Smoke and Mirrors: Does the presence of aid agencies improve the safety of civilians in conflict?

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Abstract:
International non-governmental organisations (INGOs) are developing an approach to humanitarian response that aims to enhance civilian protection, previously a role undertaken by ICRC and UNHCR who have specific mandates for protection. This protection approach is new to many aid agencies and they have yet to fully establish this approach at field level, and build the skills, knowledge and programming techniques it requires.

This study focuses on one particular element of protection – the protective value of presence – in order to analyse whether the mere presence of INGOs can help improve civilian safety, and if so in what way, and in what circumstances. It is a widely held view within aid agencies that their presence alone decreases the threats against civilians, and the UN strategy for humanitarian response in Darfur was built on the premise that ‘presence’ protects. However little research has been undertaken to substantiate this belief, or to assess how and why any such protective value operates.

The main approach to this study is inductive. Information has also been drawn from examples of field interventions and interviews with key informants: NGO staff both local and expatriate, secondary accounts from members of communities living in conflict, humanitarian consultants, thinkers, academics, and critics.

This study found that there is widespread belief that INGO presence offers some protection to civilians, particularly in deterring perpetrators of abuse. However it has not been possible to find hard evidence to back up this belief, although anecdotal examples exist. The potential of INGO presence to protect civilians in conflict has not been fully utilised because INGOs do not strategically and consciously create their presence, nor do they undertake the necessary analysis and build the strategic relationships, particularly with armed actors, that are required to use presence to protect.

1 Although not all have decided to take this approach, and others, such as MSF with its mandate of témoignage, have arguably been doing this for some years already.
Contents
Research Methods 5
Chapter One: Protecting civilians in armed conflict 7
  The primacy of state responsibility 8
  NGOs and protection 9
  Universal humanitarianism and the politicisation of aid 13
  Protective Accompaniment 15
  Mahoney’s framework for proactive presence 16
  NGO presence 18
  Presence and witnessing 19
  Creating a presence 21
Chapter Two: Using presence to protect in Darfur 22
  The conflict in Darfur 22
  Protection in Darfur 23
  Sudan’s view of the humanitarian response 24
  Protection through presence in Darfur 24
  Challenges to maintaining a humanitarian presence in Darfur 30
  Resourcing ‘protection by presence’ 33
Chapter Three: How NGOs can use their presence to protect 36
  The relationship with the state 36
  Civilian action 37
  Access 37
  The deterrent effect of presence 39
  Programming techniques 40
Conclusions 45
Bibliography 48
Appendices
  Appendix 1: Trends in humanitarian presence in Darfur 51
  Appendix 2: Interviews Conducted 55
Tables and Figures
  Box 1: Threats to Civilians in Armed Conflict 8
  Box 2: Protection Framework 11
Research Methods

The main approach to this study is inductive – particularly in relation to interviews with humanitarians - from which general principles regarding the protective value of presence have been drawn. In Chapter 1 an analysis of the range and approach of humanitarian actors in relation to civilian protection has been made based on published documents and grey literature from humanitarian organisations. Information has also been garnered from examples of field interventions and interviews with key informants: NGO staff both local and expatriate, secondary accounts from members of communities living in conflict, humanitarian consultants, thinkers, academics, and critics.

Chapter Two examines the protection strategies used by aid agencies in Darfur and how they have been implemented at field level. Again this chapter draws on published literature and internal unpublished documents from humanitarian organisations. However many of the challenges to the notion of protective presence and most up-to-date information about the fast-changing situation in Darfur has been gathered through semi-structured interviews with key informants, including during a field visit to south Darfur in August 2007.

In the third Chapter I have reflected on how the conceptual framework for protection by presence outlined in Chapter One has played out in the Darfur context in order to identify the strengths and weaknesses of the existing concept of protective presence. Drawing on the experience of humanitarian organisations in Darfur I have examined (a) the validity of the concept of protective presence, (b) methods for limiting the potential negative value of presence, and (c) methods for optimising the potential of presence to be used to enhance the protection of civilians.

The results of this study may be used in future to contribute to the development of a methodology for assessing these three criteria, and may also contribute to the evolution of individual NGO’s protection analysis tools.
Research limitations and difficulties

In order to carry out a manageable piece of work and to ensure that the results of the study have more than just the broadest relevance, I have had to focus the research. Therefore I have not looked at the broadest range of protection actors such as peacekeepers or international monitors (e.g. AU monitors in Darfur) and have not included in this study the accompaniment techniques used by human rights organisations such as Peace Brigades. The existing literature on this approach has been used to inform this study, but only in terms of its relevance to humanitarian INGOs. Direct field research was carried out in Darfur in August 2007, however due to the insecurity of the region and the ongoing conflict it was not possible to visit more than one IDP camp and even then a hasty retreat was necessary due to deteriorating security. Therefore there were serious limitations in access to communities at risk. However this limitation was partly overcome by collaboration with a communications specialist, who was able to collect information from focus groups and interviewees on my behalf. These interviews have provided valuable information and perceptions of communities at risk for this study.

During the field trip to Darfur it was possible to carry out interviews with aid workers from a variety of organisations, and other interviews with aid officials have been carried out by phone or in person outside of Darfur. However almost all of those interviewed who continue to work in Darfur or intend to return to Sudan at some stage have asked for their comments to be kept anonymous. Aid workers who are seen to be critical of the Sudanese Government face difficulties in entry to Sudan, travel permits to Darfur, internal travel permits within Darfur, harassment and even arrest, therefore the identities of some interviewees have been protected.
Chapter 1: Protecting Civilians in Armed Conflict

During the Bosnian war humanitarian actors began to question their provision of relief aid to communities under fire whilst taking no action to protect civilians (the so-called 'well-fed dead'). At the same time NGOs working with Rwandan refugees in Goma were discovering that their presence and their aid was contributing to prolonging the suffering of civilians through strengthening and sustaining the power bases of *genocidaires*. Neither phenomenon was entirely new, but the combined scale and profile of these humanitarian dilemmas brought them under unprecedented scrutiny. By the late 1990s this had resulted in Mary Anderson’s *Do No Harm* approach (1999), the Brahimi report (United Nations, 2000) that proposed integrated UN missions and better coherence in humanitarian actions. There was also an apparent shift of some humanitarians towards human rights in the adoption of a rights-based approach, which is most apparent in the emerging role of non-mandated humanitarian organisations in civilian protection.

The case for protecting civilians in times of conflict is overwhelming. In 2006 there were 118 violent conflicts in the world (HIIK, 2006), resulting in the internal displacement of 24.5 million people (IDMC, 2007) and more than 9.9 million refugees (UNHCR, 2007)\(^2\), as well as significant amounts of people affected by conflict who do not, or are unable, to flee their homes - the vast majority being civilians or other non-combatants\(^3\).

International Humanitarian Law requires warring parties to take due care to protect civilians in armed conflict, but civilians continue to be subject to attack, violence, deliberate deprivation, and often are specifically targeted by one or more of the warring parties. (IRIN, 2005). Former UN Secretary General Kofi Annan has highlighted an array threats that civilians face in conflict including forced recruitment of child soldiers; sexual exploitation and gender-based

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\(^2\) UNHCR statistics show 9.9million refugees at end of 2006, but this does not include 4.4 million Palestinians.

\(^3\) The delineation between combatant and civilian is open to interpretation. For the purpose of this paper a civilian is defined as someone not taking active part in hostilities, whilst acknowledging that is definition is problematic. Further discussion on this issue can be found at www.ihlresearch.org
violence; indiscriminate use of landmines; ethnic cleansing; and denial of the most basic human rights, such as access to food and water, as well as to life itself. (UNSC, 2001).

The principle that warring parties should not attack non-combatants nor unnecessarily destroy civilian assets is long established in Islamic law and Christian doctrine, and more recently in a single body of law with universal application - the 1949 Geneva Conventions - much of which are also recognised as customary international humanitarian law (Benthall, 2003).

The primacy of state responsibility
In international law, the primary responsibility for the protection of civilians in conflict rests with the relevant state. However states may be unable or unwilling to protect civilians, and in some cases it may be the state itself, or its representatives, perpetrating the abuses. Trends in displacement in 2006 estimated that 5 million displaced people (IDPs) were without any significant humanitarian assistance from their governments and that 6 million IDPs faced governments indifferent or hostile to their protection needs (IDMC, 2007).

The principle of non-intervention within a sovereign state that has historically characterised international law, has slowly been eroded. The first great leap forward took place in the aftermath of the Second World War and the establishment of the United Nations (UN), which first introduced the possibility of external intervention where world peace and security is threatened. In the

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**Box 1: Threats to civilians in armed conflict**

<table>
<thead>
<tr>
<th>Violence</th>
<th>Coercion</th>
<th>Deliberate Deprivation</th>
</tr>
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<tbody>
<tr>
<td>- deliberate killing, wounding, torture; cruel, inhuman and degrading treatment; sexual violence including rape; the fear of any of these.</td>
<td>- (forcing someone to do something against their will) – forced prostitution, sexual slavery, sexual exploitation, forced or compulsory labour, forced displacement or return, restriction of movement, prevention of return, forced recruitment, being forced to commit acts of violence against others.</td>
<td>- destruction of homes, wells and clinics; preventing access to land or markets; preventing deliver of relief supplies; deliberate discrimination in getting jobs, education, land or services; illegal ‘taxes’ or tolls.</td>
</tr>
</tbody>
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Adapted from *Protection: An ALNAP Guide for Humanitarian Agencies.* (Slim & Bonwick, 2005)
latter part of the 20th century international law placed a much stronger emphasis on the role of the state vis-à-vis its citizens – although actions were always subject to the greater international political order. In 1992 the incoming UN Secretary General, Boutros Boutros-Ghali called for a common position on the threats to international peace and security following the lifting of the ‘ideological barrier’ that had prevented cooperation for almost half a century during which the use of 279 vetoes had effectively crippled the UN Security Council. Crucially Boutros-Ghali emphasised the potential of the UN to authorise military force in order to maintain or restore international peace and security under Article 42 of the UN Charter. This marked the shift from protection as being defined as the restraint in the use of force, to a more proactive agenda (United Nations, 1992).

In 2000 the Government of Canada established an International Commission on Intervention and State Sovereignty (ICISS) to look at how the international community should respond to large-scale crisis. The commission’s report, The Responsibility to Protect, reconceptualised state sovereignty, gathering momentum for a global consensus on the responsibility of states to protect. By 2005 a further significant step was taken when the UN World Summit reiterated the responsibility of individual states to protect civilians on their territory, and also the collective responsibility of UN member states to protect civilians by using both persuasive and, if necessary, coercive measures including the possibility of military intervention. In 2006 the UN Security Council determined that the mandates of all future peacekeeping missions should include the protection of civilians in imminent danger and that the prioritisation of resources should be for the protection of civilians. The UN Security Council first invoked the ‘responsibility to protect’ doctrine in August 2006 in relation to the conflict in Darfur (UNSC, 2006).

**NGOs and Protection**

The rhetoric of the rights of citizens and the corresponding duties of states has gradually seeped into the culture of NGOs, both as an ideological framework for the goals and aspirations of such organisations, and as a basis for policy-
making and programming. Humanitarian NGOs have engaged with human rights and humanitarian law in different ways, their histories and perceptions of how NGOs can support civilian protection leads them to adopt different operational frameworks. At a strategic level it is widely accepted that adopting a rights-based approach involves a shift from the practical alleviation of suffering driven by philanthropic charity through provision of goods and services, to a more politically astute form of humanitarian action based on rights and duties. (Darcy, 2003). A rights-based approach sees the fulfilment and protection of human rights as crucial to overcoming suffering and poverty. In conflict situations the various bodies of law – International Humanitarian Law (notably the four Geneva Conventions and the two Additional Protocols), Human Rights Law and Refugee Law – provided the basis upon which rights-based humanitarian action was framed.

Whilst acknowledging that political problems need political solutions and that humanitarian action is no substitute for political action, humanitarian organisations realised that to continue to provide relief goods and services to people in crisis whilst not addressing the deliberate acts of violence being perpetrated against them risked becoming, at best, part of a humanitarian ‘alibi’ for political inaction, and, at worst, perpetuate a culture of impunity for such abuses. Humanitarian organisations are rarely if ever in a position to physically protect people from imminent harm, but by 1999 there was wide consensus that all humanitarian actors do have a role in protecting civilians and ‘protection’ was defined as:

*All activities that are aimed at obtaining full respect of the rights of the individual, in accordance with the letter and spirit of international human rights law, international humanitarian law, and refugee law.* (ICRC, 1999. p21)
This definition is very broad, though, and created some uncertainty about the scope of protection. Humanitarians debated whether, if an organisation uses a rights-based approach, everything it did was therefore ‘protection’. Others challenged that this would reduce protection to a simple re-branding of what they were already doing and risk losing sight of the need to protect people from very real and imminent threats to their safety. The issue was further confused by the fact that many organisations had long undertaken actions, such as advocacy, that now appeared to come under the ‘protection umbrella’. However what was new was the use of systematic analysis of threats to civilians to inform the actions of non-mandated humanitarian actors, and the development of a significant advocacy and campaigning capacity by some of the major NGOs (Oxfam, Save the Children, MSF), and the understanding that they would not simply provide aid in the face of a state unwilling to protect or, in some cases, deliberately harming its own citizens (Bonwick, 2005; Hastie, 2007).

Humanitarian organisations developed a protection framework and series of actions that they could undertake in order to operationalise protection (see Box 2). Since 2002 a number of non-mandated aid agencies have used many of these activities within protection programmes and a body of programming

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**Box 2: Protection Framework**

**Threat + Vulnerability x Time = RISK**

Non-governmental Organizations (NGOs) try to reduce risk by reducing the threat, reducing people’s vulnerability, and reducing the time people face the threat.

<table>
<thead>
<tr>
<th>To reduce the threat</th>
<th>To reduce vulnerability</th>
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<tbody>
<tr>
<td>Advocacy: convincing those with power to protect people or getting others to put pressure on them to protect people</td>
<td>Assistance: directly providing services or goods so that people can avoid threats</td>
</tr>
<tr>
<td>Capacity-building: supporting the authorities to protect civilians</td>
<td>Voice: helping people to negotiate their own safety</td>
</tr>
<tr>
<td>Presence: using physical presence to deter attacks on civilians</td>
<td>Information: providing impartial information to help people make informed decisions about their safety</td>
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Adapted from *Protection: An ALNAP Guide for Humanitarian Agencies.* (Slim & Bonwick, 2005)
experience exists, however the least developed element of the framework for action is the strategic use of presence to deter perpetrators of abuses against civilians. (O’Callaghan, forthcoming; Hastie, 2007). The most controversial and challenging element of the framework relates to the balance between maintaining presence in order to deliver aid and ‘witness’ what is taking place, and the necessity of using advocacy based on what has been witnessed in order to bring about change by those with a responsibility to protect.

Rights-based humanitarianism requires its actors to take a stand, to actively position themselves within the context in which they operate. Commentators on the humanitarian world have strong views on where they expect NGOs to position themselves. African Rights, examining dilemmas of humanitarian relief in 1994, concluded that ‘a silent witness to an abuse is necessarily a complicit witness.’ (African Rights, cited in Terry, 2002. p25). Others disagree, David Rieff (2002) criticises the movement of NGOs into the human rights sphere and the more political role of NGOs. Rieff sees NGOs as amateur and politically naïve, a charge that is partially accepted by an NGO community still developing its expertise in this area.

However the challenge to fulfil a vision of rights-based humanitarianism remains, as elaborated by MSF France’s legal counsel, Francoise Bouchet-Saulnier:

*Humanitarian organisations are not only responsible for delivering immediate needs; they play a role in the legal protection mechanism established by the Geneva Conventions. Those two issues have to be clarified in the mandates that humanitarian organisations give themselves because, very often, they concentrate on access without reference to this duty to protect - in the sense of monitoring the use of relief and reporting on the fate of civilians.* (cited in IRIN, 2005 [online])
The challenge of gaining access onto a state’s territory whilst simultaneously maintaining the ability to criticise and, if necessary, publicly criticising the government of the state is central to the use of protective presence. Historically decision-making in humanitarian organisations has favoured access and the delivery of aid over making a principled stance that would compromise such access. Whereas pragmatism drives decision-making, humanitarian work is not solely about the delivery of aid. Humanitarian work in conflict is framed by an awareness of the external political environment and how aid agencies can work within that environment to secure the over-riding goal of increasing the safety of civilians in conflict including advocacy, lobbying, quiet diplomacy, and, on occasion, public denunciation. The potential for hostile relations with governments is accepted:

“..if humanitarian action is to be consistent it will inevitably clash with the established order. Its subversive dimension becomes apparent when it moves beyond an analysis of materials needs and exposes the processes of discrimination that produce victims and prevent efficient protection and assistance programmes from being established.” (Jean-Herve Bradol in Weissman, 2004. p6)

The risk of losing access as a result of clashing with the established order is very real, though, during the Ethiopian famine in 1984-5 MSF made an outspoken attack on the government’s forced resettlement policy that had caused much of the starvation, and subsequently had to leave the country. In 1994-5, MSF again had to leave when it spoke out about the abuses of civilians by the Rwandan Government following the genocide and mass exodus of Hutus to eastern DRC.

**Universal humanitarianism and the politicisation of aid**

Debates on 21st century humanitarianism have focussed on the co-option of humanitarianism into the war on terror. Whilst the politicisation of aid is not a
new debate - David Rieff (2002) describes some US NGOs during the Cold War as ‘in effect the humanitarian arm of America’s anti-Soviet struggle’ – the global war on terror has brought some new challenges for the humanitarian enterprise. In 2002 the US government referred to its NGOs in Afghanistan as ‘part of our combat team’ and Andrew Natsios, USAID Director, described humanitarian NGOs in Iraq as ‘an arm of the US Government’ in the war for hearts and minds. (both cited in Rieff). Humanitarianism as a principle is used as moral rationale for war and military invasion, and humanitarian aid is seen as a practical solution to the suffering caused to civilians by these ‘humanitarian wars. (Weissman, 2004). The resurgence of the medieval notion of ‘just war’ signifies the recognition of political and religious ideology in rationalising war.

It is therefore unsurprising that the impact of Iraq and Afghanistan have been felt throughout the humanitarian sector and particularly in the relationships between humanitarian organisations and the governments if the states in which they operate. The realpolitik of the post-cold war era dictates that few third states are willing to make sacrifices of ‘blood, treasure or political capital’ in order to enforce humanitarian principles in an area where they don’t have strategic interests. (Luck, 2001). With the blurring distinction between aid and politics, the motives for providing assistance are increasingly distrusted.

Despite this there remains considerable support for humanitarian presence by populations in need of assistance and facing protection threats. Many of the humanitarians interviews for this study spoke of numerous occasions on which they have been asked by civilians to remain present as it makes them feel safer, that they value the feeling of solidarity and caring that an international presence brings. One interviewee explained how many IDPs told her “we are so glad that you are here, if you were not here what would happen to us? They could do anything they like with us if you weren’t here to see and tell the world.”4 This has contributed to the view by humanitarians themselves that their presence offers some form of protection and the rhetoric of protection through

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4 Interview with JB, August 2007
presence has gained common currency throughout the sector. Whilst humanitarian organisations themselves often believe that they provide some sort of protection through their presence alone, this is rarely a strategic and consciously constructed presence, as is illustrated by the Darfur example in Chapter 2.

Protective Accompaniment

Human rights accompaniment started in 1980s in South America, as a method to protect important community leaders and human rights activists from targeted political violence. Peace Brigades International (PBI)\(^5\) has used the concept of international presence as a fundamental element of their programme of protective accompaniment. In their history of PBI and human rights accompaniment, Eguren and Mahoney (1997) describe PBI volunteers as “literally an embodiment of international human rights concern, a compelling and visible reminder to those using violence that it will not go unnoticed.” They emphasise the fundamental premise of accompaniment – that there will be some form of international response to violence witnessed by a human rights volunteer, with the implied threat of diplomatic and economic pressure.

Eguren and Mahoney (1997) do challenge the simplistic presumption that accompaniment (or presence) automatically results in protection, calling for a deeper analysis of complex situations and particularly the perceptions all stakeholders in each particular situation. As humanitarian organisations have adopted a more rights-based approach to greater and lesser extents their presence has the potential to function as a form of institutional accompaniment, accompaniment on a mass scale. This was the basic premise of the UN protection strategy for Darfur in 2004.

Protective accompaniment is based on a specific type of presence – the person or people present not only have to be endowed with specific personal attributes,

\(^5\) PBI is an international grassroots NGO that promotes non-violence and human rights. PBI sends international volunteers to areas of conflict to provide protective accompaniment to human rights defenders threatened by political violence.
but they are symbolic of something greater, they embody that amorphous thing we call the ‘international community’. The personal attributes of those who are present, those who together form ‘presence’ are also very important, as is their behaviour and to some extent their nationality and race, gender and ethnicity. There is evidence of individuals being able to ‘conjure up an illusion’ in order to protect civilians such as the German industrialist, Oskar Schindler, who was able to save the lives of 1,200 Jews during the Holocaust using his status, charm and persuasive skills to keep them working in his factories rather than being moved to concentration camps or being executed. Paul Rusesabagina is credited with saving the lives of more than a thousand people during the Rwandan genocide in 1994 by using his influence and connections. The tactics used by individuals such as Schindler and Rusesabagina help us understand the ways in which protective presence can be constructed, how the presence of the international community can be created in microcosmic form.

**Mahoney’s framework for Proactive Presence**

In the only publication of its type to date, Liam Mahoney (2006) proposes a set of field strategies for delivering what he terms ‘proactive presence’. Proactive presence shifts the focus from international protection based on high-level diplomacy and persuasion between senior state officials, to field level actions aimed at dissuading or deterring perpetrators of violence and abuse. Mahoney’s model sees proactive presence as having four key purposes: to deter or dissuade perpetrators from committing abuses; to persuade perpetrators to behave differently, to expand or strengthen civilian capacity for self-protection, and to foster institutional reform.

The model is based on extensive fieldwork primarily with human rights and electoral, peace or cease-fire monitoring missions – missions established primarily with the purpose of having a presence in order to see what is taking place and report on it. Whilst there is huge value in the research in terms of understanding in what way such a presence can be used strategically to enhance civilian protection, there are some limits in its applicability to humanitarian organisations particularly because the necessity of managing and
delivering field programmes absorbs much of the resource, capacity and focus of the organisation and civilian protection is often a secondary consideration.

In order to deter perpetrators Mahoney proposes that an international presence can be used to make perpetrators more aware of the costs of their actions and reduces the amount of abusive actions that remain acceptable to the abuser. The cost of their actions in terms of institutionalised or structural violence are felt in terms of damage to the reputation of the state or party committing the abuses and the resultant loss of economic and political capital. Non-state warring parties with political aspirations care about reputation as they wish to be viewed as legitimate political actors. For individuals or groups of perpetrators at the local level the cost can also be felt in being held to account further up the chain of command, for example, by embarrassing a more senior officer.

During Mahoney’s research into proactive presence he found that armed actors were taking account of international presence when planning their actions, and found examples of them moderating their behaviour. His research in Colombia, where presence is widely considered the only effective model of protection, showed that armed actors were calculating the costs and benefits of international exposure and tailoring their behaviour according to the presence of foreigners.

However the fragmentation and proliferation of non-state armed actions makes the task of understanding leverage points in chains of command and using political aspirations a very complex and time-consuming task. The increasing number of ‘spoilers’ – those who benefit from continued conflict and states of near-anarchy and often reap economic benefits from war that they would lose in peace – are also immune to this use of presence (Glaser, 2005b). Even mainstream political entities and legitimate governments balance the risk to reputation against other factors. In post-genocide Rwanda the government felt that the ongoing insurgency was more of a threat than risk to reputation of its abuses against Hutu civilians, and the LTTE in Sri Lanka continued, for military
reasons, to use child soldiers even when subjected to vocal international condemnation. (Mahoney, 2006)

**NGO Presence**

NGOs do not have an explicit model for proactive or conscious presence, but there is a recognition that their presence has a number of potential functions: **witnessing** – seeing what is happening at close range and using the knowledge to carry out advocacy directly or passing the information on to others who can more effectively advocate; **deterrence** – gathering a critical mass of expatriates in order to deter perpetrators; and **positioning** – presence enables humanitarians to better understand the context and relationships, and influence local actors. It can also enable civil society to build its capacity to self-protect. (McAvoy, 2004)

There are many commonalities between McAvoy’s analysis as a humanitarian operator, and Mahoney’s work developed from a human rights accompaniment background. Both recognise the need for presence to be of an appropriate scale. The potential of internal presence to deter perpetrators is one of the main elements and anticipated benefits of presence. The link between presence and advocacy is inherent in both their work, particularly in relation to the costs incurred by abusers when their abusive actions are exposed to the international community. Both stress the importance of building relationships with all local actors and the way in which presence can encourage and support the development and confidence of local civil society.

Communities at risk also recognise the value of international presence, particularly as a conduit to international decision-makers. An NGO communications expert who interviewed refugees and IDPs in Chad, Darfur and DRC told me:

> At a simple level people just want you there to see what is happening and acknowledge that is wrong – solidarity. At
a deeper level they want you to take their voice and messages and let others know, particularly those with power to bring about change. I remember leaving an IDP camp in Chad and a man running after me shouting ‘Don’t let the UN forget us’. People often give me messages for George Bush or Tony Blair, and with our advocacy work, sometimes we can even pass those messages on, or at least make them public.6

Presence and Witnessing
The United Nations Security Council has outlined a range of activities that NGOs could undertake to protect civilians. The delivery of humanitarian assistance to meet basic human needs, institution-building and development programmes which tackle poverty are areas where NGOs have a role, and proposes that some NGOs also play a role in witnessing, monitoring and reporting human rights violations. (UNSC, 2002)

In a strictly legal sense a witness is redundant unless there is a legal process and structure through which that witness can give testimony. However international law differs from national criminal law in that there is no single body or mechanism to regulate IHL and human rights law. The mechanisms for ensuring that states comply with their legal duties and responsibilities are international diplomacy, persuasion and coercive measures such as economic and trade sanctions. In this context ‘naming and shaming’ has greater currency and advocacy, campaigning are some of the most effective tools for mobilising public opinion and influencing decision-makers within the international community. Such advocacy and campaigning must be based on credible information, ideally that gathered at first hand – hence the value of presence and direct witnessing if not of the abuse themselves, their immediate consequences on the affected population.

6 Interview with JB August 2007
International law provides the framework for civilian protection, and therefore it is inevitable that protection will not only be largely defined by the law, but also interacts with the processes of the law both in an evolutionary and specific manner. NGOs may also potentially provide evidence for judicial processes, although it is likely that such evidence would mainly be contextual, however their potential role as witnesses at such courts is an important part of their presence and witnessing role. Although NGOs have had some involvement in the tribunals for the former-Yugoslavia, Rwanda and special court for Sierra Leone, the development of international jurisprudence for war crimes, crimes against humanity and genocide has only been developed in the last decade although the deterrent value of the these types of courts may only be beginning to have some effect. Following the establishment of the International Criminal Court, there is a growing concern about the risk of international prosecution for serious crimes amongst armed actors. Shortly following the establishment of the ICC the Israeli Defence Force (IDF) received large volumes of requests for further information from soldiers concerned about their individual accountability for actions taken whilst serving in the IDF.7

In order to witness what is happening, humanitarian organisations need to be present, and the delivery of relief goods and services, whilst a fundamental part of their mandate and role, also offers a useful door-opener for witnessing what is actually taking place. By being present humanitarian organisations can provide assistance to civilians through provision of services (eg. medical, psychosocial) and goods and can further assess the situation and develop protection programmes as appropriate. This is especially useful where access for protection work would not be granted. (da Costa, 2007). This broadly protects people’s rights, particularly in relation to human rights law. However the provision of humanitarian assistance alone can both make people safer in the face of threats to their physical and mental wellbeing and put them at further risk. In 2003 civilians in Kebkabiya in north Darfur begged a humanitarian agency to use bamboo instead of plastic sheets to build latrine shelters, and to

7 Interview with CP November 2006
only give them old and dirty items, in order to limit raids by militia attracted by new goods, who would not only steal the goods but also kill, wound and rape as they did so.8

Creating a presence
The presence of an international agency manifests itself in the form of a visible identity and infrastructure – usually an office, vehicles and staff all recognisable through some kind of branding or logo. Humanitarians can maintain visibility by staying overnight in IDP camps, driving around in identifiable vehicles, and having offices and residences in critical areas. However presence is not just physical and not only in the location where people are under threat. Humanitarians go to great lengths to communicate the principles of their organisations, their mission and aims, and this is a crucial element of presence that is embodied by national and international staff in field locations, but also in capital cities, and internationally (as many organisations build multi-national networks to obtain a global presence) and also through the mass media such as radio, television, print media and particularly the internet.

In the next Chapter the models of proactive or conscious presence described here will be examined in the case of Darfur – characterised as a ‘protection crisis’ and where the strategy for the UN-led humanitarian response was ‘protection through presence’.

8 Interview with EL August 2007
Chapter 2: Using Presence to Protect in Darfur

The Conflict in Darfur
The causes and dynamics of the conflict in Darfur are extremely complex and have their roots in interwoven historical, economic, and political factors. The current crisis erupted in 2003 when rebel groups in Darfur attacked Sudanese Government targets in protest at the continual and longstanding economic underdevelopment and marginalisation of the region. Although there was a history of localised inter-tribal fighting in Darfur, the Government has played upon these tribal tensions to create an increasingly politicised and militarised region-wide conflict. The Sudanese Government launched counter-insurgency measures primarily through local Arab militia commonly known as the Janjaweed. The war in Darfur has been played out primarily in civilian space, and conducted through attacks on civilians including widespread and systematic killing, rape and other sexual assault, and the theft and destruction of civilian assets and objects. (Pantuliano and O’Callghan, 2006)

Although the Sudanese Government has continued to present the conflict as primarily one of tribal clashes that it has been unable to control, there is overwhelming evidence and international recognition of complicity by the Sudanese Armed Forces in Janjaweed attacks both the International Commission of Inquiry (2005) and the International Criminal Court (ICC Fact Sheet, undated).

In August 2004, the African Union began to deploy a mission in Sudan (AMIS), however it lacks a robust mandate and adequate resources and has been much beleaguered. Not only has it been unable to protect civilians, it has itself come under attack, most recently in September 2007 when ten AMIS troops were killed in an attack on their based in Haskanita in South Darfur. After much negotiation and international pressure Sudan has finally agreed to the deployment on a United Nations force in Darfur, although this force will not be fully deployed until late 2008 and the Sudanese authorities are not expected to
readily cooperate with the force. Therefore aid agencies are attempting to operate in an environment where the state – responsible for maintaining law and order, protecting civilians and aid workers – is both hostile to the humanitarian community and a party to the conflict, and there is no other effective actor mandated and able to maintain security.

Protection in Darfur

As the crisis emerged in 2003, the humanitarian community was keen to explore the possibilities of putting protection into practice. Building on the emerging protection doctrine at international level, and the interest in protection amongst field-based NGOs, the UN defined the Darfur conflict as a ‘protection crisis’ and proposed that the model of protection to be used would be ‘protection by presence’ (United Nations, 2004?).

This resulted in an unprecedented number of humanitarian agencies in Darfur that have in some way engaged in protection actions, although the majority of such actors were not present and active in Darfur during the early intensive stages of the conflict when many human rights abuses took place. According to the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) in 2004 there were just two international NGOs that identified themselves as working on protection issues, by 2005 when many more agencies and staff were able to access Darfur, this had leapt to 41 agencies. (UNOCHA 2004-07)

Therefore Darfur, in many respects, represents a testing ground for the protection of civilians in armed conflict at many levels. Internationally, it is a test case for the new doctrine of Responsibility to Protect. On paper, it appears that progress has been made, with the rhetoric of state responsibility for protection and the prospect of coercive pressure being brought to bear upon Khartoum evident in Security Council resolutions. International campaigning by human rights, campaign groups and some international NGOs has had discernable results, particularly in relation to notoriously tough advocacy targets such as China. For example international campaigning coalitions that targeted China
with the threat of mobilising a mass boycott of the 2008 Olympic Games in Beijing are credited with persuading China to influence the Sudanese Government to accept UN peacekeepers. However, it is as yet hard to see positive results of these international gains in the villages and displacement camps of Darfur.

**Sudan’s view of the humanitarian response**

The humanitarian response has been viewed with suspicion by the Sudanese authorities, and aid agencies are perceived by Khartoum as anti-Arab and part of a western anti-Sudanese agenda (Glaser, 2005a). The writer Hassan Makki has long contended that the work of humanitarian agencies is a continuation of the western Christian influence in Sudan that started in the 19th century. In reference to South Sudan he writes that ‘aid is being used as a weapon to impose Christianity or western secularism on the population’. (Benthall and Bellion-Jourdan, 2003). Sudanese President al-Bashir has accused western countries of using humanitarian operations as a cover to plunder Darfur’s gold and oil. (ABC News, 2004). The humanitarian response in Darfur also attracted the attention of Osama bin Laden who had previously been hosted in Sudan between 1992 and 1996. In April 2006 he issued a video in which he described the situation in Iraq and Darfur as evidence of a ‘Zionist-Crusader war against Islam’ and called for his followers in Darfur to carry out a ‘long war against the crusader plunders in western Sudan’ as well as asking his followers to fight the proposed UN force. (BBC News, 2006). Although the Sudanese Government has distanced itself from these statements, there is undoubtedly an overwhelming suspicion of international aid agencies in Sudan, bolstered by a continual campaign of propaganda by al-Bashir’s government.

**Protection through Presence in Darfur**

The UN’s strategy for protective presence in Darfur in 2004 proposed that the further presence of aid agencies including human rights observers would act as a deterrent and therefore reduce attacks on civilians. The unrealistic optimism

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9 Interview with SO February 2007
10 Interview with WI August 2007
of the strategy is evident in its action plans. The UN aimed to rapidly deploy a continuous presence in all IDPs camps in order to deter perpetrators of further abuses against people who had already had to flee their homes. This was never achieved (Wheeler, 2005).

According to Mahoney’s framework outlined in the previous chapter, presence can play four key roles in civilian protection: deterring and dissuading perpetrators, persuading perpetrators to change their behaviour; expanding civilian capacity for self-protection, and fostering institutional reform. These roles have been examined in relation to the humanitarian response in Darfur between 2003 and 2007:

- **Deterring and dissuading perpetrators**
  The deterrent effect of presence predominantly functions through making perpetrators aware of the costs of their actions, and reducing the space for actions with unacceptable consequences. A humanitarian with a large European NGO working in Darfur in 2005 explained that she felt her agency’s presence and monitoring activities enabled it to document the level of abuse which informed both aid programmes and advocacy, but that she also passed the information on to human rights organisations that could not get such direct information.\(^{11}\) She was confident that these actions have contributed towards preventing or containing further abuses.

  The confidence that presence protects was widely shared amongst aid workers interviewed for this study. The same aid worker, stated in her end of mission report that rural communities have reported that international presence in Darfur during 2004-06 had a deterrent effect, and that these communities were protected and that they felt safer because of the international presence. Referring to the north Darfurian town of Kebkabiya:

\(^{11}\) Interview with SP September 2006
communities are saying that they feel safer because of the international presence in the area, they report that the presence of militia in the area has been reducing, and most villagers have stopped paying money for protection. Freedom of movement has increased.

This is a useful example as it not only gives (albeit second hand) views of the affected communities themselves, but also determines some indicators for improved safety, namely: level of militia presence, payment of protection ‘taxes’, and freedom of movement. By 2005 the humanitarian community, although fully aware of the limited presence they could have in an area the size of Darfur, appeared to be fully supportive of the protective role of humanitarian presence.

At least in the eyes of displaced Sudanese, the protection gap has a simple and straightforward solution: the presence of khawajas (foreigners), the only people they trust. Indeed, in many locations where humanitarian presence has been established, targeted abuse, attacks and rape have diminished dramatically. Local authorities have become more cautious and more sensitive to protection issues. (Glaser, 2005a)

Glaser (2005a) claims that in eastern West Darfur an increased international presence after August 2004 resulted in an acute drop in rape cases, ‘sometimes tenfold’ as evidence that presence itself can make a real difference, although he fails to provide any further evidence to support this statement.

Research carried out by the Overseas Development Institute (Pantuliano and O’Callaghan, 2006) refers to a reduction of incidents in Orakuma, in Wadi Salih and in Mukjar where there were decreases in the level of sexual violence and a reduction in the payment of protection money, which was attributed to the international presence. However these examples are anecdotal and largely

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untested as to see whether the reduction in reported incidents actually reflects a reduction in violence, and whether any reduction, if verified, represents a displacement of the violence rather than having a broader deterrent effect.

This same information was referred to by several interviewees, including recent arrivals in Darfur. It appears that the rarity of tangible examples, and the overwhelming need for positive stories about the aid effort in Darfur has resulted in some ‘recycling’ of slightly differing versions of the same anecdotes or examples. However, that does not take away the fact that communities at risk not only valued the international presence in terms of the level of fear they experienced, but were also able to attribute positive improvements in their safety to that presence. One aid worker noted that displaced people repeatedly told her that they were grateful for the presence of foreigners, and that the Sudanese government would ‘do whatever it liked with us’ if there was no international presence to witness it. 12

- **Persuading perpetrators to change their behaviour**

  Persuasion necessitates communication, ideally directly with the individual or body to be persuaded, but also through a proxy, or by indirect mobilisation of third parties. Advocacy can take three forms: public denunciation; the mobilisation of third parties to use their influence over a target; and the use of quiet persuasion or diplomacy. Whereas human rights groups may use public denunciation as part of their campaigning and mass-mobilisation, humanitarian organisations have to balance their ability to access people in need with the prospect of having their access or ability to work in a particular country constrained or curtailed.

  The humanitarian community’s ability to encourage perpetrators to change their behaviour towards civilians in Darfur has been compromised by the lack of contact between humanitarians and conflict actors. In general many organisations have chosen not to directly negotiate or try to persuade armed

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12 Interview with JB August 2007
actors to stop abuses because it is deemed too risky and therefore they have limited relationships with them. This is in contrast to the International Committee of the Red Cross (ICRC), that actively builds a confidential dialogue with all parties to a conflict and only very exceptionally used public denunciation. A humanitarian aid worker described the impact of the lack of dialogue with conflict actors: she could not even tell them about her organisation and its humanitarian mandate never mind try and influence their behaviour. 13

The ability to build relationships with any local actors was severely compromised not only by the security situation, but also by the high levels of staff turnover, and difficulties of recruiting staff with the experience and confidence to make the difficult judgement calls required when having a dialogue with conflict actors.

Working on protection has not make aid agencies popular with the Sudanese authorities. Aid agencies have therefore has to face a very stark choice of speaking out or the possibility of having their staff, or even their entire agency prevented from working in Darfur. The expulsion of aid workers, including senior aid officials, has been a continual tactic of the Sudanese Government to try and silence aid workers who challenge the human rights abuses that take place in Darfur. When MSF Holland released a report documenting the extent of rapes taking place in Darfur two of their senior managers were arrested and subsequently expelled from Darfur (ABC News, 2005). There have been numerous other expulsions including high-ranking UN officials.

- **Expanding civilian capacity for self-protection**

  Despite the inability of the UN to implement its protection strategy, there was considerable popular support amongst civilians in Darfur for continuous and sustained international presence, however it is uncertain as to whether that triggered more confident and effective civil society actions for self-protection.

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13 Interview with SP September 2006
Encouraging civil society to develop more self-protective methods is fraught with difficulties and can put communities at further risk. Not only are humanitarians in Darfur working in a context where there are few truly non-governmental civil society organisations, those that do exist are severely constrained in their operations. In February 2006 Sudan enacted into law the Organisation of Humanitarian and Voluntary Work Act, which imposes restrictions and controls over the work of these organisations. National civil society operates in an increasingly restrictive environment (Hashim, 2007). There is little evidence that INGO presence has had a significant effect on national civil society, and the potential positive impact has been reduced by the lack of contact with Sudanese civil society.

International NGOs are also wary of contact with national civil society, viewing it as either dangerously politicised, or infiltrated by government informers. These suspicions are not unfounded: the Sudanese authorities have made concerted efforts to infiltrate the international aid operation14.

- **Fostering Institutional reform**

Institutional reform is often a longer-term project. Given the poor relationship between the Sudanese authorities and the humanitarian community, the opportunities for working together have been limited. However there are some examples of policy and practice changes within government institutions. Due to a particular interpretation of the law, rape survivors were required to report the crime to the police prior to accessing medical care. This obligation was rigorously upheld by Sudanese police who harassed survivors and threatened medical staff with arrest if they treated people without first seeing confirmation of the police report. Coordinated lobbying by UN agencies and NGOs eventually overturned this practice, although it has been poorly communicated to police forces and medical staff by the (relatively weak) Ministry of Health.15 Another success has been the challenge by NGOs of a state Governor’s declaration that

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14 Interviews with JB August 2007 and EL August 2007  
15 Interview with OB December 2007
they could not employ IDPs. Joint lobbying based on human rights law and the UN Guiding Principles on Internal Displacement managed to overturn the dictate from the Governor.\textsuperscript{16}

These successes have been due to explicit and coordinated actions of NGOs and UN agencies, and cannot be simply attributed to presence alone. Undoubtedly without a presence, knowledge of the practices of institutions would be less readily available, and organisations would be less well positioned to take co-ordinated action, however this illustrates how it is not merely presence, but what actions are taken whilst present that achieves the greatest changes.

**Challenges to Maintaining a Humanitarian Presence in Darfur**

In researching this study both interviewees and written sources of information presented a far greater body of evidence of challenges and difficulties, than of successful examples where international presence had been judged protective in some way.

**Access**

The control of access to Darfur by the Sudanese Government has had a significant impact on the humanitarian response through a myriad of bureaucratic impediments such as visa and customs controls, the restrictions of access to and movement within Darfur, and the expulsion of individual targets within the humanitarian community, including senior UN aid officials.

Internal movement into and within Darfur is strictly controlled, and although it is entirely legitimate that a state should control access to such areas in order to maintain state security and to ensure the safety of visitors to the country, it also offers another opportunity to impose bureaucratic controls on the humanitarian response. One aid worker described how in the five months that she was supposed to be working in Kebkabija she only actually managed to spend 23

\textsuperscript{16} Interview with SP September 2006
days there due to either restrictions by the Government or because security was so poor that her organisation grounded her. Humanitarian agencies have consistently found it difficult to access rural areas, despite the deliberate targeting of civilians in rural villages, which has been such a defining factor of the conflict.

The fact that so many impediments have been put in the way of humanitarians gaining access to Darfur has given credence to the belief that presence does protect:

\[I\ do\ believe\ that\ the\ presence\ of\ aid\ agencies\ can\ protect\ people.\ \text{Why\ would\ the\ Sudanese\ authorities\ go\ to\ so\ much\ trouble\ to\ keep\ aid\ workers\ out\ otherwise?\ If\ there\ was\ no\ humanitarian\ presence\ in\ Darfur\ things\ would\ definitely\ be\ worse,\ but\ there\ are\ limits\ to\ what\ it\ can\ achieve,\ after\ all,\ the\ humanitarian\ presence\ hasn't\ stopped\ the\ killing,\ rapes.}^{18}\]

At the start of the conflict in 2003, severe visa restrictions were imposed and it was only aid workers already in Sudan who were able to travel to Darfur. Under international pressure, these restrictions were partially lifted in February 2004 but it wasn’t until April that it became possible to get numbers of aid workers, goods and equipment into Darfur. At this point the humanitarian response began to gather momentum in the displacement camps that were fast becoming established. The attacks in rural areas continued, thus offering an opportunity for developing an international humanitarian presence across Darfur to deter further displacement. With aid agencies limited in numbers, resources and capacity, however, the planned expansion of the humanitarian machine across Darfur – a region the size of France - never took place and another million became displaced due to continuing attacks and fear of such attacks.

\[17\ \text{Interview\ with\ EL\ August\ 2007}\]
\[18\ \text{Interview\ with\ JB\ August\ 2007}\]
\[19\ \text{Interview\ with\ EL\ August\ 2007}\]
with more than 200,000 people feeling across the border into neighbouring Chad.

Aid agencies have developed counter strategies for improving their access to Darfur. Media, communications and protection specialists do not use their real job titles in visa applications and job descriptions are severely edited before being submitted to Khartoum with travel permit applications. Similarly the CVs of aid agency staff are edited, with mentions of protection or human rights removed as are qualifications in international law, attendance at human rights events or training etc. This practice has enabled more aid workers to gain entry to the country and in Darfur in particular. 20

However, access remains a real problem. By October 2007 some aid agencies raised concerns that the entire aid operation was at risk of collapse due to access constraints and that their ability to deliver lifesaving assistance and services was at the lowest level in more than three years.

Security

In 2003 aid agencies worked in a context of relative security and respect for their role and although their movements were restricted by the Sudanese Government, they were able to travel by road in relative safety. Humanitarian workers who visited Darfur at the time tell of passing groups of Janjaweed riding away from burning villages in north Darfur with no fear for their own safety. 21

Since 2005, however, security for aid workers has deteriorated and they regularly come under direct attack. After attacks on NGO compounds in South Darfur in December 2006, aid workers no longer use roads to travel between state capitals and major towns, helicopters and small aircraft are the only options considered safe. The security threats are very real – with attacks on aid workers at their highest levels and with an estimated 30 serious incidents targeted at aid workers in September 2007.

20 Interview with WI August 2007
21 Interview with EL August 2007

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Two developments have had a particular impact on security and are likely to be key security factors for the foreseeable future:

- **The proliferation of armed actors**: The fragmentation of the armed rebels since the signing of the Darfur Peace Agreement (DPA) in May 2006 has created a further level of threat with in fighting between those who are party to the DPA and non-signatories and both civilians and aid workers becoming targets for a wider and more diverse range of conflict actors. It is increasingly difficult for humanitarians to track the different armed groups and carry out any analysis of their intentions, chains of command etc.

- **Militarisation of displacement camps**: Increasingly displacement camps are becoming militarised. Civilians talk of a continual level of threat from unidentified ‘armed men’ (political and criminal actors) within the camps, and although there is very little information about the level of arms within camps, it is believed that almost all families have some form of weapon and that considerable small arms as well as some larger weapons (eg. vehicle mounted RPGs) are held in the camps. Tensions between different tribal groups within camps are continuing to rise, and are reportedly being stoked by Khartoum in order to justify the breaking up of the camps by force and relocation of camp inhabitants.22

**Resourcing ‘Protection by Presence’**

The humanitarian presence in Darfur, although slow to start with, had increased significantly by December 2004 – there were 55 INGOs operating with 8,400 staff, 900 of whom were internationals. Just eight months earlier there had only been 36 international staff in Darfur. Yet despite this massive increase in international presence, UNHCR and UNICEF – both key protection actors - still only had very limited numbers of international staff. Professional capacity was also low with many experienced staff leaving or unable to renew visas, and

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22 Interview with EL August 2007
many posts remaining vacant for long periods (Pantuliano and O’Callaghan, 2006, Hastie, 2007)

According to Max Glaser, the presence of international staff is crucial to the protective power of presence which ‘relies for its force on the foreignness of the presence’ (Glaser, 2005a). Mahoney (2006) and McAvoy (2004) also emphasise the need for a large-scale presence. The failure of the UN to scale up its international presence left it reliant on NGOs to implement their protection strategy. Protection by presence was very seriously under-resourced even with the increase to 900 international workers in Dec 2004. This reliance in NGOs has been criticised, and many have called for a more effective UN civil deployment through the crisis and have stated frustrations that:

\[\text{the UN hasn’t put it’s money where it’s mouth is – if it proposes a strategy on protection by presence, it should damn well get some staff out here. They expect NGOs to go where they are too risk averse to go, and leave us taking all the risk whilst they sit in Nyala, El Fasher and Khartoum.}^23\]

**Conclusions: the Darfur experience**

There is an overwhelming belief amongst aid workers and IDPs in Darfur that the presence of the international aid community helps make them safer. In contrast, there is a distinct lack of hard evidence that this is actually the case.

In Darfur deterrence is the function of protective presence that appears to have been most realised with communities able to give tangible examples of how presence can protect. Persuading perpetrators to change their behaviour has been undermined by the lack of influence the international community has over them, and at a local level by the lack of contact between humanitarians and armed actors. Similarly the lack of relationship between Sudanese civil society

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23 Interview with SP September 2006. These sentiments were expressed by other interviewees from the NGO community.
and the international aid presence has reduced the potential for INGOs to enhance the capacity for national protection mechanisms. The link between institutional reform and INGO presence, although there are some specific positive examples of practice and policy changes, remains tenuous at the macro-level.

One of the greatest challenges in judging the effectiveness of protection work is that it requires an evaluation of something not taking place. Aid agencies would need to measure how many attacks on civilians have not happened as a result of their presence. Even if such estimates were possible, it would be impossible to validate them, and the value of trying to quantify this kind of data would be meaningless. The vast majority of sources of information are qualitative and anecdotal, and an interrogation of these sources often exposes considerable weaknesses. In the case of Darfur a balance has to be made between a significant lack of any hard evidence that ‘presence’ protects, and the overwhelming belief by those closest to the situation, that in some indiscernible way, that is intuitively understood, that it actually does make people safer.
Chapter 3: How NGOs can use their presence to protect

The preconditions for protective presence are, firstly, the relationships between international NGOs and the governments of the states in which they work, and secondly, the national civil society of that state. It is apparent from the Darfur case study that international NGOs are confused about both relationships and few are making conscious decisions about maximising the strategic potential of these relationships prior to involvement in a humanitarian response.

The relationship with the state

States are responsible for protecting civilians on their territory. The work of organisations such as the ICRC, UN agencies and NGOs is always centred on holding states to account for civilian protection. Protection is essentially about the relationship between citizens and the state, therefore NGOs working on protection will always need to interact with the governments of states and its functionaries. The Darfur case study illustrates the complexity of this relationship. The Sudanese Government, like many other strong and established governments, uses a variety of sophisticated strategies in managing its relationship with the humanitarian community. In contrast, the humanitarian community has been less adept at understanding the complex relationships and processes of international relations and using that understanding to take strategic action. It is apparent that the hostile relationship between the humanitarian community and Sudanese authorities has done little to improve the protection of civilian in Darfur. Non-state actors also have responsibilities for protection under international humanitarian law (IHL). Understanding the motivations, actions, beliefs and values of both state and non-state actors is crucial for humanitarian organisations (Slim and Bonwick, 2005; Mahoney, 2006; McAvoy, 2004; Glaser, 2005b) yet it clearly an area that NGOs are failing to recognise as an important element of their function, but also build a better skills base in order to do so effectively.
Civilian action

Although states bear primary responsibility for protection, it is often civilian organisations’ (national NGOs and community-based organisations) and individual civilians who, through their own actions, deliver the majority of civilian protection. International NGOs often use the rhetoric of participation and capacity building of national civil society, but in complex emergencies such as Darfur, face both real challenges in their engagement with civil society. Relationships that formed the basis of development work in Darfur prior to 2003 have largely been dissolved in the current crisis. Beyond these challenges, and partly because of them, there is a reluctance to engage with national civil society for fear that it is somehow political in a way that international NGOs do not perceive themselves to be. This reluctance extends to a suspicion of an organisation’s own national staff in many cases. National staff and civil society activists have a far more sophisticated understanding of the complexities of a situation and also can help INGOs understanding how they are perceived by different national actors and why. They are a valuable strategic resource that is under-supported and under-utilised by the international community.

International NGOs need to both refine their relationship to the state in order to maximise their potential for enhancing civilian protection, but also need to simultaneously strengthen and re-emphasise the relationship with national civil society.

Access

Access is a pre-requisite for presence and the access of NGO to populations in need of humanitarian assistance is, to a great extent, determined by security. The proliferation of non-state armed actors is a key element of the changing security climate and is seen as a major contributing factor to the deterioration of security for NGOs in conflict zones. In fact Glaser (2005a) proposes that the challenging of humanitarian access is not incidental, but a deliberate strategy of war. Governments may legitimately control access to areas where they cannot ensure the safety of humanitarian aid workers – an obligation that forms part of
their responsibility to protect all civilians on their territory. However governments also use poor security as a justification for controlling access of NGOs to areas where they do not want an international presence.

The paradox of protective presence is that, due to NGO security protocols, they are least likely to be present where there are the greatest threats to civilians. Even where NGOs do have a presence, they will often reduce their visibility in order to ensure greater security (for example, restricting movement of expatriate staff, removing signs and logos, travelling in unmarked local vehicles etc).

The size of the presence is important, as is the ability to remain present at the most dangerous times of the day. Oxfam Great Britain, in carrying out rehabilitation of spring in Palestinian village that had been repeatedly destroyed by Israeli settlers, used a range of techniques to consciously build their presence – liaising with all parties including armed actors, high visibility, use of international staff and media attention. However, these measures did not protect the villagers or Oxfam staff from ongoing attacks and it was an international human rights accompaniment organisation using volunteers that eventually was able to use its presence to protect, particularly because it had a far larger international presence and was able to be present in the evenings and after dark (Johnson, 2004).

Governments that do not want an international presence to witness events taking place, can also draw on a seemingly endless range of bureaucratic measures to control access. The Darfur example, however, has shown that NGOs are using various counter-measures ranging from the selective editing of individual CVs and job descriptions, strategic recruitment methods (eg. targeting certain nationalities), coordinated actions, and mobilising diplomatic pressure and media coverage to pressurise the government. These methods are a useful part of the protective presence 'toolkit'.
The Deterrent Effect of Presence

NGOs cannot physically protect civilians – physical protection needs to be carried out by police or armies, not aid workers (Bouchet-Saulnier cited in IRIN, 2005). What NGOs can do is leverage change, reduce vulnerability, and use their influence to change the behaviour or perpetrators and those responsible for protection (Slim and Bonwick, 2005). The Darfur case study has shown that of the potential protective impacts of presence, deterrence is the strongest area where INGO presence can achieve results, particularly by the ability to witness events as they take place.

Aside from bringing justice to victims of war crimes and other human rights abuses, the International Criminal Court (ICC) has the potential to help build an environment of protection and respect for human rights and international humanitarian law. The international judicial process is very powerful and people’s understanding of that power is growing. Civilians living in high risk situations talk about the role of international witnesses, and also see themselves as potentially playing a witness role in future proceedings. Some civilians are actively documenting events as they take place - logging names and dates of abuses, keeping lists of people who have been killed or are missing, and taking photographs.24

NGOs also aware of the power of such tribunals and developing their own relationship to them. In this respect MSF has had the greatest engagement with one staff member giving evidence at the International Criminal Tribunal for Rwanda in order to help provide proof of the organised and systematic nature of the crimes and another staff member gave evidence to the International Criminal Tribunal for Former Yugoslavia (ICTFY) with reference to the events that took place in Srebrenica in 1995. MSF has also collaborated with the Special Court for Sierra Leone. (MSF, 2003). These international courts are having an impact on the behaviour of armed actors. Kenneth Scott, a prosecutor at the ICTFY describes how he saw documents that said (he

24 Interview with JB August 2007
paraphrases) ‘We had better be careful, because a tribunal has just been established and if we do these things we might be prosecuted for war crimes.’ (MSF, 2003).

For humanitarian NGOs the ICC presents some real dilemmas in terms of to what extent they provide information to the court, and the implications this has for INGO operations. Warring parties may start to see the humanitarian presence as less neutral and threatening and therefore restrict humanitarian access that might otherwise have been granted, but on the other the power of aid workers as ‘witnesses’ is a key component of the deterrent value of proactive presence.

Programming Techniques
Although Mahoney’s framework for proactive presence is more detailed and has a greater research base than any other study to date, because it is based mainly on monitoring missions of some form, there are limitations in its relevance to NGOs. Guidance for NGOs in establishing and maintaining a proactive presence is very limited. Slim and Bonwick (2005) have created a useful checklist on using presence to protect including recommendations that resonate with the Darfur situation. They include: analyse how presence is perceived by different actors in the conflict in order to understand how others will try to use it or manipulate it; practice a range of personal behaviours and actions that that you can draw on as an individual and organisation; keep in regular contacts with all parties and those who can influence them so that they constantly take presence and witnessing into account as they decide on political and military choices; develop ‘diplomatic discourse that internationalises local protection issues and gives them significant weight’ and use project sites as safe spaces, especially for individuals at risk.

The Darfur case study highlights the following programming techniques that NGOs can use to have a more effective proactive presence.
- **Negotiating with armed actors** – In order to change the behaviour of armed actors and hold them to account for their actions, NGOs need to have contact with them. In general NGOs are wary of negotiating with state and non-state actors responsible for breaches of IHL and human rights abuses. The risk of negotiating with such parties is that contact will in some way serve to legitimise them, or lead to negative perceptions of the NGO. However, Glaser’s research (2005b) shows that this risk is minimised if negotiation takes place within a framework of ‘responsible engagement’ that seeks to promote humanitarian space and the upholding of IHL.

- **Advocacy in Non-Conducive Environments** – The balance between public advocacy and access is an ongoing challenge for operational aid providers. The risk of repercussions can be reduced and managed, however. Collaborative and co-ordinated action by groups of aid actors can be an effective way to reduce the exposure of an individual organisation. Strong UN missions ideally should provide a buffer between the NGO community and a hostile government (although the Darfur experience shows that this may not always be possible). Humanitarian principles may scream out for denunciations, but a pragmatic approach, focussed on longer-term results may ultimately deliver more for civilians living in conflict. Mahoney (2006) claims that the link between public advocacy and access is actually quite tenuous and it is not necessarily the case that denunciation leads to expulsion, for example, intense international pressure has ensured that MSF has been able to continue working in Darfur even after publishing its rape report and the subsequent expulsion of senior staff.

- **The Value of Conflict Analysis** - The importance of understanding how humanitarian organisations are themselves perceived and what they symbolise to civilians and to warring parties is the basis of developing a conscious or proactive presence. NGOs have a tendency to see
themselves as ‘outside’ of the situation in which they work, not as a conflict actor themselves. NGOs need to understand how they are perceived by others in order to strategically use their presence and identify leverage points. The fact that large amounts of humanitarian assets have been stolen by armed groups in Darfur and the realistic presumption that these goods and equipment are being used in some way to support armed actors indicates the importance of a broad and encompassing conflict analysis.25

- **Maintaining an international presence whilst also respecting national expertise** The Darfur study has shown that there is agreement by both civilians and aid workers that the international nature of the humanitarian presence is important. An international presence is better able to build a body of global pressure and can leverage political will more effectively than national organisations, which are often unknown in the western capitals where much advocacy takes place. Western international policy-makers are more likely to trust organisations that they know, and that have a high level of international credibility. Beyond this, it is apparent that to some extent it is also down to individuals, and individual experience, behaviour and credibility is important, particularly when negotiation with conflict actors. PBI volunteers are specifically trained and supported on how to have ‘presence’ as part of their accompaniment techniques, however, humanitarians do not receive this type of training. In addition the problem of getting experienced staff into protracted and complex emergencies remains.

- **Using humanitarian assistance as leverage for protection work**

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25 Although not included in this study, the interviews carried out indicate that not only is aid and equipment (vehicles, radios etc) being looted by armed actors, but also that there is almost no analysis taking place of where the aid is going and how it is being used by armed actors. One interviewee told me that she suspected it was being used to resource new armed groups that have emerged following the DPA and subsequent fragmentation of the rebel movement. Given that the proliferation of armed actors and criminal gangs is a major security threat to civilians and humanitarian alike, this is of great concern.
The provision of assistance in the form of goods and services can be used to gain access for protection, but aid agencies need to be careful that this doesn’t impact negatively on conflict dynamics in a context where aid is a precious resource. According to UN statistics, more than 400 loads of aid have been looted by armed actors who can then use that aid to sustain their military capacity (OCHA, 2003-07). In such situations, not only are civilians losing aid, but those perpetrating abuses against them are gaining a valuable resource which enables them to prolong their abuse. (Mackintosh, 1998).

There is a real risk that aid agencies, by focussing too narrowly on aid provision, may confuse being present with having an engaged or conscious presence. According to Bonwick “major humanitarian organisations tested the assumption that presence protects and found that the area under protection extended about 500m from their sites and from 9am to 5pm”. (cited in O’Callaghan and Pantuliano, forthcoming). This highlights a real risk, and also reflects the scepticism amongst many humanitarians about the protective value of presence. However, from another perspective, in such an insecure environment, some hope can be found in that NGOs are actually able to offer a degree of protection, within their project sites and the immediate surrounding area for a large part of the day.

- **Mobilising international attention**

  In the last decade, as NGOs have shifted to a rights-based approach, many have developed substantial advocacy and campaigning capacity – a tremendous resource for protection work. In the case of Darfur there was very little world attention on the crisis in 2003. The peace agreement and conflict in the South was the priority in Sudan, and the situation in Iraq was grabbing world attention. NGOs and other parts of the aid community, were able to mobilise considerable public attention on the crisis, particularly through the use of interviews with and stories from aid...
workers about what they were seeing in Darfur. Protective presence relies on those present being part of a greater international community, one that is willing to use methods at its disposal (eg. diplomatic measures, trade incentives, sanctions, and in extreme cases use of military intervention) to influence duty bearers. NGOs play an important role in mobilising international concern that in turn creates an environment in which they can use their presence to a greater strategic advantage for the protection of civilians.
Conclusions

This study was inspired by the idea that international humanitarian NGOs have the potential to ‘conjure up’ a certain type of presence, a presence that would represent much more than just that organisation or individual, and thus, in some way, offer a form of protection to civilians in armed conflict. The little literature that exists on this subject indicates that creating a form of conscious or proactive presence requires humanitarian NGOs to carry out certain actions, and to position themselves in a strategic way in relation to other conflict actors – in effect to create a chain from field to international policy-makers.

In the case of Darfur there are weaknesses all along the chain that should link frontline humanitarian aid workers with global actors responsible and able to bring about macro-level changes in civilian protection. The particular characteristics of the Darfur case - the many obstacles the government has put in the way of NGO presence; the size of the geographical area; the very high level of insecurity not only for civilians, but also aid workers and other internationals; the difficulty of recruiting experienced staff; and the governments’ view that protection is beyond the humanitarian mandate – are not unique to Darfur and represent more generalised challenges to aid agencies.

It has been difficult to find any examples of humanitarian organisations that have made a concerted attempt to create a conscious presence. In general many aid workers believe that their presence protects and have various theories about why this is so, but none interviewed for this study had planned a particular type of presence, worked to create it, or even actively tried to analyse how their presence was perceived by others, particularly armed actors. It would appear that international organisations are assuming that their presence has a positive impact on safety without testing whether this is the case, and without consciously creating that presence.

There is a discernable lack of analysis of the conflict situations in which humanitarian organisations work. Many humanitarians are unaware of how
their presence is perceived by armed actors and other duty-bearers because they have limited or no contact with such actors. Often interviewees did not include themselves, other aid organisations and non-armed actors such as diplomats, as ‘conflict actors’ and would not routinely include them in their analysis (where such analysis is actually taking place). Many humanitarians view themselves as witnesses without understanding that they are also active conflict actors. There is a gap in the effective analysis of the aspirations and goals of all conflict protagonists especially with regards to attacking civilians, despite recognition within the sector that this is a precondition for effective protection work.

Despite the high profile debates from the 1990s about humanitarians being sure to ‘do no harm’, this study found little analysis taking place in Darfur of the way in which humanitarian aid, and aid assets and equipment may be being used to resource armed actors and therefore have a negative impact on civilian safety.

Advocacy is one of the key tools NGOs can use to try and influence duty bearers, their policies, and behaviour. In a hostile advocacy environment such as Sudan, the UN should act as a buffer between humanitarian actors and the state, however relatively weak UN agencies have left NGOs exposed and lacking adequate support. This has reduced the potential to use their presence and witnessing role to influence the international community.

In some cases humanitarian presence can put people in danger, such as Iraq, Afghanistan and parts of Colombia. In these contexts humanitarian organisations avoid having a visible presence, which is subverting much current thinking about the relationships between communities at risk and aid agencies in terms of participation and accountability. In Iraq, even the ICRC has had to ‘go underground’ and cannot use the red cross symbol, and at least one international NGO carries out its work not only without consulting communities, but without even informing them as it believes that it could not safely continue to
work there and would put people’s lives at risk if they had any form of visible presence.

It is hard to define exactly what it is that makes civilians at risk have so much faith in an international presence. Part of the reason is undoubtedly that they are in such extreme situations that there are few options available to them. Other factors include the comfort that humanitarian presence gives as an act of solidarity as international and non-local aid workers both acknowledge that what is happening to them is wrong, express concern for their well-being, and often share the risks that they face.

It has been difficult to find any hard evidence – in the form of credible documented examples that have been through a process of analysis and testing - that presence protects. Despite the lack of evidence, there is no doubt that in some way international presence makes people feel safer, and can contribute to their protection. The NGO community, however, is placing far too much faith in a blind assumption that presence protects, and putting too little emphasis on developing effective tools for creating a conscious or proactive presence, and not developing the skills and techniques needed to maximise the protective power of presence.
Bibliography


International Criminal Court (ICC). (undated) Fact Sheet: The Situation in Darfur, the Sudan. Issued by the Office of the Prosecutor, the International Criminal Court.


Appendix 1: Trends in UN humanitarian presence in Darfur 2004-07

The UN in Darfur tracks trends in access and presence (United Nations, 2004-07). UN access is determined primarily by two factors: the level of insecurity, and the harassment, intimidation, and random denial of access primarily by the Government of Sudan. Following the fragmentation of the rebel movement after the Darfur Peace Agreement in early 2006, another factor emerged – the fragmentation of rebel factions and proliferation of armed actors including criminal gangs and bandits. UN access does not directly correlate to INGO access, however UN data do present useful information for trends analysis, and also includes perceptions on NGO access.

In late 2003 and early 2004 access by aid workers was primarily restricted by bureaucratic impediments. At this time it was estimated that getting a visa for an international aid worker to go to Darfur took an average of 3 months (O'Callaghan, 2007). In 2004 and 2005 access improved considerably and aid agencies were able to expand their operations and field presence.

By the end of 2005 the UN was calling for an increased NGO presence in North Darfur in particular. However in early 2006 the UN acknowledged that the increasing harassment and intimidation of humanitarian organisations and bureaucratic obstacles was a serious threat to having an international presence across Darfur. Restrictions on the recruitment of national staff and intimidation of Sudanese staff became increasingly problematic in 2006 and continued throughout 2007. Aid agencies also suffered regular break-ins to their compounds and hijacking of vehicles and ambushes and looting of aid convoys. Throughout 2006 these attacks targeted at aid workers became increasingly violent.

By April 2006 as a result of increasing harassment and insecurity UN accessibility in Darfur had slipped below 80% coverage, which was well below
that achieved in the previous two years. However the UN continued to call for NGOs to assist people in UN no-go areas despite the continuing insecurity.

By July 2006 restrictions on access and funding shortages had started to have a real impact on the humanitarian response. Although funding improved later in the year, the access problems and insecurity continued to deteriorate and humanitarian presence started to diminish. The numbers of displaced people reached more than 2 million by October 2006 however humanitarian access plummeted due to increased fighting and banditry. Between July and September, 21 vehicles were hijacked and 31 convoys ambushed and looted and six aid workers were killed. Hijackings had a direct affect on humanitarian presence: the hijacking of five vehicles at gunpoint within the space of a month resulted in all agencies pulling out of Tawilla in North Darfur, leaving more than 100,000 people without assistance or ant international presence.

Towards the end of 2006 the Government of Sudan had increased restrictions on the movement of aid workers, and suspended the activities of some organisations. There was also an increasingly alarming trend of attacks very deliberately targeted at aid workers, worryingly the tactics used mirrored those used against the civilian populations including physical and sexual violence and armed break-ins to humanitarian agency compounds. Large-scale displacement continued in January 2007, but UN humanitarian access and that of NGOs was at its lowest point. The UN estimated that over 20% of people in need of humanitarian assistance were completely inaccessible, and NGOs were increasingly wary of travelling on insecure routes. In December 2006 over 500 aid workers had been temporarily relocated on 20 occasions, and attacks by the Sudanese Liberation Army aligned to Mini Minnawa (SLA-MM) on aid agency compounds in Gereida including physical and sexual violence. The subsequent pull out of humanitarian organisations left hundreds of thousands of people without humanitarian presence. The fragmentation of rebel groups who were signatories or non-signatories to the Darfur peace agreement led NGO to report
that it was increasingly difficult to work out who was who, and whether they had command and control within that area.

Harassment by the Sudanese Government at Khartoum and within Darfur continued. Aid agencies had activities suspended, their recruitments were controlled and staff intimidated. In November 2006 the Norwegian Refugee Council decided to pull out of Darfur due to the continual suspension of their operations. In 2005-06 they had had their activities suspended for a total of 210 days. The harassment intensified in early 2007 when the Government of Sudan temporarily detained 32 aid workers, many being held without any charges brought against them.

IDP numbers peaked at 2.2 million by July 2007, and all camps bar one were at maximum capacity. However a Joint Communiqué agreed between the Government of Sudan and the UN had gone some way to reduce the bureaucratic impediments on access by introducing a ‘fast track’ procedure. Despite this some experienced humanitarians found that their visas were not being renewed, which reduced the capacity of experienced staff within the sector.

In 2007 although increased fighting was leading to new displacements and many people were suffering multiple displacements, the context was one of increased banditry and insecurity. However access did improve once aid agencies decided that it was simply too dangerous to travel by road and started using air transport as the sole means of travelling around Darfur, and certainly the increasingly dangerous routes between state capitals. However the shift to air transport meant that many agencies were conducting quick ‘in and out’ visits, and not sustaining a presence. A combination of insecurity, and bureaucratic obstacles were by now having a serious impact on the humanitarian response. Although the population in need had increased by 14% in the previous 3 months, by July 2007 the number of aid workers had reduced by 18%. The UN
concluded that the humanitarian situation in Darfur “has never looked as bleak as now”\textsuperscript{26} (United Nations, 2003-07).
Appendix 2: Interviews Conducted

Michael Eccles, Islamic Relief.
Jennifer McAvoy, formerly Protection Adviser with Oxfam
Andrew Bonwick, formerly Protection Adviser with Oxfam GB and co-author of Protection: An ALNAP guide for humanitarian agencies.
Sorcha O’Callaghan Researcher Fellow at the Overseas Development Institute specialising in protection issues
Catherine Plumridge, formerly of UNRWA based in the Occupied Palestinian Territories
Maurice Herson, formerly of ALNAP
Jonathon Benthall, Research Fellow, UCL and co-author of The Charitable Crescent.
Zia Choudhury, aid worker, currently working with the Humanitarian Accountability Project International.
Vicky Hawkins, MSF UK
Kate Mackintosh, MSF Holland Humanitarian Affairs Department

Other Interviewees
A number of interviews with aid workers and aid officials were carried out. Sudanese aid workers and international aid workers either still working in Sudan, or intending to return there, have asked that their identities be kept confidential. The security threats to aid workers that are seen to be critical of the Sudanese Government are very real, at least one aid official that was interviewed for this study in Darfur in August 2007 has since been expelled from Sudan, and national aid workers report continuing harassment including some arrests and detentions.

JB – International aid worker who travels to Darfur and has interviewed internally displaced people in camps in north and south Darfur. August 2007.
EL – International aid worker who has been working in Darfur periodically since 2003. August 2007.
SA - Sudanese aid worker for 20 years currently working on protection issues in Darfur. August 2007.
AM - Sudanese with experience in UN and NGOs currently working on protection issues in Darfur. August 2007.
OB – international aid worker based in Europe with regular travel to Darfur. December 2007.