

“Rahmatan lil-’alamin” (A mercy to all creation): Islamic voices in the debate on humanitarian principles

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Abstract

This article documents the work of Islamic charities and NGOs from diverse backgrounds to develop sets of principles guiding their humanitarian and charitable work, in the framework of the dialogue and cooperation among Islamic NGOs and charities as well as between Islamic and Western humanitarian agencies. The authors look at draft documents that resulted from these processes, and the way these relate to the core principles of humanitarian action. They further follow how the dialogue and cooperation between humanitarian

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organizations from different backgrounds and origins has influenced the orientation of this debate on humanitarian principles from theory and identity to concrete and shared challenges and concerns.

Keywords: humanitarian principles, Islam, Islamic charities and NGOs, religion, dialogue.

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Over the last two decades, the world has seen a considerable increase in humanitarian emergencies in situations of armed conflict and natural disaster, due to the changing nature of violence, rising inequalities, economic and geopolitical shifts, population growth, the effects of climate change and considerable technological developments.¹ The established humanitarian system has witnessed unprecedented growth and further diversification,² but has also been facing serious challenges in responding to major crises such as the earthquake in Haiti, the 2010 floods in Pakistan and the escalating armed conflict in Syria.³

Humanitarian actors from the global South – local and international alike – have played an increasing role as first responders in reaching out and providing assistance to needy people in these crises and emergencies. In the course of the global power shift that took shape after the Cold War, re-emerging and new middle powers such as Turkey, Iran, Saudi Arabia and Qatar have become key donors and providers of humanitarian assistance,⁴ with distinct models and formulas that involve official aid and development agencies, National Red Cross and Red Crescent Societies, and faith-based NGOs and charitable organizations.⁵

- 1 See Jérémie Labbé, *Rethinking Humanitarianism: Adapting to the 21st Century Challenges*, International Peace Institute, November 2012, available at: www.ipinst.org/2012/11/rethinking-humanitarianism-adapting-to-21st-century-challenges; Edmund Cairns, *Crisis in a New World Order: Challenging the Humanitarian Project*, Oxfam Briefing Paper No. 158, 7 February 2012, available at: www.oxfam.org/en/research/crisis-new-world-order (all internet references were accessed in July 2015).
- 2 According to the *Global Humanitarian Assistance Report 2015*, a record US\$24.5 billion was spent on humanitarian aid in 2014. Development Initiatives, *Global Humanitarian Assistance Report 2015*, London, June 2015, available at: www.globalhumanitarianassistance.org/report/gha-report-2015.
- 3 On this, see e.g. Claudia McGoldrick, “The Future of Humanitarian Action, an ICRC Perspective”, *International Review of the Red Cross*, Vol. 93, No. 884, 2011; and ACTED et al., *Failing Syria: Assessing the Impact of UN Security Council Resolutions in Protecting and Assisting Civilians in Syria*, 2015, available at: www.nrc.no/arch/img.aspx?file_id=9194005.
- 4 In 2014, Saudi Arabia contributed US\$755 million, Kuwait US\$342 million, and Qatar US\$162 million. *Global Humanitarian Assistance Report 2015*, above note 2, p. 34.
- 5 Turkey has reported US\$1.8 billion in humanitarian assistance to the Organisation for Economic Co-operation and Development in 2014 – as in the previous years, most of this was spent in the response to the Syrian refugee crisis inside Turkey. *Ibid.*, p. 38. On the specificities of the Turkish model, see Pinar Tank, *Turkey as a Humanitarian Actor: The Critical Cases of Somalia and Syria*, NOREF Report, March 2015, available at: www.peacebuilding.no/Themes/Emerging-powers/Publications/Turkey-as-a-humanitarian-actor-the-critical-cases-of-Somalia-and-Syria. On Saudi Arabia’s model, see Khaled al-Yahia and Natalia Fustier, “Saudi Arabia as a Humanitarian Donor: High Potential, Little Institutionalization”, GPPi Research Paper No. 14, March 2011, available at: www.alnap.org/pool/files/1267.pdf.

The Muslim world – mainly the fifty-seven member States of the Organization of Islamic Cooperation (OIC) – has had a particular share in this power shift, in terms of humanitarian donorship and response. At the same time, this part of the world has been the theatre of a sadly increasing proportion of armed conflicts – protracted and chronically unresolved conflicts such as Palestine/Israel and Afghanistan, and more recent ones such as the wars in Syria and Yemen.

The “global war on terror” following the attacks of 11 September 2001 had a substantial impact on humanitarian action, with the imposition of severe restrictions on the assets, transactions and personnel of a number of Islamic NGOs and charities that were designated by the United States and United Nations (UN) as terrorism supporters, and were curtailed by their host governments in the framework of local counterterrorism policies.⁶ In addition to that, the efforts to “win hearts and minds” in the major armed conflicts of this confrontation, e.g. in Afghanistan, have blurred the lines between political and military strategies on one hand, and humanitarian action on the other. This has had a deep impact on the perception of humanitarian actors by beneficiary communities and parties to armed conflict, and has contributed to an increase in security challenges, attacks on humanitarian workers and reduced access to communities in need.

In previous moments of change and crisis in the humanitarian sector, the principles of humanitarian action have been at the heart of the debate on challenges, ethical dilemmas, security and political constraints. Critical reflection on failures and shortcomings, along with lessons learned from field practice, has informed new initiatives aimed at codifying and redefining principles and standards. In the 1980s, such a process led to the development and subsequent adoption in 1994 of the Code of Conduct for the International Red Cross and Red Crescent Movement and NGOs in Disaster Relief (1994 Code of Conduct).⁷

In the early 2000s, a number of individuals, aid organizations and government officials launched initiatives to mitigate at least some of the effects of the post-9/11 counterterrorism sanctions and polarization on the humanitarian sector, in particular on Islamic NGOs. This article traces back these initiatives, in

6 On this, see Naz K. Modirzadeh, Dustin A. Lewis and Claude Bruderlein, “Humanitarian Engagement under Counter-Terrorism: A Conflict of Norms and the Emerging Policy Landscape”, *International Review of the Red Cross*, Vol. 93, No. 883, 2011.

7 The Code of Conduct for the International Red Cross and Red Crescent Movement and NGOs in Disaster Relief (1994 Code of Conduct) is a voluntary instrument that lays down ten points of principle to which all humanitarian actors should adhere in their humanitarian response work. It elaborates on the relationships that aid agencies should seek with donor governments, host governments and the UN system, and is available at: www.ifrc.org/en/publications-and-reports/code-of-conduct/. On the origins and the historical context of the 1994 Code of Conduct, see Peter Walker, “Cracking the Code: The Genesis, Use and Future of the Code of Conduct”, *Disasters*, Vol. 29, No. 4, 2005, available at: <https://icvnetwork.org/node/6125>; International Federation of Red Cross and Red Crescent Societies (IFRC) and Norwegian Refugee Council (NRC), *Equipped to Meet Tomorrow’s Humanitarian Challenges? 20th Anniversary of the Code of Conduct*, conference report, 5 December 2014, pp. 10–11, available at: www.hapinternational.org/pool/files/NRC-IFRC%20Code%20of%20Conduct%2020%20Anniversary%20Conference%20Report.pdf.

particular the discussions on humanitarian principles and standards that took place in this framework, and which have involved a number of Islamic NGOs and charities, Western NGOs, and international bodies. These discussions have linked up with other efforts of international Islamic NGOs and charities from different backgrounds and countries to develop and lay down sets of principles guiding Islamic humanitarian and charitable action, be it within the framework of the consultations between the OIC and civil society organizations from its member States, or in other multilateral fora. This article looks in detail at the draft documents that resulted from these discussions, in order to better understand the thinking behind them and to analyze the commonalities and differences with the established sets of principles guiding humanitarian action.

Perception issues have played an important role in this respect. Islamic organizations and activists tend to see the 1994 Code of Conduct as Western-centric,⁸ not least because its sponsors are mainly Western organizations, four out of eight being Christian faith-based groups.⁹

The relations between different centres and poles of power, and the tensions and conflicts that have resulted from the considerable power shifts since the end of the Cold War, have affected how international concepts and norms are perceived and implemented. In the Middle East, the concept and term of “modern humanitarianism” tends to be associated with the legacy of Western colonial ambition, in particular British, French and Russian demands for protection for Christian minorities in the Middle East as part of their respective efforts to gain influence and control over the Ottoman Empire.¹⁰ In India, China, Iran and Turkey, important powers before Western domination in the nineteenth and twentieth centuries, the efforts of intellectuals to counter the legitimatizing discourse for the military and economic onslaught of Britain, France, Germany and the United States have informed subsequent independence movements and are present in the collective memory.¹¹

In a world that is marked not only by these conflicts and power shifts but also by a general revival of religiousness, many people, weapon bearers and civilians alike, are bound more by religious beliefs and traditions than by the abstract texts of international norms and rules, and they look up to religious and community leaders for guidance. Reaching agreement on shared values and universally respected norms requires serious work and genuine dialogue based on the roots of these rules in all

8 *Ibid.*, p. 15.

9 The sponsors of the 1994 Code of Conduct are Caritas Internationalis, Catholic Relief Services, the IFRC, the International Save the Children Alliance, the Lutheran World Federation, Oxfam, the World Council of Churches and the International Committee of the Red Cross (ICRC).

10 Jasmine Moussa, *Ancient Origins, Modern Actors: Defining Arabic Meanings of Humanitarianism*, Humanitarian Progress Group Working Paper, November 2014, pp. 9–10.

11 On this, see Pankraj Mishra, *From the Ruins of Empire: The Revolt against the West and the Remaking of Asia*, Penguin, London, 2013. In his study, Mishra describes and analyzes the perceptions and reactions of important Muslim, Indian and Chinese thinkers with regard to the Western powers in the nineteenth century, and the way their thinking has informed what he describes as “the rise of Asia and the assertiveness of the Asian people” (p. 306). He comes to the conclusion that “no convincingly universalist response exists today to Western ideas of politics and economy, even though these seem increasingly febrile and dangerously unsuitable in large parts of the world” (*ibid.*).

civilizations, religions and traditions. In this sense, the dialogue on humanitarian law and action between Muslim scholars, law professionals, the International Committee of the Red Cross (ICRC) and other members of the International Red Cross and Red Crescent Movement (the Movement) has provided, to a certain extent, guidance for the debate on humanitarian principles from an Islamic perspective. The aim of this dialogue has been to explore the commonalities and differences between contemporary humanitarian law and the rich body of Islamic jurisprudence, and to overcome misperceptions on both sides.¹²

The humanitarian crises related to the popular uprisings in the Middle East and North Africa in 2011 brought a number of challenges in terms of access to communities in need and security risks for humanitarian workers, but also genuine opportunities in terms of dialogue and cooperation between humanitarian actors from different backgrounds and origins. This article follows how these challenges and opportunities further influenced the discussions on the principles of humanitarian action in which Islamic humanitarian actors have been involved.

The evolution of principles and standards guiding humanitarian action

The first time that principles of humanitarian action were formally adopted as such was in 1965, when the International Red Cross and Red Crescent Movement endorsed humanity, impartiality, neutrality, independence, unity, voluntary service and universality as its Fundamental Principles.¹³ Humanity, neutrality and impartiality were already inscribed in the 1864 Geneva Convention,¹⁴ but it took a century-long process of learning and trial and error in modern humanitarian practice to arrive at the Fundamental Principles of today. With the growth and diversification of the humanitarian sector, other instruments were developed, such as UN General Assembly Resolutions 46/182 and 58/114,¹⁵ the 1994 Code

- 12 For the background and rationale of the ICRC dialogue with Muslim scholars on humanitarian law and action, see: www.icrc.org/eng/resources/documents/feature/2006/islamic-law-ihl-feature-010606.htm. The ICRC has organized a series of conferences and workshops with Islamic Universities in Pakistan (2004), Iran (2005), Yemen (2006), Morocco (2006, 2009), Tunisia (2010), Mali (2008), Uganda (2011), Kenya (2013), Indonesia (2013), Senegal (2014) and again in 2014 in Pakistan. On the latter, see: www.icrc.org/en/document/pakistan-conference-humanitarian-action-light-sharia-and-international-humanitarian-law.
- 13 Jean Pictet, *The Fundamental Principles of the Red Cross: Commentary*, ICRC, Geneva, 1979, available at: www.icrc.org/eng/resources/documents/misc/fundamental-principles-commentary-010179.htm.
- 14 Convention for the Amelioration of the Wounded in Armies in the Field of 22 August 1864 (entered into force 22 June 1865, no longer in force), available at: www.icrc.org/applic/ihl/ihl.nsf/INTRO/120?OpenDocument.
- 15 UNGA Res. 46/182, 19 December 1991, states that “humanitarian assistance must be provided in accordance with the principles of humanity, neutrality and, impartiality” (Annex I, Guiding Principle 2, available at: www.un.org/documents/ga/res/46/a46r182.htm). UNGA Res. 58/114, 11 December 2003, emphasizes the importance of independence as a guiding principle for humanitarian assistance (available at: http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/58/114).

of Conduct, the Sphere project and its humanitarian charter, People in Aid, and the Humanitarian Accountability Partnership (HAP) principles.¹⁶

These sets of principles and standards for humanitarian action reflect the efforts that have been made to define the roles and responsibilities not only of humanitarian workers and their organizations, but also of the host and donor countries. The dignity of the beneficiaries and their involvement in shaping and implementing humanitarian programmes are central themes of the 1994 Code of Conduct. The HAP principles focus on accountability to beneficiaries. In 2015, People in Aid and HAP merged to form the CHS (Core Humanitarian Standard) Alliance.¹⁷ The discussion and development of the principles of humanitarian action reflects the crises and failures of humanitarian organizations in dealing with operational challenges, ethical dilemmas and political constraints.¹⁸ Major conflicts and disasters have always influenced the course of development of humanitarian law and action.

Islamic NGOs and charities: Diversity and commonalities

Islamic charities and NGOs active in humanitarian assistance look back on a rich history of alms giving (*zakat*, one of the five pillars of Islam), other forms of non-compulsory charity (*sadaqa*), and the institution of the pious endowments (*waqf* or *habous*), which have served over centuries to maintain social and educational services.¹⁹

The Arabic words for “human being”, *insan*, and its plural form, *unas* or *al-nas*, which has the connotation of “mankind”, have been in use and have not

- 16 The Sphere project, initiated in 1997 by a number of aid agencies, consists of minimum standards for life-saving areas of humanitarian response and a humanitarian charter, available at: www.sphereproject.org. People in Aid is a project that helps its member organizations to enhance their impact by better managing and supporting their staff and volunteers; more information on the project and the Core Humanitarian Standard on Quality and Accountability (CHS) is available at: www.peopleinaid.org. HAP was established in 2003 as a self-regulatory body for relief and development organizations on accountability towards beneficiaries and quality management; its website is available at: www.hapinternational.org.
- 17 The CHS is a new instrument that is the outcome of a consultation process involving more than 2,000 humanitarian workers. It aims at a harmonization between existing humanitarian standards such as the HAP Standard in Accountability and Quality Management, the People in Aid Code of Good Practice in the Management and Support of Aid Personnel, and the Core Standards section of the Sphere Handbook. The text is available at: www.corehumanitarianstandard.org/files/files/Core%20Humanitarian%20Standard%20-%20English.pdf.
- 18 The CHS Alliance has put it like this: “The evaluations of the 1994 Rwanda genocide, the 2004 Asian tsunami, the 2010 Haiti earthquake and other major responses called for greater effectiveness, impact, accountability and quality in humanitarian action. Standards on quality and accountability help organizations deliver these. Between 2011 and 2014 there was a call for greater coherence among existing standards as a single, coherent and easy-to-use standard is more likely to be put into practice by all”: see <http://chsalliance.org/what-we-do/chs>.
- 19 On this, see Jonathan Benthall and Jerome Bellion-Jourdan, *The Charitable Crescent*, I. B. Tauris, London, 2003, in its first chapter on financial worship, and its second chapter on *waqf* and Islamic finance. See also Ameer Zemmali, “Al-’amal al-khairi fil-Islam” (“Charitable Work in Islam”), *al-Insani Magazine*, Cairo, Summer 2006, pp. 24–26.

changed since ancient times, and not only the believer but the human being as such has a central place in the Qur’an and the traditions of Prophet Mohammad. The terms being used for “humanitarian” and “humanitarianism” (*insani, insaniya*) are quite new in the Arabic language, and to a certain extent ambiguous, as they can also refer to humanism. There are a number of terms and concepts that refer to the wider field of charitable work, aid and assistance – more classical ones such as “generosity” (*jud, karam*), and more contemporary ones such as “assistance” (*i’ana*). Quite recent terms such as *ghawth, ighatha, najda* and *musa’ada* have the connotation of “rescue”, “relief” and a more “emergency” type of assistance.²⁰

The practices and traditions of charity, their functions as duties of worship and modalities (e.g. for *zakat*, supporting specific categories of the poor and needy), have shaped the way Islamic organizations have been operating. This does not mean that these organizations are one homogenous bloc or type of actors. There are traditional charities in Egypt, Lebanon, Morocco and Palestine that have been carrying out benevolent activities for more than a century. This type of more traditional charity has remained under the radar and is not sufficiently researched.

The charities and NGOs that explicitly refer to themselves as “Islamic” have in common the fact that they are part of the wider dynamic of resurgence of religiousness in the Muslim world (Islamic Awakening) since the 1970s. On the other hand, they are also part of the global dynamic of NGOs and civil society organizations that emerged in great numbers after the Second World War and subsequent decades.²¹

Under the impact of relations of power, political constellations, tensions and conflicts, Islamic as well as secular NGOs were often viewed as vectors for local opposition forces seeking power and popularity or as forefront organizations of regional or global powers, and sometimes also as instruments of local powers and authorities seeking to use charitable funds and action for their own ends.

In her thesis “For Humanity or for the Ummah?”, Marie Juul Petersen has distinguished between Muslim NGOs rooted in the “culture of aid” of the Middle East (and wider Muslim world), and others that emerged from Muslim diaspora communities in the West.²² Some of the charitable organizations in the Gulf Cooperation Council (GCC) countries started their work in disaster and conflict areas more than thirty years ago, benefiting from the oil wealth of their countries and the emergence of an affluent middle class with increased philanthropic ambitions, and driven by Islamic solidarity and a variety of different forms of activism (e.g. from Muslim Brotherhood-type social and educational activism to the Salafi concept of “predication and relief”).²³

20 See J. Moussa, above note 11, pp. 3–7.

21 Marie Juul Petersen, “Islamising Aid: Transnational Muslim NGOs after 9.11”, *VOLUNTAS: International Journal of Voluntary and Nonprofit Organizations*, Vol. 23, No. 1, 2012, p. 134.

22 Marie Juul Petersen, “For Humanity or for the Umma? Ideologies of Aid in Four Transnational Muslim NGOs”, University of Copenhagen, 2011, p. 73, available at: www.academia.edu/4368446/For_Humanity_or_for_the_Umma_Ideologies_of_Aid_in_Transnational_Muslim_NGOs.

23 See, for example, Direct Aid, based in Kuwait and founded in 1981 by the late Dr Abdurrahman al-Sumait, focusing on orphans and educational programmes in Africa (<http://direct-aid.org/cms/about-us/>). For a Salafi aid organization, see Sturla Godo Saether, “Humanitarian Salafism – A Contradiction in Terms?”

Islamic NGOs in the West, such as Islamic Relief Worldwide and Muslim Aid, have developed specific approaches and practices by fitting an Islamic faith-based identity with global humanitarian and development standards and frameworks.²⁴

During the “formative period” of contemporary Islamic charitable and humanitarian activism in the 1980s and 1990s, individual organizations in Islamic countries and in Muslim diaspora communities defined codes, values and principles for themselves. This was part of an effort to clarify the concept and framework of reference for relief work as a distinct field of Islamic or Islamist activism.²⁵

Islamic NGOs that emerged from Muslim diaspora communities in the West have also worked on the acculturation of existing instruments and standards. Islamic Relief Worldwide, for instance, after having signed up to the 1994 Code of Conduct, worked with a Jordanian Muslim scholar on rooting this code in the Islamic tradition.²⁶ This work has informed the subsequent development of the five core values of Islamic Relief Worldwide: social justice, sincerity, excellence, compassion and custodianship.²⁷

Qatar Charity, as an Islamic NGO based in a GCC country and thus in an Islamic culture of aid, worked in the early 2000s on acculturating the charter of the Sphere project with the values and norms of a Muslim-Arab environment.²⁸ Already for the 1994 Code of Conduct, a voluntary instrument without a clear mechanism for its application, it is rarely documented how organizations have applied its principles in practice.²⁹ It is even more difficult to trace or analyze

A Study of the Salafi Organisation ‘the Book and the Sunna Society’ and Their Efforts in Relief Work in Jordan”, master’s thesis, University of Oslo, Autumn 2013, p. 7.

24 See, for example, the article by Lucy V. Salek in this issue of the *Review*.

25 One of the key reference texts in this period was Sheikh Yousef al-Qaradhawi’s *Usul al-’amal al-khairi fil-Islam fi dhaw al-nusus wal-maqasid al-shar’iya (The Roots and Origins of Charitable Work in Islam in the Light of the Texts and Objective of the Shari’a)*, Qatari Red Crescent, Doha, 2007. Qaradhawi was an important inspiration for those involved in the Islamic Awakening to engage in social and relief work. See M. J. Petersen, above note 22, p. 129, and J. Benthall and J. Bellion-Jordan, above note 19, pp. 40–43. The West Bank Zakat Committees referred to the principles of non-discrimination and neutrality in their 1997 mission statements; see Emanuel Schäublin, *Role and Governance of Islamic Charitable Institutions: The West Bank Zakat Committees in the Local Context*, CCDP Working Paper No. 5, Geneva, 2009.

26 Atallah Fitzgibbon worked with Islamic Relief Worldwide during the joint Muslim Charities Forum, at the Islamic Relief Worldwide, International Council of Voluntary Agencies (ICVA) and ICRC workshop on “The Code of Conduct, Humanitarian Principles and Human Development in Islam”, London, 2 June 2013.

27 Islamic Relief Worldwide, *Human Development in Islam*, 2014, p. 11, available at: <http://policy.islamic-relief.com/portfolio/human-development-in-islam/>.

28 Conversation with Abd Rabbi Ben Sahra, director of planning and international cooperation, Qatar Charity, Istanbul, October 2009.

29 This has been one of the results of the learning events on the 1994 Code of Conduct that the ICVA organized in 2010 in the Middle East and South-East Asia, as stated by Ed Schenkenberg van Mierop, former coordinator of ICVA, at the IFRC and NRC Conference “Equipped to Meet Tomorrow’s Humanitarian Challenges? 20th Anniversary of the Code of Conduct”, Geneva, 5 December 2014. For examples of the concrete application of the Fundamental Principles of the Red Cross and Red Crescent Movement, see the Principles in Action project initiated by the British Red Cross, and its two case studies on the Somali Red Crescent and the Lebanese Red Cross, available at: <http://www.redcross.org>.

how organizations that have not signed up to this code are using their own guiding principles in practice and decision-making. Still, the dialogue and exchanges among Islamic NGOs and with other humanitarian actors are better documented and allow us to understand the way humanitarian principles are being looked at and dealt with.

Islamic debates on humanitarian principles: The trajectories

In the early 2000s, a number of initiatives set out to mitigate the consequences of counterterrorism sanctions and bans. Islamic organizations participating in these initiatives were encouraged to explain their identity, activities and *modus operandi*, and for that purpose, to establish codes of conduct from their own religious and cultural perspectives.

In January 2005, the Swiss Federal Department of Foreign Affairs launched the Montreux Initiative, which aimed at fostering cooperation in the removal of unjustified obstacles for Islamic Charities.³⁰ In an almost parallel move, the founder and first president of Islamic Relief Worldwide, Dr Hany al-Banna, invited leaders of major humanitarian organizations to discuss the consequences of the global war on terror on Islamic NGOs and charities and potentially on the whole humanitarian sector. This led to the founding of The Humanitarian Forum (THF), as a bridge-building mechanism for dialogue between Islamic organizations, Western NGOs and the multilateral system.³¹ These initiatives were pertinent and welcomed by many actors. The States involved saw their positive engagement with Muslim NGOs as a means to preventing radicalization in the West.³²

From 2006 until around 2010, THF focused on humanitarian principles and standards as one of its five priorities. The tasks for the module on humanitarian principles and standards were defined as follows: developing an inventory of existing humanitarian policies and standards; identifying opportunities for dissemination, dialogue and training on these instruments; identifying opportunities for the participation of Islamic and other faith-based NGOs, and NGOs based in Islamic countries, in ongoing humanitarian policy and standards processes;³³ and looking at the practical application of these

[uk/About-us/Who-we-are/The-international-Movement/Fundamental-principles/Why-the-principles-matter-to-millions](#). See also the article by Amelia B. Kyazze in this issue of the *Review*.

30 *The Montreux Initiative Newsletter*, No. 1, August 2006, p. 2.

31 Available at: www.humanitarianforum.org. Among the initiators and members of THF were the International Islamic Charitable Organization (IICO) from Kuwait, the IHH Humanitarian Relief Foundation from Turkey, Qatar Charity, the Qatari Red Crescent, the British Red Cross, the Muhammadiyah Foundation from Indonesia, Oxfam, the UK Charity Commission, the World Assembly of Muslim Youth from Saudi Arabia, and the Imam Khomeini Relief Foundation from Iran. The ICRC, the IFRC and the ICVA participated as “standing invitees”, as did the UN Office for the Coordination of Humanitarian Affairs. On THF and the IICO’s participation, see also M. J. Petersen, above note 22, p. 125.

32 See, for example, M. J. Petersen, above note 21, p. 137.

33 THF, draft concept note for Module 2, July 2006.

policies and standards with a view to formulating good practices. The ICRC and the International Council of Voluntary Agencies (ICVA) joined this process as facilitators. The existing instruments such as the 1994 Code of Conduct, the humanitarian charter of the Sphere project and the HAP principles were all considered to be reference documents, although *de facto*, the work focused on the 1994 Code of Conduct. In a working session in October 2008 in Sana'a, Yemen, the Fundamental Principles of the International Red Cross and Red Crescent Movement and the 1994 Code of Conduct were presented, discussed in the light of key tenets of Islamic jurisprudence, ethics and charitable work, and discussed in working groups. The relevance of these sets of principles was acknowledged, as well as the specificity of the Fundamental Principles to the Movement. It was decided that the 1994 Code of Conduct should be further studied, but there were also some reservations about the Western identity of the initiators of these standards of behaviour – “several members pointed out that their respective organisations had not signed up to it” – as well as issues of “vulnerability, gender, faith and local customs”.³⁴ A year later, THF decided to work with Muslim scholars, legal experts and humanitarian practitioners on an exercise aimed at rooting the 1994 Code of Conduct in Islamic ethics, law and charitable practice, in order to “work out the commonalities and possible differences between the Code of Conduct and the rules and principles that guide charitable work in Islamic law and Ethics”.³⁵ With this project, THF aimed to provide concrete guidance for the implementation of humanitarian principles, to widen the audience for the 1994 Code of Conduct, and to involve Islamic NGOs in future debates on revising or further developing the existing sets of humanitarian principles.³⁶

The Yemen branch of THF worked with Muslim scholars to root the basic principles of the 1994 Code of Conduct in Islamic law, ethics and charitable practice.³⁷ The result was a draft (Yemeni Rooting Document) that roots the concept of human dignity, the right of beneficiaries to receive humanitarian aid regardless of race, creed or nationality, the notion that aid will not be used to further a particular political or religious standpoint, and the principle of good humanitarian conduct (respect) in Islamic jurisprudence and tradition.³⁸

In June 2010, as part of a separate work stream on accountability, the national branch of THF in Indonesia organized a workshop in Jakarta with the large Muslim mass organization Muhammadiyah. The participants looked at the foundations of accountability and a wider set of humanitarian principles in

34 Minutes and outcomes of the THF Steering Committee meeting, Sana'a, 28–29 October 2008, p. 6.

35 THF, draft terms of reference of consultancy on the rooting of the 1994 Code of Conduct, December 2010.

36 Personal communication with James Shaw-Hamilton, executive director of THF, January 2011.

37 THF Yemen, *The International Red Cross and Red Crescent Movement and NGO Code of Conduct for Disaster Relief: Rooting in Sharia* (in Arabic), draft document, 2010 (Yemeni Rooting Document). There is a rough English translation under the title *Project: The Principles of Islamic Conduct for Non-Governmental Organisations in Responding to Emergencies*, THF Yemen, 2010.

38 *Ibid.*

the Qur’an and the *Hadith* (sayings of Prophet Mohammad) in order to increase understanding and ownership of instruments and procedures such as the HAP.³⁹

Another process, with some similarities and differences, was driven by the OIC. One of the major projects of Ekmeleddin Ihsanoglu, secretary-general of the OIC from 2005 to 2014, in the framework of the ten-year action plan that the OIC member States adopted at the 2005 Mecca Conference, was to undertake sustained efforts to organize Islamic charitable and humanitarian work. For that purpose, it was important for the OIC to “build a strong partnership with the NGOs, without which our mission would not have been successful”.⁴⁰ The ten-year action plan laid out the rationale for this undertaking:

Islam advocates solidarity with, and assistance to all the needy without discrimination, which requires Islamic States to develop and adopt a clear strategy on Islamic relief action and support the trend towards cooperation and coordination between individual relief efforts of Islamic States and Islamic civil society institutions on the one hand, and intentional civil society institutions and organisations on the other.⁴¹

In 2008, the OIC established a Humanitarian Affairs Department in its headquarters in Jeddah.⁴² The recognition of NGOs functioning within the member States was, according to Ihsanoglu, “a rather sensitive issue” that required careful consultation with the governments.⁴³ Prior to the OIC Dakar Summit in March 2008, the organization convened the First International Conference of the Humanitarian NGOs of OIC Member States, in Saly Portudal (Senegal). The participants – representatives of sixty NGOs from twenty-seven countries – recommended, *inter alia*, that efforts be made to “root the concepts of humanitarian work in Islamic values and principles” and to “adopt codes of conduct and a code of honour for humanitarian and charitable action in Member States of the OIC”.⁴⁴

For the first follow-up meeting between NGOs from the OIC member countries and the diaspora in Libya in 2009, the Turkish Humanitarian Relief Foundation (İnsan Hak ve Hürriyetleri ve İnsani Yardım Vakfı, IHH) elaborated a first draft document under the title “Code of Conducts for Muslim Humanitarian Relief Organisations” (IHH Code of Conducts).⁴⁵ Later on, the Cordoba Foundation in Geneva and the International Center for Research and

39 THF Indonesia, “Workshop on ... Accountability Principles Based on Qorran and Hadist in Humanitarian Organisation”, Muhammadiyah Office, Menteng, Jakarta, 8 June 2010.

40 Ekmeleddin Ihsanoglu, *The Islamic World in the New Century: The Organisation of the Islamic Conference, 1969–2009*, Columbia University Press, New York, 2010, p. 177.

41 Available at: www.oic-oci.org/ex-summit/english/10-years-plan.htm.

42 Resolution 11/35-C, adopted by the 35th Session of the Council of Foreign Ministers, Kampala, June 2008.

43 E. Ihsanoglu, above note 40, p. 178.

44 OIC, General Report of the First International Conference of the Humanitarian NGOs of OIC Member States, Dakar, Senegal, 7–9 March 2008, points I.2 and II.6 of the recommendations.

45 IHH Humanitarian Relief Foundation, Code of Conducts for Muslim Humanitarian Relief Organizations, Istanbul, 20 March 2009 (IHH Code of Conducts). The Code consists of fifteen principles and an introduction.

Studies (al-Markaz al-Duwali lil-Dirasat wal-Abhath, MEDAD) worked on a project that was meant to become a “charter of Islamic charitable action”.⁴⁶ In 2010, the project was finalized as a draft *Mithaq islami lil-'amal al-khairi* (Islamic Charter of the Work of Goodness, ICWG)⁴⁷ and presented to the annual consultation between the OIC and the Islamic NGOs from its member States in Doha, Qatar.⁴⁸

As IHH, the owner of the first draft document for the dialogue between the OIC and the Islamic NGOs from its member States, is a member and trustee of THF, the IHH Code of Conducts was disseminated more widely and introduced in the respective working group of THF, and informed the subsequent discussions there.⁴⁹

The IHH Code of Conducts, the ICWG and the Yemeni Rooting Document are important insofar as they document to a certain extent the discussions around the meaning and wording of principles of humanitarian action from an Islamic perspective. At this stage, these have not been adopted or officially endorsed by an NGO consortium or a regional body. Still, they have served as guidance and orientation for individual organizations.

The Arab uprisings: New challenges and opportunities

The events in Tunisia, Egypt, Libya, Bahrain, Yemen and Syria in 2011 brought new dynamics in humanitarian emergencies, but also opened new perspectives for dialogue and cooperation between humanitarian organizations from different backgrounds. THF, the OIC and other partners such as the League of Arab States and the UN Office for the Coordination of Humanitarian Affairs convened in 2011 a series of consultation and coordination meetings on Libya, Syria and Yemen, in which international Islamic NGOs, Western NGOs, UN agencies and

46 The Cordoba Foundation was set up in 2002 in Geneva and has worked on issues related to humanitarian action; see: www.cordoue.ch. The Jeddah-based MEDAD specializes in charitable action and provides a range of services, including studies, training and documentation, for a wide variety of charitable organizations in Saudi Arabia and the wider GCC region; see: www.medadcenter.com.

47 The Islamic Charter of the Work of Goodness (ICWG) is available at: www.cordoue.ch/human-security/humanitarian-work/item/190-islamic-charter-of-the-work-of-goodness. For the history and background of this project, see Cordoba Foundation, *Transforming Conflict in the Humanitarian Field*, December 2014, p. 1 (outline on the Humanitarian Mediation (HUMED) programme). The term '*amal al-khair* or *al-'amal al-khairi* is normally translated into English as “charity” or “charitable work”. Still, the author of this document, Dr Abbas Aroua, has deliberately chosen the term “work of goodness” to emphasize the wide range of activities that fall into this category in the classical Islamic conception. A larger background document in Arabic on the work of goodness ('*amal al-khair*) is available at: www.cordoue.ch/human-security/humanitarian-work/item/191-related-book. A shorter English version of this text can be found in Abbas Aroua, *The Quest for Peace in the Islamic Tradition*, Kolofon Press, Oslo, 2013, pp. 99–120, available at: www.cordoue.ch/publications/books-a-chapters/item/275-the-quest-for-peace-in-the-islamic-tradition.

48 MEDAD proposed to the OIC that it would consult senior Muslim scholars to finalize this document, and would submit it for approval to the member States of the OIC so that it would become a binding reference for granting NGOs observer status at the OIC, and more importantly, for the practical work of these organizations. Khaled al-Sreih, MEDAD executive director, presentation to the THF working group on humanitarian standards and principles, Istanbul, October 2010.

49 For example, in a session of the THF working group on humanitarian principles and standards in April 2010 in Skopje.

members of the Movement, as well as local NGO and diaspora initiatives, explored concrete cooperation in the field, information sharing and training as well as capacity-building for local organizations and grass-roots initiatives.⁵⁰

The OIC, at its 39th Council of Ministers of Foreign Affairs in Djibouti in November 2012, adopted “Rules for Granting OIC Consultative Status to Humanitarian NGOs” – without further referring to a code of conduct or charter of Islamic charitable action, but mentioning criteria such as:

To be headquartered in an OIC Member State and registered officially and licensed to work in the activity submitted in the application for consultative status, or to be affiliated to Muslim minorities and communities, work in the field of humanitarian relief and be accredited in the States where these minorities and communities exist and operate in their favor.⁵¹

The rules further stipulate that “[t]he NGO’s objectives must not conflict with the principles and objectives of the OIC Charter”.⁵² One year later, at the 40th Council of the Foreign Ministers of the OIC in Conakry, the OIC granted consultative status to a first batch of twelve NGOs from OIC member States.⁵³

With the gradual turn of the Arab uprisings and the response of the authorities that led to armed conflicts in Libya, Syria and Yemen, and the aggravation of regional tensions and polarization that has taken place around these conflicts, the difficulties in getting access to people in need and the security of humanitarian workers became a major concern. Under these circumstances, the focus of these Islamic debates on humanitarian principles shifted from identity and wording towards principles in practice, and principled humanitarian action as a means to mitigate challenges and risks.⁵⁴

The Muslim Charities Forum (MCF) in the UK, with a membership that includes larger humanitarian agencies such as Islamic Relief Worldwide, Muslim Aid and Muslim Hands, but also smaller and more recently founded aid groups and diaspora initiatives, addressed the challenges that the workers and volunteers of its member organizations were facing in operational contexts such as Libya and Syria with a series of training workshops. In June 2013, working with the ICRC, ICVA and Islamic Relief Worldwide, the MCF organized a learning event

50 See, for example, the Stakeholder Conference “Humanitarian Response for Libya”, organized in Cairo, 8 May 2011, by the OIC, the League of Arab States and the Humanitarian Forum; see also the 2nd Conference “Connections and Collaboration for Yemen”, Cairo, 6 May 2012.

51 See the respective resolution and annex with draft rules on pp. 7–12 (quotation at p. 10), available at: www.oic-oci.org/english/conf/fm/39/ORG-DR-39-CFM%20-%20FINAL.pdf.

52 *Ibid.*, p. 10.

53 Available at: www.oic-oci.org/oicv2/subweb/cfm/40/fm/en/docs/ORG-40-CFM-RES-FINAL-REVISED.pdf.

54 In the introduction to the 2nd International Forum on Humanitarian Action, held on 26–27 November 2014 in Jeddah, the organizers (OIC, IIRO, IHH, IICO, Qatar Charity, MEDAD, World Assembly of Muslim Youth and ICRC) stated that “the large scale of conflicts, affected areas and people which is being witnessed by the region recently has added significant challenges to be faced by humanitarian workers”. To meet these challenges and to respond to the needs of the populations, the organizers highlighted the necessity of training, capacity-building and “raising awareness about the principles of humanitarian action and international standards” (Forum brochure, p. 2).

on “The Code of Conduct, Humanitarian Principles and Human Development in Islam”. PLAN International, a member organization of the ICVA, presented a case study on applying the 1994 Code of Conduct in its post-disaster relief work in the Philippines.⁵⁵ This provided an opportunity for exchange on concrete experience in the field, the challenges and dilemmas that humanitarian workers face, and the ways in which humanitarian principles can be applied. The participants discussed the 1994 Code of Conduct and Islamic draft sets of principles such as the IHH Code of Conducts and ICWG, in order to explore commonalities and differences. The participating NGO workers and volunteers suggested that such learning events should be organized in concrete operational contexts, but should also address related issues such as the impact of counterterrorism measures on humanitarian action.

In 2014, the ICVA and ICRC collaborated on a series of learning events on the 1994 Code of Conduct and humanitarian principles in the Middle East, West Africa and South-East Asia, with the participation of international Islamic NGOs, other faith-based organizations, local NGOs and National Red Cross and Red Crescent Societies.⁵⁶ The goal of these learning events was to “provide a forum for bridging perception gaps that exist between actors regarding the principles of humanitarian action and their application . . . , supporting the use of humanitarian principles in operational decision-making, [and] helping translate these into practice”.⁵⁷

Before going further into this practical experience, it is worth having a closer look at the two draft codes that represent the thinking of different Islamic organizations and activists on humanitarian principles. Both documents refer directly or indirectly to the core principles of humanitarian action (humanity, impartiality, independence and neutrality), and both include a wider set of principles inspired by development work, as is the case with the 1994 Code of Conduct.

The IHH Code of Conducts

The IHH Code of Conducts consists of an introduction and a set of fifteen rules or principles in both English and Arabic. For each rule or principle there is a reference from the Qur’an or the *Hadith*.⁵⁸

55 PLAN International has worked intensively, in cooperation with other aid agencies and local communities, on accountability to beneficiaries and the involvement of local communities in aid delivery. Details of this work are available at: <http://plan-international.org/about-plan/how-we-work/effectiveness/accountability-to-affected-people-in-the-haiyan-response>.

56 In 2010, the ICVA had already organized a number of regional learning events on the 1994 Code of Conduct, in which THF and some of its member organizations had participated. More information is available at: <https://icvanetwork.org/resources/icva-learning-events-code-conduct-and-its-related-humanitarian-principles>.

57 ICVA and ICRC, *Learning Events on Humanitarian Principles*, concept paper, June 2014.

58 IHH Code of Conducts, above note 45. It is worth noting that there are some minor inconsistencies between the English and Arabic texts in the document. These are due to the fact that the work on this

The IHH document is focused on humanitarian relief, based around principles like sincerity, humanity, independency, respect and cooperation. It refers equally, under the principle of arbitration, to mediation and prevention of “natural and human-made disasters”.⁵⁹ In addition to that, the document has a connotation of social activism, insofar as it speaks of the “reviving ... solidarity spirit” and the “struggle between advocates of factiousness and advocates of improvement”.⁶⁰

The Islamic Charter of the Work of Goodness

The ICWG consists of a set of twenty-one principles organized in seven chapters, with a comprehensive background document that was initially published in Arabic.⁶¹

The ICWG departs from a quite comprehensive understanding and definition of *amal al-khair* (work of goodness) that encompasses a whole variety of activities: predication (calling to God); humanitarian work – i.e., helping the needy and relieving the afflicted; protection and promotion of human rights (defending the victims of injustice); conflict transformation (bond mending); civic action (enjoining what is right and reprobatng what is wrong); and finally, the protection and promotion of the rights of animals and the protection of the environment.⁶² While the document makes an appeal in its Principle 4 that organizations involved in the work of goodness should adopt a holistic vision which looks at these different dimensions, it demands in Principle 10 that such organizations “state the domain of goodness”⁶³ and separate the different fields of work such as predication and humanitarian work, in order to avoid conflict between them. The background document develops further on the opportunities and risks of associating the different activities with each other, and elaborates that “the NGOs working in the area of proselytizing and relief must show transparency and honesty in their work and separate completely between these two areas at the organizational ... and field level”.⁶⁴ The relation between relief and human rights is being described as a dilemma for many relief organizations – “they often find themselves compelled to silence ... in order to keep the channels of communications with victims and provide them with the assistance they need”.⁶⁵ The combination of conflict transformation and relief is regarded as a fruitful synergy.

draft was carried out under significant time pressure, and that it was in any event foreseen that the draft document would be commented upon and revised later in the process. Conversation with Izzet Sahin, IHH, Geneva, 14 April 2014.

59 IHH Code of Conducts, above note 45, p. 9.

60 *Ibid.*, p. 2.

61 ICWG, above note 47.

62 A. Aroua, above note 47, pp. 99–101.

63 *Ibid.*, p. 117.

64 *Ibid.*, p. 103.

65 *Ibid.*, p. 103.

This reflects the reality that for many Islamic organizations carrying out humanitarian work, there is no clear distinction between relief and development. In Saudi Arabia, charitable work (*al-'amal al-khairi*) covers a wide variety of activities, from charity for the needy to social work in general, religious predication and the memorization of the Qur'an.⁶⁶

A closer comparative look: Humanity and “positive neutrality”

Humanity as the essential humanitarian principle is based on the concepts of one humankind, human dignity and the sacredness of human life. This translates into the imperative to preserve life, and to prevent and alleviate human suffering. These concepts have strong foundations in the primary sources of Islam, the Qur'an and the *Hadith*. For equality between human beings, and the concept of mankind as a whole, verse 49:13 of the Qur'an is of central importance – “O mankind, we have created you male and female, and appointed you races and tribes, that you may know one another. Surely the noblest among you in the sight of God is the most godfearing of you” – and it is quoted in the IHH Code of Conducts and the Yemeni Rooting Document.⁶⁷ Verse 17:70 is the reference for human dignity in Islamic teachings: “We have honoured the Children of Adam and carried them on land and sea, and provided them with good things, and preferred them greatly over many of those We created.”⁶⁸ Respect for human life and its sacredness are enshrined in verse 5:32:

We prescribed for the Children of Israel that whoso slays a soul not to retaliate for a soul slain, nor for corruption done in the land, shall be as if he had slain mankind altogether; and whoso gives life to a soul, shall be as if he had given life to mankind altogether.⁶⁹

The Yemeni Rooting Document mentions humanitarian aid as an “absolute right of all human beings”,⁷⁰ and refers therefore to the concept of justice in Islam. This relates to Islam's five fundamentals (*kulliyat*) of protection, namely the protection of human beings, protection of reason, protection of the human race, protection of religion, and protection of property/endowments.⁷¹

66 The scope of activities and coverage of the MEDAD centre is a good example of this; see the MEDAD website at: www.medadcenter.com.

67 This and the other Qur'anic verses are quoted from *The Quran Interpreted: A Translation by A. J. Arberry*, online version available at: <http://web.archive.org/web/20071219022352/http://arthursclassiconovels.com/arthurs/koran/koran-arberry10.html>. IHH Code of Conducts, above note 45, p. 4; Yemeni Rooting Document, above note 37.

68 *The Quran Interpreted*, above note 67.

69 Yemeni Rooting Document, above note 37, in the paragraph “Human Dignity Comes First”.

70 *Ibid.*, in the paragraph “Humanitarian Aid is Solely a Means to Provide Care to Mankind” (English translation revised based on the original in Arabic).

71 Ameer Zemmali, presentation on “The Fundamental Principles of the Red Cross Red Crescent Movement in the Light of Islamic Law (Shari'a) and Jurisprudence (Fiqh)”, THF, Sana'a, Yemen, 29 October 2008.

In the Islamic conception, humanitarian work is a “responsibility assigned to Muslims by God”.⁷² In the ICWG, this finds its expression in the postulate that “[t]he mission and goal of the [charitable organization] shall be to serve with benevolence the creatures, which is the way to please the Creator”.⁷³ So considering the “work of goodness as a binding act of worship” puts the religious identity of the organization at the centre of its philosophy.⁷⁴

It is widely acknowledged that modern Western humanitarianism has its origins in the Christian concept of charity. With the process of secularization, but also as a practice-driven endeavour, Western humanitarianism tried to transcend these origins and become universal by being shared widely across the globe. Jean Pictet expressed this effort in his Commentary on the Fundamental Principles by emphasizing that the idea of “Whatsoever ye would that men should do to you, do ye even so to them”, as he put it, was rooted in “all the great religions”.⁷⁵ So while for some, religiously motivated or faith-based humanitarian action is seen as compatible with their interpretation of the philosophy underlying modern humanitarianism, others see the explicit or exclusive religious framing of humanitarian action, in particular when it refers to an all-encompassing and self-referential model, as a challenge to, or even a contradiction of, the tenets of contemporary humanitarianism.

The concept of neutral intermediaries and the protection of diplomatic envoys in armed conflict has an equivalent in classic Islamic jurisprudence with the idea of *amân* (safe conduct) for the emissary of a (foreign) nation. Still, as a principle of humanitarian conduct, there is a clear tension between the notion of not taking sides, often perceived as a lack of empathy or even complicity, and the concept of justice.⁷⁶ In a joint ICVA–ICRC workshop in Amman in 2014, a lively and lengthy debate took place on the principle of neutrality, during which participants opined that the application of neutrality might result in treating the victim and the oppressor on an equal footing.⁷⁷ The ICWG includes a specific paragraph on “positive neutrality”, according to which an organization “shall act with empathy and bear true witness against any observed violation of the rights of creatures; it shall not remain silent before such abuse for the sake of neutrality”.⁷⁸

72 IHH Code of Conducts, above note 45, p. 4.

73 ICWG, above note 48, Principle 2. “The creatures, in this context, include human beings, animals and the inanimate”: *ibid.*

74 ICWG, above note 47, Principle 1.

75 J. Pictet, above note 13, “I: Humanity”. This ethical directive can be traced back to the Bible (Matthew 7:12), but also to the seventeenth-century philosopher Thomas Hobbes.

76 See, for example, Mohd Hisham Mohd Kamal, “Neutral and Independent Humanitarian Action: Islamic Perspective”, paper presented at the International Conference on “Humanitarian Action in the World of Today: Challenges and Perspectives in the Light of Shariah and Humanitarian Law”, organized by the International Islamic University of Islamabad and the ICRC, Islamabad, 22–23 October 2014. A revised and edited version of this paper is published in this issue of the *Review* in the form of an Opinion Note.

77 ICVA and ICRC, summary report, Humanitarian Principles and Code of Conduct Workshop, Amman, 23–24 June 2014, p. 3, available at: <https://icvnetwork.org/resources/report-humanitarian-principles-workshop-mena-2014>.

78 ICWG, above note 47, Principle 5.

It is probably due to this same perception that the IHH Code of Conducts does not mention neutrality at all. Still, it contains interesting parallels to the wording of the Red Cross and Red Crescent concept of neutrality – not defined as an end in itself, but as a means “to enjoy the confidence of all”.⁷⁹ The IHH Code of Conducts stipulates that humanitarian organizations should avoid controversy – the ideal humanitarian worker “does not agitate, ... behaves carefully and refrains from offending people”⁸⁰ – which is reminiscent of the Red Cross and Red Crescent imperative not to “engage at any time in controversies of a political, racial, religious or ideological nature”.⁸¹ In its principle of arbitration, the IHH says that “a humanitarian relief organisation takes initiatives and act[s] as arbitrator if necessary”,⁸² which could be interpreted in the sense of playing the role of an intermediary that has to be accepted by all parties. Under the rubric of “humanitarian diplomacy”, IHH has acted as an intermediary accepted by all sides in the Syria conflict, and has negotiated the release of Turkish journalists, Syrian detainees and Iranian captives from the government and opposition groups.⁸³

As the 1994 Code of Conduct only stipulates that aid should not be used “to further a particular political or religious standpoint”,⁸⁴ it comes closer to an understanding of neutrality being balanced by justice, or the imperative of not remaining silent on abuses that is evident in the Islamic draft documents and is related to the notion of justice. The most recent instrument for humanitarian principles and standards, the Core Humanitarian Standard, does refer to the principle of neutrality, but adds that “some organisations, while committed to giving impartial assistance and not taking sides in hostilities, do not consider that the principle of neutrality precludes undertaking advocacy on issues related to accountability and justice”.⁸⁵

It is interesting to note that Pictet, in his Commentary to the Fundamental Principles, explains the concept of humanitarianism as “a developed and rational form of charity and justice”.⁸⁶

Impartiality, independence, developmental principles

The principle of impartiality is part of the ICWG, which explicitly refers to non-discrimination and the selection of beneficiaries “based only on their needs”.⁸⁷ In the IHH Code of Conducts, non-discrimination is mentioned under humanity

79 J. Pictet, above note 13, “III: Neutrality”.

80 IHH Code of Conducts, above note 45, p. 6.

81 J. Pictet, above note 13, “III: Neutrality”.

82 IHH Code of Conducts, above note 45, p. 9.

83 Available at: www.ihh.org.tr/en/main/pages/suriye-insani-diplomasi/314.

84 1994 Code of Conduct, above note 7, Principle 3.

85 CHS, above note 17, p. 8.

86 In the French original: “L’humanitarisme moderne est une forme évoluée de la charité et de la justice.” Jean Pictet, *Les Principes Fondamentaux de la Croix Rouge : Commentaire*, ICRC, Geneva, 1979, p. 18.

87 ICWG, above note 47, Principle 6.

and “extends aid to all the ones in need regardless of their religion, sect, language, ethnicity, colour of skin, ideology and geography”.⁸⁸ Its principle of justice urges humanitarian workers to “act fairly in determining the needy people, the amount of aid and the process of aid delivery”.⁸⁹

In his study on the Book and the Sunna Society (BSS), a Jordanian Salafi organization, the Norwegian researcher Sturla Saether compares the practice of this organization with the first six principles of the 1994 Code of Conduct. On impartiality, which corresponds to the second and third principles of the 1994 Code of Conduct, Saether discusses in some detail the adherence of the BSS to these principles, but also possible contradictions. The BSS has a needs-based approach and does not discriminate between Muslim and non-Muslim beneficiaries – although most of its beneficiaries are Muslim due to the fact that most Syrians are Muslims.⁹⁰ While the BSS formally distinguishes between relief work and its predication activities, Saether considers that “the lines between them are blurred” in the field.⁹¹ The draft ICWG and IHH Code of Conducts both have paragraphs on independence – the ICWG distinguishes between independence from donors, in Principle 13; independence from the political and ideological authority, in Principle 14; and independence from military and intelligence agencies, in Principle 15.⁹² Under the latter, it mentions the risk of infiltration, to be countered by “strict mechanisms of control, particularly in matters of employment of staff or recruitment of volunteers”.⁹³

The principle of independence in the IHH document stipulates: “A humanitarian relief organisation works freely and independently of governments, military, commercial initiatives and lobbies in its decision making and enforcement processes.”⁹⁴

The wider set of principles that come from the field of development and are related to the dignity of beneficiaries (Principles 5 to 10 of the 1994 Code of Conduct) are widely covered in the Islamic draft documents: capacity-building, sustainable development, accountability, respect of the recipients’ dignity and cultural environment, and use of local resources.⁹⁵ In addition to that, the IHH Code of Conducts and the ICWG have each dedicated an explicit principle to

88 IHH Code of Conducts, above note 45, p. 4.

89 IHH Code of Conducts, above note 45, p. 10.

90 S. G. Saether, above note 23, pp. 29–30.

91 *Ibid.*, p. 30.

92 ICWG, above note 47. It is interesting to note a certain tension between independence from donors on the one hand, and respect for the donors’ wishes (Principle 16) on the other.

93 *Ibid.*, Principle 15.

94 IHH Code of Conducts, above note 45, p. 5.

95 1994 Code of Conduct, above note 7, Principles 5 (respect of culture and custom), 6 (attempt to build disaster response on local capacities), 7 (involve beneficiaries in management of aid), 8 (reduce future vulnerabilities), 9 (accountability to beneficiaries and donors), and 10 (respect of beneficiaries’ dignity in coverage of aid). The IHH Code of Conducts, above note 45, contains articles on sustainable development, efficiency, transparency, accountability and justice, raising consciousness, and voluntary service. The ICWG, above note 47, refers to capacity-building (Principle 8), sustainable development (Principle 9), respect of the recipients’ dignity (Principle 17) and cultural environment (Principle 18), use of local resources (Principle 20), and best practices (Principle 21).

cooperation with other, local and international, organizations.⁹⁶ It is also interesting to note that IHH's principle of timeliness corresponds with the second of the nine elements of the new Core Humanitarian Standard: "Humanitarian response is effective and timely."⁹⁷

Principles in practice, inclusive dialogue

The humanitarian emergencies and evolving armed conflicts that arose after 2011 brought opportunities for concrete exchanges and collaborations between Southern and Northern, international and local, faith-based and secular aid organizations – all were facing the same challenges.

Islamic Relief Worldwide and Muslim Aid have embarked on cooperation projects and campaigns (for example, with Christian NGOs on the humanitarian response to the crisis in the Central African Republic) to affirm the interfaith and thus non-discriminatory nature of their efforts to "deliver much needed humanitarian aid and [build] bridges between communities caught in a worrying cycle of distrust, fear and vengeance".⁹⁸

THF in Yemen used the Yemeni Rooting Document on the 1994 Code of Conduct as a basis for a project with other partners on the empowerment of civil society organizations through participation in local governance; this resulted in the formulation of an additional Code of Conduct for Civil Society Organizations in Yemen.⁹⁹ This code is based on the "rules of humanitarian action, as well as the scientific and objective standards of management",¹⁰⁰ and stipulates principles such as accountability, transparency and avoidance of "being affiliated with any political platforms, party or sectarian conflicts or with any process that might compromise the principle of autonomy and professionalism".¹⁰¹

As events unfolded, discussions between humanitarian organizations from the Middle East and North Africa and Europe, local and diaspora initiatives, international aid agencies and NGOs focused on very practical issues of access, information exchange and coordination. In a League of Arab States, OIC and

96 IHH Code of Conducts, above note 45, p. 5: "With the purpose of extending aid to the needy in a more efficient and rapid way, a humanitarian relief organization collaborates with national and international organizations in determining strategy and sharing information, sources and experience. This collaboration aims at increasing the capacity of local organizations." The ICWG, above note 47, Principle 19, stipulates: "The [work of goodness organization] shall cooperate with other local, regional or international organisations, working in the same field or in another one, for the sake of joining forces, networking, concerting, and exchanging experiences and information. It will work in the spirit of stimulating competition for the good and not in that of unhealthy rivalry."

97 CHS, above note 17, p. 11.

98 CAFOD, Islamic Relief, Muslim Aid and Muslim Charities Forum, *Joint Declaration of Catholic and Muslim Charities on the Central African Republic*, 8 May 2014, available at: www.muslimaid.org/media-centre/news/joint-declaration-of-catholic-and-muslim-charities-on-central-africa-republic/.

99 See: www.yementimes.com/en/1755/news/3478/Civil-society-organizations-come-together-to-sign-code-of-conduct.htm.

100 THF Yemen, Code of Conduct for Civil Society Organizations in Yemen, 2013–14, p. 2.

101 *Ibid.*, p. 3.

THF coordination meeting on Libya in Cairo in May 2011, NGOs were urged to “communicate to all concerned and put into practice their impartiality and neutrality” in this “extremely challenging situation”.¹⁰²

This emerging space of dialogue between different “cultures of aid” gave way to concrete field consultations, but also a number of workshops and conferences in multiple partnerships in the Arab and Muslim world. The reality and challenges of humanitarian emergencies, and the principles of humanitarian action and their application were discussed in light of the considerable difficulties being faced in terms of access to people in need as well as the security of humanitarian workers.

In the learning exercises on humanitarian principles and the 1994 Code of Conduct that the ICVA and ICRC organized in 2014, in multiple partnerships with other groups in Amman and Dakar, the four core principles and those focusing on the dignity of beneficiaries and respect for local culture and customs were discussed in case studies, and were related to concrete operational challenges such as the impact of rapid political and military changes in an armed conflict (Syria for Jordan), the impact of security and political agendas on humanitarian action, and competition between humanitarian actors.¹⁰³ Similar workshops were held in March 2014 in Sana’a with THF Yemen, and in Indonesia in cooperation with the Jakarta-based NGO Dompêt Dhuafa (Wallet of the Poor) and other partners.¹⁰⁴

In 2013, the OIC, the International Islamic Relief Organization (IIRO) and the ICRC initiated a series of regional fora for humanitarian practitioners from Islamic NGOs, in which Muslim scholars, medical and legal experts and experienced field workers looked at the protection of humanitarian workers and medical services in times of armed conflict within the scope of humanitarian law and Islamic jurisprudence. Participants and experts discussed practical measures of self-protection and the management of security risks in the field.¹⁰⁵ In the first forum in Jeddah in June 2013, participants discussed the Safer Access Framework, as an example of the application of humanitarian principles in practice.¹⁰⁶

102 Stakeholder Conference “Humanitarian Response for Libya”, Outcomes and Recommendations, Cairo, 8 May 2011, p. 4.

103 ICVA and ICRC, above note 77.

104 Dompêt Dhuafa is a large Islamic NGO that was founded in 1993 in Indonesia by young journalists. It carries out a considerable scope of educational and relief activities, and works in the field of disaster preparedness and response. It is a member of THF Indonesia. See: www.dompetchduafa.org and www.dompetchduafausa.com. A recent Dompêt Dhuafa report on Rohingya migrants stranded in Indonesia is available at: <http://reliefweb.int/report/indonesia/indonesia-rohingya-refugees-situation-report-period-8-july-2015>.

105 See the programme and background document of the workshop on the IIRO website at: www.egatha.org/portal/index.php?option=com_content&view=article&id=898:2013-06-06-12-01-35&catid=2:2010-08-03-15-18-49.

106 The Safer Access Framework consists of preparedness actions and acceptance measures, grounded in the Fundamental Principles and other Red Cross and Red Crescent Movement policies, that a National Society can take when responding in sensitive and insecure environments; see the ICRC website at: www.icrc.org/en/what-we-do/cooperating-national-societies/safer-access-all-national-societies. A report on the application of the Safer Access Framework by the Lebanese Red Cross is available at: www.icrc.org/eng/assets/files/2013/safer-access-case-study-lebanon.pdf.

Looking at instruments such as the 1994 Code of Conduct from different perspectives has been useful for increasing awareness about humanitarian principles. But probably more importantly, the dialogue on humanitarian principles in practice proved to be a very convenient avenue for overcoming misperceptions between humanitarian actors of different backgrounds, exploring commonalities and appreciating diversity and complementarity between different cultures of aid, as well as between humanitarian actors and other stakeholders – faith-based and secular, international and local, solidarity-based and “Dunantist”.

In the workshop “Humanitarian Action in the Arab Region”, held in Amman in January 2014, humanitarian principles and their application in practice was one of three major topics. In the summary report, the organizers noted that

the principles are largely accepted and recognised as central to humanitarian action, with no contradiction to the traditions and culture in this region. ... More could be done to show the similarities between the principles and local cultures, making them more accessible and easier to understand for those who are not familiar with them.¹⁰⁷

Among the challenges that impact on the “ability of the humanitarian community to fully implement the core principles of humanitarian action” are “political and security agendas such as stabilisation and counterterrorism initiatives”.¹⁰⁸ These measures are hampering organizations’ attempts to “engage with groups critical to obtaining access to populations in need”.¹⁰⁹ The criteria for the designation of armed groups as terrorist organizations are not always clear. In some cases observers have criticized designations as negatively impacting on ongoing efforts for negotiated political solutions, and in others, designations might have accelerated processes of further radicalization.

Conclusion

The debates on humanitarian principles among Islamic NGOs, and between humanitarian organizations from different backgrounds, reflect a process of change and integration. They informed and gradually became a track of the global debate on humanitarian principles, in particular the 1994 Code of Conduct.¹¹⁰ Humanitarian actors in the Middle East and the wider Muslim world

107 “Humanitarian Action in the Arab Region”, Amman, Jordan, 20–21 January 2014, summary report, pp. 6–7, available at: www.odi.org/sites/odi.org.uk/files/odi-assets/events-documents/5066.pdf. These comments were made with reference to the ICVA–ICRC workshops.

108 ICVA and ICRC, above note 57, June 2014.

109 “Humanitarian Action in the Arab Region”, above note 107, p. 7.

110 In the IFRC and NRC conference “Equipped for Tomorrow’s Humanitarian Challenges?” on the 20th anniversary of the 1994 Code of Conduct, Abbas Aroua from the Cordoba Foundation (Islamic Charter for the Work of Goodness), was one of the panelists, and the IHH Humanitarian Relief Foundation (IHH Code of Conducts) was among the participating organizations. See IFRC and NRC, above note 7.

have not necessarily challenged the existing sets of principles, but have presented differences, *inter alia*, on the definition of the scope of charitable action, as well as on the notions of justice, solidarity and respect.¹¹¹ The perceptions and interpretations of the principle of neutrality document commonalities with discussions among Western humanitarian actors of different backgrounds.

The IHH Code of Conducts and the ICWG demonstrate that there are shared and common values which “have application across a wide range of religious and cultural settings”.¹¹² The Islamic draft documents have also provided the opportunity to introduce the thinking in Islamic organizations to a wider audience, and to look at humanitarian principles from different perspectives.

Humanitarianism and charitable action are part of our common heritage, and their traditions are part of human history. The dialogue on humanitarian practice and principles has to be diverse and inclusive. The starting point for this dialogue has been a search for common ground and the identification of shared values. Under the circumstances of protracted conflicts, regional and global polarization, and double standards in the application of international rules and norms, universal acceptance is not a given – it can only be achieved through multipolarity and diversity. The inclusive dialogue on humanitarian principles including Islamic perspectives, in the framework of the bridge-building humanitarian consultations that have been discussed here, has created a kind of protected space that has bridged perception divides and helped to mitigate the post-9/11 polarization within the humanitarian field.¹¹³ In the future, this dialogue should include also Chinese, African and Indian communities, to become truly universal. For continuity, it will be crucial to anchor these discussions in the concrete challenges to humanitarian action in the field.

Counterterrorism measures have already had a considerable impact on humanitarian action in the post-9/11 years.¹¹⁴ With the renewed polarization around the conflicts in Syria and Iraq in 2014, there is a real risk that new counterterrorism measures and restrictions might again impact negatively on humanitarian aid and aid providers. Along with the risk of renewed and further politicization and instrumentalization of humanitarian aid due to this polarization of the international environment, this means that a concerted effort is required to maintain a protected space of diversity, inclusiveness and open dialogue.

As pointed out above, the dialogue between Muslim scholars, international humanitarian law (IHL) experts and aid workers on humanitarian law and action has informed and inspired the debate on humanitarian principles from different perspectives. Eminent Muslim scholars such as Dr Ali Qaradaghi, the

111 S. G. Saether, above note 23, p. 43, has concluded that the BSS as a Salafi organization doing humanitarian work has been highly successful because it acknowledges the spiritual and psychological needs of refugees.

112 IFRC and NRC, above note 7, p. 27.

113 “More inclusive dialogues to be held with a greater diversity of humanitarian organisations, which aim to promote shared values drawn from multiple culturally based Codes of Conduct, and discussing the practical application of shared values at local level.” *Ibid.*, p. 26.

114 See the article by Phoebe Wynn-Pope, Yvette Zegenhagen and Fauve Kurnadi in this issue of the *Review*.

secretary-general of the International Union of Muslim Scholars, and Ayatollah Ahmad Moballaghi, senior researcher in the Hawzah in Qom, have contributed to the discussions on humanitarian principles from an Islamic perspective, and have supported the consultation and cooperation between aid organizations from different backgrounds in concrete field contexts.

In the face of the above-mentioned risks of further polarization and instrumentalization of humanitarian aid, it will be important to maintain and further develop work and dialogue on acceptance and better respect for IHL. This means, on the one hand, addressing the challenges to IHL arising from the counterterrorism practices of States – from civilian casualties of drone attacks and indiscriminate and disproportionate attacks on civilians and civilian infrastructure to the negative impact on humanitarian assistance. On the other hand, the rooting of IHL in religious beliefs and the use of religious texts as references for the rules preserving human dignity in times of armed conflict will remain important for overcoming misperceptions and reaching a common understanding, and should not be seen as controversial and contradictory to the spirit of the law.¹¹⁵ For Muslim scholars and jurists, the extent and gravity of violations and the lack of respect for the rules of war in current conflicts should translate into an imperative to transcend well-appreciated but rather static references to sacred texts. It will be crucial to engage in debates – beyond polemics and politicized confrontation – that put Islamic law in the right place vis-à-vis the unlawful and outrageous conduct that has become all-too-common practice in the challenging conflicts of our time.

115 See Corri Zoli, *The God Gap in International Humanitarian Law: Lessons Learned from Islamic Jurisprudence*, Institute for National Security and Counterterrorism, Syracuse University, New York, 2012.