



LEGAL STATE OF DOCTORS WITHOUT BORDERS (*MÉDECINS SANS FRONTIÈRES*) IN THE INTERNATIONAL LAW

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Article Info	Abstract
<p>Keywords: Médecins Sans Frontières, Doctors Without Borders, Legal Status, International Law.</p> <p>DOI: 10.25041/lajil.v4i1.2525</p>	<p><i>Médecins Sans Frontières (MSF) is a non-profit organization that offers health and medical services to people regardless of race, gender, beliefs, religion, and political origins. Doctors of MSF provide healthcare services ranging from consultations, vaccinations, and primary care to the most complex surgeries. In addition, they also understand the risk of working in dangerous regions with a high prevalence of diseases, underdistress, insecurity, and war in underdeveloped or third-world countries. The legal status of humanitarian aid workers, such as doctors without borders in international law, has not been determined due to the unclear definition of “humanitarian aid workers” in international humanitarian law. This normative legal research employed a web-based survey to collect relevant articles, books, reports, or studies relating to national and international humanitarian organizations and workers, NGOs, and the legal status of these organizations and their workers. This research explored how MSF adequately supports its primary staffs and the doctors.</i></p>

A. Introduction

Humanitarian activities have been one of the most challenging issues in the international society.¹ Humanitarian activists work voluntarily to provide for the essential needs of people in areas with a high prevalence of illnesses, malnutrition, extrajudicial performances and tortures, harassment and forcible displacement of people for ethical or religious causes, and international

¹ Supriyanto A (2009) Human Rights Aspects of the Humanitarian Actions Conducted by the International Committee of the Red Cross in Indonesia. *Asia Law Quarterly* 1(1): 123-140.

and national armed conflicts. Their roles have been widely recognized, as shown by a 400% increase in global aid by governments and private actors from 2000 to 2014.²

The international humanitarian system is a large financial and human resource comprising 4,480 aid organizations, over \$25 billion in expenditure, and 450,000 aid workers in 2014.³ Médecins Sans Frontières (MSF), or Doctors Without Borders, is an international nongovernmental organization (NGO) that provides medical and humanitarian aid in war-torn, underdeveloped, or developing countries afflicted by epidemics or endemic diseases, natural disasters, and lack of access to healthcare systems.⁴ MSF is one of the five biggest aid organizations in the world, spending 31-38% of NGOs' budget, specifically on health.⁵

MSF was founded in Paris by French doctors and journalists who wanted to expand healthcare accessibility beyond national boundaries.⁶ This organization experienced conflicted relationships with other aid organizations such as United Nations agencies, the military services, and the Red Cross committee. The position of the MSF has changed over time in response to the international context and Needs.⁷ The MSF was awarded the Nobel Peace Prize in 1999.

The MSF is a non-profit organization that offers health and medical services to people regardless of race, gender, belief, religion, or political origin.⁸ This organization values independence, neutrality, impartiality, and witnessing, as defined in its founding charter (Legend-1).⁹ MSF personnel include doctors, nurses, other medical and health professionals, logistical teams, and water and sanitation engineers.

The MSF offers assistance ranging from basic healthcare to higher-level services, among which the most important ones include surgical procedures, fighting epidemics, providing vaccination services, offering rehabilitation, running hospitals, operating medical clinics and nutrition centers, offering mental healthcare, supplying safe drinking water, setting up sanitation systems and giving humanitarian aids.¹⁰ MSF is funded only by marginal financial support from governments and intergovernmental organizations.

The communication between MSF and the government needs to be improved for better services. Approximately 90% of the organization's funding is provided by private donors, and the rest is from corporate donations. The United Nations High Commissioner for Refugees has allocated funds to Médecins Sans Frontières (MSF), securing its refugee camp support.¹¹ The annual budget of MSF is estimated to be approximately US\$1.63 billion.

About 90% of MSF workers are from the host countries, and 10% are international expatriates. The terms "Médecins Sans Frontières" and "Doctors Without Borders" are misnomers because only 25-35% of its staff are doctors.¹² Physicians, as the most important

² Seatzu F (2017) Revitalizing the international legal protection of humanitarian aid workers in armed conflict. *La Revue des droits de l'homme*. 11. P. 4.

³ Stoddard A, Harmer A, Haver K, Taylor G, Harvey P. The state of humanitarian system, 2015; ALNAP; London. P. 100.

⁴ Manzoor Ahmed. (2010). The Future Issues and Challenges for Humanitarian Action and the Role of Southern NGOs. *Humanitaire*. 2

⁵ Stoddard A, Harmer A, Haver K, Taylor G, Harvey P. *Loc. Cit*

⁶ Corinne L. Williams. 2015. Leading the charge: Medecins Sans Frontieres receive the 2015 Lasker. *Journal of Clinical Investigation*. 125(10).

⁷ Brauman R (2012) Médecins Sans Frontières and the ICRC: matters of principle. *International Review of Red Cross* 94 (888): 1523-1535

⁸ <http://guide-humanitarian-law.org/content/article/3/nongovernmental-organizations/>

⁹ Brauman R (2012) Médecins Sans Frontières and the ICRC: matters of principle. *International Review of Red Cross* 94 (888): 1523-1535

¹⁰ <http://www.msf.org/en/about-msf>.

¹¹ Brauman R, Neuman M (2014) 'MSF and the aid system: choosing not to choose'. Geneva: MSF and CRASH.

¹² Thiedke C (2009) Volunteering with Doctors Without Borders/Medecin Sans Frontieres. *Fam Med* 41(5):364-365

members of the MSF, help people in greatest need. They offer services ranging from consultation, vaccination, and basic healthcare to the most complicated surgeries.

In recent years, the environment of the humanitarian sector where MSF work has drastically changed due to civil wars where law enforcement is weak. Understanding the active role of Doctors Without Borders (MSF) members and providing legal status to their profession is crucial. Unfortunately, the legal standing of Doctors Without Borders within international law remains largely unexplored.¹³ Hence, this research was performed to address this gap. In this research, the position of MSF within the hierarchy of international organizations was analyzed to understand the role and place of Doctors Without Borders in international law.

In this research, a web-based survey was carried out to collect literature that included articles, books, reports, or studies on national and international humanitarian organizations and workers, NGOs, and the legal status of international organizations and their workers. This normative legal research regarded secondary data from the internet, references, etc. In this paper, the term “Doctors without Borders” refers to the volunteer physicians as individual workers of the MSF. In contrast, “Médecins Sans Frontières” or MSF refers to the relevant organization.

B. Discussion

1. Place of the Organization “Médecins Sans Frontières” in the Chart of International Organization

International organizations are defined as organizations with international presence, membership, or field of activity. They are divided into two main groups: international nongovernmental organizations (INGOs) and intergovernmental or international governmental organizations (IGOs).¹⁴ In another classification, NGOs are divided into local NGOs and international NGOs.¹⁵ Another category of organizations is non-profit organizations, which do not distribute their assets, income, or profits to any individuals such as founders, directors, officers, members, employees, donors, their family members or relatives, etc., except for pursuing stated objectives. Legend 2 provides a list of international organizations based in Geneva, Switzerland.¹⁶ Based on the literature, MSF is categorized as a non-profit, non-government organization. This clear standing is important in clarifying and defining the legal status of this organization and its members. Comparing MSF with other national and international organizations with similar scopes of interest, such as the ICRC, provides a better understanding of the legal situation of this organization and its members in the international community.

Since the early 1990s, MSF and ICRC have frequently collaborated in war-afflicted regions. These two organizations have similarities in their origins, funding, and neutrality when facing political interests. While the main aim of the MSF is to offer medical care, ICRC also handles many other aspects. Therefore, the structure of the MSF organization differs from that of the ICRC and is difficult to compare. Conversely, MSF performs approximately 3-times more intensively in war-torn zones than ICRC. In his article entitled “Médecins Sans Frontières and the International Committee of the Red Cross: matters of Principles,” Dr. Rony Brauman (the president of the MSF in 1982-1994) compared these two international organizations. He

¹³ Kellenberger J (2004) Speaking out or remaining silent in humanitarian work. *International Review of the Red Cross* 86(855): 593–609.

¹⁴ Charnovitz S (2006) Nongovernmental organizations and international law. *American Journal of International Law* 100: 348

¹⁵ <http://hls.harvard.edu/dept/opia/what-is-public-interest-law/public-service-practicesettings/public-international-law/nongovernmental-organizations-ngos/>

¹⁶ Thiedke C. *Loc.Cit.*

explained that the formation of the MSF prevented the same mistakes made by the ICRC in World War II regarding genocide due to a culture of silence from reoccurring. Although the MSF obeys the principles of neutrality and impartiality in its interactions with governments, it appears as a witness. It speaks out and stands up for victims against their executioners.¹⁷ The international policy puts MSF members in worse, more dangerous situations compared with ICRC workers.

2. Law on Nongovernmental Organizations

The examination of NGOs within legal studies is not a novel concept. However, these organizations have recently gained greater attention from international law and international relations scholars.¹⁸ NGOs like Médecins Sans Frontières (MSF) lack a clearly defined status as subjects under international law. Despite this, there are compelling reasons why these organizations ought to be governed by international law, including:

- a. Preservation of international general interest toward these organizations;
- b. Effectuation of the formation and activation of these organizations: International immunities and privileges are necessary for protecting and facilitating international activities by NGOs.
- c. Preservation of independence: This presents an opportunity in which no single state can interact with the scope and activities of these organizations, which would be guaranteed by international law.

For NGOs, having a legal standing is a mainstay in recognizing their rights and immunities and standing before courts. Their legal personality is accounted for in municipal law but not international law. On the contrary, forming NGOs is an appropriate way to assign judicial persons under private international law since these organizations have a nongovernmental structure and non-profit goals.¹⁹

International agreements between humanitarian NGOs and governments or between these organizations and rebel or independence movements are crucial in defining the rights and responsibilities of humanitarian aid workers in conflict zones. By exploring recommendations to improve the safety and effectiveness of these agreements, we can create better conditions for aid workers. Each country's Ministry of Economy is tasked with registering, overseeing, and coordinating local and international NGOs. These organizations must comply with the country's Constitution and relevant laws in their operations and goals. Additionally, NGOs must use their resources exclusively for non-profit purposes.²⁰ This framework is also applicable to Doctors Without Borders (MSF).

NGOs can establish branch offices in other provinces of a country while complying with the law of the central office. NGOs can be established for both limited and unlimited time durations and must state their objectives and activities clearly. To gain public trust, NGOs must account for their expenditures, including employee salaries, office and residential leases, and other necessary expenses. They must have a unique name, logo, symbol, and address. NGOs must prepare a working plan to attain confirmation by the High Evaluation Commission. Coordination and cooperation of three or more NGOs with relevant governmental agencies necessitates forming a coordinating organization that receives confirmation from the High Evaluation Commission. This commission comprises authorized representatives, including the Ministry of Economics, Ministry of Foreign Affairs, Ministry of Finance, Ministry of Justice,

¹⁷ Nancy Bruni, 2005, *Political Neutrality and Humanitarian Aid: Practical Implications of Organizational Ideology* (Master's thesis, Duquesne University). P. 15.

¹⁸ Charnovitz S (2006) Nongovernmental organizations and international law. *American Journal of International Law* 100: 348

¹⁹ <http://guide-humanitarian-law.org/content/article/3/nongovernmental-organizations/>

²⁰ Maria Beatriz Parodi Luna, 2000, *Creation of a Special Legal Framework for NGOs*, 3(1).

and Ministry of Labor and Social Affairs. International NGOs must register their volunteer members to carry out their activities. Some individuals are prohibited from joining NGOs, including the presidents, vice presidents, ministers, deputy ministers, chairpersons and the members of the National Council, the chief justices and members of the Supreme Court, heads of independent commissions, members of the leading body of the Attorney General, heads of independent governmental departments, and heads of political parties.

Findings for NGOs are sourced from donations, gifts, grants, legacies, bequests, registration fees, movable and immovable properties, and income from legal economic activities. According to Article 71 of the UN Charter, the UN Economic and Social Council can grant consultative status to NGOs.²¹ This article has also impacted the evolution of other international bodies' policies and underscored NGOs' significance in global decision-making processes. NGOs must create financial records and audit annual statements for the Ministry of Economy, Ministry of Finance, and donor agencies. They are exempt from any tax and customs duty related to non-profit and charitable performance.

The following activities are prohibited and illegal for the NGOs, including MSF.

- a) Political activities and holding political campaigns
- b) Expanding or fundraising in the way of political objectives
- c) Promoting violence, taking part in military services and military educational programs
- d) Production and transferring weapons
- e) Supporting terrorism
- f) Production and importing narcotic agents
- g) Expanding financial resources against national and religious willingness
- h) Taking part in construction projects, except for cases under permission of the Minister of Economy in response to the request of the Chief of the Diplomatic Agency of the donor country
- i) Commercial activities (import and export)
- j) Other illegal activities

3. Place of Doctors Without Borders Among International Workers

Doctors without borders are classified as international workers. International workers consist of staff who do not belong to the country where they work. All international staff are employed under the same conditions and terms of employment. Meanwhile, national humanitarian staff include paid personnel who work in national and international organizations within their home countries and are under different terms and conditions of employment.

On the other hand, doctors without borders are classified as humanitarian aid workers who provide aid to support survival and recovery in many crises secondary to contagious infectious disorders outbreaks or war. This presents the opportunity for conflicts and complications between the role of the doctors without borders and that of other aid workers in the field of offering health services. MSF has provided many career opportunities, from a single mission to a long-term career. This organization has established programs of ongoing professional development for field workers to provide opportunities for advancing the skills and knowledge required for working in the field. These educational programs include pieces of training in language, medical protocols, management of critical events, etc.

While most NGOs are involved in delivering primary humanitarian assistance within their capacities, only five organizations constitute only 0.1% of humanitarian NGOs globally, accounting for about 31-38% of the total NGO humanitarian spending. These organizations include the MSF, Save the Children, Oxfam, World Vision, and International Rescue

²¹ Chadwick Alger, 2002, The Emerging Roles of NGOs in the UN System: From Article 71 to a People's Millennium Assembly, *Global Governance*, 8(1), P. 98.

Committee. Among these organizations, the MSF is the only one specifically working on health, highlighting its significance in this field.

Doctors without borders often work in complicated and insecure conditions without protection from international laws. Some of the most important conditions that have put doctors without borders into dangerous situations and made their jobs most complicated and hazardous are listed below.

- a) Serious violation of human rights and international humanitarian law
- b) Targeting civilians in modern wars
- c) In most combats, there is no clarity in situations in the fight zone
- d) A trend toward radicalization and polarization
- e) Expansion of armed conflict civil wars around the globe
- f) Globalization phenomenon and its consequent deregulation, which lead to the appearance and increased scope of non-state armed groups
- g) The appearance of failed states that have lost their central government having authority to provide basic services for people's well-being
- h) Formation of the global fight against the terrorism phenomenon
- i) Difficulty in access to armed conflict zones
- j) Increased risk of misused or rejected humanitarian services
- k) Increased threat against workers of humanitarian organizations
- l) Ignorance of governments and the World Health Organization to alarms announced by the MSF or other humanitarian organizations regarding the risk of contagious disease spreading, resulting in threatening the lives of humanitarian aid workers

MSF conducts much of its work under these challenging conditions. Moreover, in many conflict areas, there is often a lack of commitment to enforce international humanitarian laws. This situation underscores the dangerous position that Doctors Without Borders occupies in delivering humanitarian aid and the need for an analysis of the legal status of these workers within international law.

To illustrate these challenges, a striking increase in violent incidents against humanitarian aid workers was observed from 2012 to 2013. A report from 2013 documented that approximately 155 aid workers were killed, 178 were severely injured, and 141 were abducted worldwide. In comparison, the 2012 figures were significantly lower, with estimates of 70 killed, 115 seriously wounded, and 92 kidnapped. In that order, most of these incidents in 2013 took place in Afghanistan, Syria, South Sudan, Pakistan, and Sudan. Notably, most victims were affiliated with national NGOs and the Red Cross/Crescent societies engaged in international aid efforts. Furthermore, despite international recognition of their critical role, studies have pointed out a lack of adequate security measures for international humanitarian aid workers.

4. The Person's Own Security

Data regarding the security status of humanitarian aid workers that have systemically been collected in the 1990s identified steady growth in the rate of security risks. Doctors without borders face dangerous environments that put them into insecure conditions as follows:

- a) Formation of a variety of political and economic groups or powers that have different benefits or harms from current combats
- b) The appearance of states without a central government capable of saving law and order
- c) Lack of access to raw materials resulting in severe struggles
- d) Increased growth rate of poverty and social distress in the context of collapsed states resulting in the formation of ethnical combats

- e) Unprecedented levels of terrorism phenomenon and its hazardous consequences for innocent people
- f) The appearance of wars as a consequence of a given war results in the complexity of situations accompanied by disregard for the international warfare rules
- g) Enhanced erosion in the distinction between combatants and civilians in international humanitarian law
- h) Ignorance and disregard for international humanitarian law by nongovernmental armed protagonists

The points discussed lead to a diminished respect for international humanitarian laws and elevate the security risks humanitarian organization workers face, including Doctors Without Borders. Therefore, ensuring personal security for these humanitarian workers is crucial for enabling them to fulfill their roles effectively. In this context, we aim to examine the legal status of Doctors Without Borders' workers regarding their security under international law. To thoroughly understand this matter, we need to explore various aspects and address the following questions:

- 1- What is the definition of personal security in international law?
- 2- Do Doctors Without Borders have the right to personal security? If yes, who or which authorities are responsible for providing and supporting this right?
- 3- How will the legal situation of the doctors without borders be if their security is threatened or disturbed by combat parties?
- 4- What would the reference authorities do to decide to recognize the guilty party and determine the fine?
- 5- Is there any conflict between giving the right of personal security to the doctors without borders and the scope and policy of the MSF regarding activity, independence, impartiality, and neutrality?

By addressing these questions, we aim to clarify the legal status of Doctors Without Borders under international law. This clarity will enable us to respond effectively to any inquiries or to elucidate any ambiguities we encounter along this path. The concept of "personal security" is a fundamental human right, as affirmed by the Universal Declaration of Human Rights, first adopted by the United Nations in 1948. This term encompasses the rights to liberty, the prohibition of torture, inhumane or degrading treatment or punishment, and includes the right to a legal remedy such as habeas corpus when one's security is unlawfully threatened.

The Geneva Conventions and their Additional Protocols delineated the right of security for civilians, highlighting the importance of differentiating civilians and combatants. Wearing uniforms specific to warfare appears to be a key method for distinguishing between combatants and non-combatants, a fundamental concept upheld by international humanitarian law. "Threat" and "Risk" are terms that are used closely with "Security." By definition, "Threat" consists of factors that can cause harm, loss, and damage to organizations' assets, personnel, and activities. "Risk" is a combination of impact and likelihood of harm, loss, and damage to organizations' assets, personnel, and activities secondary to exposure to a threat.

The context in which humanitarian workers work can determine their perception of the type and severity of threats and dangers. For instance, in Iraq, Afghanistan, and Pakistan, suicide bombings and kidnappings constitute the largest threats. At the same time, in the Democratic Republic of Congo, Chad, and Sudan, common crimes and car-jacking, and in occupied Palestinian territories and Sri Lanka, armed conflicts and collateral violence are prevalent. Additionally, in their survey, Stoddard et al. showed that compared to national staff, international counterparts overestimate the severity of insecurity. The duration of activity and access to a local frame of reference for reporting insecure conditions effectively reconcile these discrepancies; longstanding national workers working in their home country positions can

easily report cases of insecurities to local references. Although this survey did not result in statistically significant differences between males and females in this regard, gender bias cannot be neglected in some countries such as Pakistan, Somalia, and Afghanistan, in which females are exposed to greater risk because of local cultural norms.

It is undeniable that ensuring security is a fundamental right for all NGO personnel, including Médecins Sans Frontières (MSF) staff. The guidelines for safeguarding the security of MSF are broadly dispersed. However, MSF personnel should not be viewed as military targets or subjected to attacks. While the guarantee of security rights cannot be absolute, identifying and assessing threats and risks through a standardized approach can significantly enhance the safety of humanitarian aid workers. Utilizing a security risk management framework offers a practical strategy for examining security-related issues and devising effective risk mitigation methods.

This leads to the question: Should MSF be accountable for providing its staff with personal security, or should this responsibility fall to other entities?

To address this inquiry, it is essential first to recognize MSF as an NGO and then explore the research and developments in the security management domain for NGOs.

Currently, several organizations are trying to define their responsibilities, duties, and boundaries regarding the security of their personnel. Regardless of factors effective in security risks, humanitarian organizations are legally and ethically responsible for protecting the security of their staff, particularly ones in the field. Organizations are responsible for offering a person's security to staff. For instance, the United Nations (UN) has a detailed approach to providing security for its staff through the United Nations Security Management System. As another example, one international organization in South Africa spent about \$ 26,000 to provide security measures for every international worker in very dangerous zones. NGOs provide the security budget predominantly from financial profits from their bilateral programs or project grants. In the "Law on Nongovernmental Organizations" prepared for domestic and foreign NGOs in Afghanistan, NGOs have been assigned to provide personnel with a safe working environment in performing their activities and projects, which applies to MSF.

Although humanitarian organizations are expected to assume the responsibility of preparing security for all of their workers in the same way, disparities still occur within and among humanitarian agencies in this field. Individual attributes and status of workers, such as nationality, gender, and organization affiliation, play a great role in the following disparities.

- Disparities between national and international workers: In general, international workers, in comparison with national workers, are in better situations regarding security training, security measures, and resources. Although international workers make up approximately less than 10% of humanitarian aid workers, in comparison with national workers, they are exposed to more attacks. The practice of providing international workers with higher living standards, including emergency evacuation in the face of serious threats, contributes to justifying this disparity.

Conversely, with national workers constituting over 90% of the humanitarian aid workforce in the field, they are disproportionately affected by serious security threats. For example, in 2013, national workers were the victims in 87% of attack incidents. This is partly due to factors such as financial constraints, the expulsion of international staff by host states, and the evacuation of international workers from hazardous areas, making national workers the primary workforce in humanitarian organizations, which justify the disparities regarding security measures between national and international staff.

National workers are familiar with the surrounding environment, can engage with locals, and have a broader network for protection mechanisms through communal, familial, or tribal communications. Given the factors mentioned earlier, organizations

may have underestimated the serious security threats facing international workers and, consequently, have not prioritized their security concerns sufficiently.

- **Disparities secondary to gender:** In general, information related to the proportion of victimized men and women and the kinds of security threats and risks regarding gender remains inconclusive. For instance, gender-related information is not available in 56% of victims reported by the Humanitarian Outcomes' Aid Worker Security Database. According to different studies, security risks toward men and women are gender-related because of the difference between men and women in the context where they are working and in the kind of humanitarian services they offer. Men have a greater impact on decision-making operations and work more in the field. At the same time, they are more vulnerable to violent confrontation, being injured or killed, and vehicle accidents on the road, particularly in mostly rural areas. On the other hand, women are more vulnerable to petty crimes (such as burglary and theft), sexual assault, or harassment, especially in urban areas, workplaces, and residences.
- **Disparities enforced by law:** International laws somehow enforce disparities among humanitarian aid workers in different organizations. It said that the personnel of the United Nations and Red Cross/ Crescent Committee are in a superior position in terms of security compared to other humanitarian aid organizations. In addition, differences among organizations regarding operating places, kind of activities, type of security strategies, and organizational trends toward dangerous risks dictate different security regimens for their staff. Hence, organizational affiliation of humanitarian aid workers is important for appropriate legal regimens that offer security mechanisms.

InterAction Security Unit has been stated as the main responsible authority for the safety and security management of NGO staff. This responsibility rests with all governmental managers at all levels, not only with security focal points. In an interaction between security focal points and management officials, technical security inputs and advice are offered by the former, while the latter makes decisions on security management.

The involvement of military forces sent to foreign countries to protect humanitarian aid workers from threats such as epidemics, famine, oppression, and massacres is a matter of debate. In the 1990s, the use of military intervention to rescue populations from peril was explored under the concept of the "right or duty to intervene," which evolved into the "responsibility to protect" by 2001. Alongside military efforts, humanitarian organizations have also appealed to the "responsibility to protect" doctrine to justify deploying foreign troops to safeguard civilians and humanitarian personnel. The key issue is whether Médecins Sans Frontières (MSF) embraces the "responsibility to protect" principle to aid civilians and its staff. Currently, MSF chooses not to advocate for the "responsibility to protect" as a basis for military intervention to defend civilians and its workers due to its stance of not taking a position on the legitimacy of the objectives pursued by warring parties. This stance is a point of contention that warrants further discussion.

Either "Speaking loudly" or "Being silent" against the cruelty of combat parties is highly associated with the security of the MSF staff, particularly that of doctors without borders who are in close relationships with victims. Generally, the protection regimens for doctors without borders under humanitarian and international laws are inadequate. Moreover, the poor relationship between security management settings and human resource professionals within organizations is one of the most important problems in addressing staff security. Doctors without Borders must know their security needs and specialized costs in this field.

The security risk management process includes identifying and assessing the operational environment, analyzing security risk, and finding a pathway to the solution. This process offers

standardized and logical measures for facing all insecure conditions and incorporating their solution paths in NGOs' programs.

The security risk assessment (SRA) is an important part of the security risk management process, which is defined as a tool for determining the factors that threaten the organization's staff, assets, or operations, assessing their impact on organizations, and planning to prioritize the risks and introducing mitigation measures. Hence, an impressive SRA is a prerequisite for managing risks and providing security effectively. Due to changes in security situations following changes in political conditions and operational contexts, SRA should be frequently revised and updated. Security should be assessed based on geographical location, operational context, and the timeframe. In Legend 3, the table detailing the assessment of risk levels is presented. InterAction members developed this table during their spring 2007 Security Advisory Group (SAG) meeting.

The Security Management Team comprises individuals responsible for the NGO's country program and finances. This team is tasked with approving the Security Risk Assessment (SRA). It is accountable for planning and implementing mitigation measures to enhance the security and safety of the organization's staff, assets, and activities.

As a humanitarian NGO with personnel in dangerous and insecure conditions, MSF should organize its security management team and allocate the budget for assessing and managing security risks and planning mitigation measures. Doctors without borders should be aware of their right to security and safety in their operational environment and inquire about the MSF's program to achieve secure conditions as well.

The following are recommendations for doctors without borders in complex security conditions when their security is threatened:

1. Knowing the security resources and policies: Doctors without Borders are expected to know the security resources and policies. Whereas MSF should introduce a comprehensive and detailed list of security resources and policies to which Doctors Without Borders can refer to answer all potential queries
2. Referring to local partners of the MSF for getting explicit security support: MSF should establish close interaction with local partners to assess the security support needs for offering good support services to doctors without borders. Doctors without Borders must collaborate with local partners to gain security support during insecure situations.
3. Participation in security level assessment: MSF should assess the security status of working environments by engaging the staff to report their opinions about this issue. Doctors without Borders need to participate in this assessment and report their concerns about security status.

Humanitarian organizations play a great role in managing security-related strategies. The following section summarizes these organizations' different operational approaches when facing security issues. These strategies make up the "Security Triangle" as follows:

1. Acceptance: Acceptance is a cornerstone of humanitarian security management strategies, essential for gaining humanitarian access as stipulated by international laws and protecting humanitarian aid workers. Following this approach, it is necessary to obtain consent for the presence or activities of humanitarian organizations to mitigate or eliminate threats. This strategy is not passive but rather an active and dynamic process. As long as humanitarian aid workers wear emblems and act based on humanitarian principles, they are protected. Additionally, states are responsible for preparing security for humanitarian aid workers and cannot refuse consent arbitrarily. Although this consent establishes a legal basis for humanitarian aid workers to be under international law, it does not necessarily guarantee the security of workers from attacks or acceptance by all workers.

2. Protection and deterrence: Whenever acceptance-based approaches are insufficient due to progressively increasing security threats, humanitarian organizations employ more ardent security approaches based on protection and deterrence policies. Based on protection strategy, instead of mitigating threats themselves, organizations should establish safe situations and conditions for their workers by using protective measures and devices, such as security walls, bulletproof vests, armored vehicles, etc. On the contrary, according to deterrence-based approaches, humanitarian organizations pose counter-threat performances such as using armed guards, military or diplomatic forces, etc.

In most aid organizations, national staff are assigned to lead and coordinate posts in security management settings. The “remote management” approach provides a better alternative in deteriorating security conditions. This control consists of international staff withdrawal, leaving security management mostly with national and local staff working more with local partner organizations. Most aid organizations routinely work with local partner organizations in secure and insecure conditions.

Employing national workers in security roles allows organizations to gain improved information and situational analysis on the ground. Furthermore, the policy of selecting national and local staff for security roles offers additional advantages, such as entrusting them with decision-making responsibilities in security matters, enhancing situational awareness, and facilitating better communication with local authorities to manage and mitigate distress and insecurity incidents.

Cases in the working environments of doctors without borders necessitate a complaint mechanism through which security issues can be addressed and analyzed. According to Article 37 of the Second Geneva Convention, if an enemy captures medical staff, they shall be protected and respected and sent back immediately when the Commander-in-Chief finds it possible under his/her authority.

Additionally, international agreements between the MSF and the state in which armed conflicts are happening and international agreements between this organization and insurrectional or liberation movements dictate the rights of security for doctors without borders in the field. To enhance the security conditions outlined in these agreements for Doctors Without Borders, taking into account certain considerations could create more favorable conditions for them.

On the other hand, in recent years, security coordination fora such as Saving Lives Together (SLT) and context-specific security platforms including ANSO (Afghanistan) and GANSO (Gaza) have been organized.

In a discussion of humanitarian security in 2006, SLT was presented by the Inter-Agency Standing Committee (IASC) as a framework for improving security coordination among IGOs, NGOs, and the UN. SLT is a revised and updated version of the Menu of Options for UN/NGO/IGO Security Collaboration (MoO), introduced by the IASC in 2001.

Although SLT appears productive in theory, the implementation was unsuccessful since including all agencies in this framework is not feasible. Alternatively, NGOs can develop an NGO-specific version of the SLT framework, which offers a guideline for responsibilities, limitations, and obligations specific to the related organization.

The Geneva Conventions and their Additional Protocols also have considered protections for civilians and humanitarian aid workers, including doctors without borders. In addition, the ICRC plays a significant role in preparing secure conditions for civilians. Debates still occur on whether the ICRC can support the protection of the doctors without borders.

Stoddard et al., in their survey, concluded that the adequacy of available security resources for NGO staff, including national and international workers, was rated “fair” to “poor.” Despite the importance of organizing programs for security training to aid workers and specifying some funds for these programs, deficits are still present. Based on this report, we conclude that

doctors without borders are not adequately provided with accessible security resources to accept a person's own security.

Effective collaboration between the founders and managers of NGOs and those tasked with providing security measures is crucial for ensuring safe working conditions for staff. However, a significant challenge is the weak connection between the security management framework and human resource professionals within these organizations, which hampers efforts to secure staff adequately. Doctors Without Borders must be well-informed about their specific security requirements and the associated costs in this specialized area.

Advocating for the humanitarian principles of impartiality, independence, and neutrality is an effective strategy for organizations to create safer conditions for their staff. Studies have shown that the incompetence of organizations in taking unnecessary risks and lack of experience and cultural awareness are the leading factors of increased risk for workers. The lack of respect for humanitarian principles is the third most prevalent cause of staffers being put in insecure conditions. MSF, an NGO devoted to humanitarian rules, can provide a relatively safe and secure environment for doctors without borders to work efficaciously in different cultural settings.

On the other hand, standardized security risk management enables NGOs to effectively manage their security duties and responsibilities and let their staff work in a secure operational environment. While MSF primarily focuses on aiding the survival and recovery of populations in countries affected by war or disease outbreaks, this mission exposes its workforce to significant risks. Data collected since the 1990s on the security status of humanitarian aid workers indicate a steady increase in security risks over time. The absence of a comprehensive definition for humanitarian aid workers, such as those working with MSF, in international humanitarian law means their legal status remains unexamined. Additionally, considering humanitarian NGOs' status within international law is relatively new. Consequently, exploring the legal status of humanitarian aid workers is crucial, given their exposure to numerous potential hazards in conflict zones.

There is a great gap concerning the status of humanitarian aid workers in humanitarian and international laws. The source of laws dictating the rights and responsibilities of these workers in the international society are summarized in the following cases:

- International humanitarian laws: These laws include the four Geneva Conventions of 1949 and their Additional Protocols of 1977, which support victims of armed conflicts, including people who are not related to the war (civilians, humanitarian aid workers, etc.) or people who cannot take part in war more (wounded, prisoners, etc.). These international treaties consist of the most significant rules for restricting the savagery of wars. These conventions and their protocols are the core of international humanitarian laws regulating armed conflicts to limit the damage they create. These laws provide a legal guarantee for protecting only special categories of humanitarian aid workers, including religious and medical/hospital personnel. Hence, this law can apply to doctors without borders.
- International agreements: International agreements between humanitarian NGOs and states in which armed conflicts are happening, and international agreements between these organizations and insurrectional or liberation movements determine the rights and tasks of humanitarian aid workers. Therefore, we can create more favorable conditions for them by incorporating specific recommendations to enhance safety and security within these agreements for humanitarian aid workers.
- National or domestic laws: In performing their activities and pursuing their objectives, NGOs shall observe provisions of the Constitution and other applicable legislation of the relevant country. The assets of NGOs are expended only in the way of non-profit objectives. These notes are true about the MSF.

MSF should establish and implement security-related strategies using the “Security Triangle” in facing serious security threats that include:

- Acceptance: Acceptance is the foundation of humanitarian security management, in which MSF is required to protect doctors without borders. On the other side, states have responsibility to ensure the security of the doctors without borders and cannot refuse the consent arbitrarily. Despite the legal basis provided under international law, the law does not protect them from attacks.
- Protection and deterrence: When acceptance-based strategies are inadequate in handling escalating security threats, MSF should consider establishing robust security tactics grounded in protection and deterrence. Under these policies, rather than directly addressing the threats, MSF can create safer environments and conditions for doctors without borders by implementing protective measures, devices, and counter-threat actions.

C. Conclusion

Security management approaches to protect humanitarian aid workers have been significantly improved in recent years. Still, more work is needed to improve these workers’ security in facing progressively increasing violence in the world. Including essential notes regarding optimizing security conditions for doctors without borders in the agreements between the MSF and states in which armed conflicts are happening or the agreements between this organization and insurrectional or liberation movements, the right of security for doctors without borders can be guaranteed.

Doctors without borders should know their right to security and safety in their operational environment and inquire about the MSF's program to achieve secure conditions. To offer security for doctors without borders, the MSF should organize its security management team in the best way and consider an appropriate budget for assessing and managing security risks and planning mitigation measures.

The legal status of the doctors without borders is not defined in international law. This is due to the lack of a clear definition of these workers or volunteers in international humanitarian laws, including the Geneva Conventions of 1949 and their Additional Protocols. Hence, the definition of “doctors without borders” shall be a priority. In addition to international humanitarian laws, international agreements between the MSF and relevant states in which armed conflicts are happening or between the MSF and insurrectional or national liberation movements can dictate the rights and responsibilities of the doctors without borders. Hence, ideal conditions for the activity of doctors without borders should be considered in these agreements. However, the legal status of doctors without borders is still obscure in international law. Therefore, lawyers have a great responsibility in clarifying the legal place of these humanitarian aid workers.

We believe the MSF can improve international law to protect doctors without borders and provide good welfare facilities. It is expected that humanitarian communities such as MSF address the gaps in the protection status of their staff in international law and improve their knowledge and practice in protecting their aid workers in complex and insecure situations. The disparities in the security of humanitarian aid workers and their effects on operational security necessitate serious attention and great interactions working with lawyers.

Regarding the mentioned notes, we suggest the following:

- 1- The term “Doctors without borders” shall be defined in the international law.
- 2- The MSF is expected to prepare a statute offering security for doctors without borders and express it to other international organizations and states. The Statute shall consider and guarantee all occupational, financial, and economic factors, welfare, and security.

- 3- To prepare the mentioned Statute, the MSF shall invite prestigious and experienced lawyers worldwide who will develop the best approach to achieving the relevant objectives.
- 4- This Statute shall be constructed in a manner that has an operational arm and can be dictated to states and other international, governmental, and nongovernmental organizations.

We hope to achieve the best possible situation in which doctors without borders work by paying and considering the recommendations in this manuscript.

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