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# New York Seminar 2013

## Humanitarian Engagement in Contemporary Complex Emergencies

AUGUST 2013

The International Peace Institute (IPI) convened its eighteenth annual New York Seminar on “Humanitarian Engagement in Contemporary Complex Emergencies” at IPI’s Trygve Lie Center for Peace, Security & Development from April 17–19, 2013. The seminar is designed to foster professional development and informal policy discussions among mid-career diplomats at the United Nations, focusing on a different topic every year.

The 2013 New York Seminar explored old and new challenges to humanitarian action in contemporary complex emergencies. It examined the increasing involvement of nontraditional humanitarian actors and addressed the issue of engaging nonstate armed groups for humanitarian access. The seminar concluded by drawing out implications for the future of humanitarian action and for the fundamental principles that undergird the humanitarian endeavor. The keynote address on the political importance of these principles, delivered by Oxford University’s Senior Research Fellow Hugo Slim, is included in the annex to this note, along with the seminar agenda.

This meeting note was drafted by Jérémie Labbé, senior policy analyst at IPI, with assistance from Omar El-Okdah, research assistant at IPI. It reflects the *rapporteur’s* interpretation of the seminar discussions and not necessarily the views of all participants. The meeting was convened under the Chatham House rule of nonattribution.

IPI is grateful to the governments of Denmark, Norway, and Sweden for their generous support, which makes seminars and publications like this possible.

### Introduction

Major crises have produced dramatic humanitarian situations around the world in recent years, including famine in Somalia in 2011; a severe food crisis in the Sahel region in 2012; conflict in Mali in 2012 and 2013; and ongoing civil war in Syria, with its cortege of displacement and shattered lives. A common feature of these different crises is the difficulty faced by humanitarian actors, in an environment characterized by conflict and insecurity, to safely access affected populations and to deliver badly needed assistance and protection. In humanitarian jargon, these various crises are referred to as “complex emergencies,” a term that was beginning to form in the late 1980s in Mozambique in order to differentiate “those situations where armed conflict and political instability are the principal causes of humanitarian needs from those where natural hazards are the principal cause of such needs.”<sup>1</sup>

The official definition of a complex emergency, coined in the mid-1990s, is “a humanitarian crisis in a country, region or society where there is total or considerable breakdown of authority resulting from internal or external conflict and which requires an international response that goes beyond the mandate or capacity of any single agency and/or the ongoing United Nations country program.”<sup>2</sup> This definition highlights the conflict-related origin of humanitarian needs and the requirement for large-scale and multifaceted humanitarian assistance. According to the UN Office for the Coordination of Humanitarian Affairs (OCHA), complex emergencies are further characterized by “the hindrance or prevention of humanitarian assistance by political and military constraints,” and by “significant security risks for humanitarian relief workers in some areas.”<sup>3</sup>

The International Peace Institute’s 2013 New York Seminar examined how the nature of complex emergencies and the environments in which they occur have changed in the two decades since the coining of the concept, and it further drew out the implications for future humanitarian action. In the lead-up to the World Humanitarian Summit called for by the UN secretary-general and tentatively scheduled for 2015, debate is active on how the humanitarian

1 Organisation for Economic Co-operation and Development–Development Assistance Committee (OECD-DAC), “Guidance for Evaluating Humanitarian Assistance in Complex Emergencies,” Paris: OECD, 1999, p. 6.

2 This definition was adopted in 1994 by the Inter-Agency Standing Committee, the principal global coordination platform for international humanitarian organizations. See UN Office for the Coordination of Humanitarian Affairs (OCHA), “Orientation Handbook on Complex Emergencies,” OCHA, August 1999, available at [http://reliefweb.int/sites/reliefweb.int/files/resources/3D153DA3049B322AC1256C30002A9C24-ocha\\_orientation\\_handbook\\_on\\_.html#1](http://reliefweb.int/sites/reliefweb.int/files/resources/3D153DA3049B322AC1256C30002A9C24-ocha_orientation_handbook_on_.html#1).

3 Ibid.

system should adapt to a changing world.<sup>4</sup> IPI sought to inform ongoing discussions within the diplomatic and UN community by focusing on the most complex situations of all: those where conflicts are raging.

Given that safe humanitarian access remains central to the effective delivery of aid, the seminar focused on challenges to humanitarian engagement in today's conflicts—particularly regarding the potential to communicate, negotiate, and cooperate with all relevant actors to ensure acceptance and access of aid to populations in need—and on the underlying normative framework based on the principles of humanity, impartiality, independence, and neutrality.

## Challenges to Humanitarian Action in Contemporary Complex Emergencies

Today's conflicts in Afghanistan, the Democratic Republic of the Congo (DRC), Mali, Somalia, and Syria are characterized by features identified in the late 1990s by the Organisation for Economic Co-operation and Development (OECD) as constitutive elements of complex emergencies.<sup>5</sup> First, these cases are mostly intrastate conflicts in which it is difficult to distinguish combatants from civilians and where violence is often directed toward civilians and civilian infrastructures. Further, these conflicts tend to last for years, if not decades, and are characterized by the fluidity of the situation on the ground, where the chronic vulnerability of populations is interspersed with sudden and localized outbursts of violence with nonexistent or rapidly moving frontlines. Years of chronic instability and conflict tend to severely constrain normal accountability mechanisms—such as an independent press and judiciary—while favoring the development of war economies. In such complex environments, there is a risk that humanitarian assistance can unintentionally nurture these conflicts. This risk is heightened by the proliferation of humanitarian actors present in these contexts, as described below.

## CONTINUITY AND INCREASING COMPLEXITY

In many ways, the nature of contemporary complex emergencies is not fundamentally different from those that occurred two decades ago. As one participant stated, “while I won't go so far as to say that there is nothing new in the current environment, I see a great deal of continuity,” including in terms of implications and challenges for the collective humanitarian response to these crises. The main challenges to humanitarian action have mostly remained the same: risks of politicization of aid by governments or armed groups; risks of aid diversion by warring parties; the need to better align short-term emergency aid with longer-term development to address the underlying causes of vulnerability; obstacles to engaging with nonstate armed groups, partly due to sovereign states wary of interference in their internal affairs; and difficulties of coordinating the action of a multiplicity of humanitarian actors.

A few genuinely new changes, broadly linked to globalization, are evident—for example, the unprecedented development of information and communication technologies, or the increasingly mixed nature of international migration flows. However, participants agreed that the most notable change in today's conflicts is their increasing complexity, which compounds the difficulties for humanitarian engagement in complex emergencies.

More often than not, humanitarian actors now have to deal with multiple, interdependent layers of crises in the same humanitarian setting. Recent humanitarian operations in Mali illustrate this complexity. Operations in the country started in late 2011 to address a situation of chronic food insecurity affecting the broader Sahel region. Humanitarian actors were relatively successful in responding to this one layer of the crisis. As noted by one seminar participant, the humanitarian response in the Sahel went relatively well thanks to early-warning systems that allowed countries in the region to detect, anticipate, and prepare for the crisis. Donors followed suit and contributed sufficient funding for aid agencies to deploy a

<sup>4</sup> Jérémie Labbé, “Rethinking Humanitarianism: Adapting to 21<sup>st</sup> Century Challenges,” New York: International Peace Institute, November 2012.

<sup>5</sup> OECD-DAC, “Guidance for Evaluating Humanitarian Assistance in Complex Emergencies,” pp. 6–9.

concerted and long-term approach aimed at strengthening the resilience of the population and the capacities of affected countries to respond.

However, the situation was aggravated by additional layers of crisis: growing insecurity in the north of the country—compounded by the fallout of the 2011 conflict in Libya—developed into a full-fledged internal armed conflict in 2012 and triggered an international military intervention in early 2013. While the humanitarian system has become better at delivering a concerted and meaningful humanitarian response in relatively stable situations of natural disasters, it still struggles to adapt to changing circumstances and conflict. As a participant stated, quoting the author Mark Duffield, “the logic of relief activity derives from a natural disaster model that pays little attention to social and political forces,”<sup>6</sup> particularly at play in complex emergencies. There are undeniable and age-old tensions between combining modes of action that require long-term support to affected governments and other modes that call for operational independence and neutrality to deliver urgent assistance in the midst of conflict. Yet, in a global context where natural disasters are expected to be more frequent and to affect more people (due to the combined effects of climate change, demographic growth, and urbanization) the agility to transition between different modes of action needs improvement.

In addition, from Mali to Somalia, Afghanistan, and the DRC, humanitarian actors operate today in contexts that see multiple levels and forms of external intervention. Humanitarian action has always had to contend with forces of politicization in conflict, either dictated by the antagonism between the great powers during the Cold War—like in Afghanistan or Central America in the 1980s—or the doctrine of military humanitarian intervention prevalent in the 1990s, from Somalia to the Balkans.<sup>7</sup> But since the global war on terror era of the 2000s, this complexity has further grown.

Humanitarian actors must coexist with increasingly robust and multidimensional UN peacekeeping missions, multinational stabilization operations, counterterrorism policies, and counterinsurgency tactics. These external interventions, often conducted in the name of international peace and security, tend to incorporate and subsume humanitarian action into broader political objectives for the sake of coherence and to “win the hearts and minds” of the population. This is compounded by the drive toward integration in places where UN peacekeeping or political missions are deployed. Since UN humanitarian agencies and coordination structures under these circumstances are placed under the overall supervision of the organization’s political leadership, their independence of action is constrained.<sup>8</sup> In this respect, the decision of the UN Security Council in March 2013 to create a structurally integrated mission in Somalia raised many concerns within humanitarian circles, which feared being associated with a still-contested government.<sup>9</sup>

Expectations of what humanitarian actors can and should do in complex emergencies have increased too, particularly with regard to protecting the civilian population from the effects of conflicts. Protection of civilians—i.e., the set of activities that aim to ensure respect for the rights of individuals under international human rights and humanitarian law<sup>10</sup>—has become much more central to humanitarian action and to maintaining international peace and security.<sup>11</sup> There is a growing recognition that conflicts such as the one in Syria are “protection crises” rather than “humanitarian crises,” since violations of human rights and international humanitarian law are at the origin of humanitarian needs. Aid agencies no longer limit themselves to merely delivering material assistance to people affected by conflict, they are also expected to monitor and report atrocities committed against civilians. At times, this includes engaging in public advocacy to denounce crimes against civilians or

6 Mark Duffield, “Complex Emergencies and the Crisis of Developmentalism,” *Institute of Development Studies Bulletin* 25, No. 4 (1994): 37–45.

7 For a comprehensive history of the “instrumentalization” of humanitarian aid, see Antonio Donini, ed., *The Golden Fleece: Manipulation and Independence in Humanitarian Action* (Sterling, VA: Kumarian Press, 2012).

8 Victoria Metcalfe, Alison Giffen, and Samir Elhawary, “UN Integration and Humanitarian Space: An Independent Study Commissioned by the UN Integration Steering Group,” London: Overseas Development Institute, December 2011.

9 Jérémie Labbé, “In Somalia, Humanitarian NGOs Against Integration with United Nations,” Interview with Joel Charny, vice-president of Interaction, in *The Global Observatory*, April 26, 2013, available at [www.theglobalobservatory.org/interviews/488-in-somalia-humanitarian-ngos-resist-integration-with-un-interview-with-joel-charny.html](http://www.theglobalobservatory.org/interviews/488-in-somalia-humanitarian-ngos-resist-integration-with-un-interview-with-joel-charny.html).

10 Sylvie Giossi Caverzasio, ed., *Strengthening Protection in War: A Search for Professional Standards* (Geneva: International Committee of the Red Cross, 2001).

11 Elizabeth G. Ferris, *The Politics of Protection: The Limits of Humanitarian Action* (Washington DC: Brookings Institution Press, 2011).

cooperating with international criminal justice mechanisms, such as the International Criminal Court. This is often resented by warring parties whose consent is required to access populations in need.

## A MORE DIVERSE HUMANITARIAN LANDSCAPE

The multiplicity of actors involved in complex emergencies today, both within and outside the international humanitarian system, brings additional layers of complexity. But it also raises opportunities that have yet to be fully exploited. As far as the international humanitarian system is concerned, participants agreed that coordination has improved overall. However, the constant growth of the sphere of actors and its increasing diversity makes it ever more difficult to agree on shared approaches to addressing particular dilemmas inherent in conflict situations. For example, in Mali there were difficulties speaking with one voice on the use of armed escorts for humanitarian convoys. In Somalia, there was disagreement on redlines concerning risks of the diversion of assistance by nonstate armed groups. Both of these cases reflect divergences on what the humanitarian principles of impartiality, independence, and neutrality entail. On the other hand, diversity within the system, with different approaches and specializations, also presents opportunities to overcome the numerous obstacles to delivering humanitarian aid in conflict settings. With regard to the current debate on Syria, over whether to access populations in opposition-controlled areas across frontlines from Damascus or directly across borders despite the objections of the Syrian government,<sup>12</sup> some participants argued that both approaches are needed, since this allows humanitarian actors to address a wide array of needs wherever they exist.

Participants also discussed at length the challenges and opportunities presented by the growing diversity and number of relief actors operating outside of the formal international humanitarian system, which has been schemati-

cally organized around the Inter-Agency Standing Committee (IASC) since the early 1990s.<sup>13</sup> Organizations and individuals that are part of the humanitarian system often refer to the myriad of other organizations or entities that engage in relief activities as “emerging” actors. Some participants pointed out that the very qualification of “emerging” is misleading since it includes a multiplicity of actors who have often been present in these contexts long before any international aid agency (e.g., national militaries, grassroots organizations, local entrepreneurs, and religious institutions) and who are usually among the first responders. In that sense, it denotes a very self-centric—and at times arrogant—view of the humanitarian endeavor from so-called “traditional” humanitarian actors. Nonetheless, genuinely new actors have also emerged in the humanitarian arena, such as middle-income countries that increasingly finance overseas aid activities (often referred to as “emerging donors”), foreign militaries, and private companies that engage in relief or reconstruction as their primary activity. While the adjective “emerging” is often resorted to for lack of a better word, its increasing usage among traditional humanitarian actors is illustrative of a growing awareness of the diversity of the humanitarian landscape and the necessity to better engage with these various actors.

The diversity of actors can be seen as a positive development given that contemporary complex emergencies are themselves quite varied in nature and magnitude, each bringing its own humanitarian needs and unique constraints. Diversity and pluralism bring opportunities to innovate, to share knowledge and expertise, and to optimize the comparative advantages of different actors. For instance, grassroots organizations usually have a degree of understanding and knowledge of local socioeconomic and cultural dynamics that external actors will never achieve. This local anchorage can also enhance acceptance of grassroots organizations by the different parties to the conflict. This is illustrated by the Dr. Hawa Abdi Foundation, which has continuously run a clinic for more than two

12 Jérémie Labbé, “Syria’s Mess Causes Soul Searching in Humanitarian Aid World,” *The Global Observatory*, March 8, 2013, available at [www.theglobalobservatory.org/analysis/452--syrias-mess-causes-soul-searching-in-humanitarian-aid-world.html](http://www.theglobalobservatory.org/analysis/452--syrias-mess-causes-soul-searching-in-humanitarian-aid-world.html).

13 The Inter-Agency Standing Committee (IASC) is an inter-agency coordination and decision-making forum established in 1992, following UN General Assembly Resolution 46/182 (December 19, 1991), UN Doc. A/RES/46/182. It brings together major international humanitarian agencies, including representatives from the UN system, the Red Cross and Red Crescent Movement, and the nongovernmental sector. It benefits from the strong support (both financially and policy-wise) of mostly Western donor governments that are members of the OECD-DAC.

decades in war-torn Somalia even when most international aid agencies had to leave the country due to widespread insecurity.<sup>14</sup> Emerging donors, such as Turkey and the Gulf States, create new South-South dynamics that can be very positive for the broader humanitarian endeavor since they do not carry the same political baggage as traditional Western donors, who can be a source of additional tensions in some conflicts.

The increasing diversity of relief actors also presents a number of challenges. Several participants highlighted that aid agencies need to be more aware of other actors' responsibilities and capabilities in a given emergency. First, the government of an affected country is a central actor and has the primary responsibility of caring for its population. Humanitarian actors are not very good at engaging with host governments, particularly in intrastate conflicts, for fear that they would be engaging with a party to the conflict and compromising their neutrality and independence. Further, humanitarian actors can also have negative effects on small grassroots organizations by distorting the local economy, inflating wages of local aid workers, raising the expectations of the affected communities, and even fuelling local corruption. Again, this is illustrated by the experience of the Dr. Hawa Abdi Foundation in Somalia. During the 2011 famine, it had to double the salaries of its staff to keep up with the concurrence of inflating salaries caused by much larger international organizations flowing into the country.<sup>15</sup> This calls for greater consideration of other actors and local realities by aid agencies and an obligation of due diligence in how they operate and interact with local communities.

Conversely, nontraditional relief actors who might lack expertise and professional standards that can impact the quality of the assistance offered to affected communities can highly benefit from the experience and expertise acquired by international aid agencies over decades of field work. As a participant noted, the large body of lessons learned

and evaluation exercises could allow nontraditional relief actors to leapfrog over past mistakes. Yet, there is at best a lack of will and at worst outright reluctance to be coordinated by a system that remains widely perceived as Western. Traditional humanitarian actors also worry about the possible lack of due regard for the principles of humanity, impartiality, independence, and neutrality by actors such as militaries or private companies. In this respect, aid agencies are particularly concerned that "unprincipled" relief operations by actors motivated either by political objectives or profit might compromise humanitarian agencies' own activities in highly insecure contexts by blurring the line between each actor's motivations and purposes.

While the nature of individual challenges that humanitarian actors face in complex emergencies have remained largely consistent, the increasing complexity of the conflict setting and the proliferation of actors in a diverse humanitarian landscape are further complicating humanitarian engagement and the effective delivery of aid. At the core of these discussions is the issue of the integrity of humanitarian principles—the deontological foundations of the modern humanitarian system, to which most of those within the system have adhered.

## The Political Importance of Humanitarian Principles

As one participant stated, "humanitarian aid governed by humanitarian principles puts the focus on the conditions of the [aid] recipients rather than the objectives of the providers." These principles—consecrated by the UN General Assembly and embraced by most humanitarian agencies—give a framework for the delivery of aid in crises.<sup>16</sup> This assistance should be motivated by the sole aim of helping other humans affected by crises (humanity), exclusively based on people's needs and without any further discrimination (impartiality), without favoring any side in a conflict where aid is deployed (neutrality), and free from any economic,

14 For more, see the interview with Dr. Aisha Ahmad, chief operating officer of Dr. Hawa Abdi Foundation, by Andrea Ó Súilleabháin, "Local Aid Works Better in Somalia," *The Global Observatory*, May 3, 2013, available at [www.theglobalobservatory.org/interviews/493-interview-with-aisha-ahmad-local-aid-works-better-in-somalia.html](http://www.theglobalobservatory.org/interviews/493-interview-with-aisha-ahmad-local-aid-works-better-in-somalia.html).

15 Ibid.

16 The principles of humanity, impartiality, and neutrality were recognized by the UN General Assembly in Resolution 46/182, while the principle of independence was officially recognized in UN General Assembly Resolution 58/114 (February 5, 2004), UN Doc. A/RES/58/114. Humanitarian agencies' acceptance of these principles is evidenced through the adoption of system-wide guidelines and standards, such as the 1994 "Code of Conduct for the International Red Cross Movement and Non-Governmental Organisations in Disaster Relief" (available at [www.ifrc.org/Global/Publications/disasters/code-of-conduct/code-english.pdf](http://www.ifrc.org/Global/Publications/disasters/code-of-conduct/code-english.pdf)) and the Sphere Project's "Humanitarian Charter" in 2000 (available at [www.spherehandbook.org/en/the-humanitarian-charter/](http://www.spherehandbook.org/en/the-humanitarian-charter/)).

political, or military interests at stake (independence).

The belief in the sanctity and equality of human life that drives the humanitarian endeavor, embodied in the first principles of humanity and impartiality, is a reflection of the dignity, worth, and equality of human beings enshrined in the Preamble of the UN Charter and, as such, consecrated in the foundations of modern international politics. However, as the scholar Hugo Slim argued in his keynote address, “in extreme crisis, when immediate politics is distracted by winning, humanitarian principles are politically essential as a legal and legitimate way to preserve the first [political] principles on the ground” (see annex). In other words, independent and neutral humanitarian action is necessary to protect deeply political principles that are at the basis of the existing international order, but which tend to be overshadowed by short-term political interests prevalent in highly polarized situations of conflict.

While the four humanitarian principles are often presented as an inseparable unit, they do not have all the same value. As Jean Pictet argued in his commentary on the fundamental principles of the Red Cross, which later influenced the adoption of humanitarian principles by the broader humanitarian system, the “substantive” principles of humanity and impartiality must be distinguished from the “derived” principles of independence and neutrality.<sup>17</sup> The latter are means to implement the ideal of humanity and impartiality, which are especially relevant in conflict in order to dissipate fears of interference. As a participant put it, it is meant to be a sort of deal of noninterference with the parties to the conflict, in return for which access is granted to the population in need.

Humanitarian principles provide a frame of reference for engaging with host states’ governments in the first place, whose consent is necessary to operate in their territory. Affected governments have a central role to play in complex emergencies.

In addition to their obligation to respect international humanitarian law, they have a primary responsibility to care for and protect their population and to initiate, coordinate, and implement humanitarian assistance.<sup>18</sup> However, discussions consistently highlighted the gap between theory and practice in contexts where the government is itself a party to the conflict. In today’s intrastate conflicts, humanitarian actors are often torn between conflicting goals: demonstrating their neutrality to reassure the government that their activities are not benefiting the opposing party; supporting the national authorities to meet their responsibilities vis-à-vis their own population; and keeping some degree of independence from the same authorities.

But humanitarian principles are also of paramount importance as a framework for engaging and negotiating with nonstate armed groups and for securing the necessary acceptance to operate safely in territories under their control. Humanitarian engagement with nonstate armed groups, which has strong legal bases in international law,<sup>19</sup> is crucial for humanitarian action in conflict for three main reasons. First, it is important for purely operational reasons: armed groups hold the keys to humanitarian access in areas they control, and their consent is necessary to ensure the safety of aid staff. Second, it is important for establishing a dialogue on the legal obligations of these groups under international humanitarian law and convincing them to face their responsibilities vis-à-vis the population, both in terms of assistance and protection of civilians.<sup>20</sup> Third, humanitarian engagement with armed groups can prevent further violations from taking place through sensitization and training on their various obligations.

In this respect, the principles of neutrality and independence are operational tools that facilitate engagement with these groups in order to deliver aid where it is most needed and to establish a dialogue on compliance with rules of international

17 Jean Pictet, *The Fundamental Principles of the Red Cross: Commentary*, Geneva: ICRC, 1979.

18 Resolution 46/182, para. 3.

19 Engagement with nonstate armed groups is recognized by Article 3 common to the 1949 Geneva Conventions that applies in situations of non-international armed conflict. The article states that an impartial humanitarian organization “may offer its services to the Parties to the conflict.” It was further recognized by UN member states in Resolution 46/182, paragraph 35 (d), which explicitly gives to the emergency relief coordinator the responsibility to facilitate humanitarian access “by obtaining the consent of all parties concerned.”

20 The UN secretary-general has repeatedly emphasized the importance of engaging nonstate armed groups to seek improved compliance with international law in his regular reports to the UN Security Council on the protection of civilians. Enhancing compliance by nonstate armed groups has been recognized as one of the five core challenges to the protection of civilians in UN secretary-general’s report S/2009/277, dated May 29, 2009.

humanitarian law and human rights. On the one hand, a neutral and independent stance is what may convince a host government to allow such contacts with nonstate armed groups, despite the legitimate security concerns it might have. On the other hand, abiding by these operational principles can contribute to securing the armed groups' acceptance of the humanitarian organization by emphasizing the apolitical nature of the undertaking.

## Humanitarian Principles: Between a Rock and a Hard Place

Neutrality and independence—or the perception thereof—are never absolute, and humanitarian organizations have always had to struggle to demonstrate their good faith both to governments and to armed groups. In addition, as a participant noted, even a strictly impartial, neutral, and independent humanitarian action is no guarantee against conferring some form of legitimacy on an armed group, despite express provisions in international humanitarian law that such contact should not affect the group's legal status.<sup>21</sup>

Humanitarian engagement with nonstate armed groups has never been an easy undertaking. Yet, participants agreed that there are additional layers of complexity in contemporary complex emergencies that make the task ever more challenging, partly due to the growing prevalence of counterterrorism, counterinsurgency, and stabilization policies in the last two decades.

Counterterrorism legislation and other measures aimed at restricting people, goods, and capital from flowing to designated terrorist organizations have thrown agencies into the quagmire of choosing between humanitarian principles and complying with national and international regulations. This is particularly true in countries where radical Islamist groups related to al-Qaida operate, such as in Somalia, Afghanistan, Yemen, Mali, and Syria.

Counterterrorism measures impact humanitarian engagement with nonstate armed groups in two ways.<sup>22</sup> First, they criminalize “material support” to such groups—a notion that has been interpreted broadly in the United States as including, for example, training on human rights and humanitarian law<sup>23</sup>—and consequently inhibit contact by humanitarian organizations for fear of prosecution. This prompted a participant to state that “the criminalization of neutrality and independence” is undoubtedly a new challenge to humanitarian action in the post-9/11 world. Second, and more indirectly, counterterrorism measures further constrain engagement through the conditions they impose on humanitarian funding. Some clauses within funding agreements aim to ensure that funds are not diverted to proscribed terrorist organizations and consequently require humanitarian organizations to attest that they did not previously provide material support to such designated entities. These administrative regulations are obviously a strong disincentive to engaging with nonstate armed groups designated as terrorists, even when required for humanitarian reasons, for fear of future impact on funding.

The politicization of aid is another problem for humanitarian engagement with armed groups, which is particularly true in contemporary contexts of counterinsurgency or stabilization operations like in Afghanistan, Iraq, and Somalia. In these contexts, the majority of funding for humanitarian agencies is provided by donors who also are either belligerents or supporters of a party to the conflict, and who increasingly see humanitarian assistance as integral to reaching their military and political objectives. This, in turn, severely constrains the ability of humanitarian actors to be—or appear to be—neutral and independent.

The interplay between politics and aid—and its impact on humanitarian engagement with armed groups—is illustrated by the ways in which political and military developments affected the behavior of the Taliban in Afghanistan vis-à-vis aid agencies. An expert pointed to a recent study showing how,

21 Article 3 common to the 1949 Geneva Conventions states that “[t]he application of the preceding provisions [related inter alia to offers of services by aid agencies to armed groups] shall not affect the legal status of the Parties to the conflict.”

22 For a thorough analysis of the impact of counterterrorism policies on humanitarian action, see Kate Mackintosh and Patrick Duplat, “Study of the Impact of Donor Counter-Terrorism Measures on Principled Humanitarian Action,” Independent study commissioned by OCHA and the Norwegian Refugee Council, July 2013, available at [https://docs.unocha.org/sites/dms/Documents/CT\\_Study\\_Full\\_Report.pdf](https://docs.unocha.org/sites/dms/Documents/CT_Study_Full_Report.pdf).

23 This broad interpretation of the “material support” statute has been upheld by the US Supreme Court in its decision *Holder v. Humanitarian Law Project* adopted in June 2010. See Naz K. Modirzadeh, Dustin A. Lewis, and Claude Bruderlein, “Humanitarian Engagement Under Counter-Terrorism: A Conflict of Norms and the Emerging Policy Landscape,” *International Review of the Red Cross* 93, No. 883 (September 2011): 623–647.

while the Taliban officially welcomed the work of agencies that they perceived as neutral, this perception was regularly challenged by military operations from the international coalition that often resulted in restricted humanitarian access and increased risks for humanitarian personnel on the ground.<sup>24</sup> The perceived association of aid agencies with the government and coalition military effort—an association that some organizations voluntarily embraced—largely explains the correlation between increased military pressure and reduced humanitarian engagement.

While the political importance of humanitarian principles is universally accepted on paper, a gulf persists between states' and nonstate armed groups' commitments to respect humanitarian action conducted in accordance with these principles and the more messy reality on the ground. Participants agreed that there has never been a golden age of principled humanitarian action, when aid went unhindered—not least because of the politically polarized nature of conflicts. This explains why the authorization to engage with nonstate armed groups might be more easily granted in contexts where a government also finds a direct interest in such engagement. This is illustrated by the example of Indonesia, where the government became more open to humanitarian engagement with armed groups in Aceh following the Indian Ocean Tsunami in 2005 because of the absolute need to save tens of thousands of lives. This created an incentive for the Indonesian government to engage in peace talks with the Free Aceh Movement, which in turn shaped an environment more conducive to humanitarian engagement with the rebel group. The significant gap between theory and practice is also nurtured by aid agencies that have lacked consistency in abiding by the principles they claim to respect (this applies in particular to some agencies who joined stabilization efforts in Afghanistan and Iraq). It has further widened due to a lack of due diligence at times, which has allowed aid to be diverted to the benefit of armed groups.

However, more fundamentally, this gap between

theory and practice is bound up with the contested universality of the humanitarian principles and of the system that promotes them, as captured with the phrase “Universal ethos. Western apparatus.”<sup>25</sup> As a participant noted, humanitarian principles are the product of a system built out of a colonial and postcolonial model of international engagement and interference dominated by the West. The claim to provide impartial, neutral, and independent humanitarian assistance has long been resented by some states and nonstate armed groups alike, as a convenient fig leaf to cover other forms of interventionism. As humanitarian aid is more than ever a “principal means of political crisis management”<sup>26</sup>—increasingly instrumentalized in prevalent counterinsurgency and stabilization approaches to conflicts—some experts emphasized the urgent need to “decolonize humanitarian principles.”

## Decolonizing Humanitarian Principles: The Quest for Universality

According to one participant, “the world needs a distinctive form of aid that is altruistic and not instrumentalized, based solely on the alleviation of human suffering.” Humanitarian principles are what make this focus on the conditions of the recipient possible, and they help prevent the manipulation and politicization of aid. Yet, the constant pressure on humanitarian principles and the lack of respect thereof by both states and aid agencies fuel the perception that these principles are just a cover-up for other (often Western) political agendas. In addition, discussions showed that the claim to neutral and independent humanitarian action sometimes unnecessarily constrains the development of other modes of action that require engaging with and supporting national governments or other actors providing relief.

There is a growing awareness within the humanitarian system that, in order to adapt to today's and tomorrow's challenges in complex emergencies, one might need to review, reinterpret, or refine the

24 Ashley Jackson and Antonio Giustozzi, “Talking to the Other Side: Humanitarian Engagement with the Taliban in Afghanistan,” London: Overseas Development Institute, December 2012.

25 Antonio Donini, “Humanitarianism, Perceptions, Power,” in *In the Eyes of Others: How People in Crises Perceive Humanitarian Aid*, edited by Caroline Abu-Sada (New York: Doctors Without Borders-USA, 2012), p.186.

26 Duffield, “Complex Emergencies and the Crisis of Developmentalism.”



value system on which collective relief efforts are based. This requires acknowledging that there is no such thing as a single humanitarian system—alternately referred to as the IASC system or the Resolution 46/182 system. Rather, there is a multiplicity of systems and networks that contribute to the diversity of the humanitarian landscape, from the private sector to faith-based organizations and from national governments to regional intergovernmental organizations. All these various actors and relief networks have comparative advantages and added value, whether or not saving lives is their primary motivation and whether or not they identify with humanitarian principles. There is a need to engage these different actors and systems around some common minimum standards that might not necessarily espouse in its entirety the normative framework developed by the traditional humanitarian system. In the words of some participants, there is a need to make these different systems more “interoperable”—through agreed protocols and mutually agreed rules of engagement—when these actors are pursuing similar humanitarian objectives in the same theater.

However, this does not mean throwing the baby out with the bath water, and most participants recognized that humanitarian principles remain highly relevant in conflict situations. There were some divergences on the degree of relevance of humanitarian principles, depending on the context and the actors. In other words, experts had different views regarding the centrality that humanitarian principles should have in the broader undertaking of alleviating suffering in war and violence. While humanitarian principles will undoubtedly remain central to an actor like the International Committee of the Red Cross (ICRC)—which has a unique mandate recognized by the international community in situations of conflict—they may be less fundamental for other aid agencies and actors who have different and broader objectives and modes of action.

Experts shared different perspectives and sketched out different diagnoses of the state of principled humanitarian action. For some, the main problem is not the relevance of humanitarian principles per se; rather, the problem lies in aid agencies’ rigid and at times arrogant understanding of these principles as definitive of the humanitarian endeavor—including the operational principles of

independence and neutrality. This zealous interpretation of humanitarian principles—which is not always matched in reality, as previous discussions have shown—would explain the reluctance to engage fully with other actors whose contributions to relief activities are increasing. It underlies discourses that needlessly separate “true” humanitarians from the rest and isolate traditional humanitarian actors from other collective efforts in complex emergencies. While deeply attached to humanitarian principles, this approach begs the question of whether the IASC system’s adherence to these principles might sometimes be a hindrance to greater coordination with nontraditional relief actors, to better supporting host governments in fulfilling their responsibilities, and to longer-term programming aimed at addressing underlying causes of crises. This prompted other participants to call for greater transparency and honesty on the part of aid agencies regarding what their main priorities are and what limitations these choices entail, including for the respect of humanitarian principles.

Another expert proposed an even more radical shift toward a human-rights-based approach to humanitarianism, observing that humanitarian principles are the result of a relief model devised in the late nineteenth century, which is ill-adapted to today’s conflicts. This approach argues that the unifying myth of impartial, neutral, and independent humanitarian action should be deconstructed, given that no humanitarian organization really abides by humanitarian principles in practice—with the possible exception of the ICRC given its very specific mandate and its unique international recognition through the 1949 Geneva Conventions. Aid agencies are in fact driven by a multitude of different value systems that would best find common ground in the rich toolkit of human rights conventions. Such a shift would allow practitioners to better address violations of basic rights that are often at the origin of humanitarian needs, to better bridge relief and development, and to create a new basis for a more inclusive and universal humanitarian endeavor.

Despite their sometimes antagonistic divergences, these different approaches acknowledge the urgent need to discuss and agree on a set of common standards and norms that would be the basis for improved understanding and interper-

ability between the different constitutive networks and systems that participate in the broader relief undertaking in conflict settings. This implies greater transparency by aid agencies on what drives their activity and a serious and inclusive discussion on the centrality of humanitarian principles, which might allow for the identification of genuinely universal values that underlie humanitarian action in complex emergencies.

## Conclusion

Two days of intensive discussions on humanitarian engagement in contemporary complex emergencies led to the conclusion that the biggest challenge to humanitarian action today lies in the increasing complexity of conflict settings and the proliferation of actors who get involved in these settings. Humanitarian actors will always have to cope with difficulties and obstacles that are inherent in operating in highly insecure and politically polarized conflict situations. However, a notable change is evident in the increasing diversity of actors that intervene in these conflicts in different capacities, including by providing relief to affected populations in a manner not necessarily in line with the normative framework developed within the international humanitarian system. While this

proliferation of actors creates very real challenges to traditional humanitarian organizations, it also presents opportunities to better meet the needs of affected communities by using the comparative advantages of each to the best effect.

Despite claims to universality, the international humanitarian system and (to some extent) its normative framework remain perceived as a Western construct. Humanitarian principles—which are central to this framework and provide both a value system and operational tools—tend to be affected by this perception, not least because of the failure of the humanitarian system itself to consistently abide by these principles.

There is a need to overcome this deep distrust, which was reinforced in the last decade, and to harness a more universal understanding of the commitment to helping people in need in conflict. In this respect, the process leading to the World Humanitarian Summit in 2015 offers a unique opportunity for a global and inclusive dialogue on the values that are both the foundation of the United Nations system and the core of the humanitarian commitment: the belief in the sanctity and equality of all human lives, reflected in the fundamental principles of humanity and impartiality.

## Annex

### Keynote Address: The Political Importance of Humanitarian Principles

Hugo Slim

*Senior Research Fellow at the Oxford Institute for Ethics, Law and Armed Conflict,  
University of Oxford*

Thank you for inviting me here to address you tonight. It is a real pleasure to have the opportunity to talk to a group of diplomats working for their countries and for international organizations at the United Nations.

A former British prime minister and long-time chancellor of my university at Oxford, Harold Macmillan, was once asked if he knew the collective noun for a group of politicians. If a group of birds is a flock, and a collection of cows forms a herd, how should one describe a group of politicians? Macmillan thought for a bit and then replied, “I think you would have to describe a gathering of politicians as a lacking of principles!”

I want to suggest (and to hope) that this is neither right nor fair here at the UN in New York, and I want to discuss why it is not true on paper and need not be true in practice. I want to show that you—as UN diplomats and the governments you represent—have very deep political principles and that these deep political principles are humanitarian principles. I want to discuss how politics and humanitarian action are profoundly connected. At their deepest point of values, they share the same principles.

As UN diplomats, you do not have to be split or divided between a political self and a humanitarian self. You don’t need a different persona for different meetings in the UN building. You need not be like Calvino’s famous “cloven viscount”—cut neatly in half in a furious battle and then only able to operate as good in one part and bad in the other. You can find Aristotle’s golden mean between the extremes of political policy and so respect the deeply humane values of the UN Charter by enabling humanitarian action.

The deepest political values that you have agreed on at the UN are there to guide you whether you are in a very political meeting, or a very humanitarian meeting, or a very political meeting about humanitarian action. So, let us look at deep political principles and deep humanitarian principles, and see how they are joined.

#### Your Deepest Political Principles

At the UN—as a collective of states—you work toward the UN Charter. On the very first page of the Charter, in the Preamble, there are five fundamental political principles.

1. **“To save succeeding generations from the scourge of war”**

This is a primary goal—to prevent or alleviate the sufferings of war. It is an essential political principle focused on a concern for commitment to “the peoples” of the world—individual human beings.

2. **“The dignity and worth of the human person”**

This is another fundamental political principle with a teleology of person, not state. In ethical terms, people and the person are the moral goal of politics, the ends not only the means. This principle affirms the preciousness of the human person.

3. **“Equal rights of men and women”**

Here we have a radical equality—a commitment to the equal value of every single human person with no discrimination between them.

#### 4. “To practice tolerance”

This is the principle of tolerating people with whom we have real differences—even our enemies.

#### 5. “Respect for the obligations arising from treaties and other sources of international law”

This shows a deep commitment to lawfulness and respect for international law as a standard of state conduct and human behavior. In war and complex emergencies, of course, this often means international humanitarian law and refugee law.

So, these five values on the opening page of the UN Charter are the first and the deepest of all political principles. Their focus on our humanity and the equal value of every human person is profound.

### And What Are the First and Deepest Humanitarian Principles?

#### 1. Humanity

“To prevent and alleviate human suffering wherever it may be found . . . [and] to protect life and health and to ensure respect for the human being”

Here, too, we have the preciousness of human life—physical life plus the dignity of person and a commitment to prevent suffering and degrading treatment. It is a call to humane treatment and human flourishing of the whole person.

#### 2. Impartiality

“No discrimination as to nationality, race, religious beliefs, class or political opinions”

Again, like the UN Charter, we have a radical equality of person. All people are of equal value, and every single life is precious. Aid is nondiscriminating and given on the basis of need alone.

#### 3. Neutrality

“Not [to] take sides in hostilities or engage at any time in controversies of a political, racial, religious or ideological nature”

This is the idea of what Jean Pictet called “reserve”—military and ideological detachment to ensure that aid gives no unfair military advantage, as in Article 23 of the Fourth Geneva Convention. But here, in neutrality, there is a real tension with political principle. Neutrality is obviously not a fundamental political principle or a political virtue. In his *Inferno*, Dante makes this clear by assigning people who have been neutral in life to the vestibule of hell.

But, under the scourge of war, it is good that some become neutral in order to move through and across war in order to reach people. And, in reaching people, they can then deliver on the fundamental political principles of human preciousness and equality. The humanitarian principle of neutrality is an operational posture to generate the trust and confidence of enemies, and in order to reach inside a war to realize fundamental political principles beneath the fight.

#### 4. Independence

“Humanitarian agencies must always maintain their autonomy so that they may be able at all times to act in accordance with humanitarian principles.”

This is also an operational principle, and not a fundamental political principle. No political theorist would see independence per se as a human virtue. Some measure of independence is essential, but full independence of any individual or social group would be an unhealthy isolation. And it is usually impossible as well as undesirable.

But, in humanitarian action, humanitarian independence recognizes that states and parties have real interests, real differences, and real fights in war. It respects these but seeks autonomy and the self-determination of humanitarian action—a freedom of decision and freedom of action within the wider dispute. So,

humanitarian independence aims to resist the manipulation, selectivity, and instrumentalization of aid that is so tempting to state and nonstate forces as they try to win in war.

## Common Values

In this way, the main humanitarian principles and the primary political principles of the UN Charter (and the Universal Declaration of Human Rights) share a profound value for the preciousness, equality, and protection of the human person from the scourge of war.

## Humanitarian Realism

But, of course, I am a realist, and I know that politics is not the simple delivery of principles. Politics is not just the project management of values. Instead, politics is struggle.

This is because we humans have competing views and interests about how to build society. We are often unable to see how our idea of human freedom may be hell to others. We are also personally and collectively overcome by motivations of fear, greed, domination, and power. And, of course, we often hate in politics too. As a species, we are competitive and aggressive, as well as cooperative and kind.

Armed conflicts—complex emergencies—are about these hard immediate political struggles. And, within these pressing political struggles, it is a particularly hard struggle to remember and defend the deeper political principles of the human person.

So the political principle of struggle is another principle that politicians and humanitarians share. Humanitarians struggle to realize deep human principles in an armed conflict. Diplomatically, we call this political struggle “negotiation.” We negotiate humanitarian access, and we negotiate protection. But really, of course, this is political struggle around deep political principles. Usually, it is a struggle between the timeless political principles of human values and the winning of today’s immediate political contests.

This principle of struggle means that the deep political and humanitarian principles of the UN Charter are not given: they have to be made every day. Our moral goals have to be scored! As UN diplomats, you are engaged in this struggle in New York.

## What Then is the Political Importance of Humanitarian Principles?

Humanitarian principles embody the first principles of good politics. In extreme crisis, when immediate politics is distracted by winning, humanitarian principles are politically essential as a legal and legitimate way to preserve first principles on the ground.

Humanitarian principles enable human beings to be recognized in armed conflict: to be seen as precious; to be seen in law; and to be treated humanely, given food and water, sheltered, made healthy again, visited in prison, reunited with their families, protected, educated, and consoled.

So, when you are doing humanitarian diplomacy and humanitarian negotiation here at the UN, you are doing very powerful politics. You are doing the Preamble to the UN Charter.

You are working on the foundation of all politics—the very existence of human beings.

# Agenda

## Humanitarian Engagement in Contemporary Complex Emergencies

Wednesday, April 17, 2013

18:00 – 19:00

### Welcome Address

Ambassador Maureen Quinn, *Director of Programs, International Peace Institute*

19:00 – 21:00

### Opening Dinner

#### Keynote Address: The Political Importance of Humanitarian Principles

Dr. Hugo Slim, *Senior Research Fellow at the Oxford Institute for Ethics, Law and Armed Conflict, University of Oxford*

Thursday, April 18, 2013

09:00 – 09:15

### Introductory Remarks

Mr. Jérémie Labbé, *Senior Policy Analyst, International Peace Institute*

09:15 – 11:00

### Session 1

#### Old and New Challenges in Contemporary Complex Emergencies: The Sahel and Syria

*The first session will revisit the concept of complex emergencies and will identify the main features of contemporary conflicts. Looking at the examples of the Sahel region (particularly Mali) and Syria, this session will explore challenges to humanitarian action in today's complex emergencies.*

#### Chair

H.E. Mr. Carsten Staur, *Permanent Representative of Denmark to the United Nations*

#### Speakers

Mr. Joel R. Charny, *Vice-President, Humanitarian Policy and Practice, InterAction*

Ms. Geneviève Boutin, *Chief, Humanitarian Policy Section, Office of Emergency Programs, UNICEF*

Mr. Iain Levine, *Deputy Executive Director, Program, Human Rights Watch*

#### Discussant

Mr. Hansjoerg Strohmeyer, *Chief, Policy Development and Studies Branch, OCHA*

11:00 – 11:15

### Coffee Break

11:15 – 13:00

### Session 2

#### A Diverse Humanitarian Landscape: Engaging with “Emerging” Relief Actors

*The growing involvement in relief activities of actors who are not part of the traditional international humanitarian system is a prominent feature of contemporary complex*

*emergencies. This session will present the perspectives of so-called “emerging” actors in emergency relief in conflict situations and will discuss the challenges and opportunities they represent for the international humanitarian system.*

#### **Chair**

H.E. Mr. Mårten Grunditz, *Permanent Representative of Sweden to the United Nations*

#### **Speakers**

Dr. Aisha Ahmad, *Chief Operating Officer, Dr. Hawa Abdi Foundation, and Assistant Professor in Political Science, University of Toronto*

H.E. Mr. Y. Halit Çevik, *Permanent Representative of Turkey to the United Nations*

Mr. Doug Brooks, *Founder and President Emeritus, International Stability Operations Association*

#### **Discussant**

Dr. Hugo Slim, *Senior Research Fellow at the Oxford Institute for Ethics, Law and Armed Conflict, University of Oxford*

13:00 – 14:30 Lunch

#### **Keynote Address: Perspective of a Host State**

H.E. Mr. Francis Mading Deng, *Permanent Representative of the Republic of South Sudan to the United Nations*

14:30 – 16:30

#### **Session 3**

#### **Engaging Nonstate Armed Groups: Key to Access and Protection in Complex Emergencies**

*Engaging nonstate armed groups is deemed crucial by humanitarian actors to ensure access to populations in need under their control and, thereby, satisfy the humanitarian imperative of impartiality. It has also been recognized by the UN secretary-general as a core challenge to protecting civilians, both to enhance compliance with international law by armed groups and to ensure humanitarian access. This session will explore some of the current challenges to engaging nonstate armed groups for humanitarian purposes in contemporary crises.*

#### **Chair**

H.E. Mr. Geir O. Pedersen, *Permanent Representative of Norway to the United Nations*

#### **Speakers**

Mr. Walter Fülleemann, *Permanent Observer to the United Nations and Head of Delegation, International Committee of the Red Cross*

Mr. Greg Puley, *Chief, Policy Advice and Planning Section, Policy Development and Studies Branch, OCHA*

Ms. Ashley Jackson, *Research Fellow, Humanitarian Policy Group, Overseas Development Institute*

H.E. Mr. Yusra Khan, *Deputy Permanent Representative of the Republic of Indonesia to the United Nations*

Friday, April 19, 2013

08:45 – 13:30

**Session 4**

**Humanitarian Negotiations in Contemporary Armed Conflicts, Working Session  
Facilitated by Conflict Dynamics International**

*Humanitarian negotiations are a specific and necessary type of humanitarian engagement, essential to effective and timely provision of humanitarian assistance and protection. This working session will aim to present an overview of the practice, challenges, and opportunities of humanitarian negotiations in contemporary armed conflicts; to increase participants' awareness of the negotiation process; and to share an operational framework and analytic tools to prepare for and conduct more effective and structured humanitarian negotiations. The session will be facilitated by Mr. Gerard McHugh, President of Conflict Dynamics International and co-author of OCHA's Humanitarian Negotiations with Armed Groups: A Manual For Practitioners, and Ms. Simar Singh, Program Officer for Humanitarian Policy, Conflict Dynamics International.*

09:00 – 09:45

**Humanitarian Negotiations in Contemporary Armed Conflicts**

- Presentation on the unique underpinnings of humanitarian negotiations
- Interactive session to solicit perspectives from participants on opportunities and challenges for humanitarian negotiations

09:45 – 10:30

**Interest-Based Negotiation**

- Introduction to the interest-based approach in negotiations
- Interactive session giving participants the opportunity to work through sample scenarios of using interest-based approaches in negotiations

10:30 – 10:45

Coffee Break

10:45 – 11:45

**Framing Humanitarian Negotiations**

- Presentation and interactive discussion on using humanitarian principles and elements of international law in humanitarian negotiations

11:45 – 13:00

**Role-Play Exercise**

- “Fishbowl” role-play exercise using a case study
- Participants will engage in individual preparatory work according to the roles assigned, followed by group preparatory work for thirty minutes.
- All participants will reconvene in plenary for the “fishbowl” negotiation exercise. Each group will designate team members to engage in negotiations.

13:00 – 13:30

Wrap-Up and Q&A with Participants

13:30 – 14:30

Lunch



14:30 – 16:00

**Closing Session**

**The Future of Humanitarian Engagement: Integrating Principles and Pragmatism?**

*Building on discussions held during the seminar, this final session will adopt a prospective tone and look at the future of humanitarian engagement in complex emergencies. Drawing on the rich discussions held during the seminar, participants will discuss the opportunities and difficulties for engagement with major stakeholders in complex emergencies. Is a humanitarian response guided by the principles of impartiality, neutrality, and independence compatible with the pragmatism required to adapt to the challenges of contemporary and future conflicts?*

**Chair**

Ambassador Maureen Quinn, *Director of Programs, International Peace Institute*

**Speakers**

Dr. Catherine Bragg, *former Deputy Emergency Relief Coordinator and Assistant Secretary-General, OCHA*

Dr. Dirk Salomons, *Director, Humanitarian Affairs Program and International Organizations Specialization, School of International and Public Affairs, Columbia University*

**Wrap-Up**

Mr. Jérémie Labbé, *Senior Policy Analyst, International Peace Institute*

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