

ICRC's Responses to the Challenges of Humanitarian Assistance during Armed Conflicts

O. A. Olaseeni,
Lecturer, Faculty of Law, Obafemi Awolowo University, Ile-Ife, Nigeria.

Kayode Mimiko,
Lecturer, Faculty of Law, Adekunle Ajasin University, Akungba-Akoko, Nigeria.

Abstract

Today, it is beyond polemics that the conduct of humanitarian assistance is facing serious consequences. Worldwide, those involved in providing humanitarian aid to the victims of armed conflicts are matter-of-factly doing so under operational challenges which are hampering their humanitarian activities. While these facts are true about the International Committee of the Red Cross (ICRC), they equally raise the question about its ability to fulfil its mission of humanitarian assistance to the victims of armed conflicts. As a result of this, the present article examines the meaning and background to the ICRC's humanitarian assistance; the rules of international humanitarian law (IHL) on humanitarian assistance during armed conflicts. Also, the article considers the humanitarian activities of the ICRC to the victims of armed conflicts around the world; the major challenges which underlie such activities and the ways in which the organisation is responding to these dire challenges. The article ends with the conclusion that despite massive constraints, the need arises, than before, for the ICRC to be more responsive to the challenges of humanitarian assistance in the world. This is with the view to guaranteeing the future of humanitarian assistance during armed conflicts, whether international or non-international in character.

Definition of Humanitarian Assistance

Among others, the Dictionary of International Law of Armed Conflicts defines the term 'humanitarian assistance' as follows:

*The general assistance which the ICRC must provide to the victims of armed conflicts and for which purpose the parties to an armed conflict must grant the ICRC all the facilities in their power.*¹

Similarly, the Institute of International Law refers to the term as:

*All acts, activities as well as human and material resources for the provision of goods and services of an exclusively humanitarian character, indispensable for the survival and the fulfillment of the essential needs of the victims of disasters.*²

From the above random definitions, it can be aptly surmised that humanitarian assistance encompasses a wide range of activities, in the forms of goods and services, which the ICRC is providing for the survival of victims of armed conflicts and other situations of violence. It should be noted, however, that the ICRC is not the only organisation which is providing humanitarian assistance to victims of armed conflicts and other situations of violence. Though a major actor in this area, but humanitarian responses are increasingly within the remit of other actors, including the private sector, the NGOs and foreign military forces, often with their methods of operating differently from the traditional approaches not necessarily based on humanitarian principles.³

Background to the ICRC's Humanitarian Assistance

The origin of the ICRC's humanitarian assistance or aid can be traced to the pioneer spirit of voluntary service which Henry Dunant, a Swiss citizen, cultivated after the battle of Solferino in 1859.⁴ France and Austria were

¹See the *Dictionary of the International Law of Armed Conflict*, ICRC, Geneva, 1992, p. 22.

²Institute of International Law, Resolution of the Sixteenth Commission (Humanitarian Assistance), 2 September, 2003. See the full text of Article 1 on the definition of humanitarian assistance.

³Claudia McGoldrick, *the Future of Humanitarian Action: An ICRC Perspective*, *IRRC*, Vol. 93, No. 884, 2011, p. 976.

⁴Solferino is the name of a town in northern Italy.

locked in a battle which left the ground of Solferino strewn with many dead bodies and wounded soldiers.¹ That same evening, while Dunant was embarking on a business trip, he passed through the area but was horrified by the gory sight of thousands of soldiers abandoned to their fate to die, owing to lack of medical care.² Prompted by this ignoble spectacle, Dunant pleaded with the folks from the nearby local villages to assist him care for the wounded and dying soldiers on both sides, while insisting that they should be treated humanely and equally without distinction.³

In 1862, after his return to Switzerland, Dunant published a book, *A Memory of Solferino*, in which he made two solemn appeals for alleviating the suffering of victims of wars as follows:

*Would it not be possible in time of peace and quiet, to form relief societies for the purpose of having care given to the wounded in wartime by zealous, devoted and thoroughly qualified volunteers and, on the other hand, to formulate some international principle, sanctioned by a Convention inviolate in character, which, once agreed upon and ratified, might constitute the basis for societies for the relief of the wounded...*⁴

Being largely inspired by Dunant's ideas, in 1863, four years after the battle of Solferino and one year after the book was published, a private charitable association known as "the Geneva Society for Public Welfare" set up a 'Five-Man Committee'⁵ to consider how Dunant's first idea of forming relief societies could be realised. The Committee organised a Conference in Geneva in which 16 countries participated to establish 'the International Committee for Aid to Wounded Armies', with the initial focus on the provision of aid and voluntary medical services to wounded and sick soldiers in the field.⁶ This Committee subsequently became known as 'the International Committee of the Red Cross, but with its humanitarian activities extended to cover all victims of armed conflicts, namely, wounded and sick soldiers in the field; wounded, sick and shipwrecked armies at sea; prisoners of war; and civilian population of a State.'⁷

Rules of International Humanitarian Law on Humanitarian Assistance

International humanitarian law -also called the law of armed conflict or the law of war- is a branch of public international law. As a *lex specialis*, it is established first, for the protection of people not participating in the hostilities (the civilian population) or combatants no longer taking part in the fighting (the wounded, sick and shipwrecked and prisoners of war) and secondly, for the regulation of the means and methods of warfare.⁸ By seeking to protect the victims of wars and regulate how wars are fought, the law prescribes certain rules for behaviour in action and the conduct of military operations. As such, military commanders and combatants from both sides to the armed conflicts are to respect these rules which are prescribed to mitigate the horrors of wars. Essentially, the treaty-based body of law⁹ is applicable only in times of armed conflicts, whether international or non-international in character.

During international armed conflicts, the law recognises that the civilian population of a State affected by an armed conflict is entitled to receive humanitarian assistance.¹⁰ It sets out the conditions for regulating the

¹See, *Discover the ICRC*, a publication by the ICRC, Geneva, September 2005, p. 6.

²*Ibid.*

³See Blessing Ejiofor, *Humanity beyond Charity: The Concept of Red Cross Voluntary Service*, in *the Humanitarian*, ICRC, Planet Press, Lagos, February 2007, p. 5.

⁴Henry Dunant, *A Memory of Solferino*, Original French edition, 1862, p. 126.

⁵The names of the five-man Committee were General Guillaume-Henri Dufour, Louis Appia, Gustave Moynier, Theodore Maunoir and Henry Dunant. See Henry Dunant, *A Memory of Solferino*, ICRC, Geneva, 2008, pp. 129-136.

⁶See *Compte rendu de la Conference internationale pour la Neutralisation du Service de Sante militaire en Campagne* (the Report on the International Conference for the Neutralisation of Army Medical Services in the Field), Geneva, 8-22 August, 1864, handwritten copy in the ICRC library, Annex A, Art. 9. Notably, this report is also reproduced in G. F. de Martens, ed., *Nouveau Recueil general de Traites*, Vol. XX, pp. 375-399.

⁷See Pierre Boissier, *From Solferino to Tsushima: History of the International Committee of the Red Cross*, Henry Dunant Institute, Geneva, 1985, p. 54 ff; and Francois Bugnion, *Le Comite international de la Croix-Rouge et la protection des victimes de la guerre*, ICRC, Geneva, 1994, P. 11 ff.

⁸Dietmar Klenner, *Training in International Humanitarian Law, IRRC*, Vol. 82, No. 839, September 2000, p. 653.

⁹The core treaties of IHL are the four Geneva Conventions of August 12, 1949 and their two Additional Protocols of June 8, 1977. These instruments contain 600 articles. While the four Geneva Conventions have been ratified by virtually all the States, the two Additional Protocols have not. Despite the disparity in the ratification of the two Additional Protocols, the majority of the rules contained therein are recognised as customary humanitarian law, binding even on States which have not ratified them.

¹⁰The recognition by IHL that victims of war have a right to humanitarian assistance is in line with the principle of humanity, the cornerstone of the body of law, which dictates that *persons not or no longer participating in the hostilities must be*

required assistance to the civilian population.¹ To ensure that relief materials are accessible to the particularly vulnerable groups among the civilian population, the law foists the duty on States to allow the free passage of all consignments of essential foodstuffs, clothing and tonics meant for children under fifteen as well as pregnant and nursing mothers.² Also, the law requires the States to inspect the contents and verify the destination of the relief supplies,³ and to refuse their passage if they have well-founded reasons to believe that they will not be distributed to victims, but rather contribute to military efforts or war economy.

As part of the duties of the states to provide humanitarian assistance or aid to the victims of international armed conflicts, the law requires that an Occupying Power of a territory must, to the fullest extent of the means available to it, ensure that the civilian population of the territory it occupies receives adequate food and medical supplies.⁴ The law goes further to provide that if it proves that the Occupying Power's own aid supplies are inadequate, it should accept and agree to any offers or relief schemes by a third State or an impartial organisation on behalf of the civilian population.⁵ Again, the body of law obliges the Occupying Power to facilitate the distribution of the aid supplies by the outside source.⁶

It should also be noted that Additional Protocol I to the four Geneva Conventions further strengthens the duty of the States to provide humanitarian assistance to the civilian population in the context of international armed conflicts.⁷ Article 70 thereof provides in clear terms for relief operations which must be carried out for the benefit of the entire civilian population if there is a general fall or shortage of indispensable supplies. However, the said Article 70 contains a severe limitation. It stipulates that the consent of all the parties -including that of the State receiving the humanitarian assistance or aid- is necessary for such relief assistance or aid.⁸ Meanwhile, it may be totally difficult or somewhat impossible to get the consent of all the parties to the international armed conflict at hand.

As noted *a priori*, the law only provides for the duties of the States to provide assistance during international armed conflicts or in situations of occupation. The law does not establish the duties of the States to provide humanitarian assistance to the victims of non-international armed conflicts or internal armed conflicts. Such duties are far less developed under the fourth Geneva Convention and Additional Protocol I. However, the duties can be clearly deduced from Article 3 common to the four Geneva Conventions, which prohibits violence to life and person,⁹ and from Article 18 of Additional Protocol II, which imposes the duty on the parties to an internal armed conflict to accept humanitarian assistance essential to the survival of the civilian population.¹⁰

provided with humane treatment. This presupposes that victims of war should be cared for and not denied of the basic necessities of life, such as food, clothing, medicine and other vital supplies essential to their survival. The purpose is to alleviate human suffering and protect human life, health and dignity. See Marco Sassoli and Antoine A. Bouvier, *How Does Law Protect in War?*, ICRC, Geneva, April 1999, p. 181; ICJ, *Case Concerning the Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. USA)*, Merits, Judgment, 27 June 1986, *ICJ Reports* 1986, para. 242; and Ruth Abril Stoffels, *Legal Regulation of Humanitarian Assistance During Armed Conflicts: Achievements and Gaps*, in *IRRC*, Vol. 86, No. 855, September 2004, pp. 518-520.

¹See the fourth Geneva Convention, 1949, Relative to the Protection of Civilian Persons in Time of War.

²*Cf.* Article 23 thereof of the fourth Geneva Convention.

³*Ibid.*

⁴*Cf.* Articles 55 of the fourth Geneva Convention, which provides that an Occupying Power of a territory must, to the fullest extent of the means available to it, ensure that the population of the adverse party under its control (whether free or detained non-nationals) receives adequate food and medical supplies. See also Articles 56 and 81.

⁵*Cf.* Article 59 of the fourth Geneva Convention. However, it should be noted that the duty of States to provide humanitarian assistance or to allow other States to do so for their own citizens is not laid down in this instrument. These two categories of the population (the own nationals of the State concerned and the nationals of neutral States) are only protected, as relief aid is concerned, by Article 23 of the fourth Geneva Convention, which refers to the free passage of aid destined for the civilian population in the territory of a third State.

⁶*Cf.* Articles 38 and 39.

⁷See Additional Protocol I Relative to Relief in favour of the Civilian Population. See Article 69 thereof. Note that by virtue of Article 50 of Additional Protocol I, the civilian population includes all civilians, independent of their nationality or position in the armed conflict.

⁸Marco Sassoli and Antoine A. Bouvier, *op. cit.*, p. 182.

⁹See Jean Pictet, (ed.), *Commentary: IV Geneva Convention Relative to the Protection of Civilian Persons in Time of War*, ICRC, Geneva, 1958, p. 47; and Luigi Condorelli, *Intervention humanitaire et/ou assistance humanitaire? Quelques certitudes et beaucoup d'interrogations*, in C. Swinarski (ed.), *Studies and Essays on IHL and the Red Cross Principles in Honour of Jean Pictet*, ICRC/Martinus Nijhoff Publishers, Geneva, 1984, p. 1007.

¹⁰Additional Protocol II is applicable in non-international armed conflicts.

Humanitarian Activities of the ICRC to Assisting Victims of Armed Conflicts

Given the relevant provisions of the law for regulating humanitarian assistance by States and the wider scope of its foremost 'fundamental task' as laid down in the much-cited Statutes of the International Red Cross and Red Crescent Movement, namely,

*'to endeavour at all times -as a neutral, impartial and independent institution whose humanitarian works are carried out in time of international and other armed conflicts or other internal strife- to ensure the protection of and assistance to military and civilian victims of such events and of their direct results,'*¹

the ICRC and its personnel have been able to carry out numerous humanitarian activities to assist victims of international and non-international armed conflicts. In the places it has worked around the world, the organisation has been able to provide direct and basic relief supplies, such as food, shelter, clothing and first aid medical materials to wounded and sick civilians, prisoners of war, population of occupied territories, evacuees, internees, internally-displaced persons and refugees, as well as victims of other situations of worst imaginable catastrophes, including earthquake, fire outbreak, building collapse, flood, etc.²

In the Democratic Republic of the Congo (DRC), the ICRC provided access to clean and drinking waters to the villages directly affected by the protracted civil wars and other situations of armed violence which devastated the country, including Bunyakiri village, South Kivu.³ It re-united thousands of missing persons with their family members in northern Uganda; and indeed transferred the fleeing Burundian refugees to the Nyarugusu refugee camp in Tanzania.⁴ As part of its humanitarianism gesture, the ICRC delivered emergency food supplies and materials to the victims of the internal armed conflicts or civil wars in Liberia, Burkina Faso, the far north region of Cameroon, north east Nigeria, Mali, Cote d'Ivoire, South Sudan, the Central African Republic (CAR), Chad, Niger, among others.⁵

While the above provided only anecdotal evidence of the ICRC's humanitarian activities on the region of Africa, manifestations from the other regions within the multi-polar world, such as Middle East and Asia or Far East, equally demand their own space. During the humanitarian crises in Iraq, Vietnam, Kuwait, Israel, the Philippines, Yemen, Palestine, Pakistan, Bangladesh, Lebanon, Colombia, Haiti, Jordan, Guatemala, among others, the ICRC greatly responded to the mounting humanitarian needs of the victims of the intractable internal armed conflicts, including the provision of health care, clean water, food and transportation.⁶ In the particular context of the ongoing bloody civil wars in Syria,⁷ with blockades of several Syrian cities creating serious

¹See Article 5(2)(c) & (d) of the Statutes of the International Red Cross and Red Crescent Movement, reproduced in the *Handbook of the International Red Cross and Red Crescent Movement*, 13th ed., ICRC/International Federation, Geneva, 1994, pp. 415-432. See also, *the ICRC: Its Missions and Work*, Policy Document, adopted by the ICRC Assembly in June 2008 and published in the IRRC, Vol. 91, No. 874, June 2009, but quoted from Toni Pfanner, *Various Mechanisms and Approaches for Implementing International Humanitarian Law and Protecting and Assisting War Victims*, in IRRC, Vol. 91, No. 874, June 2009, pp. 290-292.

² See Yves Sandoz, *Le droit d'initiative du Comité international de la Croix-Rouge*, in *German Yearbook of International Law (Jahrbuch für internationale Recht)*, Vol. 22, 1979, pp. 352-373.

³This information is courtesy of the ICRC on its website: www.icrc.org visited last on 22 June, 2016.

⁴*Ibid.*

⁵In response to the violent clashes between the Malian armed forces and armed groups in and around the small town of Kidal in north-eastern Mali, as a result of which thousands of people were forced to flee towards the city of Gao, about 350 kilometres to the south, the ICRC and the Mali Red Cross distributed more than 55 tonnes of food to around 4,450 people, some 1,800 of whom were also given tarpaulins, insecticides-treated mosquito nets, sleeping mats, blankets, kitchen utensils, buckets, clothing and hygiene items. See *the RCRC*, a Magazine of the International Red Cross and Red Crescent Movement, Issue 2, 2014, p. 2.

⁶During the age-long armed conflicts between the army and the Liberation Tigers of Tamil Eelam (LTTE) in which over 250,000 people were trapped in the rapidly shrinking area along the north-east coast in Sri Lanka, the ICRC worked with the National Society to evacuate thousands of sick and wounded civilians from the combat zone and delivered food and limited quantities of medicines into the area. See *the RCRC*, a Magazine of the International Red Cross and Red Crescent Movement, Issue 2, 2009, pp. 29-30. Similarly, in the context of the Taliban offensive in Afghanistan, the ICRC and other humanitarian organisations, like *Medecins sans Frontieres* (MSF), provided food, shelters, clothing, blankets, tarpaulins, soap, etc, for thousands of people who would have died of hunger at Khoja Bahauddin camp for the displaced persons. In Pakistan, the ICRC assisted 400,000 IDPs, 50,000 living inside camps and 35,000 with host families by building a surgical field hospital in Peshawar for the treatment of the wounded in conflict and by also supporting a physical rehabilitation centre in Islamabad that helped patients disabled by their injuries return to a normal life. See *150 Years of Humanitarian Action, with a Focus on Afghanistan*, in *the RCRC*, Issue 1, 2013, pp. 4-5. For more details, see Pierre Krahenbuhl, *Conflict in the Balkan: Human Tragedies and the Challenge to Independent Humanitarian Action*, IRRC, Vol. 82, No. 837, March 2000, p. 14.

⁷The Syrian crisis is of particular interest to the world and exemplary in the ICRC's recent humanitarian gesture.

security and humanitarian conditions for millions, the joint ICRC, the Syrian Arab Red Crescent and the UN convoys are working daily to deliver food stuffs, blankets and medicines to the war victims in the besieged cities of Aleppo, Madaya, Kefraya and Foua.¹

It should be noted that the mission of the ICRC to providing humanitarian assistance to the people in need in countries affected by conflicts are practically made possible with the trust and consent of the States concerned,² the support from the parties to the armed conflicts or other situations of emergency³ and cooperation with other organisations, such as National Societies,⁴ the International Federation, the UN, the NGOs and the military and private sectors. Even though the ICRC carries out humanitarian activities with other organisations, its activities are guided by its own right of initiative (or action) and by the Fundamental Principles⁵ it shares with the other components of the Movement,⁶ the States parties to the Geneva Conventions themselves having recognised and agreed to respect them. In the *Nicaragua Case*,⁷ the ICJ confirmed the existence of these fundamental principles as essential conditions for all humanitarian actions.⁸

The Dilemmas of ICRC's Humanitarian Assistance

As we have seen from the few examples above, the ICRC has made its marks in the areas of humanitarian protection and assistance to victims of armed conflicts and other disturbances in the world. In spite of its past and present field accomplishments in providing first-aid medical equipment or materials, foodstuffs, clothing, shelters, tracing activities and family reunifications, the ICRC's humanitarian activities to victims of armed conflicts are still facing great challenges which are hindering their aid activities.⁹ The organisation's mission of giving succour to victims of armed conflicts and other situations of emergencies has become a dangerous undertaking in a world which is today a riskier place for aid workers. Its personnel who are striving hard in order to cater for the ocean of needs of people in the context of armed conflicts are now doing so under extremely difficult circumstances or challenges which include the following:

1. *Spiral of Violence*

The first biggest challenge to the ICRC's humanitarian assistance is spiral of violence. It is a fact that the world is today experiencing an alarming increase in the rate and development of violence and fighting which are spiraling from one place to another. We are witnessing more and more prolonged conflicts which are easily ignited from one quarter and suddenly spread like fire to others in the most unexpected fashion.¹⁰ Sadly enough,

¹See *the RCRC*, Issue 1, 2016, p. 2.

²In this article, 'States' include 'authorities', and it should be understood to mean all entities, *de jure* or *de facto*, having obligations to perform.

³See Article 9 of the Geneva Conventions I-III; Article 10 of the Geneva Convention IV; and Article 3 common to the four Geneva Conventions. See also, Article 5.3 of the Statutes of the Movement. In its capacity as a specifically neutral and independent humanitarian organisation, the ICRC examines whether it is better placed than any other organisations to respond to the needs arising from other situations of violence, like visiting security detainees in cases where information or rumour indicates there may be poor detention conditions or ill-treatment of detained prisoners of war, internees, etc. See *the International Committee of the Red Cross (ICRC): Its Mission and Work*, adopted by the Assembly of the ICRC on 19 June, 2008, but quoted from *IRRC*, Vol. 91, No. 874, June 2009, p. 400.

⁴The purposes of cooperation are to increase the operational capacities of national societies and optimize the humanitarian work of the Movement components by making the best use of complementary mandates and skills in operational matters such as protection, assistance and prevention. See in this regard, Article 3(2), sub para. 3 and Article 5(4)(a) of the Statute of International Red Cross and Red Crescent Movement; and *'Policy on ICRC Cooperation with National Societies*, in *IRRC*, No. 851, September 2003, pp. 663-678.

⁵The seven Fundamental Principles of the Red Cross and Red Crescent, vis-à-vis, humanity, unity, independence, neutrality, voluntary service, impartiality and universality are set out in the Movement Statutes and constitute the common values that distinguish the Movement from other humanitarian organisations. See the Preamble to the Statutes of the Movement. The Fundamental Principles were proclaimed by the 20th International Conference in Vienna in 1965 and were incorporated in a slightly different form in the Statutes of the Movement adopted by the 25th International Conference in Geneva in 1986 and amended in 1995 and 2006.

⁶The components of the Movement are: the International Committee of the Red Cross, the National Red Cross and Red Crescent Societies, and the International Federation of the Red Cross and Red Crescent Societies.

⁷See ICJ, *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)*, ICJ Reports, 1986, p. 14, para. 243.

⁸See in this respect, Jean-Luc Blondel, *the Meaning of the word "Humanitarian" in relation to the Fundamental Principles of the Red Cross and Red Crescent*, in *IRRC*, No. 273, November-December 1989, pp. 507-515; and Jean Pictet, *Red Cross Principles*, ICRC, Geneva, 1966, and *the Fundamental Principles of the Red Cross*, Commentary, Henry Dunant Institute, Geneva, 1979.

⁹See Robin Coupland and Alex Breitegger, *Health Care in Danger: The Responsibilities of Health-Care Personnel Working in Armed Conflicts and other Emergencies*, ICRC, Geneva, April 2013, p. 34.

¹⁰The violent uprisings in Syria and Sudan triggered new outbreaks of violence in the entire Arab world and South Sudan

while the root causes of these spiraling violence have not all been removed totally, the civilian population continues to bear their brunt or dire consequences in terms of increasing number of deaths, internal displacements and border crossing migrations. In the face of spiraling violence, planning by the ICRC for its humanitarian response certainly becomes more demanding and also difficult to implement.

2. *Changing faces of Armed Conflicts*

Another major threat to the ICRC's humanitarian assistance is change in the environment in which armed conflicts are now taking place. War zones or flashpoints have not only changed but they have also deteriorated considerably, for the majority of the armed conflicts in the world today are non-international in nature, with national and/or multinational forces fighting a variety of non-state armed groups, often with significant asymmetry between the parties.¹ The danger of increasing involvement of non-state actors in internal conflicts is evaporation of "every abstract and rational justification for the use of force"² and a complete disregard for the rules of war by belligerents who are as hard to comprehend as they are to be contacted. As a result of the change and deterioration in the environment in which armed conflicts now take place, the ICRC is facing the difficulty of how to classify humanitarian contexts in order to facilitate humanitarian access to civilians. The change is creating a wide gap between access and security.

3. *The Challenge of Neutral and Independent Humanitarian Action*

Thirdly, humanitarian assistance is facing the threat of neutral, impartial and independent humanitarian action.³ Neutrality denotes a duty on the part of aid organisations not to take sides in a conflict or take any action which might benefit one side or the other.⁴ It also requires that a distinction must be made between combatants and civilians. Only civilians are entitled to receive humanitarian aid. Conversely, the principles of impartiality and independence means that there is equal opportunity for all people by virtue of humanity⁵ and that the needs of every victim of war is assessed and addressed without any consideration for origin, race, politics, religion or gender. Humanitarian aid workers must act *bona fide*, without any distinction as to political, religious or ethnic influence.⁶ They must distribute proportionately in a non-discriminatory manner⁷ and in accordance to the needs of the population.

However, the question is whether neutral, impartial and independent humanitarianism can still be maintained as the price to be paid by the ICRC aid workers so as to be acceptable on the battlefield by the soldiers from both sides and to enjoy protection and immunity from hostilities. As its often the case now, the ICRC and their workers are accused of partiality and influences in the distribution of aid materials during relief operations. Despite that humanitarian assistance is protected by law, combatants are still mingling with the civilian population to benefit from the aid provided in camps for IDPs and refugees.⁸ This is a threat to the ICRC's humanitarian aid or assistance in recent times.

4. *Diversity of Humanitarian Agencies*

Another peculiar challenge to humanitarian assistance is the proliferation of humanitarian agencies which are providing assistance on both small and large scales. Recent crises have seen a growing number of agencies and states, like Brazil, China and Turkey, entering the humanitarian field and starting to integrate international solidarity as part of their foreign policy. In so doing, they are defining the humanitarian response in their own terms, contrary to the *de facto* approach or monopoly of Western organisations, such as the ICRC. Though a welcome development, but in a multipolar world, this phenomenal change in the structure of the humanitarian sector clearly presents the threat of competition and confusion for the ICRC, in terms of ethics and operation. It is also engendering a running battle over superiority among the various components which make up humanitarian agencies is jeopardizing the distribution of tasks between them.⁹

respectively. Similarly, the numerous terror insurgencies created by the popular *Boko Haram* sect in north east Nigeria spiraled to Niger Republic, Chad and Cameroon.

¹The Report of the Secretary-General of the United Nations on the Protection of Civilians in Armed Conflict, UN Doc. S/2007/643, 2007, P. 2.

²Hans Magnus Enzensberger, *Aussichten auf den Bürgerkrieg*, Suhrkamp, Frankfurt am Main, 1993, p. 20.

³See generally, Andras Vailin, *Reflections on Humanitarianism: David Rieff's A Bed for the Night*, in *IRRC*, Vol. 85, No. 851, September 2003, p. 638.

⁴Beat Schweizer, *op. cit.*, (note 2), pp. 551-552.

⁵Rony Braumann, *L'assistance humanitaire internationale*, in Monique Canto-Sperber (ed.), *Dictionnaire de Philosophie Morale et Politique*, Presses Universitaires de France, Paris, 1996, p. 96.

⁶Beat Schweizer, *op. cit.*, p. 551.

⁷See *Case Concerning Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)*, Merits, Judgment, 27 June, 1986, *ICJ Reports* 1986, para. 242. See for further reading, Resolution VIII of the 20th International Conference of the Red Cross and Red Crescent, Vienna, 1965.

⁸See *the Causes of Conflict and the Promotion of Durable Peace and Sustainable Development in Africa, the Report of the UN Secretary-General*, 16 April, 1998, UN Doc.A/52/871. See also, Fiona Terry, *Condemned to Repeat: the Paradox of Humanitarian Action*, Ithaca: Cornell University Press, New York, 2002, p. 20.

⁹*International Committee of the Red Cross "Avenir" Study: Strategic Content*, Geneva, December 12, 1997, p. 3. See also

5. *Politicization of Humanitarian Aid*

The politicization of aid is another major threat to principled humanitarian gesture by the ICRC. The continuous tendency by some states and armed groups to use humanitarian action for political objectives or to control, or even prevent, the action of foreign humanitarian actors which are perceived as subversive or unwilling to submit to political injunctions, is a challenge to the ICRC's humanitarian action. This is most starkly illustrated in the context of the conflicts in Iraq and Afghanistan, with multitude of actors and different objectives. In Afghanistan, humanitarian aid was blatantly used as a tool for conflict management and strategy for counter-insurgency, and military tactic of 'winning hearts and minds' through the Provincial Reconstruction Team, which was intrinsically at odds with the fundamental humanitarian principles.¹

Experience has shown the danger inherent in the participation of other aid agencies, like the UN and NGOs, due to the political or security constraints imposed on them. Their assistance is questionable in terms of funds had from the Western donor governments, whose priorities are, quite legitimately, not influenced by humanitarian concerns only but also coloured by politics. An assessment of even the ICRC itself has demonstrated that its humanitarian needs and action are constrained by the funds made available to it by the donor governments or host governments who may want humanitarian action to contribute either directly or indirectly to their own national interests.² In all of these, it might be possible for the drive to upholding principled humanitarian action to be compromised. Humanitarian action cannot happen in a political vacuum.

6. *Natural Disasters*

While the plethora of challenges examined above can be particularly acute in the context of armed conflicts, whether international or non-international in character, the recent challenge of natural disaster also presents itself to the ICRC's humanitarian response or action. Since most of the countries just coming out of wars are also facing the throes of natural disasters,³ the ICRC does not find it easy to have access to, and co-ordination with, local authorities in these countries already hit or marked by poverty and/or violence.⁴ As we now live in a world characterised by an increase in the frequency and intensity of natural disasters and an increase in the complexity of armed conflicts,⁵ the ICRC's humanitarian action faces the effects of natural fragilities which are making access to people in need so difficult while resources are being diverted away from protracted conflict situations.⁶ In acute situations of hard-pressed natural disasters, the ICRC's humanitarian action becomes pressurized and threatened.

The ICRC's Strategies for Responding to the Challenges of Humanitarian Assistance

The pertinent question which inevitably arises is: In the shadow of mounting challenges to humanitarian action, how then does the ICRC intend to build a stronger humanitarian response which will address the needs and vulnerabilities of victims of armed conflicts in all their various dimensions? Asked differently, what proactive measures are the ICRC putting in place towards charting a new course for the future of humanitarian action? To support the saying that the future rarely turns out as expected unless it is prepared for with a clear head, the ICRC must reinforce itself effectively in order to keep the victims of armed conflicts firmly at the centre of its work and help strengthen and build their resilience.

Vincent Bernard, *the Future of Humanitarian Action*, in *IRRC*, Vol. 91, No. 874, June 2009, p. 891.

¹In Afghanistan, there was a risk that all humanitarian organisations who worked in country during the armed conflicts had political objectives. Indeed, the multi-mandated NGOs who worked for both humanitarian and long-term development activities in the country were accused of worsening this 'blurring'. See in this connection, Michael Hoffman and Sophie Delauney, *Special Report Afghanistan: A Return to Humanitarian Action*, at this website: <http://www.doctorswithoutborders.org/publications/article.cfm?id=4311&cat=special-report> last visited on 10 June, 2016.

²For example, during the internal crises in Kosovo, donor governments pledged US\$207 per person in response to the UN appeal for Kosovo in 1999, whereas only US\$16 were spent per person in Sierra Leone in the same period, although the objective needs of the latter context might have been far greater. In this regard, see Oxfam, Briefing Paper: *An End to Forgotten Emergencies?*, Oxfam, Oxford, May 2000, available at this website which was last visited on 10 August 2016: <http://www.oxfam.org.uk/policy/papers/gemg/fgemgsum.htm>

³Syria is a typical example of a countries which came out of natural disaster into a very serious civil wars.

⁴Vincent Bernard, *the Future of Humanitarian Action*, *IRRC*, Vol. 93, No. 884, December 2011, p. 894.

⁵The trend of natural disasters and complexity of conflicts overlaps in many parts of the world. Countries that are unstable are also in areas that are vulnerable to natural disasters. The Horn of Africa is a typical example where we have natural fragilities, such as flooding, climate change, population growth, ecological and recurrent droughts affect communities. Drought-affected countries include Kenya, Somalia, Ethiopia and Djibouti but also, in prior years, Uganda, Niger and Mali. See Kristalina Georgieva, *IRRC*, Vol. 93, No. 884, December 2011, p. 900.

⁶Elizabeth Ferries and Daniel Petz, *A Year of Living Dangerously: A Review of Natural Disasters in 2010*, Brookings-LSE Project on Internal Displacement, the Brookings Institution, Washington, DC, 2011 n,

To this end, the ICRC launched its *Avenir Study* Project in 1997, with the aim to analyse contemporary humanitarian action and to gain fresh insights for the future by committing itself to a process of change made necessary by the many challenges which arose from the extraordinarily turbulent period of history which began in 1989.¹ The organisation also launched the 2011-2014 institutional strategy on how to respond to humanitarian needs, while enhancing its expertise and co-ordination with other humanitarian agencies and National Societies.² At its 32nd International Conference in 2015,³ the Red Cross and Red Crescent Movement did not just focus on the past, but also used the occasion to call for a stronger global humanitarian response which will address today's realities or challenges. Within these frameworks and meeting, certain key issues are prioritized for strategizing for the future of humanitarian action.

1. *Restoring Principle-Based Humanitarian Action Back to its Proper Status*

First, the ICRC aims to restore back the basis of its mandate or the fundamental part of its identity, vis-a-vis, neutrality, impartiality and independent humanitarian action.⁴ By virtue of its mandate and the will of the States Parties to the four Geneva Conventions, the ICRC intends to justifiably reclaim its specific identity with humanitarian action, one defined by neutrality and independence, and explain clearly to aid recipients, the international community and donors what neutral, impartial and independent humanitarian action means.⁵ It also desires to be a bit sharper in mobilizing itself to raise awareness for the knowledge of the core humanitarian principles and respect for the law.⁶ While sticking to its roots and choice for neutral, impartial and independent action during increasingly comprehensive operational contexts, it vows to continue projecting its concerns for life-saving humanitarian response on needs-based.

To restore neutral, impartial and independent humanitarian action is one thing, but to put it into practice through legal means is, of course, another.⁷ This is why the ICRC reaffirmed its faith in and commitment to develop and spread the knowledge and understanding of international humanitarian law in peacetime, and to ensure respect for its principles during conflicts and other situations of violence.⁸ The organisation plans to further work to strengthen IHL in the areas of protection of persons deprived of their liberty in relation to armed conflicts, and of international mechanisms to monitor compliance with IHL. However, while the ICRC attempts to maintain its stance, particularly in peacetime, for better knowledge of the law in areas where there is need to promote its use for the available implementation mechanisms, it does not intend to launch itself into a full-scale revision of the law of Geneva. Such task might prove to be risky.

2. *Bringing Humanitarian Assistance or Action Closer to the Victims, While Looking for Long Term Priorities*

One of the ICRC's greatest future strategies is to work in closer proximity with victims of armed conflicts. In order to bridge the wide gap between access and security, the ICRC aspires to bring humanitarian assistance closer to victims of armed conflicts in strategic areas under stress. The aim is that it is the best way to ensure their protection. Staying closer to victims and weapon bearers will yield the ultimate results of easy access and security to aid and qualitative aspects of victims' dignity. Meanwhile, closer proximity encompasses the ICRC's ability to engage with all the parties to the conflicts and attend to their needs, to get acquainted with the local culture of the people needing protection and assistance, and to be able to negotiate security arrangements with all the parties involved in the armed conflicts. By so doing, the ICRC will actually gain a better understanding of their thinking and change their behaviour towards armed conflicts.

While the ICRC aims to push itself forward in the direction of staying closer to victims of armed conflicts or other situations of violence, it also intends to engage itself in the coming years on the issue of 'early recovery' in the wake of an armed conflict or other situations of violence.⁹ Because there is still very much a grey zone

¹See the ICRC's "*Avenir*" Study: *Strategic Content*, 12th December, 1997, Geneva, Switzerland.

²Read more about the *ICRC Strategy 2011-2014* on this website which was last visited on November 2015: <http://www.icrc.org/eng/resources/documents/publications/p4050.htm>

³More than 169 governments and National Red Cross and Red Crescent Societies from 185 countries, as well as the IFRC and the ICRC, took part in the three-day meeting of the 32nd International Conference of the Red Cross and Red Crescent Movement in December 2015, in Geneva, Switzerland, which centred on building consensus and crafting agreements aimed at better preparing for and responding to natural disasters, conflicts, violence, health emergencies and chronic social problems.

⁴See the Report of the Symposium organised by the joint committee of the ICRC and the Institut d'Etudes de Securite (EU), *Humanitarian Endeavour and Armed Conflicts: Contemporary Challenges*, June 2010, available at this website: <http://www.icrc.org/eng/resources/documents/reports/belgium-report-2011-07-06.htm> (last visited on the 10th of February 2016).

⁵Claudia McGoldrick, *op. cit.*, p. 984.

⁶See *Interview with Peter Maurer*, IRRC, Vol. 94, No. 888, Winter 2012, p. 1215.

⁷See the ICRC's "*Avenir*" Study: *Strategic Content*, *op. cit.*, note 56.

⁸*Ibid.*

⁹Note that the commonly understood UN definition of 'early recovery' begins in a humanitarian environments and seeks to build on relief efforts to catalyse sustainable development opportunities. However, the term has been used to describe a

between emergency relief and development, one that necessarily eludes fixed time spans and inflexible criteria, the ICRC will promote resilience and self-sufficiency, and develop long-term coping strategies for people and communities affected by armed conflicts in a way that food aid or other emergency relief alone cannot. It aims to embark on long-term development and life-saving activities which will promote change in the immediate post-conflict environments, since it is often the most vulnerable sections of societies, such as the IDPs, detainees, women and children that usually risk not receiving the protection and assistance they need to start rebuilding their lives.¹

In recent times, the ICRC has been working to provide 'early recovery' activities which transcend helping people with their short-term needs only. In Darfur, for example, the ICRC was engaged in capacity-building of rural communities. In Mirwais hospital in southern Afghanistan, the organisation, which was initially treating war-wounded, suddenly changed to supporting the huge number of people indirectly affected by the conflicts with capacity-building strategies and training to improve healthcare provision across the board in obstetrics/gynaecology, paediatrics, etc. Iraq is yet another country, where the ICRC provided emergency aid where needed, but also supported women-headed households through micro-economic initiatives.

3. *Strengthening Dialogue and Cooperation with other Players*

One of the ICRC's strategies for responding to the challenges of humanitarian action is to strengthen dialogue with the other players in the field. It intends to enhance the overall coherence or coordination of humanitarian activities by the other humanitarian players under the conditions which will guarantee the independence of its action. At the institutional level, it intends to adapt its humanitarian diplomacy and policy of external relations and forge links with the other entities which share its ethical standards, such as the States, National Societies, NGOs,² the key United Nations humanitarian agencies,³ the various centres of power in the civil society - including the economic circles and pressure groups - and even the non-State armed actors, such as paramilitary groups, guerilla forces, private military companies (PMCs), which might one way or the other be associated with organised crime.

The point is that, since the humanitarian communities, its workers and organisations have changed substantially in recent decades, with many more humanitarian organisations claiming to have a humanitarian mandate or calling, the ICRC is now trying harder to define more clearly its relations with these organisations, either through closer cooperation or clearer affirmation of its distinctiveness, depending on the respective contexts.⁴ Recently, it has organised - in its Strategy 2011-2014⁵ - that its partnerships with the other actors in the humanitarian community must be defined.⁶ Because the ICRC noted that identifying appropriate partners and working with them seem conducive to greater efficiency in reaching its goal of getting access to victims, it created a humanitarian platform for communicating with these other agencies, to understand what they are doing, and to think about the areas in which cooperation is possible or necessary.⁷

4. *Increasing the ICRC's Professional Efficiency and Leadership in the Performance of Humanitarian Action*

Over the past 150 years, the ICRC has become the major international organisation, with over 13,000 employees in over eighty countries.⁸ When compared to the other international aid agencies, it is the most astute and nimble organisation in the service of humanity in the world. Its capacity to reach victims of armed conflicts with life-saving protection and aid is unparalleled.⁹ However, in order to keep track of its professional efficiency and leadership in carrying out its wider range of activities in some of the most demanding environments in the world, the ICRC realised that it must adapt itself to the use of modern technologies to support good management

variety of concepts and approaches related to recovery, including humanitarian assistance or aid, development, stabilization, peace-building, and state-building, which are often overlapping and sometimes conflicting. See Claudia McGoldrick, *op. cit.*, p. 987. See for further details, *Untangling Early Recovery*, Policy Brief No. 38, Humanitarian Policy Group/Overseas Development Institute, October 2009, available at <http://www.odi.org.uk/resource/docs/5309.pdf> (last visited February 2016).

¹See Claudia McGoldrick, *ibid.*, p. 987.

²Some of the major non-governmental organisations (NGOs) which regularly engage with the ICRC to provide humanitarian assistance are: Medecins Sans Frontieres (MSF), Oxfam, or Save the Children, etc.

³The UN humanitarian agencies include the High Commissioner for Refugees (UNHCR), the High Commissioner for Human Rights (UNHCHR), the Director-General of the World Health Organisation, the Executive Director of the United Nations Children's Fund, and of course, the Office for the Coordination of Humanitarian Affairs (OCHA).

⁴See *Interview with Peter Maurer, op. cit.*, note 61, pp. 1212-1213.

⁵ See *ICRC Strategy 2011-2014: Achieving Significant Results for People in Need*, available at this website: <http://www.icrc.org/eng/assets/files/publications/icrc-002-4050.pdf> last visited November 2015.

⁶Peter Maurer, *op. cit.*, p. 1212.

⁷*Ibid.*

⁸*Ibid.*

⁹The size and scope of the ICRC's humanitarian activities during armed conflicts cover a wide range of domains, from health to nutrition, tracing missing persons to monitoring detention centres.

solutions. The ICRC, which spends over 170 million CHF¹ a year on aid across four continents, is poised to enhance its professional efficiency in the flow of humanitarian action worldwide.

The organisation considered how best it can make a qualitative leap into digitization and professionalize its humanitarian activities in tandem with modern realities.² It is determined to employ computer technologies in new and creative ways to achieve a robust management of the supply chains which should, over time, enable it to reach out to victims of armed conflicts more quickly in more targeted and appropriate way. The organisation cannot avoid to digitize its work, using electronic platforms and the easier means of exchanging information and technology.³ Because information is key, it is poised to readjust itself to the use of the Internet for its action and project implementations in the priority areas of planning, analyzing, evaluation, monitoring, decision or policy-making, funding and interaction between the roles of the headquarters and field needs. By connecting its staff members to a computer network, the organisation will forge links with its key partners to strengthen humanitarian assistance during armed conflicts.

5. Needs Assessment

Needs assessment is somehow related to the response we examined above, in that, it also touches on good management solutions. In order to obviate the challenge of actual humanitarian access and security of victims of armed conflicts and other situations of emergencies, the ICRC intends to galvanize its efforts within its potentially confusing picture of different initiatives and partnership with the other humanitarian agencies to build on its methods of assessment of needs. In achieving this objective, the organisation is making beneficiaries of humanitarian assistance or aid themselves to be better involved in identifying needs and formulating adequate responses.⁴ As the fast-moving developments in the field of web-based technology clearly demonstrate, this response is already becoming a reality in a world where needs are growing and resources are not sufficient to meet the humanitarian needs.

Since the begin of this century, the ICRC has dedicated time and resources to assessment needs in the context of specific humanitarian crisis. The organisation has drawn lessons from its own field experience and from the experiences of others. To cite few examples, it carried out an evaluation needs following large-scale actions in favour of separated children in the Great Lakes and West Africa, and that has also influenced subsequent guidance for unaccompanied children; an international conference preceded by meetings of experts was organised to discuss the rights and needs of families of missing persons in 2003; pilot programmes or projects with personalized support were put in place for victims of sexual violence in the Democratic Republic of the Congo (DRC), and are now being replicated elsewhere around in world. In Syria, the ICRC was able to minimize the risk of abandoning people in need through remote-control and needs assessment system by a network of experts and pocket of local and reliable implementing partners.⁵

The overall result was that the ICRC's approaches became increasingly comprehensive⁶ in terms of humanitarian responses or action, as the organisation became much more sensitive to the specific rights and needs of different population groups.⁷ Along the line of this investment in in-house trainings and workshops on the specific rights

¹ See *ICRC Annual Report 2011 on 'Delivery of Assistance Items in 2011'*, pp. 482-483, available at: <http://www.icrc.org/eng/resources/documents/icrc-annual-report-2011.htm> last visited November 2015.

²The new technological advances to be employed by the ICRC to reach people in need of humanitarian assistance include using mobile telephones to monitor the security of returning refugees; using mobile banking technology or system to distribute assistance or aid; using GPS technology to map both conflict-affected and disaster-affected populations; using new developments in medical and nutrition research to develop more efficient and effective ways of delivering both medical assistance and high-protein food for populations in need; and using social media network as an early warning system, a means of more effectively targeting humanitarian relief and raising funds. These technologies are all presently being used. See for example, UN Office for the Coordination of Humanitarian Affairs, *Disaster Relief 2.0: The Future of Information Sharing in Humanitarian Emergencies*, March 2011; Daniel Stauffacher et al. (eds.), *Peacebuilding in the Information Age: Sifting Hype from Reality*, ICT4Peace Foundation, January 2011, available at: <http://ict4peace.org/updates/peacebuilding-in-the-information-age-sifting-hype-from-reality> (last visited January 2016). See generally, Elizabeth Ferris, *Megatrends and the Future of Humanitarian Action*, *IRRC*, Vol. 93, No. 884, December 2011, p. 923.

³See *Interview with Peter Maurer, op. cit.*, p. 1216, note 61.

⁴See Claudia McGoldrick, *op. cit.*, p. 986.

⁵A range of needs assessment tools and mechanisms, such as UN OCHA's humanitarian 'dashboard', and the UN's 'Global Pulse', a new technology-based website or resource were also employed in Haiti and Pakistan. See in this respect, the website of the *Global Pulse*, available at: <http://www.globalpulse.org/> (last visited 10 December 2015). See also, Claudia McGoldrick, *op. cit.*, p. 986.

⁶The ICRC has over the years developed its capacities in many fields, which range from forensics to micro-credit for the disabled and group therapy for gender-based violence (GBV) victims. See Pierre Gentile, *Humanitarian Organisations Involved in Protection Activities: A Story of Soul-Searching and Professionalization*, *IRRC*, Vol. 93, No. 884, December 2011, p. 1169.

⁷See Caroline Douillez-Sabouba, *Supporting Women in a Difficult Security Environment: The ICRC Programmes for Women-Headed Households in Iraq*, in *Humanitarian Exchange Magazine*, Humanitarian Practice Network, London, Issue 51, July 2011, pp. 7-9.

and needs of different population groups, the ICRC has gone further ahead to recruit specialists at the headquarters and in the field. Today, the organisation has a handful of specialized staff working within the Protection and Assistance Division at the headquarters and supporting the delegations setting up activities for the benefit of detainees, Internally Displaced Persons (IDPs), women, children, families of missing persons as well as migrants.

Conclusion

Thus far, this article has attempted to examine a wide-range of issues, which included the meaning and origin of humanitarian assistance; the principles of international humanitarian law on humanitarian assistance. It has also taken a critical look at some of the field operations which the ICRC has carried out to assist victims of armed conflicts or other situations of violence, such field and practical operations being in the form of either goods or services, or both. More than all of these, the article further examined the challenges of humanitarian assistance in times of armed conflicts, whether international or non-international in nature, and how the ICRC aims to rapidly respond to these challenges in order to secure the future of humanitarian assistance or action in a fast-changing world.

In a world characterized by great transformations in terms of scientific and technological progress, social relations, the emergence of new regional powers, and in the changing nature and face of armed conflicts and violence, the need for the ICRC to respond to the new challenges of humanitarian assistance or action has become both urgent and acute. As we have clearly shown in this article, there exists numerous strategies for the ICRC to respond to these challenges, such strategies having been used by the ICRC in numerous ways and different contexts to reach out to the people need, particularly in times of armed conflicts.

To conclude on this article, it is up to the ICRC not to leave any rooms for complacency nor rest on its oars, but to increase its unending concerns for saving lives and assisting victims of armed conflicts or other situations of violence. While looking into the future, it should learn from its past experiences and broaden dialogue, persuasion, humanitarian diplomacy and coordination with other humanitarian actors, such as National Societies, and reaffirm its faith in the powers of the law and principled approach to action, so as to provide broader services to people in need. As the guardian of humanitarian action, working under the most difficult or extreme circumstances, the ICRC should identify the most efficient and effective methods to utilize new technologies to meet the needs of people. And though the commitment to build stronger humanitarian assistance or action remains a heavy cross for the ICRC to bear, it is still fundamental for the organisation and its staff to stand up to the task of genuine humanitarian assistance in the twenty-first century and beyond. As Amhed Manzoor wrote: *A new business model to improve the humanitarian system is necessary and it must function in a sincere manner.*¹

¹Amhed Manzoor, *the Future Issues and Challenges for Humanitarian Action and the Role of Southern NGOs*, in *Revue Humanitaire: Enjeux, Pratiques, Debats*, 21 March 2011. Full details on this information is also available at: <http://humanitaire.revue.org/index915.html> (last visited August 2016).