

Humanitarian NGOs' Duties of Justice

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In the eyes of its proponents, the doctrine of humanitarianism is a soaring, idealistic invocation of the moral force of our common humanity: humanitarian duties are duties that we all owe to each other, at least potentially, simply by virtue of us all being human. But—again in the eyes of its proponents—the content of these duties is exceedingly modest: being a humanitarian does not entail fighting structural injustice or demanding political reform; it simply requires one to alleviate other individuals' acute suffering.¹

Given the expansive scope but limited content of humanitarianism, what are the moral responsibilities of self-described humanitarian actors, in particular, international non-governmental organizations (NGOs) that provide humanitarian aid, such as Oxfam and Doctors Without Borders? It seems apparent that these organizations ought to be honest and transparent, and refrain from causing excess, avoidable harm to the donors, aid recipients, host governments and community-based organizations with which they interact. But while they have these and perhaps other *ethical* duties to those with whom they come into direct contact, humanitarian NGOs seem not to have demanding duties of social or distributive *justice* to reform large-scale political or social institutions. (At least, their humanitarian activities do not seem to generate such duties.)

To the contrary, calling an action or motivation “humanitarian” accentuates its detachment from politics in general, and from issues of justice in particular. For example, when the Scottish government released a convicted terrorist dying of prostate cancer, it explained that it was doing so on “humanitarian grounds,” not based on “political, diplomatic or economic considerations.”² Likewise, a spokesperson for the International Committee of the Red Cross (ICRC) distinguished that organization’s humanitarian work from broader issues of social justice: “We do surgery. We do medicine. We do clean water. We don’t do justice.”³ Or as James Orbinski stated while accepting the Nobel Peace Prize on behalf of Doctors Without Borders in 1999: “Humanitarianism is not a tool to end war or to create peace. . . . It is an immediate, short-term act that cannot erase the long term necessity of political responsibility.”⁴ It is because humanitarian aid involves—or seems to involve—directly alleviating the symptoms of suffering while leaving underlying institutional structures untouched that it is sometimes derided as a “Band Aid” response to man-made and natural disasters.

The model of humanitarian action reflected in the latter two quotations cited above was developed and promulgated by the ICRC, beginning in the mid-1800s. Based on principles of “humanity,” “neutrality,” “impartiality,” and “independence,” it was adopted by many humanitarian NGOs in Europe and North America.⁵ But for the past twenty years, so-called “political” humanitarians, along with some academics, journalists, and activists from poor countries, have argued that this model is neither descriptively accurate nor normatively desirable. These critics argue that humanitarian actors have significant (intentional and unintentional) causal effects on institutional structures and political processes external to humanitarianism. These effects are sometimes conducive to, and sometimes undermining of, political and social justice.

This distinction between “neutral” and “political” humanitarianism is by now familiar to scholars of humanitarian aid. In this article, I draw on the work of political philosophers and practitioners and scholars of humanitarian aid to document a very different connection between humanitarian NGOs and social justice. I argue that (i) the system of international humanitarian aid is *itself* an “institutional social structure”; (ii) in the course of providing humanitarian aid, humanitarian NGOs help to create, sustain, and benefit from this structure; and therefore, (iii) they have (limited) duties of justice to help make this structure just. In other words, just as individuals have a responsibility to help make the institutional structures in which they participate and from which they benefit just, NGOs have an analogous responsibility to help make the institution of international humanitarian aid just.⁶ This responsibility is heightened by the fact that aid recipients are profoundly affected by this system, but at present they have little capacity to influence it.

By the “institution” of international humanitarian aid, I mean the “rules of the game” in which interactions among discrete actors (NGOs, aid recipients, donors, etc.) take place.⁷ These rules include formal laws, rules, codes of conduct and technical standards, which have become increasingly well-developed and well-entrenched over the last twenty years. They also include the informal norms, shared assumptions, and entrenched practices that set the parameters within which individual actors operate.⁸ For example, Kosovo in 1999 was, as David Rieff points out, a “humanitarian circus.”⁹ But as Rieff explains, this was due not only to an *absence* of effective coordinating mechanisms among NGOs, the North Atlantic Treaty Organization, and UN agencies, but also to the *presence* of particular entrenched practices of fundraising and shared assumptions about Kosovars’ needs. So the problem in Kosovo—and the problem that Kosovo created for poor and disaster-affected Africans, from whom attention and resources were diverted—was not only an absence of institutional structure (understood as explicit coordinating mechanisms) but also its presence (in the form of particular shared assumptions, fundraising practices, etc.).

While political philosophers have helped to clarify this understanding of what an institutional social structure is, they have usually not viewed the system of international humanitarian aid as an example of such a structure; they have instead tended to characterize humanitarian aid as temporary, small-scale, and “interac-

tional,” rather than as entrenched and “institutional.” Yet while the activities of individual NGOs are indeed interactional, the rules and norms that constrain and enable them are properly—and usefully—seen in institutional terms. (I will say more about the international/institutional distinction below.)

Insofar as NGOs help to create and sustain the institution of international humanitarian aid—and insofar as they benefit from this institution—they have jointly held duties to help ensure that this institution is just. In the highly non-ideal contexts in which NGOs work, fulfilling such duties might involve democratizing the humanitarian aid system so that aid recipients have a greater say in its constitutive rules and norms, or reducing incentives toward bias and inefficiency. Insofar as NGOs’ own power to shape these broader structural rules is limited, their duty to alter them is not highly demanding. But these duties do differ in kind from the narrower ethical duties directly to aid recipients that are usually emphasized in discussions of humanitarian aid, such as the duty to “do no harm”.

I will argue that we ought to view the humanitarian aid system as an institutional structure and doing so foregrounds issues of social justice. This line of argument draws on a view about the relationship between institutional structures and social justice that I will call the “liberal institutional” view. According to liberal institutionalists such as John Rawls, Thomas Pogge, and Kok-chor Tan, judgments of justice and injustice apply primarily to institutional social structures, while of ethics apply to interactions between actors operating within these structures.¹⁰ Some philosophers, such as G.A. Cohen and Liam Murphy, argue that this is too restrictive a view of the subject matter of justice; they think that judgments of justice and injustice also apply to individuals.¹¹ But they do not deny that social institutions are an especially important arena of justice. Thus, a different way of framing my argument, which Cohen and Murphy could accept, would be to say that NGOs have an especially important *kind* of duty of justice that they did not previously appear to have. Yet other critics, such as Thomas Nagel and Michael Blake, argue that the liberal institutionalist conception of justice is not restrictive enough. They argue that duties of justice can only arise among people who all contribute to a shared benefit that must be distributed among them, or who together create and live under highly coercive institutions.¹² Proponents of this latter view are likely to find my invocation of the term “justice” problematic, but they might nonetheless acknowledge the normative importance of the issues that I discuss under this rubric.

The rest of this article proceeds as follows. The next section shows that humanitarian action in general, and humanitarian aid in particular, are often construed as disconnected from large-scale, entrenched institutions and processes. Section 2 argues that, to the contrary, the system of international humanitarian aid can itself be seen as an institutional structure, and not only as a hodge-podge of discrete, disconnected organizations. Section 3 suggests that insofar as humanitarian NGOs participate in and benefit from this institutional structure, they have a responsibility to help make it more just. The conclusion examines broader implications.

1. Humanitarian Action as Interaction

We begin with the dominant view, which is that humanitarian action involves a direct “interaction” between two (individual or collective) actors: (i) the individual, state, agency, or organization that engages in humanitarian action (e.g., feeding cyclone victims, granting amnesty to undocumented immigrants) and (ii) the recipient(s) or object(s) of that action, for example, the cyclone victims or undocumented immigrants themselves. While practitioners of international humanitarian aid claim to respect the dignity of aid recipients by, for example, providing them with more resources than the bare minimum needed to sustain biological life, humanitarianism in general does not emphasize aid recipients’ agency. Humanitarianism is interactional in the sense of being one-off, small-scale, direct, and so not aimed at making institutional change; it does not necessarily involve equal or reciprocal interactions.

1.1 Humanitarian Action as Interaction in Liberal Institutionalist Political Philosophy

As I noted above, liberal institutionalists argue that the subject matter of social justice—the things about which judgments of justice and injustice can be made—are institutional structures. As Thomas Pogge explains:

an *institutional* conception postulates certain fundamental principles of social *justice*. These apply to institutional schemes and are thus second-order principles: standards for assessing the ground rules and practices that regulate human interactions. An *interactional* conception, by contrast, postulates certain fundamental principles of *ethics*. These principles . . . are first-order in that they apply directly to the conduct of persons and groups.¹³

Drawing on this distinction, Kok-chor Tan argues that:

duties of humanitarian assistance do not . . . directly address the global structural context within which countries interact, whereas duties of justice apply directly to the background structure. This difference in focus is the fundamental distinction between a humanitarian approach and a justice-based approach to global poverty.¹⁴

According to Tan, then, humanitarian action is interactional and a matter of ethics, not institutional and a matter of justice.

Let us examine this distinction in more detail. Consider, first, the *source* of humanitarian duties. These duties arise in response to (any) other human beings’ acute needs, and one’s own capacity to address those needs. In contrast, on the liberal institutionalist view, duties of social justice derive from an institutional connection of some kind: for example, I might have duties of justice to you because we participate in the same social institution(s), or because I participate in social institutions that indirectly make you worse off (even though you don’t participate in them).

Just as humanitarian duties do not require institutional structures in order to exist, humanitarian action is not aimed at altering institutional structures. Humanitarian action is enacted directly on individuals: it involves feeding the hungry, housing the homeless, healing the sick, direct cash transfers, and so on. Promoting social justice, in contrast, is indirect: it involves reforming the social institutions within which hungry, homeless, and sick people lead their lives.¹⁵

Because the goal of humanitarian action is to alleviate acute suffering, humanitarian duties to an individual cease once that individual's suffering has been alleviated. In contrast, justice, especially on more egalitarian accounts, is "relational": it requires ongoing redistributive schemes (embedded, usually, in institutional structures). Thus, while duties of humanitarian aid have a "cutoff" point above which no more aid is required, duties of justice often do not.¹⁶

Another commonly recognized feature of humanitarianism is that it requires humanitarian *motivations* on the part of the actor providing humanitarian aid (humanitarianism says virtually nothing about aid recipients' motivations).¹⁷ This focus on the inner life of the individual (or the fundamental orienting principles of the organization) engaged in humanitarian action is consistent with a view of humanitarian action as an *activity* undertaken by a particular actor at a particular moment in time. In contrast, institutional theories of social justice downplay the importance of motivations altogether: while just institutions require support from the people who live within them, liberal institutionalists want institutions to be as self-sustaining as possible, so that the individuals living within them can focus on other things.¹⁸

In sum, the source of humanitarian duties, the object and content of humanitarian action, and the motivations of humanitarian actors keep humanitarianism at arm's length from institutional social structures—and so, on the liberal institutionalist view, from any connection to issues of justice.

1.2 International Politics

Like liberal institutionalist political philosophers, politicians also emphasize humanitarianism's disconnection from institutional structures. But whereas in the realm of political philosophy this feature of humanitarianism is best seen via a contrast with liberal institutionalist conceptions of social justice, in the realm of politics it is best seen via a contrast with a "realist" view of politics as strategic self-interest.

Politicians often draw a line between humanitarianism, on the one hand, and political events and processes, such as violent group conflict and negotiations about nuclear proliferation, on the other hand. These events and processes are themselves often short-term and exceptional exchanges among small numbers of actors, and so also primarily interactional, rather than institutional. But humanitarian action is often portrayed as *more* interactional than even short-term political events—that is, as more direct, temporary, exceptional, and disconnected from

normal rules and procedures. For example, consider how London's *Independent* newspaper described the Bush Administration's response to the 2003 earthquake in Bam, Iran:

. . . the US has been at pains to insist that the resumption of dialogue [with Iran] is driven by only compassion and not by any fundamental change of diplomatic position. . . . "There is no political angle," a State Department spokesman . . . said. "There is a human catastrophe in Iran and our only mission is to alleviate the human suffering. These efforts will not alter the tone or intensity of our dialogue with the Iranians on other matters of grave concern."¹⁹

This quotation suggests that the United States was dealing with Iran on two distinct tracks: a humanitarian response to human suffering, and a political dialogue about "other matters of grave concern." Of course, in this case and other similar cases (such as that of the dying terrorist mentioned above) humanitarian track is never truly outside of politics. Rather, it is political in a particular way: claims that a given action is humanitarian serve to lower the stakes of that action, thereby making it less controversial, and so less politically costly to undertake, than it otherwise would be. It is politically easier for a state (or other entity) to provide aid to, or accept aid from, a sworn enemy, if that aid is called "humanitarian," than if it is described in some other way (e.g., as aid for the purposes of economic development or to strengthen civil society). It is likewise less politically costly to convert a prison sentence, grant an illegal immigrant citizenship, or allow the use of an experimental medicine, if these acts are done for "humanitarian" reasons. This is because calling an action "humanitarian" suggests that it is a small-scale, exceptional response to extreme suffering; that it is not intended to, and in fact will not, alter large-scale systems or established procedures. Humanitarian actions are therefore less threatening to those who want these large-scale systems and procedures to continue. In short, it is precisely humanitarian action's disconnection from more structural issues that gives it its particular brand of political power, and that enables humanitarian actors to sometimes do what more "political" actors cannot.²⁰

1.3 International Humanitarian Aid

Some social movements aimed at structural change, such as efforts to abolish slavery, have been called "humanitarian." But international humanitarian aid as developed by the ICRC and adopted by a large number of humanitarian NGOs, has more limited aspirations. Its aim, in the words of the British NGO Merlin, is "to save lives, alleviate suffering and maintain human dignity during and in the aftermath of man-made crises and natural disasters."²¹ The practical logic behind this approach is simple: if humanitarian actors are unwilling and unable to influence the "political" dynamics of a given conflict, then parties to that conflict should have no reason to oppose humanitarians' efforts to assist civilian populations caught up in that conflict.

But as I noted above, over the past twenty years critics have increasingly called this model of humanitarianism into question. According to Sudanese-born anthropologist Amal Hassan Fadlalla, for example, humanitarian actors *cannot* remain neutral: “humanitarian provision is embedded in broader political agendas, hierarchies and interests that, from the start, render unattainable the notion of impartiality and compromise the well-being of the poor and displaced.”²² While most do not fully accept Fadlalla’s criticisms, NGOs now almost universally recognize the potential of humanitarian aid to have political effects. For example, humanitarian aid can exacerbate conflict and provide foreign governments with “humanitarian alibis.” NGOs have also become increasingly attentive to the moral compromises that “neutral” humanitarianism demands. For example, aid workers must sometimes remain quiet about rights violations in order to retain access to aid recipients.²³

Paul O’Brien, former advocacy coordinator for CARE in Afghanistan, takes Fadlalla’s argument one step further. O’Brien argues that humanitarian NGOs not only cannot remain neutral, they *should not* remain neutral: “[t]he fiction of humanitarian neutrality . . . can no longer be relied upon for all humanitarians in highly politicized contexts such as Afghanistan and Iraq. In such environments, politicized humanitarianism is both right and realistic.”²⁴ According to O’Brien, it is appropriate for (at least some) humanitarian organizations to lobby the U.S. government to increase troops on the ground in Afghanistan in order to provide more security to Afghan villagers. While some humanitarian NGOs are uncomfortable with such explicitly political statements, most connect humanitarian aid to reconstruction, disaster prevention, advocacy, and development aid. The latter three activities, in particular, involve directly addressing structural issues.

In short, liberal institutionalists distinguish humanitarian aid from institutional structures that they see as the subject of justice. Politicians likewise distinguish humanitarian action from conventional interest-based politics. In contrast, humanitarian organizations themselves have increasingly recognized humanitarianism’s intentional and unintentional causal effects on institutional structures and political processes external to humanitarianism.

2. The Humanitarian Aid Sector as an Institutional Social Structure

This is an extremely valuable insight. But it overlooks a different and—I think—equally important connection between humanitarianism and social justice: the international humanitarian aid system is *itself* an institutional structure, one that is created and sustained (in part) by *both* neutral and political humanitarian NGOs. This structure includes the public, explicit “rules of the game” that NGOs and other actors knowingly follow (or choose not to follow), as well as the norms, implicit assumptions, and unspoken habits that “govern [participants’] manner of perceiving, judging, imagining, and acting.”²⁵

The explicit, formalized rules of the international humanitarian aid system have become increasingly well-developed and entrenched over the last two

decades.²⁶ They include international humanitarian law such as the Geneva Conventions, technical standards for aid provision “in the field” such as the Sphere standards, codes of conduct such as the Code of Conduct for The International Red Cross and Red Crescent Movement and NGOs in Disaster Relief, and accountability mechanisms such as the Humanitarian Accountability Partnership.²⁷ Although these standards mostly lack formal enforcement mechanisms, they nonetheless have real force: large-scale institutional donors use them in evaluating grantees, host governments use them in evaluating NGO “partners,” and NGOs use them informally in evaluating one another. Moreover, even when NGOs voluntarily choose a particular way of doing things, the norms that emerge from their individual choices can become more and more difficult for any one NGO to overturn, as alternative standards fall out of use and so “become less attractive choices for social coordination.”²⁸ For example, the division of humanitarian aid into standardized sectors—water, food aid, medical care, housing and so on—is so entrenched among NGOs, donors, and host governments that it is difficult for any one NGO to use a different approach.

The institution of international humanitarian aid is also structured by umbrella groups that act as information portals and clearinghouses, such as InterAction, Reliefweb, Betteraid.org, Change.org, and Civicus.org; professional training programs for aid workers; competitions for grants from large-scale donors and foundations that require grantees to fulfill specific requirements; specialized publications such as *Monday Developments*, *Development in Practice*, and *Disasters* that help to set the terms of the debate and reinforce norms and assumptions about humanitarian aid; and actual practices of aid provision that, repeated over time, have a normalizing, socializing effect. There is, of course, still tremendous diversity and dissention within the NGO sector. But NGOs’ different mandates and operating styles help to make coordination among them necessary.²⁹ Finally, the fact that NGOs disagree with each other (rather than ignore or overlook each other, or perceive themselves as undertaking entirely different activities) suggests that they are engaged in a common enterprise, or at least that they share enough language and conceptual terrain for disagreement to be possible.³⁰

There is, of course, no one single institution of international humanitarian aid with sharply defined boundaries. The international humanitarian aid system is better conceived of as several different, overlapping networks, of different sizes and composed of different sets of actors, each of which sustains a somewhat different aspect of the humanitarian aid sector’s overall institutional structure. For example, the actors and practices that comprise the rules of the game of fundraising differ somewhat from those that comprise the rules of the game of aid provision “in the field.”

This ever-evolving matrix of formal and informal standards, codes of conduct, recognized best practices, norms, habits, and assumptions influences what NGOs can do, what they actually do, and what it occurs to them to try to do. And this, in turn, has implications for aid recipients: who does and does not receive humanitarian aid, what kind of aid they get, how much, for how long, in

what ways, and with what unintended effects. For example, in the case of efforts to aid Ethiopians migrating to Sudan in the mid-1980s, these assumptions range from shared ideas about aid recipients' passivity and status as victims to what counts as "normal" patterns of migration in response to particular weather patterns and climatic conditions.³¹

It is fairly easy to see how NGOs, large-scale donors, UN agencies, host governments, and even local NGOs based in poor countries help to create and sustain the international humanitarian aid system. It is perhaps more difficult to see how aid recipients do so. Indeed, aid recipients' role in shaping this system is severely limited. But it is not non-existent. The interactionalist lens (the one that we usually use in conceptualizing humanitarian aid) focuses on aid recipients exercising moral agency in their direct negotiations with NGOs. But the institutionalist lens focuses attention on the more subtle and indirect forms of influence that aid recipients can have: aid recipients can help to shape the institution of international humanitarian aid not only by what they say directly to NGOs, but also simply in virtue of what aspects of aid provision they do and do not accept.³² Aid recipients' responses to aid travel "upward" through the humanitarian aid system, helping to shape aid workers' ideas about what is reasonable and workable, and thereby influencing aid practices more generally. Aid recipients also frequently become aid workers; some even rise up the ranks of an international NGO to become expatriate aid workers in other countries. In pointing out the ways in which aid recipients can influence the aid system, I do not mean to suggest that aid recipients currently have enough of a say in the decisions, processes, and norms that affect them. But by capturing these more subtle and indirect forms of influence, the institutional lens provides a fuller picture of aid recipients' actual and potential power—and their actual and potential moral responsibilities—than does the interactionalist lens.

In short: while humanitarian aid as practiced by individual NGOs is often temporary and aimed at alleviating symptoms, the *institution* of international humanitarian aid is an ongoing scheme that seriously affects the life-prospects of millions of people. This institution is not as coercive or pervasive as what the philosopher John Rawls calls the "basic structure" of society.³³ But it does meet several criteria that liberal institutionalists argue social phenomena must meet in order to qualify as subjects of social justice. In particular, the institution of international humanitarian aid (i) significantly affects many people's fundamental interests; (ii) is pervasive; and (iii) constrains people's options in a serious way.³⁴

The humanitarian aid system most clearly and easily meets the first of these three criteria. As mentioned above, it operates on a very large scale: every year, tens of millions of people receive humanitarian aid; millions more need aid but do not receive any (or they do not receive enough).³⁵ Indeed, the international humanitarian aid system is larger in scale than many states, in terms of the number of people it affects.

The goods and services that this system provides via NGOs and other actors—food, water, shelter, medical care and so on—are of central importance to

human survival.³⁶ Some of these goods and services, such as medical treatment for bodily injuries and the physical and psychological effects of sexual assault, affect not only individuals' physical well-being, but also their ability to find a spouse, earn a living, be recognized by their community, and have self-respect.

The institution of international humanitarian aid therefore meets the "fundamental interest" criterion. But whether it meets the other two criteria seems more debatable. Rawls famously argued that the "basic structure" of society is the subject matter of justice because, among other reasons, its effects are pervasive; they are "profound and present from the start."³⁷ To be a matter of justice, on this view an institutional structure must not only impinge on people's fundamental interests, it must do so in a comprehensive and ongoing way. Yet, in both short-term and "chronic" emergencies, aid from international humanitarian NGOs is usually just one of several coping strategies that disaster-affected people use to survive.³⁸ (Others include participating in a formal or informal market economy, accepting help from family members or local charities, and growing or foraging for food.) But for people who are just barely scraping by with little or nothing to spare, even a small change can be catastrophic. In such cases, humanitarian aid that constitutes, say, only fifteen percent of a person's monthly caloric intake can still be necessary for that person's survival.

Aid from international NGOs is not only often a small proportion of what disaster-affected people rely on at any given moment; it is also often only available to them for a relatively brief period. This also seems to weaken the argument for the pervasiveness of the humanitarian aid system. But an individual's entire life trajectory can be shaped by what happens to her during a crisis. Children can suffer life-long physical and mental handicaps if they (or their mothers) are denied adequate nutrition for even a few months. Whether and how viral infections, severe physical injuries, and the psychological effects of trauma are treated in the immediate aftermath of a disaster can influence not only whether an individual lives or dies, but also (as mentioned above) her ability to function in society and her self-respect. In short, the "rules of the game" in which individual NGOs operate can be pervasive in their effects, even when humanitarian aid is only one of several resources that aid recipients rely on, and even when they rely on this aid for only a short period.

Yet another reason why humanitarian aid might appear not pervasive is that it is provided in (what we would at least like to think are) abnormal situations: violent conflicts, natural disasters, longer-term but still temporary population displacements and so on. It would therefore seem that anything involving the humanitarian aid system would be unrelated to aid recipients' normal, everyday lives. But precisely because the system is activated (or fails to be activated) in moments of profound vulnerability, crisis, and flux, its effects spill over into people's "normal" lives in potentially long-lasting ways.³⁹

The international humanitarian aid system also affects the frequency and intensity of actual emergencies, as well as perceptions about what "counts" as

an emergency. It affects actual emergencies by placing more or less emphasis on prevention and early warning systems. The aid system can also make more or less use of the “windows of opportunity” created by disasters to promote longer-term development, which in turn can help communities become more resilient in the face of future disasters. The humanitarian aid system influences what counts as an emergency by the norms it creates and sustains regarding what is considered an emergency situation in the first place: for example, should need be measured in absolute terms, such that a given infant mortality rate is equally objectionable wherever it is, or should emergencies be measured against what is “normal” in a particular location?⁴⁰ (Here, moral and practical uses of the emergency designation part ways: morally, we might say that all else equal, a given mortality rate is equally objectionable, regardless of its geographic location. Practically, we might note that the *tools* of emergency aid are more effective for lowering mortality rates in situations where they have risen rapidly, than in contexts where they have been persistently high.) In short, the very boundaries between “normal” and “abnormal,” and the intensity and frequency with which members of different social groups are involved in the humanitarian aid system over the course of their lives, is shaped in part by the system itself.⁴¹

Darrel Moellendorf writes that “[q]uestions of justice are questions about the appropriate rules or principles for governing enduring associations that dominate public life *whose benefits, and especially burdens, are not easily avoidable, if indeed they are avoidable at all.*”⁴² A third feature of the institution of international humanitarian aid that makes it an appropriate subject of judgments of social justice is that it seriously constrains both NGOs and aid recipients. (These constraints are not, however, always aligned—by constraining NGOs the aid system can empower aid recipients, and vice versa.)

At first glance, the institution of international humanitarian aid appears to empower NGOs more than it constrains them. NGOs are, after all, civil society organizations, free to join umbrella groups or not, and to sign codes of conduct or not. But while NGOs are rarely if ever blatantly coerced by the humanitarian aid system, they do face costs, in the form of foregone donations, censure from other organizations, and dissent from their own employees, if they fail to abide by widely accepted rules, or otherwise go too much against the grain.⁴³ NGOs also experience more subtle forms of social pressure and conditioning that make some ways of providing aid look obvious, and others ridiculous. This is not necessarily good or bad such judgments depend on the substantive content of the constraints in question. The point is that these constraints exist. And unlike constraints imposed by combatants, or by a harsh climate or lack of infrastructure, constraints imposed by the international aid system are created and sustained, at least in part, by NGOs themselves. This is something that our usual, interactionalist view of humanitarian action—as a spontaneous, direct expression of other-regarding sentiment in response to human suffering—tends to overlook.

Individual NGOs, of course, seek to expand aid recipients' options, not limit them. They make offers, not threats; their employees do not carry guns. But even if individual NGOs do not seek to constrain aid recipients—even if they are themselves constrained—aid recipients often have few real options except to comply with what individual NGOs, working within the parameters of the humanitarian aid system, tell them to do. While aid recipients often deliberate and negotiate with aid workers—and even sometimes threaten them—the costs to aid recipients of actually exiting the aid system are often too high to contemplate. As a result, what aid recipients eat and when, how much water they have to drink, their access to books, recreation, and the Internet: all of this (at least sometimes) depends on what NGOs decide to offer. And these decisions, in turn, are shaped in part by the institutional structure of international humanitarian aid. This is what the institutional lens helps us to see: aid workers, doing their best for a suffering population under difficult circumstances, feel powerless and besieged—in some ways they *are* powerless and besieged. But these aid workers also reinforce an institutional structure that construes some needs as more basic than others, that lets donors call the shots on some issues but not others, and that views some types of aid recipient behavior as acceptable and others as not acceptable.

In sum, against Tan's claim that humanitarianism is temporary while justice is a "permanent . . . scheme,"⁴⁴ I am suggesting that, while discrete humanitarian interventions in response to specific events are indeed temporary, the *system* of humanitarian aid is itself a kind of permanent scheme—one that is pervasive, constraining, and affects people's fundamental interests. Like a local ambulance service or fire department, it not only persists over time, but also significantly shapes context for short-term interventions that have deep and lasting effects on many people's lives.

3. Humanitarian NGOs' Duties of Justice

So far, I have suggested that the system of international humanitarian aid is an institutional structure that is pervasive, constraining, and affects many peoples' fundamental interests; it is therefore only a matter of justice, not ethics. What does this mean, exactly, for how we think about international humanitarian aid? Generally speaking, an institutional perspective focuses attention on large-scale and probabilistic patterns of arbitrariness, inequality, domination, and exclusion—patterns that are harder to see if one looks only at discrete interactions.⁴⁵ What counts as a just process or outcome in the highly non-ideal contexts in which international humanitarian NGOs operate is likely to be a matter of debate. While I cannot here settle this debate—I doubt that it can ever be fully settled—my aim is to show that the debate itself is not misplaced. One thing that seems certain, however, is that what counts as just during or after man-made or natural disasters is likely to differ from what counts as just under better conditions. For example, when resources are so scarce that wasting them leads directly to more lives lost (or fewer lives saved), cost-effectiveness and efficiency might themselves become

matters of justice, and perhaps take priority over efforts to ensure equality of resources or equality of outcomes.⁴⁶

But while the content of what counts as just in the highly non-ideal situations in which NGOs work might be unusual, questions of social justice are nonetheless discernible. Consider, for example, the issue of how aid resources are distributed. The interactionalist lens highlights the allocative practices of individual NGOs: does a given NGO waste money, show partiality to particular groups, or work only in “high profile” disasters? The institutional lens, in contrast, focuses on the social context in which individual NGOs make allocative decisions: that is, on the rules, norms, and assumptions that shape the net distribution of aid resources by the international humanitarian aid sector overall. Do particular sector-wide norms (e.g., allowing donors to specify what NGOs do with their money) or institutionalized assumptions in the public culture of donor countries (e.g., about what makes people blameless, sympathetic, or deserving), encourage morally irrelevant considerations, such as the visual dramatics of a particular type of suffering, to influence distributive outcomes? Is the net distribution of aid biased toward particular races, regions, ethnicities, or religions? (Note that this broader view might make some decisions made by individual NGOs seem less problematic than they appear to be when viewed in isolation. For example, if the biases of one NGO are cancelled out by those of another, then there is no—or, less—difficulty, so long as aid distribution overall accords with morally acceptable criteria.)

Similarly, consider the question of how NGOs raise funds. The interactional lens directs attention to the fundraising practices of individual NGOs. For example, does a given NGO (intentionally or unintentionally) mislead its donors? Does it use images of aid recipients without their permission? The institutional lens, in contrast, highlights the overall effects of the economic structure of the entire humanitarian aid system. Is the intense competition among NGOs that this structure encourages wasteful, conducive to innovation (or both)? Does the humanitarian aid system draw resources away from other worthwhile social ends, such as long-term poverty alleviation? Does it prompt countries, NGOs, and others to “game the system,” only asking for what they think they can get, thereby prompting a cycle in which particular kinds of situations are over-funded, and others inadequately funded? Does competition among NGOs give them an incentive to use degrading images of poor and disaster-affected people? What are the cumulative effects of these images—together with images and stories in the mass media—on perceptions of, and responses to, disasters and ongoing severe poverty in both donor and recipient countries?

I have been suggesting that when we view the international humanitarian aid system as an institutional structure, questions about its justice and injustice come to the fore. But what moral responsibilities do NGOs have to help make the institution of international humanitarian aid more just?⁴⁷ Two widely shared intuitions about moral responsibility are: (i) that actors are more morally responsible for that which they do than for that they do not do, and (ii) that they are more morally responsible for that which they do knowingly and voluntarily than that

which they do unknowingly or against their will. If we accept these intuitions, it follows that any NGO that plays a major role in shaping the international humanitarian aid system, and that does so intentionally and voluntarily, will have significant responsibilities to help ensure that the system is just. Conversely, any NGO that is entirely constrained by the humanitarian aid system, or by other actors operating within that system (such as large-scale donors) will have very limited responsibilities in this regard. The actual situation of most large, well-established mainstream NGOs falls somewhere between these extremes: these NGOs play enough of a role in shaping the institution of international humanitarian aid that they have *some* responsibilities to help ensure that it is just. But because these NGOs are themselves significantly constrained by the aid system's institutional structure, their responsibilities to alter it are also limited. This same logic applies to other actors in the humanitarian aid system, including aid recipients. While aid recipients rarely have enough influence over the aid system to generate significant responsibilities to help ensure that it is just, one advantage of the institutionalist lens is that it leaves this possibility open. It thereby treats aid recipients as moral agents capable of having moral responsibilities.⁴⁸ Insofar as aid recipients are more seriously constrained and affected by the international humanitarian aid system than NGOs are, but have even less ability than NGOs to influence that system, NGOs have a moral responsibility to make that system more just—or more democratic—on aid recipients' behalf.

In addition to the idea that actors are more morally responsible for what they do intentionally and voluntarily than what they do unintentionally or under duress, another widely held (though more controversial) intuition about moral responsibility is that actors are (more) morally responsible for ensuring that a social institution is just if they benefit from it in some way.⁴⁹ In light of this intuition, it is worth noting that humanitarian NGOs derive some benefit from the international humanitarian aid system. In particular, they benefit from the recognition and moral authority that attach to the term “humanitarian organization” in donor countries. Yet, this moral authority is, in a sense, a non-excludable good. Even if an NGO wanted to “opt out” of the humanitarian aid system, it is not clear that it could do so: if an NGO provides humanitarian aid and is recognized as doing so, it is part of the humanitarian aid system—helping to constitute it, being constrained by it, and perhaps benefitting from it—whether it wants to or not.⁵⁰

4. Conclusion

The system of international humanitarian aid has ongoing, profound effects on the fundamental interests of millions of people worldwide. Yet this system is, admittedly, a “borderline” example of a social institution: it is more diffuse, less coercive, and less well-entrenched than the social institutions that liberal institutionalists usually talk about when they talk about justice. But this is part of why

it is worth examining through an institutionalist lens: issues of justice are otherwise easy to miss.

This point holds beyond the case of international humanitarian aid. There are many cases in which a relatively small number of actors together create a matrix of rules, norms, and entrenched practices that both empowers and constrains them, and thereby—indirectly—empowers and constrains other, less powerful, actors as well.⁵¹ For example, for-profit corporations are increasingly working with each other, non-profit organizations and governments to create certification programs that allow companies meeting specific environmental or labor standards to label their products as “organic,” “fair trade,” “sustainably harvested,” or “not made in sweatshops.” Sociologists have typically viewed these programs as a way for companies to communicate information to potential consumers; that is, they have viewed these programs interactionally. But these programs are also examples of an emergent form of “transnational governance.”⁵² In examining these programs, we should not (only) ask whether specific companies follow the rules, but also how the rules shape the parameters within which individual companies act, and the net effects of those actions—including their (perhaps unanticipated) effects on workers, consumers, and people who live in the areas where the companies operate. The relationships between NGOs and aid recipients, between companies and workers (and between doctors and patients) raise vexing ethical questions. But we must not overlook the institutional contexts that shape and give rise to these questions, especially cases when those contexts are borderline institutional structures that are formed primarily by some actors, but have serious implications for other actors.

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Notes

¹David Rieff, *A Bed for the Night: Humanitarianism in Crisis* (New York: Simon and Schuster, 2003), emphasizes the limits of humanitarian action. For a brief history of the idea of humanitarianism, see Craig Calhoun, “The Imperative to Reduce Suffering: Charity, Progress, and Emergencies in the Field of Humanitarian Action” in *Humanitarianism in Question: Politics, Power, Ethics*, ed. Michael Barnett and Thomas Weiss (Ithaca, NY: Cornell University Press, 2008). The language of liberal humanitarianism has been used to support a range of political ends, including imperialism. See Jennifer Pitts, *A Turn to Empire* (Princeton, NJ: Princeton University Press, 2005).

²Reuters, “Scottish Minister Defends Lockerbie Bomber’s Release,” August 24, 2009. Carried in *The Epoch Times*, *Times of Malta*, and *The West Linn Tidings*. Author: Ian MacKenzie.

³Colin Nickerson, “Relief Workers Shoulder a World of Conflict; Aid Agencies Encounter Growing Dangers as Nations Withhold Peacekeeping Troops,” *Boston Globe*; Boston, MA; July 27, 1997. The ICRC is not an NGO.

⁴James Orbinski, “‘No Doctor Can Stop Genocide’: Doctors Without Borders’ Humanitarian Actions ‘Cannot Erase the Long-Term Necessity of Political Responsibility,’ Argues the Canadian who Heads the International Group in his Nobel Peace Prize Lecture,” *The Ottawa Citizen*, December 17, 1999.

⁵Principles and Values of the International Federation of Red Cross and Red Crescent Societies, online at <http://www.ifrc.org/WHAT/values/index.asp> (retrieved June 27, 2009). Doctors Without Borders is aligned with the ICRC in its insistence on impartiality, but it breaks with the ICRC in its rejection of neutrality.

⁶Cf. Onora O’Neill, “Agents of Justice,” *Metaphilosophy* 32 (January 2001): 191–92; Lisa Fuller, “Poverty Relief, Global Institutions and the Problem of Compliance,” *Journal of Moral Philosophy* 2, no. 3 (2005): 286–87. Both O’Neill and Fuller base their arguments about NGOs’ duties on their capacities rather than on their role in creating and sustaining institutional structures.

⁷John Rawls, “Two Concepts of Rules,” *The Philosophical Review* 64 (1955): 3–32.

⁸As Iris Young writes, “structures denote the confluence of institutional rules and interactive routines, mobilization of resources, as well as physical structures such as buildings and roads.” Iris Young, “Responsibility and Global Justice: A Social Connection Model,” *Social Philosophy and Policy* 23, no. 1 (2006): 102–30. Likewise, Sharon Hays describes social structures as “both the medium and the outcome of human social action . . . [they] are simultaneously enabling and constraining.” Sharon Hays, “Structure, Agency and the Sticky Problem of Culture,” *Journal of Sociological Theory* 12, no. 1 (1994): 57–72. Contrast with Rawls’s more intentional and public definition of an institution as a “public system of rules which defines offices and positions with their rights and duties, powers and immunities and the like.” John Rawls, *A Theory of Justice*, rev. ed. (Cambridge, MA: Harvard University Press, 1999), 55.

⁹David Rieff, “Kosovo’s Humanitarian Circus,” *World Policy Journal* 17, no. 3 (2000): 25–32.

¹⁰Rawls, *A Theory of Justice*; Thomas W. Pogge, “On the Site of Distributive Justice: Reflections on Cohen and Murphy,” *Philosophy and Public Affairs* 29, no. 2 (2000): 137–69; Kok-Chor Tan, *Justice without Borders: Cosmopolitanism, Nationalism and Patriotism* (Cambridge: Cambridge University Press, 2004). On this topic more generally see Andras Miklos, “Institutions in Cosmopolitan Justice,” *Global Society* 20, no. 3 (2006): 245–50.

¹¹Liam Murphy, “Institutions and the Demands of Justice,” *Philosophy & Public Affairs* 27, no. 4 (1998): 251–91; Cohen, G.A., “Where the Action Is: On the Site of Distributive Justice,” *Philosophy and Public Affairs* 26, no. 1 (1997): 3–30.

¹²Thomas Nagel, “The Problem of Global Justice,” *Philosophy and Public Affairs* 33, no. 2 (2005): 13–47; Michael Blake, “Distributive Justice, State Coercion, and Autonomy,” *Philosophy and Public Affairs* 30, no. 3 (2001): 257–96.

¹³Thomas Pogge, *World Poverty and Human Rights* (Cambridge: Polity Press, 2002), 170.

¹⁴Tan, *Justice without Borders*, 23. Also see Andrew Kuper, “More than Charity: Cosmopolitan Alternatives to the ‘Singer Solution’,” *Ethics & International Affairs* 16, no. 1 (2002): 107–20 and the ensuing debate with Peter Singer.

¹⁵Calhoun, “Imperative to Reduce Suffering.”

¹⁶Tan, *Justice without Borders*, 23; John Rawls, *The Law of Peoples* (Cambridge, MA: Harvard University Press, 1999), 119. Thus, the adage that “it is better to teach a man to fish than to give him a fish” does not quite track the justice/humanitarianism distinction. Humanitarian aid is like giving a man a fish. But egalitarian justice is not like teaching a man to fish, because teaching a man to fish is also a one-off, direct activity; it does not imply ongoing redistribution or sustained mutual obligation between teacher and pupil. (Perhaps this helps to account for the saying’s popularity in wealthy countries.)

¹⁷While the aid worker motivated by a desire for adventure or romance might still be a humanitarian, an entity with primarily economic or political motivations for providing international aid arguably is not. Stephen Hopgood, “Saying ‘No’ to Walmart? Money and Morality in Professional Humanitarianism,” in *Humanitarianism in Question: Power, Politics, Ethics*, ed. Michael Barnett and Thomas Weiss (Ithaca, NY: Cornell University Press, 2008), 102.

- ¹⁸Thomas W. Pogge, “Justice beyond Borders: A Global Political Theory,” *Ethics & International Affairs* 19, no. 3 (2005): 101–03. John Rawls, *A Theory of Justice* (Cambridge, MA: Harvard University Press, 1971), 57.
- ¹⁹David Usborne, “US Relations with Tehran Begin to Thaw in the Aftermath of Disaster,” *The Independent* (London), December 29, 2003.
- ²⁰In political contexts, the term “humanitarian” functions in some ways like the concept of “emergency powers”: in both cases, exceptional circumstances are said to justify making exceptions to normal rules and procedures.
- ²¹Cited in Hopgood, “Saying ‘No’ to Walmart?”
- ²²Amal Hassan Fadlalla, “The Neoliberalization of Compassion,” in *New Landscapes of Inequality: Neoliberalism and the Erosion of Democracy in America* (Santa Fe, NM: School for Advanced Studies, 2008).
- ²³Fiona Terry, *Condemned to Repeat: The Paradox of Humanitarian Action* (Ithaca, NY: Cornell University Press, 2002); Jonathan Moore, ed., *Hard Choices: Moral Dilemmas in Humanitarian Intervention* (New York: Rowman and Littlefield, 1999).
- ²⁴Paul O’Brien, “Politicized Humanitarianism: A Response to Nicolas de Torrente,” *Harvard Human Rights Journal* 17 (2004): 31–39. For a different but related suggestion by a philosopher, see Leif Wenar, “The Basic Structure as Object: Institutions and Humanitarian Concern,” *Canadian Journal of Philosophy* 31 (supplement): 253–78.
- ²⁵Thomas Flynn, “Foucault’s Mapping of History,” in *Cambridge Companion to Foucault*, 2nd ed., ed. Gary Gutting (Cambridge: Cambridge University Press, 2003), 31.
- ²⁶I can here only gesture toward evidence of these trends in the humanitarian aid sector. However, sociologists have begun to measure the “structuration” of organizational fields empirically, using network analysis. See Tim Bartley and Shawna Smith, “Structuring Transnational Fields of Governance: Networks, Legitimation, and the Evolution of Ethical Sourcing,” Working Paper, Department of Sociology, Indiana University, [no date] online at <http://www.indiana.edu/~tbsoc/fields%20paper%202008-v6.pdf> (retrieved June 23, 2009).
- ²⁷<http://www.sphereproject.org>; <http://www.ifrc.org/publicat/conduct>; and www.hapinternational.org (all retrieved June 28, 2009).
- ²⁸David Grewal, *Network Power: The Social Dynamics of Globalization* (New Haven, CT: Yale University Press, 2008), 3.
- ²⁹Thanks to an anonymous reviewer for this observation.
- ³⁰For example, the ICRC is functionally and organizationally “unique,” but involved in a “network” with NGOs and other actors. David Forsythe, “The ICRC: A Unique Humanitarian Protagonist,” *International Review of the Red Cross* 89 (2007): 63–96.
- ³¹Barbara Hendrie, “Knowledge and Power: A Critique of an International Relief Operation,” *Disasters* 21, no. 1 (1997): 57–76.
- ³²During my fieldwork in Northern Uganda in 2002, I witnessed or heard about several instances of aid recipients confronting aid workers from international NGOs and other humanitarian agencies. Some of these were intense verbal discussions, others involved the use or threat of force (e.g., surrounding and throwing rocks at UN vehicles).
- ³³For a useful discussion of the ambiguities in Rawls’s discussion of the basic structure and its relationship to justice, see Arash Abizadeh, “Cooperation, Pervasive Impact and Coercion: On the Scope (Not Site) of Distributive Justice,” *Philosophy and Public Affairs* 35, no. 4 (2007): 318–58.
- ³⁴Rather than as a matter of ethics. Because the institution of international humanitarian aid is man-made and changeable, it is usefully seen as a matter of justice rather than a matter of fortune.
- ³⁵Roger C. Riddell, *Does Foreign Aid Really Work?* (Oxford: Oxford University Press, 2007), chaps. 18 and 19.
- ³⁶To some people, of course, their own survival might not feel like a basic interest; the survival and flourishing of their children, going to heaven, or being buried in their place of birth might be more important to them.
- ³⁷Rawls, *A Theory of Justice*, 55.

- ³⁸ Alex de Waal, *Famine Crimes: Politics and the Disaster Relief Industry in Africa* (Oxford: James Curry, 1997).
- ³⁹ Perhaps what matters about “the start” in Rawls’s formulation of “profound and present from the start” is not only that we have no control over our own “start,” but also that it is a moment of vulnerability. Other moments in a person’s life fit this description as well.
- ⁴⁰ James Darcy and Charles-Antoine Hofmann, “According to Need? Needs Assessment and Decision-Making in the Humanitarian Sector,” Humanitarian Policy Group Report No. 15 (2003).
- ⁴¹ Craig Calhoun, “A World of Emergencies: Fear, Intervention, and the Limits of Cosmopolitan Order,” *Canadian Review of Sociology & Anthropology* 41, no. 4 (2004): 373–95.
- ⁴² Darrel Moellendorf, *Cosmopolitan Justice* (Boulder, CO: Westview Press, 2002), 33. My italics.
- ⁴³ See Scott Anderson, “Coercion,” in *Stanford Encyclopedia of Philosophy*, <http://plato.stanford.edu/entries/coercion/#IntCoe>.
- ⁴⁴ Tan, *Justice without Borders*, p. 21.
- ⁴⁵ Because it highlights probabilities, overall outcomes, and the constraints under which individual NGOs operate, rather than specific acts “perpetrated” by them, the institutional approach can seem less off-puttingly judgmental than efforts to second-guess the decisions of individual NGOs.
- ⁴⁶ Cf. Thomas Pogge, “Moral Priorities for International Human Rights NGOs,” in *Ethics in Action*, ed. Daniel Bell and Jean-Marc Coicaud (Cambridge: Cambridge University Press, 2007), 218–56. There might also be efficiency-based reasons to adopt an institutional perspective. My thanks to Ryan Pevnick for pointing this out.
- ⁴⁷ I here must leave aside the difficult issue of baselines: Is the relevant comparison to the status quo a (counterfactual) situation in which no humanitarian aid system exists, the most just feasible alternative to the present system, or something else? Cf. Alan Patten, “Should We Stop Thinking about Poverty in Terms of Helping the Poor?,” *Ethics & International Affairs* 19, no. 1 (2005): 19–27.
- ⁴⁸ My thinking about this issue has benefitted from an unpublished paper by George Klosko.
- ⁴⁹ Norbert Anwander, “Contributing and Benefiting: Two Grounds for Duties to the Victims of Injustice,” *Ethics & International Affairs* 19, no. 1 (2005): 39–45.
- ⁵⁰ Cf. Arthur Applebaum, *Ethics for Adversaries* (Princeton, NJ: Princeton University Press, 1999), chap. 3.
- ⁵¹ There are domestic examples as well. A recent editorial in *The New York Times* argues that by doing unnecessary procedures and ordering unnecessary tests, medical doctors in the United States “have been complicit in driving up health care costs. They need to become part of the solution.” The editorial states that because doctors participate in and benefit from the healthcare system that we now have, they have a responsibility—including, I would add, a responsibility on behalf of their more vulnerable patients—to make it more just. Editorial, “Doctors and the Cost of Healthcare,” *New York Times*, June 13, 2009.
- ⁵² Tim Bartley and Shawna Smith, “Structuring Transnational Fields of Governance: Network Evolution and Boundary Setting in the World of Standards,” Working Paper, Department of Sociology, Indiana University (no date). Also see Grewal, *Network Power*; Anne-Marie Slaughter, *A New World Order* (Princeton, NJ: Princeton University Press, 2004).