is sometimes, but not always, tied to political objectives. At the micro level it is also difficult to prevent the politicisation of aid in certain situations, such as Rwanda and DRC'.
- 'Afghanistan particularly the southern part is in war now and most of warlords and ex-Taliban are controlling the areas. These parties try to control the aid agencies in remote areas'.
- 'This article needs to be strengthened so NGOs will not accept funding from a state party to a conflict.'
- 'This article is so naïve as to constitute a risk to the credibility of the whole Code'.

Not everybody is equally concerned, someone said for instance: 'Some INGOs make political statements through their programmes. Is this bad?'

NGOs struggle with the questions of how to judge the politics of aid: by their intention or by their implications, and how to deal ethically with intersections of politics and humanitarianism. Someone stated: 'There is a fine line between responding to need and becoming a tool for the Coalition's pacification agenda in Iraq. For example addressing IDP needs reduces unrest in IDP areas. Although need is addressed, this has a political implication. The agency needs to respond to humanitarian need rather than to the political goal of the coalition. Sometimes these intersect and sometimes they don't'. A similar example from a different context was given: 'There are political intentions in the offer of resources for the implementation of humanitarian aid programmes, according to the interests of donor countries in international politics and economic affairs. For instance, in Colombia USAID resources for humanitarian aid are marked by the policy of international war against drugs and terrorism held up by the US government'.

ARTICLE FOUR

We shall endeavour not to act as instruments of government foreign policy

NGHAs are agencies which act independently from governments. We therefore formulate our own policies and implementation strategies and do not seek to implement the policy of any government, except in so far as it coincides with our own independent policy. We will never knowingly - or through negligence - allow ourselves, or our employees, to be used to gather information of a political, military or economically sensitive nature for governments or other bodies that may serve purposes other than those which are strictly humanitarian, nor will we act as instruments of foreign policy of donor governments. We will use the assistance we receive to respond to needs and this assistance should not be driven by the need to dispose of donor commodity surpluses, nor by the political interest of any particular donor. We value and promote the voluntary giving of labour and finances by concerned individuals to support our work and recognise the independence of action promoted by such voluntary motivation. In order to protect our independence we will seek to avoid dependence upon a single funding source.

Article four is the expression of the classical humanitarian notion of independence: that NGOs must retain their autonomy to provide humanitarian assistance according to their own principles and without interference. Through its formulations, the article gives a large room for manoeuvre to agencies to develop their own policy practices regarding independence. One comment stated: 'The key word here is endeavour'. There is also the opening that agencies can be implementers of

government policy in so far as it coincides with their own independent policy. Several respondents to the survey reiterate this. 'Of course we should support and encourage good policy'; and 'Sometimes national interest can be considered as a moral obligation without hampering the human values as stated in the Code'.

The trend of the past ten years has been that donors increasingly earmark their expenditure on humanitarian aid. There are a number of statements in the survey expressing concern about this: 'Very difficult to uphold, when so much aid is given by governments'. 'Once a dependence on governmental relief funding happens it becomes very difficult to apply this. Governments decide where and what they will fund - we have to fit in with their country-strategies! Surely this makes us agents of their foreign policy?' and: 'in some cases donors may dictate certain directions in humanitarian aid, such as regional locations, beneficiaries etc. Access may not be granted freely, see Iraq'.

While one person delicately states that: 'This article of the Code is necessary to read', several others propose that the article ought to be changed: 'the word endeavour is too weak, a code should be more clear cut or defined. We need to protect our space and identity much more forcefully!', and 'the current political situation in the world dictates the updating of this article'.

Reducing the dependency on government funding is a deliberate policy of many agencies. At the same time, NGOs have to seek ways to increase their independence in other ways. ICRC, for instance, is completely dependent on government funding but its legal status nevertheless grants the organisation a large degree of independence. One comment to the survey also stated: 'Agency independence is not depending on funding alone'. It has been suggested that NGOs must take the opportunity to use the Code of Conduct to advocate independence in the context of the Good Humanitarian Donorship Initiative³⁰.

The text of Article four does not deal with relations with the military as exponents of government policy. Civil military co-operation has become an important issue for NGOs. Several international guidelines have been developed by the IASC to guide NGOs relating with the military³¹, including guidelines on the use of military escorts³². The issue remains a contentious area for humanitarian politics that is difficult to resolve on the ground. Someone said in the survey: "Dealing with CIMIC is one of the greatest challenges to implementing the Code - especially when government aid funding is channelled solely through CIMIC units. I believe this to be one of the greatest challenges to NGO 'neutrality'".

Several people note that Article four appears to be written only for international NGOs. 'This is totally focused on foreign agencies', and 'what about local/national agencies who wish to adhere to the Code?' The text does not deal with the particular challenges of maintaining independence for NGOs residing in conflict or disaster areas. Someone from Afghanistan noted: 'we have many examples that the local NGOs spied for the Taliban during their power. Presently we see that many local NGOs disrupt very useful programmes due to their own interest and links with commanders'.

30 For information on the Good Humanitarian Donorship Initiative, see: www.reliefweb.int/ghd/

31 Most recently in June 2004 Civil-Military Relationship in Complex Emergencies - An IASC Reference Paper: www.humanitarianinfo.org/iasc/IASC%20products/CIMI%20IASC%20Paper%2028%20June%202004.doc

32 www.humanitarianinfo.org/iasc/MCmilesort.doc

ARTICLE FIVE

We shall respect culture and custom

We will endeavour to respect the culture, structures and customs of the communities and countries we are working in.

Article five is a firm statement towards respecting culture and custom, but its text does not provide much guidance for NGOs. The single sentence makes one wonder if the people who drafted the Code could not agree on the article, or did not care much about it. 'Surely', said one respondent, 'it must be possible within the framework of the Code to say something more about this important aspect. In the present form, the article seems like an add-on without substance'. People do find the article important. The article is often referred to by ICVA members from the South³³ and a number of survey respondents reiterate this.

The article does not make clear what is meant by respect. The New International Webster Comprehensive Dictionary of the English Language provides the following choices:

- To have differential regard for; esteem
- To treat with propriety or consideration
- To regard as inviolable; avoid intruding upon
- To have relation or reference to; concern

From the interviews and survey it appears that people generally interpret Article five as aiming for respect in the third sense: *to regard as inviolable; avoid intruding upon*. No less than twelve people, 10% of the survey, have made a qualitative comment pointing out that they want to respect culture, but selectively. Honour killing, genital manipulation, suppression of women, and exclusion of rape victims are mentioned as customs that NGOs do not want to condone. Some people consider more generally that human rights, the rights of vulnerable people, humanitarian law and the other articles of the Code of Conduct should prevail over local culture. And is it not, some ask, the very nature of NGOs to bring about change? 'While we uphold customs, we are also agents of change', and 'perhaps NGOs have a role in challenging local culture where it goes against good humanitarian practice'.

Even though culture may not be considered inviolable, it remains important to consider the other meanings of respect. At least culture should be treated with propriety, consideration and concern as the other meanings of respect convey. When NGOs deal with culture and some even aspire to change culture, at least this should be based on a thorough understanding.

The article does not qualify culture. From the way interviewed people speak of culture it often appears to be perceived as a thing, as something people carry around like a suitcase. Culture is, however, much more fluid, differential and contextual. A recent Feinstein study shows, for instance, how the current 'gender apartheid' in Afghanistan is not a given from time immemorial but has been greatly aggravated through cultural politics of the last ten years in which women have lost a lot of their room for manoeuvre³⁴. Culture politics often play a part in conflict!

³³ Interview Ed Schenkenberg, April 2004

³⁴ Tufts University, Feinstein Centre: *Human Security and Livelihoods of Rural Afghans, 2002-2003*.
<http://famine.tufts.edu/pdf/Mazurana2.pdf>

Culture is not just located in local customs but also in the way people form organisations, make decisions and develop styles of intervention, as some point out. 'Well, more progress certainly needs to be made here especially with regard to using local staff, working through and building local capacities', 'We work through partners. When the issue is if their approach is consistent to the Code, how arrogant can we be?' The relation between local partners and INGOs can evolve as problematic in view of Article five. This is intertwined with power: 'although there is growing conduct of respect towards beneficiaries culture and costumes, there still persists ways of disrespecting this article, mainly because of the misuse of power by those who control the resources'.

Article five too is formulated from the perspective of INGOs: 'Very western oriented and thereby excluding more comprehensive ownership outside of the international agency arena'. One of the problems that may occur in this respect is that INGOs do not realise that their style of organisation which they take for granted, is just as culturally tainted as that of their partners. This was illustrated when an evaluation mapping contrasting perceptions of international agencies and the Somali community found how the relief agency considered itself 'structured', but was perceived by the Somali people as 'coercive'. People in the INGO labelled themselves as 'professional', 'neutral', and 'objective', while they were perceived as 'bureaucratic', 'authoritarian', and as 'regulating without dialogue'³⁵.

An important initiative that is partly related to Article five is the (IASC) Task Force on Sexual Exploitation and Abuse, which was established in March 2002 after the sexual exploitation and abuse scandal involving civilian and uniformed staff of the UN and its partners in West Africa³⁶. Many activities have been developed since, including the development of training materials on Gender-Based Violence Focusing on Sexual Exploitation and Abuse³⁷ and a Model Complaints referral Form³⁸.

ARTICLE SIX

We shall attempt to build disaster response on local capacities

All people and communities - even in disaster - possess capacities as well as vulnerabilities. Where possible, we will strengthen these capacities by employing local staff, purchasing local materials and trading with local companies. Where possible, we will work through local NGHAs as partners in planning and implementation, and co-operate with local government structures where appropriate. We will place a high priority on the proper co-ordination of our emergency responses. This is best done within the countries concerned by those most directly involved in the relief operations, and should include representatives of the relevant UN bodies.

This article concerns the relations of co-operation and co-ordination of humanitarian agencies. It is carefully worded, through the phrase 'we shall attempt' and by taking into account that it is not always possible to strengthen local capacities. This is perhaps not surprising, considering that the article had to apply to NGOs ranging from those being fully operational to NGOs working exclusively through local partners or belonging to a world-wide movement such as Caritas or the IFRC.

35 *Humanitarian Aid to Somalia, Evaluation Report*. Netherlands Development Co-operation. Operations Review Unit, 1994, p.98

36 <http://ochaonline.un.org/webpage.asp?Page=1139>

37 www.reliefweb.int/w/rwt.nsf/libHome?ReadForm&Query=libByKeyword_7&cat=Gender

38 <http://ochaonline.un.org/DocView.asp?DocID=1088>

Most comments on this article express there is a large room for improvement, especially in the big crises. 'This article is sinned against in most high-profile crises', and 'INGOs tend to bring in their own capacities and do not rely on local capacities'. Several people referred to the Gujarat earthquake as a prime example of a situation where many capable local organisations were present and nonetheless an organisation like IFRC would fly in more than 150 international delegates.

It is also noted that there are sometimes limitations in practice to acting in accordance with this article. Some people fear that relying on local capacities, in cases where they are weak, may inhibit a quick and good response. 'Sometimes people just need straightforward assistance'. Someone stated as well: 'The size of a response generally overwhelms local capacities'. Indeed, definitions of emergencies argue that situations become disasters when they exceed local coping capacity. On the other hand, emergencies do not require personal input per se. In some cases the need is simply for external resources, that is funds for the local organisations to organise emergency response.

Others point to problems that may occur when local capacities are controlled by political actors. The crucial factor is whether local partners deliver aid on the basis of need rather than on the basis of constituency. Somebody explained how her organisation uses the Code of Conduct to discuss this aspect with prospective partners: 'we demand that they work on the basis of needs. Sometimes, partners just do not realise that by using their habitual channels they miss out more needy people'.

Several people have provided examples of how their organisation in the past ten years has learnt substantial lessons in building disaster responses on local capacities. An example: 'After the earthquakes of 1999 and 2001 we worked with communities of affected people to devise new houses with a mix of traditional and new techniques which were earthquake resistant. This was a vast improvement from the response in 1995 when people were advised to evacuate but preferred to sleep outside of the shelter, because the form reminded them of constructions that accommodate bad spirits. There are many similar examples'. Someone mentioned as well the increased attention for exit strategies, whereby agencies ensure that coalitions are developed to continue the work before they leave. A guideline on exit strategies was produced by the IASC that promotes exit strategies that are supportive of recovery and long-term development activities³⁹.

The article commits INGOs to hiring local staff and working through local partners as much as possible. The People in Aid Code that is initiated by signatories of the Code of Conduct does not incorporate this aspect, since it was not given the remit to militate in favour of one sort of staff against another, but to help agencies better manage, support and develop the staff that they have. According to Jonathan Potter of People in Aid, there was a wrong perception about the People In Aid Code, when launched in 1997, that it was only for expats. 'So when the Code was revised last year it was made much more explicit that the Principles of the Code referred to any sort of employee', and people in Aid has engaged in several other activities promoting the position of local personnel in aid⁴⁰.

Several people notice that working through local partners in itself is not enough. Some statements:

- 'Agencies often only use local staff for operational tasks. Words are different from deeds'.
- 'Some local people are very disappointed with the international agency. They say that we have trained our people but the international people don't even use it.'
- 'NGHAs and INGOs are trying to maintain this article but in many cases fail as they are becoming time and target oriented'.

39 www.humanitarianinfo.org/iasc/exitstrategy.doc

40 www.peopleinaid.org

- ‘Their capacity building should be considered as such and not after they (or their staff members) are coopted into implementing donor-supported programmes as special team members or volunteers’.
- ‘If local organisations exist, they should be strengthened as actors and not as the prolonged arm of international organisations’.
- ‘Most of the humanitarian agencies use expatriate personnel even if such competences can be afforded locally’.

Someone mentioned it is necessary to reconsider the term capacity building: ‘I do not like the term. It is arrogant, it is hardware-oriented and ignores the time investment that is needed’. With regard to the purchasing of local goods, several people complain that some donor requirements work against this, such as the requirement from ECHO to use European goods or goods from the Cotonou countries. There is also the example of NGOs malpractice on this aspect of Article six:

‘I have an example, a group of IDPs in Spin Boldak border area with Pakistan where many children died due to the harsh winter in 2002. Aid agencies rushed and made the surveys and assessments and after many days purchased/transported warm clothes and heaters to the families from Malaysia, Korea, Turkey and England while these items were available in Chaman one km away from Spin Boldak.’

The development of instruments for co-ordination in the last ten years is impressive, and includes the introduction of the Consolidated Appeal Process (CAP) and the development of local NGO codes in many countries. CAPs are sometimes criticised for being more a collection of individual agency requests, than a co-ordination instrument. It is early to say what the impact is of the local codes, but the very fact that they are being drafted is already a token of coordination.

ARTICLE SEVEN

Ways shall be found to involve programme beneficiaries in the management of relief aid

Disaster response assistance should never be imposed upon the beneficiaries. Effective relief and lasting rehabilitation can best be achieved where the intended beneficiaries are involved in the design, management and implementation of the assistance programme. We will strive to achieve full community participation in our relief and rehabilitation programmes.

There are many good reasons to involve programme beneficiaries in the management of aid, including the acknowledgement of respect and dignity of people, legitimation of aid efforts, enhancing the efficiency of aid, and improving its knowledge base, sustainability and learning capacity. In conflict settings, participation can also enhance security as observed by one respondent to the survey:

‘The example of Attaghar district in Zabul province came to my mind where the Taliban captured the district centre after heavy fighting but our staff were protected and secured from bad incidents. The community elders have taken the responsibility for staff and kept them in their own houses for many days. They returned the staff safely to Qalat office.’

People also point to limitations of participation in practice. ‘Especially with emergencies the most important thing is speed, there is no time to lose’, ‘Getting participation from beneficiaries is a long and difficult process, which requires trust and good relationships’. Other limitations that are men-

tioned concern people who may not have the resources to participate 'due to the frustrating situations they are in' and that participation can 'strengthen communities disregarding the needs of their neighbouring communities'. Whereas these can be real limitations, they also show that people carry in mind a fixed notion of participation. One could also argue that agencies have to adjust their methods of seeking participation to the situation⁴¹. 'Scope for participation of the affected population needs to be created in all situations'. Small measures can make a big difference in how aid is being perceived and appreciated. Taking people seriously by operating transparently and providing timely and accurate information about one's programmes would in some situations already make an improvement.

Several people argued that progress in abiding by this article is too little or too slow 'We struggle here and are failing'. 'It is rare to see NGOs involve beneficiaries in needs assessment, programme design or project management', and 'I'm not sure that beneficiaries would agree that they are involved enough'. At an inter-agency level, ALNAP has just completed a Global Study on participation in humanitarian aid⁴². HAP-I is also concerned with participation (see Article nine).

Finally, some people question the term beneficiary. 'If people have rights, is beneficiary the right term?'⁴³.

ARTICLE EIGHT

Relief aid must strive to reduce future vulnerabilities to disaster as well as meeting basic needs

All relief actions affect the prospects for long term development, either in a positive or a negative fashion. Recognising this, we will strive to implement relief programmes which actively reduce the beneficiaries' vulnerability to future disasters and help create sustainable lifestyles. We will pay particular attention to environmental concerns in the design and management of relief programmes. We will also endeavour to minimise the negative impact of humanitarian assistance, seeking to avoid long term beneficiary dependence upon external aid.

Linking relief to development, or the objective to make relief relevant to structural or sustainable development, has become an important issue in the 1990s. Linking relief to development was originally postulated as a continuum, where in case of a natural disaster, immediate relief was followed by rehabilitation efforts after which development processes could resume. In cases of conflict the idea came up in the 1990s that the different approaches should not be seen as sequential, but be used simultaneously. This means that relief is organised as 'smart relief'⁴⁴, but also that where possible development activities are set up even during periods of open conflict. The boundaries between the different activities of relief, rehabilitation and development are not clear, and the approaches must be inter-linked in practice. A prime example of linkage is the use of food-for-work where-by relief is exchanged for labour in reconstruction programmes. The discussion about linking relief to development partly came about as a result of experiences in Sudan where agencies felt that relief

41 D. Hilhorst and B. Jansen, *Participation and Humanitarian aid: Biting realities?* Wageningen Disaster Studies. Available at: www.pso.nl

42 www.globalstudyparticipation.org. The resulting; *Handbook for Practitioners Participation by crisis-affected populations in humanitarian action*, can be ordered and downloaded from www.alnap.org

43 See World Disaster Report 2003, contribution of T. Vaux.

44 Paul Richards (1996) *Fighting for the Rain Forest: War, Youth & Resources in Sierra Leone*. Portsmouth: Heinemann.

money could be used more effectively by designing activities towards the reduction of vulnerability. A 'humanitarian-plus' approach seemed very appropriate in this prolonged crisis in a country where pockets of active hostilities were found amidst large tracts of areas that were relatively calm⁴⁵.

Article eight is in the heart of debates between so-called maximalist and minimalist humanitarians. Minimalist put premium on the strict humanitarian mandate, whereas maximalists broaden their scope to include peacebuilding and or development objectives to address the causes of conflict. Agencies' positions with regard to the linkage debate is related to their pedigree and modality of interventions. Multiple mandate organisations tend to support the notion of linkage. While the maximalist position gained popularity in the 1990s, as reflected in the Code, recent publications appear to revalue the minimalist approach. Stephen Jackson and Peter Walker cautioned against entrenching the two positions and look at the problem in a more contextual way whereby it is acknowledged that some situations allow for development-oriented aid, whereas in others aid should be limited to relief⁴⁶.

The different opinions regarding linkage are also reflected in the comments to the survey, for example:

- 'This is straying into the realms of longer-term development and so is in danger of muddying the waters. Delete references to sustainable lifestyles and the environment... first unrealistic and the second leaves us open to 'blackmail' by the too-strong environmental lobby!'
- 'Wording should be strengthened to include agencies tackling underlying causes of the immediate disaster situation - advocacy and empowerment against injustice to bring about positive personal and community change, not restoring a situation to the status quo ante'.

Most comments (eight), however, express concern that the article is not upheld in practice. 'Almost never happens. See the conclusions each year from ALNAP's Annual Review'. 'We are very sincere with this article but in case of INGOs I doubt their approach in spite of their intention'. 'The article is very useful. Not enough is done to bridge the relief to development gap'. Some people point out that this is partly because of the way funds are raised and allocated. Some people argue that the article 'needs to be updated to the specific context. In certain cases it could be contradictory and not applicable'.

ARTICLE NINE

We hold ourselves accountable to both those we seek to assist and those from whom we accept resources

We often act as an institutional link in the partnership between those who wish to assist and those who need assistance during disasters. We therefore hold ourselves accountable to both constituencies. All our dealings with donors and beneficiaries shall reflect an attitude of openness and transparency. We recognise the need to report on our activities, both from a financial perspective and the perspective of effectiveness. We recognise the obligation to ensure appropriate monitoring of aid distributions and to carry out regular

45 For a recent review of the debate, see HPG Report *Beyond the continuum: the changing role of aid policy in protracted crises* www.odi.org.uk/hpg/papers/HPGreport18.pdf

46 S. Jackson and P. Walker, 'Depolarising the Broadened and back-to-basics Relief Models'. *Disasters*, 1999, 23(2): 93-114

assessments of the impact of disaster assistance. We will also seek to report, in an open fashion, upon the impact of our work, and the factors limiting or enhancing that impact. Our programmes will be based upon high standards of professionalism and expertise in order to minimise the wasting of valuable resources.

This article deals with accountability towards donors as well as assisted people. Tony Vaux has proposed in the World Disaster Report of 2003 that considering the overlap with Article seven, the wording of Article nine concerning accountability to people will be brought under Article seven.

The quality of accountability to donors does not illicit any comments from respondents, except that 'in practice, accountability seems to be much more leaning towards the 'donor' side'.

Accountability to the emergency-affected people is considered important: 'If an aid agency is not accountable then it is better to do another job'. The comments in particular reveal that agencies don't quite know how to go about it. 'A very important article - but very hard to implement, so we haven't found good ways of doing this'. Agencies get lost in the dilemma of responding to the beneficiaries needs or guarantee a programme implementation according to the donors interests'. 'We believe in this point but face many difficulties in the field'.

At interagency level, a major initiative has been the Humanitarian Ombudsman Project. This project aimed to develop a system-wide ombudsman that used the Code of Conduct as one of its references. This initiative faced significant opposition, from signatories to the Code, because its legitimacy and feasibility were questioned, and because of concern for possible unintended and negative consequences. The initiative evolved into the Humanitarian Accountability Project International⁴⁷.

HAP-I is striving to make humanitarian action accountable to its intended beneficiaries: those people whose lives are at risk due to armed conflict or other calamitous events, for which seven principles of accountability are being developed. Some of the numerous local codes that have been developed in the past years have incorporated clauses on monitoring and complaint mechanisms.

A lot has happened in the evaluation of humanitarian aid in the past ten years, both at agency and inter-agency level. A first large inter-agency evaluation was conducted in 1996 on the Rwanda crisis. ALNAP has been active in conducting meta evaluations and provides an evaluation database on its web site. The DEC has now conducted several evaluations whereby the Code of Conduct has explicitly been used as terms of reference. Another recent initiative is COMPAS⁴⁸, an evaluation system for humanitarian aid developed by the Groupe URD⁴⁹. The implementation of evaluation findings remains, however, a point of concern. It is also clear that a lot has happened in advancing the professionalism of humanitarian aid, with agencies developing and adopting increasing numbers of standards.

ARTICLE TEN

In our information, publicity and advertising activities, we shall recognise disaster victims as dignified humans, not hopeless objects

47 www.hapinternational.org

48 www.projetqualite.org

49 www.urd.org

Respect for the disaster victim as an equal partner in action should never be lost. In our public information we shall portray an objective image of the disaster situation where the capacities and aspirations of disaster victims are highlighted, and not just their vulnerabilities and fears. While we will co-operate with the media in order to enhance public response, we will not allow external or internal demands for publicity to take precedence over the principle of maximising overall relief assistance. We will avoid competing with other disaster response agencies for media coverage in situations where such coverage may be to the detriment of the service provided to the beneficiaries or to the security of our staff or the beneficiaries.

Seven people who made a qualitative statement about this article mentioned the tension between this article and the fundraising activities of their organisation. 'Hopeless objects generate more money than dignified people, I'm told', said a person whose agency outsources marketing to an ad agency. 'Too often the need for cash corrupts this principle'. Another person experiences this tension more as a dilemma. He says: 'Does the end justify the means, when the end is so worthy? Do limiting factors of a market policy thus result in fewer people being assisted? No clear undiluted and pure policy is possible, in my opinion'. It could be interesting to use Article ten more deliberately in discussions between programme people and marketing. There is one example of an organisation where that has happened⁵⁰.

Compared to ten years ago when the Code of Conduct was drafted, some people mentioned that 'over the years it seems to be improving'. For example, RedR, a charity providing training and personnel to humanitarian agencies⁵¹, describes how its marketing is aware of the Code and how this takes practical effect: 'In recent years we have been moving away from the stereotype 'white male saving the world' to images of people getting on with their lives despite harsh conditions and national staff working with disaster affected people'.

NGOs in the UK have positive experiences with a campaign to raise funds for the southern African drought that was based on more dignified images of disaster-affected people. The campaign resulted in a record amount of money collected.

One person suggested that Article ten should be elaborated to discuss other problematic aspects about the relation between media and humanitarian aid:

'The wording of the full article could be strengthened to include that NGOs will not be swayed to respond to a situation driven by media attention, and conversely to exit a situation when media attention has moved on. Furthermore, that NGOs should seek actively to build media awareness according to need as a form of advocacy, to reduce the number of forgotten disasters.'

⁵⁰ Personal information from Lewis Sida, September 2004

⁵¹ www.redr.org

PART 3 THE MANAGEMENT OF THE CODE, ITS USE, INSTITUTIONALISATION AND ITS FUTURE

Management of the Code

In the first part of the paper it was stated that the Code contains no sections about the management of the Code. This raises the question of how the Code is managed in practice? The IFRC has been its caretaker from the start. At the back of the Code of Conduct, there is a form whereby organisations can sign up to the Code. Because there are no conditions formulated for signing the Code, the IFRC in the first years just received the forms and put signatories on a list. In 2000 the list was reviewed to remove individuals and non-NGOs, the only instruction following from the Code is that it is the Code of the RC/RC movement and NGOs. To check if an organisation is indeed an NGO, the charity number has to be provided or the web site is consulted. Otherwise, there has only been one occasion where the IFRC removed a signatory from the list after a notice that the signatory was an arms trader. In 2002, the list of signatories was put on the website of the IFRC. At that point, all signatories were asked to update their addresses. IFRC has no mandate to manage the Code, and therefore also those who did not respond (about half of the signatories) are still on the list.

Presently, then, the Code is free-floating. The IFRC is the caretaker but does not manage the Code and there are no formal arrangements about ownership, processes and procedures to govern the Code and its signatories. Signing up depends on the interpretation of signatories, for instance regarding the question if NGO families sign up once, or each organisation separately. Care International, for instance, is a signatory as well as Care Germany and Care Australia. Do you count the other Cares under the signature of Care international, or not?

The lack of management arrangements around the Code leads to several problems:

- Ownership of the Code is not clearly established.
- The list of signatories becomes inaccurate, when signatories are not periodically renewed or when signatories who cease operating are not being removed.
- There is no forum in which to discuss the required qualification of signatories. Lewis Sida found during his research a security foundation among the signatories. The signatory is now removed, but, for the sake of argument, where is the platform to discuss whether a non-profit ethical security service can or can not sign up to the Code?
- There is no representation of the Code. There are, for instance, occasional meetings of the European-based quality initiatives, where the Code is not represented or discussed.
- Without a clear guardian, people have no place to resort to when they want to report a situation

that is abusive of the Code. Occasionally, the IFRC or SCHR receives complaints, but they have no mechanism to deal with them. In practice, they can inform the organisation complained about that there was such a complaint.

- There is no forum in which to discuss questions about the interpretation of the Code, or about the incorporation of new concerns.
- There is no periodical forum or occasion where the Code can evolve, for instance to develop additional mechanisms to promote its use among signatories.
- There is no process laid down on, if, and through what process the wording of the Code and/ or the principles can be amended.

Not having management on the Code does not mean that these issues are not addressed at all. Key players in the humanitarian agencies meet each other regularly on different occasions, where matters of the Code are being discussed informally. Although the SCHR is not mentioned in the Code, it is by many considered the management body of the Code. Nonetheless, the lack of management is perceived to be a problem by several people interviewed. Several people suggested that clearer entry-criteria have to be established, and 'ask signatories to re-affirm' or to 'start the signatory process all over again'.

Institutionalisation of the Code

This section is about the institutionalisation of the Code among signatories. By institutionalisation is meant the means by which signatories incorporate the Code in their internal and external affairs. This could take many forms. Examples, based on interviews and the survey, include:

- Announce on the web site that the organisation has signed the Code with a link to the text of the Code.
- Incorporate the Code in reports of the organisation.
- Internal guideline or policy paper that makes clear how the principles of the Code relate to the own organisation's principles or other quality mechanisms adopted by the organisation.
- Make compliance of, or respect for, the Code part of contracts and staff sign up to when they come to work for the organisation.
- Make the Code part of training curricula.
- Work the Code into the format of project proposals.
- Issue the Code of Conduct as a standard part of terms of reference for evaluation.
- Make respect of the Code a condition for partnership.
- Refer to the Code in general policies.
- Provide a complaint mechanism for people served by the organisation.
- Self-assessment of the organisation's accordance with the Code.
- Peer reviews among colleague organisations to assess each other's accordance with the Code.

All the examples mentioned above are derived from practice but they seem to be rare. As we shall see below, the institutionalisation of the Code appears to be patchy.

As stated before, there are presently no requirements to organisations that sign up to the Code. Some people suggested that minimal criteria should be formulated. 'If only they have to acknowledge it on the web site', 'I suggest that as part of the requirements organisations have to submit a strategy on how to implement the Code, and how they will incorporate it in their existing policies', and 'what we favour is that each organisation that signs has to ask the question are we up to this commitment?'

One of the reasons forwarded for such minimal requirements is that even though there is no threshold to sign up to the Code, there is nonetheless a status attached to it. ECHO, for example, restricts eligibility for funding to signatories of the Code. For SIDA this is not strictly a formal condition, but its directions on how to apply for funding stipulate that: 'Sida attaches great importance to whether organisations applying for grants have endorsed the Code of Conduct for humanitarian assistance, which has been drawn up by a number of voluntary organisations of good repute, whether they observe the Code, and whether they provide regular training for their staff in the Code'.

Some people, on the other hand, are weary about introducing requirements because they fear this will inevitably lead to a system of control, or because they cannot imagine how this can become feasible. Someone said: 'I don't know what, but I have the feeling there should be something', another; 'I think it is time to go into monitoring. Or self-evaluation, in combination with a complaints mechanism. But, who has the responsibility of doing that?'

The Code in practice

The survey asked people about their use of and opinions on the Code for different aspects of their work: education, organisational development, programme implementation, negotiating and resolving disputes, lobby and advocacy and co-ordination. The tables below present the scores for each aspect. The scores represent people's estimates, with many people saying they can only give a very rough estimate, and can thus not be read as absolute figures. They do give insight in a comparative way: they are an indication of how the Code is being used relative to other aspects of work.

The Code appears most institutionalised when it comes to education. Many people remark that the Code is part of the introductory courses, in one case in a three hour session: 'In all of our training courses we spend three hours looking at the Code and exploring how this fits our mission and how it impacts upon our approach to project implementation'. There are also several remarks from people who use the Code implicitly in their education: 'We respect the Code, but we have our own training programmes specific to local contexts and activities', 'Rarely specific reference is made to the Code of Conduct', 'The Code is implicitly used in all our activities'. Three people suggest that education material and/ or translations in more languages would be helpful. One person reports that 'we have done posters of the Code and gave it out to partners and participants of our training workshops'.

Organisations have their own principles, and often adhere to different Codes and legal or operational standards. Several people report that they have incorporated the principles of the Code in their own principles and strategic plans. Some rights-based organisations find it difficult to incorporate the Code because it 'may generate conflicting messages' or because they find the rights-based approach closer to their core identity. Several people mention that the Code of Conduct has a particular role in guiding the humanitarian work of their multi-mandate organisation, for instance: 'the Code of Conduct is incorporated in working principles, reflected in policy and translated in instruments - all when dealing with humanitarian programmes. This means it is a small issue for the organisation as a whole'. One respondent commented that the Code of Conduct is used in the introduction for board members of the organisation, and that leads to lively policy discussions in the board.

Four people have given examples of how to use the Code in programme implementation. This concerned 'discussing the Code with partners implementing the programme in conflict areas', 'using the Code as a reference in appraising/planning programme interventions', 'using the Code as a

document that implementing partner NGOs must agree to', 'we recently evaluated our DEC-funded programme against principles contained in the Code of Conduct'. Otherwise this section elicited few qualitative comments, mainly stating that the Code is used implicitly, one person said: 'The Code never reached the field', another: 'People on the ground are not so familiar with the Code'.

With regard to negotiating and resolving disputes, somebody notes that 'the Code is being used in discussions with other INGOs. However, the Code does not stop the need for debate to inform decisions, for instance about the question which principle would weigh heavier'. Somebody said that the Code was explicitly used 'to stress key humanitarian principles during current debates around humanitarian space and the blurred lines between military and humanitarian actors in Liberia and Cote d'Ivoire'.

Examples mentioned on the use of the Code in lobbying and advocacy are:

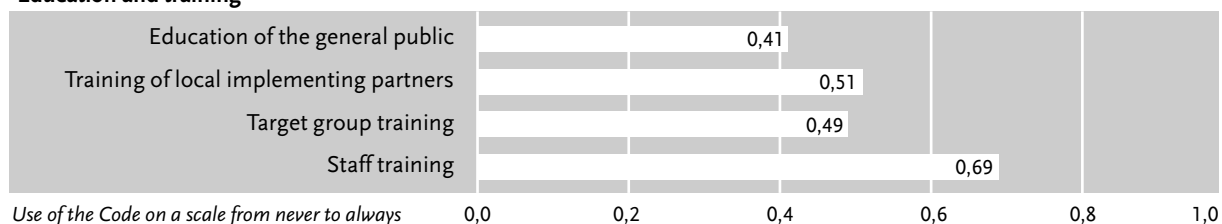
- 'We have used it to argue for increased humanitarian space'.
- 'Articles seven and nine have become central in negotiating terms with donors'.
- 'We have used the Code when negotiating the terms and conditions under which we would accept funds for belligerent governments'.
- 'I used the Code in a media interview about the war in Afghanistan in 2001 to explain the humanitarian position.'

With regards to co-ordination, comments mostly referred to local codes, which will be discussed below. Several people elaborate on the question of civil military co-operation. 'The military in this particular area does not recognise the Code of Conduct and discussions about it are rapidly cut off', 'the Code is used with the military to communicate the standards that NGOs in Iraq seek to uphold', and 'quite useful in Iraq and Afghanistan (...) allows us to serve in these chaotic days and credibility has been earned. However, it takes ongoing reminding of local players'.

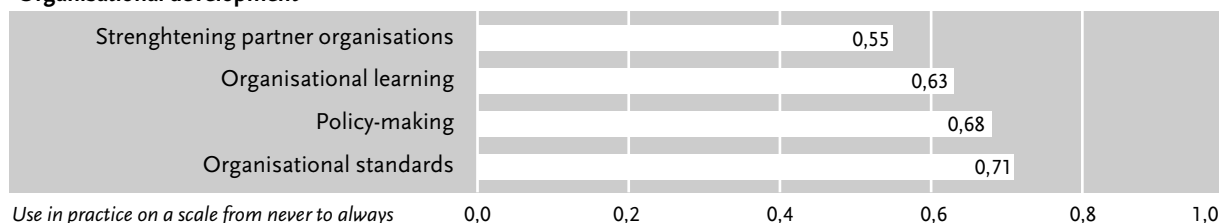
All in all, we can conclude that there are uneven instances of explicit use of the Code, while people often find that the Code and its principles are implicitly incorporated in their work. Someone said:

'In many cases, the Code coincides with the experience of the people. Many colleagues are living illustrations of the principles, they don't quote the principles, the principles are part of them'.

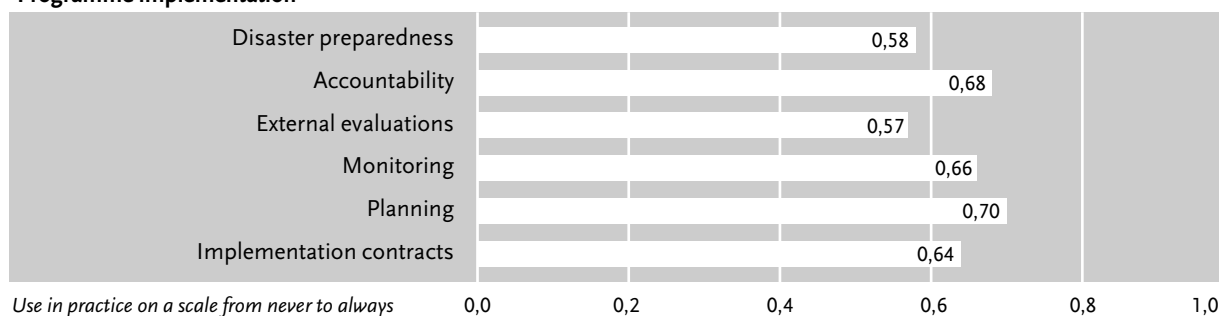
Education and training



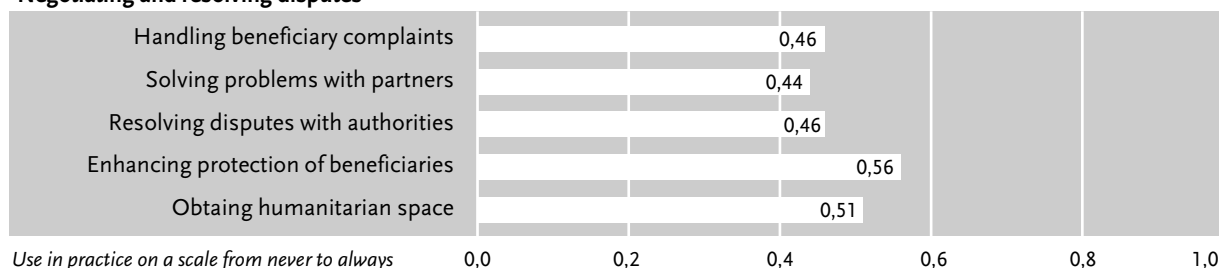
Organisational development



Programme implementation



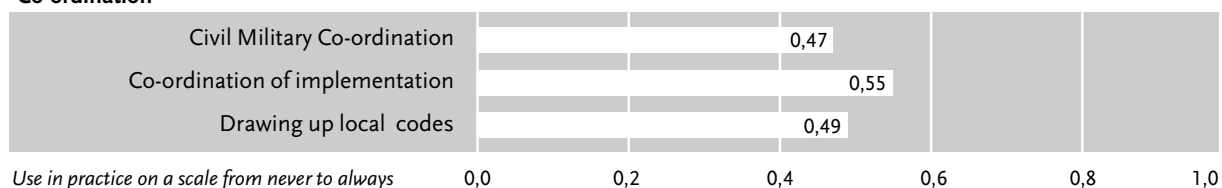
Negotiating and resolving disputes



Lobby and advocacy



Co-ordination



The Code of Conduct in relation to other values and standard-setting instruments

International Humanitarian Law is a principal body of standards for humanitarian aid. The preamble to the Code of Conduct states that in the event of armed conflict, the present Code of Conduct will be interpreted and applied in conformity with International Humanitarian Law. Apart from IHL, there are other bodies of law relevant to agencies including human rights, and a large number of conventions that governments in conflict and disaster areas may have ratified, including the Convention on the Rights of the Child with 192 signatory governments, all except the United States and Somalia, and the Convention on the Elimination of All Forms of Discrimination Against Women with 75 Signatories and 64 parties who have ratified the convention⁵². Agencies are also bound by and can make use of locally prevailing law. It has been observed on several occasions that humanitarian actors could have better knowledge and make better use of these legal standards. As somebody mentioned in the survey: the Code of Conduct has no legal standing, it is unenforceable'. Someone else said: The Code should not become a substitute for international law'.

Organisations have their own values and have often adopted different instruments. In the trend towards professionalisation of the field, a number of agencies have developed quality standards, for instance through an ISO certification⁵³. In addition there are a number of standard-setting initiatives specifically for humanitarian aid. Apart from the Inter-agency Standing Committee, ALNAP, Sphere, People in Aid and HAP-I that were already discussed earlier, it is worth mentioning the Disaster Mitigation Institute in India. DMI works towards bridging the gap between policy, practice, and research related to disaster mitigation, in an effort to link the community to the humanitarian scenario on a national and international level⁵⁴. There is a large agreement that the Code of Conduct has inspired these and other important quality initiatives (0,68 - see first table of the next section).

Finally, during the last years there has been a proliferation of local codes. Several people mention in the survey that the Code of Conduct was taken into account when drafting their local code, for instance in Cote d'Ivoire, Afghanistan, Somalia and in Colombia. The process of drafting local codes often involves international consultants, who are familiar with the Code of Conduct: 'I train OCHA staff on how to use the Code to inform local codes, which in turn improves co-ordination'. It would be important to systematically collect these local codes and make them accessible, for instance through a web site, for NGOs wanting to work on their own code.

Few people have pointed to contradictions between different instruments. Someone pointed out that the Code is not contradictory to a rights-based approach: 'We appreciate that the Code speaks of the right to receive and give humanitarian assistance', but consider that 'the Code could be strengthened further in this direction'. Interviewees in the ICRC, an other organisations with a strong set of principles of its own, also said that: we see no contradiction between our fundamental principles and the Code. It is a motivating factor in dialogue with those who broadly have the same principles.' ICRC is also seeking ways to deal with accountability and partnership, whereby they draw on the Code in their internal discussions.

Several people point to confusion among humanitarians between the different instruments. 'There are an increasing number of standards and codes to adhere to which is overwhelming to field practitioners', and 'some are confused about where it all fits together'. Notwithstanding the proliferation

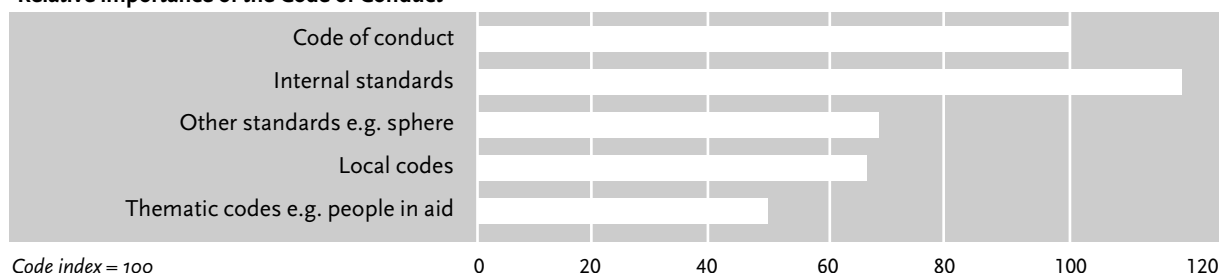
52 www.un.org/womenwatch/daw/cedaw

53 International Organisation for Standardisation (ISO), ISO 9001 and 9002 provide a comprehensive model for quality assurance, through the development and operation of a Quality Management System. www.iso.org/iso

54 www.southasiadisasters.net/aboutdmi.htm

of other instruments, the Code of Conduct is considered important. Relative to other instruments, the Code scores second to internal organisational guidelines.

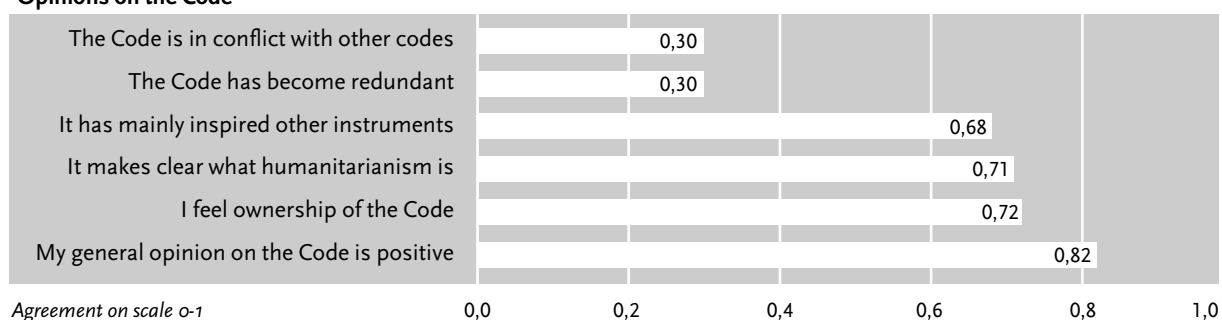
Relative importance of the Code of Conduct



Opinions on the Code of Conduct

As related in Part 1, recent events show a revival of the Code. The survey confirms that the Code continues to be valuable. Here are some opinions on the Code:

Opinions on the Code

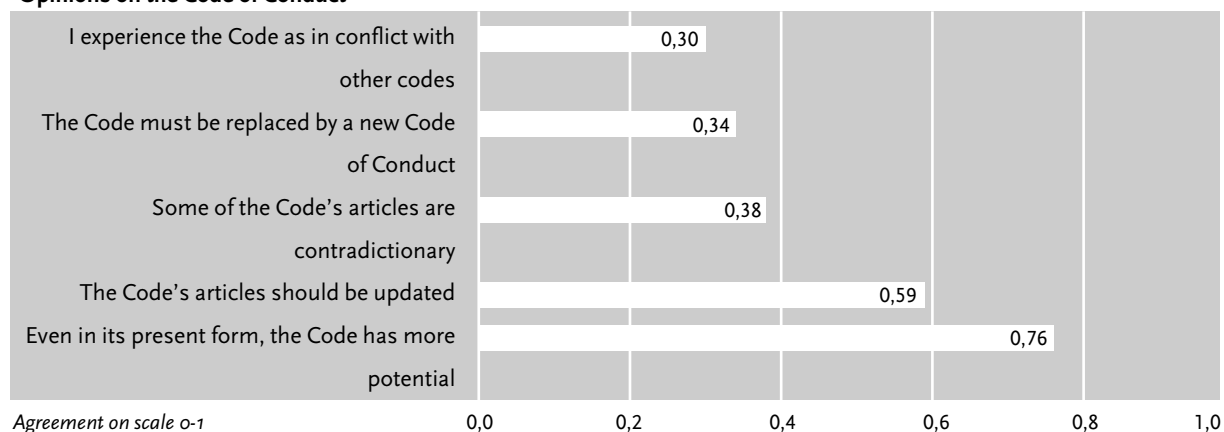


Reasons given why the Code of Conduct is important:

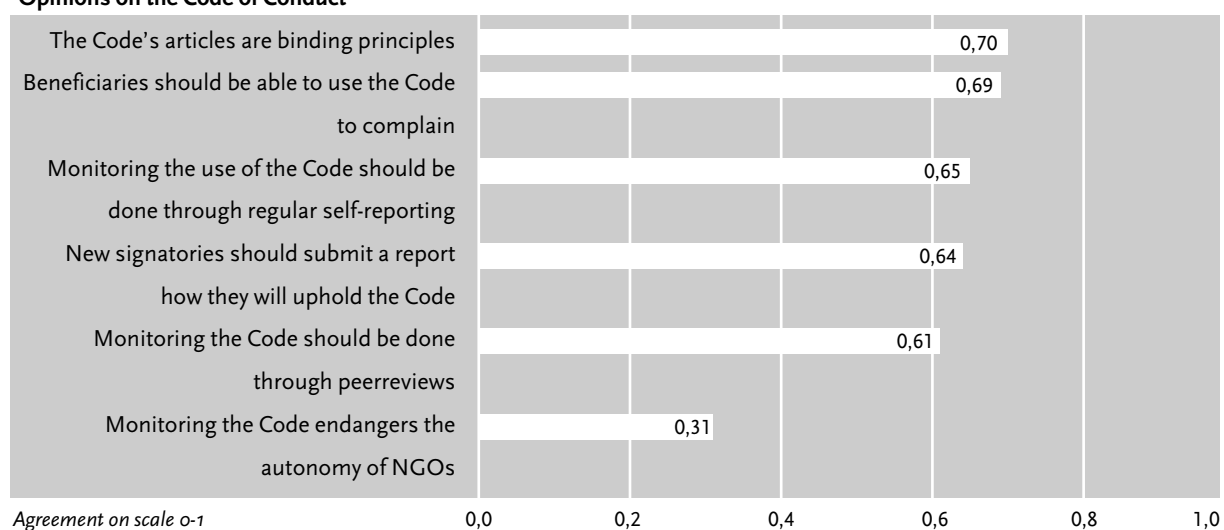
- Many people consider the Code by and large as a body of commonly shared principles.
- The Code defines humanitarians next to government and military who do the same but for different reasons.
- The Code provides a common reference for discussions between NGOs.
- The Code can guide NGOs in their discussions with other stakeholders.
- The Code is a reference for discussions within organisations between humanitarian and development divisions, and between programme people and marketing.
- The Code is relatively concise and simple, there is no need for elaborate and expensive training and institutionalisation.
- With ten years of experience and 289 signatories, the Code has gained value and a sense of ownership among many people.

The figures concur with the present trend to revalue the Code of Conduct. The Code is highly valued and deserves to be nurtured. This brings out the next questions, namely: Should the Code stay as it is? And, should some form of monitoring be introduced? The following two tables give some opinions:

Opinions on the Code of Conduct



Opinions on the Code of Conduct



People firmly agree that in the first place much can be gained by promoting the implementation of the Code as it is. There is also agreement, albeit a weaker one (0,6) that the Code's articles should be updated, without however replacing the Code. The second table interestingly shows agreement on issues of monitoring. There is large agreement that the articles are binding and that beneficiaries should be able to use the Code to complain. There is also agreement on the requirements to signatories for self-reporting. There appears thus a constituency to discuss possibilities for complaints and monitoring, or self monitoring. This concurs with the trend that many of the local codes that are being developed have also introduced mechanisms for complaints and monitoring.

During personal interviews there appeared some reluctance among key actors to change the articles of the Code or open the discussion on complaints and forms of monitoring or self monitoring. The reason given to pre-empt a discussion about these issues is that 'tinkering with the principles would be opening a Pandora's box'. The question is if this fear is justified. The Code is highly valued, and as the table in part two showed, the individual articles of the Code each enjoy large support. It has also been observed that local codes often reflect the same principles as the Code of Conduct⁵⁵. The figures suggest there is more constituency than anticipated for starting discussions on adjusting the Code to new demands of the time without losing it to disagreements.

55 Observation by Lewis Sida.

Conclusion

The main conclusion of the research is that the 'Code of Conduct of the Red Cross and Red Crescent Movement and NGOs in Disaster Relief' is alive! To borrow its language: The Code has been relieved from the life-threatening situation of being a 'forgotten code', and time has come to start reducing its future vulnerability.

The interviews and survey show a broad support for the Code and all its articles. They also show positive support for introducing complaint procedures or other mechanisms to forward the Code. The most tantalising question is of course whether the Code inspires organisations to act in accordance with its articles. That question is beyond the scope of this research, and it is questionable if ever this could be measured accurately given on the one hand contingencies of humanitarian situations and on the other the impossibility of isolating the impact of the Code from the impact of other quality initiatives.

Interviews and survey findings suggest that the use of the Code can be vastly improved. The Code is mostly used in education activities. In other aspects of humanitarian aid there are diverse examples of the explicit use of the Code, but these seem to be exceptions. The Code is mostly used implicitly and could be brought much more to the field.

One way of taking the Code to the field is to promote its use. There is a large scope for initiatives within and between signatories to do so. The Disaster Emergency Committee has taken on this role for the use of the Code in evaluation. A group of signatories has organised the international conference this paper has fed into. They will follow up the conference with a conference for Netherlands-based NGOs to decide on ways to promote and institutionalise the Code in their organisations. Other organisations could likewise take on projects to promote the Code. People who have made suggestions along this line, prefer the Code to be promoted by the signatories rather than setting up a new organisation for this purpose.

For the Code to remain a living document, however, it is also imperative that a guardian mechanism for the Code is set in motion. This mechanism, for instance comprising a representative revolving committee, takes up the following tasks:

- Define clear and transparent regulations about ownership of the Code, and incorporate these in the text.
- Define clear and transparent regulations about signatories of the Code, and incorporate these in the text.
- Consider minimal requirements for signatories.
- Consider minor amendments in the text and subtexts of the articles of the Code.
- Provide advice to signatories on how they can institutionalise the Code in their organisation, and add this to the text of the Code.
- Decide when and how to make major amendments to the articles if required.
- Decide when and how to reopen the discussion on complaint procedures and other arrangements for monitoring and self monitoring in order to strengthen the Code.

Minor and major issues to consider when amending the text of the Code include:

- Update the language of the Code, for instance by finding a more appropriate term for beneficiaries.

- Consider the suggestion of Tony Vaux to split Article nine and bring the text pertaining to beneficiaries under Article seven.
- Update the text to incorporate concerns that have become more pertinent, such as the roles, rights and vulnerabilities of children, the issue of protection, security of aid workers, forgotten crises, and HIV/AIDS.
- Resolve more clearly the issue of neutrality.
- Amend the text to acknowledge better different modalities of aid, and in particular to make the text as applicable for national NGOs as for INGOs.
- Resolve if specifications are needed on how to act in accordance with the Code in a range of different contexts for conflict and disaster, including the contexts of immediate emergencies, chronic crises and non-emergency conflict-related situations.
- Consider if, and how, the Code could be strengthened towards a rights-based approach.
- Consider the present discussions about the universality of humanitarian values.

The International Conference on ‘Ten years Code of Conduct’ on 20 September has been an important first step on this road. The conference concluded that a light guardian mechanism was necessary to keep the Code of Conduct a living instrument. The Steering Committee of Humanitarian Response that launched the Code of Conduct should play a major role in following up this recommendation, and the joint project of SCHR and ICVA to produce a commentary on the Code can set it into motion.

ANNEX

<i>Name</i>	<i>Organisation</i>
Personal interviews	
Joseph Aguetant	International Rescue Committee
Inigo Barrena	IFRC
Bruce Biber	ICRC
Nathalie Bonvin	IFRC
Koenraad van Brabant	War-torn Societies Project
Jan de Graaf	Netherlands Red Cross
Alison Joyner	Sphere
Bertran Kern	ICRC
Anne-Marie Kerrigan	UNHCR
Tilleke Kiewied	Novib/ OXFAM-NI
Louis Luna	IFRC
Kirsi Madi	Inter-Agency Standing Committee
Joel McClellan	Steering Committee for Humanitarian Response
Noria Mezlef	Humanitarian Accountability Project
Eva von Oelreich	IFRC
Manon Olsthoorn	Netherlands Ministry of Foreign Affairs
Antonia Potter	Concern
Thor-Arne Prois	Act International
Ed Schenkenberg	ICVA
Lewis Sida	Consultant
Hugo Slim	Henri Dunant Centre
Nick Stockton	Humanitarian Accountability Project
Email interviews	
Sultan Amri	Somalia
Ahmed Awale	Somalia
Paul Barker	Care International- Afghanistan
Nel den Boer	Worldvision Netherlands
Shkelqim Bozgo	Cafod Albania
Bob Hedley	ZOA-Liberia
Sasja Kamil	Cordaid
Mohammed Kroessin	Muslim Aid, London
Bobby Lambert	RedR
John Mitchell	ALNAP
Chris Piper	Consultant, Australia
Jonathan Potter	People in Aid
Oscar Rodríguez	PCS
Johan Schaar	SIDA
Patrick Stanton	British Civil Defence
Barbara Stapleton	Acbar, Afghanistan
Stuart Willcuts	Air Serv International
Roger Yates	Action Aid