

# Politicized Humanitarianism: A Response to Nicolas de Torrente

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Nicolas de Torrente raises a dilemma for humanitarians: how do they continue to reach people in need when western policy makers want to assimilate them into their political and military agendas on the one hand and anti-western extremists want to kill them on the other? He believes that humanitarians can and should resolve this dilemma by rediscovering their apolitical roots. If humanitarian nongovernmental organizations (NGOs) can prove themselves politically neutral, impartial and independent, then perhaps belligerents will once again allow them to save lives and relieve humanitarian suffering.

De Torrente is right to urge humanitarians to respond to what he calls the “politicization of aid,” but he is wrong to suggest that a return to classic humanitarianism offers our only hope.<sup>1</sup> Learning lessons from post-Taliban Afghanistan as well as Iraq, this Response concludes that humanitarians need something more than political agnosticism. Challenging three of de Torrente’s theoretical conclusions, this Response argues that (1) humanitarianism is and should be political, (2) humanitarians can and should speak out about the justice and injustice of war, and (3) accepting funding from belligerents in war can make both principled and pragmatic good sense.

## I. HUMANITARIANISM IS AND SHOULD BE POLITICAL

De Torrente, and classic humanitarians more generally, confuse politics and partisanship. Humanitarianism is a political ideology and always has been. “Humanity,” “impartiality,” “independence,” and “neutrality” are all political values. Politics, at its essence, concerns the decision-making process through which policy makers allocate resources and power. Humanitarian action channels resources and power in a certain direction and in a certain way—to save the lives of the neediest in conflicts. The decision in 1949 to mandate legally the protection of civilians in war was a profoundly political step,<sup>2</sup>

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1. Nicolas de Torrente, cite to 17 *HARV. HUM. RTS. J.*, at 1 [hereinafter de Torrente]. De Torrente’s article appears earlier in this issue of the *Harvard Human Rights Journal*.

2. Modern humanitarian law, embodied in the Geneva Conventions, was essentially a novel political

just as it is political to mandate the redistribution of resources from the powerful to the marginalized, or from one country's taxpayers to save lives in another.

De Torrente fails to recognize that what is going on in Afghanistan and Iraq is not the politicization of aid—which is a tautology—but a diminishing consensus on the political value of humanitarian independence. That independence has always relied upon belligerents accepting the notion that humanitarianism should not substantially alter the military outcome or political consequence of a conflict. In contexts such as Afghanistan and Iraq, humanitarians are unlikely to convince warring parties that they should be left alone because their aid is of no political or military importance. With belligerents increasingly willing to either co-opt or attack humanitarian work, his response that “humanitarian action is not a political project”<sup>3</sup> rings like an honorable lament for the past, but no longer provides adequate guidance to humanitarian actors in highly politicized settings. To remain relevant in such contexts, classic humanitarianism must answer difficult questions:

1. *Is claiming to be “beyond” politics the most effective path for most humanitarians?* At the heart of classic humanitarianism is a call for humility—what de Torrente calls “the limited, modest yet vitally important ambition to ensure that the most vulnerable are not sacrificed in times of conflict and crisis.”<sup>4</sup> Classic humanitarians argue they can at least give those in need a “bed for the night”;<sup>5</sup> they do not rebuild lives or restore livelihoods, but they can save them for another day, for another set of future actors.

This argument makes sense for Médecins Sans Frontières (MSF), given its primary focus on emergency medicine, but is less relevant or meaningful for other humanitarians. Many other international aid agencies have multiple mandates focused not just on saving lives through health interventions, but also on helping the living to rebuild after they are saved, by fighting extreme poverty, educating children, providing food and adequate nutrition, and helping people to feed themselves. These larger mandates are born not out of a lack of humility, but out of a strong sense that ensuring human survival is simply not enough.<sup>6</sup>

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ideology that extended the protection of humanitarian law not just to wounded soldiers but to civilians. Following both the specific targeting of the marginalized, disabled, and “racially inferior” by Nazi Germany and the dropping of atomic bombs on civilians by the United States to achieve its military goals, the ideology that civilians should be protected in warfare was a radical departure for the international community and was designed to achieve political consensus that such massive civilian casualties should never happen again.

3. De Torrente at 5.

4. De Torrente at 28.

5. For the most influential recent argument for classic humanitarianism, see DAVID RIEFF, *A BED FOR THE NIGHT, HUMANITARIANISM IN CRISIS* (Simon & Schuster 2002). For an interesting critique of David Rieff's arguments, see Hugo Slim, *Is Humanitarianism Being Politicized, A Reply To David Rieff*, Speech at The Dutch Red Cross Symposium on Ethics in Aid, The Hague, (Oct. 8, 2003) (on file with the author).

6. In Hugo Slim's words, “[t]here are good and bad ways to save people that are determined by wider moral goods around their personal, social and economic dignity. You can't just save and leave. You can't

2. *What if all humanitarian NGOs in Afghanistan had adopted a limited and classical humanitarian mandate?* The vast majority would have left Afghanistan following the last humanitarian crisis of 2002 because saving lives was no longer the main concern.<sup>7</sup> As a result, many children would have gone without education.<sup>8</sup> The reconstruction effort, already compromised by insecurity, would have all but ground to a halt.<sup>9</sup> NGOs would have refused to engage in projects such as the National Solidarity Program (NSP), designed to alleviate poverty, because NSP also aimed to legitimize the central government as a service provider.<sup>10</sup> Although humanitarian work in Afghanistan has moved beyond the 'life and death' political choices of emergency response work and towards the far more explicitly political work of post-conflict reconstruction, it remains crucial to the people of Afghanistan.<sup>11</sup> NGOs that participate in such work cannot claim to be apolitical. Rather, they need to understand and articulate how their political solidarity with the people they serve trumps any political obligations they may have to their donors or to the sovereign governments where they work.

3. *Is classic humanitarianism humble when it claims to be "beyond" politics?* De Torrente's argument assumes that the humanitarian space necessary to help those in need is dictated in large part not by warring parties, but by the decisions of NGOs to accept or refuse funding. In the Iraq context, he holds humanitarians partly culpable for the politicization of aid because they con-

just save by cruelly concentrating people in camps . . . . You can't just save people without an eye to their continued protection or their future livelihood." *Quoted in Rieff, supra* note 2, at 3.

7. MSF, to its credit, continued to characterize the situation in Afghanistan as a crisis warranting a humanitarian response. Throughout Afghanistan, medical and nutritional needs remain serious, as reconstruction of the public services is slow to start and conflict continues to affect the south and southeastern parts of the country. MSF maintains assistance programs in 16 of Afghanistan's 32 provinces with a staff of 107 international and 1380 national personnel. Médecins Sans Frontières, *MSF programs around the world*, in MSF International Activity Report 2002–2003, available at <http://www.msf.org/content/page.cfm?articleid=E0478D42-6DDB-4CCE-8EF89204603CFCB8>.

8. CARE, for example, facilitates education programs for 45,000 children, but aims to integrate those programs into the Afghan government school system as the government's capacity increases. Another NGO, the Swedish Committee for Afghanistan, is educating more than 250,000 students. The Afghan government recognizes that in the short term, it must rely heavily upon NGOs and the U.N. as educational service providers while it focuses on "policy making, regulating and monitoring service delivery, facilitating the roles of others, and contracting for services." Afghan Government, *Securing Afghanistan's Future*, Consultation Draft (not for citation) at 24, available at <http://www.af/recosting/> (Jan. 29, 2004).

9. There are more than 2000 NGOs registered with the Ministry of Planning in Afghanistan (although active NGOs with reasonable capacities and genuinely non-profit missions probably number in the low hundreds). Yet those NGOs continue to provide many of the non-emergency but essential services that Afghans desperately need. Many work closely with the Afghan state to build their long-term capacity as a social safety net for the poor.

10. The NSP is a major government program which aims to allocate \$140 million to almost 8000 communities this Afghan fiscal year (Mar. 2003–Mar. 2004). Participating communities are required to select committees to determine the most pressing needs towards which funding will be allocated. These election processes are viewed by many as a means to engage communities in political decision-making.

11. As de Torrente acknowledges, even the most rigidly classical humanitarians do not treat their principles as "sacrosanct straitjackets." De Torrente at 5. When I worked in Western Uganda, for example, I noted how MSF staff trained government medical staff as a matter of course, even during the conflict between the Ugandan government and anti-government rebels in 2001.

ceded its inevitability.<sup>12</sup> Perhaps it would be more humble to acknowledge that humanitarians do not control or even significantly influence humanitarian space and to adapt to the new environment that politically partisan aid use presents, recognizing that we are but one small voice in a complex political matrix. We cannot dictate the humanitarian future of threatened populations, but we may be able to influence them by engaging in political debate.

## II. HUMANITARIANS SHOULD SPEAK OUT ON THE JUSTICE OF WAR AND OBLIGATIONS OF BELLIGERENTS IN WAR

Classic humanitarianism was born of a pragmatic accommodation: war is inevitable, and while operating in conflict zones and promoting justice *in* war, humanitarians must pass no political judgment on the justice *of* war. De Torrente argues that MSF was right not to engage publicly on the justness of the wars in Iraq or Afghanistan. He believes that French and British NGOs should not have challenged the justness of the Iraq invasion because they jeopardized their ability to reach people in need when the war started.<sup>13</sup>

In making this argument, de Torrente assumes that the benefits of a political humanitarian action in war will always outweigh the good that can be done through political engagement on the justness of war. That is a matter of judgment, not of principle. If one believes that belligerents listen to humanitarians and constrict humanitarian space as a result, it is at least possible that they are influenced by humanitarian perspectives on the justice and injustice of war.

Additionally, de Torrente offers no evidence to indicate that belligerents make the connection between NGOs taking a political stand on war and the restriction of humanitarian space.<sup>14</sup> When attacks on the NGO community in Afghanistan went from one a month in late 2002 to almost one a day one year later,<sup>15</sup> no one suggested that extremists were targeting NGOs because

12. De Torrente at 7–8.

13. There is a certain irony in de Torrente's position because MSF has had a well-respected reputation in Afghanistan for being willing to take sides on behalf of the marginalized. They even embraced the political consequences of these stances. As Rony Brauman, one of MSF's founders, wrote in 1998:

For ten years, together with the teams of other French organizations, the 550 MSF doctors and nurses who relayed each other on Afghan territory were the only foreign humanitarians assisting the population on the side of the Afghan resistance fighters. Because of its rarity, *the medical assistance offered by MSF gave the Afghans valuable psychological and political support. The foreign doctors were their link with the West to make the international community aware of their struggle*, especially from the fall of 1981 onward, when the Red Army began to bomb the hospitals in which MSF was working. *At the time, MSF denounced the Soviet acts and encouraged journalists to visit Afghanistan.*

Rony Brauman & Joelle Tanguy, *The Médecins Sans Frontières Experience* § 12 (1998) (emphasis added), available at <http://www.doctorswithoutborders.org/publications/other/themsexperience.shtml>.

14. While he concedes the possibility that aid workers are targeted because of what they are, not what they do, he believes this risk can be mitigated by "establishing transparent relationships with local authorities and communities based on an unambiguous humanitarian identity." De Torrente at 6. Again, the implication is that humanitarians control the way they are perceived.

15. See CARE, *Good Intentions Will Not Pave the Path to Peace*, available at [http://www.careusa.org/newsroom/specialreports/afghanistan/09152003\\_afghanistanbrief.pdf](http://www.careusa.org/newsroom/specialreports/afghanistan/09152003_afghanistanbrief.pdf) (Sept. 15, 2003) [hereinafter *Good*

of their political views.<sup>16</sup> In fact, if their aim was to terrorize humanitarians, then the more innocent and apolitical their targets, the more effective they would be. In reality, it is far more likely that NGOs were being targeted simply because they were Western soft targets.

De Torrente's response to the deteriorating security situation in Iraq is to call for more effective measures by the United States as part of its responsibilities as an Occupying Power.<sup>17</sup> Although the U.S. military is not necessarily in the same position as an occupying force in Afghanistan, de Torrente's plea for greater security is equally relevant in Afghanistan because it acknowledges the fundamental need for basic security as a precursor to reconstruction. Recognizing this need for security, CARE has been one of the NGOs calling for expansion of international military forces outside of Kabul. The aim of CARE's advocacy in repeated policy briefs and more than three hundred interviews with the international press in 2002 and 2003 is to promote the security rights and reconstruction needs of ordinary Afghans.<sup>18</sup> In fact, CARE's advocacy repeatedly urged international military forces to avoid blurring the lines between military and civilian activities and, to date, has refused to work alongside them or to accept any form of armed protection for their activities.<sup>19</sup>

CARE believes, and NATO has confirmed,<sup>20</sup> that NGOs have been instrumental in keeping discussions alive on the need for greater international investment in security in Afghanistan. As long as most of Afghanistan faces a security vacuum and is increasingly ruled by local militia leaders and drug lords, CARE plans to urge the international community to fulfill their promises

*Intentions*].

16. In Afghanistan, two international aid workers have been killed since the fall of the Taliban. One worked for the ICRC, the most apolitical of all humanitarian agencies; the other worked for the U.N., the humanitarian actor most closely politically allied to the Karzai regime. See Carlotta Gall, *In Afghanistan, Helping Can Be Deadly*, N.Y. TIMES, Apr. 5, 2003, at B13, and David Rhode, *Slain Frenchwoman Buried in Afghanistan*, N.Y. TIMES, Nov. 21, 2003, at A8. In Iraq as well, the two most significant attacks on humanitarians have been on the ICRC and the United Nations. See Dexter Filkins & Alex Berenson, *Suicide Bombers in Baghdad Kill at Least 34*, N.Y. TIMES, Oct. 28, 2003, at A1, and Dexter Filkins & Richard A. O'Connell Jr., *Huge Suicide Blast Demolishes U.N. Headquarters in Baghdad; Top Aid Officials Among 17 Dead*, N.Y. TIMES, Aug. 20, 2003, at A1.

17. De Torrente at 16.

18. See, e.g., CARE, *Rebuilding Afghanistan, A Little Less Talk, A Lot More Action*, available at [http://www.careusa.org/newsroom/specialreports/afghanistan/09302002\\_policybrief.pdf](http://www.careusa.org/newsroom/specialreports/afghanistan/09302002_policybrief.pdf) (Oct. 1, 2002); CARE, *A New Year's Resolution to Keep: Secure a Lasting Peace in Afghanistan*, available at [http://www.careusa.org/newsroom/specialreports/afghanistan/01132003\\_policybrief.pdf](http://www.careusa.org/newsroom/specialreports/afghanistan/01132003_policybrief.pdf) (Jan. 13, 2003); *Good Intentions*, *supra* note 11.

19. An area of shared concern between MSF and CARE is the U.S. military's public references to NGOs as an integral part of the U.S.'s larger political and military effect in Afghanistan. See de Torrente at 3. CARE's concern, however, is motivated *not* by a belief that we are beyond politics (or can convince belligerents in Afghanistan that we are beyond politics), but because these messages inaccurately portray our political reasons for being in Afghanistan. CARE works in Afghanistan to promote the human rights (including political, economic, and security rights) and aspirations of the poor and marginalized. Claims by the United States that we are here as part of the "war on terror" not only undermine CARE's security, but also CARE's pro-poor political philosophy.

20. I attended a presentation by NATO on February 17, 2004 at which the reason given for NATO plans to expand ISAF was advocacy by NGOs.

to Afghans to provide security.<sup>21</sup> While de Torrente himself does acknowledge the importance of increased security in Iraq, MSF's silence on this issue in Afghanistan has been surprising considering its policy of speaking out on rights issues and its purpose to promote international humanitarian law.<sup>22</sup> In light of ground developments in places like Afghanistan and Iraq, classic humanitarians should at least ask themselves whether their struggle to remain beyond politics shuts the door after the horse has bolted, leaving the barn inside burning.

### III. HUMANITARIANS SHOULD CONSIDER TAKING FUNDING FROM BELLIGERENTS

Finally, de Torrente argues that NGOs should refuse politically motivated funding and challenges U.S. NGOs for compromising their humanitarian independence by accepting money from the United States when it is one of the belligerents. But his argument fails to answer four important questions:

1. *If classic humanitarians refuse funding from the U.S. government and as a result needs are not met, are they not violating their commitment to impartiality?* The only legitimate basis for refusing to take funding from a warring party is that ultimately it will do more harm than good for intended beneficiaries. But one cannot reach that conclusion without a complex, political cost-benefit analysis that contemplates refusing to respond to needs because of the source of the support. Such a calculation, to use de Torrente's words, "challenges the essence of humanitarian action as a neutral and impartial endeavor."<sup>23</sup>

2. *When is public funding not politically motivated?* In 2002 and 2001, MSF received 19% of its funding from governments and international organiza-

21. For example, this author was interviewed for the U.S. television magazine show *60 Minutes* and said the following:

LESLIE STAHL: . . . [A]nti-Americanism is starting to simmer among the Afghan people?

Mr. O'BRIEN: They're frustrated, and they do at some level look at the international community and the United States in particular and say, "You made promises to us. You told us we'd have peace in Afghanistan. Now I don't feel safe in my town," and that frustration does lead to fingers being pointed.

*60 Minutes* (CBS television broadcast, May 4, 2003).

22. A December 2003 MSF press release criticized NGO advocacy for increased security in Afghanistan in terms similar to those of de Torrente. "Several NGOs have called for the extended deployment of military forces under NATO command to provide 'security' for their operations and this message may also have contributed to the erosion of the image of NGOs as independent and neutral actors." Press Release, MSF, MSF Suspends Activities in Zhare Dasht Camp, Afghanistan, Violence Against Aid Workers in Afghanistan Esclates [*sic*], available at <http://www.msf.org/countries/page.cfm?articleid=0B153B94-535B-4A4D-8F25979E498C2B0A> (Dec. 4, 2003). This statement was all the more surprising considering MSF's well-known policy of *temoignage*. As the MSF Web site notes, "*Temoignage* is a French term that encompasses the MSF commitment to testimony, open advocacy and outright denunciation when working with endangered populations throughout the world." *Médecins Sans Frontières*, *Temoignage* and the MSF movement, available at <http://www.msf.org/about/index.cfm?indexid=B439CEF3-BFBB-11 D4-B1FD0060084A6370> (last updated June 19, 2001).

23. To slightly adapt de Torrente's own argument, it implies that aid may be selectively allocated to certain groups of victims, or withheld from others, depending on *the source of the aid*, instead of being allocated according to, and proportionate to, needs alone.

tions (like the European Union).<sup>24</sup> While MSF avoids the direct tarnish of belligerent funding, can it argue that the other public funding it receives in contexts other than Iraq, where it is privately funded, is purely altruistic and humanitarian in purpose? The fact that Iraq today (and Afghanistan before it) receives such a disproportionately high percentage of humanitarian funding is a testament to the political nature of that support.

3. *What if there is a coincidence of interests between humanitarian NGOs and the U.S. government in Afghanistan and Iraq?* What if the U.S. government as part of its military and civilian strategy in Afghanistan and Iraq aims to relieve suffering? In signing the International Federation of the Red Cross Code of Conduct, many NGOs commit to “formulate [their] own policies and implementation strategies and . . . not seek to implement the policy of any government, *except in so far as it coincides with [their] own independent policy.*”<sup>25</sup> The appropriate question is not whether NGOs take funding. Rather, the question is whether taking funding from a belligerent compromises the “single-minded purpose of alleviating suffering, unconditionally and without any ulterior motive.”<sup>26</sup> Admittedly, that standard challenges U.S.-funded NGOs that seek political solidarity with the poor in Iraq and Afghanistan to ensure they are not used to further political or military objectives contrary to their missions. But de Torrente goes too far to claim that taking U.S. money for humanitarian purposes in those contexts will necessarily do more harm than good.

Moreover, de Torrente appears to want to have it both ways when it comes to the United States. On the one hand, he chastises the U.S.-led Coalition in Iraq for “the manner in which [it sought] to make the minimization of harm and the provision of relief for Iraqis an integral part of its political and military agenda. . . .”<sup>27</sup> Yet he consistently refers to U.S. obligations under humanitarian law,<sup>28</sup> which in fact include the minimization of harm and the provision of relief.<sup>29</sup> Following de Torrente’s argument, it is not clear what

24. *Médecins Sans Frontières, Finances, projects and volunteers*, in MSF International Activity Report 2002–2003, available at <http://www.msf.org/content/page.cfm?articleid=94AF43A9-3265-4758-99F69015EF6C3554>. In addition to the E.U., MSF’s report names the governments of Belgium, Denmark, Luxembourg, the Netherlands, Norway, Spain, Sweden, and the United Kingdom “among others” as funding sources. *Id.* Historically, MSF has also received funding from the United Nations High Commissioner for Refugees and the United States Office of Foreign Disaster Assistance. See Brauman & Tanguy, *supra* note 9, § 8.

25. International Federation of Red Cross and Red Crescent Societies for the ICRC, *Annex IV: The Code of Conduct for the International Red Cross and Red Crescent Movements and NGOs in Disaster Relief*, at principle 4 (Sept. 15, 1995).

26. De Torrente at 5.

27. *Id.* at 3.

28. De Torrente’s comment that the U.S. should “fulfill its obligations under IHL in a straightforward and systematic manner instead of viewing the conduct of warfare and provision of assistance primarily through the prism of a ‘hearts and minds’ agenda” is difficult to understand. De Torrente at 25. Is he suggesting that the United States should not consider or take into account how Iraqis will perceive U.S. military and humanitarian interventions? It is hard to imagine such a suggestion resonating with U.S. policy makers.

29. Article 59 of Geneva Convention IV places this burden firmly upon the Occupying Power, stat-

would constitute a proper and politically realistic motive for a state to meet its obligations under humanitarian law.

4. *If NGOs do not accept funding from belligerents, who will ensure the quantity and quality of humanitarian response?* MSF, for example, has a limited capacity to respond to the humanitarian crises in Afghanistan and Iraq because it does not take funding from belligerents, and the donor willing to provide the most significant funding for those countries' reconstruction has been the United States. De Torrente's proposal, if adopted by other NGOs, would leave private contractors (whose single-minded purpose is profit) and the military (whose purpose is the security of their own nationals) to fight poverty and rebuild Afghanistan and Iraq with U.S. money.

Already in Afghanistan, there are serious concerns that the privatization and militarization of aid is robbing the Afghan people of an important opportunity to lift themselves out of poverty. The real debate there is not whether humanitarianism is political, but whether the political agendas of Presidents Karzai and Bush to win reelection is wasting precious reconstruction resources in Afghanistan on high-profile, hardware projects implemented by businesses and soldiers to achieve short-term, political gains without adequate consideration of the software required to make those hardware projects function effectively for Afghans over the long-term. This is a profoundly political debate. Unless humanitarian NGOs who care about the long-term impact on poverty remain engaged, that trend may well worsen in the coming months.

#### IV. CONCLUSION

If humanitarian organizations continue to uphold a classic humanitarian model, they will undoubtedly continue to save lives and protect the innocent in conflict. But one size does not fit all in the humanitarian world. CARE and other organizations are committed to addressing not only the tragic symptoms of conflict, but also its root causes. Not all wars are inevitable. Nor is global poverty inevitable. Politicized humanitarians should seek to influence the political root causes of conflict and poverty by working alongside the powerful states, but they should do so with the humble recognition that their efforts will have limited influence.

The "with us or against us" political culture in today's foreign policy, to which de Torrente refers, makes politics a singularly unattractive field with

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If the whole or part of the population of an occupied territory is inadequately supplied, the Occupying Power shall agree to relief schemes on behalf of the said population, and shall facilitate them by all the means at its disposal. Such schemes, which may be undertaken either by States or by impartial humanitarian organizations such as the International Committee of the Red Cross, shall consist, in particular, of the provision of consignments of foodstuffs, medical supplies and clothing.

Geneva Convention Relative to the Protection of Civilian Persons in Time of War of Aug. 12, 1949, 6 U.S.T. 3516, 3556, 75 U.N.T.S. 287, 326.

which to engage. But engage we must, for politics are too important to be left to politicians.<sup>30</sup> The fiction of humanitarian neutrality may still have currency for some organizations in some settings, but it can no longer be relied upon for all humanitarians in highly politicized contexts such as Afghanistan and Iraq. In such environments, politicized humanitarianism is both right and realistic.<sup>31</sup>

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30. Charles de Gaulle, former President of France, famously remarked: "I have come to the conclusion that politics are too serious a matter to be left to the politicians." See James B. Simpson, Simpson's Contemporary Quotations, available at <http://www.bartleby.com/63/17/617.html> (last visited Feb. 28, 2004).

31. For an account of how politicized humanitarianism is already having an impact in Afghanistan, see generally Paul O'Brien, *Old Woods, New Paths and Diverging Choices for NGOs*, in *NATION BUILDING UNRAVELED?: AID, PEACE AND JUSTICE IN AFGHANISTAN* (Antonio Donini et al. eds., Kumarian Press 2004).