CONTEXTUALISATION OF HUMANITARIAN ASSISTANCE AND ITS SHORTCOMINGS IN INTERNATIONAL HUMAN RIGHTS LAW

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This article challenges the idea that contextualisation of humanitarian aid affects the principle of universality of human rights as well as the principles of neutrality and impartiality. It seeks to demonstrate that contextualisation will not only improve access, delivery and protection: contextualising a mission also enables aid workers to respect the local context without impacting negatively upon universal human rights. The author argues that affecting the societies in which aid is delivered is inevitable. The key then becomes to avoid endorsing indirect cultural relativism. This is why the article puts forward the idea of creating a yardstick or a test that would help in deciding which beliefs and values are to be included when considering the context, and which should be excluded. The process of selection of values and beliefs is to be operated by an empowered local population. The filter suggested in the case at hand is the Muslim legal instrument of maslaha, *which protects the public interest. The use of this filter can be efficient only if Islamic authoritative sources are interpreted differently, in a reformist fashion, to try and match universal human rights law. This is possible through the Muslim theories advocating change. Muslim beneficiaries who are vulnerable as a result of a disaster or during a conflict provide an opportunity to test the filter of* maslaha, *looking at how an empowered community can change and influence the agendas of aid agencies.*

Keywords: humanitarian assistance, human rights, religion, culture, Islam

1. INTRODUCTION

Several current theatres of operation call for some consideration of the cultural or religious context. In Afghanistan, various organisations have realised the importance of understanding the ethnic patchwork; in Nepal, the United Nations Development Programme (UNDP) seeks to accommodate informal justice systems; organisations are aware that Syrian refugees suffer from additional stress arising from their feelings of powerlessness regarding change in traditional gender roles. The issue of taking beliefs and values into account becomes even more pressing when faced with international human rights violations, such as sewn women in Somalia. Therefore, aid workers operate in a world in which culture, religion, customs and traditions affect access, delivery and protection. The impact of beliefs and values on humanitarian missions is explained partly by the role that religions and cultural beliefs have played in contributing to the development of humanitarianism.[1] The influence can also be explained by the legacy of

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[1] Eleanor Davey and Eva Svoboda, *Histories of Humanitarian Action in the Middle East and North Africa* (Overseas Development Institute 2014); Avery Cardinal Dulles, 'Christianity and Humanitarian Action' in Kevin M Cahill (ed), *Traditions, Values and Humanitarian Action* (Fordham University Press and Center for International Health and Cooperation 2003) 5.

religious missionaries.[2] Nowadays, the issue originates from the context within which organisations operate. Organisations find themselves caught between the need for 'cultural authenticity'[3] and respect for universal human rights law. I argue that the delivery of aid and protection of beneficiaries would be improved if organisations contextualise their missions. The issue is then to decide how beliefs and values can be included in aid organisations' strategies without harming universal human rights. This article seeks to demonstrate that contextualisation would not only improve access, delivery and protection of humanitarian assistance; contextualising a mission also enables aid workers to respect the local context without impacting negatively upon universal human rights.

The interest in contextualising missions is recent.[4] For several organisations, values and beliefs are still considered subjective factors which affect the principles of neutrality and impartiality. Yet, the role of beliefs and values cannot and should not be ignored as they provide a framework for effective humanitarian assistance.[5] It remains that considering them raises operational as well as legal issues: contextualising could be perceived as negatively impacting upon the principle of universality of human rights and as an acknowledgement of cultural relativism. So, while I argue that contextualisation is necessary, there needs to be a limit in the form of a benchmark or a test whereby the accommodation of local beliefs and values becomes impossible as it harms universal human rights law.

My suggestion is first to shift the focus from external actors (here, humanitarian organisations) to local communities and to examine how they develop instruments to approach mores. I use Islam and Islamic law as a case study, and suggest analysing the role of a legal tool used by Islam: the principle of *maslaha*, or public interest. I will look at how communities have used this instrument as a filter to decide which mores should or should not be considered; I then encourage aid agencies to look into the work performed by the communities to give them information about the current context. The focus on a bottom-up creation of mores is important as Muslim local communities find themselves at a crossroads in terms of reforms[6] and they constitute potential powerful agents of change, as developed later in this article. My overall suggestion is that aid agencies need to be aware of the context in order to develop programmes that will support, rather than hinder, such changes. It is important to acknowledge the reluctance of aid

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[2] The Centre on Conflict, Development and Peacebuilding, 'Religion and Humanitarianism: Floating Boundaries in a Globalizing World', Conference Report, 10–11 October 2009, 5, http://graduateinstitute.ch/files/live/sites/iheid/files/sites/ccdp/shared/Docs/Publications/Conf_Report_DEF_LR.pdf.

[3] Gerard Clarke, 'Faith-Based Organisations and International Development: An Overview' in Gerard Clarke and Michael Jennings (eds), *Development, Civil Society and Faith-Based Organisations: Bridging the Sacred and the Secular* (Palgrave Macmillan 2008) 17.

[4] Gerard Clarke, 'Agents of Transformation? Donors, Faith-Based Organisations and International Development' (2007) 28 *Third World Quarterly* 77, 78.

[5] Andrea Paras and Janice Gross Stein, 'Bridging the Sacred and the Profane in Humanitarian Life' in Michael Barnett and Janice Gross Stein (eds), *Sacred Aid: Faith and Humanitarianism* (Oxford University Press 2012) 211.

[6] Abdullahi Ahmed An-Na'im, *Islam and the Secular State: Negotiating the Future of Shari'a* (Harvard University Press 2008) 1–44.

agencies in contextualising for fear of having a transformative agenda. The use of a local filter to select values would put this worry to rest.

The originality of the article is found in a twist to Benthall's idea of cultural proximity by developing a cross-cultural approach.[7] I argue that considering the context could potentially provide humanitarian organisations with an opportunity to build bridges between universal human rights and local understandings of human rights, which will in turn create opportunities for access, protection and delivery. This leads me to question vulnerability in times of conflict and disaster (or the interface between the two). I explain that such environments provide an opportunity to empower local players in monitoring and directing the evolution of cultural, traditional and religious norms in terms of universal human rights instead of falling back onto these norms for protection. However, contextualisation can occur only through a selection of beliefs and values; I will operate this selection via a test, looking at Islam and women's rights in particular. I also call for a limit to the consideration of beliefs and values, seeking an answer to Donaldson's question: 'When is different just different, and when is different wrong?'[8]

2. THE NEED FOR CONTEXTUALISING HUMANITARIAN MISSIONS

I will explain first why it is important to contextualise and what organisations could gain from contextualisation. I will then address Benthall's doctrine of cultural proximity; his argument is that Muslim faith-based organisations (FBOs) can provide more effective and sensitive humanitarian aid in Muslim areas because of their knowledge of Islam. I will examine his doctrine to see whether FBOs benefit from an advantage because they contextualise.

2.1. THE PURPOSE OF CONTEXTUALISATION IS TO IMPROVE ACCESS, PROTECTION AND DELIVERY

Each humanitarian mission takes place in a specific context which can be cultural, religious, traditional, political, social or economic. While the principles of neutrality and impartiality have been put forward by many organisations, the reality of the field has caught up with aid workers: they often face issues in accessing beneficiaries, protecting people or delivering aid because of the context. For example, any organisation working in Afghanistan needs to consider ethnic belonging, religion, culture, customary law and traditions in order for the mission to be successful; the distinction between Hazaras and Pashtuns shapes the country and must be weighed when preparing an aid mission. There can be a plurality of values and identities,[9] leading to variations which affect humanitarian aid and which sometimes become a matter of life and death for workers or beneficiaries: when women from different ethnic groups contributed to the 2000 All Party

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[7] Jonathan Benthall, 'Humanitarianism and Islam after 11 September' in Joanna Macrae and Adele Harmer (eds), *Humanitarian Action and the 'Global War on Terror': A Review of Trends and Issues* (Overseas Development Institute 2003) 37.

[8] Thomas Donaldson, 'Values in Tension: Ethics Away from Home' (1996) 74(5) *Harvard Business Review* 48.

[9] Kevin Avruch, *Culture and Conflict Resolution* (United States Institute of Peace Press 1998) 20.

Burundi Women's Peace Conference supported by the United Nations Development Fund for Women (UNIFEM), some took great risks in travelling to the location of the meeting or were criticised for meeting in public and discussing gender issues.[10]

Another illustration which highlights the importance of understanding the context can be found during the 1998 Sudan famine. Aid workers were under the impression that the food they were distributing was given to tribal leaders, and thus concluded that the local culture of corruption was so entrenched that they would struggle to feed individuals. An anthropologist was recruited to understand the phenomenon. He discovered that while all members of the tribe would give their food rations to the leader, the latter would divide the food equally among all the people. This meant that the most vulnerable individuals were not getting the attention they needed. As a result, members of the group were slowly starving together as the rations were not given according to individual need, but were distributed equally. Markus and Connor concluded that aid workers had been trained to focus on cases of severe individual malnutrition and had missed the collective factor, which led to group starvation.[11] The lack of contextualisation also led to the erection of new houses in the post-tsunami period without carrying out environmental impact and cultural assessments in areas that were too far from the sea for fishermen, thus depriving them of their source of income.[12] Had the organisations conducted a proper environmental assessment and spoken with the locals who knew the shores, they would have improved the delivery of aid by building houses close enough to the sea so that fishermen could have retained their occupations, while being in a secure location.

Yet another illustration is to be found in Darfur, where drinking water and groundwater were separated and located at opposite ends of a camp, forcing women who were collecting wood to walk along the margins of the camp to avoid passing by the showers and toilets. It emerged that they could be harassed by men when passing near the showers, so they walked around the showers, thus exposing themselves to possible violence from armed groups lurking nearby.[13] Dowty also reports on the delivery on non-halal food in Muslim areas of Thailand.[14] These few examples demonstrate that access, delivery and protection could have been improved had the organisations worked with locals and taken into account their beliefs and values to better

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[10] Noeleen Heyzer, 'Women on the Front Lines: UNIFEM's Work to Promote Women, Peace and Security' in Yael Danieli (ed), *Sharing the Front Line and the Back Hills: International Protectors and Providers: Peacekeepers, Humanitarian Aid Workers and the Media in the Midst of Crisis* (Baywood 2002) 85, 89.

[11] Hazel Rose Markus and Alana Conner, *Clash! 8 Cultural Conflicts that Make Us Who We Are* (Hudson Street Press 2013).

[12] Jim Kennedy and others, 'Post-Tsunami Transitional Settlement and Shelter: Field Experience from Aceh and Sri Lanka', *Humanitarian Exchange Magazine*, March 2007, http://odihpn.org/wp-content/uploads/2007/04/humanitarianexchange037.pdf.

[13] Rachel A Dowty, 'Humanitarian Logistics: A Cultural Perspective' in Martin Christopher and Peter Tatham (eds), *Humanitarian Logistics: Meeting the Challenge of Preparing for and Responding to Disasters* (Kogan Page 2011) 201, 207.

[14] ibid.

assess the needs. Contextualising is therefore a challenge for foreign workers.[15] Including beliefs and values when programming is vital:[16]

> More often than not, the security incidents suffered by aid agencies are due to foolish mistakes by ill-prepared individuals, and to faulty appraisals of local conditions … Most agencies admit that they have insufficient knowledge of the contexts in which they operate, that they lack local networks and information sources and that most of their international staff are not familiar with local customs, language and culture.

The issue for many organisations is to decide how far they will go when contextualising. While many will agree that the example of food distribution in Sudan requires some local coordination, others will be reluctant to consider beliefs and values that impact upon gender perceptions in Burundi. The dilemma between neutrality and context-based programmes can be resolved by examining the context without letting it influence actions. The International Committee of the Red Cross (ICRC), for example, has worked on meeting beneficiaries' urgent needs in Sudan and Somalia by working with local organisations and systems to avoid duplication of efforts;[17] contextualisation was then limited by working with locals, but it did not extend to local knowledge of food distribution. This allows for a better strategy and delivery without letting the context dictate programming. However, there are situations in which organisations are under pressure to contextualise directly, rather than externally as the ICRC has done, without the possibility of relying on local organisations.

While most organisations will agree to encouraging local participation during aid missions, very few foreign organisations consider that they should develop a contextualised strategy, such as a gender-oriented strategy that confronts religion. They prefer to work with the 'one-size-fits-all model', and take local specificities into account only where the programmes do not transform society.[18] Indeed, aid workers fear altering societal structures by relying on a transformative agenda. I argue that the reality of the field is that '[e]xtraordinary events … may result in behavior that deviates substantially from social norms or personal standards':[19] a society will be affected by a conflict or a disaster, and will change. The presence of foreign actors

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[15] Brian W Flynn, 'Disaster Mental Health: The U.S. Experience and Beyond' in Jennifer Leaning, Susan M Briggs and Lincoln C Chen (eds), *Humanitarian Crises: The Medical and Public Health Response* (Harvard University Press 1999) 97, 118–19.

[16] Pierre Gassmann, 'Rethinking Humanitarian Security', *Humanitarian Exchange Magazine*, June 2005, 33, http://odihpn.org/wp-content/uploads/2005/07/humanitarianexchange030.pdf.

[17] Pierre Perrin, 'The Impact of Humanitarian Aid on Conflict Development' (1998) 38 *International Review of the Red Cross* 319, 330.

[18] Jonathan Whittall, 'Opinion and Debate: Either … Or – Building Resilience is still not Compatible with Humanitarian Aid', Médecins sans Frontières, 12 March 2014, http://www.msf.org.uk/article/opinion-and-debate-either%E2%80%A6-or-building-resilience-still-not-compatible-humanitarian-aid; Samir Elhawary, 'Eroding Humanitarian Principles: Who's to Blame?', *Humanitarian Practice Network*, 7 August 2008, http://odihpn.org/blog/eroding-humanitarian-principles-who%C2%92s-to-blame.

[19] Judy A Benjamin, 'Issues of Power and Gender in Complex Emergencies' in Kevin M Cahill (ed), *Emergency Relief Operations* (Fordham University Press and Center for International Health and Cooperation 2003) 153, 157.

will change the social structures,[20] especially in a framework where aid workers are reflecting on 'how to stay' rather than 'when to leave'.[21] To 'stay and deliver' also involves having an impact on the populations. In Haiti, for example, the Canadian Center for International Studies and Cooperation invested in developing reliance on local products, therefore strengthening local agriculture and transportation systems. The project built upon existing agricultural structures and changed them by encouraging the transformation of grains and cereals, empowering new economic actors and modifying the Haitian diet.[22] Another illustration that deals less with development but addresses humanitarian care is the exclusion of traditional forms of medicine,[23] perhaps leading to their disappearance. Such examples call for the demystification of a neutral type of humanitarian operation: the mere presence of a foreign organisation in a territory will alter the area as aid has a socio-political, economic and cultural impact.

A further concern of aid workers is the indirect support to human rights violations that may result from considering local beliefs and values. I argue that, far from advocating cultural relativism, organisations that contextualise their operations allow for respect of some beliefs and values. It is by failing to consider the local mores that aid organisations can harm the local population. Speaking of gender-based violence (GBV) in Afghanistan, Benard reports:[24]

> The outcome of the discussion was always the same. There was nothing you could do about it, the aid workers regretfully concluded. You weren't there to interfere in people's cultural traditions. The Pashtuns were just like that. You couldn't change them. It was pointless to offer services that would benefit women, because the Afghans just didn't want that. They were used to things being this way. Even the women themselves didn't expect anything different.

Benard then goes on to investigate the matter, only to realise that there were successful female-focused aid programmes in the country and that Afghan women were asking for gender equality. This demonstrates that by refusing to engage with the local mores, aid workers actually contribute to supporting the paternalistic control of women through so-called cultural, traditional, customary or religious values, at the expense of women's wishes. Not only do aid workers indirectly support an oppressive system; they also indirectly perpetuate the colonialist idea that mores cannot change.

Rather than ignoring this call to adapt to the environment, many organisations have contextualised to some degree. Taking the reality into account can be achieved through culture-mapping, as

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[20] Mark Duffield, *Global Governance and the New Wars: The Merging of Development and Security* (Zed Books 2001) 121; Sarah Collinson and others, *Paradoxes of Presence: Risk Management and Aid Culture in Challenging Environments* (Overseas Development Institute 2013).

[21] Jan Egeland, Adele Harmer and Abby Stoddard, *To Stay and Deliver: Good Practice for Humanitarians in Complex Security Environments* (Policy Development and Studies Branch, UN Office for the Coordination of Humanitarian Affairs 2011).

[22] Kathy Mangones, 'Alternative Food Aid Strategies and Local Capacity Building in Haiti' in Ian Smillie (ed), *Patronage or Partnership: Local Capacity Building in Humanitarian Crises* (Kumarian Press 2001) 51, 65.

[23] Carlos Martin Beristain, *Humanitarian Aid Work: A Critical Approach* (University of Pennsylvania Press 2006) 152.

[24] Cheryl Benard, *Veiled Courage: Inside the Afghan Women's Resistance* (Broadway Books 2002).

illustrated by the efforts of the ICRC to understand Muslim humanitarian standards.[25] Meanwhile, the congruence between the two legal systems or the influence of Islamic law over international law is not discussed because of fears of fragmentation of international law. This mainstream approach of working on commonalities is summed up by Caney:[26]

> All cultures, be they Islamic, Hindu, Buddhist, secular or Christian, value the sanctity of human life. Similarly, it is difficult to think of any culture that welcomes drought, famine, disease, murder and malnutrition. Consequently cosmopolitan principles of humanitarian intervention that seek to eradicate these are not imposing values on societies which those societies reject.

The rejection of contextualisation or the use of a limited cultural mapping also accommodates the view that FBOs and local organisations are more efficient when it comes to context as they engage with it on a regular basis.[27]

I believe that this reluctance to engage fully with the context has negative effects. Contextualisation through culture mapping will help to avoid mistakes. It is necessary to understand the psychological limbo that Syrian male refugees currently face. Their role as the breadwinner and head of the family is being challenged by new circumstances, resulting in depression.[28] Appreciating the cultural and traditional gender context, without accepting it or encouraging it (as explained below), is crucial: these men who have lost everything, including their dignity as male and patriarch, must be helped. Avruch speaks of the necessity to be 'culturally competent'[29] in such circumstances, by developing cultural skills that will impact upon the success of the mission; it will create a mutual understanding between the host and the foreign actors. This attitude needs to stem from a genuine desire to accommodate culture, religion, and other beliefs and values rather than from a desire to use culture as a strategic tool to access, protect and deliver.[30] Positive examples include the delivery of medical help in countries where women are not supposed to be treated by male doctors and nurses. In such environments, I believe it is necessary to train the aid teams to recognise and deal with the obstacles they will encounter, to encourage organisations to send female medical staff, as well as having two entrance doors, one for females and one for males. Work has been carried out, for example, to educate medical staff on the issue of modesty and understand how it affects people's decisions

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[25] ICRC, 'Iran: Dialogue on Islam and International Humanitarian Law in Qom', 1 December 2006, https://www.icrc.org/eng/resources/documents/feature/2006/ihl-islam-event-011206.htm.
[26] Simon Caney, 'Human Rights and the Rights of States: Terry Nardin on Nonintervention' (1997) 18 *International Political Science Review* 27, 34.
[27] Jonathan Benthall and Jerome Bellion-Jourdan, *The Charitable Crescent: Politics of Aid in the Muslim World* (IB Tauris 2003) 125.
[28] Roula El-Masri, Claire Harvey and Rosa Garwood, *Shifting Sands: Changing Gender Roles among Refugees in Lebanon* (Oxfam International 2013) 15.
[29] Kevin Avruch, 'Culture as Context, Culture as Communication: Considerations for Humanitarian Negotiators' (2004) 9 *Harvard Negotiation Law Review* 391, 394.
[30] Alastair Iain Johnston, 'Thinking about Strategic Culture' (1995) 19(4) *International Security* 32.

to seek medical help.[31] Seibert and co-authors have elaborated a checklist to help in cultural awareness, including the use of a translator, referring to the correct religious referents, and providing an appropriate diet.[32]

There is a limit to cultural mapping and the degree to which we can contextualise a mission. Such obstacles explain why some have argued that FBOs are more efficient when it comes to contextualising humanitarian assistance.

2.2. DOES THE DOCTRINE OF CULTURAL PROXIMITY GIVE AN ADVANTAGE TO FBOS OVER FOREIGN ORGANISATIONS?

To address the issue of context-based humanitarian actions, Benthall has expanded the concept of 'cultural proximity'[33] in examining the growth of Islamic charities. He explains that Muslim organisations are in a better position than foreign organisations to help Muslims because of their knowledge of the field and the population. While FBOs do not hold an advantage over foreign organisations per se,[34] it has been noted that the former, when operating in a domestic or a familiar context, are more efficient than the latter.[35] Benthall argues – looking at the example of Islamic Relief in Banda Aceh in a post-tsunami operation[36] – that the community tends to have more trust in a team composed of Muslim believers. My aim is to complete the doctrine by looking at the role that non-Muslim organisations can play, demonstrating that they can also gain better access and provide better protection by acquiring some knowledge of Islam.

It is a reality that the behaviour of staff members of FBOs will differ from that of the staff of foreign organisations: tensions will naturally arise when empty bottles of alcohol consumed by the staff members of a foreign organisation are disposed of in the streets during a disaster period.[37] Muslim beneficiaries, already made vulnerable by the loss of their daily routine, are presented with yet another challenge in their conditions through the exhibition of alcoholic consumption. The conclusion reached by Benthall is that FBOs have a cultural proximity with beneficiaries, which enhances their means of access as well as enabling them to provide better protection of the local population and delivery of aid. This is why James argues that it is better

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[31] Caryn Scheinberg Andrews, 'Modesty and Healthcare for Women: Understanding Cultural Sensitivities' (2006) 3 *Community Oncology* 443; Paul Lawrence and Cathy Rozmus, 'Culturally Sensitive Care of the Muslim Patient' (2001) 12 *Journal of Transcultural Nursing* 228.

[32] PS Seibert, P Stridh-Igo and CG Zimmerman, 'A Checklist to Facilitate Cultural Awareness and Sensitivity' (2002) 28 *Journal of Medical Ethics* 143.

[33] Benthall (n 7) 37.

[34] Bertrand Taithe, 'Pyrrhic Victories? French Catholic Missionaries, Modern Expertise, and Secularizing Technologies' in Barnett and Stein (n 5) 166, 188.

[35] Jonathan Benthall, '"Cultural proximity" and the Conjuncture of Islam with Modern Humanitarianism' in Barnett and Stein (n 5) 65.

[36] Jonathan Benthall, 'Have Islamic Aid Agencies a Privileged Relationship in Majority Muslim Areas? The Case of Post-Tsunami Reconstruction in Aceh', *The Journal of Humanitarian Assistance*, 26 June 2008, http://sites.tufts.edu/jha/archives/153.

[37] Shirley A Fedorak, *Global Issues: A Cross-Cultural Perspective* (University of Toronto Press 2013) 34.

to deploy FBOs in order to reach the most vulnerable more quickly.[38] He notes also that FBOs are in a better position to empower local actors and support the community, transforming the society within boundaries recognised by aid workers and the beneficiaries. This doctrine of cultural proximity provides the background to the increased role of FBOs and local organisations.[39]

With this concept of cultural proximity, Benthall provides an extension of the concept of *Ummah*, according to which Muslims universally help other Muslims.[40] While this rests on the existence of a Muslim principle, Benthall's doctrine does not take into account the multiplicity of interpretations that lead to disagreements within the *Ummah*. The dividing issues can be political or religious. Palmer explains that sharing a common religion will not always be helpful when there are other divisions, such as ethnic, cultural or traditional differences.[41] Besides, this attempt by an external member to the *Ummah* at developing an Islamic concept lacks legitimacy: to be accepted by the *Ummah*, the concept of cultural proximity should have been developed on a Quranic basis and on an organic basis. The other issue with the idea of cultural proximity is that it clearly sidelines any organisation that does not embrace a religion or a culture. I do not believe it is necessary for all organisations to adopt a local discourse in order to address humanitarian issues. Consequently, relying mainly on local FBOs is not sufficient; it is necessary to acknowledge that foreign organisations have an expertise that is different from that of FBOs, and should retain access to beneficiaries. It would be ludicrous to suggest that any FBO could replace the work performed by, for example, Médecins Sans Frontières (MSF), which is not what Benthall is claiming. Rather, FBOs complete the work of international or foreign organisations.[42] Yet, the idea of cultural proximity could help to build bridges between the communities, as developed in Section 4 of this article.

The promotion of cultural relativism is an issue that is relevant to FBOs, as some FBOs hold a discourse which contradicts universal human rights as they support divinely rooted rights and justify violations of human rights on the basis of mores. Some FBO programming includes values and beliefs that would be repugnant to human rights. As a result, there is a risk in giving FBOs too much power or legitimacy: it would be tantamount to giving them a free hand in the perpetuation of beliefs and values that violate human rights. For example, some FBOs might exclude women from programmes, or address their needs through the scope of the family, thereby reducing them to the gendered role of mother and wife. By allowing such organisations a monopoly, or a lead role, in dealing with context, we could indirectly support GBV and discrimination against minorities. In rural Rajasthan, FBOs play a crucial role. They still rely on

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[38] Rick James, 'What is Distinctive about FBOs? How European FBOs Define and Operationalise their Faith', International NGO Training and Research Centre (INTRAC), Praxis Paper 22, February 2009, 7, http://www.intrac.org/data/files/resources/482/Praxis-Paper-22-What-is-Distinctive-About-FBOs.pdf.

[39] Scott M Thomas, *The Global Resurgence of Religion and the Transformation of International Relations: The Struggle for the Soul of the Twenty-First Century* (Palgrave Macmillan 2005).

[40] Benthall (n 36) 65.

[41] Victoria Palmer, 'Analysing Cultural Proximity: Islamic Relief Worldwide and Rohingya Refugees in Bangladesh' (2001) 21 *Development in Practice* 96.

[42] Elizabeth Ferris, 'Faith-Based and Secular Humanitarian Organizations' (2005) 87 *International Review of the Red Cross* 311, 325.

traditional religious readings of authoritative sources of Islam,[43] thereby excluding women from public decision-making forums.[44] These FBOs also fail to address issues such as domestic violence.[45] It is a true there are situations in which FBOs have used their knowledge of the context to improve respect for human rights – such as the Inner Circle Ministers in South Africa, which has supported lesbian, gay, bisexual and transgender communities.[46] Yet, too often, these organisations are prone to using interpretations to suite an agenda. As a result, work is now being carried out on how FBOs could be reformed[47] to better engage with the principles of neutrality and impartiality, and step away from cultural relativism.[48] The biopolitics of these organisations needs to be scrutinised in order to understand their nature and mandate. Benthall's typology of FBOs is useful as it makes the distinction between organisations that seek to manipulate or influence a context and those that are fully committed to aid.[49] My view of FBOs is that they play an important role, especially with regard to encouraging and supporting positive transformative changes in society, as explained below. Yet, contextualisation should not be left to FBOs alone, as they are by nature subjective agencies.

I have now established why contextualisation is necessary. The academic attempt to frame it in a Muslim context needs to be further developed. Benthall's idea of cultural proximity of FBOs needs to be completed by looking at the role that foreign organisations can play when it comes to contextualisation. However, before looking into ways of approaching the role of culture, religion and traditions in humanitarian action, it is important to acknowledge the limits of contextualisation.

3. CONSIDERING LIMITS OF CONTEXTUALISATION IN UNDERSTANDING ORGANISATIONAL RELUCTANCE

Understanding the limits of contextualisation from an operational and a legal perspective helps in understanding and avoiding its related risks. One of the main issues is the risk of the

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[43] The authoritative sources are the Quran and the Sunna as primary sources, followed by *ijma* and *qiyas* as secondary sources. The Quran is the Holy Book of Islam; it must be interpreted by scholars to be applicable. The Sunna is the sayings, acts and deeds of the Prophet as reported by his companions. These are the primary sources referred to by interpreters. They then practise *ijtihad*, the effort of interpretation, through *ijma*, which is a collective consensus of interpretation. Interpreters can also work alone, practising the *qiyas* or deductive analogy. Interpreters use a rule stated in the Quran or found in the Sunna and apply it to a new problem.

[44] Mary Nyangweso Wangila, *Female Circumcision: The Interplay of Religion, Gender and Culture in Kenya* (*Women from the Margins*) (Orbis Books 2007).

[45] Tamsin Bradley, *Religion and Gender in the Developing World: Faith-Based Organizations and Feminism in India* (IB Tauris 2011).

[46] Ashley Currier and Joelle M Cruz, 'Civil Society and Sexual Struggles in Africa' in Ebenezer Obadare (ed), *The Handbook of Civil Society in Africa* (Springer 2014) 337, 349.

[47] Ferris (n 42).

[48] Nida Kirmani, 'Engaging with Islam to Promote Women's Rights: Exploring Opportunities and Challenging Assumptions' (2011) 11 *Progress in Development Studies* 87.

[49] Jonathan Benthall, 'Introduction: Faith-Based Organisations as Political, Humanitarian or Religious Actors', Proceedings of the Workshop 'Religion, Politics, Conflict and Humanitarian Action Faith-Based Organisations as Political, Humanitarian or Religious Actors', 18–19 May 2005, Geneva, 5, http://graduateinstitute.ch/files/live/sites/iheid/files/sites/ccdp/shared/Docs/Religion,politics,conflict,humanitarianism_workhsop%20proceedings.pdf.

fragmentation of international law. If we accept all beliefs, practices and values at the operational level, it will have a resonance at the international level and international human rights will be affected. This is why a test, or an objective yardstick, is vital as a means to decide which beliefs and values should and should not be included in programming.

3.1. RISK OF FRAGMENTATION OF INTERNATIONAL HUMAN RIGHTS WITH CONSEQUENCES FOR OPERATIONS AND LAW

Mlay has said:[50]

> This search to find cultural underpinnings for the travails of humanitarianism is remarkable in its neglect of any serious exploration of its religious aspects. Thin attempts to do this often create caricatures of religious humanitarianism, and thus perpetuate misunderstanding.

The purpose of this article is to address this gap. Before proceeding, however, it is necessary to look at the issues stemming from contextualisation from an operational and legal perspective. While it is clear that context should be taken into account, such a strategy is risky. Contextualising operations might impact upon the principle of neutrality and impartiality, thereby threatening the work or lives of aid workers. These principles are considered a part of the code of conduct for many organisations and constitute the working ethics of the staff. Such principles should never be tampered with while aid workers should be enabled to take the context into account and be culturally sensitive without taking risks. Brikci, who addresses Bentham's concept of cultural proximity, suggests that aid workers remain sensitive to their environment and develop skills to make them flexible in their work:[51]

> 'Cultural proximity' is not the answer to the problems of access and insecurity that Western NGOs currently face in countries like Afghanistan and Iraq. What is needed instead is investment in training to infuse in humanitarian workers an interest in learning about frameworks other than their own. This would go some way towards ensuring that anyone could work anywhere.

Brikci does not suggest expert knowledge of the country in which the staff work. Such expertise could sometimes raise issues for aid workers who might be tempted to embrace local beliefs and values in order to better understand them.[52] Cultural relativism is an occurrence among aid workers. Cammack explains how some organisations in Afghanistan would avoid developing programmes solely for women in order to avoid changing the societal structures; programmes targeting the head of the household would be developed, in the hope of a trickle-down effect to touch women. In the case at hand, the argument put forward was that the organisation's mandate did not include changing the culture and that any attempt to address women's needs would

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[50] Wilfred Mlay, 'Some Myths about Faith-Based Humanitarian Aid', *Humanitarian Exchange Magazine*, July 2004, http://odihpn.org/wp-content/uploads/2004/08/humanitarianexchange027.pdf.
[51] Nouria Brikci, 'Is Cultural Proximity the Answer to Gaining Access in Muslim Contexts?', *Humanitarian Exchange Magazine*, March 2005, http://odihpn.org/wp-content/uploads/2005/03/humanitarianexchange029.pdf.
[52] Kris Hulburt, 'Precious Lives Honored to Serve' in Danieli (n 10) 161, 165.

undermine the stability of the environment needed to manage the programme.[53] In another situation, Buck and Silver say:[54]

> Aid workers expressed a combination of disdain and sympathy (for Somali girls and women in ethnic minorities) in response to what they perceived as oppressive (often gendered) traditional cultural tenets and practices. … Forced early marriage and female genital cutting often struck [them] as particularly barbaric and deplorable violations of individual rights.

When discussing whether it was the role of aid workers to address such violence, an individual reportedly said that she had abandoned cultural relativism, stating that 'if any culture is in need of change, it is Somali culture'.[55] Yet, by refusing to engage with the issue of GBV and the culture, the aid worker was indirectly supporting these violations as she considered them to be de facto part of the local culture. Cammack speaks of a selective cultural relativism that is directed by an organisation's agenda: aid workers will help women provided it does not prevent their deployment and activities.[56]

Such attitudes, apart from being erroneous and patronising, support cultural relativism; foreign workers then become part of the problem rather than part of the solution.[57] They become an active part of the system that is causing the human rights violations on the basis that the culture is to be respected or by creating cultural standards (such as tolerance of discrimination) that do not exist in the local values but are created by some to control women. Another example is the existence of many programmes that willingly avoid the inclusion of women in order not to confront their absence in the public space.[58] It is interesting to note that I referred to the same example to show a resignation to context, while here it is used to illustrate a disregard for context: it is indeed sometimes difficult to distinguish between the two. While it is important to take local beliefs and values into account, one should avoid accepting them. A legal outcome of supporting unrestricted consideration of traditional, cultural and religious beliefs and values would include the fragmentation of international human rights. For example, if an organisation accepts the practice of female genital mutilation (FGM) and fails to address it because it considers it to form part of the local culture, this will have an impact at the international level. As a result, several human rights and women's rights would be directly undermined by an attitude which endorses violations in the name of cultural relativism:[59]

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[53] Diana Cammack, 'Gender Relief and Politics during the Afghan War' in Doreen Indra (ed), *Engendering Forced Migration: Theory and Practice* (Berghahn Books 1999) 94, 103–04.

[54] Patricia Buck and Rachel Silver, 'Tradition, Enlightenment, and the Role of Schooling in Gender Politics among Somali Girls and Women in Dadaab' in Lesley Bartlett and Ameena Ghaffar-Kucher (eds), *Refugees, Immigrants, and Education in the Global South: Lives in Motion* (Routledge 2013) 116, 122.

[55] ibid.

[56] Cammack (n 53) 104.

[57] Preston D Mitchum, 'Slapping the Hand of Cultural Relativism: Female Genital Mutilation, Male Dominance, and Health as a Human Rights Framework' (2013) 19 *William & Mary Journal of Women and the Law* 585; David Rieff, *A Bed for the Night: Humanitarianism in Crisis* (Simon & Schuster 2002) 23.

[58] Cammack (n 53) 103.

[59] Frederick Reese, 'Female Genital Mutilation: An International Crisis that Continues Despite Human Rights Violations', *MintPress News*, 21 November 2012, http://www.mintpressnews.com/female-genital-mutilation-an-international-crisis-that-continues-despite-human-rights-violations/41240.

[A]ssert[ing] that the practices within any specific culture are unique to the values, systems and prac-
tices within that culture … For them, there are no universal standards and the morality and values of
one national culture cannot be compared to that of another.

The next question is whether, by referring to Muslim human rights and to Muslim humanitarian
standards, or any other local readings of these laws, we undermine international law. At the
theoretical level, one can argue that including Muslim readings of human rights and humanitarian
values in programming could be a threat to the principle of universality. Yet, as I have explained
elsewhere,[60] there are Muslim rules relating to humanitarian standards and humanitarian action.
There are also Muslim approaches to human rights which are quite similar to those contained in
universal values.[61] These principles are applied in the field by FBOs, non-state armed groups,
beneficiaries and religious authorities. Awareness of these principles anchored in religion, culture
or traditions is important as it provides relevant information regarding the context in which aid
workers operate. The issue lies with the treatment of such information: some organisations con-
sider that these principles provide some elements for context, while other organisations engage
more thoroughly with these values. The objective of these latter organisations is to negotiate and
engage fully with actors on the ground, creating a climate of trust and mutual respect, leading to
improved access and protection. Nonetheless, an organisation needs to remain aware of the con-
sequences and ensure that the inclusion of values remains informative and does not dictate a pol-
icy or strategy at the risk of adapting too much to the context. This is especially relevant when
religious values are in contradiction with universal values.

While the risk of the fragmentation of international law as a result of including beliefs and
values is real, a paradox is the indirect promotion of cultural relativism through the rejection
of contextualisation which also undermines international law. By opting to ignore beliefs and
values to focus solely on aid, some organisations refuse to engage with the context. This is a
form of indirect contribution to cultural relativism as it maintains the discrimination in place.
Ignoring beliefs and values which contradict universal human rights indirectly encourages social-
ly constructed perceptions regarding 'how men and women interact within a particular society
and how they define their roles in that culture'.[62] I argue that it even brings legitimacy to such
attitudes as they are not questioned by neutral outsiders. This questions whether organisations
should accept definitions of gender as a social construct and the idea that there are pre-defined
roles in society[63] to ensure neutral access, protection and delivery.

Contextualising can be quite testing: there have been cases of injured children brought to for-
eign organisations, victims of a failed circumcision or of a post-mutilation infection. To avoid
such situations, some organisations have chosen to provide clean tools with the aim of avoiding
infection and the propagation of HIV, despite the fact that the organisation is opposed to FGM. In

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[60] Anicée Van Engeland, 'Verse 9:5 of the Qurʾān as an Intermixed Ground for Jus ad Bellum and Jus in Bello:
Adapting Islamic Classical Theory to Modern Asymmetric Conflict' (2015) 7 *GAIR-Mitteilungen* 129.
[61] Mashood A Baderin, *International Human Rights and Islamic Law* (Oxford University Press 2003).
[62] Benjamin (n 19) 157.
[63] ibid 156.

another situation, questions have arisen with regard to the traditional sari and long hair worn by Sri Lankan women, which impeded them during the tsunami wave; many died, dragged by the weight of their clothes and hair.[64] Aid workers have considered whether they should challenge traditional clothing. Adopting a position has a direct impact on the principle of neutrality as those organisations have had to adapt to the reality of the field in order to save lives. They have indirectly endorsed a cultural practice, demonstrating that a purely neutral stance towards the context is impossible.

Another example can be found in Muslim medical ethics, where working as a medical agency in a Muslim country can prove difficult. Taking the context into account raises questions with regard to the composition of a team. Should the team include Muslim medical staff? Should we avoid including women on the staff? Or men? What kind of medications can be used? How is privacy an issue? The success of an operation depends heavily on the composition of the team: there needs to be a gender balance to ensure that there are male and female doctors and/or nurses to access patients of each gender.[65] This would help in encouraging men to take women to hospital – as reported by a female doctor: 'We have to fight with men to take women to hospital when necessary'.[66] As a result, female doctors can be in high demand in some Muslim countries.

A third example of the limitations of taking context into account is found in the clash between modern medical practices and traditions. How can a non-governmental organisation address *Kur'an Kao Lijek* (*Quran as Healing*), widely circulated in Turkey and Bosnia-Herzegovina, which recommends that a sick person write the opening *Sura* or verse of the Quran, leave the paper in a glass of water, and then drink that water? If a foreign organisation were to respect this tradition, how could it introduce new health techniques or medicines? Would the operational decision to consider the Quran as a method of healing be a threat to international values? Does acceptance conflict with the Hippocratic Oath? The MSF approach is that '[w]e treat our patients with dignity, and with respect for their cultural and religious beliefs'.[67] Yet, the risk involved in respecting such elements of culture and integrating them into a programme is to indirectly support values and beliefs that are in contradiction with human rights. Organisations that embrace culture, traditions and religion might also be perceived as partial and as indirect contributors to cultural relativism. For example, if a foreign organisation works closely with a Sunni organisation, non-Sunni groups will feel excluded. No aid worker wishes to be seen as endorsing discrimination or proselytism.[68] This demonstrates the conundrum faced by aid workers when

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64 Suvendrini Kakuchi, 'In Tsunami, Women Put Modesty Above Survival', *Women's eNews*, 23 February 2005, http://womensenews.org/story/the-world/050223/tsunami-women-put-modesty-above-survival.
65 Jenny Hayward-Karlsson and others, *Hospitals for War-Wounded: A Practical Guide for Setting Up and Running a Surgical Hospital in an Area of Armed Conflict* (ICRC 1998) 18.
66 Valentine M Moghadam, *Modernizing Women: Gender and Social Change in the Middle East* (2nd edn, Lynne Rienner 2003) 263.
67 Médecins Sans Frontières, '*MSF Charter and Principles*', http://www.msf.org/msf-charter-and-principles.
68 Pamela Lupton-Bowers, 'Teamwork in Humanitarian Missions' in Kevin M Cahill (ed), *Basics of International Humanitarian Missions* (Fordham University Press and Center for International Health and Cooperation 2003) 59, 68.

addressing human rights and context in a mission. The integration of values and beliefs improves humanitarian aid. Inclusion, however, has an effect on international law, as beliefs and values that might be contrary to universal human rights might be considered by organisations. If an organisation then ignores the context, it could also contribute indirectly to the perpetuation of human rights violations by turning a blind eye. There is therefore a direct link between operational challenges and international law.

There is no black-and-white solution to contextualisation and cultural relativism, but I aim to suggest a middle-ground approach in Section 4 below. I challenge the idea that there is an '*elusive search for a common framework* in a world of diversity'.[69] There is no need to adopt all beliefs, practices and values blindly, which is why a test or a yardstick is needed to determine which beliefs and values may be taken into account.

3.2. THE NECESSITY OF DEVELOPING A YARDSTICK OR TEST TO SELECT VALUES, BELIEFS AND PRACTICES

While values, beliefs and practices contribute to understanding the mission's environment, not all of them are to be endorsed if one seeks to respect universal human rights. It is clear that organisations need to understand gender roles in a society. Meanwhile, it is not acceptable for such organisations to endorse FGM, despite arguments put forward by cultural rights scholars. Consideration of FGM procedures and other practices challenges universal human rights in a way that leads to the fragmentation of international law. This is why finding an objective yardstick or a test to select acceptable and non-acceptable values is necessary. Guidelines on the extent to which mores could be included are provided, for example, by The Sphere Project: it offers a compromise in its guidelines by suggesting that organisations '[r]ecruit teams with a balance of women and men, ethnicity, age and social background so that the team's diversity is appropriate to the local culture and context'.[70] The guidelines go further by suggesting that[71]

> [t]he planning of hygiene promotion must be culturally appropriate. Hygiene promotion activities need to be carried out by facilitators who have the characteristics and skills to work with groups that might share beliefs and practices different from their own (for example, in some cultures it is not acceptable for women to speak to unknown men).

The Sphere Project focuses mainly on broad concepts relating to consideration of the Other and the culture of the Other; it does not seek to confront local values and beliefs. The objective remains to support the delivery of aid to the beneficiaries and to maintain a work ethic. Furthermore, for Sphere, religion is associated with discrimination and vulnerability, perceived solely from a universal human rights perspective. The approach is purposely generic. As

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[69] The Centre on Conflict, Development and Peacebuilding (n 2) 4.
[70] The Sphere Project, *Humanitarian Charter and Minimum Standards in Humanitarian Response* (3rd edn, The Sphere Project 2011) 71.
[71] ibid 93.

explained above, the risk then is to indirectly endorse and perpetuate human rights violations. When a set of pre-departure guidelines includes 'Do not speak directly to a veiled women' or 'Do not directly look a woman in the eye', organisations perpetuate prejudices and do not always reflect the reality; there are places where women have been struggling to play a more important role, using, for example, new readings of the Quran. Their struggle for gender equality will have been put at risk by the humanitarian emergency, and possibly undermined by the direct or indirect endorsement of discrimination by aid agencies. As a result, human rights violations are worsened when aid workers in the field choose to ignore the plight of Muslim women in order to focus on aid. Aid workers should understand the dynamism that surrounds them so that they can effectively address challenges. The Sphere Project's awareness of the context remains a step forward, despite the fact that a more thorough cultural mapping is required, especially with regard to staff training.[72]

If we are to argue that cultural mapping is needed, it is important to draw an objective line to decide how far an agency should go in incorporating beliefs and values into aid programmes. With the proposed yardstick or test, I suggest addressing issues that are not dealt with directly by the Sphere guidelines: for example, Sphere is unable to assist in situations where the husband of a female Muslim patient refuses access to help because the member of the foreign medical staff is male and non-Muslim. The guidelines do not address the organisation of refugee camps, which either reflect tribal divisions or accommodate Muslim single women who have become heads of household to protect them from men. While many would consider that such factors would expose the staff to partiality or violating neutrality, these actions constitute contextualisation. This consideration of values will not only build trust and legitimacy; it will also ensure that it is inclusive of all parties to the conflict or disaster, leading to improved access to beneficiaries and better aid delivery. Accommodating single women separately from single men or families in a camp is a way of granting protection from sexual violence; dividing a refugee camp into ethnic groups is a way of protecting minorities from violence. Nowadays, the prevention of rape in a camp is acknowledged as a priority; it is not seen as a violation of the principle of neutrality and impartiality, and is perceived as an aspect of women's rights. Certainly, such a generic approach is possible when it comes to mores. The United Nations High Commissioner for Refugees (UNHCR) has issued guidelines on the protection of women refugees, applying international law; one of the key issues is stated to be the '[p]hysical organization and location of camps to ensure greater protection'.[73] The UNHCR reached this conclusion by adopting the stance for which I argue:[74]

> Relief officials often point to cultural constraints in involving women in decision-making, particularly where women have had a limited role in the country of origin. Looking to women as decision-makers

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[72] Avruch (n 29) 392; Clémentine Olivier, 'Limiting the Risks and the Vulnerability of Humanitarian Aid Workers' in Danieli (n 10) 211, 216; Brikci (n 51).
[73] UNHCR, 'Guidelines on the Protection of Refugee Women', July 1991, 23, http://www.unhcr.org/3d4f915e4.pdf.
[74] ibid 13–14.

under these circumstances, they argue, amounts to tampering with the culture of the group.

These relief officials may, however, have only a superficial understanding of the socio-cultural roles of women. Their concerns may reflect the cultural biases of the officials and/or inadequate understanding of both the traditional cultures and the new circumstances in which refugee women find themselves. Prior to flight, women typically have opportunities to express their concerns and needs, sometimes through their husbands and other times through traditional support networks. In refugee camps, however, many women are unable to participate through such traditional mechanisms as these have broken down. Alternative arrangements must be made to ensure that their voices are heard and the perspectives that they have to offer are included in decision-making.

These comments on the role of women in decision making can be used to argue that, in some circumstances, single women in camps need special protection to avoid being subjected to beliefs and values that discriminate against women and to be protected from violence. The UNHCR has also adopted a diversity mainstreaming policy which allows for the consideration of various factors that would turn individuals into 'persons of concern' once all the 'potential implications – positive and negative' – have been considered.[75] This means that ethnic belonging could be included as a factor that could make an individual vulnerable to violence. The UNHCR gender and diversity mainstreaming approach illustrates the culture mapping for which I am arguing; this methodology considers the context while relying on women's rights or the right to physical security, for example.[76] It is phrased and framed in such a way that contextualisation occurs without threatening neutrality as impartiality. To explain its approach, the UNHCR states that it is 'integral to a rights-based and a community-based approach'.[77] This approach is a solid basis to ensure that no one is left behind. Indeed, my view is that any agenda that does not contextualise runs the risk of excluding individuals or communities who define their identity through religion, culture, customs, traditions or customary law, and would not recognise themselves in a non-religious or a non-cultural aid strategy.

The issue for anyone engaging in cultural mapping is to choose which beliefs and values are to be included or excluded. This is why I claim that, in accordance with the UNHCR methodology, inclusion and exclusion need to be determined based on a yardstick or a test. This unit of measurement should not be imposed by outsiders; instead it should be an organic solution to local problems. The proposed test or yardstick used to measure which mores are to be retained must be the result of the society itself, which decides its own beliefs and values. It is then for the foreign organisation to decide how far it wishes to go in considering, including or excluding local mores. The issue at hand for both actors is to know, for example, how a dividing line can be established between the rejection of FGM and the inclusion of female medical staff in a team. What are the differences between each attempt at contextualising? Are the compromises different? It raises some ethical issues. Are aid workers expected to make value judgments as to what is

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[75] UNHCR, 'Operational Protection in Camps and Settlements: A Reference Guide of Good Practices in the Protection of Refugees and Other Persons of Concern', 2006, 13, http://www.refworld.org/pdfid/44b381994.pdf.
[76] James C Hathaway, *The Rights of Refugees under International Law* (Cambridge University Press 2005) 439–50.
[77] UNHCR (n 75) 19.

right and what is wrong? This would be problematic as mores themselves could be based upon ideas of right and wrong; the two visions of ethics would then clash. It is crucial for aid workers to take this ethical aspect into account without providing a value judgment, as mores act as social glue, as people share values and understandings in determining norms. Yet, as Kluckhohn states, it is necessary to decide what is desirable and what is not.[78]

Moral relativism as a technique used to select beliefs and values is not the instrument of choice. This article questions whether we can move away from the moral compass to produce a test or yardstick that would be more objective.

When analysing legal pluralism and the impact of societal, religious, cultural and traditional norms over the law, the French jurist Carbonnier looks at what he calls the '*infra-droit*', the sub-legal systems of minorities living in France and their impact on state law.[79] My position is different: I examine this idea of infra-law through the eyes of Muslim local communities, as Islam is my case study. I look into cultural, religious, traditional or customary elements justified in terms of Quranic or Prophetic injunctions, based on readings of authoritative legal sources of Islam. My argument is that Muslim tools such as *maslaha* provide communities and aid agencies with the relevant instrument to make a selection of beliefs, values and practices; *maslaha* is a legal tool empowering Muslim leaders to select the applicable norm in order to ensure the protection of the public interest.[80] The leaders are in charge of the selection of mores, using *maslaha* as a filter. For example, leaders will decide whether a woman in the community should be allowed to remarry, the final decision having an impact on the whole community. Aid workers have come across the use of *maslaha* in Somali communities as a filter to resolve legal issues amongst refugees.[81] It has also been used in Dadaab, allowing refugees themselves to sort out legal issues,[82] such as problems related to inheritance. *Maslaha* is practised by community leaders with the aim of deciding which beliefs and values stemming from authoritative sources of Islam will be applicable in times of emergency. This Muslim legal concept represents the test or yardstick I seek to promote, encouraging communities to use it to filter mores. For example, the application of the Shari'a punishment of cutting the hand off the thief would be challenged on the ground that it is not beneficial to the community to disable able-bodied individuals, to spread fear of the authorities, and to encourage what is internationally acknowledged as a cruel form of punishment.[83]

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[78] Clyde Kluckhohn, 'Ethical Relativity: Sic et Non' (1955) 52 *Journal of Philosophy* 663, 665.

[79] Jean Carbonnier, *Sociologie Juridique* (Themis 1972) 152.

[80] Abdul Aziz bin Sattam, *Sharia and the Concept of Benefit: The Use and Function of Maslaha in Islamic Jurisprudence* (IB Tauris 2015) xi.

[81] Bram J Jansen, 'Two Decades of Ordering Refugees: The Development of Institutional Multiplicity in Kenya's Kakuma Refugee Camp' in Dorothea Hilhorst (ed), *Disaster, Conflict and Society in Crises: Everyday Politics of Crisis Response* (Routledge 2014) 114, 120.

[82] Humanitarian Accountability Partnership (HAP), 'Care Staff in Dagahaley Camp and Dadaab, Kenya', HAP Standard Review Focus Group Discussion, January 2010.

[83] Abdullahi Ahmed An-Na'im, 'Towards a Cross-Cultural Approach to Defining International Standards of Human Rights: The Meaning of Cruel, Inhuman or Degrading Treatment or Punishment' in Abdullahi Ahmed An-Na'im (ed), *Human Rights in Cross-Cultural Perspectives: A Quest for Consensus* (University of Pennsylvania Press 1992) 19.

It should be stressed, however, that *maslaha* is not a perfect instrument, as *maslaha* meetings are often headed by male leaders and can lead to human rights violations.[84] The *maslaha* system in Kenya[85] and in Mauritania[86] addresses issues of violence against individuals, including GBV. Yet, women wish that men would provide less patriarchal outcomes. This is why the theory of new hermeneutics of the Shari'a is crucial: the Muslim reformist movement has encouraged not only new readings of Islamic authoritative sources but also the use made of Islamic legal instruments such as *maslaha*. The purpose of reformism is to provide readings of the Quran or the Sunna to adapt the message of Islam to the twenty-first century, and it includes attempts to respect universal human rights.

The work of An-Na'im is crucial in that regard as he proposes a method to encourage and propagate new readings of Muslim sources.[87] Respect for international law is possible when the new readings and universal norms are similar, but problematic when there is a difference. This is why *maslaha* is so important: it helps leaders in completing the work carried out by those interpreting Muslim texts, directing changes. A dynamic use of *maslaha* is then necessary and it should be used to address legal matters other than classic Islamic law. It should be used to serve the community, supporting those in their interpretation of Islamic legal sources when they provide liberal and reformist readings. The brief overview of the work of Muslim reformists shows how important it is for foreign organisations to be aware of local debate and the existence of liberal and reformist voices. The selection of relevant mores to consider is consequently a man-made engineered selection guided by the beliefs and values by which the whole community lives – here, God and the authoritative sources of Islam.

Considering this yardstick to be subjective would be correct, as individuals still play a role in the selection and as the context bears heavily on them. One needs to be reminded that western state law is also the result of a subjective process, which considers values to be included and left out according to history. Each society structures its values and dictates how people are expected to behave. The key is to ensure that the mores it adopts are, as far as possible, in line with universal human rights, and that aid workers can embrace them as being informative of the local context without being at risk of violating principles.

Once established, the benchmark needs to be relevant not only to extreme situations but also to complex cases. For example, the recent stream of cases concerning homosexuals condemned to death or imprisonment in Tunisia, Saudi Arabia and Uganda demonstrates the limits of

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[84] Monica Kathina Juma and Peter Mwangi Kagwanja, 'Securing Refuge from Terror: Refugee Protection in East Africa after September 11' in Niklaus Steiner, Mark Gibney and Gil Loescher (eds), *Problems of Protection: The UNHCR, Refugees, and Human Rights* (Routledge 2003) 225, 231.

[85] Gladys K Mwangi and Guyo W Jaldesa, 'An Assessment of Sexual and Gender Based Violence in Wajir District, North Eastern Kenya', Reproductive Health Programme, Population Council, January 2009, iv, http://www.svri.org/assessment.pdf.

[86] Equality Now, 'Protecting the Girl Child: Using the Law to End Child, Early and Forced Marriage and Related Human Rights Violations', January 2014, http://www.equalitynow.org/sites/default/files/Protecting_the_Girl_Child.pdf.

[87] Abdullahi Ahmed An-Na'im, 'Toward an Islamic Hermeneutics for Human Rights' in Abdullahi A An-Na'im and others (eds), *Human Rights and Religious Values: An Uneasy Relationship?* (William B Eerdmans 1995) 229.

referring to a yardstick which follows human rights and the new hermeneutics of the Shari'a. In Islam, many reformists are reluctant to embrace the right to sexual orientation and gender identity. As a result, the alternative work on proposing new readings of Islam on the topic is limited to a minority of reformists and liberals. This demonstrates that reflecting on a metric system is not enough and, when it comes to complex issues, more work needs to be done.

There could be a methodological problem in using international human rights law as an ideal. The principle of the universality of human rights is discussed as these norms have not been objectively selected. To address the first point, the United States and European countries have different understandings of human rights and use different benchmarks to define torture and cruel, inhuman and degrading punishments, or to limit freedom of speech. This is because treaties that encompass human rights values remain an ideal to be attained by states. Yet, differences remain in this search for an ideal. It is also true that international human rights are not objective in that no clear yardstick was used to decide which rights were to be included in treaties. However, they remain the expression of shared common values by which states wish to abide in order to uphold peace and security. Consequently, the ideal I opt for is not perfect but it represents an ideal that the international community seeks to respect. Far from presenting universal human rights as the problem and the solution, this article seeks to present them as an ideal to aim for. Additionally, my methodological premise, exposed in earlier work, is built on the scholarly work of An-Na'im:[88] Sharia-based beliefs and values must be reformed in order to be closer in understanding to universal human rights.[89] New interpretations of Islam then provide support for the normal evolution of beliefs and values. The theory of new hermeneutics of the Shari'a also provides a theoretical framework for new interpretations in opposition to a control of norms through conservative and traditional interpretations of Islam. Such a reformist approach proposes a new hermeneutics of the Shari'a to close the gap with universal human rights, which are then used as a reference.

The purpose of this article is to go beyond the conflict between universalism and cultural relativism. While it is clear that 'all members of the human family share the same inalienable rights',[90] I disagree with the idea that 'culture is irrelevant to the validity of moral rights and rules'.[91] I also question the idea that 'culture is the sole source of the validity of a moral right or rule' and that there are no common standards, only those of a culturally specific nature.[92] Instead, I engage with the question of improving humanitarian assistance in the field through

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[88] ibid.

[89] Anisseh Van Engeland, 'The Differences and Similarities between International Humanitarian Law and Islamic Humanitarian Law: Is There Ground for Reconciliation?' (2008) 10 *Journal of Islamic Law and Culture* 81, 89; Anicée Van Engeland, 'Bridging Civilizations: The New Hermeneutics of Islamic Law' in Mahmoud Eid and Karim H Karim (eds), *Engaging the Other: Public Policy and Western-Muslim Intersections* (Palgrave Macmillan 2014) 111.

[90] Ann Elizabeth Mayer, 'Cultural Particularism as a Bar to Women's Rights: Reflections on the Middle Eastern Experience' in Julie Peters and Andrea Wolper (eds), *Women's Rights, Human Rights: International Feminist Perspectives* (Routledge 1995) 176.

[91] Jack Donnelly, 'Cultural Relativism and Universal Human Rights' (1984) 6 *Human Rights Quarterly* 400, 400.

[92] ibid.

the consideration of beliefs and values by analysing a third path between universality of human rights and cultural relativism.

4. Fostering a Cross-Cultural Collaboration to Improve Aid in a Contextualised Environment

The creation of a benchmark based on an Islamic legal instrument requires some elaboration before suggesting its use by communities and aid organisations. The overall aim is to 'enhance what is universal' and to 'respect what is different'.[93] It is the task of the communities themselves, through a new hermeneutics (explained below) to challenge traditional understandings. Yet, to provide new understandings of religion, the society must first be empowered. To do so, I suggest using Benthall's cultural proximity doctrine and to merge it with theories focusing on building bridges between Islam and universal human rights.

4.1. Respect for International Human Rights Law through a Local New Hermeneutics

Awareness of context alone will not bring a solution as to how one can determine which beliefs and values should be kept. This selection of beliefs and values cannot be the role of foreign organisations alone, as this would be comparable with a neo-imperialist mission. Instead, work needs to be done within the communities. It is my belief that the beneficiaries themselves will select the values they wish to promote, using, for example, *maslaha*. The role of foreign organisations will then be to encourage cross-fertilisation while seeking opportunities to empower populations during these changes. While both parties will agree on some human rights as common standards, there will be disagreements and situations where beliefs and values clash with universal human rights law. My suggestion is that in such circumstances the communities need to rely on socio-cultural theories which examine culture, religion, traditions and customs as living objects that are prone to change and evolution. Consequently, I seek to frame this evolution by looking at the extreme situations of vulnerability. This leads to in-depth transformation during situations of emergency.

This perspective of empowering local communities to change the content of beliefs and values is somewhat close to Benthall's idea, but instead of focusing on FBOs this perspective focuses on beneficiaries: they decide the course of their future. The originality of the argument comes from the fact that the cultural change is prompted and conducted from the bottom up, supported by the horizontal cultural adaptation between organisations and the community acting as an agent of change. For my argument, I build on the concepts of human agency,[94] hermeneutics

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[93] Imam al Shatibi, cited by His Royal Highness Prince El Hassan bin Talal, 'Strategies for Disagreement' in Cahill (n 1) 41.

[94] Abdullahi An-Na'im, '"The Best of Times" and "The Worst of Times": Human Agency and Human Rights in Islamic Societies' (2004) 1(1) *Muslim World Journal of Human Rights*, doi: 10.2202/1554-4419.1017.

of Shari'a[95] and cultural legitimacy.[96] An-Na'im has developed a model for an active human agency which encourages a new exegesis of Islam to step away from traditionalism. His argument is that such an exegesis produces an organic body of beliefs and values that will change society. Since the transformative agenda is carried out by the human agency itself, and is not imposed by organisations, whatever is produced has local cultural legitimacy. Thus, there is a possibility for Muslims to use instruments based on religion, culture, traditions and customs to propel reforms during a period of crisis. This allows for respect of an identity while allowing for change, which hopefully will bring Muslim human rights closer to universal human rights, bridging the two sets of law. I use this theory in the context of culture, religion and traditions, proposing to use An-Na'im's model to alter some values, practices and beliefs. The role of foreign organisations is then to understand local values and beliefs in order to appreciate the dynamics at play and avoid supporting cultural relativism.

I suggest that the understandings and approaches to Islam need to be reformed in order to favour the emergence of liberal and reformist interpretations of human rights. This reformed approach to Islam exists within all Muslim communities throughout the world and is therefore an organic solution. Communities that have been affected by conflict or disaster (or both) are in a situation of vulnerability, which calls for change. This situation can affect their perceptions of mores, and encourage people to upset established systems. Values, beliefs and practices evolve over time and a major change can provide opportunities for further development of these beliefs and practices. As stated by Newson, Richer and Boyd, '[n]ew cultural characteristics arise and either "survive" and spread through the population or they fade away'.[97] Consequently, affected populations who are stressed and vulnerable could be more receptive to cultural change if presented in a contextualised fashion.[98] This approach calls for a shift in perception from a vulnerable party to a proactive agent playing a role in society. In that regard, the man who loses his status as the breadwinner by being a refugee in a Lebanese camp can witness his wife's empowerment through work. The new circumstances could encourage change rather than falling back on traditionalism for protection. An example would be the use of the Muslim principle of necessity (*darura*), another Muslim legal tool, to allow doctors to use forbidden medications containing pork gelatin. Local partnerships then become crucial as they represent the bridge between foreign organisations and the beneficiaries.[99] In that regard, Benthall is correct to speak of a

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[95] An-Na'im (n 87).

[96] Abdullahi Ahmed An-Na'im, 'Problems of Universal Cultural Legitimacy for Human Rights' in Abdullahi Ahmed An-Na'im and Francis M Deng (eds), *Human Rights in Africa: Cross-Cultural Perspectives* (The Brookings Institution 1990) 327, 331.

[97] Lesley Newson, Peter J Richerson and Robert Boyd, 'Cultural Evolution and the Shaping of Cultural Diversity' in Dov Cohen and Shinobu Kitayama (eds), *Handbook of Cultural Psychology* (The Guilford Press 2007) 454, 456.

[98] UNDP, Bureau for Crisis Prevention and Recovery, 'Disaster-Conflict Interface: Comparative Experiences', 2011, http://www.preventionweb.net/files/20432_20432undpdisasterconflictinterface2.pdf.

[99] Katherine Nightingale, 'Building the Future of Humanitarian Aid: Local Capacity and Partnerships in Emergency Assistance', Christian Aid, March 2012, 14, http://www.christianaid.org.uk/images/building-the-future-of-humanitarian-aid.pdf.

cultural proximity. The difference is that I use FBOs and local organisations as a bridge in order to challenge traditional societal injunctions, rather than as the main agent for change.

Barriers and opportunities in the Muslim world are often linked. Obstacles need to be removed at the local level by promoting different Muslim values. In the post-tsunami context, women in Aceh living under Shari'a rule began to realise that the stricter enforcement of hardline interpretations of Islam was reducing their freedom. They then worked on developing a women's rights charter, which was endorsed by the Governor in 2008. The purpose of this Charter was to demonstrate that Islam is religiously, culturally and traditionally compatible with human rights and that a conservative understanding of the Shari'a needs to be challenged. A law (*qanun*) was also developed with the support of local women's organisations, which called not only for gender equality and education but also for monitoring the enforcement of cultural practices in the name of Islam. One important element was the contribution to the process of female clerics, whose interpretations of Islam were taken into account. This illustrates how women can locally support reformist and liberal human rights readings of Islam, which allows them to retain their religious, cultural and traditional identity without being oppressed. Their presence and their training in universal human rights has allowed for an organic solution which respects the existence of Indonesian local identity while improving their social and private status. It is a positive example of the impact that reforms can have when pushed forward by civil society after a disaster and in a conflict zone such as Aceh. The support from the local and national government in this effort was crucial, with the creation of targeted programmes to support women. Such an approach calls for a shift in the perception of the vulnerable party into a proactive agent.

The combination of An-Na'im's work with the concept of cultural proximity leads to positive outcomes with regard to propelling changes in culture, tradition and beliefs. The importance of supporting such changes – or at least of being aware of their existence in devising programmes – provides the opportunity to enhance access, protection and delivery for foreign organisations which will then operate in an aid-friendly environment. This is the result of cross-fertilisation when all actors involved collaborate and have an impact on each other's culture. The outcomes of this model of contextualisation are positive for all: foreign organisations can lead successful missions; local FBOs and groups can play an effective role; and beneficiaries become actors. The result is a better operational environment where considering mores do not become a burden, a risk, or an attempt to fragment international law. Reformed culture, religion and traditions become the vehicle for the improvement of aid and contribute to better respect and enforcement of universal human rights law.

An illustration of this cross-cultural approach to humanitarian assistance can be found in rehabilitation and development.[100] This approach to humanitarian aid is defined as 'multi-dimensional and proactive with broad, complex parameters that focus on the rehabilitation and development of a vulnerable population through addressing bio-psycho-socio-economic factors within the cultural milieu'.[101] The idea is to contextualise by relying on local organisations to

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[100] Janice K Kopinak, 'Humanitarian Aid: Are Effectiveness and Sustainability Impossible Dreams?', *Journal of Humanitarian Assistance*, 10 March 2013, http://sites.tufts.edu/jha/archives/1935.
[101] ibid.

build capacity. To be successful '[d]eep immersion in the culture and collaboration with the host government and other stakeholders by aid workers is necessary to identify and prioritise needs and set goals that will maintain/improve health and well-being'.[102] Other examples of collaboration include the World Food Programme's Memorandum of Understanding, signed with the Organization of the Islamic Conference, to deliver food aid in parts of Somalia.[103] The following section suggests the optimal situations for merging the two approaches.

4.2. EMPOWERMENT GENERATED DURING CONFLICT AND DISASTER IS AN OPPORTUNITY TO PROMOTE LOCALLY DRIVEN CHANGES

If organisations consider the cultural or religious context within reasonable limits, a climate of trust and understanding can be created, thus facilitating access and encouraging collaboration between foreign organisations and local populations. Before this dialogue occurs, I believe it is crucial to re-create the interrupted natural flow of change and reform: cultural or religious values are prone to change. Yet, in traumatic situations, affected populations tend to give an over-arching role to static readings of religion and understandings of culture, traditions and customs. During times of vulnerability, individuals and communities tend to fall back on conservative values and beliefs on the path to resilience.[104] This is why it is crucial to understand the religion, culture, traditions and/or customs to which they will turn as they will influence the beneficiaries' behaviour:[105]

> [V]ulnerabilities and the effect of an often volatile context all contribute to people being vulnerable for different reasons and in different ways. Vulnerable people, like all those affected by disaster, have various capacities to manage and recover from disasters. A thorough understanding of vulnerable people's capacities and the barriers they may face in accessing humanitarian support is essential for a response that meets the needs of those who need it most.

It has emerged that affected populations that are stressed and vulnerable could be more receptive to cultural change if presented in a contextualised fashion.[106] Recent research on the cross-over between conflict and disaster has demonstrated that such events create not only resilience but also settings in which to work on gender matters.[107] Encouraging women and supporting them in endorsing new gender roles, while supporting their religious values, means that we actually acknowledge a natural process of empowerment which, in turn, will enable vulnerable

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[102] ibid.

[103] James Shaw-Hamilton, 'Cross-Cultural Collaboration: Building Partnerships', *Humanitarian Exchange Magazine*, May 2011, http://odihpn.org/magazine/cross-cultural-collaboration-building-partnerships.

[104] International Federation of the Red Cross, 'World Disasters Report 2014: Focus on Culture and Risk', http://www.ifrc.org/Global/Documents/Secretariat/201410/WDR%202014.pdf; Jean-Christophe Gaillard and Pauline Texier, 'Religions, Natural Hazards, and Disasters: An Introduction' (2010) 40(2) *Religion* 81; Andreana Reale, 'Acts of God(s): The Role of Religion in Disaster Risk Reduction', *Humanitarian Exchange Magazine*, October 2010, http://odihpn.org/wp-content/uploads/2010/08/humanitarianexchange048.pdf.

[105] The Sphere Project (n 70) 54.

[106] UNDP (n 98).

[107] ibid.

populations to become decision makers. Consequently, taking the context into account not only creates an environment which facilitates access and delivery, but it also helps beneficiaries in repositioning themselves with regard to culture and religion and to engage in a critical proactive stance. This has positive outcomes for universal human rights: as culture, religion and other values and beliefs evolve – using the human rights benchmark – bridges are created between the two legal systems, domestic and universal. This means that the changes operated by local agencies and considered by foreign organisations directly impact on international law.

As stressed by the UNDP, disasters and conflicts offer the opportunity to shed light on cultural, traditional and religious issues.[108] During crises, women become vulnerable, and even more so if the state or the community originally had gender imbalance. Their human rights may not have been respected by the pre-crisis or pre-disaster society, and their rights may be further jeopardised in the aftermath of an event. There are occasions when women benefited from gender equality before a crisis, but the events changed the situation negatively. This is why organisations, in delivering humanitarian assistance, need to be aware of the context in order to understand the obstacles women faced prior to the events, and assess the current situation. The need for context-based programming is thus crucial during humanitarian emergencies.

In Aceh, after the tsunami, social disorganisation coupled with the sudden disappearance of daily indicators led to abuses. Single and widowed women became victims of sexual violence, demonstrating yet again that temporary shelter increases a woman's vulnerability. Those women were disadvantaged and vulnerable as a result of the loss of their protectors, which could be their husbands, their in-laws or the community as a whole. The second level of vulnerability occurred after such sexual abuses when abused women were stigmatised for failing to uphold Muslim standards of dignity and modesty. There were also attempts to control and gender the public sphere in Aceh according to so-called Islamic precepts; the religious local police and morality squads subsequently gained power. They began to accuse single and widowed women of lacking modesty, restricting them to living indoors. This condemned them not only to a social death but also a physical death as they became dependent on others for money and food. In 2009, the Aceh Legislative Council enacted the *Qanun Jinayah* (Islamic Penal Code), which justified cruel punishments, such as the stoning of women for adultery, in the name of Islam, culture and traditions. These attempts at gendering society and controlling women were supported by local Shari'a groups and judges, who propagated hardline interpretations of Islam: it was, for example, argued that women's lack of modesty had caused the tsunami and that the wave had been sent as a punishment by God. Ethiopian and Sudanese Muslim women, raped during periods of crisis, are also social outcasts because they have brought shame to their family and community. In each of the above cases, the disaster or conflict provided the space for groups in support of traditionalist and hardline interpretations of Islam to act in a fragile environment. These examples demonstrate again why it is so important to contextualise a mission. Organisations must be aware of

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[108] ibid.

the stakes and be able to adopt a policy towards human rights violations. If they are not aware of the context, they could give the impression that they endorse cultural relativism.

The occurrence of conflicts and natural disasters at concomitant periods of time has affected women in Afghanistan, Bangladesh, Indonesia, Pakistan, Somali and Sudan, to name a few. Muslim women are therefore as vulnerable as any others to all forms of GBV, which does not differ for non-Muslim women around the world. The additional strain, stemming from religion, pertains to yet another level of vulnerability which affects Muslim women. They also suffer from specific issues resulting from interpretations of Islam. These interpretations are made by clerics or scholars to clarify the Quran and the Sunna for all believers. They influence local mores, giving Quranic verses a traditional or hard line content. As a result, women who find themselves at the interface between a conflict and a disaster can sometimes be victimised twice: they are victims of 'regular' gender abuse occurring at the interface between disaster and conflict, and can also become victims of their religious, cultural, traditional or customary environment. Some groups, communities and authorities will use this state of vulnerability caused by conflict and disaster to seek control of women via Islam. Somalian women are vulnerable as a result of drought and conflict as they risk being raped when they fetch water far from the camps.

In addition to GBV, they experience a more local form of violence, justified by traditions and Islam. For example, FGM affects the majority of the female population. There is a strong belief that Islam dictates the need for mutilations, a belief which results from interpretations regarding the concept of honour and modesty. There are reports that FGM has been practised on girls as young as five-years old in conflict areas. In difficult times of drought and conflict, FGM becomes a cause for celebration and festivity, which is a form of social catharsis. FGM is also perceived as a way of guaranteeing a girl's access to marriage as her chastity and honour remain intact, despite the fact that the social environment is affected by war and natural disasters, and is also viewed as a way of keeping the community together during challenging times.

While, in terms of 'neutral' programming, women would be the focus of attention, their culture, religion or tradition is also included in context-based programming to appreciate the risks. The purpose is then to ensure that women still have a presence in the public sphere and are protected in the private sphere. Taking into account the needs of Muslim women at the interface between conflict and disaster or during a single event raises the issue of contextualisation of access, protection and delivery of aid. Such a strategy will promote attempts to protect vulnerable women while respecting their environment. The ultimate purpose is to prevent situations in which women are caught between local and universal values.

5. CONCLUSION

The suggestion put forward in this article is to enable foreign organisations to be as efficient as possible when delivering aid and seeking access to beneficiaries. I argue that contextualisation, by taking into account beliefs and values, can improve humanitarian aid as long as a selection of values are considered. The latter takes the shape of a filter which measures which beliefs and values are to be considered by both organisations and the local community. I rely on the cultural

proximity doctrine to develop my argument. I also address the stake of the transformative agenda; rather than arguing in favour of a transformation operated by foreign organisations, I suggest that beneficiaries use the context of crisis as an opportunity to challenge the status quo and I stress that aid organisations need to be aware of the dynamics of the context to adapt to the local transformative agenda. Consequently, opportunities exist to see aid workers change their approach in order to facilitate access to and the protection of beneficiaries, as well as improving the delivery of aid. The same opportunities give beneficiaries the opportunity to challenge the environment in which they live, empowering them with control at times when all is lost. When looked at from that angle, traditions, culture and religion do not constitute a hindrance to access, protection and delivery, but part of the solution. While contextualisation is still controversial, it does offer opportunities; it also creates an ethical conundrum which can be resolved via the creation of a benchmark.

While many organisations will show reluctance to engage with context or to have a transformative impact, the reality of the field and of the needs of the beneficiaries should be considered. This challenges the traditional views of neutrality and impartiality, as the approach examined above demands a level of involvement from aid organisations. This is why establishing a yardstick remains crucial: it would help to ensure that aid organisations do not forfeit their impartial and neutral stance, or are perceived as doing so, which explains why so many aid workers reject the idea of contextualisation.