The “Phantom Local” and the Everyday Distinction Practices of Humanitarian Actors in War: A Socio-Legal Perspective

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ABSTRACT
This article is concerned the everyday practices of international humanitarian actors who deliver assistance in armed conflict zones. Drawing on original fieldwork conducted in South Sudan, it elucidates how humanitarian actors engage with the principle of distinction in international humanitarian law (IHL). The article considers how the desire to enforce distinction impacts humanitarian actors’ relationships with others, and introduces the concept of everyday distinction practices. These practices have an important performance component, designed to appease the “phantom local.” It is proposed that such practices may have adverse implications for the humanitarian–beneﬁciary encounter. By positioning war-affected populations as an audience for distinction, everyday distinction practices reconﬁgure the victims of war from being receivers of aid to perceivers of aid. By lumping beneﬁciaries together with armed actors as part of the “phantom local,” distinction practices also paint the victims of war as an object of mistrust, fear, and potential danger.

Introduction
This article engages with the everyday practices of international humanitarian actors who deliver assistance in conﬂict zones. A burgeoning literature attests to the productivity of thinking about the day-to-day activities of international actors who operate in war and other emergencies.1 What is missing at this juncture, however, is in-depth scrutiny of the role that law plays in this type of everyday humanitarianism. There is a need to make sense of how law shapes, and is shaped by, the relationships and interactions of different kinds of actors who are present in armed conﬂicts.

Grounded in the socio-legal tradition, the article explores how humanitarian actors engage with the principle of distinction in international humanitarian law (IHL). The principle of distinction delineates the difference between the civilian and the combatant entities; it stipulates that only military objectives may be


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legitimately targeted in war. To assert their distinct civilian status, international humanitarian actors engage in everyday distinction practices that implicate others in the operational space. When humanitarian actors enact these routinized practices, they seek to distinguish themselves from other international actors and to be seen to distinguish themselves. Their performance of distinction is guided by the ascribed perceptions of a composite observer, the “phantom local.” This imaginary figure merges three kinds of local actors: beneficiaries, authorities, and armed actors.

The article opens by articulating the need to bridge the study of everyday humanitarianism with the study of law in everyday life. Next, it demonstrates what such an approach might look like, applying a socio-legal lens to the everyday distinction practices of international humanitarian actors. To give a flavor of how these practices are enacted in conflict zones, reference is made to original fieldwork on humanitarian practice in South Sudan. After considering how distinction shapes the interactions of international actors, the article contemplates implications for the humanitarian–beneficiary encounter. Two concerns are articulated in this respect. First, as war-affected populations are made into an audience for distinction, they are reconfigured from being receivers of aid to perceivers of aid. A fixation on how beneficiaries perceive humanitarian actors supplants a concern for what the victims of war need – never mind what they feel, prefer, and desire more broadly. Second, because the “phantom local” lumps beneficiaries together with those who would harm humanitarian actors, it establishes war-affected populations as an object of mistrust and fear.

Everyday Humanitarianism Meets Everyday Law

This opening section of the article makes the case for attending to the legal dimensions of everyday humanitarianism. As a starting point, what is needed is better cross-fertilization across academic disciplines and bodies of literature. At this juncture, the rich insights of the literature on humanitarianism have not permeated, nor been infused by, international legal scholarship that addresses humanitarianism and war. This is to say that the “humanitarian imaginary” and the “international legal imagination” have yet to be brought into robust and meaningful conversation. The type of analysis being proposed here requires a genuinely interdisciplinary approach, one that puts humanitarianism and law on equal footing. This article proposes that humanitarianism is amenable to this kind of bridging, and that socio-legal approaches offer a way forward on the legal aspect of the inquiry. A fruitful contact point for these two fields of study is the concept of the everyday.

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2 Fieldwork was conducted in August and September 2015 in South Sudan. One-hundred and thirteen interviews were conducted in and around Protection of Civilians (PoC) sites in the capital Juba, in Central Equatoria state; Bor, in Jonglei State; and Bentiu, in Unity State.


Conceptually, theoretically, and practically, humanitarianism invites interdisciplinary study; it traverses physical as well as disciplinary boundaries. Numerous individual disciplines have generated contributions to the field of humanitarian studies, including anthropology and sociology, political science, and international relations. In a corner of the wider literature on humanitarianism, one finds a more specific engagement with everyday humanitarianism. What unites the eclectic offerings on the everyday is the grounded approach taken to the object of study. The humanitarianism investigated in this literature is akin to what De Waal terms “actually existing humanitarianism.” This article contends that the everyday gaze should be trained not only on peaceful or disaster-affected settings, but also on conflict zone humanitarianism. In these fraught contexts, international legal rules, norms, and high-level policies interact with the pressures of day-to-day operations. Without an appreciation for the nuances of operational practice, our understanding of the nature and impact of international interventions in war is incomplete.

Relatively speaking, scholars of international law have been slow to embark on a comprehensively interdisciplinary engagement with humanitarianism. Where IHL scholars have taken up the issue of humanitarianism, a doctrinal and normative approach to law predominates. This can be explained in part by the need to clarify IHL’s application to issues such as state consent for humanitarian activities, humanitarian access to beneficiaries, and the deliberate targeting of humanitarian actors by violent actors. Without denying the pressing nature of such concerns, much could also be learned from a (critical) socio-legal approach to the theory and practice of humanitarianism.

To take a socio-legal approach to the study of law is to embark on a bottom-up examination of legal rules and their implementation. The socio-legal scholar evinces a curiosity for how legal rules work in practice; she explores how a given actor perceives, understands, experiences, uses, and perhaps avoids law. By centering actual practice, it is possible to discover how individuals might engage with law in unexpected ways. In parallel to the literature on humanitarianism, a dedicated corner of the socio-legal

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13On the need for a legal sociology of humanitarianism see Lohne and Sandvik, “Legal Sociology of Humanitarianism.”
literature grapples with the everyday. The study of law in everyday life accounts for law’s instrumental as well as its constitutive aspects. This recognizes that law is shaped by how actors use it, at the same time as law’s constitutive power delimits how actors may employ it. In the case of IHL’s principle of distinction, the civilian and combatant categories shape international actors. These legal categories are, in turn, impacted by how actors self-conceptualize as civilians or combatants. This introduces an important caveat to the approach delineated above, namely that an actor cannot avoid or ignore law entirely. While international humanitarian actors in South Sudan might not cite IHL on a daily basis, their civilian identity shapes how they see themselves and how they organize their affairs. Through their daily interactions with others, humanitarian actors constitute and re-constitute distinction. The relevance of these practices to law might not be obvious on the surface, but they remain valid objects of an inquiry into the “authenticity of dailiness.” As Sarat and Kearns observe, “motives, needs, emotions, anxieties, aspirations that are not entirely fixed by legal meanings or by legal forces operate throughout without totally losing their identity to law.”

The methodological approach elucidated here will now be applied to the everyday distinction practices of humanitarian actors.

Conceptualizing the Everyday Distinction Practices of Humanitarian Actors

This section of the discussion has three parts. First, it contrasts a socio-legal approach with a traditional legal analysis. Second, it conceptualizes the everyday distinction practices of humanitarian actors and defines the relevant field. Third, it highlights an important role for local perceptions and introduces the figure of the “phantom local.”

A Socio-Legal Approach to Distinction

A traditional doctrinal legal analysis would likely commence with the relevant IHL rule. As codified in Article 48 of the First Additional Protocol (AP I) to the Geneva Conventions (GC), the principle of distinction requires Parties to the conflict to distinguish between the civilian population and combatants, and between civilian objects and military objectives. According to this principle, combatants can be legally targeted in war unless they are rendered hors de combat; civilians who are not directly participating in hostilities cannot. Under both GC IV and AP I, the international humanitarian actors who deliver humanitarian assistance in armed conflicts are legally classified as civilians.

17Ibid.
18Ibid., 29, 32.
19Ibid., 55.
20Ibid., 55.
21Ibid.
22Article 48 of Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts, June 8, 1977, 1125 UNTS 3, Can TS 1991 No. 1 (AP I); See also Article 52 of AP I.
24Humanitarian assistance is defined here as the provision humanitarian relief, namely humanitarian and protection assistance involving food, water, sanitation, shelter, health services, as well as humanitarian coordination. Article 71(2) of AP I, supra; UN General Assembly, the Rome Statute of the International Criminal Court, July 17, 1998, ISBN No. 92-9227-227-6, last amended 2010.
So long as they maintain their civilian status and do not participate in hostilities, international law prohibits targeting them directly.\footnote{There is a debate on whether IHL protects humanitarian actors “as civilians” or as “humanitarians.” Compare Helen Durham and Phoebe Wynn-Pope, “Protecting the ‘Helpers’: Humanitarians and Health Care Workers During Times of Armed Conflict,” Yearbook of International Humanitarian Law 14:1 (2011), pp. 327–46 with Larissa Fast, \textit{Aid in Danger: The Perils and Promise of Humanitarianism} (Philadelphia, PA: University of Pennsylvania Press, 2014), p. 197.}

In a traditional legal analysis, one might next examine the conduct of international humanitarian actors—or those who would harm them—through the prism of the civilian–combatant divide. Where a given practice does not align with what the principle of distinction requires, it will be treated as a breach of the law or perhaps as extraneous to the inquiry. As a consequence, all those dynamics that are not cognizable in terms of a civilian–combatant binary are utterly neglected. Tensions between international humanitarian actors and civilians working for the UN peacekeeping mission in South Sudan (UNMISS), for example, would seem irrelevant because they implicate \textit{intracivilian} relationships. The efforts humanitarian actors make to differentiate themselves from other \textit{humanitarian} actors would also appear peripheral to the legal analysis. If such practices are deemed extraneous at the outset, crucial aspects of the legal dimension of everyday humanitarianism might be overlooked.

This is where the value of a socio-legal inquiry comes to the fore—especially one concerned with everyday life. By examining how humanitarian actors enact their vision of distinction in daily practice, this approach generates a very different picture from the one described above. The socio-legal scholar does not fixate on whether the actors of interest are following the law, per se. Instead, the possibility is entertained that the civilian–combatant divide is not the only—or even the most significant—operational division. In South Sudan, international humanitarian actors can be found enacting humanitarian–civilian and humanitarian–humanitarian distinctions on the ground, behaving as though they are law (see Section 2.2.1). The socio-legal scholar probes the implications of these practices, recognizing that humanitarian actors are engaging with, and producing, law on the ground. This is not to say that a given practice must be identified as law to be interesting or worthy of investigation.\footnote{Jean D’Aspremont, “From a Pluralization of International Norm-Making Processes,” in Joost Pauwelyn, Ramses A. Wessel, and Jan Wouters (eds), \textit{Informal International Lawmaking} (Oxford, UK: Oxford University Press, 2012), Chapter 8, p. 194.} Moreover, it is not necessarily the case that every practice uncovered will be deemed desirable as a normative matter. With respect to IHL’s principle of distinction, there may be sound policy reasons for preserving a clear binary distinction that is premised upon an undivided civilian category. Leaving questions about the validity of humanitarian–civilian and humanitarian–humanitarian distinctions for another day, the normative outlook one espouses must not preclude an investigation of actual practice.

The next section will bring everyday humanitarianism more explicitly into the discussion.

\textbf{Conceptualizing Everyday Distinction Practices}

As a starting point, it is helpful to specify the relevant \textit{field}.\footnote{See Pierre Bourdieu, \textit{The Field of Cultural Production} (Cambridge, UK: Cambridge University Press, 1993).} The field is defined here as a relational social space where differently situated international actors come
into contact and struggle over distinction. The relational aspect of this definition merits emphasis. Even when international humanitarian actors are avoiding, excluding, or turning away from others, they are still inextricably bound up with these other actors. Framing these dynamics as a form of disengagement would conceal how contests over distinction shape the relationships in question. Building on this definition of the field, this article introduces the concept of everyday distinction practices. This refers to the day-to-day competent performances international humanitarian actors engage in to operationalize distinction. The present discussion should be situated in a larger conversation about the professionalization of the humanitarian sector. This article suggests that professionalization simultaneously undermines and bolsters distinction; it pushes international actors together and pulls them apart. To begin, the professionalization trend promises to enhance the quality, reliability, accountability, and standardization of humanitarian service delivery. The move to professionalize also has serious implications for how humanitarian actors interact with other international actors.

The next section will consider the fault lines along which distinction is enacted.

Distinction along Multiple Fault Lines

International humanitarian actors make explicit appeals to IHL’s principle of distinction in their high-level public pronouncements. While the civilian–combatant distinction is clearly in play in the statements canvassed here, there are hints of slippage between this and other dyads. Conceptual messiness is thus located at the highest levels of discourse; it is not as though distinction suddenly becomes muddled or confused in the operational context.

28 This departs from other definitions of the humanitarian field by emphasizing IHL and the distinctions between humanitarian and nonhumanitarian actors. See also Lohne and Sandvik, “Legal Sociology of Humanitarianism,” pp. 10–11, 15; Krause, Good Project, p. 6.
29 See also Fast, Aid in Danger, p. 8; Roth, Paradoxes of Aid, p. 91.
Amongst humanitarian actors, the ICRC most consistently grounds the protection of humanitarian actors in IHL. The ICRC states, for example: “the fundamental principle of [IHL] according to which a distinction must always be made between combatants and non-combatants is the cornerstone of the protection afforded to the personnel of humanitarian organizations.”\(^{35}\) As for UN actors, the UN Office for the Coordination of Humanitarian Relief (OCHA)’s *Humanitarian Civil-Military Coordination (CM-Coord) Handbook* provides: “Humanitarian organizations are civilian organizations and unarmed. They rely on the protection provided by IHL and the acceptance of their humanitarian mandate by all parties.”\(^{36}\) OCHA also describes the civilian–military distinction used in CM-Coord as being derived from IHL’s principle of distinction, stipulating that this “specifically refers to the distinction between military and humanitarian actors.” The CM-Coord guidance states that if military and humanitarian actors “carry out similar activities, the distinction between them and their mandates becomes very difficult to maintain, even if humanitarians are not cooperating directly with the military.”\(^{37}\) As for humanitarian NGOs, the Sphere Handbook Humanitarian Charter cites the civilian–combatant distinction in IHL.\(^ {38}\) The Charter refers only to the local civilian population, however, not the status of humanitarian actors as such. The same Charter also affirms the primacy of the humanitarian imperative, which holds that “action should be taken to prevent or alleviate human suffering arising out of disaster or conflict, and that nothing should override this principle.”\(^ {39}\) Individual NGOs also cite the principle of distinction in their public statements. The large NGO, CARE, refers to “distinction” as the central principle guiding its engagement with military actors.\(^ {40}\)

Moving closer now to grounded practice, there are scattered references to distinction in the civil–military guidelines developed specifically for South Sudan. The Humanitarian-UNMISS guidelines stipulate: “As a general rule, to promote distinction between military and humanitarian actors, humanitarian actors should not use UNMISS assets or armed escorts.”\(^ {41}\) The guidance also states that in complex emergencies like South Sudan, “the flexibility to use [Military and Civil Defence Assets] is greatly constrained and the importance of distinction becomes paramount as outlined in international humanitarian law.”\(^ {42}\) This notion that distinction is paramount is in tension with claims about the primacy of the humanitarian imperative, cited in the Humanitarian Charter above. This article proposes that, at least at the textual level, humanitarian actors cultivate ambiguity around the relationship between the principle of distinction and the traditional humanitarian principles—especially the principle of humanity. Notably, the

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35| ICRC Report, “Respect for and Protection of the Personnel of Humanitarian Organizations,” ICRC Resource Centre (September 19, 1998). See also Preamble to the Red Cross Code of Conduct for the International Red Cross and Red Crescent Movement and Non-Governmental Organizations (NGOs) in Disaster Relief, 1996.
37| Ibid.
39| Ibid., 20.
South Sudan guidance nods to the importance of perceptions: “In complex emergencies, the risks to perception of humanitarian assistance, access and acceptance, as well as security of affected people and humanitarian workers must be examined thoroughly.”

As one confronts the realities of daily operational practice, further distinctions emerge more starkly. In South Sudan, everyday distinction practices cut along three fault lines: civilian–combatant, humanitarian–civilian, and humanitarian–humanitarian. The civilian–combatant fault line is the only one that actually corresponds with IHL’s civilian–combatant binary. Under IHL, one would expect civilian humanitarian actors to assert distinction from those international actors who are categorized as combatants—such as NATO soldiers and armed UN peacekeepers. As a matter of everyday practice, however, humanitarian actors are also enacting distinction with other civilian actors. While the humanitarian–civilian distinction departs from IHL’s civilian–combatant binary, this article contends that intra-civilian tensions are of great significance. As a matter of perception, they may also be relevant for targeting. Consider, for example, scenarios where a UN mission—including its civilian component—is not perceived to be neutral in an armed conflict. Proximity to these civilian actors may lead humanitarian actors to fear they will be viewed as legitimate targets. Finally, the humanitarian–humanitarian fault line is the most remote from IHL targeting rules. Nonetheless, as a matter of actual practice, humanitarian actors operating in conflict zones enact distinction with other humanitarian actors. Humanitarian NGOs in South Sudan try to dissociate from UN humanitarian actors whom they view as too enmeshed with the UN peacekeeping mission. Humanitarian NGOs also take steps to assert distinction from each other: they emblazon themselves, their equipment, facilities, and projects with the logos of their respective agencies. Complicating matters, the same humanitarian symbols that are deployed to assert civilian status, are also used for branding and achieving “visibility” for project donors.

For the researcher seeking to identify the motivations underlying everyday distinction practices, it can be difficult to discern whether a particular practice has more to do with marketing or with targeting. One might even argue that the performance of civilian status is itself a form of marketing or advertising.

Whichever fault line they implicate, it will now be shown that everyday distinction practices of humanitarian actors have a significant performance component.

A Performance for the “Phantom Local”

Everyday distinction practices are in large part driven by the attempt to make an impression on a local audience. Even as humanitarian actors invest resources in enacting distinction, they recognize that it is others looking on at international actors who will draw (or not draw) the intended distinctions. This article argues that, in the course of implementing their everyday distinction practices, international humanitarian actors replace the actual

43Ibid.

44Peacekeepers may be categorized as civilians or combatants, depending on a number of factors.

perceptions of local actors with the imputed perceptions of an amorphous local spectator. To capture the way in which humanitarian actors collapse a plurality of local audiences into a composite observer, this article introduces the figure of the “phantom local.” As conceptualized here, this entity embodies armed actors (attacker–perceiver), local authorities (authority–perceiver), and war-affected populations (beneficiary–perceiver). This figure merges those who might use violence against humanitarian actors, those who might impose obstacles to humanitarian action, and those who might not trust humanitarians to deliver appropriate life-saving services.

Turning first to the attacker–perceiver, humanitarian distinction practices are designed to protect humanitarian actors from violence. These practices are accompanied by an array of operational security practices—including acceptance, protection, and deterrence strategies—designed to shield them from physical harm. While the latter measures may go some distance to protect humanitarian actors, Fast observes that they also “help to create a situation in which fear threatens to eclipse the humanitarian imagination.” At the same time, as Slim points out, humanitarian actors have had a difficult time discarding the notion of an “all-powerful, self-sufficient and heroic rescuer.” It is thus a combination of heroism and vulnerability that informs the efforts humanitarian actors make to distance themselves from other international actors. Closely related to the threat of violence, humanitarian actors are also concerned that the authority–perceiver will impede their access to war-affected populations. Depending on the context, it may be state or non-state actors that deny permission to operate, impose visa restrictions, require excessive taxes and tariffs, or install checkpoints that limit movement. The third relevant audience is the beneficiary–perceiver. This entity represents the wider population of war-affected individuals, though only some of these individuals will actually become the beneficiaries of humanitarian programming. To secure the acceptance and trust of populations in need, humanitarian actors exert themselves to convey that they are solely motivated by the humanitarian imperative.

It is important to acknowledge that both individually and collectively, humanitarian actors are intellectually aware that there is no monolithic observer witnessing their every move. The promulgation of the “phantom local” in daily practice coexists alongside dogged attempts by humanitarian practitioners, scholars, and policy-makers to understand the actual views of diverse local actors. Generating definitive

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47On donors and media as audiences, see, for example, Cooley and Ron, “NGO Scramble”; Krause, Good Project, p. 48; Koddenbrock, Practice of Humanitarian Intervention, pp. 56–57.

48Fast, Aid in Danger, p. 3.

49Ibid.


51See also Krause, Good Project, pp. 43–44 (on those who are not served).

findings on whether, when, and how local actors draw distinctions between international actors is enormously challenging. Perceptions of distinction are transient, context-specific, and ever shifting; they depend not only on how a given organization presents itself, but also on the constellation of international actors currently and historically active in the setting in question. Schirch is right to remark that actual local perceptions of distinction would benefit from a stronger evidence base. This article does not attempt to fill this gap, however. Instead, it draws attention to a form of cognitive dissonance that has enormous implications for how humanitarian actors relate to local actors. Whatever humanitarian actors might know to be true about the multiplicity of local actors, this falls by the wayside when they are implementing everyday distinction practices.

Everyday Distinction Practices in South Sudan

This part of the discussion delves further into the original empirical findings from South Sudan. The first part outlines how humanitarian actors deploy international law, humanitarian principles, and signs and symbols to set themselves apart from other international actors. The second part considers how distinction practices implicate war-affected populations.

Three Elements of Everyday Distinction Practices

International humanitarian actors are deeply invested in asserting their civilian status in the course of their daily operations in South Sudan. Three aspects of their distinction practices will now be addressed: appeals to IHL, adherence to the humanitarian principles, and the use of signs and symbols.

Everyday Distinction Practices: International Law

The engagement with distinction in high-level discourse and context-specific guidelines has already been discussed. Turning now to the frontlines of conflict, humanitarian actors in South Sudan do not often cite the GC explicitly. This is not to suggest that IHL is not in play, however. The way humanitarian actors self-conceptualize as civilians has an enormous impact on how they conduct themselves. When humanitarian actors are interacting with other international actors, such as peacekeepers, they often repackaging the concept of distinction into concrete and spatial form. They call for physical separation between actors, and urge UN forces to keep weapons out of humanitarian programming sites.

A few examples from South Sudan will help to illustrate how IHL features in everyday practice. In South Sudan’s Protection of Civilians (PoC) sites, international humanitarian

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56 On cognitive dissonance in humanitarian practice more broadly, see Marriage, Not Breaking the Rules.

57 As noted during field observations in South Sudan.

actors are co-located with the UN mission. One humanitarian actor contends that this blurs the lines between the humanitarian sphere and military approaches to protection; it also confuses the perceptions local actors have of the PoC sites. Despite efforts to construct a separate “humanitarian hub” that lies physically apart from the UN base within the site, a humanitarian actor contends, “you can only separate so much, they are still all together.” One international humanitarian actor describes the PoC sites as a “mélange,” with principled humanitarian actors wanting “to be as far away from the mission as possible.” Another humanitarian actor surmises, “We don’t like the PoC site set-up, being associated with military, but we know that we have no other choice: do we want to reach the people we want to reach?” This last comment again highlights a tension that was noted earlier. In some instances, upholding distinction may clash with the desire to reach populations in need.

Everyday Distinction Practices: Humanitarian Principles

To orient the reader, the four main traditional humanitarian principles will be outlined briefly. First, the principle of humanity denotes that human suffering must be addressed wherever it is found.\(^59\) Second, the principle of neutrality requires that a humanitarian actor “may not take sides in hostilities or engage at any time in controversies of a political, racial, religious or ideological nature.”\(^60\) Third, the principle of impartiality denotes a commitment to focusing on the needs of individuals and the urgency of their distress rather than discriminating on the basis of nationality, race, religious beliefs, class, or political opinion.\(^61\) Finally, the principle of independence holds that it is not permissible for an outside power to influence or make a humanitarian actor deviate from its ideals.\(^62\)

As an institution, the ICRC commits to following the humanitarian principles and the Red Cross Code of Conduct.\(^63\) Hundreds of other humanitarian agencies have espoused the same general commitment, subscribing to a Red Cross meta-narrative.\(^64\) When it comes to interpreting and committing to the humanitarian principles, there is considerable variation amongst humanitarian actors.\(^65\) This is the case even at the most abstract or rhetorical level.\(^66\) Bracketing the variation amongst humanitarian actors for now, a key feature of the humanitarian principles is that they are not—at least in theory—available to nonhumanitarian actors. Claiming adherence to the humanitarian principles thus offers

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\(^61\) IFRC, available online at: [http://www.ifrc.org/en/who-we-are/vision-and-mission/the-seven-fundamental-principles/impartiality/](http://www.ifrc.org/en/who-we-are/vision-and-mission/the-seven-fundamental-principles/impartiality/). See also Article 70(1) of AP I; Article 18(2) of AP II.


\(^66\) Discussed also in Koddenbrock, Practice of Humanitarian Intervention, pp. 57, 63.
humanitarian actors a way to set themselves apart. The principles have been described as a “distancing discourse” that enables the defense of boundaries, and the “long spoon” used to avoid “getting eaten, or corrupted” by other actors. There are evident limits to such separation in practice, of course. However strong the link between independence and autonomy may be, some degree of interdependence is inevitable in humanitarian practice. Humanitarian actors must remain in the good favor of warring parties, secure the trust of beneficiaries, and maintain sufficient donor resources.

While the traditional humanitarian principles can be thought of as part of a broader humanitarian legal regime, humanitarian actors are not necessarily relying on them for legal protection. A mix of intrinsic and instrumental reasons may be relevant here. Humanitarian actors believe that the principles can offer moral guidance, help to ensure appropriate services, and provide actual physical protection. On this last point, scholars have criticized the attempt to secure protection by following the principles. Hammond problematizes the notion that the principles can function as “protective armor,” and Fast doubts that the performance of good acts can serve as “magic shields.” Whether or not the humanitarian principles can (or should) be relied upon in this way, this element of humanitarian distinction practices has a very clear perceptions component. Neutrality, it is said, is “in the eye of the beholder”; impartiality and independence must be “experienced and perceived by the outside world.”

Consider also the following examples from South Sudan. A humanitarian NGO actor in the PoC site in Bor, Jonglei argues that humanitarian actors must limit reliance on armed UN peacekeepers. She explains, “We don’t tell the UN everything, and when we accompany people to a given place we will not say to the UN ‘come with us.’” This is partly about upholding the humanitarian principles, as “we really want to emphasize our independence from the UN.” It also has to do with differing approaches to protecting civilians: “Protection for us relates to the community; for the UN, it is all about force.” On a day-to-day basis, this individual feels it is for her humanitarian NGO to enact distinction, because UN forces are not inclined to otherwise. “We do not allow them to enter our work areas....they cannot come in here

70 Slim, Humanitarian Ethics, p. 73.
74 Fast, Aid in Danger, p. 111.
76 Thurer, “Dunant’s Pyramid,” p. 60.
with their weapons. The [UNMISS] patrol can drive up to the gates or pass by, but no weapons can enter. They know this.

Another humanitarian actor in South Sudan draws attention to differing conceptualizations of “access“:

We as humanitarians need access free from the military, in order to get to civilians. But for UNMISS they need access for their military patrols. So we need to clarify that ‘access’ doesn’t mean the same thing for us…If UNMISS has good talks with [the Sudanese People’s Liberation Army] or government, they are pleased: they think they are acting on our behalf to get access. But we say ‘no, please don’t.’

This individual’s concern is that local government officials (the authority–perceiver) as well as armed actors (the attacker–perceiver) will think that humanitarian actors are affiliated with UNMISS. If these local onlookers believe that the delivery of humanitarian services is connected to the patrol of UN forces, it might undermine the safety and access of humanitarian actors. Coming back to the issue of co-locating with UN peacekeepers in the PoC sites, a humanitarian NGO actor says this generates anxiety that “fiercely independent” humanitarian NGOs are compromising the humanitarian principles. It is by adhering to these principles, he explains, that humanitarian actors demonstrate they are distinct.

**Everyday Distinction Practices: Signs and Symbols**

Both physically and metaphorically, humanitarian actors deploy signs, symbols, and spatial referents in their distinction practices. There is no humanitarian symbol more powerful or widely recognized than the Red Cross emblem.\(^\text{77}\) According to the dominant narrative of the ICRC, IHL serves as the primary authority for the legal protection of humanitarian assistance; this legal protection is visibly manifest in the Red Cross emblem.\(^\text{78}\) The misuse of the emblem threatens to dilute the symbol’s power, because it blurs the lines between that which falls under IHL’s protective remit and that which does not.\(^\text{79}\) The aim in policing the use of the emblem, according to the ICRC, is to preserve its protective functioning.\(^\text{80}\)

Given the ICRC’s positioning under IHL, the special status of the Red Cross emblem is not surprising. Still, this state of affairs generates anxiety for humanitarian actors not belonging to the Red Cross. The latter cannot claim the Red Cross emblem’s protections, and their own logos are not accorded the same legal treatment. This has led some humanitarian actors to request a legal emblem that would visibly signify that they follow the humanitarian principles.\(^\text{81}\) While no such protected symbol has so far materialized, observers have suggested certain processes and objects already serve as emblems for humanitarian NGOs. Examples range from organizational logo signs,\(^\text{82}\) t-shirts, car stickers, and flags\(^\text{83}\) to the standard operating

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78 Ibid., 763.
79 Ibid., 759, 761.
80 Ibid., 760–61.
81 Mackintosh, “Beyond the Red Cross,” p. 126.
procedures of humanitarian actors, including the way they dress and the white land cruisers they drive.84

Of course, eliciting attention through the use of symbols assumes that observers have a favorable impression of what the symbol represents. A claim that is well-documented, however, is that humanitarian actors are often targeted precisely because they are humanitarian.85 Hammond emphasizes the performativity of these intentional acts of violence: they are designed to elicit media attention and to send a message about the level of security and disregard of humanitarian principles.86 For certain actors, the humanitarian symbols might actually signify inequality, hypocrisy, or a “state of exception.”87 Recognizing this, in some contexts, humanitarian actors engage in strategies of invisibility: they remove branding and logos and drive in local vehicles, all to lower their profile.88

As part of their everyday distinction practices in South Sudan, international humanitarian actors routinely deploy signs and symbols. Highlighting the importance of optics, one humanitarian NGO actor wonders what the Sudanese People’s Liberation Army (SPLA) thinks of NGOs in South Sudan. He wants to know if his organization’s t-shirts mean anything to SPLA soldiers. He refines this: “Not even that, I want to know what they think of me because of my white skin.” His worry is that if the SPLA has qualms with white Western actors, or indeed any actor who seeks to provide humanitarian services, wearing a t-shirt will do nothing to ensure protection. Another humanitarian actor in South Sudan contemplates the reliance on humanitarian symbols, expressing similar concerns. “The question is always, if you wear [our organization]’s t-shirt or hat, is it going to protect you or expose you?” An international humanitarian NGO actor shares that when the influx of people into South Sudan’s PoC sites commenced in December 2013, displaced populations felt comfortable approaching his organization in the Bentiu PoC site. His belief is that “they knew we weren’t perpetrators or military assets.” Despite the fact that his organization was residing alongside UN forces in the site, he thinks that his organization’s history of good relationships in Unity State helped. He adds that his colleagues always ask to wear their NGO’s t-shirts, because they understand that “they do protect us, people know that these guys provide water, etcetera. They immediately associate us with a need, which is not just felt, but also expressed.” In this last account, the t-shirt signals something to those who would attack humanitarian actors and also those who receive humanitarian services.

The final part of this discussion will consider the relationship between international humanitarian actors and beneficiaries in more detail.

The Humanitarian–Beneficiary Encounter in South Sudan

Important critiques have been advanced about the beneficiary category in humanitarian assistance. For Roth, almost every participant in the humanitarian sector

84Lisa Smirl, Spaces of Aid: Post Disaster Relief and Reconstruction (Chicago, IL: University of Chicago Press, 2015), Chapter 3; Mackintosh, “Beyond the Red Cross.”
86Hammond, “Myth of the Protective Principles.” Discussed also in Roth, Paradoxes of Aid, p. 32.
87Smirl, Spaces of Aid, p. 95.
could potentially be considered a beneficiary—including humanitarian aid workers themselves. Krause views beneficiaries as both an end and a means of humanitarian action; they can be considered a commodity that is sold to donors in a quasi-project market. This reveals the extent to which humanitarian projects depend upon beneficiary labor and uncovers how the comparison of beneficiaries generates inequities in aid. The present article investigates how the beneficiary is “packaged” in a different sense: when humanitarian actors enact distinction in conflict zones, they conceptualize the beneficiary as an observer. Two consequences of everyday distinction practices for the humanitarian–beneficiary encounter will be elucidated here. First, when humanitarian actors position beneficiaries as an audience for distinction, they become preoccupied with what beneficiaries perceive instead of what they receive. Second, the “phantom local” collapses beneficiaries together with violent actors, with potentially insidious consequences. These claims will now be expanded upon.

On a daily basis in conflict zones such as South Sudan, humanitarian actors pose a range of questions to a beneficiary audience that is both real and imagined. Do beneficiaries know who is who amongst international actors? Do they view humanitarian actors as inappropriately enmeshed with political and conflict actors? Will they approach someone wearing a t-shirt with a particular organization’s logo and trust that individual to provide appropriate assistance? To be sure, these questions must be addressed for humanitarian assistance to function properly. Nonetheless, it is proposed that positioning beneficiaries as an audience for distinction engenders a flattening out of war-affected populations, treating them as less than three-dimensional. While it may be wholly unintentional, distinction practices thus exert a sort of violence on these populations. Whatever the complex interests, needs, thoughts, experiences, and desires of local actors, they are effectively subsumed when humanitarian actors perform for the “phantom local.”

It is important to recall here that the victims of war have traditionally served as the raison d’être of humanitarian assistance. Without vulnerable populations in need of humanitarian services, the presence of humanitarian actors in conflict zones would have little purpose. Hopgood suggests that the innocent suffering of victims of war serves as a totem for humanitarian actors. Taking issue with the ICRC’s dominant narrative about the Red Cross emblem he rejects the claim that international law invests the emblem with authority. Instead, it is the suffering of victims that has historically empowered the emblem and, in turn, given law its moral authority. The emblem is policed not to preserve its protective functioning, Hopgood argues, but to protect the sacred symbol itself. At a certain point, safeguarding the emblem may effectively eclipse the importance of assisting the victims of war. Krause adds that humanitarian actors prioritize the purity of the humanitarian principles over the suffering of beneficiaries, even as this very suffering creates the impetus for the humanitarian response. Building on these observations, this article proposes that the enactment of

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89Roth, Paradoxes of Aid, p. 9.
90Krause, Good Project, pp. 40–44.
91Ibid., 40.
93Ibid., 38.
94Ibid., 384.
95Ibid., 37.
96Krause, Good Project, pp. 113, 144.
distinction might lead humanitarian actors to drift further and further away from the very people that legitimize their presence in the conflict zone.\textsuperscript{97} In such depictions, distinction loses its sheen. Its enactment exacerbates the image of the humanitarian-as-outsider,\textsuperscript{98} an entity that is separate, distant, and perhaps even estranged from others.\textsuperscript{99}

Coming back to the issue of professionalization, it has been argued that professionalization unites humanitarian compassion with competence.\textsuperscript{100} Pushing back against such claims, some scholars counter that professionalization undermines the humanitarian–beneficiary relationship.\textsuperscript{101} This is a potentially devastating critique of professionalization because, as Chouliarakis notes, solidarity “is the humanitarian claim par excellence.”\textsuperscript{102} While some commentators worry that professionalization will drive a wedge between humanitarian actors and populations in need,\textsuperscript{103} others point to a pre–existing chasm. Fassin contends that there is a radical inequality at the center of humanitarian action.\textsuperscript{104} While the humanitarian actor’s life is treated as a political life that is freely risked, the life of the victim of war is deemed a bare life that is in need of saving.\textsuperscript{105} This disparity is intolerable because it assigns less meaning to the lives of populations in need, but it is accepted because it facilitates humanitarian altruism.\textsuperscript{106} Beerli also notes that in their professionalized security practices, humanitarian actors routinely weigh the cost of losing humanitarian lives against the benefit of saving the lives of vulnerable populations.\textsuperscript{107} Professionalization leads humanitarian actors to recast some populations as being beyond “acceptable limits of sacrifice.”\textsuperscript{108} These insights add a further dimension to professionalization’s impact as it has been discussed in this article. Professionalization pushes different international actors together, it pulls them apart, and it might (further) estrange humanitarian actors from the populations they serve.

This noted imbalance in the humanitarian–beneficiary relationship acquires a more insidious tone when one considers a further aspect of the “phantom local.” As this figure conflates different types of local actors, it situates the beneficiary–perceiver alongside the attacker–perceiver. This move effectively forges a link between individuals in need of life-saving humanitarian services to those who wish to inflict harm upon humanitarian actors. When this linkage is contemplated, a dynamic that is typically obscured comes to the fore. That is, the fears of humanitarian actors extend beyond being targeted with violence: they are also wary of the populations they assist.\textsuperscript{109} Highlighting the reciprocal nature of trust, Hilhorst


\textsuperscript{98}Fassin, \textit{Inequality of Lives}.

\textsuperscript{99}See Fast, \textit{Aid in Danger}, p. 5.

\textsuperscript{100}Walker and Russ, “Fit for Purpose,” p. 1210.


\textsuperscript{106}Ibid.


\textsuperscript{108}Ibid.

suggests that humanitarian actors who mistrust local populations should not be surprised when they receive the same in return. Given that humanitarian actors hope to gain the confidence of war-affected populations through their distinction practices, it would be a perverse result if these very practices serve to (further) erode the trust of populations in need.

Conclusion

This article has treated conflict-zone humanitarianism as a form of everyday humanitarianism, drawing attention to the legal dimensions of this type of humanitarian practice. The body of international law that is designed to govern conduct in armed conflicts, IHL, is especially relevant to humanitarian action in armed conflicts. At the center of this body of law lies the principle of distinction, a rule that splits actors into civilians and combatants. On a day-to-day basis in conflict zones such as South Sudan, international humanitarian actors engage with, and produce, distinction. The way that humanitarian actors self-conceptualize as civilians has crucial implications for how they relate to, and interact with, a range of other actors present in the conflict zone.

This article has argued that professionalization processes cut in two different directions with respect to distinction. On the one hand, the efforts humanitarian actors make to set themselves apart constitute an effort to disseminate a professionalized civilian identity. On the other hand, the enmeshment of different actors that humanitarian actors are resisting through their distinction practices is part and parcel of professionalization. A further site of interaction between distinction and professionalization was also examined. This article has considered claims that professionalization leads humanitarian actors to become increasingly estranged from populations in need. This distance, it was suggested, further widens when humanitarian actors perform for the “phantom local.”

The implementation of everyday distinction practices by humanitarian actors may have a range of intended effects. Foremost amongst these is the ability of humanitarian actors to operate safely and to provide services to war-affected populations. Even—and perhaps especially—where these practices are successful, however, they could have adverse implications for the humanitarian–beneficiary encounter. First, positioning populations in need as an audience for distinction engenders a subtle shift. Instead of investigating what beneficiaries need—not to mention what they feel, experience, and desire in their lives—the drive to be distinct leads humanitarian actors to fixate on what beneficiaries observe. This preoccupation with how the victims of war view humanitarian actors potentially displaces concerns about how they might be helped. Taken to the extreme, a fixation with local perceptions reconfigures the victims of war from being receivers of aid to perceivers of aid. There is a risk here that the performance of distinction becomes an end in itself—distinction for distinction’s sake. A further concern has been articulated with respect to how the “phantom local” lumps the victims of war together with armed actors. Now the victims of war do not only serve as an audience for distinction. Going further, they are treated as an object of mistrust, fear, and potential threat.

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