

## THE DISTRIBUTIVE COMMITMENTS OF INTERNATIONAL NGOs

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For the past several years, international nongovernmental organizations such as Oxfam and Doctors Without Borders have spent over \$4 billion annually assisting people affected by earthquakes, famines, epidemics, violent group conflicts, and other disasters.<sup>1</sup> This sum is significant, but it is nowhere near adequate to aid all disaster-affected people whom NGOs wish to assist. Although a few high-profile disasters, such as the 2004 Indian Ocean tsunami, have elicited more contributions than NGOs can effectively utilize, for the most part there is not enough money to go around. NGOs must therefore make wrenching decisions about how to distribute the scarce resources at their disposal.<sup>2</sup> In this chapter I examine the moral and ethical commitments that inform these decisions.

The principles that NGOs use to allocate disaster relief might at first seem readily apparent. Since it was created in 1994, more than four hundred NGOs (both international and domestic) have signed the Code of Conduct for the International Red Cross and Red Crescent Movement and NGOs in Disaster Relief (henceforth, "the Code").<sup>3</sup> This Code has principles that pertain

directly to aid distribution. Not every NGO that has signed the Code agrees with or consistently abides by all of its principles. Nonetheless, the existence, prominence, and widespread acceptance of the Code suggests that its principles are seen by many in the NGO community as plausible, important, and not deeply controversial (yet also not so self-evident that their inclusion would be ridiculous).

Although it is a significant source of information, the Code does not begin to exhaust the morally relevant considerations that NGOs incorporate into their distributive decisions. At one level, this is not surprising because the Code consists of only general principles; it does not incorporate the myriad contextual judgments that NGOs must make when they apply these principles to specific situations. Nor does the Code say anything about how NGOs should decide among several courses of action, all of which are consistent with the Code. If this were all that was left out of the Code, there would be no compelling reason to look beyond it. Yet, actual NGO practices, along with the explanations of those practices that NGOs offer, suggest that many NGOs allocate aid in part on the basis of general, normatively important distributive commitments that are not included in the Code.

The bulk of this chapter is devoted to elucidating these distributive commitments. I describe them, discuss how widespread and explicit they are, identify various justifications for them, and consider their propensity to conflict with other

<sup>1</sup> Development Initiatives, "Global Humanitarian Assistance 2006," 2006, 47. Available at <http://www.globalhumanitarianassistance.org>. This figure is a conservative estimate for "NGOs" in 2005 (most of which are probably international). The estimate for 2003 was \$3 billion. Although there are millions of local NGOs, I will here use "NGO" to refer to international NGOs, unless otherwise indicated.

<sup>2</sup> I exclude religiously based distributive commitments. This focus on (international) NGOs and on disasters might seem narrow: NGOs are engaged in many activities other than disaster relief, and disaster relief is provided by many kinds of actors other than NGOs. Yet, even when we fix our sights "narrowly" on NGOs and disaster relief, a multitude of distributive commitments emerge. Moreover, as many aid professionals point out, the categories of "international NGO" and "disaster relief" are themselves far more internally diverse than an outsider might suspect. That said, and while I do not offer evidence to support this claim here, many of the distributive commitments that I discuss in this chapter are recognized by actors other than NGOs, and by NGOs in contexts other than disaster relief.

<sup>3</sup> Online at

<http://www.ifrc.org/publicat/conduct/index.asp>. Retrieved July 22, 2007. All other citations of the Code are to this document. Although several such codes have been proposed, the Red Cross Code is the most prominent and widely accepted. The Code was originally written to guide aid provision in the aftermath of "natural" disasters, but it is often invoked in the context of man-made disasters as well, particularly situations of violent group conflict. In addition, several principles in the Code are similar to the principles of the International Committee of the Red Cross, which were originally written to guide aid provision during and immediately after armed conflict. See Jean Pictet, *The Fundamental Principles of the International Committee of the Red Cross* (Geneva: International Committee of the Red Cross, 1979).

commitments and principles. The bases on which NGOs distribute international disaster aid are far more numerous, subtle, and diverse than the Code implies (and then outsiders generally suppose).

There are two primary reasons why uncovering this diversity is worthwhile. One is that it adds breadth, depth, and texture to our understanding of NGO distributive practices. In so doing, it contributes to normative debate about how NGOs should distribute their resources. Like the chef who takes an inventory of the kitchen before beginning to cook, in this chapter I offer an inventory of the distributive commitments that NGOs actually have, so as to contribute to ongoing collective debate about the commitments that they should have. Of course, just because a particular distributive criterion is embraced by NGOs does not mean that that it is normatively defensible; conversely, just because NGOs reject or overlook a particular criterion does not mean that it ought to be excluded. However, there is good reason to think that the experience of providing aid, while it might have warped their perspective in some respects, has also given NGOs moral and ethical insights into aid distribution that outsiders do not have. My objective here is to elucidate these insights, using the tools of political theory and philosophy to disentangle and conceptually clarify them. Implicit in this approach is the idea, which I do not explicitly defend, that NGOs should make decisions in part on the basis of general guidelines—as opposed to having their response to particular situations turn only on the specifics of those situations.

In addition to enriching debates about how NGOs should distribute resources, a second reason to identify the full range of their distributive commitments is that doing so contributes to a better descriptive understanding of aid provision itself. This might seem counterintuitive, because theorists usually move from the descriptive to the normative. That is, they usually describe a particular set of practices, such as the distribution of international aid by NGOs, and then ask what principles and commitments should guide those practices. I am suggesting that the opposite approach is also fruitful: examining actors' normative principles and commitments can generate an improved description of the practices that are the context for those principles and commitments. For example, many NGOs are committed to distributing resources fairly between refugees and host communities. This brings out a descriptive feature of international aid—refugee settlements are often located in populated areas—that might otherwise have been deemed irrelevant or overlooked entirely.

In response to my focus here on morality and ethics, one might argue that the real determinants of how aid resources are distributed are the constraints that external actors impose on NGOs: the restrictions that donors place on their

donated funds, the demands of government officials, attacks by combatants on aid workers, and so forth. These constraints do help shape how NGO resources are distributed, but that does not obviate the need to identify the distributive commitments that NGOs should have. These constraints are, after all, not impervious to change: NGOs have successfully negotiated with governments for access to populations that had previously been deemed off-limits, and they have persuaded donors to change their funding priorities. Having a clear sense of how NGOs should distribute their resources can help to guide decisions about which external constraints NGOs should most forcefully resist or try to alter. In the next section, I argue that the Red Cross Code is not only an incomplete account of NGO distributive commitments, it also makes distributive commitments that are not in the Code more difficult to see. Next, I discuss a wide range of NGO distributive commitments, moving, roughly, from those that are publicly stated, widely held, and explicit to those that are much more implicit. I conclude by asking why, given the willingness of NGOs to publicize detailed information about 'so many aspects of aid provision, they are not more forthcoming about the range and complexity of their distributive commitments.

### Limitations of the Code

The Code's failure to capture all of the distributive commitments that NGOs have is neither surprising nor problematic. One feature of the Code that is somewhat troubling for our purposes, however, is that it elides some of the distributive commitments that are not in the Code, making them difficult to see.

The principle in the Code most directly concerned with distribution (principle 2) states that "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." The context suggests that the second sentence of this principle, "aid priorities are calculated on the basis of need alone," is a restatement or clarification of the first sentence. But the two sentences make very different claims. The first sentence commits signatories to nondiscrimination. Nondiscrimination is consistent with a range of distributive commitments, such as chance, desert (worthiness), or maximally reducing harm.<sup>4</sup> In contrast, providing aid "on the basis of need alone" excludes all bases for distribution other than need.<sup>5</sup>

<sup>4</sup> Brian Barry, *Justice as Impartiality* (Oxford: Oxford University Press, 1995), 19.

<sup>5</sup> Michael Walzer, *Spheres of Justice: A Defense of Pluralism and Equality* (New York: Basic Books, 1983), 75.

One might argue that this reading is too literal. Perhaps "aid priorities are calculated on the basis of need alone" should be taken to mean "aid priorities are calculated on the basis of morally relevant criteria alone." If we adopt this interpretation, then NGOs that are nondiscriminatory but take morally relevant considerations other than need into account do not thereby defy principle 2. But if this principle only commits signatories to nondiscrimination, then it does not provide much guidance regarding how NGOs should distribute resources. In short, if we adopt the more literal reading and interpret principle 2 to mean that need is the only acceptable distributive criterion, we find ourselves with an implausibly demanding and monistic account of the distributive commitments of NGOs. Alternatively, if we adopt the looser reading and interpret principle 2 to prohibit only discriminatory – distributive practices, we end up knowing very little about signatories' distributive commitments. Whichever we choose, principle 2's conflation of nondiscrimination with aid based on need elides the very possibility of nondiscriminatory distributive commitments other than need. But as we shall see, NGOs have many such commitments.

A second way in which the Code elides the diversity of NGO distributive commitments is by focusing attention on two related debates that seem to repeat themselves endlessly in the NGO literature. One is about whether NGOs should be "political" as opposed to "neutral"; the other is about whether they should be "consequentialist humanitarians" who focus on maximizing good outcomes or "deontological humanitarians" who focus on the duty to provide aid (especially to the worst off).<sup>6</sup> The Code reinforces these debates by providing some evidence for both sides of each debate, and by supporting the underlying categories that help to structure the contrasts on which the two debates are based. The problem is not that the Code fails to resolve these debates but, rather, that it foregrounds them at the expense of other issues. As I will show in the following sections, the political vs. neutral and consequentialist/deontological dichotomies are far from being the only tensions that NGOs must navigate.

#### Distributive Principles beyond the Code

Given the Code's limitations, it is necessary to look to other sources of information about the distributive commitments of NGOs. Before turning to this task, it is worth specifying what we mean by "moral and ethical," "distributive," and

"commitments." By "commitments," I mean general considerations that are seen as weighty by those who have them. They include principles, standards, and criteria, as well as more informal and implicit (but still substantial) considerations. The distinction between "moral and ethical" commitments and other (e.g., self-interested) commitments is that the former directly invoke principled or other-regarding reasons. Finally, even though many decisions that NGOs make affect who gets how much of what, my focus is on "distributive" commitments, by which I mean commitments that pertain to distribution directly. For example, NGO safety regulations affect how aid is distributed, but these effects are indirect. In contrast, a policy endorsing a wide geographic spread of aid programs affects resource distribution directly.

#### *Aid according to Need*

Principle 2 of the Code (the principle that commits signatories to providing aid "on the basis of need alone") is echoed in the organization-specific principles of several NGOs and the International Committee of the Red Cross. For example, the International Rescue Committee states that in conflict zones "relief of the suffering must be guided solely by their needs and priority must be given to the most urgent cases of distress."<sup>7</sup> The ICRC states that it "makes no discrimination as to nationality, race, religious beliefs, class, or political opinions. It endeavours only to relieve suffering, giving priority to the most urgent cases of distress."<sup>8</sup> Both of these statements are referred to as principles of "impartiality." Just as principle 2 of the Code conflates aid according to need with nondiscrimination, these principles conflate aid according to need with impartiality. As a result, they also help to elide the existence of impartial distributive criteria other than need. Moreover, the text of the principles just cited strongly suggests that providing aid according to need requires doing more than making need the only relevant distributive criterion (such that no one gets more or less aid than they need). It also entails prioritizing the worst off. As the ICRC's principle states, "priority must be given to the most urgent cases of distress." A principle that identifies need as the only relevant distributive criterion is more determinate than a principle of nondiscrimination or impartiality. A principle that identifies need as the only relevant criterion and gives priority to those with the greatest need is more determinate still. Such a principle is best understood not as a form of impartiality but rather

<sup>6</sup> Thomas G. Weiss, "Principles, Politics, and Humanitarian Action," *Ethics and International Affairs* 13 (1999): 3; David Rieff, "Moral Imperatives and Political Realities," *Ethics and International Affairs* 13 (1999); Mary B. Anderson, *Do No Harm: How Aid Can Support Peace-Or War* (Boulder, Colo.: Lynne Rienner), 38.

<sup>7</sup> International Rescue Committee, "Guidelines for Interacting with Military and Belligerent Parties," April 9, 2003. On file with the author.

<sup>8</sup> Pictet, *Fundamental Principles of the International Committee of the Red Cross*, 37.

as an expression of what the philosopher Derek Parfit calls the "Priority View" which is that "benefiting people matters more the worse-off these people are".<sup>9</sup> As Parfit states, "Distribution according to need is better regarded as a form of the Priority View".<sup>10</sup> This clarification grounds two important features of aid according to need. First, it is distinct from concerns about equality. Benefiting people matters more the worse off they are because it is bad to be badly off in absolute terms, not because it is bad to be worse off than others. Increased equality of outcome is an effect of making worst-off people better off, not the objective. Thus, the Sphere Handbook (a handbook of technical standards for disaster assistance) is misleading when it states that the "humanitarian aims of proportionality and impartiality mean that attention must be paid to achieving fairness between women and men and ensuring equality of outcome."<sup>11</sup> Second, according to Parfit, the Priority View is not absolute: "benefits to the worse off could be morally outweighed by sufficiently great benefits to the better off."<sup>12</sup> This possibility is not acknowledged in the principles cited above. However, as we will see, NGOs do in fact often make trade-offs between aid according to need and other distributive commitments, such as maximally reducing harm.

#### *Maximizing Harm Reduction*

Insofar as it focuses more on undertaking the right action than on achieving the best outcome, the principle of aid according to need fits most easily into a duty-based conception of ethics. In contrast, because it focuses more on achieving particular consequences, a second distributive commitment maximally reducing harm-is more consistent with what philosophers call "consequentialist" approaches to ethics. Although this distinction can be a useful way of distinguishing among different types of distributive commitments, I will offer, at the end of this section, one reason not to put too much weight on it.

Thomas Pogge uses the term "harm reduction" to capture the intuition that, above a certain point, the "benefits" of aid cease to have moral value because they no longer guard against or help to

ameliorate morally important harms.<sup>13</sup> I shall follow this approach here. The idea that it is better to achieve greater rather than lesser reductions in harm is implicit in the annual reports of almost all NGOs, particularly in claims about the number of people whom they have assisted. Different NGOs seek to reduce different types of harm: mortality, morbidity, indignity, exclusion, destruction of livelihoods, insecurity, vulnerability, and so forth.

When the worst-off people can be assisted cheaply, there is no conflict between providing aid according to need (with priority for the worst off) and maximally reducing harm. In some cases, however, NGOs must make tradeoffs between prioritizing the worst off and reducing harm as much as possible. In those cases, different NGOs make different choices. MSF-Holland, for example, states that it "will aim to reach those most abused and/or most in need in any given context-over attempts to have the impact for the greatest numbers."<sup>14</sup> In contrast, a CARE white paper on food aid states that "CARE is committed to maximizing efficiency and impact."<sup>15</sup> These trade-offs can be made at different scales, for example, among individuals, villages, regions, or type of disaster. A given NGO might make different trade-offs at different scales. For example, it might direct resources to the worst-off village it can find but within that village do triage among individuals.

Although they adjudicate them in different ways, virtually all NGOs face conflicts between prioritizing the worst off and maximizing harm reduction. Even MSF-Holland, for example, declines to provide some expensive medical treatments such as dialysis, chemotherapy, or heart surgery in some situations.<sup>16</sup>

This is because numbers of lives matter, even if they matter less to some organizations than others. The debate, then, is not about which of these principles is valid, but rather about how much weight to put on each at different scales.<sup>17</sup>

<sup>13</sup> Thomas Pogge, "Moral Priorities for International Human Rights NGOs," in *Ethics in Action: The Ethical Challenges of International Human Rights Nongovernmental Organizations*, ed. Daniel A. Bell and Jean-Marc Coicaud (Cambridge: Cambridge University Press, 2007), 218-56.

<sup>14</sup> Médecins Sans Frontières-Holland, *Middle-Term Policy, 112003-12/2005*, 5, 9. On file with the author.

<sup>15</sup> CARE, "White Paper on Food Aid Policy", 3. Available at [http://www.care.org/newsroom/articles/2005/12/food\\_aid\\_whitepaper.pdf](http://www.care.org/newsroom/articles/2005/12/food_aid_whitepaper.pdf). Retrieved July 22, 2007.

<sup>16</sup> Kenny Gluck, MSF-Holland, interview 2003.

<sup>17</sup> See James Ron, Howard Ramos, and Kathleen Rogers, "Transnational Information Politics: NGO Human Rights Reporting, 1986-2000," *International Studies Quarterly* 49, no. 3 (2005): 557-87; Stephen Hopgood, *Keepers of the Flame: Understanding Amnesty International* (Ithaca: Cornell University Press, 2006).

<sup>9</sup> Derek Parfit, "Equality and Priority," *Ratio* 10, no. 3 (1997): 202-21, 213.

<sup>10</sup> *Ibid.*, 216.

<sup>11</sup> *Sphere Handbook on Humanitarian Charter and Minimum Standards in Disaster Response*. 2004 Revised handbook. Online at <http://www.sphereproject.org>, p. 12. The *Sphere Handbook's* Humanitarian Charter includes the Red Cross Code. Retrieved July 22, 2007.

<sup>12</sup> Parfit, "Equality and Priority," 213.



There is, however, another way to look at this trade-off. It might be that acting on a principle of "aid according to need" is the best way for NGOs to maximally reduce harm. It is possible that, if NGOs intentionally tried to maximally reduce harm in every decision that they made, they would miscalculate, cut corners, find the process overly psychologically taxing, or spend too much time and money collecting information. Paradoxically, therefore, it might be that NGOs will do more to reduce harm if they comply with the principle of prioritizing the worst off than they would if they straightforwardly tried to act on principle of maximally reducing harm. This dynamic might reduce the tension between prioritizing the worst off and maximizing overall benefit in some cases, but I do not think that it erases it entirely; the trade-off is real. Nonetheless, the possibility that compliance with a publicly stated principle is the best way to achieve a different, unstated distributive objective raises the issue of publicity: How important is it that NGOs are transparent about their distributive commitments?

#### *Efficiency*

Maximally reducing harm is often conflated with efficiency (as in the quotation from CARE cited above). Although efficiency is a necessary component of maximally reducing harm, they are not identical. Like maximally reducing harm, providing aid efficiently entails using resources in a way that maximally achieves some outcome. But in the case of efficiency, that outcome can be anything, including doing heart surgery or assisting the worst off. Some aid workers bristle at the economic thinking that, in their view, the term "efficiency" implies. For example, one aid worker stated that "some business approaches [to aid provision] ... make it less meaningful. [Avoiding that approach is] very much a choice of not so much efficiency."<sup>18</sup> This worry about a "business approach," however, is better directed at maximizing harm reduction than at efficiency: efficiency can be understood as an uncontroversial commitment to avoiding waste, regardless of the ends for which unwasted resources are utilized. Although efforts to efficiently pursue any narrow objective can generate a destructive single-mindedness or tunnel vision, it is possible to retain a commitment to efficiency while not construing aid only in terms of lives saved or liters of water provided.

#### *Priority to Victims of Intentional Violent Harm*

A fourth distributive commitment—one that is explicitly endorsed by some NGOs but not others—is a commitment to prioritizing victims of

intentional violent harm. For example, MSF-Holland writes that it is "best suited to respond to needs created by: violent conflict, flagrant and intentional abuse of peoples' freedoms and dignity."<sup>19</sup> The IRC "helps people fleeing racial, religious and ethnic persecution, as well as those uprooted by war and violence."<sup>20</sup> NGOs that make statements along these lines nonetheless sometimes respond to "natural" disasters: the IRC and numerous MSF sections provided aid to victims of the 2004 Indian Ocean tsunami and the 2005 earthquake in Pakistan, for example. However, both at least claim to put extra weight on intentional violent harm. Of course, this might mean being especially attentive to the needs of populations that are disliked by their government and so discriminated against in the aftermath of natural disasters. (It also might entail providing aid to victims of high-profile natural disasters so as also to be able to assist victims of lower-profile situations of chronic violence.)

There are at least four distinct reasons why an NGO might prioritize victims of intentional violent harm over other potential aid recipients. First, it might conclude that people affected by intentional violent harm are worse off than others, always or on average. This reason collapses into aid according to need. Second, an NGO might think that it can maximally reduce harm by providing aid in violent contexts—for example, because it has special expertise or because it can simultaneously work to strengthen institutions (such as the International Criminal Court) that will help to avoid future harm. This reason collapses into maximally reducing harm. Third, an NGO might simply prefer assisting victims of intentional violent harm. This is a nonmoral reason—although it, too, might also collapse into other reasons. For example, aid workers might be more effective if they are allowed to pursue their preferred projects. Fourth, an NGO might think that there is something independently bad about intentional violent harm. It might argue that the viciousness or vileness of such harms is a reason for NGOs to address them, even if those harmed are not the worst off and/or even if assisting them does not maximize harm reduction overall.

Of these four reasons, the last is the only one that is a moral consideration and does not collapse into any of the other distributive commitments discussed so far. I doubt that there is a compelling reason to prioritize intentional violent harm over other sources of suffering without recourse to claims about who is worst off and/or who can be assisted most effectively. Even if some amount of priority to victims of intentional violent harm can be defended, there is

<sup>18</sup> Interview with MSF employee, 2003.

<sup>19</sup> Medecins Sans Frontieres-Holland, *Medium-Term Policy 2003-05*.

<sup>20</sup> IRC website, <http://www.theirc.org/what/>, accessed August 30, 2006.

a persistent danger that features of these situations that are not morally relevant (such as their visual drama) will lead NGOs and/or donors to give them more priority than is warranted. In addition, while priority to victims of intentional violent harm can be consistent with prioritizing the worst off or maximally reducing harm, it can also conflict with these other distributive commitments.

### *Participation*

A fifth distributive commitment about which many NGOs are relatively explicit is a commitment to having aid recipients and potential recipients participate in decisions about how aid will be distributed. This principle is actually in the Code, although it has received much less attention in discussions of aid distribution than principle 2. Principle 7 of the Code states that "ways shall be found to involve programme beneficiaries in the management of relief aid." So long as "management" is taken to include decisions about allocation, this principle is a distributive commitment, albeit a procedural rather than a substantive one. As the Code's commentary on this principle makes clear, however, it refers to local decisions about the distribution of aid within communities, not to large-scale decisions about aid distribution among communities.<sup>21</sup>

There are at least three reasons why aid recipients' participation in local distributive decisions is morally valuable. One is that it can improve NGO compliance with other principles: involving community members in discussions about who is the most vulnerable can enable NGOs to better identify the worst-off individuals; involving aid recipients in decisions about how to distribute aid can enable NGOs to distribute aid more cost-effectively. The Code invokes this type of consequentialist reasoning when it states that "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."

A second reason to value participation is that it can have normatively important benefits distinct from the outcome of decision-making processes. For example, participating in decisions about aid distribution can enhance the social status of women and increase aid recipients' self-esteem. As one NGO staff member stated, "Just the process [of having recipients participate] gets buy-in from the community and gives them ownership. And it serves to maintain their dignity; you're respecting and valuing their input."<sup>22</sup> A third reason to value participation is that,

according to democratic ethics, it is intrinsically good for people to have some say in decisions that directly and significantly affect them.<sup>23</sup>

But while participation can be conducive to compliance with other principles, it can also conflict with them. Despite widespread agreement that participation is valuable, a frequent complaint among aid recipients, outside observers, and aid workers is that NGOs have failed to put their commitment to participation adequately into practice. Thus, one way that participation can conflict with other distributive commitments is in the form of competition over resources between training aid workers in how to better foster aid recipient participation and other components of aid provision. When such conflicts occur, attentiveness to the various reasons why participation is important might improve judgments about how to adjudicate them.

### *Equality*

The distributive commitments discussed so far—aid according to need, maximally reducing harm, efficiency, priority to victims of intentional violent harm, and aid-recipient participation in distributive decisions—are all commitments about which at least some NGOs are quite explicit. With equality we turn our attention to commitments that are somewhat less explicit.

The idea that aid should be provided according to need does not entail the view that equality of outcome is valuable. Some NGOs do, however, view equalizing outcomes among individuals as independently valuable. In particular, some NGOs are committed to what I will call "local equality," by which I mean equality among individuals who live near each other but who belong to different social (often different ethnic or national) groups. One reason why this sort of equality is valuable is because of its effects on social and political relationships. As the *Sphere Handbook* states:

In situations where the vulnerability of local populations to disaster is high or where there is widespread poverty or prolonged conflict, it can be the case that the Minimum Standards exceed normal everyday living conditions. Since this can give rise to resentment, local conditions must be taken into account, and programmes should always be designed with equality of the affected and surrounding populations in mind.<sup>24</sup>

In these kinds of situations, the size of the "affected and surrounding populations" can be significant compared to the size of the IDP or refugee population that is the original intended recipient of aid. For example, in 2003 the

<sup>21</sup> This is in some tension with the statement under the Code's "purpose" that "it is not about operational details, such as how one should calculate food rations or set up a refugee camp."

<sup>22</sup> Interview with Frank Broadhurst, IRC, 2003.

<sup>23</sup> Iris M. Young, *Justice and the Politics of Difference* (Princeton: Princeton University Press, 1990), 34.

<sup>24</sup> *Sphere Handbook*, 14.

International Rescue Committee provided aid not only to thirty-five thousand Sudanese refugees in the Kiryondongo refugee camp in Uganda but also to ten thousand Ugandan nationals who lived near the camp.<sup>25</sup> The foregoing quotation from the Sphere Handbook is, however, ambiguous on a crucial point: Is the purpose of equality to avoid resentment and/or disruptive manifestations thereof, or is it to avoid an unfair state of affairs to which resentment is a justified response? How one answers this question turns in part on whether one views NGOs as voluntary actors or as having more robust, quasi-governmental responsibilities to all of those affected by their actions.<sup>26</sup> I cannot resolve this question here; I only note that it also arises in the context of other aspects of aid provision, such as how NGOs manage and respond to aid's negative effects. Quite apart from local equality, some NGOs are committed to various forms of equality at the global level, as Thomas Pogge explains:

Many NGO managers are strongly committed to a particular ideal of fairness across countries: They think it unfair to spend more resources on protecting people in some countries than on protecting people in other countries merely because resources can be employed more cost-effectively in the former than in the latter. They believe that, so long as resources can achieve some harm protection in a country, a fair share thereof should be allocated to this country even if the same resources could achieve much more elsewhere.<sup>27</sup>

This kind of commitments to large-scale equality among groups can crop up not only among countries but also among continents, nationalities, regions, and other large groupings. Pogge argues that there is no basis for diverging from a harm-minimizing distributive scheme in the direction of more equality among different countries.<sup>28</sup> I think that this is correct. Among other things, shifting resources to or away from a group only because of its national identity, for example, appears to conflict with impartiality and nondiscrimination, as NGOs use those terms.

#### *Diversity and Number of Recipient Countries*

When it comes to large-scale distributions among groups, however; I do not think that equality among countries is the only, or even necessarily the primary, issue. In addition to equality among

countries, NGOs also put weight on two slightly different distributive commitments: providing aid in a diverse array of recipient countries and providing aid in a large number of recipient countries. Many major NGOs have (emergency and/or development) programs in twenty to fifty countries and three to five continents at any given time. The set of countries in which a given NGO works tends to be diverse with regard to geographic location, race, ethnicity, religion, and other factors.

It is possible that these distributive patterns can be attributed at least in part to one or more of the distributive commitments discussed so far. In particular, providing aid in a large number or diverse array of countries might be conducive to maximally reducing harm. Oxfam UK, for example, argues that "with a programme spread across the world Oxfam has a greater understanding of the many causes of poverty, and we can achieve greater impact."<sup>29</sup> NGOs that provide aid in many countries are also potentially more likely to be perceived as a "global force" by donors, governments, and intergovernmental organizations than are NGOs that provide aid in only a few geographically contiguous countries. NGOs also might be able to respond to rapid-onset emergencies more quickly and effectively if they have programs up and running in places where emergencies frequently occur than would be possible otherwise.

NGOs might also find themselves providing aid in a diverse array of countries as a by-product of their efforts to distribute aid according to need. Although this depends on many factors (e.g., the amount of money available and the cut-off above which aid is no longer provided), it seems unlikely that aid provided only on the basis of need would be allocated to fifty different countries. In interviews, numerous aid practitioners stated that if aid were being provided according to need it would be concentrated in only a few places (such as in 2002 and 2003 the Democratic Republic of Congo and Chechnya).<sup>30</sup>

What seems more likely is that at least some NGOs place some independent value on providing aid in a large number and/or a diverse array of countries. The International Rescue Committee, for example, has a principle of "diversity" that states that "the IRC provides relief, resettlement and repatriation services to diverse populations of refugees, displaced persons and victims of war, conflict or persecution." One motivation that some NGOs seem to have for doing this is that they want to show that they do not discriminate against anyone. By assisting people in many places, they

<sup>25</sup> Simon Worrall, IRC employee, personal communication, 2003.

<sup>26</sup> Anderson, *Do No Harm*.

<sup>27</sup> Pogge, "Moral Priorities," 228.

<sup>28</sup> As Pogge notes in "Moral Priorities" and as I discuss elsewhere, one exception might be divergences in favor of those who are expensive to assist because they are victims of injustice.

<sup>29</sup> Oxfam, *Annual Report and Accounts 2003/14*, 4. Online at [http://www.oxfam.org.uk/about\\_us/downloads/report2004.pdf](http://www.oxfam.org.uk/about_us/downloads/report2004.pdf).

<sup>30</sup> Anne Fouchard, MSF-France, interview, spring 2003.

wish to illustrate their willingness to assist people anywhere. This approach is, however, in a sense self-undermining: NGOs that are willing to provide aid anywhere can maximally pursue their other distributive commitments without being limited by geographic or other barriers. However, distributing aid so as to illustrate a willingness to provide aid anywhere conflicts with simply being willing to provide aid anywhere. Some NGOs might view this kind of "performance" of inclusion as a form of advocacy, and it might well have salutary effects. Even if it does, however, conflicts can arise between the best distribution of resources for this type of advocacy and the best distribution for the purpose of complying with other principles.

### *Special Duties*

The term "special duties" refers to duties that actors have to other actors by virtue of a particular relationship or connection. Although there are many types of special duties, two are particularly relevant to NGO distributive practices: associative duties that "members of significant social groups and the participants in close personal relationships have to each other," and role-based obligations, such as the duties of doctors to their patients or lawyers to their clients.<sup>31</sup>

NGOs that view themselves as having associative or role-based duties often take themselves to have heightened distributive commitments to aid recipients and to people who live nearby to aid recipients. For example, one NGO stated that "the decision to continue an intervention is weighed by different standards than the initial decision to intervene. Once we are working in an area and engaging a population we develop responsibilities to those people."<sup>32</sup> With regard to people who live nearby to aid recipients, one aid worker stated that "if you come across a second big problem among the population you are working with, you have to deal with it. When MSF was setting up a feeding programme in southern Sudan and came across a huge epidemic of kala-azar, it dealt with it."<sup>33</sup> Expatriate NGO managers might also take themselves to have heightened role-based or associative obligations to their local staff, many of whom are aid recipients themselves.

Fulfilling special duties is often consistent with other distributive commitments that NGOs take themselves to have. For example, providing

additional aid in a place where it is already working is likely to reduce an NGO's startup costs; NGOs that fulfill their role-based duties are likely to inspire greater participation among aid recipients than they otherwise would. Yet, compliance with special duties can also conflict with other distributive commitments, in particular; the commitment to maximally reduce harm.

In everyday life we tend to think of duties as actions that we should do but sometimes do not want to do. However, it is likely that the most salient ' danger with regard to special duties is not that NGOs will fail to respond to them adequately, but rather that they will put too much weight on them *visa-vis* other responsibilities. For example, an NGO might continue to assist a particular group because of a sense of loyalty and attachment, even when that group no longer has a pressing need for aid. Ironically, this worry about prioritizing those groups with whom an NGO already has a connection is precisely the lament of cosmopolitans who argue that people in wealthy countries put , too much emphasis on assisting compatriots rather than on donating to international NGOs.<sup>34</sup> In other words, the partiality toward those nearby that international NGOs are meant to overcome can reassert itself with much different connotations and political effects-on the part of NGOs themselves, even when they are "far from home."

### *Coup de Coeur*

The line between partiality and what some French aid organizations call *coup de coeur* (which in this context can roughly be translated as an intense but fleeting passion or interest and partiality) is even more difficult to draw than the line between special duties and partiality. A recent survey of forty-four European international humanitarian organizations (IHOs) found that "in more than half of IHOs, the decision-making process for starting and ending a field mission also includes a place for projects close to the heart. It is above all the management, in 42% of IHOs concerned, which authorizes these projects."<sup>35</sup> Similarly, one aid organization wrote that "the debate [about where to intervene] should be grounded in strong information on the nature of the crisis and open to the subjective passions and outrage felt by field teams and our association members as they come into contact with populations that suffer."<sup>36</sup> Finally, in his study of how the World Health Organization distributes resources, John Roemer quotes an internal WHO

<sup>31</sup> Samuel Scheffler, *Boundaries and Allegiances* (Oxford: Oxford University Press, 2001), 49-50.

<sup>32</sup> Medecins Sans Frontieres-Holland, "Medium Term Policy 2003-05," 11.

<sup>33</sup> Medecins Sans Frontieres, "Justice and MSF Operational Choices," 25. (No date). Report on file with the author.

<sup>34</sup> Peter Singer, "Famine, Affluence, and Morality," *Philosophy and Public Affairs* 1, no. 1 (1972): 229-43.

<sup>35</sup> Institut Bioforce Developpement, 2002, "Governance in European International Humanitarian Aid Organizations," 34-35. Report on file with the author.

<sup>36</sup> Medecins Sans Frontieres-Holland, "Medium-Term Policy 2003-05," 10



document that is suggestive of a gentler version of a coup de coeur:

The definition of need is itself a subjective process, and it is not at all clear that criteria applicable to one population apply with equal force to all populations. The answer of the modern public health planner to the problem of allocation of resources would be to set up a mathematical model, using as objective, quantitative criteria as possible but agreement on the parameters for such a model would be hard to reach... In view of the complexity of the matter and the great number of largely unquantifiable factors involved, it has been a matter of "feeling one's way" over the years in arriving at the allocations of WHO resources between regions.<sup>37</sup>

Like the commitment to participation discussed above, coup de coeur is a procedural rather than substantive basis for decision making. Although some NGOs deliberately make distributive decisions in part on this basis, for others the main reason to have explicit distributive principles is to avoid making decisions on this basis.

As with some of the other distributive commitments discussed above, distributing aid in accordance with aid workers' feelings of coup de coeur might be defended as simply a means of complying with other distributive commitments. For example, the degree of urgency or outrage felt by experienced aid workers might be the best way for NGOs with limited resources to gauge the degree of need in a particular place. On this view, there is a cognitive component to aid workers' feelings of coup de coeur that is an irreducible part of good moral judgment.<sup>38</sup> In addition, NGOs might be more effective and efficient if managers allow workers to pursue projects that move them. Others might counter these claims by arguing that such reliance on sentiment biases aid distribution toward those to whom aid workers already have some sort of (perhaps subconscious) connection or attraction. In any case, insofar as NGOs do incorporate coup de coeur into their decision making-and it might be impossible for them to avoid it entirely-it is crucial that the workers whose feelings are consulted are not biased, and that they have enough experience to make informed judgments about the relative severity of different cases.<sup>39</sup>

<sup>37</sup> John Roemer, "Distributing Health: The Allocation of Resources by an International Agency," in *The Quality of Life*, ed. Amartya Sen and Martha Nussbaum (Oxford: Oxford University Press, 1993), 347.

<sup>38</sup> Martha Nussbaum, *Upheavals of Thought* (Cambridge: Cambridge University Press, 2001).

<sup>39</sup> Michael Oakeshott, *Rationalism in Politics and Other Essays* (London: Methuen, 1962), chap. 1; also see James Scott, *Seeing Like a State: How Certain Schemes to Improve the Human Condition Have Failed*

## Desert

I turn now to a distributive commitment that NGOs, perhaps surprisingly, reject: moral worthiness, what philosophers call "desert." In his essay "National Responsibility and International Justice," David Miller suggests that there is less of an obligation to assist those whose needs are due to their own blameworthy action or inaction than those who are in need due to misfortune that befalls them or injustice inflicted on them by others.<sup>40</sup> Miller backs away from this claim by the end of his essay, but he is not the only one to raise it.

Thomas Pogge also notes that needs that are due to an agent's past "recklessness" are "morally less important" than other needs.<sup>41</sup> Given that the needs that NGOs seek to address so greatly outstrip available resources, it is understandable that theorists ask why, if someone has to go without aid, it should not be those who are less deserving. In particular, why should NGOs assist the very people who intentionally or negligently caused or continue to cause the suffering that NGOs now seek to redress? Although theorists have been willing to at least investigate the idea that aid agencies should distribute humanitarian aid in part on the basis of merit or desert, NGOs have roundly rejected this notion (at least in theory).<sup>42</sup>

One reason NGOs reject desert as a distributive criterion is practical: it is simply too difficult for them to determine guilt on an individual basis. Efforts to do so would likely sap valuable resources and undermine their access to innocent people in need of aid. Efforts to avoid assisting alleged human rights violators by bypassing entire groups that include those violators smack of collective punishment and create incentives for groups to frame their enemies or "report" them to NGOs.

In addition to these practical arguments against incorporating considerations of desert into aid allocation, there is a more principled argument. This argument states that, because all persons have rights and inherent dignity, they should all have access to basic necessities. This principled argument seems to be more difficult to defend

(New Haven, Conn.: Yale University Press, 1998), 313-14

<sup>40</sup> David Miller, "National Responsibility and International Justice," in *The Ethics of Assistance: Morality and the Distant Need*, ed. Deen K. Chatterjee (Cambridge: Cambridge University Press, 2004), 123-46.

<sup>41</sup> Pogge, "Moral Priorities," 222.

<sup>42</sup> Fiona Terry accuses NGOs of providing aid in part on the basis of desert by favoring the more "deserving" recipients in Honduras in the late 1970s and early 1980s, Terry, *Condemned to Repeat? The Paradox of Humanitarian Action* (Ithaca: Cornell University Press, 2002), chap. 3.

than the practical argument. In particular, it seems to conflate what people are owed by their governments with what NGOs have an obligation to provide, especially when resources are limited. A more plausible principled argument might be that there is an important moral difference between a person dying because he has been denied aid as a result of being falsely accused of a crime and a person dying because fair distributive procedures did not result in him getting enough resources to live. Both situations are arguably unjust, but the former is more so.

Drawing on the practices of NGOs, their explanations of those practices, and conspicuous divergences between the views of NGOs and some theorists, I have argued that the distributive commitments of many NGOs are more varied and subtle than the Red Cross Code suggests. They include commitments to providing aid according to need; maximally reducing harm; being efficient; prioritizing victims of intentional violent harm; including aid recipients in distributive decisions; promoting local and large-scale equality; responding to special duties; providing aid in a diverse array and large number of countries; incorporating the coup de coeur of aid workers; and avoiding distributing aid on the basis of desert. Of course, not all of these commitments are embraced by all NGOs—not to mention by all of their employees. Crucially, there are several possible justifications for several of these commitments. In particular, some can be endorsed either as means for complying with other distributive commitments or as ends that are valuable in their own right. This distinction matters because if complying with one commitment (e.g., local equality) is simply a means of attaining compliance with another commitment (e.g., maximally reducing harm), then there is no problem replacing the former commitment with another means of achieving compliance with the latter commitment if circumstances warrant. This is not the case if the former commitment is valuable in its own right.

I noted at the outset that the Code's conflation of nondiscrimination and need elides nondiscriminatory distributive commitments other than need. Many of the commitments that I have discussed here are of this kind. Thus, one problem with debates about whether NGOs are or should be "political" versus "neutral," or "consequentialist" versus "deontological," is not that they exaggerate the differences among NGOs, but that they understate these differences: more precisely, they understate the range of axes on which NGOs can differ from one another.<sup>43</sup> These two tensions—particularly the

consequentialist-deontological tension—do capture real trade-offs between possible distributive schemes. But these are only a small part of what any normative theory of aid distribution by NGOs must address.

I also noted at the outset that examining the normative commitments of NGOs can help to paint a thicker description of aid provision itself. The foregoing discussions of local equality, special duties, coup de coeur, and the prioritization of victims of violent intentional harm help to bring out the normative implications of descriptive features of international aid that might otherwise go unnoticed: the tension created by proximity among different social groups, the attachments that can develop between NGOs and those they assist, and the deep and intense emotional response that aid workers can have to the plight of those they want to assist or are already trying to assist.

#### *Publicity about Distributive Commitments*

A brief perusal of the website of any major Western relief NGO reveals extensive documentation of its history, activities, finances, and approach to aid provision. Most of these organizations also provide detailed information about their use of donated funds. For example, a report from MSF-USA about its activities in Sri Lanka after the 2004 tsunami states that "MSF staff distributed mats, jerry cans, buckets, blankets and soap to 6,000 families living in camps or with relatives in 18 villages of the Ampara district. MSF also built 1,100 temporary shelters with water and sanitation facilities in the towns of Kalmunai, Pottuvil and Tirukkivil."<sup>44</sup> Many NGOs view this kind of publicity as ethically important. Indeed, the Code's principle of "accountability" states that "all our dealings with donors and beneficiaries shall reflect an attitude of openness and transparency."<sup>45</sup> More precisely, there are at least three reasons why publicity about the distributive commitments of NGOs might be morally valuable. First, it can make NGOs more predictable: if NGOs say what their

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States Institute of Peace, 2006). Nicholas Stockton, "What Are the Most Significant Current Trends and Challenges-Positive as well as Negative-to International Humanitarian (Refugee) Action Assistance?" presentation to CARE International, no date. Online at <http://www.hapinternational.org>. Retrieved July 22, 2007.

<sup>44</sup> <http://www.doctorswithoutborders.org/publications/arli2005srilanka.cfm>.

<sup>45</sup> I use the term "publicity" rather than "transparency" because it implies more proactivity than transparency. Transparency might not achieve all of the benefits that publicity achieves, because even when an organization is transparent, barriers to accessing information about it might remain high for some groups.

<sup>43</sup> Hugo Slim, "Claiming a Humanitarian Imperative: NGOs and the Cultivation of Humanitarian Duty," in *Human Rights and Conflict: Exploring the Links between Rights, Law and Peacebuilding*, ed. Julie Mertus and Jeffrey Helsing (Washington, D.C.: United

commitments are, and then follow through on them, then aid recipients and potential recipients have a better idea of what they can expect—which can be, for them, a matter of life and death. Second, as I mentioned at the outset, publicity about how NGOs actually distribute resources can enrich debate about how they should distribute resources. This debate, in turn, can produce better policies and practices. Third, as the quotation from the Code cited above suggests, publicity about distributive commitments can promote accountability, by enabling actors to identify cases in which NGOs have failed to live up to their stated commitments. These three benefits of publicity—predictability, deliberation, and accountability—can be quite significant. Although it is likely that the publicity about some commitments will end up being more beneficial than others, this is difficult to determine in advance: it is only by publicizing a given commitment that NGOs can find out, for example, how much it contributes to public debate or to aid recipients' ability to plan for the future.

Given that NGOs recognize publicity's moral importance, and given that they publicize so many other aspects of aid provision, why do they say relatively little (at least on their websites) about the diversity of moral and ethical commitments that guide their distributive practices? There are several possible explanations. NGOs might think this information unimportant. Donors might not ask for it. If the information were provided, it might confuse individual donors; the picture of aid provision that it paints they might also find unsettling. More information about NGO distributive commitments might also enable large-scale donors to exercise even more control over NGOs than they do currently. Finally, the process of deciding what, exactly, to say about their distributive commitments might create rancor within NGOs, by exposing disagreements and creating a need for consensus about what are otherwise decentralized decisions.

Finally, there might be operational drawbacks to NGOs publicizing their distributive commitments. For example, combatants looking to gain the upper hand in battle, procure additional resources, or get NGOs into or out of their territory can use information provided by NGOs to manipulate them. On the one hand, if an NGO states that it will distribute aid according to specific criteria no matter what, then combatants know that, for example, the NGO will continue to aid civilians in a given area even if some of its supplies are stolen. On the other hand, if an NGO states that it will provide aid in response to certain empirical conditions, such as cost-effectiveness, combatants can change those conditions—for example, by imposing taxes or travel restrictions—thereby manipulating distributive outcomes. In these sorts of contexts, NGOs have good reason to remain somewhat unpredictable and inscrutable at least to those

trying to manipulate them. Sadly, it would seem that the specific, concrete information about distributive commitments that is likely to be most practically helpful to aid recipients and potential recipients is also the most likely to make NGOs vulnerable to manipulation.

Given that publicity about distributive commitments has these (and other) benefits and costs, NGOs must make trade-offs between procuring the benefits and avoiding the costs. Large-scale donors—those that can effectively demand increased publicity from NGOs—must make these trade-offs as well. I do not think that we can say in general or in advance what trade-offs NGOs and donors should make with regard to publicity. There are myriad reasons, having to do with deliberation, transparency, accountability, and respect for donors and aid recipients, why the default position of NGOs should be to publicize their distributive commitments. Yet, given the contexts in which NGOs work, it is entirely possible that the costs of such publicity will outweigh the benefits at least some of the time, especially in the short term. In such cases, NGOs can search out compromises: for example, second-order publicity about the fact that not all of their commitments are being publicized. Although such a compromise signals respect for the norm of publicity, it is unclear how many of the substantive benefits of publicity (predictability, deliberation, and accountability) it can deliver.

Over the long term, efforts should be made to reduce conflicts between publicity about NGO distributive commitments and other values. In the short term, attention to what specifically is at stake in a given trade-off is likely to be conducive to adjudicating that trade-off as well as can possibly be done. ■