

The 'bilateralisation' of humanitarian response: trends in the financial, contractual and managerial environment of official humanitarian aid.

A background paper for UNHCR

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EXECUTIVE SUMMARY

'Bilateralisation', or the increased proximity of official donors to humanitarian operations and decision-making, has become a recognised phenomenon in the past decade, most visibly in the Kosovo crisis. Donors are seeking to scrutinise and control the humanitarian operations they fund in a number of ways. These include:

- developing their own analysis of need and of strategies for response;
- reviewing their choice of disbursement channel;
- targeting their assistance on priority countries and issues;
- adopting policy-based approaches to particular operations and humanitarian organisations.

This paper, commissioned by UNHCR, reviews the evolution of donor involvement in humanitarian policy and practice, and seeks to assess the implications for UNHCR. It informs, and is informed by, a wider study by the Humanitarian Policy Group at ODI concerned with global trends in the 'bilateralisation' of humanitarian response.

Donors are seeking closer involvement in humanitarian action for a number of reasons:

- there has been a significant increase in real terms in official humanitarian aid spending, together with broader pressures to enhance the accountability of public policy. This has led to increased scrutiny of humanitarian aid spending;
- there has been increased interest in the role of aid in sustaining conflict. This has led some donors to examine how their aid responses to crises can be better linked with wider political and military interventions;
- there is growing pressure to adopt more developmental approaches to protracted crises, which implies adapting the goals of aid and methods for programming response; and
- the number and type of actors working in humanitarian crises have grown enormously since the mid-1980s. More and larger NGOs have evolved, and new military, paramilitary and private providers of humanitarian services have emerged.

A review of financial trends provides evidence of a bilateralisation of emergency aid spending. However, these figures need to be treated with caution for a variety of reasons, which are explained in the main report. As significant as changes in the way in which official humanitarian aid funds are disbursed are important changes in how donors are defining their contractual relationships with their operational partners, and managing these contracts. The voluntary character of humanitarian giving means that, in contrast to development assistance, the funding of humanitarian action is peculiarly unstable and unpredictable, and subject to donor influence through changes in the mechanisms through which resources are allocated and managed.

Along with these developments in the definition and management of humanitarian aid contracts, donors are increasingly identifying contractors to execute a strategy defined by donors themselves. Implicit in this shift is the view that UN specialised agencies are but one potential provider of a range of services; their multilateral character, including the existence of global governance systems, no longer guarantees special treatment.

There are signs that donors are recognising the costs of the project-based approaches implied by tight earmarking, and of the inherent instability of the existing system. The advent of framework agreements, combined with bilateral and more multilateral strategic dialogue, suggests a shift towards more policy-based approaches. This is underpinned by donors' enhanced ability to scrutinise the performance of their partners at field level.

These global trends are of direct significance for UNHCR.

1. Central to re-establishing trust between UNHCR and its major donors will be enhancing UNHCR's ability to demonstrate the correlation between donor behaviour and refugee welfare.
2. In particular, it will demand more robust means of analysing and reporting on the implications of funding shortfalls for the organisation of refugee health and security. At present, donors are unconvinced by the link. This suggests a move towards more needs-based budgeting, as well as more intense monitoring of the impact of assistance.
3. Equally, donors' increased contracting of NGOs directly will have important implications for UNHCR's ability to exert direct leverage over the quality and type of services provided. While UNHCR has its own interests in reducing the administrative burden associated with contracting service providers, ensuring its position as lead agency in refugee situations will depend upon developing alternative means of achieving influence over the shape of service provision. This suggests a need for an active dialogue with donors and NGOs as to how to safeguard UNHCR's position through donors' contractual and management interventions, and over methods to ensure adequate funding for UNHCR's coordination role.
4. It will also require adapting the ways in which UNHCR relates to its donors at headquarters and field levels. This will entail a comprehensive review of new forms of contracting, such as framework agreements, and identifying their advantages and disadvantages against criteria such as enhanced predictability and the timeliness and adequacy of funds, and setting these against the high management costs and potential intrusion on organisational independence. The formation of a 'Friends of UNHCR' group represents similar threats and opportunities; these need to be managed, not ruled out.
5. UNHCR is not alone in facing this complex and demanding environment. A number of major initiatives are seeking to establish closer understanding and cooperation among donors and between donors and their operational partners. These include the Montreux Process, the Humanitarian Financing Working Group and the Good Donorship initiative. UNHCR would benefit from active participation in these processes, as well as from establishing more informal networks to facilitate cross-agency learning. Such participation would inform its own funding strategy, and ensure that its voice is heard in these debates.

1. INTRODUCTION

The term ‘bilateralisation’ entered common usage in the humanitarian lexicon in 1999. The international response to the Kosovo crisis effectively and deliberately sidelined the UN, and UNHCR in particular. Rather than investing primarily in the familiar UN-led framework of strategic and operational coordination, donors themselves assumed a number of key responsibilities for humanitarian response. In particular, they:

- contracted NGOs themselves, by-passing UN ‘middlemen’;
- undertook assessments of need and formulated strategies for their humanitarian response;
- established field offices to coordinate their response;
- fielded operational personnel from civil and military departments; and
- liaised directly with relevant governments regarding key issues concerning refugees, including site planning and protection.

While the response to the Kosovo crisis exemplified bilateralisation, the phenomenon was not born there. Official donors (including the European Commission) have been experimenting with new ways of engaging more directly in the humanitarian arena for nearly a decade. With the partial exception of donor operationality, this trend looks likely to continue, and to deepen.

This paper describes the phenomenon of the ‘bilateralisation’ of humanitarian response, and assesses its implications for UNHCR (see Annex A for terms of reference). It draws on a review of documentation from UNHCR and a series of interviews with a number of UNHCR staff (see Annex B). This research has both informed and been informed by a larger study by the Overseas Development Institute, which will report in Autumn/Winter 2002.

The remainder of this report is divided into four sections. Section 2 reviews the definition, origins and implications of the ‘bilateralisation’ of humanitarian response. Section 3 looks at the trend towards the bilateralisation of humanitarian aid spending. Section 4 examines the evolution of donors’ strategies for contracting their operational partners and for managing these contracts. Section 5 concludes the paper with an analysis of the implications for UNHCR.

2. 'BILATERALISATION': WHAT IS IT AND DOES IT MATTER?

2.1 Managing official humanitarian aid: forms, channels and systems

The term 'bilateralisation' is probably not very helpful, not least because it is crowded with different meanings and is contested (particularly by donors, who see it as pejorative). It may therefore be more helpful to examine changes in the ways that aid is managed, and the factors driving these; in other words, the objectives and mechanics of humanitarian donorship.

In doing so, it is helpful to distinguish between different *forms* of aid, the *channels* through which aid is disbursed and the *systems* by which it is managed. Aid is designated as being for relief or for development, and is provided in a number of different ways: for projects or programmes, and as loans or grants. The *form* of aid partly determines the *channels* through which it is disbursed. It may be provided directly to recipient governments, through multilateral organisations like the World Bank, the International Monetary Fund (IMF) and the UN, through international organisations such as the International Committee for the Red Cross (ICRC) or International Organisation for Migration (IOM), or through non-governmental organisations. Different forms of aid, and different disbursement mechanisms, require different *systems* to manage and coordinate assistance.

Historically, humanitarian assistance can be seen as distinct from development aid. This distinction is partly to do with the particular ethics of humanitarian assistance. In the case of international humanitarian law, the essential basis for this is an appeal to the principle of humanity; in other words that individuals have a right to assistance and protection solely by virtue of being a person, irrespective of their race, religion or political affiliation. Between the late 1970s and the mid-1990s, this ethic was reflected in the fact that the majority of donor governments conceived of humanitarian assistance as being politically unconditional, in contrast to development assistance, which has always been politically conditional. Thus, disaster-affected populations were seen as entitled to international relief even if their governments were not viewed as legitimate. Disaster-affected populations, including refugees, are seen to qualify for assistance and protection as *individuals*, not by virtue of their citizenship of a particular country.

The distinction between relief and development as different forms of aid was also provided for by the fact that emergencies were conceptualised as short-term phenomena, requiring rapid reaction and the mobilisation of large quantities of supplies in order to temporarily support populations in distress until normal development could be resumed (Duffield, 1994).

Combined, these two concepts of relief – as a distinctive ethical obligation, and as a temporary logistical challenge – provided for the evolution of a set of *systems* to manage official humanitarian aid, distinct from the systems in place for development. These were developed in a way that presumed a high level of delegation of responsibility for humanitarian response to specialised international organisations, in particular ICRC, UNHCR and WFP, but also NGOs.

The systems that managed the aid channelled through these different organisations were light compared with those in the development arena. This 'management lite' was seen to provide for rapid response, but also reflected a lighter political touch on behalf of donors: by handing over funds to operational partners, donors could maintain their political distance from the governments of recipient countries. Emergency aid departments were often very small, marginal parts of official aid departments, and served largely as the 'chequebook' for the humanitarian system.

This structure favoured multilateral approaches, with a high degree of trust invested in UN partners to assess need and define responses, both in specific crises and globally. It also encouraged a reliance on multilateral disbursement channels, and the provision of unearmarked contributions to UN organisations.

2.2 From writing cheques to acting: the factors driving the 'bilateralisation' of humanitarian response in the 1990s

By the 1990s, the framework within which emergency aid programmes were defined and managed by official donors was being challenged.

First, official donors began to spend a lot more on humanitarian aid. In 1990, aid for humanitarian assistance was \$2.1 billion. In 1994 it reached \$5.5bn, and \$5.9bn in 2000 (in 1990 prices). In a context in which overall official development assistance (ODA) flows were declining, this rise in emergency aid spending meant that humanitarian aid was beginning to consume a larger percentage of total aid budgets. Between 1989 and 1993, humanitarian aid as a share of ODA averaged 5.83%. By 2000, it accounted for 10.5%.

Second, as humanitarian spending increased, so governments wanted to know where this money was going, and how effective it was. The accountability revolution in the humanitarian aid sphere around the mid-1990s was reflected in a new wave of evaluations of humanitarian action, and the professionalisation of systems to monitor performance. This coincided with a broader wave of concern among policymakers in donor countries to enhance accountability and ensure the good performance of publicly funded services. A new range of accountability technologies emerged, including a shift towards results-based management in many public administrations in the West.

Third, as more evidence began to emerge regarding the workings of the international humanitarian system, so significant concerns were raised about its effectiveness and its potential negative impact. The high levels of trust that had been assumed in operational partners were challenged by a number of high-profile evaluations and by the media. Alongside technical concerns regarding the efficacy of humanitarian aid programmes, the devastating idea took shape that, rather than doing good, emergency aid programmes were actually doing harm, fuelling conflict and, in the case of refugees in Zaire in 1994, feeding killers.

The emergence of this discourse coincided with a wider re-evaluation of international responses to conflict. This sought to develop an integrated approach to conflict prevention and resolution by addressing its root causes. These were seen to lie in poverty and inequality, as much as in diplomacy and defence. In this context, aid, including humanitarian aid, was seen by some as an important asset in conflict management, potentially providing a source of leverage over belligerents. This model, which was adopted seriously by a small number of donors in the latter half of the 1990s, implied that donor governments had a responsibility to understand the role of relief in war economies, not simply to ensure its effective and appropriate usage, but potentially to use it as part of a conflict-reduction strategy. This has become increasingly important as donor governments have taken a more visible role in the management of internal wars. In a small but significant number of cases, the same governments that provide the majority of funds to international humanitarian organisations are also belligerents in conflict. In these very visible crises, donor governments have particular interests in using humanitarian assistance not only to assist in conflict reduction, but also to reassure the public at home and abroad that intervention is ostensibly benign.

A fourth, related factor prompting donors to revisit their role in the humanitarian sphere was that the idea of emergencies as limited and short-term crises could no longer be sustained. While protracted crises were not new, the changed geopolitical landscape after the Cold War provided a new space to examine how to respond. In particular, since intensifying development efforts was seen by many to constitute a means of resolving conflict, enhancing the developmental character of protracted relief responses was viewed as a way of reaching conflict-reduction objectives, as well as reducing the overall cost of relief operations by enabling communities to become more self-sufficient. This implied a broadening of donors' analysis. In some cases, such as the UK, this was signalled by the handing back of protracted emergencies to geographical desks. This in turn implied that donors needed a strategy for managing 'crises' over two or three years, not simply writing another cheque to an NGO for a further six months. In the process, the distinctive character of relief and humanitarian policy became increasingly blurred, both in its objectives (was it to save

lives or to engage in longer-term developmental goals?) and in its procedures (with donors asking more complex questions about the environments in which agencies were working and what they were doing).

Finally, the 1990s saw an unprecedented increase in the number and type of actors working in the humanitarian arena. NGOs became increasingly important providers of services. While much has been said about the proliferation of NGOs (Borton, 1994), the emergence of a relatively small number of very large, transnational NGOs is also noteworthy. These have significant service delivery capacity, with large stockpiles of material and a near-global presence. A previous report for UNHCR estimated that perhaps 20 NGOs spent 75% of total official humanitarian aid channelled through this route (UNHCR, 1997). This expansion in NGO capacity has been driven in large part by the increase in official humanitarian aid funds. At the same time, a new range of military and paramilitary actors has emerged as potential providers of humanitarian services. While the military has always had a part to play in emergency aid response, this has probably increased in the 1990s, particularly in conflict-related crises. In a small number of cases, donors have experimented with becoming operational themselves. Until the mid-to-late 1990s, ECHO was one of the key examples of this. Finally, private providers are offering logistics and security services. Together, these developments mean that, when deciding how to spend their resources, donors have an increasingly wide array of potential partners from which to choose. They thus need a clearer understanding of the 'market' and of the problem they are trying to address in order to establish how they should allocate resources.

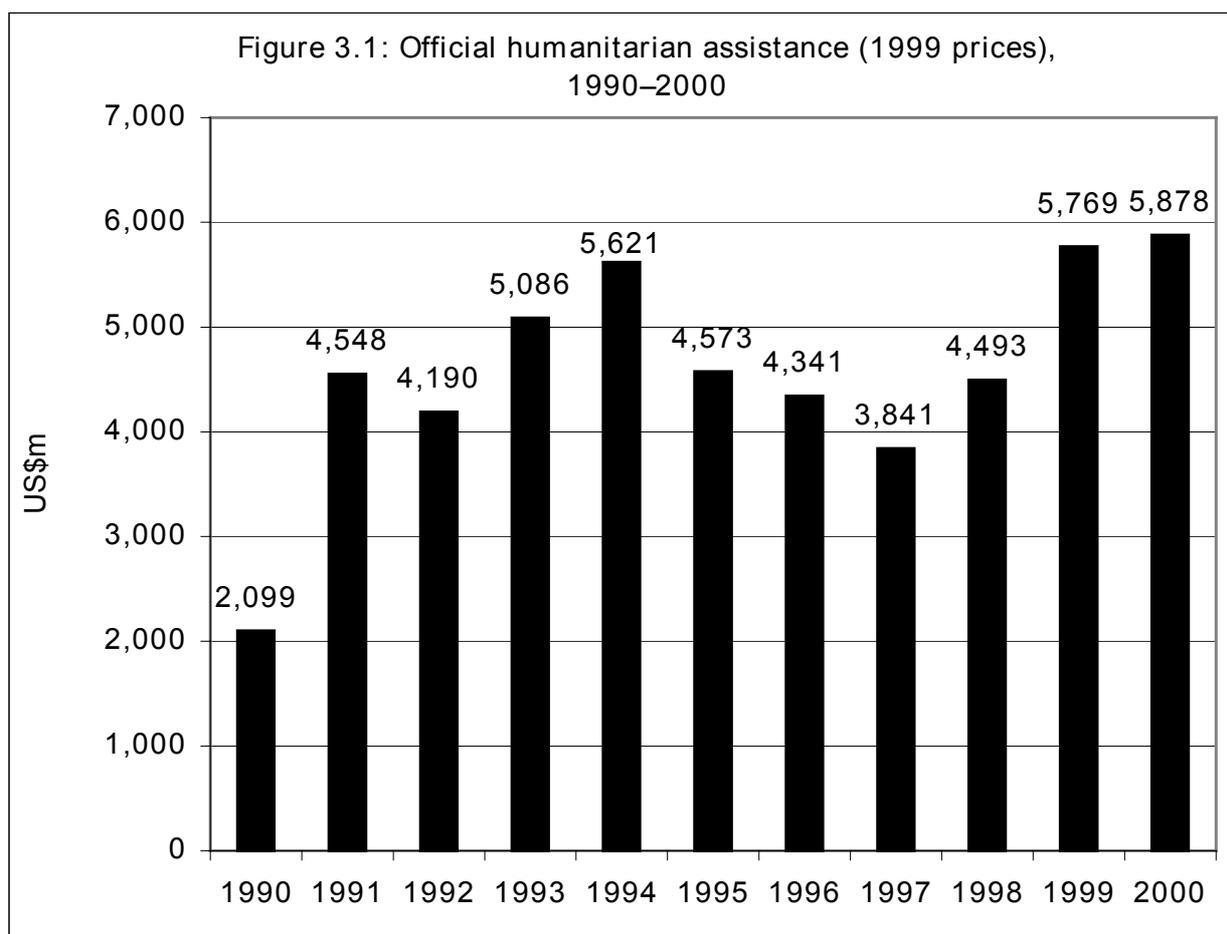
This combination of factors is driving donors to develop more elaborate systems to manage official humanitarian assistance. These range from bureaucratic and technical concerns with accountability and performance to a reanalysis of the role of aid in protracted emergencies, to the need for enhanced visibility in high-profile crises. The factors driving donor behaviour are diverse, and different donors emphasise different factors at different times. This makes donor behaviour difficult to interpret generically. This uncertainty in donors' motivation in asserting their role as humanitarian actors is undermining the trust between donors and their operational partners.

At the same time, donors have their own reservations about their operational partners, in particular within the UN, which many donors no longer trust to deliver effectively. This breakdown in trust has important implications for the ways in which donors are seeking to engage with their operational partners, both through formal mechanisms such as contracts and governing boards and more informally. This is the subject of section 4. Before moving on to this, however, it is worth reviewing what is actually happening in terms of financial flows.

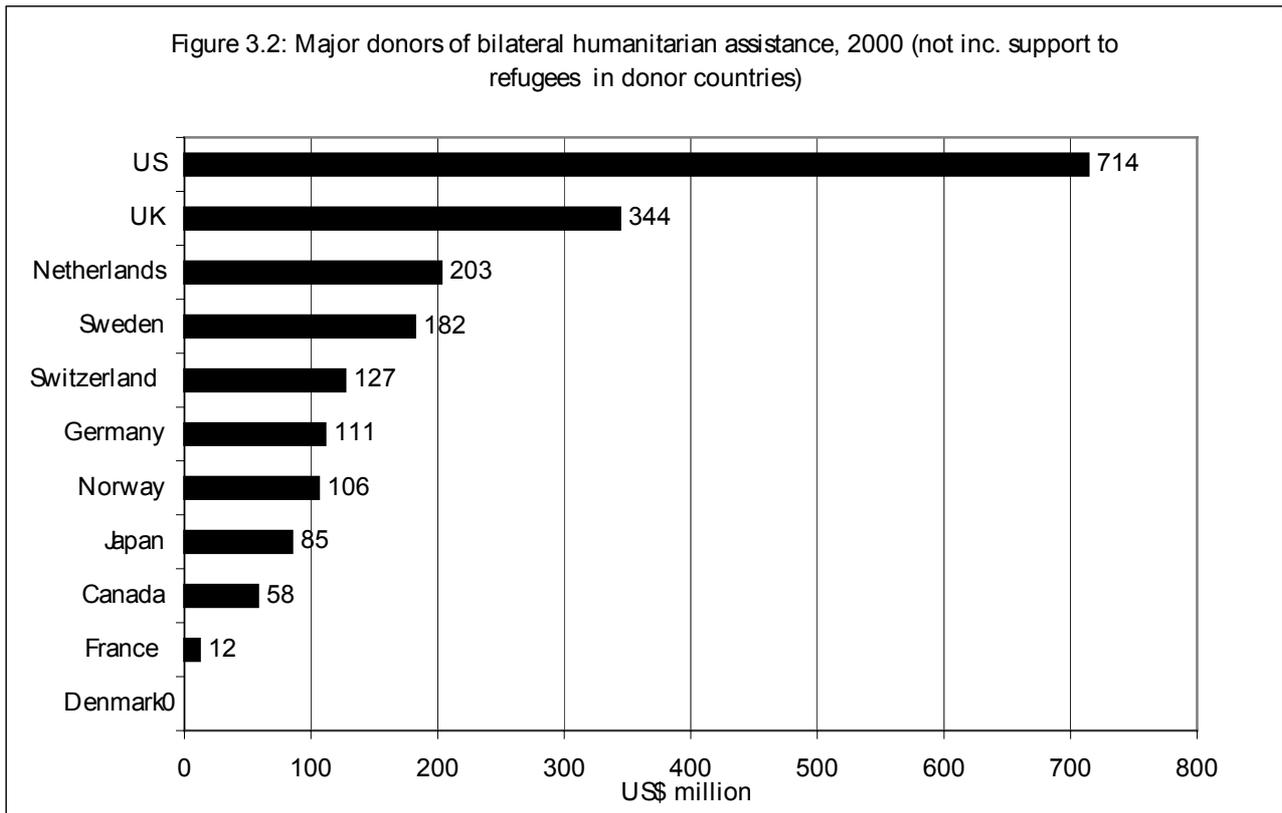
3. GLOBAL TRENDS IN THE FINANCING OF HUMANITARIAN RESPONSE AND THEIR IMPLICATIONS FOR UNHCR

3.1 Overall trends in emergency aid spending and its sources

As noted in section 2, official flows of emergency aid have increased significantly in real terms and as a proportion of total ODA. Figure 3.1 shows total official emergency and distress relief from the Organisation for Economic Cooperation and Development (OECD) countries.



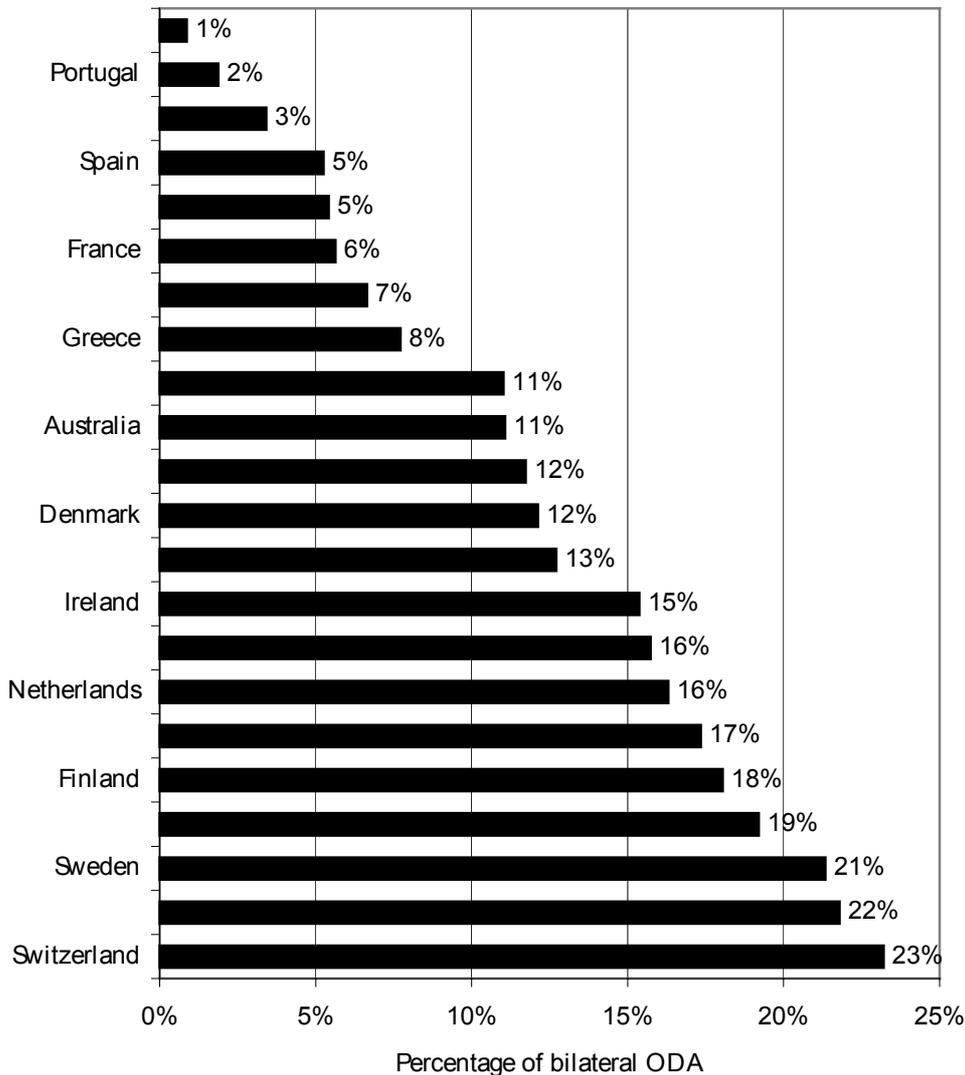
As figure 3.2 shows, a very few donors account for the bulk of official emergency aid.



The US is by far the largest bilateral donor, with the UK, the Netherlands, Sweden, Germany, Switzerland, Japan and Canada also major donors. The dominance of the US is apparently growing. In the three years between 1995 and 1997, the US accounted for approximately 20% of official humanitarian aid spending. By 2000, this was nearer 33%. In the case of UNHCR, the US accounts for at least 25% of its budget. ECHO is also a major player. (In aid statistics, ECHO appears as a multilateral organisation, but is obviously also a donor.) In 2000, it disbursed around \$490m, equivalent to about 8% of total official emergency aid. UNHCR enjoys a broader base of funding than WFP (for which three donors – the US, Japan and the EC – account for 75% of funds), but even so it remains dependent on a handful of donors. This concentration of donors means that changes in the policy of one can have a significant impact on overall funding levels, and on the shape of the humanitarian system, both globally and in relation to specific operations. Thus, for example, in 1997 there was a major shift in the UK's approach to UNHCR. This resulted in a fall of over 50% in its contribution in one year, from an average of \$50–60 million to \$18.5m (UNHCR, 2001).

Figure 3.3 shows the significant variation that exists in the proportion of aid budgets different donors allocate to humanitarian aid spending. This suggests that different donors are likely to have a different degree of interest and capacity in international humanitarian aid policy.

Figure 3.3: Share of bilateral aid allocated to humanitarian assistance by donor, 2000



3.2 Trends in bilateral versus multilateral aid spending

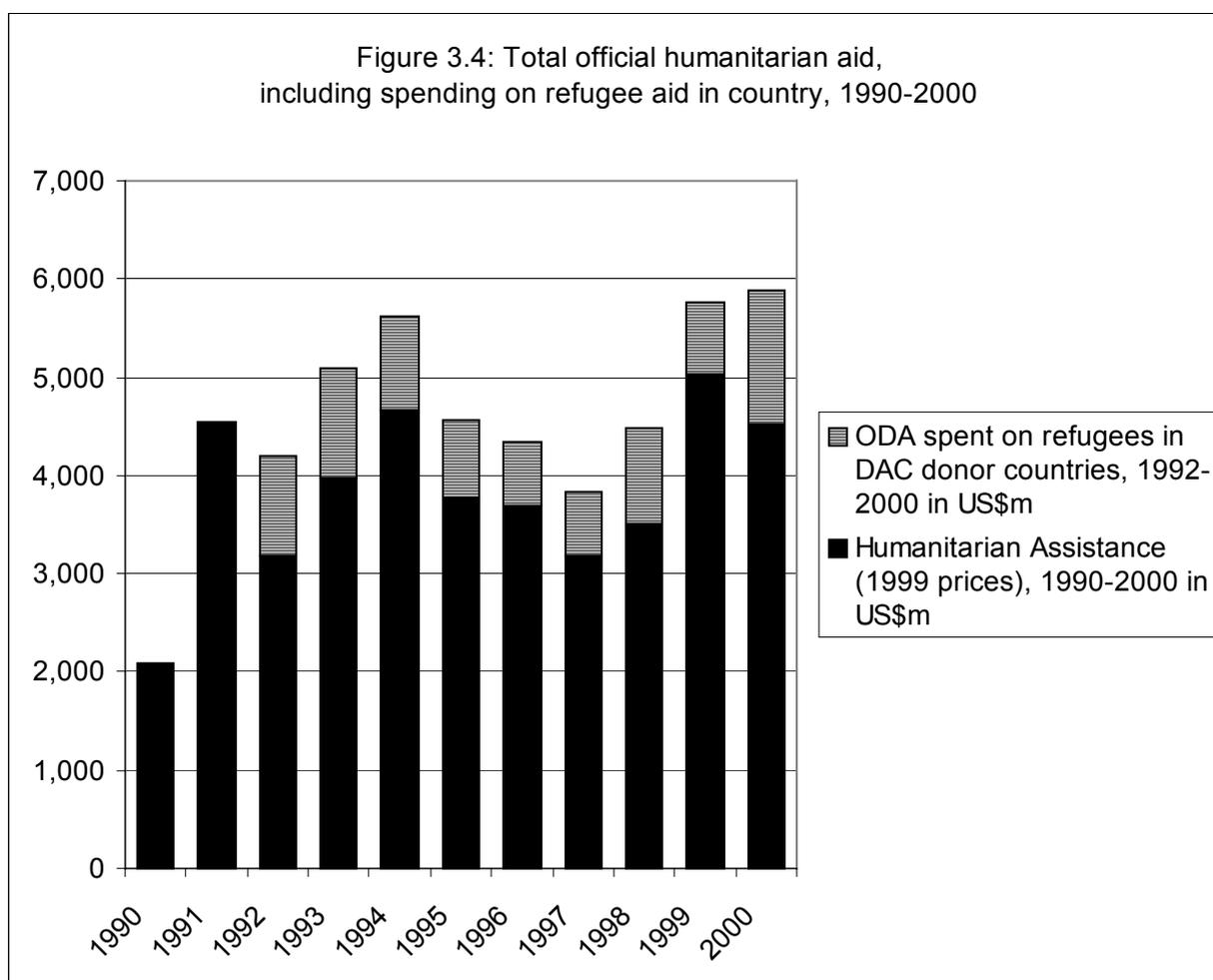
Although generally unhelpful, the term ‘bilateralisation’ does have an established meaning in the realm of aid statistics. The term ‘bilateral’ aid can best be understood in relation to its opposite, multilateral aid. As Randel and German (2002) point out, multilateral aid is aid channelled to multilateral organisations that is *unearmarked*. All other aid, *earmarked* contributions to UN and international organisations, contributions to NGOs and the military, is bilateral as far as aid statistics are concerned.

In the light of this technical definition, what do the Development Aid Committee (DAC) statistics tell us? The headline is that bilateral humanitarian assistance has been increasing much more quickly than multilateral humanitarian assistance. In the period 1996–99, the total amount of multilateral humanitarian assistance increased by 32% compared with 1988–89. In the same period, bilaterally-managed expenditure increased by 150%, and in the case of ECHO by 475% (Randel and German, 2002). This broad trend is mirrored in UNHCR’s experience: in 1999, only 20% of contributions were not earmarked (UNHCR, 2000).

The figures regarding the bilateralisation of aid spending need to be treated with some caution, however. The apparent trend towards the bilateralisation of humanitarian aid is in part a statistical artefact, as well as reflecting an active shift in donor policy.

3.2.1 The distorting effect of domestic spending on refugees: the case of the missing billions

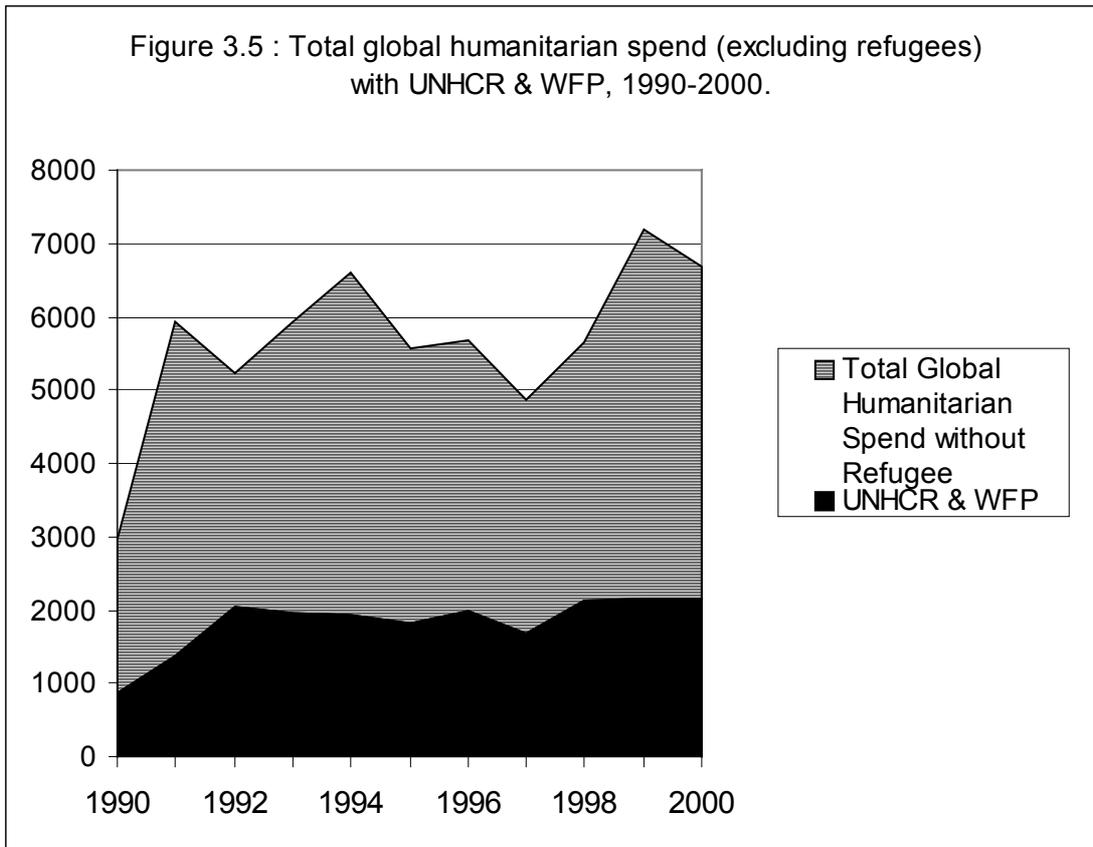
There is a significant distortion in the existing data. At least since 1992, the DAC has allowed members to report as ODA the money they spend on supporting refugees in their own countries for their first year of residence. By definition, this is money that never leaves the shores of the donor country, and is necessarily bilateral in character. Not all member states report their aid in this way (the UK, for example, does not). However, many states do so, and this represents a fundamental misrepresentation of the amount of money available for international responses to emergencies. In 2000, this accounted for 38% of total official emergency aid spending by OECD countries. It appears that the amount of money spent in this area is increasing (see figure 3.4).



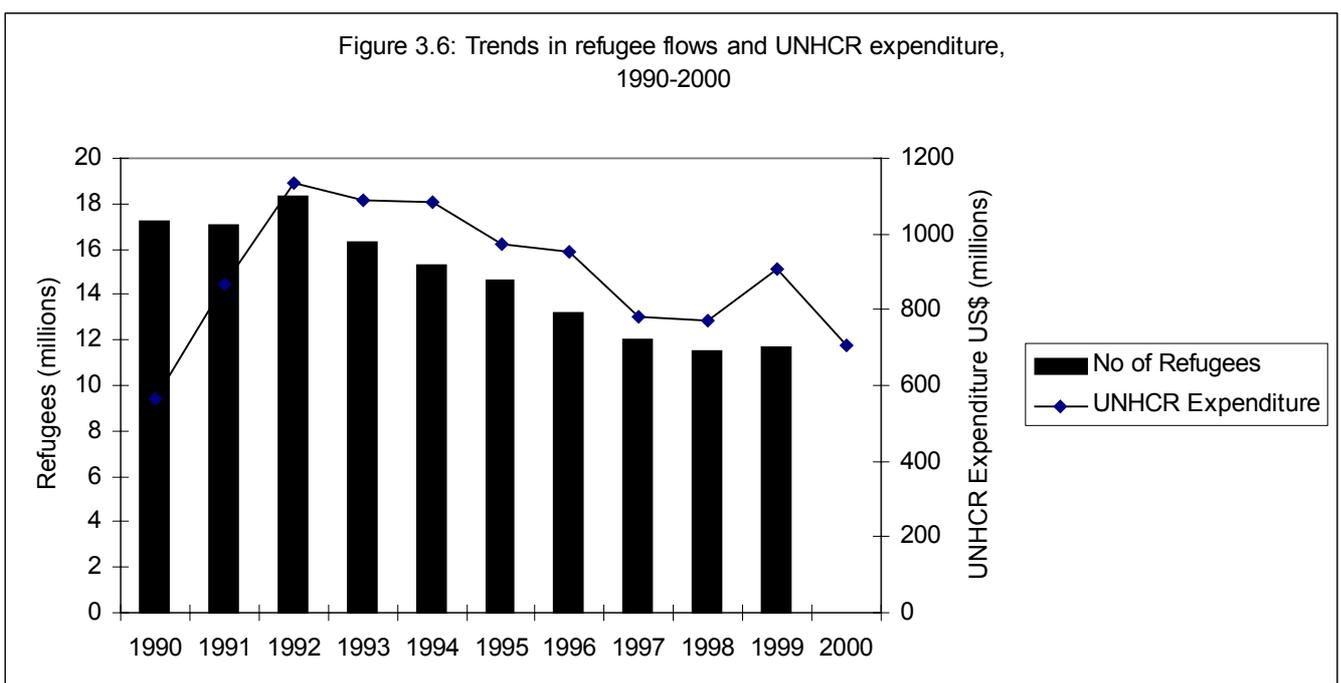
3.2.2 The UN's market share

It is important to distinguish between trends in multilateral aid and trends in assistance channelled through the UN. As noted above, any contributions to the UN that are earmarked are by the DAC's definition 'bilateral'. Thus, in theory, the UN's share of total official emergency aid could remain static, even if multilateral contributions were declining.

Looking at UNHCR and WFP, this does seem to be the case. By removing the distorting effect of domestic refugee spending and combining UNHCR and WFP expenditure, we can see that the market share of these two agencies has remained roughly static over the past decade (see figure 3.5).



For UNHCR more specifically, however, there is a clear and significant fall in expenditure since the mid-1990s. This has coincided with a decline in UNHCR's caseload (see figure 3.6).



There is a distinction between trends in multilateral contributions and trends in the UN's market share because an increasing proportion of contributions to the UN is earmarked. In 1988, 45% of contributions to humanitarian organisations were unearmarked. By the end of the 1990s, this amounted to roughly 12% (Randel and German 2002).

Again, the reasons for this are not simple. The introduction of the Consolidated Appeals Process (CAP) was seen by many as an important innovation that would provide for the more coherent management of resources against appeals. Whatever the disappointments in fact (see Porter, 2002), there remain important arguments in favour of the CAP. In statistical terms, contributions to the CAP are earmarked. The more the CAP is used, the more bilateral aid statistics will appear.¹ Equally, the DAC reporting mechanisms do not distinguish between different types of earmarking. Thus, the US earmarking of contributions to UNHCR against a whole continent, such as Africa, is treated statistically in the same way as ECHO specifying which project in a particular country it will support. Yet clearly these different types of earmarking have very different implications for the recipient organisation.

This suggests that it is important to go beyond the technical definitions of multilateral and bilateral aid and to understand the character and motivation of these different types of contribution. One important argument that has historically underpinned multilateral approaches to aid giving has been that multilateral institutions are inherently better able to allocate resources according to technical criteria of need.

Multilateral organisations have always been subject to bilateral influence, and it has always been the case that UN operations have 'surged' more in relation to some crises than others. There is little data to prove or counter the assertion that more multilateral forms of assistance have ensured the equitable allocation of funding. Generating such data would be useful in demonstrating the comparative advantage of multilateral institutions in this field.

There is, however, an increasing body of evidence to suggest that more bilateral approaches to resource allocation are not yielding a balanced and equitable supply of funding to different emergencies. Porter (2002) suggests that the CAP is increasingly being used to provide a surge capacity to enable the international community to react quickly and visibly to major emergencies, but is less successful in securing adequate funding for protracted crises. Equally, Randel and German (2000; 2002) note that there has been a heavy concentration of official humanitarian assistance on those countries of high political significance to the OECD members. Their data show that, of the top 50 recipients of bilateral humanitarian assistance between 1996 and 1999, the top five were all political hotspots – Bosnia, Serbia and Montenegro and the former Yugoslavia (unspecified), Iraq and Israel, which accounted for \$2,725m. The next five highest recipients – Rwanda, Sudan, Afghanistan, Angola and Indonesia –received \$1,388m.

Operational agencies have hardly been blameless. They face important organisational pressures to scale up their activities in major crises in order to secure their market position, and their fundraising strategies reflect this. Randel and German (2002) note, for example, that agencies routinely appeal for more funding per capita in crises which are seen to be popular with donors, than in those that are less visible.

This issue of proportionate response has become a significant source of mistrust between donors and their operational partners. Agencies complain that they cannot effectively plan for global operations when donors shift their earmarks in response to a major emergency. Several examples of this were given by UNHCR staff in relation to Afghanistan, where donors have shifted their earmarks in the final quarter of the year, effectively leaving other aspects of UNHCR's budget not covered.

¹ UNHCR does not apparently keep separate statistics regarding the proportion of its income that is captured through the CAP, as opposed to through global and country appeals (interview with Dolph Everts, November 2001). There remains an ambivalence within UNHCR regarding the utility of the CAP, and whether it competes with UNHCR's own fundraising mechanisms. This sits uncomfortably with sustained arguments in favour of multilateralism as an ideal.

3.2.3 Direct contracting of NGOs

The key way in which donors are 'bilateralising' their aid is by contracting NGOs directly. For example, in 1999–2000 the Department for International Development (DFID) spent 16% of the UK government's bilateral humanitarian assistance through British NGOs. In 2000–2001, DFID expenditure on humanitarian assistance through NGOs doubled, from £33.5m to £75m. During the same period, DFID's overall spending through NGOs declined by £11m, and humanitarian assistance accounted for 41% of DFID's total support to NGOs (Randel and German, 2002). While distorted by the response to Kosovo, there is evidence to suggest that this is a real trend, both within the UK and elsewhere. In the US, an increasingly large share of official humanitarian assistance is going to NGOs in specific locations and for specific tasks (Stoddard, 2002). For example, the share of the Bureau of Population, Refugees and Migration (BPRM)'s budget allocated to international organisations has declined from 92% in 1996 to 85% in 2001. In the case of OFDA, the share of funding channelled through NGOs has risen by 10% over the same period (Stoddard, 2002). The trend is most pronounced with respect to ECHO. In 1990, ECHO spent 27% of its funds through NGOs. By 2000, this had risen to 67% (Mowjee and Macrae, 2002).

This pattern reflects in part donor concerns to enhance the visibility and flexibility of their funding. It also reflects a more profound dilemma, faced by donors and agencies alike, regarding the most effective way of channelling humanitarian aid funds: what is the added value of UN agencies acting as 'middlemen' in the contracting cycle?

A report prepared by UNHCR's Inspection and Evaluation Services in 1997 (UNHCR, 1997) notes how UNHCR has struggled to manage the vast number of contracts issued with its partners. This has constituted a major obstacle to maintaining accurate and robust accounts. The report notes further that the proportion of UNHCR's budget spent through partners has declined from over 50% in the 1980s to between 35% and 43% in 1997.

If donors resort to directly contracting NGOs working with populations of concern to UNHCR, this will, of course, reduce UNHCR's turnover. Clearly, however, this is not necessarily the same as reducing the amount of money available to support a particular population. This distinction is key in the sense that it identifies two different models for UNHCR's operation. One is as coordinator, with a limited role in service provision (either directly or indirectly); the other is as coordinator and provider. DFID, for example, has argued that 'UNHCR should limit its involvement in partners' projects to coordinating their assistance and providing them with technical guidance; this would free up its own time for core protection work, such as registration and profiling of caseloads'. Where UNHCR provided 'added value to partners' programmes in terms of sector coordination and technical guidance, donors could make funding for partners conditional on their agreeing to be coordinated and guided by UNHCR; and give UNHCR a contribution in recognition of the staff time required to carry out this work' (Department for International Development, 2000: 5).

Implicit in the shift in contracting arrangements has been a shift in expectations regarding the mechanisms by which a coordinated response can be achieved. The leverage associated with UNHCR having the funds to contract partners is being diminished, on the assumption that coordination by consensus can and will be achieved. To date, there is little evidence regarding the impact of the bilateralisation of aid flows on coordination arrangements. What evidence does exist, in particular from Ngara in 1994 and Kosovo in 1999, suggests that linking funding with coordination is very important in determining its effectiveness (Borton, Brusset and Hallam, 1996; Suhrke et al., 2000; Wiles et al., 2000).

To date, there appears to have been little structured discussion between donors and UN agencies regarding the implications of funding trends for the coordination of response. As section 4 describes, donors themselves are claiming an expanded role in the coordination of response at field level and globally. This suggests that UN agencies will come under pressure to demonstrate how coordination might best be funded, and how these activities will be implemented in practice if agencies' financial leverage is also diminished.

The costs of defining and managing NGO contracts is also shifting from multilaterals to bilaterals. While donors may argue that they accrue important benefits from direct contracting, including a perceived gain in accountability and visibility, the bureaucratic burden is likely to be significant. Anecdote has it that part of the reason why the Netherlands has increased its contribution to UNHCR is precisely because this is bureaucratically a less intensive means of disbursing funds. There may therefore be opportunities for the UN to demonstrate its comparative advantage in managing these contracts multilaterally.

3.2.4 UNHCR's financial position: a proxy for refugee welfare?

As figure 3.5 above shows, UNHCR has effectively switched places with WFP, with the latter now the premier UN humanitarian agency in financial terms. Analysing the origins of the relative decline of UNHCR is clearly beyond the scope of this paper. However, in the course of the research two major explanations were mooted.

On the one hand, the nature of emergencies is changing, with far fewer major refugee crises. UNHCR's caseload has declined from 17.2m people in 1991 to 11.7m in 1999. Clearly, however, UNHCR has adjusted its budgets to reflect this, and argues that it is still underfunded. On the other hand, it was noted that UNHCR has faced particular challenges in terms of its performance over the past decade. This in turn has compromised its funding, further challenging its capacity.

Whatever the reality, and these two scenarios are not mutually contradictory, the statistics beg the question of whether and how *UNHCR's* funding difficulties impact on *beneficiary* populations; in other words, the extent to which UNHCR's financial position is a reliable proxy indicator of the ability of refugees to gain access to appropriate assistance and protection.

There is a similar debate in relation to the CAP. Many operational agencies, particularly in the UN, have complained of declining support for the CAP and argued that this represents a significant underfunding of humanitarian action as a whole. Conversely, donors argue that they are meeting the needs of disaster-affected communities, but that they are channelling their support through other mechanisms. A similar argument might be made in relation to UNHCR. While UNHCR might not be achieving its full budget, this does not *necessarily* mean that the needs of refugees are not being met, if resources are being allocated through other means.

At present, it would seem that UNHCR, like most other agencies, does not have the capacity to demonstrate the correlation between its own financial difficulties and the welfare of refugees. As US NGOs which met the Deputy High Commissioner last year noted, a key role of the UN must be to collect information regarding the human impact of under-financing of humanitarian action. At present, UNHCR would appear to be using data regarding its underfinancing as a proxy indicator for a decline in global funding for refugees.

As the launch of the Humanitarian Financing Working Group this year suggests, many donors remain unconvinced that there is a real deficit in humanitarian action, as opposed to agencies being concerned for their turnover. The Working Group, and in particular the proposed fourth study examining the implications for the UN, present an important opportunity for inter-agency and inter-donor debate on this issue.

4. FROM GRANTS TO CONTRACTS?: CHANGES IN THE CONTRACTUAL AND MANAGERIAL ENVIRONMENT

4.1 Donors as strategists?: humanitarian action as public-service contracting

Some donors, particularly the Scandinavian countries, remain of the view that the multilateral system is best equipped to assess humanitarian needs and prioritise responses to them. Many other donors are not so convinced. The three major donors we looked at in some detail, ECHO, the UK and the US, do not accept *a priori* the UN's comparative advantage solely on the basis of its mandate.² Their support is contingent upon the organisation being able to meet the objectives established by donors themselves.

Thus, perhaps the most significant change in the role of donors in humanitarian action over the past five years is that they now have a clearer picture of what they *want* delivered in the humanitarian sphere, at least in broad terms. Donors are no longer passive paymasters, but are seeking to be informed purchasers of humanitarian services. As described in section 2, the drive for donors to play a more assertive role in humanitarian decision-making has come from numerous quarters. It derives from bureaucratic concerns with accountability and performance, and from political concerns to ensure profile and make sure that aid programmes are in line with wider foreign policy and defence strategy.

With this in mind, a number of donors, including the UK, ECHO and the US, have been expanding their capacity to define their strategic objectives in relation to the humanitarian system globally, and in relation to specific operations, and to monitor whether these are being achieved. The US has long had a capacity at field and headquarters level to 'push and prod' its implementing partners, including its multilateral partners. Arguably, one of the reasons why the US invests in multilateralism to the extent that it does is because it is also convinced of its capacity to influence it, both through the power of the purse, and through its significant professional capacity to raise its concerns with different organisations at different levels, including the field. The capacity of the US to exert this influence is likely to continue to increase, both as its relative significance as a humanitarian donor increases and as the 'war on terrorism' broadens, with its particular implications for US–UN relationships.

Interviewees for this research and for the ODI study noted that, at field level, US government staff tended to confine themselves to 'pushing and prodding' their operational partners, including UNHCR. While the visits of BPRM staff could result in shifts in earmarks, which could be problematic for overall budgets, there was not a sense that field coordinators were overly driving programme approaches in untoward ways.

The fielding of staff to specific country operations, the increasing professional capacity of some donors at headquarters and the fact that donors now have a greater array of potential implementing partners all combine to suggest that there is likely to be a shift in the relationship between donors and their implementing partners. This would mirror changes taking place in other aspects of Western public policy, where at least since the 1980s states have looked to an increasingly wide range of organisations to provide public services. In the 1990s, Western states sought to ensure that this increasingly diverse range of providers were offering value for money and working in an accountable way, and have thus increasingly formalised the terms under which they engage with providers, including those in the voluntary sector.

To date, ECHO is perhaps the clearest example of this. ECHO sees little distinction between the UN and other providers, as reflected in its contractual arrangements, which apply equally to each.

² For example, one ECHO official noted that while Commissioner Nielsen is pro-UN, 'he is also interested in accountability and efficiency'. Similarly, while the UK under the Labour government has been increasingly supportive of multilateralism, this is conditional upon the UN and other organisations being able to demonstrate their contribution to tightly defined development goals (see, for example, R. Horton, 'WHO's Mandate: A Damaging Reinterpretation Is Taking Place', *The Lancet* 360, 960–61, 2002).

Rather, its global plans map out a strategy, and resources are then allocated to achieve it, governed by a series of contracts to deliver specific sets of services. While in some respects an outlier, the ECHO model is arguably not unique. The UK, for example, has considerably expanded its capacity at field and headquarters to formulate strategy and to field staff in a wide range of emergencies. This follows the pattern the US established a decade earlier. While few other European donors seem to have an appetite for such intense forms of bilateral behaviour at field level, the majority favour the increasing earmarking of funds. Arguably, earmarking *without* a bilateral strategy is potentially as problematic for multilateral agencies as a proliferation of bilateral strategies.

Thus, an increasing instrumentalisation of multilateral organisations is likely to emerge, whereby multilateral humanitarian organisations are seen by donors as the means of securing particular ends. This process is likely to be achieved not only through crude decisions regarding relative resource allocation, which have always been important, but also through a newer range of management ‘technologies’ to manage donor–recipient relations. These are the subject of the sections that follow.

4.2 The problem of voluntarism: the peculiar dependency of the humanitarian sector

Prior to detailing the shifts in the definition and management of donor contracts, it is worth reflecting on why the humanitarian sector is peculiarly sensitive to changes in systems of aid management. In the development arena, the international financial institutions and the UN Development Programme, for example, receive a large percentage of their funds from assessed contributions. In contrast, the humanitarian sector is almost entirely dependent on voluntary contributions. The voluntary character of humanitarian assistance has its roots in the idea that emergencies were exceptional events that could not be planned for and anticipated. While the static nature of much of the humanitarian caseload belies this, the structure of humanitarian funding remains geared to annual appeals, and to providing mechanisms through which large pledges can be disbursed in major emergencies.

This high level of dependency on voluntary giving, usually on very short project cycles, means that donors have a correspondingly more immediate influence over the humanitarian system, both in the relative balance of contributions between different organisations and emergencies, and the potential leverage over policy. The voluntary nature of the humanitarian system makes it vulnerable to the impact of earmarking, which means that donors can negotiate the terms according to which they wish to *contract* with recipient organisations in such a specific and direct way.

4.3 The accountability dilemma

The voluntary character of official contributions has become particularly evident as humanitarian contributions come under tougher scrutiny. In recent years, UNHCR has faced tough questions, not only from civil servants in official aid departments, but also from their political masters. In the aftermath of the Kosovo crisis, and the independent evaluation of UNHCR’s response, the US Congress introduced a reporting requirement that all payments to UNHCR be reviewed by a Congressional committee. In the UK, the International Development Committee singled out UNHCR for a particularly harsh public drubbing in its review of the international response to Kosovo (International Development Committee, 1999).³

This high-level scrutiny of agency performance provides the background against which senior civil servants have to manage their governments’ relationships with particular organisations. The

³ Similarly critical reviews of the EC’s development aid programme have been undertaken in the UK, but because of the statutory nature of the UK’s contributions to the Commission, DFID has much less leverage than with UNHCR, for example, where it can quickly reduce or suspend funding.

concerns of politicians may or may not be identical with the more technical concerns of professional civil servants regarding the performance and accountability of agencies. This further complicates the demands donor governments make of their partners.

At the same time, donor officials are unconvinced of the efficacy of the Executive Committee (ExCom). As the High Commissioner has pointed out, there is a fundamental disconnect between the ExCom and patterns of donorship, with the ExCom agreeing budgets, which donors then fail to fund fully (Lubbers, 2001). Equally, from the perspective of many donors the ExCom has proved ill-equipped to identify and respond to key issues facing the organisation. This discontent with existing governance structures has led some governments, such as the UK, to reduce the level of its representation on the ExCom (interview with representative from Permanent Mission and others). Lack of confidence in governance mechanisms encourages donors to seek other, more bilateral means of engagement. While some states, particularly the Scandinavians, remain convinced of the importance of global governance mechanisms in underscoring the legitimacy of UN institutions, even here there are signs that such support will not remain unconditional.

NGOs have been fleet of foot than the UN in responding to donors' demands for enhanced accountability and performance. A proliferation of initiatives has come from the NGO sector, such as the Code of Conduct, Sphere and the Humanitarian Accountability Project, which have preempted many donor concerns. Whatever the real impact of these initiatives on operations, donors have clearly been reassured and have bought into them, providing considerable funding. The UN's position in relation to such initiatives remains ambivalent, and there has not been a similar process of innovation in accountability. In a competitive market, this places UN agencies at an inherent disadvantage.

4.4 From project-based to policy-based approaches: framework agreements and strategic dialogue

This analysis suggests that there is a need to balance the legitimate interests of agencies in a predictable, adequate and flexible flow of funding, with the legitimate interests of donors in ensuring the accountable and effective use of official aid funds. Earmarking funds has not delivered this elusive outcome. A new set of more policy-based approaches is emerging, which seeks to overcome the project-type character of aid associated with earmarking.

The most obvious manifestation of policy-based approaches are framework agreements, which are often coupled with a more formalised and routinised process of strategic dialogue. 'Friends of groups are another important potential mechanism for developing policy-based approaches, and for donors to coordinate these among themselves.

When the initial research for this study was undertaken in Autumn 2001, UNHCR had signed or was preparing to sign framework agreements with a significant number of its major donors.⁴ It had also declared a moratorium on signing further agreements with donors, which remained in place in summer 2002.

A review of existing framework agreements speaks to a wide range of approaches. The original Swedish agreement, which was cited as a model for the process more broadly in relation to UNHCR, is very light, setting out the principles that guide the Swedish government's cooperation with UNHCR, with only limited reference to the earmarking of funding. The US framework agreement echoes this tone, but is more assertive in establishing benchmarks for UNHCR's performance, including for the number of US nationals it employs. The UK's Institutional Strategy Paper (ISP) is the most detailed and complex of the framework agreements. Its preface includes a critical analysis of UNHCR's position as a humanitarian organisation, and the main body of the text

⁴ These donors included Sweden, the US and the UK. A draft framework agreement with Canada was reformulated as a letter. It is understood that Japan, Ireland and Belgium are interested in replicating these agreements.

is a detailed, almost programmatic framework of cooperation, in which performance will be scrutinised, and future funding made conditional upon positive reports.

There has been debate within UNHCR regarding the pros and cons of framework agreements. The following issues have been of concern:

- they represent an attempt to bilateralise a process of prioritisation that is more properly conducted through existing multilateral forums;
- they are time-consuming to negotiate and overly intrusive;
- the proliferation of such agreements, particularly if different donors are emphasising different things, potentially compromises the unity of the organisation's mission; and
- some framework agreements are simply earmarking by another name. There is a tendency by some donors to 'cherry pick' certain activities seen to be fashionable, or where the organisation is perceived to be performing well. Again, this encourages fragmentation of effort.

Despite the validity of many of these caveats, framework agreements also have some important positive features. Potentially, they provide a means of enhancing the *predictability* of funding, mapping out proposed contributions at an early stage and, in the case of DFID, providing for multiyear contributions. For the US, the agreement also appears to have contributed to the *timeliness* of the contribution (Kreczko, 2001). In DFID's case, evaluations of the ISPs with IFRC and ICRC suggest that they served as a foundation upon which *additional* resources were secured, with overall levels of funding increasing (Wiles et al., 2002a; 2002b).

More fundamentally, framework agreements can be seen as a mechanism by which *both sides* articulate their respective roles, responsibilities and mutual expectations. As such, the parties build up mutual understanding and trust. Whether this is achieved in practice depends on the ability of *both* parties to assert their expectations, and to develop a series of rules to govern the partnership. At present, different donors are interpreting the process differently, both among themselves and in their negotiations with different organisations.⁵ Donors also vary in their capacity to formulate policy towards recipient organisations and operations.

Framework agreements arguably enable donors to adopt a more policy-based approach to their giving, providing a clearer framework within which earmarks will be determined and performance monitored. They thus assist donor bodies to respond to the accountability requirements placed on them. It is likely, therefore, that such models will gain increased currency, and it will therefore be important to analyse which forms of agreement work most effectively for all sides, and to establish principles by which they might be governed. Inter-donor and inter-agency dialogue will be important in informing these discussions, as well as more detailed analysis and research.

One of the reasons why such agreements are likely to develop further is that they deepen and give structure to the dialogue between donors and recipient organisations. Achieving such dialogue is key for all parties, and interviews with UNHCR personnel suggested that they wanted more of this, not less, since such dialogue leads to sustained and predictable donorship. More, and more structured, dialogue is taking place between UNHCR and its partners, facilitated in part through framework agreements, but also through other tracks not directly linked with fundraising arrangements. For example, in December 2000 the first ECHO–UNHCR strategic dialogue took place. While initially apparently focused on technical issues, there was optimism that this will broaden out into a more sustained dialogue around key issues of mutual concern (interview with Johanna Langenkamp, 8 October 2001).

The key questions are:

⁵ DFID ISPs with UNHCR, IFRC and the ICRC, for example, are very different in tone and content. That with ICRC is particularly distinctive in terms of that organisation's capacity to assert and protect its independence at all stages of the process.

- whether the level of dialogue between UNHCR and individual donors is proportionate to their contribution (in other words, is the dialogue cost-effective?); and
- whether the process of bilateralised dialogue is legitimate in that it is supporting, rather than undermining, the objectives of the organisation, as agreed by its ExCom.

There is no evidence that *a priori* framework agreements are more costly mechanisms for fundraising. If they encourage broader earmarking, leverage additional funds and enhance the predictability and timeliness of contributions, they may be more cost-effective routes than conventional, more fragmented approaches. Equally, they are not *necessarily* less legitimate mechanisms for securing funds. Indeed, in contrast to a succession of tight earmarks, framework agreements may be a more transparent means of defining donor and agency priorities. What will be important is the process by which such agreements are negotiated, and how they relate to multilateral mechanisms and internal management systems.

In addition to these bilateral approaches of framework agreements and strategic dialogue, there has been an increase in collective donor discussion with international organisations. The ICRC donor support group is one obvious example, as is the 'Friends of OCHA' group. Interviews with several of UNHCR's major donors and with staff in Autumn 2001 suggested a rather shadowy picture in which a 'friends of UNHCR' group was emerging, against a considerable degree of ambivalence in UNHCR itself. There appeared to be recognition that such a group was probably inevitable. As with framework agreements, UNHCR has arguably been defensive, rather than proactively anticipating and directing the donor agenda. Such defensiveness is unlikely to enhance the trust required to encourage more, and looser, donor investment in the organisation.

4.5 Donors in the field

Global dialogue, including the negotiation of framework agreements, both informs and is informed by relations between donors and agencies in the field. The US and ECHO in particular have long had a field presence, and this appears to be increasing. The UK has expanded its capacity at field level over the past five years, and now has significant capacity to establish field offices in key operations. These offices act not only or primarily as alternative points of service delivery. Rather, they monitor the performance of operational partners, inform donors' own analysis of needs and to differing degrees facilitate coordination. Other donors have resisted establishing their own permanent field presence, and continue to rely upon their operational partners, combined with *ad hoc* field visits. However, donor participation in UN needs assessment exercises appears to be increasing, as does the number of joint donor missions to specific humanitarian operations.

The establishment of greater donor capacity to engage at field level reflects donors' need to respond to political pressure to formulate clearer analysis of major humanitarian crises, and to ensure the accountable use of public funds by humanitarian organisations. In many respects, such engagement is seen to be both legitimate and appropriate by operational agencies, including UNHCR. Staff interviewed within UNHCR, for example, commented that donors such as the US were able to field staff who shared the organisation's commitment to refugee welfare and worked with them to achieve this.

Problems do emerge, however. Donor representatives may raise legitimate concerns, for example in relation to the provision of rations or services for a particular group of refugees, to which UNHCR is unable to respond because of constraints on overall resources, or because of the confines of the unified budget. They may then seek bilateral solutions to such problems, for example through the direct contracting of NGOs. While this may seek to address the specific needs of a particular population at a specific time, some felt that such an approach was also at the expense of the whole, fragmenting the process of resource allocation globally. The validity of such an argument will depend in part upon UNHCR developing a robust analysis of need that provides for global comparison of priorities.

More generally, there is concern that, as donors, particularly large donors such as the US, ECHO and the UK, move nearer to the field and formulate a more comprehensive assessment of need and of agency capacity, so humanitarian organisations will become little more than executing agencies for established donor policy. This shift from independent organisation to public service contractor is of potential concern for a number of reasons. First, it implies that donors are better able to determine needs than others, in particular UNHCR and OCHA. Second, it implies that donors have mechanisms by which to coordinate their individual responses. Third, donor organisations are part of a state structure that has military and political interests in many crises, and these may skew their definition of need and response.

Each of these concerns is legitimate and important in principle, but each will require different tactics. UNHCR and other organisations have proved weak in their capacity to adopt needs-based approaches to budgeting, and in documenting the impact of funding in meeting needs. While there is clearly no case for duplicating effort in terms of needs assessment, it is unlikely that donors will be convinced that they have no legitimate role in at least verifying assessments, while the record of operational agencies in this regard remains contested. In other words, the organisational independence of needs assessment *per se* does not guarantee its robustness.

Donors are on much weaker ground in terms of their capacity to coordinate amongst themselves. While there have been important innovations, for example closer coordination between OFDA and ECHO and the emergence of multiple donor missions, these are clearly no substitute for an effective multilateral process of needs assessment and resource allocation. Evidence collected by the ODI study suggests that donors have been weak in coordinating their assistance, with experience in Afghanistan and Somalia showing difficulties both in establishing common policy priorities, and in linking such priorities with funding flows (Macrae et al., forthcoming 2002).

The arguments around the potential ‘politicisation’ of humanitarian response have gained increased salience in the past decade, in particular since the events of 11 September. Critical scrutiny is most merited at field level. While ECHO, for example, would claim to be protected from the pressures of direct political engagement in emergencies by virtue of its constitutional position within the Commission and the Union more broadly, this is contingent and will have to be continually reasserted. As the Common Foreign and Security Policy develops, and in light of the potential restructuring of the Commission, which is likely to integrate the roles of the Commissioners responsible for external relations and development cooperation, ECHO’s political independence cannot be assumed. In the case of the US and the UK, the picture is more complex, and a key role for the field offices of these governments will be to maintain coherence between civilian and military engagement in humanitarian issues. Organisations such as UNHCR will have an important part to play in monitoring the impact of such trends on operations, and in advocating with their donor partners on these issues. Engaging in such critical dialogue will also imply careful analysis of the terms under which UNHCR draws on the military assets of such partners.

4.6 From fundraising to donor relations

Discussions with staff in UNHCR also highlighted that the changing demands of donors have implications for the organisation’s management and structure. Staff noted, for example, the significance of renaming the fundraising department *Donor Relations* and Resource Mobilisation (DRRM). This denotes a shift from fund-raising to establishing and maintaining trust between the organisation and its partners. Clearly, this happens at multiple levels, with the High Commissioner’s office and field staff also playing a key role in addressing donors’ concerns. However, a number of staff in DRRM noted how their position as the messenger between donors and operational departments appeared to be raising new tensions. There was a perceived risk that DRRM was becoming (or perceived to be) an additional mechanism for monitoring operational performance. This is clearly neither feasible nor desirable. At a more practical level, the increased demands of servicing donors also implies the need for considerable resources, a point recognised by DFID, which has paid for a post to manage UNHCR–UK relations. There is an important question regarding the cost-effectiveness of such additional investment. Implicit in donors’

willingness to contribute to such costs is that doing so will enhance operational performance, an argument which is as yet unproven.

5.0 ISSUES AND IMPLICATIONS FOR UNHCR

5.1 Establishing a framework for good donorship

In 1999, UNHCR's Standing Committee identified a number of principles to inform good donorship (UNHCR, 1999). These were:

- the desirability of full resourcing and implementation of the Annual Programme budget, as approved by ExCom;
- the importance of consultations between UNHCR and ExCom members to establish clear prioritisation;
- the prerogative of donors to maintain general priorities in their support of UNHCR;
- the importance of respecting and supporting the multilateral nature of UNHCR's mandate;
- the importance of predictability, flexibility and unearmarked contributions and/or adequate earmarked contributions for both global operations and HQ;
- the need for equitable sharing among donors to meet these costs;
- the desirability of donors avoiding earmarking below country level, and where they do this to allow for the administrative costs;
- the need to avoid concentrating assistance on specific and visible activities, both geographically and in given sectors;
- the continued usefulness of global reporting and of regular consultations; and
- the need to expand UNHCR's funding base.

This list of principles is useful, and highlights many of the issues raised in the course of this research. It is far from clear, however, that it has provided an active guide for UNHCR's relations with its major funders. Yet the fact that *donors* worked to develop such a list provides an important starting point for UNHCR to take a robust and assertive approach in encouraging them to conform to their own standards.

While UNHCR will need to continue to build on this dialogue and translate it into practical results, it might also usefully input into other, international initiatives which are also likely to address some of its concerns.

At present, there is considerable international interest in the processes by which official humanitarian aid resources are mobilised, allocated and used. This has been a constant theme of the Montreux process, and has been given added momentum by the establishment of the Humanitarian Financing Working Group. A key element of this process is concerned with how needs are defined and translated into appeals. Given widespread donor concern (and the concern of some of UNHCR's partners) regarding UNHCR's ability to demonstrate convincingly the relationship between budget and humanitarian need, the findings of these studies are likely to be important. Equally, the studies concerned with understanding the factors driving donors' allocation of funding will be important in informing UNHCR's own advocacy efforts.

The Dutch government, with technical support from ODI, has initiated a project to convene an International Working Meeting, which will seek to establish the principles of 'good donorship' in the humanitarian sphere. The meeting, which is expected to take place in May/June 2003, will seek to encourage the DAC to involve itself in the definition of good donorship in this area, and to identify mechanisms by which the process might be taken forward multilaterally and by individual donors and agencies. This will entail identifying good practice and ways by which such practice might be monitored.

In its contribution to this initiative, ODI is proposing a set of overarching principles that might be used to inform humanitarian donorship. These echo and simplify some of the principles identified by UNHCR's Standing Committee, and can be summarised as follows:

- active respect for international law (in particular international humanitarian law and refugee law);
- a commitment to needs-based programming; and
- predictable, adequate and flexible funding.

Ensuring adequate UNHCR representation in these initiatives is likely to be beneficial. In addition, there are a number of more specific implications from this study that might bear further consideration.

5.2 UNHCR: facilitator or provider?

A key issue for UNHCR is the degree to which it is, or will be, responsible for facilitating assistance and protection, or presents itself as primarily responsible for the provision of such services. As donors increasingly turn to NGOs directly to provide services, a move in line with UNHCR's own concerns to reduce the burden associated with contracting partners, so UNHCR's leverage in determining the provision of services, and therefore in part its ability to protect refugees, will shift. In seeking to achieve its mandate, it will have less financial power over other service providers. A key point of influence will be UNHCR's ability to accurately document need, analyse the effectiveness of response and advocate strategically and effectively to address key gaps. In addition, this is likely to involve a dialogue with donors, encouraging them to recognise the value of UNHCR's coordination mandate and to finance it. This would imply donors reviewing the conditions under which they contract directly with NGOs, and the ways in which they promote UNHCR's lead role in refugee crises, as well as reviewing how they prioritise and finance coordination activities.

While many NGOs clearly recognise the need for a strong UNHCR, they are historically resistant to contractual constraints which legislate for particular coordination arrangements. Ensuring that they support measures to enhance UNHCR's coordination role will therefore be crucial.

5.3 Investing in donor dialogue: framework agreements and all that

The current funding environment is extremely competitive. Not only have the number of agencies vying for funds increased, but donors have also become more informed and critical 'consumers' of humanitarian 'services'. This suggests that UNHCR will need to continue to invest in analysing donor behaviour, not simply to react to it, but to inform and pre-empt it.

UNHCR lagged behind its NGO partners in investing in a capacity to engage in Brussels, for example, and the costs are reflected in the pattern of financial flows from ECHO to UNHCR over the past decade. This suggests a need to build upon existing work in strengthening UNHCR's donor relations internally. Specifically, it implies having the capacity to analyse trends in donor behaviour *comparatively*, to a greater degree than would currently appear to be the case.

Framework agreements arguably represent a tangible way in which UNHCR can articulate its objectives with its major donors. While time-consuming and painful to negotiate, particularly in the first round, they would also seem to offer important benefits for the predictability of funding, while also responding to donors' calls for enhanced accountability. It may therefore be timely to review comparatively UNHCR's experience with such instruments, and to assess the pros and cons of maintaining a moratorium on further agreements.

This analysis also suggests a need to develop networks at a working level, as well as at a higher level with other relevant organisations, including the Red Cross movement, in order to share experiences. For example, an inter-agency discussion of DFID's ISPs would be timely, as at least three have been evaluated. Such a process might inform a wider discussion regarding framework agreements more generally. Similarly, a 'Friends of UNHCR' group might benefit from consultation with other organisations.

In these discussions, it is likely to be important to define where donors' legitimate concern to ensure the accountable and effective use of funds becomes unacceptable micro-management. This is of particular concern to a multilateral organisation such as UNHCR, whose legitimacy rests upon global governance structures, not its relationship with individual donors. Identifying how checks and balances can be introduced into bilateral negotiating processes might be useful. These might include subjecting draft agreements to peer review or including a representative from the G77 on any 'Friends of' group. Again, proposals for the DAC to establish standards in relation to humanitarian donorship might be helpful.

5.4 Analysing the impact of 'bilateralisation' on field operations

As custodians of public funds, and as signatories to international refugee and international humanitarian law, donor governments have clearly established responsibilities to ensure effective and accountable humanitarian response. This is recognised by humanitarian organisations, which typically welcome increased interest from official donors in humanitarian issues, but often complain that this interest is misplaced or inappropriate.

In order to encourage 'good' donor behaviour, it is important to define what this would look like in principle and in practice. This in turn will imply an ability to generate and analyse systematically information regarding the impact of new forms of donor behaviour at field level – in other words, having a robust evidence base to inform discussion with donors. The following issues are likely to be of specific concern to UNHCR:

- the impact on UNHCR's coordination role of new patterns of direct contracting with NGOs;
- the impact on resource availability for different refugee populations of new forms of contractual arrangement and earmarking; and
- the role of donors' field-level staff in the coordination of responses to refugee crises.

5.5 ECHO

Finally, there appears to be a particular opportunity for engagement with ECHO. Commissioner Poul Nielsen is committed to multilateralism, ECHO has as a goal enhancing the equity of its funding by better targeting of 'silent' emergencies and the EC Communication on relations with the UN has been signed. These are all important positive developments. UNHCR is thus right to concentrate on expanding EC support for its work, both within ECHO, and potentially more broadly. This may also mobilise some of the more reluctant European donors. Again, however, doing so will depend on bring the European NGO lobby on side with the UNHCR 'cause'.

5.6 Concluding remarks

Official donors have always sought to influence humanitarian action. Historically, their primary tool was the *volume* of assistance provided to particular crises, and to particular populations therein. To an extent, very little has changed: the crude power of the donor purse remains primary in defining the shape and extent of humanitarian response.

What has changed, however, is that donors now have a greater choice of mechanisms to disburse their funds, and are scrutinising much more carefully the appropriateness of different channels in different emergencies. This implies a much more differentiated humanitarian system than was the case in the past, with different models of coordination and service delivery operating in different places at different times. The UN-led model is likely to remain the model of choice in lower-profile emergencies, but it has been profoundly challenged in recent major crises, most prominently in Kosovo, but also to an extent in Afghanistan.

Multilateral agencies will not only have to staunchly defend their role in maintaining a global response, driven by need not bilateral interest, but also convince the donor community of their ability to deliver. Doing so will rely not only upon persuading politicians and senior civil servants of the validity of the cause, but also gaining the support of the media and civil society, particularly international NGOs. There is, of course, no quick fix to the apparent decline in donor support for UNHCR. The process of re-establishing trust will be slow and incremental, not only in the operational effectiveness of the organisation, but also in the continued relevance of its mandate.

Annex A

Contract request: Terms of Reference

The bilateralisation of humanitarian response: Trends in the financial, contractual and managerial environment, and their implications for UNHCR

Introduction

In recent years, there has been mounting evidence of 'bilateralisation', or increased involvement of official donor governments in the formulation and execution of humanitarian policy. This trend appears to be driven by a number of sometimes competing objectives, including:

- a demand to enhance the accountability of public policy in donor countries generally,
- a demand to enhance the quality and accountability of humanitarian aid following widespread criticism of its efficacy and negative impact;
- a desire to place humanitarian action within a wider conflict management strategy alongside military and diplomatic initiatives.

This trend was most marked in the international response to the crisis in Kosovo in 1999, and, in light of recent events in the USA is likely to be sustained in the Afghan crisis and other humanitarian emergencies.

The Humanitarian Policy Group (HPG) at the Overseas Development Institute (ODI) is currently conducting a series of studies that analyse the trend towards bilateralisation of humanitarian assistance and its implications. In particular, it is reviewing changes in donors' choice of implementing partner and the factors driving such choice; the contractual conditions they apply; and the systems they employ for the management of humanitarian aid.

UNHCR's Evaluation and Policy Analysis Unit wishes to contract the HPG team to analyse the implications of the trends described above for UNHCR. The resulting study would be used as an input for the current review of UNHCR's funding base, donor relations strategies and governance structure.

More specifically, the study will:

- describe and analyse the global context of humanitarian assistance and the trends towards bilateralisation of such assistance;
- review existing material provided by UNHCR regarding trends in financial flows, relative to global humanitarian aid flows;
- review the evolution of the contractual framework with some of UNHCR's key donors, including the US, the UK, Denmark and ECHO;
- identify key issues and implications of the analysis for consideration by UNHCR.

The researchers involved in this project will draw heavily on existing UNHCR material and the expertise and data of its specialist donor relations team. In addition to providing a study (of up to 10,000 words), the researchers will present and discuss their findings with relevant staff in a workshop.

The findings of this study will also be reported in a series of HPG publications and meetings arising from the global study on bilateralisation of humanitarian assistance. Relevant UNHCR and other IASC representatives will be invited to attend key events and receive all publications.

Annex B

List of UNHCR interviewees (November 2001)

Helmut Buss, DRRM

Sander Cohen, Special Advisory to the High Commissioner

Jeff Crisp, Head, Evaluation and Policy Analysis Unit

Mark Cutts, Special Advisory to the High Commissioner

Sivanka Dhanapala, Executive Asst. to DHC

Dolph Everts, Deputy Head DRRM

Anne Folkvord, DRRM

Abeba Ghebremedhin, DRRM

Gunilla Hesselmark, Director and Controller of Department of Resource Management John

Horekens, former Head, Communications and Fundraising

Pirrko Korula, Head, Action 2004

Johanna Langenkamp, UNHCR Office, Brussels, November 2001

Stina Ljungdell, DRRM

Peninah Munoru, DRRM

Zahra Osmane, DRRM

Annika Sandlund, DRRM

Zainab Sheikh-Ali, Fund Raising Officer, DRRM

Carly Wand, DRRM

Jean-Noel Wettervald, Head, Donor Relations and Resource Mobilisation (DRRM)

Mary Ann Wrysch, Deputy High Commissioner

Other interviewees for this study

Cecilia Bjorner and Mikael Lindval, Swedish Mission

Joanne Caley, UK Mission

Marie-Anne Coninsx, EC Mission

Linda Thomas Greenfield, US Mission

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