

LES CAHIERS DU CRASH

MSF AND PROTECTION: PENDING OR CLOSED?

Judith Soussan



**MEDECINS
SANS FRONTIERES**

MSF AND PROTECTION: PENDING OR CLOSED?

Discourse and practice surrounding
the “protection of civilians”

Judith Soussan

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Note to the reader

The present *Cahier du Crash* is made of a general synthesis followed by four appendices, three of which are case studies.

Although these parts echo one another, they remain distinct and autonomous documents. Therefore, they can be read separately and in any order – for example, it is not necessary to have read the general synthesis before broaching the case studies. The reader is free to select parts in which he/she is more particularly interested.

So, don't be intimidated by the length of this *Cahier*!

We hope you enjoy reading it.

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The case studies rely tremendously on the documents *The Hunting and Killing of Rwandan Refugees in Zaire-Congo* (L. Binet) and *A Critique of MSF-France Operations in Darfur* (C. Danet, S. Delaunay, E. Depoortere, F. Weissman).

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“We know that at MSF the best way to bury a subject is not, as in politics, to set up a commission – because a commission is a functioning body – but to write a report on it. If you want to bury a subject, write a thirty-page report on it. Then you can be absolutely certain that it will be deliberately ignored for the next ten years.”
(President’s Annual Report, 1991-92)

So here is a report on protection.

To embark upon a study of this theme is to enter a field strewn with contradictory representations linked to a highly sensitive issue – the limits of our responsibility – that has generated endless disagreements and debates on our “identity” and the existence or non-existence of a role for MSF “beyond care”. It also confronts us with the reactions – sometimes ironical or sceptical – of those who claim that we “don’t do protection”, while others express surprise and see no cause for argument, or lament the fact that MSF no longer “bears witness”. Whatever the case, it is clear that a need to explore this field is now emerging, and it is significant that it is doing so at the very time when protection has become omnipresent in the discourse surrounding our action – whether in calls for the “protection of civilians” in Darfur or in the growing number of humanitarian organizations which claim to be “doing protection”. In internal discussions at MSF, as in the external sphere, references to the “failures of protection” in Bosnia and Rwanda and to the responsibility to protect (either desired or rejected) are vivid.

So what is the issue and who does it involve? When exploring the subject, our first task is to strip away the ‘drama’¹ with which it is encumbered, to free it from the intense pressure and confusion that characterise its discussion, particularly within MSF. But it seems that approaching the question of MSF’s responsibilities with regard to protection directly would lead us head on into this confusion. In effect, the word has many meanings and is employed in a variety of registers which enable its constant mobilisation, although we are never quite sure what we are talking about.

1. In this document, double inverted commas (“ ”) indicate a quotation or a commonly used expression within MSF; single inverted commas (‘ ’) are used by the author.

Let us begin with the registers. In the first instance, the word forms part of the phrase “protection of civilians”. In international humanitarian law (IHL) this refers to a *specific legal framework*, a set of rules designed to restrict and attenuate the effects of conflicts (international or otherwise) on a certain group of people (non-combatants) according to the nature and degree of their vulnerability. International humanitarian law therefore discriminates; it creates categories such as wounded combatants, prisoners, civilians in general, the sick, women, children, refugees and those living in occupied territories. All such categories represent “protected persons”, people who are entitled to protection, i.e. to the application of specific “protection regimes”. To be more precise, protection is most often a matter of prohibitions designed to regulate the conduct of the parties to the conflict: parties should not attack civilians, use famine as a weapon of war, resort to torture, take hostages or subject people to degrading treatment, etc. More positive measures include the provision of safe sites through the creation of neutral zones on territory controlled by one of the parties, the evacuation of a besieged zone and, above all, the right to obtain relief. Consequently, the warring parties should not attack civilian hospitals nor hospital staff and members of relief organizations, but they are also obliged to guarantee the free passage of supplies intended for populations (medicines, healthcare equipment and provisions). These various elements highlight the fact that ‘legal’ protection is a broad framework in which relief is just one right among others.² However, the original meaning is altered in practice. The ICRC – the only agency with a mandate, i.e. with a specific role under IHL – has a “protection” (“prot”) department which groups together activities aimed at certain specific categories of protected persons such as detainees and separated families. This name which stems from the institutional structuring of the ICRC, sustains the idea of a clear separation between protection on the one hand and operations on the other (operations being another department – in which, incidentally, activities other than assistance are called “protection” e.g. interceding with the parties to the conflict in an attempt to ensure respect for civilians).

The *protection of refugees* is another register deriving from IHL (the 1951 *Convention relating to the Status of Refugees*). It can be distinguished from the first because it has contributed even more to the formalisation of a ‘protection-assistance’ duo. Each term of this duo covers a set of concrete measures (registration, camp security and the defence of the *nonrefoulement* [forced return] principle in the first instance, and aid delivery in the second). In this sense, the practice of both UNHCR and the ICRC tolerates an ambiguity between protection as a legal framework and protection as a set of concrete activities.

We now come to the register used by humanitarian agencies which do not have a specific mandate; while related to the legal register, it refers above all to a *professional field*. This covers activities ranging from the documentation of violence to public denunciation and has led to the creation of “protection officer” posts within NGOs, while the UN has set up “protection clusters” to coordinate “protection activities”. No such measures have been put in place at MSF-France, but the word protection is in fact spontaneously associated with the concept of

2. For further information, see the texts that created this right (the 1949 Geneva Conventions, particularly the *Fourth Convention Relative to the Protection of Civilian Persons in Time of War* and the *Additional Protocols* of 1977), available on the ICRC website (www.icrc.org). The thematic presentation of the Geneva Conventions and their Additional Protocols provides a clearer summary (see “Protection of Civilian Persons and Populations in Time of War”, www.icrc.org/Web/Eng/siteeng.nsf/html/genevaconventions). See also F. Bouchet-Saulnier, *The Practical Guide To Humanitarian Law*, MSF/Rowman & Littlefield, new edition 2007, particularly ‘Civilians’, p. 36-40, ‘Protection’, p. 348-352 and ‘Relief’, p. 373-378.

témoignage (thus suggesting that care-*témoignage* is MSF's term-by-term equivalent of the assistance-protection combination).

Finally, we arrive at the political register of *international relations*, the talks between states and at the UN, where for several years the topic of "protection" (meaning, of civilians) has referred to the responsibility of the "international community" to intervene in a state's affairs to prevent or stop violations of human rights. A responsibility of this nature includes the possibility of military intervention as indicated by the ambiguity of the term "humanitarian intervention" in English, which (unlike in French) means 'military intervention with the aim of protection'.

The plurality of registers is complicated by the polysemous nature of the word protection in its most common application. By and large, it refers implicitly to the concept of physical security, but it may also be employed in a broader social context to designate numerous other fields (welfare and legal protection). But of greater significance is its ability to encompass both an action (protecting someone) and the condition resulting from that action (security).

The term therefore has a variety of meanings which may be intermingled or sometimes closely associated in a single sentence. For example, its polysemous quality may convey the impression that activities conducted in the name of protection (as when agencies talk of "doing protection") almost automatically result in the provision of protection (as a state of security) – when this result has not materialised, we are confronted with the 'paradox of protection which does not protect'. Moreover, since we are dealing with violence we find that the connection between physical and legal protection is always somewhat ambiguous: in many cases, protection of civilians in the legal sense (their right to be spared) actually refers to their physical safety, which means that NGOs must tread very carefully when calling on the international community to "provide protection". Finally, the separation between the register employed by humanitarian agencies and that used by the international community is by no means as clear as the above description suggests. The recent UN "coherence" doctrine depicts the "protection of civilians" as a common goal, i.e. a goal shared by every actor working in these fields; the activities of NGOs are therefore simply one aspect of the shared "responsibility to protect",³ which is itself just one element in the doctrine's objective of global security in the broadest sense of the term (economic, cultural, social, physical, etc.). The doctrine effectively ensures a state of permanent confusion regarding the meaning of the word protection *and* of the word security.⁴

This exploration gives us some idea of the complexity of a portmanteau-word that has been subjected to various forms of abuse, distortion and manipulation by a multitude of agents. However, this observation is not in itself enough to justify banishing the word from the present study: it could indeed have led us to try and untangle the threads in the hope of arriving at the 'right definition'. It is in fact the very status of the word within MSF which poses a problem. Besides reflecting the complexity of its usage by other actors, we now use it sparingly and

3. The "responsibility to protect" doctrine emerged in the UN sphere in the late 1990s and was formalised in the eponymous document published in 2001. The doctrine is based on the idea that states have a responsibility to intervene when a state is committing "violations of human rights on a massive scale" or pursuing a policy of "ethnic cleansing".

4. The rise of the term "human security" has been as spectacular as that of the term protection. Stretching the concept of security to its limits through an integrated global approach, "human security" postulates that states should accept human life as their chief concern, rather than national security. From this perspective, human security is as much about alleviating poverty as it is about using military means to pacify unstable areas. At a certain level, everything becomes interchangeable. For an analysis of the concept's malleability, see 'What is Human Security?' in *Security Dialogue*, no. 35 (5), 2004, pp. 345-387.

generally in a negative sense, which indicates our ambivalence towards the concept's connotations.⁵ In MSF documents the word 'protection', whether referring to the activities of other agencies, the performance of international armed forces or the role of MSF, is often stamped with the seal of falsehood or impossibility.

So if we confine the discussion to the uses of the word, we dispose of the question of whether MSF has a role that extends "beyond care" in war and/or violence by simply not asking it. We have therefore opted for an approach that circumvents the word: we focus on the responsibilities MSF accepts and enacts when *faced with the violence* affecting populations. In short, we attempt no constructive and premature definition of what protection is or is not, but instead examine the discourse and action arising from various situations – we look back over the history of MSF and see how the organization has expressed its role in these situations, the dilemmas it has faced and the responses it has applied. In the background comes a series of questions. How does MSF's formulation of its responsibility fit into its working environment? How has past experience influenced this formulation (our view of the limits of what we can, should or should not do when confronted with violence)? How is the responsibility to do something, to act, transformed into action: what threats do we refer to and exactly who is under threat? How do we define the target and content of the action we take in such situations? To which extent is action motivated (at institutional level and among individuals with different levels of responsibility) by 'morality' or by the importance of effective aid provision? At what point does violence, initially taken as the working *context*, become a phenomenon which we attempt to influence (by stopping it, slowing it down or attenuating it)? In opting for this approach, we are fully aware that replacing the word 'protection' with the expression 'faced with violence' does nothing to reduce the difficulty, for violence itself is a fluid category, malleable and ideologically loaded. However, the shift to another term means that the context (violence), rather than the nature of the action, becomes the fundamental point of reference. We can thus hope to avoid the twin reefs of permanent semantic uncertainty constituted by the various forms of protection and of a pre-established view of 'what protection is about'. Moreover, each time the word protection occurs, we have tried to clarify the particular register and meaning involved.

As these questions suggest, a description is first needed. Bearing in mind the need to look at concrete practices in the field (systematised or otherwise, aimed at individuals or at groups) as well as discourse, we decided to focus on certain situations which could serve as specific case studies. The first of these is drawn from the past – the hunting down of Rwandan refugees in Zaire in 1996-97. This particularly tragic crisis created numerous dilemmas and enables us to gain a temporal perspective. We then turn to two contemporary situations. Darfur (Sudan) is appropriate because of the gravity of the crisis and its prominence in international debates on protection. North Kivu (DRC) was selected because the programme MSF is running in the area symbolises the organization's increasing focus on direct victims of violence; it also adds to the list of issues raised by traditional situations involving the treatment of indirect consequences of violence (massive population displacements, the collapse of care provision, etc.).

5. See Appendix 4 for instances of the word "protection" in Board meetings proceedings and President's annual reports since 1978 (the list is based on notes taken from these documents and is therefore not exhaustive, but it is nevertheless useful for indicating tendencies).

The three studies (reproduced in full as appendices) provided the foundation for a broader attempt to identify the evolutions of MSF practice and discourse in the face of violence, beginning with a review of internal policy framework documents (president annual reports, minutes of board meetings) and certain other sources (press releases, reports and interviews). To be sure, the phrase ‘MSF faced with violence’ requires clarification. Following the example of the case studies, we focus on situations of violence linked to a context of belligerence, whether they form the core of the comet or simply its tail. We decided against a focus on ‘social’ violence partly because projects organized around “exclusion and social violence” have been examined in a recent study, and partly because the specific questions they raise would have complicated the aims of the present discussion considerably. In short, we selected the sections of international humanitarian law concerning the rights of civilians and refugees as our frame of reference, rather than those relating to human rights or child protection. However, the frontiers of the real are more fluid than those of words, and we shall touch upon these situations several times during the course of the study. It should also be noted that when speaking of violence we chiefly mean physical violence, but do not exclude the other forms covered by IHL (destruction of personal goods and property, pillage, etc.).

When referring to MSF it must be borne in mind it is not an entity with a single, steadfast identity. The institution is composed of individuals with their own experiences and opinions. It is also a condensation of the collective experience accumulated over time, and the site where concepts of the humanitarian actor and of the relationship to other actors have evolved to create a space of possibilities which is not the same as that which existed twenty years ago. We have therefore studied the different voices the term MSF represents – the public voice, which conveys the impression of a relatively unified body; the self-analytical and policy setting voice employed by key individuals (often the President) when setting the framework of action; the contradictory voices raised in internal debates; and finally the voice from the field, which tells us about concrete practices. Each section of MSF may thus be likened to a polyphonic score. However, we have chosen to concentrate on the documents produced by the French section; a comparative study, although fascinating, would have been too great an undertaking given the vast increase in relevant material. For the purposes of the present study, MSF hence refers to MSF-France; this short-cut does not imply that the French section is representative of developments in the movement as a whole.

Whereas the case studies, with their focus on practices in the field and the process of drafting a message or arriving at a decision, reveal surprising similarities between the practices of the past and those of today, the discourse seems to have evolved significantly. The general synthesis initially centres on the way MSF expresses its role when faced with violence; it examines the general theorisation of the role, the key public positions and the policy framework. Three necessarily chronological sections trace the mutations of this role embodied in changing figures, from sentinel to aid worker. We then explore contemporary practices, comparing them with past practices and the discourse in which they are embedded in an attempt to identify the logic governing their development.

I – THE ERA OF THE WITNESS – HUMAN RIGHTS SENTINEL AND SUPPORTER OF THE OPPRESSED

Emerging in the aftermath of Biafra, a foundation recounted in mythical terms (support for a people resisting oppression, a break with the tradition of silence maintained by the Red Cross), MSF was immersed from the beginning in a field of multiple references linked to the issues of the day.⁶ The 1960s and 1970s were marked by decolonisation and wars of national liberation, as well as by the Cold War and the abuses of totalitarian regimes. These realities, and the various ways in which they were represented, dominated the world into which MSF had thrust itself. Moreover, the founders of the organization originated from a society where the seductive power of ‘progressive’ ideologies such as communism and Maoism started crumbling, and where new debates on the Holocaust emerged. It is, thus, both in reaction to the evils of distant worlds (*evils* rather than violence, the use of which is more recent) and in accordance with certain western modes of thought that MSF defined its role up to the 1980s. – a role which consisted in the presence of the doctor-witnesses supporting oppressed peoples and acting as their voice.

“WE ARE PROTECTING PEOPLE”

Presence, the core of the commitment accepted by MSF doctors, was far more than a neutral fact. In a “closed” world, it was an act, and an act regarded as protective (in the commonly accepted sense of preventing violence) by virtue of its twofold aim: to “stand alongside” the vulnerable and to act as a witness:

“... A handful of comrades decided to found a medical organization, hoping to provide aid and consolation in situations of war and disasters in those places where other organizations, prisoners of their own status and conformity, could not go ... As doctors, we are protecting human beings” (AR⁷ 1980). “... the people of Afghanistan were beginning to forget the meaning of the word SOLIDARITY when it applied to western countries” (AR 1981). In Nigeria, there was a need to stress “the nature of our intervention, derisory perhaps, but still meaningful: it conveys a certain sense of fraternity with these people, who are trapped in misery and humiliation.” In Iraq: “Behind this wall, the result of fanaticism on the one hand and reasons of state on the other, a population is suffocating. We are seeking, and we shall find, a way to breach the ramparts.” “Afghanistan’s invaders cannot tolerate our presence because it provides the population with material and moral support and because we are troublesome witnesses” (AR 1983). Honduras: “The safety of these refugees, which the military regards as single mass of suspects, will continue to require a permanent international presence” (AR 1986). Refugees: “Our medical action aside, our physical presence in the camps is also a militant act, a constantly renewed affirmation of this fundamental humanitarian principle” (AR 1988).

6. For a retrospective critique of the early days of MSF, see R. Brauman, “Les relations dangereuses du témoignage humanitaire et des propagandes politiques” in M. Le Pape, J. Siméant and C. Vidal (eds.), *Crises extrêmes*, La Découverte, 2006, pp. 188-204.

7. Throughout this document, the abbreviation “AR” will stand for “President’s Annual Report”.

The reference to violated rights – human rights, the rights of peoples and refugees’ rights (but not international humanitarian law) – was an expression of this committed vision. It was essential to the identity of the doctor-witness until the early 1980s, and was fully endorsed until the end of that decade:

“MSF personnel back from mission will report any human rights violations and unacceptable facts they may have witnessed” (AR 1978). “Because we are doctors and nurses, because we apply Pasteur’s sublime words – ‘I do not ask what is your race or religion, I ask what is your pain’ – we have taken on a considerable burden of responsibility by acting as witnesses” (AR 1980). “Everyone will join me so that we can make a dream come true ... the crazy dream of giving our skills but also our hearts and our enthusiasm so that nobody is ever forgotten ... and sometimes also to testify to these attacks on peoples’ rights, like famines, deportations and massacres ...” (AR 1981). “We must denounce the attacks on peoples’ rights to which we are the only witnesses” (AR 1982). MSF decides to create a “centre for research into issues of development, human rights and the rights of peoples” (AR 1984). As a “human rights practitioner”, MSF is thinking of participating in the drafting of a new universal declaration (Board meeting May 1988).

The denunciation of violence therefore appeared as the act which gave substance to the image of the witness standing in the way of its perpetration, as opposed to the *complicit* silence the world had maintained during previous genocides. As we know, the stance adopted by the Red Cross during the Second World War was a seminal reference in this respect, as the following extract makes clear:

“My dear friends, let us not forget! From the time of the Nazi concentration camps, some organizations have been willing to visit such camps ... we will not tolerate bars or genocides ... and we will make every effort ... to alert the public and tell them that while we are being offered the balm of statistics, peoples are being murdered” (AR 1980).

Like the birth of ‘sans-frontierism’ in Biafra ten years earlier, the promotion of a “march for the survival of Cambodia” in 1980 stemmed from the same logic and points of reference.⁸ The march, organized in the hope of “demolishing the barriers that prevent us from aiding a people faced with death”⁹, was perceived as a way of refusing to be complicit in genocide: “We have acted responsibly – and we spoke out when confronted with the holocaust – we were almost alone in doing so” (AR 1980). A historical reference and the perceived need for denunciation were also at work in the “Little Hitler” affair in Sudan eight years later. In March 1988, an MSF-Holland team produced a confidential report claiming that Abdu Gurun, a Southern leader whose brutality had earned him the nickname Little Hitler, was responsible for a series of atrocities. Believing that it was a matter of urgency to denounce the atrocities (which were probably regarded as evidence of an ongoing genocide), MSF-France decided to “alert the press” (Board meeting May 1988), although MSF-Holland, the source of this alarming (and second-hand) information, advised against it. Raising awareness of such incidents was not the only goal: “The aim? To encourage the French government to begin an international demarche resulting in the dispatch of a neutral intervention force to central Sudan” (AR 1988). A force to “protect civilians”, as we would now say.

8. MSF was working in refugee camps in Thailand and had witnessed the influx of starving refugees. Not unreasonably, this provoked fears of a famine in Cambodia. Without confirming its existence, the organization interpreted it as a case of organized ‘famine-genocide’; the lack of access reinforced the idea of intentionality. At that point it was decided to launch the “march for the survival of Cambodia”.

9. Extract from the MSF appeal published in various newspapers. Quoted by R. Brauman on page 200 of the text referred to in footnote 6. Its inclusion here is not for the purpose of highlighting past errors; it simply illustrates the extent to which implicit references structure and shape existing reality and the desire for action.

However, the era of the witness was not necessarily the age of *témoignage*. To begin with, defining oneself as a witness should not disguise the fact that in most cases MSF was working on the margins of conflicts. The first doctors without borders thought of themselves more as committed observers of the disastrous consequences of totalitarianism (particularly the Soviet version) than as eyewitnesses. By their very presence in refugee camps on the borders of communist countries and at the edges of bipolar conflicts (and, more rarely, alongside combatants, as in Afghanistan and Chad), they attested to the atrocities being inflicted on populations or the political effects they were being forced to flee. Furthermore, neither the founders – who had not inscribed *témoignage* in the charter – nor those who led the organization during the 1980s saw the provision of testimony relating to violence as a systematic practice:

“The office alone will decide to inform the public *if it is the case* that MSF was the only witness to intolerable atrocities and *if it is the case* that silence would render every member of MSF complicit. In no case should the provision of testimony be systematic” (AR 1978). “...*sometimes* also in order to bear witness to these attacks ...” (AR 1981). “We would like the means to make our voice heard *when* it becomes necessary to denounce the attacks on people’s rights that we alone have witnessed” (AR 1982). (Author’s italics.)

The theorisation of denunciation gradually disappeared from policy framework documents after the presidency passed to Rony Brauman, who put more emphasis on the role of MSF doctors as “troublesome witnesses” (AR 1983). They were there to “challenge injustice and violence” (AR 1984); to act as “troublemakers, stand in the way of wholesale slaughter” (AR 1987); to contribute to “protection against external threats” (AR 1988). This was the “substance of [the] commitment” (AR 1984) that bound MSF. While definitions of the role contained fewer references to the witness as a voice of denunciation, the protective virtues of presence (obstacle, prevention or attenuation of violence) were still held in high regard. When faced with war and oppression, MSF continued to act as a “human rights sentinel”.¹⁰

“AID WAS USED TO PREPARE A TRAP”

However, the complexity of the protective role became increasingly apparent during the second half of the 1980s, principally through events in Ethiopia in 1984-85 and the long experience in the Salvadoran refugee camps in Honduras that culminated in withdrawal in 1988. In both contexts, MSF found itself in direct confrontation with politically motivated violence.¹¹

The mission in Ethiopia began in early 1984 and continued until the end of 1985, when it was expelled by the authorities. Some months later, Rony Brauman offered a forthright summary of the history of this crisis: “In other words, international aid was used to prepare a trap designed to capture more than a million people; organizations were unwittingly acting as bait in this lethal arrangement”. MSF was expelled because it “refused to turn a blind eye to the

10. It should be noted that during this period MSF was also developing purely medical and technical missions which were neither motivated by nor designed to deal with situations of war and oppression. We shall not discuss them here, but it is important to avoid conveying the impression that MSF acted exclusively as a human rights sentinel at this stage in its history.

11. See L. Binet, *Famine and forced relocations in Ethiopia, 1984-1986* (2005), and *Salvadorian refugee camps in Honduras 1988* (2004), both published by Crash/MSF in the ‘MSF Speaking Out’ series.

unacceptable” (AR 1986). The diversion of aid to further a criminal policy grew intolerable.¹² From then onwards, “dilemmas” coloured MSF’s view of the world.

As it was chiefly concerned with relief work, the Ethiopian episode may appear to have little to do with the subject under discussion. In fact, the intervention was an instance of a medical organization responding to a government’s request for assistance when faced with a famine. In short, while MSF had no sympathy for the Mengistu regime, its intervention was not designed to support oppressed populations or defend their human rights – a role which would have justifiably required the team to watch out for atrocities and pay close attention to the context, in other words to combine the roles of witness and doctor from the outset. It was more than a year before MSF became aware that aid was being diverted in Ethiopia. Attention to the context, which at the beginning was no more than a “shadow play”¹³ for the hard-pressed volunteers, was slow to develop. It grew from their experience of the obstacles placed in their way, which (re-)established the link between action and a context of violence.¹⁴ Indeed, MSF regarded the impediments as a classic sign of oppression. In these circumstances, the organization became aware firstly of the violence and thereafter of the role its own presence was playing. The figure of the complicit witness who remains silent in the face of violence was joined by another – the doctor-participant who is blind to the crimes being committed around him. In this sense, the Ethiopian dilemma helped to tighten up the previously slack connection between assistance and attention to violence. We were forced to acknowledge that our action took place in a dynamic field characterized by relations of political power, and that it was but one ingredient among many: given the context, its positive effects on the recipients could no longer be taken for granted. In other words, assistance and protection (or *témoignage*, or attention to violence) had to be linked, a lesson MSF would not forget.

The loss of innocence, so important for the future of the organization, resonates in the tone of the president’s annual report which discusses the dilemma: “What standard should we use to assess the interests of the men and women we mean to assist?” While the “finality” of MSF action remained “the human being” whose “physical integrity and right to freedom” have been attacked, we would in future have to “think about our action and its significance” (AR 1986). Besides continuing to pursue our chosen role as a defender of rights, our responsibilities when faced with violence would henceforth require us to examine the consequences of our own actions. This idea became increasingly important as time went on: “If we are to improve our action’s integration, it is essential that we strive to understand the nature of the problems forming the context of our intervention; we must look at the solutions proposed in the light of the outcomes. In effect, purity of intentions has all too often served as a convenient screen to shut out the harsh reality of the facts” (AR 1987).

12. As used here, the term “intolerable” implies no moral judgement and is simply a direct reference to the notion as it is developed in D. Fassin and P. Bourdelais (eds.), *Les constructions de l’intolérable*, La Découverte, 2005: “It is always a matter of a historically constituted norm and limit.” The authors’ approach is not intended to “defend values ... but rather to identify the existence of a common threshold in our moral universe – a threshold developed at specific times and in specific places.” (p. 8.)

13. “Working day and night as we were, the atrocities and roundups seemed like a shadow play of which we understood nothing.” (Rony Brauman, “L’humanitarisme contre la politique?”, interview, *Le Banquet*, no.2, CERAP, April 1993).

14. As the crisis developed, MSF was chiefly concerned by the permanent obstacles to the presence and activities of humanitarian organizations and the feeling of impotence this induced. The brutality with which the “resettlement” process was implemented gave rise to terrible scenes, some of which were witnessed by the teams, but it was not central to the issues as they were perceived. There is a reference to a “limit to what is tolerable that has largely been exceeded” (Board meeting, May 1985), but this primarily applies to the obstacles to action, which MSF was trying to overcome. By the end of 1985, discouragement was total: “For four months, the medical team at Kelala has been forced to watch, hands tied, the death of hundreds of children, most of whom could have been saved in a feeding centre” (Board meeting October 1985). In this context, various elements combined to create a coherent picture of the way aid was being used as bait: on this occasion, the “limit ... that has largely been exceeded” justified “going right up to the wire, at the risk of being expelled” (Board meeting November 1985).

The harsh reality extended to refugees: in the autumn 1988, MSF took the difficult decision to withdraw from the Salvadoran refugee camps in Honduras after years of conflict with the committees that claimed to represent the inmates' interests. The committees had maintained an iron grip on the refugees, treated them brutally, used them in their guerrilla warfare against the Salvadoran dictatorship, attempted to commandeer aid for the war effort and made increasing demands. The leaders of MSF gradually became convinced that we were dealing with an authoritarian, or 'Albanian', tendency (while the teams on site, many of whose members found the guerrillas' cause seductive, tended to tolerate these practices). Given their aversion to totalitarianism and authoritarianism, they concluded that the committees' demands had to be resisted – a stance which resulted in a drastic deterioration of relations and culminated in withdrawal from the camps in 1988. While MSF had long been aware that most refugee camps were far from being pure “sanctuaries”¹⁵, the Honduran experience complicated its perception of the situation of refugees and of the role it should play in response to the abuses to which they were subjected:

“The perpetuation of refugee camps in the Third World is a source of tensions which themselves raise serious protection problems ... Like everyone else, we have no ready-made solution to this problem, and it cannot be summarised in terms of idealistic oppositions such as ‘human rights/reasons of state’ or ‘refugees good/government bad’. Nevertheless ... our humanitarian vocation puts us unequivocally on the side of the refugees; their rights, theoretically guaranteed by international conventions, must be defended every inch of the way ... As I have said, we have an important part to play in the field of protection against external aggression. We have played it by maintaining an uninterrupted presence in Honduras for eight years ... When it comes to external threats there is something we can do. But we are powerless when faced with an internal system of oppression ... when law founders on the reef of force” (AR, 1988, shortly before the withdrawal).

The above extract tells us something about the protective role MSF had taken on in refugee camps in general – it was not necessarily linked to specific actions, but was primarily a matter of maintaining a presence and, once again, of acting as an outside observer. Some months earlier, when violence broke out in the Honduran camps, it had been noted that “UNHCR, which has a mandate to protect refugees, is in a very difficult position. It is trying to protect the refugees from the committees and the Honduran army” (Board meeting July 1988). Two forms of protection, one elective and the other with a mandate, meant that a small French organization and a UN agency were working side by side, a convergence which would surprise anyone today, and which would in fact be called into question a few years later.

On the eve of the collapse of the Berlin Wall, MSF was no longer the minor and marginal actor noted for conducting symbolic actions on the edges of bipolar conflicts. It had organized itself along professional lines during the 1980s and had gone through the experience of Ethiopia. It certainly envisaged a role that extended “beyond [its] medical action” (AR 1988), and acknowledged the complexity that would arise from that. The 1990s would usher in another kind of complexity – the linking of its own responsibilities to those of the other actors working in the field of post-Cold War conflicts.

15. See J.-C. Rufin, *Le piège humanitaire*, Paris, J.-C Lattès, 1986.

II – THE ERA OF APPEALS – DEFENDER OF POPULATIONS IN DANGER: BETWEEN DENUNCIATION AND IMPOTENCE

The end of the Cold War, that oft-quoted caesura, was a turning point for MSF in that it marked the transition to the age of the “international community” and the spread of the discourse of democracy and human rights. It also marked the emergence of humanitarian action as a distinct field, for many previously inaccessible areas now provided MSF with the opportunity to work amidst conflict instead of remaining on the margins. The rapidly changing environment obliged MSF to reposition itself, make adjustments and discard some of its badges of identity. First, the way it referred to its own responsibilities was reformulated in a somewhat clouded critique of the role the international community adopted in response to violence. The organization was then faced with a series of particularly acute crises, from Bosnia to the Great Lakes. These missions brought back to its role in a situation of war and work in the midst of the violence. As these crises have become established as key moments in the history of MSF, as they constantly surface in explanations of what we are today, and as they are often recalled in simplified or formulaic terms, we shall examine each of them in some detail, for they successively raised every one of the issues linked to protection.

“STATES BECOME INVOLVED IN THE HUMANITARIAN FIELD”:

THE CONSTITUTION AND DEFENCE OF THE FIELD

During the 1970s, the discourse of human rights had become an increasingly prominent component of international relations as the West applied pressure on the Soviet camp. With the advent of the post-Cold War order, states began involvement in the “humanitarian field” by developing a form of governmental humanitarianism. Significantly, the word “field” first appeared in MSF documents shortly after the fall of the Berlin Wall, at the precise moment when the organization had begun to experience a sense of intrusion – the existence of the field being in some way produced by this intrusion: “It is a widespread problem. It is the price to pay for the human rights impact of humanitarian action. States are becoming involved in the humanitarian field”¹⁶; “... We must regain our identity” (Board meeting discussion, December 1989). There was a growing perception of “confusion”; was this just a “passing phase”? (AR 1989-90). The Kurdistan crisis in 1991 provided an answer of sorts to this question. In the meantime, MSF had begun directing questions at the new “international community”

16. The remark illustrates the extent to which human rights and humanitarian law were still intermingled. Subsequently, the “field” was shaped by the proliferation of humanitarian NGOs as distinct from human rights NGOs (which were also on the increase), the allocation of funds, the organization of operations, and also by the creation of governmental coordination bodies, etc.

embodied by a UN which had recovered its ability to act. The positions the organization adopted during this period were consistent with the role of warning system and obstacle it had considered appropriate in a world where its appeals did not have much impact (i.e. during the Cold War). For example the “Cambodia Operation”, with its threefold purpose “to denounce the misappropriation of international aid in the camps situated on the Cambodia-Thailand border, to denounce Khmer Rouge representation at the UN and to call for the creation of a neutral camp.” Aversion to the Khmer Rouge (which embodied the worst excesses totalitarian power), coupled with the fear of further violence, were at the root of this initiative which, like the appeals to the international community during the 1980s, was viewed as a Utopian gesture: “Although fully aware that the idea is Utopian, we call on the United Nations to create a neutral camp. Neither the Thai government nor the Khmer factions will tolerate it, but it is a good battle to conduct” (Board meeting, December 1989). Another Utopian idea had been advanced a month earlier, a few days before the collapse of the Berlin Wall: “The constitution of an international body to be known as ‘white helmets’, with a mission to create access corridors to disaster areas and protected perimeters, thus enabling relief teams and materials to reach these sites” (AR 1989). This “Utopian” proposal expressed the possibility for the UN to implement the civilian protection measures contained in the Geneva Conventions, particularly the free passage of aid and the creation of safe havens. In subsequent years the idea became a reality, but its complexity was almost immediately apparent to MSF. Whereas our role in war was reaffirmed as the major component of our ‘identity’, and war itself as our field of legitimacy par excellence¹⁷, that field had to be shared with the new actors who had become involved in it; cohabitation thus meant direct confrontation with the acts and discourse of others.

Each of the major crises of 1991-1993, Kurdistan, Somalia and the former Yugoslavia, involved a military intervention with a variety of goals, although all three made use of the humanitarian argument. MSF revised its stance accordingly, but critiqued each intervention as either an excuse or a failure of political will and attacked it on the grounds of “protection”.

In Kurdistan and Somalia, it appears that MSF’s use of the protection argument was primarily a matter of defending the field, a means of discrediting interventions by drawing public attention to the duplicity and partiality of the states which undertook them. Our retrospective analysis of the famous “right to intervene” in Kurdistan thus argued that “it would be wrong in theory and imprudent in practice to imagine that the international community’s mobilisation in support of the Kurds could lead to an international mechanism to protect populations in their own countries”. It also argued that the intervention was an “entirely conventional” operation, its purpose being to avoid regional destabilization by ensuring that the Kurds remained within the borders of Iraq.¹⁸ By doing so, MSF disputed the claim that the right to intervene rested on humanitarian concerns. It switched its focus from the (massive) sphere of aid to the (non-existent) sphere of “protection”, which became the object of the criticism directed at the allies as the crisis developed.¹⁹ The US-UN intervention in Somalia provoked further criticism based

17. “The question of the continuation of wartime missions was raised – necessarily so – and the response was positive. Everyone considered such work to be a constitutive and fundamental characteristic of MSF” (AR 1989-90).

18. F. Jean (ed.), *Populations en danger*, Paris, Pluriel, 1992, p.84 (in English : *Populations in Danger*, London, John Libbey, 1992)

19. At the beginning of April 1991, MSF called for *protection* measures including “the establishment of safe areas to provide provisional asylum on the Turkish and Iranian borders”. When the United States announced plans to set up new sites, the organization called upon the international community to ensure that “these people are sheltered from reprisals and can return to their homes” (AR 1990-91). At the end of April, it was noted that the problem with current operations was not one of “assistance, but of providing protection for people under threat” (Board meeting April 1991).

on the issue of protection, or rather on the paradox arising from the fact that aid protection was actually putting the population at risk. The brutal suppression of riots by blue helmets in the spring of 1993 prompted an internal question: “What logic governs the fact that soldiers who were originally deployed to help Somalis are now turning them into victims?” (Board meeting June 1993). Public statements were uncompromisingly harsh: “In Somalia, for the first time, people were killed under the banner of humanitarian relief”.²⁰ The killing of civilians in the name of humanitarianism was an aberrant and unacceptable reversal of moral principles: “Under the banner of solidarity, human rights and humanitarian aid, we have seen combat helicopters attacking demonstrations ... Are peacekeeping forces, military-humanitarian forces, obliged to respect humanitarian principles or not?” (AR 1993-94). The reference to the “humanitarian principles” was one of the first occurrences of “protection of civilians” in its legal sense. Significantly, it arose from the specific context of a Western-led intervention, and would arise repeatedly from such a context in the years to come.

In short, these two attempts on the part of MSF to defend the impartiality of the humanitarian field took the form of criticising humanitarian aid action which ignored the need for protection (understood here as concern for peoples’ safety, for their vulnerability), and of redefining “military-humanitarian” forces as belligerents (with an obligation to respect IHL). These episodes drove MSF to (re)assert that humanitarian action was enshrined in humanitarian law (“protection of civilians” being part of IHL) at a time when (given the reigning confusion) the need for clarification was urgent: “Should we distinguish between humanitarianism, the general interest, social utility and defence of human rights? I think we should ... in the concern for coherence, for minimum clarification”. Unlike states, which have their own interests to defend, “ethics is the foundation of our approach” (AR 1990-91).

“MSF CALLS ON GOVERNMENTS TO SHOULDER THEIR RESPONSIBILITIES”

The reference to protection to defend the humanitarian field, identified in the cases of Kurdistan and Somalia, was also apparent in the criticism of the “humanitarian alibi” adopted by the international community in Bosnia. It was not the driving force, however, for in this instance the primary consideration was the perceived lack of political will (and the need to denounce it). Faced with a war of “ethnic cleansing” on European soil, MSF began working with displaced persons and interned Bosnian civilians. The decision to intervene had initially been delayed by a variety of problems, notably the reluctance to act as a kind of “after-sales service for ethnic cleansing” by distributing aid after people had been displaced (although this was seen as preferable to assisting on sites of violence beforehand). Abetting the internment of civilians by working in camps which should not have been necessary in the first place was another thorny issue. In short, we were faced with the classic difficulty: coping with the aftermath of violence that could have been prevented by others. But the greatest reluctance to become engaged stemmed from the way that states were hijacking the humanitarian argument.²¹ Once MSF had established a presence (and had, unlike the states involved, fulfilled its responsibilities), its initial reluctance gave way to indignation. This in turn

20. R. Brauman, *Le crime humanitaire*, Paris, Arléa, 1993. Available in English on www.msf.fr (*Somalia, A Humanitarian Crime*); the quotation is page 13 of the pdf file.

21. “All year long, we prevaricated over our commitment in Bosnia” because of “the misgivings we felt over the manipulation of humanitarianism” (AR 1992-93).

generated the relentless calls on political actors and the multiple denunciations of the “humanitarian alibi”, dual aspects of the responsibility MSF felt when confronted with the plight of the Bosnian Muslims.

The public stance adopted during this period was openly a call to protection; as such, it was a call to political action. Several press releases called on “governments to shoulder their responsibilities” (Board meeting, October 1992), while a report compiled from the testimony of deportees (published in late 1992) denounced “ethnic cleansing” and suggested that the process amounted to a “crime against humanity”. The organization stepped up the pressure through articles in the press, mounting scathing attacks on the “inaction”, “lack of will” and “impotence” of the international community,²² and redefining the “so-called” protection force: “If words mean anything at all, the ‘United Nations protection force’ should be renamed the ‘ethnic cleansing observation force’”.²³ The “humanitarian sideshow” threatened to become the new way of allowing crime to flourish in the age of the international community. Internally, the sharpest criticism revolved around the hypocrisy of humanitarian alibi and the absurdities to which it led: the plight of interned civilians, who could not be released because no country was prepared to take them, was “unacceptable and absurd” (Board meeting October 1992). “State humanitarianism simply misrepresents the fact of ethnic cleansing and acts as a substitute for political responsibility.” Thus MSF-France’s absence in Bosnia was to be read as a “criticism of the provision of humanitarian aid to populations facing death” (Board debate, January 1993). The view that action was meaningless and derisory in this particular context seems connected to the perception that the violence was intentional.²⁴ Significantly, the word “limits” surfaced in several debates. Some claimed that humanitarianism had “reached its limits”, or had lost its meaning and no longer represented a genuine response to the demands of the situation. Others took the opposite view, agreeing with the president, Rony Brauman, that the problem of humanitarian action being “confronted with its limits” was not confined to Bosnia (Board meeting August and December 1992). When considering the context and meaning of our action, the notion of limit (limits MSF should give itself, accept, or push further) would henceforth be omnipresent in the minds of MSF’s leaders.

So it appears that several years after the collapse of the Berlin Wall and shortly before the genocide in Rwanda in 1994, our discourse concerning the international community’s response to the fact of violence had already adopted a tone of disillusionment, or at least of scepticism: “These paradoxical interventions which employ military means to achieve humanitarian ends do not announce the advent of a new world order in which the international community mobilises to stop atrocities and aid the victims ... The time when an intervention to support the Kurds, accepted as a promise that atrocities ... would no longer be tolerated, has passed.” The criticism advanced by MSF was also based on the observation that most of the countries in which it intervened were “abandoned to murderous conflicts, while the massive acts of violence atrocities inflicted on their populations are greeted with general

22. See F. Jean (ed.), *Face aux crises*, Paris, Pluriel, 1993, p. 129-132 (in English: *Life, Death and Aid: The Médecins Sans Frontières Report on World Crisis Intervention*, London, Routledge, 1993).

23. Rony Brauman, “Un général au balcon”, *Le Monde*, 3 April 1993.

24. The view that it was a deliberate policy probably exacerbated the feeling that we had come face to face with the ‘intolerable’, although other crises were in fact more lethal. The widespread use of the term “ethnic cleansing” might have contributed to this perception. As A. Krieg-Planque has shown, the foregrounding and ‘success’ of the term are themselves linked to the intentionality it implies. See A. Krieg-Planque, ‘L’intentionnalité de l’action mise en discours’, *Crises extrêmes*, *op.cit.*, pp. 88-102.

indifference”.²⁵ The role of the witness, the guarantee of a vigilant presence in situations of conflict, was therefore still very much in evidence – in fact it had gained in importance as the field of action expanded to encompass Sudan, Afghanistan, Liberia, Angola and other countries. The “maintenance of the intervention framework and priorities, i.e. the emphasis on crises and emergencies” (AR 1992-93), placed MSF even more firmly at the heart of the issues surrounding access to aid and *témoignage* when faced with violence. Apart from the “strongest card of the year” – the “public denunciations” (Bosnia being one example) – the campaign against the atrocities in Sudan and the “advocacy behind closed doors” concerning the Rohingyas in Burma provide further examples of MSF’s persistent attempts to alert the world to violence that in most cases was simply being ignored.

The striking conjunction of a critique of indifference and a critique of intervention – in which scepticism did not exclude the belief that the international community could take ‘pure’ action – probably seems incoherent today. However, it is apparent that both approaches derived from the same logic, that of a tense and close interaction with political bodies (individual states and the UN) in order to influence their agendas, to persuade them to address previously neglected crises, or to direct policy towards a greater acknowledgement of the plight of the populations MSF had identified as being “in danger”. In short, they represent a kind of “non-governmental politics”²⁶ or, in the parlance of the day, a form of humanitarian “diplomacy” (AR 1993-94).

A number of exceptionally severe crises broke out between 1994 and 1997 (particularly the genocide in Rwanda and the hunting down of Rwandan refugees in Zaire). Many of those present at the time will never forget what they saw; events such as Kibeho and Srebrenica are often described as “traumatic”. These experiences had a profound effect on the way in which MSF defined its own responsibilities when faced with violence, stamping it with the seal of impotence, illusion and disillusionment.

THE CALL FOR INTERVENTION

“It is customary to say that MSF was created not to stop wars but to alleviate suffering. Faced with the genocide in Rwanda, we felt a responsibility to try to influence the course of events” (P. Biberson, AR 1994-95). This was how the president of MSF explained the call for armed intervention (“doctors can’t stop genocide”) that went out in June 1994. The appeal – “unusual for a humanitarian organization, to say the least” (AR 1994-95) – and now regarded as a key moment in the institution’s history, stemmed from the internal reversal generated by a situation of genocide. However, it should be noted that the situation was not defined as such until a (relatively) late hour: the reversal was not immediate. Faced with what appeared to be widespread massacres in the days following 6 April, MSF decided to try and remain present. After a brief evacuation, a surgical team began working in Kigali hospital under the aegis of the ICRC. The team would remain there until the end: “We decided to stay on for the sake of the sick and the Rwandan staff – we could not abandon them and leave them to their fate –

25. *Face aux crises*, op.cit., p. 29, 35 and 36.

26. See *Vacarme* no. 34, winter 2006. This issue, entitled ‘Politique non gouvernementale’ [Non-Governmental Politics], contains a particularly interesting discussion of the concept by M. Feher (‘Les gouvernés en politique’, pp. 1-3), and an interview with Rony Brauman, (‘L’école des dilemmes’) notably addressing the position adopted by MSF at the time of the Bosnian crisis.

and because we felt it essential that there remain a presence of foreign organisations in the country” (Board meeting May 1994). A combination of elements encouraged the shift to a “media offensive”: the continuation and scale of the slaughter, the fact that it was organized and systematic (and especially the fact that MSF personnel had been murdered after the various sections had evacuated their expatriate staff); the silence of France and the near absence of the international community (the UN maintained a much-reduced contingent of blue helmets). The media interventions were principally designed to re-politicise a situation which was frequently being described as a “humanitarian crisis”.²⁷ MSF called upon the international community, particularly France, to “shoulder its political responsibilities and take immediate action to stop the massacres, protect civilian populations and bring war criminals to justice” (open letter to the French president, *Le Monde*, 18 May 1994). The term ‘genocide’ received internal approval at the beginning of June, on the basis of a document which concluded that “given it’s genocide, we can’t just say it’s ‘business as usual’”.²⁸ The decision to call for an international intervention was ratified a few days later. The formal appeal, initially delayed for “fear of endangering the MSF team on site and pinpointing the hospital”, finally went out on 18 June (Board meeting June 1994).

We can therefore see how different sets of responsibilities came into play as both the situation and the perception of it evolved: maintain a presence, do not put the hospital at risk, denounce the refusal of states to deal with wholesale violence – these are all familiar registers. They illustrate the hierarchy of responsibilities binding MSF first to its “staff”, then to its patients, and then – through the call for “protection” – to populations. But the explicit call for an armed intervention broke new ground. Everyone knew it was a truly exceptional move, a kind of ‘quantum leap’. Given this “fundamental and symbolic break”, the media had to be harnessed in order to get across the message that it was “vitally important to do whatever is necessary to stop [the genocide]” (R. Brauman, Board meeting June 1994). “Nobody could see any alternative; only armed intervention would stop the massacres” (Board meeting, June 1994). The decision to express this publicly was based on the reasoning mentioned above, the need to re-politicise the language of crisis and to put an end to states using the “humanitarian alibi” when faced with a policy of extermination.

Hence, while the genocide was widely acknowledged as a symbolic break with other situations of violence, it was not the only trigger for the institutional break with regular practice – i.e. the call for military action. This call to arms can also be interpreted as a reaction to the international community’s ‘humanitarian’ response – the cynical mask overlaying a deliberate policy of inaction that MSF had already seen in Bosnia. Put another way, it seems that in Rwanda, as in Bosnia, there was another form of complicity at stake, the acceptance that political situations could be dressed up as “humanitarian crises” and should be treated as such. The refusal to be an accomplice (an auxiliary, to use the current term), thus fostered the urgency to redefine the situation. In a post-Cold War environment in which “modern censure” (AR 1992-93) did not always need closed doors but could sometimes be implemented through drowning out issues in a ‘waffle’, the compulsion to reveal the political nature of violence was to some extent a synthesis of the two foundational rejections of complicity – that through “silence” in the 1970s and 1980s, and that through the manipulation of humanitarian action since Ethiopia.

27. The description of the situation as genocide was not central at this point. The term was used (by a journalist) in the televised interview with J-H Bradol on 16 May, but did not appear in the open letter to the French President or during J-H Bradol’s interview for *Libération* on 18 May. For a review of media treatment of the Rwandan genocide, see J. Siméant, ‘Qu’a-t-on vu quand ‘on ne voyait rien?’ in *Crises extrêmes*, *op.cit.*, pp. 36-56.

28. Quoted in L. Binet, *Genocide of Rwandan Tutsis 1994*, Crash/MSF International, ‘MSF Speaking Out’ series, 2004, p. 41.

GOOD VICTIMS AND BAD VICTIMS

Vast Hutu refugee camps began forming on the borders of Rwanda before the genocide had run its course. The fact that they sheltered leaders of the genocide as well as innocent people was a major cause of concern from the outset. By June 1994, it was feared that “the leaders would seize control of the camp and international aid” (Board meeting, June 1994). The uneasiness engendered by intervening in these camps was obvious. The very core of the legal framework of protection appeared to be at risk, the acknowledgement of a particular form of vulnerability and the establishment of categories of innocent people who had become victims – ‘good victims’ as it were.²⁹ But the fact remains that UNHCR responded to the massive influx – a million people – by classing them all as refugees. MSF then entered into a trial of strength with the UN agency; after calling for specific measures to distinguish between ‘genuine’ and false refugees (to exclude the leaders, in other words), it issued a series of denunciations and questions. The problem faded into the background in July; cholera had broken out and an emergency operation was mounted to deal with it, the priority being to save lives. However, “as the situation improved, there was a resurgence of the abomination that had given rise to the camps” (AR 1994-95). The situation had become “unacceptable” – the leaders of the genocide were using aid to strengthen their grip. It is likely that MSF-France drew upon the powerful precedents of Ethiopia and Cambodia as it attempted to resolve the moral qualms it had felt from the outset: the decision to withdraw was taken at the end of 1994. The situation was later summarized succinctly: “Aid was turned against the refugees, for it strengthened their oppressors” (AR 1994-95). This appears to be a rhetorical use of the Ethiopian paradigm in order to justify a decision which had clearly not been easy to take, and which would have been much harder had the other MSF sections not chosen to remain and continue to work with the refugees (they eventually pulled out by late 1995). The degree of importance the various sections placed on the Ethiopian episode (and particularly its seminal influence on MSF-France), may help to explain the arguments over the correct position. There would be further disagreements during later crises as MSF-France turned to politically-based analysis which, besides including the possibility of withdrawal, frequently led to denunciation. MSF-Holland, for example, was seen as favouring “the very Anglo-Saxon concept of individual aid to the victim” (Board meeting November 1994).

“WE NO LONGER HAVE MANY ILLUSIONS ...”

Shortly before MSF-France withdrew from the camps and urged the international community to concentrate on returning refugees (which, according to the Board meeting of November 1994, was regarded as the only solution), it became aware of the violence raging in Rwanda itself.³⁰ Atrocities and disappearances were proliferating in a post-genocidal context

29. The basis of the 1951 *Convention Relating to the Status of Refugees* is vulnerability, but it also takes into account the ‘political quality’ of a refugee: his right to protection resides in the fact of his flight from persecution. The text explicitly states that such provision does not apply to a person who has committed criminal acts.

30. HCR stopped repatriating refugees in September. At the time, the decision was interpreted by MSF as another sign that it had lost its neutrality, that it was taking a soft line on the leaders of the genocide, and confining its denunciations to the atrocities committed by the new Rwandan regime (Board meeting September 1994). It was not until October that MSF began discussing the difficulties it experienced in thinking and talking about the atrocities in Rwanda because it was “trapped in the logic of genocide” (Board meeting, October 1994).

sapped by the issue of justice. In April 1995, the Rwandan government decided to close the last of the displaced persons camps. Despite the presence of an MSF team and UN troops, several thousand refugees were slaughtered in the Kibeho camp. The teams "... attempted the impossible to come to the aid of the refugees and restrict the slaughter and have given accounts of what they saw and lived through during those hellish days" (AR 1994-95). Some months later, the enclave of Srebrenica fell to the Serbs. The team witnessed the selection of those destined for execution: "We can say this: it was ethnic cleansing, promises were broken" (Board meeting, July 1995).

These unique, targeted events were each time already over: all that remained was the possibility of a public statement, a means of alerting the world (which was done in both cases), so that they would not be shrouded in a veil of secrecy. These atrocities have become engraved on the institutional memory because the teams were present on site, and were reduced to "impotent witnesses". They were later contextualised in terms of illusions (on our part) and false promises (on the part of others): "We no longer have many illusions concerning the dissuasive aspect of our presence; the talk is more of solidarity and *témoignage*" (J.-H. Bradol,³¹ Board meeting, June 1995). "In Srebrenica, populations were betrayed by being offered the fictional concept of a safe area" (AR 1995-96). Was the fictional concept just an illusion on the part of MSF (MSF believing in it) ? There is nothing in the institutional discourse to suggest that this was so. According to *Face aux crises* (1993), "the message the population received from the besieging forces is clear: the protection of 'safe areas' is an illusion. In reality, the inhabitants have been sentenced to death and are benefiting from a stay of execution; humanitarian organizations are helping them to survive in their prison."³² The presence of MSF was not thought to have contributed to the illusion: "In Srebrenica, the aid provided by MSF was not some gadget in the humanitarian fancy dress used to disguise this war" (AR 1995-96). We shall see later how hindsight led to this episode being depicted in terms of illusions.

After the camps, after Srebrenica and Kibeho, MSF began a period of self-examination. It wanted to review its action and responsibilities and re-clarify their markers. An assessment of its own powers (non-existent or considerable) and abilities would form the basis of the review:

"Contrary to what the public may think, humanitarian action, as fine and indispensable as it may be, is not in a position to provide solutions to the problem it tackles ... When humanitarianism becomes a way of assuaging a 'citizenship without borders', confusing and supplanting the initial aim – relief –, we are forced to reflect ... Opting for the defence of humanitarian 'causes' means we move away from people in danger; it risks not just the instrumentalisation of the victim, but his dehumanization, and ultimately the relegation of relief to a secondary consideration" (AR 1995-96).

In this assertion that aid is more important than appeals towards politicians, that proximity to the vulnerable takes priority over adherence to some abstract collective cause, we can detect the beginning of a shift in the centre of gravity at MSF. The displacement is related to a reappraisal of the kind of criticism it had been directing at political actors, which reflected a certain belief in its own purity – as the following extract suggests:

"The systematic appeal to politics, its paradoxical demonization and the observation that in

31. Names are sometimes included when it seems useful to indicate, within institutional discourse, how individuals and their personal experiences leave their imprint.

32. *Face aux crises*, *op.cit.* p. 135.

25 years MSF has given France three ministers ... leave me perplexed ... Let us accept that the humanitarian works in the political sphere, but in a way that highlights our separation from it ... Let us not lapse into the humanitarian activism that constantly reminds politicians of their responsibilities while setting sufficiently high standards that it can vent its spleen until the end of time ...” (ibid).

This ‘critique of the critic’ provided an opportunity to re-examine the status of *témoignage*, supposedly the MSF trademark and an inseparable element of its action:

“Far more than ‘*témoignage* in action’, it was the demolition of the myth of neutrality that formed the founding principle of the modern humanitarian movement that emerged 25 years ago. It was not its communicative version, *témoignage*, which is now on everybody’s lips and permeates our principles of action. MSF provides information about the situations in which it acts, primarily because it is the only way we can muster support for our action ... MSF warns of manipulation and denounces what it has witnessed, the violations of the Geneva Conventions and other declarations to which all, or almost all, states are signatories. We do this not to pass the responsibility onto someone else or bemoan our lack of power, but to remind them of their respective obligations. Let us not become bogged down in the endless repetition of words which prevent us from thinking, expressions like ‘*témoignage* is part of MSF’s mission’ ...” (ibid).

The repeated assertion that *témoignage* was not a systematic practice, together with the acceptance of humanitarian law as the bedrock (as opposed to the set of references previously employed) and the paramount importance placed on aid, indicated the direction that MSF was to take in the years to come. In the ‘era of appeals’ therefore, the practice of appeal was itself called into question.

CONFRONTED WITH THE “LOGIC OF EXTERMINATION”:

ANOTHER EXAMPLE OF POWERLESSNESS

The crisis known as the “hunting of Rwandan refugees” in eastern Zaire between 1996 and 1997 raised many further questions, for it contained all the issues concerning responsibility in situations of violence that MSF had experienced so far.

This exceptionally severe crisis represented a long period of powerlessness for MSF – and also generated considerable inter-sectional strife. It arose following the deterioration of the situation in the Rwandan refugee camps (the same camps from which MSF had withdrawn). As the Rwandan army and Kabila’s rebels swept through eastern Zaire, they attacked each camp they came to. It was difficult throughout the crisis to access the refugees. This led from the onset to the second call for a military intervention in the organization’s history, an appeal for troops to “protect the refugees and guarantee access to aid” (November 1996). This intervention did not take place; the international community refused to commit itself and used the return of some refugees to Rwanda as an excuse to bring the chapter to an end. But hundreds of thousands had not returned. Many attempts were made to reach the refugees, but even when they succeeded they seemed to do more harm than good. If the teams located people who were hiding in the forest, rebel forces or the Rwandan army would then move in and kill them. Large groups of refugees would band together and form *de facto* camps in which MSF teams worked to “patch them up”, but these were also eventually attacked. In every case, aid was used as bait – not in order to displace people, as in Ethiopia, but to kill them. In these circumstances, the very concern to save as many people as possible provoked heated arguments between sections, the principal bone of contention being the importance placed on

a medical presence and the need to denounce the violence. MSF-France believed that ‘something besides care’ was urgently required and indeed ignored the “security veto” the other sections had set on public communication. The sense of urgency seems to have been fostered by the existence of two unacceptable phenomena: ‘humanitarian bait’ and the logic of extermination. The criticism of MSF-Holland’s strategy at a Board meeting expressed this view: “If we are convinced that every effort is being made to liquidate the refugees, how can we then oppose it by ‘silent advocacy’?” The members of the Board of MSF-France collectively opposed this strategy: “The ultimate priority for MSF is the defence of populations in danger; that is what should guide our action” (Board meeting April 1997). This statement, the product of inter-sectional strife over *témoignage*, summarises well the MSF-France view of responsibility in a context as extreme as the hunting down of refugees, and even beyond that: it was not a matter of care v. *témoignage* or assistance v. protection. The “defence of populations in danger” did not create oppositions, but was the basis of both care provision and the practice of bearing witness:

“As you know, we denounced this situation in an attempt to stop the slaughter and draw attention to the number of missing persons. Yet again, the tension between the offices of the MSF sections generated an absurd battle ... The absence from the field of the French section and our support for outright denunciation, plus the risks evoked by the on-site teams, led to a violent argument of the ‘speak out and leave v. stay and keep quiet’ kind. To remain silent in such circumstances is unacceptable, for that means we deny the massacres and turn ourselves into accomplices. To leave in such circumstances is to condemn those who can be saved, and that, too, is certainly intolerable. How can such simple things, repeated over and over again, be called into question at the very moment when MSF can show some judgement?” (AR 1996-97).

Despite the bitter force and clarity of these words, the prevailing mood was one of deep pessimism. The crisis represented a new extreme and it was felt that meaning was on the verge of being lost.³³ Every possible issue concerning responsibility in a context of violence had surfaced. States had used the humanitarian argument and humanitarian action to disguise the political motives behind such crises and to ignore the responsibilities they entailed, a factor MSF felt compelled to make public. The presence of MSF had not reduced the level of violence, indeed it had even been used as a lure. The organisation had exceeded the limits it had set for itself (the call for a military intervention), and subsequently had to reappraise the effectiveness of its appeals. It had been forced to acknowledge the precariousness of the fundamental distinction between combatant and non-combatant, as well as the difficulties involved in defending it against political actors. MSF furthermore experienced the helplessness of the humanitarian actor faced with extremist policies whereby the very people who were entitled to protection (civilians and refugees) became targets – not ‘collateral damage’ resulting from conflict and bids for power. The existence of “total wars that make no distinction between combatants and non-combatant populations” referred to by the president some time earlier (AR 1994-95) was thus confirmed, and explains the emergence of the figure of the “civilian” at MSF during this period.³⁴

For MSF, these three years had represented “a systematic, repetitive and sustained

33. Interrogation and denunciation may have been seen as ways to express this feeling, particularly when aimed at UNHCR in the final stage of the crisis. MSF repeatedly attacked the UN body for the mediocrity of its decisions, including when it had become obvious that all the solutions were equally disastrous. At one point, neither remaining nor repatriation offered any significant chance of survival; and the UNHCR had decided to comply with the desire of some refugees to die at home if death was inevitable.

34. Use of the term ‘civilian’ (once almost non-existent), increased as the years went by. See the appendix for occurrences of “civilian” and “civilian populations”.

confrontation between humanitarian action and a unique form of logic: the logic of extermination". The tone was one of doubt, but the need for *action* was also confirmed:

"Is it possible to humanise the inhuman, or should we renounce that course at the outset? ... In this context, we have tried to do our best, to do the least possible harm. We have abstained, we have withdrawn, we have denounced, we have been threatened for doing so, we have had rows with everybody – UNHCR, the other sections – we have been thrown out and threatened with death, we have stood fast, we have returned, we have been driven out yet again ..." (AR, 1996-97).

MSF could only deploy bad solutions, the "least worst solutions".³⁵ Certainly, these experiences had resulted in a sense of disillusionment, a certain loss of confidence. Does this therefore indicate that we had once held illusions? Had we believed that we could provide the refugees in Srebrenica or Zaire with physical protection? Had we really put our faith in the dawning of a new era, the era of the international community? The answer to all these questions is no. But we did believe that it was right to try to influence these situations, to make some kind of impact. What the period between 1990 and 1997 undeniably tells us is that the view that we might be able to alter the course of events and achieve the desired impact underwent a gradual reappraisal, which contributed to the adoption of a more reserved position.

However, it should be noted that the value attributed to presence had not declined during this period; numerous documents attest to its benefits in terms of solidarity, the status of the witness and medical activities:

Iraq: "Thirty-three people at the moment ... the presence is both medical and political" (Board meeting, August 1991). The former Yugoslavia: "These actions are of great importance in terms of presence and solidarity ... our presence at Karlovac enables us to monitor the situation" (Board meeting, June 1993). Rwanda: "We cannot leave the country without a foreign presence" (Board meeting, May 1994). Burundi: "In 1994, the teams increased to 24-25 people ... Utility should not be defined in technical terms, there is no medical emergency but there is a population in danger... Nevertheless, we should assess the false sense of security that people might derive from our presence" (Board meeting, June 1995). Afghan refugees in Iran: "The impression is that things are better when there is a presence. We shall see, for example, if it's worth passing information to UNHCR" (Board meeting, November 1995). The Great Lakes: "Only a prolonged, down-to-earth, supple and politically informed presence will enable us to continue emphasising the plight of populations" (Board meeting, December 1996). Burundi: "We are not contemplating closing everything down because our presence as both doctors and witnesses is indispensable" (Board meeting, February 1997).

"NOT TO BECOME TAME DOCTORS IN A DETENTION CENTRE": FAMILIAR DILEMMAS

Before we leave the 'era of appeals' it is worth noting that besides extreme violence, MSF was also faced with the oppressive policies pursued by authoritarian regimes during this period. In Mozambique in 1991, the army regrouped populations in camps as it gradually recovered territory. These camps, in which the mortality rate was very high, were used to lure international aid agencies: "Given the present famine aid is essential, but it is being used to fuel the infernal machine which is driving thousands to starvation and death". After some

35. The expression is from P. Mesnard; quoted by R. Brauman in 'L'école des dilemmes', article cited, p. 12.

debate, it was decided to continue the provision of essential aid, but also to “denounce the situation, and in particular demand that people be allowed to move freely and choose their place of residence; and that agencies be able to conduct assessments ...” (Board meeting, March 1991). In post-genocide Rwanda, MSF decided to denounce the disastrous situation in the prisons: “So as not to become a humanitarian organisation in the service of repression and discrimination, so as not to become tame doctors in a detention centre where the living conditions alone were responsible for one in eight prisoner deaths in the space of nine months, MSF simply did its work” (AR 1995-96). The move contributed to the organization’s expulsion. In the case of Korea, there were arguments between those who believed that MSF was “going to deal with hostage-takers” and those who took the view that “behind the regime there [were] populations” (Board meeting, May 1996). It was decided to go ahead with the intervention. However, it soon became apparent that while it was impossible to ascertain whether aid was actually helping the population, it was certainly strengthening the regime. MSF decided to “stay put and speak out” (Board meeting, April 1998). In all cases, the problem was exacerbated by a twofold dilemma: support for the regime and active complicity in criminal policies. On each occasion, the second issue (the diversion of aid and its use against populations – the ‘Ethiopian paradigm’) enabled us to clarify the dilemma and decide. In other words, the reluctance to support a regime or policy was not in itself enough to invalidate the idea that our responsibility lay in being present alongside populations (which again confirms the value accorded to presence mentioned above). It thus lay at the same time in analysing the situation and examining the role played by aid:

“At Médecins Sans Frontières, we are proactive in situations which demand in-depth understanding – meaning we have to keep our eyes and ears open – and then that we announce what we have seen and learned. If we fail to do this we may, according to the circumstances, be guilty of anything from simple voyeurism to complicity in murder” (AR 1997-98).

The voyeurism of the passive witness and the complicity of the exploited humanitarian worker – the two taboos of the responsible humanitarian actor.

III – INTO THE AGE OF DISILLUSIONMENT: THE EMERGENCE OF THE AID WORKER

By 1997, it could be said that MSF had seen it all – aid diverted and used to murder people, genocide, manipulation of the term ‘humanitarian’, military interventions allowing crime to flourish, etc. The organisation had been confronted with the most extreme issues linked to violence and war. Experiences such as powerlessness, the call for military intervention, being used as bait and incantation towards the international community all challenged the conception MSF had of its role in such situations. After 1997, MSF’s tone became progressively more reserved, hence the ‘era of disillusionment’ during which the figure of the aid worker gradually replaced the figure of the doctor-witness and defender of populations in danger.³⁶

“OUR ROLE IS TO PROVIDE QUALITY AID”

The shift towards the figure of the aid worker stemmed from the return to our core responsibility, the basis for our action – the provision of aid. As we have seen, the organization had been moving in this direction since the mid-1990s – but the process gradually acquired a more formal basis as the new millennium approached, notably through the emphasis on the quality and effectiveness of aid, a development that concerns us here inasmuch as it stimulated revisions to the discourse surrounding responsibility and violence.

The expansion of the medical component of our missions and the improvement of its quality, the concern for operations to be judged according to their quality, were consistently put forward from 1999 onwards (Board meeting, project discussion, January 1999; President’s annual report 2001-02, 2002-03, etc., until the notion of ‘quality of care’ was introduced into the draft statutes of the association in 2005). In parallel, the desire for a “stronger involvement in situations of crisis and armed conflict” was stated (P. Biberson, AR 1999-2000). As J-H Bradol confirmed, “we wanted to refocus MSF action on the provision of aid in crisis situations” (interview). It is interesting to note that the emphasis on quality came about precisely in instances where the existence of wide responsibilities beyond care were being questioned, as illustrated by the following comments regarding international justice: “Our role is not to foster its development. Our role is to provide quality aid ... the clarification of our role, our responsibilities and the limits of humanitarian action ... in armed conflicts is essential if we are to improve the aid we deliver” (AR 2000-01).

As a consequence of the desire to refocus operations on crises and improve quality, the requirement to be “as close as possible” to violence – not an entirely new development –

36. These figures are, of course, broad caricatures. It is obvious that they did not emerge with absolute clarity as one period gave way to another, that the caesuras were not so sharply defined. These should not be taken as pure substratum from which the attributes of other figures are absent. They are employed to indicate *tendencies*, as are the ‘eras’ (whether of ‘appeals’ or of ‘disillusionment’).

received particular emphasis from 2002-03 onwards. In the DRC, for example, efforts were made to redeploy operations to the areas where “the most severe incidents occur” (AR 2002-03), and to improve mobility and response times, all of which resulted in the positive observation that after “years of real difficulties and failures, the opening and stabilisation of missions in violent areas has become a reality” (Board meeting, September 2003); such efforts are still on the agenda today. Wherever security conditions permit, teams will always attempt to achieve the greatest possible proximity. This can be felt in the internal discourse, which no longer refers to the value of *témoignage* or the solidarity that being present represents. Meanwhile “alibi missions”, the idea of “being there for the sake of being there”, have been demolished.

VIOLENCE AS A MEDICAL ISSUE

In this context, the primary responsibility when faced with violence is to treat its victims. The discourse reveals the emergence of violence as a medical issue and a matter of quality, and not just as a context or phenomenon triggering our responsibilities as humanitarian actors.³⁷ Responding to violence meant possessing and increasing the means to care for its victims, requirements that led to other major operational developments, notably the treatment of war-wounded – “in the years to come, we must all focus on developing this essential component [surgery] of our operations in the field.” (AR 2001-02) – and victims of sexual violence, which was accepted as a specific care aim in late 2003, following a pilot scheme in Congo-Brazzaville in 2000. Existing missions were revised to focus more closely on victims of violence (see the DRC case study). Two missions explicitly designed to work with victims of violence were launched in 2005, one in Haiti, where “serious violence has led us to believe that it is a civil war in all but name” (Board meeting January 2005), and the other in Nigeria. The Nigerian mission envisaged setting up a “health centre for victims of violence in Port Harcourt”, the site of a “low-intensity conflict” (Board meeting, September 2005). The word “violence” was introduced into the draft statutes alongside “natural and man-made disasters” and “belligerence” to qualify the target of our mission (Board meeting, November 2005). In accordance with this operational bias, violence and the treatment of its victim played an increasingly large part in discussions regarding a project’s relevance (e.g. at operations meetings covering the reopening of missions in Sri Lanka, the closure of Ankoro in the DRC, the opening of Buenaventura in Colombia, the opening of Kurdistan, etc.). One significant and parallel development was the use of an “epidemiology of violence”. Resulting from the demand for descriptions couched in medical terminology and supported by statistics, the objective language of epidemiology had initially accompanied the “collection of testimonies”, but later largely replaced it as the legitimate method (both internally and externally) for documenting specific incidents of violence.

In this respect, the evolution of MSF mirrored the broader evolution taking place in political, academic and media circles: the word ‘violence’ was ever more present when describing the world, while the word ‘war’ was becoming increasingly inadequate and could not account for

37. “Wherever you work, you have to succeed. That’s the real imperative. Look at war and what counts as success in war. We were talking about caring for victims of violence: we’ve been around for 35 years, it’s only five years since we started taking a bit of interest in the actual victim of violence!” (interview with J.-H. Bradol).

the phenomena that affected many societies³⁸ (just as the ‘war - population displacement - refugee camps’ schema was increasingly unable to summarise MSF action in unstable contexts). Even so, the tendency to reformulate violence in terms of war (the “low intensity” conflict in Port Harcourt; the civil war “in all but name” in Haiti) is clear, indicating that violence was still an inconvenient and conceptually difficult category for head office and field teams alike.

THE RETURN OF INTERVENTIONISM AND DEFENCE OF THE FIELD

The “refocusing” on the quality of aid and on violence as a medical issue meant that MSF would in most cases express the fact of violence through medical terminology. In correlation, it gradually distanced itself from challenging political actors, particularly in the most extreme form – the call for “military intervention”, but also the more moderate form – the call to respect civilians.

As we have seen, past experience had already convinced MSF of the variable (and sometimes volatile) impact of its calls to protect civilians. Kosovo provided the first example of an intervention mounted for the very purpose of protecting civilians. Whereas the “humanitarian” interventions of the early 1990s had been concerned with aid delivery, the “military-humanitarian” operation in Kosovo was based on “protecting civilians”: the specific justification for “humanitarian war” (the term used by Tony Blair) was that massive violations of human rights were occurring and had to be stopped. An international intervention of this kind was in a way what MSF had repeatedly called for in Bosnia, Rwanda and Zaire, by issuing (explicit or implicit) appeals for the “protection of civilians”: the international community was finally concerned with more than bags of rice; i.e with “protection”. But as this concern was presented again as “humanitarian”, MSF saw in it the latest manifestation of the appropriation of this field by politicians and felt it necessary to set itself apart: “It has not been easy in this case to determine our position in relation to the war (which has never been described as such ... the ‘strikes’) and which is being presented as a humanitarian cause (saving the population of Kosovo). It has been, and remains, highly uncomfortable to be so closely associated with it” (Board meeting, April 1999). As in the Kurdistan case in 1991, the latest slant on the term protection could not deflect internal and external criticism of the new interventionist policy (made much easier by the fact that medical needs were hard to determine) on the specific grounds that there was in fact a “lack of protection” – lack of protection in the legal sense for refugees in neighbouring countries (registration, etc.) or in the camps run by NATO forces, which prompted MSF’s denunciation of UNHCR for its acceptance to take a back seat; lack of physical protection for those returning to Kosovo, for “the NATO presence there is not up to the job of protecting civilians” (Board meeting, June 1999). The criticism was similar in tone to that adopted at the beginning of the western interventions in Kurdistan and Somalia, and indicates the serious concern over the confusion of genres. So there was nothing radically new here. It simply remains to be said that as these events unfolded, MSF continued to use the word “protection” in a relatively straightforward manner; states were misusing it to justify military

38. See P. Hassner, ‘De guerre et paix à violence et intervention’ in J. Moore (ed.), *Hard choices. Moral Dilemmas In Humanitarian Intervention*, Lanham, Md.: Rowman & Littlefield, 1998. See also Frédéric Gros, *Etats de violence. Essai sur la fin de la guerre*, Paris, Gallimard, 2006.

intervention, but it had not been completely tainted and could still be employed in reference to 'appropriate' fields such as the law and security.

MSF AND THE "RESPONSIBILITY TO PROTECT"

During this period, the foregrounding of "civilian protection" as a responsibility incumbent on the "international community" resulted in significant changes. Eager to learn the lessons of the many "failures to protect" that had marked the 1990s, the UN's new secretary general promoted an integrated vision in which the "responsibility to protect" was but one element in a broad spectrum of responsibilities. In this view, the quest of the international community for global peace and security would include conflict resolution, humanitarian action, military operations to ensure security, international legal action, the reconstruction of states and Third World development. The *Brahimi Report* on peacekeeping operations (2000) represented one stage in the reshaping of the United Nations, and was swiftly followed by a document entitled *The Responsibility to Protect*, which formalised the turn to interventionism.³⁹ The attacks of September 11 followed hard on its heels and further altered the international landscape by putting security and the fight against terrorism at the top of the West's agenda. As a consequence, Afghanistan and Iraq experienced a new (but familiar) type of intervention which still managed to employ elements of the humanitarian register.⁴⁰ MSF's desire to distance itself from "protection" at this time should be seen in the light of the resurgence of interventionism, although as it turned out the actions undertaken "in the name of protection" in Kosovo (a war that did not involve the UN) and Timor (a commitment which the case of Chechnya quickly negated) had already been supplanted by those of the United States as it pursued its 'war on terror'. Even before the attacks of 11 September 2001, internal references to international interventionism with the aim of protection were negative:

"I note once again that whenever it is a matter of protecting civilians, a major international mobilisation achieves nothing" (Board meeting, March 2001). On international responses to crises: "The protection provided by states and the United Nations is either feeble or non-existent." The safe areas "conceived as an alternative to population displacements are illusory in terms of protection" (AR 2000-01).

As we can note in this quote, the term was tainted by the shadow of failure – a qualification whereby MSF members were encouraged to stop referring to it as a possible or desirable recourse, for it would be "hardly realistic". In 2003 the organization formally decided that it should play no part in calls for "military intervention", following the chaos in Liberia and the massacres in eastern DRC (Ituri) which had aroused the "temptation" to do so. In the Liberian case, the option was discussed and discarded – the appeal for "all possible means to assist

39. *The Responsibility to Protect*, ICISS (International Commission on Intervention and State Sovereignty), 2001. The report was commissioned by the Canadian government following the UN secretary general's call for the international community "to arrive at a definitive consensus on fundamental issues of principle and procedure" with regard to the "right of humanitarian intervention" (meaning 'military-humanitarian'). See www.iciss.ca. See also E. Tronc, *Humanitarian protection*, MSF International, 2007 (draft).

40. For a striking account of the evolutions of interventionism in the light of the evolution of the figure of the American president, see M. Feher, 'Autoportraits présidentiels', *Vacarme* no. 30, winter 2005. The author shows how changes in US foreign policy restricted its detractors to symmetric reversals. This echoes the idea, developed by the author elsewhere, of inversions of the polarities underlying the positioning of MSF. In his view, the *abdication* taboo arising from the discourse of the international community in the 1990s was supplanted by the *intervention* taboo as a result of the new interventionist discourse adopted by both the Bush administration and the UN.

civilians” came close, but did not cross the line (press release 26 May). “I think it was appropriate to refrain from calling for a military intervention,” commented J-H Bradol (Board meeting, August 2003). This position was later extended: “It is not the role of a humanitarian organization to call for the use of force in order to ensure that populations receive the appropriate aid” (AR 2003-04). With regard to the DRC, MSF published a highly critical document on the minimal “protection” provided by the international intervention in Ituri province (the MONUC mission, followed by Operation Artemis, which had a specific mandate to protect populations). The report (*Ituri: Unkept Promises?*) was disowned after its release for its negative conclusion and unrealistic demands. What it required of the international community was ambiguous, to say the least: if it ventured towards an appeal for better protection, it was only so that it could then more easily express its central concern, the need to guard against “false promises” and the “false illusion of protection” (sic), thus inferring that the problem was not so much the lack of security as the lack of truth. The report signalled the increasing sense of unease arising from stances on protection, and precipitated the adoption of an institutional position on the issue.

“Could an international military force pacify Ituri and guarantee security throughout the province? I doubt it, and we should not allow that impression to be given” (Board meeting, August 2003). “In our discussions of conflicts we have seen the resurgence of calls for protection which, in my view, are hardly realistic. When MSF calls for an international military intervention to pacify the entire province, it seems totally unrealistic. We are not capable of deploying coherent medical aid to every corner of Ituri province. So why should we imagine, given the complexity of the situation, that it would be feasible for foreign troops to turn up and immediately resolve, as if by a miracle, all the problems of violence, all the problems of ensuring that civilian populations have access to aid? We should not become the propagandists of such illusions ...” (AR 2003-04).

In short, from a critique of the illusion of protection fostered by an international community that had little desire to act, accompanied by calls for protection (in the 1990s), we turned to a critique of the illusions that some of our own personnel maintained on the subject of protection. The Ituri report represents a kind of pivot between these two positions. In late 2003, the call for armed intervention was unequivocally described as a “temptation” that should be resisted except in the extreme case of genocide, thus ratifying both the history of MSF and its new position.⁴¹ The evolution of public positions on violence in general reflects the gradual retreat from the call for intervention (and therefore from the discourse of protection), with 2003 marking the turning point.

FROM TÉMOIGNAGE TO ‘SPEAKING OUT’

As we have seen, doubts over the evident relevance of *témoignage* had run parallel with the practice itself. Following the intense inter-sectional arguments over the plight of the Rwandan refugees in eastern Zaire and the many meetings during which the place of *témoignage* was reaffirmed, MSF-France continued to question its possible deviations. *Témoignage* was “one attempt among others to create access, to open up a humanitarian space... to ‘protect’ (I use the word with great caution),” but “speaking out can push us into a kind of automatic

41. See F Weissman, ‘Humanitarian Action and Military Intervention: Temptations and Possibilities’, 2003 (available on the MSF website, also published in *Disasters*, Vol. 28 Issue 2, June 2004, pp. 205-215)

militancy” (AR 1999-2000). In all likelihood, the very success and spread of the idea, together with the rise of human rights NGOs that began in the early 1990s, made this line of questioning seem particularly urgent: “Almost the entire ‘humanitarian family’ (which is not a family at all!) now lays claim to *témoignage*! ... Let us beware of consecrations ...” (idem).⁴² Thereafter attempts to define its role continued; the President warned against becoming an “organization which awards itself a license to adopt positions on every topic in the name of some hypothetical universal moral doctrine” (AR 2000-01). “It is not for us to express an opinion on whether wars are justified or not, but we have a word to say on the way they are conducted: that is where the humanitarian’s responsibility lies” (AR 2001-2002).

Given these frameworks, which themselves reflected the need to find a voice between military-humanitarian confusion and anti-imperialist critiques (from Kosovo to Afghanistan), the public stances on violence in war adopted during the years up to 2003 reveal a focus on international humanitarian law and the rights of refugees as the legitimate basis. In situations involving refugees, references to this body of law were resonant and specific, particularly when highlighting the principle of voluntary return, and were in keeping with the positions adopted in the past. When applied to refugees, the word “protection” was acceptable; unlike “protection of civilians” it was not a suspect term, for it had not been distorted into a synonym for military intervention. In the case of Chechen, Korean and Liberian refugees, MSF repeatedly denounced violations of the “principle of voluntary return” and the “right of asylum”, and issued many calls for protection. When the scandal over sexual exploitation in West African refugee camps broke out, it was recalled internally that MSF had “banged on about the lack of protection for refugees in these three countries (three press releases)” (Board meeting, March 2002). When not about refugees, public discourse on violence was dominated by references to “civilians” (a category whose growth we have already discussed). Until 2003, descriptions of the violence inflicted on civilians were often accompanied by calls for the “parties to the conflict” or “belligerents” to respect their rights and stop targeting civilian populations (Congo-Brazzaville, Chechnya, Ivory Coast, Liberia, DRC, etc.). The violence committed by western armies in their “war on terror” led to explicit references to the “Geneva Conventions” (press releases, December 2001; October 2003).

A marked shift occurred at the end of 2003, fostered by the desire to get a grip on the considerable increase in external communications.⁴³ As a review of the press releases clearly indicates, the number of those relating to violent situations fell drastically.⁴⁴ While the “civilian” category continued to appear in press releases to signal the existence of violence, there were very few references to international humanitarian law or appeals to “respect civilians”.

42. There seems to be an irrepressible reflex on the part of MSF (particularly the French section) to distance itself from any idea that is likely to achieve widespread acceptance (in the humanitarian ‘family’ or in the public domain). It is certainly evident in this instance, as it is in more general discussions of the concept of protection. “The problem is that I can’t bear being among the majority,” said R. Brauman in an interview with M. Potte-Bonneville and S. Grelet (‘Qu’est-ce qu’on fait là?’ *Vacarme* no. 4-5, summer 1997). “Let us remain troublemakers. It’s an important moral goal,” he remarked in his 1992-93 annual report. This personal trait is reflected at institutional level; there is a kind of ‘ethos of difference’ running through the organization’s history, which all MSF sections refer to – a situation which MSF-France must find annoying, because it then feels compelled to distance itself from this claimed difference.

43. For example, in October 2003 the Board meetings started including a “public statements” section to scrutinise the content of communications. A similar heading appeared in president’s annual reports from May 2004.

44. There were over 30 press releases relating to violent situations in 2003, 15 in 2004, less than ten in 2005 and about ten in 2006, while those relating to medical issues formed the broad majority (20 in 2005) then decreased (ten in 2006).

In short, our external discourse began to centre on the responsibilities of the aid worker in relation to victims of violence; descriptions of the effects of violence on human health were thus increasingly linked to the issues surrounding aid provision. Almost all the public statements in which violence is mentioned emphasize problems such as obstacles to aid, its inadequacy, the lack of access (for humanitarian workers to populations and vice versa), the dangers of the working environment (with a particular emphasis on the safety of teams) and the manipulation of the term 'humanitarian'. Given their interconnection, a single statement would often mention several of these issues. In short, these statements all ask for something directly related to our activities – a secure space, an improvement of some kind, or perhaps access to a previously closed area – whether in Sri Lanka (obstacles to access; violence against humanitarian workers), Darfur (inadequate aid in 2004; access and lack of security for humanitarian workers in 2005), Uganda, Somalia or Haiti (insecurity which made it difficult for civilians to access MSF care). Only in a few events which we considered particularly severe (the bombing of civilians in Chad and Ivory Coast; forced repatriation) did we issue press release in the absence of threats on our own aid action.

The public position on the violence in Darfur (*The Worst is Yet to Come*, June 2004, issued in the wake of press releases which had focused on the “needs” of “displaced persons” rather than on violence) provided an opportunity to clarify the shift on communications. The president of MSF explained his view of it as follows:

[On the regretted decision not to issue a statement at the end of 2003]: “In order to increase the flow of aid to Darfur, it was absolutely necessary to alert the public to the gravity of the crisis”; [On the adoption of a position in June 2004]: “I wanted to review our public positionings on Darfur. I talked just now about the usefulness of communicating the gravity of the events. It is used to call for more aid. We do not see this as a responsibility we have to act as some sort of human rights observer in this mission. On the other hand, our responsibility in the sphere of aid is clear” (AR 2004-05).

The president thus disputed the idea that statements on violence stemmed from any ‘intrinsic’ responsibility, suggesting that the basis for them was the need to ensure, improve and strengthen aid delivery. In short, it was a matter of “preserving or restoring conditions compatible with the accomplishment of [our] task”.⁴⁵ The anchorage, or centre of gravity, had shifted. In the 1970s and 1980s, attention and responsibilities had been outwardly directed; there was an explicit relationship between the humanitarian actor and the human rights violations that occurred in “theatres of war”. By 1985, it had become necessary to look also inward, to answer for our own actions. The external and internal approaches co-existed throughout the 1990s. Gradually, the latter approach, the need to examine our own action and defend ourselves against manipulation, provided the hinge between MSF and its working environment. Rather than roles or responsibilities in the face of violence, it was a matter of the responsibilities applying to our own action.

As a consequence, for many of those who identify with the figure of the aid worker, the idea that there is little legitimacy in investing in issues not directly linked to aid delivery has a

45. M. Feher, ‘Constance déroutante’, *Vacarme* no. 31, spring 2005. The author argues that the apparently contradictory positions on Darfur obscured MSF’s doctrinal consistency: the emphasis on action and care as the “only *raison d’être*”. He therefore maintains that the organization’s public positions are necessarily motivated by whatever poses a threat to the action – obstacles, corruption (diversion) and appropriation (by western powers) are thus the three motives underlying a statement. While we agree on the current primacy of action, it seems that Feher’s argument, although cogent, overlooks the complexity of the motives linked to violence, a factor we have attempted to illuminate in the course of the present study.

certain resonance (given that “we don’t do protection”). Others insist that MSF is a humanitarian as much as a medical organization and thus has broader responsibilities. In a forum such as the *Projects Week*, it was possible to find a range of positions, all reflecting the uncertainty as to the ‘correct limit’; questions along the lines of “What should we do?” and “How far should we go, given that we have no mandate for protection?” were not uncommon.

The evolution of MSF, a product of the sedimentation of past experience, the effects of our growth, and external determinations (the development of state international action, the proliferation of various forms of violence, etc.) is clearly expressed in the *La Mancha* agreement.⁴⁶ The document stipulates that the denunciation of violence should be regarded as an exceptional measure (justifiable only when its perpetration is massive and ignored), and states that the promotion of rights is not in itself one of the aims of the institution (in the sense that, unlike certain other organizations, we don’t “do protection”). It also states that MSF cannot claim to provide populations with physical protection. External limits and internal requirements establish a common foundation from which all sections can proceed.

From the sentinel of the 1970s to the aid worker of today, the repositioning on a carefully delimited field is quite clear. In 1985, the “we protect people” stance (part assertion, part ambition) typical of the early 1980s gave way to the qualms that MSF continues to harbour; they are as pronounced in the actions currently underway as they were throughout the violence and appeals to political actors that characterised the 1990s. However, the acceptance of limits springing from the “loss of illusions”, on the capacity of our presence to “make a significant contribution to the protection of populations” (AR 2005-06, referring to *La Mancha*), not to mention the international community’s inability to provide protection, does not mean that the question is closed for MSF. This will become apparent as we examine some of the permanent features of the concrete practices deployed in situations of violence.

46. *La Mancha*, final agreement, June 2006. Available on the MSF website.

IV – PRESENCE AND PRACTICE, OR THE CONSTANCY OF ‘DOING NO HARM’

Having concluded our chronological examination of the concepts of responsibility in relation to violence, we can now take a closer look at the concrete practices and decisions implemented in the field. The purpose of this section is to provide an insight into these, principally through reference to the three appended case studies, but also through the use of elements drawn from other situations, past and present, that have featured in the policy document review and in recent meetings and discussions at head office.

However, it is only through reading the case studies in detail that we can appreciate the range of views, the complexities of the decisions that had to be made, and the ways in which they were integrated into widely varying contexts. By attempting to marshal this variety into a set of more general remarks, we inevitably run the risk of rigidifying practices which, while deployed in relation to the framework described at length in the previous sections, were also reactions to concrete situations. Practices, in short, derived from the reference framework but which also contributed to its formation and sometimes exceeded it.

In order to reduce the risk of this mechanistic bias (which might lead to the impression that there is always a specific response to a given situation), we will not venture too far in the direction of *why* – our knowledge of the motives or perceptions at the root of actions will always be fragmentary. Our point of departure is rather *what*: ‘what is it that we do?’. It concerns the concrete action we implement in various situations, towards various groups, in link with threats that have to be identified.

BEING PRESENT

As we have seen, there was a distinct evolution in the discourse of presence between the 1980s and the present day. In the 1980’s, presence was a responsibility and an act in itself, and encapsulated the commitment of the doctor-witness – an expression of solidarity, a form of militant support, and the pre-requisite for being a troublesome witness. It ceased to incarnate this ‘manifesto’ in the 1990’s as conflicts became more accessible to foreign actors. In the middle of that decade, the events at Kibeho and Srebrenica led to a major reappraisal of the dissuasive virtues of presence. But presence was still viewed both as a means of providing populations with moral support and as a signal to the authors of violence that they were exposed to a potentially troublesome external focus. References to presence as a value in itself became rarer as the figure of the aid worker emerged; as time went on, “presence” was increasingly used as a synonym for “medical action”.

But beyond the truism that there is no concrete action without presence, the idea of “being present” nonetheless remains charged with a particular meaning. The desire to work “as closely to the violence as possible”, whether in war or in conditions of insecurity, is a

remarkable echo of the earlier desire to be “close to populations”. And as MSF continues to struggle to establish a medical presence in the most unstable areas of countries afflicted by war, it certainly does not believe that it is doing any harm: “We bring a little security to the people we work with. If this was not so, every justification for humanitarian aid would be shattered” (interview with R. Brauman). Moreover, it should be borne in mind that during the 1990s, the question of whether to set up programmes in North Korea, the prisons in Rwanda or the displaced persons camps in Burundi and Mozambique was in every instance answered positively – the action would go ahead. The more recent project in Burma was governed by the same logic: the question of doing more harm than good was not settled in advance but on site: the priority was to establish the presence.

On a more concrete level, the field team’s reaction to the announcement that the Nyala displaced persons camp in Darfur was to be closed in early 2004 sheds further light on the meaning attributed to presence. Having argued against the closure, the team decided to spend the night before it was to take place in the camp and to remain there throughout the process, in the hope that their physical presence would deter possible abuse. But when working in Mornay several weeks later, the same team began to worry that its presence was in fact jeopardising the inmates despite their claim that it was protecting them from the campaign of destruction raging around them. The team could not divine the intentions of the militias which plagued the area and feared that the sense of security it fostered would turn out to be a trap. MSF personnel are often told that their presence is seen as a form of protection:

“When everybody says ‘you protect us by being here,’ you can’t say, ‘no, no, that’s not true; you shouldn’t believe it’ ... You’re obliged to listen to it” (interview with T. Allafort, head of the emergency unit). “In some situations, you can’t deny the impact you make just through being there, through the fact of your presence, even though the effect it has wasn’t what you were aiming for – so it creates responsibilities for you ... When you saw how displaced persons in Darfur reacted, when you listened to them, they thought you were making a great contribution to their protection, that it had something to do with it, and that it was important for you to express yourself. They all thought that, from the political leader to the ordinary inhabitant – the ordinary inhabitant said it was a good thing we were there, and not just to hand out supplies; they genuinely believed that we were contributing to their security, they had been subjected to considerable violence, they were very happy to see MSF teams ... and we said, ‘We won’t keep quiet, count on us’. But we also said, ‘You shouldn’t have any illusions; the presence of humanitarian organizations has never stopped massacres occurring’” (interview with J-H Bradol). “Was our presence effective? We harboured that fantasy, the population harboured that fantasy” (former head of mission, Colombia).

Thus the relatively positive impact of our presence, whether overvalued, recorded or in some cases simply imagined, is not an idea that volunteers alone have developed. This idea, most MSF personnel are certainly aware of its fragility.

OBTAINING ACCESS

For MSF, the primary issue is therefore one of access to suffering populations, as the constant and intense efforts to obtain it (access to a country or most often to a particular area) clearly demonstrate.⁴⁷ The persistent attempts to reach the combat zones in Sri Lanka in 2006

47. In the 1980s, the de facto restrictions on access led to the acceptance that some areas were beyond our reach.

recalled the protracted efforts (lasting over a year) to establish a presence in the island's northern sector in the 1990s. Exploratory missions have multiplied in every one of the countries in which we work; mobile care centres were introduced in order to reach villagers hiding in the bush in the Central African Republic (CAR), just as they had been for the Rwandan refugees hiding in the forests of Zaire. The denial of access to combat zones and areas marked by violence is a major concern of the members of MSF, who see it as encouraging the development of violence. When access was repeatedly denied, as in the second Chechen war, Liberia (2003), Sri Lanka (2006) and the CAR (2007), MSF regularly resorted to public statements. We did even more so in situations where we lost access to the populations we had been assisting, as in eastern Zaire (during the hunting down of the Rwandan refugees in 1996-97), Darfur (the closure of Nyala in 2004) and Liberia (when populations were "trapped by the fighting" in 2003). Besides calling for access, every statement expressed fears concerning current or feared violence.

But access is never 'all or nothing'; in many instances a choice has to be made between what has already been acquired and what is being sought, between remaining silent and speaking out. Thus in Darfur at the end of 2003 and the beginning of 2004, access was possible but precarious: there were few expatriates working in the area and visas and travel permits were hard to obtain. However, MSF refrained from commenting on the violence and impediments to access in the hope of maintaining and consolidating its presence (the access already acquired). Given the context it did not believe its ability to negotiate was sufficiently strong.

From the establishment of a presence (in the sense of medical action in this instance), we turn to the concrete practices related to violence. These are sometimes visible and sometimes veiled; they may be marginal, exceptional or current; some have been institutionalised and some have not; they may be deployed for the benefit of individuals or of groups. The logic behind them varies according to the nature of the action, and thus may be analysed on a variety of levels. In an overview necessarily marked by contrasts, we shall attempt to extract some of the more consistent elements.

IMPROVING THE SAFETY OF CARE

Despite their different contexts and periods, the case studies are striking for the common theme they present – concern for the fate of people suffering violence is expressed above all through the forms the action takes (the implementation of aid), i.e. through practices which we do not usually call "protection", but which all derive from the concern to prevent exposure to violence.

This preoccupation is expressed in widespread efforts to encourage respect for the neutrality of the care space. As the "no weapons" signs on the doors of MSF hospitals and clinics indicate, teams are often engaged in a daily struggle to prevent armed men intruding into their work spaces. The issue was pushed to extremes in Rwanda, where the preservation of the hospital's immunity was a major achievement: the team was able to derive some satisfaction from the fact that at least "no atrocity had been committed in the hospital" (Board meeting, May 1994). Similar efforts have been made in more recent, less acute situations. In Colombia, for example, the teams attempted to 'demilitarise' the areas visited by their mobile clinics by persuading the militias to keep away. Through our energetic reactions, we can make such actors aware that we

will not tolerate violations of the care space. For example in Somalia in 1993, when MSF called for an inquiry into the bombing of a hospital in which its teams were working. Likewise, the intrusion of large numbers of armed men looking for ‘suspects’ led to formal protests (Rutshuru, DRC, 2005) and the temporary closure of a clinic (Bentiu, Sudan, 2003). However, efforts to create a ‘non-militarised’ space may obscure the fact that there is more to security than the banning of weapons: the recent discovery that women had been raped during the night in the hospital in Adre (Chad) should remind us of that. Moreover, the constant team effort to maintain a weapons-free space may simply become a reflex action which loses sight of the desired outcome (the safety of staff and patients). This issue resurfaced quite recently, when a health minister arrived at an MSF hospital to visit his seriously injured chauffeur, but was refused access because he was accompanied by bodyguards.

At different levels, each of the above examples illustrates the issue of maintaining a level of security which is not negotiable to ensure that medical action does not itself become a source of jeopardy – this is a required minimum that rules of conduct, however, cannot fully guarantee.

The same logic governs the treatment of victims of violence. For several years now, practices and ‘ways of doing things’, often linked to the requirements of quality and access, have been designed to ensure that the actual delivery of care does not add to the violence the patient has already suffered.⁴⁸

In projects involving the treatment of victims of sexual violence (VSV), confidentiality gradually came to be seen as a vital factor in gaining access to victims. These people were not sick – they were the victims of a singular, invisible and stigmatising form of violence, and any publicity of the prejudice they had endured was likely to expose them to further danger. This was a new challenge for field workers, who had long been accustomed to working in hospitals and refugee camps where ‘quantitative’ treatment often threatened the confidentiality of interviews. A number of examples, some of them recent, illustrate the problems arising from a twofold requirement – the publicizing of the offer of care and the confidentiality of the care itself. One team, for example, finding that few VSV were turning up for consultations, asked the “elders” to draw up lists of rape victims. The need for confidentiality is now drummed into field teams and has gradually gained acceptance as a vital component of such activities, but it is still very often experienced as an operational headache.⁴⁹ Having addressed this problem, MSF encountered further difficulties arising from interaction with “protection” agencies which wanted to produce reports on the incidence of rape: should it contribute to the documentation of rape and (like many agencies) ‘bear witness’, or should it focus on preserving confidentiality? The case studies show that whenever these two demands were perceived as incompatible, we opted for the second course, challenging the comparison with sanctioned “protection” activities and disputing *in point of fact* the claim that they improved personal safety. This position is clearly connected to the personalisation of the carer-patient relationship arising from the treatment of VSV.

The problem of confidentiality extended to the certificates made available to victims of violence.⁵⁰ Head office has made great efforts to convince doctors that this medico-legal

48. This intermingling of issues (quality, access, vulnerability) shows that although MSF denies having a protective role, it has most certainly not abandoned the issues surrounding people’s security, but rather approaches them at the level of the patient.

49. The problem was acknowledged with the creation of a post specifically dedicated to victims of sexual violence in 2007, long after other sections had taken this step.

50. Certification arose from a context of sexual violence but is just as relevant for the wounded, although the issue had not arisen in 30 years of treating such patients.

practice formed part of their responsibilities, yet the certificate is also a potentially dangerous document for the patient, given the information it contains. It was thus stressed that victims should be free to choose whether to accept it when it was offered, accept it at a later date, or simply refuse the offer. Once again, we see a paradox arising from the fact that certification is currently associated with “protection”, even at MSF – indeed it is to my knowledge the only legitimate use of the term within the organization at present. Here we find ourselves at the heart of the difficulties connected to the term’s polysemous nature: the certificate is certainly a form of protection in the strict legal sense, i.e. the document should enable the victim to exercise her rights at a later date by filing a formal complaint. In this sense, there is precisely no specific reason at present why it should contribute to protection in its more common sense, i. e. physical security (the insistence on the possible dangers linked to the possession of such a document probably reduces the likelihood that teams will regard it as a ‘protective’ measure). Moreover, a document linked to an individual’s legal protection does not in itself exhaust the actions MSF may deem possible or desirable at a wider, more collective level. The internal debates sometimes reflect this ambiguity, with the reference to certification forming the basis for the idea that MSF ‘does what it has to do’ in terms of “protection” (see the North Kivu case study).

REDUCING EXPOSURE TO RISK

From the pressing need to secure the confines of the hospital (as a space) and of care (as a moment), we turn to the reduction of exposure to risk, which is in most cases a matter of adapting the methods of aid implementation whenever specific threats are identified.

As Rwandan refugees were being hunted down in 1996-97, two different ‘explo’ teams came to the same conclusion: their efforts to reach the refugees in the forest did not appear to “improve ... their chances of survival”, and indeed increased the risk by enabling their killers to locate them. Both teams adapted their approach: they stopped the search for refugees, restricted the offer of care to sites near major roads and stopped collecting information from villagers living in the depths of the forest, having realised that this could also expose people to danger. A similar adjustment concerning the location of aid delivery took place when the Mornay project in Darfur opened in 2004, after the team had noticed that the edges of the *wadi*, some distance from the camp itself, were dangerous areas for displaced persons. The decision to install a water distribution point closer to the camp was directly linked to the identification of this particular threat.⁵¹ There are many instances of such adaptations, all made after examining the possibility that the action itself might increase exposure to the violence that had been identified. In many cases they involve the rearrangement of or abstention from certain activities. For example, in the health centres currently provisioned by MSF in the DRC, distributions are halted when the risk of pillage seems especially high. This was also the case in the displaced persons camps in Liberia in 2002: “Our strategy is to minimise the exposure and targeting of displaced persons as much as possible by concentrating on medical treatment and water supply (we avoid aid distributions, which might trigger systematic pillaging)” (Board meeting, February 2002). In 2001, the organization decided against providing assistance in the refugee camps on the Guinea-Liberia border because they were too close to

51. See the Darfur case study for a comparison of water provision and the gathering of fodder.

the combat zone (Board meeting, 2 March 2001).⁵² Such practices therefore fall within the province of aid action.

Similarly, the realisation that letting people leave the hospital after dark might actually increase their exposure to physical harm led to practical adjustments, as at Rutshuru (DRC). However, it was not immediately apparent to everyone that additional measures were required. On several occasions, rape victims who had come in for a consultation had been allowed to leave the hospital at nightfall; the increased danger on the roads at this hour was not spontaneously linked to MSF action on the issue of exposure. The comments of outside observers and those with a greater awareness of the problem probably sensitised the team to the dangers inherent in this element of the action, which could in fact be ‘turned’ against the victim. Once the coordinators had become aware of the risk, they established a rule that anyone arriving for a consultation should be kept in hospital overnight if dusk was approaching. Once again, the personalisation of care and the urgent need to examine the impact of our own actions combined to make the possibility of ‘damage’, of the patient being exposed to further violence, less and less acceptable. The role MSF itself might play in exposing people to danger was thus brought into sharper focus.

However, the possibility that aid itself can become a source of danger does not imply that there is such a thing as ‘pure’ aid or ‘turning against people’ aid. Such terms are employed simply to indicate how growing awareness of the issue leads to the risks, benefits and adverse effects of a mission being gauged differently by those at headquarters and those working in the field.

This observation also applies to the extreme situation in which aid is used by armed actors to commit acts of violence, i.e. when aid becomes an active rather than a passive accomplice. As we have seen, MSF (and particularly MSF-France) considers this a quantum leap since the Ethiopian episode, given that its responsibility is directly at stake here. When it became apparent that aid was “serving the executioners” (Ethiopia in 1985 and Zaire in 1997), programme leaders at MSF-France called for radical action, believing that the need to “stop it” and denounce it was so urgent that it overrode all other considerations. Nevertheless, an examination of the hunting down of Rwandan refugees in eastern Zaire in 1996-97 leaves us in no doubt that the image of aid as bait was constructed over time, as information came in and awareness grew; it was not immediately apparent to the teams in the field or to those in the offices of the various sections involved. Retrospective references to “bait” or “hunting down” should not disguise the fact that at the time, the successive ‘explo’ teams were primarily concerned with situations of violence and emergencies. They slowly built up a picture of what was happening – the use of aid to locate and then kill refugees – as they attempted to collect information and confirm suspicions; their observations combined to create a significant canvas. But even then, their observations were not enough to trigger an automatic withdrawal or denunciation, for at that point the organization had an exceptionally severe operational emergency on its hands. Moreover, the head office concerned was reluctant to denounce incidents that were still perceived as marginal. Several months later, they were integrated into the broader picture of an elimination strategy, and formally denounced by MSF-France, against the advice of the other sections.

We are therefore presented with a range of elements – the mutual exclusion between operational intensity and a tight focus on violence; the link in the chain represented by the head office and the role it plays in formalising a situation; the role played by description before the action

52. MSF pleaded for the refugees to be relocated to a site some distance from the border. It is the refugees who refused, preferring to stay in a danger zone which was nonetheless closer to home.

begins; and the ‘operational culture’ peculiar to each section. All these elements determined the emergence or non-emergence of the protection issue in this episode. In short, while the use of aid as bait may have seemed particularly clear to MSF in terms of what was at stake operationally – it was an “intolerable” situation, i.e. the limit for an organization whose priority is to avoid harm – it was certainly not apparent as such from the outset. As always, the response given to a situation cannot be dissociated from the way the reality is collectively depicted.

Our examination of the practices designed to reduce the possibility of exposing staff and patients to violence reveals the existence of a “do no harm” policy which is directly related to the responsibilities of what we *do*. There is a legitimate field of action, but its limits undergo constant revision – as we continue with the ‘traditional’ practices, we introduce and systematise new practices. We shall now turn from this solid foundation and investigate the practices implemented in the more fluid space that lies beyond the realm of “avoiding harm”.

SHIELDING PEOPLE FROM VIOLENCE

When the genocide in Rwanda was at its height (April-June 1994), the teams working in Kigali hospital decided not to discharge patients at the conclusion of their treatment – these people had been admitted for legitimate medical reasons and were retained with the specific aim of physically protecting them. The hospital became a structure from which no one emerged, and expanded day by day as MSF commandeered neighbouring buildings to turn them into additional wards and increase the number of beds. In such drastic conditions, the teams were gambling that the medical argument would counterbalance the determination of the Hutu militias to exterminate the Tutsi population.⁵³ In this instance, as mentioned earlier, “no atrocity was committed in the hospital”.

Field teams are currently taking similar initiatives in less extreme circumstances, usually in order to shield a patient from the threats he or she faces as an individual. These practices have a low profile and seldom appear in activity reports unless it is to highlight pressing issues – security problems which jeopardize the safety of MSF personnel, or problems arising from case management, for example. On several occasions, the team in Port-au-Prince (Haiti), protected injured individuals who would have been at risk had they left the hospital. Whether a child who had suffered violence from family members or a youth hunted by other youths, they were kept – indeed hidden – in the building pending a solution to the predicament. These “protection cases” then became management problems in that they were blocking an increasing number of beds (in the same way as “social” cases – paraplegics, people who have become dependent and cannot be looked after by their families, etc.). The practical difficulties arising from bed blocking played a large part in the creation of the *petit comité violence*, an initiative which institutionalised the search for concrete solutions – procedures of removal or transfer to an appropriate environment.⁵⁴ The “social” activities at Mataré in Kenya also

53. We can assume that the teams did not consider shielding people who were not patients, for this would have negated the medical argument.

54. The *petit comité violence* (PCV) is the name given to the sub-group (head of mission, social assistant, psychologist, medical coordinator, ...) which meets to discuss complex cases that require a collective input in the search for solutions. The caseload is thus composed of protection cases and social cases which raise similar issues (the identification of an appropriate treatment structure, the provision of financial support, etc.). However, the inclusion of the word *violence* in the group's title is significant, for it is a direct reference to the legitimate ‘core’ of the programme, although the cases are usually distinguished by an inextricable mesh of economic, psychological, legal and security problems.

involve working with “protection cases” such as victims of domestic violence. In the DRC, field workers refer to the assistance provided to individual cases as *ad hoc* intervention, but in fact a budget is now envisaged to provide support for people who would face further violence if they returned to their homes (if the victim knows of a safer but more distant location, for example, the money will facilitate the move). Data collection now includes specific questions about persistent threats the patient may face (“has she a safe place to return to?”). These measures illustrate the degree of concern felt at head office over the possibility of returning a patient to a place of danger. The development may be seen as a consequence of the personalisation of care, which entails the extension of responsibilities towards the patient. It has led MSF to consider social and protection issues, to try and intervene one step higher in the chain of causality; for besides treating the consequences of violence, we are also trying to prevent further exposure to it.⁵⁵

MSF also has some experience of attempting to shield a large group of people from the threat of violence. We recall that the Srebrenica team took patients with it when it evacuated the hospital as the enclave fell. The MSF-Holland team working in the Kivus did the same for children at its feeding centre when the crisis in eastern Zaire broke out in late 1996. The Dutch team had done something similar a few months earlier in the same region. In that instance the individuals concerned were not patients but Tutsi civilians receiving assistance in one of the villages. After some of them were massacred and UNHCR failed to respond to the team’s warning, head office supported the decision to begin evacuating a group of survivors in trucks.

To our knowledge, only one attempt has been made to evacuate persons under threat in recent years. These were North Korean refugees who were either sick or “of whom it was reasonable to assume that [they] faced death”. MSF helped them to “cross the border illegally ... to reach South Korea and seek asylum” (AR, 2002-2003). These “unusual” and delicate decisions (some operations failed and the refugees were intercepted) were later described as deriving from the confrontation with concrete situations, with an entreaty.⁵⁶ It should also be noted that once again the people concerned were from the project’s target group (refugees); in other words, they were linked to us by the fact of assistance. Moreover, the initiatives were probably encouraged by the atypical nature of the project: MSF was operating outside the ‘traditional’ framework from the outset. Collective evacuations of this type have always been regarded as exceptional measures.

The responsibilities linking MSF to civilians in general (those who are not patients or in receipt of assistance) are certainly more tenuous. Nonetheless, personnel have willingly attempted to shield people from violence when a situation has reached crisis point. Moreover, when people seek refuge in MSF clinics in order to escape the violence raging outside, teams are even more likely to act spontaneously and give them shelter. This happened when fighting had intensified in Rutshuru in 2005 (the expatriate team had at one point evacuated the area), and in Bentiu, when militia fighters were combing the town for recruits. In the Bentiu case, the ‘passive’ provision of shelter led to tense negotiations with the militia leader, who demanded that the civilians be handed over. The team steadfastly refused to do so, but armed men eventually forced their way into the hospital. The team made no attempt to stop them and

55. It is interesting to note that at a time when many “violence and social exclusion” projects have been closed, the ‘high-quality’ treatment of victims of violence is in fact forcing MSF to return to the issues involved in such programmes – the complexity and entanglement of the dynamics at work, the chronic nature of the problems (poverty, the fragmentation of social and familial links, the many forms of violence, impunity, etc) – and is testing its ability to arrive at appropriate operational responses.

56. “We did not choose to take the initiative in these operations ... we chose not to say no when individuals, families or groups appealed to us for help” (AR 2002-03).

could only protest by pointing to the violation of the care space (see above). In this case as in the North Korean civilians', the protection they received was pretty fragile. But given the choice between sending people back into greater danger and holding on to them as long as possible, the team unhesitatingly gambled on the second option – although the wager did not exclude a rough and ready assessment of the risks.⁵⁷

SPEAKING PUBLICLY AND IN-HOUSE

In North Kivu, as in every unstable area in which MSF operates, the field coordinator holds regular meetings with the various armed leaders, the aim being to ensure that MSF teams can travel in safety. He also personally delivers the quarterly activity report. Several coordinators reported that they often took advantage of such visits to indicate to a leader that many victims of violence were originally from the area under his control. In effect, they were telling him that they knew what was going on, that others were watching him. It was also a way to avoid becoming “auxiliaries” of the violence by maintaining a silence which could be taken for acquiescence. In a context such as North Kivu, this finely modulated form of communication is as widespread as it is discreet; indeed there is no reason why it should be discussed or even referred to in the messages between field and head office. The room for manoeuvre here is narrow: it is necessary to “set a certain tension” when dealing with the authors of violence, but also to avoid compromising fragile interaction by taking the high moral ground, for example.

To turn to another time, place and context, tension with the Sudanese government over Darfur was the last thing required in the early months of 2004. Head office decided to launch a (non public) lobbying strategy; it briefed journalists and sent a coordinator who had recently returned from the area on a tour of the United States, in the hope of pushing the international community into “adopting a firm political stance at the earliest opportunity”, including on “violence against civilians.”⁵⁸ This type of indirect language, addressed to third parties rather than to the authors of the violence themselves, is as common today as it was in former year. The practice is specifically linked to the goal of “protection” in the broader sense: it strives to make an impact on a situation of massive and largely ignored violence (and on the massive needs thereby created) by publicity on the one hand and appeals to influential political actors on the other.

The use of public statements to achieve the same goal is more difficult to analyse. As our chronological approach has shown, changes in the content of the press releases clearly reflect the gradual decoupling of *témoignage* from the goal of “protection”, as exemplified by the withdrawal from calls for armed intervention and the “shouldering of responsibilities”, the decreasing reliance on references to IHL and respect for civilians, and the foregrounding of medical data and epidemiological realities. Press releases now usually focus on aspects of the aid we provide, and may thus cover topics such as obstacles, access, insecurity and diversion.

However, this new register does not mean that MSF has abandoned references to the fact of violence: as we saw earlier, it still features in the numerous press releases covering impediments

57. A calculation which, on the one hand, includes the risks for the people concerned (the nature of the threat – certain death, ill treatment, forced enlistment – posed by the combatants), and, on the other, the risks to team members should they place themselves between combatants and the people they are looking for – how determined are the combatants, to what extent do they respect humanitarian workers, how sensitive are they about their public image, etc?

58. Briefing quoted in C. Danet, S. Delaunay, E. Depoortere, F. Weissman, *A Critique of MSF-France Operations in Darfur (Sudan) – October 2003-October 2004*, MSF / Cahiers du CRASH, 2007, p.111.

to our action. On rare occasions it constitutes the core message, notably when it is exceptionally severe (the bombing or massacre of civilians, for example). The scale and/or intentional nature of violence may be taken as one of the criteria governing our perception of its gravity.

Nor does it mean that MSF actors have lost the desire to discuss the violence a population may be suffering, to bring it to the attention of the wider world; it is one motive among others when advocating a public position at a given moment. But, firstly, the desire to speak out has been reformulated in terms of the aid worker. “Access to care” in Somalia is a useful example: whereas twenty years ago we would have “testified to” the disastrous consequences of the violence and chaos, we now express concern over the “population’s lack of access to care” resulting from the insecurity (see above). And our current calls for the parties to the conflict to “enable the sick to access health facilities” echo the former emphasis on “respecting civilians”. The vocabulary may have changed, but our aim is still to draw attention to the plight of an entire population rather than issue a call for something specific which may contain a passing reference to the sick.

Secondly, the question ‘what for’ is asked more systematically to those who express a wish to communicate on a specific topic as is clear from the emergence and abandonment (perhaps provisional) of the idea of a public position on Iraq in late summer 2007.⁵⁹ The debates this stimulated at head office are notable for the ways in which the conceptions and expectations concerning a public statement diverged. Some participants felt the emphasis should be on the impact of violence on civilians, using our patients as an example. Others wanted to raise the broader issue of access to care for wounded Iraqis through an explicit call for a commitment on the part of the international community. One group took the view that given the chaos and the vast amount of media coverage, the obstacles to action constituted the only legitimate basis for an MSF statement. In short, the arguments reflected the range of views concerning the legitimacy of (and opportunity for) a public position on protection issues – exceeding the narrow confines of our own action – in the specific context of Iraq.⁶⁰ Eventually, access for our patients (and therefore the principal issue linked to our action) having improved, the plan to issue a statement was deferred.

The tension between the elements at the heart of such debates continues to influence the decision-making process whenever the possibility of a public statement on the vulnerable populations we assist is considered. These elements include the gravity of the situation (the nature and gravity of the violence and its consequences); the degree of operational ability (are we able, are we allowed to deal with the consequences?); the amount of media coverage; the degree to which our field of action matches the issues we have identified; the quality of the factual and other information at our disposal; the nature of external power relations and of those between sections, etc. Of equal importance (but absent from the Iraqi example, since we work at some distance from the theatre of violence) is the assessment of risks affecting our operational ability and security. The weight accorded to each element during the decision-making process has probably changed, resulting in the evolution of the public statement outlined above.

59. See the Board discussions (31 August 2007), the operations meeting (4 September 2007) and the email exchanges between president, desk, communications department and the *Foundation* (11-13 September 2007).

60. In this respect, it is interesting to note that among other arguments, some came up with a medical comparison (MSF’s challenges to the international community over AIDS and the response to the nutritional crisis in Niger) and suggested that given our work on the margins of Iraq, it might be a ‘solution’ if fully exploited. Others questioned the validity of the comparison, since in Iraq we could not point to specific aims (such as the use of a particular medicine to combat malnutrition or AIDS). The use of medical examples to sustain the idea of a public stance indicates the extent to which such issues have gradually replaced situations of violence as legitimate topics for appealing to or challenging the international community.

The elements of the debates remain the same – as remains the uncertainty as to when and how we should publicly express our views on the situations we are dealing with. The arguments should remind us that despite the developments discussed earlier, speaking out is a topic which, at both institutional and individual levels, exemplifies the tensions within MSF. These tensions highlight the ambivalence surrounding the issues of raising public awareness and applying pressure – which are sometimes decried as aims exceeding our legitimate framework, or simply as actions which are ill-timed given the context. But at the same time they are defended on the grounds that they prevent us from becoming the “auxiliaries” of the political policies whose consequences we deal with. This ambivalence emerged in an interview I conducted with the president. I asked him to clarify the reasoning behind the public statement on the “intensity of the repression” in Darfur in June 2004:⁶¹

A: “... we were doing ‘advocacy’, as it’s called.”

Q: “What was the aim of this ‘advocacy’? To raise awareness? Generate a debate? Raise the alarm?”

A: “I don’t see it like that. I think that in many situations, it’s not a given when you are trying to work in the field. You have to create a relationship of power so that humanitarian action is respected, so that it is not co-opted. Your approach to your working environment has to be political, and [speaking out] is one of the elements ... So it’s all a game in which power relations must be managed, and part of that is talking about what you see. I think you do it to prevent your own action from being co-opted ... It’s a consequence of your operational deployment, and should not be avoided.”

Avoid “being co-opted”; do not become “auxiliaries”; let them know that you know; create a “tension” so that that the action will not “lose its meaning”.⁶² These examples of the language used internally all point towards one of the major bases for a statement (whether public or otherwise) on violence: MSF may deal with consequences rather than causes, but it seeks to ensure that the causes are not blotted out.

“Do people who have been subjected to violence have the right to turn to you for care? It is through questions like these that you raise issues of security/protection ... The work of an auxiliary begins when there is a major outbreak and you don’t mention it ... an outbreak of rape, for example ... When you have achieved a proper grasp of your own responsibility and exercise it in a fairly political way, it clearly also has an impact on the protection of populations ... Your VSV treatment centre can also serve to stifle the question its existence poses for broader society, if you are not active in your own public positioning on it. Does your work represent a form of compassion which thus enables society to ignore the problems? Or are you prepared, if confronted with a large number of cases, to depict the medical histories – [in which case] you immediately contribute to a debate in society” (interview with J-H Bradol).

Speaking out is the product of complex decisions and intentions which vary according to time and context. The practice, a subject of permanent controversy, remains deployed in response to situations of violence – whether it denounces (as in the past) or rather describes situations (like today) ; whether this violence is already committed, ongoing or perceived as imminent; whether aimed at groups or individuals. But it is far from certain that whenever we raise this ‘voice’ – the voice of the “expert witness” who describes, who foregrounds “motivated facts” – it is always in the strict defence of the conditions surrounding our provision of aid.⁶³

61. As we have seen, the statement was subsequently described as an attempt to increase the amount of aid (AR 2004-05).

62. The expression was used in the debate over the release of a film about displaced persons in Darfur in autumn 2007.

63. According to P. Redfield, MSF is an “expert witness”; it foregrounds “motivated facts ... [which] all seek to establish the facts of suffering and, thereby, make a moral claim”. See P. Redfield, ‘A Less Modest Witness. Collective Advocacy and Motivated Truth in a Medical Humanitarian Movement’, *The American Ethnologist*, vol. 33 no. 1, February 2006.

At the conclusion of this lengthy itinerary, which has taken us from institutional discourse on the role of MSF and the responsibilities of other actors when faced with violence to the concrete practices deployed by individuals or systematised by the institution in specific situations, we are forced to acknowledge that it would be vain to attempt a “portrait of protection” at MSF today.

Beyond the internal and external developments that have led to the current reluctance to invoke human rights and protection, to the caution with regard to calls for military intervention in the name of protection and to the disinclination to prescribe solutions, call for the assumption of responsibilities or denounce a situation, violence – and therefore concern for the safety in particular of personnel, patients and of those we assist – is still a central feature within our operational framework. To be sure, the wealth of experience MSF has acquired has also burdened it with a permanent sense of anxiety and doubt as to the effects of its action. Our awareness of the “fragility of the goodness”⁶⁴ we may do means that in any given situation our ambitions will be couched in cautious and modest terms; of greatest importance here is the Hippocratic injunction to “do no harm”. The endless series of ‘non-acts’ – refusals, abstentions, withdrawals and strategies to avoid exacerbating existing violence – should be understood in this light. Thus the notion of complicity remains valid, at least in the active sense of blind or involuntary participation in the implementation of disastrous projects. Therefore if this itinerary has demonstrated anything at all, it is the error of thinking in terms of care on the one hand and “protection” on the other, for the true basis of our action is concern for the fate of those we treat. In every case, addressing this concern requires clear-sightedness, attention to the context, the ability to interpret complex situations of violence and the ability to identify the “priority victims”, those most at risk.

But as we have seen, views and actions evolved. The refocus on the aid worker’s role involves both refining “protection” practices aimed at individuals, and moving away from practices with a more tenuous connection to aid action. Borrowing an idea from one of the case studies, we might view responsibility in terms of two axes perpendicular to one another. On the vertical axis, representing the ethical dimension (our accountability for our own actions), our responsibilities are rising. Internally, the lower limit is the “intolerable” possibility of active complicity; on this foundation, we have extended the tasks we allocate ourselves. The emphasis on quality led to provide more and more comprehensive care in our domain and includes consideration of the physical threats a patient may face. What is the upper limit here, in a dimension that sometimes appears as one of absolute sovereignty? On the horizontal axis,

64. The expression is from Tzvetan Todorov (*The fragility of Goodness. Why Bulagria’s Jews Survived The Holocaust*, Trans. Arthur Denner. Princeton: Princeton UP, 2001).

representing the 'political' dimension (our responsibilities in the light of the general situation and our interaction with other bodies), the scope of our role is retracting. There have been many efforts to define the limits of our legitimate field, ranging from revising our role with regard to international legal procedures to banning calls for military intervention and reappraising the practice of speaking out.

However, these efforts do not imply that MSF is no longer concerned with matters beyond its own sphere of action. Even if aid issues were not involved, everyone would believe that wholesale violence would demand a response of some kind. At some stage, the vertical must cross the horizontal: no field in which MSF operates is free from dilemmas, because our field is inevitably interacting with others. While it is necessary, given the variable results of our attempts to slow down or stop violence, or to shield people from it, to focus on doing our own job as well as we can, it would be disastrous if this "acceptance of our limits" – another way of defining the field – became an opportunity to congratulate ourselves on the quality of our work within that perimeter.

This also applies to the emphasis on the treatment of victims of violence, especially in contexts that are increasingly hard to describe as wars. The expansion of responsibility regarding our own action inevitably opens the door to a host of difficulties and searching questions, often aggravated by the commonly used categories of violence – whether "domestic", "urban", "social", or "other". Questions such as "what should we do?" sometimes reflect the confusion that field teams experience. We cannot escape the pull of the real; there is no 'right place' in the chain of causality that would enable us to settle these questions. The long evolution that has established medical care as the core commitment at MSF is undeniably beneficial, but in no way does it solve the questions concerning the interplay between the various levels of causality, the practice of speaking out, and the possibility of action that extends beyond the injunction to 'do no harm'.

APPENDIX 1 / CASE STUDY

THE HUNTING OF RWANDAN REFUGEES, 1996-97

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To delimit MSF's responsibility, in its own eyes, for providing protection at the time when the Rwandan refugees in Zaire were being hunted down and killed, we need to consider the various discourses relating to MSF's role when confronted with violence – both the discourse of its public statements and that of internal debates which manifest a certain idea of our responsibility towards 'endangered populations', and towards the Rwandan refugees in particular.

We also need to consider the diverse decisions and actions taken by the different components of MSF throughout the many episodes of this exceptionally serious and large-scale crisis. It will be a matter, as we will see, of analysing the concrete details of delivering assistance – since the concern for protection arose not as a 'side' issue (i.e. in practices only marginally related to the relief effort), but in the very act of delivering care – in a context of such complexity that the relief effort became, by turns, an instrument for saving masses of people on the verge of death, a tool for tracking down refugees in order to eliminate them, and an insignificant, futile action.

In order to do justice to the complexity of the situation and the significance of the various positions adopted by MSF over time, the form selected for this account is a chronological sequence in which breaking points and prevailing rationales that define the various sections are identified. This case study is based almost exclusively on *The Hunting and Killing of Rwandan Refugees in Zaire-Congo: 1996-97*, by Laurence Binet.⁶⁵ The minutes of Board of Directors' meetings and presidents' annual reports were also consulted.⁶⁶

65. L. Binet, *The Hunting and Killing of Rwandan Refugees in Zaire-Congo: 1996-97*, MSF International/CRASH-Fondation MSF-F, coll. "MSF speaking out", 2004, 266 pages (internal document available on approval at bcscaw@msf.org).

66. *Note:* double inverted commas (" ") indicate a quotation; single inverted commas (‘ ’) are used by the author. *Abbreviations and terms:* AFDL: Alliance des forces démocratiques pour la libération du Congo (Kabila) (Alliance of Democratic Forces for the Liberation of Congo) – FAR: Forces armées rwandaises (prior to June 1994) (Rwandan Armed Forces) – Banyamulenge rebels, 'Tutsi troops': AFDL - IHL: international humanitarian law – HCR: United Nations High Commission for Refugees – WHO: World Health Organisation
MSF jargon: sitrep: situation report – PR: press release – AR: President's annual report – DirOp: Operational Director – DirCom: Communication Director – Ex.Dir: Executive Director – Field co: Field Coordinator – MSF-B: MSF-Belgium – MSF-F: MSF-France – MSF-H: MSF-Holland – MSF-US: MSF-United States – IC: International Council (of the presidents of MSF sections) – Back-up section: section responsible for coordinating the activity of the emergency team (ET) – task force: working group dedicated to a specific emergency operation - HAD: Humanitarian Affairs Department (MSF-Holland)

PROLOGUE - 1996, BEFORE THE ADVANCE OF THE AFDL: MOUNTING CONCERN

Before the Alliance des Forces Démocratiques pour la Libération du Congo (AFDL) began its advance in October 1996, MSF-Holland was the only MSF section present in Kivu, the eastern region of Zaire.

In early 1996, when tensions in the region were rising between Hutus and Tutsis speaking Rwanda language (Kinyarwanda), the Tutsis being particularly in danger, the tendency at MSF-H was to get out of the camps. The new coordinator heard rumours of massacres in the Masisi area: “I said, ‘OK, let’s have a look at it and get some information’. Indeed, there did seem to be a lot happening”.

The team began to “move more around in the area”, collecting information that, though fragmentary, sufficed to show that violence was occurring and that more serious violence might be imminent (palpable tension, wounded patients, villages that at times were completely surrounded and whose inhabitants were terrified): worry over the fate of the people, which had subsided, was back in full force.

Owing to its **growing perception of an unspecified menace** hanging over a certain group, the team on the ground tried to alert other parties: this took the form of an “information and advocacy campaign” by the coordination teams in Goma and in Rwanda (embassies, aid agencies) as well as efforts to involve the desk, “but this looked rather like silent diplomacy” (MSF-H coordinator). As “the concern for these people” grew steadily amongst the MSF team, it called for preventive action to move the Tutsis out of danger, appealing to other stakeholders’ sense of responsibility: discussions with other agencies were organised “initiated by MSF and ICRC, to try to get something done to protect these people”; during one such discussion, MSF and the ICRC drew attention to the situation of the Tutsis of Mokoto and Kichanga, “stressing that in [their] view these people needed to be evacuated” (sitrep, MSF-H coordinator).

When the potential threat became a reality (the massacre of Tutsi Banyarwanda in a church on 12 May 1996), this concern was transformed into an absolute necessity: “we decided that since we now had so much evidence of things, we had to do something about this” (interview, MSF-H coordinator).

This responsibility to “do something” gave rise to a series of simultaneous or successive activities. In the field, it led to the **deployment of medical assistance** to the survivors: “MSF’s first response was the dispatch of a surgical team to care for the wounded”; the coordination team in Goma **held discussions** “to talk UNHCR into taking responsibility for the evacuation of the remaining 5,900 Tutsi” (MSF internal magazine). When it became apparent that the HCR would not evacuate the survivors, **a public statement** (press release of 21 May 1996) was issued: its purpose was to put pressure on the HCR’s headquarters, and its form was that of a warning: “the idea was to WITNESS not to DENOUNCE”, by “expressing concern about the Tutsi and calling on the relevant UN bodies to evacuate them”. At the same time, in an unusual move, MSF itself **evacuated** some of these displaced persons.

Here for the first time we see the link between, on the one hand, **the clarity of the information available** (i.e. not only information *received* but also, and most importantly, as we can see in this case, information *collected*, since concern for the Tutsis did not take shape

until the new coordinator took the pro-active decision to go out and collect information) on the violence (past and to come) and, on the other, **the perception of an urgent need to act**, and indeed, of MSF's responsibility to take action.

This sense of responsibility is connected, in a confused manner, with the conviction that violence was both probable and imminent, and with the awareness that MSF possessed information indicating it. This explains why the specific content of this responsibility ranges in this case from giving the alert to advocacy to actual evacuation of people.

1 - THE CALL FOR ARMED INTERVENTION – OCTOBER-NOVEMBER 1996

Events picked up speed dramatically in October 1996 with fighting between the Zairian army and the Banyamulenge rebels of the AFDL in Kivu (Bukavu was taken on 29 October), and, in conjunction with this fighting, attacks by the rebels (with the help of Rwanda) on the camps of Rwandan refugees: first the camps in the Uvira area (13-20 October), followed by those in Kibumba and Katale on 26-27 October and that in Kahindo on 30 October. A tide of refugees began to converge on Goma. On 28 October, the press was already speaking of a “desperate humanitarian situation” where “500,000 refugees take to the roads”. The situation was extremely confused, with tens of thousands of Rwandan refugees fleeing the area, Zairians fleeing before the advancing ‘Tutsi troops’, the chaos of the fighting itself, etc.

ASSISTING THE REFUGEES

In just a few days, the emergency situation arising from a massive displacement of the population was transformed into a context of war, characterised by violence, confusion, volatility and mobility.

The response of the international organisations was to sound the alert (a “cry of alarm” from UNICEF) and call for the establishment of “humanitarian corridors” (UNHCR, 27 October). The WHO sent an emergency team to assess “the epidemic risk and the measures to protect the hundreds of thousands of people left without assistance”. As for “the international community, [it] is currently considering only diplomatic solutions” (*Le Monde*, 1 November and 31 October).

MSF's first action concerned the **provision of relief**: it helped to “offset up emergency clinics” (PR MSF-F, 29 October) in the Mugunga camp, near Goma, a gathering point for hundreds of thousands who had fled from other camps.

Faced with, on the one hand, the prospect of no longer being able to help the endangered population (risk of being forced to evacuate), and on the other, the announcement that the international community would take no action, MSF issued a public statement putting forward the notion of protection and invoking the responsibility of the other parties involved: MSF-F called for a protected assistance zone for the Rwandan refugees and Zairian civilians caught in

the conflict and denounced the passivity of the international community: “the international community should focus on creating a safe space where civilians would have access to aid” (PR MSF-F, 31 October).

It should be noted here that the notion of a protected area has a very specific meaning: that of a demarcated geographical area. The direct justification given by MSF for the establishment of such an area was the need to deploy humanitarian assistance; the violence was mentioned only secondarily, along with the other dangers to the refugees: “in Goma, Bukavu and Uvira, where aid operations can no longer be conducted, more than 2 million people – refugees and Zairians – now face death, malnutrition and epidemics”. The priority was the complete vulnerability of these people in flight, and the response would necessarily combine security measures (and hence a protected area) and assistance.

On 1 November, the situation became still more difficult for the relief workers, who lost access to the area due to the fighting: evacuation of the Mugunga camp and of the projects in South Kivu and Gisenyi (Rwanda).

On this occasion, a field team once again took the initiative of **physically evacuating** people: “MSF staff in Gisenyi has been able to evacuate all children from their nutritional centre at the Umubano at the Goma border”, in lorries, to another camp “where the supplementary feeding programme can be continued” (PR MSF-H, 1 November). This action reflects a sense of responsibility to our patients (and all the more so to an “extremely vulnerable group of children”): a responsibility not to abandon them on leaving, to bring them to safety if possible. Apparently, this decision did not give rise to a debate.

TOTAL LOSS OF ACCESS AND A CALL FOR ARMED INTERVENTION

The situation worsened further on 2 November with total loss of access. The NGOs were forced to evacuate Goma, which had fallen into the hands of the rebels. This loss of access seems to have caused the decision to call for “safe zones to be created to protect populations in danger in Zaire and to ensure that aid can be provided” (PR MSF-F, 4 November); failure to intervene would run the risk of “a repetition of the 1994 catastrophe when a delayed humanitarian action replaced effective protection of the population”. “The insecurity and chaos in Zaire is so bad that there is nothing doctors and bandages or any humanitarian assistance can do” (PR MSF-H, 4 November). This same press release mentioned the need for “an effective relaunch of the repatriation process”.

What was the process leading to this decision to call for armed intervention? The importance and rarity of such an initiative (taken for only the second time in the history of MSF) make it worth dwelling on. First, “everybody agreed that we had to say something” (S. Bolton, communication officer for the Great Lakes region) but did not necessarily agree on what should be said: “humanitarian corridor”, “intervention or no intervention?”, etc. It should be noted that the context was one of urgency and lack of information: “We were in Kigali and the pressure was incredible. We had no information about anything” (ibid.). “... The idea was that we couldn’t just stand by and do nothing. The international community had to provide protection. (...) Morally we couldn’t just stand by” (P. Biberson, President of MSF-F).

MSF-Holland was the section that argued the most strongly for intervention, based on the reports from the ground: “the last eyes and ears of the international community have left and given the (...) context this crisis will develop into a massive bloodbath” (J. de Milliano, President of MSF-H, quoting field personnel). As it was a matter of “predictable massacres”, the debate was couched in extreme terms: shall MSF merely “be the followers”, or shall we “choose to contribute to prevent the massacres of the civilian populations by raising our voice (...)”? asked J. de Milliano. The President of MSF-H also emphasised that it was necessary “to measure and accept certain downsides” of such a decision: failure to achieve the desired result “is not a reason not to try, given the imminent catastrophe”.

THE IMMEDIATE CONSEQUENCES OF THE CALL FOR INTERVENTION; SUPPORT FOR INTERVENTION RUNS OUT OF STEAM

The weeks that followed the call for the creation of protected areas were marked by the complexity of the tactics of the parties involved, while MSF continued to call for intervention:

- **The AFDL adopted conciliatory tactics** to undermine support for an international intervention: on 3 November, just after the BBC’s broadcast of the interview with J. de Milliano, a cease-fire was announced, and Rwanda sent welcoming messages to the refugees; on 11 November, Kabila agreed to the creation of corridors and allowed NGOs access to the city of Goma (but not to the camps).

- MSF remained sceptical of these ‘positive’ gestures on the part of the AFDL in early November, considering that it did not have enough information indicating an imminent return to normal conditions. **MSF therefore maintained its call for intervention.** The internal debate continued as to what specifically MSF was asking the international community to do. Following an inter-sections meeting held on 6 November, a position paper was issued that addressed the situation in extremely broad terms: the call for intervention was linked to repatriation, and hence to the conditions required for voluntary return to Rwanda, including “transit centres, reinforcement of human rights monitoring measures ... safe environment for returnees, operational judicial system, [decent living conditions in] prisons, effective health care, solutions for the land issue”. The mandate of the intervention force was also discussed: “at this stage, MSF should consider formulating its position on this force, since it may be the case that the mandate of this force is considerably different from what MSF asked”; “a peace-enforcement mandate is a prerequisite for the chances of the force to succeed in their tasks”.

- During this entire period, **MSF’s attempts to reach the refugees continued day after day**, in vain (to the point where its teams were blocked between the two borders in trying to reach Bukavu via Rwanda). The situation was completely obscure and concern was growing daily, along with the certainty that the refugees, if left without assistance, would necessarily be in a appalling state. Frustration over being powerless to help the refugees was running high. An apparent window of opportunity opened on 11 November, when the NGOs were allowed access to Goma; MSF immediately sent several tonnes of relief supplies. In reality, however, the NGOs remained confined to the town, with no control whatsoever over the supplies assembled there. The only action MSF was able to take was to establish “way stations” in mid-November along the route of refugees returning to Rwanda.

- As a result, **MSF spoke out repeatedly** during this period of denied access and extreme

concern. Some of its public statements repeated the call for intervention to protect the refugees and restore access (letter from MSF-F to the President of France, participation in forums calling for intervention by the United States and by the United Kingdom, a declaration from MSF-US on 14 November on the mandate of the future military force). In addition, further warnings were issued concerning the precise (or presumed) situation of the refugees (PR MSF-F on 8 November stating that there had probably been 13,600 deaths since the beginning of the crisis, a figure obtained by extrapolation from mortality rates in similar situations; PR denouncing forced repatriation to Burundi). The latter public statements, when directed at a specific target, were in all cases aimed at the UN or Western countries.

- **Under continuing pressure from the NGOs** (and the ICRC, which was also in favour of intervention), **the ‘international community’ vacillated**: although the UN Secretary-General declared on 8 November that he was in favour of an emergency action, and although the Security Council agreed to “the principle” on 9 November, implementation of any such action was postponed. A resolution calling for intervention by a force with a humanitarian mandate (precisely what MSF had warned against) was adopted on 15 November, and this ‘achievement’ eased the pressure in a climate of general satisfaction.

- The **return of hundreds of thousands of refugees between 15 and 18 November brought a definitive drop in the pressure**: on 15 November, the AFDL attacked the Mugunga camp, where fleeing refugees had gathered. On 18 November, it announced the establishment of a corridor for the return of refugees via Bukavu. In fact, between these two dates, a lightning repatriation took place: a tide of some 200,000 refugees crossed the border under brutal conditions, while others fled deeper into the forest. Rwanda thus succeeded in defusing the already wavering motivation of the Western countries and promoting the idea – which the developed countries were all too eager to endorse – that the problem was settled.

- **Disagreement concerning the facts was the underlying reason for the divergence of positions** between MSF and the other international players: following this flood of returning refugees, controversy arose concerning the number of returnees and the number who were still scattered in Zaire. The United States, which had taken satellite photographs, took some time to reveal the findings, and the latter were problematic in several respects: the figures eventually provided to the NGOs (on 23 November) were different from those released to the press, and the satellites had not covered the entire area. Thus began a veritable ‘war of information’ in which the United States and Kigali asserted that “all the refugees had returned” (MSF-H communication officer), whereas MSF continued to ask what had happened to the hundreds of thousands of missing refugees. In turn, MSF began to be accused, by the United States and in the press, of having overstated the number of refugees and exaggerated the seriousness of their situation on the basis of extrapolated figures. This marked the beginning of the ‘figures crisis’: “after all this agitation, the story was over for the journalists. They were convinced that Africa had organised things perfectly well on its own (...) We were like little children being scolded for making arithmetic errors” (interview, communication officer for all MSF sections).

OUTLINE OF THE RESPECTIVE RESPONSIBILITIES OF THE PARTIES INVOLVED DURING THIS EPISODE WHERE PROTECTION IS CONCERNED

This episode brought into play a number of elements that reveal both implicitly and explicitly the various conceptions and questions concerning responsibility in the face of violence:

- First, it should be recalled, at the risk of tautology, that the **first actions taken by MSF are always concerned with providing assistance** (and access is a necessary condition for such assistance, which explains why loss of access triggers such a strong response). Providing care is indeed perceived as the primary responsibility, the one that makes it legitimate for MSF to be present on the ground and to speak out.

- In making a connection between the departure of the “eyes and ears” and the prediction of a “bloodbath”, those on the ground – and those who quote them – were expressing a certain idea of the **role played by MSF’s physical presence** (as an international organisation): namely, that its presence attenuates the violence. Expressed in a more conventional (and more ambiguous) way, this is the idea that ‘presence protects’ and that a loss of presence leaves the door open to the worst abuses. By implication, there is obviously a perception that MSF should remain close to the ‘most vulnerable’ or ‘most threatened’ groups in order to lessen their vulnerability and the violence committed against them.

- **Loss of access** (as a means of knowing what was happening and as a last defence against the outbreak of violence) combined with what was already known of the risk of massacres led to the **conviction that massacres were imminent** – as if MSF were a witness ‘in advance’ to the coming violence. This sense of looming catastrophe gave rise, as noted above, to an imperative desire to ‘do’ or ‘say’ something to prevent it from happening. Thus, there is indeed the idea that it is ‘MSF’s responsibility’ to try to help prevent or forestall foreseeable violence.

- In this case, since it was impossible to ‘do’ anything (if access had been possible, MSF would probably have leapt into the breach), it was by ‘saying’, i.e. by issuing a public statement, that MSF avoided the unthinkable course of “standing by”.

- This public statement invoked a two-fold **responsibility of the international community**: “to protect populations in danger in Zaire *and* to ensure that aid can be provided”. It is not simply a matter of allowing access by NGOs (which bear the responsibility for providing assistance), but of ensuring “effective protection of the population”. In this respect, this appeal differed from the first (PR of 31 October), which called for the creation of protected areas only for the purpose of deploying relief.

- The **link between realism and demands addressed to the international community** is unclear. Although the negative experiences of the recent past – the inaction of the Western states during the genocide of 1994 – were strongly present in everyone’s thoughts, this shadow cast on the present does not seem to have sown serious doubt on the usefulness of calling for an intervention. Thus, this appeal, problematic though it may have been (and it was debated as such), was ultimately seen to be the only recourse available. The low probability that the international community would actually take action, and the even lower probability that such an action would be in accordance with the specific expectations of MSF, strengthened rather than weakened the demand for “protection”: the reference in the press release to the genocide, and more specifically to Operation Turquoise as a “delayed humanitarian action replac[ing]

effective protection”, was intended to revive the spectre of culpable inaction (with humanitarian relief as the ‘alibi’) and to demand action corresponding to the imperatives of the situation (protecting people).

- In addition to calling for immediate action, MSF **took a position in favour of comprehensive, lasting solutions**. The press release issued by MSF-H warned of the need to restart the repatriation process with guarantees of safety, as well as the problem that the Interahamwe were mingled with ‘real’ refugees. The question of “a return to normal via an organised return to Rwanda” was discussed from a number of aspects: legal, security and so forth. Thus consideration of and positioning on the political aspects of reaching a settlement seemed to be legitimately within the scope of MSF’s responsibility; they were discussed extensively within each MSF section.

- **The connection between one’s reading of the situation and the concern for protection** is of central importance. In both our obsession with access and in the “war of information” over the question of missing refugees, the preponderant issue was one of *seeing and knowing*: access to information and description of situations are at the very root of responsibility to ‘populations in danger’, in contrast to the eagerness of other actors to declare the subject closed once and for all.

- It may also be noted that the MSF-H document calling for armed intervention employed **rhetorical arguments** that are commonly used within MSF debates in general: refutation of objections based on the uncertainty of the outcomes and on perverse effects (the ‘futility’ and ‘perversity’ of reactionary discourse, according to A.O. Hirschmann⁶⁷), and posing the problem in radical terms that force one to choose between looking like an upright person and looking like a scoundrel.

These various levels of discourse (internal and public) already display most of the horns of the successive dilemmas faced subsequently by MSF.

2 – ASSISTANCE: RELIEF OR BAIT? LATE NOVEMBER 1996 – MARCH 1997

The period that begins after the rise and subsequent decline of pressure for intervention was characterised by constant tension between, on the one hand, delivery of relief supplies to fleeing refugees, whom MSF was desperately trying to locate and save, and on the other, the ambiguity surrounding these supplies, as the use to which they were put by the AFDL rebels could be glimpsed intermittently – all of this in the context of a serious health emergency, with access being partial, reversible and temporary, enormous logistical difficulties, extremely confused information and the glaring absence of the international community.

67. See A.O. Hirschmann, *The Rhetoric of Reaction. Perversity, Fulility, Jeopardy*, The Belknap Press of Harvard University Press, Cambridge, 1991. See also the article by M. Potte-Bonneville, “Perversity, futility, jeopardy”, in *Vacarme* no. 19, Spring 2002.

FIRST DOUBTS ABOUT PERVERSE EFFECTS, FIRST LARGE-SCALE OPERATIONS NOVEMBER-DECEMBER 1996

Authorisation to explore the area surrounding Bukavu (within a radius of 30 km) was given on 23 November. MSF set off at once and tried at first to go as far as possible; it exceeded the 30 km limit, and as a result, the NGOs were assigned AFDL “facilitators”. On 26 November, the team was informed that the AFDL had massacred some 500 refugees/displaced persons ten days earlier. After alerting the HCR and the ICRC, with no response, the MSF coordinator travelled to the site. He spoke with the survivors and wounded: they were refugees who had not fled the area, hoping to turn themselves in and return to Rwanda. They told him that the AFDL soldiers had pretended to register them and then “launched grenades at them and machine-gunned them”. The coordinator wrote a report and sent it to Amsterdam, where it was decided to forward it to Amnesty International so that the name of MSF would not be mentioned, “for reasons of (still) having difficulty in getting access”. Moreover, the team was increasingly worried about the role of the “facilitators”: “From the beginning, we suspected that these informers were going to report everything (...) We were going to places where we had heard there were refugees. The first day, we would see refugees and on the second, there would be security problems and we couldn’t get there anymore. That happened to us three or four times” (interview, MSF-H coordinator in Bukavu). The coordination team in Kigali was informed.

By 1 December, the picture had become clearer as some information was confirmed. On the ground, **MSF was on the point of deciding to issue a denunciation**: “along with UNHCR and ICRC, we reached the conclusion that we’d obviously been used as bait (...) The ICRC representative said, ‘it’s not ICRC’s tradition, but (...) we can’t treat refugees and later learn from villagers that they were shot after we’d left. (...) we have to do something’. (...) Just as we were making that decision [to leave the area and tell the world what was happening], the Alliance liaison officers opened the meeting room door and said: ‘You want refugees? There are 5,000 on the road, get to work!’ (...) They knew we were preparing to react and take a position against them. So they opened the floodgates and shoved 5,000 refugees in our direction as a bone to gnaw on”. A bone that shifted the focus of concern towards providing emergency care for this crowd of refugees: “that changed our strategy completely”. We asked ourselves a few months later “why did we stop paying attention?” (interview, Bukavu coordinator).

Thus, in the Bukavu area, the concern for denouncing the use of humanitarian organisations as bait gave way to **‘activism’ due to the necessity of caring for the refugees** that come within sight of the teams. The latter tried to set up relief operations for these moving groups of refugees.

The decline in the attention paid to this issue occurred in conjunction with several developments on the Western scene: increased media coverage of past massacres (dating from mid-November), yet at the same time a drop in international mobilisation. As a result of Kabila’s conciliatory gestures, the planned international force now appeared to be “pointless” to the countries that were supposed to promote it, and it was dissolved on 16 December. The consciences of all parties seemed to ease, and the above-mentioned quarrel over the figures continued and grew; several articles appeared hinting that the humanitarian organisations had lied to increase their “business”: “why did the United Nations, Médecins Sans Frontières and Oxfam get it so badly wrong? (...) They grow only if they are good at raising funds (...) these messages [high-profile appeals] raise money” (BBC, 27 November).

The field staff had not completely stopped paying attention to the violence, however. The coordinator remembers that he alerted Kigali and Amsterdam again in late December: “I suggested three or four times that we leave and close the mission”. When he described the use of MSF as bait, he was subjected to questioning: “Did you hear the killers? Are you sure this was a massacre? You had stories from villagers saying they [the AFDL soldiers] arrived two days later and killed people but you don’t have any eyewitness statements’. After the problem with the figures, they were very, very cautious. Things were completely paralysed!” (interview, Bukavu coordinator).

What caused this misalignment between the field team and headquarters? The field team, which witnessed directly the harmful effects of its presence and its attempts to approach the refugees, saw the entire purpose of its activity disappear; the context in which an action can be useful seemed to have disappeared. The fact that the team was an ‘interested party’ in the process of hunting down and killing the refugees seems to have exceeded the limit of what it could tolerate. As a result, it wanted a strong response (denunciation, departure).

If we are to believe the version of the Bukavu coordinator, at the decision-making level in the capital – in this case, Amsterdam – the ‘figures crisis’ had resulted in a high degree of caution regarding supposedly obvious ‘facts’ and the veracity of information (whether quantitative or not, collected or generated): the fact that it was more difficult to speak out in this context strewn with pitfalls necessitated more rigorous procedures for collecting information. It is our hypothesis here that these two factors – the greater difficulty to speak out and the greater rigour required – combined to make MSF less responsive to incoming information, i.e. that its capacity for indignation was inhibited or weakened.⁶⁸ In short, we find once again the link, mentioned above, between clarity of information and the perception that it is urgent to take action. Those whom the episode of the ‘figures crisis’ led to place increased reliance on ‘methodological doubt’ also had a less radical perception of the threat to the refugees and of the fact that MSF had served as bait: thus, in addition to caution about speaking out in public, these differences of perception emerged with regard to the question of whether MSF should withdraw, as proposed by the Bukavu coordinator. Whereas the latter thought that the situation had become unacceptable, with MSF being an accessory to the massacres, the head office in Amsterdam was questioning the accuracy of the facts reported.

Ultimately, **the concern over the violence** inflicted on the local peoples – and over MSF’s role in this process – was to be expressed **at the operational level**. The Bukavu team’s analysis of the instrumentalisation of the relief effort was confirmed by the Kigali coordination team on visiting the area: “When returning there after permission of the authorities, no refugees were found any more”, giving rise to the “fear that our presence is not improving the chances of the refugees to survive. Are we becoming a risk for the refugees? It is decided to change our intervention approach towards these groups of refugees. We will encourage people to come to the main roads (...) This way we are sure that our assistance is helping the refugees” (sitrep 11 January, MSF-H Kigali). Thus the quintessential humanitarian dilemma, in which aid is transformed into support for a criminal purpose, led not to a general withdrawal but to a series of small-scale withdrawals in the field. The practical modes of aid delivery were modified: we

68. Indignation is here taken to mean not the automatic and necessary reaction to an unacceptable situation, but rather the outcome of an intellectual stance that makes indignation possible (the ‘capacity’ or ‘predisposition’ to indignation).

stopped trying to move closer to the refugees and to locate them in the forest, we rethought the question of where to deliver aid and with what messages, etc.

This adjustment by abstention obviously reflects MSF's responsibility to ensure that its relief efforts do not place people in greater danger than they already are and do not contribute to the conduct of criminal policies.

LARGE-SCALE OPERATIONS IN CAMPS AND THE APPALLING SITUATION OF THE REFUGEES DECEMBER 1996–JANUARY 1997

Meanwhile, it gradually emerged as from early December that there were many more refugees further north, at various places along the Walikale-Kisangani road. For example, 70,000 refugees wound up at Tingi-Tingi in mid-December (by the end of January the number had risen to 160,000). Here, in contrast to the Bukavu area, MSF rapidly undertook **large-scale operations** in various locations: in Kisangani, establishment of an MSF rear base, support to the hospital, a transit centre for displaced Zairians; in Tingi-Tingi, which had become a refugee camp, water purification facilities, establishment of six dispensaries, a nutrition centre. The urgency of the work was clear and the logistical obstacles enormous. The moment for calling for intervention had passed: according to the President of the MSF International Council, given the change in the situation – the return of “600,000 refugees” to Rwanda, access in Zaire to new groups of refugees in a very worrisome state – “we must be capable of changing our public position”. We had access to the refugees again, and they were in dire need of assistance: the priority, for the moment, was clearly the operational side.

The teams working in these camps witnessed an “extremely rapid decline in the state of health” of the exhausted refugees: “the refugees were in an absolutely intolerable situation – a refugee camp, escapees in the forest, deep forest (...) it was monstrous, especially when you know what these people have lived through. You always think you’ve seen the worst, but that’s not true” (interview, MSF-F coordinator in Tingi-Tingi, on the French television channel TF1 on 24 January).

While the field teams were extremely busy, overwhelmed with work, the various MSF sections issued a series of public statements from 14 to 31 January (PR MSF-F/UK; press conference, MSF-F Operational Director; interview on TF1; PR MSF-F/US; PR MSF-F/B/US). All of these statements concerned the disastrous situation (as regards nutrition in particular) in the camps and emphasised the responsibility of international community, which was dithering over the deployment of relief for fear of strengthening the militias’ hold over the refugees. In the words of the press release, “the leaders and militiamen are not the ones penalised by delays in distributions and the lack of commitment on the part of the international community but civilian populations”. A solution was offered: “New procedures must be in place quickly so that aid passes directly to heads of households and the militias are prevented to control the camp. UNHCR protection is also needed urgently to guarantee the safety of the refugees who wish to return to Rwanda” (PR of 14 January).

ASSISTANCE AS PROTECTION OF REFUGEES?

The month of January thus saw a shift towards a **logic of providing assistance while at the same time speaking out** on aid issues.

- For the **people in the field**, who were witnesses to the desperate situation of the refugees and the inadequacy of the relief effort, the need for speaking out was obvious: “I had no worries about speaking out. I was convinced that that’s what had to be done. Otherwise, all you’re doing is providing palliative care and in the end, everyone dies”. The aid workers found themselves in a position of helplessness, watching people die, and sounding the alarm seemed to them the only possible response. We see here an irreducible element of the need to speak out, a need which does not only originate from an expected impact or moral / ethical grounds.

- At the level of the section **headquarters**, although the sections seemed to be in agreement on the need to alert the world to the catastrophic situation in the area, an exchange between the DirComs of the Swiss and French sections concerning these public statements reveals differing conceptions of MSF’s position with regard to other actors (a debate that runs throughout MSF’s history in connection with its ambiguous relations with the HCR). The DirCom of MSF-Switzerland questioned MSF’s practice of accusing the international community and “teaching UNHCR a lesson”: “in this situation, it is unwise to make accusations against our partners ... Are we sure that those people [the HCR] aren’t doing anything?”. He took the position that we should be careful of what we said about ourselves (again, the use of quantitative data) and about others.

In reply, the DirCom of MSF-F reiterated a number of facts (“the WFP distributed 300 grams [of food] per person over three weeks ... the repatriation of the refugees was accompanied by particularly high mortality”) and, in his way of designating the UNHCR, emphasized its responsibility to provide protection, which it had failed to do: “in the face of this pretty serious assessment, the reaction of the leadership of the UN agency responsible for protecting refugees is, at best, out of step given ... In that context, it is only logical that there would be friction between us and UNHCR”. Here we see the idea that it is normal (i.e. legitimate and consistent with MSF’s role) for MSF, owing to its work of providing assistance and to what it witnesses, to have strained relations with other actors, and particularly UNHCR: reminding them of their responsibilities, as well as appealing to the more general responsibility of the international community, is viewed as being a part of MSF’s responsibility for protection.

In addition, the DirCom of MSF-F seems to regret retrospectively that the massacres were not addressed during the press conference: “Her [the Operational Director’s] comments were those of a doctor in the field. She said things like: ‘it’s going very poorly there’. At that time, we already had a fair amount of information on the abuses” (interview). The health emergency thus took precedence: “we had not really spoken out on the massacres”, in the words of the MSF-F communication officer, who arrived at Tingi-Tingi on 20 December with the initial objective of producing a report on the massacres: “We’d been thinking about that since mid-December. It was still a bit vague. It was a priority for some people at MSF, but not for others or for the field team”. In the end, she briefed reporters informally on the massacres but primarily emphasised the “food and logistical problems. That was the priority we focused on”. To cope with the emergency, it was necessary to set priorities for both communication and operations: the priority was given to dealing with the existing situation and helping those who had survived thus far to remain alive. In this specific context and at this time, documenting the violence inflicted on these refugees in the past seemed to be a second-order priority.

Thus, as from December, at both Bukavu and Tingi-Tingi, MSF did not give priority to denouncing the violence. It clearly emerges from these two episodes, however, that **the issue of assistance remained constantly intertwined with those of preventing or avoiding violence, of protection in the legal sense of the term.**

In Bukavu, as we have seen, the operational choices were dictated directly by the realisation that attempts to reach the refugees and help them were in fact endangering them, which implicitly raised the spectre of Ethiopia. At Tingi-Tingi, MSF's insistence on the fact that the victims of the lack of aid were "civilians" served as a reminder that the major problem in providing aid to the refugees since 1994 had been that members of criminal militias were mingling with and dominating the 'real refugees'. This had the effect of depriving the category of 'refugee' of some of its validity (since some were 'false') – yet this category was of the utmost importance as a legal status authorising the application of the protection 'mechanism'. In this case, the legal mechanism *included* assistance, and this is why the UNHCR's "shilly-shallying" on delivering aid was rightly considered a failure to fulfil its responsibility to provide protection for refugees.

The practical details of aid delivery were thus based on a constant concern that the relief effort should "improve the chance of the refugees to survive" (whether the threat is violence or malnutrition), in the words of the MSF Kigali coordination team quoted above.

RESUMPTION OF THE FLIGHT OF REFUGEES AND WITH MSF AT THEIR HEELS – FEBRUARY-MARCH 1997

The relative geographical 'stabilisation' (at least for MSF) of the situation in January broke down once again in February-March, in a scenario virtually identical to that of November-December 1996:

- **Flight of refugees before the advance of the AFDL troops and loss of access for MSF** – when the fighting approached the sites where the refugees had gathered, thousands of them took to the roads in early February. To the west, 40,000 refugees left Shabunda; further north, 40,000 more fled from Amisi towards Tingi-Tingi. MSF activities in the latter camp were suspended: "... we knew and they knew, implicitly, that it couldn't stop there ... We tried to get them back on their feet so they could leave" (interview, MSF-F coordinator in Tingi-Tingi). The aim was not to protect the refugees physically, but to enable them to survive in their flight (both when they halted, as at Tingi-Tingi, and when they set out again; see below).

- **The resumption of pressure on the 'international community' concerning access to and protection of refugees** – a briefing by MSF International before the Security Council recommended that the United Nations move the refugees to a safe area, force their way to civilian populations in South Kivu and assist the displaced in Rwanda, and requested the Security Council to work on a sustainable political solution. MSF-F issued a number of press releases on the same subject: 2 press releases on 13 February, one concerning the briefing of the Security Council, the other, issued jointly with other NGOs, on respect for international humanitarian law; one on 28 February, requesting protection for a specific group (specifically, requesting the preventive evacuation of vulnerable individuals from Tingi-Tingi, i.e. those who would be unable to flee if the camp were attacked); on 7 March, jointly with other NGOs, calling for guarantees of protection for refugees wishing to return to Rwanda and those fleeing the fighting. Lastly, MSF made several statements in the French media, denouncing the

“international indifference”. On 11 March, the UN Secretary-General’s proposal to reactivate the multinational force for eastern Zaire, supported by France, was rejected by the United States and the United Kingdom.

- **Virtually no access to the majority of the fleeing refugees** – tens of thousands of refugees from Tingi-Tingi reached Ubundu on 10 March; the press went to the scene, but apparently the NGOs did not. From 12 March, MSF was allowed, bit by bit, to enter Amisi and Tingi-Tingi; in the latter camp, there remained only 2,000 of the 160,000 refugees who had occupied it. Obstructed, inadequate assistance was provided there until the end of March. “All they [the volunteers] could do was watch the refugees die”. After the fall of Kisangani on 15 March, the NGOs were permitted by the new AFDL authorities to explore in a radius of 20 km around the city (i.e. an area that the refugees had not yet reached). On 20 March, the refugees gathered in Ubundu were driven away by the resident population and took to the road again. MSF was forced to recognise its helplessness: it had still not gained access to the bulk of the fleeing refugees, and in those places where it was allowed to work, it was hampered and powerless, and its actions appeared futile.

- **Restricted access to individuals scattered far from the ‘mass’ of refugees, used by the AFDL as a tool to locate refugees** – from 20 March, on the outskirts of the area where the majority of the refugees were probably located, a few slender opportunities appeared, and MSF seized them: permission from the AFDL to explore the area around Masisi (MSF-H, 20 and 23 March) and Shabunda, to the east of Bukavu (MSF-H again, joining an HCR mission, from 26 March to 3 April). Each of these exploratory missions helped to confirm that there was a policy of eliminating the refugees: villages were destroyed, the people terrorised and residents told the team, “they’re killing everybody”; the HCR representative possessed information on mass graves, and fresh traces were indeed found. Moreover, the idea of relief as bait became clearer day by day. The army announced that the humanitarian workers were coming and followed them after the refugees emerged from the forest. The MSF team learned that several of the people they had spoken to had subsequently been killed. Elsewhere, the AFDL soldiers learned that the MSF team had advised villagers willing to help the refugees to send the latter to the MSF health station by a “loop” “through the forest”: “Two days later there were AFDL soldiers that went there and there were no more refugees coming from Nzovu [the place on the loop indicated by MSF]” (interview, MSF-H exploratory team). Lastly, some AFDL members confirmed explicitly to MSF that they were using the latter to make the refugees come out of the forest.

Thus the overall picture gradually became clearer through the interactions with the villagers and decisions at the micro level based on the available information, all this happening in a context of great pressure and close surveillance by the AFDL informers, which the team tried to outwit using a variety of tactics. This picture made sense when the team observed that **each of its initiatives to help the refugees met with failure or was turned against the refugees**: collection of information (endangering of witnesses from local villages who communicated with MSF), relief operations and their geographical adjustments (the trap of the roundabout path recommended by MSF).

As early as mid-February, the ICRC had informed MSF and the HCR that it was calling a halt to its relief operations in favour of refugees in the forest, because these operations were instrumentalised to harm those they were supposed to help. Moreover, as mentioned above, as early as December it had become clearly apparent to the team working in the Bukavu area that

the relief efforts were being used as bait. This information had not been passed on to the other sections. Were they transmitted to the exploratory mission team? If yes, how can we explain the fact that its members say they realised this only gradually, and on their own? Should this be attributed to the normal 'latency' period before a given piece of information takes on its full significance? Or was it rather that people had "stopped paying attention", in the words of the coordinator who had argued in December for withdrawal?

3 – THE RADICALISATION OF POSITIONS – APRIL 1997

The two related issues described above (serving as bait, and emergency relief for exhausted refugees) took a more radical turn for MSF in late March.

As we have just seen, it was by this time clear to the teams that conducted the exploratory missions that massacres were occurring and that the relief operations were being used by the AFDL troops to locate and kill the refugees, which raised the question 'what to do' (see below).

On 27 March, the mass of fleeing refugees reappeared; a train, on which the presence of the WFP, the HCR, MSF and journalists was allowed, went as far as km 82 of the railway from Kisangani. They found approximately 100,000 refugees halted at various points along the railway: "a skeleton march ... they looked horrible", many with gunshot wounds, and who "wanted to go back to Rwanda, because they were completely finished" (MSF-H coordinator for Eastern Zaire). "In the beginning, it was first things first there. It was a catastrophe. We set up feeding centres and tried to save as many people as possible" (MSF-B Executive Director).

THE DILEMMA OF WHETHER TO REPATRIATE EXHAUSTED REFUGEES OR PROVIDE CARE ON SITE APRIL 1997

As at Tingi-Tingi, large-scale relief operations were deployed very quickly to where the refugees were located – in this case, four sites along the railway where groups had halted at various stages of their flight and various levels of exhaustion.

In accordance with the wishes of the refugees, the HCR was determined to repatriate them as quickly as possible. To this point, MSF had not taken a public position on what solution would be best for the refugees, apart from general statements in favour of their return to Rwanda; now, however, the question would have to be faced squarely and practical decisions made. MSF formulated a critical position based on its certainty that a great many refugees would be unable to survive repatriation: once again, MSF's contesting of the repatriation procedures envisaged by the HCR was based on a legitimacy derived from its relief work and its medical evaluation of the condition of the people.

On 12 April, the MSF spokesperson in Kisangani wrote: "the whole repatriation operation is likely to be a pretty distasteful affair, a showcase 'solution' to the refugee problem (the last thing on UNHCR's mind is to protect refugees, and the relief aspect is likely to suffer while repatriation goes on)". Other documents, both internal and for lobbying purposes, spelled out

these concerns and requested that repatriation be voluntary and occur only after a medical assessment and stabilisation of the person's health status. When security problems between the refugees and the local population began to increase, MSF recommended "to speed up repatriation for the valid families and to ensure protection to allow proper assistance to the camps" for the refugees needing care prior to repatriation.

The AFDL, for its part, after granting access to the refugees in late March, continued its on-again, off-again tactics concerning the relief operations (which were occasionally blocked) and repatriation (repeatedly postponed). On 21 April, repatriation was still under negotiation, and the NGOs lost access to the camps after pillaging and clashes occurred, probably provoked by the AFDL soldiers.

COMMUNICATION STRATEGY CONCERNING THE MASSACRES – APRIL 1997

At the same time, the question of what strategy to adopt following the two exploratory missions in late March, during which the policy of elimination became obvious, was being discussed intensely within MSF.

On the ground at Bukavu, MSF personnel took different positions according to the activity in which they were engaged: the exploratory mission team wanted to make the information public; the team working in dispensaries in contact with the refugees thought that we should not jeopardise the aid being provided to 10,000 people by taking the risk of being expelled; another team engaged in development activities refused to leave.

The decision taken by headquarters (MSF-H) was **to use the information** reported by the exploratory mission team, but **not publicly**: "Apart from the weakness in the organisation, there was also an idea that we could not use the Shabunda report publicly because we prefer to continue our operations even if we have very limited access" (interview, MSF-H DirOp). "We thought that in such a case with such sensitive information, our operation running, and our people on the ground, we had to handle this in a very confidential way ... the decision to keep it confidential – the field asked the desk or the OD at the time ... the field was very concerned" (interview, member of the HAD). A few days later, however, a member of the emergency desk who arrived on site on 14 April recalls that "the team as well said 'we have to release it [the report]' ... I was happy and I was proud. The whole team thought we had to do this" (interview, MSF-H emergency desk).

Using other arguments, the DirCom of MSF-US urged that information relating to the massacres should be managed cautiously: MSF "is not Amnesty – we are not there to pass on what refugees say"; "MSF has no visual first-hand evidence of people being killed ... Seeing 'mass graves' is proof of nothing ... The only proof MSF can give with any credibility is MEDICAL especially in view of our number crisis and credibility deficit post-Kivu crisis, Sept-Dec 96" (memo, 9 April). She therefore recommended that MSF contact human rights NGOs that could handle the forensics, brief journalists on the mass graves so that they could investigate by themselves, and seek advice from the field teams before making any public statements whatsoever.

Around 10 April, MSF-Holland drew up a "**protection plan**" based on "confidential advocacy". The overall objective was to "ensure Protection of people at risk and to improve

operational access so as to reduce their mortality due to both disease and killings in Kivu". This was to be accomplished through a number of more specific objectives: to "influence" the AFDL, Rwanda and Uganda in order to "control human rights abuses"; to contact Western governments concerning the problem of access and the massacres, so that they too would bring their influence to bear on the AFDL, Rwanda and Uganda to "ensure adequate protection" of both refugees and residents; to re-kindle the protective activities of the HCR; to ensure that these issues remained on the agenda (in the press), etc.

Implementation began with meetings at the highest level: the Security Council on 16 April, the Special Representative for the Great Lakes, briefings for Western governments and the European Union by the exploratory team, etc. As a preface to these meetings, MSF-H presented five areas of concern: lack of access, lack of protection, the use of aid as bait, the need to apply pressure to Kabila, and the need for a commission to investigate human rights abuses. Our watchwords continued to be insistence on sticking to the facts, the idea of 'bearing witness' based on presence on the ground, and caution concerning information that had not been confirmed objectively (as indicated by the restricted briefing provided by headquarters to the coordinator of the exploratory mission who was tasked with these high-level meetings).

At the same time, the '**Shabunda report**' was finalised and sent to the other sections. MSF-Belgium, which had teams in the field, contested the form of the report, describing it as "weak" and "poorly written" ("just because the story has proven to be true, that doesn't mean we can speak out every time we have this type of information"; interview, MSF-B Operational Director). It tried to prevent MSF-H from going to the meetings provided for in its advocacy plan. MSF-H suspended all its lobbying activities among journalists "due to objections of MSF-B (security for the team in Kigali might be at stake) ... NO JOURNALISTS WILL BE BRIEFED, NOR GIVEN THE REPORT" (review of communication, MSF-H, 18 April).

MSF France, in contrast, was extremely shocked that the possession of such vital information did not lead MSF-H to alert the other sections and speak out: "this meant that more than a month after the events, no concrete, operational, or public decision had been made on the basis of that information ! I was appalled" (interview, MSF-F Legal Advisor). "What elevates this kind of issue above the level of rumour is when an organisation commits to saying that it believes it to be true and provides evidence backing up its convictions. None of the organisations involved – not UNHCR ... MSF-Holland or ICRC – took a public position on such an important subject" (J.-H. Bradol, MSF-F DirCom).

From this point on, the various MSF sections quarrelled daily over **strategy**: MSF-H 'vetoed' a press release on the current situation (in order to leave the teams enough time to get organised); MSF-B vetoed the Shabunda report (the veto was rescinded once the report had been revised by MSF-F, pursuant to a joint decision, but MSF-H, the original author of the report, was left disgruntled); restrictions imposed by MSF-H (on the distribution list for journalists). Each of these 'vetos' was transgressed by MSF-France, deliberately for the most part. As noted above, MSF-F considered it urgent to take action: "to me, the report should have been made public as quickly as possible ... information like that can circulate through e-mails for two months without prompting anyone to stop what they're doing – that just hit me in the stomach" (MSF-F Legal Advisor). At MSF-B, however, the retrospective analysis was quite different: "The release of this report could easily have been postponed a few extra days. And in fact, what use was it? None at all! ... we said what everybody already knew.... it was a fact,

there was a war on, we were also being used in Rwanda”, and as for the ‘confidential advocacy’ strategy, MSF-B “trusted MSF-H, which “was the back-up section” (interview, MSF-B desk).

In the end, owing to a leak from MSF-Spain, the report was distributed sooner and much more widely than planned. The field teams were reduced and made ready for withdrawal.

ISSUES DISPUTED IN THE DISCUSSION OF RESPONSIBILITY IN THE FACE OF THE MASSACRES

These differences of positioning between MSF sections, between the field and headquarters and between people in the field, reflect different readings of the situation, different perceptions of our responsibility in the face of the massacres and of the fact that our presence was endangering the refugees:

- **Discussion of the consequences of possible actions: public declarations were likened to a ‘death sentence’ for current operations** by all those opposed to speaking out concerning the violence and the instrumentalisation of the relief effort (during the discussions between field staff and headquarters at MSF-H, and subsequently at MSF-B). Rhetorical argument, gut feeling or carefully considered view of the reality? At any rate, this link was taken to be obvious, automatic and not dependent on the context, and as a result the terms of the debate shifted: the question was no longer whether it was necessary or useful to speak out in view of the seriousness of the information collected, but well and truly whether MSF was willing to sacrifice operations and endanger the field teams; apparently the pros and cons were not weighed up. All those who participated in the discussions in early April, except for the team that conducted the exploratory mission, preferred the option of passing information on confidentially. MSF-B went further, opposing even confidential distribution of the Shabunda report.

- **References to the identity or ‘mandate’ of MSF**, when used, meant that content be classified according to whether it came within ‘our field’ for speaking out. The objection that “we are not a human rights organisation” (MSF-US DirCom) implicitly pointed to MSF’s medical identity, meaning that the legitimacy of its public declarations must be based on duly verified medical data – which, it should be noted, has become the predominant position today. The frame of reference of MSF-F, in contrast, was a ‘humanitarian mandate’ that in this case was placed under intolerable stress justifying an immediate reaction: “not only is humanitarian aid no longer effective, but it’s contributing to getting people killed” (MSF-F Legal Advisor).

- The **status of veracity versus that of conviction**: how was the choice made between insisting that very serious information be validated and coming down in favour of radical action? On the one hand, the emphasis on what constitutes evidence (MSF-US DirCom) and criticism of the Shabunda report as “very poorly written” (MSF-B Operational Director) refer to the two-fold requirement of legitimacy and credibility, which were understood as depending on MSF’s ability to produce figures and objective, confirmed information. The paradoxical co-existence of the conviction that the facts described were true and reservations about communicating these facts may be explained in one of two ways: either the fear of releasing information that might be contested (owing once again to the disagreeable experience of the ‘quarrel over figures’, mentioned by the DirCom of MSF-US); or the judgement that the situation itself did not merit radical action, or in any event did not merit action at any price (MSF-B did not want to endanger its operations in Kigali). On the other hand, at MSF-France,

the events described in the report were regarded as extremely serious (see below), and it was considered evident that MSF should take radical action based on the report (alert the other sections, halt all operations with the AFDL, etc.), as indicated by the indignation felt when this was not done. As a result, the fact that this information was not quantifiable was not regarded as a reason for proceeding with caution; rather, it demanded that MSF put its responsibility (credibility) on the line while making the information public.

- **Qualification of the seriousness of the events described: the central importance of the issue of complicity in the disappearance of refugees** for MSF-F. Taking a position completely opposed to those of MSF-H and MSF-B, MSF-France focused on the content of the report, taken 'as is', as the most important factor: "this information was at the heart of the fight that all sections had been leading for two months to make people understand that not all the refugees had returned to Rwanda and that they were in danger in the forest" (MSF-F Legal Advisor). Here, protection of the refugees is described as the attempt to make known the persistence of the danger to a population group that had hidden from view, 'evaporated' into the forest, and whose disappearance the international community had connived at by evading the question of the 'missing refugees'. In addition to direct complicity in a policy of massacres by serving as bait, the concern was over connivance (by failing to react) in rendering the refugees invisible, as a pre-requisite for eliminating them. The events described were not weighed against other factors, whence the implicit predisposition to accept the risks associated with the ensuing decisions on operational matters and public positioning.

- **Relations with other actors and the abdication of responsibility by the international community:** The necessity perceived by MSF-F of 'not being an accomplice' seems also to have been related to what, ever since Bosnia and Rwanda, has been the 'intolerable' topic of the abdication of responsibility by the Western countries in the face of criminal policies.⁶⁹ In this sense, the above-mentioned "fight" consisting of contesting the international community's self-satisfied version of history and denouncing its "indifference" (see above) is an attempt to prevent such abandonment from recurring. This explains the great importance attributed to the information collected and to making it public in order to shake these countries out of their indifference. MSF-H, in contrast, viewed the position of the international community less radically in terms of abdication of responsibility, probably because of its concerns relating to security and operationality. Thus, it can be seen that the confidential advocacy plan reflects a concern with awareness-raising and influence on actors taken one at a time, instead of criticising them collectively for their inaction.

- **A possible link with the hierarchical structure** of the different sections. In this episode, decisions at MSF-H "were really taken by the people in the field" (coordinator, Shabunda exploration team), i.e. those in the field, the majority of whom recommended discreet communication, whereas at MSF-France decisions taken at headquarters took precedence (possibly because MSF-F has few operational activities compared to the other sections).

69. It was precisely in response to such abdication of responsibility that the notion of a "responsibility to protect" took form in the late 1990s. On the notion that such abdication is intolerable, our reference is an analysis put forward by Michel Feher on changes in the discursive polarities that frame humanitarian action. On the notion of the intolerable, as mentioned in the main document (footnote no. 12), we rely on D. Fassin and P. Bourdelais (eds.), *Les constructions de l'intolérable*, Paris, La Découverte, 2005, 228 pages.

CRYSTALLISATION OF THE SECTIONS' POSITIONS: LOSS OF ACCESS, MASSACRES IN PRESENT TIME, DISAGREEMENTS OVER WHETHER TO SPEAK OUT – LATE APRIL

In late April, the polemic over whether to speak out against the massacres had begun. Access to the Biaro and Kasese camps had been cut off since 21 April, and international pressure for access was growing (United States, UN). At this time, the two processes – that of massacres and the use of the humanitarian effort as bait, and that of access and assistance to exhausted refugees – came together for MSF: rumours of massacres in the camps where MSF had been working were gaining substance; the massacres were now happening in present time and were perceptible even though they were taking place at a distance from any possible witnesses.

On 24 April, the news came that these camps were now empty: “where are these people, most of whom were unable to walk?” There was indeed a “strategy of eliminating refugees”, and refusal of access was one of its facets (minutes, Zaire task force meeting, 24-25 April).

On the ground, on the fifth day without access, the tone was one of failure: “we were reminded today, once again, that humanitarian agencies, in general, and UNHCR, in particular, are impotent ... neither the number or tenor of the condemnations can make up for this third failure: each time, their number is reduced and so is the feasibility of repatriation”. This led to the “conclusion [that] operations are impossible” and to uncertainty as to what action to take: leaving exposed MSF to “the unbearable prospect of not being here just when we would have access to the refugees again”; staying exposed it to meaningless activity, “without even a guarantee of being able to save individuals” (sitrep, MSF-B coordinator in Kisangani, 25 April).

Marlène, an MSF-B volunteer just back from Biaro, testified the same day before the Board of Directors of MSF-France: “the eight tents overflowed with people who were very close to death ... For about a week, we thought we could do something... Then the rebels blocked access to the camps ... On Saturday/Sunday, when we came back, we counted the bodies. Medical activity had become impossible. We had to do something else; stop our work and condemn what was going on”.

This was not the majority view at MSF-B, neither in the field nor at the higher levels: “There were 32 expatriates in all and not everyone shared this view. Most stayed on site with a ‘passive advocacy’ mindset”; the coordination team in Kisangani (which as we have seen was thinking about a withdrawal) eventually decided to stay so as not to abandon the refugees. The volunteer protested: “the MSF officials decided not to speak out but to stay on site ... For me, such advocacy rings completely hollow ... Watching people being killed and counting the bodies: that does not constitute genuine refugee ‘protection’ ... there is in any case a deliberate strategy of bringing about the death of as many as possible”.

At MSF-F, this testimony, expressing a sense of utter powerlessness owing to the inability to give any meaning even to medical care, reinforced a position that was already in divergence with those of the other sections. It definitively confirmed the conviction that a systematic policy of elimination was at work, against which it was imperative to speak out (i.e. speaking out should take precedence over operations if a choice must be made between the two): “if you are convinced that the refugees are being exterminated by every means possible, how can you propose a ‘silent advocacy’ strategy in response? This is part of MSF collective responsibility and is beyond the pale of what we are willing to understand, even while trying to be

constructive. This position led to the killing of several thousand people” (MSF-F DirCom). Another member of the Board declared that “silence has killed tens of thousands of people”. The tension between maintaining a presence and speaking out was called into question: “We cannot give in to the terrorism that says speaking out is no longer possible because there are teams in the field” (MSF-F Legal Advisor); “We have to stop pitting advocacy against our presence in the field” (MSF-F Executive Director).

The Board declared that “the primary purpose of MSF action, which is focused on defending populations in danger ... must guide MSF’s action” and take precedence over institutional arguments. It voted to eliminate the veto principle, and declared that it was against repatriation to Rwanda.

THROUGH DISAGREEMENTS, THE DETAILS OF MSF-FRANCE’S POSITION EMERGE MORE CLEARLY

The details of this debate at the MSF-F Board of Directors meeting give us information that extends the above analysis on different readings of the situation and different levels of responsibility. The French section’s harsh criticism of the policy of MSF-H and MSF-B serves to indicate how MSF-France conceives of its own role.

Without repeating what has already been said, we will merely highlight the following:

- The **conceptual link between an elimination policy and the necessity of speaking out in public** appears explicitly in MSF-F’s lack of understanding of the silent advocacy position taken by the other sections. The opposition between bearing ‘passive witness’ (being present, witnessing events, being ‘with’ the people in danger) and bearing public witness (with a more explicit aim of providing protection and sounding the alarm to change the course of events) was drawn.
- The **argument concerning the consequences of our action** was used, in a negative, accusatory manner, by several people in describing the disastrous consequences of silence. Although this interpretation had no objective value, it highlighted the idea of incurring direct responsibility for people’s lives through inappropriate action; the other MSF sections were explicitly accused of causing, by their silence, the deaths of thousands. We come back to the idea (once an MSF slogan) that speaking may not always save people, but it is certain that “silence kills”.
- The **automatic link between speaking out and calling MSF’s presence into question was definitively criticised** and contested by key members of MSF-F at this Board meeting⁷⁰ (in the preceding documents this question was more or less ignored, the focus of the discussion being on the question of whether to speak out). The MSF-B volunteer who testified, however, repeated the idea that speaking out and presence are mutually exclusive, though she reached the opposite conclusion to that of her superiors: that MSF should “stop working” and “condemn”.
- In short, **a core element of the debate was a concern for protection**: the rejection of passive testimony, the accusation that MSF was responsible for the deaths of thousands, and

70. In his annual report delivered at the May 1997 General Assembly, the President, P. Biberson clarified this position (see the excerpt of the annual report in the main document, Part II, section “confronted with the ‘logic of extermination’”)

the emphasis on “defending populations in danger” as the ultimate purpose of MSF’s activities all point directly to this, although the word “protection” was not much used.

- It can nevertheless be seen that there were **different contents underlying this common concern**. For Marlène, the volunteer, it was the impossibility of “doing anything” (conducting a meaningful medical action) about the massacres that made her switch towards “doing something else”, “stop our work” (i.e. speak out). The two positions were not concomitant; rather, there is a shift from one field (providing care) to another (protection, to which she refers obliquely when she says that silence does not constitute “genuine ‘protection’”). For the Board members who took the floor – and the president in particular – however, reaffirming that the principle of defending populations in danger should “guide our actions” meant that this principle is at the very heart of any action: any activities undertaken, whether they come under the heading of health care or public statements, are meaningful only insofar as they contribute to this “primary purpose”. Thus this view contests the dichotomy between ‘care’ and ‘protection’, and the opposition between presence and speaking out. In so doing, it provides grounds for MSF-F’s willingness to put operationality at risk, or even to sacrifice it altogether, when the situation warrants (as it did in the eyes of the Board members on 25 April): it is no longer a question of switching to a fundamentally different position, but of a different balance between various facets of a single position, namely defending populations in danger. It might be objected that in the end, the conclusions reached are the same as those in Marlène’s reasoning and that all these distinctions are mere quibbling; in our view, however, this conceptual divergence underlies many of the debates concerning protection.

After the turning point represented by the Board of Directors meeting of 25 April, where the members of MSF-F decided that henceforth nothing could justify hindering them from speaking out in public, **intense disagreements continued to arise concerning the conditions in which they should speak out**: strong positions were taken concerning adherence to procedure, owing to the presumed impact on the safety of field teams (crisis between the Belgian and Dutch sections and MSF-F over the latter’s press release of 26 April, which spoke of a “policy of extermination of Rwandan refugees” and was released without warning the other sections). In this respect, it is worth noting that the facts (as observed by MSF-H itself) did not bear out these fears about public declarations: “there were no threats against MSF teams in the region following this very strong advocacy message [the Shabunda report, following which the teams were on the point of being withdrawn]” (news flash MSF-H, 28 April). However, MSF-F continued to be accused of endangering the teams and suspected of being irresponsible because there were no MSF-F staff in the field. Surprisingly, however, the MSF International Council, at a closed meeting on 1 May, sided with the position defended by Paris: “in the current situation, speaking out should take priority over direct assistance”. This stance adopted by the IC did not, however, put an end to the conflicts between the sections.

4 - MASSACRES OR REPATRIATION? POOR SOLUTIONS AND PERSISTENT DIVERGENCES – LATE APRIL-JUNE 1997

Subsequent developments involved the same difficulties, the same decisions and the same debates as those explored above; the gulf between sections over the issue of speaking out and recommended solutions grew rapidly wider and deeper.

We will not examine further the dissent between sections over reports concerning the massacres, apart from noting that, after the *Shabunda* report, it was the dissemination of the report *Forced flights*, finalised on 15 May, that gave rise to further clashes. After the report was leaked to the French press (on 20 May, the front page of the French daily *Libération* bore the headline “MSF accuses”), media attention to the elimination of the Rwandan refugees reached its highest point in the entire refugee crisis. This also marked the culminating point of the discord between MSF sections over presence versus speaking out.

We will focus rather on the repatriation issue, which became particularly acute in May when practical implementation of the process began, in disastrous conditions. Every day, the situation of the surviving refugees worsened:

- **Still playing on ambiguity, the AFDL stepped up its pressure on the refugees:** after the obstacles to access and the massacres of April in the death camps south of Kisangani, the AFDL seems to have decided to put an end to the refugee problem once and for all, along with the criticisms of the humanitarian organisations. It authorised repatriation of the refugees to Rwanda, immediately gave the HCR an ultimatum to carry it out within 60 days (27 April) and then undertook to implement the repatriation itself (30 April), once again catching the humanitarian agencies unawares, although they had been calling for repatriation for weeks. At the same time, the AFDL intensified its efforts to intimidate those capable of causing it problems, namely journalists and over-talkative NGOs (i.e. MSF): AFDL representatives visited the team in Kisangani, demanding that it withdraw its public declarations on the massacres. This led to MSF-H's decision to keep a low profile where communication was concerned (massacres, the responsibility of Rwanda, impunity) and increased the above-mentioned disagreements with MSF-F concerning safety. In the end, on 11 May, the AFDL declared that it was giving the NGOs 10 days to evacuate Biaro. Further along the path of the fleeing refugees, not far from Congo-Brazzaville, the hunt was still on: on 13 May, when Mbandaka was taken, hundreds of the 40,000 refugees who had arrived there were massacred.

- **The HCR took the course of repatriation at any price:** on 28 April, the High Commissioner, Mrs. Sadako Ogata, told the Security Council that when the protection of the country of asylum (in this case, Zaire) was not assured owing to conflict or lack of security, it could become necessary to repatriate refugees without strict guarantees as to the voluntary nature of repatriation nor the safety of the refugees.⁷¹ She denounced the AFDL's efforts to

71. In the summer of 1994, Mrs. Ogata had declared that she was in favour of immediate and rapid repatriation; subsequently, under pressure from the HCR's “protection” department, she moderated her approach, stating that the wishes of the refugees were the key to repatriation. For a detailed description of the HCR's positions and the issues surrounding refugees in the Great Lakes region, see Arnaud Royer, *De l'exil au pouvoir*, PhD thesis in sociology, University of Paris-I, March 2006, esp. pp. 20-54 and 324-370, where the author describes the “primacy of security and financial interests over protection of populations”. The author shows how, in 1993-94, HCR came to see repatriation as “the” solution, as a result of the financial difficulties encountered (it became imperative to cut short the time spent by refugees in host countries), in a context where the refugees had gradually become a security and billeting problem. Within this broader trend, he describes concretely how the HCR incorporated *forced return* in its policy regarding action in Zaire in 1996-97.

hamper repatriation as well as the killing of refugees. On 6 May, a trainload of refugees organised by the AFDL left for Kisangani in very poor conditions: 91 of the refugees were found to be dead when the train arrived. The HCR denounced the lack of access to the Biaro camp and its lack of control over the evacuation. Nevertheless, repatriation was under way, with 2,000 to 2,500 refugees evacuated daily to Rwanda. Between May and June 1997, 50,000 refugees were repatriated by air.

DISAGREEMENT OVER A RANGE OF BAD SOLUTIONS

The MSF sections, each in turn, held internal meetings and reached conflicting positions on the repatriation issue, while in the background, the disagreements over communication concerning the massacres were sharper than ever.

On the ground, **operations** were undertaken in the various places where repatriation was taking place. There were no grounds for disagreement in this case. It was obviously necessary to assist the ill, exhausted refugees wherever they were: in the area south of Kisangani (the Lula transit camp, near Biaro, which had a mortality rate of 70/10,000/day, the generally accepted level for defining an emergency situation being 1/10,000/day); in the sites around Mbandaka, some of which were very difficult to reach; and in Rwanda, where the activities of MSF-B were stepped up.

The differences deepened, however, regarding the **positioning** of the various sections:

- MSF-France considered that repatriation was not a solution, as Rwanda was directly involved in the policy to eliminate the refugees (cf. the stance against repatriation taken at the above-mentioned Board meeting of 25 April). Its position was that MSF should say “loud and clear that the refugees must not return to Rwanda” (MSF-F Legal Advisor) and should consider the fundamentals of the situation in order to find a solution. In the view of MSF-F’s Legal Advisor, Mrs Ogata’s statement of 28 April indicated that the HCR had abandoned its founding principles: in this “exceptionally serious” shift in position, the HCR had institutionalised, through “a new doctrine”, the fact that it could sacrifice the pre-requisites of voluntary return and security to the necessity of repatriation (message from MSF-F Legal Advisor, 6 May 1997). MSF-F made its position public: on 3 May, it denounced the “media operation” of the Zairian rebels, who were engaged in “forced repatriation” of the refugees in Biaro to “convince the international community that the problem is being solved” (quoted by AFP); it then called for “an immediate halt to the repatriations” (PR MSF-F, 7 May).

- MSF-Belgium (which meanwhile had become the back-up section, replacing MSF-H) requested from the outset that the other sections not follow the course of MSF-France. Its position was that “MSF is not against repatriation since it is the only feasible way left to try and get the people out of the shitholes of Kisangani and Biaro and save them”; as a basis for this position, it cited the fact that the refugees themselves had expressed a desire to die in Rwanda, since they were going to die anyway. Several days earlier (on 5 May, following the death of the 91 refugees), MSF-B had issued a press release describing the desperate situation in Biaro and requesting the AFDL to bring about acceptable conditions for repatriation. In Rwanda, MSF-B was acting as the “official partner of the authorities for medical screening at the camps through which all refugees transit”. The idea was to try to “find the right balance

between critical observations, communication of humanitarian info and advocacy to try and improve the conditions in which repatriation is taking place” (MSF-B update, 6 May).

On 11 May, however, the positions of MSF-F and MSF-B came together in their common refusal of the AFDL’s ultimatum to the NGOs to evacuate Biaro and in their request for “unrestricted access” (PR MSF-F, MSF-B, MSF-USA). On 26 May, in a joint press release, MSF-F and MSF-B requested funding for transferring refugees located in swampy areas, where they were very difficult to assist, to more easily accessible camps.

Differences of opinion resurfaced on 28 May, however: the ex-president of MSF-F denounced the HCR which “instead of proclaiming the right to asylum and guarantees of protection for the refugees in Rwanda itself, is bowing to international pressure and rushing this repatriation”, sending the refugees back to their “oppressors” who “are destroying the refugees by the thousands” (*Le Monde*, 28 May). The MSF-B team in Kinshasa was outraged by this statement and predicted an immediate decline in its safety.

It seems, however, that the teams on the ground (Kisangani and Mbandaka, near the border with Congo-Brazzaville, covering respectively 5,000 and 2,000 refugees) recognised the harmful effects and limitations of the repatriation process as conducted by the HCR and the AFDL: they resisted the zeal of the HCR officials who appeared in MSF facilities looking for patients to evacuate: “that busybody from the HCR quite annoyed the MSF medical staff and had to be resisted daily”. Some patients did indeed disappear, probably evacuated by the HCR. More generally, “the basis of this transportation (a more appropriate term [than “repatriation”]) is sinister”: direct and indirect threats to the refugees, no alternative offered by the HCR (the refugees were thus agreeing out of resignation, weary of being hunted and repeatedly attacked), movement of the refugees towards another source of danger (they were worriedly asking MSF staff whether the humanitarian workers would be present in the towns of Rwanda – where, according to the ICRC, there would be “300-400 arrests every day”)(report, information officer, 31 May 1997).

The MSF-B desk continued to think that instead of criticising the HCR, MSF should rather consider both institutions as “partners in the refugee crisis”, since all were in the same predicament with respect to this situation (document, MSF-B desk, 5 June 1997).

SOME ASPECTS OF CONTENT, OR *HOW* TO PROTECT THE REFUGEES

Many aspects of this disagreement over repatriation – from procedures on making public statements to the criteria for deciding between medical action and lobbying – reflected the rationales described above. In all cases, they revealed that **the same concern – saving as many people as possible** – had a **different content** from one section to the other. How can we explain such sharp disagreement between the sections, which faced the same situation and whose concerns were identical?

We will extend here the remarks made above concerning the variations on the theme of a desire for actions that actually protected people, trying to uncover the actors’ reasons and ways of acting. As we have noted repeatedly in recounting this story, the divergences between MSF-F and MSF-B reflect **the opposition between, on one hand, a radical, denunciatory stance and, on the other, pragmatism and caution** (a tension that likely runs throughout the

history of MSF, dividing but also running transversally through the individuals and institutions concerned). This tension arises from both **different readings of the situation and different ways of doing things**; these two differences are probably linked in circular causality, with practice shaping points of view and vice versa. Here, after the sections' positions had had several months to crystallise, they are particularly noticeable:

- **At MSF-France, the situation was described in general terms as an elimination policy whose perpetrators had been identified.** The result was a perception that it was absolutely necessary to 'do something about it': to denounce those responsible "to try to put an end to the slaughter" (President's annual report, May 1997), to dissociate MSF from the policies pursued by the perpetrators or policies that served their purposes (at the time, repatriation). It was thus hoped that speaking out in denunciation would be an effective form of action to "defend populations in danger", to the point where at times it was the only way of contributing to this objective: "on several occasions, denunciation or speaking out has been the last rampart against the loss of all meaning, and perhaps the last way of doing anything useful" (ibid.). It was thus urgent to speak out, for both external (trying to influence the situation) and internal (trying to ensure that MSF's actions were meaningful) reasons. It should be noted, however, that this did not lead to a radical decision to leave the country; the position described seems not to preclude remaining in the field and making every effort to save people (providing care on site), even though MSF personnel had few illusions about their ability to do so, which surely had an impact on the degree of radicalness adopted.

- **MSF-Belgium**, though probably in agreement with MSF-France's overall reading of the situation, **saw concrete situations first and was confronted with specific problems to resolve** (probably as a result of its presence in the field). Its aim was pragmatically to 'cope with' the situation as it was, to exert influence on the perpetrators to use less violence, to allow access to the most vulnerable people, to set less stringent conditions for repatriation. It also sought to cooperate with the authorities so that the repatriation would proceed under the least bad conditions possible, at both the point of departure and the destination. MSF-Belgium wished to establish a "dialogue" with the AFDL and considered the HCR and the Rwandan authorities as "partners". It can be thus seen that it had a different assessment of the roles and capabilities of the different players: from this standpoint, its perception was that the HCR could hardly do any more, that the AFDL could be influenced in the right direction, that Rwanda was rational and powerful, and hence to be accommodated. Accordingly, the thinking at MSF-B was first and foremost operational; the objective was not to save *the* refugees but to save individual refugees, as patients, and MSF-B's public declarations were concerned not with denouncing the violence but rather with sounding the alarm about specific situations, on the basis of descriptions backed by medical evidence. In keeping with the idea of circular causality between analysis and practice, we may suppose again that it was partly the wish to remain operational and on site that fostered the perception that the actors could be influenced and would be willing to cooperate – an assumption that was surely questionable where the AFDL and Rwanda were concerned.

A few words on the opposition between denunciation and caution are in order. As shown, in our view, by the description of the differing positions of MSF-F and MSF-B, it seems to us that speaking out is generally viewed as more 'noble' than caution, which is often associated with concessions, compromises and timidity. Many have argued against this view, viewing prudence as a philosophy of action based on acceptance of what is real, on an ethics of the possible, as

opposed to the black-or-white moral stance, with little concern for what happens in the real world, that underpins indignation and denunciation.⁷² And in our view, it is precisely towards such practices characterised by caution – action based on what is actually possible, public statements based on medical facts, neutral description of situations and less use of political epithets – that MSF-France seems to be leaning today, ten years after the hunt for Rwandan refugees in Zaire and the quarrels it provoked in terms of policy decisions related to protection.

Providing medical care before repatriation, checking the conditions of reception on arrival, trying to reach people wherever they may be, preventing a return towards a dangerous area, refusing to transport people who would not survive the trip, trying to put an end to the whole process, etc. – we can see clearly that the question of repatriation, like the dilemmas discussed previously, gave rise, based on differing views of ‘how to protect people’, to positions and practices that were partly in harmony and partly irreconcilable, and that cannot be reduced to a simple list of what would be ‘good’ and ‘bad’ solutions.

EPILOGUE

FROM THE CONSOLIDATION OF INFORMATION ON THE MASSACRES TO THE GRIM OUTCOME OF REPATRIATION...

In June-July, information concerning the massacres was consolidated through collection of eyewitness accounts, with a view to tracing the experience of the refugees throughout their flight across Zaire. This collection gave rise to a report entitled *Atrocities Against and Massacres of Rwandan Refugees in the Territory of Democratic Republic of Congo: Refugee Testimonies* (18 June 1997). Disagreements continued between those who questioned the added value of such a document and those who argued for a “responsibility to inform the world of what these people lived through”. In the end, the report was not made public, but released confidentially to human rights organisations.

In late June, MSF-B reviewed the results of the process of repatriation to Rwanda: it was a sombre assessment that clearly recognised the lack of protection for those repatriated, knowingly caused by the Rwandan authorities – lack of security, lack of food and health assistance in Rwandan towns for the repatriated, despite their deplorable condition, attacks on the towns where most ended up, massive arrests, the impossibility for the NGOs of monitoring the situation, lack of access to the entire eastern part of the country. There was no longer any question of the Rwandan authorities as “partners”, and the situation was deemed to be “humanly unacceptable”. MSF-B called for the protection and registration of refugees, for voluntary return only, for separating refugees from militia members, for an investigative commission, for an end to impunity, etc. (report, MSF-B desk, 28 June; PR and Board minutes,

72. Cf. the philosophical concept of *phronesis* (i.e. prudence); see Gilles Achache (ed.), *La Prudence*, Editions Autrement, Paris, 1996, 186 pages.

MSF-B, 11 July 1997). In early July, the HCR also noted how little information was available on the fate of the refugees repatriated to Rwanda; nevertheless, it declared itself in favour of continued repatriation, admitting that it was unable to protect the refugees in Congo-Kinshasa itself. In conjunction with this, both the HCR and MSF decided that they would “no longer go looking for [the refugees still hiding in the forest]... because [the forest] is their last protection”. Thus, once again the humanitarian organisations were forced to recognise the impossibility of protecting the refugees, whether by presence or by action, and whether in the country of asylum or the country of origin.

In Congo-Brazzaville, lastly, MSF-F noted that there was no way out of the impasse until the ‘real’ refugees were separated from former FAR soldiers; as lives were not in danger, it planned to withdraw in February 1998.

... A STORY THAT STOPS WITHOUT COMING TO AN END

In July 1997, Epicentre initiated an epidemiological survey at the request of MSF-F. The aim was to document *a posteriori* the violence committed through a retrospective survey on mortality conducted among refugees in Congo-Brazzaville. The survey – one of the first of its kind – established that “the breakdown of the events that occurred during the flight of the refugees was as follows: missing: 59.5%; killed: 19.7”. “Only 17.5% of the members of families initially present in Kivu had reached the Congo”. This ‘epidemiology of violence’ (as it has been called since then) made it possible to identify peaks of violence or mortality, which corresponded precisely to those moments when MSF was denied access to the refugees. Although in this survey there was no longer any question of protecting people, there is the idea of a ‘responsibility to know and to inform’ that extends beyond the present. This notion probably arises from a deep-seated reflex (bearing witness as a ‘duty’, as a ‘moral imperative’, to ‘prevent it from happening again’), but also from the fact that, throughout the crisis, establishing the true facts and figures had been a central issue – the ‘classification battle’ between the MSF version, in which there were fleeing refugees in danger for months, and the official version, in which there were no missing refugees but only killers who had been routed. The report was finalised in early September, but not made public until November, as some sections had deemed it inaccurate.

During the same period, the forced repatriation of several hundred refugees still in Congo-Kinshasa came to an end, with no indication that the facts would be established, that responsibilities would be pointed (through the end of impunity, as requested by MSF), or that there were any positive prospects for the survivors.

The fall of 1997 saw the publication of several reports on the violence that tried to draw attention back to this crisis (HRW, Amnesty); some of them designated certain actors, particularly Rwanda and the United States, as bearing responsibility for the events. MSF-Epicentre published its report in *The Lancet* and spoke at a hearing in the US House of Representatives. Attention to the crisis gradually eased.

Lastly, the UN investigative commission which had arrived on site in June 1997 (following repeated requests by several agencies, including MSF) produced a report that was damning for Kabila in July. It thereafter saw its work constantly and deliberately obstructed. The commission eventually, in April 1998, declared that it was abandoning its task.

The story of the hunt for refugees, which for MSF was a long ordeal of impotence and attempts to do something against the violence, was about to be declared over, even as its ramifications were already provoking further crises, giving rise to other emergency actions by MSF in each of the countries of the sub-region.

APPENDIX 2 / CASE STUDY
MSF INTERVENTION IN DARFUR, SUDAN,
2003-2006

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Like the case study *The Hunting and killing of Rwandan Refugees in Zaire*, this study on Darfur is based on an *indirect* definition of protection: what responsibility, what discourse and what practices has MSF adopted with regard to the violence in Darfur, alongside (and in conjunction with) health care provision? We have extended this definition somewhat, as was done for *The Hunting...*, taking the view that protection – in the form of taking care not to expose civilians to danger – is also actualised in the very way in which relief is deployed (procedures, concrete choices).

The geographical area considered is the area covered by MSF-France – roughly speaking, West Darfur. We make no claim whatsoever that the issues and choices described are representative of those faced by other MSF sections in South and North Darfur.

The period considered covers the Darfur crisis from 2003 to end 2006. Within this period, we have selected certain salient moments when protection issues seemed to us to be at stake, though not explicitly – MSF's questionings and acts were never formulated in such terms, especially since they took place in a context where it had become more problematic than ever for MSF to use the word “protection”, which was used freely by other parties. Indeed, Darfur can be seen as the first major crisis concerned by the new doctrine adopted by the international community in 2001: the “responsibility to protect”.

Many of the moments selected occurred in 2004: we will consider the beginnings of the crisis, the emergency situation before restrictions on access were lifted, with particular attention to the choices made concerning speaking out against the violence and to concrete situations in which exposing civilians to danger was an issue. Subsequently, when Darfur had been placed on the international agenda, the positioning of MSF must be understood in the light of the derestriction of access and the international initiatives relating to “protection”. Thereafter, the crisis in West Darfur settled in for the long haul, and the issues facing MSF in 2005-2006 were much the same as in the earlier periods; for this period, our focus will thus be rather on MSF's positioning with regard to military intervention.⁷³

73. Abbreviations: RCO: *Revue critique des opérations au Darfour* [A Critique of MSF Operations in Darfur] – sitrep: situation report – AR: President's annual report – AU: African Union

1 – ESTABLISHING A PRESENCE AS CLOSE TO THE VIOLENCE AS POSSIBLE: CHOICES, PRACTICE, PUBLIC STATEMENTS

The first period that is worth analysing from the standpoint of the protection issue is the beginning of MSF's operations in Darfur. Did MSF try to move as quickly as possible towards the area where we knew a great deal of violence was occurring? Once on site, what was MSF's positioning with respect to the past and present violence, in a context of highly limited access and pressure from the Sudanese government? And how did this positioning change over time?⁷⁴

VIOLENCE AND ACCESS: PRIORITY TO OPERATIONAL CONSIDERATIONS – NOVEMBER-DECEMBER 2003

In early 2003, MSF was informed that the conflict in Darfur was intensifying and requested permission to enter the region. The government issued a flat refusal. Not until the signature of a ceasefire agreement in early September and the relative openness that followed did MSF obtain (in October) permission to enter Darfur. Two exploratory missions were undertaken in October and November.

The weight of safety considerations in the assessment of the situation – The second exploratory mission report described the consequences of the violence in villages in various locations (the Djebel Mara area, Nyala, Zalingei) and tried to analyse the rationale underlying these episodes of violence, as a guide to the best course of action for MSF. Concerning the displaced people at Zalingei, the report concluded: “if these people come here and agree to live in such difficult conditions, it's because the security problem is real. To send them back now with a promise of security would be criminal”. Exploring the possibility of mobile clinics to reach people who had fled their homes in the Djebel Mara area, the report notes: “we can be afraid that the leader is using our presence as an argument to call back the population in villages which are not 100% safe yet... I am thinking that their main priority now is their security, and their food. Health is probably not the main priority for the time being” (exploratory mission report, 10-19 November 2003, medical coordinator, p. 6).

Thus, from the outset, MSF's assessment of the situation and of the possibilities for providing medical care gave particular attention to the nature, intensity and evolution of the violence committed in different places and against different groups: the aim was indeed to evaluate the situations of different categories of people, with differing degrees of vulnerability (as well as different degrees of operational feasibility for MSF). In each case, the safety of people menaced with future violence was the first consideration, leading to recommendations that varied according to the specific situation: to assist people grouped in camps, in order not to send them home to a place where they would still be in danger and where they could not subsist

74. These questions have much in common with those asked by the *Critique of MSF-France Operations in Darfur (Sudan) – October 2003-October 2004* (C. Danet, S. Delaunay, E. Depoortere, F. Weissman, MSF / Cahiers du CRASH, 2007; hereafter referred to as RCO). This internal, retrospective analysis of the October 2003-October 2004 period is used here both as a major source of facts and as reflecting a way of thinking and speaking of these matters that is worth analysing on its own account (the language used in speaking of what we did, what we should have done, etc.), in contrast to other forms of discourse and practices that developed during the operation.

because their crops had been destroyed (Zalingei, Nyala); to consider not providing assistance in villages caught up in the rebellion and whose inhabitants had fled into the surrounding mountains, as in this case aid could be used as bait to induce them to return to their villages, where they would be in greater danger (the Djebel Mara area).

Projects to provide assistance to the displaced population of Nyala and Zalingei were initiated on 9 and 24 December 2003 respectively.

Access difficulties and silence concerning the violence – At the same time (December 2003), MSF-Belgium produced a report based on a mortality study and interviews with Darfur refugees in Chad. Paris, whose immediate goal was to establish and consolidate its operations in Darfur, opposed the dissemination of the report, ostensibly on grounds of quality (the report was termed “no good” and the methods used were challenged). In fact, “Paris feared that the dissemination of an MSF document attacking Khartoum would antagonize the regime and compromise its attempt to develop relief operations in Darfur. We were not yet operational and our priority was access to the victims”.⁷⁵ MSF-B accepted this ‘veto’, though with misgivings, and the report was buried.

In hindsight, the relevance of this choice was later questioned. In his annual report for 2004-2005, making a connection between information on the violence and increased aid (the former being necessary in order to obtain the latter), MSF-F’s President expressed regret that MSF-F had blocked the release of the report:

“Information on how serious the situation of the people of Darfur was could have emerged earlier from MSF. Early in the crisis, in refugee camps in Chad, our Brussels colleagues had collected a great deal of information on the acts of violence against civilians. These were made public late in the day, owing to pressure from the French section, which was afraid that making the information public would raise difficulties in obtaining permission to work within Sudan. By exerting this type of pressure, we were shooting ourselves in the foot. In order for the relief effort in Darfur to be stepped up, it was absolutely necessary that the seriousness of the crisis be known to the public. I think we should not take the responsibility of exerting pressure to delay the release of this sort of information” (J.-H. Bradol, AR 2004-2005). “The work of requesting access should have been combined with efforts to alert the public to the intensity of the violence” (interview, J.-H. Bradol, July 2006).

NYALA: EMERGENCY AID, LOSS OF ACCESS AND PUBLIC DECLARATIONS – JANUARY 2004

MSF began working in the camps of Intifada, near Nyala, on 9 December. About 10,000 displaced had gathered in these makeshift camps, with 50 to 150 more arriving daily. The authorities considered the camps to be illegal and planned to move the people further off, to Belel – a plan that the displaced viewed with fear and MSF with concern. In MSF’s view, the site met neither the security requirements nor the physical conditions (access to water, site not prepared) for taking in tens of thousands of people.⁷⁶ For these reasons, MSF expressed its opposition to the ‘relocation’ plan. Tension arose between MSF and the UN agencies, which

75. The quotation and accompanying information are drawn from the RCO, p. 111-112.

76. The fear shown by the displaced and the concern of MSF were probably linked: according to a background document for the RCO, “the terror shown by the people seems to have been the decisive factor in MSF’s refusal to approve and accompany the move to Belel”.

had agreed to transfer their operations to Belel (UNICEF and the WHO moved there in the second week of January, and OCHA asked MSF to tell the displaced people that it would be there as well), thus depriving the displaced of any choice in the matter by depriving them of basic services: in the eyes of MSF, this amounted to forced displacement of the population. On the Sudanese side, the Humanitarian Affairs Commissioner declared the MSF clinic “closed” and indicated to the MSF team that its refusal to cooperate might have consequences for its authorisation to operate.

The camp was closed on 14 January. The government’s lorries arrived, sealing off the camp; the events proceeded without physical violence, though with verbal violence. A few people got into the lorries, surrounded by the police, and then got out, but the great majority fled to escape the displacement operation. The MSF team was present throughout this process. It even spent the night of 13-14 January inside the camp, in order to be present for the closure: this was a spur-of-the-moment decision, apparently not debated by the team, and one that clearly reflects the hope that the presence of expatriate aid workers could prevent possible acts of violence. The expatriates probably did not generally take on the role of ‘shields’ or ‘human rights sentinels’; nonetheless, at that point in time they had the role of ‘watchdogs’, because they were potential eyewitnesses. And in the event, they think that their presence helped to avoid some excesses.⁷⁷

In response to the closure of the camp, MSF published its first press release on Darfur on 15 January: “Following the forced closure of the Nyala camps by the Sudanese authorities, MSF is concerned about the fate of the people”. The press release mentioned that these people, including MSF patients under treatment, had been dispersed, and provided background on these people, who had reached Nyala “after having suffered violence and seen their villages and crops pillaged and burnt, in the hope of at last finding a safe haven and essential aid”.

What were the reasons for issuing this public statement? Probably MSF’s need to mark its disagreement with this government decision – taken against the will of the displaced, and approved by other agencies – moved it to take a strong stance against a population displacement that seemed like an act of violence, after all the violence they had already suffered. But it seems to us that the real triggering factor was the loss of access to people we had been assisting, and who had therefore entered our sphere of responsibility – particularly in the case of patients under treatment – all this happening in a deeply worrying context of violence and vulnerability (there was also concern for all the inaccessible people, but that was more in the background, more abstract). The press release mobilises the notion of an assistance-security duo, a reference to the two basic requirements for the *protection* of refugees/displaced people as defined by the HCR – requirements that MSF considered were not met at Belel.

The Sudanese authorities were furious about the press release, responding on the ground by refusing MSF permission to open a nutritional centre in the town of Nyala, and in Khartoum by threatening to expel the head of mission. Thus, the public statement directly implicating the authorities had a concrete impact at the central and local levels. In retrospect, however, the emergency desk, while recognising the inhibiting effect of the authorities’ reaction on MSF, and on the Sudan desk in particular, expressed doubt that the press release had direct consequences for MSF’s ability to operate in Darfur: “At the time of [the closure of] the Intifada camp,

77. Interview with the former coordinator for Nyala, February 2007; report on this interview for the RCO.

relations with the authorities became strained... We had the feeling that our press release had had an impact, but the obstruction in fact had begun before we issued it. Being summoned before the authorities and threatened with expulsion had a dampening effect on us" (manager, emergency desk, interview in preparation for the RCO). "Our hard-hitting press release did not prevent us from opening two programmes, at Mornay and Zalingei" (deputy manager, emergency desk, interview in preparation for the RCO). It should be noted that although these remarks put into perspective the supposed negative impact of the press release, no positive impact is mentioned.

MORNAY: A 'PROTECTIVE PRESENCE' AMIDST THE VIOLENCE? – FEBRUARY 2004

Permission to initiate a programme for the displaced at Mornay was given on 27 January. Although the team had initially planned to spend a few days in Zalingei, it decided in the end to head for Mornay as quickly as possible, having seen signs that a crisis was imminent. It arrived on 31 January, amidst a campaign of destruction just getting under way. The team had barely had time to set up and had just begun a measles vaccination campaign, when it had to cope with a flood of 80 wounded people from 4 to 15 February (in addition to the 480 wounded they found on arrival), without a surgeon and virtually no referral capability, as the roads were too dangerous (a dozen patients were referred elsewhere⁷⁸). Confined to the camp, the team saw every day the effects of the methodical campaign of destruction raging all around them. Apart from the inflow of wounded, the number of displaced rose very quickly: from 7,000 to 25,000 between December and January, and then to 60,000 during February with the arrival of 40,000 more. All were fleeing attacks on their villages, whose tremendously violent character could be gauged from the piecemeal accounts of the displaced.

This episode was a very intense experience for the team and for headquarters, because it involved several factors that are highly significant for MSF.

First, it touched on what is perceived, over the long term and by a majority of MSF members, as the core of our operational legitimacy: providing care for the direct victims of the violence of war, close to the scene of this violence.⁷⁹ An action that, in this case, was part of what international humanitarian law means by "protection of civilian populations" in conflicts, i.e. delivery of aid to groups specifically identified as vulnerable (the wounded, the sick, refugees and civilians).

In this context, a series of problems emerged in which the issue of protection arose rather through that of *exposure*, of putting people in danger. The expatriates were aware that their presence, perceived by the displaced as providing relative safety, made the camp something of a sanctuary and was one reason why it attracted people looking for a safe haven. They were

78. On this occasion, the team had to gamble with people's safety: for the first referral, so as not to send the MSF car, the logistician paid a taxi to take a patient to El Geneina. The driver, against instructions, brought some police officers along; the taxi was attacked and all were killed except the patient. On another occasion, to patients who were refusing to ride in the ministry of health convoy (the minister was a doctor with close ties to the Janjaweed), the team said "that it would check up on their health and safety later, in El Geneina. This reassured the patients somewhat, and they agreed to board" (Mornay logistician interview in preparation for the RCO).

79. MSF had recently made efforts to bring this aim (conflict as a legitimate place for MSF 'since its founding' etc.) into line with the concrete reality of our operations, shifting towards surgery and direct provision of care amidst the violence (see main document, Part III). The issues crystallised in the care provided at Mornay despite the difficulties involved and the lack of human resources; in this case, none of the wounded in the care of MSF died.

also witnesses of the discordance between the tempest of violence outside and the fragile immunity of the camp. This raised the question of what role they were playing and might be forced to play: what assurance did they have that this immunity would last? Were they, despite themselves, serving as bait in what might well prove to be a trap, endangering the lives of the displaced population as well as their own? In any event, this is how they experienced the episode: they “had long asked themselves whether they were not drawing people into a trap. On the one hand, the people think that MSF’s presence is a guarantee of safety. On the other, given the scale of the violence all around Mornay, it is to be feared that, sooner or later, armed men will attack the displaced” (Mornay logistician, interview in preparation for the RCO).

The attack they feared did not take place, and the situation around Mornay gradually stabilised. Should we try to assess what role the presence of MSF expatriates played in the fact that the trap failed to materialise?

It should be noted, first, that the *purpose* of the expatriates’ presence was not to protect the displaced physically.⁸⁰ Quite the contrary, as soon as the team saw that its presence was perceived as ‘protective’, it worried about this. The members of the field team were probably thinking of Srebrenica and Kibeho, two episodes strongly characterised by the idea that MSF “does not protect” (i.e. does not provide physical protection). Caution was needed: for example, the RCO notes regarding this episode that it “would be foolish to believe that two volunteers in t-shirts had dissuaded the army and its proxy forces from razing the camps” (p. 57) and that if the team played a deterrent role, it was in any event not the only factor that did so.⁸¹ This does not preclude the more general observation that sometimes (often?) the presence of a third party, i.e. the expatriate, can have a dampening effect on violence.⁸²

‘SILENT DIPLOMACY’ ON THE VIOLENCE, REPEATED PUBLIC STATEMENTS ON THE RELIEF EFFORT FEBRUARY-MARCH 2004

Following the experience with the 15 January press release on Nyala, MSF decided to adopt a strategy of “silent diplomacy” to alert the international community to the part of the situation in Darfur that could not be mentioned in public, namely the violence and the obstacles to aid deployment: “the fear of being denied access to Darfur led to a focus on launching a campaign of silent diplomacy, while public statements would be restricted to ‘a warning that aid was insufficient ... [its] aim being to call for the deployment of aid (and not to denounce the obstacle put by Khartoum)(sic)’ ” (RCO, page 112, quoting the minutes of the Executive Committee meeting of 10 February 2004).

80. It may seem obvious to MSF members that this is not the goal, but it should be remembered that many debates and discussions are taking place on the ‘protective’ nature of presence, in the current context of producing recipes on “how to protect in practice”; the possibility of a trap is generally mentioned in passing, as one of the perverse side effects that any good solution must entail. See *Pro-active presence: Field strategies for civilian protection*, Centre for Humanitarian Dialogue, 2006.

81. The displaced stated that the site may have been spared because the governor of El Geneina was from Mornay (Mornay logistician, report of interview in preparation for the RCO).

82. See the *La Mancha* agreement. Also: “In both Srebrenica and Kibeho ... the idea was to have enclaves made secure by the international presence, which is not a bad idea. An idea of the camp, of sanctuary, of being watched by outside observers, which provides a minimum level of safety, which makes it more difficult to commit violence. It is an idea I have not completely abandoned, though I have put it in perspective” (interview, R. Brauman). “If only by the effect of reality, of presence, in certain situations you cannot deny the impact you have, even if it was not your objective. The effect is produced by your presence – and hence it makes you responsible” (interview, J.-H. Bradol).

Silent diplomacy – “Reliable” journalists were briefed by MSF members. On 9-11 February, J.-C. Cabrol, recently back from Darfur, made the diplomatic rounds at United Nations headquarters: “the briefing insisted on ‘the need for the international community to immediately assume strong political leadership to address the Darfur situation with the government of Sudan beyond the ‘humanitarian problematic’ and the specific issue of access / humanitarian corridors (violence against the civilians, etc.)’ ” (RCO, p. 111, quoting the contents of the briefing). The RCO comments: “the aim was twofold: to obtain diplomatic support for the strengthening of relief operations, and to encourage the UN and individual states to address politically the crisis, or at the very least to consider the physical protection of displaced populations as an utter priority”.

This appeal to ‘take responsibility above and beyond humanitarian aid’ is thus an appeal for political involvement that, although not explicitly a call for ‘protection’, refers in substance to the notion of protection in the sense of a reaction or response, initiatives to prevent or reduce the violence inflicted on the displaced civilians. In our view, this appeal implicitly calls for either means of physical protection (this is the interpretation given in the RCO) or the use of various means of pressure.

It is interesting to note that the content of this message – criticism of the international community’s abdication of responsibility and a call for action that is not limited to delivering or protecting humanitarian aid – strongly resembles that of MSF’s declarations in the 1990s on Bosnia, Rwanda and the hunting of Rwandan refugees. What changes is the degree to which the message is public: the MSF-F that recommended quiet diplomacy in Darfur is the same organisation that in 1997 bitterly criticised the “silent advocacy” strategy adopted by MSF-H concerning the hunting of Rwandan refugees in Zaire. A change of ‘institutional culture’ or simply a different context? Our hypothesis is that both of these factors came into play. There was a change of culture concerning public appeals for action and taking responsibility, and the context was indeed radically different: in 1997, MSF had considered it imperative to take a public stance because aid was being used as bait, but this practice was not observed in Darfur.

Public statements – Meanwhile, MSF’s public statements from February to April showed a conspicuous lack of any mention of violence in speaking of the catastrophic situation in Darfur: the press releases of 17 and 26 February did not explain why the people were “displaced”, nor the nature of the “crisis”. They simply said that these displaced people needed massive assistance if they were to survive and that assistance was cruelly lacking. How was this positioning developed? We get a glimpse of the process through the e-mails between the field, the emergency desk and top management in the week (11-17 February) prior to the 17 February press release, in which the competing arguments were expressed.

On 11 February, the Darfur team (field and coordination) expressed its satisfaction with a draft press release sent from headquarters: “I discussed it with the team and they are glad to know that something is being said, as it’s sure that they feel it cannot continue before their eyes with nothing being said” (e-mail, head of mission, 11 February, daytime). However, after some changes were made to speak more directly about the violence, they were less pleased: the press release is “much stronger in respect to the violence against the population and is again inaccurate in terms of what MSF is doing ... I realise that artistic license is taken in order to make things more dramatic...” (e-mail, head of mission, 11 February, evening).

The director of operations denied having sought to be alarmist and repeated that his concern was for the mission, for the operationality and security of the field teams. The Mornay team in

particular was in a highly sensitive situation, as the village of Mornay had just been cut off and surrounded by the Janjaweed: “our priority today is the team and its security and the patients we are caring for”. Thus, ‘offensive’ press releases were put on hold, although “we still have in the pipeline the intention to put out a press communiqué on what we are witnessing more globally in the field / the deteriorating situation / the absence of international response: Alert message addressed to the international actors which is our prime responsibility when we are overwhelmed: people do need much more assistance” (e-mail, director of operations, 12 February). In the end, as the tension eased at Mornay after the departure of the Janjaweed, he spoke of re-issuing an alert (as opposed to an accusatory press release – e-mail, evening of the same day). The coordination team was concerned about the Sudanese authorities’ reaction and wanted to submit the press release to them in advance. The emergency coordinator reported that the Mornay team “saw no impact” (other than negative) that such a communiqué could have at the time. “We are not questioning the content of this press release, but only its timing” (e-mail, emergency coordinator, 13 February).

The communication director took a strong line in response to these messages: “if the team feels they are in danger ... and unwilling to take the risk of this minimalist communiqué [insufficient relief supplies and lack of access], they may have to be evacuated ... we don’t wait for the authorities’ permission to speak out!! ... we’re losing our common sense why we try to make sure every word will be acceptable to the authorities.... we’ve done three press releases so far this year. Is this our conception of MSF’s role in crises such as Darfur, Uganda and Chechnya?” (e-mail, communication director, Sunday 15 February; this e-mail reviews all the decision-making problems).

At this stage, MSF-B and MSF-H, which thought it best to issue strong statements on the lack of access, informed Paris that they would no longer support its position (“we are the only ones ++ who don’t want to speak out on the lack of access”, wrote the communication director).

The President entered the debate on 16 February to stress the importance of prioritising the messages we’re trying to get across; we need first to sound the alarm on the insufficiency of relief supplies, and only afterward to speak of the causes, not vice versa: “there is a difference between a statement in which the starting point is a warning of aid insufficiency and one that begins by criticising the authorities”. He emphasised that the international community (including some NGOs) was partly responsible for the silence surrounding the Darfur crisis, its attention being focused on the peace process in South Sudan. Lastly, he reminded those concerned that although debate over a press release was possible, it was up to the directors (not the field) to take a decision at some point.

In the end, the press release issued on 17 February contained no denunciation of the authorities’ obstruction of access, and still less of the violence: “we did not mention anything referring to violence against civilians. I would remind you that the situations in the field, and with the Sudanese authorities, are still very tense. I would also remind you that in 1989, an airplane carrying four passengers was shot down ...” (e-mail, communication officer, accompanying the final press release). It simply says, “donors are still not providing enough aid, and access to the region is too limited to deliver decent assistance to the displaced people of Darfur”.

This excerpt shows positions which were mixtures of spontaneous reactions and reasoned principles, that used different levels of argument.

First, it should be noted that there is no case in which it is possible to draw a sharp line between a ‘field’ position (characterised, for example, by overcautiousness) and a ‘headquarters’ position (in favour of a strong public stance). In fact, according to the report of the coordination team, field personnel were favourable to public statements mentioning the violence. What emerges from the e-mail of 11 February, with its indeterminate formulation of both the problem (“it”) and the response (“something”), is the idea of an impulse to take action arising from being an eyewitness (“before their eyes”). The forces driving that impulse

seem to have been operational frustration (insufficient capacity to meet people's needs) and the more general impotence of MSF (no hold on a situation that was steadily deteriorating under pressure of violence).⁸³ In short, speaking out on the violence seemed all the more necessary to field personnel because they thought their operation was not accomplishing enough. Headquarters commented, "Our teams are losing patience with the red tape hampering deployment of relief supplies at a time when the violence is steadily increasing. Our operation is very small compared to what is needed, and the field team finds this hard to bear" (Board meeting, February 2004). The coordination team's about-face after the changes made to the press release does not necessarily represent the position of the Mornay team (though the latter was admittedly worried about the timing of the release because the security situation was becoming increasingly tense). The team said afterwards that it had been disappointed by the final form of the press release, considering it to have been watered down, and confirmed that it would have preferred that the violence be mentioned (interview, Mornay logistician).

Subsequently, the differences of position were rooted in the respective importance given on the one hand to the risks to the safety of the team and operationality (access) and, on the other, to the necessity of mentioning the sensitive subjects of obstructed access and violence:

- *Arguments in favour of speaking out on the violence and obstruction of access* explicitly mentioned the "role" of MSF, alluding to the idea that the organisation has a role of 'bearing witness' against such serious violence. In so doing, they put forward a certain conception of MSF by placing the argument on the grounds of organisation's identity – and hence of the imperative. It was the comparison between the imperative arising from the seriousness of the situation (speaking out as a protective action) and the constraint related to operationality (keeping silent to protect MSF's action) which underpinned the arguments in favour of mentioning acts of violence and obstruction: when weighed against this imperative, the risks to safety and operationality were regarded as minimal. Moreover, this school of thought, based on its evaluation of the power relationship, considered it necessary to force access to the area and thwart the Sudanese authorities, who were toying with MSF (MSF-B and MSF-H had 20 expatriates stuck in Khartoum). Lastly, it pointed out the risks of misappropriation if MSF's communication failed to mention these obstacles: the risk of serving both the Sudanese government's propaganda on free access to Darfur and the international community's desire to ignore the conflict in order to protect the image of the North-South peace process; and the risk of unduly focusing responsibility for the situation on 'defective' humanitarian organisations.

- *Arguments for public communication concentrating on the insufficiency of the relief effort* were based either on a different order of priorities or a different evaluation of the risks. Some thought that the priority message to get across was the urgent need for donor mobilisation in order to cope with a worsening situation (hoping that in the meantime the obstacles to access would be lifted, but without trying to force access at the risk of losing it entirely). Others saw serious risks to security and operationality (fear of stronger impediments on the arrival of staff and on exploration, especially expulsion; fear of retaliatory measures against the aid workers and reference to the grave incident of 1989).⁸⁴ In both cases, the arguments were based on the

83. See the case study *The Hunting and Killing of Rwandan Refugees in Zaire*, where we first observed this.

84. In her presentation to the Board of Directors meeting of 27 February 2004, the deputy programme manager of the emergency desk noted that "public statements are closely monitored, since even the use of the word 'violence' in public causes serious tension". During the debate, two people spoke of the need for intensive communication on the difficulties of providing assistance (citing an example, Meiram, where "everything opened up" after media coverage of the crisis). The deputy programme manager replied by mentioning the government's threats following the press release of 15 January and the fact that MSF was already "privileged" because it did obtain a few grudging authorisations, and the debate ended there.

pragmatic grounds of need. This positioning stemmed partly from what might be called a ‘relief worker’ conception of MSF’s primary role (not explicitly set out here), quite different from the ‘witness’ conception described above, and partly from a real fear of venturing onto the delicate terrain of obstruction and violence, which would endanger what access MSF had (if not for this fear, the relief worker role would have fully justified unvarnished denunciation of the obstacles). From this viewpoint, a test of strength with the authorities was to be avoided (this is why some mentioned the grave incident of 1989, as the death of volunteers served as an unanswerable argument), and the risks of misappropriation mentioned by the opposed position were considered to be secondary.

In the end, “the decision to refrain from public comment on the violence and the drastic restraints imposed on aid” won out, as “the result of a calculated trade-off”.⁸⁵ Speaking in terms of trade-off has the advantage of showing that the action actually taken resulted in each case from a calculation in which the opposing factors were put into the balance. The positioning on the violence was an integral part of this assessment of what was most beneficial and least risky for the MSF teams and its target groups in various respects – the groups that were accessible and receiving assistance, groups that were not accessible, immediate basic needs, vulnerability to violence. The choice was between keeping a low profile to preserve even a limited presence and operability, hoping that the restrictions on access to the area would be lifted, or denouncing the violence and obstruction in order to force access to the area, at the risk of being hampered still further. “Our overriding concern was the continuation of our activities”, noted the RCO (p.113).

Here we can return to and extend the observation made above concerning MSF-F’s change of position on public declarations between the hunting of Rwandan refugees and early 2004 in Darfur. In the former situation, it was precisely the importance given to maintaining field presence, which had become the main criterion of judgement and action, that led MSF-France to criticise the other sections on two grounds – criticism of silent advocacy as an ineffective strategy against targeted, deliberate acts of violence, and criticism of silence as an untenable stance given the seriousness of the situation and the insignificance of humanitarian action in such a context. Thus, there has certainly been a change of ‘practical culture’ at MSF-F, above and beyond the differences between the two contexts, to the point where today it is more complicated for MSF to issue public denunciatory statements.

This reversal of position was not a complete about-face, however. Although MSF-F opted in early 2004 for silence concerning the violence and obstruction of access in Darfur, and although this decision was accepted at the time, it has been strongly qualified in retrospect.⁸⁶ The RCO notes, for example, that “the balance between the risk of expulsion and the benefits of relief activities was not clearly weighted” in favour of this choice. The RCO therefore raises the question of how long MSF would have maintained this strategy of silence, suggesting that this deliberate masking of the causes would soon have seemed untenable to many MSF members, given the seriousness of the situation (the degree of violence, the extent of its

85. RCO, page 112. This was indeed what was indicated by the tone of the President’s annual report a few months later: “Darfur was also, and rightly, a situation for which we paid special attention to the messages we put out. On the whole, I find this media campaign to have been a success. We made a significant contribution to making the world aware of the scale of the catastrophe and the inadequacy of the relief effort” (J.-H. Bradol, AR 2003-04, May 2004).

86. It may reasonably be thought that the remark from the 2004-2005 President’s annual report quoted above (saying that it was “necessary that the seriousness of the crisis be known to the public”), which refers to the silence in late 2003, also refers to early 2004.

consequences in terms of needs and the severity of the obstacles impeding the response to these needs), and that the strategy would also have proven to be misconceived, as it was recognised that only media coverage of the crisis could put Darfur on the diplomatic agenda.

2 – RELIEF EFFORTS AND POSITIONING ON THE VIOLENCE: A TIGHT LINKAGE

The months of March and April brought a gradual easing of the tension. Although the situation on the ground was still highly volatile, it entered a period of relative calm, as the campaign of destruction around Mornay had come to an end (only to move elsewhere, apparently); the Zalingei and Niertiti projects were expanding. The main issue was clearly vulnerability on a day-to-day basis, which amply justified continuing our urgent calls for increased aid.

In early March, issuing yet another alert message on the situation of the displaced persons in the camps, MSF allowed itself to refer obliquely to the violence, as background or general context: the displaced fled the “*attacks on their villages*”; “as the *violence and insecurity* persist and the international response remains far below what is needed...”, MSF calls on the international donor community to increase its support quickly and massively”; “a *conflict* has begun...” (press release of 10 March on the alarming nutritional situation; emphasis added). Another diplomatic round was undertaken in the United States to issue a warning that it was urgent to increase humanitarian relief, and hence to put pressure on the Sudanese government to allow the deployment of this relief (there was no question, even implicitly, of calling on the international community to ‘shoulder its responsibilities’ by intervening directly).⁸⁷

The denunciation of violence against civilians gradually emerged in the public arena through the resounding declarations of a UN representative on 19 March, suggesting that “genocide” was under way in Darfur. Then began an intensive lobbying campaign by various groups calling for armed intervention on the grounds of the “responsibility to protect” civilians against genocide and crimes against humanity, at the very moment when the tenth anniversary of the Rwandan genocide was being commemorated. This pressure seems to have contributed to place Darfur on the agenda of the Western diplomatic corps, which in turn put pressure on Khartoum. A cease-fire was signed on 8 April, and Khartoum agreed to the deployment of the African Union troops assigned to ensure that it was observed. A month later, on 21 May, the restrictions on access to Darfur were lifted.

This period saw a shift in MSF’s positioning, leading it *simultaneously* to denounce the past and current violence openly, to continue its calls for more aid and to contest in public the use of the term “genocide”. Although these communication activities were intertwined and conducted simultaneously, for clarity’s sake we will describe each of them separately, in order to identify their connection with the issues of protection and violence.

87. Interview, Mornay logistician, February 2007. See also the RCO.

ALERT AND DENUNCIATION OF THE VIOLENCE BY MSF – MAY-JULY 2004

It was thus when access was restored and the international community was mobilising against the “genocide” that MSF allowed itself to take a more outspoken stance against the violence.⁸⁸

Epicentre had begun documenting acts of violence in March. At the request of MSF, Epicentre undertook a retrospective mortality survey in addition to its other activities of collecting epidemiological data; the aim was to obtain an “epidemiology of violence” for an entire area, so as to be able to describe the exact consequences, in terms of mortality, of the peaks in the policy of destruction conducted by the militias and the government. The report, finalised in June, established that one person in 20 had been killed in attacks on 111 villages (September 2003-February 2004). It also described the current causes of death, mentioning violence, hunger and disease.

At the same time, the alert messages and denunciation intensified. MSF spoke before the UN Security Council on 24 May: in a speech entitled “The humanitarian situation in Darfur”, T. Koene described the consequences of the violence for the population, the obstacles to aid delivery and the insufficiency of international aid, painting a picture of a population caught in a trap and wholly dependent on humanitarian aid for its survival. In early June, J.-H. Bradol, president of MSF-F, visited Khartoum and Darfur. He met a number of Western diplomats and Sudanese officials, to whom he expressed his concern over the scale of the past violence (“I had a whole stack of pictures of burnt villages on my computer; I spent a week doing that with Greg Elder [head of mission] in Khartoum” – interview) and the persistence of violence in the present, in areas around the camps in particular. He pointed to the large number of raped women being treated in MSF clinics, as a continuation of the work being done on the ground. In Mornay, for example, the field teams were referring victims of sexual violence to the BBC and helping to find interpreters so that interviews could be recorded. On this practice, Bradol noted: “We see here, in a concrete situation, all the ambiguities facing an organisation that is not responsible for protection, that claims no expertise, mandate or responsibility in the matter, and is nevertheless doing this” (interview).

The Epicentre report was made public on 21 June, along with a press release entitled “The worst is yet to come”, which, in addition to speaking of past massacres, emphasised the current vulnerability of the people due to the persistence of the danger: “the militias that attacked the villages now control the outskirts of the camp, in effect imprisoning the IDPs, who are constantly afraid; if they leave the camp, the men may be killed, while women have been beaten and raped when they ventured out to forage for food and other basic necessities”. All of J.-H. Bradol’s appointments were cancelled and the head of mission was threatened with expulsion, but this public statement seems to have induced the French diplomatic apparatus to firmly take up the question, and given rise to a debate on the Sudanese side: “I gave Epicentre’s report to a general in the Sudanese army for distribution to professors of medicine; we were doing advocacy, so to say. That led to a meeting between the minister of humanitarian

88. And to present itself as a organisation providing care for the victims of this violence. In this respect, it is interesting to note the change in the description of MSF at the end of each press release, from January to July 2004: at the outset, MSF “provides aid”, “does medical consultations” in “support of the displaced” (February and March press releases); later on, the “wounded” are mentioned (April); and lastly, MSF is described as providing care to “the victims of violence and malnourished children...” (press release of 21 June) and “MSF has been helping the victims of violence in Darfur since December 2003” (press release 26 July)

affairs and his staff” (interview). “...I think that disseminating [this information] helped to obtain much greater resources” (AR 2004-2005).⁸⁹

Thus, whereas the possibility of becoming involved in a trial of strength with the authorities emerged, the fact that violence was mentioned was not perceived as taking a risk with no benefits in return; rather, it became (almost ‘naturally’, in hindsight) one part of the detailed description that MSF would give to alert the world to the disastrous situation in Darfur.⁹⁰

JOINING THE POLEMIC OVER GENOCIDE – MAY 2004 → ...

As described above, there was widespread talk about a “genocide” in Darfur as from March 2004.⁹¹ The accusations came from a great variety of organisations and were reported in major media. In their view, the region was the target of an extermination policy and close to becoming another Rwanda, and hence aid delivery had inevitably become insignificant and pointless. On 6 April, the *New York Times* reported (based on the testimony of an MSF member): “in effect, Mr Gluck said, the aid effort is sustaining victims so that they can be killed with a full belly”. In mid-May, Darfur became widely accessible, largely thanks to the pressure exerted on the Sudanese regime. The humanitarian agencies rushed in. The media campaign continued intensively, with reports from human rights NGOs, an appeal to US President Bush in June to “stop the genocide in Darfur”, a flurry of diplomatic activity (in July, several Western countries said they were willing to provide troops for an intervention force, and the African Union had just sent in observers). On 1 August, the UN Security Council passed a resolution imposing an embargo on arms for the rebels and the Janjaweed, and the disarming of the latter. In mid-August, the first AU troops were deployed. Despite these developments and the relative lull in the violence, further calls were issued to “protect civilians” and not to hide behind “national sovereignty” (Kofi Annan, 21 September).

From the outset, MSF’s position (which in the case of the French section was made public) was at odds with this discourse. As early as 16 April, the deputy programme manager of the emergency desk, when asked in a TV interview whether the talk of genocide was justified, answered “not at all”, which did not fail to please the Sudanese government. In July, two public statements were issued (by J.-H. Bradol and T. Allafort) that also objected to this term. An opinion column was also published in *Le Monde* in September.

What was this difference of position based on, and how does it concern the issue of protection for MSF? Without going into detail on the intense internal debates over the very concept of genocide and whether it was appropriate to take a public position on whether it applied to Darfur (a debate whose ramifications continue today), we will try to highlight how this

89. The full passage reads: “We found ... when the Sudanese authorities at last agreed to let in the relief organisations, a population greatly weakened by the massacres and the relief effort lagging far behind what was required. We wanted to make this public. The Sudanese government was not pleased when, in June, we disseminated this information. But I think that disseminating it helped to obtain much greater resources” (AR 2004-2005).

90. Public statements “[serve] to call for a stepped-up relief effort. We do not see that we have a responsibility to be, in this mission, a kind of observer of human rights violations. However, we have a clear responsibility where relief is concerned, and this responsibility can be exercised if the nature of the events affecting the population is well understood and well disseminated to the public. In this case, the population had been subject to massacres” (AR 2004-2005, concerning June 2004).

91. This section is largely based on the facts and analyses presented in the RCO, pp. 30-32 and 114-123.

episode calls into question the way MSF relates to its conception of its role concerning violence.

The description of what was happening – To begin with, MSF objected to the way the situation was described, i.e. to calling it genocide. This objection was based on empirical arguments: what we were seeing on the ground was not the same as in Rwanda; it was a very violent counter-insurgency campaign, but in which an intention to eliminate the people and a policy of extermination were not observed – and where, in contrast, tens of thousands of people were in danger of death by attrition, which justified increasing aid.

Genocide versus the possibility of assistance – Above and beyond the specific diagnosis of the situation, MSF's positioning was based on the idea that genocide and assistance were incompatible 'in principle'. The reference to the second world war, like the appeal "you can't stop genocide with doctors" in 1994, founded the notion that genocide, as an extreme case, makes assistance either derisory (from a practical point of view) or indecent (from a 'moral' point of view): the absurd situation of the victim killed "with a full belly".⁹² In short, in a situation of genocide, the first imperative of *protection* (that the genocide stop) was viewed as taking precedence over everything else, eliminating the very possibility that assistance could carry any weight in the assessment of appropriate responses. Since that time, to be sure, this idea has been strongly qualified internally. Several people at MSF today contest the idea that genocide would deprive assistance of all meaning and/or make it impossible to find niches in which to operate. "If we look at the founding myth of modern humanitarian aid [Biafra], we see that denunciation of genocide and continuing to operate can despite everything be reconciled... At the level of principles, this shows at least that things had not arrived so solidly at the stage where they are today: genocide – withdrawal – protest", notes R. Brauman (interview). It seems to us, however, that this sequence remains strongly ingrained and has influenced the positioning of MSF as an institution. It was indeed because MSF feared that the label of genocide would have obscured the need for increased aid that the organisation considered it necessary to distance itself publicly from this designation in the spring of 2004.⁹³ This fear had some basis: commenting on the lifting of restrictions on access, the RCO remarks that "aid operations, however, were still proceeding very slowly. The UN lacked funds and the NGOs arriving in Darfur were more concerned about 'genocide', 'ethnic cleansing' and the deployment of international forces than about the provision of vital aid to the 1.2 million displaced people who were now accessible but still succumbing to malnutrition and diarrhea, the principal cause of death at that time" (p. 32).

The spectre of armed intervention to "protect civilians" – MSF's adherence to the idea of a qualitative shift leading to an operational shift (putting assistance second, priority to protection, call for intervention) entailed a second possible consequence of speaking of genocide, namely armed intervention – or the spectre of such intervention – which was perceived precisely as the

92. "Killed with a full belly" is a direct allusion to the expression "well-fed dead", used to highlight the pathetic nature of the "humanitarian alibi" in the 1990s, particularly in Sarajevo.

93. There are other quotations referring to this sequence, either internally (consequences for our activity) or externally (which messages to send outside MSF). An example is the president's reply to a Board member who wanted an explicit statement of the reasons for this public positioning: "accurate designation of the nature of the events is vital to an appropriate response. The first consequence of designating these events as genocide would have been to organise the departure of our personnel and the flight of the target population" (Board of Directors meeting, 3 September 2004). Another example shows the perceived necessity of explaining the reasons for a 'change of course' that would have seemed incongruous to those who remembered the appeal of 1994: "given the [past] public stance of MSF, it would have been odd for MSF, if the designation of genocide had prevailed, to continue operating as if nothing were happening (see Rwanda precedents)" (interview, R. Brauman).

objective of those who chose to use the word: “using the term ‘genocide’ allows the proponents of this view to wave the threat of armed intervention at Khartoum” (Board of Directors meeting, 3 September 2004). MSF saw a need to indicate publicly its disagreement with this view, for both internal and external reasons: first, because it had explicitly distanced itself from any “call to arms” after a critical review of its history (“you know that we are now very reserved about taking public positions on international military interventions”, J.-H. Bradol, AR 2004-2005, on Darfur)⁹⁴; second, because the spectre of intervention caused the Sudanese regime to adopt a much harder line towards those who waved it – NGOs or the international community – and to call them “crusaders” and “enemies”.

Assessment of the consequences – MSF’s public stance thus stemmed directly from its assessment of the possible consequences of speaking of genocide in Darfur, and for this reason, it was important not to leave the discourse on genocide unanswered. It should be noted that, in trying to avoid the consequences of this discourse, MSF did not take its positive effects into account, and that in hindsight, a majority of observers acknowledge that the campaign against the genocide, by putting pressure on the Sudanese regime, had the effect of removing obstacles to access by the relief organisations, at least at the outset. The negative consequences of MSF’s own positioning – in this case, that it was taken up by Khartoum – were also relegated to the background: at the time, the most important thing was to put forward its own reading of the situation, because the operational issue was the emphasis on delivering relief. The choice here boiled down to an assessment of which form of appropriation was more embarrassing (being taken on board by those advocating intervention or by the Sudanese regime). However, denunciation of the violence was regarded as aimed at reducing the risk of such appropriation: “that was why, in order to have a balanced position, we took such an offensive stance towards the Sudanese government” (Board of Directors meeting, 3 September 2004).

WHEN ASSISTANCE IS EQUIVALENT TO PROTECTION – MAY 2004 → ...

MSF’s outspokenness about the violence and the rejection of the term ‘genocide’ in May and June 2004 should thus be understood in relation to what MSF had been saying from the outset, namely that more aid was needed: past violence (which caused the displacement of the population) and present violence (which was the cause of its confinement) combined to reduce the displaced to near-total vulnerability and dependence on aid, which tended to be obscured when the debate focused on “genocide”.⁹⁵ From this standpoint, providing the aid required in sufficient quantity was considered the priority, because the main threats to the lives of the displaced people came from disease (diarrhoeal diseases were “already responsible for more than one-third of the deaths in the camps”) and malnutrition: “in their current state, [the relief operations] will not be able to avert the loss of tens of thousands of lives to a famine deliberately caused by human beings” (last sentence of the press release “The worst is yet to come”). The press release of 26 July reiterated this message, emphasising that not enough food was being distributed.

94. The arguments on which this distance is based are formalised in Fabrice Weissman’s article “Humanitarian Action and The Temptation of the Call to Arms”, 2003 (available at www.msf.fr).

95. Before the spring of 2004 and the emergence of this debate over genocide, the violence and the need for humanitarian aid were kept dark owing to the international community’s reluctance to recognise the existence of a conflict (because of the ongoing North-South peace process).

Might one then say that, in the view of MSF, assisting people is equivalent to “protecting” them? This formulation, which attributes to MSF a vocabulary that in fact it does not use, is aimed at seeing how the emphasis on assistance is linked to a more general concern for the vulnerability of the displaced. Several remarks are in order:

Underlying the positioning on relief is an assessment of ‘threats’ – As we saw in the case of the debate over genocide, the arguments of MSF shifted the centre of gravity from which the situation is gauged. Instead of the normative discourse on the necessity of providing protection, it adopted the discourse of a field practitioner. In so doing, it admittedly took a ‘relief worker’ stance. But the reason for its insistence on the need for aid was not that aid is its ‘stock in trade’, but that MSF saw a paradoxical situation in which it was *in the name of* protection against genocide that the greatest number of people would be likely to die (through attrition).⁹⁶ To sum up, MSF never thought for a moment and never said that assisting people means protecting them, that aid is a *means* of achieving the objective of protection, or that assistance should take precedence over protection, or vice versa: MSF deliberately avoided this type of formulation, which the multiple meanings of the word “protection” can only make confusing.⁹⁷ But its operational and public positioning was based on an assessment of which threats pose the greatest risk to lives: the question of relief operations was inevitably mingled with those of the security or vulnerability of the population groups considered. In this sense, we may assert that, without ever referring explicitly to it, MSF adopted a conception that is fairly close to that of international humanitarian law, in which besides abstention from violence by the parties to the conflict, the protection of civilian populations includes the delivery and free passage of appropriate relief supplies.

In the conception of assistance, considerations relating to exposing civilians to violence – MSF’s concern about exposing people to violence is built into its very way of conceiving and implementing relief operations: for example, as early as February in Mornay, in a full-blown emergency situation, the team worried about the vulnerability of the displaced people to the attacks of the Janjaweed surrounding the wadi; although providing the people with water was the leading objective, doing so in a place that exposed them as little as possible to the attacks was explicitly taken into consideration by the team: “there were two objectives: giving water to the people and getting them out of the wadi”; “there was something considered, decided [about getting the people away from the wadi, which was a dangerous location]” (interview, Mornay logistician). The RCO points out that “the teams ... helped the displaced persons to avoid certain forms of violence. By providing water and thus making it unnecessary for women and children to collect it from the river... MSF-F did in a sense ‘protect’ some displaced persons”. This passage tells us that protection in the RCO is somehow expressed in negative terms, through the avoidance of exposure to certain acts of violence; and that even in this restricted sense, it is not taken as an objective. This way of viewing protection issues is illustrated very clearly by the subtitles of the section in which they are discussed: “Did we expose populations to additional violence?” and “Exposure and protection effects” (RCO, p. 57) instead of, for example, “Have we succeeded in protecting civilians from violence?” or “Have we moved civilians away from violence?”. It puts the emphasis squarely on concern for avoiding the negative impact that relief activity might have on people’s security; the potential positive impact is not sought directly, but may be observed.

96. The advocates of accusations of genocide rather quickly appropriated both terms of this opposition by speaking of “genocide by attrition”, suggesting a deliberate purpose not observed by MSF.

97. Note the difference from the stance of humanitarian NGOs that had embraced protection as their first concern, for whom protection is the objective that directs and determines relief operations and presence, as in *Pro-active presence*, op. cit.

After the passage on water delivery having helped to move the displaced away from certain acts of violence, the RCO nevertheless remarks in a footnote: “Sadly, MSF lacked the resources to distribute fodder, reeds and firewood. Women and children who went into the bush to collect these materials were exposed to the same kind of violence” (p.57). The team explicitly considered whether they should provide animal fodder as early as February; this idea was not followed up, the reasons given being the lack of resources and difficulty of implementation (interview, Mornay logistician). It is easily understandable that the successive teams, which were overwhelmed with work, did not give priority to this activity. Another reason was probably that this activity had no relation to MSF’s ‘core’ activity (medical assistance). As providing fodder was not an accustomed and ‘legitimate’ operational area of MSF, it may have seemed beside the point to allocate resources specifically for this purpose. In fact, other reasons were mentioned later on: exposure of MSF staff, as having them use the roads to find thatch would have placed them in danger, and the fact that we “are not a protection agency” (ibid.). The issue here is that, in contrast to providing water, which meets a basic need, such an activity would have been motivated first and foremost by the goal of shielding people from violence – a mindset not adopted by MSF.

Concerning the dangers on the outskirts of the camps, it was not MSF but another organisation that called for patrols by the AU forces to reduce the risk of violence against women around the Niertiti camp (“firewood patrols”). Nor did MSF take a position later on, when these patrols were stopped because the AU did not wish to take sole responsibility for them. It seems to us, here again, that MSF refrained from taking a position due to its distance with “protective actions” designated as such.⁹⁸ MSF provides care and deploys relief supplies, and in so doing worries about their impact on the population, but keeps its distance from actions whose explicit objective is protection. In this respect, it would be interesting to ask when and under what conditions this distance lessens or disappears entirely; in other words, in what situations does MSF consider or has considered it appropriate to call on other stakeholders to intervene upstream from the medical problems that MSF deals with.

The camp as sanctuary? – The above description of how the displaced are most exposed when they leave the camp to fetch water or wood projects an image of the camp as a ‘sanctuary’, as a ‘protected place’ offering shelter from the threats outside. This image needs to be put in perspective. The camps were also described as places of violence, as “open air prisons”, and some observers report a real lack of security inside: “I have problems with the statement that because we give aid we give security... Mornay was ... a place of violence... Today in Zalingei the men are being hunted by the soldiers inside the camps, no need to go outside to the wadi” (interview, Darfur head of mission). This insecurity was, to be sure, masked by the greater dangers lurking all around these camps. Other observers contest this description, maintaining the idea of the camp as a sanctuary in which aid can be deployed.⁹⁹ The two viewpoints would probably agree, however, that providing assistance in the camps makes it possible to keep people in a place of lesser danger. This idea of relative safety seems to have played some role in MSF’s positioning in May 2006 when the World Food Programme announced that its food rations would be reduced for lack of funding. Although the press release of 22 May stresses the threat of a nutritional disaster, the prior discussions over its content invoked the argument of *choice*: reducing food aid in the camps would mean depriving

98. Interviews with the former Niertiti field coordinator and former Darfur head of mission.

99. See the debates held as part of the “Responsables d’opérations” [Operations managers] training session, January 2007.

the displaced of the choice of remaining in the camps, forcing them to go outside and thus to expose themselves to greater dangers. Although assistance and protection are never equated, in thought or in writing, it can clearly be seen here how the issue of providing aid is combined with that of exposure to violence.

3 – OVER THE LONG TERM, DEFINING A ROLE AMIDST VIOLENCE, INSECURITY AND ISOLATION

As from the summer of 2004, with the intensification of the relief effort (to which MSF's alerts had contributed), the situation of the displaced stabilised to some degree. In early September, it was observed that "we are no longer afraid that there will be a famine"¹⁰⁰, thanks to the distribution of food aid. This enabled MSF to consider repositioning, reducing its deployment on some sites to have the capacity to explore other areas and give more attention to activities that had been relatively neglected to that point ("caring for rape victims, surgery"). Its concerns shifted: "we are now worried about the relocations".

RELOCATIONS: CONCERN FOR THE SAFETY OF THE DISPLACED – SUMMER 2004 → ...

The relocations were not a new discovery. Already mentioned by various teams which had heard rumours of such operations (see sitrep Mornay for early June, not to mention Nyala, where relocations were actually carried out in January), they appeared on the MSF website in June, and subsequently in the press release of 26 July: "we are very concerned by reports that the displaced people have been taken back from the camps to their villages... Many people are very afraid". During the summer, when it was subject to international pressure and references to "genocide" and "ethnic cleansing", the Sudanese government responded by promoting the return of the displaced. As this was the converse of an "ethnic cleansing" policy, it was supported by the United Nations: OCHA "increasingly encouraged [the NGOs] to redeploy their programmes and activities to these areas [relocation areas]". The government was spreading information about a "spontaneous return" of the displaced to their villages; the Zalingei team observed that the people were moved from the informal camps to others outside the town, apparently as a prelude to actually returning to their villages. In El Geneina, the government officially requested the NGOs to undertake activities encouraging the return of the displaced.¹⁰¹ This situation continued throughout 2005. For example, a workshop was organised in early March 2005 so that the government could present its "plan" on the return of the displaced,¹⁰² and several meetings with their leaders were organised, but the number of people who actually returned home remained low.

100. Minutes of the Board of Directors meeting, 3 September 2004.

101. General sitrep Darfur, 23 August 2004.

102. General sitrep Darfur, February-March 2005: "Other NGOs are already committing themselves to much the same sort of plan, denying the pull impact of their strategy and generally presenting their positioning as an attempt to help those who have already returned".

Although MSF was not opposed in principle to the return of the displaced, it remained on the sidelines of the discussions and initiatives on this issue. However, it repeatedly expressed its anxiety: that of seeing the people sent back to places where the danger was greater, where the means of subsistence were not assured, and that of losing access to those we were assisting, i.e. to those who had in some sense entered our sphere of responsibility.

Thus, MSF once again took a position distinct from those of most of the aid agencies, which although they shared MSF's concerns showed an increasing tendency to promote the return of the displaced. As in the above-described debate over the use of the term "genocide", the difference of stance arose from different readings of the same situation. Where the international community spoke of an overall policy to redraw the map of Darfur by driving out and confining its "African" population, and called for intervention to put a stop to this, MSF did not observe a clear desire on the part of the government to put people in camps (it wanted instead to get them out). Although the camps were often called "open air prisons" by various MSF members, they were nevertheless safer than the villages and made it possible to assist a large number of people. In short, they were still the least bad solution in the given situation.

It should be noted that before adopting this position, MSF did consider the question of ethnic cleansing and its responsibility in this regard. Three-quarters of the short section of the RCO entitled "Did we expose populations to additional violence?" are devoted to the question of "MSF's participation in an 'ethnic cleansing' policy" (pp. 57-60). The question was thus raised and debated; the central argument was over the role played by MSF (bait for further violence or support provided after acts of violence that we had neither caused nor encouraged?); and the conclusion reached was that MSF stood by the choice of working in the camps.

INTERNATIONAL MOBILISATION FOR ARMED INTERVENTION: FROM "GENOCIDE" TO "INSECURITY" SUMMER 2004 → ...

From its beginnings in the spring of 2004, the idea of international armed intervention to "protect civilians" has steadily grown and branched out. The milestones in the development of this idea are the moments of increased pressure, of votes at the UN, of the deployment of AU soldiers, of promises to deploy blue helmets, etc. Meanwhile, the arguments used to call for intervention varied, from "genocide", still on the agenda for some in 2007, to "ethnic cleansing", rape and insecurity (of the humanitarian workers in particular).

We will consider here the connections between the international debate over calls for intervention, the security issue and the positioning of MSF in response. We will begin by reviewing a few key moments.

The UN Security Council adopted a first resolution on 1 August 2004 calling on the Sudanese government to disarm the militias and restore security; the first African Union soldiers were sent in shortly afterwards. During the month of August, the UN Department of Peacekeeping Operations organised meetings with the NGOs on whether it was appropriate to send a peacekeeping force to Darfur. MSF did not participate, but several NGOs joined the debate and openly declared themselves in favour of armed intervention.

In early 2005, the Security Council passed a resolution referring the situation in Darfur to the prosecutor of the International Criminal Court and decided to increase the AU contingent.

Under increased pressure, the Sudanese government tried to mark a few points before it was completely paralysed; the result was intensification of the fighting and government pressure on both the rebels and the displaced. The team noted that, generally speaking, “security has been greatly at stake in recent times” (general sitrep, March-April 2005).

In early 2006, the field teams observed a further “deterioration” in security due to an increase in scattered fighting and increased pressure for international intervention to “provide security”: “this gesticulation is more meant to put pressure on the [Sudanese government], but at the same time, it is a risk factor for us *khawadja* [foreigners]” (general sitrep Darfur, mid-January 2006). Jan Pronk, Kofi Annan’s representative for Sudan, recommended “a UN force large and mobile enough to provide security throughout Darfur”. In March 2006, the HCR announced that it was reducing its operations in Darfur by half owing to security problems. On 5 May, the Darfur Peace Agreement was signed under the aegis (somewhat forced) of the international community. Insecurity “increased” further because the agreement was contested by the rebel groups excluded from it and by the majority of the displaced: “I don’t want to sound UN, but we really have increased insecurity in West Darfur” (MSF Darfur security update, 28 May 2006). In July 2006, the violence against aid workers became considerably more serious – crime, racketeering, physical violence, rape and murder all intensified. As many humanitarian workers were killed during these few weeks as in the preceding two years of the conflict, and “protection of humanitarian personnel” became a leading issue on the agenda. In late August, Jan Egeland declared that an “unprecedented humanitarian catastrophe in Darfur” was to be feared if the security of aid workers was not ensured, and the Security Council authorised the deployment of a UN force of 17,300 soldiers. In mid-September, the MSF team in Zalingei suffered a very serious attack on a road.¹⁰³

The debate over insecurity continued in 2007. For example, in May 2007 France’s new foreign affairs minister, Bernard Kouchner, spoke of the possibility of creating humanitarian corridors, and on 31 July, the Security Council adopted a resolution providing for the creation of a hybrid UN-AU force of as many as 26,000 soldiers.

MSF MAINTAINS A DISTINCT POSITION ON THE “PROTECTION OF CIVILIANS” - 2006-...

The year 2006 saw a long series of security incidents, declarations calling for the protection of civilians and aid workers, and actions to increase security (from escorts provided by the UN to arrests by the AU), while MSF took a different course, emphasising its neutrality and impartiality in its public statements, and continuing to diversify its contacts and target groups

103. It should be noted that the teams’ repeated observations of a deterioration in the situation were often based on very short-term comparisons, as the turnover rate for expatriates was very high. Their experience of past situations often covered only a few months, making it particularly difficult to assess the security situation, just as it was difficult to learn much about the areas where MSF did not have a presence. See the February 2007 debriefing of the head of mission who covered the December 2006-January 2007 period: she pointed out that the deterioration in security everyone was talking about was in fact very difficult to assess and verify, and she questioned the idea that this had occurred since the signing of the peace agreement, mentioning that incidents had been occurring since 2005. The programme manager (in post since mid-2006) replied that the number of incidents had nevertheless increased in the previous six months; and in turn, the head of mission Darfur from September 2005 to June 2006 replied to this by stating that security began to deteriorate in August 2005. Without wishing to deny the existence of such incidents and their increasingly serious nature (the team no longer goes to certain places where they could move around freely in 2004; incidents are aimed directly at us), this example warns us to be cautious about the idea of learning the whole truth about the events.

(efforts to help nomads in particular, which began in 2005). The reason was that in MSF's view, what was compromising the security of aid workers was precisely their involvement in the political sphere through their defence of the peace agreement and talk about "protection".

MSF's thinking on these issues was given formal expression in October 2006 with the publication of a position paper by Fabrice Weissman, followed by an opinion column in the newspaper *Le Monde* (30 October), criticising the duplicity of the international community: "the international community is under-funding essential aid programmes and issuing solemn calls for the deployment of blue helmets. In so doing, it runs the risk of spreading false promises of protection and exposing humanitarian workers to the reprisals of Khartoum. The under-funding of relief operations condemns the displaced to live in increasingly deplorable conditions, exposing them to an increased risk of mortality... thus, despite its doubts, the international community is still leading the people of Darfur to believe that their salvation will come from a UN military intervention, even though the chances that such a force will be deployed and will succeed are currently very slim" (position paper, p. 7). Although the arguments are different, this debate resembles that over "genocide", in which different interpretations of the same situation conflicted. We will build on the remarks made above, while trying to explain some of the reasons why MSF distanced itself from the debate over and actions relating to "protection".

Discourse on protection and false promises – Insufficient, inappropriate aid and insecurity were perceived as the two less-than-admirable components of a 'protection' policy that was in fact a 'false promises of protection' policy. MSF's first concern was to criticise this duplicity as a source of illusions and radicalisation.¹⁰⁴ In reality, MSF's positioning – internal and external – does not seem all that clear to us. Internally, a series of documents (AR 2004-2005, the *La Mancha* agreement, Fabrice Weissman's article "Humanitarian Action and the Temptation of the Call to Arms", references to Liberia and Rwanda) gradually ratified the rejection of the notion of "protection" through military intervention, although the debate continues as to, on the one hand, the legitimacy of our taking a position on this question, and on the other, a position condemning any intervention *in advance* and *as a matter of principle*. Externally, while MSF claimed refraining from issuing judgements on the advisability of an intervention, and concentrated on denouncing the duplicity of the international community, the opinion column in *Le Monde* suggested doubt as to the success of an intervention, if any were to take place. In short, MSF described the intervention both as a promise unlikely to be fulfilled and a plan unlikely to succeed.

In MSF's insistence on making sure that it was not serving as a vehicle for these false promises of protection, and its corresponding caution with respect to its own activity (and the hopes raised by its presence), we see once again the mark left by Srebrenica and Kibeho on its institutional culture.

Discourse on protection, coherence and confusion of roles – Under these circumstances, the promotion of "protection" by the UN and the NGOs seemed highly problematic to MSF. It implied that protection was a shared objective, to be achieved through the actions of these

104. MSF saw the international community's failure to respond to "appeals to protect civilians" not as a blip or delay in implementation but rather as proof of this duplicity. The debate over protection was the "humanitarian alibi" new-clothed, but with still greater complexity: instead of 'donating rice', the countries of the divided 'international community' gave public opinion (and the victims) some *talk* about protection to chew on: a more moving, ambitious discourse than that used in humanitarian affairs in the 1990s, and one that satisfied the perceived need for genuine action, as opposed to the "fig leaf" actions often mentioned in fora on protection.

agencies (documentation, military and political intervention, etc.). In MSF's view, this 'integrated' conception, which reveals the influence of the UN discourse on "coherence" (see main document), is dangerous for two sets of reasons. First, it suggests that everything is protection, that all the objectives (respect for human rights, political efforts to promote peace, imposition of these two ends by force and delivery of humanitarian aid) are consistent and mutually reinforcing. The problem is that, beneath this seeming unity, the degree to which each objective is achieved depends on the extent to which it is pursued directly for its own sake. MSF was therefore concerned about the consequences of this approach for aid delivery capability, having observed in the past (in Angola and Sierra Leone) how the relief effort can be held up by politics. Second, promoting intervention "for purposes of protection" causes a confusion of roles and issues between the political and humanitarian spheres, and this has a direct impact on the ability of humanitarian organisations to command the respect of the armed parties to the conflict. Hence, the issue for MSF was once again to reverse the proposition: whereas insecurity had become the major argument put forward by those – including NGOs – who were calling for military intervention (denoting the link between 'protecting' and 'providing security'), the external positioning of MSF affirmed that insecurity was rather the consequence of the discourse on protection and of the confusion of roles. Here we see again the classic problem of neutrality in "military humanitarian intervention" contexts, which has repeatedly fuelled MSF's positioning, from the "right to intervene" in the 1990s to the combined security-humanitarian interventions of the last few years.

"Protective actions" versus the security of patients – At a more local level, MSF also kept its distance from the "protective actions" taken by various NGOs. This difference arises in particular with regard to the victims of sexual abuse, who as we have seen became one of the pillars of the campaign denouncing the violence in Darfur and calling for armed intervention. Many UN organisations and NGOs rushed into this fashionable field where funding abounded. They focused on 'lobbying/advocacy' and prevention, while MSF remained the only one providing medical care.¹⁰⁵ These agencies asked MSF to refer patients to them so that they could record and compile victims' accounts as a basis for reports. Documenting events, informing the public, denouncing – these are 'protective' actions in keeping with MSF's conception of protection. And yet in 2005, the teams stopped referring patients to these NGOs, realising that by doing so they were exposing the women in two ways: by asking them to repeat such a painful story yet again to a "protection officer", who in many cases was concerned only with collecting as much information as possible; and by increasing the risk of stigmatisation, which in the Sudanese context meant social death and loss of family acceptance.¹⁰⁶

Called on to choose between protection of its patients (which in this case meant access to care, security and confidentiality) and participation in a so-called protective activity that actually put them in danger individually, MSF opted for protecting its patients. Was this choice made following a general rule, or because it was not considered imperative to publicise the sexual violence issue at the time? There is no single clear-cut answer to this question. First, care is and remains the primary activity of MSF. Second, denunciation of rape in Darfur is surely not out of the question: the May 2005 MSF-H report on sexual violence was endorsed by the

105. The August 2004 sitrep gives us an idea of the choices made locally in order to provide care to the victims: noting the difficulty of inducing them to come forward, the coordination team mentioned that according to the health ministry at El Geneina, "MSF can continue to treat those women as long as we do not use the results publicly"; the team explained that it would accept the 'deal': its priority was to reach these women and treat them, because at the time the team hardly saw them anymore.

106. Information provided during the *Projects Week*, May 2006.

French section.¹⁰⁷ Third, as previously mentioned, in 2004 the team had gone so far as to provide interpreters so that the BBC could interview its patients (perhaps this initiative was re-evaluated later on, and thus played a role in making MSF realise that the interviews endangered those interviewed). The decision to suspend referrals of victims thus emerged from a choice between speaking out on the violence and other imperatives – preserving access to patients, in keeping with the priority given to providing care; preserving confidentiality; keeping our distance from the discourse on protection and intervention. In an over-politicised and over-mediatised context (and hence one where providing information about neglected violations of human rights was not an issue), these imperatives took precedence over participation in the documentation and denunciation of violence.

THE DEBATE OVER PRIORITY VICTIMS: A DEBATE ON “PROTECTED” PERSONS? NOVEMBER 2006 → ...

In November 2006, during the Sudan/Darfur yearly review in Paris, a sharp debate emerged over the appropriateness and practical details of maintaining a stable expatriate team at Kutrum, in the rebel zone.

In this debate, all agreed that there was little point in mobile clinics in the rebel zone (these were derisively called “ad campaigns with medical trappings” or “festive drug handouts”¹⁰⁸). For this reason, it had been decided a year earlier, at the year-end review in 2005, to establish a permanent team. Although this permanent presence was not called into question, the desk and the former head of mission disagreed over the amount of resources that should be invested there. This debate led the head of mission to more general considerations on the factors that had determined MSF’s operational choices in Darfur (considered as *choices of victims*) from the outset, and how they changed over time. These thoughts were published in the article “Qui sont les victimes prioritaires ?” (Who are the priority victims?), which was widely read and used as a basis for discussion in internal training sessions.

In its conclusion, the article pleads for the allocation of substantial resources to Kutrum:

“Whereas most of the NGOs were compensating for their feeling of impotence in regard to the political drama that had engulfed the Darfurians by adopting a paternalist rhetoric and calling on the international community for support in the name of a “responsibility to protect”, we were providing concrete assistance in line with our primary mission – health care – to those who were providing effective physical protection to the last Fur villages still standing. This is one of the reasons why I am arguing actively for in-depth consideration of the surgical care that we can provide to wounded in the rebel zone (providing ‘protection’, so to speak!).”

This excerpt, which is by no means indicative of all the arguments made in the article, is of interest to us because it highlights (by using) the ambiguities of the ways the term “protection” is used in connection with medical activity. It begins by denying the validity of “protection” as understood by various international bodies, which amounts to no more than political

107. In 2005, MSF-Holland published a report on sexual violence in Darfur that was widely noticed and discussed, and as a result of which two members of the team were arrested and charged by the Sudanese authorities (this episode, incidentally, helped to give MSF a certain ‘renown’ among human rights organisations that was based on a misunderstanding, as MSF was seen, after this episode, as the most courageous of the anti-genocide, anti-ethnic cleansing and pro-intervention organisations). MSF-F criticised the form of the report, but “we can only be pleased that this topic (though perhaps clumsily quantified) had been raised” (Board of Directors meeting, 23 June 2005).

108. F. Weissman, “Qui sont les victimes prioritaires ?”, internal document, p. 8.

posturing. In opposition to this discourse, it sees legitimacy in concrete action to help specific victims (the neglected population of the Djebel Mara area), and argues on grounds of protection as defined in international humanitarian law, saying that it is a matter of “providing protection” to war wounded (who are protected persons if anyone is, and ‘good victims’ for MSF).

The war wounded were indeed among the issues surrounding the Kutrum project during the yearly review, just as they had been central to the earlier debates between the desk and people returning from the field. For example, at his debriefing in June 2006, the Niertiti field coordinator mentioned that Kutrum had been set up to provide care for war wounded. The desk contested this point, saying that the aim of the project was to improve access to care for people who were unable to come to Niertiti. The field coordinator insisted that the reason for the project’s existence was to care for the wounded; the desk brought the discussion back to the Niertiti project, which existed because of the presence of the displaced people, whereas in Kutrum we did not have (and did not allocate) the resources needed for regular surgery. On being questioned, the field coordinator confirmed that “when there is someone with a (bullet) wound, we are right at the heart of it ... We crossed the Djebel on mule-back to visit these wounded! It was clear that we had to go: that matches the image you have of MSF”. He explained that the emergency coordinator “was all for going, very happy to go (we were fully into our role, our responsibility)”, and concludes: “Every time there were wounded we went to the scene. That was the whole basis of my work” (interview).

Speaking of the war wounded reminds us that the debate over “priority victims”, even for the purpose of delivering care, is part of the endless discussion of the content of MSF’s ‘core business’, i.e. war – questionings concerning not only vulnerability, and the *types* of vulnerability identified as appropriate for MSF to address, but also the political significance of the choices made. War wounded ‘versus’ women and children, displaced people and/or isolated rebels, “sacrificed” or endangered populations, victims of sexual violence versus victims of disease – this debate over the classification of priority victims and secondary victims is driven by the tension between different categories of “protected persons” (as defined by international humanitarian law). The debate at the project review certainly initiated longer-term reflection (which was perceived as necessary, as is attested by the recurrence of this theme on various occasions) on the choices made between these victims, and in which the ‘obvious’ legitimacy of certain victims and the insufficient attention given to others could be called into question. Thus, without ever explicitly using protection and international humanitarian law as frames of reference, MSF nevertheless adopts a framework that is related to them, in which action is considered, at least in part, on the basis of an assessment of different degrees of vulnerability.

* * * * *

Here again, we see that the responsibility assumed by MSF when confronted with violence during the Darfur crisis never covered a pre-defined field existing ‘alongside’ health care, nor a pre-defined set of actions that, by their nature, would come under the heading of “protection”.

What we did and did not do, what we called for, what we said or denounced or refrained from denouncing, can be understood only in the light of a calculation involving many elements: the relative and variable assessment of vital needs, of their coverage, of the degree of violence, of the strategies of the perpetrators, of the role(s) played by relief agencies, of the degree of publicity surrounding the crisis and the advisability of increasing it, of the types of discourse used and their impact on relief operations, etc.

In particular, within a crisis that was widely conceived of and described as coming under the category of the “responsibility to protect”, the difference in MSF’s position was obvious and lasting. Assistance and care remained the core factors that determined the choices made – as against an approach that was sometimes termed, ten years ago, “defence of populations in danger”. Does “against this approach” mean wholly against it? ¹⁰⁹ The debate over “priority victims” arrives in timely fashion to remind us that although MSF avoids the semantic field of protection and emphasises its identity as a relief organisation, it would be illusory to believe that a ‘purely care-oriented approach’ is the principle underlying the responsibilities it takes on and determines the choices it makes.

109. See D. Fassin, “Les ONG contre l’Etat, tout contre”, in *Politique non gouvernementale*, *Vacarme* No. 34, Winter 2005-2006.

**APPENDIX 3 / CASE STUDY
CARING FOR VICTIMS OF VIOLENCE
IN NORTH KIVU, DRC, 2003-MID-2007**

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This case study focuses on current MSF action in North Kivu (Democratic Republic of Congo), while taking into consideration its activities in the region between 2003 and 2007.

The choice of this case study was motivated by the extent to which MSF's work in North Kivu is affected by the problem of violence, and in particular sexual violence, which has a bearing on our subject in several respects. In the first instance, it sets violence as a central feature of the operational project. Second, it appears to raise the issue of a more personalized relationship to the victim. Finally, MSF's assumption of responsibility for such cases has given rise to a practice – certification – which (to our knowledge) is the only undisputed 'legitimate' use of the word 'protection' at MSF today. These respective motivations are addressed to varying degrees in the document.

Unlike the other two studies, the present paper is not organized chronologically. As it is impossible to pinpoint specific problems to specific time frames, and given the chronic nature of the issues described, a thematic presentation seemed the best way to proceed. We shall of course attempt to highlight, within each theme, the developments that emerged as time went on.

In keeping with the other studies the working definition is deliberately left open, but it is centred on the practices (activities other than care in the strictest sense, the adoption of public positions) that have evolved in relation to the violence. When MSF is confronted with violence, with the forms of violence inflicted on civilians, with "victims of sexual violence" and "direct" or "indirect" victims of violence, what does it do, what does it say, what degree of responsibility is assumed by staff at headquarters and those in the field, how does MSF position itself in relation to international initiatives designed to "protect civilians", etc?¹¹⁰

110. *Note:* Quotations are enclosed in double quotation marks; single quotation marks represent author's emphasis.

Abbreviations of humanitarian/MSF terms - Sitrep: situation report (weekly or monthly report) – Board: Board of directors – AR: President's annual report – FC or Field co: Field coordinator – HoM: head of mission (or coordinator) – PM: programmes manager (desk) – DPM: deputy programmes manager – VSV: victims of sexual violence – STI: sexually transmitted infections – TFC: therapeutic feeding centre – SFC: supplementary feeding centre – PHC: primary health care – HRW: Human Rights Watch – DPKO: UN Department of Peacekeeping Operations.

DRC abbreviations - NK: North Kivu – KY: Kayna – RU: Rutshuru – KB: Kanyabayonga – FARDC: Forces Armées de RDC (DRC national army) – MONUC: United Nations Mission in DR Congo – MM: Mai-Mai – FDLR: Front Démocratique de libération du Rwanda (Democratic Front of Liberation of Rwanda) – RCD: Rassemblement Congolais pour la Démocratie (Congolese Gathering for Democracy) – UPDF: Ugandan Peoples' Defence Force – MLC: Mouvement pour la Libération du Congo (Movement for the Liberation of Congo) – ADF: Allied Democratic Forces (Uganda) – NALU: National Army of Liberation of Uganda – IB: integrated Brigades.

CHRONOLOGICAL HIGHLIGHTS – MSF / NORTH KIVU

War returned to the Democratic Republic of Congo (DRC) in 1998, following Laurent-Désiré Kabila's split with Rwanda and Uganda, both of which had helped him to seize power in late 1996. These two states backed a UPDF-led rebellion, which gained ground in the eastern part of the country. Other rebel groups (MLC, RCD and RCD-G) appeared shortly after. Following clashes in 1999, the United Nations authorised the deployment of a force to monitor respect for the Lusaka accords. MONUC, the UN Mission in DR Congo, was created in late 1999. Under Chapter 7 of the UN Charter, it was tasked with monitoring the implementation of the cease-fire agreement, disarming the militias and facilitating humanitarian assistance and respect for human rights. MONUC was authorised to “take the necessary action, in the areas of deployment of its infantry battalions and as it deems within its capabilities, to protect United Nations and co-located JMC [joint military commission] personnel, facilities, installations and equipment, ensure the security and freedom of movement of its personnel, and protect civilians under imminent threat of physical violence.”

In 2000, MSF reported that the conflict had displaced 200,000 people, while civilians were being subjected to multiple acts of violence by the various rebel groups. In January 2001, six members of the ICRC were killed and all agencies withdrew from the area. Despite an extremely tense and volatile situation characterized by repeated attacks on civilian populations, a peace agreement with Rwanda was signed in July 2002, followed by an agreement with Uganda in September of that year. In December 2002, a “comprehensive peace deal” launched a transition process which would eventually lead to elections. The deal also provided for the *brassage* (integration into the national army) of the various rebel groups, conducted within the framework of a MONUC-supported programme known as DDRRR (demobilisation, disarmament, repatriation, reintegration and resettlement).

MSF-France, already working in Katanga, sent two exploratory missions to the area but took no further action for reasons of security. The French section finally arrived in North Kivu in December 2002, opening a mission at Beni following another wave of violence and its consequent population displacements.

In early 2003, the Bunia (Ituri) area, not far from Beni, became the scene of mounting tensions as competing rebel groups kindled tribal animosity, particularly between the Hema and the Lendu. In April, MSF, increasingly concerned, began discussing the possibility of releasing a report on the plight of civilians.

Intense fighting occurred in the Bunia area between 9 and 12 May. Several NGOs (Oxfam, Merlin, Human Rights Watch) called for the rapid deployment of troops to protect civilians. MSF ‘briefed’ officials from the UN Department of Peacekeeping Operations (DPKO) and members of the Security Council, making it clear that “if they don’t act now, they will be left to count the bodies”. On 30 May, the Security Council authorized the deployment of an Interim Emergency Multinational Force with the aim of “stabilizing security conditions” in the town of Bunia. Known as Operation Artemis, the first troops began arriving in June. On 25 July, MSF issued a report entitled *Unkept Promises? A Pretence of Protection and Inadequate Assistance*. The document

highlighted “the inability of the armed international presence to fully assure the safety of civilian populations”.

In late 2003, MSF, besides running the Beni mission (which gave priority to displaced populations), opened a programme to combat malnutrition at Kayna.

Over the course of 2004, the continuing turmoil created by the power struggles between various groups provoked a large number of population movements. In February, thousands fled Kayna for Kaynabayonga; in June, RCD-G rebels attacked and seized the town of Bukavu; in July, thousands fled Rutshuru; in October, the entire population of Kaynabayonga fled the town; in December, tension between the regular army, the FARDC and the Rwandan-backed RDC-G reached new levels. Besides these peaks in the conflict, the level of violence remained very high; MSF was increasingly concentrating its efforts on the direct consequences, including – and especially – sexual violence, the treatment of which became routine at Beni in June 2004.

At the beginning of 2005, the instability in the Kayna area provoked a unique situation: the population, infuriated by the lack of security and the presence of NGOs – which seemed to be doing nothing to improve matters – decided to “reject aid”, refusing to accept aid distributions and obstructing humanitarian activities. Although MSF was relatively unaffected, it sought to understand the reasons for such a reaction. In mid-2005, it began contemplating a third programme in the Rutshuru area, the scene of rampant and permanent violence. This opened in August 2005. The violence reached new heights in late 2005, with the launching of a joint operation between MONUC and the FARDC to drive the rebel ADF out of the Beni area. This operation had long been envisaged, and humanitarian organizations had been asked to prepare for its consequences. It continued until February 2006, triggering significant population displacements.

At the beginning of 2006, MSF conducted an emergency intervention in order to help the newly displaced persons (Linzo). Other emergencies arose in the Rutshuru area during this period: there were battles between the FARDC and insurgents in January, and battles and population displacements in the Kayna-Kaynabayonga area in February. But the factor with the greatest impact on the area's civilian population seems to have been the constant insecurity.

In July 2006, the long-awaited elections finally took place in relatively peaceful conditions. In September 2006, MSF began discussing the possibility of a project in Nyanzale, a highly unstable and once virtually inaccessible area from which many of the victims of sexual violence treated in Rutshuru had fled. The project opened in October. In November, fighting broke out in the Rutshuru-Nyanzale area. As this had no major consequences on which MSF could have an effect, it conducted an emergency intervention to combat the high incidence of malaria that had coincided with the clashes.

By 2007, the problematics of North Kivu had not altered for MSF. Admittedly, the MONUC's involvement was stronger; many rebel soldiers had refused to participate in the “brassage” process, to the extent that the “brassage” was replaced by “mixage” [intermingling]. This initiative, however, also failed mid 2007 and the clashes between rebel groups continued, and local populations were still subjected to violence. MSF continued to treat the direct consequences of this violence against civilians.

1 – GENERAL FRAMEWORK: THE PLACE OF VIOLENCE IN THE MSF DRC PROJECT

Before going on to discuss protection in terms of a concrete body of actions, practices and public declarations, it is important to look at the general framework surrounding MSF activities in North Kivu. In effect, while protection has never featured among the objectives when contemplating interventions in this region, the fact remains that violence has, over the years, played an increasingly significant role and has become the cornerstone of our action's relevance. Thus before we envisage 'doing something' about the violence we observe, we must be in a position to record its consequences and gain access to its most immediate victims. In other words we must harbour the explicit will to get closer to the violence, and this is precisely what is at work in the case of North Kivu.

THE WORDING OF THE OBJECTIVES, 2003-2007

Is violence for MSF a legitimate context for action? Should it be approached head-on, or prevented? Or should we focus on attenuating its consequences? These are the questions we shall attempt to clarify. As we proceed, we shall draw heavily on the descriptive terms found in the "annual delivery plans", the documents drawn up at the end of each year to set out the objectives, activities and budgets for the forthcoming year. While such documents may reflect the influence of external factors (the need to standardize terminology with typologies in mind, for example), they are useful references, as annual reviews and general frameworks for action. The 2003 annual delivery plan for Ituri/North Kivu, drawn up at the end of 2002, described the context as one of "civil war/international conflict" and noted that the conflict was "the deadliest the region has seen". The use of the term "war" could be justified readily given the setting – battles, unbridled violence and the presence of foreign occupation troops. MSF's intervention in Beni was described as "emergency assistance to displaced persons"; the priority was to provide access to care (with an emphasis on measles, nutrition and malaria).

A year later, at the end of 2003, the intervention context read "displaced by war, epidemics" (2004 annual delivery plan). The objective of the Beni mission was "the continuation of medical care for populations and vulnerable people in the Beni region" (primary health care, epidemiological surveillance, access to water, mobile clinics for the return of displaced persons, etc). There were plans for a project in Kayna – the establishment of a TFC (backed up by SFCs) to "reduce malnutrition rates in Kayna's population".

By the end of 2004, the context description became "armed conflict" marked by "numerous instances of violence despite the transition" (2005 annual delivery plan). At Beni, the main objective was the "provision of medical care for part of the population displaced from the Ituri region". At Kayna, activities were directed towards "providing medical and nutritional care for part of the population which has suffered from the violence in North Kivu" (VSV, i.e. victims of sexual violence, and STI; preparation for treating the wounded; assessing the need for handling other emergencies; severe malnutrition; an advanced strategy for monitoring malnutrition in unstable areas). We note in the 2005 plan the presence of a "communications" section in which "violence" is one of the two topics on which "we might consider adopting a public position".

At the end of 2005, the context of intervention was described as "war and violence inflicted on populations, epidemics, displaced persons" (2006 annual delivery plan). Beni was in the process

of closure and was to be used as a logistical rear base. The 2006 objective for the Kayna project (focusing at the time on “secondary medical and surgical activity in Kayna hospital”) was foreseen as “the handling of emergency medical and surgical cases among populations affected by the violence” (sick and wounded in the hospital itself; care of malnourished children; treatment of victims of sexual violence and STI at Kayna and Kaynabayonga; epidemiological monitoring, etc). The new project at Rutshuru (opened 2005), had the same general objective for 2006 as Kayna; its specific aims were very similar (treating the sick and wounded in Rutshuru hospital; transfers; PHC at a small clinic near Rutshuru; VSV; responding to emergencies).

Finally, the 2007 annual delivery plan described the context/country as being one of “internal instability”. The Beni project (“reason for intervention: direct/indirect victims of conflict”), had closed in 2006. The Kayna project (identical reasons for intervention), would be discussed mid-year with a view to closure. Rutshuru (identical “reasons for intervention”) would maintain the general aim of the previous year: “to ensure the provision of emergency medical and surgical care to populations affected by violence”. Nyanzale, a new project, had been set up at the end of 2006: “reason for intervention: direct victims of conflict (sexual violence in Nyanzale and the Bwito region)”. Its aim was to “to enable efficient and high-quality handling of medical emergencies among populations affected by the violence” (VSV, malnutrition, malaria peaks/outbreaks, response to emergencies).

THE EMERGENCE OF VIOLENCE AT THE CENTRE OF THE MSF PROJECT IN NORTH KIVU

Despite its tedium and unavoidable scope for distortion, a review of the objectives is nonetheless useful, for it illuminates the stages of a gradual shift in the way MSF’s intervention in North Kivu has been formulated.

Until the end of 2003 therefore, the general context was one of conflict. Within that context, MSF’s activities were rather ‘conventional’ in the sense that they were aimed at displaced persons and refugees, the traditional targets of humanitarian assistance. It was a matter of addressing the consequences of the conflict – its disastrous effect on human health – by providing assistance to those who were suffering the most. Medical activity therefore focused on primary health care, vaccination, nutrition and emergency interventions. However, the desire to enhance operational efficiency by gaining access to particularly violent areas was already present: “After years of real difficulties and failures, the opening and stabilisation of missions in violent areas became a reality. Over the last two years, from Katanga to eastern DRC, the work has improved considerably” (DRC summary, Board meeting, 26 September 2003).

At the end of 2004, the word “violence” appeared in the context description and in the wording of the Kayna objectives (VSV and wounded took precedence over malnutrition as specific objectives). Its usage became established in the end-of-year documents produced in 2005 and 2006, which resonated with references to the violence “inflicted on populations”, to the people it “affect[ed]” and to the “direct/indirect victims” it produced. By the end of 2006, “war” had been replaced by “internal instability” as a “context of intervention”.¹¹¹

111. In short, there appeared a kind of shift of the centre of gravity, from conflict (as a context), to violence (as a general context and as a specific phenomenon – a physical assault on an individual). However, the terms are somewhat elastic: “direct victim of conflict” and “direct victim of violence” often appear to be interchangeable. Thus direct victim of the conflict could also refer to a “displaced person” (i.e. directly affected by the consequences of the fighting) or to someone who has been wounded (i.e. direct victim of violence). For the purposes of this study, a *direct* victim (of conflict, violence) means anyone who has suffered a physical assault; *indirect* refers to displaced persons, the malnourished, etc.

MSF's attention was particularly focused on "direct victims"; in operational terms, considerable efforts were devoted to this aspect. To talk of violence or acts of violence is therefore, beyond the overall context of conflict, to point to an actual attack on the physical integrity of a specific individual – who has been injured or victim of sexual violence. The development of surgery and the increasing concentration on the treatment of victims of sexual violence, and their prioritization over previously dominant activities such as nutrition, water and primary health care, clearly demonstrate the shift in emphasis – victims such as these, who had long been out of reach, could no longer be ignored. In the case of victims of sexual violence, the most appropriate strategy was thought to be proactive: victims should be helped to come forward despite obstacles of danger, lack of money or stigmatization. To this end, a wide range of conditions, subject to constant discussion and improvement, were created, including numerous awareness campaigns, confidentiality, improvement of the protocol concerning prophylactic and medical treatment and payment of transport costs. As for the wounded, the 'correct' position was to ensure that we "missed" no one, particularly civilian casualties. Some examples from various sitreps show this : "Possible clash to the south of KB. In principle, we will be well positioned if there are any wounded" (sitrep, August 2005). During the events of November 2006, "the Kayna team managed to reach Nyanzale, but missed one casualty in Kabati on the way back. They'll have to go back tomorrow." MSF insisted on taking responsibility for the several wounded civilians in the military hospital at Rutshuru, and also contemplated "a surgical intervention on the Kitchenga site, where there are 66 war-wounded (but only one civilian)", before noting the risk of "undertaking an intervention that would ultimately benefit only the parties to the conflict (at present, the only casualties are fighters, but that doesn't mean there won't be any civilians if the conflict resumes)". The "quotes of the month" for November 2006 include the following comment: "We were hoping for wounded, but sadly all we got were nine wounded soldiers" (sitrep, events at NY, November 2006).

It should be noted that this shift was in line with the more general operational developments desired by MSF's leaders. The 2003-2004 President's annual report (May 2004) thus introduced a new heading, "Medical care of victims of violence", with the following clarification: "The wording is a bit clumsy. What I mean by that is the war-wounded, people suffering severe psychological trauma, women who have been raped during military campaigns" (J-H Bradol, May 2004).

The movement towards treating "direct victims of violence" has not necessarily entailed the sidelining of 'traditional victims'. Displaced persons, the sick and victims of epidemics all remain within the scope of MSF's activities – with, it is true, a greater concentration on reducing mortality rates: an emphasis on emergencies and lethal epidemics, a commitment to secondary care and a relative withdrawal from primary health care. In fact, "we wanted to refocus MSF's activity on the provision of aid in crisis situations" (interview with J-H Bradol, July 2006).

INSIDE THE CONFLICT, AT THE HEART OF VIOLENCE

By 2007, therefore, MSF's project in North Kivu was one of medical assistance taking into account the co-existence of various types of violence. On the one hand, clashes between rebel groups and MONUC or the FARDC, or between the rebels themselves, would produce new peaks of violence. This in turn exposed the populations of disputed areas to yet more looting, rape and assaults – although it did not generally result in large numbers of wounded civilians. On the other, “violence against populations” was also a fact of everyday life; it was ‘chronic’ and its level remained remarkably high. It is this second phenomenon which was predominant in the sitreps; these documents recorded a catalogue of violence which had little to do with ‘politics’ but thrived on a range of elements – the proliferation of weapons, survival strategies, theft and pillage, soldiers who had not been paid, the very fact that the violence had become a feature of everyday life, etc. Civilian populations were being robbed of the little they possessed, but above all, they were forced to endure rampant, repetitive, widespread violence on a daily basis.¹¹²

The North Kivu programmes gained their legitimacy precisely from their proximity to areas that were both unstable (where confrontations were likely to occur) *and* noted for a chronically high level of violence (sexual violence, theft and pillage). Given the constant and widespread violence (and the absence of camps which could have provided relatively safe havens), being “at its heart” or “as close to it as possible” had become a central issue: “To be in KY/KB means being as close as possible to the violence ... It was a considered decision, taken because we want to respond to the humanitarian issue generated by these attacks on civilians” (PM, DRC Desk, “environment week”, June 2006). North Kivu required “a reactive approach, constant repositioning in areas of violence” (PM, Desk, presentation to the Board, 30 March 2007). “In North Kivu, we succeeded in placing ourselves at the centre of the conflict ...” “We are at the heart of the violence in the Rutshuru area and Kayna.” A request for clarification drew the following response: “Perhaps ‘being at the heart of the conflict’ is not the best way to put it. Being at the heart of the violence – that’s clear enough” (interview with the North Kivu Coordinator). “Our activity is all about being in the right place, the place where the peaks occur” (interview with the DPM, DRC Desk).

The desire to be as close as possible to the violence, and therefore to its victims, is evident in the way operations are implemented and managed. It was already apparent in 2003, when it was couched in terms of being as close as possible to people’s needs: “The strategy adopted at

112. The following list provides a more detailed view of the chronic violence (emphasis added): “*Increasing frequency of looting*” (general sitrep, September 2004). “*Systematic looting of every dwelling*” (Kayna, January 2005). “While people are in the fields, the ANC takes the opportunity to rob the empty houses. At night [they] pillage the fields and steal cattle, or those animals that remain. And *still* the rapes *continue*” (general sitrep, March 2005). “*Constant pillaging of fields at Miriki despite the presence of the FARDC, who let them do it and advise the population not to interfere*” (general sitrep, April 2005). “Rape and serious attacks on civilians *continue* all the time (AR 2004-2005). “*The same old story: soldiers extort money and possessions from the population after dark*” (sitrep KY, June 2005). “Soldiers commandeer the animals and the civilian populations *continue* to pay the price through displacements, rapes, looting and murder” (general sitrep, July 2005). “*Just as much banditry around Lubero*” (sitrep, September 2005). “Looting in KB *every day*, sometimes accompanied by kidnapping, murder and rape” (NK summary, week 36, September 2006). “*Continuing violence against the civilian pop in the Bwisha area*” (general sitrep, September 2006). On the extent of the violence: “*Attacks occur everywhere* (field, house, on the roads, in the bush)” (NK summary, week 37, September 2006), and are committed by *all participants*: “Everybody knows and says that soldiers are responsible for these abuses ... Since the MM arrived, the population has been complaining about looting and rape” (sitrep, September 2004). When visiting a clinic, a minister “confirms that *almost all of our women and girls* have at some point been used by NALU soldiers” (sitrep, Beni, week 17, April 2006).

the programme's outset was to follow population displacements and ensure that we could provide emergency medical aid to those fleeing the fighting and the violence. This is why various clinics in the Beni-Mambasa area were opened and closed between December and March 2003" (2004 annual strategic plan, December 2003). To be "as close as possible" therefore required a permanent state of readiness. This obligation was constantly stressed and was the basis for reactive operations, which included a series of short emergency interventions launched in response to the changing situation on the ground.

The decisions to close the Beni programme and open another in Nyanzale in 2006 were taken for the same reasons. Beni had not suddenly become a peaceful area – far from it – but the gradual return of displaced persons and the development of the profile of victims of sexual violence (now mostly women attacked several months beforehand, rather than recent cases), together with the willingness of the authorities to take at least partial responsibility for them, indicated that Beni was no longer at the "centre" of the troubles, the place to be: "Beni was no longer afflicted by the type of violence that prevailed in the Rutshuru area ... In Beni, there was a shift to domestic violence, the proportions were reversed" (interview with the North Kivu Coordinator). Furthermore, in 2006, MSF found that it was treating an increasing number of women in Rutshuru who came from Nyanzale, a previously almost inaccessible area with a reputation for extreme volatility. Their attackers were usually armed men. The number of victims, combined with the profile of the attackers and the volatility of the area, convinced MSF that it should attempt to position itself there rather than receive patients every week at the hospital in Rutshuru.

By definition, the reactive approach MSF maintains in North Kivu is designed to *react* to events. It attempts to follow the movements of populations as they flee en masse from their villages, and to treat the consequences of the violence inflicted upon them: as we have already seen, what is at stake here is medical operational response – at no time does the question of MSF adopting a protective role arise. The local populations make no mistake: they do not wait for MSF before taking their own decisions. As all the reports make clear, they regard flight as the dominant option and will resort to it as a preventive measure or whenever the danger is immediate (according to the FC Rutshuru, people at the roadside will disappear into the forest at the mere sight of an MSF vehicle, and will emerge only when they recognize the logo). Nor is it a question of acting as a human rights watchdog in North Kivu.

Yet there seems to be a solid 'core' to the will to be where the violence is most intense, where populations are suffering the most, although it defies easy description. The sitreps do not refer to it – probably because it is so difficult to express – but the concern to reach 'beyond the medical', what it means to be 'by the victim's side', can nevertheless be detected in all the interviews we conducted for this study. "Beyond the medical care, the issue, and therefore the relevance, is to reveal this violence" (PM Desk, environment week, June 2006). There is a need to "do more with regard to the violence", to do more than provide medical care (discussion, May 2007). While people may not think that MSF's task is to protect them, "the idea is still there, though it's not easy to approach or describe ... a confidence, a kind of reassurance ... people will say, 'Because MSF is here, we can get the authorities to listen to us a bit more'. They demand security from the MONUC, the authorities and the IB [integrated brigades]. I get the impression that they feel more confident due to the presence of MSF – it's like an unconscious support ... there is a genuine bond of trust developing between MSF and civilian populations" (interview with the Coordinator, North Kivu).

In this sense, while the MSF project never refers to the idea of protection as an objective, *de facto* MSF finds itself faced with issues of protection of civilians as defined by international humanitarian law, through direct contact with the “protected”, i.e. the wounded and direct victims of physical violence.

2 – ACTIONS AND PRACTICES WHEN CONFRONTED WITH VIOLENCE

Having examined the general framework of the MSF project in North Kivu – the attempts to get as close as possible to the violence and the primacy of operational and medical activities – we now turn to what actually occurs within this context. What practices do the field teams employ, what action is taken in the light of the violence and dangers noted above? Is there a place for practices other than those specifically related to health care, and which are motivated by the desire to attenuate, avoid or prevent acts of violence? If indeed there is, are they simply tolerated, contained or encouraged? Where do their boundaries lie, and who defines those boundaries? Such questions enable us to distinguish between activities that are an extension of care provision, practices adopted to deal with situations outside the sphere of medical care, and, finally, the various approaches to a public position, which will be discussed in section three.

THE CONCERN FOR SAFETY IN THE SPHERE OF MEDICAL CARE

Given the context of widespread violence in North Kivu and the MSF framework of medical care for its victims, the teams are often directly confronted with the issue of dangers hanging over local populations. It appears that MSF started considering periods prior to and following the actual provision of care as entering its sphere of responsibility. The desire to ensure safety in care and to *avoid exposure to danger* in the periods surrounding it led to a series of measures which became systematized into procedures as the project advanced. Most of the examples below involve victims of sexual violence.

Safety in the actual provision of care was the first area of reflection and systematisation. In the case of “VSV”, these mainly focused on two specific issues: confidentiality and certification.

Confidentiality, a central element in any discussion concerning victims of sexual violence, is closely linked to the issue of ensuring that the patient is *not exposed to danger*. When a patient has suffered this particular form of violence, it is crucial to avoid divulging any information which might expose her to the risk of stigmatisation or of rejection by the husband, and especially to reprisals by her assailant.¹¹³ Following the project’s expansion in 2005, the reports clearly indicate a determination to preserve confidentiality: “MONUC’s protection section has

113. For this reason, confidentiality is almost always – and quite rightly – stressed when encouraging victims to come forward: the perception of danger would immediately deter the patient from seeking a consultation.

asked us for the names of VSV in order to create a database ... we will provide no data with names. Respect for confidentiality, which is vital in this type of activity ... all documents should be handed to the patient if that is what she wants ..." (general sitrep, April 2005). Note the paradox here: MONUC requested such data for the specific purpose of "protection", whereas MSF saw it as having the opposite effect, as jeopardizing the patient's safety. We can also observe the emergence in this context of a more individualised relationship to the patient: the victim will make the decisions; her personal safety comes before the compilation of data to support the denunciation of the overall situation. As MSF was setting up consultations at the hospital in Rutshuru hospital in 2006, discussions centred on the crucial issue of a secure location for the treatment of VSV, a site which would not "harm the victims". "It seems that the best way to conduct this activity for the benefit of the patients at Rutshuru remains the association with STI cases in a clinic" (sitrep Rutshuru, week 6, February 2006). Slides from a "VSV" presentation at an operations meeting (20 June 2006) bore titles such as "Setting up the provision of care (2): safety of victims: confidentiality ...". Confidentiality was not factored into the various programmes before they were launched, but constitutes a recent and ongoing battle. Before the concern for confidentiality and the organizational structures to ensure its effectiveness were translated into a systematic approach, innumerable instances of non-respect for confidentiality had most certainly occurred. It is probable that teams' efforts to gain access (encouraged by the injunction from headquarters to deal with VSV, a long-neglected category) did in certain cases much to jeopardize confidentiality (asking traditional chiefs to count the number of rape victims is just one example of this type of indiscretion). Sensitivity to the issue, encouraged in a proactive fashion, is now increasing. This only highlights however the irreducible tension between the demands of access and those of confidentiality.

Two similar problems arise from the *certificate* offered to a victim of sexual violence following a consultation. Today, certificates are put forward as an integral part of medical responsibility, yet they only appeared very recently in the care package offered to victims of violence. The practice was adopted systematically only after several individuals had made repeated efforts to introduce it.¹¹⁴ It has now become established, and the document is offered to the victim as a matter of course. As mentioned in the introduction, certification is currently regarded as a form of "protection", and indeed represents one of, if not the only, legitimate uses of the word at MSF today – for example in the "protection" section during a presentation of the North Kivu project (Board meeting, 30 March 2007). At that meeting, the programme manager, when asked what MSF was doing in terms of lobbying, referred to the distribution of reports (see below) and added: "Protection goes as far as issuing the medical certificate to anyone who asks for it – that's more or less our limit in terms of protection". Similarly, several individuals, when informed of the present study, claimed that we "don't do protection", before remarking that we did in fact "do certificates". The term's legal connotation tends to generate endless confusion between protection as defined in law and protection in the sense of practices designed to reduce or prevent violence. The paradox of comparing the certificate to a "protection practice" (which is the paradox of any practice defined in advance as protective) is that the document contains extremely sensitive information, and may thus actually endanger the person to whom it is issued. This is precisely the risk that teams and desk constantly warn against. Field

114. Especially MSF Legal director, who strove to ensure that the document was suitably adapted to the situation in the field. The difficulties involved in the systematic provision of certificates can be traced through the discussions at meetings and courses on "Violence", where the issue is always explored in depth and there is an obvious need for input from field workers.

workers, when asked if the certificate is offered systematically, will say “yes, it is offered systematically, but the women don’t want it and we can’t force them to accept it” (email, Desk-Coordination, January 2006). In effect, “once she is in possession of this document, the woman is in an unsafe position: ‘It’s dangerous for me/I’ll be raped again/my husband will throw me out.’”. This may explain why the document is accepted in only 17% of cases (PM, DRC Desk, “VSV appraisal”, operations meeting, 20 June 2006). The teams are therefore given detailed instructions on how to handle such sensitive material: “MSF will not pass the certificate [to the legal authorities or the police] unless the victim requests it ... MSF will not pass certificates or names of victims to representatives of national or international human rights organizations” but can direct victims to these organizations (DRC visit report, Legal director, August 2006).

Safety in the sphere of medical care also encompasses **protection of the hospital space**. This is usually the first point to arise whenever protection is discussed. Teams are fully aware of the need to prevent attempts to manipulate, exploit or intrude upon this space. On one occasion, soldiers from the FARDC entered a clinic and demanded medicines: “It’s the principle rather than the quantity that bothers me, so I’ll have to have a word with the commander of the 5th [integrated brigade]” (sitrep, Rutshuru, week 4, October 2005). On another, troops from MONUC entered a clinic to remove a wounded patient belonging to the FDLR: “Our immediate reaction vis-à-vis the hospital authorities and DDRRR representative was to indicate our total disagreement”. At a meeting, MONUC’s commander “understood MSF’s position perfectly – that in terms of protecting our work space, we considered it unacceptable” (situation update, 30 August 2006). “We fought to stop guys from the 9th and MONUC entering the hospital in order to interrogate [wounded] FDLR. We forced the guys from the 9th to leave the hospital. They were [hanging around] there, terrorizing people” (interview with the Field coordinator, Rutshuru). At one point, rebels infiltrated Rutshuru hospital in an attempt to discover whether people were hiding there: “I have to talk about all this in detail with Vincker [the hospital’s director] ... [we must] preserve the neutrality of this work space!” This is an interesting example, for the incident occurred when the expatriate team had been evacuated and the hospital was full of people seeking refuge from the confrontations: “Rutshuru is completely empty, and there are about 1,000 people taking refuge in the hospital” (NK/RU update, 22 January 2006). These people were not patients, but when the team returned to Rutshuru and discovered them in the hospital, there was no question of moving them on. While somehow passive, this shielding was vividly defended by the team, in the name of the immunity of the medical space, when rebels tried to intrude in the hospital.

Similarly, we note the concern to ensure the **safety of health centres** supported by MSF, given the prevalence of looting, including of buildings associated with medical care. The reports express fears that distributions might encourage pillage: “Looting at Kihito ... as a result, we didn’t go to the health centre at Niakahanga (on the edge of Kihito) as we didn’t want to cause any more problems in that area. If bandits knew the MSF vehicle had come through, there would have been a risk of looting a few hours later” (sitrep, Rutshuru, week 8, 2006). The same sitrep also refers to the provisioning of another health centre, which has attracted a marginal note from the Desk: “OK – watch out for looting”. However, most of the information regarding looting is recorded bluntly, without commentary, as one more element in the catalogue of abuse and violence that forms the ‘setting’ for the action but has little bearing on the way it is managed.

Finally, the **safety of MSF staff** is perceived as an integral part of our responsibilities with

regard to the violence. This responsibility was translated into practical measures according to the risks assessed, especially the risks faced by Congolese staff. In the case of targeted pillage: “We are speeding up the current process of payment by bank draft” following systematic “visits” to the homes of MSF staff the day after they were paid (sitrep, October 2006). With regard to danger on the roads: “As we collected statements from our patients, we became aware that when looting occurred, those who had nothing were almost systematically injured or killed”, a situation that led to the establishment of “envelopes” for drivers (sitrep, September 2006). But there were also dangers linked to certification and legal action. These were discussed extensively; some thought that the risks taken by staff asked to write certificates was very high, while others argued that stressing these risks was a symptom of the reluctance to get to grips with the issue of violence (discussion following the “North Kivu VSV assessment”, operations meeting, 20 June 2006). The risk-reduction policy grew out of these contradictory positions. Detailed recommendations were drafted, making it clear that doctors would not appear in court and that MSF’s role would be restricted to the authentication of certificates: “MSF seeks to restrict the obligations on MSF doctors in the matter of medico-legal certification. The aim is to avoid exposing doctors to contact with aggressors, the police and legal authorities; it is prompted by a concern for safety and the will to preserve MSF’s independence vis-à-vis these power structures” (visit report, Legal director, August 2006).

In short, the fine-tuning of medical case management was accompanied by a series of practices designed to reduce the exposure of patients and staff during the provision of care and in the care space. What emerges here is a form of responsibility that is primarily concerned with our own action – and above all else, the requirement of providing “quality” care – before we proceed to look elsewhere. Is there then a place for a form of responsibility which projects beyond the internal realm? Can this internal responsibility be extended, and to what point? How does MSF go about managing the situations of violence it is aware of, but which do not impinge upon its medical activities?

BEYOND CARE WHEN FACED WITH VIOLENCE: SHIFTING BOUNDARIES AND THE EXPANSION OF THE ‘CARE SPHERE’

Questions such as these raise the question of boundaries. In an environment such as North Kivu where, in addition to the conflict, the population is subjected to various forms of abuse on a daily basis, is violence more than simply a context of action? We may ask ourselves under what circumstances, in what situations beyond the ‘care sphere’ (the contours of which could form the basis of another discussion) does MSF’s responsibility come into play? And if this responsibility does indeed exist, is it clearly defined and in what way?

When considering the boundaries of action, we are forced to examine our practices from different perspectives. There is an internal boundary, the basic level of responsibility which we are obliged to accept if we are to retain our humanitarian principles and ensure that our action has a meaning. This may be described as a ‘moral’ boundary, and is connected to a certain perception of what cannot be tolerated. There is also an external boundary; to step beyond it is to emerge from our role and yield to what some call the “human-rightist temptation” or a “protectionist drift”. This boundary is institutional in the sense that it reflects the desire to maintain the coherence of our “social mission”. Both boundaries are subject to constant

revision and displacement whenever concrete action is debated. Somewhere between them, in the space which separates them, lies 'our' field, the site of standard, legitimate, systematic practices (which we cannot relinquish) and of many others which have no proper status. Some of these practices are encouraged and some are simply tolerated, while others are in the process of being systematized or abandoned on the grounds that they exceed MSF's external boundary.

In concrete terms, we are referring here to practices which may be introduced in response to the violence MSF has experienced or witnessed, or which it anticipates or fears; any practices, in fact, which extend beyond what MSF considers to be its fundamental field of responsibility – the provision of care.

We shall first examine the way MSF deals with the risks victims face as they travel the roads **after the actual provision of care**. The initial offer of care for victims of sexual violence encompassed free transport (paid for by MSF); encouraging patients to come forward and making it easier for them to do so were regarded as priorities. The danger represented by the presence of armed men on the roads, was part of the setting and beyond MSF's power to control. Therefore, these risks, particularly acute during the hours of darkness, were not among MSF's concerns. However, once the gravity of the situation had become apparent, decisions were taken and acted upon systematically: a new practice entered the field of our activity.

"It struck us that MSF had made mistakes by putting people on the roads at night. Afterwards, we acknowledged that we'd really blown it. It happened, and then the FC inquired as to the whereabouts of a patient. We said, 'we sent her back last night,' and he reacted and then we realised... – 'Shit...' we thought".

This new awareness led to practical decisions which in turn were made systematic through a risk-reduction strategy. While it could not aspire to total security, it did at least pinpoint particularly dangerous areas which could then be avoided. Standard procedures seem to have been established in 2005:

"At Beni, for example, we were receiving lots of women that NGOs had sent from the Ruwenzori area; we often received 4-5, 10 women in one day. We paid for their transport and the hotel. Once they'd been treated, we paid for the hotel again, and on the following day made sure they returned in relatively safe transport. It was planned, part of the operation, budgeted for. These cases always come up, you think about it as you go along, then you try to organize things a bit more systematically ... – *But we thought about this issue, whereas we hadn't done so before?* – Yes." (interview with the North Kivu coordinator concerning activities between early 2005 and early 2006).

By 2006, the Rutshuru project had benefited from the lessons afforded by other missions, and it seems to have become accepted that the dangers on the roads could no longer be ignored. "We never let anyone leave after nightfall ... Everything that happens before and after the hospital also exposes people to danger, physical danger, since the violence around Rutshuru took place on the roads" (interview with the Field co, Rutshuru, regarding the summer of 2006). Thus the concern for safety in care eventually extended to the patient's movements prior to and following its provision – an expansion of the sphere of care as an MSF sphere of responsibility.

115. The monthly reports and weekly sitreps do not, of course, represent a fully comprehensive source of information from the field. Many of the discussions that occur find no echo in such documents, and it would be risky to draw conclusions based entirely on their content. However, we can gain some insight into what is considered relevant to a discussion and what is omitted, as well as the particular concerns of the Desk and the type of information thought to merit inclusion when composing an account of activities in the field. For example, at the beginning of 2006 and following a visit by the consultant on sexual violence, we note a shift in the way rape victims are referred to: fewer abbreviations, more narrative and more comprehensive data.

A further insight into the way in which a set of problems ‘entered the field’ may be gained from the issue of **recidivism in the case of rape** and the risk of recidivism. This phenomenon does not feature in the sitreps, either as a problem or as information, until 2006. In the field reports up to the beginning of 2006, the information recorded in the “VSV” section is in most instances extremely succinct, taking the form of figures for “new cases” (anyone presenting for rape was a new case), their provenance, and the figures for the patients returning for a follow-up.¹¹⁵ An increase in the number of cases from a particular area was underlined mostly as a “barometer which indicates trouble spots” (general sitrep, February 2006). But neither the profile of the victim nor that of the attacker was targeted for specific attention. There are several references to recidivism or rape by a known person, but the field teams refrain from comment. For example, the “VSV” section of a report dated June 2006 contains the following observation: “To note, one case of a fourth occurrence and another of a second occurrence”, without further comment. The Desk has added a note in the margin: “Recidivism? Protection?” (sitrep, Kayna week 21, June 2006). Another report states: “3 cases of attackers known to the victim this month, one case where it’s the victim’s brother-in-law and another where it’s a neighbour” (sitrep, July 2006). Comment is confined to the action taken by the victims: “no complaint was filed”. In all probability, particularly acute situations sometimes came to MSF’s attention and were treated on a case by case basis but were not mentioned in the paperwork, as the North Kivu coordinator has indicated:

“– Did we ask ourselves whether, with regard to rape by a known individual for example, a woman would be able to go back to her home, etc? – Yes, the question has arisen. It’s really case by case. [We asked the question] because there have been times when, for example, parents or relatives have said ‘We know it’s the uncle; it will happen again.’ We either offered to settle people in Goma or pay the cost of transport if they had family elsewhere. We tell them they’ve got a medical certificate if they want to file a complaint ... it doesn’t go much further than that” (interview with the North Kivu coordinator, 2005-2006).

The problem became increasingly acute over the course of 2006. In the summer of that year, the new FC felt it was an issue:

“We wanted to establish a follow-up – who was leaving, who was returning – and we realized that some women were returning for ... ‘second rapes’. Then we thought ‘Woah’. I think that was the first time it came up, given the fact that the FC position had been filled up by the capital a lot: you keep things going, there are gaps in the follow-up. I thought ‘well’... you think about Brauman’s text on ‘torturer doctors’ ... you ask yourself ‘What exactly am I doing?’” (interview).

Shortly afterwards, MSF’s Legal director arrived in North Kivu. Her visit seems to have marked a turning point in the way the issue was approached. In her report, she affirms that the threat of recidivism is a legitimate MSF concern:

“In the case of an attack, we can hope that the victim will face no further personal danger. On the other hand, there are situations where the victim has been identified as an isolated and vulnerable individual and may therefore face the permanent threat of further attacks by the rapist. It is important that we attempt to identify the structural elements of vulnerability and work with the victim and other partners in trying to find solutions to them. The risk in this instance is one of recidivism, of having to treat the same victim several times for the consequences of the same crime committed by the same attacker.” (Legal director, DRC visit report, August 2006).

Described thus as a phenomenon linked to a set of conditions (some of them structural) that foster vulnerability, the recurrence of violence could no longer be regarded as simply inevitable. Increasingly perceived as a ‘failure to protect’, the idea that we should restrict our intervention to the treatment of the consequences of recurrent violence thus became less

acceptable. Therefore, the report invited us to investigate the possibilities for intervention, beginning with the collection of more detailed information.

Hence further questions were added to the questionnaire attached to the medical file : “does the victim have access to safe accommodation? Does she have anybody to help her?” “What MSF seeks to know is whether the victim is still in danger after the attack and whether there is any particular risk attached to sending her home”. The report reviewed the factors which may contribute to individual and collective vulnerability and outlined possible MSF responses: “In individual cases, MSF can keep the victim in hospital for the time it takes to comprehend the situation and find an appropriate solution (removing the victim from the area, helping with a change of residence, making contact with other members of the family, etc.)” For collective cases, it recommended that once the “schemes of collective violence” have been identified, attempts should be made to sensitise the various groups involved (victims and perpetrators). From this point, recidivism and attacks by known persons received greater attention and statistics concerning the profiles of aggressors and recidivists began to appear.¹¹⁶ During the first months of 2007, we also note the emergence of specific references to child rape: “35% of civilians, 2 cases of recidivism, 2 cases of female children needing surgical treatment ... the proportion of known or unknown civilians is still increasing, most often responsible for the rape of very young girls” (medical sitrep, March 2007). The focus on minors also increased following the Legal director’s visit which, according to the Desk, highlighted the fact that amidst the prevailing climate of violence – the ‘norm’ for the teams working in the DRC – there were forms of violence we should never consider ‘acceptable’. In short, the Legal director set a boundary, that of child rape, which “we cannot ignore” (discussion PM Desk).

Despite the wealth of new, more specific and detailed data, the reports contain no indication of **concrete action** taken by MSF teams. There was no institutionalization in the sense of procedures geared to fit various situations. However, the Desk encouraged and supported every effort to help patients who asked for shelter or expressed the fear that they were still at risk: “As long as we can do something, we’re certainly not going to stop ourselves from doing it”. Individual cases were handled on an “informal, case by case” basis. Assistance could take the form of providing financial support for the victim’s resettlement, for example, or referring him/her to another organization. As for the issue of child rape, it is currently handled primarily through highlighting its existence, creating a separate category for it in reports and calling in a doctor in the consultation as a matter of course. In cases where there is no evidence of circumstantial or structural vulnerability, teams nevertheless attempt to find out what they can: “As Rutshuru is served by four major roads, we tried to find out where the rapes occurred most frequently. I did a lot of work on that to see if there were any correlations” (interview with the FC, Rutshuru). In short, the boundaries between ‘what we do’ and what exceeds our field of legitimacy (or of action) have shifted. We have included within this field new practices linked with the recurrence of violence or the persistence of a threat on an individual, yet without making them systematic. Such practices are almost certain to undergo changes as the data collection on these new categories will affect the way we piece together an overall picture of the situation.

116. “Field teams have been asked to start collecting the following data immediately: incidents of recidivism concerning VSV already treated by MSF” (North Kivu update, week 37, September 2006). “Collection of statements regarding violence and recidivism ... Meeting with Unicef, UNFPA ... we raised the problem of recidivism and protection in general” (sitrep, VSV section., September 2006). “39 cases of recidivism this month” (sitrep, October 2006). Note the use of protection in its most concrete and personal sense – protection of specific individuals who have been identified as being at risk. Where known offenders are concerned, information is collected but the possibility of re-offending is not subjected to any systematic analysis (discussion with DRC desk members).

As the above developments will have broadly shown, **information gathering** is at the very root of the concern to avoid exposure and to provide shelter, and of its translation into action. Without knowledge or understanding, dangerous situations or exposure to risk cannot be prevented or managed – the desire to know which is constantly reviewed and constantly opens up new areas of anxiety.

3 – VIOLENCE AND PROTECTION: THE TWISTS AND TURNS OF A PUBLIC POSITION

Having examined the concrete practices designed to provide shelter and avoid exposure, we now turn to the various forms of public discourse related to the violence. Why should we adopt a public stance, and on what should we base it? It could be argued that given the widespread and chronic nature of the violence, as well as the presence of a great many factions whose political aims lack credibility, there is little point in adopting a public stance on the violence in the DRC at the present time. But this has not always been the case: we spoke out on the situation in the Ituri region in 2003. While it may have been a source of controversy from the outset, it sheds a great deal of light on the internal workings of MSF.

A change of context? A cultural shift? Such questions cannot be settled easily, but we shall attempt to illuminate the issues surrounding them by comparing the various stances adopted in relation to the violence.

ARTEMIS 2003: THE ARGUMENTS OVER A PUBLIC STANCE

By early 2003, MSF-France, having begun work in Beni in late 2002, was confronted with a situation of extreme instability in the nearby Ituri region. Moreover, MSF-Switzerland was operating in Bunia, the capital of Ituri province.

As the Ugandan troops occupying the area prepared to withdraw on 24 April, there were increasing fears that rebels groups would begin slaughtering people on ethnic grounds. A briefing paper dated 22 April was written prior to MSF's approaches to the UN Department of Peacekeeping Operations in order to obtain greater "protection". Evoking an "escalation of the violence" that bordered on "genocidal logic", MSF expressed its concern and its "worries regarding the concrete measures planned to assure the protection of civilian populations during and following the departure of Ugandan forces". The document referred to "serious failures" of previous missions to protect populations (like during the genocide in Rwanda), and implied that the current situation, a period of peace negotiations which could degenerate into an episode of extreme violence, was little different. It concluded: "In order to avoid civilian populations paying with their lives for the lethal ambiguity of the UN mission, MSF calls on the states involved in the peace process to provide concrete guarantees with regard to the manpower and materials deployed by the UN, in order to ensure the effective protection of civilian populations ..." (briefing paper, 22 April 2003). At an inter-section meeting on 23 April, the participants discussed the possibility of releasing a report on the plight of civilians

in the DRC. Among the arguments advanced to justify this initiative, we read: “support a clear demand for the strengthening and clarification of MONUC’s mandate in terms of protecting civilian populations”.

At the beginning of May, intense fighting occurred in Bunia. Civilians were subjected to repeated attacks between 9 and 12 May; “hundreds” of people were killed in a context of extreme violence inflamed by the rhetoric of ethnic differences. Several NGOs took it in turn to call for “the protection of the population”. On 12 May, Oxfam urged the UN to protect the population. On 8 and 21 May, Human Rights Watch (HRW) reiterated its calls for the rapid deployment of troops in the Ituri region: “Only an emergency intervention can put a stop to these continuing massacres”. On 22 May, Merlin backed a coordinated response in Ituri. On 30 May, Oxfam called for the immediate deployment of a rapid reaction force. On 6 June, HRW sent a letter to the UN Security Council demanding a rapid intervention in order to protect civilians and end the impunity of the perpetrators; it also called for the mandate to be strengthened. Meanwhile, MSF briefed members of the State Department and Security Council, stressing the imminence of disaster and the risk of being ‘too late’: “Brief them on the situation and remind them that if they don’t act now, they will be left to count the bodies (remember Rwanda/Arusha tribunal and Srebrenica)” (Communications Officer, MSF-France, teleconference update, 15 May 2003).

The Security Council finally authorized the deployment of an EU-led interim force. Composed of French troops, the mission, known as Operation Artemis, was launched in early June, with a mandate to secure the town of Bunia until September.

This was the point at which divisions between and within sections emerged. They were based on **different views regarding MSF’s public position**, initially in relation to the media and later, at the beginning of July, during the drafting of a report on the plight of civilians in Ituri province.

The idea for the report originated with MSF-France which, given its presence in Beni, was taking in the people who had fled Bunia. All sections were involved, however. Accounts were collected from displaced persons as they emerged from the forest; they all described a scene of deliberate, extreme if not systematic violence, leading many to feel there was an urgency to alert – the need to pass on the victims’ accounts and the desire to prevent more violence were probably intermingled.¹¹⁷

The first draft, spurred by the sense of urgency and largely composed of descriptions of the violence inflicted on local populations, clearly conveyed the message that greater protection was needed. The means available to the international force therefore had to be increased. Attempts to resolve the conflict within the UN framework should “provide for a genuine capability to protect the populations under threat ... We know from the recent fighting involving UN intervention forces that they cannot guarantee the security of populations if they are not governed by a policy concerned with security”. The international community “must, as a matter of urgency, concentrate on protecting those most at risk”. The report concluded by describing the international presence as “cosmetic”, given its inability to “prevent the massacres and atrocities”: MONUC had demonstrated “its inability to guarantee any protection whatsoever for civilians”; the mandate of the interim force was inadequate. The final part stressed that “international initiatives, whether aimed at a political resolution of the crisis or

117. Accounts collected by the MSF-France Communications officer. Once again, we note the correlation between the desire to speak out and the distance from the ‘heart of the action’ (Bunia): MSF-France, rather than MSF-Switzerland, was the first section to take this initiative.

the implementation of peace agreements, must establish the protection of populations as an absolute priority” (draft report, July 2003).

The exchange of views generated by the draft report, which was re-examined by all sections, reveals a range of expectations regarding the final version. There was general agreement on the objective – the achievement of “greater protection”, but opinions diverged as to the precise content of the message. MSF-Holland believed it should focus on the strengthening of protective measures and their concrete implementation, rather than on negative observations, which might convey the impression that no form of action could succeed.¹¹⁸ At MSF-France, the draft’s authors pointed out that besides protection, increased assistance was also a short-term objective, and stressed that it was entirely appropriate for MSF to remind the international community of the gulf between discourse and reality.¹¹⁹ Finally, others at MSF-France and elsewhere criticized the report for its “human rights” aspect, which made it indistinguishable from a “HRW report”.

Ultimately revised to present a stronger viewpoint on international intervention, the report was animated throughout by the idea of illusion and false promises. The title of the final document, *Ituri, Unkept Promises? A Pretence of Protection and Inadequate Assistance* (25 July) was eloquent in this respect.¹²⁰ The word ‘protection’ was used in a negative sense to highlight its absence or inadequacy: “MSF would like to emphasize that recent military deployments have failed to provide Ituri’s civilians with proper protection ... MONUC has not been given the means to prevent the massacres”. The only ‘positive’ mention of protection was formulated in the past tense: “In April, MSF had asked the UN peacekeeping operations department to take concrete measures to guarantee the protection of civilians...” This was once again a way of highlighting the lack of political will – if not the cynicism – of states which were aware of the situation but had failed to take action at the appropriate time. The report therefore called not for greater protection, but for an end to the misleading of populations: “Having witnessed these painful experiences [Rwanda and Bosnia], MSF urges the international community not to give, once again, a dangerous illusion of protection to the civilian population of Ituri. Whatever the decisions regarding the mandate and means of the international presence in Ituri, MSF calls on the Security Council to keep its promise ...” The accompanying press release denounced “the absence of protection” and “the international community’s lack of political will”.

The report swiftly attracted internal criticism for insisting on UN failures at the expense of a more nuanced description of the reality. At the end of August 2003, a member of the board (who had regularly been informed during the drafting process) returning from a visit to the DRC, where he had observed reactions to the report, stressed : “It should be noted very clearly (and in my view the MSF report of 25 July was not clear enough) that the presence of the

118. “The international community should do its utmost to assure protection for the civilians who are most at risk from the violence ... final paragraph on page 3 might give the impression that nothing is enough not can be done (sic) while we should stress [that] something needs to be done!! ... One immediate issue ... is what MONUC’s new mandate will look like” (member of HAD, MSF-H, 1 July 2003).

119. The MSF-France Desk, banking on the pressure of public opinion, argued against detailed recommendations. But “in the meantime we go straight to some implicated political bodies to remind them that we will be on their back every time they will pretend to act for the protection and assistance, and they won’t, or won’t do enough” (email, DRC Desk, 2 July). The legal department doubted the “the relevance of publishing a report on Ituri without taking a position on the protection force’s mandate” at that stage, when media interest was already considerable (email, 12 July).

120. Other titles within the document also underwent significant changes: Part I, initially entitled “War and Terror before May”, became “A Reinforcement Interim Multinational Force: Just a Broken Promise?” Part 2, “War in Bunia: a Wave of Violence Overwhelms the Entire Population”, became “The War during MONUC’s Deployment”, etc.

interim international force actually prevented armed militias from engaging in violence and abuse during daylight hours in Bunia” (Board meeting minutes, 29 August 2003). It seems that the tensions the report generated in the field, as well as the sharp reactions it aroused from the French Ministry of Defence, contributed to its disavowal. Its impact and relevance are still disputed today, precisely because of the discord it aroused on its release.¹²¹ Whatever the case, this episode is informative for the light it sheds on later developments. In particular, the report seems to mark the term of a shift in our approach to public positions, and could be said to constitute a pivot.

- This report was a turning point in **the assessment of armed interventions conducted in the name of protection** – On the one hand, it was part of the series of public positions on “populations in danger” that MSF had adopted in the late 1990s, motivated by a sense of urgency as the likelihood of slaughter increased. But it had a different content: instead of calling for an intervention to protect populations (e.g. Zaire 1996), the report offered a critique of the spectre of the illusion of protection and, as we have seen, established a link with the broken promises of the past – through the numerous references to Bosnia and Rwanda. In substance, the denunciation of false promises constituted an appeal for promises to be honoured. On the other hand, the report signalled the end of the series: it seems that we will not be seeing any further references to protection as an objective, as a desirable idea; nor will there probably be any further ‘calls to arms’. In effect, we have moved from a critique of the illusion of protection given to populations by an international community that cannot bring itself to act, to a critique of the illusion within MSF regarding the concept of protection, an illusion that must be shed.¹²² It is as if this displacement, which had started some time before, had been here permanently ratified. To put it in very simple terms, we appear to have reached the final stage of various moments of MSF distancing itself from the notion of protection. From calling into question the idea that MSF might have a role to play in protection, or the ability to provide it (Srebrenica, Kibeho), to criticizing the international community’s failure to respond to calls for effective protection (Zaire 1996), to urging the international community to keep its promises and condemning its maintenance of illusions (Ituri), we have finally arrived at a critique of the illusion within MSF that armed interventions might lead to protection (understood as a near perfect, stable, static overall state of security). After 2003, the notion of protection is tinted with doubt. The trajectory has generated the complexity we now find in internal and external positions on the subject of international interventions. For example, there may be internal acknowledgment that some interventions are capable of producing positive results, but this is accompanied by a fundamental critique of the idea that a war can be conducted in the name of protection, while the view that we cannot justify making general statements may be countered by the view that we cannot call for armed interventions but we can speak out against them.

121. Yet, while the drafting of the report may have been a tortuous process, it was certainly no secret (the fact that the report was released in the middle of the summer holiday period has often led to such claims). It seems that the Desk was indeed left to get on with its finalization, which included modifying the overly “human rights” slant of the first draft. This does not necessarily imply, however, that the people originally involved were not consulted over the later drafts (discussions with the Communications officer). It is also possible that the report suffered from a perceived lack of legitimacy because it had not been endorsed by someone in a senior position.

122. See the 2003-2004 President’s annual report, cited in the main document (Part III, Section “MSF and the responsibility to protect”) : “We have seen the resurgence, in our discussions of conflicts, of calls for international protection which seem to me hardly realistic ... We must not become the propagandists of such illusions.”

- **Concerning the justification and content of MSF's public statements** – Contextually, the report was situated in the post-2001 tightening of the communications policy, a process designed to stress its “primary objective” – the achievement of “more effective aid” (AR, 2001-02). Organized around the idea of quality, the modified policy emphasized MSF's own responsibility vis-à-vis its action, and marked the end of the tendency to highlight the shortcomings of other actors, the distribution of “good and bad points”. In this respect, the report went ‘too far’, and it is not unreasonable to suggest that its lack of nuance reinforced the idea that MSF was on shaky ground when it came to criticizing others. Moreover, the report appeared at a critical point in the debate over the content and methods of MSF communication, just as the collection of witness accounts was being called into question. In fact, the collection of victims' accounts was at the centre of the arguments over the drafting of the report.¹²³ Thereafter, it was in fact practically abandoned in favour of data collection and a communications policy with a greater focus on epidemiology.

VIOLENCE, OPERATIONALITY AND POSITIONINGS

Having examined the events of 2003, it is appropriate to turn our attention to the positions on violence and/or protection that MSF adopted after that period. In fact, there were far fewer of these (the Ituri report may have been an inhibiting factor, but cannot account for all the subsequent developments). Is there currently a place for the mention of violence in public position statements? If so, how is it presented?

Speaking out – One observation stands out on reviewing MSF public statements since 2003: compared to the positioning on other countries, that on DRC (and on the violence occurring there) does not include marked public statements (reports, press releases). There have been no reports on the DRC since 2003.¹²⁴ “Communications” (or *témoignage* or “advocacy”) does not generally feature as a concern in the sitreps or exchanges between Desk and field, and has not had its own section in the annual delivery plan since 2005 – the year which saw the emergence of public communications with a different temporal focus (the production of a film and an exhibition of photographs dealing with the violence in Katanga, a forgotten zone at the centre of a forgotten conflict; the invitation to A. Vallaëys to visit a project for the book she was writing, etc). In 2006, North Kivu attracted the attention of media organisations such as CNN, the BBC and TF1, but given the interest the elections had aroused, a “message from MSF” was not considered appropriate. There were plans to prepare a detailed report based on specific, quantified and analysed data, describing MSF's work and observations in the field. The report should have been available by late 2007 (discussion with the PM, Desk); it eventually did not happen. Similarly, between 2003 and 2007, the number of press releases fell dramatically, in

123. Responding to criticism of the draft, the deputy legal advisor noted that the issue was one of knowing whether or not we wanted to publish something from the communication officer's work on collecting victims' accounts and use them to support the arguments over international intervention (e-mail deputy legal advisor, 12 July 2003). The communication officer believed that by ruling out this qualitative method of information-gathering, we not only weakened the possibility of indignation which accounts of personal experience would naturally arouse, but we also denied ourselves access to material that would enhance our understanding of the situation. (discussion with Communication officer).

124. The exception being a report entitled *Ituri, the Violence Continues* (August 2005), released by MSF-Switzerland after the cessation of its activities in Bunia. The document described the “situation of populations in Ituri and the difficulties involved in providing humanitarian assistance” and contained many examples of “direct” and “indirect” violence as well as a reference to protection.

accordance with the more general developments outlined above and a concern to reduce the high volume of communications.¹²⁵

Generally speaking, the purpose of a more outspoken public position is not apparent: “I wonder if there is any point in producing a broader document like the MSF-Holland report on Darfur ... in DRC we have access to populations, we have good relations with the authorities, we have local links with the Mai-Mai and the FDLR, we haven’t had a major security incident ...” (interview with the DPM, RDC Desk). A view echoed by several headquarters staff and fieldworkers.¹²⁶ All agreed that it was hard to see the added value in a public statement, while its possible negative effects were obvious: “At the same time, when you want to send a message, it’s because you want to obtain something, more opportunities to work ... but in this case it won’t get you anything at all and might even achieve the opposite effect – fewer rape victims would come forward, access to certain areas could be reduced ... there is no gain in operational terms, you don’t get any further in terms of relieving the suffering of populations. I don’t think we’re going to have an impact on reducing the number of abuses. I think we’d be kidding ourselves if we believed that” (interview with the coordinator, North Kivu). It was also stressed that difficulties would arise if we publicly condemned the violence committed by the very people with whom we were negotiating (in an attempt to gain access to certain areas or ensure safe passage on the roads, for example): “As medical and humanitarian actors, we distribute our reports but we are not going to target a group” (PM desk, discussion, presentation to the Board, 30 March 2007).

The pattern that emerges here appears to be one in which the recourse to speaking out is linked to the need to foreground issues that directly affect aid delivery (obstacles, lack of security). The absence of such access problems and the permanent concern of security are the reasons advanced to justify our preference for the transmission of information at field level, towards local actors (as opposed to public warnings or denunciations at an international level).

Non-public communication – In this context, field discussions with the various protagonists are directed above all towards elements that will allow MSF to operate without hindrance; meetings frequently involve presentations and explanations of MSF’s work, or focus on topics such as neutrality and impartiality. However, ‘discussions’ with the authors of the violence may also provide the opportunity to question them more broadly, if only at the time of the quarterly activity report’s distribution. Indeed, MSF has been releasing information (detailed sets of facts and figures) about the outcomes of its medical activities for several years. Everyone we spoke to cited these quarterly activity reports as the principal means of highlighting the violence. They are distributed throughout the DRC¹²⁷ and “speak for themselves”.

125. In 2003, the MSF website featured seven items, two of which were originally published by MSF-Switzerland; these were purely informative (MSF “sends a cargo” being one example). Two items on consistent humanitarian issues (Katanga, the displaced persons of Kanyabayonga, MSF concerns about their fate) appeared in 2004. There were four in 2005, all taken from MSF-Switzerland (on the kidnapping of two expatriates and the situation in the Ituri camps). MSF-Switzerland released two items in 2006. There were none in 2007. In short, no further press releases emanated from MSF-France after 2005.

126. With regard to relations with the authorities: MSF has access, at local level, to political and military leaders (which is far from being the case in many other countries), hence the different approach to external communications (discussion with the former HoM). With regard to the lack of serious issues (problems of access, security, etc.): an MSF press release, “what for?” the former programme manager asked. What added value would there be in relation to an AFP release? A “utilitarian” view of communications is implied here (discussion with former PM).

127. Forwarded to the authorities, the army, the MONUC, the various armed groups, the ICRC ... according to the 2004 HoM, a total of 220 copies were printed each quarter, almost all of them for Congolese actors (discussion).

“We already communicate implicitly by releasing all our activity reports. When you see the number of wounded and VSV, it tells you something” (interview with the DPM, DRC Desk). “MSF has shattered the taboo surrounding rape, it has revealed the vast extent of it” (Coordinator, North Kivu); “We have played our part in ensuring that rape can now be discussed” (manager of the Emergency desk, operations meeting, 20 June 2006). When the North Kivu Coordinator was asked whether there was any opportunity to ‘question’ the actions of a particular group, he replied, “Yes, when we bring up our activity reports and say ‘We’ve treated 2000 women who were raped in your area, 80% of them by armed men, you can’t say you weren’t involved.’ But it doesn’t really go much further than that.”

This questioning is never mentioned in the sitreps, but it does emerge during discussions with field workers. It might be a matter of pointing to trends, or quoting statistics, or sometimes stressing the contradictions between what armed groups say and the evidence of their actual behaviour; it might even involve naming dangerous areas. There are few illusions about the effectiveness of this approach; but even so, it may help to convey the message that we are not dupes, that we are present and can see what is going on.

“I went to see the Nkunda guys [supporters of Laurent Nkunda], who changed all the time, with the aim of 1) ensuring the safety of the ambulance... I said, ‘the ambulance shouldn’t be attacked, women shouldn’t be raped.’ – *You said things like that?* – Yes, I said things like that ... I couldn’t start moralising, and at the same time what strings was I going to pull in order to make them understand that they had no right to behave like that? So when they said, ‘No, we’re in total control, we protect the villages, we are here to provide protection ...’ I came out with the figures. That was all I had, the only firm ground, though I didn’t really feel I had the upper hand, far from it ... that’s why I’d done so much work on the documentation ...” “I often talked about the rapes with Mayanga ... he didn’t give a toss but you mentioned it”. Regarding the dangers on certain roads: “I went back over the road and visited every command post [manned by the 9th IB]. It was about putting myself about, being reachable, getting it across that it wasn’t right, them not doing their job, that we weren’t fakers stuck in our hospital” (interview with the FC, Rutshuru).

It is thus a general questioning. The teams do not denounce specific violent incidents which have no direct impact on MSF activities.¹²⁸ Overt criticism is confined to incidents – intrusion, violence – involving MSF property, staff or buildings. If armed men rob Congolese staff the day after they have been paid, or tamper with the MSF vehicle, or force their way into medical centres, the coordinator will complain directly to their leaders as we have seen previously.

Hence, a number of elements seem to indicate that the concern for speaking out is absent for MSF in the North Kivu context: the demanding and reactive operationality is not deliberately hindered by the local actors; the victims of violence are provided medical care; data is regularly displayed locally, in the form of activity report and statistics; not to mention the constant concern of assuring security.

Indeed, when asked whether there was a sense of frustration over the *témoignage* issue, one interviewee replied: “No, it’s the frustration of having to leave when we’ve got a massive job to do [a reference to the usually short evacuations prompted by the security situation] ... When people go back [to France] they are thrilled, they say it’s great, that we’re at the heart of it all ... there’s this satisfaction that we can do something, treat the violence, relieve this population’s suffering a little” (interview with the North Kivu coordinator). The interviews conducted for

128. On the one occasion that a sitrep mentions such a practice, it is considered irrelevant. Commenting in his sitrep on the “considerable looting accompanied by rape (which is becoming systematic)”, one Field co noted: “Contacts were made with various authorities in order to denounce these acts” (general sitrep, August 2006). The Desk added a note in the margin: “???? What authorities? Say what? What message?”

this study seem to indicate that operational ability overrides the desire, compulsion or need to speak out. This chimes with the hypothesis advanced in other case studies : that conversely, the feeling of operational impotence – caused by barriers to access, the intolerable imbalance between the inability to prevent deaths and the ability to save lives, or between the inability to stop the violence and the ability to relieve the suffering it causes, for example – might be the wellspring of the urgent need to speak out at a given moment.

However, beyond the question of the added value of speaking out in a context where our action is not in danger, many members of MSF deplore more generally our silence on the North Kivu situation. More specifically, the very persons who said that they could not see the positive impact of communicating publicly *simultaneously* expressed this sort of regret. For example, just as he refuted that there would be frustration over this communication (see above), the North Kivu coordinator also said: “I think we could have done a lot more [public statements], we could have done more on VSV”. One of his sitreps contains a very rare reference to this issue: “A lot of media people have been travelling through Congo lately and that’s all to the good; we have got to keep on talking about these forgotten populations and the violence they are suffering day in, day out” (sitrep, July 2005). During 2005, the Desk also became increasingly preoccupied with the problem of communications, and was uneasy about restricting public statements to local level (discussion with the former DPM, DRC Desk). The PR released in autumn 2007 proceeded from the same uneasiness; according to the programme manager, it is the feeling of having kept silent too long which explained the need to speak out after an evacuation which was no different from the numerous others since the opening of the Nyanzale project. Those who thought it was high time we “spoke out” about the situation in the DRC were happy with this PR; others did not see the point of a PR which did not aim at any concrete improvement nor delivered a message any different from the other agencies’.

These complexities were expressed in a salient manner by a former head of mission when he questioned MSF’s attitude to MONUC’s December 2005 offensive (therefore questioning in retrospect his own decisions).¹²⁹ At his debriefing, he lamented the fact that we “confined questions to care”: “Couldn’t we have said something, signal that it was contrary to international humanitarian law, that the consequences for the civilian population [were] extremely heavy? Even if only to complain to MONUC?”.¹³⁰ His criticism was more specific than the vague regret expressed by others; it pointed to the negative aspects of a stance centred entirely on operational concerns and suggested that the desire to react so rapidly to emergencies occluded the need for political analysis. What was acknowledged here was the existence of a routine, of an operation geared to react to the turmoil that erupted on a daily basis. “We didn’t ask ourselves what we could do about it ... We knew from the outset that the damage would be considerable, and we cranked up the humanitarian machine.” To be sure, the North Kivu Coordinator raised issues at local level, using “the forum with MONUC, OCHA, etc., to tell them that they were going too far displacing populations so they could stage battles, that these people had already been displaced”. But there was no discussion with Kinshasa: “there was no active communication done” either before or after the operation (interview).¹³¹

129. In December 2005, the FARDC announced its intention to eradicate the rebel ADF in the Beni area. MONUC supported the FARDC and asked OCHA to ensure that humanitarian organizations would be ready to deal with the consequences. OCHA held meetings with NGOs in order to work out a “contingency plan” but MSF did not participate. When the displaced flooded in, MSF postponed the closure of the Beni project so it could assist 25,000 displaced persons at Linzo. 130. Personal notes on the debriefing, 2006.

131. The repercussions of the Ituri report come to mind here.

The former head of mission stressed that there was nothing unique about this 2005 episode, which was only an example. He pointed less to the absence of communication than to the lack of political analysis that fostered it. “We do not speak politically in the DRC, we have no political reflexes in the Congo ... Over the duration of my mission, this kind of issue [public denunciation of a situation] did not arise ... we have got to force ourselves into conducting a more intensive analysis. Then we see whether we speak out or not”.

This line of questioning is interesting because it marked a kind of break with practices that had come to be regarded as norms and were not debated. Quite similarly, some of the interviewees evoked the risk attached to certification – its tendency to engender a kind of complacency and thus defuse other issues, notably speaking out. This tension between two modes of action, both of which can be called ‘protection’, (legal approach / speaking out), surfaced during discussions on the boundaries of action. When the question of “how far we should go” (given the presence of identified armed groups, on the matter of “lobbying”, in terms of protection) arose at an operations meeting, the PM replied that on a daily basis, “we confine ourselves to certification”. The Legal director, for her part, stressed that “of course going further does not mean at legal level. It would be terrible if the certificate became the cul-de-sac of MSF’s responsibilities. If we are witnessing an epidemic of violence, I hope that we don’t tell ourselves we will help them to file a complaint, but that we have a responsibility to speak out or take some form of action! Be careful not to reduce the issue to a technicality!!”.¹³²

This review has revealed an evolution in MSF positions on the violence in North Kivu. Their scope is less public, their tonality less political, which goes along with – and is perhaps inseparable from – the strengthening of our operational ability to deal with the consequences of the violence. This evolution gives us an insight into the way MSF’s legitimate role has been defined but it also highlights the irreducible nature of the tensions that underlie the action – between individual care and collective issues, between the impulse to speak out and the reserve on the validity of such an impulse (what purpose would it serve?). Neither the efforts to frame MSF’s role, nor the unanimous agreement that our action is relevant, will exhaust these tensions, which are ground for continual reflection.

* * * * *

In conclusion, a certain idea of boundaries emerges from the study of MSF’s operations and positions with regard to protection in North Kivu, a project considered as one of ‘the most MSF’ of those we currently undertake. The external boundaries are clearly defined and separate an MSF field of action – in which violence has become a central feature, the site of a major effort to reach and relieve the sufferings of its victims –, from anything which might exceed this field – from adopting public positions on the protection of civilians and the violence in general, to actions designed to provide protection when it is not related to care. And there is an internal threshold, MSF’s responsibilities over the aid it delivers, which entails avoiding exposure to danger. Between these two sets of responsibilities lies the space for negotiations on the meaning of words and the expansion of fields of action, the endless revisions prompted by the pressing need to invest our action with a meaning that extends “beyond care”.

132. Discussion following the DRC presentation, operations meeting, 20 June 2006 (personal notes).

APPENDIX 4
OCCURRENCES OF KEY WORDS
IN PRESIDENTS' ANNUAL REPORTS
AND THE MINUTES OF BOARD MEETINGS,
1978 TO MID-2007

Board meetings minutes (hereafter referred to as 'BM') and Presidents' annual reports ('AR') since 1978 have been one major material for the present paper. In reviewing these documents, I took extensive notes. I would retain in particular the parts where our role in conflicts was theorised in general and those in which debates occurred upon dilemmas and decisions in specific crises.

In the course of the analysis, I resorted a few times to the function 'search' in order to quickly identify, within these notes, how the use of one specific word evolved internally. Subsequently, I thought it useful to give access to these 'search' results. Three relevant 'key-words' are presented here: "protection/protect", "right(s)", and civilian(s)". Although these lists of occurrences do not depict exhaustively the status and use of each of these terms, it may enable us to identify, in the space of a few pages, the shifts that have occurred in their use at Board meetings and Presidents' annual reports over the course of thirty years.

OCCURRENCES OF "PROTECTION / PROTECT" (ATTRIBUTED TO MSF OR TO THE INTERNATIONAL COMMUNITY)

BM 19 Feb. 1984: MSF is in contention for a Nobel Prize. Of great importance is the "**protection** this prize would afford our teams".

AR 1984: Production of a "charter for the **protection** of humanitarian medical teams".

AR 1986-87: Public opinion is "our **only protection** in many exposed places".

BM 22 July 1988: Honduras: "UNHCR, whose **mandate is to protect** refugees, is in a very difficult position. It is trying to protect the refugees both against the committees and the Honduran army."

AR 1988: "The perpetuation of refugee camps in the Third World is a source of multiple tensions which may themselves create **serious problems concerning protection** ... We have, as I've already said, an **important role to play in the field of protection** against attacks from outside". "In Sri Lanka, where **problems of protection** – for the teams and the mission – prevented us from speaking openly ..."

AR 1989: Mozambique: "This mission has another important objective – **to provide refugees with protection** against forced return."

AR 1990: Mozambican refugees in Malawi: "As donor countries seem to prefer resettlement in the country of origin to assistance in the camps, we are tempted to see, behind this fortunately unrealised desire, the quest for easily funded programmes rather than for **protection**."

BM 27 Apr. 1991: Kurdistan, description of the camps: "...there is a dispensary. But the real problem is **not assistance but the protection** required by people under threat."

- AR 1990-91: Kurdistan, false hopes concerning the right to intervene: “It seems to me that such action falls within the province of international **protection** and political improvisation rather than of intervention.”
- BM 25 Sept. 92: Somalia, escalation of security problems with the arrival of humanitarian organisations: “MSF has to consider the issue of paying armed guards to assure the **protection of teams** ...”
- BM 5 Mar. 93: Somalia: debate on the “**protection of teams**” and the reduction of the work space.
- BM 27 Aug. 93: Former Yugoslavia (exploratory mission): “**Lack of UNHCR protection measures** specifically aimed at Muslims.”
- BM 12 Jan. 1994: Burundian refugees in Rwanda: “UNHCR is delegating more than ever and no longer assures the **protection of refugees**.”
- AR 1993-94: Rwanda: “The UN has bailed out of Rwanda [execution of Blue Helmets]... We now hear that His Excellency the SG is thinking about **sending a protection force!** – to guard the mass graves?”
- BM 24 June 1994: Rwanda, withdrawal of UNAMIR: “We don’t even have that **protection** any more.” Tanzania: MSF refuses to intervene if certain measures are not put in place, including the provision of more UNHCR “**protection officers**”.
- BM 16 Dec. 1994: Rwandan refugees: MSF-B “is trying to persuade the refugees to accept return (without committing itself on security) and favours **safe** corridors and transit camps within Rwanda (**under the protection of the international community**) while the search for a solution goes on”.
- AR 1994-95: Refugees: the refugee status gives them “**less and less security and protection**”.
- BM June 1995: Rwanda: “Marc Gastellu has asked Nicolas de Torrente to assess the operations in Rwanda over the past year (**protection**, communication ...)”
- BM 1 Sept. 1995: Rwandan refugee camps and withdrawal of the Belgian and Dutch sections: “They are now wondering – **from the point of view of the protection of the refugees** – if this is the time to leave.” Safety of expatriates in Bosnia: “No possible **protection**: the average Serb thinks we’re the ones who are bombing them.” For the *Populations in Danger* book, there are two major themes: “**protection of populations**” and “accountability”.
- BM 27 Oct. 1995: Exploratory mission in Iran: “There is currently **no protection for refugees** (we do not have access to them).” The possibility of an MSF intervention: “Nobody is working in this field and there are **people in need of protection**.” Disappearances.
- BM 26 Jan. 1996: Zaire: “You’d have to be like a fish within the waters of the population, in the knowledge that **protection** won’t come from above or from governments. We’ve got to revise our security culture and go back to factual, non-political testimony.”
- BM 31 May 1996: Liberia (pillage): “We have decided to talk about the victims rather than the colossal damage (not for the **protection of civilians** but for the safety of the teams).”

- BM 28 June 1996: Burundi: “The risk of a joint intervention by Tanzania and Uganda seems to be increasing ... with a **mandate to protect** civil society in Burundi” (which would result in the departure of MSF).
- BM 29 Nov. 1996: Great Lakes: the repatriation by the Rwandan army/Banyamulenge was perhaps “essentially designed to **pre-empt the international desire to become involved in the protection of these populations**. It succeeded beyond all expectations.”
- BM 24 Jan. 1997: Zaire discussion: “Some of the missing refugees have been found ... There is now a **problem with recognising and protecting these people ... Protection of the refugees** was sacrificed to the need to repatriate them immediately.”
- AR 1996-97: Refugees: “In most cases, they have no option but to remain at the **heart of the conflict, where it is extremely difficult to protect them** ... The current problem for humanitarian organizations is not the provision of material assistance to populations, but the failure to acknowledge both the existence of legally defined refugees and the lack or **precariousness of the protection provided for them**.” On the hunting down of refugees in Zaire: “MSF and several other organizations **called for a military intervention to assure the protection of refugees** and break the leaders’ hold over them ...”
- BM 11 July 1997: Great Lakes: “The people who flee are **seeking protection against the death squads**, which are clearly still operating.”
- BM 28 Aug. 1998: DRC: “The **ICRC has obtained protection** for a small number of threatened people, but the manhunt continues.”
- BM 30 Apr. 1999: Kosovo: “One of the major problems of this crisis is the human rights aspect, the humiliation, the plundering of property. Given that these people have been robbed of their identity papers, MSF immediately called for **protection and registration** (currently almost non-existent).”
- AR 1998-99: Kosovo, on refugees being absorbed into other countries: “When this occurred, one of the essential stages in the **protection of and assistance to refugees** was evaded. The registration, identification and counting of refugees did not take place.” On the way in which western countries exploited refugees: “The deportees were initially useful as victims of Milosevic, but very embarrassing as **asylum seekers who were entitled to protection and assistance**.”
- BM 25 June 1999: Kosovo: “A (foreign) army is not necessarily effective in terms of **protecting people against civil insecurity**.”
- BM 19 Nov. 1999: MSF calls for an inquiry into the events at Srebrenica: “To shed light on the mechanisms which, paradoxically, **claimed to guarantee the protection of populations while diluting responsibilities** and dividing powers ... They said to us, ‘Go ahead, **we’re protecting them**,’ and then it was a massacre.”
- BM 27 Oct. 2000: Communication objectives (major themes): “The system of food aid and the **protection of populations**.”

- BM 2 Mar. 2001: Guinea-Sierra Leone: “Every time it comes down to actually **protecting civilians, the great international mobilisation produces nothing.**” MSF should call for the Sierra Leonean refugees to be sheltered in proper camps situated some distance from the border with a “**very strong international protection.**”
- BM 27 Apr. 2001: Neutrality “is a ‘demand for **protection**’ in exchange for not taking sides”.
- AR 2000-01: Sierra Leone: “The joint military intervention conducted by the United Nations, ECOWAS and the UK is **providing little protection for Sierra Leonean civilians.**” The international responses to crises: “The **protection** afforded by states and the United Nations is **precarious or non-existent** and the quality of the relief remains highly inadequate.” Safe areas: “Conceived as an alternative to population displacement, they are **illusory in terms of protecting a population...**”
- BM 31 Aug. 2001: Liberia, acknowledgement of the conflict by the UNSC: a positive move “which in September will enable us to chase up donor countries for operations in the field (**protection**, security, assistance)”.
- BM 22 Mar. 2002: UNHCR report on abuses in camps: discussions never approach the refugees’ “**need for greater protection ...**” “Our main concern is to publicise what fails being done in terms of **protection of refugees ...** our press releases this year have done nothing but drum out the **lack of protection** for refugees in these three countries.”
- BM 26 Apr. 2002: Sierra Leone: the many non-registered persons “therefore cannot be monitored and have **no protection**”.
- BM 28 Feb. 2003: Project of book *Populations in danger [In the Shadow of Just Wars]*: “[On the 1990s] ... a new geography of international interventions, **military interventions based on both the right to intervene and the protection of relief operations.**”
- BM 24 Apr. 2003: West Africa, main issues: “1) The **protection of civilians ...** UNHCR is **far from fulfilling its mandate to protect** refugees.” MSF notes the “lack of initiatives and means to reduce the level of conflicts and **protect civilians**”.
- BM 16 May 2003: Discussion with the country coordinators: some believe that refocusing on the medical side has “eroded our potential for militancy, notably concerning the **protection of populations** (which was at one point almost **a taboo** here).”
- AR 2002-03: Abuse in West Africa refugee camps: “Last year, we highlighted the **low level of protection and assistance available to the populations affected by these wars**, to the victims of acts of violence ... a year later the situation is even worse. There is **no more protection** for these people now than there was then.” Team safety: “Our first **protection**: our strategic choices, our understanding of the contexts and our ability to build up a network of relations.”
- BM 26 June 2003: Afghanistan, the deteriorating security situation: “Immediately raise the issue of the **protection of our personnel**, both local and expatriate.”

- BM 31 Oct. 2003: Armenia: problems linked to the law, which does not guarantee “**adequate protection for children** and MSF personnel”. A mission that links “social action to the **protection of children’s health**”.
- AR 2003-04: “Similarly, our discussions of conflicts have been marked by the resurgence of **calls for international protection which, in my view, are hardly realistic.**”
- BM 25 June 2004: China, Baoji: “The **legal protection** of children was totally neglected by MSF... Within which strategic line should this programme fall: child welfare?”
- BM 26 Nov. 2003: Ivory Coast: “... **problems of protection**, given the intense xenophobia at present ... a more robust team is being deployed in Guiglo to tackle the **growing problem of protection**”.
- BM 25 Nov. 2005: Chechen refugees in Poland: “Our action responds to the need for **assistance in terms of protection** in order to create rights for these populations.”
- BM 28 Apr. 2006: Chad, CAR: refugees “no longer know where to go for **assistance and protection**”.
- AR 2005-06: *La Mancha* process: “We pointed to several decisions which, in hindsight, appeared to be errors and illusions on the part of MSF. For example, there was **the illusion that our presence in the field made a significant contribution to the protection of populations.**”
- La Mancha, Final Agreement, 25 June 2006: “In the case of massive and neglected acts of violence against individuals or groups, we should speak out publicly, based on our eyewitness accounts, medical data and experience. However, through these actions we do not profess to ensure the **physical protection** of people that we assist”
- BM 30 Mar. 2007: DRC: MONUC “**certainly has a protective role**”. The situation “would probably be worse” without it. Press releases concerning VSV: “**Protection** goes as far as **providing a medical certificate** for anyone who requests it – that’s about **our limit in terms of protection**” (personal notes on the BM).

OCCURRENCES OF “RIGHT(S)” (“HUMAN RIGHTS”, “PEOPLES’ RIGHTS” THE “RIGHT TO HUMANITARIAN ASSISTANCE”, ETC.) AND LINKED EXPRESSIONS (GENEVA CONVENTIONS, ETC.)

- AR 1978: “When MSF members return from missions, they will inform the board of any **human rights violations and unacceptable facts** they may have witnessed.”
- AR 1980: “Problems of war, problems of under-development and serious **breaches of human rights** have forced us to think about our role.”

- AR 1981: “Everyone will join me so that we can make a dream come true ... the crazy dream of devoting our skills, hearts and enthusiasm to ensuring that nobody is ever forgotten ... and sometimes also to testify to the **attacks on peoples’ rights, these famines, deportations and massacres ...**”
- AR 1982: “We would like the means to make our voice heard when it is necessary to denounce the **attacks on people’s rights** that we alone have witnessed.”
- AR 1984: Decision to create a research centre to examine issues such as development, **human rights** and **peoples’ rights**.
- BM May 1985: Importance of **human rights** in the image and action of Médecins sans Frontières; need to develop our analysis of Third World issues.
- AR 1985: Guinea: “Along with our friends from the Guinean **Human Rights** League, we rendered the ultimate homage to the thousands of victims of Boiro: that of memory.”
- BM 25 Nov. 1985: Ethiopia: at a meeting between NGOs and UN officials, R. Brauman reminds the secretary-general’s representative of the “principles of press freedom and the UN **Declaration of Human Rights**”.
- BM Mar. 1986: March for the hostages in Lebanon: “MSF’s participation in **defending human rights** is legitimate.”
- AR 1986-87: “Our work in the field brings us into daily contact with the failures of development and **the problem of human rights throughout the world.**”
- BM Sept. 1987: ATD Quart Monde organizes a **Human Rights Day**; MSF participates.
- BM Oct. 1987: Re-energise MSF regional branches around ‘key’ themes such as “**human rights**”.
- BM May 1988: Project for the drafting of a new Declaration of Human Rights: “As a **human rights practitioner** ... MSF should participate in this initiative”. Sudan (the ‘Little Hitler’ affair): a meeting to discuss “the policy on *témoignage* and **human rights**”.
- AR 1988: The problem of refugee protection cannot be summarised by **idealistic oppositions such as ‘human rights/reasons of state’** or ‘refugees good/governments bad’ ... The **defence of human rights** has become ... a central issue in international relations. While I am not certain that the reasons behind this are blameless, I am nevertheless convinced that we should seize these noble declarations on the wing and hold to account the people who make them ... But we are powerless against an internal system of repression” which allows no freedom whatsoever. The limits of humanitarian action appear when “**rights** collide with force and are smashed”.
- AR 1989: The Europe missions are missions in which “**medicine and human rights** are closely linked ... [it is] fundamental that **support for human rights movements** retains its place at MSF.” A debate (to advance the principle of the **right to humanitarian assistance**) on the constitution of a corps of “white helmets tasked with the creation of access corridors to stricken areas and protected perimeters, enabling relief teams and supplies to reach them”.

- BM Oct. 89: Debate on Eastern Europe. Supporters of intervention: “It means a great deal, it’s closely **connected to human rights, to the history of what MSF has done**”. Rony: “Little enthusiasm for this kind of mission. In my view, what we are doing in Armenia is harder to explain than what we are doing in Africa.” “There is no **canon law** we can refer to; it’s hard to defend, but [Rony] won’t oppose it.” “Rony Brauman suggests we approach institutions to promote the **right to asylum and the rights of refugees**.”
- BM Dec. 1989: Governments becoming involved in humanitarian action: “That’s the price of the **human rights impact** of humanitarian action”. Cambodia: “We took a public stance because there are **human rights problems**.”
- AR 1990-91: Iraq: “Did we see, during that spectacular development in the soap opera of the year, **the right to humanitarian intervention** elevated to a duty which states would henceforth accept, the latest incarnation of historical Reason and Progress? As we have publicly stated, the answer is no ... In my view that action stemmed more from international protection and political improvisation than from intervention ... Should we distinguish between humanitarianism, the general interest, social utility, and defence of **human rights**? I think we should.”
- BM Apr. 1992: Bangkok project with children, debate on the problems specific to children: those who support the project see “clear evidence” of “**attacks on human rights**”.
- AR 1991-92: MSF wins the Council of Europe’s **human rights award**. “In my view, and I believe it is a view that everyone shares, the least the international community should do for the people fleeing oppression and war is give them the **right of asylum**.”
- BM 26 Mar. 1993: *Populations in Danger* book (contextual analysis): “NGO confronted with **security** problems arising from the increase in **violence**; respect for **human rights**, international law ...”
- BM Apr. 1993: Bosnia, debate on *témoignage*: in favour – “At last, we are envisaging something other than humanitarian action, which has reached its limits” (M.Roux). Against – “Risk of **a human rights seesaw** [regarding our action]” (Rufin).
- AR 1992-93: Kurdistan: “There is a **human rights problem** ... [but] little on which ... MSF can have a genuine impact. In the 1992 annual report, I had referred to our relatively contemplative role, the impossibility of really fulfilling the **human rights sentinel** role we had given ourselves.”
- BM Aug. 1993: Somalia: “MSF-Belgium has witnessed atrocities and has decided to refer them to organizations to combat **human rights** (sic).”
- AR 1993-94: Somalia: “**Under the banner of solidarity, human rights** and humanitarian aid, we saw combat helicopters attacking demonstrations ... Are peacekeeping forces, military-humanitarian forces, obliged to **respect the principles of humanitarian law** or not?”
- BM Oct. 1993: Madagascar: “One of our projects is now focusing on respect for **children’s rights** in the prisons there. Together with other organizations, we are acting as watchdogs.”

- BM Nov. 1993: Introduction of the Board to the field administrators. Response to a question concerning MSF's position in the humanitarian field: "MSF's position is to stick as closely as possible to medical activities, to give priority to emergencies; the **right of témoignage** is in fact a duty, an integral aspect of humanitarianism."
- BM 25 Mar. 1994: Burundian refugees in Rwanda: "... there has been no analysis of the political side: **the right of asylum**, why people are fleeing, the nature of the colossal conflict between Hutus and Tutsis ..."
- BM Sept. 1994: Great Lakes: "In Tanzania, the **MSF human rights observers** programme is a failure."
- BM Mar. 1995: Chechnya: "We are trying to communicate the message that there are persistent violations of the **Geneva Conventions**, since civilians are being targeted and denied assistance."
- BM June 1995: Madagascar, detainees: conditions are deplorable and "**human rights are being violated**".
- BM Sept. 1995: Bosnia: MSF's film is a "tool ... but it is not the work of an **organisation which specialises in human rights**".
- Chantilly 1995: *Témoignage* comes into play when MSF volunteers are "witnesses to **massive human rights violations**".
- BM Nov. 1995: Draft communication for the 25th anniversary: "These events, in the course of which **fundamental human rights and the rights of humanity** were flouted thanks to the passive complicity of the international community, forced MSF to become an active witness in order to highlight the predicament of distressed populations. MSF, a witness to events around the world, is led to speak out when the **fundamental rights** of the populations with whom it works are threatened. For these threats must be revealed."
- AR 1995-96: On *témoignage*: "MSF warns of manipulation and denounces if it has witnessed **violations of the Geneva Conventions and other declarations** to which all, or almost all, states are signatories ..."
- BM Oct. 1996: Mission France: "The law concerning foreigners and government policy ... constitute **attacks on human rights** ... there is currently insufficient support for these populations in danger **with regard to their legal rights**."
- AR 1996-97: "We must all move forward together on the matter of our responsibility, MSF's responsibility, **in the light of massive human rights violations**; the context of the Great Lakes will help us to do that."
- BM Sept. 1997: Great Lakes: sections decide to "informal but strong links with **human rights** organizations".
- AR 1998-99: Kosovo: "In fact, the issue of the **rights of refugees** and the problem of their reception and instrumentalisation were present from the outset. At first, the deportees were useful as victims of Milosevic, but they were very embarrassing as asylum seekers who were entitled to protection and assistance."
- BM Apr. 1999: Kosovo: besides the brutality, one major problem is the "**human rights aspect**, the humiliation ... It seems to me that what we have seen is not so

much a 'humanitarian crisis' as a flawed response in terms of **human rights** and legal matters".

- BM June 2000: Sierra Leone, resumption of the war: each UN agency "has its own **human rights section**". There is a confusion amongst the UN and NGOs (human rights oriented v. supporting the health system).
- BM Apr. 2001: "Neutrality does not mean you have to remain silent when faced with **serious violations of the Geneva Conventions.**"
- BM June 2001: Neutrality: "Denouncing or condemning what armies and militias do to the civilian population, or revealing violations of **international humanitarian law**, does not mean siding with a belligerent."
- BM 30 Nov. 2001: Afghanistan: "A number of **massacres** seem to have negated all **respect for the Geneva Conventions.**"
- AR 2001-2002: "Chechnya has become a **lawless state**. At the moment, smashing the resistance means smashing the population."
- BM Apr. 2003: West Africa: issues include "the protection of civilians ... the **right to flee** is limited or thwarted by the authorities of a third country ... very few places of safety".
- BM May 2003: Debate on the expansion of MSF's framework of intervention: "The action which tends to **produce rights** comes rather under the citizen action than under the core activities of our organization."
- AR 2004-05: Darfur: "We do not see this as a responsibility we have to act as some sort of **human rights observer** in this mission"
- BM 26 June 2005: Darfur: "We have expressed reservations on the quality of the report produced by MSF-Holland, but on the fundamental issue – the denunciation of the rapes – we are in total agreement. The reservations have more to do with the fact that the report is couched in the language of a **human rights** organization rather than of a humanitarian organization which specialises in medical action ... but we can only be pleased that this topic (though perhaps clumsily quantified) had been raised"
- BM Nov. 2005: Chechnya: "In my view, our action responds to the need for assistance in terms of protection in order to **create rights** for these populations."
- BM Mar. 2006: *La Mancha*: clarification on the "limits of MSF's role as regards the prevention and resolution of conflicts, the call for military interventions, the **promotion of human rights** and of international legal action".
- La Mancha, Final Agreement,
25 June 2006: "... MSF actions coincide with some of the goals of **human rights** organizations; however, our goal is medical-humanitarian action rather than the **promotion of such rights**"
- AR 2005-06: On *La Mancha*: "The distinction between a humanitarian organisation and an **organisation working to promote human rights** has been clarified."

OCCURRENCES OF “CIVILIANS / CIVILIAN POPULATIONS”

- AR 1981: Lebanon: mortars, artillery fire and rockets “bombard the neighbourhoods for hours at a time, blindly striking an exhausted and battered **civilian population**”.
- AR 1982: Lebanon, Kurdistan: “Of course it is always the **civilian populations** who pay the price of these blind and brutal policies.”
- AR 1984: Afghanistan: “We look on, powerless, as high-altitude bombers **blindly strike the civilian population**.”
- BM Nov. 1986: Mozambique: “**Civilian populations** are taking refuge in all the neighbouring countries.”
- BM 30 Oct. 1992: Former Yugoslavia: “F. Jean pointed to the unacceptable and absurd situation of the several thousand **civilians interned** in camps.” Somalia: the situation’s reversal (the taking of Barbera by Morgan’s forces) “has **trapped thousands of civilians**”.
- BM 25 June 1993: Somalia: “On what legal basis does the United Nations rely when it judges Aideed, sends troops into a town centre and a hospital **at the risk of killing civilians?**”
- BM 29 July 1994: Afghanistan, increased bombing on Kabul: “**many civilians have been killed.**”
- BM 31 Mar. 1995: Chechnya: “We are trying to communicate the message that there are persistent **violations of the Geneva Conventions**, since **civilians are being targeted** and denied assistance.”
- AR 1994-95: “We are currently intervening in ten or so crises in which **civilian populations**, their property and the land on which they live, constitute both the stake and the deliberate target of the fighting.”
- BM 9 June 1995: Chechnya, bombardments: “It is impossible **to be with civilian populations.**”
- BM 23 Feb. 1996: Liberia: “The ECOMOG deployment is improving security, for there are **fewer atrocities being inflicted on civilians.**”
- BM 29 Mar. 1996: Chechnya: plan for a press conference to “draw the attention of journalists to Chechnya and enable us to explain our view of the problem – the murders and other **serious violations involving civilians**”.
- BM 31 May 1996: Liberia (following the pillaging of NGOs): “The decision has been taken to talk about victims rather than the ‘colossal damage’ (not for **civilian** protection but for the safety of the teams)
- BM 6 Sept. 1996: Burundi: “Two armed forces clash regularly and are guilty of inflicting **atrocities on civilians.**”
- BM 24 Jan. 1997: Zaire: “Accounts ... of **systematic massacres of civilians.**”
- AR 1996-97: “The more values and fundamental moral markers devised to spare and

protect **civilian populations** are scorned, the more exposed humanitarian workers become.” Great Lakes: “These massive acts of violence are **directed at civilian populations** (indiscriminately or intentionally).”

BM 19 Dec. 1997: Zaire: “It is impossible to reach **civilian populations**, which are paying a very heavy price.”

BM 25 Sept. 1998: “In Kosovo, the Serbs are waging a **war against the civilian population**.”

AR 1998-99: Epidemiological study of the violence: “This study shows how **civilians**, whether unarmed, women, children or elderly, are considered parties to the conflict, spies or enemies.” Sierra Leone, MSF ‘driven out’ of the country: “In fact, it was due as always to the desire to get rid of potentially troublesome witnesses, as combats give atrocities on **civilian populations** more than their due.” Congo-B: “The region is still plagued by the Ninjas’ and Cobras’ war game with real atrocities inflicted **civilian populations**.”

BM 25 June 1999: Kosovo: “The NATO has arrived but cannot really **protect civilians** ... A (foreign) army is not necessarily effective in protecting people from **civil insecurity**.”

BM 29 Oct. 1999: Chechnya: “Now we are at war ... **massive and indiscriminate bombing of civilian populations**, total blockade ...”

BM 19 Nov. 1999: Chechnya: “We have decided to write to every head of state attending the OSCE summit in Istanbul to express our indignation, our outrage and our desire that **civilian populations** be respected.”

BM 17 Dec. 1999: Sri Lanka: “During this war, we saw **indiscriminate attacks on civilian populations**, the enforced displacement of populations, the **use of civilians as shields** ...” Chechnya: accounts collected from refugees “show that **the civilian population is being ruthlessly hunted down**”. Nobel presentation: MSF members wore T-shirts emblazoned with the word ‘Grozny’ “to protest against the **shelling of civilian populations** in Grozny”.

AR 1999-2000: Chechnya: “Tens of thousands of **defenceless civilians** were subjected to a barrage of fire.”

BM 2 Mar. 2001: West Africa: “I note once again that every time it comes down to actually protecting **civilians**, the great international mobilisation produces nothing.”

BM 30 Mar. 2001: Srebrenica: “Why did they leave the **evacuation of civilians** to the Serbian army?”

BM 27 Apr. 2001: Palestine: “It is a case of open war in an urban area, with a large **civilian population** in the middle.”

BM 8 June 2001: Neutrality: “Denouncing or condemning what armies and militias do to the **civilian population** ... does not mean siding with a belligerent.”

AR 2000-2001: “The joint military intervention conducted by the United Nations, ECOWAS and the UK is providing little **protection for Sierra Leonean civilians**.” Chechnya: “This violent campaign of **civilian repression** is mostly conducted behind closed doors.”

BM 28 Sept. 2001: Afghanistan: “Even though the victim changed camp [the victim now

being the USA], we have to consider the possibility that the vice might tighten and create more **civilian victims** in Afghanistan ... It is clear that our sole objective is to **go back to working with Afghan civilians**.”

BM 30 Nov. 2001: Afghanistan: question from the Board: “What is the situation concerning **wounded civilians**?”

BM Dec. 2001: Afghanistan: J-H Bradol’s article on the US army’s method of intervention questions “the consequences of intervention for **the civilian population**” of Tora Bora. Congo-B: “54% of the rapes are **committed by civilians**”.

BM 22 Feb. 2002: Liberia: “We’ve had very few **wounded civilians**.”

BM 26 Apr. 2002: Palestine: J-H Bradol meets the authorities “to ask them to **stop shooting civilians** ...”

AR 2001-02: Afghanistan (ration drops): “We don’t deny states their legitimacy to **assist civilians**.”

BM 28 June 2002: Chechnya: “Our teams are still collecting the same stories of **violence against civilians**.”

BM 24 Apr. 2003: West Africa: main issues “1) **Civilian protection**: ... the duty of parties to the conflict to **respect civilian populations** and aid workers” ; the need to control aid in order to “ensure that relief does not contribute to the **exploitation of civilians** by amassing them on certain sites ... Transit sites, reception centres and accommodation which are **dangerous for civilians** ... We note the lack of initiatives and means to reduce the level of conflicts and **protect civilians**.” Iraq: “There has been violence **directed at civilians**.”

AR 2002-03: “Our role in time of war ... review and comment on **civilian needs**; protest against the misuse of the humanitarian label ...”

BM 29 Aug. 2003: DRC: “Certain militia groups have been **systematically massacring civilians** in towns and villages ...”

BM 31 Oct. 2003: Iraq, on the press release draft: “It seems to me that we could remove the adjective ‘**innocent**’ before the word ‘**civilians**’.”

BM 27 Feb. 2004: Darfur: “**Extreme violence against civilian populations** ... an improvement is foreseeable only if the level of **violence against civilians** decreases ...”

AR 2003-04: “Concerning Iraq, we don’t seem to be saying much about the **violence inflicted on non-combatants, i.e. civilians**, captured or wounded soldiers, the violence inflicted by the US-led coalition.” On calls for protection: “Why should we imagine, given the complexity of the situation, that it is feasible for foreign troops to turn up and immediately resolve, as if by a miracle, any problem of violence, any problem of access to aid for **civilian populations**...?”

BM 25 June 2004: Darfur: “Militias continue to subject **civilian populations** to massive violence.”

BM 3 Sept. 2004: DRC, Katanga: “The **violence against civilians** has not stopped since the end of the war ... violent behaviours against **the civilian population** continue.”

- BM 26 Nov. 2004: Ivory Coast: “Eighty-four admissions, two-thirds of them soldiers; the rest are **civilians** injured during the many discharges of machine guns.”
- BM 1 Apr. 2005: Congo-Brazaville, closure of the mission: “The population had changed and was no longer linked to a ‘**war against civilians**’.”
- AR 2004-2005: Darfur: “Our colleagues in Brussels had collected ... a great deal of information on the **violence inflicted on civilians** ...”
- BM 2 Sept. 2005: Public statement (Haiti): “MSF calls on all armed parties to respect the **security of civilians**.”
- BM 27 Jan. 2006: Darfur: “The number of **wounded civilians** is rising ...”
- BM 27 Oct. 2006: Sri Lanka: “**Violence against civilians** and humanitarian workers; blocking of aid.”
- BM 26 Jan. 2007: CAR: “Civil guards are inflicting violence on the **civilian population** ... A public statement on the **violence directed at civilians** will also follow as our humanitarian space diminishes.”