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# Contract of Mutual (In)Difference: Governance and the Humanitarian Apparatus in Contemporary Albania and Kosovo

MARIELLA PANDOLFI\*

## INTRODUCTION

In his book *Le malheur des autres*, Bernard Kouchner, the founder of Médecins Sans Frontières and the former French Health Minister, wrote that “[h]umanitarian activities have become customary.”<sup>1</sup> Kouchner’s statement points to the new forms of globally organized power and expertise, located within new transnational regimes, humanitarian networks, non-governmental organizations (NGOs), and multi- and bilateral organizations that are now developing. These new transnational regimes, parallel to local forms of rule, constitute a mobile apparatus which I have defined as migrant sovereignties.<sup>2</sup>

With the explosive growth of NGOs of all scales and varieties that has occurred since 1945, we are witnessing a massive transformation in the nature of global governance.<sup>3</sup> Such growth has been fueled by the connected development of the U.N. system, and, more particularly, by the increasing global circulation and legitimization of discourse and politics of “human rights.” Resolutions adopted by the U.N. Security Council and various international agencies and meetings show that new forms of sovereignty have come into place alongside older, territorialized forms. These new forms legitimize the right of interference and intervention, identifying a

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1. BERNARD KOUCHNER, *LE MALHEUR DES AUTRES* 313 (1991).

2. See Mariella Pandolfi, *L'industrie humanitaire: une souveraneté mouvante et supracoloniale. Réflexion sur l'expérience des Balkans*, 3 *MULTITUDES* 97-105 (2000); see also Arjun Appadurai, *Sovereignty Without Territoriality: Notes for a Postnational Geography*, in *THE GEOGRAPHY OF IDENTITY* 40-58 (Patricia Yaeger ed., 1996); ARJUN APPADURAI, *MODERNITY AT LARGE: CULTURAL DIMENSIONS OF GLOBALISATION* (1996). Drawing on Appadurai’s notion of mobile sovereignty, we can define these transnational formations as migrant sovereignties which serve to link transnational forms of domination over local political practices. The intricate network of the humanitarian political-economic-military complex that is superimposed as a migrant sovereignty upon Albanian society does not conceive any strategy of negotiation with its political, institutional, and social actors.

3. See generally Anne Marie Clark, *Non-Governmental Organisations and Their Influence on International Society*, 48 *J. INT’L AFF.* 509-24 (1995).

deterritorialized sovereignty that migrates around the globe to sites of “crisis” and humanitarian disaster.

At a time when international humanitarian processes are proliferating in militarized contexts the world over, it is imperative that we take time to reflect on the theoretical foundations, as well as the practical consequences, of such interventions. This is a perilous but necessary exercise, forcing us to consider the complex relationship between humanitarian organizations, international institutions, and specific segments of local élites. This paper addresses the ways in which the humanitarian-military apparatus constructs the logic behind its interventions, how interventions are carried out, and how they impact the local scene. It aims to identify the means by which institutional categories and interventions are transferred into this local political sphere and canonized as models of governance.

My work is specifically concerned with the post-war and post-communist Balkan territories and the assemblages that crisscross those territories.<sup>4</sup> From 1991 until the crucial months of the war, the international presence in Albania and Kosovo was active at various institutional levels. The true agents of military-economic-humanitarian action were the various international organizations, agencies, foundations, and NGOs, whose operations were shaped by a temporality of emergency. These agents espouse the legitimacy of the right of interference, the rhetoric of institution building, and a Western, neo-liberal, forced democratization of the southeastern European frontier. The power they wield is real, and is superimposed onto bureaucratic procedures and lengthy intergovernmental negotiations.<sup>5</sup>

The title of this paper—Contract of Mutual (In)Difference—seeks to draw attention to a central feature of our age that has gained prominence over the past ten years: the coexistence, within the same territorial perimeter, of two opposed modes of sovereignty. One of these is tied to a territorial configuration such as the nation-state, religion, or ethnicity. The other, which has resulted from the proliferation of non-territorialized forms of power and governance, such as the complex military-humanitarian apparatus, is deployed, legitimized, and imposed according to a planetary logic in “crisis” situations by an international “humanitarian” rule of law.

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4. See, e.g., Mariella Pandolfi, “Moral entrepreneurs”, *souverainetés mouvants et barbelés. Le bio-politique dans les Balkans post-communistes*, 26 ANTHROPOLOGIE ET SOCIÉTÉ 29-51 (2002).

5. See JEAN-CHRISTOPHE RUFIN, *L’AVENTURE HUMANITAIRE* (1994); see also Jean-Christophe Rufin, *Pour l’humanitaire. Dépasser le sentiment d’échec*, 105 LE DÉBAT 4-21 (1999) [hereinafter Rufin, *Pour l’humanitaire*].

This discussion draws on fieldwork conducted in Albania and Kosovo since 1997, which has allowed me to travel behind the lines, so to speak, of the humanitarian apparatus. My argument is that military forces and multi- and bilateral organizations are transforming into a new form of transnational domination.<sup>6</sup>

I will begin by describing the convergence between military and humanitarian forms of intervention, and the role of NGOs as operators of a new military-humanitarian form of governance. I will show that the forms of governance that are expressed through NGOs can be understood as a new form of sovereignty, at the intersection of biopolitics<sup>7</sup> and “bare life,” which is apparent in the way that international intervention manages bodies according to humanitarian categories. Finally, I will discuss how, in the aftermath of the humanitarian war in Kosovo, this new sovereignty has left behind a residue of humanitarian forms of governance, even as it moves to new sites of intervention.

## I. HUMANITARIAN WARS, THE CULTURE OF INTERVENTION, AND THE ROLE OF NGOS

Military and humanitarian intervention has a historical pedigree dating back to the face-off between European power and the Ottoman Empire in the nineteenth century. The first humanitarian war can be identified with the arrival of the French in Lebanon in 1860. This intervention aimed to protect Maronite Christians from Muslim attacks and occurred after 6,000 Maronites had been slaughtered by the Druses. I define the humanitarian apparatus as the entire complex of ideologies, organizational strategies, and actions that unfold due to pressure exerted by two elements: the right to interfere and the temporality of emergency. Proliferating through the twentieth century, NGOs

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6. See generally NOAM CHOMSKY, *THE NEW MILITARY HUMANISM: LESSONS FROM KOSOVO* (1999).

7. I use the term biopolitics in the manner developed by Michel Foucault to refer to the ensemble of administrative practices — schooling, policing, caring — that came to be used to administer populations with the rise of the modern state. See generally 1 MICHEL FOUCAULT, *HISTORY OF SEXUALITY* (Robert Hurley trans., 1978); see also 3, 4 MICHEL FOUCAULT, *DITS ET ÉCRITS: 1954 – 1988* (1994). Giorgio Agamben wrote “[a]ccording to Foucault, a society’s ‘threshold of biological modernity’ is situated at the point at which the species and the individual as a simple living body become what is at stake in a society’s political strategies.” GIORGIO AGAMBEN, *HOMO SACER: SOVEREIGN POWER AND BARE LIFE* (Daniel Heller-Roazen trans., 1998) [hereinafter *HOMO SACER*]. Michael Hardt and Toni Negri have further developed this concept to examine how these practices produce regimes of rule in the contemporary world that are radically limited to the management of life in the barest terms, as in concentration or refugee camps or in capitalist production. See generally MICHAEL HARDT & ANTONIO NEGRI, *EMPIRE* (2000).

have increasingly positioned themselves as a challenge to governments and occupied roles left vacant by government institutions. At other times, they have acted as a counterpoint to government actors, being much more agile at opening channels of intervention. By means of their own networks, international NGOs have created a direct and independent form of non-governmental diplomacy, allowing them to act in parallel to state governments.

Since 1993, the number of states that have appealed to NGOs as ad hoc experts in procedures and development of international agreements has increased tremendously. Their economic and intellectual resources, and their ability to manage information, have allowed a number of NGOs to acquire an authority that has often superseded that of state administrative bodies.<sup>8</sup> The increased relevance of their role vis-à-vis donors (nation-states and public institutions) is the result of their flexibility, mobility, and transnational expertise. This strategic capability allows them to intervene promptly in all corners of the globe, to maintain a transnational communication network, and finally to produce testimony.

In the “New World Order,” crisis management integrates the roles of military and humanitarian aid. Veronique de Geoffroy discusses the military-humanitarian or civilian-military formula by noting that the vocabularies of these two realms are beginning to come together.<sup>9</sup> In both contexts, one speaks of an “area of responsibility” or of “projecting onto an area,” and so forth—originally military expressions. Humanitarianism, as John Prendergast reminds us, cannot be viewed as a civil religion, or as an act of faith. In other words, it is a mode of historical action, which has social, economical and political consequences.<sup>10</sup>

Observing the diverse interpretations of humanitarian intervention, one soon discovers that the conventional discourse conceals a paradox. On the one hand, humanitarian aid is perceived as action that tends to consolidate state sovereignty, understood as a form of government in its multiple local and global political forms; on the other hand, humanitarian intervention is constructed as a measure of the progressive erosion of state sovereignty—in the

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8. After Bosnia, the humanitarian industry has constructed its own legitimacy to intervene, even militarily. Yet Bosnia was not the first time the industry intervened; in 1992, when Somalia witnessed Operation Restore Hope, forty international NGOs were present in that country. The second example of this type of mobilization was in November 1993, when seventy-six NGOs were set up in Rwanda.

9. See Veronique de Geoffroy, *Militaro-humanitaire ou civilo-militaire?*, 12 *MOUVEMENTS* 49-54 (2000).

10. See generally JOHN PRENDERGAST, *CRISIS RESPONSE: HUMANITARIAN BAND-AIDS IN SUDAN AND SOMALIA* 3 (1997).

name of the principles and practices of its own political organization—that extends over the whole planet. Both of these positions are projected onto a transnational scene in which relations and institutions distinct to each sovereign state are increasingly confused due to the more general pressure of globalization. The entire humanitarian apparatus legitimizes its presence in the name of an ethical and temporal rule that may be defined as the “culture of emergency.”

## II. PROBLEMATIZING SOVEREIGNTY: BIOPOWER AND BARE LIFE

From varying perspectives, political scientists and international lawyers have identified four different ways of defining the concept of sovereignty today: (1) domestic sovereignty; (2) independent sovereignty; (3) Westphalian sovereignty; and (4) international legal sovereignty.<sup>11</sup> In contrast, over the last decade, anthropology has approached the problem of sovereignty ethnographically, “confronting” these typologies of sovereignty with a biopolitical notion of sovereignty. This work has drawn on theoretical concepts from the writings of Michel Foucault and, more recently, those of Giorgio Agamben.<sup>12</sup> Such displacement toward a “critical” zone of sovereignty—an intertwining of sovereignty and biopolitics—has allowed anthropology to adopt a more refined position than that of a mere accountant of different forms of sovereignty.

Foucault summarizes the formula for classical sovereignty as the prerogative to the right over life and death: the power to take life or let live in a given territory.<sup>13</sup> Biopolitics designates a reversal, or rather the contemporary metamorphosis, of this sovereign power, in that it is also exercised as the power to let die or to make live. Power, understood this way, implies an enormous expansion in its potential to dominate. While classical law reasoned about the individual and society, and the disciplines considered individuals and their

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11. STEPHEN D. KRASNER, *SOVEREIGNTY: ORGANIZED HYPOCRISY* 3 (1999).

12. See generally GIORGIO AGAMBEN, *THE COMING COMMUNITY* (Michael Hardt trans., 1993) [hereinafter *THE COMING COMMUNITY*]; HOMO SACER, *supra* note 7; GIORGIO AGAMBEN, *MEANS WITHOUT END: NOTES ON POLITICS* (Vincenzo Binetti & Cesare Casarino trans., 2000) [hereinafter *MEANS WITHOUT END*].

13. Foucault develops the term classical sovereignty at length, expressing classical sovereignty most succinctly as the power of life or death exercised by the sovereign ruler over his subjects: the King can condemn to death, or allow to live, anyone in the territory he rules. See generally MICHEL FOUCAULT, *IL FAUT DÉFENDRE LA SOCIÉTÉ: COURS AU COLLÈGE DE FRANCE 1975-1976* (1997).

bodies, biopolitics has as its focus entire populations, considered as biological and political problems.

In the case of the fall of traditional forms of sovereignty, there is also a collapse of official identity, which is what allows people to locate their lives at the juncture between the present situation within living humanity and one's belonging to the eternal human race. Politics is no longer geopolitics, and power no longer stops at the domination of subjects retained within real and institutional frontiers of States, or in the no-man's land of international relations. Power has become biopolitics.

The exercise of biopolitical sovereignty extends so far that the sovereign human being is stripped to the barest choice of life. In other words, the only choice left is located in what Primo Levi called "the gray zone," that is, the nonliving and the non-dying.<sup>14</sup> Agamben describes this space as Bare Life—the absolute political substance that, once isolated, allows the total definition of the subject's identity in demographic, ethnic, national or political terms.<sup>15</sup>

This slippage of our present age has occurred not only in order to legitimize ethnic cleansing and genocide, but also in the name of compassion, for the sake of protection and cure, in the name of what Fassin has defined as *la politique du vivant* (the politics of life).<sup>16</sup> This is the paradox that I want to address. The radical and central aspect of our democratic management—protecting victims, organizing health policies, codifying the new frontiers of genetics, intervening during "emergency" humanitarian catastrophes—assumes the logic of biopolitical technology.

Biopolitics thus reveals an inversion in the deployment of power—the reduction of subjective trajectories, of individuals, of men and women, to bodies. Such indistinct, displaced, and localized bodies come to be classified and defined as refugees, legal or illegal immigrants, or traumatized victims according to the diagnostic categories of humanitarian management.

I would thus locate the catalogue of human suffering inscribed by the deployment of "humanitarian" biopower at the juncture between two conceptual domains: that of "governmentality," which Foucault defined "as running through the totality constituted by instructions, procedures, analyses, tactics that allow the exercise of this very specific though extremely complex

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14. See PRIMO LEVI, *THE DROWNED AND THE SAVED* 20, 42-3 (Raymond Rosenthal trans., 1988) (1986).

15. The notion of bare life is more fully developed in *HOMO SACER*, *supra* note 7.

16. Didier Fassin, *Entre politiques du vivant et politiques de la vie. Pour une anthropologie de la santé*, 1 LES NOTES DE RECHERCHÉ DU CRESP 13 (2000), available at <http://www.inserm.fr/cresep/cresep.nsf>.

form of power, which has as its locus the population and as its essential technical instrument, security apparatuses,"<sup>17</sup> and that of the intersection of rights with biopower as developed by Agamben. The separation between humanitarianism and politics that we are experiencing today is the extreme phase of the separation of the rights of man from the rights of the citizen. In the final analysis, however, humanitarian organizations — which today are more and more supported by international commissions — can only grasp human life in the figure of bare or sacred life, and therefore, despite themselves, maintain a secret solidarity with the very powers they ought to fight.<sup>18</sup> Following Foucault, I view biopower as an articulation of the political with the biological; following Agamben, this also means recognition of the paradox and the risk implied in the rule of law in modern democracies.

For Agamben there are two models of power, a juridical one focused on the problem of the legitimacy of Western power (the problem of sovereignty), and a non-juridical model centered on the problem of the effectiveness of Western power.<sup>19</sup> These two models meet in the dimension of exception.<sup>20</sup> Agamben writes:

What is the place of sovereignty? If the sovereign, in the words of Carl Schmidt, is the one who may proclaim the state of exception and thus legally suspend the validity of law, then the space of sovereignty is a paradoxical space, as it lies both within and without the juridical order.

What is an exception? It is a form of exclusion. It is a single case that is excluded from the general rule. But what characterizes the exception is that what is considered as excluded in reality maintains a relationship with the law, albeit in the form of a suspension.<sup>21</sup>

The fundamental operation of power is to isolate a bare life in each subject, a life that is irremediably exposed to sovereign decisions. Within the space of

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17. Michel Foucault, *La gouvernementalité*, 54 ACTES 10, 18 (1986).

18. HOMO SACER, *supra* note 7, at 133.

19. *Id.* at 5.

20. See generally HOMO SACER, *supra* note 7; MEANS WITHOUT END, *supra* note 12; THE COMING COMMUNITY, *supra* note 12; Giorgio Agamben, *Politica dell'esilio*, 16 DERIVE E APPRODI 25-27 (1998) [hereinafter Agamben, *Politica dell'esilio*].

21. Agamben, *Politica dell'esilio*, *supra* note 20, at 25 (author translation).



exception, a sovereign decision is exercised without mediation. Agamben observes and describes with ruthless sobriety the human destiny of the individual, the group, and the population at the moment in which it enters into this zone of arbitrariness.<sup>22</sup> In many areas of anthropological work, we are similarly confronted with the arbitrariness of rendering the human being no longer as a citizen, but as a bare life, a zoe.

### III. "BARE LIFE" AND EMERGENCY IN KOSOVO AND ALBANIA

The places where the juridical state of suspension is activated may be refugee camps, or, as I have found in my research in Kosovo and Albania, the ambiguous setting-in-motion of the entire humanitarian apparatus. In all of these places individuals become a "population" to be numbered, ethnicized, and catalogued. In the process of humanitarian intervention, the state of exception is legitimized by the category of "emergency," which is a category of action recognized by law.

Determined as a temporal and temporary derogation in a precise context, the emergency category is "logically" opposed to the category of the ordinary. Paradoxically, emergency no longer constitutes an extraordinary or exceptional temporal category in humanitarian intervention. In the territories of humanitarian intervention, it has become the sole temporal modality of the new social contract, which includes the right of interference, temporality of emergency, and necessity of action.<sup>23</sup>

The occupation of space, the invasion of territory, and the crossing of borders are characterized by the need for mobility and speed in intervention; the humanitarian apparatus is in fact constructed on the logic of action. Responding to the priorities of international donors and bureaucratic frameworks, a thousand traces of action, often contradictory, propagate. They are performed by social actors concealing a profound ambivalence, if not hostility, toward the institutions that require action.<sup>24</sup> Humanitarian universalism bears an anti-state and anti-institutional current of rebellion,

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22. See generally GIORGIO AGAMBEN, *REMNANTS OF AUSCHWITZ: THE WITNESS AND THE ARCHIVE* (Daniel Heller-Roazen trans., 1999).

23. Many protagonists of the humanitarian scene belong to the generation of 1968, which has always been mistrustful of institutions and local and national governments.

24. See generally GIORGIO AGAMBEN, *MEANS WITHOUT END: NOTES ON POLITICS* (Vincenzo Binetti & Cesare Casarino trans., 2000); see also generally Michael Hardt & Thomas Dumm, *Sovereignty, Multitudes, Absolute Democracy: A Discussion Between Michael Hardt and Thomas Dumm About Hardt and Negri's Empire*, in 4 *THEORY & EVENT* (2000), at [http://muse.jhu.edu/journals/theory\\_and\\_event/v004/4.3hardt.html](http://muse.jhu.edu/journals/theory_and_event/v004/4.3hardt.html).

moving instead according to what Laïdi has more recently called planetary time.<sup>25</sup> The emotional components of the single humanitarian choice are also multiple and confused, and are often experienced in contradictory ways by single individuals, who may experience a mixture of pietas and cynicism, of the desire for adventure and the necessity to be present in the mediatized arena, of money and emergency, of bureaucracy and anti-ideology.

Edward Said has held that the discursive forms that feed a colonial power function not only as an instrumental form of consciousness, but also as an ambivalent protocol for imagination and desire.<sup>26</sup> Such recognition appears central for understanding how the humanitarian emergency constructs, feeds, and reinforces a power that under the guise of neutrality imposes rules of spatial and temporal compression.

The rhetoric of pietas, the one-dimensional construction of the enemy, and the “moral” necessity of simultaneous and fragmented action are discursive constructions that stifle any dissident or alternative voice. Witnessing is the central element in this regime of governmentality.

#### IV. MIGRANT SOVEREIGNTY IN THE AFTERMATH OF EMERGENCY

The overall feature present in most interviews of experts or aid workers active in the humanitarian apparatus is the trope of personal witnessing: “I saw, I was . . .” is often rendered as “I did Bosnia, Albania, Kosovo, and I will surely do Macedonia and Afghanistan.”<sup>27</sup>

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25. Zaki Laïdi, *L'urgence ou la dévalorisation culturelle de l'avenir*, in *URGENCE, SOUFFRANCE, MISÈRE: LUTTE HUMANITAIRE OU POLITIQUE SOCIALE?* 43-59 (Marc-Henry Soulet ed., 1998).

26. See generally EDWARD W. SAID, *ORIENTALISM* (1978).

27. The “confidential” report is a key cultural facet of the humanitarian world connecting press officers, general managers, officers-in-charge, local elites, intellectuals, and especially journalists. Anyone who possesses, transmits, or receives a confidential report immediately increases his or her own credibility within the local context of humanitarian operations. During the war in Kosovo, strictly “confidential” documents from Brussels, Washington, the World Bank, and other strategic studies’ think-tanks circulated widely in Tirana. The effect of confidential reports, then, is two-fold. On one level, they produce a discourse on the locals which is taken up in the international circuit. On another level, their channels of circulation serve to create a bipolar society within the local with, at one end, the élites who lavishly display their access to information and, at the other, those who are constructed as passive objects of knowledge. In this sense we can speak of a machine for producing hierarchies and top-down power flows. On one side, one finds the sectors of society in an implicit partnership with transnational values and agencies maintained through continuous dialogue and collaboration. On the other side, one finds a passive marginalized sector of the local society, which may also include those government representatives who have failed to become part of the international organization circuit. Humanitarian intervention introduces a wedge within local societies, splitting them into two separate parts.

As Rufin notes, the temptation to conceive all humanitarian matters as inherently innocent, so deep-seated in Western consciousness, is

increasingly at variance with reality, because today humanitarianism has entered the era of high complexity . . . which cannot accommodate either romantic tendencies or the desire to “naturalize” war, which forgets that conflicts are not engendered by some sort of barbarian absurdity born out of some kind of tribalism, or the result of an excess of extremist fury, but always have “political” origins.<sup>28</sup>

One cannot dispute the legitimacy of an intervention seeking to help victims on the ground or to rebuild a nation where massacres have taken place. Yet as soon as the media leave the scene of the “humanitarian disaster,” the theater of generosity loses its actors.

In Albania, during the three-month-long war of 1999, the emergency provoked the deployment of an enormous apparatus of humanitarian organizations<sup>29</sup> to accommodate 500,000 refugees. In so doing, for the sake of efficiency and experience, it also interrupted negotiating activities with local institutions and with international diplomats present in Albania. Within twelve days, NATO, the international military force (AFOR<sup>30</sup>), and the bilateral and multilateral bodies active in Albania at the time had superseded the embassies and local government. The international organizations proposed that they administer ninety percent of the necessary aid themselves, with the remaining ten percent administered at the local level. Yet within two weeks, even this ten percent had been appropriated by the ad hoc intervention force. NATO’s military logistical infrastructure was deployed with such “efficiency” that it had the whole territory under its control, assigning responsibilities and distributing roles. It was a global strategy of control that took advantage of economists, business consultants, and administrators who had earned their Masters’ from the most prestigious American universities.

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28. Rufin, *Pour l’humanitaire*, *supra* note 5, at 10, 20.

29. In Albania from April to July 1999, AFOR had 19 nationalities in its ranks, over 7,000 NATO soldiers, 4 groups of observers, including two from the Organisation for Co-operation and Security in Europe (OCSE), and a dozen people from Western special government missions. During the Kosovo conflict, 180 international NGOs were present in Albania. The result in Kosovo, one year after the conflict: 40,000 soldiers from KFOR (a NATO-led, international security force), and 20,000 civilians (working for UNMIK, United Nations Mission in Kosovo, and international NGOs).

30. Albanian United Nations Military Forces.

Wearing the badge of an international organization was enough to gain entry into the pyramid mausoleum built by Hoxha in the center of Tirana, which had become NATO headquarters, to view the maps—reports (updated every three hours) on the precise number of refugees, the situation of individuals displaced from one extremity to the other of the country, epidemics, the quantity of available drugs and where they were needed, the number of showers, how many toilets were needed in a specific location, and so forth. In short, it was an organizational strategy so pervasive that it immediately eliminated any possible alternative mode of intervention. All this, as I have said, in the name of the need to cure, nourish, and save “human lives.”

The day after the war ended, in June 1999, I was still in Albania. Within a few days, the limelight of media compassion was turned off. Hotels were emptied of journalists, officials, and international aid workers; apartment leases were canceled. The transnational “army” was renting helicopters and cars to move on to another site of humanitarian compassion. At the same time, ethnic Albanians were quickly heading back to their homes in Kosovo. The end of the war and the mass return of the Kosovars resulted in the suppression of the “emergency” in Albania, which in a few days was to be displaced to the “liberated” territory of Kosovo. The result was that NGOs and international agencies active in Albania closed down their local operations and laid off their Albanian employees, leaving behind unused material which had not even been cleared by local customs. The emergency had moved elsewhere, and new operations, new logistics and apparatuses, had to be put in place in and for Kosovo.<sup>31</sup>

Three years later, projects that had been financed in Kosovo for the first year after the war have been put on hold because the “emergency” provisions have expired.<sup>32</sup> As a consequence, available funds can no longer be used. Moreover, the changed political situation in Serbia and the emergence of conflicts between KFOR, the U.N. mission in Kosovo, and the Albanian guerrillas in Macedonia have yet again displaced the focus of the “emergency.”

Emergency and post-emergency are effects of suffering and violence that are consistent with categories recognized by international protocols. The line separating so-called “emergency” projects from “post-emergency” ones forces

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31. These observations are culled from two years of fieldwork from 1998 to 2000, during which I interviewed key officials, politicians, and civil society actors before, during, and after the conflict in Kosovo.

32. I observed from my interviews that the “emergency” period was an administrative definition that allowed loosening the rules for the allocation and distribution of resources, regardless of the actual situation on the ground.

project directors constantly to revise their strategies at all levels in order to adopt the right rhetoric and thus be able to keep getting the funding necessary to keep their intervention afloat. Laïdi draws attention to the existence of a supply-effect of emergency. “As soon as emergency is professionalized, it tends to structure itself as social supply waiting for its demand. And if the demand does not exist, one tends to create it.”<sup>33</sup> In other words, certain humanitarian organizations justify their existence with a circular logic: a state of emergency is legitimate because urgent action has to be taken.

The media-generated triangle of NATO, humanitarians, and refugees has eliminated the other social partners involved in the conflict from the game. At the same time, however, the “political” role that the humanitarian industry plays has become evident as certain sectors are developed while others are neglected, and as strategic priorities that go beyond the logic of defense, shelter, and protection are considered, constructing transnational priorities and weakening entire sectors of the local society that do not correspond to standards prioritized and recognized by the intervention.

A series of categories drawn from the discursive and operative strategies of humanitarianism is thus applied to the territory and to human beings. Such categories may be extended to the world system of potential and real donors, multilateral and bilateral accords, ad hoc U.N. agencies and, finally, to programs that are much less controllable—in terms of execution of project, budget, and so forth—if they are constructed and enacted in the period labeled as an “emergency.”

The “do something syndrome” is the response adopted by governments, U.N. agencies, and international NGOs when confronted by the public’s concern about a crisis. “Something must be done” is a powerful justification, particularly when further strengthened by the spectacle of distant suffering. Yet in the final analysis it shows the dangerous gap that exists between humanitarian “needs” and humanitarian “budgets.”

It is a practice that constitutes subjects, both the operators of the intervention whose agency is cast within the humanitarian ideology, and those who would be their beneficiaries—the mute subjects whose dense sociality is reduced to thin descriptions in bureaucratic reports. Thus, in exemplary fashion, the bureaucratization of pietas, couched in the rhetoric of universalism, efficiency, good intentions, and the need to act, imbues and determines the

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33. Laïdi, *supra* note 24, at 57.

stream of pamphlets and confidential reports that document the humanitarian universe.

The dimension of experience or previous individual and collective history is erased by the new categories in which human beings are pigeonholed; the terms “victim,” “refugee,” “trafficked woman,” or “trauma case” do not relate to experiences of traumatic events, but are labels by means of which it is possible to activate procedures such as fundraising, protocols, the establishment of transversal and transnational institutions and, ultimately, of a business whose importance and amplitude is concealed by charitable pias. A refugee is a completely exportable and generic category, whether from Bosnia or the Philippines; a trafficked woman enters into repatriation procedures whether she is in Kosovo or in Thailand; and demilitarization is accomplished with similar procedures whether in Africa or in South America.

#### CONCLUSION: THE KOSOVO “EXCEPTION” NOW EXISTS FOR BETTER AND WORSE

In conclusion, let me draw the following points. First, all humanitarian action is legitimized by its humanitarian intentions, never by its defense of specific interests. The legitimacy of a humanitarian operation derives from its being conceived of as an end in itself, the expression of a humanitarian impulse. Such an operation should not be understood as an instrumental form of political action. Second, intervention most often occurs where there is the sudden breakdown of a pre-existing equilibrium. Humanitarian action is constructed out of such a “crisis,” for it is here that it legitimates its operation. Yet the notion of the breakdown of a pre-existing equilibrium is ambiguous, as dramatic examples can testify. As underlined by the independent commission in Kosovo (August 1999-October 2000), we need a critical approach to the interpretation of emerging doctrine of humanitarian intervention. We need to shed light on the grey zone that lies between an extension of international law and a proposal for an international moral consensus where humanitarian interventions proliferate. In essence, this grey zone goes beyond strict ideas of legality to incorporate more flexible views of legitimacy. In a time characterized by “failing states” and “ethnic conflicts”—an explosion in the number of refugees and stateless persons—the humanitarian industry has emerged as an immensely powerful biopolitical force, effectively having power of life and death over millions the world over. It is time for this industry to be subjected to critical scrutiny.

