



ACF-INTERNATIONAL

HUMANITARIAN PRINCIPLES IN CONFLICT

Ensuring humanitarian principles are respected in armed conflicts and other situations of violence: ACF's experience and position



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ACF's experience and position

Humanitarian assistance has increased significantly in the last 20 years, as has the number and diversity of actors providing such assistance. Over the same time, the strategic interests of major power-holders in conflict environments have shifted from traditional war relations to proxies and in-country, population-centred operations.

Operating in such environments, among multiple types of actors with a wide range of interests, ACF needs to state firmly its continuous efforts and commitment to always abide by humanitarian principles and by its Charter.

As implied by its name, humanitarian action is driven by a sense of *humanity*, a willingness to relieve human suffering. Without seeking any advantage and guided by a wish to help unconditionally, humanitarian action relies on principles grounded on moral and ethical values.

Defining why and how humanitarian action is carried out, “humanitarian principles”, or principles of humanitarian action, serve as the argument for humanitarian non-governmental organizations (NGOs) to negotiate access to populations in need and to gain acceptance.

The purpose of this paper is to state ACF's position on the application of the humanitarian principles and to highlight the importance and challenges of applying them when working in situations of armed conflict and social unrest.

Using examples from ACF's experience, this paper is not a collection of best practices but an attempt to illustrate the variety of challenges our teams regularly meet in the field when operating in conflict environments. It seeks to demonstrate that, in any situation, ACF bases its decisions on the application of the humanitarian principles. Finally, this paper underlines the importance of respecting the humanitarian principles and calls for the humanitarian community to advocate for their application and protection.



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PRINCIPLES OF HUMANITARIAN ACTION

THE EMERGENCE OF HUMANITARIAN PRINCIPLES

The International Committee of the Red Cross (ICRC), made the first attempts to define the principles of humanitarian assistance. As early as 1921, the pioneer humanitarian actor ICRC proclaimed that its action was based on four principles, including *impartiality* and political, religious and economic *independence*.

Humanitarian principles also emerged in texts of international humanitarian law (IHL), or the law of armed conflict, through the Geneva Conventions and its Protocols.

Based on these two sources, ICRC principles and IHL, other principles have been proposed by the growing humanitarian community and states.

HUMANITARIAN PRINCIPLES TODAY

The core humanitarian principles are the principle of *humanity*, defining the reason of humanitarian action, and *neutrality*, *impartiality* and *independence*, describing the manner in which humanitarian assistance should be provided. These four principles are regularly cited by the United Nations¹ and other institutions and groupings of states such as the European Union and enjoy wide recognition among humanitarian actors.

Additional principles of humanitarian action can be found in different sources. Among the most well-known are the *Code of Conduct for The International Red Cross and Red Crescent Movement and NGOs in Disaster Relief* created by an alliance of large disaster response agencies, the *Sphere Handbook: Humanitarian Charter and Minimum Standards in Humanitarian Response* developed jointly by humanitarian agencies, and the European consensus on humanitarian aid agreed on by European Union member states.

Though partly overlapping the existing humanitarian principles are not contradictory but complementary to each other.

1 - See for example Resolution 46/182 1991 – Guiding Principles article 2.

THE ACF CHARTER

The driver of ACF's action is the humanitarian imperative and its moral obligation to provide aid wherever it is needed. In doing so, ACF respects the four fundamental humanitarian principles of humanity, neutrality, impartiality and independence.

Additionally, ACF has developed its own Charter, setting out operational principles: independence, neutrality, non-discrimination, free and direct access to victims, professionalism and transparency.

ACF also aligns its activities with other professional standards and principles formulated by the humanitarian community, such as *the Code of Conduct for The International Red Cross and Red Crescent Movement and NGOs in Disaster Relief* and *the Sphere Humanitarian Charter*.

ACF abides by those principles at all times, be it peace, war or other emergencies and advocates for their respect by other actors.

HUMANITARIAN PRINCIPLES IN SITUATIONS OF VIOLENCE AND INTERNATIONAL HUMANITARIAN LAW (IHL)

Humanitarian assistance delivered in areas of armed conflict comes under the scope of IHL. IHL is applicable in the following situations:

- **An international armed conflict**, meaning a war between two or several states, or a war of national liberation.²
- **A non-international armed conflict**, meaning prolonged fighting of certain intensity which happens on the territory of a state between its armed forces and armed groups, or between different armed groups.³

IHL envisages the right to provide humanitarian assistance only for *impartial* humanitarian organizations⁴ which conduct their activities *without any adverse distinction*.⁵ Furthermore, relief societies which operate in occupied territories are required to abide by the Red Cross principles.⁶

Disregard for the above mentioned principles would grant parties to the conflict a legal right to prevent humanitarian NGOs from accessing the victims. It could also reduce legal protection of humanitarian workers from physical attacks if they are believed to be bringing military advantage to one of the parties to the conflict.

2 - The relevant IHL are four Geneva Conventions of 12 August 1949 (GC I, II, III and IV) and Protocol Additional I of 8 June 1977 (PA I).

3 - The relevant IHL are the common article 3 to four Geneva Conventions of 12 August 1949 and, under restricted conditions, Protocol Additional II of 8 June 1977 (PA II).

4 - Common article 3 to four Geneva Conventions; art. 9 of GC I, GC II and GC III; art. 10 and 59 of GC IV; art. 70 of PA I, art. 18 of PA II.

5 - Art. 70 of PA I; art. 18 of PA II.

6 - Art. 63 of GC IV.



APPLICATION OF HUMANITARIAN PRINCIPLES IN SITUATIONS OF VIOLENCE BY ACF FIELD MISSIONS

The observance of humanitarian principles is both a matter of professional duty and a practical necessity for humanitarian actors. Indeed, particularly in situations of high political tension, a suspicion of humanitarian workers pursuing hidden goals could make them unwelcome for local power holders and the population. In such contexts, the *perception* that an NGO is applying humanitarian principles is equally important for gaining access and acceptance as the actual observance of those principles.

This is why ACF strongly adheres to humanitarian principles and defends them by insisting on a clear distinction between humanitarian organizations and other actors that may deliver assistance to populations while serving political goals e.g. military personnel or politically motivated public and private entities. Doing so means ACF is able to continue bringing aid and to maintain its capacity to roll out other projects in the future.

CHALLENGE 1: MAINTAINING NEUTRALITY WHEN INTERVENING IN AREAS OF CONFLICT

Principles at stake

Neutrality, impartiality, non-discrimination, free and direct access to victims, professionalism

If a humanitarian actor brings assistance to populations in areas controlled by only one of the opposing sides in a conflict, this could be perceived as a demonstration of political support. Among the possible negative outcomes of this would be the reluctance of the rival side to allow humanitarian access to areas under its control a hostile attitude by part of the population towards humanitarian aid workers and an increased vulnerability to targeted attacks.

ACF ascertains its commitment to principles of neutrality and impartiality by being “needs based”: it chooses areas of intervention solely on the basis of its own assessment of humanitarian needs, and no distinction is made among the victims on any criteria other than their vulnerability.

However, ACF’s capacity to conduct needs assessment in the field and to deliver aid may be limited by security considerations.

Although ACF can carry out activities in a situation of on-going hostilities, it does not operate in places where there is a real physical danger for its staff or for the goods that are essential for effective implementation of its humanitarian programmes. Guarantees of security that can be offered to ACF by different power holders are one factor demonstrating its neutrality and impartiality by intervening in all places where needs exist.

In Yemen, ACF decided to focus on providing assistance to populations in government-controlled areas when opening a new mission rather than entering unsecure parts of the country controlled by armed opposition. The possibility to conduct a needs assessment in those areas is currently under discussion internally.

If ACF holds evidence of strong humanitarian needs in an insecure area, it will persist in negotiating access with local power holders without prejudice to humanitarian principles and with minimal risk for the security of its staff.

In Somalia, in November 2011, ACF was expelled from areas controlled by the Al-Shabaab opposition group and since then could only assist populations in government-controlled regions. ACF has asserted its desire to provide assistance to all victims without distinction by maintaining negotiations with the rebels in view of re-entering areas under their control if this becomes possible.

Security restrictions could be mitigated by accessing beneficiaries through local staff and partnerships with other NGOs. This solution can be adopted if the risk of targeted attacks exists only for certain categories of staff, such as expatriates. However, when risk attains an unacceptable threshold for all staff, ACF withdraws from the area.

ACF can also deliver aid to certain areas through partnering with national NGOs. ACF believes that its Charter principles of free and direct access and professionalism are not compromised as long as it can choose partners that share its values and that an acceptable degree of accountability towards beneficiaries is ensured.



CHALLENGE 2: ENSURING INDEPENDENCE FROM POLITICAL AGENDAS OF DONORS

Principles at stake

Independence, impartiality, professionalism

Another risk for humanitarian NGOs is to be instrumentalized by political or economic agendas of donors. In a situation of armed conflict or social unrest, this can happen if funds are offered by belligerent states, states that support one of the opposing sides or seek to garner influence in the area. Accepting funds from state actors may be misinterpreted as a lack of independence and impartiality.

When ACF must finance its programmes through external donors, it ensures its independence by choosing donors only after careful analysis of the political context and by preventing any donor-driven interference at programme level: all ACF projects are based on needs assessments carried out by its teams in the field, are designed by ACF and its partners when applicable, and are directly implemented by it or through its partners.

Additionally, ACF analyses the potential impact of each investment on its local perception.

For instance, ACF will reject financial aid from a state that has initiated or joined in a military intervention in the country it operates in, or has political or economic interests in this intervention.

In Afghanistan, ACF has made the decision not to accept humanitarian funding from the United States Government, which is considered a belligerent in the conflict.

When ACF works in a country where multi-national military operations are taking place, ACF has accepted funds from troop-providing states for projects carried out outside areas of troop deployment.

ACF obtained financial aid from France for projects in Afghanistan in areas where French troops were not stationed but refused to work in areas under French military control.

Similarly, ACF will avoid accepting funding for projects in conflict-affected geographical areas from states that offer political, economic or military support to one of the opposing parties.

For this reason, ACF has not used US funds for its projects in Occupied Palestinian Territory, in Somalia until 2012 and in Yemen until 2013.

The same considerations may prompt ACF to decline financial aid proposed at a politically or militarily tense moment.

ACF refused to participate in UN-sponsored humanitarian programs in Hudur, Somalia in the aftermath of Somali and Ethiopian forces taking it over from al-Shabaab rebels in March 2012. Although ACF had previously struggled to obtain air transport facilities for rolling out assistance programmes in another town in the same region, launching them right after the military takeover of Hudur would have created a risk for ACF to be associated with the Somali and Ethiopian military.

Despite those precautions, ACF may find itself in a situation where it indirectly becomes a recipient of aid that would otherwise be declined. ACF can accept such aid as long as it comes from independent sources, does not bear labels negatively perceived by local population and power holders and does not affect their perception of ACF.

In Afghanistan, ACF used food stocks of the UN World Food Program, which is partly financed by the United States Agency for International Development (USAID).

In eastern Chad in 2008, during EUFOR intervention, ACF was receiving EU funds to support its operations. ACF requested that its programmes on the field be exempt from any EU visibility, which was granted after discussion.

CHALLENGE 3: STANDING FIRM BY HUMANITARIAN PRINCIPLES WHEN RELATING WITH LOCAL POWER HOLDERS

Principles at stake
Impartiality, independence, transparency, professionalism

In order to secure access to vulnerable populations, ACF has to enter into dialogue with political actors that hold control of the geographical areas concerned. In doing so, ACF takes precautions to maintain a necessary distance so as not to prejudice its neutrality and its real and perceived independence.

All contacts with state and non-state stakeholders are limited to negotiating access and security for ACF staff, the civil population and public spaces. The form of this communication is adapted to the nature of its interlocutors and to the context.

Finally, in relation with all power holders, ACF by principle refuses to pay bribes to access the field. It has developed a strict anti-corruption policy in this regard.

RELATIONS WITH STATE AUTHORITIES

State authorities have a right under international law to refuse NGOs access to their territory or to make humanitarian operations subject to conditions and restrictions. To respect this right, ACF always requests the state's authorization for launching its programmes and seeks to comply with local legislation and indications given by the authorities. However, this comes with many challenges.

The humanitarian imperative comes first

ACF will not agree to deliberately deprive part of a population of needed assistance in the country where it is authorized to operate.

In Bangladesh and Myanmar, ACF has been assisting the persecuted Rohingya population despite disapproval by state authorities.

In Afghanistan, during the rule of the Taliban, ACF refused to abide by laws forbidding bringing assistance to women.

Transparency cannot prejudice humanitarian principles

ACF seeks to maintain access to beneficiaries by being transparent with state authorities, in compliance with domestic laws and regulations. For this reason, ACF can provide information about its assistance programmes to state officials and allow them to visit its programme sites. By doing so, ACF will be careful not to violate humanitarian principles, not to create more harm and not put at risk the perception of it by local population as an impartial actor.

ACF is sometimes requested to disclose confidential information about its staff and beneficiaries. Sharing sensitive personal data, particularly in countries where a part of the population suffers from discrimination or persecution, could have grave consequences for the individuals concerned. This is why ACF protects the personal data of its beneficiaries and carefully analyses what information about its staff can be communicated to state authorities.

ACF refused to share information about ethnicity and religion of its aid workers to the government of Myanmar where part of its staff belongs to a discriminated minority.

ACF refused to provide the list of its beneficiaries to authorities in the Gaza Strip.



Humanitarians should not be mistaken for the military

A common condition imposed by state authorities in contexts of armed conflict or high-level violence is for humanitarian staff to be accompanied by military escorts in insecure areas. Yet, being seen side by side with the military would make humanitarian workers look like part of state military forces. ACF insists on strict distinction between military personnel and humanitarian staff. In this it relies, as a primary reference, on the Guidelines on the use of foreign military and civil defence assets in disaster relief (the “Oslo guidelines”) developed by the United Nations Office for the Coordination of Humanitarian Affairs (OCHA).

Careful to avoid doubts about its impartiality, ACF rejects military escorts, even at the cost of delaying humanitarian assistance. It can, only in exception, temporarily rely on the help of the military for rescuing its staff from insecure areas. In the past, ACF has used military escorts on a few occasions when the escorts were imposed as an obligatory security measure on all humanitarian actors operating in the area, such as the Chechen republic in Russian Federation. Yet, the increasingly suspicious attitude of armed groups towards international NGOs observed in recent years makes this practice highly undesirable and dangerous.

In exceptional circumstances, when armed protection is essential for the security of its staff, ACF prefers to maintain security by means other than relying on the military. In Somalia, for example, ACF has recently used the services of private security companies.

For the same reasons, ACF abstains from participating in programmes lead by or involving military structures.

ACF has not cooperated with Provincial Reconstruction Teams (PRTs) in Afghanistan and has been critical of establishment of UN integrated missions in Afghanistan and Somalia.

RELATIONS WITH NON-STATE ARMED GROUPS

To secure access to beneficiaries, ACF might also need to engage with non-state armed groups. These contacts are limited to negotiating access and security for humanitarian staff and will not take place if the access and security can be obtained otherwise, for example, if beneficiaries assume the negotiations on their own. This is where the importance of gaining acceptance among the population by strong adherence to humanitarian principles comes into play.

In Afghanistan, ACF has been operating in areas controlled by Taliban and other armed groups fully relying on mediation of local communities.

ACF might agree to inform opposition groups about the movement of its staff but under no circumstances will it accept to be physically protected by their armed fighters. Like military escorts, such protection would be too detrimental for ACF’s image.

In Central African Republic, at the end of a civil war in spring 2013, the generalized social insecurity in the town of Bossangoa created a risk for ACF’s base of being looted. As ACF realized that there was no other way to secure its base than to have it protected by armed fighters belonging to the group that had just overthrown the CAR government, it chose to evacuate the base. The use of armed guards belonging to whatever conflicting party, be it a party that was about to take place of official state authorities, would have been incompatible with the principle of impartiality.

CHALLENGE 4: FINDING THE RIGHT BALANCE BETWEEN THE HUMANITARIAN IMPERATIVE AND SPEAKING OUT ABOUT SPECIFIC SITUATIONS

Principles at stake **Neutrality, impartiality, professionalism**

In situations of armed conflict or social unrest, ACF teams are often the witnesses of obstacles to access as a means to prevent aid from reaching populations, or of grave violations of human rights. As stated in its Charter, ACF can denounce such abuses; yet, it will have to weigh the risks between the moral duty of condemning violations and consequently running the risk of being expelled from the area with not publicly reacting to them for the sake of maintaining assistance programs for the affected population.

To make the right choice, ACF has to consider the situation on the ground: first, is there any humanitarian NGOs present in the area able to provide professional assistance if ACF is expelled; would ACF actions put at risk the humanitarian actions of other actors; how have the violations been witnessed and whether the international community is aware of them through media coverage, etc.

Driven by the humanitarian imperative, ACF is primarily concerned with being able to maintain its assistance operations. Yet, even if it prioritises continuing to provide life-saving assistance over publicly denouncing violations, it can still alert organizations whose mandate consists in defending human rights.

So far, ACF has only denounced violations directly related to its humanitarian mandate. As an impartial organization, it avoids making condemnatory statements against parties to conflicts but it can offer its professional assessment of the impact of hostilities on the humanitarian situation and its ability to access affected populations.

In Ivory Coast in 2011, as a civil war was underway, ACF witnessed a massacre in Duékoué town. The massacre provoked displacement of population and ACF chose to inform the international community about the substantial humanitarian risks created by it.

In Mali in January 2013, as international forces began their intervention, ACF immediately issued a public warning that the closure of commercial routes due to military operations could result in a food crisis in northern part of the country.

In cases of critical incidents involving its staff in the field, ACF has had to make difficult choices between maintaining programmes in the field and pursuing justice for the victims.

In Sri Lanka in 2008, further to the killings of its 17 aid workers in Muttur in 2006, ACF decided to pull out of the country in order to publicly criticize the lack of progress in the investigations.

In Burundi in 2008, following the murder of one member of staff, ACF decided to close down all programmes in country to be able to follow judicial procedures.



CHALLENGE 5: MINIMIZING POTENTIAL NEGATIVE IMPACT OF OPERATIONS

Principles at stake

Do no harm/do less harm, neutrality, impartiality, non-discrimination

ACF is increasingly measuring its activities against the *do no harm/do less harm* principle, which means avoiding or minimizing negative effect that may be produced by humanitarian programs. It is particularly important to keep this principle in mind in a context of armed conflict or social tension in order to avoid sparking or exacerbating violence and putting the beneficiaries at risk.

PREVENTING AID DIVERSION

Aid can have a great economic value, and this can give considerable power to governments or armed actors that are able to influence where, how and to whom it is provided. In addition, without proper control, humanitarian aid may end up in the hands of conflicting parties instead of reaching the beneficiaries. This is why ACF carries out internal and external monitoring in order to make sure the humanitarian aid it provides goes to the people in need. The monitoring activities include field studies, peer reviews by other NGOs, assessments by external experts etc.

MITIGATING TENSIONS AMONG COMMUNITIES

ACF tries to anticipate and mitigate social fragmentation and tensions that could arise or be exacerbated by its assistance programs.

Equal participation of communities to needs assessment

First of all, ACF makes sure that representatives of all social, ethnic and religious groups in the area of intervention participate in needs, and sometimes sociologic and ethnographic, assessments.

In Afghanistan, ACF has worked on delivering water in Kabul informal settlements (KISs) populated by different ethnicities. If representatives of all of them had not been consulted before implementation of each project, some communities could have been deprived of access to water, or worse, it could have sparked violence between communities.

Equal aid distribution vs. distribution on the basis of needs

Secondly, in order to avoid any possible misunderstandings, ACF explains to the population that humanitarian aid has to be provided to the most vulnerable as a priority. Here the non-discrimination principle, which implies equal distribution of aid among beneficiaries with similar needs, goes hand in hand with the principle of *equity*, according to which assistance has to be given in priority to those who need it most.

If the humanitarian needs of one community are clearly more important than those of another, ACF may still consider rolling out activities for each of them in order to prevent social fragmentation, conflict and reprisals. A typical example is when ACF sets up operations in favour of displaced populations. The mere presence of the displaced may have a deteriorating effect on the living conditions of the host community, becoming an additional economic burden which affects the well-being of the local population. In this case, providing humanitarian aid to all communities would not only be needed to prevent dissent but would also come as a legitimate answer to new humanitarian needs of the host population.

Furthermore, if tensions already exist between two communities, bringing humanitarian assistance to one of them, be it the most vulnerable, could increase existing tensions and make ACF seem partial.

In Myanmar's Rakhine State, ACF faced this problem, where inter-communal violence in 2012 further polarized already tense relations. Assistance to the relatively impoverished and violence-affected Rohingya population was seen as exclusive by some of the Rakhine community. ACF sought to balance aid provided to each community, adapted to their respective needs, and to communicate on its mandate and assistance to counter rumours in an effort to ensure aid would not be restricted and inter-communal tensions exacerbated.

Context-sensitive staffing policy

The negative effect of humanitarian programs on inter-community relations is also mitigated through staffing policy. ACF wants its local teams to reflect the composition of local societies so that ACF aid workers treat all beneficiaries with equity and are accepted by the beneficiary communities. The profile of staff is also taken into account to manage security risks.

The predominance of a certain group in a local team can affect ACF's acceptance by the population and fuel tensions. Unfortunately, ACF is sometimes unable to equally recruit from all local communities as some of them are deprived of access to education and, consequently, lack skilled candidates.

In Chad, in order to fill local staff positions, ACF had no choice other than to recruit people from the south where people are Christian in majority, to work in northern regions where people are Muslim in majority, and where the level of education is much lower. In such cases, ACF will usually try to employ people from local communities.



CONCLUSION

As can be seen from the examples given above, the contexts of armed conflict and other situations of violence raise significant challenges for humanitarian NGOs to assert and ensure the application of the humanitarian principles. As a context sensitive organisation, ACF adapts its response and prioritises the application of the different principles on a case by case basis. Facing these challenges frequently, ACF uses humanitarian principles as the major guideline for making operational decisions so it remains able to continue to bring assistance to people who need it.

ACF remains dedicated to the application of humanitarian principles as a means to carry out humanitarian assistance while maintaining the humanitarian space necessary to operate. Mindful that there is no uniform way to respond to a crisis and that principled decisions are often difficult to take, ACF is convinced that it is of utmost importance that all humanitarian actors remain committed to protecting and applying the humanitarian principles when delivering aid.

ACF will continue to measure all of its interventions against the humanitarian principles and calls for the humanitarian community to advocate for their respect and protection.



ANNEX

KEY RELEVANT DOCUMENTS

International humanitarian law

- Geneva Conventions of 12 August 1949 (Geneva Conventions I, II, III and IV) and their Additional Protocols I and II of 8 June 1977
<http://www.icrc.org/eng/war-and-law/treaties-customary-law/geneva-conventions/index.jsp>

Humanitarian principles formulated by states

- Humanitarian principles defined by the United Nations
https://ochanet.unocha.org/p/Documents/OOM_HumPrinciple_English.pdf
- European consensus on humanitarian aid
http://ec.europa.eu/echo/policies/consensus_en.htm
- Principles and good practices of humanitarian donorship
<http://www.goodhumanitarianonorship.org/gns/principles-good-practice-ghd/overview.aspx>

Humanitarian principles formulated by NGOs

- The Code of Conduct for the International Red Cross and Red Crescent Movement and NGOs in Disaster Relief
<http://www.ifrc.org/fr/publications/code-of-conduct/>
- Sphere Handbook: Humanitarian Charter and Minimum Standards in Humanitarian Response
<http://www.spherehandbook.org/>

For further reading

- Humanitarian Practice Network (HPN) Humanitarian Exchange Number 43, June 2009, Number 58, July 2013
- Humanitarian Policy Group (HPG), Report 5, March 2000
- ODI reports



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