Beyond the headlines
An agenda for action to protect civilians in neglected conflicts
Executive Summary

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Executive Summary

Since the atrocities of September 11th 2001, the leaders of the major international powers have been focused upon confronting what they perceive as the greatest threat to world security: the combination of weapons of mass destruction and international terrorism. At the 2001 GA-summit in France, the leaders of Canada, France, Germany, Italy, Japan, Russia, the United Kingdom, and the United States agreed that this combination posed the greatest current threat to world security.

Though those threats are very real, terror is nothing new for millions of people caught up in the world’s seemingly intractable conflicts. Rebels and governments alike have been terrorizing civilians for years in too many civil conflicts. Oxfam and our partners already witness mass destruction: from Sudan to Colombia, Liberia to Indonesia, millions of people continue to be killed, raped, injured, or forced to flee their homes. Gender, age, ethnicity and other factors are associated with suffering in distinct ways. For example, men are in danger of being killed or abducted for fighting, while young girls can be kidnapped as labourers or sex slaves.

For decades, these conflicts have caused much more death and destruction than has terrorism. Since 2001, these trends may have made civilians even more vulnerable than before:

1. Warring parties targeting civilians.

Direct attacks on civilians are part of the harsh reality of most conflicts across the globe. From Liberia to Uganda, Chechnya to Colombia, international humanitarian law is not adequately upheld or enforced by the international community, and the suffering of civilians continues unabated. The attention given to the ‘war on terror’ threatens to eclipse this suffering still further, as warring parties carry out their fighting with impunity. And while recent US and UK-led military operations in Iraq and Afghanistan have attempted to minimize harm to civilians, and force used must be proportionate to the military gains anticipated. All warring parties must plan their military tactics to safeguard civilians.

2. Substantial humanitarian aid for ‘priority’ cases, very little for the rest.

Donor governments rapidly donated some US $2bn to post-war Iraq. This represents about $74 per person in need. By contrast, donors only gave $7 per person to the Democratic Republic of Congo, and $7 per person to Indonesia. Looking at the totals donated to emergencies, the difference is striking. The same donors that rapidly came up with the billions for Iraq claim a shortage of funds when failing to respond to the humanitarian appeals for Burundi, Guinea, and the majority of other countries in crisis, although these appeals are looking for just one per cent of the amount of money.

3. Human rights considerations being overridden in the fight against terror.

In the year following September 11th 2001, the US government requested some US $3 8bn in military aid from Congress to 57 governments to support counter-terrorism, although half of those governments were criticized by the US State Department for their poor human rights records.

4. The independence and impartiality of humanitarian aid under threat.

A dangerous precedent is being set by moves by coalition forces to use the military to distribute humanitarian relief in parts of Iraq and Afghanistan. In addition, the draft EU constitution dangerously entangles humanitarian aid with a counter-terrorism agenda. In wars across the world, this infringement of the space for impartial humanitarian action could inhibit the distribution of humanitarian aid on the basis of need. It could even result in aid agencies or the people they assist being targeted for attack.

From our work around the world, Oxfam has observed the high human cost as the international community abandons civilians to struggle through conflict-affected zones. Oxfam believes that it is time to refocus international attention on the conflicts that kill and impoverish millions of people year in, year out; conflicts in most ways unrelated to the events since 2001. The international community currently responds to these crises in an inconsistent way in terms of both political and diplomatic commitment, and of humanitarian aid. Oxfam is calling for the UN Security Council and global leaders to mainstream the imperative to protect civilians to take action more consistently, both to protect civilians and to ensure the impartial delivery of humanitarian aid on the basis of need, rather than political priority.

Nearly half of all the funds given by donor governments in 2001 to the UN’s twenty-five humanitarian appeals went to just one country, Afghanistan – a desperately poor place but one that was also top of the list of priorities in the ‘war on terror’. The remaining 44 countries had to struggle by on what was left. This pattern of unequal funding recurrs year after year. While Oxfam is not advocating a reduction in funding to any emergency where there is need, the challenge is to provide funding without diverting resources from the millions of people affected by other emergencies.

We also know from our experience of working in dozens of conflicts that what civilians in wars need is not primarily money. It is peace. Until peace is possible, however, ensuring the protection of civilians is crucial. All governments have duties under international humanitarian law to protect civilians from the worst ravages of war, to allow them to live free from violence, coercion, and deprivation. Yet the international community is failing to provide that protection for most children, women, and men caught up in today’s conflicts.

There is no one-size-fits-all action to protect civilians, but international engagement is critical. There is a range of actions that the international community must pursue more consistently. Strong diplomatic pressure will be required at times for the difficult negotiations to secure access for civilians to humanitarian aid behind the lines of fire. In extreme cases, it may be necessary to contribute troops to a UN-managed mission to enforce a ceasefire and to protect civilians.

In all cases, states must act to prevent the supply of arms from fueling conflicts or contributing to the abuse of human rights.

The UN Security Council, and particularly the five permanent members, has a critical responsibility to safeguard international peace and security. Their duty is not only to tackle the greatest threats to the industrialized world, but also to uphold international law to protect the lives and dignity of all civilians suffering in some 42 violent conflicts around the world. They are failing short of this goal.

The international community should reaffirm its commitment to the international humanitarian law that it has signed up to. In particular, Oxfam calls for the following actions:

• The international community - led by the UN Security Council - must develop strategies to engage more consistently with seemingly intractable conflicts to help protect civilians in neglected crises. All possible tools must be made available, including interner diplomacy, support for the negotiation of access for humanitarian aid, and in extreme cases, the contribution of troops to UN-led peacekeeping missions with strong mandates to protect civilians. In addition, governments and the UN should implement new systematic procedures to ensure that they assess how to best protect vulnerable civilians in all crises.

• Governments and warring parties must plan their military tactics to safeguard civilians. Any military action must distinguish between military targets and civilians, and only direct attacks against the former. In all events, precautions must be taken to minimize harm to civilians, and force used must be proportionate to the military gains anticipated. All warring parties must ensure that free passage is given to humanitarian aid throughout the conflict. All signatories to the Geneva Conventions have an obligation to press others around them to do the same. They must absolutely refrain from encouraging, tolerating, or arming allies who are committing abuses.

• Donor governments must demonstrate that they are giving humanitarian aid based on need, not on political priority. They must commit to consistent and adequate funding for all emergencies, with a particular emphasis on effectively funding neglected crises. In particular, they must take concrete steps to implement the plan of action from the June 2003 Good Donorship conference, including support for the proposal to develop a system-wide analysis of risk and need as proposed by the UK Overseas Development Institute.

• Governments must at all times recognize and preserve the independent, impartial and civilian character of humanitarian aid. In light of the changing political landscape brought on by the struggle against terrorism, this is critically important as the link between the civilian humanitarian actors and the military are becoming blurred. In many cases the protection of civilians, the access of communities to humanitarian aid, and the safety of humanitarian aid workers depends upon preserving this distinction between civilians and the military.

• Governments must make increased, sustained, and equitable investment in addressing the causes of forced migration and supporting durable solutions for refugees and asylum seekers. The EU must ensure that these efforts are not reserved for only those countries and regions that are currently the sources of large numbers of asylum seekers. The efforts of Western governments must focus on finding durable solutions for asylum seeking and refugee populations, rather than trying to shrug off their existing commitments.

• Humanitarian agencies - NGOs, the ICRC, and the UN - must constantly strive for quality, accountability, and efficiency in their actions to protect and assist civilians. Building on initiatives such as Sphere and the Humanitarian Accountability Project (HAP), agencies must make concrete steps to ensure impartial delivery of humanitarian assistance, and increased accountability towards the people they seek to assist.

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Introduction

This Afghan woman is passing in front of wall paintings of landmines and grenades, which continue to maim and kill people in the country. Suffering years of war, drought and international isolation, Afghanistan was a neglected emergency before the events of September 11th.

Photo: Jenny Matthews/Oxfam
1. Introduction

Since the atrocities of September 11th 2001, the leaders of the major international powers have been focused upon confronting what they perceive as the greatest threat to world security: the combination of weapons of mass destruction and international terrorism. At the 2003 G8 summit in France, the leaders of Canada, France, Germany, Italy, Japan, Russia, the United Kingdom, and the United States agreed that this combination posed the greatest current threat to world security.

Although those threats are very real, terror is nothing new for millions of people caught up in the world’s seemingly intractable conflicts. Rebels and governments alike have been terrorizing civilians for years in too many civil conflicts. Oxfam and our partners have witnessed mass destruction: from Sudan to Colombia, from Liberia to Indonesia, and Asia. Another 23m people live as internally displaced people.1

Only a tiny minority of these stories of human suffering have reached international newspapers or television; even fewer are discussed in debates within the halls of governments to determine what political action may be required to save lives. The vast majority of emergencies passed unnoticed as the attention of the world’s media and politicians remained focused upon terrorism and the situation in Iraq. Millions of civilians continued to suffer appalling atrocities and deprivation; millions have died as a result.

It is time to focus international action on the security of these civilians in neglected conflicts as well as on the threats from international terrorism. Governments are concerned with terrorism for the same reason that the international community must focus on protecting civilians caught in intractable conflicts: because the lives and dignity of millions of people depend upon it. All these threats to security must be addressed, in a way that reinforces the foundations of the international multilateral system and upholds the international humanitarian law designed to protect civilians. Failures in doing so to date can be seen in a new tolerance of human rights abuses and violations of humanitarian law and refugee law by some allies in the struggle against international terrorism.

Since 2000, when Oxfam first raised concerns about forgotten emergencies and the inequitable distribution of humanitarian aid by donors, very little has changed.2 The international response to humanitarian crises should be determined by need, not by strategic interest or media coverage. However, current levels of spending and engagement are not only far from adequate, they are also not distributed according to need. Donors are increasingly giving only to their favoured crises – earmarking aid for certain countries or projects. With the ‘war on terror’ in the spotlight, and billions of dollars being spent on that fight alone, there is an even greater risk of an increase in the number of neglected emergencies.

Yet there have recently been some hopeful developments. Donors’ moves towards establishing Principles of ‘Good Donorship’ are a start in addressing these issues. So is the EU peacekeeping force in the Democratic Republic of Congo, Operation Artemis, the first such force outside of the wars in Europe. This is a decisive time, when positive steps could pull the international community in the direction of its responsibilities and obligations to protect civilians. Alternatively, in rushing to meet the demands of its current geo-political agenda, the international community could be carried away by bad practice, discrimination, and violations of international humanitarian law.

Now, more than ever, nothing is good enough short of taking every possible step to protect civilians wherever and whenever they are in need. These steps should be taken through the UN to enhance international order, rather than undermine it.

Humanitarian protection

Humanitarian protection is concerned with preventing or mitigating the most damaging effects, direct or indirect, of war on civilians. It relates mainly to the way in which armed conflict is conducted and to the way in which people, including refugees and displaced people, are treated. Humanitarian protection is driven by the real threats faced by communities and individuals.

Based on its field experience and on international law, Oxfam believes that a coherent approach to the protection of civilians should mean that people have a right to live free from:

- Violence or the threat of violence. This includes but is not limited to: murder, torture, rape, wounding, abuse, and abduction.
- Coercion. This can include forced displacement, forced or prevented return, forced prostitution, or forced recruitment.
- Deprivation. This can include the denial of access to humanitarian assistance, the destruction of shelter, property, or livestock, and the prevention of the means to earn a living.

Warring parties have particular obligations under international humanitarian law, but the main sources of protection are governments and national institutions. It is only when states are unable or unwilling to fulfill their responsibilities to protect life, security, and access to essential services that international conventions demand that all states party to the conventions must take action. The humanitarian imperative demands that even in the most difficult situations, and especially in these situations, the responsibility to protect the innocent and save lives remains a key objective. Oxfam strives to uphold the principles and practice of humanitarian protection through direct projects, funding of partners, and advocacy.

1. Since 2000, when Oxfam first raised concerns about forgotten emergencies and the inequitable distribution of humanitarian aid by donors, very little has changed.
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Protecting civilians in conflict: more threats than ever

This picture shows the scene of a soldier and captive, as painted by a child abducted in Northern Uganda. Children are particularly at risk of violence, coercion and deprivation in conflict.
2. Protecting civilians in conflict

For decades, civilians have been the target of violence in wars across the globe. Recent conflicts have been no exception: from Colombia to the Democratic Republic of Congo, from Sudan to Chechnya and Indonesia, civilians have been attacked, raped, displaced, and conscripted with little or no regard for international humanitarian law. The events of September 11th 2001, and the wars unfolding since, risk leaving civilians in the vast majority of conflicts even more neglected.

The Geneva Conventions oblige all warring parties to protect civilians in conflict. No reason for armed conflict can justify war at any cost, and the international community must not allow the ‘war on terror’ to eclipse the needs and rights of these civilians. It must instead build on some of the positive steps of 2002 and 2003, such as those in Sudan and the Democratic Republic of the Congo, to achieve more consistent action to protect civilians wherever and whenever they are threatened.

When the international community has the will to help civilians, it often can. The action required can vary according to the specific protection needs of civilians caught in conflict, and does not always have to be military support; often diplomatic pressure, negotiated access, and other steps can save lives and allow people to live with dignity.

International humanitarian law: distinction, precaution, proportion, and impartiality in conflict

International humanitarian law is designed to limit human suffering and protect civilians in armed conflicts. The rules are to be observed not only by governments and their armed forces, but also by armed opposition groups and any other parties to a conflict. The four Geneva Conventions of 1949 and their two Additional Protocols of 1977 are the principal instruments of international humanitarian law. The basic rules and obligations can be summarised in terms of:

- **Distinction**: A distinction must be made at all times between the civilian population and those taking part in hostilities, and between civilian objects and military objectives. Attacks must be directed only against military objectives. As such, indiscriminate attacks which fail to distinguish between military objectives and civilians are prohibited.

- **Precaution**: Not only must civilians and civilian objects not be the object of attack, but also every precaution must be taken when attacking or locating military objectives to avoid, and in any event to minimise, incidental civilian losses and damage.

- **Proportion**: Warring parties are obliged to weigh carefully the direct military advantage of any attack against the potential of harming civilians. In no case shall such harm be excessive in relation to the concrete and direct military advantage anticipated.

- **Impartiality**: Governments and warring parties have critical roles in ensuring that the actions of their officials, allies, or citizens do not disrupt life-saving aid. People’s access to humanitarian aid often depends on the perception of humanitarian agencies as impartial actors, independent from any warring party.

Indifference to gross violations of international humanitarian law

Most current conflicts are characterised by appalling atrocities and by acts against civilians – direct violations of international humanitarian law by governments and rebel forces. The escalation of conflict often brings with it the targeting of hospitals, clinics, and schools, leaving people without vital services. Family members become separated from each other, causing their support networks to break down and rendering children especially vulnerable. Millions of people in conflict zones die of preventable diseases due to lack of clean water, food, or any health services. Boys are in particular danger of abduction for fighting, while girls are often kidnapped to become labourers or sex slaves. In politically driven yet ethnically and religiously framed violence, civilians are not the accidental victims of conflict, they are its very targets.

- In 2002 alone, there were some 42 violent conflicts in the world, and 29 of these were considered to be severe crises.
- Since the end of the Cold War, 90 per cent of those killed in conflict have been non-combatants, compared with 15 per cent at the beginning of the twentieth century.
- In Burundi some 300,000 people have been killed in the last decade, and on average, some 100,000 displaced every month.
- In the Democratic Republic of Congo, an estimated 311 people have lost their lives in the last three years of conflict.
- In Rwanda approximately 40 per cent of the population has been killed or displaced since 1994.

Most of those affected by conflict remain inside their own country, often living in destitute or insecure circumstances. There are some 23 million internally displaced persons (IDPs) – nearly double the number of refugees. While governments of the countries concerned are most immediately responsible for protecting civilians in conflicts within their states, when such protection fails, it is the responsibility of the international community and the UN Security Council to act. Tragically, this action comes too infrequently, too freely, and usually far too late. Only rarely do the stories of human suffering find their way into the global headlines.

The human cost of violence in Burundi

The nine-year-old civil war in Burundi has been characterised by widespread suffering for the population. Both government and rebel forces have killed, raped, or otherwise injured hundreds of civilians, as well as pillaging or destroying their property. Massacres have become nearly commonplace, with hundreds killed. Despite a ceasefire in November 2002, the upsurge in fighting since January 2003 has killed hundreds, displaced hundreds of thousands, and weakened the ceasefire agreement. Oxfam staff continue to work in the country, and raise concerns about protection to the highest levels of government and the UN.

The transition of power in May 2005 went more smoothly than expected. However, the ceasefire declaration still remains fragile, and in mid-May up to 20,000 civilians fled the fighting that erupted in Kabeye commune south of Bujumbura. An additional 12,000 fled Bubanza province in the northeast.

The African Mission in Burundi (AMIB) is a welcome development, though deployment has been slow. South African mediators appear to be committed to following through on the peace process, but the international community has not done nearly enough to hold all warring parties in Burundi accountable to international humanitarian law. Violations of human rights and humanitarian law occur daily.
The human toll of conflict in the Occupied Palestinian Territories and Israel

Sama and Majda Daloul, 20- and 21-year-old sisters, were on their way back from meeting the girl their brother intended to marry. They stopped at a shop to buy some celebratory sweets for the journey home. The mood in the car was festive. Their brother, Fayis, their sister-in-law Nawal and her daughter, three-year-old Rawan, were all in the family Volkswagen.

The car resumed its journey. There was another car behind but they barely noticed. Nor did they hear the Israeli Apache helicopter. But they felt a bump when the rocket exploded behind them. Fayis understood at once and ordered everyone out of the car. But Samia was already dead. White smoke enveloped the scene. Majda went back to the car to get her sister’s body. A second rocket hit, and she was too killed.

The family was not the intended target of the Israeli attack; two Hamas militants in the car behind were. They too were killed. Altogether nine other civilians died. Israel says it regrets civilian deaths that occur in its response to militants’ actions, but says such operations will continue until their attacks are stopped. This incident, detailed by the Palestinian operations will continue until their attacks are stopped. This incident, detailed by the Palestinian

operations will continue until their attacks are stopped. This incident, detailed by the Palestinian Cross and Red Crescent Societies also argues, since the ‘war on terror’ has taken centre stage, the danger of even more neglected emergencies seems palpably real.1

The five governments which make up the permanent membership of the Security Council – the USA, UK, France, Russia, and China – are, more than any other countries, responsible for upholding international peace and security and for protecting people all around the world. These governments, and the whole international community, must be able to focus on the threat from international terrorism without losing sight of the mass destruction which, day in, day out, continues in current wars from Colombia to the democratic Republic of the Congo. Since September 11th, the international community has not got that balance right. Two years on, it is time to refocus.

It is the responsibility of all parties in a conflict to respect humanitarian law; it is the responsibility of the entire international community to ensure that they do. Civilians in internal conflicts must be protected, first by their own governments, but where this fails by the international community wherever and whenever they are threatened.

How the major powers themselves perform

In conflicts where one of the major powers is directly involved, the protection of civilians must be accorded the highest possible importance. The USA, UK, France, Russia, and the few other military powers with any effective global reach have signed treaties binding them to international humanitarian law. They have to be seen to be leading through example and setting the most stringent protection standards. They have highly professional and disciplined armed forces, and lawyers advising on targeting-decisions at a very precise level. The truth is that despite this, as some of these powers go to war and conduct the ‘war on terror’, there is still an unacceptable level of civilian suffering.

In 1999, 500 civilians were killed as a consequence of NATO’s air campaign in Kosovo as weapons installations were wrongly targeted and civilian shelters hit.2 During the air strikes on Kosovo, civilians were used as human shields by Serb forces. Such a strategy was blamed for NATO’s bombing of civilians in the village of Korisa in May 1999, where ten bombs were dropped and more than 80 civilians killed.3 The Geneva Conventions hold the attackers responsible for avoiding such casualties, however indefensible it was for the Serbs to use human shields.

In the recent war in Iraq during March and April 2003, it can be said that the US and UK forces did take important steps to minimise the impact of the bombings on civilian lives and infrastructure. The USA and UK had more accurate weapons systems and did not target the civilian infrastructure in the way that they did in 1991 or indeed in Kosovo in 1999, although there was still widespread devastation in certain areas. However, the use of cluster bombs – which are in effect indiscriminate weapons – in the latest conflict will have humanitarian implications and a high civilian toll for many years to come.

At the time of writing in July 2003, civilian deaths in Iraq already stand at more than 6,000, compared with the 2,786 direct civilian deaths recorded during the 1991 Gulf War – a fraction of those who subsequently died because of war-related disease and malnutrition.4 This figure looks set to climb, as innocent civilians are caught in the crossfire of the US and UK forces’ fighting with so-called pockets of resistance, and continue to be exposed to unexploded ordnance (UXO). In addition, the lack of planning by the coalition forces around the security vacuum that affected much of Iraq after the fall of Saddam Hussein’s regime has meant that thousands of Iraqi civilians are experiencing insecurity as they attempt to re-build their lives in the post-Saddam era. Access to sanitation, health, education, and employment facilities has been severely restricted, as has the distribution of food and water, and attempts by humanitarian workers to assist in improving such services.

When wars take place, it is essential that the warring parties be held to account for any failure to protect civilians. It is not enough to have ‘smart’ weapons, or indeed to target military enemies more carefully than before. Governments that are concerned with

An Oxfam Public Health Promoter’s view from Iraq

Despite attempts by coalition forces to avoid civilian casualties, the human cost of the conflict was harsh. In May 2003, Oxfam’s Public Health Promoter in Iraq reported from Nasiriyah: “The water quality is very poor after the intense bombing of this town. Many homes have no water. Every civic building has been destroyed … to access water … breaking into the pipes is the only option, but this leads to the risk of disease and contamination. [The women] are collecting [water] close to open sewers. There is a real concern that this may lead to outbreaks of cholera. There is no possibility for many families to boil their water as there is no fuel.”
human suffering, and serious about upholding their international commitments to protect life with dignity must take every possible step to protect civilians. By using cluster bombs, and by failing to take into account adequately the security implications of removing Saddam Hussein’s regime, the coalition fighting in Iraq did not take every possible precaution.

**Falling short of wider protection responsibilities: arming and training abusers**

While humanitarian law sets out the protection responsibilities of those involved in conflict, and the standards by which warring parties should be held to account, the protection responsibilities of the international community go further still. As the largest suppliers to the world’s arms markets, the five permanent members of the UN Security Council have a critical responsibility to curtail the outbreak and prevalence of armed conflict.

History has shown that this has rarely been the case. The arming of allies with no regard to human rights or humanitarian law was a key characteristic of the Cold War, as the Soviet Union and USA funded and armed their proxies in the bloody wars from Central America to Indochina, from Angola to the Horn of Africa. Based on the same strategies, the USA supplied Iraq with military intelligence and advice in its war against Iran in the 1980s; it also ensured that Iraq had military weaponry and in one instance used a Chilean company to supply cluster bombs.11

With the end of the Cold War, there was some hope that there would be far less tolerance, encouragement, and arming of allies for whom protecting civilians was of no concern. Many of the Cold War’s proxy wars that extended from Nicaragua to Mozambique began winding down as the strategic imperatives of the superpowers changed, and the flow of Soviet weapons dried up. However, international tolerance of abuse has continued in different forms. In Latin America, the Colombian armed forces continued to be a relatively large recipient of US military rifles and machine guns, despite continuing international concern over the Colombian army’s poor human rights record and links with paramilitary groups.12 Two million people have been forcibly displaced in the last six years, making Colombia’s crisis one of the largest in the world.13 Enforced displacement increased by 100 per cent in the first half of 2002 compared with the same period in 2001. In the past 18 months over 2,600 Colombian civilians have been killed for social or political reasons. The majority of these deaths (62 per cent) are attributable to paramilitaries, 30 per cent to guerrilla groups, and 8 per cent directly to state agents.14

Although the USA is the largest arms supplier in the world, most of the other world powers, including all the permanent members of the UN Security Council, are also undertaking similar short sighted arms deals:

- Despite the continuing conflict in the Democratic Republic of Congo (DRC), British pilots and air cargo companies have been allowed by the UK government to supply weapons to armed forces in the DRC responsible for mass human rights abuses.15
- The UK has also continued to supply arms to Nepal, despite the civil unrest that is gripping the country.16
- Successive French governments have provided military and other security equipment and training to most Francophone countries in Africa, often regardless of the human rights record of the recipient country.17
- Russia has continued to provide small arms, light weapons, and ammunition to Afghanistan, Iraq, Chad, Angola, Ethiopia, Iran, Libya, North Korea, Syria, Yemen, Sudan, Algeria, and Indonesia.18

The ‘war on terror’ could have provided an opportunity to strengthen arms controls to stop arms from falling into the wrong hands. Instead, a worrying trend is emerging. The ‘with us or against us’ attitude that characterised Cold War thinking has re-manifested itself in the ‘war on terror’. The USA and other major powers are tolerating abuses by their allies, as this war is conducted throughout the world in areas where terrorists are deemed to be operating. Perhaps the clearest manifestation of this is the increasingly lax regard to arms controls that some major powers on the Security Council now demonstrate.

The USA has stated that it will work with any government willing to help in the fight against terrorism and has altered its relationships with a significant number of countries accordingly. Since September 11th, the USA has waived restrictions on arms or military assistance to Armenia, Azerbaijan, Tajikistan, and Yugoslavia. While these countries have been identified as key allies in the ‘war on terror’, each has a troubling recent past. Azerbaijan has been embroiled in disputes with Armenia; the stability of Tajikistan remains questionable; and some parts of Yugoslavia remain unstable and the country is a possible ‘hot spot’ for future conflict.19 Uzbekistan in particular has been identified as a key partner for US efforts to stamp out terrorism and its complicated networks throughout Central Asia. Since September 11th, Uzbekistan has received $25m for defence services and equipment, $40.5m for economic and law enforcement assistance, and $18m for ‘specialized training and equipment to prevent and respond to terrorist incidents’.20 This is the case despite the fact that the country’s security forces have been accused of torture, maltreatment of prisoners leading to deaths in custody, arbitrary arrest and detention, and harassment of detainees’ family members.21

All of these actions send out a deeply disturbing message that human rights considerations are secondary when it comes to the fight against terrorism. The five permanent members of the UN Security Council keep their allies and the world awash with arms, supplying more than 80 per cent of the world’s arms. The onus is on these countries to demonstrate that they are pressing their allies to protect civilians, and are preventing arms getting to those who use them against civilians – whichever ‘side’ they are on.

**Seeking Solutions: reaffirming the rule of international humanitarian law**

Despite the clear rules and responsibilities enshrined in humanitarian law, and the onus to protect civilians that the major powers have as permanent members of the UN Security Council, the examples discussed above illustrate that protection obligations are often ignored, bent, or violated outright. This need not, and must not, be the case. While many conflicts are extraordinarily complex to resolve, this does not mean that those fighting them are absolved from adhering to international humanitarian law, neither should those observing refrain from attempts to mediate and mitigate their effects.

There is no ‘one-size-fits-all’ solution to protecting civilians. However, the following are critical options for international engagement with the goal of protecting civilians from the harshest consequences of conflict:?

- negotiating access to humanitarian aid;
- political strategies and active diplomacy to press warring parties to protect civilians;
- contributing troops or support for peacekeeping or peace enforcement;
- holding war criminals to account;
- improving and enforcing arms controls.
Negotiating humanitarian access

Many civilians caught up in conflict have no access to the humanitarian assistance to which they are entitled. This may be because insecurity prevents the safe delivery of aid. In Afghanistan in November 2001, truck drivers with food cargo were afraid to drive into unknown situations, and aid routes were turned upside down. In certain parts of the country, increasing insecurity and fear of lawlessness made it very difficult to deliver food to people. In Liberia in 2003, humanitarian aid was virtually prevented from reaching the vast majority of the country due to insecurity for most of the current phase of the conflict. Hundreds of thousands of displaced people who arrived in Liberia urban centres have testified to terrifying conditions in the countryside with no access to food or any basic services. At other times, warring parties may deliberately block humanitarian assistance, using the denial of access to food and medical supplies as a military tactic. This was clearly the case during the conflict in Bosnia (1992–1995). In Sudan’s Nuba Mountains, humanitarian aid flights were routinely denied access, despite the high risk of malnutrition and disease (see case study, this page). Motives for this tactic vary from conflict to conflict, but can be because one party to the conflict wants to gain the military upper-hand, a group of undisciplined or unpaid fighters want to make a profit, or merely intentional cruelty to the civilians and fighters of the other side.

Whether for reasons of general insecurity or due to more deliberate military tactics, the warring parties in such situations are in breach of their obligations under the Geneva Conventions to ensure that those in need have access to basic necessities. People who are without food, water, shelter, or medical care cannot wait for a conflict to end in order to receive life saving assistance. As a result, humanitarian agencies and the United Nations must often negotiate access agreements with all warring parties. To be successful in such negotiations, it is essential that humanitarians can assert their independence and impartiality from politics. The humanitarian community should ensure that is has expertise on tap to do this well – a key role for OCHA to support. But governments can play a crucial role: by insisting that warring parties grant consistent and unhindered access of civilians to humanitarian aid, and push for the right of access of impartial, humanitarian actors.

Sudan: diplomacy achieving important results

Sudan has known only one fragile decade of peace since 1955; until recently, sporadic diplomatic efforts have yielded little in the way of sustainable peace agreements. Meanwhile, violent conflict has claimed some two million lives, and caused the biggest health facility. Sudan has access to safe water, and only 30 to 40 per cent of Sudan’s people live below the poverty line. Less than one-quarter of the population in South Sudan has access to safe water, and only 10 to 40 per cent of people live within one day’s walk of a health facility. There has been a painful and long legacy of the bombing of civilians using helicopter gunships by the government of Sudan, with well-documented cases of civilian casualties and targeting that goes far beyond arguments about military necessity. There have also been significant abuses by the Sudanese People’s Liberation Army (SPLA), other rebel factions, and government militias. The people living in the Nuba mountains have suffered years of neglect and attack, with little or no access to humanitarian assistance. As a result, one child in ten dies before the age of five; in the south, that figure is closer to one in five. All parties to the conflict are guilty of widespread human rights abuses including assault, rape, abduction, and forced displacement.

Until recently, the peace process has failed ordinary Sudanese. Concerted diplomatic and international engagement, however, means that it is now beginning to show some real promise. The peace talks sponsored by the Inter-Governmental Authority on Development (IGAD) have been stuck at times, and the USA has played a key role in getting the two parties back to negotiation and supporting the IGAD process. The current round has achieved substantial outcomes. The appointment of Senator Danforth as US Special Envoy has been pivotal in providing strong leadership to drive the process forward. After years of inconsistent approaches, the international community has now come together with a new coherence. The UK, Norwegian, Swiss, and other governments are working alongside the USA. Having said this, there inevitably remain major concerns as to the influence of the voice of ordinary Sudanese in the peace process. People have a deep scepticism and suspicion of decisions being made ostensibly on their behalf by the negotiating parties, and fear that international pressure for an agreement will disregard their aspirations and result in an unjust and unsustainable peace.

The Memorandum of Understanding Agreement of 15 October 2002 between the government of Sudan and the SPLA on the cessation of hostilities and unimpeded access was a significant achievement of the IGAD-mediated peace process. Before this agreement, restrictions on humanitarian access had been commonplace in Sudan. Humanitarian aid has since recommenced. The Danforth initiative also gave rise to an agreement on the protection of civilians, which authorised the deployment of a Civilian Protection Monitoring Team (CPMT) to monitor attacks on civilians. Repeated bombings have occurred since the date of the agreement, however, and the CPMT has yet to display a credible monitoring function. There is therefore much to be done; CPMT has an important role to play in nurturing an atmosphere of trust during the peace talks. Unfortunately, donor response to appeals has been disappointing since the ceasefire. For example, the UN’s Consolidated Appeal (CAP) for 2002 was only 47.8 per cent funded. The 2003 appeal is less than a third funded at the time of writing. This lukewarm response undermines the credibility of the commitment made by the international community thus far.

Diplomatic pressure to protect civilians

Apart from international engagement to ensure the delivery of humanitarian aid, diplomatic pressure to protect civilians in conflict can take many other forms, depending upon the situation in question. Regional and international commitment to resolve a conflict can bring the warring parties to the peace table, and perhaps lead to the signing of a peace settlement, as was the case in Sudan. The actual implementation of a peace agreement often requires as much international commitment as its formulation, and will certainly be key in assuring the protection of civilians in the challenging transition from war to peace. None of this is easy. Sometimes it may not be possible. But given the will, concerted international diplomatic pressure can sometimes make all the difference.
Danger for civilians in Liberia

The conduct of the conflict in Liberia has been in direct contravention of international humanitarian law. Armed attacks on civilians, including on IDP camps, were commonplace from 1999 onwards. A general climate of heightened fear and insecurity was reinforced by the abduction and killings of civilians and humanitarian aid workers. The abducted civilians were often men and youths who were forced into military service for the warring parties.

In July 2003, more than 200,000 IDPs were forced to flee towards the center of the capital city of Monrovia, as fighting engulfed the suburbs as well as the IDP camps on the outskirts of the city. The violence killed over a thousand people in less than two months. Up to 50,000 people were sheltering in camps without any food or clean water, and disease is rife. At the moment humanitarian agencies cannot reach 80 per cent of the country, where we know people are suffering. It is incredibly frustrating. The full deployment of peacekeepers throughout the country is vital.2

It is crucial that the UN is able to prevent more massacres in the DRC, and to help bring to an end the world’s most destructive current conflict. This should be the beginning of a new period of engagement to protect civilians wherever possible. This will demand the development of strategies to protect civilians, sustained diplomacy and political pressure, but also exceptionally, when necessary, peacekeeping and enforcement.

In all cases the solution is not just that ‘something must be done’, but that action must be effective. To this end, the 2001 Brahimi report set the UN on a course to improve on its decidedly mixed record (Military Observers, Civilian Police and Troops) as of 31 May 2003.

In some situations, a Chapter VI mandate will be adequate – one that deals with ‘Peaceful Resolution of Disputes’, and allows only for firing in self-defence. However, governments should seriously consider a Chapter VII mandate – that deals with ‘Threats to Peace, Breaches of the Peace and Acts of Aggression’ with the authorisation of special military measures, when a Chapter VI mandate is unlikely to be sufficient to protect civilians. Operations must be authorised and deployed before it is too late, rather than as a guilty response by the Security Council made as a result of having been inactive when civilians were killed. The DRC and Liberia are key tests for the Security Council in 2005.10 A country’s contribution to UN peacekeeping or peace-enforcement missions is another measure of its commitment to maintaining international peace and security under a multinational umbrella. Although motivations vary, the swift contribution of well-trained troops, given the right mandate, can save lives and help address a dangerous flare-up in fighting. (See figure 2.1). Committing funds, equipment, or technical support following a UN Security Council Resolution, are other ways of sharing the burden of international engagement in conflicts.

Figure 2.1. Contributors to United Nations peacekeeping operations

<table>
<thead>
<tr>
<th>Country</th>
<th>Number of Troops</th>
</tr>
</thead>
<tbody>
<tr>
<td>China</td>
<td>402</td>
</tr>
<tr>
<td>France</td>
<td>1583</td>
</tr>
<tr>
<td>Germany</td>
<td>4222</td>
</tr>
<tr>
<td>Italy</td>
<td>161</td>
</tr>
<tr>
<td>Japan</td>
<td>89</td>
</tr>
<tr>
<td>Pakistan</td>
<td>326</td>
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</tr>
<tr>
<td>Canada</td>
<td>18</td>
</tr>
<tr>
<td>UK</td>
<td>12</td>
</tr>
</tbody>
</table>

Figure 2.1. Source: UN Department of Peacekeeping Operations – Monthly Summary of Contributions (Military Observers, Civilian Police and Troops) as of 31 May 2003.
Holding war criminals to account

All international engagement in conflicts must ensure that warring parties who unnecessarily compromise civilian protection are held to account. War crimes must not be committed with impunity. In the first instance, this is the responsibility of national courts, and on occasion commanders and political leaders have been brought to justice. However, in the majority of cases, there is either no prosecution or no effective punishment. Such outcomes fail to deter other warring parties from undertaking equally appalling acts against civilians.

When national justice is either unwilling or unable to punish war criminals, international justice must step in. This may be through the International Criminal Court, which was established in July 2002, or through specially convened tribunals such as the International Criminal Tribunal for the former Yugoslavia (ICTY), the International Criminal Tribunal for Rwanda (ICTR), and the Special Court in Sierra Leone.

Controlling arms

If the international community were to act in a timely and well-resourced manner through all of the channels described above to protect civilians wherever and whenever they are in need, this would be a great step forward. However, by exporting arms illegally exploited by warring parties for personal enrichment or to fuel further fighting. Illegally obtained resources are undermining any effort to protect civilians.

Controls exist in some parts of the world that aim to prevent arms reaching states where serious human rights violations have occurred or where they are considered likely to occur, or where arms are likely only to fuel conflicts and violate humanitarian law. In 1997 the USA, Canada, France, Germany, Italy, Russia and the United Kingdom signed up, with other participating states of the Organization for Security and Co-operation in Europe (OSCE), to the Principles Governing Conventional Arms Transfers. These Principles commit participating states to ‘avoid transfers which would be likely to be used for the violation or suppression of human rights and fundamental freedoms.’29 In 1998, the members of the European Union committed themselves to the European Union Code of Conduct on Arms Exports.30 Canada, the USA and many other states have declared their general support for the principles of the EU Code. The Code stipulates that arms should not be exported to countries where there is a clear risk they might be used for internal repression or where serious violations of human rights have occurred. Despite these and other agreements, the world’s leading arms producing nations continue to supply arms to governments and rebels who abuse civilians and violate human rights.

There are still no binding legal or regulatory requirements among the world’s arms exporting states to enforce a full respect for human rights or...
Several practical steps have also been taken. The UN’s Aide Memoire on civilian protection is a key tool, reminding the Security Council of the possible measures that it can apply when formulating peacekeeping mandates or any UN programming. The document sets out relevant provisions of past resolutions on the protection of civilians, children and women in armed conflict. This is complemented by a ‘road map’ for steps to improve civilian protection, which has been developed by the Secretary General to try to achieve a shared commitment among member states and the UN system for a timetable for improved action on protection. The UN system, particularly through the Office for the Coordination of Humanitarian Affairs (OCHA), has been working to apply the Aide Memoire to building in a good analysis of the threats to civilian protection in each crisis. However, there is not yet a consistent way to measure risk and vulnerability across all crises. The UN Consolidated Appeal Process is sometimes used for this kind of comparative measure (see part three of this report), as it provides the best information available allowing real-time data to be analysed. There is general agreement, however, that this is not adequate for measuring threats, let alone for describing important steps to minimise people’s vulnerability to violence, coercion, or deprivation. There is a critical need for governments, donors, and humanitarian actors to carry out regular and systematic protection assessments to consider what action may be required to protect civilians from the worst effects of conflict. While the development of protection tools by the UN represents important steps forward, systematic attention, in both the political and the humanitarian arena, is crucial to ensure that protection needs are not being neglected. OCHA must also take more of a global lead in making such assessments consistent and in pressing for action. OCHA’s head, the Emergency Response Coordinator (ERC) has a key role in showing such leadership. In the political sphere, the UNSC should ask the Secretary General to report regularly and explicitly on the key priorities for action by the Council to better protect civilians in particular peacekeeping operations and country situations. The Council should commit to regularly review the performance of peacekeeping operations for the protection of civilians. All governments and multilateral agencies around the world should hold the same responsibility. For example, Common Positions from the European Union should include a meaningful assessment of the key threats to civilian protection. These Common Positions should set out the steps necessary to increase that protection, as guaranteed under international humanitarian law and as enshrined in the relevant European Conventions and Charters. Finally, the positions should include the actions that the EU commits to take to improve the protection of civilians.

In the humanitarian sphere, real progress would be made if the process to formulate the UN’s Common Humanitarian Action Plan (CHAP) were to include a meaningful analysis of risks and their coping mechanisms, highlighting threats to civilian protection and proposing effective remedies. The two largest donors, the USA and ECHO, the European Community’s Humanitarian Office, should lead by including protection assessments in their global plans, starting with the next round in 2004.

**Recommendaitions**

To focus international action where it can do most to protect civilians, Oxfam recommends that:

- the international community – led by the UN Security Council – must develop strategies to engage more consistently with seemingly intractable conflicts to better protect civilians in neglected crises. All possible tools must be made available, including intense diplomacy, support for the negotiation of access for humanitarian aid, and the contribution, in extreme cases, of troops to UN-led peace keeping missions with strong mandates to protect civilians.

- Governments and warring parties must plan their military tactics to take all the precautions necessary to minimise civilian harm. They must respect the key guidelines of international human rights and humanitarian law, that all military action must preserve the immunity of civilians. No military strategy should be based on the premise that it is acceptable to endanger civilians. Any action must:
  - Distinguish between civilians and military.
  - Take precautions to minimise civilian harm;
  - Only use proportionate force;
  - Allow the impartial delivery of humanitarian aid.

- Governments should influence warring parties around the world to uphold their obligations under humanitarian law; and absolutely refrain from encouraging, tolerating, or arming allies committing abuses.

- Governments must not tolerate abuses by their allies in the ‘war on terror’ or in any other conflict situation. In particular, the top five arms producers – USA, UK, France, Russia, and China – must not authorize transfers of arms in situations where there is reasonable cause to believe that they will be used in violation of humanitarian law or human rights law. They must rigorously enforce all Security Council embargoes.

- Governments, the UN Security Council, the Peace and Security Council of the African Union, and the European Union should implement new systematic procedures to assess what action may be required in any given crisis to protect civilians from violence, deprivation, and coercion, and to work with others to carry out necessary action.

- Governments must at all times recognize and preserve the independent, impartial, and civilian character of humanitarian aid according to UNGA Resolution 46/182, 19 December 1991: ‘humanitarian assistance must be provided in accordance with the principles of humanity, neutrality, and impartiality’.

Making progress: the role of the UN

Despite setbacks in the development of the international system to protect civilians, important positive changes have occurred in the last few years. In particular, there has been a more rigorous approach to protection emanating from within the UN itself. In September 1999, the Secretary General submitted the first Report to the Security Council on the Protection of Civilians.” This highlighted the reality on the ground of the violence and deprivation faced by civilians, from the UN’s perspective. The Protection Report is now an annual survey undertaken by the office of the Secretary General, and serves as an important resource to help focus the positions of those on the Security Council.

International humanitarian law when authorising arms exports and the various military, security, and police-force training services that they provide to foreign customers. Even where human rights criteria are referred to, laws governing arms export and foreign military and security aid, they are often loosely interpreted. Inadequate attention is given by governments during export decision-making to the long lifecycle of most types of arms, security equipment, and technology, and hence to the prolonged risk of abuse due to being re-sold into illegal markets or otherwise falling into the wrong hands. The process to extend and enforce meaningful controls on arms transfers has a very long way to go. In October 2003, Oxfam, in conjunction with the International Action Network on Small Arms and Amnesty International, is launching an Arms Campaign that will promote a global Arms Trade Treaty that it aims to have agreed and enforced by governments by the end of 2006. The goals of the Treaty are to prevent arms transfers that may:

- lead to breaches of international humanitarian law or human rights;
- have an adverse effect on peace, security, or stability in any region or country;
- undermine sustainable development by excessive arms-spending.”

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- have an adverse effect on peace, security, or stability in any region or country;
- undermine sustainable development by excessive arms-spending.”
Humanitarian aid: Driven more by politics than need

This camp for displaced people in the Democratic Republic of Congo hosts hundreds of families who fled their homes because of massacres. Taking refuge in an abandoned school house, they lived with no humanitarian assistance and terrible sanitation until Oxfam was able to provide basic water systems in 2001.
3. Humanitarian aid: driven more by politics than need

Humanitarian assistance - the independent and impartial provision of basic needs to a population - is meant to be a key part of the international community’s commitment to protect those caught up in conflicts where local, national, and international protection fails. Every civilian has the right to receive food, water, shelter, and medical assistance. The international community has a responsibility to provide funding and political pressure on warring parties to ensure that - despite conflict - vital supplies reach the most vulnerable people.

Not only are current levels of spending and engagement far from adequate, however, they are also not distributed according to need. Increasing numbers of donors are only giving to their favoured crises, earmarking aid for certain countries or projects. While in some cases this has increased transparency, it has left millions of children, women, and men in need, without aid. Donor governments have failed to put in place a transparent system of accounting for the quantity and quality of their donations. Some emergencies are neglected and even more may be so in the future, as today’s single-minded focus on international terrorism steers international attention to a small number of crises. There is some good news, however. The ‘Good Donorship’ meetings of governments in 2003 and the Principles that they agreed are important first moves. Yet further action is needed to deliver on commitments to guarantee the distribution of high quality humanitarian assistance to all vulnerable populations, based on need.

Critical funding shortfalls

Many of those who survive violent conflict do so largely as a result of their own resilience and ingenuity. That will always be the case. For most people, survival involves very difficult choices – leaving home, abandoning livestock, separating from family members, walking miles across minefields or other insecure areas. The full extent of these coping mechanisms in all countries in conflict cannot be quantified, but their extent illustrates the critical shortfalls in humanitarian aid, and the human cost of such shortfalls.

While the need for humanitarian assistance does fluctuate, and some years are much worse than others, shortfalls in humanitarian funding across the board are a constant and sometimes deadly presence. Impromptu refugee camps, such as those outside Monrovia, in Liberia, or the displaced people literally living in fear in the bush in Ituri in the DRC, illustrate vividly that humanitarian assistance does not reach everyone in need. From Indonesia to West Africa, Colombia to central Asia, there are millions of people entitled to humanitarian relief, yet denied it because of shortfalls of funding or lack of international diplomacy to secure access to assistance.

Why is it that one or two emergencies receive adequate funding, and the rest are left to struggle on with shortfalls? There is no simple answer; this situation cannot be explained by a global lack of available funds alone. When a geo-politically important crisis arises, money flows easily. In the first three months of the 2003 Iraq appeal, donors mobilised nearly $2bn. The UK’s Department for International Development (DFID), for example, had earmarked £120m (US$182 million) to Iraq by April 2003 – nearly double its total humanitarian budget for 2001.44

While there are important needs in Iraq, donors cannot claim that nothing can be done to mobilise funds for neglected or protracted emergencies, while behind closed doors, miraculously finding money for others. Many of the other emergencies are looking for only $20-30m, roughly one per cent of the funds eagerly provided for the crisis in the spotlight. In Burundi, for example, where Oxfam continues to witness great human suffering, the UN appeal for urgently needed humanitarian aid has never been more than 30 per cent funded, despite the fact that nearly 300,000 people are displaced in permanent sites, and another 100,000 people are temporarily displaced every month.45

The problems go beyond the actual amount of aid that is available, to the politics of how that aid is distributed, and how much diplomatic engagement is devoted to getting it to those in need. It is no accident that the most severe effects of funding shortfalls are felt in Africa. For those outside the international spotlight, the human costs of funding shortfalls are real and life-threatening.

International humanitarian law: safeguarding humanitarian assistance in conflict

International law recognises that civilians affected by conflict are entitled to the provision of humanitarian assistance. It defines the legal obligations of states or warring parties to provide such assistance, or to allow it to be provided, when the civilian population lacks essential supplies – even if this means temporarily agreeing to a ceasefire. In many situations Oxfam and other international agencies provide humanitarian assistance because those with primary responsibility are not always able or willing to do this themselves. This is sometimes a matter of capacity. At other times this constitutes a wilful disregard of fundamental legal and ethical obligations, the result of which is much avoidable human suffering. In these cases it is the responsibility of the international community to act.

Vulnerable groups and the impact of aid shortfalls

The lack of humanitarian assistance usually hits women the hardest, as they are disproportionately responsible for caring for other family members. Women, girls, and sometimes boys without resources or adequate humanitarian assistance are often forced into ‘survival sex,’ that is the exchange of sex for food or shelter or to provide for their families. Recent studies have revealed that those who are powerful, including local authorities, military forces including peacekeepers, and even in some cases corrupt aid workers, have exploited the desperate need of women and girls in these situations. Child-headed households or unaccompanied children are often the most vulnerable to abuse. In countries with alarming rates of HIV/AIDS, this can be a lethal gamble.

Inadequate and skewed funding

One striking way of assessing donor responses to different humanitarian crises is to compare how much is provided per person; that means, the total money provided divided by the number of people selected for an intervention. While these numbers are never exact – often statistics are difficult to gather in complex emergencies, and numbers of beneficiaries may fluctuate based on humanitarian access or other changes – these simple comparisons do give a good indication of the scale of the problem of inadequate humanitarian aid reaching too few people.46

To consider this comparison more closely, Oxfam has looked at the UN’s Financial Tracking System. This system follows the funding of the UN’s Consolidated Appeals (CAPs) and is one way of monitoring commitments reported to the UN. To date, there is no better information publicly available to indicate which humanitarian emergencies are being ignored today.
Oxfam’s calculations, based on the UN’s 2003 Consolidated Appeals, reveal that, at any one time, there is a skewing of aid towards the emergency in the political spotlight – this year, Iraq – and all the rest receive significantly less. At the time of writing, in July 2003, the data shows a clear political prioritisation. In the DRC, the 2.6m people selected for humanitarian intervention have received $42 m of the required $228 m, or about 19 per cent of the funding needed. This works out to roughly $17 per person from the international community to date, despite the life-threatening situation faced by the civilians in this conflict. Other important but neglected emergencies fare the same or worse: the CAP appeals for Chechnya, which have been important fora for examining the CAP as a tool for coordination and fundraising. The major donors have all been part of the annual Montreux meetings, which have been important fora for examining the CAP as a tool for coordination and fundraising. Donors have discussed possibilities of reform, but have consistently expressed their approval of and support for the process.4 If donors object to using UN CAP appeals as a measure of current needs, they must not only acknowledge that they have helped to create this problem, but also that they must be part of the solution. Two critical reforms are developing better measurement of need, and assessing what more can be done to protect civilians, including protection from deprivation of humanitarian assistance.

Furthermore while there are good reasons for improving the data, they do not overshadow the validity of the basic conclusion: the depth of the disparity of funding around the world proves incontrovertibly that humanitarian aid is being directed for reasons other than the humanitarian imperative to deliver aid where it is needed.

Political hotspots and neglected crises

Analysis of the longer-term OECD data42 shows that, in the last decade, there has consistently been an overwhelming concentration of assistance on the headline emergencies. Figure 3.3 shows the percentage of humanitarian aid that goes to the ‘top’ emergency each year out of the total for more than 100 recipient countries. Each year one country absorbs between 11 and 21 per cent of the total, and the other 99 countries share the remainder.

Using the long-term data, Figure 3.2 shows the disparity of spending per capita in crises in the highest year of spending in the last five years. That is, in the year in which donors were most generous and there was the highest need, Ethiopia received $2 per person; other emergencies received 10-20 times the per capita figure in their respective years of highest spending. Even considering the different costs of delivery of relief in various localities, there is no explanation to justify such an inequality.
Oxfam is not advocating a reduction in funding to any major emergency where there is need. But the challenge is to provide this without diverting resources from the millions of people affected by other emergencies. Increased humanitarian aid – provided according to commitments to the entitlement of humanitarian assistance based on need – is essential.

A case of fleeting attention

In 2001 and 2002 the overwhelming bulk of humanitarian resources went to Afghanistan. Afghanistan does have intense needs and it had intense needs before it came into the priority spotlight for donor governments. The country’s child and maternal mortality rates are among the worst in the world. An estimated four million people in rural communities in Afghanistan will not have enough to eat during the next 12 months – a figure which does not include vulnerable people living in urban areas, returnees, or internally displaced people.44 However, Afghanistan’s needs are not new. Before September 11th, across the country six million people were in desperate straits due to conflict, poverty, and crippling drought. Afghanistan was a neglected crisis, with not nearly enough funding for humanitarian assistance and little diplomatic engagement to ensure that civilians were protected and provided for. Then, suddenly, all major donors focussed on the country because of its geo-political implications in the wake of the atrocities of September 11th. Since then, some humanitarian aid has reached those most in need, but the disbursement of funds for reconstruction has been notoriously slow. Lack of security remains a critical challenge, and threatens long-term stability. Afghans fear that international support may already be waning with donor attention having moved towards Iraq, less than two years after the fall of the Taliban regime, and with so much still to do.

Yet despite its immense challenges, Afghanistan is still in a better position than many other places, where shortfalls in funding have deadly consequences for the world’s most vulnerable civilians. In 2002, the UN appealed for $1.7bn for Afghanistan, 10 to 100 times as much as for some other countries. Donor governments have given Afghanistan 65 per cent of what they were asked for. This is perhaps not over generous, but was almost half the total amount that the UN requested for 25 humanitarian crises in 2002.

At the time of writing, we see the same pattern emerging with a different country in the spotlight. The attention given to Iraq overshadows other crises. It seems likely that the needs of the 25 million people of Iraq, however urgent, will eclipse those of the 200m Africans in desperate need of humanitarian assistance as a consequence of conflict and lack of food.45 This is nothing new: in 2001, from Tanzania to Somalia, Sudan to Cameroon, aid agencies had to cut back on protection, health, education, and livelihood programmes due to funding shortfalls. Humanitarian agencies have asked for over $4bn to cover the needs of Iraq for the first six months of the post-war period, and they have received most of what they asked for within three months. The World Food Program’s (WFP) programmes, for example, are 93 per cent funded in Iraq. The total call for funds for the whole of Africa by the agencies of the UN for 2003 does not exceed $1.7bn.

The role of major donor governments

The skewing of aid that we have described is not just coincidental: it is a result of the prioritisation and decisions of major donor governments. Over the past decade, the allocation of humanitarian aid funding has been dominated by a small number of donor governments. Each year, the USA contributed three to four times the amount of any other single country. In 2001, however, the European Commission and the EU member states combined contributed more than the USA46 (see Figures 3.4 and 3.5).

Protection and assistance: the neglected conflict in northern Uganda

Since the mid 1980s the Lords’ Resistance Army has devastated the lives of the Acholi people of northern Uganda. The LRA maintains its numbers by abducting and brutalizing children, incorporating them into its ranks. 1m people are currently displaced by this conflict. The following is an interview by an Oxfam worker in northern Uganda with ‘Sarah’, an LRA escapee.

“I was taken … when I was 13. I was at home in Wol (a village about 30km from Kitgum). Seven of us were taken, four boys and three girls. I was with the rebels for two years. We made camp. I had to do cooking. After about a week I had to become the wife of a soldier. That’s what happens to the girls … We went to a village about 30km from Kitgum. Seven of us were in desperate straits due to conflict, poverty, and crippling drought. Afghanistan was a neglected crisis, with not nearly enough funding for humanitarian assistance and little diplomatic engagement to ensure that civilians were protected and provided for. Then, suddenly, all major donors focussed on the country because of its geo-political implications in the wake of the atrocities of September 11th. Since then, some humanitarian aid has reached those most in need, but the disbursement of funds for reconstruction has been notoriously slow. Lack of security remains a critical challenge, and threatens long-term stability. Afghans fear that international support may already be waning with donor attention having moved towards Iraq, less than two years after the fall of the Taliban regime, and with so much still to do.

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**Figure 3.4.** Total humanitarian aid from DAC donors in 2001

**Figure 3.5.** Humanitarian Assistance from DAC donors in 2001 $millions

![Figure 3.4 and 3.5. Source: OECD DAC Statistics online, Tables 1 and 2a.](image-url)
Humanitarian Assistance in $ per capita in 2001

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<th>Country</th>
<th>Aid per Capita (in $)</th>
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<td>Norway</td>
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</tr>
<tr>
<td>Sweden</td>
<td>42.0</td>
</tr>
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<td>Netherlands</td>
<td>37.8</td>
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</table>

Figure 3.6: OECD DAC Statistics Online Tables 1 and 2a. 48

Some of the richest countries are far from the standing tradition of generous donations; for example, Norway spends more than $50 per capita.

The ranking of donors represent anything more than a competition for prestige? Yes, it does. Ranked according to aid per capita, it shows which donors are the most committed to humanitarian relief, consciously sharing their wealth to help the world’s people in the greatest need. Measured by total aid level, the largest donors have the most power over the funding system as a whole. Their policies are crucial, and can easily shift the whole balance, positively or negatively. The medium-sized donors are also influential, especially when working together. They should begin to use their collective influence to push for a more equitable funding of humanitarian assistance.

The EU and forgotten emergencies

In 1999, ECHO came under criticism from Oxfam and other organisations for favouring humanitarian emergencies in former Yugoslavia over those in more distant locations. For example, in 1999, 57 per cent of all of ECHO’s allocation went to former Yugoslavia, compared with just 16 per cent across the 78 African, Caribbean, and Pacific countries (ACP) combined.

It may be that 1999 was an exceptional year. War was once again on the EU’s doorstep; fears about refugees and political fall-out were real. Still, the spending on Kosovo was an acute illustration of the trends in EU spending over the 1990s. However, to its credit, ECHO has rapidly shifted direction since 1999, and has done more than any other donor to reverse the trends that led to favouring European suffering over crises further afield. The organisation has taken important steps to improve its ability to assist all those in need of assistance, wherever they may be. ECHO has developed a new methodology to assess whether emergencies or sectors are losing donor attention. This methodology combines the quantitative analysis of funding and media coverage with the qualitative analysis from field staff. The results of this analysis are directly translated into future budget decisions, the goal being to spend 10 per cent of funding on any forgotten emergencies and other identified forgotten needs. In addition, in response to changing needs and the arrival of other donors and EC instruments, there is a clear ‘exit strategy’ for ECHO in Eastern Europe.

Earmarking: favouritism in practice

The inequality that characterises humanitarian aid funding is not only about overall spending, but also the way in which that spending occurs. The creation of the UN Consolidated Appeals in 1992 brought about major changes in funding. Since that time, a much higher percentage of donations have been earmarked for spending in specific emergencies, countries, or sectors only, at the discretion of the donor. This is a major shift from the previous practice of giving funds to a multilateral agency to spend on a range of emergencies determined by their assessment of need. This greater tendency towards earmarking, often means that funds go directly to NGOs or recipient governments for a specific designated purpose, bypassing multilateral channels. In 1988, 45 per cent of aid was given in the form of multilateral resources through UN agencies. By 1999, it was down to 11.67 per cent. 49

Earmarking has some significant costs. It limits the flexibility of funds, making it more difficult to respond to changing circumstances. It also makes coordination a difficult challenge, with many more avenues of funding and programming and no single organisation responsible for oversight. Donors often pick their favourite projects, and ignore others. Some sectors, such as food, are almost always funded, while other life-saving interventions – such as health, water, and sanitation – are often less funded or funded too late.

Earmarking also makes it harder for agencies to respond to new emergencies or those outside the current spotlight. Smaller agencies and those dependent on a single donor cannot provide assistance if the donor has already highlighted their priorities and cut projects outside those parameters. 50

There are arguments for earmarking humanitarian funds, such as a better transparency, and being able to audit spending more carefully. But at a time of increased earmarking, donors have an even greater level of responsibility to ensure that their choices for funding do not leave most people in most crises tragically short of assistance. Donors should also do far more to explore options for providing un-earmarked funds to the UN, while ensuring that they are then used both fairly and transparently.

The scale of missing information: a scandal of accountability

Some donors, such as ECHO, are taking steps to base their funding choices more on need than on political attention (see box page 32); other donors are not. And the truth is that it is impossible to tell what many donors are doing and to hold donors to account, because of the opacity of humanitarian funding.

While donors demand greater accountability from recipient governments and agencies, they have not

Agency accountability

An important element in achieving responsible humanitarian action is ensuring that humanitarian agencies themselves are accountable, efficient, and effectively run. Oxfam has sought to be at the forefront of initiatives to improve this accountability. There are many challenges to developing clear accountability mechanisms for humanitarian work, especially in acute disaster situations. Since 1994, we have been working with others to establish a Humanitarian Charter and the Sphere standards of adequate performance. We are participants in the Humanitarian Accountability Project, and members of the Active Learning Network on Accountability and Participation (ALNAP). In addition to our own internal monitoring and evaluation work, as members of the UK based Disasters Emergencies Committee (DEC) we have made a commitment to an independent evaluation of our DEC-funded work, which is released to the public and media. As members of the Steering Committee for Humanitarian Response (ISCHR), we are also piloting a peer-review process.
applied the same standards to their own actions. Officials responsible for overseas aid recognise their accountability to the tax payers of their own countries to spend money wisely. Poul Nielson, the current EU Commissioner for Development, emphasises that EU ‘taxpayers have a right to know when their money is successfully used to save lives’.

For most donors, however, the drive for accountability seems to be in one direction only – to the taxpayer – neglecting those who are entitled to relief.

Donor funding, particularly for humanitarian relief, is an unaccountable labyrinth. With no universal, mandatory reporting system it is impossible to have a complete picture of humanitarian funding. For accuracy, Oxfam uses both UN figures and OECD DAC figures, although each set of data has its own limitations.

The fog surrounding humanitarian funding is not just a statistical problem. As long as there is no clear way for donors to report their humanitarian funding, taxpayers cannot know where their money goes, and have no way to identify clearly the crises that are being neglected. There is no foolproof way to hold donor governments to account for their decisions or to assess how they are upholding their commitments to assist people in desperate need. But more systematic mechanisms can be put into place to improve transparency and accountability. That is why Oxfam is calling for a global, transparent, and mandatory system of reporting humanitarian donations. This could be done through the OECD DAC process of accounting for all aid, or through the UN Office for the Coordination of Humanitarian Assistance (OCHA). The OECD appears to be the more feasible option, because its systems for reporting aid are already mandatory for OECD countries, but they must also respond to the need for real-time data.

The basic design of such a system would rest on a standardized definition of humanitarian aid, including a specific exclusion of the funds spent within the donor country. The data would clearly indicate what money was spent where, when dispersed, and through which channels. A system of verification and sanctions must be in place in order to ensure compliance. The figures for non-OECD countries must be incorporated into the calculations of global humanitarian funding to have a full picture. Once made standard, the information should be made available for public consumption, both in print & on the Internet (as the OECD & UN data is currently).

The Humanitarian Financing Studies

Despite the current lack of accountability, donors have taken one important step and in 2003 commissioned a set of key studies known as the Humanitarian Financing Initiative. A core group – chaired by the Netherlands Ministry of Foreign Affairs, and including the European Commission, Australia, Canada, Sweden, Switzerland, the UK, and the USA – supported the four studies. The first study is a critical review of needs-assessment practice and its influence on resource allocation. The second study researches the flow of global humanitarian aid; the comparability of data, and the scope for reform. The third explores a series of hypotheses about the basis of donors’ decision making. The research provides useful insights into the influence of geo-politics on decision making, the role of the military, and other important factors. The fourth study describes the implications for the UN multilateral system of the first three studies.

Results of research: the donor-funding whole is worth less than the sum of its parts

The results of the studies are telling. Donors, as a group, achieve less than the sum of their parts; that is, donor behaviour is a patchwork of policies and activities by individual governments that, taken together, do not create a coherent or effective system for financing humanitarian needs across the world.52

Humanitarian assistance is largely embedded within competing and sometimes inconsistent domestic and foreign policy priorities. The overall effectiveness of humanitarian assistance is compromised by donor earmarking, by short funding cycles, by uncoordinated pledging and late funding, and by tying contributions to a donor’s own nationals, NGOs, and contractors, which is rarely the most cost effective way to spend relief money.53

Key findings to date confirm that humanitarian principles are not the main driver of donor behaviour in financing humanitarian work – foreign and domestic politics take priority. The study carried out interviews with more than three hundred people, and discovered that major donors have a significant impact on the international humanitarian system and thus bear disproportionate responsibility for the widespread prevailing disarray; achieving coherence in US policy alone would make a real difference to the complete picture. Perhaps most significantly, the use of multilateral channels was shown to encourage burden sharing – and thus to achieve a more equitable coverage of need.54

Steps forward: Good Donorship Principles and Implementation Plan

In June 2003, representatives of donor governments, multilateral institutions, the UN, the Red Cross movement, and NGOs met in Stockholm to address the disarray of humanitarian funding, in light of the studies above. The focus of the conference was on ‘Good Donorship’, that is, how to be a responsible and proactive donor in all aspects of the relationships between donors, agencies, and beneficiaries. Key points were agreed in a set of Principles, including: the need to allocate funds based on need; the critical importance of humanitarian, refugee, and human rights law; the vital necessity of preserving the principles of humanity, impartiality, and independence of humanitarian aid; and the importance of using civilian channels of assistance whenever possible. The conclusions described the foundations of these efforts to be the ‘common international goal of meeting the entirety of global humanitarian needs’.

Representatives of all major donor governments endorsed the circulated Principles and the connected Implementation Plan. Amongst the steps for implementation were:

• identifying a pilot country to which the above principles of good donorship will be applied by all donors working in a coordinated manner;
• pursuing the establishment of an enhanced mechanism for peer review among OECD donors;
• exploring the possibility of harmonising reporting requirements and management demands on agencies;
• aiming to use a comprehensive common definition of reporting humanitarian assistance. These Principles and the Implementation Plan are very positive moves by the donor community. However, much work remains to ensure that the governments involved deliver on these pledges. The Implementation Plan remains somewhat vague and weak. Donor governments must now move past ‘exploring possibilities’ and ‘aiming to agree’ and
institute concrete steps for governments to take. It is time for them to ensure that all neglected civilians receive the humanitarian assistance to which they are entitled.

Humanitarian law, humanitarian principles, humanitarian space

Humanitarian agencies have always had to affirm their independence. But this is perhaps more difficult than ever in the current political climate, and yet critically important. At the extreme, in June 2003, Andrew Natsios, the head of the US Agency for International Development (USAID) addressed NGOs and demanded that they promote the image and policies of the US government. This clearly goes against the mandates of many NGOs: to provide humanitarian aid impartially, free from political conditionality.

This is not only an issue in the USA, however. In the EU’s new draft constitution, humanitarian aid is described in a list of tasks that include the fight against terrorism. European NGOs have been fighting to enshrine the concept of independent and high-quality humanitarian aid into the new constitution, but there are government officials who believe that the time is right to politicise humanitarian aid, as the EU slowly develops its political, security, and defence identity. Will ECHO become subsumed into the EU’s Common Foreign Security Policy (CFSP)? There are also indications that EU member states will be looking more to their militaries to deliver aspects of humanitarian relief, without considering the implications for humanitarian emergencies around the world.

Part of the definition of impartiality and independence of humanitarian aid is a clear separation from military strategies. From Somalia to Afghanistan, and most recently in Iraq, the warring parties have ordered their troops to rebuild schools and rehabilitate clinics as well as to engage in armed conflict. Oxfam welcomes the importance placed on meeting humanitarian need. But our experience shows that civilians are best assisted when civilian humanitarian agencies provide this assistance, even during conflicts. In contrast, military rules of engagement are set by political and strategic goals, rather than an impartial assessment of humanitarian need. Designed to have quick impact, and to convert hearts and minds to the political cause, military-delivered aid is also frequently more costly and fails to take into account communities’ long-term needs.

Military involvement can also compromise the effective delivery of humanitarian aid by risking unintended consequences.

When troops dress as civilians and operate like aid workers – as in Afghanistan – civilians have difficulty distinguishing between military forces and civilian humanitarian agencies. This makes it difficult for humanitarian agencies to maintain their independence, and it potentially threatens the security of aid workers and their effectiveness in negotiating access to all those in need. However, in extremely insecure conditions, military forces may be the only groups who can operate, and they have a responsibility to ensure that people receive humanitarian aid. Even in such cases, civilian humanitarian agencies should assume this responsibility as soon as conditions allow.

Recommendations

To provide impartial humanitarian aid based on human needs wherever it is needed, and to prevent neglected emergencies, Oxfam recommends that:

- Donor governments demonstrate that they are giving humanitarian aid based on need, not on politics. They must commit to consistent and adequate funding for all emergencies, with a particular emphasis to fund neglected crises effectively. To guarantee this, they should extend ECHO’s system for identifying the needs of women, children, and IDPs as particularly neglected emergencies with civilians at risk.

- Donors must implement and move beyond the plan of action from the Stockholm Good Donorship meeting in June 2003. They must go further than the ‘exploring possibilities’ to take concrete steps to establish a common definition of humanitarian aid, an agreed system of measuring need, and common and mandatory reporting mechanisms to determine the flow of aid in real-time.

- Governments should support the proposal to develop an analysis of risk and need throughout the humanitarian assistance system as put forward by the UK’s Overseas Development Institute. These protection-based criteria, with long-term elements to identify baseline data on chronic emergencies, would fill an important gap, and allow donors to ensure their aid reaches those most in need.
Protecting those displaced by conflict: reinforcing refugee rights

Leaving home in order to seek safety in another country is the last resort when people are not protected in their own country. The Refugee Convention sets out the obligations of host states and the basic rights of all those with a well-founded fear of persecution.
4. Protecting those displaced by conflict: reinforcing refugee rights

When a state’s responsibility to protect its citizens fails and when international assistance to buttress such protection does not reach those most in need, civilians are sometimes forced to flee their homes and often attempt to reach safety in another country. However, the experience of people fleeing their homeland and seeking asylum is fraught with difficulties, and most people uprooted by conflict or persecution never manage to cross an international border.

Most of those who do succeed rely upon the generosity of neighbouring host states whose capacity to meet the needs of their own citizens is already stretched. Even in wealthy and secure Western countries, asylum seekers face hostility. They encounter barriers to entry, deprivation of basic provisions and sometimes of their liberty as governments continue to introduce ever harsher asylum legislation in order to drive down the number of claims. This undermines the global system of refugee protection. From Iran and Tanzania to the United Kingdom and Australia, refugee protection is in urgent need of reinforcement.

Asylum: worrying moves to restrict protection

There are some 13 million refugees and asylum seekers worldwide. Of these, Africa hosts nearly one quarter. The large number of refugees has strained the limited resources of poorer countries, and as a result, refugees often face impoverished conditions and strained relations with host communities, who see them as competition for scarce resources. Tolerance is running thin. In some countries, doors are closing, preventing people whose lives are in danger from finding safety; in the worst cases, people are being sent back into the danger they have fled.

It is in the West that the doors to asylum are being closed most firmly. Despite the much lower number of people seeking asylum in Western countries, it is these wealthy countries that are at the forefront of denying civilians their right to safety. Only five per cent of asylum seekers ever reach Europe, yet unfounded concerns about the increasing number of claims for asylum serve to restrict protection still further. This is the case despite the fact that the vast majority of refugees are hosted in some of the poorest countries of the world. Considering the very small percentage of refugees hosted by the West – especially in proportion to population – this crackdown is unjustified (see table 4.1).

The shift in policy can be seen particularly clearly within the EU. Despite the reaffirmation of the 1951 Refugee Convention by the 1999 EU Tampere Summit Conclusions, some member states have continued to claim that the Refugee Convention is ‘out of date’ and needs reform to make it more relevant to today’s environment. There is a strong risk that such changes to the Convention would undermine rather than strengthen international refugee protection.

In 1999, the EU Treaty of Amsterdam offered some hope of reining in the negative trend of member states introducing national asylum legislation at odds with and successively harsher than that of neighbouring states. The Treaty established a timetable for cooperation and harmonisation of member states’ asylum policies and the creation of a Common European Asylum System founded upon the 1951 Refugee Convention.

Australia: lowering refugee protection standards

Australia has traditionally been generous in resetting recognised refugees. During the last decade, however, and in particular since September 2001, those entering the country without authorisation have faced an increasingly punitive asylum regime. It involves a range of measures including: mandatory detention of asylum seekers arriving illegally; extended powers to turn back boats entering Australian waters with potential asylum seekers on board; removing certain Australian territories from the reach of its national immigration law; shifting the processing of asylum claims to detention camps on Papua New Guinea and Nauru (the so-called ‘Pacific Solution’); and tough rules denying permanent protection in Australia to almost all refugees who were in third countries prior to arrival.

The legality and impact of these policies have been widely condemned by aid agencies, human rights organisations, and religious leaders. Oxfam has argued that excessive political concern over the arrival of relatively small numbers of asylum seekers has undermined humanitarian protection, damaged Australia’s international reputation, and skewed the Government’s development priorities. The aggressive attempts by the Australian government to export its approach to other countries are also disturbing. In a global climate of fear about security and terrorism, and growing hostility towards asylum seekers and migrants, it appears that the Australian approach has some resonance with other governments, and is proving influential. For example, in a move that mirrors the ‘Pacific Solution’, a six-nation operation has been set up to patrol the Mediterranean with warships to keep illegal migrants out of Europe.
Refugees’, asylum seekers arriving in Europe would be removed to Transit Processing Centres outside Europe to have their claim for asylum processed, while Regional Protection Zones would be set up in major refugee producing areas of the world. The emphasis of the proposals has shifted continuously since the leak of the initial draft, but they still remain vague, lacking any concrete plans or detailed consideration of the practical protection issues involved.

While these proposals rightly acknowledge the need to boost protection in regions of origin, they could present a serious threat to the protection of refugees fleeing violence and persecution. Firstly, they could further shift the global refugee caseload onto poor host communities in less developed countries; 72 per cent of the world’s refugees are currently hosted by developing countries. Secondly, they risk endangering the lives and safety of refugees by failing to guarantee adequate protection in the zones or centres. Thirdly, they could result in protracted neglected refugee situations – diverting humanitarian attention from non-strategic refugee hosting areas, and failing to provide durable solutions for those in the zones or centres.

The UK government sought endorsement of its ‘New Vision’ from the EU and from UNHCR, but received a negative response from many EU states and consequently announced that it would drop the Transit Processing Centre element. At the EU summit in Thessaloniki in June 2003, a number of states also expressed concern about the Regional Processing Zones. However a group of supportive countries declared their intention to do further research into the proposal, and to establish a pilot zone within the next 12 months.

Discrimination in the wake of the ‘war on terror’

Since September 11th, refugee and asylum policy has become even more constrained; restrictions that relate specifically to the ‘war on terror’ verge on discrimination. While the 1951 Refugee Convention explicitly excludes those who have violated human rights or committed serious crimes including acts of terrorism, governments are pushing at the boundaries of the law, based on suspicion alone. In the UK, for instance, the Anti-Terrorism, Crime and Security Act of 2001 allows the government, for anti-terrorist reasons, to derogate from the European Convention on Human Rights. This allows the indefinite detention without legal process of foreign nationals ‘suspected’, on the basis of security and police

The plight of Palestinian refugees in Lebanon

Palestinian refugees in Lebanon are facing complex problems. The 12 official camps have the highest percentage of Palestinians living in poverty. The refugees have no social and civil rights and have very limited access to the government’s public health and educational facilities. After more than half a century in exile, their situation remains precarious. They don’t have citizenship of any state. They can’t work in many occupations – they are prohibited by law from working in more than 70 trades and professions. In some cases, they can’t even repair their houses because they can’t import building material into the camps. Restrictions on building and reconstruction in the camps contribute to the insecurity of Palestinians in Lebanon, forcing them to live in buildings damaged or totally destroyed during the civil war.

### Table 4.1: Source: USCR (2003) World Refugee Survey

<table>
<thead>
<tr>
<th>Host country</th>
<th>Ratio of refugee population to total population</th>
<th>Number of refugees</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gaza Strip</td>
<td>1:2</td>
<td>879,000</td>
</tr>
<tr>
<td>Lebanon</td>
<td>1:11</td>
<td>409,000</td>
</tr>
<tr>
<td>Congo-Brazzaville</td>
<td>1:29</td>
<td>118,000</td>
</tr>
<tr>
<td>Iran</td>
<td>1:30</td>
<td>2,209,000</td>
</tr>
<tr>
<td>Yugoslavia</td>
<td>1:30</td>
<td>353,000</td>
</tr>
<tr>
<td>Guinea</td>
<td>1:46</td>
<td>182,000</td>
</tr>
<tr>
<td>Liberia</td>
<td>1:31</td>
<td>65,000</td>
</tr>
<tr>
<td>Tanzania</td>
<td>1:72</td>
<td>516,000</td>
</tr>
<tr>
<td>Pakistan</td>
<td>1:95</td>
<td>1,518,000</td>
</tr>
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<td>Saudi Arabia</td>
<td>1:98</td>
<td>245,000</td>
</tr>
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<td>Uganda</td>
<td>1:312</td>
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<tr>
<td>Sudan</td>
<td>1:114</td>
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<td>Switzerland</td>
<td>1:165</td>
<td>44,200</td>
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<td>Nepal</td>
<td>1:181</td>
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<td>Germany</td>
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<td>Japan</td>
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<td>6,500</td>
</tr>
<tr>
<td>Mexico</td>
<td>1:25500</td>
<td>4,000</td>
</tr>
</tbody>
</table>

Table 4.1: Source: USCR (2003) World Refugee Survey
Ensuring that no civilian is forced to flee or repatriate to face the danger of violence, forced recruitment, governments continuing to offer asylum to refugees who manage to arrive on their territory.

Proposals to invest in addressing root causes through poverty reduction, conflict

achieving of a durable solution, and to help these organised a survey to find out what is blocking the Centre for IDPs (CIS), and Jesuit Refugee Services, Oxfam, in collaboration with a local partner, the

leaving the camps.

the poor conditions and in spite of the directive refugees have chosen to stay in the camps despite.

island. Some fled to escape violence, but many were forced by armed militia to leave their homes and cross the border. Living under the noses of militia in rudimentary refugee camps throughout West Timor, their limited access to appropriate and unbiased information has meant that the process of refugee return has been slow and painful. Most refugees have managed to make their way home to East Timor, but 50,000 others still remain behind.

In the violence that followed the UN-sponsored referendums on East Timor’s independence in September 1999, some 280,000 East Timorese crossed the border to the Indonesian side of Timor island. Some fled to escape violence, but many were forced by armed militia to leave their homes and cross the border. Living under the noses of militia in rudimentary refugee camps throughout West Timor, their limited access to appropriate and unbiased information has meant that the process of refugee return has been slow and painful. Most refugees have managed to make their way home to East Timor, but 50,000 others still remain behind.

living alongside an equally poor local population in West Timor, these East Timorese are once again, faced with very difficult decisions. The government of Indonesia will no longer tolerate refugees living in camps and are telling them that they must move – either to return immediately to East Timor or to resettlement sites in Indonesia. The fact that the refugees have chosen to stay in the camps despite the poor conditions and in spite of the directive is indicative of the uncertainties associated with leaving the camps.

Oxfam, in collaboration with a local partner, the Centre for IDPs (CIS), and Jesuit Refugee Services, organised a survey to find out what is blocking the achievement of a durable solution, and to help these refugees’ voices to be heard.

Refugees vulnerable due to lack of information: the case of West Timor

In the violence that followed the UN-sponsored referendum on East Timor’s independence in September 1999, some 280,000 East Timorese crossed the border to the Indonesian side of Timor island. Some fled to escape violence, but many were forced by armed militia to leave their homes and cross the border. Living under the noses of militia in rudimentary refugee camps throughout West Timor, their limited access to appropriate and unbiased information has meant that the process of refugee return has been slow and painful. Most refugees have managed to make their way home to East Timor, but 50,000 others still remain behind.

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non-citizens who provide lawful assistance to groups that are not officially designated as terrorist organizations.

Insecurity in asylum: where protection fails

As those who manage to reach a country of asylum remain vulnerable. Having escaped from immediate persecution or violence, refugees are frequently met with further insecurity – something they had hoped to leave behind. In some cases this is because the host states are themselves in the throes of conflict or struggling to support their own populations. In others it is because policies and host governments are more explicitly turning their backs on their responsibilities to refugees out of domestic concerns, and since September 11th, use justifications around the ‘war on terror’.

In Africa, the massive refugee influxes of the last decade, caused by the political violence that has engulfed much of the Great Lakes region, have presented new challenges as huge numbers of refugees from Burundi, Rwanda, Sudan, Somalia, DCR, Ethiopia, and other countries search for protection. These mass population movements are often sudden. Impoverished refugees descend upon communities, which are themselves struggling to meet their own needs, and cannot therefore provide for hundreds of thousands of extra people. Host nations receiving refugees may themselves lack a legal and procedural framework within which to adequately protect the rights of the fleeing populations.

Even refugees living in recognised camps are often forced to live in squalid conditions in insecure areas with inadequate access to food, healthcare, and other basic necessities. Refugees – as well as IDPs – therefore may continue to be under threat. Attack, sexual assault, deprivation of humanitarian assistance, forced recruitment, and forced repatriation are everyday occurrences in many of the places where people have fled to seek protection. Camps themselves can come under attack as part of the military or political tactics of host states or warring parties. The irony is that legitimately seeking the protection of asylum can sometimes expose people to still more violence.

Recommendations

To reinforce a strong system of international protection for asylum seekers, refugees, and IDPs, Oxfam recommends that the 1951 Refugee Convention and subsequent protocol be enhanced and upheld by:

• Ensuring that no civilian is forced to flee or repatriate to face the danger of violence, forced recruitment, sexual assault, or a lack of humanitarian assistance. Donor governments and host governments must protect the right to asylum and work together to provide durable solutions for refugees with guarantees that their rights will be protected.

• Western governments making increased, sustained, and equitable investment in addressing the causes of forced migration. Proposals to invest in addressing root causes through poverty reduction, conflict prevention, and emergency responsiveness are welcomed. These initiatives should be pursued on a multilateral basis with the involvement of UNHCR. The EU and other donor states must ensure that these efforts are not reserved for only those countries and regions that are currently the sources of large numbers of asylum seekers. Humanitarian and development assistance should be targeted according to need, and not contingent upon the domestic considerations of donor countries.

• Governments continuing to offer asylum to refugees who manage to arrive on their territory. Resettlement schemes and other ‘regional solutions’ must in no way detract from the responsibility of states to receive, host and process the claims of “spontaneously arriving” asylum seekers on their territory. These national and regional asylum systems must be humane, transparent and in line with international standards. It is imperative that they are based on protection rather than deterrence of refugees.
These Rwandan refugee children fled their country during the genocide in 1994. Ten years later, the international community still suffers from a lack of political determination to prevent atrocities against civilians. Yet, when the international community has the political will, major steps have been taken that have literally saved lives. It is time to channel this into the systematic protection of civilians wherever there is need.

Conclusion: Reinforcing an international system to protect civilians in conflict
Concrete measures must be taken now to redress the damaging trends which have been set since September 11th. Civilians under threat need: pressure to be put on all warring parties to adhere to international humanitarian law; a new system to be drawn up for assessing risk to civilians and to provide a clear picture of humanitarian need to guide effective response; mandatory reporting on and analysis of protection of civilians in all political communiqués concerning conflict zones; humanitarian assistance to be distributed on the basis of need; and the agreement of the international community to a fair system of refugee protection which adheres to the Refugee Convention.

The challenge is great and it is not simply one for the warring parties. It is a challenge to all governments, all donors, and the United Nations as a collective body. To ignore the challenge would be to abandon the historic undertaking that was made at the end of the second world war: that we, the people, are committed to save succeeding generations from the scourge of war. The international community must fulfil this pledge, and pursue all possible means to protect civilians from the worst ravages of conflict.

The focus by governments on the threats of international terrorism and weapons of mass destruction since the events of September 11th has resulted in trends that have made civilians in conflict even more vulnerable than before. Governments are failing to make the fullest efforts to protect civilians caught in neglected conflicts. Donor governments have diverted humanitarian aid to strategic countries. Governments have undermined the independence and impartiality of humanitarian aid. All these measures threaten to erode the body of international law and obligations that are the only foundations we have to protect civilians across the world. Some of these events and moves by governments have shaken the United Nations to the core. Questions have been raised in many people’s minds: what is the role of the United Nations? What is the point of acting through multilateral structures?

Unfortunately, since 2001, the UN Security Council has once more been overwhelmed by geo-political events, rather than rising to the challenge. Some trends have been deeply worrying. If governments act unilaterally or in narrow coalitions, without the support and sanction of the Security Council, they not only undermine the legitimacy of their immediate actions, they also undermine the strength of the multilateral system, which is the only means of organising concerted action against violence, coercion, and deprivation. UN agencies have also been undermined by cuts to their funding from donors.

However, as this report shows, the world does need multilateralism in order to address widespread death and suffering. The Leadership of the UN Security Council is crucial. Despite the failures of the Security Council to fulfil its vital mandate to uphold ‘international peace and security’, it remains the only body that can authorise actions, such as Operation Artemis in the Democratic Republic of Congo, that can be indispensable to save lives. Such interventions are desperately needed; they are practical proof of the existence of a committed international community that seeks to protect civilians wherever they are threatened.

Equally vital are the many tools that the UN agencies have developed, through years of work on the ground responding to conflict. Led by Kofi Annan, the current Secretary General, the UN has paid far more attention to the practicalities of protecting civilians in the past few years. These pragmatic steps are useful, but more work is needed to extend protection to all civilians caught in conflict.

International humanitarian law sets universally accepted standards for the protection of civilians in armed conflict. Refugee law demands that civilians who have fled for their lives are allowed to find protection in another country without fear of being sent back. Like the UN Charter, these rules have been painstakingly negotiated by governments in order to ensure respect for minimum standards for the protection of the right to life with dignity, despite conflict. Humanitarian principles – of distinction, precaution, proportion, and impartiality – are set out in law to be respected in every crisis. These principles are only as strong as the commitment of all parties to enforce them and adhere to them. Upholding international law in all conflicts, with the rights of civilians, refugees, and displaced people at the forefront, is critically important in order to set a precedent where violations are no longer accepted.

It is essential to support and enhance this multilateral system. Any further moves must strengthen, not undermine, these agreed rules and standards to protect civilians.

5. Conclusion: Reinforcing an international system to protect civilians in conflict
Summary of Recommendations

i ) To focus international action where it can do most to protect civilians, Oxfam recommends that:

- The international community - led by the UN Security Council - must develop strategies to engage more consistently with seemingly intractable conflicts to help protect civilians in neglected crises. All possible tools must be made available, including intense diplomacy, support for the negotiation of access for humanitarian aid, and in extreme cases, the contribution of troops to UN-led peacekeeping missions with strong mandates to protect civilians.

- Governments and warring parties must plan their military tactics to take all the precautions necessary to minimise civilian harm. They must respect the key guidelines of international human rights and humanitarian law, that all military action must preserve the immunity of civilians. No military strategy should be based on the maximum use of force in situations where civilians are endangered. Any action must:
  - Distinguish between civilians and military;
  - Take precautions to minimise civilian harm;
  - Only use proportionate force;
  - Allow the impartial delivery of humanitarian aid.

- Governments should influence warring parties around the world to uphold their obligations under humanitarian law; and absolutely refrain from encouraging, tolerating, or arming allies committing abuses.

- Governments must not tolerate abuses by their allies in the ‘war on terror’ or in any other conflict situation. In particular, the top five arms producers – USA, UK, France, Russia, and China – must not authorize transfers of arms in situations where there is reasonable cause to believe that they will be used in violation of humanitarian law or human rights law. They must rigorously enforce all Security Council embargoes.

- Governments, the UN Security Council, the Peace and Security Council of the African Union, and the European Union should implement new systematic procedures to assess what action may be required in any given crisis to protect civilians from violence, deprivation, and coercion, and to work with others to carry out necessary action.

- Governments must at all times recognize and preserve the independent, impartial, and civilian character of humanitarian aid according to UNGA Resolution 46/182, 19 December 1991: ‘humanitarian assistance must be provided in accordance with the principles of humanity, neutrality, and impartiality’.

ii ) To provide impartial humanitarian aid based on human needs wherever it is needed, and to prevent neglected emergencies, Oxfam recommends that:

- Donor governments demonstrate that they are giving humanitarian aid based on need, not on politics. They must commit to consistent and adequate funding for all emergencies, with a particular emphasis to fund neglected crises effectively. To guarantee this, they should extend ECHO’s system for identifying the crises receiving inadequate attention, and set aside at least 10–20 per cent of funding for clearly identified neglected emergencies with civilians at risk.

- Donor governments must implement and move beyond the plan of action from the Stockholm Good Donorship meeting in June 2003. They must go past ‘exploring possibilities’ to take concrete steps to establish a common definition of humanitarian aid, an agreed system of measuring need, and common and mandatory reporting mechanisms to determine the flow of aid in real-time.

- Governments should support the proposal to develop an analysis of risk and need throughout the humanitarian assistance system as put forward by the UK’s Overseas Development Institute. These protection-based criteria, with long-term elements to identify baseline data on chronic emergencies, would fill an important gap, and allow donors to ensure their aid reaches those most in need.

iii ) To reinforce a strong system of international protection for asylum seekers, refugees, and IDPs, Oxfam recommends that the 1951 Refugee Convention and subsequent protocol be enhanced and upheld by:

- Ensuring that no civilian is forced to flee or repatriate to face the danger of violence, forced recruitment, sexual assault, or a lack of humanitarian assistance. Donor governments and host governments must protect the right to asylum and work together to provide durable solutions for refugees with guarantees that their rights will be protected.

- Western governments making increased, sustained, and equitable investment in addressing the causes of forced migration. Proposals to invest in addressing root causes through poverty reduction, conflict prevention, and emergency responsiveness are welcomed. These initiatives should be pursued on a multilateral basis with the involvement of UNHCR. The EU and other donor states must ensure that these efforts are not reserved for only those countries and regions that are currently the sources of large numbers of asylum seekers. Humanitarian and development assistance should be targeted according to need, and not contingent upon the domestic considerations of donor countries.

Governments continuing to offer asylum to refugees who manage to arrive on their territory. Resettlement schemes and other ‘regional solutions’ must in no way detract from the responsibility of states to receive, host and process the claims of ‘spontaneously arriving’ asylum seekers on their territory. These national and regional asylum systems must be humane, transparent and in line with international standards. It is imperative that they are based on protection rather than deterrence of refugees.
**Endnotes:**

4. According to UNGA res. 46/182, 19 December 1991: “Humanitarian assistance must be provided in accordance with the principles of humanity, neutrality, and impartiality.”
19. Ibid.
20. Ibid.
25. Some of these ideas were referred to in the Report of the International Commission on Intervention and State Sovereignty (ICISS), entitled ‘The Responsibility to Protect’. This report, published December 2001, but reporting on research largely conducted before September 11th of that year, was based on the work of a panel of experts on interna- tional responsibility vis-à-vis war, insurgency, repression, or state failure. The report asserts that the responsibility to pro- tect means not just the ‘responsibility to react’, but the ‘responsibility to prevent’, and the ‘responsibility to rebuild’ as well. It directs our attention to the costs and results of action versus no action, and provides conceptual, normative, and operational linkages between intervention and recon- struction.
27. “Adopted 8 June 1998 by the EU Council. “In October 2003, Oxfam, the International Action Network on Small Arms, Amnesty International will be launching an International Arms Campaign, which will push govern- ments to achieve this goal.
30. “McClelland, S. (2003) Remarks at the HPG debate ‘How should humanitarian needs be met in Iraq’? London 10 April 2003, as cited in Macrae, J (ed.) (2003). ‘The New Humanitarianism: a review of global humanitarian action’. Humanitarian Policy Group Report 11, April 2003 see www.odi.org.uk/hpg/papers/iraq4.pdf. Note: assurances were given that this amount of money would not detract from spending in other parts of the world, with roughly half the money coming from the UK government’s contingency reserves. However, the question remains as to why this huge amount of money could suddenly be mobilised for one conflict, and not many other crises where civilians are under threat.
32. “Neglected emergencies are not new. Oxfam first reported its concern about the imbalance of global resources in November 2000. A vastly unequal response – in terms of both funding and of diplomatic engagement – to the crises in Europe and the crises in Africa illustrated how the interna- tional community was shirking its responsibilities to address need universally. In Kosovo in 1999, donor governments gave $207 for every person in need. By contrast, they gave only $16 in Sierra Leone; for the Democratic Republic of Congo, only $8. Adjustments for the cost of living and the costs of delivery of services in Europe do not adequately account for such disparities.
34. “Porter (2002) ‘An External Review of the CAP’, commis- sioned by OCHA’s Evaluation and Studies Unit, 18 April 2002. “For accuracy, most analysts use both the UN figures and the figures reported by OECD countries to the Development Assistance Committee (DAC). DAC figures have the advan- tage of being more complete than UN figures, but are usually some 12–18 months behind.
38. “Oxfam has a revolving ‘catastrophe fund’ of approximately US$13,047,800 ($14,871,709) that allows us to mobilise for emergencies even before donors make it a priority; however, for long-term programming we would still need donors sup- port.
48. “The spending on domestic refugee services, which the OECD data allows to be combined in the reporting for humanitarian expenditure, distorts the data: nearly a quarter of all spending on humanitarian relief ($1.3bn) goes towards domestic commitments. Expenditure per refugee ranges from $5,000–$14,000 (compared with humanitarian expendi- ture in developing countries being $2–$500 per head). While this spending in host countries is important, it should not be recorded as humanitarian assistance. In some countries (Austria, Canada, Denmark, and France) the spending on domestic refugees is as much or more than humanitarian assistance. Only six countries (including UK, Ireland, and Japan) do not record their expenditure on domestic refugees as part of humanitarian assistance.
52. “Oxfam has a revolving ‘catastrophe fund’ of approximately US$13,047,800 ($14,871,709) that allows us to mobilise for emergencies even before donors make it a priority; however, for long-term programming we would still need donors sup- port.
53. “ibid.
References


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International Committee of the Red Cross: www.icrc.org
International Humanitarian Law: www.ihlresearch.org or International Committee of the Red Cross: www.icrc.org

UNHCR statistics, www.unhcr.ch/cgi-bin/textui/statistics

UNHCR: www.unhcr.ch

UN OCHA’s Financial Tracking: www.reliefweb.int/fts

Sphere Project: www.sphereproject.org

UN OCHA’s Financial Tracking: www.reliefweb.int/fts

UNHCR: www.unhcr.ch


"Under Article 1F of the 1951 Refugee Convention, international refugee law explicitly excludes from protection those who have violated the human rights of others or committed other serious crimes, and UNHCR has consistently advised that this Article should be restrictively interpreted."