

THE RESPONSABILITY OF HUMANITARIAN ACTORS

A COMPLEX CONCEPT IN A NUTSHELL

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The word « Responsibility » is one of the strongest word in the French language. It encompasses legal, moral and ethical connotations. There is only one world in French, while in English three words exist to described the various facets of this world : liability, accountability and responsibility.

1. VIS-A-VIS INTERNATIONAL HUMANITARIAN LAW

Legal : Responsibility contains a reference to obligations to fulfil certain tasks according to established laws and rights. This can go up to the concept of "redress" or condemnation in case these obligations are not fulfil.

Breach of IHL : The respect of IHL is based on the responsibility of States, Command chains and individual armed personnel. The responsibility of States or armed personal can be therefore the source of a legal condemnation if IHL has been breached.

Responsibility of humanitarian organisation and staff is not envisaged in IHL through a penal angle. It is nevertheless clear in IHL that humanitarian actors have responsibilities :

- As humanitarian actors, they have to respect IHL and its principles (especially impartiality, independence,)
- as witnesses of war crimes. Humanitarian actors have a role in reporting to the ad-hoc levels;
- as an operator in relief operations : they should ensure the best response to the needs.

2. MANAGERIAL RESPONSIBILITY: VIS-A-VIS NATIONAL LAWS

As a channel of resources from States and individual donors, the humanitarian actors have also a set of responsibilities which in most cases are grounded into their national legal framework. This includes :

- legal responsibility for the management of funds;
- legal responsibility vis-à-vis their staff;
- contractual responsibility in the implementation of projects when contractual agreements have been signed (including the respect of stated objectives, budget lines, and timeframe)

Here, liability is the most useful concept. Yet, people can be guilty (coupable) in the case of a dishonest behaviour or responsible (responsable) of the failure of something.

3. OBLIGATION OF MEANS , OBLIGATION OF RESULTS

The debate on "obligation de moyens ou obligation de resultats" is deeply grounded in the medical sector. In this field indeed, Medical personal is responsible for the quality of its diagnosis, for the mobilisation of the resources but cannot be held responsible if, in the absence of error and in respect of the existing status of knowledge, the treatment fails.

The current trend of "juridiciarisation" of the societies following a North American tendency puts much of the focus on the "obligation of results". The humanitarian actors are worried that this trend, through the extension of the concept of "responsibility" towards "liability", will lead to a distorted process. The NGO are ready to assume full responsibility as defined by "the obligation of means". Yet, in the complexity of humanitarian action in turbulent, often dangerous and manipulated situations, they cannot be held responsible for their results : too many factors are mingling in the operations and prevent even the best resourced and most professionally designed operation to succeed.

4. AT THE END OF THE DOUBLE RESPONSIBILITY : THE QUALITY OF ACTION

Responsibility, accountability, liability. All these concepts can be useful in reference to various elements of the "humanitarian chain" between an lucky individual from a rich country (donor) to a affected population (beneficiaries). Yet, if the issue of concerns is "what happens at the end of the chain", how can these concepts be operationalized ?

This is were "the search of and struggle for quality" come in. The search of quality is first the result of our responsibility to support the affected population in the most appropriate way. The phrasing here is important and it is purposely that the sentence is not "to deliver the best quality assistance". But the donors and the tax payers have also a similar view : the money they make available to the humanitarian actors is aimed at having the best possible impact. This includes first the recognition of the appropriateness, effectiveness and efficiency of the programmes. And second comes the "reporting and financial accountability". There is currently a negative trend : it puts the elements of the responsibility related to accountability and liability above the issues of impact. "Being good at doing good" ends up to "being good at respecting contracts". Beneficiaries do not count anymore.

It is in this precept of "doing right the right thing" that the moral, professional and ethical connotations of responsibility meet the issues of quality.