International Review of the Red Cross (2020), **102** (915), 1087–1098.
Non-State armed groups
doi:10.1017/S1816383121000710

IRRC

REPORTS AND DOCUMENTS

ICRC Engagement with Non-State Armed Groups

Why, how, for what purpose, and other salient issues

ICRC

ICRC Position Paper *March 2021.*

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I. Introduction

Humanitarian engagement with armed groups, including non-State armed groups (NSAGs) has long been a defining feature of the ICRC's work. In today's challenging environment, the organization must more than ever continue to seek and engage in direct contacts and dialogue with armed groups in order to alleviate the suffering of persons affected by non-international armed conflicts (NIACs) and situations falling below that threshold, i.e. other situations of violence.

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https://doi.org/10.1017/S1816383121000710 Published online by Cambridge University Press

Through its neutral and confidential work, the ICRC has been able to achieve tangible results. Examples include, but are not limited to, providing life-saving assistance to persons living in areas controlled by armed groups; supporting health-care facilities that treat the sick and wounded in such areas; ensuring that the basic needs of detainees are met; and strengthening groups' knowledge of and respect for the applicable legal framework.

The ICRC's operational approach is necessarily broad given that its mandate encompasses both NIACs and situations falling below that threshold. The term "armed group" denotes a group that is not recognized as a State but has the capacity to cause violence that is of humanitarian concern. It includes a wide range of groups with varying goals, structures, doctrines, funding sources, military capacity, and degree of territorial control. Included in this broad operational category are NSAGs, which qualify as a party to a NIAC and are therefore bound by IHL.

In 2020, for its internal purposes and relying on the purely operational definition, the ICRC identified 614 armed groups of humanitarian concern to the organization globally. Out of this totality, 296 armed groups were located in Africa (about half the number), and 132 in the Middle East. The ICRC had contact with 465 armed groups or 75 percent of the total number. It engages with more armed groups than any other humanitarian organization in the world, both in terms of the number of groups and the extent of interaction with them. In the ICRC's estimate, between 60 to 80 million people live under the direct State-like governance of armed groups. Such governance can relate to a range of issues, from providing health care, to taxing the population, or dispensing criminal justice, to name a few. Access to the populations involved and responding to their needs presents enormous operational and other challenges.

It should be stressed that the only reason an armed group may become of concern to the ICRC and the primary reason for the organization possibly seeking engagement with it are the potential adverse effects of a group's actions on populations and persons. *Simply put, the ICRC's engagement with armed groups is a matter of humanitarian necessity. Engagement is indispensable if the organization is to carry out its humanitarian activities aimed at alleviating the suffering of people in need:*

- Engagement is, *first,* a precondition for the ICRC's safe access to populations and persons affected by a NIAC or other situation of violence who may be in need of protection and assistance while located in a territory in which an armed group operates or which it controls.
- *Second*, engagement is essential to ensuring that an armed group understands and accepts the ICRC as an independent, neutral and impartial humanitarian organization and enables it to perform its humanitarian tasks in safety.
- *Third*, engagement is a prerequisite for promoting IHL and other relevant legal frameworks as a means of ensuring respect for the law and thus preventing/alleviating the suffering of the victims of NIACs and other situations of violence.

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- *Fourth*, it should be recalled that the ICRC is the only impartial humanitarian organization explicitly mentioned in the 1949 Geneva Conventions as an example of an organization that may offer its services to the parties to a NIAC, including NSAGs.

After brief legal and other remarks on the contemporary NSAG environment, this paper further elaborates the main reasons, outlined above, for the ICRC's engagement with NSAGs. It concludes by recalling some of the challenges to such engagement.

II. Some legal and other remarks by way of background

Armed conflicts involving non-State armed groups are not new. Examples, among others, include the American and Spanish civil wars in the 19th and 20th centuries, the protracted conflicts in Colombia and Sri Lanka spanning several decades of the latter, and the present-day violence in the Middle East and the Sahel. What is new, relatively speaking, is that this type of armed conflict - NIAC - has become by far the most prevalent today. It is characterized by significant civilian suffering and thus an increased need for rapid and multifaceted humanitarian responses.

Non-international armed conflicts are those waged between a State's armed forces and one or more non-State armed groups.[1] This is in distinction to international armed conflicts, or IACs, which involve only States. A NIAC may also be waged among non-State armed groups only. This type of armed conflict is not necessarily defined by the territory in which it takes place, but rather by the nature of the parties, one of which must be a non-State armed group. In the last two decades there have been a range of conflicts in which one or more "supporting" States have fought alongside the armed forces of a "host" State against one or more non-State armed groups in its territory (e.g., Afghanistan, Iraq, Mali). These conflicts have likewise been deemed NIACs having a "extraterritorial" element.

It is generally accepted that for a situation of violence to be classified as a NIAC two conditions must be met: clashes between the parties must be of an intensity that amounts to *hostilities*, and the non-State armed group must be sufficiently *organized* to constitute a "party" to the armed conflict.[2] Both the law and practice indicate that "situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence and other acts of a similar nature"[3] are not considered armed conflicts. Determining if and when a particular situation of violence has reached the threshold of a NIAC is not an easy task. It depends primarily on a solid grasp of the facts on the ground and their analysis against the requisite legal conditions for a NIAC classification.

There is no body at the international level mandated to pronounce on the existence, or not, of a NIAC (or international armed conflict, IAC) in a given case.

1 IHL and the Challenge of Contemporary Armed Conflicts, ICRC Report, 2011, p. 8.
2 Idem.
3 Additional Protocol II of 1977 to the Four Geneva Conventions of 1949, Article 1(2).

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Like other actors, the ICRC engages in its own analysis. The organization's aim in undertaking a classification is to establish the relevant legal framework as a guide for its operational, protection and other humanitarian responses.

III. Some relevant features of the NSAG environment

The number of non-international armed conflicts has more than doubled since the early 2000s - from fewer than 30 to over 70.[4] A parallel feature of this changing geopolitical landscape has been the proliferation of non-State armed groups. In some of the most complex recent conflicts analysts have observed a multitude of NSAGs engaging in armed violence. Their size, structure and capabilities vary widely. While large groups with centralized and well-defined command and control structures continue to arise and exist, other groups are decentralized in structure and operate in fluid alliances. The motivation for violence of these myriad armed actors is an overlay of political, religious, economic, and other interests. The fragmentation of longstanding NSAGs into smaller "splinters" due to internal divisions among members may also be said to contribute to the general trend of NSAG proliferation.

The current armed conflict map is further marked by a considerable number of States intervening, or assisting, in armed conflicts abroad, in particular in the Middle East and on the African continent. This has led to an increasingly dense and global web of interactions between allied States' militaries but also, of relevance to the purpose of this paper, to alliances between the armed forces of States and NSAGs. These - sometimes two-way - support relationships take various forms and involve a variety of points of common interest, constituting a relatively new phenomenon, especially in terms of scope. NSAGs also engage in varying degrees of coordination among themselves, forming loose coalitions. The practical, legal, policy and other consequences arising from such interactions are evidently complex and are beginning to be explored in more detail, including by the ICRC.

In this context it should be noted that a significant portion of today's conflicts involve self-described jihadi groups: half of all States experiencing a NIAC on their territory are affected by conflicts involving jihadi groups. Moreover, the great majority of foreign interventions are directed against such groups.

IV. Access to civilians in territory in which NSAGs operate or exercise control

As may be observed daily, the devastation and suffering caused by armed conflicts and exacerbated by behavior contrary to IHL and other bodies of law is primarily

4 The Roots of Restraint in War, ICRC Report, 2018, available at: https://www.icrc.org/en/publication/roots-restraint-war.

https://doi.org/10.1017/S1816383121000710 Published online by Cambridge University Press

borne by civilians. Civilians are directly attacked and killed, their houses and livelihoods are destroyed, they suffer from starvation and lack of health care, and children are often left without education and also recruited into fighting forces. Detainees are harshly treated, and families are displaced or otherwise torn apart, unable to connect with each other and loved ones. Sexual violence is frequent. Urban warfare causes additional, long-term effects due to the destruction of infrastructures and services without which life in cities and towns becomes a fight for survival. This painful description could go on, and the acts mentioned are not only caused by NSAGs.

The ICRC seeks access to civilian populations and persons located in territories in which a NSAG operates or exercises control so as to be able to provide them with protection and assistance in accordance with its exclusively humanitarian mission. Protection activities are extremely varied and context-based. They may include, but are not limited to, dialogue for better respect of IHL, the re-establishment of family links, the tracing of missing children, the identification and burial of bodies, the registration of detainees and visits to places of detention, and others. Assistance, in the broad meaning of the term, also encompasses a range of interventions, from emergency response to resilience building, from distributing food to restoring livelihoods, rehabilitating wells, water and sewage plants, supporting or running hospitals, setting up orthopedic services, conducting war surgery, and others.

Thus, by way of just a few examples, between 2014 and 2017 the ICRC held a series of dissemination and IHL trainings sessions for certain NSAGs in Syria. Similar sessions were conducted in 2019 and 2020 with NSAGs in Africa, Asia and other countries in the Middle East.

The ICRC also regularly acts as a neutral intermediary in the release of both civilians and security and armed forces members' who are held by NSAGs. For instance, in the past few decades the ICRC facilitated the release of more than 1,800 people held by NSAGs in Colombia; this includes the release in 2020 of 22 people held by different NSAGs in the country.

In 2020, the ICRC likewise acted as a neutral intermediary in the exchange of more than 1,000 detainees between the Yemeni authorities and the Ansarullah Movement in that country, in the largest simultaneous exchange of prisoners between the warring sides.

In 2009 the ICRC visited detainees (members of the Afghan National Security Forces), held by the Taliban in the west of Afghanistan, efforts which continue to this day. The organization was simultaneously conducting systematic visits to persons detained by Afghan, international and US forces in different places of detention in the country.

In the early days of the Libyan conflict, the ICRC was able to deliver Red Cross messages and facilitate family contacts by means of telephone calls between government soldiers captured in the hostilities and held by armed fighters in the east of the country.

Recently, the ICRC and the Norwegian Red Cross started support to medical infrastructure in a province of Afghanistan for people living under

https://doi.org/10.1017/S1816383121000710 Published online by Cambridge University Press

NSAG control. This includes the full rehabilitation of a health center (water, electricity, waste management) and its surgical wards, as well as a training program for medical personnel.

In Gaza in 2014, working with the parties, including Hamas, the ICRC helped local farmers whose lands were destroyed by the fighting to get back on their feet by facilitating the clearance of unexploded remnants of war and the releveling of damaged agricultural land.

During the time of the conflict in Nepal (with the Communist Party for Nepal-Maoist), and in the Philippines (with the Moro Islamic Liberation Front), the ICRC was able through a sustained dialogue to contribute to a better understanding and implementation of IHL rules on the conduct of hostilities by these NSAGs.[5]

As may be seen from the above, access to territories in which NSAGs operate or which they control enables the ICRC to maintain proximity to people affected by conflict, understand the context, people's needs and local capabilities, ensure effective two-way communication channels and enable participation, as well as inclusive and accessible programs. Access is also crucial to establishing the needs and priorities of affected populations and to devising and putting in place a meaningful and accountable humanitarian response.

The impact of the destruction and damage caused to people in NIACs is direct, meaning that humanitarian action to alleviate the consequences of armed conflict must happen on the ground, close to the populations and persons affected. Where people are located in territories in which NSAGs are operating or exercise control, a dialogue and other forms of engagement with such groups are indispensable to ensuring ICRC access for humanitarian purposes.

V. Acceptance of the ICRC

In order for the ICRC to be granted access to populations and persons living in NSAG-controlled territories, or those in which they operate, an NSAG must understand what the ICRC is, what it does, and trust that its action in favor of people affected by the armed conflict is based exclusively on humanitarian concerns. The establishment of a dialogue with NSAGs serves this crucial purpose as well and is by no means an easy task.

ICRC access and security are based on acceptance, by all sides of a conflict, of its presence and action. An NSAG's understanding and acceptance of the ICRC and its mission - or lack thereof - has direct consequences on the safety and security of ICRC staff in the field. Attacks on humanitarian personnel have been on the rise over the past decades and the number of incidents in which ICRC staff, and that of other humanitarian organizations, have been killed, wounded, or taken hostage, to

5 As is well known, the CPN-Maoist have since become part of the Government of Nepal and the MILF has taken up an official role in the local government as a result of the decades-long peace negotiations with the Government of the Philippines.

https://doi.org/10.1017/S1816383121000710 Published online by Cambridge University Press

name just a few, continues to be extremely concerning. Particularly in conflicts and insecure contexts, the ICRC generally strives to achieve, if not acceptance, at least a certain level of tolerance of its work, which translates into avoidance of being rejected and potentially targeted by antagonists. Obtaining the necessary security guarantees for the safe access of ICRC staff on the ground is thus imperative and also requires a constant dialogue and interactions with NSAGs.

A NSAG may, to give but a few examples, not know of the ICRC. It may have an incorrect view of its role, be wary of the reasons for the ICRC's request for access to populations and persons, or be opposed, on a variety of ideological or other bases, to the organization's work. Even when initially gained, an NSAG's understanding and acceptance of the ICRC and its work may on occasion waver due to, for example, internal differences of opinion within a group, or external pressures of different kinds or scope, thus requiring sustained contact and engagement between the ICRC and an NSAG over time.

There is no specific template or formula for initiating or maintaining a dialogue or other forms of interaction with NSAGs, whether for the purposes of ICRC acceptance by a group, or for subsequent access to civilians and other persons in need, as outlined in the previous section. The way in which engagement is sought and sustained will depend on a variety of factors - that may also change over time - and can involve different hierarchical levels within a group. Interactions can, for example, take place both directly and/or through intermediaries, orally and/or in writing, in bilateral and/or multilateral meetings, in IHL dissemination or training sessions, in meetings to discuss security guarantees, during visits to places of detention, and in a broader sense can occur indirectly through social media postings.

What must be emphasized is that the organization's interactions with NSAGs are strictly based on the ICRC's Fundamental Principles and are facilitated by confidentiality as its working method.

ICRC acceptance by the parties to an armed conflict, including NSAGs, is largely dependent on the parties' trust that the ICRC operates as an independent, neutral and impartial humanitarian organization. These Fundamental Principles, of long standing, are also the bedrock of the International Red Cross and Red Crescent Movement of which the ICRC is a component. The ICRC's independence from States or non-State actors, including organizations, persons, groups or entities means it has the autonomy it needs to accomplish its exclusively humanitarian task. In accordance with the Fundamental Principle of neutrality, the organization does not take sides in hostilities or engage in controversies of a political, racial, religious or other nature. Impartiality requires that the ICRC not engage in discrimination of any kind and that its work be aimed at relieving the suffering of individuals, guided solely by their needs.

NSAGs, like States parties to a NIAC, are sensitive to the ICRC's adherence to the Fundamental Principles and quick to react when they suspect or perceive - however mistakenly - any deviation therefrom. A dialogue with NSAGs is thus necessary not only to explain, initially, the Fundamental Principles guiding the ICRC's work as a prerequisite to the organizations'

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acceptance, but to also overcome possible questions in specific cases if and when they later arise.

Confidentiality as a working method is likewise a hallmark of the ICRC. This method was developed over many decades as a means of facilitating a constructive dialogue with any party to an armed conflict, especially when violations of IHL are involved. ICRC confidentiality is not an aim in itself. It is a way of ensuring that IHL violations are addressed by those responsible as they are happening, rather than after the fact, and serves to create the trust necessary for open exchanges to take place and for ICRC recommendations to be made and acted on. Confidentiality as a working method is complementary to the range of other ways in which domestic and international actors engage with the parties to NIACs.

VI. Influencing behavior, protection dialogue, and respect for IHL

Alleviating the immediate suffering of persons affected by armed conflict is the driving force of ICRC operations in the field. Another, also aimed at alleviating suffering, is to ensure that the parties to a NIAC, including NSAGs, know, accept, and implement IHL in order to conduct their operations in respect of its rules. ICRC efforts to improve NSAGs' observance of the law can only take place through an adapted and continuous protection dialogue with such groups and those wielding influence upon them. The ICRC's *Roots of Restraint in War* report, published in 2018,[6] identified various sources of influence on NSAG behavior, and suggests that adherence to IHL norms could be promoted through reference to local beliefs, legal traditions, customs and practices that encapsulate similar norms of restraint, or help to convey the sense of such restraint through analogy to them.

It should be emphasized that IHL is the only body of international law that undoubtedly binds NSAGs and thus constitutes a precious normative framework for engagement with non-State parties to a NIAC.

There is, under IHL, equality of rights and obligations of the parties to a NIAC. Both must respect the law as a means of sparing civilians and civilian objects - regardless of whose side of the conflict divide they may be located - from the devastating effects of armed conflict.[7] Both parties must, for example, distinguish between civilians and combatants/fighters in the conduct of hostilities and both must ensure the humane treatment of persons in their power. The main sources of IHL in NIAC: Common article 3 to the 1949 Geneva Conventions and Additional Protocol II thereto of 1977 where applicable, as well as customary IHL, further elaborate what specific behavior is required of NSAGs, as well as States, to give effect to these foundational principles.

6 See note 4 above.

7 There is no equality of rights and obligations of the parties to a NIAC under domestic law, as explained further below.

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The ICRC's protection dialogue and engagement on IHL with NSAGs can take many forms depending, among other things, on the operational context, structure and openness of a group to integrate the law in its operations. Dialogue on the behavior of members of an NSAG and its consequences on the civilian population is the basic form of engaging with a group on IHL. Dissemination sessions and the distribution of relevant materials is another. These may be general in nature or focus on specific issues, such as the protection of the civilian population, the treatment of detainees, or respect for hospitals and schools. Courses, workshops and training in IHL may likewise be organized, general or tailored, and will be calibrated as much as possible to the capacity and level of knowledge of the participants.

Adapted engagement on IHL, depending on the specific audience, is necessary. The substance and scope of a dialogue will, similarly, differ depending on the ability of an interlocutor to influence in practice the behavior of a group. Thus, confidential ICRC interventions on protection concerns and possible IHL violations will be submitted to and discussed with the appropriate NSAG hierarchy or leader as the ones having the power to effect change - if there is a will to do so - in accordance with ICRC recommendations.

A dialogue on IHL can also serve to encourage NSAGs to improve respect for IHL rules by integrating them in their doctrines, codes of conduct, disciplinary regulations and other internal normative instruments. NSAGs can likewise be assisted in preparing public commitments to observe IHL in the form of unilateral declarations or deeds of commitment, as well as by means of the special agreements among the parties to a NIAC envisaged in Common Article 3 to the Geneva Conventions.

IHL will be the ICRC's first "port of call" in a legal dialogue aimed at persuading an NSAG to conduct its operations in keeping with the foundational principles and rules of armed conflict. This is not to say that it is the only framework for a dialogue on protection issues given that IHL rules in NIAC are sometimes broad in nature and that certain groups may contest their applicability to themselves. Based on an appreciation of these and other factors the organization may also seek - when necessary for greater impact in terms of protection outcomes - to complement its engagement by reference to local customs, beliefs and traditions, where they overlap with IHL. If and when an IHL-based dialogue is not feasible, the organization's protection outreach may also rely on principles of humanity when deemed appropriate.

VII. Legal basis for ICRC engagement

While the proliferation of NIACs and NSAGs is a relatively recent phenomenon, IHL started making provisions for this type of armed conflict as far back as 1949. Common Article 3 in each of the four Geneva Conventions is devoted to "armed conflict not of an international character"[8], lays down the principle of humane

8 Geneva Conventions I, II, III and IV of 1949, Common Article 3.

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treatment, and contains a list of provisions that "each party to the conflict shall be bound to apply, as a minimum".[9]

Common Article 3 also provides the ICRC with an explicit mandate to engage with both sides to a NIAC, and thus NSAGs, by specifying that: "An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the parties to the conflict".[10]

The services are not listed, but it is understood that the offer - which the parties are not legally bound to accept but which the ICRC has a legal right to submit - may pertain to any humanitarian activity aimed at alleviating suffering based on needs on the ground. Some such activities have been already mentioned above. It is also generally accepted that an ICRC offer of services should not be interpreted as an unfriendly act or as unlawful interference in a NIAC, and that it should not be arbitrarily rejected.[11] Such an offer is not and should not be seen as a threat to or a breach of State sovereignty.

Additional Protocol II to the Geneva Conventions of 1977, which is entirely devoted to NIACs, "develops and supplements"[12] Common Article 3, "without modifying its existing conditions of application".[13] An ICRC offer of services may thus be made to NSAGs, and States, involved in the type of NIAC governed by AP II as well.

The application of IHL - and by implication the ICRC's right to offer its services - do "not affect the legal status of the parties to the conflict".[14] This explicit statement in Common Article 3 is intended to allay the possible fears of States that IHL application confers any recognition, status or legitimacy on an NSAG, whether legal or political. Consistent practice has demonstrated that it does not. Moreover, IHL does not limit a State's right to fight NSAGs using all lawful means and does not affect its right to prosecute, try and sentence its adversaries under domestic law for any crimes they may have committed.

It should be noted that an acceptance of an ICRC offer of services by an NSAG can only come about as a result of dialogue with the group. ICRC action pursuant to the mandate provided for in Common Article 3 thus also requires engagement with NSAGs. As mentioned, a dialogue does not confer legitimacy of any kind on NSAGs. On the contrary, it serves to influence and persuade them to "do the right thing", i.e. to better respect the law as a means of protecting civilians and helping to alleviate their suffering.

9 By way of reminder, these provisions prohibit, among other things, violence to life, in particular murder, cruel treatment and torture, hostage-taking, outrages upon personal dignity, and the passing of sentences without the application of judicial guarantees. Idem, para 1 (a-d).

10 Idem, para 2. This is also known as the ICRC's treaty-based right of humanitarian initiative pursuant to Common Article 3. The organization also has a right of humanitarian initiative under the Statutes of the International Red Cross and Red Crescent Movement (Article 5(3)), which it may rely on to offer humanitarian services in situations of violence below the threshold of a NIAC.

11 See ICRC Commentary on the First Geneva Convention, Common Article 3, 2016, paras 832–840.

12 Additional Protocol II of 1977 to the Four Geneva Conventions of 1949, Article 1(1).

13 Idem.

14 Geneva Conventions I, II, III and IV of 1949, Common Article 3, para 2.

https://doi.org/10.1017/S1816383121000710 Published online by Cambridge University Press

VIII. Current challenges to engagement with NSAGs

In the last 20 years or so the world first saw the launching of the so-called "global war on terrorism" - a concept to which the ICRC did not subscribe[15] - and, more recently, an ever-expanding web of legal and other measures taken by States to deal with NSAGs designated as "terrorist" and/or included on sanctions lists at the international, regional and domestic level. While States undoubtedly have a right and duty to protect the safety and well-being of their populations, it is by now recognized that the fight against NSAGs involved in terrorism and/or deemed to constitute a threat to international peace and security has in some instances had the effect of shrinking the space for humanitarian action, to the detriment of civilians and other persons in need who are suffering the effects of NIACs.

It must be recalled that an NSAG is deemed a party to a NIAC based solely on whether it factually fulfills the organizational criterion mentioned earlier. No other considerations, such as a group's motives for waging war or what it is called by States or others play a part. IHL speaks only of the "parties" to a NIAC, non-State and State, because the goal of this body of law is not to determine the justness or reasons for the use of force by any side; it is solely to prevent or limit suffering by obliging the parties to provide, or allow the provision of protection and assistance to persons regardless of where they may find themselves.

The designation of many NSAGs as "terrorists" or as "listed entities" under an array of international and regional instruments, as well as under the domestic law of States, poses a risk to those who engage with such groups - even for humanitarian reasons - with potentially grave legal and other consequences. Thus, the regular activities of the ICRC, such as engaging with NSAGs or "listed entities" for the purpose of distributing food assistance to civilians living in territory under their control, visiting detainees designated as "terrorists", or conducting training sessions so that groups may better respect IHL, could fall afoul of certain States' criminal laws due to the vague wording of existing or new criminal offenses prohibiting "services" or "support to" terrorism or to sanctions lists.

Aside from a risk of criminal sanctions against staff, the ICRC (and other humanitarian organizations) are also potentially exposed to the ambit of international or domestic sanctions regimes established to prevent contact with "listed" groups. Restrictive "anti-terrorist" and "sanctions" funding clauses in donor agreements may also have the effect of limiting humanitarian action both directly in terms of its scope, and also by creating legal insecurity due to which humanitarian organizations may be reluctant to act when needed.

Some of the anti-terrorism measures or sanctions regulations mentioned above would have the effect of circumscribing humanitarian activities in a way that would be incompatible with the letter and spirit of IHL and the Fundamental Principles binding the ICRC and the other components of the International Red

15 IHL and the Challenges of Contemporary Armed Conflicts, ICRC Report, 2007, p. 7, available at: https://www.icrc.org/en/doc/assets/files/other/ihl-challenges-30th-international-conference-eng.pdf.

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Cross and Red Crescent Movement. Pursuant to the Principle of impartiality, to give but one example, the ICRC may not discriminate among persons and is bound to "relieve the suffering of individuals (…) guided solely by their needs, and to give priority to the most urgent cases of distress". The ICRC's medical assistance to the victims of a NIAC on all sides of a NIAC could be rendered difficult based on a strict reading of some of the anti-terrorism instruments. It could imply, for instance, that medical services to persons rendered *hors de combat* by wounds or sickness, as well as to other persons under the control of an NSAG designated as "terrorist" could be prohibited as they may be considered as support or services to "terrorism". This is a result that erases the concept of humanity and contradicts the very idea behind the creation of the ICRC over 150 years ago.

There is, fortunately, an increased acknowledgment in the international community and among certain States that ways should be found to exempt impartial humanitarian action from the scope of anti-terrorism measures and sanctions regimes. It is to be hoped that discussions around this issue will lead to a better appreciation of the challenges posed to protection and assistance activities in favor of the victims of NIACs and that an adequate solution may be agreed going forward.

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