

## PART THREE • *Draft Scenarios*

*What Would an Ombudsman for Humanitarian Assistance Look Like?*

# Overview

## Introduction to the Scenarios

The following scenarios are intended to provide a hypothetical description of what an Ombudsman might do within the context of Humanitarian Emergencies. While they draw upon some actual events, they should not be seen as true determinations of an Ombudsman's office. Their purpose, most importantly, is to illustrate the process of consultation that an Ombudsman would use, with beneficiaries, agencies or other stakeholders and discuss the possible means of redress available

Three types of scenarios are presented: two complex emergencies and five 'short' interventions. The contexts of relief in Chechnya and Rwanda are used to demonstrate several types of interventions; the 'short' scenarios describe singular situations where quick resolutions would be sought

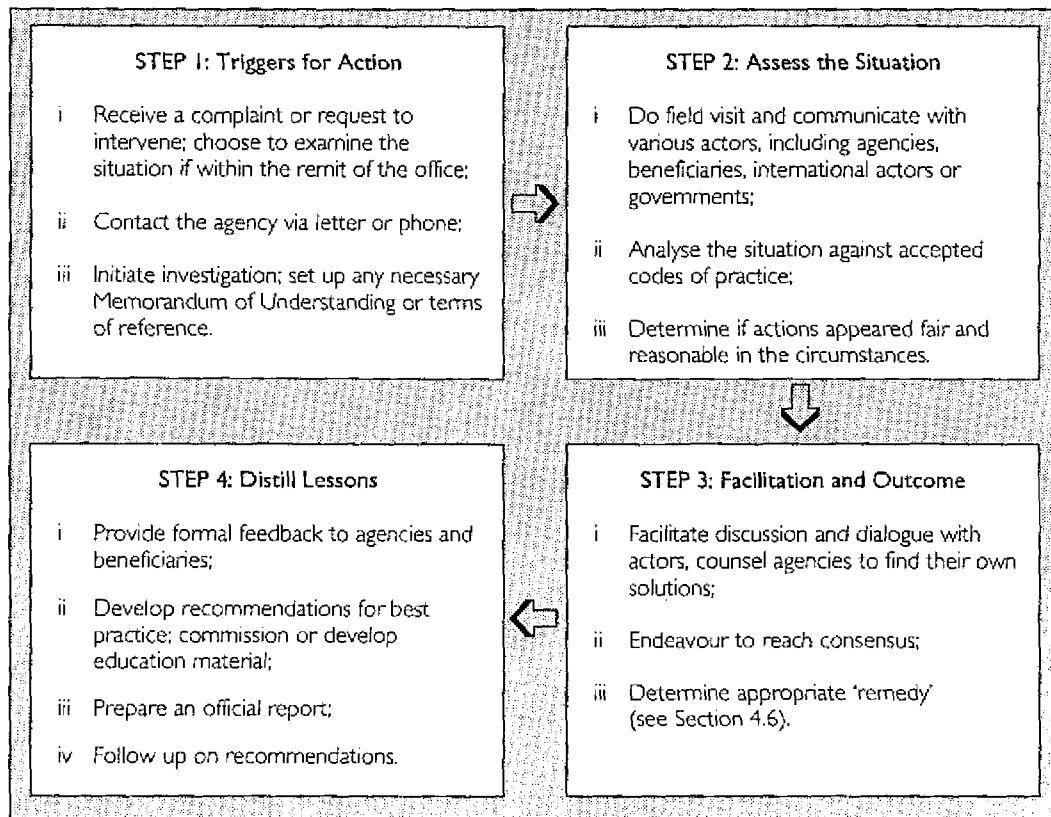
## The Remit and Scope of the Ombudsman

The proposed remit of an Ombudsman would be to assess actual or potential non-compliance by humanitarian agencies against the Code of Conduct and Minimum Standards in Humanitarian Response. Three possible triggers would permit the Ombudsman to intervene

- Complaints from people actually receiving humanitarian assistance or a person who has been requested by such people to lodge a complaint with the Ombudsman on their behalf,
- A request from one or more member agencies operational in the field,
- A proactive decision by an Ombudsman that the monitoring of a particular response is wise given the circumstances of the crisis.

## The Ombudsman's Process

Several stages in the Ombudsman's process would be undertaken. At the start, an intervention would be initiated by one or more of the various triggers, as discussed above. The Ombudsman would then launch an evaluation of the situation and deliberate with all of the stakeholders throughout, before making a final assessment and/or determination. In all situations, it is expected that an Ombudsman would include a process of communication and education, in order to maximise the process. The following 'AID' process provides a logistical framework for the workings of an Ombudsman's office.



## Reviewing the Scenarios

The process applied in these scenarios would require actual field testing in order to provide a more accurate representation of actors' responses, and whether or not the methodology utilised is realistic. Consequently, a series of questions follow the complex emergency scenarios. These give the reader some measures with which to determine their feasibility and hopefully will provide some suggested revisions to either the proposed process, or the scenarios themselves.

## Chechnya Scenario • *Intervention by the Ombudsman for Humanitarian Assistance*

### Introduction

This scenario is intended to provide an overview of how an Ombudsman for Humanitarian Assistance might have acted in the context of the humanitarian response in Chechnya. The scenario reviews a situation whereby the OHA intervenes as a result of two triggered mechanisms. through information gathering and media reports, the Ombudsman is aware that there is a possible contravention of the Code of Conduct whereby aid is not reaching those most in need. The OHA also receives a direct request from NGOs in the field to assist with co-ordination.

### Context

The war in Chechnya effectively began in December 1994, following the deployment of 40,000 Russian troops to the region. Chechnya had unilaterally declared its independence in 1991, but was not recognised by the Russian federation. While negotiated settlements were attempted between 1991 and 1994, several armed conflicts preceded the 1994 invasion.

It has been argued that Russian forces have been allowed to act with relative impunity and beyond the realm of humanitarian law, as they considered the conflict to be an internal affair. Both Russian and separatist forces in Chechnya have used the civilian population as human shields against one another, putting whole villages and towns at risk.

Humanitarian intervention in Chechnya was initially launched in September 1994, with two NGOs providing assistance to local Chechen hospitals. A large-scale appeal was formally initiated by the ICRC in mid-January 1995, amounting to a program to serve up to half a million potentially vulnerable people. Intervention actions included medical assistance, water and sanitation, food provision, supply of building materials, winter clothing and resettlement kits. Refugee camps were also set up in Daghestan and Ingushetia. Over nine international humanitarian agencies and a handful of local and smaller organisations eventually offered various forms of assistance in the region.

The war in Chechnya effectively displaced more than half of the local population of 800,000, and an estimated 30,000 – 40,000 people were killed in the conflict. The war is noted to have compromised already weak socio-economic conditions, thus furthering the decline into poverty and lawlessness in the region.

When the Humanitarian response began, there was no clear leader or co-ordinating body for the effort. The Russian government considered the situation to be an internal problem and the UN was reluctant to sanction official humanitarian assistance. No formal request was given to the UN

to intervene in the crisis. It is further noted in media reports and from agency briefs that, due to lack of access provided by the parties involved, aid seemingly failed to get through to some vulnerable people, particularly in the South of Chechnya.

The security problem in Chechnya was particularly difficult for humanitarian agencies. At least 8 aid workers have been killed, while others had been taken hostage in 1995 and 1996. Continued reports of violence towards aid workers and looting of materials have been frequent.

Finally, under the communist regime, there was little prior experience of international humanitarian response in the region, hence there was little knowledge of the role that aid agencies play. Additionally repeated violations of Humanitarian law have been cited.

### Ombudsman intervention

PRINCIPLES/ ACTIVITIES	ACTIONS TAKEN
<p><b>INITIATION</b></p> <ul style="list-style-type: none"> <li>• discussion with agencies</li> <li>• triggers: proactive or reactive?</li> <li>• media information</li> </ul>	<p><b>1 Request for Intervention.</b> Following conversations with contacts in UK agencies, the Ombudsman was alerted to the fact that two possible issues may require intervention by the office. These included:</p> <p><i>Code of Conduct #2</i> – aid not getting through to beneficiaries in need: 'Human suffering must be alleviated whenever it is found; life is as precious in one part of a country as another. Thus our provision of aid will reflect the degree of human suffering it seeks to alleviate'</p> <p><i>Code of Conduct #6</i> – possible lack of co-ordination of aid agencies without the presence of an overseeing body: 'We will place a high priority on the proper co-ordination of our emergency responses.'</p> <p><b>2 Determination to Intervene.</b> The Ombudsman reviewed the possible triggers and determined that the office could intervene via either the knowledge that the Code of Conduct may have been contravened or as a result of the request to facilitate a dialogue by the NGOs.</p> <p>On the basis of the preliminary information the OHA decides that the issue is within the remit of the office and warrants further investigation.</p>
<p><b>EVALUATION/ INVESTIGATION</b></p> <ul style="list-style-type: none"> <li>• informing agencies and other stakeholders</li> <li>• gathering documentation</li> <li>• request field visit</li> <li>• terms of reference</li> <li>• initial meetings</li> <li>• appraisal and observations</li> <li>• establishing legitimacy in the field</li> <li>• access to beneficiaries</li> <li>• appointing liaisons</li> </ul>	<p><b>3 Notification.</b> The OHA Informed the agencies operational in Chechnya that the ombudsman was concerned about the apparent lack of co-ordination between agencies and also the apparent lack of access to people in danger. The ombudsman informs agencies therefore of the intention to proceed with an investigation. This was done initially through informal mechanisms, including telephone and E-mail, then via a formal letter from the ombudsman.</p> <p><b>4 Request for co-operation.</b> The ombudsman requests co-operation from the agencies and asks them to assemble preliminary briefing information and arranges for a joint meeting with the agencies concerned. Additionally the ombudsman asks</p>

<p>DELIBERATION &amp; NEGOTIATION</p> <ul style="list-style-type: none"> <li>• analyse the situation</li> <li>• assess response against the Code and minimum standards</li> <li>• what was reasonable?</li> <li>• practical wisdom</li> <li>• summarise the issues</li> </ul>	<p>the agencies to facilitate a visit to the field to look at the situation first hand.</p> <p>5 <b>Meeting at HQ.</b> A meeting was held with the agencies in London. The agencies expressed their willingness to co-operate. It was agreed that a field visit would be required and the agencies undertook to appoint a liaison ombudsman in the field and at HQ.</p> <p>6 <b>Terms of Reference.</b> In consultation with the agencies, the ombudsman drew up a terms of reference for the investigation, determining field visits, methods of communication, and timing.</p> <p>7 <b>Data collection.</b> The home office of the ombudsman begins collecting background material, including media reports, agency reports and agreements. Discussion of the Issues:</p> <p><i>Lack of Access resulting in non-proportionality:</i> The agencies confirmed that there was very limited access to the mountainous regions in the south. Insecurity to agency personnel was the principal cause of making access to remote areas extremely hazardous. In addition it has proved difficult for NGOs to make contact with representatives of the Chechen separatist movement either from their base in Chechnya or from the neighbouring republics. Approval to work inside Chechnya is granted by the Russian authorities or the Chechen administration that itself had been installed by the Russian government.</p> <p><i>Inadequate co-ordination:</i> The agencies confirmed that although there was irregular and informal communication between each other this had been more at a courtesy level than an attempt to really co-ordinate the humanitarian response.</p> <p>8 <b>Meeting in the field.</b> The ombudsman set up a field office to allow individuals to come forward in a more private manner. Advertisements were posted on signs and in the local newspapers as well as within agency locations. The ombudsman held an initial meeting with local authorities, local agency representatives and other actors and communicated the purpose of the visit and the role of the ombudsman.</p> <p>9 <b>Meetings with member agencies.</b> Meetings were held on a one-to-one basis to ensure that agencies felt open to reveal their concerns. A series of questions addressed to each NGO were put forth, including:</p> <ul style="list-style-type: none"> <li>• Did agencies do all that they could to ensure access? (Principle 2.4)</li> <li>• Do they feel that anything more could have been done? (Principle 2.4)</li> <li>• Had there been a conscious and tangible attempt to co-ordinate responses? (Principle 6)</li> </ul> <p><b>ISSUES</b></p> <ul style="list-style-type: none"> <li>• <b>Aid not reaching those most in need</b> The level of insecurity, with the risk of being fired on by either of the armed forces and general lawlessness was cited as the chief concern for most agencies present and served to prohibit the effective distribution of relief. There was no official prohibition on accessing any part of the country and no areas were officially 'off limits' except in the event of actual fighting taking place.</li> </ul>
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<p>PRESENTATION OF RESULTS AND AGENCY RESPONSE</p> <ul style="list-style-type: none"> <li>• provide initial feedback to stakeholders</li> <li>• endeavour to reach consensus</li> <li>• agency redress</li> </ul>	<p>Ombudsman does not believe that there is a genuine contravention of the Code.</p> <p><i>Co-ordination.</i> Co-ordination is taking place through a very regular agency meeting each week. There is only a limited number of agencies working in the republic and there was no real evidence to suggest that there was any unseemly competition for projects or profile.</p> <p>Having said that the co-ordination tended to be of a more passive kind, there was little evidence of a conscious effort to actively co-ordinate the nature of assistance to ensure maximum coverage. There also seemed to be little evidence of a conscious effort to co-ordinate procedures and processes in a consistent form.</p> <p>The level of co-ordination does not correspond with the spirit of the Code of Conduct. The Code envisages an approach co-ordination that results in the intentional planning of responses in such way that it results in a harmonisation and a synergy of aid that benefits the people in danger to the highest achievable level.</p> <p><b>13 Presentation of findings to agencies.</b> The initial results of the consultation were presented to the agencies. This is done through a report in writing, presented at a meeting in the field at the end of the two weeks. Any agency singled out for criticism is consulted with beforehand by the Ombudsman. The Ombudsman endeavours to reach a consensus with the stakeholders before finalising the report and agencies were welcome to provide suggestions for possible redress and in order to negotiate a resolution at the meeting</p> <p><b>14 Agency response.</b> In this case the agencies were not happy with the conclusions reached by the Ombudsman in regard to the lack of co-ordination as they felt they had developed a mutually helpful forum. The ombudsman explained that the spirit of the Code obliged a much more intentional strategic use of co-ordination rather than limited to the prevention of duplication and competition. For this reason the ombudsman felt that his/her comments should stand.</p> <p>The agencies decided to confer together and agreed that although they had some reservations about the criticism they nevertheless acknowledged that more could be done in regard to thinking collectively among themselves and with the local representatives of communities to contribute to the long-term well being of the Chechnya. They would commence a new level of co-ordination immediately.</p> <p><b>15 Presentation of findings to beneficiaries.</b> An information session to present the findings and the results of the agency meeting was held.</p> <p><b>16 Formal responses.</b> A modified report is prepared which included the resolutions achieved at the field meeting. Agencies both in their HQ organisations and in the field were invited to respond formally to the findings, within a 30 day time frame.</p>
<p>FINAL DETERMINATION</p>	<p><b>17 Preparation of Final Report.</b> After the 30 day consultation period is over, responses from the agencies were compiled and conclusions and recommendations were made by the OHA. These included:</p>



<p>COMMUNICATION</p> <ul style="list-style-type: none"> <li>• formal notice to complainant (if any)</li> <li>• recommendations</li> <li>• sanctions, if required</li> <li>• information to media</li> <li>• annual report</li> </ul>	<ul style="list-style-type: none"> <li>• <i>No contravention of Principle 2: Most agencies did all they could to enable access; no one intentionally withheld assistance.</i></li> <li>• <i>Contravention of Principle 6: Agencies had failed to embrace the spirit of the Principle although they achieved a good level of interagency communication. The agencies had decided to improve this area of practice by the establishment of a joint planning committee to co-ordinate the strategic nature of the humanitarian activities.</i></li> </ul> <p><b>18 Report distributed.</b> The final report was sent to the agencies, with a recommended communication process to be followed. A copy of the report is delivered to the local authorities.</p> <p><b>19 Bi-monthly report.</b> The OHA places a summary of the findings (anonymous) of the investigation into the bi-monthly publication, which is subscribed to by NGOs, International bodies and placed on the Internet in the public domain.</p> <p><b>20 Sanctions/agency redress.</b> It was agreed that no sanctions would be recommended by the ombudsman, however, agencies agreed to a workshop to determine ways to improve the delivery of services in the region to reach those most in need and to appoint a co-ordinator and NGO co-ordinating committee. At the workshop with local agency representatives, the ombudsman facilitated the nomination of a co-ordinator to oversee the response in the region.</p> <p><b>21 Recommendations to donors.</b> A secondary report to donors and the UN would highlight the particular difficulties being encountered in Chechnya and with particular reference to the very serious risks to personnel and recommends actions and positions these actors could adopt to contribute to an improvement of the situation.</p>
<p>EDUCATION</p> <ul style="list-style-type: none"> <li>• distil/describe lessons learned</li> <li>• recommendations for improved best practice</li> <li>• contribute to agency education initiatives</li> <li>• recommendations for further research</li> <li>• follow-up</li> </ul>	<p><b>22 Press release.</b> A press release to the local media is drawn up with the findings of the ombudsman, thanking people for their co-operation in the investigation and announcing the appointment of a new co-ordinator and committee of local organisations.</p> <p><b>23 Local seminar.</b> As part of the 'communication' step the ombudsman did request a localised seminar dealing with the coverage issues and co-ordination.</p> <p><b>24 Widened education of humanitarianism in the region.</b> It is agreed that increased media attention should be given to the humanitarian response, in particular through local media to educate the population about the role of the agencies.</p> <p><b>25 Follow-up.</b> Agencies are asked to report back to the Ombudsman on a six month and one year interval regarding improved action in the field and the altering of internal policies/best practice. These are shared with all agencies.</p> <p><b>26 Humanitarian security.</b> Humanitarian personnel in this region are notoriously vulnerable, as evidenced by the murders of personnel of InterTech, IOM and the ICRC and the hostage taking of other personnel. The Ombudsman could act as a conduit for the dissemination of lessons learned and the holding of a 'round table' discussion on the issues of security, access and personnel safety. The Ombudsman has enquired and discovered that of the agencies who have worked in Chechnya, all have undergone extensive internal soul searching and yet this examination has not been shared within the wider humanitarian community.</p>

**Questions to Scenario Readers:**

- 1 Would the ombudsman be able to gain access to the Beneficiaries? To the political bodies? How difficult would access be?
- 2 Are NGOs aware of the Code and is it sufficiently understood by those on the ground?
- 3 Would the ombudsman have good relationships with the Agencies in this scenario?
- 4 Is there a co-ordinating body that an ombudsman could work through?
- 5 Are the expectations reasonable?
- 6 Is the outcome/process reasonable?
- 7 Would the process be useful? What might it contribute to practice?

## Rwanda Scenario • *Three Interventions by the Ombudsman for Humanitarian Assistance*

### Introduction

This scenario is intended to provide an overview of how an Ombudsman for Humanitarian Assistance (OHA) might have acted in the context of the emergency in Rwanda/Great Lakes Region. Among the recommendations of the Joint Evaluation Report<sup>1</sup> was that an Ombudsman should be created to provide greater accountability for Humanitarian action.

The scenario covers the period of April 1994 onwards (including both emergency and rehabilitation efforts), but does not address possible intervention of an OHA prior to this time. The scenario assumes that an OHA would have "set up shop" in Kigali at the start of the crisis in April 1994 and describes three situations in which the OHA may have chosen to intervene: the first is a proactive investigation launched based on the witness by the OHA of lack of prevention programs following the cholera outbreaks in refugee camps, the second reviews the OHA's intervention upon seeing a misleading media report by an agency, the third is an investigation which is initiated as a result of a beneficiary complaint lodged directly to the office of the OHA.

### Context

#### *Situation overview/background*

Civil war and genocide in Rwanda involved the deaths of an estimated 5-800,000 people over a period of only three months in 1994. A further two million people fled to neighbouring countries, while up to 1 million people became internally displaced persons. Additional suffering included psychological and physical injuries; enormous economic impacts and an ongoing legacy of violence and tension within the Region.

The Humanitarian intervention involved at least 200 International NGOs, spending roughly \$1.4 billion dollars between April and December of 1994. It should be noted that considerable humanitarian relief was already taking place in the area prior to the genocide, involving assistance to both IDPs and refugees. However, the scale of the effort increased exponentially as a result of the 1994 genocide.

The complexities of the issues surrounding the civil war cannot be overemphasised. These

<sup>1</sup> Recommendation 13.3: Identify a respected, independent organisation or network of organisations to act on behalf of beneficiaries of humanitarian assistance to perform the functions described in option (ii)... (including to) undertake regular field-level monitoring and evaluation of emergency humanitarian assistance, and review adequacy of standards followed, serve as an ombudsman to which any part can express a concern related to provision of assistance ~ Humanitarian Aid and Effects, Part 3, Joint Evaluation of Emergency Assistance to Rwanda, pg. 163

contributed to the difficulties with which aid was disseminated to the Region and the challenges faced by NGOs within a politically charged, ethnically divided and extremely volatile environment. Humanitarian operations in Kigali, for example, were severely limited by high levels of violence and agencies expressed concern about compromising their neutrality in the 'Safe Zone' area of Rwanda organised by the French Operation Turquoise. Consequently, efforts were widely focused on refugee populations in neighbouring Tanzania and Zaire where large numbers of those in need were more readily accessed.

While the height of the emergency passed in late 1994, humanitarian relief continued throughout 1995 and 1996. Rehabilitation and repatriation efforts are ongoing with a significant presence of International NGOs still in the region today.

PRINCIPLES/ACTIVITIES	ACTIONS TAKEN
<p><b>INITIATION</b></p> <ul style="list-style-type: none"> <li>• Discussion</li> <li>• Acquainting beneficiaries with Codes</li> <li>• Triggers</li> <li>• Complaint mechanisms</li> </ul>	<ol style="list-style-type: none"> <li><b>1 Set up shop:</b> As soon as it became apparent that the emergency would involve a large-scale humanitarian intervention, the OHA immediately set up a temporary office in Kigali, staffed with three people. Due to the anticipation of a high volume of work, the office determined that priority for intervention would be given to complaints lodged directly from beneficiaries; second priority would include the investigation of hearsay concerns, either through media or informal contacts, regarding possible non-compliance; and finally requests for intervention from NGOs would be the last priority of the office. The principles of this method of response were posted clearly in the OHA office.</li> <li><b>2 Communicate the role and presence of the OHA:</b> Letters were sent to all Northern-based NGOs to inform them that the OHA would be setting up a temporary office in Kigali. Communication efforts locally included the distribution of information brochures and posters to refugee and IDP camps throughout the region. Within the first week, the OHA contacted as many agencies as possible with a presence in the region and arranged site visits to refugee and IDP camps in order to personally communicate the role of the OHA and gain a better understanding of the situation.</li> <li><b>3 Site visits:</b> The OHA undertook field visits to the camps and determined that at least one representative from the office should be out in the field at all times.</li> </ol> <p><b>Issue 1: Cholera prevention in Refugee Camps (OHA INTUITION)</b> High rates of cholera were prevalent in many of the camps particularly at the start of the emergency, before water and sanitation provision was sufficient.</p>
<p><b>EVALUATION</b></p> <ul style="list-style-type: none"> <li>• Appraisal and observations</li> <li>• Inform agencies</li> <li>• Meetings with stakeholders</li> <li>• Legitimacy</li> <li>• Communication</li> </ul>	<ol style="list-style-type: none"> <li><b>1 Field visits:</b> Witness of lack of prevention programmes. The OHA was aware that a cholera epidemic, primarily in Goma, had resulted in extremely high mortality rates and agencies had been working hard to bring the situation under control. At this point, the height of the epidemic was near an end and the OHA did follow-up visits to the camps to determine how agencies were coping. The OHA observed that some had managed to</li> </ol>

<p>DELIBERATION &amp; NEGOTIATION</p> <ul style="list-style-type: none"> <li>• Analysis</li> <li>• Assessment against Code of Conduct, Standards</li> <li>• Practical Wisdom</li> <li>• Consensus building</li> <li>• Stakeholder resolutions</li> <li>• Trust</li> </ul>	<p>introduce prevention programs, while others were still dealing solely with treatment.</p> <p>2 <b>Informed the agencies.</b> At the weekly NGO co-ordination meeting in Kigali, the OHA informed the agencies there was a possibility that some camps were not meeting acceptable codes of practice, by not initiating both treatment and prevention programs for Cholera outbreaks. The OHA did stress that the office was not undertaking a full investigation, but that they would intervene proactively in order to prevent official complaints coming forward and thus facilitate improved practice on this front. The OHA highlighted good practice that was witnessed in the field and suggested that agencies investigate reasons as to why the introduction of prevention programs may have been delayed.</p> <p>3 <b>Resources.</b> The OHA circulated the accepted standards and protocols for the prevention and treatment of cholera and put together a contact list of agencies that had been able to introduce such programs.</p> <p>4 <b>Review of practice.</b> At the meeting, the NGOs discussed the issue and reviewed the initial reasons as to why there continued to be an emphasis on treatment rather than prevention at this late stage in the epidemic. Two primary issues arose: the high numbers of refugees in some areas were too difficult to manage; and continued difficulty with water/sanitation was still occurring. Successful initiatives seemed to be happening in smaller camps where water provision was now more sufficient to meet the needs of the population.</p> <p>5 <b>Standards non-compliance.</b> The OHA suggested that agencies may not be meeting codes of practice (Sphere) and that if they were to do so, more deaths may be preventable. The agencies agreed to review their programs and determine what was reasonable given their circumstances. They would respond at the following NGO co-ordination meeting as to whether or not they may be able to find ways to introduce prevention programs more widely</p> <p>6 <b>Follow-up meeting.</b> At the next weekly meeting, the agencies discussed their findings. Beneficiary Groups are also present at the meeting.</p> <p>7 <b>Brief report by agencies.</b> Each agency prepared and circulated a brief report at the meeting as to what measures had been undertaken thus far and reviewed concerns as to why delays had occurred. It was generally felt that resources were insufficient to meet the current need and that more resources (both wat/san &amp; human) were required to deal with matters beyond emergency treatment. Notably, however, some agencies had already attempted over the past week to introduce a prevention element and sought help using the list of successful agencies provided by the OHA.</p> <p>8 <b>Task force.</b> The agencies suggested that an inter-agency task force should be established under which resources could be pooled to help introduce prevention programs. Representation would also sought from beneficiaries and their representatives to help introduce programs more rapidly.</p>
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<p>COMMUNICATION</p> <ul style="list-style-type: none"> <li>• Notice of findings</li> <li>• Sanctions, if any</li> <li>• Press releases</li> <li>• Advice to donors</li> <li>• Reporting</li> </ul> <p>EDUCATION</p> <ul style="list-style-type: none"> <li>• Lessons learned</li> <li>• Research</li> <li>• Public education materials</li> <li>• Follow-up</li> </ul>	<p>9 <b>Communiqué.</b> The OHA sent out a communiqué to the agencies regarding the findings and actions taken. A brief letter was also prepared to international bodies with offices in Rwanda and Geneva</p> <p>10 <b>Weekly reporting.</b> A brief weekly follow-up report was prepared by agencies to the OHA from each camp regarding methods followed and results. These were compiled by the OHA and circulated to the agencies</p> <p>11 <b>Press release.</b> A press release was prepared reporting on the actions, findings and results of the OHA intervention. eSuccess Stories are highlighted in the Press Release. This is sent to both northern and southern media</p> <p>12 <b>Recommendations for best practice.</b> After a few weeks of collecting reports from agencies, conclusions for recommended best practice were made. A bi-weekly report continued to follow-up on agency results and practice in the area.</p> <p>13 <b>Monitoring.</b> The OHA continues to monitor the situation in case further intervention is required. It is agreed by the agencies that they will attempt to undertake a full evaluation report regarding the implementation of prevention programs for Cholera in the region</p> <p>14 <b>Camp meetings.</b> Meetings are organised by beneficiary groups in the Camps to discuss the outbreak, treatment and prevention of disease</p> <p><b>Issue 2</b> Inaccurate media reporting by NGO (OHA witness)</p>
<p>EVALUATION</p> <p>NEGOTIATION &amp; REDRESS</p>	<p>1 The OHA in Kigali received all forms of media communication from agencies and did a daily press review. In April 1995, the OHA noted an appeal from an NGO to: 'save the victims of genocide from Cholera'. The cholera epidemic, however, was concentrated in Goma and the victims of genocide were almost exclusively Tutsi, and not among those who fled to Goma. Furthermore, the cholera outbreak was largely under control by this point in the emergency.</p> <p>2 The OHA sent a letter to the agency involved and cautioned them that their appeal was not only misleading, but entirely inaccurate. He warned that the Code of Conduct, #10.1 was contravened: <i>'In our public information we shall portray an objective image of the disaster situation'</i></p> <p>3 A response was requested from the NGO with their own recommendations for redress. The NGO acknowledged that they were in contravention of the Code and that their reporting was inaccurate. They agreed to stop the current campaign and withdraw all materials that referred to events in this manner. They indicated that the person responsible for the campaign was sanctioned.</p>
<p>COMMUNICATION</p>	<p>4 The OHA completed a formal report on the incident, which was distributed to agencies and relevant donor bodies. A press release was also prepared</p>

<p>LESSONS/POLICY</p>	<p>5 At the next NGO Co-ordination meeting, the OHA warned of inaccurate media reporting by agencies. A temporary committee was set up, consisting of NGOs and press agencies to address the issue of appropriate media reporting. A standard policy was drafted by the committee for use in the Region.</p> <p><b>Issue 3: Housing (BENEFICIARY COMPLAINT).</b> As part of the repatriation and rehabilitation efforts in the post-war environment, agencies are rapidly building housing to enable refugees to return to Rwanda.</p>
<p>EVALUATION</p> <ul style="list-style-type: none"> <li>• Informing stakeholders</li> <li>• Gather Materials</li> <li>• Appraisal and observations</li> <li>• Establishing contacts in the field</li> </ul>	<p>1 <b>Complaint lodged.</b> An individual came into the office of the OHA to register a complaint regarding the provision of housing. The beneficiary noted that they were accustomed to living on the hillsides in a rural environment and not within towns or villages. The beneficiary said that, as a result, most of the housing remained empty as beneficiaries were reluctant to return.</p> <p>2 <b>Letter to agencies.</b> The OHA sent a letter to NGOs involved in building the shelter to inform them of the complaint and requested an accompanied site visit.</p> <p>3 <b>Background research.</b> The office gathered as much background material as available with regard to the provision of new settlements, including the locations of sites, numbers of beneficiaries and process for implementation. Approved standards and processes were also gathered for reference.</p> <p>4 <b>Field visit.</b> The OHA organised a visit to the subject site to view the project firsthand.</p>
<p>NEGOTIATION &amp; DELIBERATION</p> <ul style="list-style-type: none"> <li>• Situation analysis</li> <li>• Participation of parties</li> <li>• Other stakeholders</li> <li>• Communication</li> <li>• Reasonableness</li> <li>• Consensus building</li> <li>• Dialogue</li> </ul>	<p>5 <b>Meeting with local staff.</b> The OHA discussed the role of the ombudsman with the field staff and discussed the subject project with them. It was determined that the local staff was informed by the government as to where the housing would be placed and they were simply following orders. The OHA determined that a meeting with both beneficiaries and government officials would be required. The office ensured that the results of any consultation would be communicated to them.</p> <p>6 <b>Meeting with beneficiaries.</b> An open meeting was held with the beneficiaries. Some of the questions/issues discussed included:</p> <ul style="list-style-type: none"> <li>• how were beneficiaries consulted in the process – was there a contract in place?</li> <li>• do they feel that the housing is sufficient?</li> <li>• do they intend to move into the housing? If not, why not?</li> <li>• how could the present project be remedied?</li> <li>• what should be changed regarding the process in future?</li> </ul> <p>7 <b>Meeting with government officials.</b> A meeting was held with the Ombudsman and the relevant government officials who informed the office that it was their determination as to what the resettlement plans would be. They were unaware that the beneficiary population had difficulty with this. It was agreed that the OHA could consult the beneficiaries directly, but that the government must be kept informed of any results of the communication. The OHA agreed to keep the officials apprised.</p>

<p>CODE OF CONDUCT APPLICATION</p>	<p>but communicated that they were a neutral body, acting on behalf of complainants, while seeking to improve NGO practice</p> <p>8 <b>Preliminary conclusions.</b> The OHA concluded that the current provision of housing at this project was not meeting the needs of the target population and that the agency involved did not follow the Code of Conduct, #7, 'We shall be found to involve programme beneficiaries in the management of relief aid. However, it was agreed that the government ultimately was responsible for resettlement plans and the agency may not have been able to have any influence over this. The initial findings were communicated via a telephone call to the agency</p> <p>9 <b>Meeting with agencies.</b> A formal meeting was held with agency HQ and field representatives to communicate the findings. Government representatives were also invited to participate</p>
<p>FACILITATING SOLUTIONS</p> <ul style="list-style-type: none"> <li>• The OHA as 'coach'</li> <li>• Beneficiary Consultation</li> </ul>	<p>10 <b>Suggestions for agency redress.</b> The agencies discussed a possible method for redress. It was concluded that this project may be too far along to alter, however, the agency made suggestions as to how the process be altered for future projects. In particular, it was suggested that agencies seek to consult with the beneficiary population as to the government plans and attempt to facilitate beneficiary action with the government if they are not satisfied. A suggestion is made that the beneficiaries sign a housing contract once a programme has been negotiated and agreed upon with them and that local staff will be engaged in the contracting and design process</p> <p>11 <b>Initial feedback to beneficiaries.</b> The results of the OHA investigation were presented in a meeting to beneficiaries, in the presence of the agency staff. Beneficiaries suggested, however, that they were still reluctant to occupy the settlement. The agency agreed to negotiate with the government as to possible alterations to the project which might satisfy the beneficiaries. It was finally agreed to add a farming centre for residents further up on the hillside with some planning made for irrigation assistance by a development agency.</p>
<p>COMMUNICATION</p> <p>OHA reports Commending participation &amp; action by agency Letters to stakeholders Donor Consultation</p>	<p>12 <b>OHA report.</b> The OHA produced a report on the investigation with the findings, noting the application of the Code of Conduct and the subsequent methods used by the agency to improve practice. The OHA indicated that the resolution was satisfactory.</p> <p>13 <b>Beneficiary/agency meeting.</b> A final meeting was held in the community with stakeholders to communicate the findings.</p> <p>14 <b>Letter to complainant.</b> A formal letter was sent to the complainant. The OHA also discussed the findings in person with the beneficiary.</p> <p>15 <b>Letter to local government.</b> The OHA sent a letter to local government thanking them for their co-operation</p> <p>16 <b>Letter to donor.</b> A letter was sent to the donor with a copy of the OHA report. A suggestion was made that the Donor ensure in future that beneficiary consultation be more explicit in a project, either directly with governments or NGOs</p> <p>17 <b>Communication to other housing sites.</b> The OHA noted that a</p>



<p>EDUCATION</p> <ul style="list-style-type: none"> <li>• Promoting lessons learned</li> <li>• Further communication</li> <li>• Follow-up</li> </ul>	<p>number of other redevelopment projects are ongoing in the region. A letter was sent to the agencies involved regarding the recent investigation of the OHA.</p> <p><b>18 Field visits.</b> The OHA attempted to visit other housing sites as part of the regular field visits to compare processes and best practice.</p> <p><b>19 Best practice notes.</b> The OHA requested that the agency that was investigated write a 'lessons learned' and best practice regarding the provision of shelter in the region addressing appropriate processes for consultation with beneficiaries and government and how to engage beneficiaries in action. The Best Practice was published in the bi-monthly regional newsletter of the OHA.</p> <p><b>20 Follow-up.</b> A follow-up visit to the housing site is arranged in 3 months time.</p>
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#### Questions to Scenario Readers:

- 1 Would the Ombudsman be able to gain access to the Beneficiaries? To the agencies? How difficult would access be?
- 2 Are NGOs aware of the Code and is it sufficiently understood by those on the ground?
- 3 Would the Ombudsman have good relationships with the NGOs in these scenarios?
- 4 Is there a co-ordinating body that an Ombudsman could work through?
- 5 Are the expectations reasonable?
- 6 Is the outcome/process reasonable?
- 7 Would the process be useful? What might it contribute to practice?

## Ombudsman Scenarios • *Short Interventions*

### Introduction

The following scenarios describe hypothetical interventions by the Ombudsman regarding NGO malpractice in non-complex emergency situations. In each case, the Ombudsman responds to one of the three possible triggers presented within the office's remit: a beneficiary complaint, a proactive decision to intervene, or a member agency request for intervention. The short scenarios are intended to illustrate how an Ombudsman might achieve fairly quick resolutions to situations where only a small number of actors are involved and where the principles of accountability are quite clear.

### Summary of OHA Interventions

Scenario	Trigger	Standards/ Code of Conduct Contravention
Winterisation Programme	Proactive Intuition	Code #9
Sphere Standards		Cheese to Lactose Intolerant
Population	Agency complaint	Sphere Standards
Outdated Medicine	Beneficiary representative	Sphere Standards
Inappropriate clothing	Beneficiary Complaint	Code #9; Sphere Standards
Religious Complaint	Beneficiary Complaint	Code #3

### Scenario I Winterisation programme

#### *OHA Trigger: proactive intuition*

In August, the Ombudsman is aware through his/her network that an application to provide winter clothing to the Northern region of Afghanistan has been placed by an agency. In the past year, the OHA received an anonymous complaint that the same organisation attempted to deliver a winterisation programme, but that the materials didn't arrive until well after they were needed, almost into the Spring. At the time, the OHA sent a letter of warning to the agency involved but no further action was taken.

In October, the Ombudsman checks with the local contact to see if the winter clothes had, in fact arrived. It is reported that the clothes have been delayed. The OHA calls the agency responsible and is informed that the agency was experiencing difficulty with transportation and that the clothes would arrive in three weeks time. The OHA indicates that there is a possible violation of the Code of Conduct #9 (professionalism), and reminded the agency of a similar problem in the year before.

The OHA requests a report from the NGO within three days as to how they will ensure that the clothes arrive before the end of the month and the heavy part of winter sets in. The NGO reports back that there continues to be a problem with transportation and they are unsure as to whether the clothes will arrive on time. The OHA strongly recommends that the NGO find alternative transportation sources or a local supplier be contracted to deliver the clothes. A letter is sent to the agency and copied to the donor. A brief account is included in the OHA bi-monthly report and a follow-up investigation is scheduled for the following year.

## **Scenario 2 Cheese to Lactose-Intolerant Population**

### *OHA Trigger: Agency Complaint*

The OHA receives a report from a member agency operating an educational programme in South India, that a large shipment of cheese was received from a European agency that was non-consumable for the population of the region as there was an unusually high prevalence of lactose intolerance amongst the local population. The Ombudsman registers the complaint and launches an investigation.

The OHA calls the agency involved and notes the complaint was received and asks if they were aware that the subject population was unable to consume the food. The agency responds that they were not aware of this fact and that they often provided tinned cheese for food aid. The OHA indicated that the minimum standards required that the nutritional needs of the population be taken into consideration and the delivery of the cheese was a direct contravention of these. They were asked to respond to the OHA within two days as to a method of redress.

The agency responds by the next day to the OHA that they will formally apologise to the beneficiary population, and remove the goods immediately. They requested input from the beneficiaries via their local agents as to what food would be acceptable and the agency would endeavour to provide this from a local supplier to ensure that it arrived within the next two days.

The OHA sends a letter to the agency and thanks them for their prompt action. The OHA recommends that agency staff undertake appropriate training in nutrition and other minimum standards to avoid future problems of this sort, and provides them with information on availability of such training. A letter is also sent to the complainant regarding the action taken by the OHA and the agency response. A report is placed in the OHA bi-monthly newsletter.

## **Scenario 3 Outdated Medicine**

### *OHA Trigger: Beneficiary Representative*

A local NGO, the 'Women's Health Advocacy Network' in Indonesia, speaking on behalf of beneficiaries, writes to the Ombudsman to inform the office that an emergency hospital set up in the region, sponsored by a Northern NGO, had regularly been utilising expired medicine. The

OHA enquires as to whether or not they used the agency's internal complaints handling procedure. The beneficiary representative noted that they had, in fact, complained directly to the agency's local staff, but no change had occurred over six months time. A reply is sent to the complainant stating that the OHA will examine the situation and report back.

The OHA contacts the HQ of the agency and informs them of the complaint, and the possible contravention of the Sphere Standards, to which they had subscribed. They also indicate that no response was given to the complainant initially by the agency. The agency indicates that the project had received a shipment from a drug company of nearly expired and some out of date medicine, and that they had received a report from their local staff. They informed their staff that, although the medication was likely still 'good', that they should not be using it. They had not heard anything further and thought that everything was resolved. Upon hearing of the complaint to the OHA, the agency agrees to look into the situation and reply back within one week's time.

After contacting their local staff, the agency discovers that, while things had improved since the initial complaint they continued to receive some donations with a mix of both old and current medications and that they used their judgement as to which was safe. Where a medicine was extremely old, the staff said it was disposed of. The HQ of the agency again reminded the local staff that providing outdated medicines was in contravention of the Sphere Standards. They agreed to contact the donor of the medication (drugs company) and request that a replacement shipment be provided of medicine with a much longer shelf-life. The drugs company replies that they were unaware that this was a problem and agree to replace the drugs. The agency informs the OHA of the actions taken and also writes a letter directly to the complainant.

The OHA sends a letter to the agency and recommends that appropriate training be given to their staff on applicable standards. A letter is sent to the beneficiary representative regarding the intervention and action taken and a final report is written.

#### **Scenario 4 Inappropriate Clothing**

##### *OHA Trigger Beneficiary Complaint*

The OHA receives a letter via a local NGO from a beneficiary who was recently living in an IDP camp in a Muslim country. The beneficiary complained that the clothing donated to them was not appropriate, it included high heeled shoes and short skirts which they could not make use of, although the short skirts had been recycled for washing rags. No other clothing had been forthcoming. While the complainant was no longer at the camp, it was noted that several people were still living there and in need of clothing.

The OHA determines which agency was responsible for the IDP camp and contacts them. They endeavour to find out where the clothing originated from. It is found that the agency who sent the clothes was not one that had subscribed to the authority of the OHA. The OHA sends a letter to the agency regarding the complaint, noting that while they were clearly trying to provide help to the camp, they should be aware that minimum standards for the provision of humanitarian assistance were in existence and that the provision of goods such as clothing must be cognisant of local culture and reflect local needs. A copy of the standards and where to seek further information is enclosed in the letter. No further action is taken by the OHA with regard to the agency, as the office has no sanctioning authority.

The office does hold a follow-up meeting with the agency responsible for the IDP camp and recommends that they attempt to provide appropriate clothing to the beneficiaries as soon as

possible. The agency also suggests that they will inform the OHA themselves if another inappropriate shipment of clothing arrives in the meantime.

A letter is sent to the complainant via the local NGO (as no forwarding address had been provided) and a final summary drawn up to be included in the OHA annual report.

## Scenario 5 Religious Complaint

### *OHA Trigger: Beneficiary Complaint*

A Beneficiary contacts the OHA and informs them that an agency delivering food assistance in the area was handing out scriptures at the same time. The complainant indicated that, while they were happy to receive the assistance, they were not comfortable with the religious material.

The OHA determined whether or not the handing out of scriptures is in contravention of the Code of Conduct. Part 3 of the Code of Conduct states:

Aid will not be used to further a particular political or religious standpoint. . Notwithstanding the right of NGHAs to espouse particular political or religious opinions, we affirm that assistance will not be dependent on the adherence of the recipients to those opinions. We will not tie the promise, delivery or distribution of assistance to the embracing or acceptance of a particular political or religious creed.

It is unclear from the complaint as to whether the religious material was being distributed on the condition of receiving assistance. The OHA contacts the agency to inform them of the complaint and enquires as to whether the scriptures were a condition of aid. The agency replies that no assistance was withheld from individuals. A letter is sent to the agency formally notifying them of the complaint and stating that, while there was no contravention of the Code of Conduct, there was a perception by the beneficiaries that it was not appropriate. The agency responds that, as this is part of their mandate, they will continue to make their material available. They did agree, however, only to hand out such material on request.

A letter is sent to the complainant describing the intervention and how the Code of Conduct was applied in this case. A brief report is included in the OHA annual report, without naming the agency involved.