1. The humanitarian imperative comes first;
2. Aid is given regardless of the race, creed or nationality of the recipients and without adverse distinction of any kind. Aid priorities are calculated on the basis of need alone;
3. Aid will not be used to further a particular political or religious standpoint;
4. We shall endeavour not to be used as an instrument of government foreign policy;
5. We shall respect culture and custom;
6. We shall attempt to build disaster response on local capacities;
7. Ways shall be found to involve program beneficiaries in the management of relief aid;
8. Relief aid must strive to reduce vulnerabilities to future disaster as well as meeting basic needs;
9. We hold ourselves accountable to both those we seek to assist and those from whom we accept resources;
10. In our information, publicity and advertising activities, we shall recognise disaster victims as dignified human beings, not hopeless objects.

Background Document for the ICVA Code of Conduct Learning Events

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**Acronyms Used**

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<tr>
<td>CNN</td>
<td>Cable News Network</td>
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<tr>
<td>DEC</td>
<td>Disasters Emergencies Committee</td>
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<td>GHD</td>
<td>Good Humanitarian Donorship</td>
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<td>HPG</td>
<td>Humanitarian Practice Group</td>
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<td>IASC</td>
<td>Inter-Agency Standing Committee</td>
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<td>ICRC</td>
<td>International Committee of the Red Cross</td>
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<td>ICVA</td>
<td>International Council of Voluntary Agencies</td>
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<td>IFRC</td>
<td>International Federation of the RC/RC Societies</td>
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<td>IHH</td>
<td>Foundation for Human Rights and Freedom and Humanitarian Relief</td>
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<td>IHL</td>
<td>International Humanitarian Law</td>
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<td>ISO</td>
<td>International Organization for Standardization</td>
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<td>NGO</td>
<td>Non-Governmental Organisation</td>
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<td>NGHA</td>
<td>Non-Governmental Humanitarian Agency</td>
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<td>ODI</td>
<td>Overseas Development Institute</td>
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<tr>
<td>OIC</td>
<td>Organization of The Islamic Conference</td>
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<tr>
<td>RC/RC</td>
<td>Red Cross/Red Crescent Movement</td>
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<tr>
<td>SCHR</td>
<td>Steering Committee for Humanitarian Response</td>
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<tr>
<td>URD</td>
<td><em>Groupe Urgence Réhabilitation Développement</em></td>
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<td>WVI</td>
<td>World Vision International</td>
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Introduction

‘Humanitarian principles have long underpinned humanitarian action, but given the suspicion under which humanitarian actors are coming, there is a great need to re-assert humanitarian principles. In addition, it may be time for “multi-mandate” organisations to reassess how (and if) they are able to carry out impartial and independent humanitarian action alongside development or peace-building activities, which, by their nature, involve political choices.

... Following discussions within ICVA, as well as in, and with, other forums and bodies, it has become clear that there is a need for an active dialogue on humanitarian principles and how these principles are used in making strategic and operational decisions. ICVA decided that one way to have this dialogue would be to organise learning events for humanitarian organisations – both secular and faith-based – around the Code of Conduct. These learning events take on added importance, given the need to reassert humanitarian principles in an environment of shrinking humanitarian space.’

[ICVA Terms of Reference for the project ‘Strengthening the relevance of humanitarian principles in humanitarian action’]

‘... the humanitarian project is in more serious trouble than is widely understood or acknowledged. ... we are doubtful that the current love affair of the international community with humanitarian action will continue deep into the 21st century. This love affair is currently based on two notions: that humanitarian action is functional to the security interests of the countries that are its traditional major contributors and therefore shape the humanitarian enterprise; that the current political economy of humanitarian action – the humanitarian marketplace – will continue to be dominated by like-minded northern and western-driven values, behaviors and styles of management.’

[Donini 2007, emphasis added]

... At the same time, a severe identity crisis is undermining the ability of humanitarian actors to respond coherently and effectively to the challenges of the future. The current humanitarian system is built on the principles of humanity, impartiality, neutrality, and independence. Yet, these principles have come under pressure as humanitarian actors face difficulties providing assistance effectively and on the basis of need. Several developments explain the challenge: the nature of conflicts has been changing, blurring the lines between combatants and civilians; humanitarian actors are increasingly pressed to address root causes, especially in protracted crisis situations; and integrated approaches are being developed that link humanitarian to development assistance and include military and private actors in response activities.

To deal with this identity crisis, humanitarian actors, including donors and implementing partners, have to make tough choices. There are three
options. They could revert to a strict interpretation of humanitarian principles, accepting a narrow mandate that would not cover local capacity building, addressing root causes, or linking relief and development. Alternatively, they could widen their mandate to include these and other similar activities to respond to a wider set of needs, while acknowledging that this would further blur the distinction between humanitarian assistance and other policy areas and would probably exacerbate access and security problems. Or, they could continue to pursue the currently popular approach of “strategic muddling through” claiming strict adherence to humanitarian principles, while expanding activities and mandates in practice. In this case, however, humanitarian actors would have to accept that the contradictions inherent in this approach will lead to a loss of credibility, as well as to operational problems.


The pessimistic mood that has captured NGOs and NGHAs\(^1\) in the 2000s is a long way from the optimistic enthusiasm around the importance and roles of NGOs in the 1990s. While the 10\(^{th}\) anniversary of the Code was a quiet, if not sombre, celebration, there should be little surprise that there will likely be no fireworks, let alone an informal cocktail to mark its 15\(^{th}\) birthday.

The introductory quotes from ICVA, Donini and URD underline the changes in the operating environment and the risks that humanitarian actors face. The ICVA quote captures some of the fundamental challenges facing the very diverse range of NGOs and activities that are held together by the term ‘humanitarian’. When they suggest that we need to re-assert our humanitarian principles, there is the assumption that we still have a shared body of principles. Donini captures the changing nature of the aid industry, and clear suggestions about trends. URD charts the extreme choices that face humanitarian actors as they considers how to address narrowing humanitarian space: revert to a strict interpretation of principles, widen mandates to respond to new roles and challenges- or simply ‘muddle through’. There should be some concern that the strategic muddling seems to characterize contemporary operational realities.

It is important to not refer to these snapshots as the stereotypical ‘Changing Operational Environment’ in which NGOs operate: these shifts are very much a concretisation and continuation of ideas and trends that took root following the failures of the international system in the 1990s. Some of the key changes in the humanitarian landscape:

- **NGOs:** an increasingly diverse and pluralist community of actors, who have taken on an ever-widening range of activities, facing heavy competition to access donor funding.
- **Donors:** continue to fund NGO activities, while their own policies have moved towards increasingly integrated views of how their military, political, development and security interests can deliver more effective results.

\(^1\) NGOs (Non-Governmental Organizations) is the more commonly employed term; NGHAs (Non-Governmental Humanitarian Agency) has been used in the Code of Conduct to include NGOs and Red Cross/Red Crescent actors.
Host Countries: are themselves increasingly demanding, looking for well-
resourced NGOs that will efficiently deliver services. There is a
rediscovery of state sovereignty with some States rejecting the traditional
aid industry, turning instead to Southern political and economic support in
conflict and post-conflict contexts.

In many ways, the north largely dominates the discussions around the
challenges facing the humanitarian sector. The western and northern-driven
aid industry described by Donini appears to be rather sluggish in responding
to the challenges he identifies. This same group has entrenched itself
ideologically, with few signs of identifying emerging and evolving views of
what humanitarian action and principles mean in the Global South, and to the
non-traditional and non-civilian actors that are now actively involved in
providing assistance and protection. It is unclear how, or if, the traditional
‘club’ of western NGO/NGHAs genuinely intends to address these issues.

Returning to that core question of re-asserting our humanitarian principles,
there is some good news in all of this: the 1994 Code of Conduct for the
International Red Cross and Red Crescent and NGOs in Disaster Relief (or,
the ‘Code’) is a remarkably relevant tool for all stakeholders to consider and
address these strategic and operational challenges. Its ten principles provide
a framework to address the dilemmas and potential clashes of opinions and
policies described above. Its annexes, never fully used, provide contemporary
guidance to Donors Countries, Host Countries and International and Inter-
Governmental Organisations on the kind of environment and partnerships that
NGOs expect. Despite the perception of the Code as being a somewhat
dusty, dated and orphaned document, abandoned on an office shelf by one’s
predecessor’s predecessor, it still resonates – and more importantly takes into
account – the challenges above. The Code of Conduct could well be a vehicle
for NGHAs to re-visit what are assumed to be their shared values, and the
standards to which they hold themselves- and others- accountable.

The research for this paper found that the Code is still seen as timely,
comprehensive and relevant to humanitarian actors and action. At its best,
stakeholders described it as being ‘precious’, ‘a fundamental building block’;
and an important and integrated tool amongst other internationally recognized
standards, guidance and quality and accountability initiatives. Institutions
claim to have systemically integrated the Code and its values into their
statutes, mandates and organisational principles, and see no contradictions
with their identities, faith-based stance, their multi-mandatedness, or their
mode of action, be it emergency relief, recovery, longer-term development,
advocacy, good governance, capacity building or a mix of all of the above.
The Code, often in conjunction with the SPHERE Humanitarian Charter and
Minimum Standards for Disaster Response, appears to be part of the
induction training that organisations provide to their expatriate staff, as a
means to introduce new staff to the fundamentals of our shared humanitarian
enterprise.

Unfortunately, all agree that these often very ‘glossy’ policy perspectives at
the headquarters level described above are not at all reflected in the field.
Field offices are seen as little aware of the Code, and are certainly not referring to it in their daily work. This policy-practice gap questions how well agencies have truly systematised the Code into the complete spectrum of their organisation and work. There is an underlying concern that the aid business is today more comfortable working on tangible issues such as resource mobilisation, technical proficiency, and humanitarian coordination architecture, rather than being able to collectively state our shared values and what we purport to stand for now, and in the future.

**What is this paper for?**

This paper was commissioned by ICVA as part of a renewed effort to increase awareness and use of the Code by humanitarian actors at strategic and operational levels. The spirit of the project is to promote frank and honest discussion amongst the Code’s users, and focus on practical use studies of how the Code is – and isn’t – being employed by its stakeholders. The success of the project will be dependent upon NGOs and individuals having the courage to work together and expose our differences.

This document serves as a brief background document that complements the Code of Conduct Learning Events that ICVA and its partners will host. It intends to ‘stick to the facts’ in presenting a state of affairs of the Code, where it came from, what it is, who it is for, how it is meant to be used, how it is being used, what are the challenges it face, and some existing ideas on what might be done to make it more widely employed and respected.

In addition to this document, the background reading for the Learning Events is listed in the text box on the following page.

This paper is not born of either extensive or exhaustive consultation. The author consulted the key policies, articles, and documents that consider the Code of Conduct over the last 15 years. This desk research was complemented by discussions with a diverse group of operational managers and policy makers. The selection of background reading was chosen to provide a diverse range of perspectives encompassing the Code’s history, usage, perceptions and future.

This document is conceived of as a ‘Living Document’ in that it will be continuously revised according to the contributions received from participants during the future Code of Conduct ‘Learning Events’ that ICVA and its partners will host. The latter are workshops that challenge participants, working in multi-agency and – cultural groups, to consider divergent- and potentially contradictory –interpretations of the Code in practice. The project is intended to serve as a catalyst for further discussions around the Code and the broader humanitarian principles to which NGOs ascribe.

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2 The broader project is entitled, ‘Strengthening the relevance of humanitarian principles in humanitarian action through: 1) A Document on Humanitarian Principles (as contained in Code of Conduct for the International Red Cross and Red Crescent Movement and NGOs) and 2) Learning Events on Humanitarian Principles.’
A few caveats on what this document is not:

- **It is not a reflection on the loosely defined term of ‘humanitarian principles’.** The term ‘humanitarian principles’ has no singular definition, nor is there a standard set of humanitarian principles, nor a universal declaration. The term ‘humanitarian principles’ is typically used as a generic description for the core principles that NGOs use in their work. These principles generally include impartiality, independence and some variant around humanity, staff security and are often complemented by neutrality, which is alternately described as principle or tool. The Code contains most of these principles and is an internationally recognised instrument with almost 500 signatories. This document focuses on the Code of Conduct, though by extension, the arguments can be brought to bear on the oft-debated issue of ‘humanitarian principles’.

- **This paper is not the product of exhaustive research** and will not compile a list of comprehensive solutions for the way forward, nor is it the result of a broad-based consultation with the Code’s stakeholders and of the Code’s usage. The scope and time of the project is limited, and the focus was on producing fast and synthetic results.

### A Living Document?

Dorothea Hilhorst (2004) – This article is the most comprehensive academic research on the Code (118 respondents, 105 of which represented Code signatories). The document provides an analytical overview of the Code, and then uses the survey responses to provide a glimpse of how users perceive its utility, and examines each principle in detail. Also included are quantitative illustrations of how the Code is used in education, advocacy, coordination and other critical dimensions.

### Cracking the Code: the genesis, use and future of the Code of Conduct

Peter Walker (2005) – provides a thorough background on the history of the Code, its origins, adoption and some of the missed opportunities in its adoption. It concludes with some timely reflections on what the future of the Code might be, and what opportunities and threats should be given greater consideration.

### Humanitarian values: under siege from geopolitics

Nick Stockton (2002 unpublished) – an article that frames the debate around principles and classic humanitarian action in the evolving geo-political trends and environment. Notably, it challenges in how far humanitarian actors can continue to uphold their principles and Code, when they unwittingly being integrated into broader military, political, development and peace-building campaigns.

As background, **ICVA’s project is a continuation of efforts started in 2004 in partnership with the Steering Committee for Humanitarian Response (SCHR).** The earlier project, the **Commentary on the Code of Conduct,** was meant to reinforce the Code on its 10th anniversary, by developing a practical tool that could serve as a reference tool for humanitarian actors. While the process and discussions of that project were a catalyst for further initiatives and publications, the Commentary itself was never published, and much energy was invested in debates around defining humanitarian principles and the many nuances and debates that accompanied them. The process underlined the difficulty of trying to develop agreement around how the Code can be practically interpreted, particularly given its ‘accommodating’ language. In retrospect, perhaps there was little stomach at the time for a comprehensive dialogue around
humanitarian principles, against the backdrop of the UN-led Humanitarian reform process launched in 2005, UN Mission Integration, the Iraq and Afghanistan conflicts, and a worrying blurring of the lines between military, political, and humanitarian action.

Interviews with stakeholders brought out very different views of its future. There was little enthusiasm for the progress achieved with the Code since the 10th anniversary. While the problems and challenges facing the Code and its stakeholders are not fundamentally worse than 5 years previous, there is a sentiment that the humanitarian industry has not progressed since 2004. Critics underlined that there is little evidence that humanitarian action is driven by principles today, but rather, that organisations are seen as fiscally focused and increasingly concerned with their own institutional sustainability.

Despite the traditional pessimism that characterises debate in the humanitarian sector, 2009 has seen a rekindling of interest in the principles that underpin humanitarian action. In addition to ICVA’s project, ODI/HPG are launching a 2 year project ‘Principles of Humanitarian Action in Practice’; the Inter-Agency Standing Committee (IASC) is undertaking a series of roundtables looking at the challenges facing humanitarian space; the SPHERE Project is undertaking a revision, including a redraft of the Humanitarian Charter; SCHR is continuing to look at how the Code is being used by its members, and discussing how to take a more active role in the management of signatories to the Code; the OIC has promoted a draft Code of Conduct for Islamic agencies that has been lead by the Foundation for Human Rights and Freedom and Humanitarian Relief (IHH). While the motivations for these initiatives may be quite different, there is a common thread of testing the continued relevance and practicability of Codes and principles for humanitarian action, and indications that a broader-based consideration of opinions (notably the Global South) is a looming priority.

What is the Code?

The Code of Conduct, like most professional codes, is a voluntary one. It is applicable to any NGO, be it national or international, small or large. It lays down 10 points of principle which all NGOs should adhere to in their disaster response work, and goes on to describe the relationships agencies working in disasters should seek with donor governments, host governments and the UN system.

The Code is self-policing. No one NGO is going to force another to act in a certain way and there is as yet no international association for disaster-response NGOs which possesses any authority to sanction its members.

It is hoped that NGOs around the world will find it useful and will want to commit themselves publicly to abiding by it. Governments and donor bodies may want to use it as a yardstick against which to judge the conduct of those agencies with which they work. And disaster-affected communities have a
right to expect those who seek to assist them to measure up to these standards.3

The text is quite clear in what it intends to be: a set of broad principles to which signatories voluntarily adhere, and which guide their behaviour. The Code is comprised of 10 articles or principles, each of which has additional explanatory text that adds depth to the respective principles. The language is deliberately broad and cautious, to accommodate a range of actors and actions that would include emergency relief and protection in conflict zones, responding to natural or man-made disasters, and allowing secular, faith-based, multi-mandate, development, human rights and other organisations to situate themselves in the letter and spirit of the Code. The same accommodating language leaves ambiguities in the principles, which leaves a substantial margin for interpretation by signatories. The focus of the document is very much on disaster relief, which was the primary focus of its authors when they began writing (see text box on page 11).

The Code is often described as having two distinct parts. The first four principles outline the traditional core principles including the humanitarian imperative, independence, and impartiality, with neutrality being suggested, but never explicitly articulated or imposed upon signatories. Articles 5-10 are more ‘best practice’ oriented, and find their roots in the development world with a focus on gender, accountability, participation, and capacity building. This mix of issues that apply to conflict, disasters, and development is a reflection of the Code’s authors, signatories and the historical context.

Despite the Code’s age, much of what it advocates for continues to be relevant and in sync with contemporary debates. The focus on considering the shift from disaster to recovery and longer-term development, to build response on local capacities, reduce future vulnerability, and the inclusion of a gender perspective, all remain key dimensions with which

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NGOs struggle today. While protection has gained importance to a wider range of NGOs since the Code’s writing, it can be argued that the principles are already ‘protection-friendly’ enshrining key dimensions such as impartiality.

Having agreed unilaterally to strive to abide by the Code laid out above, we present below some indicative guidelines which describe the working environment we would like to see created by donor governments, host governments and the inter-governmental organisations – principally the agencies of the United Nations – in order to facilitate the effective participation of NGHAs in disaster response.4

Less well known are the three annexes to the Code. These annexes provide recommendations to the governments of disaster-affected countries, donor governments and inter-governmental organisations. Again, the recommendations contained in the annexes are largely in tune with the contemporary realities of humanitarian action, and make calls for the respect of NGO impartiality and independence, access to victims, coordination, security and the value of NGOs as partners and not mere contractors or implementers of donors and UN agencies.

What was markedly absent from the development and launch of the Code and its Annexes were practical tools, policy/strategy guidance and best practices that would help its signatories and stakeholders to ‘operationalise’ the Code into their respective organisations and contexts. Over the past 15 years, signatories have been obliged to develop the requisite tools, policy and best practices in isolation, without external guidance.

Why was the Code developed?

What few people outside of the disaster-response system realise is that all these [humanitarian] agencies, from the old to the new, from multi-million dollar outfits to one-man shows, have no accepted body of professional standards to guide their work. There is still an assumption in many countries that disaster relief is essentially “charitable” work and therefore anything that is done in the name of helping disaster victims is acceptable.5

The Code was amongst the first critical steps towards professionalization of the aid industry. Created in 1994, it is a timely product of its historic context. Two key trends led to its development. The first was the growth of the ‘disaster relief’ profession. Until the 1980s, disaster relief was seen as the poor cousin of the broader development world. When disaster struck, development workers would change hats, provide short-term emergency relief, and as soon as possible return to the ‘serious business’ of development work. The second phenomenon was the massive growth of the NGO community that accompanied the high profile internal conflicts that characterised the early 1990s (the Kurdish crisis in Northern Iraq, Somalia, 4 Code of Conduct text that describes the Working Environment that signatories seek - http://www.ifrc.org/publicat/conduct/work.asp
and former Yugoslavia). Operating in conflict zones had previously been an exclusive domain of a handful of agencies, and was suddenly seen as the mainstream operating environment for many of these young NGOs.

These trends brought growing unease to the established and intimate group of western, mainstream NGO and RC/RC actors that comprised the relief community of the 70s and 80s. For example, contexts such as Bosnia were being overrun with well-meaning, yet ill-experienced humanitarian actors; the poor quality programming that often resulted was an increasingly poor reflection on the NGO community as a whole. The ‘CNN effect’ was driving unscrupulous use of the media for fund-raising purposes, giving rise to the term ‘disaster/war pornography’ and transforming field nurses into media stars described as ‘Angels of Mercy’. The lack of commonly accepted norms and practice drove the creation of a Code that initially focused on guiding the behaviours of international staff and their organisations.

The same era found donor governments starting to outsource more and more of their assistance and relief functions to this growing community of NGOs, moving away from direct action and bilateral support to States in crisis. This influx of funding fuelled competition in the humanitarian marketplace. To manage the expanding humanitarian arena, there was a dire need to create a community, values, norms, and a sense of belonging that would inspire a more structured cooperation amongst its members.

The actual birth of the Code is a longer story, and the result of disparate efforts converging. In early 1989, Oxfam began an internal discussion about some sort of instrument to

### Disasters vs. Armed Conflict

The Code of Conduct makes repeated reference to disasters, but has only a single sentence of guidance for conflict zones- ‘In the event of armed conflict, the present Code of Conduct will be interpreted and applied in conformity with international humanitarian law’. This is vague guidance, given that IHL offers little explicit guidance on standards of behaviors for NGHAs. This void leaves a curious gap, given that many of the signatories to the Code of Conduct are organizations working in conflict zones. Furthermore, NGOs are often multi-mandated, undertaking humanitarian and development work, and also engage in advocacy, protection, human rights, and disaster response.

**Real or artificial distinctions?** The realities of today’s complex emergencies have left the categorization debate in a very grey area. Aid workers in conflict zones defend humanitarian assistance as being isolated from development work- and also quite different than disaster response. Yet all of these responders in theory employ the same Code to guide how they decide and act.

**Neutrality: an orphaned principle?** Traditional NGHAs operating in conflict zones hold the ‘not taking of sides’ as the one of the most important principles or tools for operating in conflict zones, enabling them to foster and maintain acceptance from parties to the conflict. Neutrality is not explicitly mentioned in the Code; therefore signatories are not obliged to ascribe to it. This liberty risks creating conditions where the NGO community in a single context might work from very different principles, with some willing to openly take sides, and others valuing their access to beneficiaries forgoing speaking out.

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6 Principle 10 addresses this specific issue where it requires signatories in their advertising campaigns to ‘… respect victims as dignified human beings and not hopeless objects’.

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try and orient the aid industry. In the US, the Humanitarianism and War Project developed the ‘Providence Principles’, while the World Conference on Religion and Peace developed the ‘Mohunk Criteria’. Clearly there was emerging unanimity about the need for a universal set of principles.

In 1991, the French Red Cross sponsored a discussion at the Council of Delegates of the International Federation of Red Cross and Red Crescent Societies, calling for the setting up of a group of experts to study the possibility of elaborating a Code of Conduct for humanitarian aid. Following the discussion, efforts were made to involve the UN in this initiative, but failed to secure engagement. The IFRC turned to SCHR and its members to elaborate the Code we know today. This effort resulted in IFRC and Oxfam delegating staff for the writing of the Code itself. The ICRC was brought into the Code development in its later stages, and this accounts for the inclusion of IHL and mentions of armed conflict in the final product (1994).

Initial adherence to the Code was extremely limited in scope: in the beginning, it was a mandatory criterion for SCHR membership. There was genuine concern that unless broader adherence to the Code was sought, the principles of humanitarian action would be further eroded. To address this concern, the Code was taken to the 1995 International Conference of the Red Cross and Red Crescent, and passed as a resolution encouraging NGOs/NGHAs to abide by the principles and spirit of the Code of Conduct.

Some observe that there was a missed opportunity at this nascent stage of the Code and more specifically its Annexes. Specifically, there could have been more structured and robust advocacy with donors, host countries and international/inter-governmental actors when the Code was taken to the 1995 International Conference of the Red Cross and Red Crescent (there were 143 States and 68 UN and NGO observers) to secure their commitment to allowing NGOs to fulfil their obligations, role, and principles. Passed as a resolution at the conference, the Code became seen as a set of principles by – and for – NGHAs, and not as a

What does signatory mean?
Signatories to the Code of Conduct are committing themselves to adhere to the 10 principles and also the types of relationships they must develop with donors, host countries, and international/inter-governmental organizations. But what does it actually mean?
One would assume that at a minimum organizations would: adopt a policy, make regular references to the Code in all of their internal and external publications, that all staff would be trained in practical usage of the Code and, finally, that Code adherence would be regularly measured at strategic, operational and individual levels, with clear benchmarks established, with clear rewards/sanctions for compliance.

Reality shows mixed application of these elements. Organizations do use the Code as an element of induction training. Their own mission or mandates are often so similar to the Code that they overlook it. There is little indication that the Code compliance is being monitored and evaluated, nor that systems of rewards/sanctions are in place.

The background reading provides further depth on these initiatives.
complex and inter-related relationship amongst stakeholders, with clear roles and responsibilities.

Reaction to the Code overall was positive, which was very much in tune with the spirit of the 1990s – there was great enthusiasm about the growing role for NGOs, for a nascent humanitarian profession and a robust global civil society. The Code also set the bar higher to ‘join the humanitarian club’ – there are standards to be met. It was also a potential threat – signatories had to choose between joining or being left out, whether or not the Code was genuinely compatible with their own principles, mission, and operational modalities.

Absent in the Code’s origins is a clear idea of how – or perhaps if – its founders and signatories imagined the policing and compliance with the principles. No international body was created to oversee and develop the Code, and the SCHR remains the de facto caretaker of the signatory process. The unregulated realities of the NGO world in 1995 remain unchanged in 2009, and the budgets allocated to a growing number of NGOs have only increased.

**Who is the Code for?**

The Code of Conduct, like most professional codes, is a voluntary one. It is applicable to any NGO, be it national or international, small or large. It lays down 10 points of principle which all NGOs should adhere to in their disaster response work, and goes on to describe the relationships agencies working in disasters should seek with donor governments, host governments and the UN system.

We would like to register our support for the Code of Conduct and **will endeavour to incorporate its principles into our work**.8

There is relatively little to add to the question of to whom the Code of Conduct applies. The authors introduced the less common term of Non-Governmental Humanitarian Agency (NGHA) to include NGOs and the Red Cross/Red Crescent Movement. The Code (in theory) made no distinction between international and national organisations or workers. The text above is taken from the IFRC website (they serve as the caretakers for the signatory process) and any NGO can make an online application.

While signatories must be non-governmental bodies, the conditions for inclusion as a signatory are administrative in nature. There is no clarity on whether individual NGOs can sign up, or whether signature by their global Movement or Alliance is sufficient and binding. This results in there being 5 CARE signatories, 2 Handicap Internationals, and 11 Oxfam amongst the signatories. Potential signatories must only provide their contact details and website. This latter aspect is an interesting case study: IFRC has found that there are currently 74 signatories that do not have a functioning website, and are suggesting to SCHR that the lack of a web presence should be grounds

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for removal from the list of 481 signatories. In addition, there is no compliance or complaints mechanism, so even in examples where complaints have been lodged by NGOs or beneficiaries for violations, there has been no definitive discussion on how violations should be addressed.

The scope of the Code is today limited to a very exclusive definition of what humanitarianism is – signatories must be non-governmental and exclusively civilian. In 2009, there are a growing number of non-civilian and non-NGO actors engaged in traditional humanitarian assistance and protection activities. As such, if a government body, a private sector actor or armed forces want to adhere to the Code of Conduct in their assistance and protection work, they can do so only in spirit, and not as a full signatory. At the time of the Code’s 10th anniversary, it was found that private sector actors, including a private security company, had been accepted as Code signatories. These were removed in 2004.

**How is the Code meant to be used?**

*This Code of Conduct seeks to guard our standards of behaviour. It is not about operational details, such as how one should calculate food rations or set up a refugee camp. Rather, it seeks to maintain the high standards of independence, effectiveness and impact to which disaster response NGOs and the International Red Cross and Red Crescent Movement aspire. It is a voluntary code, enforced by the will of organisation accepting it to maintain the standards laid down in the Code.*

The Code is self-policing. No one NGO is going to force another to act in a certain way and there is as yet no international association for disaster-response NGOs which possesses any authority to sanction its members.

It is hoped that NGOs around the world will find it useful and will want to commit themselves publicly to abiding by it. Governments and donor bodies may want to use it as a yardstick against which to judge the conduct of those agencies with which they work. And disaster-affected communities have a right to expect those who seek to assist them to measure up to these standards.

To use a metaphor, the Code can be seen as a sort of mirror. It is a mirror for its users, be they individuals or organisations. Ideally, when an individual aid worker or NGO would look in the mirror that is the Code, they should find their decisions, actions and behaviour reflected in its 10 principles. As a mirror, the Code does contain a certain number of imperfections, given the cautious language that it employs. Therefore, the principles themselves offer up concave and convex surfaces that distort the reflection of the user. The distortions in many ways reflect the broad and accommodating language of the Code itself. When NGOs are asked to proclaim, ‘We shall endeavour not

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9 In this document we refer to these assistance providers as non-traditional humanitarian actors, and could include the military, private sector, governmental or other non-NGO actors.
10 From the Code’s purpose: http://www.ifrc.org/publicat/conduct/purpose.asp
to act as *instruments of government foreign policy*, there is clearly a potential for interpretation – or distortion – of how that principle is operationalised, applied and monitored.

Moving away from metaphor, there is considerable ambiguity on how the Code concretely translates into strategy and practice. Agencies are free to integrate, build upon, and interpret, the Code at strategic, policy, and operational levels as they see fit. Even within a single agency, they are free to interpret the Code in different ways, in different contexts, and apply it to different modes of action. The previous sentence is not intended as a judgment, but a reflection on the limits of any code of conduct: what might be principled in one context, may be re-interpreted as un-principled in another. In addition, its employees, who are individuals with their own beliefs and opinions, may not share their NGO’s interpretation of a principle.

The self-policing nature is a key element to how the Code was initially intended to be used. Any non-governmental organisation with a website will in theory be accepted as a signatory to the Code. There is no requirement on defining how signatories intend to mainstream or implement the Code of Conduct into their organisation. The IFRC continues in its role as caretaker, but with no mandate to go beyond managing the list of signatories. Signatories are not obliged to list their adherence to the Code in their own policies, communications, or programming, and there are no benchmarks for performance, complaint mechanisms, or processes for investigating alleged breaches.

Looking beyond the NGOs themselves, the Code describes a thorough set of roles, responsibilities, and expectations for host and donor countries, NGOs and beneficiary populations. The ‘bringing to life’ of these relationships is left to the imagination of the users and stakeholders.

Given that the Code of Conduct is one of the earlier efforts at creating standards in the humanitarian industry, there is the argument that it is simply one of the fundamental building blocks of the standards to which humanitarian
actors adhere. As such, there are links of varying strength between the Code, Good Humanitarian Donorship (GHD) Principles, the SPHERE Humanitarian Charter and Minimum Standards, and standards and guidance from other quality initiatives ranging from URD, People in Aid, to HAP-I. In this broader context, the Code can be framed as being a complement to other instruments in the sophisticated toolbox currently available to NGOs.

**How is the Code being used?**

In the face of these challenges, donors and agencies often interpret, prioritise and apply core principles in varying and sometimes contradictory ways on the ground. Principles such as the Good Humanitarian Donorship (GHD) initiative and the NGO Red Cross/Red Crescent Code of Conduct are characterised by considerable ambiguity over how they translate into practice, if they are applied or considered at all. Agency responses tend not to be systematically considered against principles, with decisions taken in isolation and without wider discussion, debate or lesson sharing. Positions are often ad hoc and driven by ideology or personalities rather than robust evidence and analysis within a clear or accountable decision-making process.\(^\text{12}\) [emphasis added]

The quote from HPG's Principles in Practice project accurately captures how the Code is being used today: NGOs claim to ascribe to principles and policies, but there is insufficient evidence that this guidance is being reflected in the decision making and field practice of NGOs. Despite a Code that suggests norms for behaviour and action, realities suggest that positions and operations are more likely to be driven by dogma, personalities, and NGO cultures.

To sum up the findings of the limited research that went into this document: **stakeholders continue to appreciate the Code.** Its principles are deemed largely relevant; however, it is underused by signatories, in particular at the field level. Given that there is no consistent standard for monitoring and evaluating Code compliance, any comments on the actual usage remains anecdotal. A few snapshots of how the Code’s stakeholders are using it:

**Donors:** There are some examples of donors using the signature to the Code as a criterion for NGO funding eligibility. For example, ECHO requires that its partners be signatories of the Code, though this criterion is not the focus of particular scrutiny, nor is it imposed as a criterion for evaluation. Further downstream, there is little evidence that national NGO partners are required to be Code compliant. Donors appear to be caught in something of a contradiction when one compares the Code and the Good Humanitarian Donorship (GHD) principles. While these documents strongly recall the importance of NGO neutrality and independence from military and political action, donor countries themselves are increasingly integrating their civilian and military strategies, policies and capacities. Given that principle 15 of the GHD includes ‘promoting the use of the Code of Conduct’, NGOs could in theory advocate for greater financial support from donors to support training in

\(^\text{12}\) HPG, Principles of Humanitarian Action in Practice, Project Proposal (draft)
the Code of Conduct at field level, or workshops and seminars to discuss and develop a code of conduct adapted to their context.

**NGOs:** when reflecting on how the Code is being used, they generally describe a very positive picture of the Code’s usage and implementation. It is seen as a primary instrument representing their core principles, integrally linked to their organisational accountability framework, mandates and standards. The Code was described as ‘the mother of all standards’, and as being the inspiration for a range of key instruments and initiatives. SPHERE, for example, can be seen as operationalising the spirit of the Code, with the more recently developed HAP-I and People in Aid could be conceived of similarly.\(^\text{13}\)

NGOs frame the Code of Conduct as an instrument that has been systemically integrated, and reflected in their policies, best practice, guidelines, human resources manuals, contracts, etc. Some admit that their own organisation’s principles are so similar to the Code that they perhaps overlook it in their daily business – though there were also no mentions of NGOs’ monitoring and evaluating compliance with their own organisation’s principles. While the Code might be an integral part of employment contracts, there is little discussion on how compliance or violation of its principles by staff members would be enforced – which stands in stark contrast to more recent policies around preventing Sexual Exploitation and Abuse (SEA).

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**Can the Code accommodate faith-based, multi-mandate, and new trends in development and humanitarian assistance?**

There are numerous anecdotal examples of violations of the Code. For example, a faith-based organization left bibles in houses they constructed for tsunami survivors. In other instances, NGOs are adopting peace-building approaches in post-conflict States, contexts where it could be argued that such work involves making political choices and accepting donor country policies oriented towards stabilization and democratization.

The realities of the aid industry today are that it finds itself caught in considerable debate around in how far NGOs are able to be genuinely independent from their home government’s foreign policy and in how far humanitarian action can dissociate itself from mission integration, peace- and nation-building and the broader international political and security environment. These changes form an awkward crossroads for NGHAs.

Despite having been written for a disaster relief context, the Code’s cautious and broad language still can accommodate these changes in the environment. That said, the Code does not fully pardon it: it still encourages NGOs to not act as an extension of government foreign policy, nor should aid be used to further a particular political or religious standpoint. There is no simple solution to these challenges; that said, it would be helpful that NGHAs recall the Annexes of the Code to their stakeholders, and underline the commitment to ensure that their independence is understood, respected, and promoted.

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13 Humanitarian Accountability Partnership International (HAP-I) [www.hapinternational.org](http://www.hapinternational.org) - ‘runs the leading global quality assurance scheme for humanitarian agencies’. People In Aid [www.peopleinaid.org](http://www.peopleinaid.org) - ‘People in Aid helps organizations whose goal is the relief of poverty and suffering to enhance the impact they make through better people management and support’.
There are *ad hoc* efforts at promoting use and awareness of the Code of Conduct. Snapshots include an NGO using the Code in their briefing to new board members. Other NGOs have ensured the translation of the Code into local languages, or printed posters that are displayed in all their offices, or wallet-sized examples of the Code for their staff and partners. Faith-based NGOs have advocated with their local partners to ensure that they respect the impartiality principle of the Code in choosing secular partners for their operations. To varying degrees NGOs make references to the Code in their promotional material. The Code has been used to inspire local debate and ownership around humanitarian principles in contexts where the NGO world was little developed – ICVA supported such a discussion in Myanmar through their efforts.

There were a few innovative examples of how the Code has been transformed into a practical tool, illustrating how principles can translate into practice:

- The Disasters Evaluation Committee (DEC) in the UK used the Code as the *evaluation criteria* for their collective response to the Gujarat earthquake. There was consensus that the Code was a surprisingly modern and flexible tool. The evaluators went so far as to develop a draft benchmarking scheme that would allow measuring levels of success per principle, and that would have allowed a more standardised, comparative approach to undertaking evaluations. This latter aspect was not maintained by the DEC.
- World Vision (WVI) developed its HISS-CAM decision-making tool as a way of helping staff think through difficult operational and policy decisions, addressing such challenges through a Code/humanitarian principles ‘lens’.
- There have been several *local codes of conduct* developed over the last 15 years, all making some reference to the Code itself. There has been mixed success with such efforts, but practice has shown that if there are individuals who champion the cause, a practical process can bring about a concrete set of principles that address the contextual realities at the field level. The rationale for having undertaken the local codes has been perhaps too varied to draw conclusions, often representing the specific contextual challenges and opportunities/constraints.
- The Organization for the Islamic Conference (OIC) has recently sponsored an initiative to create a *new code for Islamic NGOs*; while the 10 principles of the Code are reflected in their text, their resulting 15 principles are inspired and rooted in Koranic references.

There is convergence around a few issues. Most agree that there is no consistent standard for implementation, monitoring and evaluation of the Code. While the optimistic policy discussions at the strategic level are a

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14 The acronym is for HISS: Humanitarian imperative; Impartiality and Independence; Security and Protection and Sustainability. For CAM: Compelling Aim; Appropriate, Adapted, Adequately informed; Minimal negative impact.
15 A good overview of the number of competing codes: http://www.ethicalcorp.com/content.asp?ContentID=372
positive aspect of the Code’s importance, the Code is not well known in the field, and not regularly or rigorously applied.

**What are the challenges facing the Code today?**

**Where do we stand today?:** In the recent articles looking at humanitarian principles, authors have previously used the terms Dunantists and Wilsonians to describe how European and American NGOs act and think differently. Perhaps we need to re-visit these categories along the lines of Purists, Realists and Revisionists:

- **Purists** are those that advocate and act along the strictest interpretation of the Code, in particular independence, impartiality, and the implied neutrality; it is unclear who is left in this category, though most imagine ICRC and MSF to be examples.

- **Realists** are the majority of the NGHA marketplace. Realists include those NGOs that know the Code, but allow themselves substantial liberty in its interpretation, allowing them to mix-and-match their interpretations according to context, funding, and opportunities. The term ‘principled pragmatists’ might be a synonym for realists, but this would imply that the Code is very central to organisation’s thinking. The concern with realists is that it is very difficult to find coherency in how even one NGO acts across several contexts.

- **Revisionists** are an emerging group, a minority that seems to be reconsidering the principles themselves. None of the mainstream NGOs suggested revising the Code, though this was more a result of concern that a major revision of the Code risks further diluting or confusing the humanitarian principles debate. An initiative such as the Islamic Code of Conduct could be put in this category, an attempt to reframe – and broaden – the very principles themselves, adapting to Koranic principles. There should be further investment in understanding emerging views of the nature of humanitarian action in the Global South, which might be quite different interpretations. If the revisionist category were to expand, the risk is that there could be growing challenges to the existing principles, and increased strain on coherency in the humanitarian sector.

The introduction already captures some of the key challenges facing the Code and the broader humanitarian sector. The following are aspects that might require further attention or suggest the need for course corrections. This section does not provide the solutions, but does include some key questions that the Learning Events might address.

- **Reinforcing the Code of Conduct ‘Quartet’**: while NGOs tend to conceive of the Code as something for themselves, the Annexes describe what should be a powerful quartet including host and donor countries, inter-governmental organisations, and beneficiaries. There should be concern that these other partners might start to use the Code in their favour, for example, with host countries employing Code signature as a minimum standard for access to a crisis, or even using it evaluate (and
sanction) the behaviour of NGO workers and operations. If host countries were to aggressively embrace the Code as a means of selecting which NGOs can – or cannot – operate in their country, they could reframe their restrictions as being a professional selection process, and not a politically charged decision.

- **Artificial distinctions**: the notion that there are purely relief actors vs. longer-term development vs. multi-mandate agencies is not a very helpful distinction today. All actors engage in activities across the broad spectrum of emergencies, recovery and development-oriented work, and work in environments that others categorise as peace- or nation-building. With many NGOs looking, operating, and speaking in extremely similar ways, in how far are these somewhat artificial distinctions adding or taking away from the Code?

- **Politics**: In the diverse and pluralist community of NGOs there is no unanimity on whether NGOs must be neutral and apolitical, nor does the Code exclude speaking out or taking sides. With NGOs having evolved from being a new factor in the international system in the 1990s, to becoming an integral and mainstream element of the international system today, they need to get better at engaging with the real politics of their working. Many of the threats to humanitarian space we face today are in fact results of what NGOs demanded of the international community in the heydays of the 1990s: we asked the international community to act, and to do so coherently. Are we simply victims of our own success when we see the resulting mission integration and humanitarian reform? While the Code offers us very principled guidance, the question remains: for how long can NGOs hope to trump politics with moral arguments?

- **Exclusivity of humanitarian action**: the Code as conceived in the 1990s describes a uniquely civilian and non-governmental identity of ‘real’ or traditional humanitarian actors. In 2009, this definition is under increased threat. Armed forces consider humanitarian aid as their core business, and peacekeeping forces are given robust human rights and humanitarian mandates, in addition to undertaking direct humanitarian projects; States have developed well-resourced crisis response teams, integrating civilian/civil defence/donor/military representatives into joint approaches; there is little reason to doubt that Wal-Mart or Halliburton will become independent ‘humanitarian’ actors in the future. NGOs will have to decide on how open-minded they are towards new members of the humanitarian community: should they not advocate for non-traditional humanitarian actors committing to the principles of the Code? For how long can (or should?) NGHAs maintain this exclusive definition of humanitarian action of being civilian and non-governmental in nature?

- **Pluralist nature of the NGHA community**: the pluralist nature of the aid industry and the NGHA/NGO community is not new, but there are indications that different regions are evolving in different directions. It is possible that very different philosophies and actors will increasingly inform humanitarian action in the coming years. Will the Code as written be able

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to accommodate what might be new interpretations of what ‘humanitarian’ means in emerging regions in the future?

- **Ownership of the Code of Conduct**: SCHR has non-assertively maintained ownership of the Code, have done little with it beyond managing the list of signatories, and not reacted coherently in instances when complaints were lodged. The absence of a dedicated and active owner of the Code is problematic if the strategic goal is to see a universal set of principles reinforced – let alone enforced. As the Code celebrates its 15th anniversary, is it not time for signatories to consider the creation of a permanent secretariat to reinforce the Code of Conduct and ensure active management and promotion of it?

- **Regulation**: the authors of the Code were alluding to the future when they wrote, ‘... there is as yet no international association for disaster-response NGOs which possesses any authority to sanction its members’. 15 years later, it is quite shocking that a multi-billion dollar industry does not have an international professional body, certification, or measurable standards for its members. It is surprising that no organisation or consortium has attempted to claim ownership of a tool such as the Code, or that there have been no attempts to integrate the Code’s ownership into already existing strategic initiatives. While the financial crisis has put the current focus of accountability on the private sector, it is highly probable that the public and non-governmental sectors will soon be the target of greater scrutiny and critique by donors and tax-payers. How long can the aid industry continue in a spirit of self-policing and peer-review, particularly when there is little evidence of success in these philosophies?

- **Law and legislation**: there is little recognition of the important effect that national and host country laws are having on moulding NGO identity and functioning. While there is a certain pride at the notion of peer review and self-policing in the NGHA world, the realities are that legal (UK Charities Act, for example) and international standards (ISO) have been a critical element in NGO development and professionalization. This regulation likely accounts for much of the success in improving financial accountability and transparency and modern human resources, IT, or logistics policies. This same factor will in all probability be harnessed by host countries, who would be able to set the standard for access to NGOs in their domestic law, and even to further regulate (read: limit) the scope of operations and partnership with their national NGOs. If there is no international mechanism developed for the NGO profession, are we not

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17 There are emerging examples of professional bodies and certification schemes. HPCR has launched their International Association of Professionals in Humanitarian Relief and Protection (www.hpcr.org/professional_development.html) and Feinstein International Center, along with the UK Higher Education Council, is studying the possibility a fully professional system of accreditation for humanitarian workers from entry-level to Masters (http://www.elrha.org/professionalisation).

18 Examples include: the efforts to ensure that government funds are not used by terrorist groups, obliging NGOs to conduct some form of due diligence on their partners; the rising importance of legal counsel within NGOs could oblige them to limit their operations as a function of limiting their legal exposure (organizations would not get involved in construction of houses following an earthquake, for fear that they would be legally liable if a future earthquake resulted in deaths of their beneficiaries).

19 One example of growing attempts to regulate NGOs: http://www.afrol.com/articles/26165
leaving that space open for others to lead the debate – and suffer its consequences?

**What might be done?**

The suggested readings for the Learning Events include suggestions for reinforcing the Code. Some ideas that emerge:

- **Development of tools:** for organisations and individual aid workers, supporting decision making and self-assessment, at strategic, operational, and field levels.
- **Comprehensive training efforts:** there are only *ad hoc* training around the Code of Conduct, with thus far little sharing amongst organisations. Hopefully this initiative of ICVA’s can serve as a catalyst.
- **Consistent references to the Code in all signatory material:** if the Code is really the ‘mother of all standards’ then it should figure in all public campaigns, policies, project proposals, policies, and statutes of signatory organisations, and be a measurable aspect of their partnerships with others.
- **Employing the Code as evaluation criteria:** the use of the Code in the Gujarat evaluation was proof positive that it can be employed as a set of criteria against which to measure the success of humanitarian action. Mainstreaming the Code in this fashion would potentially add the ‘compliance monitoring’ dimension that is easily avoided in a self-policing approach. To extend this logic further, development of common indicators could lead to a benchmarking process allowing organisations to judge their operations in many contexts and against the rating of other NGO’s on Code compliance.
- **Establishment of a Code of Conduct secretariat:** SCHR has not thus far asserted itself in the Code’s management and implementation. The opportunity to build a truly global representation and management system of the Code of Conduct would allow the development of a more robust system for oversight and enforcement.
- **Certification:** seen as a dirty word, there is an eventuality that the multi-billion dollar NGO industry must ‘bite the bullet’ and accept the realities that it must set the bar higher for the industry. The Code is a fundamental dimension to this discussion.
Resources


SCHR *Member Responses to Questionnaire on Code of Conduct for the International Red Cross and Red Crescent Movement and NGOs in Disaster Relief: A Synthesis Report*. SCHR (unpublished), 2009.


