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## “Humanitarian Diplomacy: Saving It When It Is Most Needed”

**Michel Veuthey**<sup>1</sup>

Vice-President, International Institute of Humanitarian Law;  
Professor, Webster University Geneva

### 1. Definition of Humanitarian Diplomacy

For the purpose of this article, the term humanitarian diplomacy will be defined as a dialogue ( private or public ) between Governments<sup>2</sup> and (or) humanitarian organizations, inter-governmental organizations (IOs) and non-governmental organizations (NGOs) or other Non-State Actors (NSAs). Representatives from civil society are also playing an increasingly significant role in the processes of humanitarian diplomacy.

### 2. Aims of Humanitarian Diplomacy

Humanitarian diplomacy aims to:

- obtain *access to victims* in order to evaluate their situation and to ensure the necessary degree of *protection and assistance* towards them;<sup>3</sup>
- negotiate *visas* for humanitarian actors;
- negotiate the establishment of *logistical and financial mechanisms* for the delivery of humanitarian aid;
- ensure the *security of humanitarian workers*, as well as that of their buildings and of the aid delivered to beneficiaries;
- negotiate guarantees of *security* for the local staff of humanitarian organizations, as well as for the civil population and other beneficiaries of humanitarian work;
- *coordinate humanitarian action*, through information sharing mechanisms, between humanitarian organizations and local, national and military Authorities as well as with Non-State Actors;

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<sup>1</sup> Vice-President, International Institute of Humanitarian Law, Professeur associé, IDPD, Université de Nice. Deputy Permanent Observer of the Order of Malta to the United Nations in Geneva. Professor at Webster University, Geneva. The author wishes to thank Alessandra Carminati and Valentina Cadelo for editing the final text and for their useful comments. The views expressed

<sup>2</sup> See STRAUS, O.S. (1912) "Humanitarian Diplomacy of the United States", *Proceedings of the American Society of International Law*, 6, pp. 45-54; and HSU, C.C, CHAO, C., "China's Humanitarian Diplomacy Concepts and Practices: A Theoretical Analysis on Harmonious World", *Second Global International Studies Conference*, University of Ljubljana, 23-26 July 2008.

<sup>3</sup> See the *Humanitarian Access in Situations of Armed Conflict. Handbook on the Normative Framework*, elaborated by the Swiss Federal Department for Foreign Affairs (FDFA), the International Committee of the Red Cross (ICRC), the UN Office for the Coordination of Humanitarian Affairs (OCHA) and Conflict Dynamics International (CDI). Available online (Accessed 4 January 2012) at :[http://www.cdint.org/documents/PAIV\\_111118\\_Humanitarian%20Access\\_Handbook\\_mit\\_Inhalt.pdf](http://www.cdint.org/documents/PAIV_111118_Humanitarian%20Access_Handbook_mit_Inhalt.pdf)

- promote the codification, ratification, application, and implementation of humanitarian law in the broadest sense (international humanitarian law applicable in armed conflicts, refugee law, rights of migrants, the protection of internally displaced persons, and human rights);
- work towards ensuring the concrete respect of humanitarian law, by both Governments and Non-State Actors.

### 3. Historical Examples of Humanitarian Diplomacy

Henry Dunant (1828-1910), founder of the Red Cross and Red Crescent Movement and initiator of modern international humanitarian law, successfully managed to mobilize the good intentions of people at the local, national and international levels by calling on the public, Governments, and civil society to act with humanity towards victims of war, after having personally witnessed the suffering of the battle of Solferino (24 June, 1859). In so doing, he set in motion the evolution of modern international humanitarian law.<sup>4</sup>

Each stage of the *codification* of international humanitarian law occurred as the result of a post-war shock wave in public opinion and governments - a collective painful process of learning. These codifications occurred after the following traumatic events:

- The battle of Solferino between Austrian and French armies was the impetus for the First Geneva Convention (1864), protecting military wounded on land;
- The naval battle of Tsushima (1905) between Japanese and Russian fleets prompted an adjustment of the Convention on war at sea in 1907, extending protection to military shipwrecked;
- World War I then brought about the two 1929 Conventions, including a much broader protection for prisoners of war;
- World War II led to the four 1949 Conventions, an extensive regulation of the treatment of civilians in occupied territories and internment. The 1949 Geneva Conventions – along with the UN Charter (1945) and the Universal Declaration on Human Rights (1948) – are the result of the tragedies of millions of civilians and prisoners victims of total war and genocide in Europe and in Asia. The survivors pushed for the adoption of international instruments in order to avoid the repetition of such tragedies;
- The decolonization of African colonies and the Vietnam War preceded the two 1977 Additional Protocols, which provided written rules for the protection of civilian persons

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<sup>4</sup> See DUNANT, J. H., *A Memory of Solferino*, English translation of *Un Souvenir de Solférino*. Washington, D.C., American National Red Cross, 1939. Available online : <http://www.icrc.org/eng/resources/documents/publication/p0361.htm> (accessed 4 January 2012), and, among others, CHAPONNIERE, C. (2010), *Henry Dunant. La croix d'un homme*, Paris, Perrin.

and objects against hostilities;

- A worldwide campaign in full partnership between Governments, United Nations agencies, the Red Cross and Red Crescent Movement and NGOs stressing the human suffering and socio-economic costs caused by anti-personnel mines, resulted in the total ban on anti- personnel landmines signed in Ottawa on 4 December 1997;<sup>5</sup>

- A similar worldwide coalition brought about the adoption of the International Criminal Court Statute in Rome in 1998.<sup>6</sup>

#### 4. Contemporary Developments

Humanitarian diplomacy has undergone tremendous development since the end of the Second World War, in particular with the growing role of the International Committee of the Red Cross (ICRC), humanitarian and human rights NGOs, alongside the mobilization of civil society, on national and international levels.

Did the events that took place on September 11, 2001, reverse these gains made by humanitarian diplomacy? It is high time that the merits of humanitarian diplomacy were recognized, including its crucial role in international humanitarian law, and its essential relation to international security. Humanitarian diplomacy aims, through the representatives of Governments, international organizations, humanitarian organizations, as well as NGOs and actors within civil society, to defend human life and dignity in those places where it is under greatest threat.

The **ICRC, Doctors without Borders (MSF), Human Rights NGOs (such as Human Rights Watch and Amnesty International) and Coalitions of NGOs** (such as the NGO Coalition for the International Criminal Court, which contributed significantly to the adoption of the Rome Statute in 1998), the “Geneva Call”, international personalities (“Goodwill Ambassadors”), and members of local civil society, all partake in humanitarian diplomacy.

The **Order of Malta** is an interesting example. It maintains bilateral diplomatic relations with more than a hundred countries, has an observer status with the United Nations and other international organizations, which allow it to conduct humanitarian diplomacy on a bilateral and multilateral level.<sup>7</sup>

#### 5. Legal Contexts

Legally speaking, humanitarian diplomacy can take place in two main cases:

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<sup>5</sup> See ANDERSON, K. (2000) “The Ottawa Convention Banning Landmines, the Role of International Non- Governmental Organizations and the Idea of International Civil Society”, EJIL, Vol. 11, No. 1, full text available <http://ejil.oxfordjournals.org/content/11/1/91.abstract> (accessed 4 January 2012).

<sup>6</sup> The Coalition for the International Criminal Court. See <http://www.iccnw.org/> (last accessed 31/10/2011).

<sup>7</sup> See the official website of the Sovereign Military Hospitaller Order of St. John of Jerusalem, of Rhodes and of Malta (Order of Malta) : [www.orderofmalta.int](http://www.orderofmalta.int) and especially the pages on « Diplomatic Relations » ( Bilateral and multilateral relations ).

**(1) Natural disasters:** in time of peace, domestic law, and human rights law,<sup>8</sup> are applicable. The International Federation of the Red Cross and Red Crescent Societies (IFRC) has over the past years been developing an “*International Disaster Response Laws, Rules and Principles Programme*” (IDRL) which could eventually improve the efficiency of aid distribution.<sup>9</sup>

**(2) Armed conflicts:** during international armed conflicts, IHL bestows upon the ICRC the right to access to victims, in particular to civilians (Fourth Geneva Convention) and prisoners of war (Third Geneva Convention). According to Common Article 3, during non-international armed conflicts, humanitarian actors can only offer their services.

Humanitarian diplomacy negotiators will need to clarify which legal instruments are applicable in each given situation. Additionally, there is a need to analyze which mechanisms would be able to declare applicable law,<sup>10</sup> as well as identify which implementing mechanisms are operational on the ground.<sup>11</sup> The following check-list could be useful:

- *Type(s) of conflict(s)* : is this an international armed conflict ? or a non-international armed conflict ? or a combination of both ? Are there different phases in the conflict?

- *Parties to the conflict* : are there one or more Governments involved?  
Are there other parties to the conflict ?

- *Applicable legal provisions of IHL* : which rules (written or customary) are applicable : the 1949 Geneva Conventions? All four or only one of them? Common Article 3 to the 1949 Geneva Conventions? Additional Protocol I or II of 1977?

- *Applicable legal provisions of universal, regional Human Rights Law?*

- *Applicable legal provisions of Refugee Law?*

- *Applicable domestic legislation?*

- *Which other standards could apply: local customs, codes of conduct, ethics or spiritual values, etc.?*

- *Are there mechanisms declaring which law is applicable: on the national, regional, universal level?*

- *Are there mechanisms implementing IHL, Human Rights, and Refugee Law on the ground or more remotely?*

## **6. Modalities of Operation**

The modes of operation of humanitarian diplomacy are various and often context-

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<sup>8</sup> Universal as well as regional instruments and mechanisms of implementation of Human Rights.

<sup>9</sup> See <http://www.ifrc.org/what-we-do/idrl/> (last accessed 4 January 2012).

<sup>10</sup> On the national (e.g. the Supreme Court of Russia on the applicability of Additional Protocol II to Chechnya), regional (e.g. the Council of Europe on the same situation) or universal level (such as the UN Security Council, General Assembly or Human Rights Council).

<sup>11</sup> For example the ICRC and domestic implementation mechanisms (courts, tribunals, etc.), Red Cross and Red Crescent National Societies, local and international humanitarian organizations.

specific. They include:

- (1) *direct contact* with the relevant political and military actors,
- (2) *indirect contact* through intermediaries,
- (3) *contact in the field* where humanitarian operations are under way, or at respective headquarters (Geneva,<sup>12</sup> New York, Paris, Rome, Brussels),
- (4) through the use of *traditional (theatre, story telling) and modern modes of telecommunication (television, radio, Internet, etc.)*.

Communication throughout these processes of humanitarian diplomacy can be in the form of *discrete negotiation* or *public denunciation* (or a combination of these).

## 7. Actors involved in humanitarian diplomacy

(1) *Governments* play a fundamental role. All States Party to the Geneva Conventions have a “double” responsibility to respect the conventions and to ensure that all other States Party do likewise. The European Union is an interesting example of how a supra-state entity can exert a significant influence upon its Member States, and also other regional organizations, with regards to promoting the respect of the 1949 Geneva Conventions.<sup>13</sup>

The *States Party to the 1949 Geneva Conventions* undertake to “*respect and ensure respect*” for the Conventions in all circumstances.”<sup>14</sup> “*Respect*” clearly refers to each State’s individual obligation to apply it in good faith from the moment that it enters into force.<sup>15</sup> “*To ensure respect*”, according to the ICRC Commentary to the 1949 Conventions, “demands in fact that the States which are Parties to it should not be content merely to apply its provisions themselves, but should do everything in their power to ensure that it is respected universally.”<sup>16</sup> This collective responsibility to

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<sup>12</sup> See VEUTHEY, M. (2007), “Genève, carrefour de la diplomatie multilatérale, formelle et informelle” *Refugee Survey Quarterly*, 26 (4), p.155-162.

<sup>13</sup> See the ‘European Union Guidelines on promoting compliance with international humanitarian law (IHL): (2005/C 327/04),’ *Official Journal of the European Union*, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2005:327:0004:0007:EN:PDF> (accessed 4 January 2012) and FERRARO, T. (2002) “Le droit international humanitaire dans la politique étrangère et de sécurité commune de l’Union européenne”, *Revue Internationale de la Croix-Rouge*, 30, p.435-461, available at <http://www.icrc.org/fre/resources/documents/misc/5fzjhh.htm> (last accessed 4 January 2012).

<sup>14</sup> Common Article 1 to the 1949 Geneva Conventions.

<sup>15</sup> ICRC Commentary on the Additional Protocols, Geneva, ICRC, 1987, p. 35, para. 39.

<sup>16</sup> ICRC Commentary to the Third Geneva Convention of 1949, Geneva, ICRC, 1950, p. 18 (Art. 1). See CONDORELLI, L., BOISSON DE CHAZOURNES, L. (1984), “Quelques remarques à propos de l’obligation des Etats de ‘respecter et faire respecter’ le droit international humanitaire ‘en toutes circonstances’”, in SWINARSKI, C. (Ed.), *Studies and essays on international humanitarian law and Red Cross principles*, Geneva, ICRC, p. 17-35; PALWANKAR, U. (1994), “Measures available to States for fulfilling their obligation to ensure respect for international humanitarian law” *International Review of the Red Cross*, no. 298, p. 9-25; BOISSON DE CHAZOURNES, L., CONDORELLI, L. (2000), “Common Article 1 of the Geneva Conventions revisited: Protecting collective interests”,

implement international humanitarian rules<sup>17</sup> often takes the form of bilateral or multilateral measures by States Party. In addition to the exceptional *Meeting of the High Contracting Parties* provided for in Article 7 of Protocol I of 1977,<sup>18</sup> States Party to international humanitarian law treaties have used bilateral or multilateral meetings, at the United Nations, the Non-Aligned Movement (NAM), regional organizations such as the Organization of American States (OAS), the African Union (AU), the Organization for Security and Co-operation in Europe (OSCE), the European Parliament, the Council of Europe, as well as the Inter-Parliamentary Union (IPU), to manifest their concerns about the respect for humanitarian law.<sup>19</sup> “*In all circumstances*” means taking preventive steps in the form of training<sup>20</sup> or evaluation,<sup>21</sup> and prosecution, in time of armed conflict as well as in time of peace<sup>22</sup>.

**(2)** The Order of Malta provides an interesting example. The Order holds diplomatic relations with 104 Governments, most of them non-Catholic. These diplomatic relations facilitate humanitarian projects of the Order:

“The diplomatic activities of the Order are closely linked to its humanitarian mission: the presence of accredited diplomatic missions in more than 100 countries of the world supports the activities of the Order. In the international political field, the Order of Malta is neutral, impartial and non-political. Because of these characteristics, the Order can act as a mediator whenever a State requests its intervention to settle a dispute.”<sup>23</sup>

On the multilateral level, the Order of Malta has relations at Ambassador level with the European Commission in Brussels. It has Permanent Observer Missions to the United Nations and its specialized agencies in New York, Geneva, Vienna, Bangkok, Nairobi, Paris, and Rome. It has representations to other international organizations

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*International Review of the Red Cross*, Vol. 82, no. 837, p. 67-87.

<sup>17</sup> The 1949 Geneva Conventions as well as Additional Protocol I, for the States Party to this Protocol. See the ICRC Commentary on the Protocols, in particular Art. 1 of Protocol I, p. 35-38.

<sup>18</sup> Article 7 (“Meetings”): “The depositary of this Protocol [Switzerland] shall convene a meeting of the High Contracting Parties, at the request of one or more of the said Parties and upon the approval of the majority of the said Parties, to consider general problems concerning the application of the Conventions and of the Protocol”. Such a meeting was convened by Switzerland on 5 December 2001 in Geneva (“Conference of the High Contracting Parties to the Fourth Geneva Convention”).

<sup>19</sup> ICRC Commentary on the Additional Protocols, p. 36, para. 43.

<sup>20</sup> Training is an obligation according to the four 1949 Geneva Conventions. Article 47 of the First Convention states the following: “The High Contracting Parties undertake, in time of peace as in time of war, to disseminate the text of the present Convention as widely as possible in their respective countries, and, in particular, to include the study thereof in their programmes of military and, if possible, civil instruction, so that the principles thereof become known to the entire population, in particular to the armed fighting forces, the medical personnel and the chaplains.”

<sup>21</sup> Article 36 (“New Weapons”) of Protocol I reads as follows: “In the study, development, acquisition or adoption of a new weapon, means or method of warfare, a High Contracting Party is under an obligation to determine whether its employment would, in some or all circumstances, be prohibited by this Protocol or by any other rule of international law applicable to the High Contracting Party.”

<sup>22</sup> The four 1949 Conventions contain common provisions on the “Repression of Abuses and Infractions”: First Convention: Articles 49-5; Second Convention: Articles 50-52; Third Convention Articles 129-131; Fourth Convention: Articles 146-148. Article 85 of Additional Protocol I reaffirms those provisions, adds a few acts to be considered as grave breaches (specially attacks against civilians and civilian objects), and classifies grave breaches of the 1949 Conventions and Protocol I as war crimes.

<sup>23</sup> See <http://www.orderofmalta.int/diplomatic-relations/862/sovereign-order-of-malta-bilateral-relations/?lang=en>

in Brussels, Geneva, Rome, San Domingo, Strasbourg, Washington D.C.<sup>24</sup>

The Order of Malta organized with the French Navy (“*Marine Nationale*”) at UNESCO headquarters in Paris in January 2011 a conference to discuss the new challenges of humanitarian diplomacy.<sup>25</sup> Participants representing Governments (diplomats, senior military officers and civil servants), international organizations, the International Committee of the Red Cross (ICRC), NGOs, and civil society discussed how to use an “operational humanitarian diplomacy” in order to improve humanitarian action. According to the Grand Chancellor of the Order of Malta and the Chief of Staff of the French Navy the objective of the conference was to “define the practices and courses of action to be implemented by the various actors in the theatre of operations and delineate the aims and ethics of these types of deployment”.<sup>26</sup>

The 2011 Paris conference reaffirmed the specific diplomatic and humanitarian role of the Order of Malta, as well as its willingness to cooperate with Governments, international organizations, the ICRC, and with civil society, especially local civil society.

The Order of Malta participated in nearly all Diplomatic Conferences on humanitarian law.<sup>27</sup> In 1927, the Order participated in the Diplomatic Conference convened by the League of Nations to establish an « International Relief Union » (IRU).<sup>28</sup> The Order made its sanitary services available for the IRU.<sup>29</sup>

The Final Act of the 1929 Diplomatic Conference states that

“In view of a request by the Sovereign and Military Order of the Hospitallers of St. John of Jerusalem, called the Order of Malta, the Conference considers that the provisions laid down by the Geneva Convention governing the position of Aid Societies with armies in the field are applicable to the national organizations of this Order. The same applies as regards the Grand Priory of St. John of Jerusalem in England, the Orders of St. John (Johanniter) and of St. George in Germany, and similar nursing Orders in all countries. »<sup>30</sup>

During the Diplomatic Conference on Reaffirmation and Development of Humanitarian Law (Geneva, 1974-1977), the Order of Malta declared that it was prepared to assume a mandate of a substitute of a Protecting Power according to the 1949 Geneva Conventions and Additional Protocol I of 1977.<sup>31</sup>

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<sup>24</sup> See <http://www.orderofmalta.int/diplomatic-relations/755/multilateral-relations/?lang=en>

<sup>25</sup> See [www.diplomatiehumanitaire.org](http://www.diplomatiehumanitaire.org) (« Diplomatie humanitaire et gestion des crises internationales »)

<sup>26</sup> [www.diplomatiehumanitaire.org/documents/cosignedgb.pdf](http://www.diplomatiehumanitaire.org/documents/cosignedgb.pdf)

<sup>27</sup> B at de FISCHER, « L’Ordre Souverain de Malte », *Recueil des cours*, 1979, II, p. 23, underlines that the Order of Malta did not participate in the 1864 Conference, which adopted the First Geneva Convention, but in the 1869 Berlin Conference of Red Cross National Societies, in all International Conferences of the Red Cross, as well as in the 1974-1977 Diplomatic Conference which adopted both Additional Protocols to the 1949 Geneva Conventions.

<sup>28</sup> Convention signed at Geneva in 1927 establishing an International Relief Union (« Union internationale de Secours »). See the original French text: [www.admin.ch/ch/f/rs/0\\_854\\_0/index.html](http://www.admin.ch/ch/f/rs/0_854_0/index.html)

<sup>29</sup> B. de FISCHER, *loc. cit.* p. 26

<sup>30</sup> <http://www.icrc.org/ihl.nsf/FULL/295?OpenDocument>

<sup>31</sup> See the ICRC Commentary to Article 5 of Additional Protocol I, which refers to Official Records of the Diplomatic Conference VII, p. 317, CDDH/SR.58, paras. 185-187, and notification by the depositary (Switzerland) of 2 May 1980.

On the bilateral level, the Order of Malta has concluded agreements of cooperation with many Governments : among the most recent ones, the Memorandum of understanding with Chile<sup>32</sup> and the international cooperation agreement with Hungary.<sup>33</sup>

Following its historic mission to help the sick, the needy and the most disadvantaged in society, the Order of Malta continues its work today, operating in more than 120 countries.<sup>34</sup>

The Order's neutrality and its impartial and non-political nature make relief actions possible in situations where access by other organizations is difficult. The Order's diplomatic representatives give much valued support in the countries concerned, in contacts with Governments as well with Non-State actors in countries such as the Democratic Republic of Congo or in Lebanon.<sup>35</sup>

Humanitarian relief for the victims of natural disasters or armed conflicts is one of the Order of Malta's traditional tasks. It was taken up again in the mid nineteenth century

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<http://www.icrc.org/ihl.nsf/COM/470-750008?OpenDocument> . Also see B. de FISCHER, *loc. cit.* p. 27, and Erich KUSSBACH, « Der Malteserorden vor neuen Aufgaben im Bereich des humanitären Völkerrechtes. » *Annales de l'Ordre Souverain Militaire de Malte*. Rome, 1977, vol. 35, n°1-2, pp. 25-29

<sup>32</sup> During the official visit of the Order of Malta's Grand Master, Fra' Matthew Festing, a memorandum of understanding was signed (Santiago, 9 November 2011) with the Chilean government for an international humanitarian network to coordinate activities during natural disasters. The agreement defines the coordination between the Order, the Chilean Foreign Ministry and National Office for Emergencies (Onemi). See: <http://www.orderofmalta.int/news/54990/the-order-of-malta-signs-an-agreement-with-chile-for-humanitarian-aid-during-natural-disasters/?lang=en>

<sup>33</sup> On 9 March Fra' Matthew Festing, Grand Master of the Order of Malta, received the Deputy Prime Minister of the Hungarian Republic Zsolt Semjén in the Magistral Palace in Rome. During the meeting there was an exchange of ratification instruments for the international cooperation agreement between the Republic of Hungary and the Sovereign Military Order of Malta signed in Budapest on 3 November 2010. This agreement, ratified with a large majority by the Hungarian Parliament on 29 November, strengthens the Order's healthcare, welfare and humanitarian services in Hungary. The form and content of the interstate agreement – binding at international level – respects the Vienna Convention on the Law of Treaties. The Republic of Hungary and the Hungarian government undertake to promote the Sovereign Order of Malta's relief corps' work in Hungary (article 4), guarantee their financial backing (article 5) and other means of support (article 6), including protection against third parties' abuse of the Order of Malta's flag and coat-of-arms (article 6, comma 2). It also grants customs and tax exemption for importing goods (article 7), as well as freedom of movement inside the Hungarian territory (article 8). See: <http://www.orderofmalta.int/news/46535/international-cooperation-agreement-between-hungary-and-the-order-of-malta/?lang=en>

<sup>34</sup> Its programmes include medical and social assistance, disaster relief in the case of armed conflicts and natural catastrophes, emergency services and first aid corps, help for the elderly, the handicapped and children in need and the provision of first aid training, and support for refugees and internally displaced persons regardless of race, origin or religion. The Order of Malta has been operating with this impartial perspective for over 900 years, caring for people of all beliefs – Muslim, Orthodox, Catholic, Protestant, Jewish. See: <http://www.orderofmalta.int/medical-and-humanitarian-activities/55/the-mission-to-help-the-sick-and-the-needy/?lang=en>

<sup>35</sup> From the start of this century, the Order of Malta carried out refugee relief in Afghanistan (2001-2007); refugee aid in the Democratic Republic of Congo (2003); earthquake aid and reconstruction aid in Bam, Iran (2004); refugee relief in Darfur, Sudan (2004); tsunami relief in South- and South-East Asia (2005); help to the starving populations of Niger and Mali (2005); aid for hurricane victims, New Orleans, USA (2005); help for earthquake victims, Pakistan (2005); medical assistance for earthquake victims Java, Indonesia (2006); relief for earthquake victims in Peru (2007), emergency aid after the flooding in the Mexican state of Tabasco (2007), humanitarian relief after the cyclone in Myanmar (2008), emergency relief measures for earthquake in Haiti and Chile (2010). See: <http://www.orderofmalta.int/medical-and-humanitarian-activities/124/humanitarian-emergency-relief/?lang=en>



and carried out during the First and Second World Wars. In the second half of the twentieth century these commitments increased. Over the last fifty years, the Order's main relief actions have been: relief for refugees during the Hungarian crisis in 1956; setting up and running a field hospital during the Vietnam war; relief service in Thailand over many years; medical assistance during the civil wars in Lebanon and El Salvador; refugee relief during the Kurd crisis; refugee relief in the Great Lakes district of Africa; various extensive actions during the Balkan crisis (1999); earthquake relief in Italy in the late 1970s in 1997 and 2009; El Salvador in 2000; repeated flood and hurricane catastrophe relief in the Ukraine, Hungary and Romania, in Honduras and in Poland.

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**(3) The ICRC**, with its unique legal status, is an “*impartial humanitarian body*” that offers its services to all parties of conflicts, and aims to protect and assist war victims.

The *International Committee of the Red Cross (ICRC)* was mandated by the international community (through the 1949 Geneva Conventions) to:

- visit and interview prisoners of war<sup>37</sup> and civilian internees;<sup>38</sup>
- provide relief to the population of occupied territories;<sup>39</sup>
- search for missing persons and to forward family messages to prisoners of war<sup>40</sup> and civilians;<sup>41</sup>
- offer its good offices to facilitate the institution of hospital zones<sup>42</sup> and safety zones;<sup>43</sup>
- receive applications from protected persons ;<sup>44</sup>
- offer its services in other situations<sup>45</sup> and especially in time of non-international

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<sup>36</sup> See <http://www.orderofmalta.int/medical-and-humanitarian-activities/124/humanitarian-emergency-relief/?lang=en>

<sup>37</sup> Third Geneva Convention (1949), Article 126.

<sup>38</sup> Fourth Geneva Convention (1949), Article 143.

<sup>39</sup> *ibid*, Articles 59 and 61.

<sup>40</sup> Third Geneva Convention (1949), Article 123.

<sup>41</sup> Fourth Geneva Convention (1949), Article 140.

<sup>42</sup> First Geneva Convention (1949), Article 23.

<sup>43</sup> Fourth Geneva Convention, Article 14.

<sup>44</sup> *ibid*, Article 30.

<sup>45</sup> Article 9 of the First, Second and Third Geneva Conventions and Article 10 of the Fourth Geneva Convention.

armed conflicts.<sup>46</sup>

(4) *Doctors without Borders (MSF)* systematically bear witness to the plight of the people they assist.<sup>47</sup> They stand by the victims in solidarity, acting in a manner that assists them as much as possible by raising awareness about their situation.

(5) *Other humanitarian and human rights NGOs*, as well as coalitions of NGOs (sometimes including Governments and IOs).<sup>48</sup>

(6) *International personalities*, as “Goodwill Ambassadors”.

(7) *Members of local civil society*, who often partake in both «track one diplomacy» and “track two diplomacy”.<sup>49</sup>

## 8. Limitations

The limitations of humanitarian diplomacy include the risk of

(a) this form of diplomacy being *manipulated* by certain actors who are pursuing their Government’s (or another entity’s) political interests,

(b) being negatively influenced by the media, causing perhaps *some humanitarian crises to be “forgotten”*,

(c) *institutional interests* coming before the actual interests of the victims of a humanitarian crises.

(d) *cultural misunderstandings*,

(e) human error (« The Human Factor »)

(f) serious security concerns for staff,<sup>50</sup> population and parties to the conflict alike;

(g) lack of confidentiality due to media exposure, in times when confidentiality is necessary for negotiations to proceed effectively.

## 9. Conclusions and Proposals

A major factor that could improve the quality of humanitarian diplomacy would be to do further multi-disciplinary *research* and to

- *train the actors involved in humanitarian diplomacy in international humanitarian law, refugee law, as well informing these actors of the rights of IDPs and migrants.*

Moreover, a “best practices of humanitarian diplomacy” training course with the participation of both academics and practitioners could prove to be a very useful;

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<sup>46</sup> Common Article 3 to the 1949 Conventions.

<sup>47</sup> See the Nobel Prize Acceptance Speech delivered in Oslo on December 10, 1999, by Dr. James ORBINSKI, then President of the MSF International Council. Available at <http://www.doctorswithoutborders.org/publications/article.cfm?id=708&cat=speech> (accessed 31/10/2011).

<sup>48</sup> See [http://nobelprize.org/nobel\\_prizes/peace/laureates/1997/williams-lecture.html](http://nobelprize.org/nobel_prizes/peace/laureates/1997/williams-lecture.html) (accessed 31/10/2011)

<sup>49</sup> See [http://www.beyondintractability.org/essay/track2\\_diplomacy/](http://www.beyondintractability.org/essay/track2_diplomacy/) (accessed 31/10/2011)

<sup>50</sup> See KRAEHENBUEHL, P. (2004), “The ICRC’s approach to contemporary security challenges: a future for independent and neutral humanitarian action”, *International Review of the Red Cross*, Vol. 86, no. 855, p. 505-514.

- *publish manuals or best practices guides that focus on humanitarian diplomacy.*  
Another useful innovation would be to

- *develop more platforms on which informal humanitarian dialogue can take place,* such as Chatham House and the San Remo International Institute of Humanitarian Law.

Humanitarian diplomacy is *not a privilege* that is given to humanitarian organisations or to well-intentioned individuals. Rather, it is *an urgent and pressing necessity* for

- first and foremost for the *victims* of conflict,
- secondly for the *parties* to the conflicts, in dire need for a dialogue,
- thirdly for the *international community*, in order to protect human life and dignity, and promote its security, at the national and international level.

Humanitarian diplomacy could ultimately contribute<sup>51</sup> to the reaffirmation of a common core of human values, in discovering what makes them universal beyond cultural differences:

- The right to life
- The right to personal security and religious freedom
- The right to family life
- The right to health care, adequate nutrition and shelter
- The principle of non-discrimination
- The prohibition of torture, inhuman or degrading treatment or punishment.

In the words of Martin Luther King, *“Either we live together as brothers, or we perish as fools »*.<sup>52</sup>

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<sup>51</sup> Through a multi-stakeholder network, in a partnership between States and Non-State Actors, such as the « International Coalition to Ban Landmines ». See the acceptance speech by Ms. Jody WILLIAMS:

“It demonstrates that small and middle powers can work together with civil society and address humanitarian concerns with breathtaking speed. It shows that such a partnership is a new kind of “superpower” in the post-Cold War world.”

[http://nobelprize.org/nobel\\_prizes/peace/laureates/1997/williams-lecture.html](http://nobelprize.org/nobel_prizes/peace/laureates/1997/williams-lecture.html) (accessed 31/10/2011).  
See also: [www.stopclustermunitions.org/](http://www.stopclustermunitions.org/) and [www.iccnw.org](http://www.iccnw.org)

<sup>52</sup> Martin Luther KING’s 1963 WMU Speech : <http://www.wmich.edu/library/archives/mlk/excerpts.html> (accessed 31/10/2011).

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