International Review of the Red Cross (2024), **106** (925), 242–268.
Fundamental Principles
doi:10.1017/S1816383124000055

IRRC

Humanitarian principles and humanitarian disarmament: An operator's perspective

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Abstract

Conceptually rooted in the efforts to ban indiscriminate weapons and both their immediate and long-term effects, humanitarian mine action and humanitarian disarmament operations have developed significantly since 1988, when the United Nations first took on work on mine action operations for the protection and benefit of local communities. A large part of those operations has been carried out by humanitarian disarmament NGOs such as the Mines Advisory Group (MAG), one of the first organizations to be established on this issue. Drawing on MAG's experience and perspective, this article explores how the humanitarian principles apply to humanitarian disarmament operations. The aim of the article

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https://doi.org/10.1017/S1816383124000055 Published online by Cambridge University Press

is to show that as an operator on the humanitarian–development nexus, MAG considers the four humanitarian principles as a critical and necessary part of its reference framework due to the influence of the humanitarian disarmament framework, even when operating in the development space. All in all, the case of humanitarian disarmament and MAG's experience are good examples to illustrate where the humanitarian horizon is extended because of long-terms serious needs, and that humanitarian principles remain essential to keep the focus on the needs of affected populations.

Keywords: humanitarian disarmament, humanitarian principles, humanitarian mine action, landmines, cluster munitions, explosive ordnance, explosive remnants of war, weapons, protection of civilians, conventional weapons.

Introduction

The humanitarian disarmament sector has been active since the end of the 1980s,[1] when the United Nations (UN) introduced the first humanitarian mine action programmes in Afghanistan,[2] and the first non-governmental organizations (NGOs) on this issue, such as the Mines Advisory Group (MAG), were established.[3] Since then, various agencies have operated in the field, all guided by the goal of protecting life, health and human dignity from the effects of landmines and other explosive ordnance, as well as, for some agencies (including MAG), conventional ammunition and small arms and light weapons (SALW). Drawing on MAG's direct experience in humanitarian disarmament,[4] this article aims to outline how the humanitarian principles of humanity, impartiality, neutrality and independence interact with the humanitarian disarmament

1 The term "humanitarian disarmament" refers to processes, norms and measures of disarmament informed by the concept of human – rather than national – security, with a significant role for civil society in the making and implementation of those norms. Bonnie Docherty, "Ending Civilian Suffering: The Purpose, Provisions, and Promise of Humanitarian Disarmament Law", *Austrian Review of International and European Law*, Vol. 15, No. 7, 2010, pp. 16–17; Treasa Moira Dunworth, *Humanitarian Disarmament: An Historical Enquiry*, Cambridge Studies in International and Comparative Law, Cambridge University Press, Cambridge, 2020, pp. 8–9.

2 Geneva International Centre for Humanitarian Demining (GICHD), *A Guide to Mine Action*, March 2014, pp. 27–28; Chris Horwood, *Humanitarian Mine Action: The First Decade of a New Sector in Humanitarian Aid*, RRN Network Paper No. 32, March 2000, p. 9.

3 MAG was established in 1989 in England. The Hazardous Areas Life-Support Organization, known as the HALO Trust, was established one year earlier in 1988. After a few years, other organizations devoted to humanitarian mine action and humanitarian disarmament were created, and some previously existing organizations began to operate in the sector, such as Humanity and Inclusion (formerly Handicap International) and Norwegian People's Aid. See MAG, "History", available at: www.maginternational.org/about-mag/history/ (all internet references were accessed in January 2024); GICHD, above note 2, pp. 28–29; C. Horwood, above note 2, p. 10.

4 The practical examples and considerations presented in this article are based or draw on first-hand accounts and experience from MAG personnel.

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normative and operational framework and related practice.[5] In line with broader conversations on the operationalization of humanitarian principles during "protracted conflicts" or in situations of "long-term needs",[6] the article outlines how humanitarian principles can interact with the humanitarian disarmament framework and related operations and argues that humanitarian disarmament agencies such as MAG operate on the humanitarian–development nexus. In fact, MAG can be considered as a multi-mandate agency, like others operating in the same field. More specifically, MAG operates at the nexus between humanitarianism, development and peace. Given that this article is an initial reflection on the application of humanitarian principles to humanitarian disarmament, reflection on humanitarian disarmament and peace have been postponed for the time being – but this third element of the nexus is becoming ever more relevant to the scope of MAG's work and is an area of significant ongoing analysis.

In the meantime, the present article focuses on how organizations like MAG adapt their application of the humanitarian principles according to both the humanitarian disarmament framework and the specific context.[7] In the following pages, a series of variables that determine the position of humanitarian disarmament on the humanitarian–development nexus are outlined, including the norms of the humanitarian disarmament framework, the presence of a conflict or other forms of armed violence, and the level of cooperation and capacity of national authorities. In the face of newly arising challenges as the nature of conflict continues to evolve, and with two incoming review conferences of the two main humanitarian disarmament treaties,[8] this article aims to provide a perspective that will help scholars and policy-makers to continue, intensify and broaden the conversation regarding the relevance of the humanitarian principles for the humanitarian disarmament sector.[9] This analysis is driven by the idea that

5 This is not the first time that MAG has analyzed issues related to the application of humanitarian principles to this field. See e.g. Chris Loughran and Jane Cocking, *Why Principles Matter: Humanitarian Mine Action and Improvised Explosive Devices*, MAG, May 2017.

6 See e.g. "Q&A: The ICRC and the 'Humanitarian–Development–Peace Nexus' Discussion", *International Review of the Red Cross*, Vol. 101, No. 912, 2019; Hugo Slim, *Solferino 21: Warfare, Civilians and Humanitarians in the Twenty-First Century*, C. Hurst & Co., London, 2022, pp. 194–195; Jon Harald Sande Lie, "The Humanitarian–Development Nexus: Humanitarian Principles, Practice, and Pragmatics", *Journal of International Humanitarian Action*, Vol. 5, No. 1, 2020; Dorothea Hilhorst, "Classical Humanitarianism and Resilience Humanitarianism: Making Sense of two Brands of Humanitarian Action", *Journal of International Humanitarian Action*, Vol. 3, No. 1, 2018.

7 A situational approach to the principles was suggested in Hugo Slim and Miriam Bradley, *Principled Humanitarian Action and Ethical Tensions in Multi-Mandate Organizations*, World Vision, March 2013.

8 For the Anti-Personnel Mine Ban Convention, the Fifth Review Conference takes place in 2024, while for the Convention on Cluster Munitions, the Third Review Conference will be in 2026. Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction, 2056 UNTS 211, 18 September 1997 (entered into force 1 August 2010) (APMBC); Convention on Cluster Munitions, 2688 UNTS 39, 30 May 2008 (entered into force 1 August 2010) (CCM).

9 The literature on the application of the humanitarian principles to humanitarian disarmament is limited, and existing publications often do not enter into much detail. See, for example, Armida van Rij *et al.*,

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much of the substantial content of the humanitarian principles is already present in the humanitarian disarmament framework and practice, and that the humanitarian principles can bring added value to the framework itself and can act as an important compass to help face new challenges.[10]

Reflecting on the humanitarian principles in humanitarian disarmament

Reflecting on the relevance of the humanitarian principles to humanitarian disarmament operations has several key aims. First, this reflection serves to contribute to a better understanding of when and why certain disarmament operations can be considered "humanitarian".[11] Second, answering that first question provides insight into the history and underpinning concepts of humanitarian disarmament operations, which are inevitably part of the "entangled history" of humanitarianism.[12] It also helps to define sector principles to guide the adaptation of operations to recurring or new imperatives – such as the reinvigoration of the respect for humanitarian norms in combat in light of the increasing violence of recent conflicts, the need to deliver explosive ordnance risk education (EORE or risk education) in emergency contexts,[13] the response to improvised landmine contamination, and technical measures to address issues involving SALW and conventional ammunition – in a humanitarian way.

Third, this will lead to an improved and well-reasoned integration of humanitarian disarmament operations into the broader humanitarian sector,[14] by demonstrating that humanitarian disarmament operations can be explained

Defining the Device: The Need for International Humanitarian Standards for Improvised Explosive Device Disposal, Chatham House, April 2017; Sarah Njeri, "The Politics of Non-recognition: Re-evaluating the Apolitical Presentation of the UN Humanitarian Mine Action Programs in Somaliland", in Matthew Breay Bolton, Sarah Njeri and Taylor Benjamin-Britton (eds), *Global Activism and Disarmament*, Palgrave Macmillan, Cham, 2020; H. Slim, above note 6, p. 170.

10 The addressing of the dangers posed by improvised explosive devices (IEDs), including improvised landmines, is one of those challenges where the principles can provide adequate humanitarian coordinates. C. Loughran and J. Cocking, above note 5. It is noteworthy that at the 21st Meeting of States Parties to the APMBC, the German Presidency recommended the application of the humanitarian principles to address the issues caused by improvised landmines: see "Anti-Personnel Mines of an Improvised Nature and the Anti-Personnel Mine Ban Convention", 15 November 2023, available at: www.apminebanconvention.org/fileadmin/_APMBC-DOCUMENTS/Meetings/2023/21MSP-President-Paper-Improvised-AP-Mines.pdf.

11 In this article, the word "disarmament" indicates all activities related to weapons, ranging from their ban and destruction to non-proliferation, arms control and so-called micro-disarmament activities. See Stuart Casey-Maslen and Tobias Vestner, *A Guide to International Disarmament Law*, Routledge, Abingdon, 2019, p. 15.

12 H. Slim, above note 6, pp. 161, 167. The expression "entangled history" was previously used by Paulmann. See, for example, Johnannes Paulmann, "Humanitarianism and the Media: Introduction to an Entangled History", in Johannes Paulmann (ed.), *Humanitarianism and Media: 1900 to the Present*, Berghahn Books, New York, 2019, p. 1.

13 For a definition of EORE, see "IMAS 12.10: Explosive Ordnance Risk Education (EORE)", in *International Mine Action Standards*, 1 September 2020, p. 8.

14 Slim, for example, sees the adoption of the APMBC as being part of humanitarianism's "entangled history" and a renewed conception of humanitarianism itself. H. Slim, above note 6, pp. 161–162, 167.

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according to the humanitarian principles.[15] Finally, this article and its reflections allow the traditional view on the humanitarian principles to adapt to areas of operation, such as humanitarian mine action and disarmament,[16] which operate more on the humanitarian–development nexus.

Such reflection is critical in a period where the two major humanitarian disarmament treaties on conventional arms are approaching their review conferences,[17] alongside renewed efforts to focus on the humanitarian consequences of war and the "human cost" of weapons through more recent frameworks such as the Explosive Weapons in Populated Areas Declaration,[18] the new Conventional Ammunition Global Framework,[19] and the UN Secretary-General's Agenda for Peace.[20] Humanitarian disarmament concepts also provide important foundations and guiding principles for ongoing policy debate on new technologies, including autonomous weapons systems. During a recent strategic review, MAG found it essential to reflect on its principled approach of the last thirty-six years and how this approach can be adapted to contemporary challenges.

The humanitarian disarmament normative framework

Humanitarian disarmament operations are informed and driven by a specific normative framework which has been shaped by the experience of agencies such as MAG and contains several overlaps with some of the content of the humanitarian principles, as well as some specific norms and principles that interact with the humanitarian principles themselves. Whilst the main goal of humanitarian disarmament is the protection of life, health and human dignity from the effects of

15 In fact, most of the major humanitarian disarmament agencies already explicitly refer to the "humanitarian principles" or "humanitarian standards" in their strategies or frameworks of reference. The only exception to this trend is the HALO Trust, which, while not using those terms, appears nevertheless to use humanitarian terminology. See Danish Refugee Council, *DRC Strategy 2025*, November 2021, available at: https://pro.drc.ngo/media/xghmuvdu/drc-strategy-2025-en-nov-2021.pdf; DanChurchAid, "Core Humanitarian Standard", available at: www.danchurchaid.org/how-we-work/quality-management/core-humanitarian-standard; HALO Trust, *Strategic Plan 2021–2025*, available at: www.halotrust.org/media/7293/halo-strategic-plan-2021-25.pdf; Humanity and Inclusion, *HI: Values and Principles Charter and Scope of Activity*, 2022, available at: www.hi.org/sn_uploads/document/HI-CharterValues-ScopeOfActivity-CR01-EN.pdf; Norwegian People's Aid, *Strategy 2020–2023*, 24 September 2023, available at: www.npaid.org/files/Om-oss/NPA_Strategy.pdf. Despite these frequent references to the humanitarian principles, publications that comprehensively look at the links and interaction between humanitarian disarmament and the humanitarian principles are very rare.

16 H. Slim, above note 6, p. 167.

17 Admittedly, the latest humanitarian disarmament treaty was the Treaty on the Prohibition of Nuclear Weapons, 3379 UNTS 475, 7 July 2017 (entered into force 20 September 2017) (TPNW), which substantially replicated most of the typical provisions of the APMBC and CCM. As MAG deals only with conventional weapons, the TPNW is not within the scope of this article.

18 Political Declaration on Strengthening the Protection of Civilians from the Humanitarian Consequences Arising from the Use of Explosive Weapons in Populated Areas, 18 November 2022, available at: www.gov.ie/en/publication/585c8-protecting-civilians-in-urban-warfare/.

19 Global Framework for Through-Life Conventional Ammunition Management, UNGA Res. L.41 (LXXVIII), 11 October 2023.

20 UN, *A New Agenda for Peace*, July 2023.

https://doi.org/10.1017/S1816383124000055 Published online by Cambridge University Press

weapons before, during and after armed conflicts and other situations of armed violence, this framework originates in a combination of three sources.[21]

The first source is international humanitarian law (IHL), especially its core principles of distinction and proportionality, its rules aimed at protecting civilians and other protected persons and civilian objects, and the rules on means and methods of warfare.[22] These rules aim to protect civilians during armed conflict and are focused on the so-called "humanitarian present".[23] Drawing on existing categories, this first normative set can be seen as linked to assistance and protection needs during armed conflict.[24]

Besides their critical protective function, the principles informing this first set of rules, such as distinction and proportionality, are significant to humanitarian disarmament as they have later been used to expand the protection of human beings[25] beyond active hostilities in the name of humanity.[26]

The second source builds on and strengthens the norms of IHL by explicitly banning the use of inherently indiscriminate weapons, such as landmines and cluster munitions, on the basis of their long-term impact on human beings. Central to this second source are the two original humanitarian disarmament treaties, the Anti-Personnel Mine Ban Convention (APMBC) and the Convention on Cluster Munitions (CCM), which respectively ban the use of landmines and cluster munitions in any circumstance, as well as their production, transfer and stockpiling, and require States to clear all affected territory of such munitions.[27] The general ban provisions, combined with the positive obligations to undertake clearance and stockpile destruction, can be seen as shifting the focus outside the "humanitarian present". In fact, these rules are the foundation for preventive measures such as EORE, survey and clearance, stockpile destruction, and victim assistance.

More recently, an approach similar to that adopted in the APMBC and CCM has been extended to measures to address and prevent the effects of non-banned weapons, such as air-dropped bombs or artillery shells, which result in unexploded ordnance contamination when they fail to detonate,[28] or ammunition

21 This theorization was inspired by B. Docherty, above note 1.

22 E.g. Protocol Additional (I) to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts, 1125 UNTS 3, 8 June 1977 (entered into force 7 December 1978), Arts 35, 51(4–5); see also Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects, 1342 UNTS 137, 10 October 1980 (entered into force 2 December 1983, amended 21 December 2001, amendment entered into force 18 May 2004).

23 J. H. S. Lie, above note 6, p. 3. On the expansion of the time and horizon of humanitarian action, see also H. Slim, above note 6, pp. 194–195.

24 These categories are taken from "Q&A", above note 6.

25 In this paper, the terms "human beings" and "people and communities" are preferred to "civilians" for situations other than armed conflict as the combatant/civilian distinction does not generally apply in those situations.

26 In the section below on "Humanity and Disarmament", the article will outline how IHL, humanitarian disarmament and the principle of humanity share a similar foundation in the very concept of "humanity".

27 APMBC, above note 8, Arts 1, 4, 5; CCM, above note 8, Arts 1, 3, 4.

28 E.g. Protocol (V) on Explosive Remnants of War to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects, 2399 UNTS 100, 28 November 2003 (entered into force 12 November 2006).

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safety measures.[29] Developments at both the policy and operational levels led MAG to focus on the various impacts of weapons and ammunition proliferation and diversion,[30] such as those caused by the arms diverted from Libya in 2011,[31] and unplanned explosions at munition sites, such as the Brazzaville disaster in 2012.[32]

This second source is still linked to assistance and protection activities, but, by expanding the temporal scope beyond armed conflicts, it also provides the possibility of adapting these activities to long-term needs, providing assistance that strengthens communities' resilience,[33] and tackling explosive threats to support post-conflict reconstruction and transformation.

The third source comprises technical and implementation guidelines, such as the International Mine Action Standards (IMAS) and the International Ammunition Technical Guidelines (IATG),[34] and treaties' plans of action, such as the APMBC's 2019 Oslo Action Plan and the CCM's 2021 Lausanne Action Plan.[35] It is in these sources that the idea of national ownership of humanitarian disarmament operations is articulated. In practice, these frameworks go beyond being merely technical or implementation guidelines as they have a normative value among practitioners in the sector and are often used as references by States non-party to the treaties.[36]

This categorization into three sources outlines the humanitarian disarmament journey. Starting from humanitarian considerations regarding indiscriminate warfare and weapons during active hostilities, the sector developed a series of practices aimed at preventing and addressing all the effects of conventional weapons, including their socio-economic impact.[37] As seen later, such expansion has been driven by the goal of protecting life, health and human dignity, as well as some aspects of the humanitarian–development nexus, especially when technical measures are aimed at addressing the socio-economic impact of conventional weaponry.

29 *Ibid.*, Art. 9 and Technical Annex.
30 For a policy development, see Geneva Declaration on Armed Violence and Development, 7 June 2006.
31 E.g. UNSC Res. 2017, 31 October 2011, para. 5.
32 "Countdown to Catastrophe: The Mpila Ammunition Depot Explosions", in Graduate Institute of International and Development Studies, *Small Arms Survey 2014: Women and Guns*, Cambridge University Press, Cambridge, 2014.
33 "Q&A", above note 6, pp. 1054–1056.
34 This article refers more frequently to the IMAS, due to their more comprehensive and humanitarian nature.
35 *Oslo Action Plan*, UN Doc. APLC/CONF/2019/5/Add.1, 29 November 2019, available at: www.osloreviewconference.org/fileadmin/APMBC-RC4/Fourth-Review-Conference/Oslo-action-plan-en.pdf (Oslo Action Plan); *Lausanne Action Plan*, UN Doc. CCM/CONF/2021/6, 21 September 2021, Annex II, available at: https://documents.unoda.org/wp-content/uploads/2021/10/CCM_CONF_2021_6_Final-report_Advance.pdf (Lausanne Action Plan).
36 The IMAS list the main activities, also referred to as pillars, of mine action: EORE; survey, marking and clearance; victim assistance; stockpile destruction; and advocacy. "IMAS 01.10: Guide for the Application and Development of International Mine Action Standards", in *International Mine Action Standards*, 1 January 2023.
37 E.g. APMBC, above note 8, Preamble; CCM, above note 8, Preamble. See also the definition of "mine action" in "IMAS 04.10: Glossary of Mine Action Terms, Definitions and Abbreviations", in *International Mine Action Standards*, 1 January 2023.

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The Mines Advisory Group

Established in 1989, MAG was one of the two British organizations funded to address the impact of landmines and unexploded ordnance on people and communities at the end of the 1980s.[38] MAG, which soon after its establishment opened programmes in Iraq, Angola, Cambodia and Laos,[39] was critically involved in efforts to raise awareness of this problem. This later led to MAG's recognition as co-laureate of the Nobel Peace Prize in 1997, as a founding member of the International Campaign to Ban Landmines (ICBL) and for its work to conceptualize a role for operators and broader civil society in mine action.[40]

MAG expanded its operational scope to include conventional ammunition and SALW beginning in the mid-2000s, in particular in the field of prevention of unplanned explosions at munitions sites (UEMS) and diversion.[41] MAG's work has always been driven by the goal of preventing and addressing, through survey, clearance, stockpile destruction, advisory and training activities, and advocacy, the harmful impact on the lives and livelihoods of human beings caused by landmines, cluster munitions, other unexploded ordnance, SALW and conventional ammunition, creating the conditions for the full exercise of the rights of those people and their human and economic development.

Humanity and disarmament

The principle of humanity impels humanitarians to "prevent or alleviate human suffering arising out of disaster or armed conflict",[42] to "protect life and health"[43] and to work to guarantee "the right to life with dignity", protection and security.[44] This principle is commonly recognized as the cornerstone of the four humanitarian principles, as it is not only the first but also the foundation and ultimate goal of all the other principles and humanitarian action.[45] Such a clarification is essential to allow flexible and contextually appropriate application

38 See above note 3.
39 MAG, above note 3.
40 Rae McGrath, *Landmines and Unexploded Ordnance: A Resource Book*, Pluto Press, London, 2000, p. xxiii; C. Horwood, above note 2, pp. 1, 3–4.
41 For a definition of "diversion", see "IATG 01.40: Glossary of Terms, Definitions and Abbreviations", in *International Ammunition Technical Guidelines*, 3rd ed., March 2021, para 3.83. For a definition of UEMS, see Reina Pilar and Eric G. Berman, "Introduction", in Eric G. Berman and Reina Pilar (eds), *Unplanned Explosions at Munitions Sites (UEMS): Excess Stockpiles as Liabilities rather than Assets*, Small Arms Survey, Graduate Institute of International and Development Studies, 2014, p. 3.
42 "The Humanitarian Charter", in *The Sphere Handbook: Humanitarian Charter and Minimum Standards in Humanitarian Response*, Sphere Association, Geneva, 2018 (Humanitarian Charter), para. 1.
43 "The XXth International Conference of the Red Cross", *International Review of the Red Cross*, Vol. 5, No. 56, 1965, p. 573; Jean Pictet, *The Fundamental Principles of the Red Cross: Commentary by Jean Pictet*, International Federation of Red Cross and Red Crescent Societies, 1979, pp. 14–17.
44 Humanitarian Charter, above note 42, para. 4.
45 J. Pictet, above note 43, p. 14; Jérémie Labbé and Pascal Daudin, "Applying the Humanitarian Principles: Reflecting on the Experience of the International Committee of the Red Cross", *International Review of the Red Cross*, Vol. 97, No. 897–898, 2015, pp. 186–187.

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of the other principles[46] while keeping humanity as the driving force, and to link the principles to other frameworks on human life and dignity, including those of humanitarian disarmament and human rights.

In fact, there is a substantial overlap between humanity as a humanitarian principle, the principle of humanity found within IHL, and the conceptualization of humanity that forms the basis of humanitarian disarmament. The value of human life and dignity, even in extreme circumstances such as armed conflicts,[47] can be seen as the same as the principle of humanity underpinning IHL. In turn, IHL's notion of "humanity" was the very inspiration for humanitarian norms on weapons, such as those of the humanitarian disarmament movement.[48] Furthermore, more recent elaborations of the principle of humanity, such as that found in the Humanitarian Charter, clearly contain references to the right to life, adequate standards of living and other human rights, including freedom from fear,[49] which are all very important for the conception of humanity in humanitarian disarmament. Such a connection with international human rights law not only provides more detail to the idea of humanity, but also stresses the need to proactively protect life and human dignity when they are threatened.[50]

Going beyond humanitarian action's objective as set out in the traditional definition of the humanity principle,[51] more recent definitions indicate that the principle is based on the value of equality among human beings and universal respect for human dignity.[52] This aligns with the assertion that it is a "matter of justice" to ban weapons that are capable of killing or maiming long after the end of the hostilities, are victim-activated and have protracted effects on people and communities.[53]

The content of the principle of humanity, especially in its more recent comprehensive formulations linked to the right to life with dignity, protection and security, can underpin both humanitarian and development actions,

46 Hugo Slim, *Humanitarian Ethics: A Guide to the Morality of Aid in War and Disaster*, Oxford University Press, New York, 2015, pp. 42–43.

47 See, for example, *ibid.*, pp. 45–46; Larissa Fast, "Unpacking the Principle of Humanity: Tensions and Implications", *International Review of the Red Cross*, Vol. 97, No. 897–898, 2015, pp. 112–113.

48 For the common root of the humanitarian principle of humanity and the IHL principle of humanity, see, for example, H. Slim, above note 46, pp. 45–46; L. Fast, above note 47. For the development of IHL applicable to weaponry and then the development of humanitarian disarmament on the basis of humanity, see Robert J. Mathews and Timothy L. H. McCormack, "The Influence of Humanitarian Principles in the Negotiation of Arms Control Treaties", *International Review of the Red Cross*, Vol. 81, No. 834, June 1999; Louis Maresca and Stuart Maslen (eds), *The Banning of Anti-Personnel Landmines: The Legal Contribution of the International Committee of the Red Cross, 1955–1999*, Cambridge University Press, Cambridge, 2000; B. Docherty, above note 1; Stuart Casey-Maslen, *The Anti-Personnel Mine Ban Convention: A Commentary*, Oxford University Press, 2023, pp. 12–17. See also Rae McGrath's 1997 Nobel lecture on this subject: Rae McGrath, "Landmines: A Matter of Justice and Humanity", *International Journal of Human Rights*, Vol. 2, No. 1, 1998.

49 Humanitarian Charter, above note 42, paras 4–5. See also Universal Declaration of Human Rights, UNGA Res. 217 A(III), 10 December 1948 (UDHR), Preamble.

50 Humanitarian Charter, above note 42, para. 5.

51 H. Slim, above note 46, p. 45.

52 *Ibid.*, pp. 51–52; L. Fast, above note 47.

53 On the idea of injustice, see R. McGrath, above note 48.

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especially in a protracted crisis.[54] In humanitarian mine action and disarmament, the "humanitarian time" is generally extended by several variables, including the presence of a conflict and the extent of the danger posed by weapons – including post-conflict. This danger can in fact increase even in a post-conflict setting with the discovery of previously unknown contamination due to changes in land use, or as a result of unsafely stored ammunition. It may also be exacerbated by other factors, such as a limited national capacity or lack of resources to address dangerous situations.

Threat to life, health and human dignity

By adopting a strict conception of human life and health, EORE is a key humanitarian action that agencies such as MAG are called on to undertake in emergencies. This includes the use of digital means, such as social media, on an emergency rapid assessment basis, with or without access to the areas of contamination. For example, in response to the start of Israel's bombardment of Gaza in October 2023, MAG activated a digital risk education programme in partnership with the UN Mine Action Service, reaching 1.1 million people as of 31 October with safety messaging despite a lack of direct access on the ground.[55] In situations where access is granted by relevant authorities and pre-deployment assessment guarantees the ability to act safely and in line with humanitarian principles,[56] MAG undertakes emergency clearance, such as in the cases of the Libyan civil war in 2011, Iraq and Syria during the conflict with the so-called Islamic State group, and Ukraine. Another important emergency activity undertaken by MAG is in response to unplanned explosions at munitions sites, where emergency risk education and clearance are delivered to prevent deaths and serious injuries from unexploded ordnance kicked out in the blast radius.

At the end of an armed conflict or emergency, systematic survey, clearance and land release begin under the direction of national authorities, who, according to the humanitarian disarmament framework, hold the main responsibility for mine action.[57] While the risk to life and health gradually decreases as more time elapses after the end of hostilities (assuming that there are no other major impediments to humanitarian action), such risk ultimately remains until landmines and other explosive ordnance are completely eliminated. For example, in areas that have been bombarded with cluster munitions, it is not unusual for people to find unexploded submunitions in their garden or within the foundations of their own houses, even years or decades post-conflict. There are

54 See H. Slim, above note 6, pp. 194–197.
55 Darren Cormack, "Doing Everything We Can to Protect Civilians in Gaza", MAG, 31 October 2023, available at: www.maginternational.org/whats-happening/doing-everything-we-can-to-protect-civilians-gaza/.
56 Ability to respect the humanitarian principles and staff safety are two essential conditions for MAG's deployment.
57 "IMAS 02.10: Guide for the Establishment of a Mine Action Programme", in *International Mine Action Standards*, 1 August 2007.

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situations where mine action is oriented to support human and economic development, such as strengthening communities' food security,[58] access to educational facilities, and infrastructure development,[59] or supporting the local economy broadly, in line with the national authorities' priorities.[60] At the same time, the implementation of development-oriented activities is very much contingent on the context.

In fact, the humanitarian nature of a clearance or other mine action tasks is measured according to the seriousness of the threat to human life and health, taking into account several variables, some of which are noted above. Accordingly, MAG often finds itself in situations where the humanitarian/development nature of a task depends on the local context, the level of threat, and the potential for harm to the affected population or other actors. For example, emergency risk education, survey and clearance can be undertaken to facilitate safe access for humanitarian convoys to reach communities in need. In other cases, deaths or serious injuries can be prevented by raising awareness of the dangers of explosive ordnance among the population and supporting national authorities in emergency spot tasks. In other scenarios, mine action can be considered as more development-oriented when it contributes to the creation of the conditions for post-conflict human and economic development and reconstruction.

Other conventional weapons

With regard to weapons other than landmines and explosive ordnance, MAG's approach remains consistent. Tasks can be characterized as humanitarian when they aim to prevent an unplanned explosion at a munitions site or to address the aftermath when such an explosion has occurred, which often results in dense contamination from explosive items within the blast area.[61] These actions protect human life and health and allow the affected population to be able to satisfy their basic needs safely. When it comes to preventing SALW and ammunition diversion, MAG's operations generally aim more to prevent the death and serious harm that those weapons can cause in irresponsible hands, along with cumulative effects such as the rising proliferation of firearms in communities due to concerns about personal safety. Again, these activities might be defined as falling within the scope of humanitarian or development actions according to the severity of the threat to human life and health.

58 See e.g. Riccardo Labianco and Myriam Rabbath, *The Contribution of Humanitarian Mine Action to Food Security – Preliminary Findings from Lebanon*, MAG, December 2023.

59 See e.g. Ursing Hofmann and Olaf Juergensen, *Leaving No One Behind: Mine Action and the Sustainable Development Goals*, GICHD and UN Development Programme, 2017.

60 See e.g. Bosnia and Herzegovina, "Request for Extension to the Deadline for Fulfilling Obligations as per Article 5, Para 1 of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction", June 2020, p. 14, available at: www.apminebanconvention.org/fileadmin/_APMBC-DOCUMENTS/Meetings/2020/18MSP-Bosnia-and-Herzegovina-Extension-Request.pdf.

61 E. G. Berman and R. Pilar (eds), above note 41, pp. 32, 56–57.

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All the activities undertaken by MAG generally aim to address the fear and insecurity felt by affected populations who are, or perceive themselves to be, frozen in the full exercise of their rights and their human development. Fear and insecurity affect people's ability to live with dignity and might affect the very essence of human existence. Fear and insecurity caused by mines and unexploded ordnance are best addressed through clearance operations; while EORE is traditionally the first line of humanitarian mine action response, it frequently results in *increased* levels of fear and perceived insecurity, as communities were less aware of the explosive threat prior to receiving risk education. Together with the preceding examples, this demonstrates that although clearance is often viewed as a development-focused activity, it can in fact abide more closely by the principle of humanity than the risk education activities that are usually conceptualized as more humanitarian in nature.

Prevention and capacity development activities

Most of MAG's work concerns the prevention of harm to the population caused by explosive ordnance, conventional ammunition and SALW. MAG engages in preventive activities and supports the development of national capacity to minimize future risk and harm. In particular, MAG engages in the destruction of prohibited weapons[62] and other weapons that pose a risk of unplanned explosion or diversion.

National capacity development, including training on technical aspects and awareness-raising in relation to relevant international norms and policies, is also a component of MAG's preventive work. For example, MAG helps national authorities to strengthen their national mine action capacities to manage survey, clearance, risk education and related activities, as well as in many cases to improve their ability to combat diversion and safely manage ammunition. Awareness-raising on relevant international norms is also delivered to engender a shared and consistent understanding of States' own obligations that can prevent future breaches. Further, MAG designs and delivers training on more basic subjects, such as computer literacy and financial management, that are often essential to ensuring sustainability – which in turn is critical to preventing future harm. Capacity development also includes training and financial support to community-based organizations and local civil society organizations in the reporting of dangerous items and the delivery of risk education, to ensure that harm can be prevented in the long term.

Coordination for community resilience

It is also important to emphasize that non-duplication, collaboration and partnerships are central to MAG's approach, with the aim of forming cross-

62 Stockpile destruction is a humanitarian mine action pillar and a legal obligation in the APMBC (above note 8, Arts 4–5) and the CCM (above note 8, Arts 3–4). See above note 36.

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disciplinary partnerships at the local, regional and international levels. In this sense, MAG conceives the humanitarian–development–peace nexus in a similar way to the International Committee of the Red Cross (ICRC): as "an ecosystem" in which a diverse range of actors operate to build sustainable humanitarian impact.[63] In many cases, MAG recognizes technical interventions as an entry point and confidence-building measure that can help to realize the conditions for different actors at different levels to implement more development-oriented, or even peacebuilding, activities. By building strong relationships with authorities and security sector actors in Sierra Leone, for example, MAG was able to bring in various partners to look at community safety and security issues in marginalized communities and build dialogue with local civil society on issues such as gender and community safety. Another example is the support that MAG provides in Laos for the creation of food security by coordinating with other agencies so that released land can effectively contribute to formerly affected populations. In this case, MAG is involved in a series of coordinated efforts whereby communities' resilience is stimulated by the removal of sourced of dangers and fear.

Impartiality and disarmament

Impartiality contains two key elements. First, impartiality requires agencies not to discriminate between affected people on the basis of "nationality, race, religious belief, class or political opinions".[64] Non-discrimination is a natural corollary of the concept of human equality mentioned earlier and is intrinsically connected to the very idea of human rights, as clearly stated in the Universal Declaration of Human Rights and other human rights instruments.[65]

More specifically, equality and non-discrimination are explicitly mentioned in some sources of the humanitarian disarmament framework, such as the APMBC's Oslo Action Plan and International Mine Action Standard 13.10 on victim assistance.[66] In IMAS 13.10, a nuanced approach to the specific needs of women, girls, men and boys is also recommended alongside a general commitment to inclusive mine action that focuses on the needs of affected communities.[67] In this sense, non-discrimination, equality and a certain degree of equity appear as generally uncontroversial in the humanitarian disarmament normative framework; however, in MAG's experience, those elements have not gone entirely unchallenged. In one example, donor States requested that clearance of areas liberated from the Islamic State group should be prioritized on the basis of ethnic or religious membership of the affected population. MAG outlined the discriminatory nature of such an approach and re-emphasized its organizational

63 "Q&A", above note 6, p. 1060.
64 "The XXth International Conference of the Red Cross", above note 43, p. 573.
65 UDHR, above note 49.
66 "IMAS 13.10: Victim Assistance in Mine Action", in *International Mine Action Standards*, 17 January 2023. See also Oslo Action Plan, above note 35, Introduction.
67 Oslo Action Plan, above note 35, Actions 3–4.

https://doi.org/10.1017/S1816383124000055 Published online by Cambridge University Press

commitment to humanitarian principles, leading to the donor State accepting prioritization on the basis of need.

The second key element of impartiality is that it requires interventions to be prioritized on the basis of need alone, starting with the most urgent.[68] In this sense, impartiality resonates with a critical feature of humanitarian mine action and disarmament: the centrality of the needs of affected people and communities, as clearly conveyed in various sources of the humanitarian disarmament framework.[69] Importantly, the focus on needs distinguishes between humanitarian interventions to address the harm and danger posed by weapons, on the one hand, and activities that are technically similar but are carried out for military or national security reasons, on the other. To illustrate, the clearing of a road is a humanitarian task if that road is used by the local population to, for example, access food, water, or health-care and education facilities, but it is a military task if the main purpose is to facilitate the transit of military convoys.

At an operational level, the responsibility for humanitarian mine action and disarmament operations lies with the national authorities of the State that exercise jurisdiction or control over an area.[70] Accordingly, priorities for interventions are decided by national authorities, who are generally required to be transparent with regard to the modalities that they use to make such decisions.[71] MAG provides support in the definition of those priorities, including by providing data that informs evidence-based decision-making. In the absence of a normative framework, approaches to prioritization are set at the country level. As a result, they are context-specific and their effectiveness rests on effective collaboration among stakeholders. Interestingly, other normative sources, such as international human rights law, can be seen as having an actual or potential role in informing national priorities. In fact, landmines and other explosive ordnance have been categorized as a source of danger for the right to life that requires State authorities to act proactively on the basis of the level of risk to life and health.[72]

An example of concrete application of the principle of impartiality in humanitarian disarmament comes from mine action's EORE guidelines, as outlined in IMAS 12.10. In fact, the section regarding needs assessment emphasizes that the "most at-risk" groups should be identified, and that services need to be delivered according to the level of risk, as "[n]ot everyone is at equal risk – and therefore in equal need".[73] At-risk groups are identified according to a

68 "The XXth International Conference of the Red Cross", above note 43, p. 573; J. Pictet, above note 43, p. 24.

69 E.g. CCM, above note 8, Art. 4(2)(b); see also "IMAS 12.10", above note 13. See also, for example, Oslo Action Plan, above note 35, Actions 3–4; Lausanne Action Plan, above note 35, Actions 4–5.

70 This is clearly spelled out in treaties such as the APMBC, and it can be connected to the acceptance of the traditional concept of State sovereignty, including the State's monopoly on violence, by humanitarian disarmament, IHL and international law more generally. See, for example, APMBC, above note 8, Arts 4–5.

71 If party to a relevant treaty, transparency is an actual obligation: see e.g. APMBC, above note 8, Art. 7. See also Oslo Action Plan, above note 35, Action 20.

72 See e.g. European Court of Human Rights, *Oruk v. Turkey*, Judgment, 4 June 2014, paras 34–37, 42–68.

73 "IMAS 12.10", above note 13, pp. 14–15.

https://doi.org/10.1017/S1816383124000055 Published online by Cambridge University Press

series of criteria that take into account the level of contamination by explosive ordnance, community behaviours, knowledge, social norms, and risk acceptance by the affected population.[74]

Another important mine action task that provides evidence for informed decision-making based on the needs of the population is non-technical survey (NTS), a series of community liaison activities, such as interviews or focus groups, designed to effectively verify the presence (or absence) of explosive ordnance in suspected hazardous areas through the knowledge and experience of the local population.[75] The addition of NTS in the 2009 revision of the IMAS and the further revision of the IMAS on Land Release in 2013 also reinforce the role of affected communities in the process of clearance and recovery, including in prioritization of clearance tasks.[76] Such involvement of affected people and communities resonates with the approach adopted by the Red Cross Code of Conduct and the Humanitarian Charter.[77] In Cambodia, for example, the Mine Action Planning Units at provincial level assess the level of contamination and cancel suspected areas that are not considered to be contaminated on the basis of the data collected by mine action operators through NTS.[78] This is another example of how the needs of the affected population inform mine action operations.

In both EORE and NTS, along with other community liaison activities, it is generally critical to be sensitive to possible sources of discrimination and marginalization. MAG, for example, mainstreams gender and diversity considerations in its community liaison activities, as set out in the organization's own Global Technical Standards. This ensures that NTS and EORE delivery is undertaken in a non-discriminatory way, and that proactive efforts are made to engage with groups who may be marginalized because of gender, ethnicity or any other factor.[79] These principles throughout MAG's work, and more widely in the sector, are also part of upholding the principles of impartiality in humanitarian mine action.

Impartiality can also be seen as assigning responsibilities to agencies, such as the duty to use the agency's profile to raise awareness about so-called "forgotten crises". As an established expert implementer and long-term advocate, MAG recognizes that the organization can have some influence on stakeholders in the sectors in which it operates, including donor priorities. MAG takes seriously its commitment to meeting needs in the most severe humanitarian situations, where

74 *Ibid*., p. 14.
75 For a more detailed definition of NTS, see "IMAS 08.10: Non-Technical Survey", in *International Mine Action Standards*, 1 February 2019.
76 "Land release" is the "process of applying all reasonable effort to identify, define, and remove all presence and suspicion of [explosive ordnance] through non-technical survey, technical survey and/or clearance". "IMAS 07.11: Land Release", in *International Mine Action Standards*, 1 February 2019.
77 *Code of Conduct for the International Red Cross and Red Crescent Movement and NonGovernmental Organisations in Disaster Relief*, 1994, para. 7, available at: www.ifrc.org/sites/default/files/2021-07/code-of-conduct-movement-ngos-english.pdf. Humanitarian Charter, above note 42, para. 3.
78 Mine Action Review, *Clearing the Mines 2023*, 1 September 2023, p. 80.
79 Sebastian Kasack, "Tailoring Explosive Ordnance Risk Education: How MAG Addresses Gender/Cultural Sensitivities and Local Risk-Taking Behavior", *Journal of Conventional Weapons Destruction*, Vol. 25, No. 2, 2021.

https://doi.org/10.1017/S1816383124000055 Published online by Cambridge University Press

mine, cluster munition and unexploded ordnance contamination is severe, or stockpiles are posing a major risk. In a scenario where unrestricted funding is extremely limited, MAG ensures that when unallocated organizational funds are available, they are channelled to the areas of greatest need. At the same time, efforts to draw attention to contexts that may be neglected among donors' geopolitical priorities demonstrate that advocacy can also be an important tool for organizations like MAG to uphold their impartiality and humanity.[80]

Beyond traditional impartiality: Communities' needs and views

Although this admittedly does not fall within the scope of the principle of impartiality, the humanitarian disarmament sector not only focuses on needs but also values the views of affected people and communities, who are generally consulted during, for example, EORE and community liaison activities and NTS. In fact, as shown by IMAS 12.10 on EORE, comprehensive and transparent consultation that includes the views and lived experience of members of affected communities means that needs are better understood and better information regarding contamination is captured.[81]

Consultation with affected communities tends to be much more limited, and sometimes non-existent, when it comes to weapons and ammunition management (WAM) interventions, due to the hosting State's security concerns. Nevertheless, MAG aims to include similar activities whenever possible. For example, the work and analysis of the Sierra Leone Action Network on Small Arms, a civil society body researching the impact of SALW and ammunition proliferation on different people, informed the work of the Sierra Leone Commission on Small Arms, including during the drafting of the Weapon and Ammunition Management Capacity Development Action Plan facilitated by MAG and Small Arms Survey.[82] Where confidentiality limits engagement or community consultation, or sufficient country or programme structures are not yet in place, the core principle of impartiality remains part of the reference framework of MAG staff, which always aims to prioritize WAM interventions according to the highest levels of risk of diversion or unplanned explosion. Information is often gathered through demographic information, satellite imagery and other sources or techniques, rather than necessarily through direct dialogue.

While it is true that affected communities' consultation and incorporation of their views in planning interventions is not necessarily part of the traditional view on impartiality, it is also important to consider that different communities have different ontologies of humanity and that listening and incorporating their views is essential to avoid the imposition of Western-oriented conceptions of lives, livelihoods, health and, ultimately, humanity.[83]

80 In fact, advocacy is one of the pillars of humanitarian mine action. See note above note 36.
81 "IMAS 12.10", above note 13, pp. 13–15.
82 MAG and Sierra Leone Commission on Small Arms, *Partnership and Progress: Lessons in Effective Arms Control from Sierra Leone*, 1 September 2021.
83 H. Slim, above note 6, pp. 180–189.

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Beyond traditional impartiality: Derogations and compromises

A second case in which the interpretation of impartiality distances itself from the traditional view is when compromises are made. Given the fact that national authorities hold the main responsibility for mine action and WAM, MAG has found itself in the situation of having to respond to national authorities' requests regarding development-oriented tasks. For example, a national authority may request prioritization of clearance at a particular site for an infrastructure project which may not be the greatest need for the communities with whom MAG works. While such requests might be acceptable to the more pragmatic parts of the mine action sector which are driven by development goals, they certainly clash with the principle of impartiality.

This type of situation is not unusual in the practical implementation of the humanitarian principles[84] and shows, as Labbé and Daudin point out, the interrelation of the principles and their contingency on the specific situation.[85] In situations where there is an explicit request to derogate to impartiality, it is important to ponder why this should be done and what kind of short- and long-term effects any response to that request may produce.[86] For example, MAG may choose to make such a concession in order to maintain positive relationships with national stakeholders and to contribute to broader economic development and recovery. In this way, MAG personnel not only facilitate other humanitarian tasks but also create a favourable environment in which to carry out other mine action tasks, including advocacy for international norms and the protection of specific people and communities.

Of course, such experiences have led to a more detailed decision-making process within MAG, whereby several other considerations are taken into account. These considerations include the source and nature of funding for such an impartial intervention, other contemporary compelling needs, the effective quality of the relationship with the State in question, and the possible effects on the rest of the humanitarian mine action sector.[87] The possibility of such requests shows how it is important to maintain a clear understanding of the humanitarian principles and their practical implementation, which leads to such compromises being considered carefully and as exceptional.

In general, addressing the needs of the population in an objective and non-discriminatory way is not only an ethical requirement but is also essential for effective mine action and other humanitarian disarmament interventions. The concept of prioritizing the most serious needs outlined by the principle of impartiality is well rooted in the normative framework of humanitarian mine action and has the fundamental function of adapting humanitarian disarmament

84 See e.g. J. Labbé and P. Daudin, above note 45, pp. 199–200.
85 *Ibid.* Cf. H. Slim and M. Bradley, above note 7.
86 J. Labbé and P. Daudin, above note 45, pp. 199–200.
87 Cf. *ibid.*

https://doi.org/10.1017/S1816383124000055 Published online by Cambridge University Press

operations to the reality and lived experience of people and communities in their everyday lives.

Neutrality and disarmament

The principle of neutrality, which requires humanitarian agencies to "not take sides in hostilities or engage at any time in controversies of political, racial, religious or ideological nature",[88] is possibly the most discussed of the four humanitarian principles when it comes to multi-mandate agencies operating according to the humanitarian–development nexus.[89] This principle is particularly challenging and important for humanitarian disarmament agencies, given the possibility that their activities might be perceived as a direct contribution to hostilities, and for the articulated humanitarian disarmament framework.

Neutrality is critical to gaining belligerent actors' confidence and to guaranteeing humanitarian workers' safety and security.[90] In the case of MAG, such confidence has been built on its experience, technical expertise and professionalism, founded on an awareness of and sensitivity to context and commitment to local relationships, along with respect for the humanitarian disarmament framework, which clearly distinguishes between controversial and uncontroversial issues. Such consistency is vital to guaranteeing the continuity of the organization beyond the temporary events of a specific situation so that humanitarian action can continue regardless of time constraints and regardless of the fluidity of operating environments.

Non-taking of sides in hostilities

This first part of the principle of neutrality, which Jean Pictet named "military neutrality",[91] is one of the clearest elements of the principle and one of the most well-accepted by humanitarian disarmament agencies in theory. Challenges might arise when this is applied in practice, especially in situations that are not considered armed conflict according to IHL standards, as this first component of neutrality depends on the presence of an armed conflict. In this sense, as seen later in this section, the presence of an armed conflict appears to be a critical variable in the positioning of an agency on the humanitarian–development nexus, particularly for humanitarian disarmament organizations, which might be perceived as contributing to the military efforts of one of the parties to an armed conflict. If, on the contrary, operations are carried out further in distance and time from an armed conflict, this first part of the principle is almost completely irrelevant.

88 "The XXth International Conference of the Red Cross", above note 43, p. 573; J. Pictet, above note 43, p. 34.
89 See e.g. *Roundtable on the Humanitarian Principle of Neutrality*, Chatham House, 15 February 2022.
90 J. Pictet, above note 43, p. 35.
91 *Ibid.*

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In the past, guided by considerations based on humanity and impartiality, MAG personnel directly experienced how the removal of landmines might be perceived as hostile conduct. For example, during the Angolan civil war in 1999, direct fire from National Union for the Total Independence of Angola (União Nacional para a Independência Total de Angola, UNITA) forces in Luena and Luau triggered the withdrawal of MAG demining teams, both for security reasons and out of concern that UNITA believed MAG's neutrality was compromised due to the latter's proximity to the conflict line in its mine action operations. More recently, for similar reasons during ongoing operations in Ukraine, MAG maintains a minimum distance of 30 km from the front line at any given time.

Similar situations generally even occur in areas from which armed non-State actors withdraw after leaving large numbers of improvised landmines and other improvised explosive devices (IEDs). In those situations, governmental forces generally fight the non-State armed actors, but humanitarian needs, such as safe passage for returnees, remain. When such a situation occurs, MAG is generally guided by a series of criteria for choosing its areas of operations. Firstly, these criteria, which are generally thorough, consider whether MAG's operations could be seen as contributing to the government's military efforts in light of the presence of active hostilities. Secondly, MAG generally considers whether the areas are clearly under the control of relevant authorities and are distant from the front line and where populations are attempting to return, in order to minimize any apparent lack of neutrality. Furthermore, the victim-operated nature of the devices in question, posing great risk to people, is another critical factor to take into account in favour of intervening. All these considerations are for example taken into account with regard to mine action activities tackling improvised landmines and other IEDs in the Sahel.[92] Due to the impossibility of identifying clear areas unaffected by the conflict, MAG has decided to refrain, for the time being, from clearance of contamination resulting from the ongoing hostilities.

More generally, the presence of an armed conflict and the application of neutrality limit the type of activities that an agency such as MAG can carry out during a conflict. Nothing that interferes with the conflict logic can be done, especially removing landmines in areas of active hostilities. EORE activities are one of the few activities that do not compromise neutrality, and they are often essential during conflict and resulting displacement. Collecting contamination data from afar, humanitarian disarmament organizations can prevent harm for those civilians, who are entitled to protection under IHL, living or moving into areas newly contaminated by explosive ordnance, of which they are often unaware.

Admittedly, given the ultimate responsibility of the State that exercises jurisdiction or control over the territory where MAG operates, including for

92 For more details, see Josephine Dresner, "From the Middle East to West Africa: Responding to the Humanitarian Impacts of Improvised Anti-Personnel Mines", *Humanitarian Law and Policy Blog*, 8 February 2024, available at: https://blogs.icrc.org/law-and-policy/2024/02/08/from-the-middle-east-to-west-africa-responding-to-the-humanitarian-impacts-of-improvised-anti-personnel-mines/.

https://doi.org/10.1017/S1816383124000055 Published online by Cambridge University Press

issues of information management, there is a risk that information regarding contamination gathered by humanitarian agencies might be used by State agents to carry out military activities. A relationship based on good faith and transparency can facilitate the granting of assurances against that type of information use, but this remains an omnipresent risk when a conflict is active. Similarly, a good relationship between humanitarian agencies and national authorities can be used to incentivize respect for relevant international law, including norms against indiscriminate means and methods of warfare. Despite the need to balance the operational needs of staff on the ground, who must remain able to address people's needs, with advocacy activities, MAG has often recalled through statements the IHL principle on the non-unlimited choice of weapons during armed conflicts.[93]

The principle of neutrality and its application to humanitarian disarmament operations and the relevant framework are also connected to some operational limitations for agencies such as MAG. Besides certain activities, such as digital EORE, MAG needs to access suspected and contaminated areas in order to operate, requiring it to either gain the consent of governmental authorities of the relevant State or to be included under the UN umbrella. In contexts of active or recently ended conflict, it may be the case that despite best efforts, not all parties perceive MAG as a neutral organization, often because of perceived allegiance with other parties to the conflict. MAG will still undertake clearance and other mine action tasks where reduced access makes it impossible to reach areas where needs exist, which can give the appearance of non-impartial intervention. In those situations, a contextual approach to the principles is essential: once it has made its best efforts to enter areas of need, a humanitarian disarmament organization should focus on those areas that are accessible, while continuing to directly or indirectly advocate for access to areas of need. Indeed, this is a true application of contextual impartiality. Another response is to initiate coordination with other similar organizations that are viewed more favourably by the party denying access.

More generally, it is the humanitarian disarmament framework that requires agencies such as MAG to work with national authorities, and this might even happen during an active armed conflict. Collaboration with national authorities might compromise neutrality, even if only in terms of perception, but this is a necessary compromise to uphold the principle of humanity. In any case, for MAG, neutrality always remains a fundamental principle, requiring MAG staff not to undertake activities that might concretely or seemingly be perceived as taking part in hostilities. In its experience, MAG has found itself working on both sides of an armed conflict, in particular in non-international armed conflicts. For example, at the beginning of the conflict in Angola, MAG

93 See e.g. Protocol Additional (I) to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts, 1125 UNTS 3, 8 June 1977 (entered into force 7 December 1978), Art. 35.

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coordinated with both the government and UNITA to access contaminated areas through which displaced people were moving.

With regard to weapons and ammunition activities, similar considerations of risk in relation to being perceived as taking a side in hostilities can surface and need to be taken into account. This is especially true when MAG is involved in training on WAM or construction of facilities, given that these activities, even when undertaken with a humanitarian purpose, can create the conditions for the State to restock, to acquire more weaponry, or to improve the efficiency of personnel in combat situations – risks that concretely exist, given that States remain generally free to acquire and possess non-banned weapons and ammunition.[94]

Such a risk can be minimized through a series of policies and practices. First, MAG refrains from technical interventions in areas involved in or near active hostilities, constantly assessing the situation on the ground, learning lessons, and developing tools and policies drawing on past experiences. For example, MAG continues to monitor the situation in Mali, where it started its operations in 2013.[95] Despite EORE and NTS activities being undertaken in the north, it was decided not to undertake WAM activities in that area due to the situation of violence. In another example, MAG's ammunition destruction activities in the Democratic Republic of the Congo were extended in 2010 to North and South Kivu, in the east of the country, in the wake of a number of unplanned explosions at munition sites in the country, as well as ongoing high levels of diversion. Rebellion in late 2012 led to the M23 group seizing control of Goma, causing MAG to rapidly stand down its WAM operations in the area due to concerns about perceived lack of neutrality and risk to MAG staff.

When there is a risk of neutrality being perceived to be compromised, additional and proactive mitigation measures are adopted. For example, through dialogue with the relevant authorities, MAG emphasizes the humanitarian nature of its activities and explains its doctrine, outlining why it engages in certain technical activities to protect the life and health of people and communities and clarifying what it is and is not willing to do, making everybody aware of the uncrossable red lines.[96] For instance, MAG's internal policy is categorically against the promotion or facilitation of the arms trade or the arming of a State.

Teams should always monitor the context where they operate and be ready to re-evaluate and potentially suspend activities as a result of changes in the political situation. As soon as there is a concrete risk of MAG's operations being involved in military efforts, the organization's personnel are asked to flag and assess the situation and proceed with disengagement if necessary.

94 See e.g. Arms Trade Treaty, 3013 UNTS 269, 2 April 2013 (entered into force 24 December 2014), Preamble.

95 At the time of writing, MAG's WAM operations in Mali are suspended.

96 Cf. J. Labbé and P. Daudin, above note 45, pp. 199–200.

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Not engaging in controversies

Avoiding engaging "in controversies of a political, racial, religious or ideological nature" is what Pictet called "ideological neutrality".[97] It differs from the considerations mentioned above due to its operation on the "political" rather than the "military" side. There is no question that humanitarian organizations should not take a side in any political, racial, religious or ideological controversy, and this obligation also individually concerns staff members, especially when they wear the uniforms or logos of the organization.

A recurring situation where the risk of being perceived as engaging in a controversy arises for MAG is when it is called to take a stance on a political controversy, often in relation to an ongoing armed conflict or immediately after one. In this regard, the main point of reference for an organization such as MAG is its policy and doctrine, which remain fixed despite the ever-changing environment in which the organization exists and works. Nevertheless, in common with the approach often taken by the ICRC,[98] MAG does not refrain from condemning the use of indiscriminate means and methods of warfare. This is not viewed by MAG as a breach of neutrality, given that these uses are prohibited by common rules of international law that are either of customary nature, and thus equally binding on all States, or bind a large number of States through a treaty and are based on the same values underpinning the principle of humanity. In fact, this type of advocacy can also be seen as a form of prevention to minimize harm in the future.

As Pictet has explained, neutrality does not entail a lack of dialogue with relevant authorities, especially when such a lack of dialogue might result in a failure to acquire, or in a loss of, humanitarian access.[99] However, as outlined earlier, when these relationships lead to expectations on a humanitarian agency to adopt a particular political position, emphasizing the position of neutrality and adhering to the humanitarian disarmament normative framework are critical.

On some occasions, MAG designs and implements activities characterized by transformative objectives, such as the adoption of positive action to tackle the relationship between masculinity and weaponry, or the promotion of women's participation in the humanitarian disarmament sector.[100] For example, MAG has been mainstreaming gender in its programmes on WAM in West Africa, where assumptions on the role of women were challenged and addressed.[101] These activities are often linked to global agendas agreed by all States, such as the 2030 Agenda for Sustainable Development[102] or the Women, Peace and Security

97 J. Pictet, above note 43, p. 36.
98 See e.g. ICRC, "Statement at 76th United Nations General Assembly, First Committee General debate on All Disarmament and International Security Agenda Items", 11 October 2021, available at: www.icrc.org/en/document/statement-76th-general-assembly-disarmament.
99 J. Pictet, above note 43, p. 37.
100 See e.g. Oslo Action Plan, above note 35, Action 4; Lausanne Action Plan, above note 35, Action 4.
101 MAG, *Gender and Armed Violence Reduction in West Africa: Lessons Learned from Weapons and Ammunition Initiatives*, 2022.
102 UNGA Res. 01 (LXX), 25 September 2015.

https://doi.org/10.1017/S1816383124000055 Published online by Cambridge University Press

Agenda,[103] and are linked to general principles or norms guiding the international community. In some instances, however, the content of these agendas and frameworks might appear controversial to some States. Whilst these transformative activities fall outside the traditional humanitarian realm and might be perceived as a breach of the principle of neutrality, MAG generally implements similar activities with the consent of relevant stakeholders; these activities are often the result of specific activities of awareness-raising and advocacy on those agendas and frameworks. State consent and a context-sensitive approach can be seen as minimizing the risk that such activities can be seen as controversial and thus a perceived breach of neutrality.

All in all, it is important to conceive neutrality as instrumental in the fulfilment of the very principle of humanity. At the same, it is also important to appreciate the function of neutrality, alongside a principled approach in general, to guarantee the profile and standing of an organization beyond temporary dynamics, along with the safety of personnel.

Competing approaches to modern challenges: IEDs and improvised landmines

The evolution of armed conflicts and other situations of armed violence over recent decades has often brought MAG to engage in situations where competing approaches to a specific issue were adopted. This has been the case regarding IEDs and improvised landmines.[104]

In situations where non-State armed groups are making significant use of IEDs and improvised landmines, it is not uncommon to have a wide range of different actors and agencies undertaking surveying and clearance in order to address contamination from such devices. Often, the majority of those actors are military, security or law enforcement entities. Whilst these entities do not generally apply a fully humanitarian approach, it is important to measure their activities on the basis of the four humanitarian principles, especially humanity, impartiality and neutrality.

In fact, survey and clearance activities that have military or security goals, such as the clearing of roads to enable military vehicles to pass or the collection of IED components to allow forensic investigations, are generally in breach of neutrality, in the sense that the actors involved are effectively part of the hostilities. Such activities also clash with impartiality and humanity as they are often not informed by the objective of tackling the most urgent needs of affected populations.

In this sense, by applying the humanitarian principles and the humanitarian disarmament framework, MAG makes sure that its operations are

103 UNSC Res. 1325, 31 October 2000.

104 C. Loughran and J. Cocking, above note 5. For the latest description of these issues and MAG's approach, see J. Dresner, above note 92.

https://doi.org/10.1017/S1816383124000055 Published online by Cambridge University Press

informed by the needs of affected communities and aims to act in a neutral way in order to avoid any obstacle to achieving its humanitarian goals safely.

Independence and disarmament

Independence, the fourth humanitarian principle, requires agencies to avoid being influenced by external actors, especially political ones,[105] and as a result losing their autonomy as humanitarian organizations. According to some readings, the principle of independence contains three aspects – institutional and political, financial, and operational independence[106] – and is, like neutrality, functional to respect for the principle of humanity.[107]

Politically, MAG always aims to maintain its independence, which is particularly important when its advocacy and influence activities might collide with its technical and programmatic operations in the field. Despite its origins in advocacy, MAG has at times decided not to enter into specific debates, even when they concern the organization's fundamental principles, in order to avoid public statements that may be actually or potentially harmful for MAG personnel in the field or may undermine MAG's humanitarian disarmament mission.

Following the path traced by the humanitarian disarmament normative framework, which recognizes national authorities as the main actors responsible for humanitarian disarmament activities, MAG, as mentioned earlier, generally works with national authorities, often as an implementing partner, meaning that activities are informed by their needs and views. However, this is not usually a unilateral relationship; MAG does not act as a government proxy, and it maintains its technical independence through its professional and political expertise, working with national authorities for mine action and SALW commissions to help synthesize national, provincial, local and community-level priorities.

A similar discourse is relevant in terms of States providing financial support to humanitarian disarmament activities. The substantial funds necessary for humanitarian disarmament projects are very difficult to collect through private donations, although the sector is currently exploring many different means of alternative finance. Financial independence would ideally be reached through fundraising campaigns targeting the public, but given the scale of need across every humanitarian sector, these efforts are likely to be limited in success and to only partially address the needs of affected communities. For this reason, MAG currently relies on funds from donor States. Flexible funds from donors help to maintain a certain level of independence, but these are as rare as they are desirable.

105 J. Pictet, above note 43, p. 40.
106 Ed Schenkenberg van Mierop, "Coming Clean on Neutrality and Independence: The Need to Assess the Application of Humanitarian Principles", *International Review of the Red Cross*, Vol. 97, No. 897–898, 2015, p. 308.
107 H. Slim, above note 46, pp. 42–43.

https://doi.org/10.1017/S1816383124000055 Published online by Cambridge University Press

At the same time, many institutional donors, including various States and organizations, the European Union and the whole UN system, have shown commitment towards the humanitarian principles in many ways.[108] In some instances, commitment to respecting humanitarian principles is shown in indirect ways, including through resolutions of the UN Security Council.[109] With such commitments, it can be argued that these donors would be more understanding of the need for a humanitarian agency to put in place policies and measures to guarantee its independence. In one post-conflict context, for example, MAG was asked by a donor to prioritize a site of particular significance that would be beneficial to the donor's political standing. In this case, a statement of MAG's own commitment to humanitarian principles – particularly in the context of established humanitarian mine action doctrine – was accepted by the donor and proved sufficient for MAG to reject the request and continue addressing the greatest needs in line with the principles of independence, impartiality and, ultimately, humanity.

More generally, the argument made earlier with regard to recipient States can also be applied with regard to the minimization of interferences regarding donors' foreign policy, which are always a risk, especially when humanitarian and development aid departments sit within foreign affairs ministries. MAG has gained the trust of many stakeholders who rely on the organization's professional assessment, contributing further to a certain level of independence. It is important to highlight that this very much depends on the donor and the setting in which the resources are provided; for example, the presence of a solid framework, such as that of humanitarian disarmament, contributes to the protection of the agency's independence, as the agency's answers can be justified on the basis of a framework of reference shared among different States and other stakeholders.

Conclusion

Humanitarian disarmament operations, which originated from IHL efforts to address the effects of indiscriminate warfare and weapons, aim to address and prevent the various effects, both short- and long-term, of indiscriminate weaponry such as landmines and cluster munitions, as well as the harmful effects of the use of other conventional weapons. Reflecting on the humanitarian principles is critical not only to strengthen the humanitarian profile of operators engaged in humanitarian disarmament operations, but also to highlight the important overlaps between the principles and the humanitarian disarmament framework. MAG is a multi-mandate organization, but, as shown in this article,

108 See e.g. UNGA Res. 182 (XLVI), 19 December 1991; UNGA Res. 114 (LVIII), 17 December 2003.

109 See e.g. UNSC Res. 1894, 11 November 2009, para. 13. More generally, see UN Security Council, "September 2021 Monthly Forecast: In Hindsight: Humanitarian Space and the Security Council", *Security Council Report*, 31 August 2021, available at: www.securitycouncilreport.org/monthly-forecast/2021-09/in-hindsight-humanitarian-space-and-the-security-council.php.

https://doi.org/10.1017/S1816383124000055 Published online by Cambridge University Press

the humanitarian principles, both directly and through the humanitarian disarmament framework, have guided its operations, allowing MAG to operate on the humanitarian–development nexus. This is especially important given that humanitarian disarmament is based on the imperative that efforts to address the needs of affected populations cannot stop with the end of active hostilities. The various examples given throughout this article demonstrate how a founding in humanitarian principles has helped MAG to navigate complex contexts and scenarios, including in articulating the organization's aims, priorities and red lines to other stakeholders and informing internal decision-making.

As MAG's operations, particularly in WAM, continue to expand into a wider range of contexts, including situations of armed violence such as those in Latin America and the Caribbean, the organization is increasingly looking to strengthen links with peacebuilding – mainly through partnership – and thus moving towards a more triple-nexus approach. For an agency with roots in advocacy and humanitarian action, the close relationships with States and security sector actors that this work requires raise challenges in terms of how MAG can adhere to its core and founding principles while continuing to meet significant humanitarian disarmament needs globally. At the same time, this article has shown that even in mine action, the changing nature of the conflicts and emergencies to which MAG is responding have required an increasingly nuanced approach. IHL and the humanitarian disarmament framework have helped to identify ways forward, always with the first principle of humanity as the "North Star".

Along with humanity, the principle of impartiality overlaps with the humanitarian disarmament framework in a number of ways. In fact, to be humanitarian, disarmament must be driven by the needs of affected people. The prioritization of the most urgent cases, along with the non-discrimination clause, is also inbuilt in the humanitarian disarmament framework, and it can be further strengthened by the explicit application of the principle of impartiality. Furthermore, the humanitarian disarmament approach adopted by MAG goes beyond the traditional content of impartiality, and besides appreciating the needs of affected populations, MAG also aims to listen to their views.

The presence of an armed conflict or situation of armed violence is a key variable that determines MAG's approach to specific situations and the contextual application of the humanitarian principles. In this sense, this article has demonstrated how the principle of neutrality remains an important part of MAG's framework of reference. In fact, while MAG has always been open to adapting the principle of neutrality to the specific context, this principle has always remained the reference for assessing the viability of a technical intervention by the organization, as well as one of the parameters used to assess the risks that MAG's staff might run if deployed in specific settings. Unlike other multi-mandate agencies, the principle of neutrality is critical to MAG, even in situations where humanitarian disarmament is oriented to development goals.

The centrality of human needs and the ultimate goal of protecting life, health and human dignity, another element developed from IHL, naturally

https://doi.org/10.1017/S1816383124000055 Published online by Cambridge University Press

connects humanitarian disarmament to the principle of humanity. This means that the complexities of upholding humanitarian principles in ever-changing contexts and an expanding scope of operations should not be seen only as a challenge for humanitarian disarmament organizations like MAG; instead, from MAG's perspective, they represent an opportunity to genuinely analyze and reflect on where the humanitarian principles can be adapted or seen as flexible, when they must be absolutely upheld, and critically, when they are under threat from events far greater than the decision-making of one NGO. In examining MAG's work on the humanitarian–development nexus, and looking towards the triple-nexus approach, the humanitarian principles are not a constraint to be disregarded or pushed back on. Flexibility does not mean that the principles become irrelevant in certain circumstances, but rather that any adaptation must be grounded in contextual awareness and understanding. By always acknowledging the fundamental role of the humanitarian principles, MAG ensures that decisions are taken in full awareness of what they mean to an organization founded to address questions of justice, and questions of humanity.

https://doi.org/10.1017/S1816383124000055 Published online by Cambridge University Press