

# Humanitarian Assistance as Peace-Keeping - Beyond Charity -

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Shoji Matsumoto

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Shoji Matsumoto

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## Summary

Due to the prevailing nationalism, the prospect of increase in voluntary donation for humanitarian assistance by States and citizens in charity is depressing, though humanitarian crises are increasing and becoming complicated. Thus, MINUSMA, MINUSCA and G5 Sahel Joint Force lack funds. For starting discussions on the donation by citizens not in charity, Japan's experience of Furusato Nozei, or 'Hometown Donation Program', will be briefly referred.



# Humanitarian Assistance as Peace-Keeping - Beyond Charity -

## 1. Introduction

Around the world, 140.2 million people are estimated to be in urgent need of humanitarian assistance<sup>1</sup>. Reportedly, it is the highest number since World War II. At the end of April 2019, therefore, funding of \$25.17 billion was required for humanitarian assistance. However, the amount received was only \$2.58 billion, its funding coverage stopped at 10.2%<sup>2</sup>. In the Sahel area, in particular, the securing of funding and delivery of relief goods for the stable supply of assistance to the humanitarian crises is urgently needed.

In the United Nations (UN), primarily, the Office for the Coordination of Humanitarian Affairs (OCHA) is in charge of humanitarian assistance<sup>3</sup>. According to Kimberly Flowers, “the resiliency of the humanitarian system is in many ways quite dependent upon UN leadership and coordination”. So, she appreciates OCHA as a critical player in this space. “The world relies on UN OCHA not only for reports on global humanitarian needs or for trends”, she continues, “but also on their ability to connect and coordinate this growing global system of donors and of implementing partners”<sup>4</sup>. To finance OCHA’s activities, however, only 5% of the Office’s annual budget is funded from the UN Regular Budget. Therefore, OCHA remains reliant on voluntary contributions from the Member States, the European Commission and other donors<sup>5</sup>.

Moreover, recent humanitarian crises, especially in the Sahel area, are so diversified and complicated by terrorism, hunger, separatism and so on that even other factors than the supply of assistance as such should be taken into account. Besides, in the process of delivering humanitarian assistance to the victims, it is also required to improve not only security situation but also political and social architectures of the affected area<sup>6</sup>. Thus, the multidimensional integrated stabilization support was suggested, and has been in fact deployed as MINUSMA, MINUSCA and G5 Sahel Joint Force. Because of their missions, which are apparently wider than the conventional mission of peacekeeping operation (PKO) mainly to observe a ceasefire agreement, the financial sources to ensure the funding for ‘the holistic missions’ have been a matter of serious concern in the recent international society.

In discussions on the multidimensional integrated stabilization support, both decrease in the amount of funding humanitarian assistance by voluntary donations from States under the pressure of

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1. Although there is no universally agreed definition on humanitarian assistance, the definition on humanitarian disasters by the UN International Law Commission (ILC) may be helpful. ILC, Draft Articles on the Protection of Persons in the Event of Disasters, UN Doc A/71/10, 2016, art. 3(a).
  2. UN OCHA, “Monthly Funding Update”, Global Humanitarian Review 2019, April 2019, p. 1, <https://reliefweb.int/report/world/global-humanitarian-overview-2019-monthly-funding-update-april-2019-enar>.
  3. On the UN legal framework for humanitarian assistance in general, see A. Zwitter, “United Nation’s Legal Framework of Humanitarian Assistance”, H-J. Heinze and A. Zwitter (eds.), *International law and Humanitarian Assistance*, Springer, 2011, pp. 51-70.
  4. “Saving Lives in a Time of Crisis: Why the Global Humanitarian System Matters”, Center for Strategic and International Studies, February 5, 2019, pp. 1-2, [https://csis-prod.s3.amazonaws.com/s3fs-public/publication/190214\\_Event\\_Transcript.pdf](https://csis-prod.s3.amazonaws.com/s3fs-public/publication/190214_Event_Transcript.pdf).
  5. UN OCHA, “Funding”, 2019, <https://www.unocha.org/about-us/funding>.
  6. Oxfam’s Ferran Puig said, aid efforts in Central African Republic were severely hampered by insecurity. “A lack of humanitarian access to some areas is really preventing us from moving around outside of the areas [that are] under control of Minusca. When you try to do humanitarian response to communities [elsewhere], it’s very difficult”, R. Ratcliffe, “Killing, Abuse, Sexual Violence beyond Beliefs: Fears Grow of All-Out War in CAR”, *The Gurdian*, 16 November, 2018, <https://www.theguardian.com/global-development/2018/nov/16/killing-abuse-sexual-violence-beyond-belief-fears-grow-of-all-out-war-in-central-african-republic>.

extreme nationalism and increase of complicated humanitarian crisis due to terrorism and hunger<sup>7</sup>, like in Burkina Faso<sup>8</sup>, have been shared. And the discussions on the wider mandates have substantially made it clear that it would be necessary to reconsider fundamentally the existing financial sources largely based on the voluntary donations from States, if the implementation of ‘the holistic missions’ is to be continued.

In 2019, the members of the Security Council expressed their willingness “to continue to contribute to prevent a further destabilization of the security situation in Burkina Faso, in particular in parts of the country which are subject to cross-border challenges and have a bearing on peace and security in the Sahel”, and encouraged the Secretary-General “to swiftly pursue the current assessment process aimed at adapting United Nations support on the ground to the evolving needs of the population, including in the fields of development, humanitarian needs, social cohesion, rule of law, human rights, fight against terrorism and capacity-building of the Burkinabe security forces, in line with the priorities of the Government of Burkina Faso”<sup>9</sup>. The ambivalence implied in the above willingness and the unwillingness of the Security Council members to contribute the sufficient funds to “the holistic mandates” may have been caused by the prevailing position of States in recent humanitarian assistance, which seems to have greatly expanded to include even military assistance, as if States were also the victims of humanitarian crisis. Thus, today, ironically, States may be possibly playing the leading role in humanitarian assistance not only as donors but also as victims, particularly in complicated humanitarian crises in the Sahel area.

“One of the many ironies associated with contemporary humanitarianism is that”, it is critically pointed out, “despite the extent to which private actors have laid claim to it, the legal clothing of humanitarianism has always been determined by states”<sup>10</sup>. The roles of private actors, or citizens, should not be made light of as usual, particularly if the unwillingness of States to denote the sufficient funds for humanitarian assistance and the ambivalence of the Security Council members in respect to the expensive “holistic missions” are taken into account. The topic of new financial sources should be listed on the agenda of discussion that is not solely based on voluntary donations from States but also from citizens, and not based on asymmetry of one-sided goodwill of charity or benevolence but on symmetrical complementarity.

As one of the possible bases for discussions towards the new initiatives to secure an additional financial source for humanitarian assistance, the recent experience of Japan’s Furusato Nozei, or ‘Hometown Donation Program’, will be briefly referred, and will be considered to find more or less similar grounds with humanitarian assistance financed by voluntary donations in the international society.

## 2. Humanitarian Assistance on Crossroad

Typically, voluntary donations are motivated to make by the spirits of charity or benevolence, and usually provided from a surplus of donor’s income or property, whether a State or citizen. As the

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7. “Sahel Crisis Reaching Unprecedented Levels, Warn Top UN Humanitarian Officials”, UN News, 8 May 2019, <https://news.un.org/en/story/2019/05/1038131>.

8. “2018 was marked by a difficult security context, with violence reaching new areas. More than 620,000 people have been directly affected by insecurity, 490,000 of whom are in immediate need of nutrition, education and health assistance after closures of schools and health centers”, Action against Hunger, 2019, <https://www.actionagainsthunger.org/countries/africa/burkina-faso>.

9. “Security Council Press Statement on Group of Five for Sahel Joint Force”, UN Doc S/13811, 16 May 2019.

10. M. Bettani, “L'accès aux victimes: droit d'ingérence ou droit d'assistance?”, Law in Humanitarian Crises, vol. II, Office for Official Publications of the EC, 1995, pp. 13-66.

surplus is normally subjectively conceived as unnecessary funds for the time being by the donor State or citizen in self-consciousness, the amount of voluntary donations would never become stable. For that reason, the amount of financial sources for humanitarian assistance cannot become stable. Even if it is unstable, if the amount of voluntary donations suffices the needs of humanitarian crisis, problems would not emerge. But in reality the amount of voluntary donations from States is far short of the needs. “Governments and aid agencies”, the OXFAM International proclaims, “must dramatically improve the way they provide aid and support local organisations, uphold the international law that is meant to protect civilians, and uphold the rights of people fleeing from conflict and disaster”<sup>11</sup>.

Because of the more and more diversified and complicated nature of recent humanitarian crisis due to terrorism, organized international crimes and hunger, almost always the amount of financial sources is insufficient to effectively implement the relief of victims. On the basis of OCHA’s review of 2017 in respect of G5 Sahel States<sup>12</sup>, in Burkina Faso only 49% of the requirements was met, in the Central African Republic 41%, Mali 48%, Mauritania 35%, and Niger 81%<sup>13</sup>.

Given the unstable and insufficient amount of funding humanitarian assistance by States, the options for the stable funding for assistance left would appear, at the first sight, to be two: first, to institutionalize the funding of humanitarian assistance as an independent cost item in the UN Regular Budget; second, to secure new financial sources that are not reliant on the voluntary donations from States.

The first option may be normally held as the most ideal means to stabilize the funding for humanitarian assistance, because it is usually believed that the imposition of legal obligations by means of institutionalization is one of the most effective means to force and secure contributions, just like the case of tax collection. In this respect, the recent works by the International Law Commission (ILC) of the UN may be referred to.

Though in respect of disasters, the ILC is preparing the draft articles to “facilitate the adequate and effective response to disasters, and reduction of the risk of disasters, so as to meet the essential needs of the persons concerned, with full respect for their rights”<sup>14</sup>. Indeed, between disaster and conflict, there are differences in concerns, for instance, over security. In regulatory concerns, however, the same issues may well be involved in both disaster and conflict, including “regulatory barriers, such as bureaucratic delays in the entry of personnel, goods and equipment”, and also “regulatory gaps, such as the absence of mechanisms to facilitate efficient domestic legal recognition of international organisations”<sup>15</sup>.

In the ILC Draft Articles on Disasters, “disaster” means a calamitous event resulting in widespread loss of life, great human suffering and distress, mass displacement, or large-scale material or environmental damage, thereby seriously disrupting the functioning of society<sup>16</sup>. But, the affected

11. OXFAM International, “How the World Should Respond to Humanitarian Crises”, n. d., <https://www.oxfam.org/en/rights-crisis/how-world-should-respond-humanitarian-crisis>.

12. ‘G5 Sahel’ is an international organization for coordination of regional cooperation in development policies and security in the Sahel area, formed in 2014, which is organized by Burkina Faso, Central African Republic, Mali, Mauritania and Niger. It is different from ‘G5 Sahel Joint Force’ as such, as an international organization. Convention portant Création du G5 Sahel, 2014, <http://www.g5sahel.org/images/convention.pdf>.

13. OCHA, World Humanitarian Data and Trends 2017, 2018, pp. 9-11.

14. ILC, Draft Articles on the Protection of Persons in the Event of Disasters, UN Doc A/71/10, 2016, art. 2.

15. GSDRC, International Legal Frameworks for Humanitarian Action: Topic Guide, GSDRC, University of Birmingham, 2013, p. 37.

16. ILC, Draft Articles on Disasters, supra n. 14, art. 3(a).

State is entitled not to give consent to and to place conditions on the provision of external assistance<sup>17</sup>, though in 2014 the Security Council has enabled humanitarian access to provide cross-border relief without having to obtain the government's consent in the situation of armed conflicts in Syria<sup>18</sup>. M. Weller discusses the 'forcible humanitarian action' under international law<sup>19</sup>.

As regards States, however, their recent stance on humanitarian problems does not look largely advantageous for the first option, particularly in consideration of their restrictive immigrant/refugee policies. Although humanitarian assistance has been guided by the so-called humanitarian principles of impartiality and neutrality<sup>20</sup>, as Andrew Natsios observes, "the international humanitarian agenda cannot be sustained outside of the politics and foreign policy of the great powers"<sup>21</sup>. In fact, the egoist approach seems to be prevailing in the politics and policies of such great powers as the permanent members of the Security Council. Egoism that is widely prevailing among States, illustrated in the rejection of multilateralism in favor of bilateralism, would discourage the institutionalization of funding for humanitarian assistance in the UN.

If the institutionalization of financing humanitarian assistance is less feasible, there is no choice but to look for the new financing sources other than voluntary donations by States. Even when it is determined to seek for the new financing sources, the still overwhelming position of States in the 21st century international society would make it necessary, for the time being, to take the current politics and policies of States into consideration. One of the recent examples of humanism that has taken such politics and policies into account may be 'the new humanitarianism'<sup>22</sup>. 'The new humanitarianism' was employed in practice as a policy by the UK in 1998, correctly or incorrectly, to address the alleged limits of conventional humanitarian assistance in Sierra Leone<sup>23</sup>. "New, however, does not automatically mean improved", it is reminded by Zeynep Sezgin and Dennis Dijkzeul. "Some 'new' actors may actually succeed in improving their work, but others may fail"<sup>24</sup>.

Actually, 'the new humanitarianism' has already begun to be questioned and challenged that humanitarian implications are increasingly taken on the basis of political criteria and interests instead of on the victims' needs, due to a distortion in the original essence of humanitarianism and limited independent and impartial humanitarian action. Thus, 'the new humanitarianism' is criticized by Daniela Nascimento as resulting in "political instrumentalization of humanitarian action, erosion of classical humanitarian principles and militarization"<sup>25</sup>. Meanwhile, as Nederveen Pieterse predicts a boomerang effect from a long-term perspective, "even if humanitarian aims are mere fig-leaves

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17. *Ibid.*, arts. 13(1), 14.

18. UN SC Res 2165, 2014, para. 2. See generally, E. Kuijt, *Humanitarian Assistance and State Sovereignty in International Law: Towards a Comprehensive Framework*, Leiden University Repository, School of Human Rights Research Series, vol. 76, 2015, pp. 434-442, [https://openaccess.leidenuniv.nl/bitstream/handle/1887/36434/Manuscript\\_Ekuijt\\_Proefschrift.pdf?sequence=3](https://openaccess.leidenuniv.nl/bitstream/handle/1887/36434/Manuscript_Ekuijt_Proefschrift.pdf?sequence=3).

19. M. Weller, "Forcible Humanitarian Action in International Law- part II", *EJIL: Talk!*, May 18, 2018, <https://www.ejiltalk.org/forcible-humanitarian-action-in-international-law-part-ii/>.

20. H. Spieker, "The Right to Give and Receive Humanitarian Assistance", H-J. Heinze and A. Zwitter (eds.), *op. cit.*, supra n. 3, p. 7. Particularly on the principles of "humanitarian", "impartial" and "neutral" in international humanitarian law, see K. Mackintosh, *The Principles of Humanitarian Action in International Humanitarian Law*, Overseas Development Institute, 2000, pp. 7-9.

21. A. Natsios, "US Foreign Policy and the Four Horsemen of the Apocalypse: Humanitarian Relief in Complex Emergencies", 1997, p. 32.

22. On the double meanings of 'new'- as an actor and concept - in new humanitarianism, see Z. Sezgin and D. Dijkzeul (eds.), *The New Humanitarians In International Practice: Emerging Actors and Contested Principles*, Routledge, 2016, p. 2. 'The new humanitarianism' is critically reviewed in F. Fox, "New Humanitarianism: Does It Provide a Moral Banner for the 21st Century?", *Wiley Online Library*, 2002, <https://onlinelibrary.wiley.com/doi/abs/10.1111/1467-7717.00178>.

23. T. Schümer, *New Humanitarianism: Britain and Sierra Leone, 1997-2003*, Palgrave Macmillan UK, 2008, pp. 76-148.

24. Z. Sezgin and D. Dijkzeul, *op. cit.*, supra n. 22.

25. D. Nascimento, "One Step Forward, Two Steps Back? Humanitarian Challenges and Dilemmas in Crisis Settings", *The Journal of Humanitarian Assistance*, 2015, <http://sites.tufts.edu/jha/archives/2137>.

at present, they still set new standards in international politics which will have consequences over time”<sup>26</sup>. The lessons that “the new humanitarianism” has given may be the limits of conventional humanitarianism and the necessity of “the holistic missions” for international humanitarian actions.

In light of the current transitional situation of humanitarianism, particularly in respect of States, including the advocacy of ‘the new humanitarianism’, the second option may be more stable and realistic than the first. Even in the case of the second option, however, the boisterous legitimization and rapid diffusion of egoism all over the world involves citizens. That must be duly taken into account, if the option is to be made a reality. When that is taken into account, a dramatic increase in funding humanitarian assistance by any voluntary contributions, even from citizens, would not be optimistically expected. If the globalization of egoism is true, the only practical option as the new source for funding humanitarian assistance left would be to look for a completely different mode of communication other than one-sided charity or benevolence on the part of citizens, no matter how difficult it may be to implement.

Indeed, according to D. Nascimento, classical humanitarian activities have been based on a vision of the human being that is not attached to any political ideology, and has been characterized by the need for an independent and neutral involvement of humanitarian actors. However, the classical concept of humanitarianism has already changed and become more fragmented and complex, referring to a wider range of activities and situations<sup>27</sup>. Thus, Hugo Slim observes that humanitarian activities became no longer limited to humanitarian agencies in their classical sense<sup>28</sup>. In fact, humanitarian activities have been extended even to the UN PKOs<sup>29</sup>. Robert M. Perito summarizes that “[n]ew UN Peace operations have involved the United Nations directly in the struggle against transnational Islamist terrorism, weapons proliferation, and illicit trafficking by international organized crime”<sup>30</sup>. What happened to the UN PKO and humanitarianism?

The following brief review of the process and achievements of recent PKOs and humanitarian activities in the Sahel area may help to catch a glimpse of “the politics and foreign policy of the great powers” and the UN on the international humanitarian agenda.

### 3. MINUSCA, MINUSMA and G5 Sahel Joint Force

In the UN budget system, PKO seems more stable than conventional humanitarian assistance as such, for the budget for PKO is regularly recorded in the annual UN Regular Budget, while for the item of humanitarian as such only 5 % of the OCHA’s annual budget is funded from the Regular Budget. The UN Member States are legally obligated to pay their respective share towards PKO, in accordance with article 17 (2) of the UN Charter. The General Assembly apportions the expenses of PKO based on a special scale of assessments under a complex formula. The approved budget for PKO for the fiscal year July 2018 - June 2019 is \$6.7 billion<sup>31</sup>. Many States have also voluntarily made additional resources available to support PKO efforts on a non-reimbursable basis in the form of transportation,

26. N. Pieterse, “Sociology of Humanitarian Intervention: Bosnia, Rwanda and Somalia Compared”, *idem* (ed.), *World Orders in the Making: Humanitarian Intervention and Beyond*, Macmillan, 1998, pp. 15-20.

27. Nascimento, *loc. cit.*, supra n. 25.

28. H. Slim, *Military Intervention to Protect Human Rights: the Humanitarian Agency Perspective*. International Council for Human Rights Policy, 2001, p. 5.

29. UN Peacekeeping, “Protection of Civilians Mandate”, n. d., <https://peacekeeping.un.org/en/protection-of-civilians-mandate>.

30. R. Perito, “UN Peacekeeping in the Sahel”, United States Institute of Peace, Special Report 365, 2015, p. 13.

31. UN Doc A/C.5/72/25, 2018.

supplies, personnel and financial contributions above and beyond their assessed share of PKO costs. And, each PKO has its own budget and account which includes operational costs such as transport and logistics and staff costs such as salaries. The UN Secretary-General submits budget proposal to the Advisory Committee on Administrative and Budgetary Questions, which reviews the proposal and makes recommendations to the Fifth Committee of the General Assembly for its review and approval. Finally, the budget is endorsed in the General Assembly<sup>32</sup>.

So, if the mission of humanitarian assistance is included in PKO missions, like the cases of UN Multidimensional Integrated Stabilization Mission in Central African Republic (MINUSCA) and UN Multidimensional Integrated Stabilization Mission in Mali (MINUSMA), the funding for humanitarian assistance would be practically institutionalized to that extent and it would be more stabilized. Such assistance may be called ‘humanitarian assistance as peace-keeping’<sup>33</sup>. Although the significance and expected roles of conventional peace-keeping should not be thereby reduced, it’s true that humanitarian assistance as a mission of peacekeeping is more institutionalized than humanitarian assistance that is funded by voluntary donations from States.

But, problems that humanitarian assistance faces today are not limited to only funding problems, albeit very serious, because of other problems such as security, political and social situation that were mentioned above, on the one hand, and the mental damages caused to victims, on the other hand. Thus, the nature of humanitarian assistance itself has become a shared topic for discussion from a variety of perspectives.

“The International Committee of the Red Cross is the most jealous guardian of orthodoxy in humanitarian assistance”, according to Seán Greenaway, “its mandate is derived from the 1948 Geneva Conventions, and the Committee seeks a clear separation between ‘humanitarian’ and ‘political’ action”<sup>34</sup>. “With the end of the Cold War”, D. Nascimento responds to that orthodoxy, “both the concept and practice of humanitarian action have significantly changed”. And Nascimento observes that “the emergence of the so-called ‘complex humanitarian crises’ made it clear that traditional humanitarian responses based on the classical principles of impartiality and neutrality were not sufficient nor the most appropriate to respond to such complex challenges”. Then, he suggests the emergence of a ‘new humanitarianism’, which involves much broader and longer-term objectives”, leading to the “political and militarized nature of humanitarian action”<sup>35</sup>. To the same effect, it has been pointed out that “humanitarian aid is rarely non-political and neutral; there have been calls for a ‘new ethic’”<sup>36</sup>. Because of the complex nature of recent humanitarian crises, in particular in the Sahel area, a “holistic approach” has been submitted.

Thus, in 2013, MINUSMA was established under Chapter VII of the UN Charter by the Security

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32. UN Peacekeeping, “How We are Funded”, n. d., <https://peacekeeping.un.org/en/how-we-are-funded>.

33. Problems on human rights as a mission of UN PKO are discussed in S. Maus, “Human Rights in UN Peacekeeping Missions: A Framework for Humanitarian Obligations?”, H-J. Heinze and A. Zwitter (eds.), op. cit., supra n. 3, pp. 103-128.

34. S. Greenaway, “Post-Modern Conflict and Humanitarian Action: Questioning the Paradigm”, *The Journal of Humanitarian Assistance*, January 9, 2000, <http://sites.tufts.edu/jha/archives/145>. See also K. Mackintosh, “Beyond the Red Cross: The Problem of Independent Humanitarian Organizations and Their Staff in International Humanitarian Law”, H-J. Heinze and A. Zwitter (eds.), op. cit., supra n. 3, pp. 33-50. As regards the ICRC, see C. F. Brühwiler, P. Egli and Y. Sánchez, “The ICRC at a Crossroads: Swiss Roots—International Outlook”, *The Journal of International Humanitarian Action*, July 9, 2019, <https://jhumanitarianaction.springeropen.com/track/pdf/10.1186/s41018-019-0060-0>.

35. Nascimento, loc. cit., supra n. 25.

36. Greenaway, loc. cit., supra n. 34.

Council<sup>37</sup>. Then, the Security Council decided that MINUSMA should assume duties on stabilization and protection of civilians, and the protection of human rights in Mali<sup>38</sup>. “The mandate of MINUSMA is much broader than that of a traditional UN PK”, reaffirms Ewan Lawson<sup>39</sup>. In the meantime, the critics have warned that “provision of aid alongside international forces siding with the state against armed opposition groups, risks posing obstacles for humanitarian access and security”<sup>40</sup>.

The next year, deployment of MINUSCA was authorized by the Security Council, acting under Chapter VII of the UN Charter<sup>41</sup>, to respond to the security, humanitarian, human rights and political crises in Central African Republic, with the protection of civilians as its priority. Supports for facilitating humanitarian assistance, protection of human rights, and justice and the rule of law are among its missions<sup>42</sup>. Actually, however, “[p]ast peace agreements in Central African Republic, supported by interventions by the subregion, the African Union and the United Nations, have fallen short of resolving the scourge of violence and conflict that have resulted from the systematically unaddressed and deep-rooted issues of poverty, inequality, impunity, marginalization, contested citizenship and discrimination”, the Secretary-General reports<sup>43</sup>.

The limitations of MINUSCA were manifested, in fact, by the killing of a Tanzanian UN peacekeeper by an armed group<sup>44</sup>. Jan Egeland, Secretary-General of the Norwegian Refugee Council said in 2018, “[t]his is a place where a hand grenade and loaf of bread are more or less the same price”, and he continues, the prevalence of diamonds and other precious metals has enabled the continuous use of force by armed groups, besides “[i]t is very easy to get guns and grenades for a low price, and unemployed, desperate young men are even cheaper”<sup>45</sup>.

In such a situation, it has been noted that the mandates of MINUSCA are too widespread to effectively implement, considering the limited number of MINUSCA personnel, standing at 15,045 as of March 2019<sup>46</sup>. The mandates extend from the promotion of human rights through the support of the rule of law to disarmament. But, widespread mandates are the *raison d’être* of MINUSCA, as described above.

In respect of the mandate to support the rule of law, it is reported that in February 2017 “the Central African authorities finally appointed the Special Prosecutor of the Special Criminal Court”, a long awaited tribunal with the temporal jurisdiction over various crimes committed in the Central African Republic, including serious violations of international humanitarian and human rights law<sup>47</sup>.

Meanwhile, G5 Sahel States announced, in July 2017, the establishment of G5 Sahel Joint Force. Its

37. UN SC Res 2100, 2013.

38. UN SC Res 2164, 2014.

39. E. Lawson, “Peacekeeping in Africa: The Importance of the Regional?”, OCP Policy Center Policy Brief, PB-18/09, 2018, p. 2.

40. A. Ponthieu, C. Vogel, and K. Derderian, “Without Precedent or Prejudice? UNSC Resolution 2098 and its Potential Implications for Humanitarian Space in Eastern Congo and Beyond”, *The Journal of Humanitarian Assistance*, 2014, <http://sites.tufts.edu/jha/archives/2032>.

41. UN SC Res 2149, 2014.

42. UN Peacekeeping, “MINUSCA Fact Sheet”, 2019, <https://peacekeeping.un.org/en/mission/minusca>.

43. UN Doc S/2018/922, 2018, para. 3.

44. “UN Chief Condemns Killing of ‘Blue Helmets’ in DR Congo, as Violence Erupts prior to Elections”, Directorate of Peacekeeping, Nigeria Police Force, November 19, 2018, <http://95.179.158.11/site/un-chief-condemns-killing-of-blue-helmets-in-dr-congo-as-violence-erupts-prior-to-elections/>.

45. Ratcliffe, loc. cit., supra n. 6.

46. M. Mitchell, “Central African Republic: MINUSCA Too Little, Too Late?”, *Journal of Diplomacy*, October 27, 2014, <http://blogs.shu.edu/diplomacy/2014/10/central-african-republic-minusca-too-little-too-late/>.

47. P. I. Labuda, “The UN Goes to War in the Central African Republic: What are the Limits of Peacekeeping?”, *Just Security*, March 23, 2017, <https://www.justsecurity.org/39151/war-central-african-republic-limits-peacekeeping/>.

funding sources originate from voluntary contributions in particular by the EU, participating States and bilateral support by the US<sup>48</sup>.

The US's preference of bilateral support to multilateral support to G5 Sahel Joint Force is allegedly concerned with the doubts about its mandate and related tasks. Critics, including the US, reportedly believe its mandate as "ill-defined". Even if its mandate is ill defined for the US, the African Union (AU) Peace and Security Council defined the mandate in four tasks<sup>49</sup>, though as "ad hoc security measures"<sup>50</sup>, among them was a mandate to facilitate humanitarian operations and the delivery of aid to victims.

Despite the US's doubts, moreover, in December 2017, the Security Council of United Nations has adopted a resolution 2391 to provide an operational and logistical support to G5 Sahel Joint Force through MINUSMA<sup>51</sup>. Immediately before its adoption, Mohamed Ould Abdel Aziz appreciated G5 Sahel Joint Force in comparison with MINUSMA. He asserted, "[t]he G5 makes do with the little resources it has, despite lots of pledges, while MINUSMA has huge resources and doesn't do as well", appreciating G5 Sahel Joint Force that "[r]elatively speaking, the G5 has not failed". He has criticized MINUSMA that it is useless to continue to pour billions of dollars into MINUSMA without results<sup>52</sup>. Thus, the Security Council resolution 2391 has become a turning point in that it determined to strengthen the UN support to G5 Sahel Joint Force<sup>53</sup>. Based on the resolution, the UN is enabled for the first time to spend its Regular Budget, though indirectly through MINUSMA, for the G5 Sahel Joint Force, albeit it is not a UN organ. From the viewpoint of the UN Regular Budget, MINUSMA has become, in this vein, a kind of medium to substantially provide the UN support to G5 Sahel Joint Force.

This distortion is at least partly concerned with the difference of positions between France and the US on the relationship between G5 Sahel Joint Force and the UN. In discussions before the adoption of the Security Council resolution 2391, while France had asserted that G5 Sahel Joint Force should be authorized by the Security Council under Chapter VII of the UN Charter, the US objected to that authorization<sup>54</sup>. Thus, the question of collaboration between the two structures of MINUSMA and G5 Sahel Joint Force is still far from settled<sup>55</sup>. With nearly 35% of MINUSMA contingents coming from G5 Sahel States, it would be necessary for the UN and G5 Sahel States to discuss on their different and common roles<sup>56</sup>. It has been predicted from the beginning that the logistical support provided by MINUSMA will encounter its own funding issues, because the US strongly opposes any

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48. A. Lebovich, "Bringing the Desert Together: How to Advance Sahel-Magreb Integration", European Council on Foreign Relations, July 2017, p. 5, [https://www.ecfr.eu/page/-/ECFR224\\_-\\_BRINGING\\_THE\\_DESERT\\_TOGETHER\\_FINAL.pdf](https://www.ecfr.eu/page/-/ECFR224_-_BRINGING_THE_DESERT_TOGETHER_FINAL.pdf).

49. The four tasks are: (1) to combat terrorism and drug trafficking; (2) to contribute to the restoration of State authority and the return of displaced persons and refugees; (3) to facilitate humanitarian operations and the delivery of aid to affected populations, as far as possible; and (4) to contribute to the implementation of development strategies in the G5 Sahel region. "Peacekeeping and Stability Operations Institute (PKSOI) Estimate G5 Sahel's Force Conjointe des Etats du G5 Sahel (FC-G5S)", PKSOI Overview and Update, 15 November 2017, [http://pksoi.armywarcollege.edu/default/assets/File/\(171115\)%20Peacekeeping%20and%20Stability%20Operations%20Institute%20G5%20Sahel%20Military%20Force%20Organizational%20Estimate.pdf](http://pksoi.armywarcollege.edu/default/assets/File/(171115)%20Peacekeeping%20and%20Stability%20Operations%20Institute%20G5%20Sahel%20Military%20Force%20Organizational%20Estimate.pdf).

50. AU Commission, Peace and Security Department, Roundtable on Regional Coalitions and Implications for the APSA and the ASF. Addis Ababa, Ethiopia, 10 August, 2017, quoted in Natasja Rupesinghe, "The Joint Force of the G5 Sahel: An Appropriate Response to Combat Terrorism?", Accord, 18 September 2018, <https://www.accord.org.za/conflict-trends/the-joint-force-of-the-g5-sahel/>.

51. UN SC Res 2391, 2017.

52. F. Kelly, «G5 Sahel Joint Force Better Than UN'S MINUSMA, Mauritania President Says», The Defense Post, November 21, 2018, <http://thedefensepost.com/2018/11/21/G5-sahel-joint-fotce-better-than-minusma-mauritania-president/>.

53. Permanent Mission of France to the UN, "G5 Sahel Joint Force", 2017, <https://onu.delegfrance.org/G5-Sahel-Joint-Force-10433>.

54. Kelly, loc. cit., supra n. 52.

55. J. G. Cooke, "Understanding the G5 Sahel Joint Force: Fighting Terror, Building Regional Security?", Center for Strategic and International Studies, November 15, 2017, <https://www.csis.org/analysis/understanding-g5-sahel-joint-force-fighting-terror-building-regional-security>.

56. Ibid.

increase in MINUSMA's budget and flatly opposes mandatory contributions<sup>57</sup>. Though the personnel of MINUSMA is a little increased to 15,209, it is “the most dangerous peacekeeping mission in the world”, according to Rida Lyammouri<sup>58</sup>. The question that has been asked in this respect is whether MINUSMA has the sufficient capacity to support another force at all besides itself. In fact, however, when an “unprecedented humanitarian emergency” occurred in Burkina Faso in 2019, G5 Sahel States and the AU have requested the Security Council to extend MINUSMA's support beyond Mali's boundaries<sup>59</sup>. Under ordinary circumstances, such humanitarian emergency may be supposed to be properly addressed by G5 Sahel Joint Force.

In favor of G5 Sahel Joint Force, the Assistant Secretary-General for PKO, Bintou Keita, appealed, “[l]et us not forget those who suffer the most, the local population – civilians – who continue to be intimidated and harassed and live in fear for their lives on a daily basis”, and underscored the necessity of “perpetual resource generation efforts” for the operationalization of G5 Sahel Joint Force<sup>60</sup>. And she has added, the UN will continue to depend on others, so as to be able to implement the support measures it has been mandated to provide to G5 Sahel Joint Force<sup>61</sup>. With regard to the support of MINUSMA to G5 Sahel Joint Force, however, the head of the UN PKO, Jean-Pierre Lacroix, said in 2018, MINUSMA is facing “a funding gap of almost \$30 million to provide the support it was mandated to provide to the Joint Force”. Besides, it is pointed out, the number is unlikely to rise. Then, Lacroix appeals, it is our shared and collective responsibility to ensure that G5 Sahel Joint Force succeeds, but “in the absence of funding, there is not much the Mission can do”<sup>62</sup>.

Thus, one of the common urgent problems to MINUSCA, MINUSMA and G5 Sahel Joint Force is, of course, the funding for implementing ‘the holistic missions’. The experience of MINUSCA and the MINUSMA supporting G5 Sahel Joint Force would reconfirm that ‘humanitarian assistance as peace-keeping’ would not be necessarily more stable than voluntary donations from States, despite the remarkable difference in the degree of institutionalization. In other words, for the stable funding, though institutionalization is indispensable, institutionalization alone cannot guarantee the stable funding, because the budget of the UN is reliant on the contributions from the Member States and does not have its own direct financial resources. The limitation of institutionalization should be taken for granted, if based on the recent harsh reality of ‘less donation and more crisis’ in the international society. And the limitation should be kept in mind. Given that reality, even the first option aiming for institutionalization alone would not always ensure the stability of funding for humanitarian assistance, so long as the funding remains to be ultimately reliant on the contributions by States.

From the above, the problem at present is not whether humanitarian assistance should be institutionalized or not. But it is whether the assistance should continue to rely on the unstable donations by States, directly or indirectly. In consequence, irrespective of the first option or the second option, it would be inevitable to seek for the new funding resources of humanitarian assistance, in addition to the existing voluntary donations from States.

57. “Briefing on the Group of Five for the Sahel Joint Force”, What’s in Blue, May 15, 2019, <https://www.whatsinblue.org/2019/05/briefing-on-the-group-of-five-for-the-sahel-joint-force.php>.

58. R. Lyammouri, “After Five Years, Challenges Facing MINUSCA Persist”, OCP Policy Center Policy Brief, PB-18/35, 2018, p. 4.

59. “Briefing on the Group of Five for the Sahel Joint Force”, loc. cit., supra n. 57.

60. “Peace and Security Challenges in Africa’s Sahel Region Require ‘Holistic Approach’, Says UN Official”, UN News, May 23, 2018, <https://news.un.org/en/story/2018/05/1010532>.

61. UN SC Res 2391, 2017.

62. “Sahel States Need International Support ‘Now More Than Ever’ – UN Peacekeeping Chief”, UN News, November 15, 2018, <https://news.un.org/en/story/2018/11/1025851>.

The funding source other than States is necessarily dependent on citizens. So, the new initiatives should allocate a leading role to the citizens in the world. Under the new initiatives, what is expected of citizens should not be their surplus, subjectively so conceived. In other words, it should not rely on the goodwill of charity or benevolence alone, though it should be otherwise praised and recommended. The new initiatives must be reliant on some kind of equivalent exchange. At the same time, the new initiatives should be those that would get citizens all over the world interested in humanitarian crisis in other States far away.

In parallel with the efforts to find new funding resources, however, appropriate measures to decrease the cost of humanitarian assistance should be continuously taken, in preventing and mitigating the existing humanitarian crises. In general, crises are addressed both before and after the events. Even ex post measures may serve as the guarantee of effective prevention and mitigation of crises.

## 4. Ex Post Measures

In the Declaration of the High-level Meeting on the Rule of Law in 2012, the UN Member States committed to ensuring that impunity is not tolerated for genocide, war crimes and crimes against humanity or for violations of international humanitarian law and gross violations of human rights law, and for this purpose, encouraged States to strengthen national judicial systems and institutions<sup>63</sup>.

In the context of humanitarian crisis in the Sahel area, Ms. Keïta said, “a security-driven approach alone will not be sufficient to combat violence in the region in a sustainable manner”<sup>64</sup>. To avoid impunity in humanitarian crisis, the international or regional courts would be expected to complement the domestic jurisdiction in a difficult situation to effectively function. In this connection, the Security Council encouraged G5 Sahel States to deploy the police component of G5 Sahel Joint Force to jointly combat terrorism and transnational organized crime with a view to ensuring the necessary coordination between G5 Sahel Joint Force and the criminal systems of G5 Sahel States<sup>65</sup>.

Thus, the improvement of ex post measures may complement the limit of highly expensive security-driven approach to humanitarian crises. If it were not for criminal punishment, preventive measures such as the protection of international humanitarian and human rights, counter-terrorism and disarmament would not work effectively in societies affected by humanitarian crises. That’s why a crime against humanity, genocide, war crimes and now a crime of aggression should be brought to justice internally or internationally. Actually however, it is reported, in Central African Republic “[c]ivilians are routinely targeted, killed, abused – the sexual violence is beyond belief”<sup>66</sup>.

G5 Sahel States underlined the need to bring perpetrators, organizers, financiers and sponsors of the reprehensible acts of terrorism to justice. They stressed that those responsible for these killings should be held accountable, and urged all States, in accordance with their obligations under international law and the relevant Security Council resolutions, to cooperate actively with G5 Sahel States and all other

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63. Declaration of the High-level Meeting of the General Assembly on the Rule of Law at the National and International Levels, UN Doc A/RES/67/1, 2012, para. 21.

64. “‘The Time for Action is Now’ Senior UN Peacekeeping Official Says, Urging Support for Regional Force Combating Sahel Terrorism”, UN News, May 16, 2019, <https://news.un.org/en/story/2019/05/1038641>.

65. “Security Council Press Statement on Joint Force of Group of Five for Sahel”, UN Doc SC/13353, 23 May 2018.

66. “‘Killing, Abuse, Sexual Violence Beyond Belief’: Fears Grow of All-Out War in CAR”, The Guardian, November 16, 2018, <https://www.theguardian.com/global-development/2018/nov/16/killing-abuse-sexual-violence-beyond-belief-fears-grow-of-all-out-war-in-central-african-republic>.

relevant authorities in this regard<sup>67</sup>.

Meanwhile, unfortunately, “a Central African Republic judicial official requested that MINUSCA arrest a list of fifty-five persons”, Robert M. Peirito exposes. The request is unfortunate because MINUSCA is neither a domestic organ of nor under the jurisdiction of the Central African Republic. He continues, “[t]his action raised the issue of the relationship between the UN Police and the Central African Republic judiciary that is yet to be resolved”. In fact, however, in the Central African Republic, “courts were in ruins”<sup>68</sup>. The criminal jurisdiction of the Central African Republic may be complemented by the International Criminal Court (ICC). But, the AU is not positive about the ICC.

While the AU Assembly has adopted a declaration, though legally non-binding, recommending to withdraw from the ICC, the Extraordinary African Court was established co-sponsored by the AU in conformity with the judgment of the International Court of Justice (ICJ) to judge the claims of crime against humanity of the former president of Chad, Hissène Habré. Although Burundi, South Africa and The Gambia have once announced their intention to withdraw from the ICC, South Africa and The Gambia have reversed it. Moreover, the AU Assembly declaration has not stopped the moving of the ICC forward.

The Resolution RC/Res.6 adopted in 2010, amending the ICC Statute, was activated in 2017. This amendment has newly included ‘a crime of aggression’, defined as “the planning, preparation, initiation or execution, by a person in a position effectively to exercise control over or to direct the political or military action of a State, of an act of aggression which, by its character, gravity and scale, constitutes a manifest violation of the Charter of the United Nations”, and ‘an act of aggression’ is also defined for the purposes of the ICC Statute, as planning or participating in certain forms of use of force (for example, military invasion, occupation or annexation) by a State against the sovereignty, territorial integrity or political independence of another State<sup>69</sup>. As of July 2019, however, among the AU Member States, only Botswana has ratified the Resolution RC/Res.6<sup>70</sup>.

In January 2018, the AU has decided to seek an advisory opinion from the ICJ on the question of the Head of State immunities. Then, Kenya has sent a letter, apparently on behalf of the AU, asking the UN General Assembly to make a request for an ICJ advisory opinion on the consequences of legal obligations of States under different sources of international law with respect to the Heads of State immunities<sup>71</sup>. The request for an advisory opinion has come following years of debates on the execution of the ICC arrest warrants for Sudanese President Omar al-Bashir, who has visited to other African State parties to the ICC Statute.

Recently, it is reported, ICC judges found that South Africa had failed to implement its obligations under the ICC Statute to arrest al-Bashir during his visit to South Africa in 2015. But, the AU has supported the position of South Africa that the obligations under customary international law

67. “Security Council Press Release on Terrorist Attack against the Joint Force of Five for the Sahel, MINUSMA”, MINUSMA, 2 July 2018, <http://minusma.unmissions.org/en/security-council-press-statement-terrorist-attack-against-joint-force-group-five-sahel>.

68. R. M. Peirito, “UN Peacekeeping in the Sahel: Overcoming New Challenges”, US Institute of Peace, Special Report, 2015, p. 12. See UN Doc S/2014/857, 2014.

69. ICC Doc RC/Res.6, The Crime of Aggression, 2010, Annex I, paras. 1-2.

70. UN Treaty Collection, Status as at: 17-07-2019, Chapter XVIII, 10. b, Amendments on the crime of aggression to the Rome Statute of the International Criminal Court, 2019, [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=XVIII-10-b&chapter=18&clang=\\_en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-10-b&chapter=18&clang=_en).

71. Letter dated 19 July 2018 from the Permanent Representative of Kenya to the UN addressed to the Secretary-General, UN Doc A/73/144, 2018.

would surpass those under the ICC Statute<sup>72</sup>, though normally *lex specialis derogat legi generali*, or ‘specialized laws prevail over general laws’, and *lex posterior derogat legi priori*, or ‘a later law repeals an earlier law’. Thus, the only possible legal justification for the AU’s advocacy of the supremacy of the Heads of State immunities would be to allege that the Heads of State immunities are *jus cogens*, which operate to invalidate a treaty or agreement between States to the extent of the inconsistency with any such principles or norms in accordance with articles 53 and 64 of the Vienna Convention on the Law of Treaties, inevitably on the basis of the supreme power of State sovereignty.

However, it is argued by Westen K. Shilaho that State sovereignty entails responsibility to protect (R2P). The AU Act affirms this under the non-indifference principle in article 4 (h). “It is therefore counter-intuitive to accede to international norms and concurrently invoke ‘absolute sovereignty’ as some African rulers attempt to do”<sup>73</sup>. At the same time, according to Daniel Ehighalua, it should also be taken note that “the question of the uneven reaches of justice must be taken seriously to counter the perceived concentration on Africa, even though three of the situations before the ICC were ‘self-referrals’ by the African countries involved”<sup>74</sup>.

The request of an ICJ advisory opinion should not be taken as an AU’s attempt to challenge the ICC. The UN Secretary General Antonio Guterres underscored that the partnership between the AU and UN was “solid, and grounded on sound principles of human rights and good governance”<sup>75</sup>. Kenya explains, the advisory opinion would provide clarity to the evident ambiguity and to competing obligations under international law and will assist States in carrying out their obligations without undermining either the call for ending impunity or the legal regime governing the immunities of Heads of State<sup>76</sup>.

So, it should be taken as a valuable opportunity for improving the AU and ICC, preferably developing the effective measures to prevent and mitigate humanitarian crises in Africa on the AU side, and getting such big powers as the US, China and Russia involved in the ICC on the ICC side. “It may have wider implications on international law and international institutions, beyond the scope of the legal question in dispute”, Priya Pillal concludes<sup>77</sup>. Thus, the request may demonstrate the beginning of significant dialogue between the AU and ICC on the problems of international crimes, which may cause humanitarian crises. Such dialogue may help, even though indirectly, to reduce the total cost of humanitarian assistance.

The major roles of criminal system are generally believed to be to reduce the causes and commissions of crimes in the future, but so far to today crimes have not been easily reduced, let alone in the situation of humanitarian crisis. The realization of their reduction would partly depend on the police and security activities, which again need funding. Since some G5 Sahel States are among the poorest States in the world, the international society is expected to provide the funding. In this respect,

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72. “Global Justice Weekly: AU Seeks ICJ Opinion on Head of State Immunities”, Coalition for the ICC, February 1, 2018, <http://coalitionfortheicc.org/news/20180201/globaljustice-weekly-au-seeks-icj-opinion-head-state-immunities-witnesses-take-stand>.

73. W. K. Shilaho, “the International Court of Justice and the African Union: Is the ICC a Bulwark Against Impunity or an Imperial Trojan Horse?”, Accord, 31 July 2018, <https://www.accord.org.za/ajcr-issues/the-international-criminal-court-and-the-african-union/>.

74. D. Ehighalua, “Africa and the ICC: Which Way Forward?”, <http://www.nigerianlawguru.com/articles/international%20law/AFRICA%20AND%20THE%20ICC,%20WHICH%20WAY%20FORWARD.pdf>.

75. UN Economic Commission for Africa, “Guterres Lauds Partnership between United Nations and African Union”, 2018, <https://www.uneca.org/stories/guterres-lauds-partnership-between-united-nations-and-african-union>.

76. UN Doc A/73/144, 2018, para. 10.

77. P. Pillal, “The African Union, the International Criminal Court, and the International Court of Justice: At the Fault Lines of International Accountability”, *American Society of International Law*, vol. 22, Issue 10, August 22, 2018, <https://www.asil.org/insights/volume/22/issue/10/african-union-international-criminal-court-and-international-court>.

ironically, more funding is indispensable to save more money for humanitarian assistance.

The relations between donors and recipients of humanitarian assistance have been definitely taken as inevitably asymmetric. Isn't there any means to complement with each other? Isn't there any way to hold an equation of humanitarian assistance? Its consideration would lead to one of the hints towards the new initiatives for humanitarian assistance, neither reliant on the voluntary donations from States nor based on charity or benevolence.

## 5. Furusato Nozei, or 'Hometown Donation Program'

How can a value equivalence of the right side for victims and the left side for citizens in an equation of humanitarian assistance be maintained? Though not easy, it may be maintained, because each side of the equation may be added to or subtracted from. At first, then, what can be added to the right side of the equation for victims?

A recent experience in Japan may be of some help to find an answer to the question. Speaking exactly, however, the experience is not that of humanitarian assistance as such, but the assistance of hometown by paying tax. The system is called Furusato Nozei, or 'Hometown Donation Program' which is also translated as 'Hometown Tax Donation's System'. It is a tax reduction given to the tax payers who donated to other municipal governments of their choice, irrespective of whether really their hometown or not. Also, the use of the donation by the recipient municipality may be chosen from the list on website<sup>78</sup>.

If a citizen donates to municipalities other than the citizen's resident municipality as Furusato Nozei, the amount that exceeds 2,000 JPY will be reduced next year from the donor's tax amount of the residence. The regional tax of donor citizen is reduced in the citizen's residence, though there is a limit in tax reduction, mainly based on the annual income and family structure of the donor citizen<sup>79</sup>. Generally, the total donation amount minus 2,000 JPY will be deducted next year from this year's tax of the donor.

Then, the donor citizen would receive reciprocal regional goodies from the recipient municipality, usually of the citizen's choice from the list on Furusato Nozei portal site Furusato Choice<sup>80</sup>. So, the amount of donations to a municipality would usually depend on the attractiveness of the goodies. For example, a small town of Kamishihoro, Hokkaido, populated around 5,000, has operated one of the most popular donation programs, rewarding its donors with locally produced beef, potatoes, cans of honey and other items, reported on the site Furusato Choice. The town received 240 million JPY in donations in 2013. Its 35% was booked as net profit, while the rest as costs<sup>81</sup>.

The program was launched in 2008 formally as one of the means for the revitalization of regional municipalities other than such mega cities as Tokyo and Osaka. Though the State administration apparently considers it instrumental to its regional revitalization policy, in fact Furusato Nozei has

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78. Furumaru, <https://www.furumaru.jp/usage.php>.

79. "Hometown Tax Payment Simulation", FURUMARU: Gifts for Furusato Nozei, <https://en.furumaru.jp/info/simulation.php>.

80. Furusato Choice, <https://www.furusato-tax.jp/>.

81. T. Osaki, "Hometown Tax Break: Hometown 'Tax' Donations System Catching On", The Japan Times, October 20, 2016, <https://www.japantimes.co.jp/news/2014/10/20/reference/hometown-tax-donations-system-catching/#.XQeKhPZuKM8>.

functioned as a means to assist municipalities of citizen's choice by making donations<sup>82</sup>.

Furusato Nozei may seem far from the ethical character of humanitarian assistance motivated by the spirits of charity. But, in practice, it has assisted the areas extensively damaged by natural disasters. For example, there was an unexpected rise in total donations in 2011 from citizens for the victims in the Tohoku region damaged by the March 11 earthquake, tsunami and reactor meltdowns, amounting to 64 billion JPY. It is reported, moreover, following the Kumamoto earthquakes in 2016, over 3 billion JPY Furusato Nozei donations were made. And, in 2017, the total donations rose by 28% to 365.3 billion JPY<sup>83</sup>.

In times of disaster, in Japan, the relief fund collected by the Red Cross and mass media is delivered directly to victims, while donations such as Furusato Nozei are delivered to the disaster-stricken local governments for the use by municipalities for the victims. In 2018, the daily operation of Furusato Nozei has shown a dramatic change in response to the heaviest rains that have caused great damage to western Japan. And the following complementary cooperation on behalf of the damaged local government by other local governments is especially noteworthy. "Now, in the wake of the disaster, the burden of processing hometown tax donations to municipalities that have been heavily affected is being shouldered by other municipal governments. The Ibaraki prefectural city of Chikusei, for example, has assumed the task of processing hometown tax donations to the Okayama Prefecture city of Takahashi, ... submerged underwater in the recent downpours". In the case of donation for disaster relief, Furusato Nozei donations do not come with reciprocal regional goodies in return<sup>84</sup>. It is pointed out, furthermore, "when another municipality suffers disaster, municipalities that have received disaster support in the past can collect donations on behalf of that municipality, creating a mutually beneficial support program"<sup>85</sup>.

However, Furusato Nozei is criticized by Japanese bureaucrats that "the gifts are distorting the purpose of the donations and are just becoming a business"<sup>86</sup>. Thus, it is suggested that the rules of Furusato Nozei should be revised and deter the selfish behavior of buying the gifts at less than market price, at the same time enhancing altruistic behavior in supporting local hometowns<sup>87</sup>.

Though it has been criticized that Furusato Nozei has limits from the perspective of altruism, the criticism may be beside the point, because it is a means to implement the obligation to pay tax. For the implementation of obligation, altruism would not be required. On the contrary, it would be usual for legislating a new legal obligation to take account of the speculated selfish calculation of profit and loss in the tax payer's implementation, so as to ensure the high performance of its implementation.

From different perspectives, Furusato Nozei may give hints for discussions on the new initiatives for humanitarian assistance by citizens beyond charity or benevolence. One of the imaginable critics

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82. Ibid.

83. "Expanding Hometown Tax Donation Program Shows New Value in Times of Disaster", Nippon.Com, July 25, 2018, <https://www.nippon.com/en/features/h00246/expanding-hometown-tax-donation-program-shows-new-value-in-times-of-disaster.html>.

84. "Editorial: 'Hometown Tax' Donation Program Helping Out After Rain Disaster", The Mainichi, July 12, 2018, <https://mainichi.jp/english/articles/20180712/p2a/00m/Ona/005000c>.

85. "Expanding Hometown Tax Donation Program Shows New Value in Times of Disaster", loc. cit., supra n. 83.

86. C. Loew, "Japan's Hometown Tax Donation Program a Boon to Local Seafood Sales", SeafoodSources, February 13, 2019, <https://www.seafoodsource.com/news/supply-trade/japans-hometown-tax-donation-program-a-boon-to-local-seafood-sales>.

87. E. Yamamura, Y. Tsutsui and F. Ohtake, "Altruistic and Selfish Motivations of Charitable Giving: Case of the Hometown Tax Donation System in Japan", Institute of Social and Economic Research, Osaka University, May 2017, p. 13, <https://www.iser.osaka-u.ac.jp/library/dp/2017/DP1003.pdf>.

may be its feasibility. But, the existing international mechanisms may be utilized for the purposes of something like the international humanitarian version of Furusato Nozei. As regards the UN assistance mechanism, country-based pooled funds may be helpful in pooling the donations, because it allows not only governments but also private donors to pool financial contributions in response to a specific emergency. The funds would be rapidly channeled for scaling up humanitarian operations, filling critical gaps<sup>88</sup>. At the same time, the “holistic missions” of MINUSCA, MINUSMA and G5 Sahel Joint Force may be necessary for securing the safe delivery of assistance goods and reciprocal regional goodies in return, if any, for the donations by citizens<sup>89</sup>.

## 6. Beyond Charity

The sources of humanitarian assistance may spring not only from “a mere recuperation of humanitarian legitimacy for states’ own Machiavellian purposes” but also from civil society initiatives, from public opinion, and from the very nature of post-modern conflict<sup>90</sup>.

Thus, citizen’s initiatives for securing the funding of humanitarian assistance, which would be added to the existing voluntary donations by States, must neither be based on the voluntary donations by States nor the goodwill of charity or benevolence alone, in consideration of the prevailing egoism in the world<sup>91</sup>. One of the conventional alternatives to charity or benevolence would be a kind of equivalent exchange. However, the question to be considered here should not be an option from altruistic charity and selfish equivalent exchange, in the context of humanitarian assistance. The question should be what kind of equivalent exchange would be realistically desired, given the globalizing trend of ‘less donation and more crisis’. The answer depends on, first, what can be expected of the victims, and second, what can be expected of citizens in the world.

As regards the victims of humanitarian crisis, some victims may be living a daily life, though more or less impeded by the crisis. They might have already sold all the things that could sell. All the edible things around the community might have been eaten up. The epidemic may be spreading. And they may be deeply grieving over the deaths of their families<sup>92</sup>. What they can do may be only to lead a life in a hopeless plight in a collapsing community.

Even such victims, however, usually have a rich traditional intellectual property, i.e. knowledge and traditional practices. They can take part in producing intellectual products from their immaterial property. The property may include the oral traditions of stories, legends, proverbs, sayings, superstitions and the like on the one hand, and on the other hand traditional handicrafts such as wooden crafts, paintings, drawings, woven fabrics and straw works. One of the limitations of their conventional marketing may be that those products have been sold separately, in book shops and folk

88. OCHA, «Humanitarian Financing», n. d., [www.unocha.org/our-work/humanitarian-financing/countrybased-pooled-funds-cbpf/how-support-country-based-pooled](http://www.unocha.org/our-work/humanitarian-financing/countrybased-pooled-funds-cbpf/how-support-country-based-pooled).

89. The Security Council is entitled to impose sanctions on those who obstruct the delivery of humanitarian assistance, under chapter VII of the UN Charter. As a political organ, however, its approaches are almost case by case. See R. Gunaratne, “Humanitarian Assistance and Security Council Sanctions: Different Approaches to International Humanitarian Law”, EJIL: Talk!, April 11, 2019, <https://www.ejiltalk.org/humanitarian-assistance-and-security-council-sanctions-different-approaches-to-international-humanitarian-law/>.

90. Grenaway, loc. cit., supra n. 34.

91. M. Mascarenhas, *New Humanitarianism and the Crisis of Charity*, Indiana University Press, 2017, pp. 29-65.

92. B. R. Daubman, H. Cranmer, L. Black and A. Goodman, “How to Talk with Dying Patients and Their Families after Disasters and Humanitarian Crises: A Review of Available Tools and Guides for Disaster Responders”, *The Journal of Humanitarian Action*, 22 May 2019, <https://jhumanitarianaction.springeropen.com/articles/10.1186/s41018-019-0059-6>.

art shops, respectively. A handicraft separated from its traditional story would be deprived half of its true values. Instead, a proverb that is given a physical form may be more easily accepted by citizens all over the world.

Although it may not be always applicable to all local communities, moreover, “local communities have a vital role in environmental management and development ... because of their knowledge and traditional practices”. The Convention on Biological Diversity recognizes the importance of indigenous and local communities, and those communities should share in the benefits derived from ideas and innovations they have developed. Each contracting party shall “respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and promote their wider application with the approval and involvement of the holders of such knowledge, innovations and practices and encourage the equitable sharing of benefits arising from the utilization of such knowledge, innovations and practices»<sup>93</sup>. For example, the world’s weapon against the deadly disease bird flu, Tamiflu, of which patent is held by a Swiss biopharmaceutical company, is originally derived from Chinese Star Anise, an ancient natural herb grown in Southwest China<sup>94</sup>. These tell us that the victims of humanitarian crisis may complement the limits of the donors.

An important point to be kept in mind here is that the value of reciprocal regional goodies to be offered by the victims of humanitarian crisis must be mainly intellectual. Otherwise, the goodies would not be appreciated and not be selected by citizens living in high-tech abundant modernity.

Exactly, even if such reciprocal regional goodies are sent to the donors in return, the exchange cannot necessarily be called equivalent in its strict sense. It is rather complementarity, together with the case of Furusato Nozei. The citizen donors and victims would complement with each other in an equal position. The equal position may be helpful for victims to recover their identity and economic lives, on the one hand, and on the other hand, donors may be ignited their interest in humanitarian crisis while they are choosing the intellectual reciprocal regional goodies, for example.

One of the reasons why reciprocal regional goodies from the victims of humanitarian crisis must be intellectual is, of course, related to the mental hardship of victims, who are almost losing their identity. The loss of their identity is caused by non-acceptance of their difference, followed by violence. Though in respect of food security, Kristina Hook underscores that understanding the relationships among food security, mental health and physical health is critical to the formation of effective aid policies<sup>95</sup>. Mental health would be no less important than other assistance for promoting humanitarian assistance in a situation of violence.

In a humanitarian crisis, intrinsically, violence occurs in a borderless human relations between a self and the other, where the otherness of a self is subjectively conceived by the other, incorrectly, as touchable and destructible. The other here involves difference, outside, time, death, God and other persons, peoples as well as States. Difference is conceived by a self in self-consciousness. As what

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93. Rio Declaration on Environment and Development, principle 22, *International Legal Materials*, vol. 31, 1992, pp. 874, 848.

94. Bonn Guidelines on Access to Genetic Resources and Fair and Equitable Sharing of the Benefits Arising out of Their Utilization, UN Doc UNEP/CBD/COP/6/20, 2002, Annex to Decision VI/24, Annex I, para. 48, Annex II, 1j and 2q, reproduced in *International Environmental Law*, D. Anton et al. (eds.), LexisNexis, 2007, pp. 1151-1152, 1449.

95. K. Hook, “Peace of Mind, Health of Body: Why the Correlation of Food Security, Physical Health, and Mental Wellbeing Holds Important Implications for Humanitarian Actors”, *The Journal of humanitarian Assistance*, 2015, <http://sites.tufts.edu/jha/archives/2115>.

differentiates the other from a self, i. e. otherness, is self-consciousness, otherness is to be generated by a self. Such otherness would, in turn, define a self's identity. Then, a problem is raised: whether a self's definition of identity will be accepted by the other whose otherness is generated by a self in self-consciousness.

If the difference of a self, or the otherness for the other, is accepted by the other, the other can neither touch nor destroy the self, because otherness is metaphysical, therefore untouchable and infrangible<sup>96</sup>. Indeed, for example, time can neither be touched nor destroyed. Actually however, in modernity, it is not uncommon that persons, peoples and States are deprived of their otherness. A self would subjectively conceive the other as a simple extension of self's inside in self-consciousness, leading to the disappearance of outside or difference<sup>97</sup>. If the outside of victims has disappeared, neither the end nor the beginning of victims would not be realized, particularly in a humanitarian crisis, and then their identity would be totally lost.

In a violent humanitarian crisis, thus, victims are deprived of their otherness, therefore their identity, for a self's identity is the otherness (for the other) itself conceived by a self in self-consciousness. One of the means to regain their otherness is to get their difference accepted by citizens in the world. Their identity may not be regained by the protection of international human rights alone. Although the protection of international human rights would be expected to prevent and stop humanitarian crises, as involved in the mandates of MINUSMA, MINUSCA and G5 Sahel Joint Force, human rights alone cannot save the victims from being a mere object of charity or benevolence. Because, as Hannah Arendt writes, since human rights separate the right-holding self from the enacting agents of the rights, their protection keeps the power of the agents intact, and reduces a self to an object of charity or benevolence<sup>98</sup>.

That's why the reciprocal regional goodies are the key to go far beyond charity or benevolence. And they must be intellectual products, full of the otherness of victims, and their otherness would be accepted by the donor citizens and then identity would be regained. Then, a self and the other would stand in an equal position, which would be critical to solving humanitarian crisis and to rehabilitating the mentally wounded victims. Also, an equal position itself is indispensable for the new initiatives to dramatically increase the funds for financing humanitarian assistance, including MINUSMA, MINUSCA and G5 Sahel Joint Force.

## 7. Complementarity

Generally speaking, an equivalent exchange would be usually conceived ethically incompatible with humanitarian assistance that would be typically motivated, better or worse, by charity or benevolence. One of the reasons why an equivalent exchange would not be ideal for the human relations is illustrated by an exceptionally interesting Berber old allegory, narrated by Lawrence Rosen.

At the beginning of time, Justice and Injustice lived as neighbors. When Justice was hungry Injustice offered an equivalent exchange: "If you want to eat you must pay me, because I cannot feed you for nothing", and insisted on implementing the exchange simultaneously: "You must pay me now since

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96. E. Levinas, *Collected Philosophical Papers*, trans. by Lingis, Duquesne University Press, 1998, p. 18.

97. Disappearance of outside is argued in M. Hardt and A. Negri, *Empire*, Harvard University Press, 2000, pp. 186-190.

98. H. Arendt, *The Origins of Totalitarianism*, Harcourt, 1976, p. 296.

you want to eat now”. Justice asked the price and was answered: “You must give me one of your eyes”. Justice acceded to the offer, thinking it was better for justice to exist even with only one eye than not to exist at all. The next nightfall, Justice ceded his other eye in return for another bit of food. So, Justice became blind and wandered alone out into the desert.

In this regard, it is interesting to remember that an Ancient Greek goddess of Justice, Themis, has a bondage over her eyes. Why does a superhuman goddess hide her eyes? What lesson does the bondage teach us? The reason why her eyes are covered by cloth may be explained by the above Berber allegory. For an unworldly goddess, it must not be necessary to hide her eyes for the purposes of preventing bias in her judgments, because Themis must have a penetrating insight and power to see the truth, as a goddess, different from an intrinsically incomplete human being, even without a bondage. The lesson of the allegory is, therefore, the limits of equivalent exchange in the human relations. Anyway, according to Rosen, Justice would not come back to the place where the eyes were deprived in equivalent exchanges<sup>99</sup>.

Complementarity has been preferred in Moroccan traditional communities. The principle of complementarity is implied in a Moroccan mysterious traditional belief, ‘ār, which originally signifies a self’s shame because of ‘no notice for the other’, according to Edward Westermarck. ‘Ār works as an outside conductor of conditional curses. It was used to denote an act which intrinsically implies the transference of a conditional curse for the purpose of compelling somebody to grant a request. A responsibility to offer hospitality is connected with ‘ār. Thus, a guest is in the ‘ār of his host, for “he who is in your house is in your ‘ār”. A stranger who comes to a village where he has no friend places himself can be in the ‘ār of the villagers by reciting “I am the guest of God”. Then, he would be entertained in the mosque and individual hospitality would also be readily given. If a refugee enters another’s tent or takes hold of the tent-pole at the entrance, saying “I am in God’s ‘ār and your ‘ār”, the owner of the tent is obliged to assist him. ‘Ār is neither founded on any contract nor benevolence, but on the acceptance of complementary responsibility. Then, the host and tent owner would be blessed with baraka<sup>100</sup>. In this way, the principle of complementarity is not new.

Complementarity is practiced when a self’s responsibility for the other to accept differences of the other is implemented. It is different from the conventional concept of solidarity in the sense of ‘Help me – I’ll help you’, which is asymmetrical in the relations between the two specified parties. Such solidarity would focus on the two parties alone, but not on the relations with the whole, albeit the whole is prior to its part. Complementarity is communicated between a person and the whole, because what may be complemented is found only in the whole. On the contrary, solidarity is communicated between a person and person<sup>101</sup>. Solidarity is thus practiced by a fluke, asking the other for charity or benevolence, not necessarily attempting to find a self’s position in the whole, therefore without challenging the underlying social injustice. Its result may be a Moroccan proverb: “Make him accustomed to receive something and cut him short of it, you will become his enemy”<sup>102</sup>.

Recently, the international society has reaffirmed the principle of complementarity. For example, the universal jurisdiction of the ICC over such international crimes as genocide, crimes against humanity,

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99. L. Rosen, *The Anthropology of Justice: Law as Culture in Islamic Society* (Lewis Henry Morgan Lectures), Cambridge University Press, 1989, p. 75.

100. E. Westermarck, *Ritual and Belief in Morocco*, vol. 1, Macmillan, 1926, pp. 66, 518-537.

101. These two communication modes are discussed in T. Todorov, *The Conquest of America*, Oklahoma University Press, 1999, p. 69.

102. G. Abdelaziz, *English\_Moroccan Proverbs*, Ima Print, 2011, p. 55.

war crimes and the crime of aggression is based on the principle of complementarity<sup>103</sup>. The ICC is complementary to national criminal jurisdictions, which means that States have the jurisdiction and the primary obligation to investigate, punish, and prevent genocide, crimes against humanity, war crimes and the crime of aggression. For that reason, the ICC will only step in when national judicial systems fail and it can be demonstrated that the State is either unwilling or unable to bring perpetrators to justice. The principle of complementarity is implemented by the ICC through Articles 17 and 53 of the ICC Statute, dealing with the conditions for a specific case to be admissible at the ICC. Given that complementarity is assessed on a case by case basis, the fact that the ICC is exercising jurisdiction in a given situation, must not prevent the territorial or other competent States to also investigate and prosecute the international crimes under the jurisdiction of the domestic court. In these cases, the ICC and States working together must ensure that all international crimes in a given situation are addressed<sup>104</sup>.

Besides, the international law of State responsibility prescribes the competence of non-injured State, even in the absence of any claim by an injured State, to claim from the responsible State cessation of the wrongful act, and assurances and guarantees of non-repetition, acting not in its individual capacity but as a member of a group of States to which the obligation is owed, or for implementing obligation owed to “the international community as a whole”<sup>105</sup>. The obligation owed to “the international community as a whole” and no requirement of ‘Help me’ would come down in favor of complementarity<sup>106</sup>. Then, the competence of non-injured State for implementing obligations owed to “the international community as a whole” would reinforce the legitimacy of complementary jurisdiction of the ICC.

Thus, the intellectual reciprocal regional goodies may be collectively produced in a community or among communities, implementing each complementary responsibilities. Major difficult problems are, of course, with the motivation of citizens to donate. One of the problems concerns whether States would accept the inhabitant tax reduction of citizen donors. In fact, however, even now the tax of such legal persons as companies are eligible to reduction due to voluntary donations in the domestic tax law of many States. Anyway, its answer would depend on the public opinion in each State. Or, other more practical means to encourage the donations by citizens should be requested and discussed, overcoming cynicism.

“Living in relation with others directly involves a person in social and moral roles, duties, obligations, and commitments which the individual person must fulfill”, proclaims Kwame Gyekye in his discussion on African philosophy<sup>107</sup>. What may be added to Gyekye may be Fyodor Dostoyevsky, confessing that “[w]e are all guilty of all and for all men before all, and I more than others”<sup>108</sup>.

103. Rome Plan of Action on the Prevention of Atrocities, the Rule of Law and the ICC, 2012, [https://www.pgaction.org/pdf/activity/Rome\\_Plan\\_of\\_Action\\_ENG\\_Final.pdf](https://www.pgaction.org/pdf/activity/Rome_Plan_of_Action_ENG_Final.pdf).

104. “The Principle of Complementarity”, Parliaments for Global Action, n. d., <https://www.pgaction.org/ilhr/rome-statute/complementarity.html>.

105. Articles on Responsibility of States for Internationally Wrongful Acts, 2001, arts. 48, 54. See J. Crawford, *The International Law Commission’s Articles on State Responsibility*, Cambridge University Press, 2002, pp. 276-280. 302-305.

106. A. Nissel explains articles 48 and 54 of the Articles on Responsibility of States for Internationally Wrongful Acts as an example of solidarity. The proposition is concluded after the discussion on an issue of ‘Self-Help/Solidarity’. But the real issue may be ‘Solidarity/Complementarity’. These two articles are better interpreted and explained by complementarity, not solidarity, as discussed above. *Idem.*, “The ILC Articles on State Responsibility: Between Self-Help and Solidarity”, *International Law and Politics*, vol. 38, 2005-2006, pp. 355-371.

107. K. Gyekye, “Person and Community in African Thought”, in *The African Philosophy Reader*, P. Coetzee and A. Roux (eds.), Routledge, 1998, p.332.

108. F. Dostoyevsky, *The Brothers Karamazov*, trans. by C. Garnett, New American Library, 1957, p. 364.

## 8. In Lieu of Conclusions

What is to be discussed on and to be done for the new initiatives that would allocate a major role in humanitarian assistance to citizens, instead of States, particularly so that the MINUSCA, MINUSMA and G5 Sahel Joint Forces can implement ‘the holistic missions’? Under the new initiatives, citizens should be expected to contribute to humanitarian assistance beyond the asymmetry of one-sided goodwill of charity or benevolence. What is needed first is not to make a decision in conclusion, but to discuss on the possible new financial sources based not on voluntary donations from States. How can the discussion be launched? How about the topic of *Furusato Nozei*, referred to above, as one of the opportunities for launching discussions on the new financial sources for funding humanitarian assistance not reliant on voluntary donations from States?

Given the deterioration of humanitarian crisis and the retrogression of humanitarian assistance, it is not always unjust to criticize *Furusato Nozei* as too ‘fantastic’. Besides, it may be doubted about the involvement of States, though passive. While it is surely related to tax payment, any commission or omission is regulated by law under the principle of the rule of law and a State is more or less involved in any act of citizens due to bio-politics of the contemporary States. For the new initiatives, what should be avoided in respect of States is not their involvement as such, however, but the reliance as usual on their voluntary donations.

Although *Furusato Nozei* has been largely successful in Japan, even severe criticism on its application to international humanitarian assistance as unreasonable may not always be exaggeration. Here, in return, unwillingness of States to donate the sufficient funds for humanitarian purposes that had once abetted to attempt to seek for the new financing sources not reliant on voluntary donations from States, would discourage to envision the new initiatives focusing on the roles of citizens based on the critical review of *Furusato Nozei*. The concern and motivation of citizens in respect of humanitarian assistance, however, may be not a little different from States. The difference should be maximized for discussions on the new initiatives.

Of course, it is not necessary to persist in *Furusato Nozei*. It is suggested as an example of means to open a gate to the new initiatives for new funding sources of humanitarian assistance other than voluntary donations from States. Therefore, irrespective of the speculated assessment on its usefulness in terms of humanitarian assistance, researches on the new initiatives based on citizen’s major roles beyond the asymmetry of one-sided charity or benevolence should be launched now for realizing the indispensable dramatic increase in the amount of funds for humanitarian assistance, including funds for ‘the holistic missions’ of MINUSCA, MINUSMA and G5 Sahel Joint Force.

In this regard, S. Greenaway makes a charge against the lack of profound and fundamental insight into humanitarian assistance that humanitarian movement is doing almost nothing to address systemic issues based on “profound reflection to establish a road map and determined advocacy to bring into being”, hence “[p]eripheral progress is accordingly at the expense of fundamental inertia”<sup>109</sup>.

A dramatic increase in funds for humanitarian assistance, if realized, would equally cost a dramatic change in self-consciousness from the one-sided asymmetrical charity or benevolence to the interactive

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109. Greenaway, loc. cit., supra n. 34.

symmetrical complementarity<sup>110</sup>. Possibly, the innovative effects of symmetrical complementarity may not stop at the role of increasing the funds for financing humanitarian assistance, donated by citizens. In the long run, the effects may extend even further to the structural transformation of the North–South relations from the prevailing mode of bilateral communication between two ranked parties, such as the ‘donor/donated’ or ‘investor/recipient’, to another mode of complementary communication between a party and the infinite whole or totality. Intrinsically, charity is tantamount to the complementary communication. The problem is, however, it cannot become usual in the modern selfish society. Hence, the financing problem of humanitarian assistance is discussed.

In the whole or totality, any party would be conceived as a different but meaningful part of the whole or totality in an equal position. When a self stands at the entrance to the whole or totality, the self would be ready to be involved in a problem with no personal connection, namely, a problem of those whom a self has never met or seen, occurred in a place where a self has never been to. Inside the infinite whole or totality, a self would meet and see whole people. Then, the financing problem of humanitarian assistance would definitely disappear.

For an egoistic self, it is not easy to reach the entrance of the whole or totality. A self cannot head off toward the gate, if it were not for the help of the other. Where are the other who would help me to head for the whole? While the other are anywhere in self-consciousness, the victims of humanitarian crises would teach us the royal road to the gate, because they have experienced «the general character of harshness and cruelty exhibited by the [ego] ideal – its dictatorial ‘Thou shalt’»<sup>111</sup>. They have been deprived of their identity together with “id, ego and super-ego” which are three distinct but interacting agents in the psychic apparatus, according to Sigmund Freud<sup>112</sup>, and the whole or totality has already been unveiled in a moment to the victims, though in a deplorable manner.

For that, finally, it should be reminded that “[t]he individual is not just Dasein; he is also the site of transcendence, responding to the unfulfillable obligation of the Revelation”<sup>113</sup>. Any self assumes, without exception, a responsibility to complement with each other inside the infinite whole or totality. This responsibility is ‘pre-original’ (pre-ontological) in that it does not have any origin such as moral, contract, law and even original sin. Rather, the pre-original responsibility is itself the origin of all other responsibilities originated from them. The pre-original responsibility is, therefore, assumed before or beyond moral, contract, law and original sin. Any self can neither cancel nor escape from this responsibility, even for a moment, because exactly “it is not that ‘I’ take responsibility but responsibility takes me (to the Other)”<sup>114</sup>.

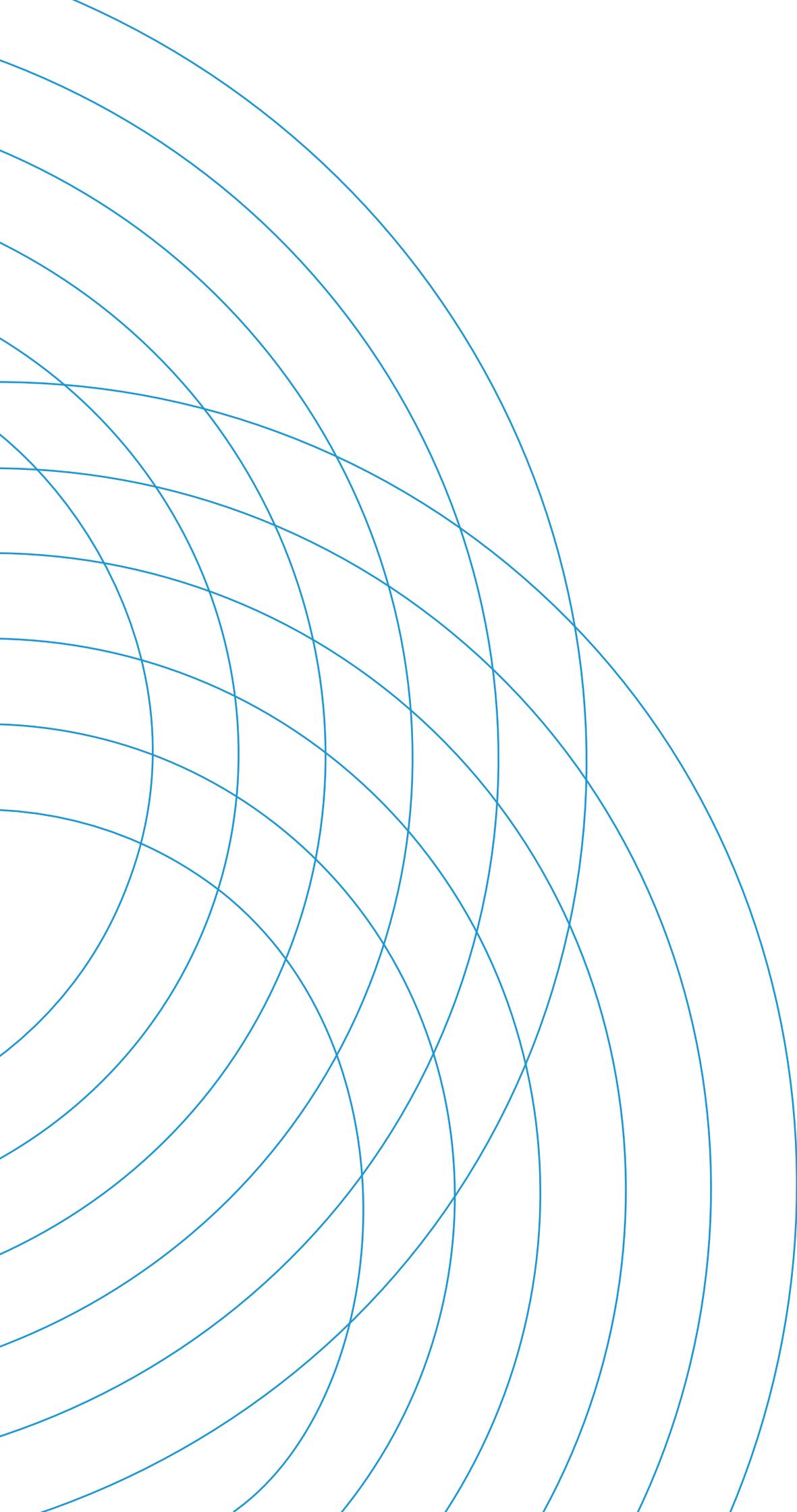
110. On the concept of consciousness “in the pregnant sense of the term”, Edmund Husserl writes, it is “the sense which first comes to mind and which can be most easily expressed as the Cartesian cogito, as ‘I think’. As we know, Descartes understood the cogito in a wide sense, in such a way as to include any state such as: ‘I perceive, I remember, I imagine, I judge, I desire, I want’”. Idem., *The Theory of Intuition*, Ch. 3, quoted in Seán Hand (ed.), *The Levinas Reader*, Basil Blackwell, 1989, p. 18.

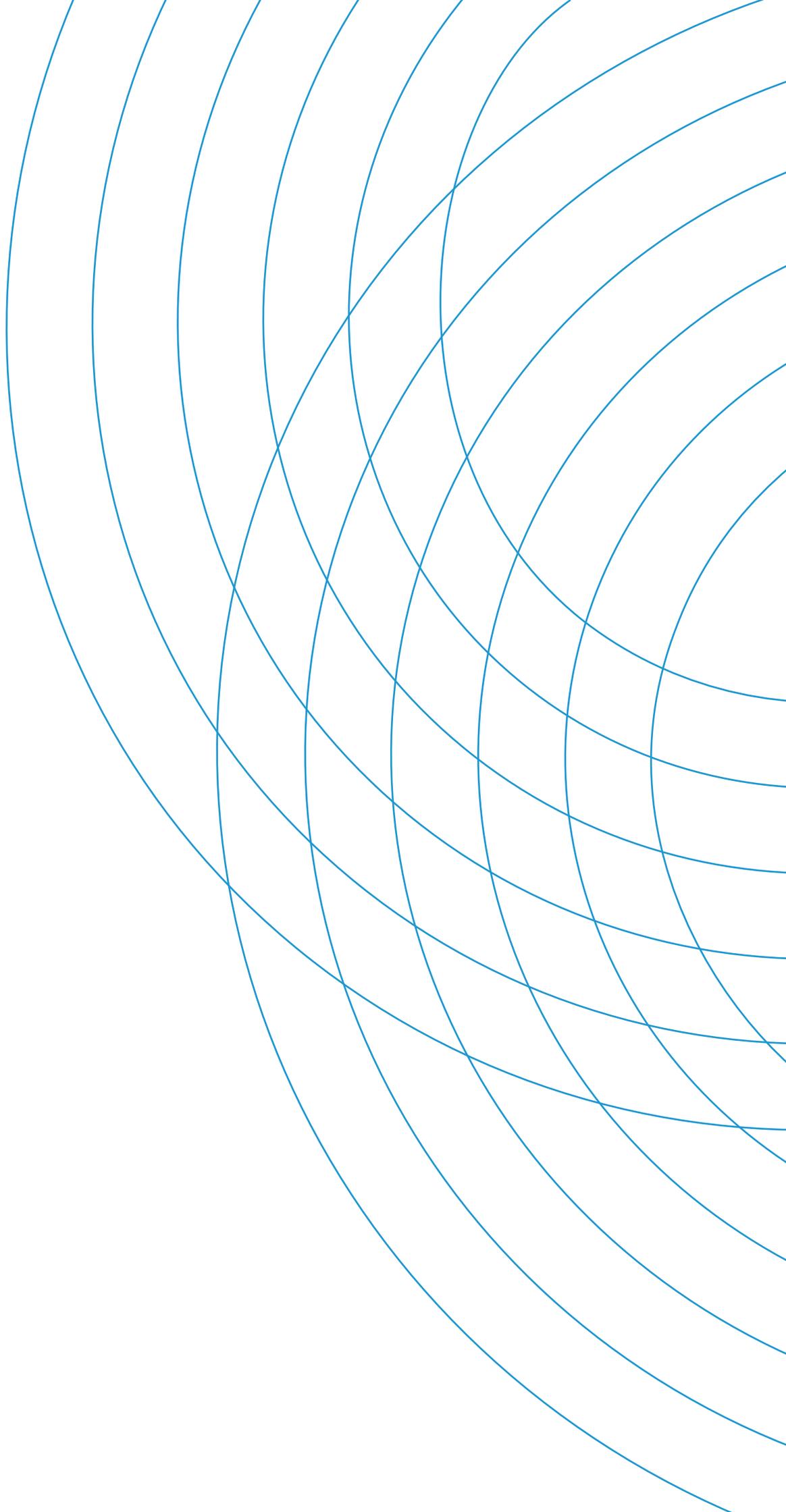
111. S. Freud, *The Ego and the Id*, Dover Publications, 2018, p. 51.

112. Idem., *New Introductory Lectures on Psychoanalysis* (Complete Psychological Works of Sigmund Freud), W W Norton & Co Inc, 1965, p. 64.

113. S. Hand (ed.), *The Levinas Reader*, op. cit., supra n. 110, p. 7.

114. D. Hickling, “The Ethical Significance of Levinas’s Aesthetics”, *Academia*, 2014, p. 7, [https://www.academia.edu/36129883/The\\_ethical\\_significance\\_of\\_Levinass\\_aesthetics](https://www.academia.edu/36129883/The_ethical_significance_of_Levinass_aesthetics).







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