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Cultural Sensitivity in Humanitarian
Assistance in Post-Conflict Areas

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ABSTRACT

Due to the increasing number of non-international conflicts around the world, the importance of humanitarian aid is also increasing and the international cooperation is crucial. To provide humanitarian assistance is a key policy of many international and national organisations and it is a main focus of essential international actors such as the United Nations or European Union. However, on an international level a lot of humanitarian agencies provide aid in a country different from the one the agency is based in. This means that humanitarian organisations operating abroad have to be aware of different traditions, customs or behaviour, and must incorporate those characteristics into their humanitarian projects. International discussions continue to skim over this topic even though it is very important for the effective work of humanitarian organisations.

This thesis offers a deep study of cultural sensitivity within humanitarian assistance. Humanitarian work is based on international humanitarian principles, which are likely to be followed by organisations. Still, the lack of attention on culture can be found within the main humanitarian principles. Interviews with some humanitarian organisations should show if the cultural approach of humanitarian agencies is sufficient or not.

Key words: aid, culture, humanitarian assistance, humanitarian principles, human rights, universalism, ICRC

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Introduction

Humanitarian assistance is a modern phrase with a long tradition throughout human history. In ancient Greece, Rome or China, few provisions existed about times of war.¹ People helped each other with expectation that one day other people would help them. This type of humanitarian assistance was unorganised, and it was arranged and provided by people themselves. In the next period characterized by the growing power of Christianity in Western Europe, to provide humanitarian aid was under the control of Christian charity. The majority of help was focused on victims of military conflicts. An important turn in the humanitarian field arrived in 19th century when Swiss activist Henry Dunant came up with the idea to create a treaty which would commit states to caring for wounded and sick soldiers. The first Geneva Convention was adopted. This period can be considered as the birth of the modern concept of humanitarian assistance.

After the Second World War the rise of humanitarian organisations was noticeable. Due to modern technology that allows us to know what is happening in other countries, people have a tendency to help others who are suffering. The process of globalisation opens the doors between countries that were for most of history inaccessible to each other. However, the necessity of helping people who live in poor, life-threatening or unhealthy conditions is not only based on solidarity and humanity. The process of globalisation connects states together and makes them dependent on each other. The main goal of essential international actors is to maintain peace and security. This goal can be hindered by different situations in different countries. Dangerous circumstances such as internal conflicts, diseases epidemics, terrorism or, natural disasters can easily influence or spill over into other countries. Humanitarian aid can then be used as a tool to protect international peace and security and to spread a culture of peace.

Organisations providing humanitarian assistance are not obliged by any international legal standards to pay attention to the specificity of local cultures. Yet, the majority of them are aware of the importance of cultural sensitivity in their humanitarian assistance.

¹ See Sun Tzu: The Art of War.

Humanitarian assistance is provided in areas of man-made or natural disasters. This paper focuses only on post-conflict situations as the main challenge for humanitarian organisations. In 2015, the economic impact of violence was 13,3 % of the world's GDP,² which is 13,6 trillion dollars (1,876 dollars per capita).³ The total cost of humanitarian assistance in 2015 was 28 billion dollars (coming from both private sector and governments), which is approximately 3 billion dollars more than in the previous year.⁴ Since 2012, an increasing number of conflicts has been recognized. In 2015, the number of state-based conflicts was 71. In the year 2012, there were 50 state-based conflicts. In 2015, a number of non-state conflicts was 50 (in 2012 it was 33) and 26 (in 2012 it was 23) of one-sided conflicts.⁵ These numbers show the importance of humanitarian assistance in ongoing conflicts or post-conflicts areas.

This thesis asks two research questions that will be answered by the end of this paper. The first question is whether the international community needs to focus more on cultural particularities when it comes to humanitarian assistance. The answer for this question is researched through a deep analysis of international humanitarian standards and international discussions. The answer for the second question, whether humanitarian assistance sufficiently respects and reflects the culture of an area where humanitarian aid is provided, is discussed through interviews. The paper's basis is a discussion between universality and cultural relativity, and whether these approaches are insufficient coming from Western cultural understanding to non-Western countries. This analysis asks, „*can the principles be universal in a diverse and divided world?*“⁶

According to the aforementioned questions, one hypothesis is created: the full enjoyment of humanitarian aid is limited by the culture.

The thesis is divided into four chapters. The first two chapters deal with necessary theoretical components. Chapter One focuses on two main theoretical concepts, universalism and cultural relativism, analysing their definitions and elements. It also

² GDP = Gross Domestic Product.

³ Institute for Economics and Peace. *Global Peace Index 2016*.

⁴ Global Humanitarian Assistance Initiative, *Global Humanitarian Assistance Report 2016*.

⁵ Department of Peace and Conflict Research, *Uppsala Conflict Data Program, 2016*.

⁶ BERNARD, V. *Editorial: The Humanitarian Ethos in Action, 2016*, p. 11.

offers a definition of humanitarian assistance as it will serve the focal point of this paper. It compares humanitarian assistance with human rights and shows a close relationship between those systems.

The second chapter analyses the main sources of international humanitarian standards. It examines the principles of International Committee of the Red Cross, Sphere project, Core humanitarian standards and crucial documents from the United Nations and European Union. In accordance with the main focus of this paper, the chapter pays attention to standards concerning respect of culture.

The third chapter looks at culture from a social anthropological aspect in regards to the humanitarian field. It studies the international approach to the topic and examines international discussions such as the debates at the first World Humanitarian Summit in Istanbul in May 2016.

The fourth chapter focuses on international organisations. It contains interviews with experts and final recommendations for humanitarian organisations based on the information gained throughout the research.

Methodology

For this paper, mainly primary sources were used. Theoretical portions are based on published articles and international human rights instruments, of which, there are many. On the other hand, literature for the practical aspects was lacking. The small amount of scientific literature reveals little interest in this topic on an international level. Problematic as well was the lack of interest among international humanitarian organisations to participate in the research.

The practical segment is based on personal interviews with experts from different humanitarian organisations. These organisations were selected based on their various humanitarian activities, international reputation and location, with a total of five interviewed experts. Three interviews were done with Czech international organisations due to its proximity to the author and the possibility to lead an interview in the Czech language (author's mother language). Other interviews were led in English with German

international organisations. Other Czech and German organisations were asked to be a part of this thesis but either did not reply or expressed their disinterest. The European Union Humanitarian Aid and Civil Protection department expresses its interest in having an interview about culture and humanitarian assistance, however scheduling issues occurred. Furthermore, the United Nations Office for the Coordination of Humanitarian Affairs was unable to have an interview within the offered days. Despite this fact, they recommended to consult a few websites on the topic of this paper. The policy office expressed that this thesis „*be a welcome element in improving humanitarian response by focusing on cultural sensitivity.*“⁷

The procedure of having an interview began with the question of whether an organisation wants to be interviewed or has an interest in the topic. After a positive answer, the questionnaire in English or in Czech was sent to them and the date of an interview was determined. The interview was conducted either in person or through Skype. The English questionnaire can be found in Annex 1 and the Czech questionnaire is in Annex 2.

⁷ Email from United Nations Office for Coordination of Humanitarian Affairs, Policy department, 1 July 2016.

1 Universalism, Cultural Relativism and Humanitarian Assistance

The biggest discussions about creating international standards of human rights started after the Second World War. A need to protect people from the hostilities that had happened during the war increased, and the international community decided to set up a common system to protect human rights. Before the World Wars some national attempts can be recognized as American Virginia Declaration of Rights, French Declaration of the Rights of Man and Citizen, African Charter of Kurukan Fuga or English Bill of Rights. For special cases of human rights violations the ad hoc treaties and agreements were created for each different situation by the superpowers that time. In contrast, International Humanitarian Law (IHL) has its major roots in the 19th century. However, the first legal framework for human rights is United Nations Charter which also gave to human rights system an universal characteristic.

In the following years, much criticism of universalism appeared and a new concept was created - cultural relativism. This idea has its main focus on regional interpretation of human rights and the specific needs of different cultures. The regional instruments for protecting and promoting human rights mainly concentrate on the particularity of the culture. Those particularities are very often linked to religion, social order, or traditions and customs. Regional system of human rights is an addition to universal system.

Human rights are a part of every area of our life, especially for those who work in the humanitarian field where the theories of universalism and cultural relativism are applicable.

1.1 Link Between Human Rights and Humanitarian Assistance

It is important to be familiar with the relationship between International Human Rights Law (IHRL) and IHL. Before examining the role of humanitarian assistance the relation between IHRL and IHL must be analyzed.

International protection of human rights is a part of International Public Law (IL). IL is made and led by states, and regulates the relationships between subjects of IL (states and non-states actors). IL has to be transformed to domestic legislation to enter into force. Since globalization began, states are not the only actors of IL. The phenomenon

of the increasing power of international non-governmental organisations (NGOs) or transnational corporations is changing the international arena. One of the main characteristics is that - large international bodies do not have explicit authority over states; therefore states accept decisions only by their own consent. IL is a system of treaties or customary law.⁸ Lowe, in his book *International Law*, describes IL as „*a body of rules and principles that determine the rights and duties of States...*“⁹

Before examination of both IHRL and IHL systems, the concept of sovereignty shall be evaluated to understand a power of a state. One possible definition of sovereignty is described in a book *A Dictionary of law* edited by Elizabeth A. Martin as „*a Supreme authority in a state. In any state sovereignty is vested in the institution, person, or body having the ultimate authority to impose law on everyone else in the state and the power to alter any pre-existing law. ... In international law, it is an essential aspect of sovereignty that all states should have supreme control over their internal affairs...*“¹⁰

Generally, sovereignty is possessed by states. However, states are not the only subjects of sovereignty. There exist two more subjects. The first is a sovereign individual who has the power over himself. The second can be a sovereign representative or authority of a state. On an international level, only sovereignty of state is adequate. State sovereignty is exercised through its state power (executive, legislative and judicial) within its boundaries. However, this state power is limited by few elements. Firstly, its judicial power is limited by diplomatic immunities. Secondly, state does not have the power to enforce its power by any means. This limitation is named under the IL as non-interference principle which is one of the main principles defined in the UN Charter¹¹. It can be also argued that institutions within the states have their own sovereignty. Sovereignty is divided into internal and external. While internal sovereignty means that state has the right to decide for governmental type, rules for its citizens or it has the right to choose which type the state wants to be (monarchy, republic, democracy, etc.), external sovereignty means the capacity of a state to deal and cooperate with other

⁸ KACZOROWSKA, A. *Public International Law*, 2015, pp. 4-5.

⁹ LOWE, V. *International Law*, 2007, p. 5.

¹⁰ MARTIN, E. A. (ed.). *A dictionary of law*, 2006.

¹¹ See UN Charter, art. 2.7.

states. These two categories can be combined as for example in an adoption of an international treaty. State can adopt the treaty (external sovereignty) and the adoption of that treaty has some implications on national legislation (internal sovereignty). Sovereignty can be de jure or de facto, it depends on its legitimacy.¹²

Jorge E. Núñez argues that state sovereignty is not absolute. He defines sovereignty as a supreme authority which has limitations and thus it cannot be absolute. For Núñez the supreme authority is „*the highest power to rule - create and apply law - in a certain territory and for a certain group of people.*“¹³ Sovereign state is sovereign when it has the supreme authority over its territory and population. He claims that if the state has an absolute sovereignty, it would be able to do (or not to do) or order what an individual wishes. Sovereignty of a state is always limited. On an internal level it can be a national legislation, local economy, social structure. External sovereignty very depends on international context. Sovereignty may be also disturbed by social evolution in people's beliefs, assumptions or social circumstances.¹⁴

Concept of state sovereignty is very important concept which gives the state the possibility of inter-state cooperation. Humanitarian assistance can be provided and effective only with the acceptance of an affected country based on cooperation between humanitarian agencies and states. According to Ban Ki-Moon „*sovereignty means responsibility.*“¹⁵ States have to protect their citizens from wars and any violence. The best way how to protect population from suffering is to cooperate with other regional or international actors.¹⁶

IHRL is a system of norms that handles human rights. It regulates the relationships between the state and an individual. The first instrument, more precisely, the catalogue of human rights, was the Universal Declaration on Human Rights (UDHR) adopted by the General Assembly of the United Nations. This document, which does not legally

¹² NÚÑEZ J. E. *About the Impossibility of Absolute State Sovereignty: The Early Years*, 2014, pp. 646-651.

¹³ *Ibidem*, p. 648.

¹⁴ *Ibidem*, pp. 648-652.

¹⁵ UNITED NATIONS, General Assembly, *One Humanity: Shared Responsibility*: report of the Secretary-General for the World Humanitarian Summit, A/70/709, (2 February 2016), para. 174.

¹⁶ *Ibidem*, p. 9.

bind states to fully implement it but it is considered as customary law, presents the human rights and fundamental freedoms of individuals that the states should protect. The historical background lies on the hostilities and human rights violations that happened during the Second World War. The international community decided to create a system of protection to prevent those atrocities in the future. The UDHR was then followed by two Covenants¹⁷ and other instruments with a specific human rights aim.¹⁸ This is a first big difference from IHL. IHL sources comprise four Geneva Conventions and its Additional Protocols, along with the Hague Regulations, which are from the end of 19th century and early 20th century. The guardian of IHL is the International Committee of the Red Cross (ICRC), as opposed to guardian of IHRL, which is the Secretary General of the UN. Moreover, rights under IHL cannot be derogated as it is possible under IHRL.

The second considerable difference is when the law is applicable. IHRL can be applied during conflict or during a time of peace. Contrarily, IHL is applicable in principle only in time of armed conflict. IHL regulates the hostile activities happening during armed conflicts where IHRL is insufficient, protecting the victims of the conflicts and their properties.¹⁹ In addition, IHL operated at global level while IHRL covers also regional level through regional human rights treaties and agreements.

The third difference already mentioned above is who is protected by these systems. Under IHRL, everyone is protected regardless of race, nation, religion, etc. However, under IHL, protected persons arise due to hostilities, or are civilians, wounded, sick, captured combatants or prisoners of war. Who is protected by IHL is clearly defined in Geneva Conventions.

Even given their differences, both systems work with the common values of respect for human dignity and principles of humanity (protection of human life and human dignity). But sometimes IHL deviates from the fundamental rights and freedoms. Sivakumaran in her book *International Humanitarian Law* gives an example of the deviation on the

¹⁷ International Covenant on Civil and Political Rights (ICCPR); International Covenant on Economic, Social and Cultural Rights (ICESCR).

¹⁸ GÓMEZ ISA, F. *International Protection of Human Rights*, 2009, pp. 22-29.

¹⁹ *Ibidem*, pp. 479-483.

right to life: „*International humanitarian law accepts killings of combatants and fighters as inherent in armed conflicts and tolerates killings of civilians in certain circumstances.*“²⁰

The adjective "humanitarian" is described by the ICRC Commentary to the Geneva Conventions as „*being concerned with condition of man considered solely as human being, regardless of his value as a military, political, professional or other unit*“²¹ without any military or political influencing. Humanitarian assistance is defined by the International Criminal Court in its case *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)* as „*the provision of food, clothing, medicine, and other humanitarian assistance, and it does not include the provision of weapons, weapons systems, ammunition, or other equipment, vehicles, or material which can be used to inflict serious bodily harm or death.*“²² These goods and services provided in humanitarian assistance should be essential for survival.²³ The nature of humanitarian assistance has an emergency component that easily distinguishes it from foreign aid. Another attribute is the right of victims to receive humanitarian assistance. In the article *Humanitarian Assistance: towards a right of access to victims of natural disasters* wrote by Hardcastle and Chua is said that „*Every person has the right to request and receive the humanitarian aid necessary to sustain life and dignity in natural disasters from governmental organisations or qualified organisations.*“²⁴ Humanitarian assistance should be provided through the consent of the states involved. On the contrary, the question of forced assistance falls under the concepts of responsibility to protect or human security.²⁵ According to Organisation for Economic Co-operation and Development (OECD) „*the humanitarian action objectives are: to save lives, alleviate suffering and maintain and protect human dignity during and in the*

²⁰ SIVAKUMARAN S. *International Humanitarian Law*, 2014, p. 482.

²¹ PICTET, J. *The Geneva Conventions of 12 August 1949: Commentary*, p. 96.

²² Case Concerning *Military and Paramilitary Activities In and Against Nicaragua* (Nicaragua v. United States of America); Merits, Judgment, International Court of Justice (ICJ), 27 June 1986, pp. 47 para. 97.

²³ SPIEKER, H. *The Right to Give and Receive Humanitarian Assistance*, 2011, p. 7.

²⁴ HARDCASTLE, J. and. CHUA A. T. L. *Humanitarian Assistance: Towards a Right of Access to Victims of Natural Disasters*, 1998, pp. 589-609.

²⁵ SPIEKER, H. *The Right to Give and Receive Humanitarian Assistance*, 2011, pp. 17-18.

aftermath of emergencies.”²⁶ In this document, *Towards Better Humanitarian Donorship: 12 Lessons from DAC Peer Reviews*, OECD also describes the content of humanitarian action which includes: „the protection of civilians and those no longer taking part in hostilities, and the provision of food, water and sanitation, shelter, health services and other items of assistance, undertaken for the benefit of affected people and to facilitate the return to normal lives and livelihoods.”²⁷ Furthermore it contains disaster prevention and preparedness, promotion of safety, welfare and dignity of civilians.

Humanitarian actors are historically mainly states, but recently, the importance of NGOs is increasing. In the last years, NGOs have tendency to overtake humanitarian action from states as more neutral actors. However, primary responsibility to protect population and respect human rights still stands on states. The key subject covered by legal instruments is guaranteed access to humanitarian assistance for the civilian population. There are special provisions for occupied and non-occupied territories. Unlike the strong legal framework for humanitarian assistance in international armed conflicts based on the Geneva Conventions and their Additional Protocols, the less extensive legal framework for non-international armed conflicts is weak in regard to actors involved (states and non-states actors). For this situation, the Common Article 3 of IHL, Second Additional Protocol and customary law exist.²⁸

By contrast, the legal regime for humanitarian assistance in situations where conflicts are not present is based on various types of instruments. Those instruments are mainly focused on disaster relief as a second part of humanitarian assistance. The basis lies on the rules and principles of ICRC. An attempt to form a legal framework for humanitarian assistance in non-conflict situations was made by the International Federation of the Red Cross and Red Crescent Societies (IFRC) in 2001. IFRC wanted to create an international treaty that would bind states to take all possible measures to provide humanitarian assistance. The treaty has never been accepted by the

²⁶ Organisation for Economic Co-Operation and Development. *Towards Better Humanitarian Donorship: 12 Lessons from DAC Peer Reviews*, 2012, p. 5.

²⁷ Ibidem, p. 50.

²⁸ SPIEKER, H. *The Right to Give and Receive Humanitarian Assistance*, 2011, pp. 8-16.

governments of member states. Instead of the treaty, the Federation launched the International Disaster Response Laws, Rules and Principles Programme (IDRL), which was supposed to be a basis for the new treaty. Within the IDRL, the states should research, analyze and promote the legal framework for disaster relief that already exist. From these efforts, the IDRL Guidelines were established to help states fulfil the minimum humanitarian standards.²⁹

During the year 1999 the book *Do No Harm* written by Mary Anderson in which she reflects how aid and conflict interact. She works with a concept of improving provision of humanitarian aid under new difficulties that could appear in the field. She points out the fact that actors of humanitarian assistance can deepen the conflict without accurate behaviour. They should know, according to Anderson, not only the humanitarian effect of their help but also the political impact of their actions.³⁰

In the end, humanitarian assistance is regulated by IHL. These regulations are aimed at the behaviour of states and humanitarian agencies. The first main provision in Article 23 of the Fourth Geneva Convention enables the supply of medical items, objects necessary for religious purposes, food, clothes, and other essential materials by the obligation of states to ensure free passage. Article 108 calls for the free passage of shipments. States can reject to guarantee free passage only in the case that there are serious reasons for fear. The First Additional Protocol in Article 61 defines the humanitarian task as the protection of „civilian population against the dangers, and to help it to recover from the immediate effects, of hostilities or disasters and also to provide the conditions necessary for its survival.“³¹ The right to receive aid as the basis for humanitarian action is identified in the 30th Article of the Fourth Geneva Convention. This obligation of states to provide humanitarian assistance to people in need is a precondition of humanity. IHL also regulates the protection of humanitarian workers. People working in the field should have the same protection as the civilian population of states taking no part in the conflict. Moreover, there are some specific provisions including the prohibition of attacks upon medical units. Protection of

²⁹ SPIEKER, H. *The Right to Give and Receive Humanitarian Assistance*, 2011, pp. 18-24.

³⁰ ANDERSON, Mary B. *Do No Harm: How Aid Can Support Peace-or War*, 1999, pp. 1-3.

³¹ First Additional Protocol to Geneva Conventions, art. 61.

personnel working in relief actions is described by 71st Article of the First Additional Protocol. The Geneva Conventions and their Additional Protocols also standardize humanitarian assistance in time of armed conflict in the situations of occupation and no occupation.³²

Humanitarian assistance differs from IHL in the manner of how it is implemented. IHL is a system of treaties that cover the situation during armed conflicts. In contrast, humanitarian assistance is a provision of aid that is oriented to help people in an emergency situation either during or after armed conflict (international or non-international) or a natural disaster. Humanitarian assistance can be provided by various actors, including international governmental organisations, or NGOs, individuals, etc.

1.2 Universalism

Universalism relies on the principle that human rights are for everyone regardless of differences, solely due to human's existence.

The universal level of human rights is established by adoption of UN Charter which is characterized by its focus on protection of human rights. It can be said that this universal approach was then accepted by all states. But the term *universality* of human rights is more famous because of the main international catalogue of universal human rights the UDHR.

The importance of universal respect of human rights and the value of having the same rights for everyone without any discrimination is obvious from its Preamble. Article 1 declares: „*All human beings are born free and equal in dignity and rights.*“³³ Moreover, the language of the UDHR is very specific. Each right is connected to a non-discrimination policy.

The need of universal human rights is also affirmed in the International Bill of Human Rights³⁴. These instruments were adopted by the General Assembly of the UN. However, they were not adopted by all countries in the world. However, because of the

³² Fourth Geneva Conventions and First Additional Protocol.

³³ UNITED NATIONS. *The Universal Declaration of Human Rights*, 1948, art. 1.

³⁴ IESCR, ICCR and UDHR.

high moral value of the UN, every member state should respect the provisions declared in the Bill. Universal human rights should be protected and recognized by all UN member states despite the UDHR's moral but not legal character. In the UN system of human rights are thirteen specific documents regulating various topics as for example International Convention on the Elimination of All Forms of Racial Discrimination or Convention on the Rights of Persons with Disabilities.

Universality of human rights was confirmed in 1993 during the World Conference on Human Rights. One hundred seventy one countries adopted by consensus the Vienna Declaration and Programme of Action. This Declaration reaffirmed the universal character of human rights. One of the most important articles is Article 5 declaring: „*All human rights are universal, indivisible and interdependent and interrelated. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis. While the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms.*“³⁵

The importance of regional differences is proclaimed on the basis that there should not be any distinction between people of different culture, political opinions or economic situation. This document emphasises the significant role of regional approaches to human rights in order to promote and protect universal human rights.³⁶ However, they cannot violate human rights already establish by the UN but they can add more rights according their culture. For example as the right to development in African system of human rights which is not necessary in already developed countries.

One of the most famous universal theorists is Jack Donnelly. Donnelly is a supporter of the universal theory of human rights, nevertheless he sees a space for cultural interpretation and says, „*Human rights do not require cultural homogenization.*“³⁷ For Donnelly, unequal rights for men and women are not a case of cultural divergence but a rejection of the very concept of human rights.

³⁵ UNITED NATIONS. *Vienna Declaration and Programme of Action*, 1993, art. 5.

³⁶ *Ibidem*, art. 37.

³⁷ DONNELLY, Jack. *International Human Rights*, 1998, pp. 34-35.

In the previously mentioned universal instruments (the Bill of Human Rights and the Vienna Declaration) and in this theory, the holder of these rights is an individual. According to Adam Smith's theory of market economy, this turn to an individual approach from a collective one has its basis in the market economy where only individuals working for their own interest can contribute to the society the most.³⁸ The criticism of universal concept is mainly based on its Western nature. Louis Henkin argues that the idea of universal human rights was accepted by Western states as by non-Western states. He raises the question whether „*the morality of human rights is culturally acceptable or will be rejected as a foreign matter.*“³⁹ In the process of realizing the UDHR and of creating new world order, the countries from all regions in the world were present. However, it can be argued that at that time, the world was colonized, so the particularities of the countries could not be expressed fully.

In many arguments against the theory of universality of human rights, critics of the insufficient emphasis on cultural variety can be found. In fact, the international community, especially the UN, calls for regional human rights instruments and finds culture of utmost importance for the system of human rights protection. In 2001, the UNESCO Declaration on Cultural Diversity was adopted. Although it is not a legally binding document, it has a high moral value for the member states. The Declaration defines culture as „*the set of distinctive spiritual, material, intellectual and emotional features of society or a social group, and that it encompasses, in addition to art and literature, lifestyles, ways of living together, value systems, traditions and belief*“⁴⁰ and it characterises cultural diversity as a human heritage in its first article. The fourth article addresses the important relationship between human rights, fundamental freedoms and cultural diversity. In addition, it says, „*no one may invoke cultural diversity to infringe upon human rights guaranteed by international law, nor to limit their scope.*“⁴¹ The Declaration finds cultural rights as part of universal rights. The following document, which was adopted in 2005 by the UNESCO General Conference,

³⁸ SMITH, A., CAMPBELL, R.H., A. S. SKINNER a W. B. TODD (eds.). *An inquiry into the nature and causes of the wealth of nations*. Indianapolis: Liberty Fund, 1976. ISBN 0-86597-008-4.

³⁹ HENKIN, Louis. *The Universality of the Concept of Human Rights*, p. 15.

⁴⁰ UNESCO. *Universal Declaration on Cultural Diversity*, 2001, Preamble.

⁴¹ *Ibidem*, art. 4.

is the Convention on the Protection and Promotion of the Diversity of Cultural Expressions, which considers all cultures on the same level. The Convention declares „the importance of cultural diversity for the full realization of human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights and other universally recognized instruments.“⁴² It also strengthens the important role of human rights and fundamental freedoms, which should be guaranteed to protect cultural diversity.

Another document that is not legally binding but has academic character is the Fribourg Declaration on Cultural Rights from 2007. The Declaration reaffirms the cultural rights already mentioned in other international instruments. It stresses the importance of cultural rights as a part of universal human rights through their indivisibility and interdependency.

1.3 Cultural Relativism

The idea of cultural relativism is mainly supported by the states of the developing world from African and Asian regions. The main question analysed by this concept is if universal human rights are also applicable to non-Western states. The key criticisms of the universal theory by cultural relativists are the Western character of international human rights instruments and insufficient attention to various cultures around the world. There is no universal culture in the world; each country has its specific historical background, social and economic circumstances and different traditions.⁴³

The theory of universal rights can be questioned on the basis of reservations that countries are allowed to make to treaties. According to *Vienna Convention on the Law of Treaties* reservation means „a unilateral statement, however phrased or named, made by a State, when signing, ratifying, accepting, approving or acceding to a treaty, whereby it purports to exclude or to modify the legal effect of certain provisions of the treaty in their application to that State.“⁴⁴ Reservations in international human rights or

⁴² UNESCO. *Convention on the Protection and Promotion of the Diversity of Cultural Expressions*, 2005, Preamble.

⁴³ HASHIMOTO, H. *The Prospects for a Regional Human Rights Mechanism in East Asia*, 2004, p. 53.

⁴⁴ UNITED NATIONS. *Vienna Convention on the Law of Treaties*, 1969, art. 2(d).

humanitarian treaties which can completely change the meaning of a treaty or they can fully invalidate the implementation and compliance of provisions arising from the contract are against IL. Other members to the treaty should not accept any reservation which could be in contrary with the aim of that treaty.

The example of a mistake of international community is noticeable in Muslim world. For example Saudi Arabia ratified Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 2000 with two reservations. First reservation is: „*In case of contradiction between any term of the Convention and the norms of Islamic law, the Kingdom is not under obligation to observe the contradictory terms of the Convention.*„⁴⁵ Saudi Arabia as the majority of Islamic countries relies on Islamic law *Sharia*⁴⁶. Legislation in Saudi Arabia is based on The Basic Law of Government which covers all regulations, orders and decrees in force. The source of law in this code of law is Sharia. It means that if every provision in CEDAW has to be consistent to Sharia, CEDAW is inapplicable in Saudi Arabia because Islamic law does not support equal rights for men and women.⁴⁷

Donnelly, an advocate of relative universalistic approach to human rights, classifies cultural relativism in three types. Firstly, he defines *a radical relativism* where culture is the only source of moral rights. Radical relativism does not support any possibility of the universal nature of human rights. *A strong cultural relativism* keeps the culture as the principle of moral rights and rules but it also accepts basic universal tenets. The third type of cultural relativism is *a weak relativism* where culture is a second source of the validity of rights⁴⁸ and where „*the universality is presumed, but the relativity of human nature, communities, rules checks potential excesses of universalism.*“⁴⁹ Donnelly believes in the core principle of human rights that everyone has the rights due to their existence and that human rights are originated from human nature. He agrees

⁴⁵ UNITED NATIONS. *Convention on the Elimination of All Forms of Discrimination against Women*, 1979, reservations.

⁴⁶ Sharia derives from Quaran and Sunnah (two main sources of Islam); it is the strictest penal code in the world. For example Quaran supports unequal rights for women and men.

⁴⁷ TOŠOVSKÁ, L. *Islam and Women's Rights: Case Study of Saudi Arabia*, 2012, pp. 20-21.

⁴⁸ DONNELLY, J. *Universal Human Rights in Theory and Practice*, pp. 89-90.

⁴⁹ Ibidem, p. 90.

with the fact that human nature can be influenced by culture and that human nature is relative. However, he disagrees with the idea of infinitely variable human nature or with the radical view of moral values. He claims that in this situation the notion of human being would be without any specificity or moral importance. Some cultures do not even define the concept of human being.⁵⁰

Pollis and Schwab, supporters of the concept of cultural relativity, focus in their book, *A Western Construct With Limited Applicability*, on the basis of cultural relativism, in which they critique the Western origin of universal human rights. They highlight the question of who has the rights mentioned in the UDHR. According to them, traditional cultures do not accept the individual as an independent unit as it is in the theory of universality. In those cultures the individuals are always part of the community, which defines their roles and their personalities. Pollis and Schwab show the disharmony between culture of the states and the universal human rights found in Articles 16 and 17 of the UDHR. Article 16 states that „*family is the fundamental group unit of society.*“⁵¹ They argue that in some cultures there is not a family, but for example a clan in China or a hamlet in Africa. They also find a problem in the different goals of Western and Third World countries.⁵²

The first critic of universal human rights was Melville Herkovits, an American anthropologist. In the critical statement responding to the creation of the UDHR and submitted to the UN Commission on Human rights by the American Anthropological Association, he declared three main principles. Firstly, he claimed that to recognize an individual's rights it is important to also recognize his/her culture because „*the individual realizes his personality through his culture.*“⁵³ The second principle states that all cultures are equal and that there should be a respect between their differences. Finally, in the third principle, Herkovits declares that there is no specific division between what is wrong and what is right. One human right can be recognized by one society but it does not mean that it has to be recognized by all societies. What is right in

⁵⁰ DONNELLY, J. *Universal Human Rights in Theory and Practice*, pp. 90-91.

⁵¹ UDHR, art. 16.

⁵² POLLIS A. and P. SCHWAB. *A Western Construct With Limited Applicability*, 1979, pp. 8-9.

⁵³ THE EXECUTIVE BOARD, AMERICAN ANTHROPOLOGICAL ASSOCIATION. *Human Rights. Statement on Human Rights*, p. 541.

one society can be wrong in another one.⁵⁴ This last principle is the most important for cultural relativism. Moral values are relative to different cultures. Herkovits opened the discussions about the unacceptability of universal human rights.

Donders refers in her article *Culture and Human Rights* to "cultural rights" which are according to her incompatible with the theory of universal human rights. Cultural rights are based on the different customs and traditions of each community. The most visible difference is to whom the rights are guaranteed. In the universal point of view, the protected rights are only for individuals. In the cultural sense, the rights are not only for individuals but are also for groups and communities as collective rights. Cultural rights are mentioned without any deep specification in the International Covenant on Economic, Social and Cultural Rights (ICESCR). However, culture is a very complex concept with no defined borders. It is formed by communities and by cultural institutions. Generally, it is a way of life. The ICESCR provides cultural rights in the sense of the right to culture: property rights, intellectual freedom, etc.⁵⁵

One of the aims of critical attention is based on Article 18 of the UDHR, which gives to everyone the right to freedom of thought, conscience and religion. This provision can be found modified in regional instruments.

For cultural relativism, it is very important to focus on the documents for protection of human rights in a specific region or for a specific culture. Those documents are created to reflect the culture of the region or the religion. However, this cultural reflection cannot modify the rights set in IHRL. It has to be guaranteed that additional modification would not violate human rights. In almost every region there is a regional adjustment of the protection of human rights. In the Islam world, there are two main documents: Universal Islamic Declaration on Human Rights and Cairo Declaration on Human Rights in Islam. In the African region, the most important instrument is the African Charter of Human and People's Rights. The most sophisticated system of protection of human rights is established in America and in Europe with their own

⁵⁴ THE EXECUTIVE BOARD, AMERICAN ANTHROPOLOGICAL ASSOCIATION. *Human Rights. Statement on Human Rights*, pp. 541-542.

⁵⁵ DONDERS, Yvonne M. *Culture and Human Rights*, 2009, pp. 441-443.

courts of human rights. Cultural traditions, religious' needs, various values and attitudes make up cultural relativism as a concept of how to look at and interpret human rights. The subject of this approach is culture and it emphasises its particularities. To understand this cultural attitude it is necessary to understand the culture itself.

2 International standards of humanitarian assistance

International standards of humanitarian assistance help organisations engaged in humanitarian activities make their work more effective and accurate. In the international community there are some common standards that should be taken into consideration. Furthermore, each humanitarian actor has its own principles. It is also possible to find standards for specific issues. On the international level, there are three main sources of humanitarian standards: the ICRC, the UN and the Sphere Project. Nevertheless, the majority of their standards derive from the principles of the ICRC and IFRC. These sources create together a normative framework for humanitarian assistance.

In Fourth Geneva Convention in article 27 saying: *„Protected persons are entitled, in all circumstances, to respect for their persons, their honour, their family rights, their religious convictions and practices, and their manners and customs“*⁵⁶ is evident the significance of the equality of people's different cultures.

2.1 International Committee of the Red Cross

Many would argue the ICRC is the most important humanitarian organisation in the world. ICRC was established in 1863 with the main office in Geneva, Switzerland. The work of ICRC is based on the Geneva Conventions and their Additional Protocols, and on the Statute of International Red Cross and Red Crescent Movement. ICRC is an independent and neutral organisation with worldwide reach. Its purpose is to provide humanitarian assistance and humanitarian protection for victims of war and armed violence. It is also a promoter of international humanitarian law and universal humanitarian standards, as it attempts to help states implement them into national legislation. The task of ICRC is to save lives and human dignity of victims of violence. ICRC is a part of the largest humanitarian network in the world - International Red Cross and Red Crescent Movement. Its main purpose is to *„prevent and alleviate human suffering in warfare and in emergencies such as epidemics, flood and earthquakes.“*⁵⁷

⁵⁶ Fourth Geneva Convention, 1949, art. 27.

⁵⁷ ICRC. *The Movement*, 2016, available at: <https://www.icrc.org/en/movement>.

Beside ICRC, the Movement is composed of the International Federation of the Red Cross and Red Crescent Societies and National Societies.⁵⁸

Within the ICRC there are two main doctrines describing the principles of the humanitarian action. The term "principle" can be defined as a rule based on experience and accepted by a community. Principles guide the behaviour of the actors for which they were established.

In 1994, the Code of Conduct for the International Red Cross and Red Crescent Movement and non-governmental Organisations in Disaster relief (**Code of Conduct**) was created. The preparation for the Code of Conduct was held by the ICRC in cooperation with the IFRC. Approximately six hundred two⁵⁹ organisations involved in humanitarian activities have signed it. Before the Code of Conduct, many organisations and donors were engaged in humanitarian activities, but their actions and behaviour was not under control. There were not any common standards on humanitarian assistance and the organisations had various views on humanitarian aid in emergency situations. The need of the framework for humanitarian assistance was obvious.⁶⁰

The primary goal of the Code of Conduct is to help people from suffering. It is based solely on need without any political or economic motivation and it offers common standards of disaster relief for those who operate within humanitarian activities.⁶¹ The enforcement of this voluntary guard of high standards depends on the will of the actors involved. There is not any authority controlling its implementation although the Code of Conduct has to be implemented in conformity with IHL.⁶²

The Code of Conduct has ten principles. The first principle aims at the right to receive humanitarian assistance and the obligation of states to provide it. The Code of Conduct suggests this right belongs to everyone around the world, however, the right to

⁵⁸ ICRC. *The Movement*, 2016, available at: <https://www.icrc.org/en/movement>.

⁵⁹ IFRC, *The List of Signatories*, 2016, available at: http://www.ifrc.org/Global/Documents/Secretariat/Code%20of%20Conduct%20UPDATED_JANUARY%202016.pdf.

⁶⁰ BIBER, B. *The Code of Conduct: Humanitarian Principles in Practice*, 2004.

⁶¹ *Ibidem*, 2004.

⁶² ICRC and IFRC, *The Code of Conduct for the International Red Cross and Red Crescent Movement and non-governmental Organisations in Disaster relief*, 1994, Purpose.

assistance is not a right under international law. The importance of this right lies in the access for humanitarian assistance in affected countries. The second principle sets a non-discriminatory approach. In addition, it emphasises the important role of women in disaster-prone communities. It highlights the independent, impartial, and universal character of humanitarian assistance. Religious or political positions are forbidden to influence the aid under the third principle. According to the fourth principle governments should not use humanitarian aid as a foreign policy tool. Humanitarian actors have their own policies and strategies and should act independently from governments. Respect for culture, structures and customs in countries where assistance is provided is set by the fifth principle. For future sustainability, it is crucial to hire local staff and use local materials; this is set by the sixth principle. The seventh principle underlines that beneficiaries should be involved in the process of disaster response assistance. According to the eighth principle, provided humanitarian assistance should not concentrate only on present issues but should also diminish susceptibility to disasters in the future. It is very important to minimise the negative impact of humanitarian assistance such as long-term dependency of the beneficiaries on humanitarian aid. The strategies of the organisations involved should include long-term policies to create sustainable standards of living. The ninth principle sets the accountability of the organisations towards who need assistance and who provide resources to make assistance possible. Moreover, it calls for transparency of contracts and stresses the importance of reporting and monitoring the situation in the affected country where humanitarian aid is provided. Finally, the tenth and last principle requests equal partnership with disaster victims. It also points to the non-competitive character of humanitarian assistance; humanitarian organisations should focus only on their purpose.⁶³

In 1965, at the 20th International Conference of the Red Cross, four Fundamental Principles were proclaimed. Those Principles were then revised, and in 1986 during the 25th International Conference of the Red Cross, the *Fundamental Principles* upon which Red Cross action is based, were set up. This doctrine includes seven principles that

⁶³ ICRC and IFRC, *The Code of Conduct for the International Red Cross and Red Crescent Movement and non-governmental Organisations in Disaster relief*, 1994, 10 principles.

conduct the work and decision-making of the Red Cross and Red Crescent Movement for all Red Cross and Red Crescent workers. These principles are applicable in all situations at all times.⁶⁴

Firstly, the principle of humanity reaffirms the primary goal of humanitarian assistance to help people from suffering. One of the aspects of this help should be prevention. The second standard of impartiality includes a non-discriminatory attitude. Moreover, the help should be based on the needs of individuals and the most urgent cases should be treated first. The following principle implements neutrality, which means that the Movement may not be direct or indirect part of hostilities or participate in actions with political, religious, racial or ideological character. The fourth principle underlines the important nature of humanitarian assistance, and the independency of the Movement. The fifth principle recognizes the Movement as voluntary relief with no profit-making goals. The sixth standard declares unity. In one country, there can be only one Red Cross or Red Crescent Society, and the National Society should be available for all. The last principle is universality. All Societies in the Movement are equal and share equal responsibilities, rights and obligations in helping each other.⁶⁵

The value of these Principles is affirmed by the UN General Assembly Resolutions 46/182 and 58/114. Moreover, the importance of upholding humanitarian principles and their promotion is underlined by UN Secretary General Ban Ki-Moon on the first World Humanitarian Summit⁶⁶. The summit confirmed that respect for humanitarian principles is essential for effective humanitarian aid.⁶⁷

2.2 Sphere Project

The Sphere Project is an initiative that humanitarian agencies can voluntarily join. It is broader-based than the Code of Conduct of ICRC. The Project was launched in 1997 by humanitarian organisations and International Red Cross and Red Crescent Movement.

⁶⁴ FRC. *The Seven Fundamental Principles*, 2016, available at: <http://www.ifrc.org/en/who-we-are/vision-and-mission/the-seven-fundamental-principles/>.

⁶⁵ Ibidem.

⁶⁶ Further analysis about World Humanitarian Summit in the next chapter.

⁶⁷ BAN KI-MOON. *Chair's Summary: Standing Up for Humanity: Committing to Action*. World Humanitarian Summit, 2016.

The idea to create such a platform arose after the genocide in Rwanda when the need of a very effective way to help people was obvious. The main aim is „*to improve the quality of humanitarian assistance and the accountability of humanitarian actors to their constituents, donors and affected populations.*“⁶⁸

The Sphere Project is a community, not a single group, of different humanitarian organisations around the world. It offers guidelines for humanitarian agencies to make their actions more effective in accordance with IHL. The guidelines are contained in *The Sphere Handbook*, which is composed of three parts of principles. Together, it creates a set of common universal standards for humanitarian response. The value of the Handbook arises from wide acceptance by the humanitarian sector. It can also be used as an advocacy tool for humanitarian negotiating. Humanitarian organisations can use the Handbook for planning, implementation, monitoring and evaluation. The Sphere Project is built on two core beliefs. First, the right to life with dignity should be granted to all affected people by disaster or conflict. Together with this right, the right to receive humanitarian assistance should be guaranteed. The second belief is that the fundamental purpose of humanitarian agencies should be to prevent and alleviate human suffering after disaster or conflict.⁶⁹

The first part of the Handbook focuses on the rights and obligations of humanitarian organisations in the **Humanitarian Charter**. It presents the environment of humanitarian assistance on which the Protection Principles and the Core Standards are based. The Charter works on the philosophy of humanity and the humanitarian imperative, which is the second core belief of The Sphere Project as is mentioned above. It also underlines the significance of accountability to affected communities. The Charter is a set of principles whose merit is confirmed by the consensus of all humanitarian unions involved in The Sphere Project. The centre of humanitarian action is the affected population, and humanitarian agencies should provide aid in a way that meets their needs most effectively and with the best intention. The three core rights related to humanitarian action are formulated in the Charter: the right to life with

⁶⁸ THE SPHERE PROJECT. *About*, 2016, available at: <http://www.sphereproject.org/about/>.

⁶⁹ THE SPHERE PROJECT. *Humanitarian Charter and Minimum Standards in Humanitarian Response*, 2011, pp. 4-5.

dignity, the right to receive humanitarian assistance and the right to protection and security. Those rights are the basis for the humanitarian action with their origins in IHRL and IHL. The Charter has universal character. Furthermore, it builds upon the principle of humanity that „*all human beings are born free and equal in dignity and rights*“⁷⁰, which is the first Article of the UDHR. It stresses the role of humanitarian agencies to provide timely assistance to all people in need due to disaster or conflict. Assistance shall be provided by official aid but also by voluntary actions. Humanitarian assistance should be the second option for action after. Aid is granted by states. International aid can be provided when national capacities are insufficient. The Charter calls for the respect of impartial, independent and non-partisan role of humanitarian organisations and it points out the necessity of a smooth course of provision of humanitarian aid. As a final point, humanitarian assistance can have an adverse effect, and the role of humanitarian agencies is to minimise those possible negative outcomes.⁷¹

The Charter summarises another three key principles: the right to live in dignity, distinction between combatants and non-combatants and the principle of non-refoulement. The last two principles are also described by the IL. Those rights are interconnected with duties such as to respect, protect and fulfil rights.⁷²

The **Protection Principles** are set in the second part of the Handbook. These Principles put the standards from the Charter into practice. The Principles „*point to the responsibility of all humanitarian agencies to ensure that their activities are concerned with the more severe threats that affected people commonly face in times of conflict or disaster.*“⁷³ In Handbook there are four Principles. The first principle warns humanitarian actors to avoid all actions that could cause harm. The second principle orders organisations to enable access to humanitarian assistance for all people in need, especially vulnerable groups. The necessity to keep people in safety far away from

⁷⁰ UDHR, art. 1.

⁷¹ THE SPHERE PROJECT. *Humanitarian Charter and Minimum Standards in Humanitarian Response*, 2011, pp. 20-24.

⁷² LOWRIE S. *Reflections on the Humanitarian Charter*, 2001, p. 37.

⁷³ THE SPHERE PROJECT. *Humanitarian Charter and Minimum Standards in Humanitarian Response*, 2011, p. 6.

physical and psychological harm due to violence or coercion is expressed in the third principle. The last principle calls for assistance for people having claims about the access to remedies.⁷⁴

The Handbook's third part is made up of the Core Standards, which provide process standards that are necessary to achieve the Sphere Minimum Standards, a best practice that should be achieved during a humanitarian response. The Core standards consist of „*a comprehensive analysis and understanding of needs and context, effective coordination among agencies, a commitment to continually improving performance, and appropriately skilled and supported aid workers are all essential in order to attain the technical standards.*“⁷⁵ The Handbook contains six Core Standards where each standard has its own key actions, key indicators and guidance notes.

Lastly, the Handbook offers the **Sphere Minimum Standards** in four technical sectors of life-saving activities: water supply, including sanitation and hygiene promotion (WASH); food security and nutrition; shelter, settlement and non-food items; and health actions. These minimum standards help humanitarian agencies coordinate and organise their humanitarian aid and it sets the minimum degree that should be attained in humanitarian response. They confront the main difficulties that can appear during humanitarian assistance.⁷⁶

Despite the moral value and the importance of those principles and standards, the Sphere Handbook faces criticism. This criticism can be divided into two main areas.

Firstly, the Sphere Handbook is criticised for its emphasis on technical issues. In the article *Using Sphere: Oxfam's Experience in West Africa*, François Mompoin points out that the humanitarian standards are not sufficiently applicable on the ground. He argues that there should be different standards in different groups and different areas.⁷⁷

⁷⁴ THE SPHERE PROJECT. *Humanitarian Charter and Minimum Standards in Humanitarian Response*, 2011, pp. 29-32.

⁷⁵ Ibidem, p. 7.

⁷⁶ Ibidem.

⁷⁷ MOMPOIN, F. *Using Sphere: Oxfam's Experience in West Africa*, 2000, pp. 13-14.

One of the main critics of the Sphere Project is the international organisation Médecins Sans Frontières. In a statement, *MSF Position vis a vis the Sphere Project*, from Rafael Vila-San Juan, the former Secretary-General of Médecins Sans Frontières, is arguing that every situation requiring the humanitarian action is unique. He notes that focus on protection and respect for the principles is the core for effective humanitarian action. He also underlines the fact that with excessive concentration on technical issues (NGOs as proficient technical providers), humanitarian assistance can lead to a business.⁷⁸

The situation in Sudan in 1998 is one example of the failure of Sphere standards. During the civil war, Sudan was in an emergency situation. More than one thousand people were displaced without access to clean water, health facilities or sanitation. The lack of food led to malnutrition and famine. Humanitarian relief was provided mainly by Operation Lifeline Sudan and Médecins Sans Frontières. Griekspoor and Collins in their *Evaluation report of the MSF Holland Programmes in Bahr El Hazal and Western Upper Nile in 1998* argue that the four prerequisites necessary to meet minimum standards were not fulfilled in this situation. These four measures are access to the affected population, available sufficient funds, a common goal shared by everyone engaged in humanitarian assistance and all parties meeting the minimum standard. They also state that the situation in Sudan was so terrible that the needs of people were higher than the available resources.⁷⁹ Collins, in his *Evaluation Report of the Médecins Sans Frontières Programme in Sudan*, considers that humanitarian assistance would be more effective if the organisation deviates from the Sphere standards. He underlines the deficient ability to implement those standards in a situation with overwhelming needs.⁸⁰

The second area of criticism is the universal approach to international humanitarian standards. As it was elaborated above in reference to the protection principles and minimum standards, „*the principles described in this Humanitarian Charter are*

⁷⁸ VILA SANJUAN R. *MSF Position Vis a Vis the Sphere Project*, 2003.

⁷⁹ GRIEKSPoor A, COLLINS S. *Raising Standards in Emergency Relief: How Useful Are Sphere Minimum Standards for Humanitarian Assistance?* 2001, pp. 740-742.

⁸⁰ COLLINS, S. *MSF in Catastrophe: Evaluation Report o the MSF Holland Programmes in Bahr El Hazal and Western Upper Nile in 1998*, 1999.

*universal.*⁸¹ The critics are oriented to the origin of the Sphere Project, which is Northern Europe or North America. The Sphere Project was launched and developed by Northern NGOs. Naturally, Northern culture influenced the Handbook so it reflects the Northern financial situation and Northern way of life, rather than having a global character. It can weaken the Southern or Eastern humanitarian agencies in their work. Furthermore, it does not pay attention to cultural context.⁸² Every emergency situation is unique. The same standards cannot be used universally without considering specific criteria and particular cultural traditions and customs. In the article *Debating Accountability* the authors state: „If funding bodies adopt these [Sphere] standards as decision-making criteria, agencies will increasingly be compelled to demonstrate ‘success’ in ways that do not reflect the totality of humanitarian action, which has important aspects that are not open to measurement in any formal sense.“⁸³

2.3 United Nations

UN is one of the main international actors in the world. Its core objective is to maintain world peace and security. UN also covers almost all sectors as financial sector, health, cultural heritage, development etc. UN has many tools how to keep peace and stability in the world. One of them is high interest in human rights. It is a guardian of many human rights instruments and it has specific bodies focusing on general human rights, women's or children's rights. Moreover, it upholds IL with the main international judicial body International Court of Justice. And it is an organisation which was created to help with the situation in devastated Europe after Second World War. When this goal was achieved UN turned to politics of coordinating humanitarian relief operations. The main body created for coordinating responses to emergencies is Office for the Coordination of Humanitarian Affairs. UN is the most important organisation in humanitarian field in the world. Its role is in worldwide coordination of humanitarian response. On a global level the adjustment of humanitarian standards is under UN.

⁸¹ THE SPHERE PROJECT. *Humanitarian Charter and Minimum Standards in Humanitarian Response*, 2011, p. 20.

⁸² DUFOUR CH. et al. *Rights, Standards and Quality in a Complex Humanitarian Space: Is Sphere the Right Tool?* 2004, p. 126.

⁸³ GRÜNEWALD F., PIROTTE C. and V. GEOFFROY. *Debating Accountability*, 2001, pp. 35-36.

The first **Resolution 46/182** of the General Assembly, *Strengthening of the Coordination of Humanitarian Emergency Assistance of the UN*, was adopted in December 1991. This resolution was created on the basis of the Gulf War, where the provision of humanitarian assistance was uncoordinated and ineffective. Those circumstances provoked the international community to think about creating the framework that would help to guide the humanitarian emergency assistance.⁸⁴

The Resolution include twelve guiding principles. In these principles, the main role of the UN in providing, coordinating and supporting humanitarian aid in affected countries is underlined. Moreover, they highlight the key role of states as the primary actor. They affirm the principles of IL in regards to the sovereignty and territorial integrity of states. In addition, the principles call for creating necessary prerequisites for prevention and preparedness against natural or man-made disasters as economic growth and sustainable development. They also request cooperation among states and within the affected state between the government and local humanitarian organisations.⁸⁵

The Resolution also affirms the important role of the UN Emergency Relief Coordinator (ERC), former known as Disaster Relief Coordinator. The ERC can opt for a humanitarian coordinator in an affected country who would monitor how the humanitarian assistance is applied. The coordinator should work with the government, local NGOs or international organisations. The ERC leads the Inter-Agency Standing Committee (IASC), which was established by this Resolution. Resolution 48/57 defines the role of the IASC in its sixth paragraph as „*the primary mechanism for the inter-agency coordination of humanitarian assistance*.“⁸⁶ Resolution 46/182 also established the Central Emergency Revolving Fund, which is defined by the 23rd paragraph as „*a*

⁸⁴ BURNS, K. *OCHA on Message: General Assembly Resolution 46/182*, 2012.

⁸⁵ UNITED NATIONS, General Assembly Resolution 46/182, *Strengthening of the Coordination of Humanitarian Emergency Assistance of the United Nations*, A/RES/46/182, (19 December 1991).

⁸⁶ UNITED NATIONS, General Assembly Resolution 48/57, *Strengthening of the Coordination of Humanitarian Emergency Assistance of the United Nations*, A/RES/48/57, (14 December 1993), para. 6.

*cash-flow mechanism to ensure the rapid and coordinated response of the organisations of the system.*⁸⁷ This fund should be financed voluntarily by different actors.

Humanitarian and disaster-relief endeavours are facilitated by the Office for the Coordination of Humanitarian Affairs (OCHA), chaired by ERC. OCHA brings together the humanitarian actors (on a national and international level) to have a comprehensive and efficient response to emergency situations. OCHA replaced the Department of Humanitarian Affairs, after a request by the former Secretary General of the UN Kofi Annan in his report *Renewing the United Nations: A programme for reform*.⁸⁸

Additionally, the UN system offers many specific resolutions and documents about humanitarian standards. Generally, there are four main Resolutions regulating humanitarian assistance during natural or man-made disasters. The UN Economic and Social Council adopted three of them: E/RES/2012/3, E/RES/2013/6, E/RES/2014/2. They call for greater emphasis on good relations and cooperation between governments, local organisations, international organisations and private sector and civil society. All of them stress the relationship between emergency response, rehabilitation, reconstruction and long-term development. Moreover, they warn about sexual and gender-based violence in areas affected by disaster and request special services for its victims. These Resolutions also appeal for the accountability of humanitarian actors to be enhanced since accountability is an essential part of humanitarian assistance.⁸⁹ The fourth Resolution, A/RES/69/243, was adopted by the General Assembly of the UN. This Resolution, in addition of the above-mentioned resolutions, reaffirms the primary role of the state and local communities. It emphasises the need for local disaster risk

⁸⁷ UNITED NATIONS, General Assembly Resolution 46/182, *Strengthening of the Coordination of Humanitarian Emergency Assistance of the United Nations*, A/RES/46/182, (19 December 1991), para. 23.

⁸⁸ UNITED NATIONS, General Assembly, *Renewing the United Nations: A Programme for Reform*: report of the Secretary-General, A/51/950 (12 July 1997), para. 77.

⁸⁹ UNITED NATIONS, The UN Economic and Social Council, E/RES/2012/3; E/RES/2013/6; E/RES/2014/2.

management, which would deal with disaster preparedness and disaster risk reduction.⁹⁰ All of these resolutions also underline the importance of the ICRC Guiding Principles for Internal Displacement when it comes to displaced persons because of the disaster.

A final important document for setting international humanitarian standards is the **Declaration of Minimum Humanitarian Standards**, otherwise known as **Turku Declaration**, from 1990.

Before the Declaration entered the conversation, there were some efforts to find universal international humanitarian standards. The first attempt can be found in the Preamble of the Hague Convention (II) in 1899. In the Preamble is the *Martens Clause*, which is still important for the system of protection and humanitarian assistance. This Clause was later modified in the Preamble of the fourth Hague Convention from 1907 as: *„Until a more complete code of the laws of war has been issued, the High Contracting Parties deem it expedient to declare that, in cases not included in the Regulations adopted by them, the inhabitants and the belligerents remain under the protection and the rule of the principles of the law of nations, as they result from the usages established among civilized peoples, from the laws of humanity, and the dictates of the public conscience.“*⁹¹ A few years later during the Diplomatic Conference in 1977, the Martens Clause was inducted into the Geneva Conventions and their Additional Protocols. The Clause says that according to armed conflict, the customary international law is still applicable even after adoption of an international treaty. This means that if there is no treaty or there is not an explicit provision in the treaty of any specific subject, it does not necessarily mean that this specific subject is not defined by international law. In these cases the international customary law takes precedence. Furthermore, the Clause is very important for humanitarian standards because it refers

⁹⁰ UNITED NATIONS, General Assembly Resolution 69/243, *International Cooperation on Humanitarian Assistance in The Field Of Natural Disasters, from Relief to Development*, A/RES/69/243, (23 December 2014).

⁹¹ International Conferences (The Hague), Hague Convention (IV) *Respecting the Laws and Customs of War on Land and Its Annex: Regulations Concerning the Laws and Customs of War on Land*, 18 October 1907.

to the principle of humanity and the dictates of public conscience, which permit states to develop by themselves the law of armed conflicts.⁹²

The Turku Declaration was drawn up by independent academics and experts in 1990 and then modified in 1994. The purpose of this Declaration was to cover all situations of violence, especially internal violations, by the set of minimum standards and obligations towards states. The Declaration has 18 Articles. It contains General Provisions such as the applicability in all situations of conflict without any possible derogation. The Declaration was built upon both IHL and IHRL provisions and tried to fill the existing gaps between both systems. When the Declaration was prepared in 1994, it was sent to the UN Commission on Human Rights⁹³ to discuss it and later adopt it. There was a great resistance from UN experts to accept the Turku Declaration as a UN document. The Commission adopted Resolution E/CN.4/RES/1996/26, which in its first paragraph recognizes „*the need to address principles applicable to situations of internal violence and disturbance of all kinds in a manner consistent with international law...*“⁹⁴

Moreover, it called for a workshop for intergovernmental and NGO experts from all regions in cooperation with ICRC. The outcome of this Workshop on Minimum Humanitarian Standards, taking place in Cape Town, South Africa in September 1996, should then be spread out to humanitarian organisations. During the Workshop, the participants were unable to make a decision about whether a new legal tool is necessary. The conclusion of the Workshop included contemplation over this complex issue and provided a critical approach with new ideas. Nevertheless, the results of this Workshop were introduced to the UN Commission of Human Rights, which then asked the UN Secretary General to make an analytical report on fundamental standards of humanity in cooperation with ICRC.⁹⁵

⁹² TICEHURST, Rupert. *The Martens Clause and the Laws of Armed Conflict*. International Review of the Red Cross, 1997.

⁹³ Human Rights Council.

⁹⁴ UNITED NATIONS, Commission on Human Rights, *Minimum Humanitarian Standards*, E/CN.4/RES/1996/26, (19 April 1996).

⁹⁵ SVENSSON-MCCARTHY A.L. *Minimum Humanitarian Standards - from Cape Town Towards the Future*, 1994, pp. 1-2.

The Turku Declaration responds to the question about non-state actors and their responsibility in regards to internal violence. There is differing view on non-state actors and their legal responsibility between IHL and IHRL. Non-state actors are not responsible for violations of human rights. The only responsible actor for this type of violations is the state that is allowed to take all necessary measures to protect its citizens and to ensure that human rights are not abused. Contrarily, under IHL, all parties in the conflict are responsible for observing the obligations coming from IHL and all participants should respect the entire IHL.⁹⁶

The Turku Declaration produced many critics, and the legitimacy of the document was very weak. The Declaration was not accepted by states, which were calling for principles of sovereignty and territorial integrity. They had concerns about the non-derogable principles in the Declaration and they had strong fears they would lose power over their territories. However, in general, states tend to reject any new international regulations.⁹⁷

The other critics arose from humanitarian law and human rights law advocates and experts. They saw the Declaration as a document filling the purported gaps between IHL and IHRL. Both international systems protect human beings and respect the rights of every individual. However, there are certain characteristics that are specific to one or the other, therefore they largely differ from each other. In the article *Minimum Humanitarian Standards - from Cape Town Towards the Future* Svensson-McCarthy says: „mixing humanitarian rules intended merely to alleviate the suffering of the human person with human rights law based on the respect for his or her inherent rights, there is clearly a significant risk that the legal protection of individuals will be diminished rather than strengthened in situations of internal turmoil.“⁹⁸

In the time when the Turku Declaration was discussed, the weakness of international implementation and monitoring of existing documents was obvious. The lack of any

⁹⁶ VIGNY J.D. and THOMPSON C. *Fundamental Standards of Humanity: What Future?* 2002, p. 187.

⁹⁷ CRAWFORD, E. *Road to Nowhere? The Future for a Declaration on Fundamental Standards of Humanity*, 2012, pp. 58-59.

⁹⁸ SVENSSON-MCCARTHY A. L. *Minimum Humanitarian Standards - from Cape Town Towards the Future*, 1994, p. 21.

possible measures to enforce states to apply humanitarian or human rights documents provoked a question of whether it is necessary to adopt a new document, especially when the Turku Declaration is a non-binding instrument.⁹⁹ In the Report on Cape Town Workshop, Zdzislaw Kedzia, the former representative of the United Nations High Commissioner for Human Rights, stated: „*Like all new legislative proposals, the idea of minimum humanitarian standards could be responded to with the argument - and the widely shared opinion - that, after a period of standard-setting, the international community should focus on implementation. The World Conference on Human Rights attached great importance to this subject, including by setting the goal of universal ratification of the basic human rights treaties. So, although nobody denied that, if necessary, new standards should be elaborated, the preference for implementation prevailed.*“¹⁰⁰

After many efforts by academics to adopt the Turku Declaration as an UN instrument, the UN decided not to adopt it. Nonetheless, it has started discussions about the need of a document that would cover the fundamental standards of humanity. In the following years, many resolutions and reports about humanitarian standards occurred.

2.4 Others

On the international level there is another important tool for humanitarian assistance that should be taken into the consideration. It concentrates on quality and effectiveness of humanitarian aid. It does not establish new international humanitarian standards but contributes to the humanitarian area with a framework that could help humanitarian agencies make their work and policies more efficient.

This new instrument for better humanitarian response is the **Core Humanitarian Standard (CHS)** and was founded by **Core Humanitarian Standard on Quality and Accountability Alliance (CHS Alliance)**, launched in 2015. CHS Alliance is a platform for humanitarian organisations, with a current membership of 240 organisations around

⁹⁹ CRAWFORD, E. *Road to Nowhere? The Future for a Declaration on Fundamental Standards of Humanity*, 2012, pp. 59-60.

¹⁰⁰ UNITED NATIONS, Economic and Social Council, *Minimum Humanitarian Standards: report of the Secretary-General and report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities*, E/CN.4/1997/77/Add.1 (28 January 1997), para. 40.

the world.¹⁰¹ CHS Alliance works on „*the principle that the provision of assistance to crisis-affected and vulnerable people is more effective when organisations and their staff and volunteers are dedicated to driving quality and accountability.*“¹⁰² It stresses the importance of accountability of organisations to affected people and communities. The CHS is a voluntary self-assessment tool that can be used by individuals, organisations, consortia and other institutions working in the humanitarian field. CHS was created with the help of the Sphere Project, ICRC and People in Aid. This cooperation was called the Joint Standards Initiative of which the aim was to create a tool for humanitarian agencies to help aid workers implement the appropriate standards.¹⁰³

CHS includes nine Commitments where the essential subject is people and communities affected by crisis. Each Commitment has its own Quality Criterion, which shows humanitarian organisations how they can achieve the Commitment. The Commitments describe the possible expectations from the affected unit. Each humanitarian organisation should work in compliance with these Commitments. Furthermore, CHS integrated the first four Fundamental Principles made by ICRC into its standards. The following picture demonstrates the nine Quality Criteria.¹⁰⁴

CHS Alliance's legitimacy lies on its large amount of members. The main humanitarian and human rights organisations are involved, such as International Federation of the Red Cross and Red Crescent Societies, Amnesty International, Save the Children International, Oxfam International and many others.¹⁰⁵

¹⁰¹ CHS Alliance. *Who We Are*, 2016, available at: <http://www.chsalliance.org/who-we-are>.

¹⁰² Ibidem.

¹⁰³ CHS Alliance. *Core Humanitarian Standard: History*, 2016, available at: <http://www.corehumanitarianstandard.org/the-standard/history>.

¹⁰⁴ CHS Alliance. *Core Humanitarian Standard*, 2015.

¹⁰⁵ CHS Alliance. *Our Members*, 2016, available at: <http://www.chsalliance.org/membership/our-members>.



Source: CHS Alliance. Core Humanitarian Standard, 2015, p. 4.

At the European level there are no specific humanitarian standards. The **European Commission's Humanitarian Aid and Civil Protection** department (ECHO) is the main institution coordinating humanitarian assistance in the world. It focuses on both man-made and natural disasters, especially on vulnerable victims of those disasters. The purpose of ECHO and its policies is the same as it is written in ICRC standards: to avoid human suffering, to prevent natural disasters or to protect civilians. ECHO works world-wide in all major crisis zones. Humanitarian aid to people in need is a shared competence between the European Commission and Member States.¹⁰⁶

¹⁰⁶ ECHO, *Humanitarian Aid*, 2016, available at: http://ec.europa.eu/echo/what/humanitarian-aid_en.

In December 2007, the Council of Europe, Parliament of European Union and Commission of European Union adopted a European Consensus on Humanitarian Aid. The Consensus is a key framework for European humanitarian aid policy. The aim is to improve coherence between different actors, and increase the efficiency and quality of European humanitarian response in affected countries. According to its paragraph 5, the European Union is the biggest provider of humanitarian assistance in the world. Paragraph 10 defines the fundamental humanitarian principles of humanity, neutrality, impartiality and independence is stated in ICRC principles. In paragraphs 23 and 24 it emphasises on gender approach to humanitarian aid when women's participation in humanitarian assistance is essential. Humanitarian aid provided by the European Union through ECHO is linked to UN General Assembly Resolution 60/1 which highlights a primary responsibility of states to protect populations from genocide, war crimes, ethnic cleansing or crimes against humanity. In a case where a state is not able to take actions, the UN Security Council can step in.¹⁰⁷

The importance of European humanitarian aid is highlighted in the Consolidated Version of the Treaty on The Functioning of The European Union from 2012. Its article 214 gives a legal basis for humanitarian aid within the European Union.¹⁰⁸

All analyzed international humanitarian standards rely on common principles of humanity and human dignity. The purpose of setting those standards is to protect affected population by man-made or natural disasters from suffering. The aim is to have organised humanitarian actors to provide humanitarian assistance more effectively. Humanitarian standards offer a framework for international humanitarian agencies to make their work more coherent and coordinated.

Analysis of humanitarian standards shows that the main principles of humanitarian assistance are universal, applicable to every population or community in need by any humanitarian agency. Nonetheless, for humanitarian assistance, it is very important to

¹⁰⁷ Joint Statement by the Council and the Representatives of the Governments of the Member States meeting within the Council, the European Parliament and the European Commission. *The European Consensus on Humanitarian Aid*, 2007.

¹⁰⁸ EUROPEAN UNION, *Consolidated Version of Treaty on the Functioning of the European Union*, Official Journal of the European Union, 2012, art. 214.

work with vulnerable groups such as children, women, disabled persons, etc. It seems that universal standards are lacking the concept of vulnerability, which is one of principles for humanitarian assistance.

Furthermore, standards derive from universal human rights which are criticized by advocates of cultural relativists. The principles and standards offered by ICRC, the Sphere Project and UN approach are moreover underpinned by the international universal instruments for protection of human rights and IHL. From the relativist point of view it can be argued that standards do not take into consideration cultural differences which require different attitude toward humanitarian assistance. The lack of emphasis on cultural factors is very significant in the humanitarian standards analyzed above.

3 Culture in Humanitarian Assistance as a Topic for the International Community

International humanitarian standards are universal based on universal human rights. Humanitarianism is based on universal ethic. To apply those standards properly and effectively they have to be related to various cultures around the world.

3.1 Culture

To have culturally appropriate humanitarian response is a key factor for effective and successful humanitarian aid. Humanitarian organisations usually recognize the necessity of respecting cultures of the countries where they intervene. The question is if they also use this awareness by practising special approaches in different cultures. Moreover, cultural conflicts can derive from cultural tensions within the countries. Under IHL the duty to alleviate human suffering is set, especially in the Fourth Geneva Convention.¹⁰⁹ Another source regarding cultural approaches on the international level in humanitarian aid can be found in the Guiding Principles of Internal Displacement. Article 22 emphasises basic human rights such as freedom of religion, thoughts, or the right to equal participation in the labour market. The following article 23 deals with education and the need of respect of culture, language and religion of students. Both articles underline the importance of a cultural approach to essential rights and freedoms of people in need.¹¹⁰ Some references to respect of culture are written in the main documents about international humanitarian standards.

Culture as a term can be defined in many different ways. The lack of one exact definition of culture causes problems with the interpretation of culture in humanitarian assistance. Humanitarian agencies can define culture in their own terms and can incorporate different approaches in their projects. One possible definition offered by Nana in her article *Cultural Diversity in Peace Operations: Training Challenges* is as follows: „Culture is a medium through which a set of shared meanings is symbolically

¹⁰⁹ Fourth Geneva Convention, see art. 27; 24; 58; 82.

¹¹⁰ UNITED NATIONS, Commission on Human Rights, *Guiding Principles on Internal Displacement*, E/CN.4/1998/53/Add.2 (22 July 1998), art. 22; 23.

*expressed and performed by a group of people who belong to a particular community and thus understand the cultural common-sense symbolism that is expressed.*¹¹¹

Culture is a complex concept which is difficult to understand from different cultural backgrounds. Culture is not a natural concept, but it is something that is learned. It is dynamic and changes all the time during an individual's life. The *iceberg model* elaborated by Edward T. Hall in his book *Beyond Culture* presents one possible view on culture as an iceberg. The model can be used to explain the complexity of culture. It shows that only the tip of an iceberg (culture) is visible above the waterline. The rest, which is larger, cannot be seen. The visible, external part contains behaviours and some beliefs. This conscious culture is explicitly learned and it can be easily changed based on objective knowledge. The unconscious, internal culture is foundation beneath external culture and includes values, beliefs and thoughts. Hall argues that the only way to understand the internal culture is active participation in that culture.¹¹²

Two levels of culture exist, which can be a potential basis for conflict between humanitarian agencies and local communities. The first level is culture of an organisation, or the culture of a state where the organisation is located. It includes the professional culture of aid workers as an ensemble of values, beliefs, rules and practices. The second level comes from beneficiaries and it is called national culture (culture of members of society).¹¹³

Hofstede also engages in definitions of culture. He recognizes five dimensions of culture: power distance, uncertainty avoidance, individualism, masculinity, and long-term orientation. By using these factors he describes national cultures.¹¹⁴ A critical view on this method is proposed by Rodon et al. in their article *Managing Culture Conflicts for Effective Humanitarian Aid*. They say that this homogeneous concept of culture is not sufficient for the description of national culture. They argue that many countries are

¹¹¹ NANA O. *Cultural Diversity in Peace Operations: Training Challenges*, 2005, p. 5.

¹¹² HALL, E. T. *Beyond culture*, 1976.

¹¹³ RODON J., C. GIMENÉZ and J. F. M. SERRANO. *Managing Cultural Conflicts for Effective Humanitarian Aid*, 2012, p. 368.

¹¹⁴ HOFSTEDE G. *Culture Consequences : Comparing Values, Behaviors, Institutions, and Organizations Across Nations*, 2001.

former colonies where the colonial power's culture was imported. Moreover, in numerous states, diverse ethnic groups are present. They define culture as a heterogeneous and dynamic concept where the space for cultural homogeneity in one nation is very rare.¹¹⁵

Humanitarian aid workers have to deal with cultural differences in their day-to-day work. To be aware of culture within a country where humanitarian assistance is provided is necessary for workers' safety. Paul Grossrieder, former ICRC Director General, considers that „*cultural differences are one of the constraints insufficiently taken into account in our (ICRC) way of working. When the ICRC tried to understand why it had so many problems in obtaining access to the victims and ensuring its delegates' security, it came to the conclusion that if it had a better understanding of cultural differences and a greater awareness of what it was when it intervened in other societies, its work would be better understood and in the long run better accepted.*“¹¹⁶ He also expressed that owing to the myriad of various, cultures the international rules cannot cover all necessary issues. In his opinion the promotion of IL should concentrate on regional, national and local cultural contexts.¹¹⁷

Jok Madut Jok, Sudanese academic and humanitarian practitioner points out the importance of cultural awareness as a prerequisite for the quality of efforts of humanitarian aid workers in the field in the case of South Sudan. The basis of humanitarian aid is the creation of needs assessments, which are then reflected in the projects of humanitarian agencies. Jok argues that „*existing strategies of needs assessment are often based on misunderstandings about the cultural, social and economic conditions of war-affected communities.*“¹¹⁸ A needs assessment is a collection of information about different needs of a group of people. When the needs assessment is created, humanitarian organization can produce a project customized for

¹¹⁵ RODON, J., C. GIMENÉZ and J. F. M. SERRANO. *Managing Cultural Conflicts for Effective Humanitarian Aid*, 2012, p. 368.

¹¹⁶ GROSSRIEDER P. *Humanitarian Standards and Cultural Differences*, In Summary report of Seminar for non-governmental organizations on humanitarian standards and cultural differences, ICRC, 1998.

¹¹⁷ Ibidem.

¹¹⁸ Jok MADUT Jok. *Information Exchange in the Disaster Zone: Interaction Between Aid Workers and Recipients in South Sudan*, 1996, p. 206.

those in need. A challenge comes when the need assessment is based on irrelevant and wrong information or gain information from beneficiaries in an inappropriate way. According to Jok, it can lead to a loss of respect from local people or the feeling by the local population that the project is not taken seriously. With the example of South Sudan's needs assessment, he shows that asking questions in an unsuitable way can be considered as tactless. He states that it can be a „*pointless and frustrating process to ask a Dinka person¹¹⁹ the number of cattle he owns. Not only because of the possible bad luck to say the number of one's cattle, but most Dinka people do not know the exact number of their herd. It is also rude. It is like doing a socio-economic status study in an urban area where the researcher asks people how much money they have in their bank accounts and building societies.*“¹²⁰

The question of how to implement cultural aspects into the projects of humanitarian agencies is limited by different views on needs. Prioritisation of needs is diverse within the society. According to IHL and IHRL, humanitarian organisations consider as the major need the alleviation of human suffering and they usually help people with basic needs for survival. On the other hand, some people in the community believe that their main need is to build a house of worship. It is extremely important for humanitarian organisations to create a needs assessment on the specific needs emerging directly from a society.

3.2 Culture as a Topic for the International Community

The first World Humanitarian Summit was organised in Istanbul, Turkey from 23 - 24 May 2016. The summit was convened by UN Secretary General Ban Ki-Moon for the first time in UN history. The question of the Summit was *how the international community prevents human suffering by preparing for and responding to crises*. The Summit is crucial in humanitarian action in its call for change. Global and local leaders, international and regional organisations, academia, civil society, first respondents and humanitarian organisations have showed their shared interest in preventing human

¹¹⁹ Ethnic group in South Sudan.

¹²⁰ Jok MADUT Jok. *Information Exchange in the Disaster Zone: Interaction Between Aid Workers and Recipients in South Sudan*, 1996, pp. 209-210.

suffering with an emphasis on humanity.¹²¹ The World Humanitarian Summit had focus on new global borderless challenges in humanitarian action which have to be taken into consideration. The Summit calls for closer cooperation between states and civil societies. States should be united and they should accept their responsibilities towards people in need. However, Ban Ki-Moon considers that in humanitarian field the lack of interest in change is present. As one of the barriers to the acceptance of changes he sees in dominance of national interests and politicization of humanitarian aid. Political leaders should change their policies aimed at national interests to interests of common humanity. He states that international community tends to invest more in humanitarian aid than in prevention or settling conflicts.¹²²

In the report of the UN Secretary General for the World Humanitarian Summit *One Humanity: Shared Responsibility* Ban Ki-Moon reflects the importance of cultural awareness to achieve the primary goal of humanitarian stakeholders - to help people from suffering and to provide them with humanitarian assistance they need to survive. In paragraph 15 he proclaims that in the globalized world in which we are living now, mutual benefit is the main factor to survive. The following paragraphs are more concrete in terms of common humanity, which is not universal but a complex mix of various ethnic and national identities, different religious beliefs and cultural customs. Universal character can be found in the principle that everyone is entitled to be protected. The non-discriminatory principle of protection is stated in paragraph 17. People want to know that their needs and desires are taken seriously. People also need to feel that they are recognized as the main coordinators of their lives and their futures.¹²³ However, he also underlines that people in need are not only concerned about common principles and a shared view on humanity. He states: „*They are concerned about whether the international community can turn this vision into a reality for each of them. Their concern must become ours, and their daily struggle our responsibility.*“¹²⁴

¹²¹ World Humanitarian Summit, *At a Glance*, 2016, available at: <https://www.worldhumanitariansummit.org/sites/default/files/keydocuments/WHS-AtaGlance.pdf>.

¹²² UNITED NATIONS, General Assembly, *One Humanity: Shared Responsibility*: report of the Secretary-General for the World Humanitarian Summit, A/70/709, (2 February 2016), pp. 3-8.

¹²³ Ibidem, para. 15; 16; 17.

¹²⁴ Ibidem, para. 19.

He is also concerned about a general view on humanitarian assistance as a substitute for political solutions or that the „*national sovereignty and security are being placed above people's rights to protection and assistance and that the most basic tenets of international humanitarian and human rights law are being violated every day without accountability.*“¹²⁵ He believes that within the society the desire for a change in humanitarian field is becoming increasingly stronger.

Ban Ki-Moon warns before replacing local and national capacities by international. Humanitarian assistance provided by foreign organisations should them support and strengthen. He underlines the important role of the UN in identifying how to end an conflict and people's suffering. Its main responsibility is to coordinate and monitor the work of humanitarian agencies and states. The responsibility of leadership, innovation, knowledge transfers or expertise lies at all levels: states, international and regional actors, private sector, civil society and individuals. This means it is a shared responsibility. Ki-Moon calls upon global leaders to be more initiative in preventing and ending wars. He urges to incorporate principle of humanity in all policies, especially in decision making processes. From leaders of parties of conflict he expects a respect for international law and recommends learning from past. He stress the importance of national and community leaders who should place people's lives at the top of their strategies and also decision making processes. He asks leaders of business to share their knowledge and technologies that would help to avoid people's suffering. Since he considers young people as future leaders, he asks them to become more involved in global events with their new ideas. To transcend the division of humanitarian and development he calls upon leaders of international humanitarian organisations and donors. He sees a key role of individuals who can support or discourage their national leaders in their policies towards humanitarian crisis or safeguarding people's humanity.¹²⁶

Ban Ki-Moon also prepared the *Agenda for Humanity* which is the result of a long-developed call for change in the international arena. It contains five core responsibilities

¹²⁵ UNITED NATIONS, General Assembly, *One Humanity: Shared Responsibility*: report of the Secretary-General for the World Humanitarian Summit, A/70/709, (2 February 2016), para. 10.

¹²⁶ Ibidem, pp. 45-47.

that together form a framework for action, change and mutual accountability for the next three years. It is a universal document focusing on everyone from everywhere.

The first core responsibility is *political leadership to prevent and end conflicts*. Ban Ki-Moon quotes: „*An end to human suffering requires political solutions, unity of purpose and sustained leadership and investment in peaceful and inclusive societies.*“¹²⁷

Humanitarian assistance cannot substitute political action which is key for conflict prevention. Furthermore, state parties have to comply with international norms safeguarding humanity. Generally, wars are the greatest causes of people's suffering. To end a war and to create a peaceful environment depends on national authorities, not on humanitarian organisations. *Upholding the norms that safeguard humanity* is the second core responsibility where compliance with international law is highlighted. Moreover, it calls for full access for victims to humanitarian aid agencies and reaffirms the need of access to information for investigation of cases, reports and collecting data. The core responsibility 3 *leave no one behind* stresses the necessity of special attention to vulnerable groups (women, children, people with disabilities, older people, mentally ill people), people living in great distance from cities.¹²⁸ It emphasises on shared responsibility for internal forced displacement and refugees. Ban Ki-Moon underlines a problem of unpreparedness and unwilling of states to handle with a large number of refugees. He calls for a new international framework which would help states with these movements.¹²⁹ In the situations of conflict, disaster, vulnerability and risk, everyone should be reached in a way to conduce to sustainable development. This core responsibility is the principal idea of the Agenda. The fourth responsibility is to *change people's lives, from delivering aid to ending need*. It points out the importance of involving affected populations into the process, especially the decision-making process. It shifts the view of affected people to partners rather than beneficiaries. Humanitarian assistance should direct their projects rather on communities than on individuals. This shift would help humanitarian organisations to extend humanitarian aid to development.

¹²⁷ UNITED NATIONS, General Assembly, *One Humanity: Shared Responsibility*: report of the Secretary-General for the World Humanitarian Summit, A/70/709, (2 February 2016), p. 49.

¹²⁸ Ibidem, p. 22.

¹²⁹ Ibidem, p. 24.

Invest in humanity the fifth and last core responsibility requires investments in local and national capacities, risk reduction and stability.¹³⁰

Agenda for Humanity calls for more and deeper cooperation between those who offer humanitarian assistance and local communities, national authorities and international actors. It requires a special concentration on sustainable development. It demands a change which would support self-reliance on people. Whole document *One Humanity: Shared Responsibility* is based on a principle that everyone should be involved and everyone is entitled to right to humanitarian assistance and life without suffering regardless his race, religion, national, ethnicity, sex and etc. This gives it a universal nature.

From a cultural point of view, these five core responsibilities agreed upon during the World Humanitarian Summit rely on the close relationship between international humanitarian agencies and local populations. It is obvious that if this relationship is built on the failure to respect both sides, distrust, misperceptions of human behaviour based on lack of information about the culture of society etc., the effort of humanitarian actors would lead to misunderstanding and no aid at all. The endeavour of the international community to improve humanitarian action would be insufficient without taking into account the specificities of differing cultures and identities.

Another important document that brings culture into focus is a resolution adopted by the General Assembly in 2015, *Transforming our world: the 2030 Agenda for Sustainable Development*. This resolution does not deal exactly with humanitarian action but it discusses the main factors for sustainable development. The most important paragraph in regard to the respect of different cultures is paragraph 36 saying: „*We pledge to foster intercultural understanding, tolerance, mutual respect and an ethic of global citizenship and shared responsibility. We acknowledge the natural and cultural diversity of the*

¹³⁰ UNITED NATIONS, General Assembly, *One Humanity: Shared Responsibility*: report of the Secretary-General for the World Humanitarian Summit, A/70/709, (2 February 2016), pp. 48-62.

*world and recognize that all cultures and civilizations can contribute to, and are crucial enablers of, sustainable development.*¹³¹

¹³¹ UNITED NATIONS, General Assembly Resolution 70/1, *Transforming Our World: the 2030 Agenda for Sustainable Development* (21 October 2015), para. 36.

4 Culture and humanitarian organisations

4.1 Research Within Humanitarian Organisations

Médecins Sans Frontières (MSF) is an independent international organisation providing humanitarian medical assistance. The existence of MSF is dated in the year of war and famine in Biafra in 1971. A group of French doctors and journalists made a decision that the establishment of an independent and international organisation providing emergency medicine aid is necessary. Foundation of MSF was based on medical and journalist volunteers. Since 1980 MSF have opened offices in twenty eight countries.

MSF is a system of national and regional movements which are safeguarded by the MSF identity. Its main focus is on delivering aid to people in need in emergency situations such as epidemics, natural disasters or violent conflicts. MSF relies on its own charter and principles, as well as medical ethics. Since it is made up of a large number of national and regional movements, the work of MSF should be coherent amongst all movements. MSF works very rarely with local NGOs; only when MSF cannot provide health assistance does it ask for help from local organisations.

MSF Principles are based on the international humanitarian principles set by ICRC. Humanitarian medical assistance has to be neutral and independent from any external political, religious or economical influence. MSF has to be neutral in terms of not being on a side of an armed group during a conflict. It has to avoid any possible discrimination. The only chance to prioritize any person is in the case of high urgent need.¹³²

Lynda Benamer is a Human Resources Field Officer at **MSF in Germany**. In the past, she worked as a Human resources coordinator in various countries such as South Sudan, Liberia, Sierra Leone and Somalia. She has been working for MSF from 2006. Work of MSF is divided between international and local staff. This offers a variability of perspectives from people who have different backgrounds and experiences. However, it

¹³² International Website of Médecins Sans Frontières, *About MSF*, 2016, available at <http://www.msf.org/en/about-msf>.

calls for cultural sensitivity from employees who come from different countries with different cultures. People working in a team should be aware of the culture of other people to avoid misunderstandings between them.

In the case of humanitarian assistance MSF workers have to know the basic information about the culture of a country they are entering. To help provide knowledge about different cultures, MSF often uses social anthropologists. An example mentioned by Benamer of a time when cultural awareness is essential is a specific medical approach to women and their children in Muslim society. MSF workers prescribe medicaments to children that have to be given to children by their mothers. Generally, medicaments should be taken at the exact time of eating. Contrarily, in Muslim society MSF orders parents to give the medicaments to their children during the prayer time when the eating time is different. This special approach helps mothers to remember when their children need to take the pills.

To be culturally sensitive and to work in an appropriate way with the culture in an affected country, MSF established special cultural meetings before going to the mission in which important cultural differences are explained to international staff. Discussion includes for example a dress code, special requirements for men and women, what is allowed and what is forbidden. Understanding the culture of a country in an emergency situation is essential to adapt the behaviour of a worker. Working with patients, their families or local communities requires a sensitive approach. Humanitarian organisations need to be effective in providing humanitarian assistance. Good, reliable and credible relationships between organisations and affected populations is a key for success. One tool for achieving this correlation is to gain acceptance and respect from communities through transparent communication with people and a clear explanation of the mandate, funds, and structure of an organisation. Without respect for the local population, providing aid cannot be successful and efficient. Additionally, the accomplishment of a humanitarian organisation also relies on its exit strategy, which mainly focuses on sustainability.

Benamer expressed her interest in a new international tool that could help humanitarian agencies better work with different cultures in their missions. She sees the added value in a new instrument, an important step for improving humanitarian situation in the world. She says: „*Life is a learning process.*“¹³³

One of the most important and the oldest humanitarian organizations is the *International Red Cross and Red Crescent Movement*. It is a global network of national Red Cross Societies whose aim is to help people from suffering and improve people's living standards and conditions. Movement was established on an idea of Henry Dunant who was helping injured soldiers in Battle of Solferino in 1859. His idea was a creating of a treaty obligating countries and armies to care of wounded soldiers. During the following years many international discussion were led and resulted in creation of First Geneva Convention in 1864. The year before Convention, in 1983, ICRC was established and during next years the national societies were established.

The Czech Red Cross has three main areas of interest: humanitarian, social and medical. It provides first aid, coordinates humanitarian units and provides humanitarian aid. It also investigates cases of missing persons. In Czech Republic, it focuses on social care, promotes humanitarian standards and spreads awareness of IHL amongst society.

The Czech Red Cross as well as other Red Cross societies mainly works with local people during its missions. According to Marek Jukl, president of the Czech Red Cross, the cooperation with local people from national societies is the best approach to respecting the local culture and avoiding a cultural conflict. The organisation uses local staff as a source of information about the culture of an affected country and then the information is spread to people who are going to the mission. Local personnel contribute to the elimination of any possible cultural clash.

Furthermore, Jukl highlights the importance of IHL and international humanitarian customary law. Both laws set the obligation of states to respect culture of affected civilians. Rules 104 and 105 of international humanitarian customary law appeal to

¹³³ Interview (via Skype) with Lynda Benamer, Human Resources Field Officer, Médecins Sans Frontières, Prague, Czech Republic, 17 May 2016.

states in regards to respecting family life, different convictions and religious practices.¹³⁴ It is binding for everyone (state actors and non-state actors) entering a place of armed conflict or post-armed conflict.

Within the Czech Red Cross there are no any special arrangements on how to proceed in respecting the cultures of different states where the Red Cross operates. According to Jukl, the necessity of respecting culture is already covered by international instruments or ICRC principles. However, he expressed the opinion that the creation of an international tool for humanitarian organisations regarding cultural approaches for effective and suitable humanitarian assistance could be very helpful, especially when it is based on practices of international humanitarian organisations.¹³⁵

Another experience comes from Veronika Nožinová, a program manager for Cambodia and the Philippines from **Caritas Czech Republic**, which is a member of **Caritas International**. Caritas International is a network of national Caritas organisations which cooperate together when an emergency situation occurs. Caritas works on Christian principles (particularly a human approach towards all living) and it is a part of the Roman Catholic Church. Caritas Czech Republic has its roots in 1919 in Moravia, a eastern part of Czech Republic. It provides aid in the Czech Republic and abroad. It specializes in humanitarian aid focused on development, social services and health care.

Caritas Czech Republic has a code of ethics which Nožinová mentioned as the main document for Caritas workers. One of the principles in the code is a non-discriminatory principle including respect of culture and religion of the affected country.¹³⁶ Caritas is a Christian NGO, but does not focus only on help for Christian communities. No Caritas policies exist stating that only Christians can receive humanitarian assistance. However, Nožinová knows from her own experiences that in practice, national organisations, especially in countries that are not Christian, sometimes do not follow the key humanitarian principle that the aid should be provided to everyone regardless of

¹³⁴ HENCKAERTS J. M. and DOSWALD-BECK L. *Customary International Humanitarian Law: Volume I: Rules*, rules 104; 105.

¹³⁵ Interview (in Czech) with Marek Jukl, President, Czech Red Cross, Prague, Czech Republic, 26 May 2016.

¹³⁶ Caritas Czech Republic, *Code of Ethics*, 2009, para. 1.8.

religion. These practices are monitored by Caritas International, which works with them on avoiding those approaches.

Nožínová refers to a case of nepotism which is mostly present in Eastern countries. Nepotism is defined by Ian Neary in his chapter *East Asian Values* in *Encyclopedia of Human Rights* as „priority given to informal relationships over contracts cronyism, consensus leads to corrupt politics, respect for authority reduces the ability to innovate, ...“¹³⁷. Nepotism can give rise to cultural conflict and can be a barrier to effective humanitarian assistance. However, if humanitarian organisations want to be culturally sensitive, they have to respect nepotism as a culture of the country even if nepotism can have a negative impact on providing aid. In that case, one of the most important abilities is tolerance based on respect. Tolerance has its own limits that cannot be exceeded. To be effective and provide successful aid, tolerance has to be present on both sides.

Nožínová does not see the need of having a special document or guideline about culture in humanitarian assistance. According to her, if people sensitive to different cultures, respect each other and follow basic human principles, humanitarian workers will already know how to work in a culturally sensitive way and the creation of guidelines is not necessary. Caritas Czech Republic does not organise a cultural meetings where humanitarian workers could receive the cultural background about a country they will be visiting. Although she does not see the need to create guidelines, Nožínová considers cultural briefings as a useful tool for building awareness about a culture of an affected country.¹³⁸

Occasionally, humanitarian workers may face a cultural conflict that reaches the limits of their tolerance. To keep humanitarian assistance efficient, humanitarian workers have to be prepared for those situations.

CARE International is another humanitarian organisation with activities approximately in ninety countries in different continents. The main aim is fighting against global poverty with a special focus on women. CARE appreciates a role of women in a society

¹³⁷ NEARY I. *East Asian Values*, in FORSYTHE D. P. *Encyclopedia of Human Rights*, p. 75.

¹³⁸ Interview (in Czech) with Veronika Nožínová, Program Manager for Cambodia and the Philippines, Caritas Czech republic, Prague, Czech Republic, 9 June 2016.

and considers women as a central power in a community who can help families and entire community. CARE also provides emergency aid to people affected by a conflict and natural disasters. The formation of CARE International is dated in 1945 when twenty two humanitarian organisations (civic, religious, labour, etc.) decided to help destroyed Europe by providing CARE packages with basic food items. In the following years CARE added textile items such as blankets, cotton and wool. This still small organisation have started to be greater and it have turned from helping only Europe to developing world. At present, CARE International has fourteen main members and small country offices around the world. Thanks to those country offices, CARE can immediately react and provide humanitarian assistance very fast.

CARE Czech Republic was created in 2007. It is a part of CARE International global network. CARE Czech Republic has a specific agenda. It has a minimal contact with beneficiaries. It does not have any country office so it mainly works with local country offices where humanitarian aid is needed. It cooperates with local staff from local communities which is also the main tool of CARE Deutschland-Luxemburg¹³⁹ where the interview was also led. CARE Czech Republic processes grant projects, it monitors the situation in affected country with help of local staff. Humanitarian assistance, as it is mentioned above, should be based on needs assessment. Due to lack of capacity in the context of CARE Czech Republic, humanitarian projects are based on information from country offices which are usually active in a country for a long time. When it is necessary, local employee would analyse the needs of people. This close and inevitable cooperation with locals helps organisation to be cultural sensitive without any other special tools to raise awareness about culture of affected country. The accountability of applying humanitarian standards and cultural sensitive approach are internationals in country offices, not CARE Czech Republic.

CARE Czech Republic, as other national CARE organisations, works rather in areas where CARE capacities are already established than in areas where country offices are

¹³⁹ Interview with Felix Wolff, Coordinator Balkans/Syria, and Dejan B. von Roman, Programme Officer Southern Africa and Middle East, CARE Deutschland-Luxemburg e.V., Bonn, Germany, 12 May 2016.

not present. Nevertheless, in case of emergency CARE deploys more local capacities than foreign from neighbouring countries which can provide aid as soon as possible.

CARE Czech Republic does not come into contact with cultural conflicts. The only way they have to adapt to different culture is in communication with country offices. It has been prepared for different communication traditions such as concept of time, way of communication and other different behaviour which can appear during interaction.

Both Jan Kejzlar and Petra Antořová do not see from their CARE perspective a necessity to have special guidelines about cultural approach in humanitarian assistance. Nevertheless, Kejzlar highlights the necessity of special attention on women and girls in society as a possible cultural aspect of humanitarian assistance.¹⁴⁰

Rodon, Giménez and Serrano in their article *Managing Cultural Conflicts for Effective Humanitarian Aid* affirm the value of a culturally sensitive approach in humanitarian assistance. Using their own experiences, they analyse the case of a Spanish NGO for development and humanitarian assistance, *Intermón Oxfam* (IO), operating in Mozambique during cholera epidemic. As is written above, the first step of humanitarian agencies is to produce a needs assessment. IO sent volunteers to the area with a cultural mediator who was supposed to help the team to connect with the local population. Volunteers had to evaluate the reaction of local community members regarding the presence of IO. In general, without acceptance from local communities, humanitarian assistance cannot be as effective as when people fully respect humanitarian agencies and want to cooperate with them. To inform all people about the presence of IO, they used local media and family visits. This method allowed IO to approach the local population and enabled them to gain more information about local communities. Furthermore, the team of volunteers was expected to perform a data analysis of possible cultural conflicts on the local and organisational side.

After the preliminary field study done by volunteers, IO started its humanitarian aid mission to stop cholera (and the spreading of disease) by providing open access to clean

¹⁴⁰ Interview (in Czech) with Jan Kejzlar, Director, and Petra Antořová, Programme Officer, CARE Czech Republic, Prague, Czech Republic, 21 June 2016.

water and preventing use of water from contaminated sources. IO placed accessible water tanks within the affected area. In addition, IO had to challenge cultural customs such as limited education about hygiene habits, awareness of the impacts of cholera, role of men and women in society, etc.

The first cultural conflict that caused humanitarian assistance to be ineffective was the different meaning of the word *chlorine*. In Spanish/Western tradition, chlorine is a chemical element that helps to make water cleaner. In Mozambique culture, chlorine is synonymous with cholera. This difference in understanding provoked hysteria in the community and people stopped drawing clean water from the containers. The reaction of IO was to replace the term chlorine with mountain water. This conflict could have been avoided by better field research about the local culture.

The second challenge which made humanitarian aid difficult were the different norms of behaviour. In villages, people were used to collecting water from a river or using rain water. Both options were very dangerous in terms of spreading cholera. IO had to convince people to use water from tanks by informing local people about the results of having cholera. Another issue that appeared during the project was power relations. To get water from some tanks took around two hours. In the culture of Mozambique, women have a different position in society than men and are not allowed to leave the house for a long time. This cultural habit forced women to collect water from the river instead of waiting two hours in a queue before a tank. To reduce the waiting time was impossible for IO. Instead, they decided to use a locally famous theatre group. IO taught the group them to perform about humanitarian issues such as family affairs, hygiene habits, roles of men and women in society, etc., changing the topic of theatre performance every week. The technique to use a favourite social activity to teach people about the possible means to improve their life conditions was a very important tool in IO's effective humanitarian aid.

IO concluded that it is better to change the organisational system of meaning or behaviour instead of changing local culture and its characteristics, especially in emergency situations. Regarding the experience in Mozambique, authors mention a few

recommendations for more effective humanitarian aid linked to cultural sensitivity. Firstly, humanitarian agencies should focus on local acceptance of the humanitarian organisation and on involvement of the local population and its leaders. Secondly, organisations should monitor the adoption of their work by local communities and observe potential areas of cultural conflict. Lastly, humanitarian workers should try to change their cultural assumptions rather than change the culture of people in need.¹⁴¹

4.2 Recommendations

Based on the gained information from different humanitarian organisations it is possible to summarize important approaches, tools and methods that make humanitarian assistance culturally sensitive and therefore more effective. Many different cultures exist in the world. Culture can be defined regionally or nationally, but different traditions and customs can be found even within one specific culture. Specific culture can be linked with religion, ethnicity, tribe or territory. It is impractical to create one particular guideline focusing on specific characteristics of each culture. The recommendations listed below are generalized to be applicable in every humanitarian assistance situation in all possible cultures.

The main international principle aimed at respecting the culture and traditions of a country is mentioned in the Code of Conduct of ICRC. As it is described by CHS Core Standard humanitarian response has to be effective and appropriate and it should strengthen local capacities. To follow the fifth principle of the Code of Conduct, „*respect the culture, structures and customs of the communities and countries*“¹⁴² and other international humanitarian standards, humanitarian organisations should (if it is possible):

1. cooperate closely with local NGOs and local humanitarian workers
2. find as much information as possible about the concrete culture in the area where humanitarian assistance is required,

¹⁴¹ RODON J., C. GIMENÉZ and J. F. M. SERRANO. *Managing Cultural Conflicts for Effective Humanitarian Aid*, 2012, pp. 370-375.

¹⁴² ICRC, *The Code of Conduct for the International Red Cross and Red Crescent Movement and non-governmental Organisations in Disaster Relief*, para. 5.

3. include to trainings of workers components of cultural awareness,
4. have special cultural briefings offered by an expert (i.e. social anthropologist) before going to the country,
5. concentrate on gaining acceptance from local communities while analysing needs of affected people in the preliminary field study,
6. make the needs assessment with the help of a cultural mediator,
7. find and analyse potential cultural conflicts,
8. keep in touch with local authorities during the time of humanitarian assistance,
9. change organisational or personal cultural assumptions when necessary,
10. avoid potential cultural conflicts by monitoring provided aid and actions taken by local communities to receive this aid,
11. approach local communities through their own popular culture (i.e. theatre performance, music),
12. respect and promote principles of IL (IHL; IHRL),
13. make sure your staff is cultural sensitive (i.e. include to the interviews for delegates a cross-cultural questions),
14. speak out about violations and situation where you work.

These recommendations can be a guideline for international humanitarian organisations how to be cultural sensitive in their humanitarian assistance. Moreover, they are in conformity with findings of WHS.¹⁴³

¹⁴³ For other possible advices on cultural sensitive approach in humanitarian assistance consult a handbook from 2004 made by UN Population Fund *24 tips For Culturally Sensitive Programming*.

Conclusion

After the Second World War, the international community had to face many challenges. The new world order came with maintaining world peace and security so as not to repeat atrocities of previous wars, emergence of new international actors, an increasing number of internal conflicts, or climate change due to technological progress and much more. According to these new challenges, the need for humanitarian assistance increased. The UN, EU and other international actors have started to provide humanitarian aid in natural or man-made disasters. The importance of aid for people in need is still increasing due to a new type of conflict – non-international armed conflicts.

Humanitarian assistance can be provided by international or national organisations. Both types of agencies have to follow principles on which humanitarian assistance is based. Moreover, international organisations base in areas with differing culture than the affected country have to work in environments where the possibility of diverse traditions and customs is high. Humanitarian assistance is specific in its emergency and short-term nature contrary to development, which is aimed at long-term strategy and usually comes after humanitarian response.

International humanitarian principles are based on universal human rights, which are criticized for their lack of attention to cultural diversity, different traditions and customs. Criticism is oriented on the Western nature of the international human rights system, which in itself stands outside of norms of many other cultures. During the last few years, the international community has been supporting non-Western cultures to create their own human rights regimes that would better reflect their own cultures, protecting every human being, as is the main principle of human rights systems.

The question of whether humanitarian principles are universal or if they reflect various cultural specificities is still a topic for academics and people working in the humanitarian field. It can be argued that the Fundamental principles generated by IFRC and basic international humanitarian principles, as found in the Sphere project or the Core humanitarian standard, reflect cultural diversity by their very legitimate nature based on the adoption of principles by every National Red Cross, Red Crescent

Societies and a majority of humanitarian agencies. To be more cultural sensitive depends only on the organisations; on the international level there does not exist any official adjustment for humanitarian organisations regarding how to incorporate culture into their projects.

Two questions were asked at the beginning of this paper. The first question of whether humanitarian assistance sufficiently respects and reflects the culture of an area where humanitarian aid is provided was answered by research about culture in international discussions and interviews with humanitarian organisations. Lack of attention to the issue of culture in humanitarian assistance was found, as well as lack of interest from both experts and academics. It must be said that organisations themselves are trying to be, as much as it is possible, culturally sensitive. However, it depends on their own strategies and capacity.

One of the findings of interviews with international humanitarian agencies is that all addressed organisations are aware of the importance of a culturally sensitive approach in their projects. They agree that humanitarian assistance has to be effective, and adaptation of each humanitarian mission to specific cultures can help organisations to achieve this goal. However, some of them are missing particular tools that would be helpful in this policy.

The second question of whether the international community needs to focus more on cultural particularities when it comes to humanitarian assistance was clarified thanks to cooperation with humanitarian agencies working in the field. Experiences from experts from the field showed that inappropriate aid always leads to ineffective humanitarian assistance, which can also result in cultural conflicts with local populations. Interviewed experts have different experiences and not all of them have met with cultural conflicts. Nevertheless, some of them would appreciate to have a cultural guideline to help them with the preparation of a mission. The general opinion is that every new guideline that could improve the work of humanitarian organisations is welcomed and accepted.

Based on research and interviews, this paper offers a list of recommendations for humanitarian agencies regarding how to better reflect the culture of people in need of

humanitarian assistance. The more humanitarian assistance is needed, the more it should be effective and correspond to those in need. The majority of non-Western countries are criticising the universal character of human rights, and thus, humanitarian aid. Instead of creating new regional, national or religious instruments which are supported by the international community in the human rights system, it would be better to focus more on cultural aspects of each area of humanitarian assistance to avoid additional costs or possible crises during a mission. The best tool for approaching diverse cultures is to cooperate and coordinate a mission with local NGOs and local people. Not all missions can use local staff and humanitarian agencies have to be prepared in advance. Considering the emergency character of humanitarian assistance in post-conflict areas, it must be said that cultural mistakes can happen, such as providing pork meals in Muslim countries.

The hypothesis created at the beginning of this paper (the full enjoyment of humanitarian assistance is limited by culture) is confirmed by the research. Insufficient attention to cultural differences leads to ineffective humanitarian aid.

One of the aims of this paper is to slowly develop a debate on this topic and contribute to society by offering thoughts on an important topic that is little discussed. To provide humanitarian assistance is a key part of the principle of humanity on which the most important organisations and actors of the world are focused. To respect, tolerate and accept various cultures is the most essential means to peace in our new multicultural world.

This paper had to challenge several limitations such as the page and time limits, limitation of location where the paper was written, lack of resources for field research etc. Due to these limitations the research could not be as comprehensive as possible. There exists space for further research, especially with workers in the field. The importance of focus on cultural sensitivity in humanitarian action is increasing. We live in a multicultural world requiring a special way of life with emphasis on cultural awareness.

„People of different religions and cultures live side by side in almost every part of the world, and most of us have overlapping identities which unite us with very different groups. We can love what we are, without hating what – and who – we are not. We can thrive in our own tradition, even as we learn from others, and come to respect their teachings.“

Kofi Annan, Former Secretary-General of the United Nations¹⁴⁴

¹⁴⁴ ANNAN, K. *Nobel Prize Lecture*, UN Press Release, SG/SM/8071, (12 October 2001).

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Annex 1.

Questions for thesis project - English version

1. Brief information about your organisation:
 - purpose
 - where do you work (as the organisation)
 - tasks
 - do you work by your own or do you delegate your work to any local organisation?

2. Which international humanitarian standards do you use in your projects (ICRC, Sphere, others?)

3. Have you ever experienced any clash of cultures during your projects or during your cooperation with local NGOs?

4. Do you feel a lack of attention on culture with the international humanitarian standards?

5. Do you think it would be helpful to have a special standard/draft only on culture and which could help humanitarian agencies in implementation period of the project? (e.g. broader fifth principle of ICRC - respect to culture, customs and structure)
 - on which cultural aspects NGOs should pay attention
 - do you have any special recommendations?

Annex 2.

Otázky týkající se rozhovoru pro diplomový projekt - cz version

1. Stručné informace ohledně Vaší organizace
 - smysl, záměr Vaší organizace
 - oblast, ve které pracujete (geograficky)
 - úkoly, které si Vaše organizace dává za cíl
 - pracuje Vaše organizace sama nebo delegujete Vaše projekty na lokální NGOs?

2. Které mezinárodní humanitární standardy používáte v rámci Vašich projektů? (ICRC, Sphere, nebo jiné?)

3. Máte nějaké zkušenosti se střetem kultur během Vašich projektů nebo během Vaší spolupráce s lokálními organizacemi?

4. Cítíte určitý nedostatek pozornosti na kulturní aspekty v rámci mezinárodní humanitární asistence (mezinárodních standardů)?

5. Myslíte, že by mohl být speciální koncept mezinárodního humanitárního standardu týkající se pouze kultury nápomocen humanitárním organizacím při implementaci jejich projektů? (například širší pojetí pátého principu ICRC týkající se respektu kultury)
 - na které přesně kulturní aspekty by se organizace měly zaměřit?
 - máte nějaká doporučení?