

## **A Human Rights-Based Approach to Refugee Assistance**

By Michael Posner and Deirdre Clancy

*At a time when the world is confronted with one human rights emergency after another—from Rwanda to Kosovo to Afghanistan—humanitarian organizations are under pressure, both internally and externally, to re-evaluate their role in providing refugee aid.*

As brutal civil conflict becomes the hallmark of war today, and governments continue to derogate their responsibilities to protect refugees, adhering to the humanitarian aid criterion of ‘impartial and non-political’ becomes more and more difficult. Engagement with the daily human rights implications of delivering aid is now a vital task for humanitarian organizations grappling to redefine their responsibilities in an increasingly complex and chaotic world.

### ***The Challenge***

In the aftermath of the genocide in Rwanda in 1994, more than two million refugees fled for safety to neighboring States. Aid agencies poured into the region to help alleviate the refugee plight in unprecedented numbers. More than a million refugees flowed into Goma in Eastern Zaire in four days. However, among those clamoring for help were criminals who had planned and executed the genocide. Arriving also were members of armed militias intent on prolonging the violence. Once in the camps, these individuals were free to target humanitarian aid as a resource for refueling their war

machine and to subject refugees to violent coercion while furthering their political objectives.

Aid workers were acutely aware of how their humanitarian efforts were being exploited. Many simply gritted their teeth. In order to assist those desperately in need, it was inevitable that a percentage of their resources would be appropriated for war. Many aid workers believed that the presence of the international community might help to moderate violence that would otherwise be perpetrated without witnesses. To these workers, the alternative, leaving the camps, would be an unconscionable abandonment of the thousands of refugees. Others felt that cooperation with human rights violators, however indirect, was unacceptable. In the words of Medecins Sans Frontieres' Nobel Prize acceptance speech in 1999, "Abstention is sometimes necessary so that the humanitarian is not used against a population in crisis."

The horrific dilemma posed in Goma dramatically highlights some of the most difficult questions that agencies continue to face:

- Who is responsible for protecting refugees and who are the protectors accountable to? The State? Aid agencies? The 'international community'?
- What does 'protection' mean? Physical protection? Protection against starvation and disease?
- Can agencies in a refugee camp decide not to provide aid? Can a distinction be made between 'deserving' and 'undeserving' recipients of assistance?

- How far must an agency go in exploring the implications of its decision to assist? Can providing food and water ever be an ‘impartial act’? To what degree is an agency responsible for calling on other actors to combat gross abuses to which the refugees it assists are subjected?

All of these are human rights questions with human rights implications.

### ***What is a Human Rights Approach to Refugees?***

The core of a rights-based approach to refugee assistance is the identification of a certain standard of treatment to which an individual refugee is entitled. Consider the 1966 International Covenant on Economic, Social and Cultural Rights. The Covenant provides that food is not just a privilege governed by the vagaries of charity, but is a right that guarantees access to food in sufficient quality and quantity. Making this basic human right fully enjoyed by refugees in practice can, however, be a quite a challenge. Liberian refugees living in camps in Guinea in 2000, for example, were bewildered when the food trucks arrived. In place of their familiar staple, rice, was a delivery of bulgur wheat. None of the refugees knew how to prepare it, and there was no one to teach them. Many of the refugees went hungry. The inadequacy of the distribution violated the recipients’ right to food. Not only was the food basket consisting only of bulgur wheat and oil lacking in essential nutrients, but the provision of a culturally unfamiliar foodstuff diminished the refugees access, in practical terms, to the few nutrients available.

Recognizing an aid recipient's rights requires taking a deeper look at his or her situation. In the context of the inadequate food basket in Guinea, for example, were refugee women more vulnerable to sexual and other exploitation because they had to search for alternative ways to feed their children? Often, what seems like a simple administrative matter, and a matter secondary to the aid process, can take on crucial significance. Last year, the rights of 40,000 Liberian refugees in Guinea were threatened because they did not receive ration cards. Not only were the refugees denied food and medical services but, because the cards were used as identity documents, the refugees were also vulnerable at security force checkpoints to a higher risk of extortion, assault, sexual abuse and arbitrary detention.

A rights-based approach treats the individual as a responsible actor. Involving refugees in decisions that affect their lives helps to improve their readiness to return home by preserving the strengths and skills of a community in exile. A rights-based approach can also significantly improve the quality of aid that the refugees receive in the near term.

In Moussaya Camp in Guinea's Forecariah region, for example, refugees sought permission to construct their own health clinic in 2000. They were refused. Simultaneously, the training of refugee birth attendants by a medical NGO was discontinued. The population was left entirely dependent on Guinea's national health care system. Unfortunately, care in Guinea is of low quality and is far removed from some of the camps. Travel to Guinean hospitals and health posts was severely hampered because of the lack of security in the county and because many refugees did not have identity

papers. Making matters more complicated, few health workers in Guinea speak English — the language most of these refugees understood. These factors, exacerbated by the refusal to recognize refugee capacity to contribute to their own health care posed formidable, if not insurmountable, barriers to adequate care for refugees.

In contrast, in Senegal, Mauritanian refugees were involved in their own health care project. They started a clinic, using initial funding from a U.N. and a local agency. The refugees were able to stock medicines in bulk and sell them at a modest profit, allowing the clinic to become self-sustaining. Today, the center employs a nurse and a midwife and has funded construction of a well. The provision of clean drinking water has had an additional positive impact on the health of refugees.

### ***Partnerships for a Rights Based Approach***

How would a human rights analysis have helped navigate the sea of human misery and evil that was Goma in 1994? A comprehensive answer to this question is impossible here. However, as a starting point, a human rights approach would have identified that States, individually or via the international community, are obliged by law to identify both the perpetrators of genocide and those responsible for destroying the civilian character of the camps. Having done this, States must then separate out such individuals from the majority of the refugees. The failure to do this in Goma resulted, ultimately, in the complete destruction of the camps and the deaths and disappearance of tens of thousands.

As governments have allowed humanitarian NGOs to assume a greater role in providing for refugees, NGOs have had to assume increased responsibility for upholding the human rights of those populations. They cannot, of course, fill all the gaps left by States, especially where they relate to issues of security. However, by taking a rights approach to their own work, and by forming partnerships with advocacy organizations, humanitarian agencies can create a more rights-respecting environment.

The International Rescue Committee (IRC) is among those currently pursuing this route. Since 1942, the IRC has been providing sanctuary and life saving assistance to those fleeing persecution and the ravages of war. In 1999, it established a Protection Department, which now deals with human rights within the organization's daily work, training field staff in the principles of refugee protection and intervention. The Department is also equipped to support advocacy efforts related to human rights raised by the field staff.

At the same time, human rights organizations are taking a closer look at the practical dilemmas faced by aid workers in the field. With the stark lessons of Goma in mind, the Lawyers Committee, for example, is working with local and international humanitarian groups on the development of a legal framework for the "separation and exclusion" of those individuals camps who are the perpetrators of human rights abuses and violence.

While integration is effective, experience proves that bringing the two kinds of approaches together in a formal manner can significantly accelerate the protection benefits for refugees. In 1999, the Lawyers Committee signed a memorandum of understanding with the IRC pledging to cooperate more closely on advancing refugee rights issues. Lawyers Committee staffers have already trained IRC field workers in Guinea; IRC staff from New York recently updated the Lawyers Committee on the crisis in West Africa. Joint research has been undertaken and pilot projects are in the pipeline around the development of new practical tools to enhance protection.

In hindsight, the blending of human rights and humanitarian concerns seems natural. It may even seem surprising that it did not occur earlier. Yet human rights organizations traditionally have focused on civil and political rights – such as freedom from torture and arbitrary detention. Humanitarian organizations have focused on meeting refugees' basic needs. The point, as the Goma story, shows, is that these issues are inseparable.

The movement toward a human rights-based approach to humanitarian assistance is in its infancy, but growing. The need is clear: Every worker who makes a decision on where to place a camp latrine or what food to purchase has to think about the larger human rights picture.

The question now is how best to spread that message.

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- ◆ For more information on the social and economic rights of refugees in West Africa see discussion paper developed jointly by the Lawyers Committee and the West African Refugees and Internally Displaced Persons Network (WARIPNET); *“From Response to Solutions: Strengthening the Protection of Refugees Through Economic, Social and Cultural Rights, a Discussion Paper on the Economic, Social and Cultural Rights of Refugees in West Africa”* at [http://www.lchr.org/refugees/intl\\_refugees/regions/africa/response\\_solutions.pdf](http://www.lchr.org/refugees/intl_refugees/regions/africa/response_solutions.pdf)
  
- ◆ For more information on the International Rescue Committee’s work, visit IRC’s web site at <http://www.intrescom.org>