10 International Children’s Rights

People often need help desperately, and sometimes that help is not or cannot be provided from within their own countries. At times international assistance is provided in spectacular ways. On April 5, 1991 the Security Council of the United Nations passed a resolution condemning Iraq’s repression of the Kurds and calling for humanitarian assistance. On the same day the U.S. president ordered the U.S. military to begin airdropping humanitarian supplies to Kurds camping along the Iraq-Turkey border. In December 1992 the United States Marines, acting under United Nations cover, moved into Somalia to rescue a faltering humanitarian assistance program. The airdrop of emergency food supplies to remnants of what had been Yugoslavia was started in March 1993. The problems of providing humanitarian assistance in the midst of armed conflict have been clearly documented in connection with the civil war in the Sudan. Even in non-conflict situations, assistance becomes the victim of all kinds of inefficiencies and political pressures. Often there is no attempt to assist. What principles should guide the provision of humanitarian assistance?

People suffer from many kinds of distress. In this study I have focused on the plight of children and the ways in which they suffer from excessive mortality, armed conflict, abusive working conditions, and inadequate food, care, and health services. I have highlighted the problem of malnutrition to show how the human rights approach can be used to address some of these problems within nations. This chapter extends the analysis to show how the rights approach can be used internationally, again using malnutrition to illustrate the possibilities. Malnutrition provides good opportunities for strengthening international rights because it is so unambiguous and because it is so inexpensive and — usually — politically safe to address. If clear principles can be established in this arena, they might then be adapted to addressing other more difficult humanitarian problems.

Some lawyers reserve the term humanitarian law to refer to international humanitarian law as described in the Geneva conventions, and thus take it to refer to armed conflict situations. For some, humanitarian assistance refers to attempts to prevent gross violations of human rights such as genocide or torture. Here, however, the term refers
generally to assistance to people in great need whether or not the situation is one of armed conflict and regardless of the causes of the problems. Humanitarian assistance is motivated not so much by the donor’s self-interest as by concern for the well-being of the needy. It also could be described as compassionate assistance.\(^3\)

The thesis here is that the provision of humanitarian assistance of different kinds will become more orderly and effective if we acknowledge that under some specified conditions the needy — children and others — have a right to humanitarian assistance. The purpose is not simply to press for more assistance but, more importantly, to find ways to make better use of the assistance that is provided. Let us first look at the nature of humanitarian assistance in general and then at its character at the international level.

**RIGHTS TO ASSISTANCE**

*Assistance* may be understood to mean charity, something given voluntary by a donor, without compulsion of any kind. The idea that anyone might have a right to assistance, an entitlement of some sort, thus may seem oxymoronic, contradictory, absurd. It is a troubling conjunction of concepts.

If there is a right of those in need to receive assistance under specified conditions, then there must also be an obligation for others to render assistance. (I take obligation to refer to the articulation in law of specific responsibilities for action.) The rights/obligations nexus can be understood as a kind of contract, explicit or implicit, that establishes who is to do what under what conditions. The challenge then, is to determine the nature of the contract: *who should be entitled to what sort of assistance from whom under what conditions at whose expense?* Different sorts of answers would be appropriate for different kinds of situations or needs: poverty, armed conflict, refugees, famine, chronic malnutrition, floods, droughts, terrorism, and so on. Presumably some general principles would apply across broad categories of cases.

Most of us would agree that there are some extreme situations in which needy people should have a clear right to receive help. In any decent social order, if a child falls down a well, there should be a requirement that the child will be rescued. But the idea of the right to assistance has a very checkered history. Mary Glendon points out that the law in the United States is characterized by ‘the missing language of responsibility.’\(^4\) In 1964 Kitty Genovese was murdered in New York City while 38 people