

Standards: A stick to beat us with?

John Cosgrave. 14 February 2013.

This paper reviews the use of humanitarian standards as part of an external regulatory environment for humanitarian action. It is a companion to "*Humanitarian standards - too much of a good thing?*" which focuses on the use of standards with agencies.

The Rwanda and the Tsunami evaluations (and many others) have highlighted the variability of quality within humanitarian response, ranging from agencies with very little experience or capacity (and sometimes questionable agendas) to agencies with lots of experience and capacity who are regarded as the leaders in their field.

While experienced humanitarian workers will have some knowledge of the strengths of different agencies, this is not true of local officials who may be dealing with the international humanitarian community for the first time. In 2005, the author met with the provincial director of health in Aceh. That morning the director had had a meeting with a group of four doctors from Paris who had set up their own group to assist those affected by the Tsunami, and a meeting with MSF, probably the most experienced and capable health NGO for acute medical response. The director gave equal time to both groups, not being aware that MSF represented well over 100 times the capacity of the group of doctors. Ideally, local officials should be able to access good information on the capacity of the agencies they are dealing with.

Regulation, Accreditation, and Certification

Regulation is the control of conduct. At present the humanitarian system is very weakly regulated apart from some national governments which closely control the conduct of agencies within their states. For example, any person or group of people with sufficient funds can set up an NGO and decide what sectors to get involved in regardless of what prior experience they may have.

Accreditation is the giving of recognition from an accreditation entity that a particular body meets all formal requirements for a particular purpose. Certification is the issuing of a formal document attesting to some capacity or other. There is very little practical difference in the meaning of these terms in everyday usage in English¹. This paper will use these terms in the more restricted sense as follows:

- Accreditation is the acknowledgement from an accrediting entity that a particular entity meets all the formal requirements to be able to issue certificates. Self-accreditation occurs where a body issues certificates without being accredited by some external body.
- Certification is the issuing of a formal document attesting to capacity or some other. One example is the Humanitarian Accountability Partnership - International (HAP-I) certification, which certifies that an agency's accountability practices meet the HAP-I benchmarks. Another example is the "No Objection Certificate" in Pakistan, where the relevant authorities certify, at the agency level, that they have no objection to the agency working, and at the programme or project level, that they have no objection to the implementation of that particular project or programme.

Under the accreditation/certification model, an accreditation body would authorise other entities to issue certificates. Accreditation and certification may be based on compliance with formal and transparent requirements and standards as in the case of HAP-I, AusAid (AusAID, 2012) and ECHO

¹ The meaning of the word is slightly different in US English where the term can mean "to recognise or vouch for as conforming with a standard" (Merriman Webster), as well as the academic sense of accrediting a course or college for the issuing of diplomas or degrees.

Framework Partnership Agreement , or based on far less transparent criteria, as in the case of the No Objection Certificate in Pakistan.

Regulation, accreditation, and certification are linked to standards in two ways.

- First, adherence to standards may be a requirement for accreditation or certification, or may be subject to regulation.
- Second, standards may require accreditation and certification of some kind as part of the standard.

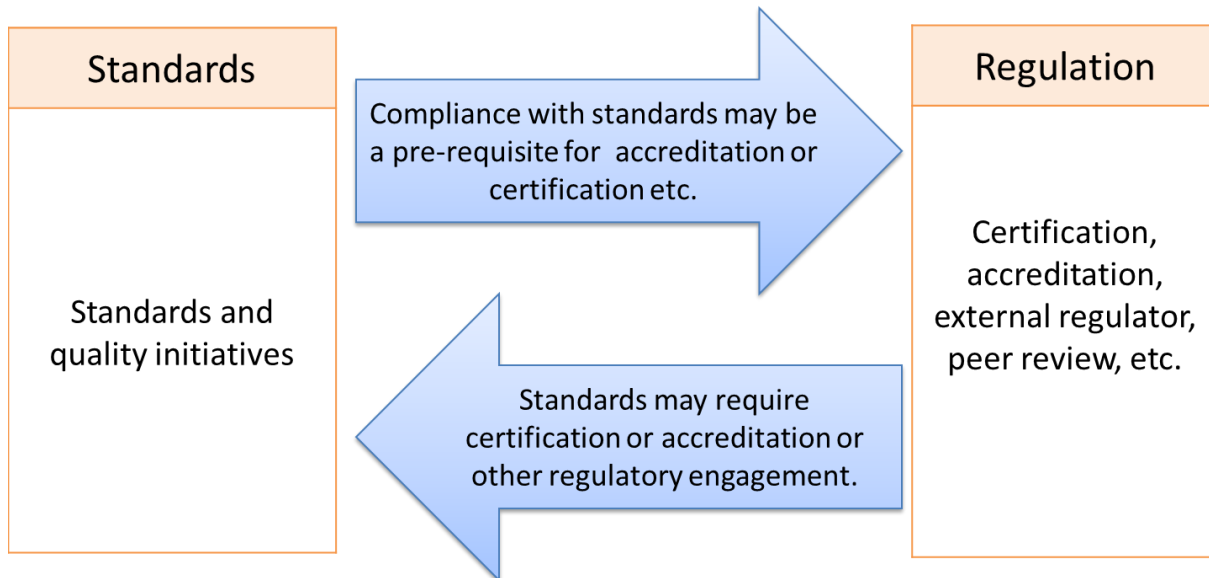


Figure 1: How standards and regulation can interact.

Most quality and accountability initiatives provide guidance without any mechanism for external monitoring or enforcing compliance. These are known as 'voluntary standards.' In order to improve accountability, the 1996 Joint Evaluation for Emergency Assistance to Rwanda (Borton et al., 1996) proposed, as two options, either the establishment of a special unit with the UN's Department of Humanitarian Affairs (a precursor of OCHA) to effectively monitor humanitarian agency performance and serve as an ombudsman, or the creation of a separate humanitarian ombudsman. The latter suggestion was greeted with laughter when first presented to agencies at a meeting in London in 1996 (Borton and Kennedy, 2012).

However, a number of agencies in the UK pursued the idea, and the Humanitarian Ombudsman Project was formed. Essentially this project researched the applicability of the ombudsman concept in humanitarian action. Eventually it was concluded that an ombudsman could not function in typical humanitarian contexts. This led to the formation of the Humanitarian Accountability Project (HAP), essentially an action research project that trialled models for accountability with independent, external verification. In 2003, this became the Humanitarian Accountability Partnership International, with the decision to establish a strong international self-regulatory body.

HAP-I does include external audit and certification of compliance with the HAP 2010 standard. However of the 86 HAP-I members, only 15 were certified by August 2012. It is also notable that of the initiatives spun off by the 1996 Rwanda evaluation, HAP is the one that has taken longest to come to fruition. This is in part a reflection of the continuing concern among NGOs that external *"certification systems may enable donor governments and the governments of affected states to exert additional control over humanitarian organisations in ways that could undermine principled humanitarian action and negatively affect the quality and effectiveness of the response"* (Hofmann, 2011)

A critical element of the Rwanda evaluation recommendations was that in order to ensure professionalization of the humanitarian community there should be some mechanism to monitor compliance with the Code of Conduct and standards either through:

- Self-managed regulation, or
- An international accreditation system (the alternative preferred by the evaluation)

Self-managed regulation has been a non-starter. Although 28 of the 71 initiatives identified in the – JSI-commissioned quality and accountability initiative mapping exercise are stated to be “Peer Regulation” initiatives, this is not an accurate description, as most of the initiatives have no effective mechanism for regulating the performance of signatories, or even for regular peer reviews of compliance. The Steering Committee for Humanitarian Response is at the very early stages of a review of NGO certification.

The synthesis report of the joint evaluation of the international response to the Indian Ocean tsunami made only four recommendations, one of which was that “*The international relief system should establish an accreditation and certification system to distinguish agencies that work to a professional standard in a particular sector.*” (Telford et al., 2006, p. 23). At the time of the Rwanda Crisis the “*Room for Improvement*” report (Macnair, 1995) recommended the establishment of an accreditation system for *individual* humanitarian workers. Both HAP and People In Aid include provisions for certification of compliance to the standards on accountability and personnel management. However, no broad NGO specific certification system was ever established by the humanitarian community, either for agencies or individuals.

Attempts at broader certification include ISO 9000 certification. Medair was the first European NGO to achieve ISO 9001:2000 status in 2001 and re-certified to ISO 9001:2008 in 2011 (Medair, 2011). A small number of national NGOs in South Asia and the gulf have also achieved certification. However, the ISO 9001:2008 certification is about quality management systems, and not about humanitarian delivery.

The nearest thing to an NGO-specific certification system is provided by a commercial vendor. SGS, a company that specialises in providing inspection, testing, and certification services has established an NGO Benchmarking service (SGS, 2012), but Plan International appears to be the only major INGO to have used this SGS service. SGS assess performance against 101 objectively verifiable indicators selected from major codes and international standards in the benchmarking certification.

Additionally, at the country level, NGOs often have to meet a number of criteria for registration, which is a form of certification.

Advantages of the current lack of regulation

The present unregulated nature of the humanitarian system offers a number of advantages:

- Established agencies are free to respond flexibly to changing humanitarian needs and engage in new sectors or geographical areas. Agencies are also free to respond flexibly to changing donor funding patterns (following the money) or to the concerns of their staff or supporters.
- There is a low barrier to entry for new agencies setting up in the sector, allowing the system to grow organically, as well as encouraging innovation.
- Agencies can concentrate on delivering humanitarian assistance without the cost overhead implied by external regulation and compliance systems.
- Agencies cannot be fully constrained from action through the manipulation of regulatory rules by third parties.

Risks of the current system

The current unregulated system poses two major risks:

- First, the quality of humanitarian response is put at risk by the inability to exclude humanitarian actors without the capacity or competence to act, or to effectively sanction agencies or poor quality work. There can be over 100 international agencies (and hundreds of national agencies) offering their assistance in large-scale emergencies. However, only some have the requisite skills and resources to provide good quality assistance in any particular sector. This congestion of the humanitarian space may promote competition, as well as impeding effective coordination, and consume local resources (Cosgrave, 2007, pp. 16-17). It can also lead to delays in the provision of assistance, or to the provision of inappropriate assistance, all of which may lead to death and suffering.
- Second, the failure to implement an overarching system of NGO certification by the humanitarian community will lead to a system being imposed on the humanitarian community by groups of governments, or more likely, the growth of national certification systems in affected countries with increased costs for INGOs and the potential for the exclusion of particular NGOs on national political grounds².

Obviously, concerns about national accreditation and certification are greatest where governments are parties to conflicts, and where adherence to humanitarian principles is particularly critical.

Decision areas on regulation, accreditation and certification

Costs

Regulation, certification and accreditation systems cost money. Clearly, the more complex the system is, both in terms of any incoherence between standards, and the complexity of the regulation mechanism, the greater the cost will be. There are at least two sorts of costs involved here.

The first is the cost of the oversight body that manages the regulation, certification or accreditation system. At present the costs of the secretariats for different standards and quality initiatives are supported by a mix of donor grants and membership fees.

The second, and potentially more serious cost, is the internal agency cost of meeting the procedural or bureaucratic costs of regulation. The cost here will be represented in the time commitment needed for engagement with the regulation mechanism (typically senior staff time), as well as the costs of meeting the bureaucratic requirements of the mechanism (producing and maintaining the records needed to establish compliance), as well as the procedural costs of compliance with the standards (where standards specify a particular procedure to be followed that may be more expensive than alternative approaches).

Costs will typically consist of a fixed cost per agency, as well as variable costs related to agency scale. Agencies need to decide on what the acceptable level of cost would be, both externally, and internally.

Reduced flexibility

One consequence of any regulatory system will be the reduction in flexibility. Agencies would presumably need to gain certification before being able to operate in new sectors or geographic contexts³. This rigidity would apply both in raising the entry requirements for new agencies, and

² Hoffman makes the point that there is a risk that donor governments might use an international certification system to exert control over humanitarian organisations in a way that could undermine humanitarian responses (Hofmann, 2011).

³ Informal versions of this type of certification already operate. DFID often restricts funding to agencies that have had a previous presence in a country. The Disasters Emergency Committee discourages members from seeking funding for countries where they have not had a historic presence, and excludes start-up costs from eligible expenditures.

restricting the ability of existing agencies to move into new sectors or areas. The procedures required by any standards incorporated into the regulatory system may also reduce flexibility⁴.

This type of restriction seems sensible in that it prevents agencies from operating outside their areas of proven competence. It would discourage new entrants with proven skills (placing them in the Catch 22 situation of not being able to intervene because they don't have the skills that only intervention would give them). However, it would reduce the flexibility of agencies to act in response to humanitarian needs. While agencies operating outside their areas of competence, or in an incompetent manner was criticised in both the Rwanda and Tsunami evaluations, new arrivals can also have something to offer⁵.

Agencies would need to decide where the balance should lie between a structured approach and flexibility.

Exclusion

Both the cost and the reduced flexibility risk the exclusion of some agencies, particularly new entrants and smaller agencies, or stifling local 'self-help' initiatives. The fixed cost of being certified will be proportionately harder to bear for smaller agencies. Of course there are those who argue that this would be a good thing as there are too many agencies in the sector at present. It can be argued that this type of restriction would stifle humanitarian solidarity but the counter argument is that good-will on its own is not enough, and that society restricts the practice of the caring professions such as medicine to qualified practitioners.

No system can be perfect, and there is a risk that any regulatory system will exclude some good agencies along with the poor performers, and include some poor performers along with the good ones. The accuracy of any such filtering could increase with greater complexity, but the higher regulatory costs of greater complexity would rule out more of the smaller agencies.

A further concern is that the rules for any regulatory system might be tweaked to exclude agencies for political or financial reasons. This will be discussed below under power.

Agencies would need to decide where the balance of cost and the risk of improper exclusion or inclusion should lie.

Objective versus subjective measure

Justice demands a rigorous system that would be objective rather than subjective, but objective systems measuring compliance typically demand quite bureaucratic approaches with a good deal of documentation. This increases the proportional cost for smaller agencies. Peer review systems feature subjective judgements. They have the advantage that they can be a lot less bureaucratic and cheaper to implement.

Objective measures could, for example, include the number of Chartered Engineers employed by an agency, or the volume of stand-by stocks maintained. Subjective measures could include how that agency is rated in any particular response by other fieldworkers, officials, and the affected population across a series of metrics. This would be similar to the way in which DARA based donor ratings in the Humanitarian Response Index (DARA, 2012) in part on the ratings given by field staff.

The advantage of objective measures is that they are more easily defensible in discussions with donors than are subjective measures.

⁴ This way in which procedures intended to promote transparency and consistency become complicated, rigid and wasteful is called proceduralization by Anderson et al. (2012).

⁵ For example, Concern Worldwide mounted a credible response in the Kosovo crisis despite having no prior operations or experience in the Balkans (Wiles et al., 2000, p. 26).

Agencies would need to decide where the balance would lie between subjective and objective measure of compliance.

Who's certified?

While some agencies are single entities, many more are members of families (agencies with a common brand identity and strategy, such as the Save the Children Alliance) or networks (agencies with a common overarching brand but with individual brands and strategies, such as the Caritas Network). There are other groupings of agencies, around donors (ECHO partners), funding mechanisms (the Disasters Emergency Committee), initiatives (the Emergency Capacity Building project) and sectors or clusters. Agencies can simultaneously be members of many different groupings, all of which may have their own coordination arrangements. In such cases, who gets certified? Is it the individual agency or the broader network or family, or cluster?

Agencies may implement also directly or through implementing partners, or use both approaches, or even have a cascading system where their implementing partners themselves implement through community based organisations (CBO). In such cases, who's certified, is it the agency or their implementing partners, or the CBO?

Agencies may operate across a range of sectors and geographies. Will they need certification for each geographic region or sector?

Power

The real sticking point around standards and regulation has always been about power. The humanitarian ombudsman proposal never gained traction, nor the proposal for UN regulation of the sector, as they would both have involved agencies ceding power to a third party. Of the initiatives flowing from the Rwanda response, the HAP took the longest to come to fruition, as the accountability system cedes some power to the affected population. Sphere and People In Aid were developed far faster as their main use has been for internal benchmarking by agencies, where the agencies did not cede power to anyone else.

One factor that has changed dramatically in the last two decades of humanitarian action is the relative engagement of national actors. National governments have become more important actors in humanitarian response as their capacity has grown with growing national income. The national NGO sector has increased significantly. The increasing engagement of national actors raises questions about power relations. The relative power of international agencies has enabled them to apply national rather than international standards; to focus on accountability to the affected population directly rather than through their governments; and concentrate on coordinating with each other rather than with national structures.

Of course, most of those in the sector are too polite to say that the discussion is about power. Instead the power issue is dressed up in arguments about how donors or others might use any regulatory system to exclude unpopular agencies, or how compliance with regulation might replace adherence to humanitarian principles. In both of these cases the argument is about constraints on agencies' abilities to act as they wish.

Any effective regulatory environment would see a transfer of power from individual agencies to the regulatory mechanism, be this stand-alone, or a collective. This continues to be the real challenge of regulation, certification and accreditation in the humanitarian sector. However, without better regulation of the sector as a whole, the performance of the best humanitarian agencies will be compromised by poor performance of other agencies. The challenge is not just about improving the performance of individual agencies, but about improving the performance of the system as a whole.

An accreditation and certification system also raises issues of power, in that the accreditation entity controls who can certify, and the certification entity controls who gets certified. Would there be a

single accredited certification authority in each state, or would a specialist NGO in a particular sector be accredited to certify other NGOs in that sector?

Conclusion

While the use of standards for the internal regulation of humanitarian agencies is widespread, the use of standards for external regulation is fraught with difficulties. However, without some form of external regulation, it will be difficult to avoid the problems seen in previous responses where parts of the affected population are poorly served by agencies without relevant capacities and competence.

For the purposes of this paper we have distinguished between accreditation (the accrediting of an entity as having the capacity to certify NGOs), and certification of NGOs as meeting all the requirements (including standards compliance) as having a particular capacity.

Standards are linked to regulation in two ways, in that regulations or certification may demand compliance with standards, or in that standards may require some prior certification regulatory compliance.

Most of the quality and accountability initiatives in the sector are voluntary standards and have no external mechanism for monitoring or ensuring compliance. Of the three standards covered by the JSI, two, HAP and People In Aid have mechanisms for the external certification of compliance. While there have been a few attempts at using existing quality control standards in the humanitarian community (ISO 9000), and there is a commercial benchmarking certification system for NGOs, there is no overarching certification system for NGOs that is controlled by the humanitarian community.

The current unregulated system offers flexibility, low barriers to entry, and avoids compliance costs and external constraints. However, the current unregulated system places some in the affected populations at risk⁶, and risk the imposition of external controls on NGOs that would be influenced by other than humanitarian factors.

Any new regulatory system would need to consider issues of the balance: of costs and benefits; between flexibility and structure; between the risks of including the incompetent and excluding the competent; the cost of objectivity and risk of bias in subjectivity.

In addition, the way in which the mechanism would work, in the context of the complicated institutional arrangements in the NGO community (alliances, networks, families, brands, partners, etc) would need to be spelled out.

Power, and concerns about the potential risk of ceding of power to any regulatory mechanism still remains the biggest stumbling block to the introduction of a new regulatory system, the risk here is that regulation will be imposed externally without regards to humanitarian principles, if the humanitarian community do not pre-empt this.

Standards provide a useful tool in helping to distinguish the competent from the incompetent, the capable from the incapable. Identifying the capable, competent agencies should help to ensure that populations undergoing humanitarian crises can be sure that they are, within the limits of available resources, getting good quality assistance that conforms to the standards we have set for ourselves.

⁶ The range of current standards initiatives provides an illustration of the types of risks that low quality humanitarian action poses for the affected population including: waste, inadequate shelter, unfair allocations, harm to community relations, inadequate food or nutritional assistance, inappropriate assistance, sexual exploitation and abuse. In the worst case, inadequate, inappropriate, or badly managed assistance can lead to death, as in the case of one poorly organised distribution in Mozambique which led to 5 deaths after the 2000 floods (BBC, 2000).

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