

Practice versus perception: A discussion of the humanitarian principle of independence in the context of migration

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Abstract

The principle of independence is central to the International Red Cross and Red Crescent Movement's work with and for migrants. Independence requires humanitarian actors to retain their autonomy and resist any interference that might divert them from acting according to the principles of humanity, impartiality and neutrality. Yet, in the face of increasing securitization of migration and instrumentalization of aid and migrants, independence – in practice and

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perception – cannot be assumed. Drawing from current debates and primary research by the Red Cross Red Crescent Global Migration Lab, this article examines existing challenges in upholding independence in migration contexts and outlines recommendations for action.

Keywords: migration, principled humanitarian action, independence, neutrality, impartiality, trust, migrants' lived experience.



Introduction

The principle of independence is a central tenet of the work of the International Red Cross and Red Crescent Movement (the Movement).¹ In accordance with this principle, each of the Movement's components must retain its autonomy to act in an impartial and neutral manner, solely based on need. Upholding the Fundamental Principles,² including independence, is a hallmark of the Movement's needs- and vulnerability-based approach, including in its humanitarian action related to migration, and in the face of increasing securitization of migration and instrumentalization of aid and migrants themselves, maintaining independence – in practice and perception – is ever more essential.

The principle of independence is held in high regard by the Movement and other humanitarian actors, but what does independence mean in practice? Does independence live up to its expectations in enabling the principled provision of humanitarian assistance and protection to migrants? Or does the inherent complexity of independence under conditions of increasing politicization, securitization and instrumentalization render it unattainable in the context of migration? Furthermore, what does independence mean to migrants who are the intended recipients of humanitarian action? What are migrants' perceptions of independence, and how and why do these perceptions matter?

This article discusses these questions, drawing on existing literature and recent primary research conducted by the Red Cross Red Crescent Global Migration Lab (RCRC Global Migration Lab). Building on insights from the lived experience of migrants, the article contributes to existing debates on the impact of the securitization of migration and the instrumentalization of aid, and of migrants themselves, on humanitarian action, and underscores the life-threatening implications of compromised independence (real or perceived). In doing so, the article highlights that more concerted efforts by humanitarian actors

1 The Movement is made up of the International Committee of the Red Cross (ICRC), the International Federation of Red Cross and Red Crescent Societies (IFRC) and 191 National Red Cross and Red Crescent Societies (National Societies).

2 The seven Fundamental Principles are set out in the preamble to the Statutes of the International Red Cross and Red Crescent Movement, adopted by the 25th International Conference of the Red Cross, Geneva, October 1986 (amended 1995 and 2006), available at: www.icrc.org/en/doc/assets/files/other/statutes-en-a5.pdf (all internet references were accessed in February 2024).

are necessary in order to better (1) maintain independence when the politics of migration are fraught, (2) communicate the practical meaning of independence to both public authorities and migrants, and (3) ensure that migrants perceive the independence of humanitarian actors as credible.

The article commences with a discussion of the Movement's principled humanitarian approach to migration. It then explores the intersection of the principles of independence, impartiality and neutrality in the context of migration. Drawing on this discussion, the article reflects on key challenges faced by humanitarian actors in maintaining a principled approach in the context of migration in practice, outlining existing threats to independence. This includes, but is not limited to, challenges associated with the securitization of migration and the instrumentalization of aid and of migrants themselves. The article then delves into the perceptions of migrants related to independence, before proposing concrete recommendations to address operational challenges to maintaining independence for humanitarian actors. Ultimately, the article underscores the importance of independence – in practice and in perception – to better meeting the needs of migrants in vulnerable situations.

The Movement's principled approach to migration

The Movement uses a broad and inclusive definition of migrants, reflecting its focus on people's needs and vulnerabilities rather than legal status or category.³ This definition includes all people who leave or flee their habitual residence to go to new places in order to seek opportunities or safer and better prospects, usually abroad,⁴ recognizing that migration can be voluntary or involuntary but that, usually, a combination of choices and constraints are involved. This definition also recognizes that vulnerabilities may not only be influenced by the reasons for migrating, but may evolve along the journey, according to the circumstances in which migrants find themselves in countries of transit or destination or upon return.⁵

Crucially, to reach those most in need and to remain separate from existing political debates, the Movement approaches migration from a purely humanitarian perspective.⁶ Its aim is to respond to humanitarian needs and reduce suffering,

3 This definition includes, among others, labour migrants, stateless migrants, migrants with an irregular status, refugees and asylum-seekers. See IFRC, *Policy on Migration*, November 2009, available at: www.ifrc.org/sites/default/files/Migration-Policy_EN.pdf.

4 *Ibid.*, p. 3.

5 The Movement does, however, recognize and promote the special protection afforded by international, regional and domestic law to specific categories of individuals, such as refugees, asylum-seekers and stateless persons. See Council of Delegates of the International Red Cross and Red Crescent Movement (Council of Delegates), *Towards a Movement Strategy on Migration: Background Document*, CD/22/7, Geneva, May 2022, available at: https://rcrcconference.org/app/uploads/2022/05/07_CoD22_Towards-migration-strategy-background-document-EN.pdf.

6 Stephanie Le Bihan, "Addressing the Protection and Assistance Needs of Migrants: The ICRC Approach to Migration", *International Review of the Red Cross*, Vol. 99, No. 904, 2017; Sebastien Moretti and Tiziana Bonzon, "Some Reflections on the IFRC's Approach to Migration and Displacement", *International Review of the Red Cross*, Vol. 99, No. 904, 2017.

without seeking to encourage, discourage or prevent migration.⁷ The Movement works to promote the safety, dignity and well-being of migrants, irrespective of their legal status, while also contributing to strengthening respect for their rights under international human rights law and other applicable bodies of law.⁸ As articulated by Mau in a previous contribution to the *Review*, “the Fundamental Principles provide a crucial guide. Regardless of who you are, where you come from or your legal status, the Movement aims to provide assistance and protection to those who are most vulnerable.”⁹

The Movement’s approach reflects the reality that migration is not unique to one country or region, and nor is it unidirectional; rather, it is a global occurrence influenced by a variety of individual, social, economic, political and environmental factors that, combined, lead to complex and dynamic patterns of movement across borders.¹⁰ Such an approach acknowledges the range of motivations for movement, from people fleeing persecution, conflict or violence, to those seeking shelter and refuge from natural disasters and the impacts of climate change or environmental degradation, to others hoping to reunite with family or escape poverty and/or searching for better prospects or opportunities to contribute abroad. It also recognizes that, increasingly, many migrants are motivated by a multiplicity of factors and are exposed to multiple and changing risks and vulnerabilities along their journeys.¹¹

In this complex and dynamic context, migration has become one of the most contested political issues in many countries. Indeed, the Movement has noted with concern “a hardening of migration-related laws and policies, growing xenophobia and the politicization of the public discourse”.¹² This hardening of laws, policies and attitudes “is posing significant challenges to the protection of the rights, safety, dignity and well-being of migrants while also reducing the space for principled humanitarian action in the field of migration”.¹³ As such, it is necessary to consider the implications for humanitarian actors committed to upholding a principled approach to migration,¹⁴ and likewise the implications of failing (or being perceived as failing) to do so. Indeed, in the face of growing

7 International Red Cross and Red Crescent Movement, “The Global Compact for Migration: From Words to Action – Recommendations on Humanitarian Priorities from the International Red Cross and Red Crescent Movement”, December 2018, available at: www.icrc.org/sites/default/files/document_new/file_list/movement_messages_gcm_final.pdf.

8 Magdalena Arias Cubas, Nicole Hoagland and Sanushka Mudaliar, *Migrants’ Perspectives: Building Trust in Humanitarian Action*, RCRC Global Migration Lab, Sydney, December 2022, available at: www.redcross.org.au/globalassets/cms/global-migration-lab/gml-migpers_buildtrust_english.pdf.

9 Vicki Mau, “Mobilising the Movement: Australian Red Cross, Migration, and the Role of the Red Cross and Red Crescent Movement around Humanitarian Response”, *International Review of the Red Cross*, Vol. 99, No. 904, 2017.

10 Stephen Castles, “Understanding Global Migration: A Social Transformation Perspective”, *Journal of Ethnic and Migration Studies*, Vol. 36, No. 10, 2010.

11 Nicholas Van Hear, Rebecca Brubaker and Thais Bessa, *Managing Mobility for Human Development: The Growing Salience of Mixed Migration*, Human Development Research Paper Series No. 2009/20, United Nations Development Programme, New York, April 2009.

12 Council of Delegates, above note 5, p. 3.

13 *Ibid.*

14 Tom Scott-Smith, “Humanitarian Dilemmas in a Mobile World”, *Refugee Survey Quarterly*, Vol. 35, No. 2, 2016.

racism, stigma and xenophobic rhetoric in migration discourse as well as restrictive policies, even the overarching principle of humanity – meaning the need to act to prevent and alleviate human suffering, regardless of who and where people are – risks being forgotten or ignored by some States in the pursuit of migration management and border security.

The ongoing significance, as well as the fragility, of the Fundamental Principles at a time when public opinion is divided and when migration is the subject of intense debate thus requires further attention from humanitarians. As noted by leading humanitarian Dr Jemilah Mahmood in her lecture on the trust deficit in humanitarian action,

even in our turbulent times, our principles are still a potent tool and certainly one we will want to protect from permanent damage. We hope that this will be possible even as we stand up for humanitarian values when the political sphere becomes so extreme as to place them in jeopardy.¹⁵

The following discussion, specifically addressing the Fundamental Principle of independence in practice and perception, contributes to this effort.

The centrality of independence to principled humanitarian action

The principles of independence, neutrality and impartiality – alongside humanity – are fundamental to and guide all humanitarian action, including the Movement’s humanitarian action related to migration. They are considered core humanitarian principles and are enshrined in the Statutes of the Movement.¹⁶ Their significance to the work of other humanitarian actors is outlined in two United Nations (UN) General Assembly resolutions.¹⁷ In addition, more than 900 humanitarian actors are global signatories of the Code of Conduct for the International Red Cross and Red Crescent Movement and Non-Governmental Organisations in Disaster Relief, which reflects a commitment to adhere to these principles.¹⁸

Yet, employing a principled approach to humanitarian action in the context of migration is not without challenges.¹⁹ Whether due to inability, reluctance or political will, some States fall short in protecting migrants and responding to

15 Jemilah Mahmood, “The Trust Deficit in Humanitarian Action”, in Brendan Cahill and Johanna Lawton (eds), *A Skein of Thought: The Ireland at Fordham Humanitarian Lecture Series*, Fordham University Press, New York, 2020, p. 74.

16 Statutes of the International Red Cross and Red Crescent Movement, above note 2, p. 2.

17 The first three principles (humanity, neutrality and impartiality) are endorsed in General Assembly Resolution 46/182, adopted in 1991. The fourth principle (independence) was added in 2004 under General Assembly Resolution 58/114. These principles are reaffirmed in subsequent humanitarian resolutions of the General Assembly and the Economic and Social Council. See UN Office for the Coordination of Humanitarian Affairs, “OCHA on Message: Humanitarian Principles”, June 2021, available at: www.unocha.org/sites/unocha/files/OOM_Humanitarian%20Principles_Eng.pdf.

18 The Code of Conduct includes principles beyond the core four principles endorsed by the General Assembly. It had 871 signatories as of November 2020. See IFRC, “Signatories to the Code of Conduct”, August 2023, available at: www.ifrc.org/code-conduct-signatories.

19 T. Scott-Smith, above note 14, p. 4.

their most essential needs, including by enacting or implementing restrictive laws, policies and practices that create or increase risks for migrants or reduce the scope for humanitarian action related to migration, as discussed in detail in the next section.²⁰ It is in this sensitive and complex context that upholding the principle of independence is so essential. Failing to do so, or being perceived as failing to do so, not only risks compromising other humanitarian principles but can also jeopardize the relationship between humanitarian actors and migrants and compromise humanitarians' ability to reach those most in need.²¹

Though independence, neutrality and impartiality are intrinsically related, they have distinct characteristics.²² Firstly, independence requires humanitarian actors to always maintain their autonomy and resist any interference – political, ideological or economic – that might divert them from acting according to the principles of humanity, impartiality and neutrality.²³ Neutrality refers to humanitarian actors not taking sides in hostilities or engaging in controversies of a political, racial, religious or ideological nature so that they can enjoy the confidence of all sides.²⁴ Lastly, impartiality refers to non-discrimination, proportionality and a needs-based approach to decision-making,²⁵ including giving priority to the most urgent cases of distress.²⁶

While all these principles are of importance, it is critical to recognize that if independence is compromised, so too are neutrality and impartiality. For example, when providing services to migrants in reception facilities managed by governments, humanitarian actors must be careful not to be influenced by, or be perceived as being influenced by, the political or other agendas of those governments. Their decision to provide humanitarian services – and in what capacity, and to whom – should be based on their independent assessment of migrants' needs. If humanitarian actors cannot or do not act independently, needs assessments are more likely to be partial and to be influenced by political pressure, thus undermining a principled approach.

This is particularly important in the context of the work of National Red Cross and Red Crescent Societies (National Societies), which have an auxiliary role to public authorities in the humanitarian field.²⁷ In practice, this means that

20 Anais Faure Atger, "EU Migration Strategy: Compromising Principled Humanitarian Action", *Forced Migration Review*, No. 61, 2019.

21 M. Arias Cubas, N. Hoagland and S. Mudaliar, above note 8, p. 4.

22 Cristina Quijano Carrasco, "Humanitarian Engagement in Social Protection: Implications for Principled Humanitarian Action", *Humanitarian Law and Policy Blog*, 11 February 2021, available at: <https://blogs.icrc.org/law-and-policy/2021/02/11/humanitarian-engagement-social-protection/>.

23 ICRC, *The Fundamental Principles of the Red Cross and Red Crescent*, Geneva, November 2015, available at: www.icrc.org/en/doc/assets/files/other/icrc_002_0513.pdf.

24 Statutes of the International Red Cross and Red Crescent Movement, above note 2, p. 2.

25 C. Quijano Carrasco, above note 22, p. 6.

26 Statutes of the International Red Cross and Red Crescent Movement, above note 2, p. 2.

27 This role involves a "specific and distinctive partnership, entailing mutual responsibilities and benefits, ... in which the national public authorities and the National Society agree on the areas in which the National Society supplements or substitutes for public humanitarian services". ICRC, "30th International Conference: Resolution 2", November 2007, available at: www.icrc.org/en/doc/resources/documents/resolution/30-international-conference-resolution-2-2007.htm.

National Societies may be directly approached by public authorities to carry out certain humanitarian tasks – including on migration. While National Societies have a duty to give serious consideration to any appropriate request, they also have a duty to decline any request which would breach the Fundamental Principles and to maintain their independence, impartiality and neutrality.²⁸

Indeed, impartiality underscores the importance of supporting migrants based on their specific needs and vulnerabilities rather than their legal or migration status. For instance, humanitarian actors – including, but not limited to, National Societies – must resist any pressure to exclude a distinct group of migrants from access to support based solely on their legal status (e.g., those with an irregular status) and without regard to their needs, as doing so would be against the principle of impartiality (in particular, the concept of non-discrimination). In terms of neutrality, in a situation where States may have a politically divisive or controversial policy on migration, rather than engaging in a public debate, which could hinder perceptions of neutrality and therefore access to migrants in vulnerable situations (such as those in camps or in places of detention), humanitarian actors may choose to engage in confidential and/or direct dialogue with States about the impacts of said migration policies on migrants' safety, dignity and well-being and about the humanitarian imperative to protect and assist all people in vulnerable situations, irrespective of legal status. As highlighted by such examples, the principles of both impartiality and neutrality rely on humanitarian actors' autonomy and therefore their independence, underscoring why the principle of independence must be maintained despite existing threats to that principle.

Securitization and instrumentalization as challenges to independence

Humanitarian action should be independent – guided and influenced only by the aim of alleviating human suffering and saving lives. Yet, wherever humanitarian action occurs, a major concern that humanitarian actors face is the risk of manipulation (or public perceptions of manipulation) by political, military, private and religious actors.²⁹ Historically, in complex emergencies and long-term conflicts, there have been attempts by State and non-State actors to undermine humanitarian goals for the benefit of political ones.³⁰ In the context of migration, increased securitization and the instrumentalization of humanitarian aid, and of

28 IFRC, "Guide to the Auxiliary Role of Red Cross and Red Crescent National Societies – Asia Pacific", December 2017, available at: www.ifrc.org/sites/default/files/1294600-Guide_Asia-Pacific_En_LR-1.pdf; Marion Harroff-Tavel, "Neutrality and Impartiality: The Importance of These Principles for the International Red Cross and Red Crescent Movement and the Difficulties Involved in Applying Them", *International Review of the Red Cross*, Vol. 29, No. 273, 1989.

29 Antonio De Lauri and Salla Turunen, "Independence", in Antonio De Lauri (ed.), *Humanitarianism: Keywords*, Brill, Leiden, 2020.

30 Antonio Donini, "Between a Rock and a Hard Place: Integration or Independence of Humanitarian Action?", *International Review of the Red Cross*, Vol. 93, No. 881, 2011.

migrants themselves, have had a dramatic impact on the ability to ensure principled humanitarian action, challenging independence in both practice and perception.

Securitization of migration

Concerns about sovereignty and security, which are increasingly at the heart of State responses to migration,³¹ are strongly impacting humanitarian action on migration. In the name of sovereignty and security, recent years have seen States introduce legislative and policy measures designed to prevent and deter some people from migrating and arriving at their borders. In practice, these measures have increasingly divided migrants into “desirable” and “undesirable” categories based on factors such as their skills, place of origin and cultural background. In some regions, an increase in unwanted migration numbers has intensified restrictive border enforcement practices.³² More funding has also been allocated by some States and regions to policies and programmes aimed at curbing migration – including strengthened border control, surveillance and migrant returns – with a smaller proportion allocated to the creation of regular pathways for migration, protection and asylum.³³ Recent reports suggest that global spending on immigration enforcement is higher than ever, with a “steady upward trend in spending accompanying governments’ adoption of increasingly restrictive border policies and as they have expanded national and supranational border enforcement”.³⁴

The hardening of migration laws, policies and practices has done little to deter migration, but has instead resulted in significant humanitarian consequences for migrants, including an increasing risk of death in some parts of the world.³⁵ In situations where migration is considered the only possibility for accessing safety and/or better opportunities but legal pathways for asylum and regular migration are limited, migrants may decide on, or be left with only, irregular and riskier options,³⁶ moving via channels which

31 Pia Riggiozzi, Natalia Cintra, Jean Grugel, Gabriela Garcia Garcia and Zeni Carvalho Lamy, “Securitisation, Humanitarian Responses and the Erosion of Everyday Rights of Displaced Venezuelan Women in Brazil”, *Journal of Ethnic and Migration Studies*, Vol. 49, No. 15, 2023.

32 Didier Bigo, “Security and Immigration: Toward a Critique of the Governmentality of Unease”, *Alternatives*, Vol. 27, No. 1, 2022; Jef Huysmans, *The Politics of Insecurity: Fear, Migration and Asylum in the EU*, Routledge, London, 2006; Vicki Squire, “The Securitisation of Migration: An Absent Presence?”, in Gabriela Lazaridis and Khurshed Wadia (eds), *The Securitisation of Migration in the EU. The European Union in International Affairs*, Palgrave Macmillan, London, 2015.

33 In the past decade, as migration management has climbed to the top of policy-makers’ agendas in North America and Europe, official development assistance has increasingly been shaped by the goal of curbing migrant arrivals at their borders. See Ariel G. Ruiz Soto and Camille Le Coz, “Reshaping the Root Cause Approach: Disentangling Official Development Assistance and Migration Management”, Mixed Migration Centre, 6 December 2022, available at: <https://mixedmigration.org/articles/reshaping-the-root-cause-approach/>.

34 Mark Akkerman, “Global Spending on Immigration Enforcement Is Higher than Ever and Rising”, *Migration Information Source*, 31 May 2023, available at: www.migrationpolicy.org/article/immigration-enforcement-spending-rising.

35 Council of Delegates, above note 5, p. 3; Leanne Weber and Sharon Pickering, *Globalization and Borders: Death at the Global Frontier*, Palgrave Macmillan, Basingstoke, 2011.

36 S. Le Bihan, above note 6, p. 3.

increase vulnerabilities to exploitation, abuse, trafficking, family separation, going missing or dying, being detained, or becoming stranded, including in situations of armed conflict.³⁷

Indeed, the securitization of migration,³⁸ including the political construction of some migrants as a security issue and a threat to stability and living standards, has significantly expanded in the last ten years, with restrictive and extraordinary migration policies and laws being presented as a legitimate way to address difficulties in managing migration and/or security concerns. In recent years, this has included efforts to restrict – and even criminalize – the provision of humanitarian aid to migrants,³⁹ and has led to discussions of differential treatment towards migrants in the context of humanitarian emergencies based on where migrants originate, rather than focusing on their humanitarian needs.⁴⁰

This increase in securitization and criminalization has also resulted in violations of States' international obligations. Though migration and border management policies are defined by States, and States have the right to regulate migration within and across their territories, this right is not absolute. States' policies and practices must not create or increase risks for migrants, including to their right to life, and must not contravene obligations under international law, such as the principle of *non-refoulement*.⁴¹ In fact, States bear the primary responsibility to ensure the safety and protect the rights and dignity of everyone under their jurisdiction, including migrants.⁴²

The framing of some migrants as a threat and the adoption of extraordinary measures to deter migration – which in practice has institutionalized human suffering and has placed concerns for life, health and human dignity behind “security” and “sovereignty” concerns – undermines the principle of humanity and threatens principled humanitarian action. In some States, humanitarian actors are working in a climate characterized by anti-migrant sentiment, stigma

37 Council of Delegates, above note 5, p. 3; Anna Triandafyllidou, Laura Bartolini and Caterina Guidi, “Exploring the Links between Enhancing Regular Pathways and Discouraging Irregular Migration”, International Organization for Migration, 13 February 2019, available at: https://publications.iom.int/system/files/pdf/exploring_the_links_2019.pdf.

38 Securitization can be described as “the repositioning of areas of regular politics into the realm of security by increasingly using narratives of threat and danger aimed at justifying the adoption of extraordinary measures”: Chris Horwood and Bram Frouws (eds), *Mixed Migration Review 2019: Highlights, Interviews, Essays, Data*, Mixed Migration Centre, Geneva, 2019, p. 186. See also Krzysztof Jaskulowski, “The Securitisation of Migration: Its Limits and Consequences”, *International Political Science Review*, Vol. 40, No. 5, 2019.

39 A. Faure Atger, above note 20, p. 5; Eric Reidy, “European Activists Fight Back against ‘Criminalisation’ of Aid for Migrants and Refugees”, *The New Humanitarian*, 20 June 2019, available at: www.thenewhumanitarian.org/news-feature/2019/06/20/european-activists-fight-criminalisation-aid-migrants-refugees.

40 Addie Esposito, “The Limitations of Humanity: Differential Refugee Treatment in the EU”, *Harvard International Review*, 14 September 2022, available at: <https://hir.harvard.edu/the-limitations-of-humanity-differential-refugee-treatment-in-the-eu/>.

41 ICRC, “Note on Migration and the Principle of *Non-Refoulement*”, *International Review of the Red Cross*, Vol. 99, No. 904, 2017.

42 Council of Delegates, above note 5, p. 3.

and discrimination; where they have reduced access to migrants in vulnerable situations;⁴³ where they are under increasing pressure to engage in containment and return policies;⁴⁴ and/or where migrants are distrustful of humanitarian actors, whom they perceive as being associated with securitization agendas.⁴⁵

Instrumentalization of aid and of migrants

In parallel with the growing securitization of migration, humanitarian aid has also become increasingly instrumentalized in ways that can potentially undermine principled humanitarian action. Instrumentalization has been described by Donini as “a shorthand for the use of humanitarian action or rhetoric as a tool to pursue political, security, military, development, economic and other non-humanitarian goals”.⁴⁶ In the context of migration, instrumentalization relates to donors providing funds that appear to be for the primary purpose of development or humanitarian assistance, but which directly or indirectly promote States’ migration management policies. For example, such funds may be designed to prevent or deter people, including those seeking safety, from arriving at specific borders, sometimes in alignment with States’ efforts to address the “root causes” of migration.⁴⁷

In effect, instrumentalization of aid in migration refers to attempts by donor States to use organizations to advance their migration policies and related political interests. A study by Clemens and Postel examining foreign aid policies towards low-income countries, for example, notes that after irregular migration to Europe increased in 2015, “development assistance agencies acquired a renewed mandate: to deter migration from poor countries”.⁴⁸ In Central America, studies note that migrants must “mediate seemingly contradictory frameworks” which generate “ambiguous dynamics of care and coercion” as they seek assistance and protection at different stages of their journeys.⁴⁹ Indeed, during the last decade, there has been an increased tendency by some States or regions to transfer and diversify border control and migration management mechanisms to both neighbouring “transit” countries and to more distant countries with the aim of reducing migration – a process now commonly known as the externalization of borders or the externalization of

43 A. Faure Atger, above note 20, p. 5.

44 Council of Delegates, above note 5, p. 3.

45 M. Arias Cubas, N. Hoagland and S. Mudaliar, above note 8, p. 4.

46 Antonio Donini (ed.), *The Golden Fleece: Manipulation and Independence in Humanitarian Action*, Kumarian Press, Sterling, 2012, p. 2.

47 Jørgen Carling and Cathrine Talleraas, *Root Causes and Drivers of Migration: Implications for Humanitarian Efforts and Development Cooperation*, Peace Research Institute Oslo, Oslo, 2016.

48 Michael Clemens and Hannah Postel, “Deterring Emigration with Foreign Aid: An Overview of Evidence from Low-Income Countries”, *Population and Development Review*, Vol. 44, No. 4, 2018.

49 John Doering-White, “Evidencing Violence and Care along the Central American Migrant Trail through Mexico”, *Social Service Review*, Vol. 92, No. 3, 2018; Rebecca Torres, Kate Swanson, Caroline Faria, Tamara Segura Herrera and Sarah Blue, “Bordering through Care and Control: Policing and Sheltering Central American Migrant Youth in Mexico”, *Political Geography*, Vol. 98, 2022.

international protection.⁵⁰ Such externalization efforts are increasingly coupled with the instrumentalization of aid.⁵¹

Funding sources can also compromise independence by taking decision-making authority away from organizations in situations where funding is marked as conditional by donors.⁵² This is a particular challenge in the current global context of limited funding for humanitarian assistance and protection activities in general. Independence may be questioned due to political or financial ties with State agencies, non-State groups or other donors that restrict an organization's activities, even if these ties are merely perceived.⁵³ Thus, it is crucial that humanitarian actors – including National Societies in their auxiliary role – negotiate and advocate for funding that enables them to make independent decisions based on their own assessments of needs, and without compromising any of their principles.

Challenges to independence are not new in the humanitarian space. Since the 1990s, if not before, the fact that some international humanitarian actors have been funded by States utilizing humanitarian aid as a foreign policy instrument has contributed to wavering perceptions of independence.⁵⁴ In situations where it is unclear whether the humanitarian imperative is at the forefront of donor contributions to fund programming in support of migrants' needs, the potential instrumentalization of aid now presents a significant risk to the integrity of humanitarian operations in migration contexts. For example, a donor with a clear policy of collective forced returns may provide funding to a humanitarian actor to support reintegration programming for returned migrants. Even if the humanitarian actor plays no role in the process of forced return and the reintegration programming is purely humanitarian in nature, there is a risk that the donor's known migration agenda may call into question the independence of the humanitarian actor by the wider public, including migrants. It is in these

- 50 Jeff Crisp, "Externalization and the Erosion of Refugee Protection", Comparative Network on Refugee Externalisation Policies, 25 November 2019, available at: <https://arts.unimelb.edu.au/school-of-social-and-political-sciences/our-research/comparative-network-on-refugee-externalisation-policies/blog/externalization-and-the-erosion-of-refugee-protection>.
- 51 Martin Geiger and Antoine Pécoud (eds), *The Politics of International Migration Management*, Palgrave Macmillan, London, 2010; Benedikt Korf and Timothy Raeymaekers, *Violence on the Margins: States, Conflict and Borderlands*, Palgrave Macmillan, New York, 2013; Inka Stock, Aysen Üstübcü and Susanne U. Schultz, "Externalization at Work: Responses to Migration Policies from the Global South", *Comparative Migration Studies*, Vol. 7, No. 48, 2019.
- 52 Caroline Clarinval and Nikola Biller-Andorno, "Challenging Operations: An Ethical Framework to Assist Humanitarian Aid Workers in their Decision-Making Processes", *PLoS Currents*, Vol. 6, 2014; Deborah Harding-Pink, "Humanitarian Medicine: Up the Garden Path and Down the Slippery Slope", *BMJ*, 12 August 2004, available at: www.bmj.com/content/329/7462/398; Charles F. MacCormack, "Coordination and Collaboration: An NGO View", in Kevin M. Cahill (ed.), *The Pulse of Humanitarian Assistance*, Fordham University Press and Center for International Humanitarian Cooperation, New York, 2013; Hugo Slim, "Relief Agencies and Moral Standing in War: Principles of Humanity, Neutrality, Impartiality and Solidarity", *Development in Practice*, Vol. 7, No. 4, 1997.
- 53 Grant Broussard *et al.*, "Challenges to Ethical Obligations and Humanitarian Principles in Conflict Settings: A Systematic Review", *Journal of International Humanitarian Action*, Vol. 4, No. 15, 2019.
- 54 Beat Schweizer, "Moral Dilemmas for Humanitarianism in the Era of 'Humanitarian' Military Interventions", *International Review of the Red Cross*, Vol. 86, No. 855, 2004.

ways that the instrumentalization of aid presents a significant and specific risk to the principle of independence, in practice and perception.

Instrumentalization of aid is also linked to the concerning practice of the instrumentalization of migrants themselves. States may strike deals regarding foreign policy decisions and aid interventions with other States by offering or requiring action to curb migration, wherein migrants become bargaining chips. As reported by Tsourapas among others, “[m]igrants are increasingly used in global diplomacy as instruments within both political conflagrations and interstate coercion. ... [M]ixed mobility has become weaponized for domestic and geopolitical aims with important consequences for refugees and migrants.”⁵⁵

For humanitarian actors working at the local level to provide independent humanitarian assistance and protection to migrants, pressures linked to instrumentalization or securitization practices may take the form of requests from States to support restrictive migration policies by delivering humanitarian assistance in strategically limited ways. Instrumentalization may also occur when public authorities request humanitarian actors to withhold the provision of essential services to a certain group of migrants, such as those with irregular status, or attempt to impose preconditions on humanitarian actors that require them to share information about legal or migration status with border control officials. These pressures challenge the notion of principled humanitarian action and, therefore, independence, and can influence migrants’ perceptions and willingness (or lack thereof) to seek life-saving assistance and support.

What migrants’ perceptions of independence tell us

In the context of migration, humanitarian assistance and protection can easily be (or be perceived as being) conflated with political agendas, thus compromising the principle of independence in the views of those most in need. Even when independence is not compromised in practice, if the perception is contrary, this can be detrimental to the work of humanitarian actors and can prevent those in need of critical support from coming forward to seek assistance and protection. In situations of life or death, perceptions matter a great deal.

Research conducted by the RCRC Global Migration Lab with migrants in vulnerable situations across fifteen countries found that faith in, and understanding of, the principle of independence is at risk, potentially preventing migrants from accessing life-saving support.⁵⁶ While this research has limitations,⁵⁷ it nonetheless provides important insights into migrants’ perceptions and lived experience of

55 Gerasimos Tsourapas, “Migration Diplomacy Gets Messy and Tough”, Mixed Migration Centre, 6 December 2022, available at: <https://mixedmigration.org/articles/migration-diplomacy-gets-messy-tough/>.

56 Primary research included 225 interviews and focus group discussions, 2,086 face-to-face surveys and 14,532 online surveys with migrants in Argentina, Australia, Finland, France, the Gambia, Honduras, Maldives, Mali, Niger, South Africa, Sri Lanka, Sudan, Sweden, Türkiye and Zambia.

57 A detailed methodology, including a discussion on key limitations of the data, is available in M. Arias Cubas, N. Hoagland and S. Mudaliar, above note 8, p. 4.

humanitarian action. For instance, while the principle of independence is held in high regard by the Movement and other humanitarian actors, only around 21% of migrants surveyed recognized Red Cross and Red Crescent actors as independent to public authorities in their countries of birth, and 26% in their current location. Notably, most migrants surveyed were unsure of the level of independence of Red Cross and Red Crescent actors or the existing relationship with public authorities in both their countries of birth (62%) and their current countries (57%).

While perceptions differed between countries, there was also a noticeable difference between certain groups of migrants: in particular, migrants who self-identified as having an irregular status or as being returnees (but not deportees) held more positive views on the independence of Red Cross and Red Crescent actors than other migrants. Among migrants who self-identified as having an irregular status, 46% recognized Red Cross and Red Crescent actors as independent in their country of birth, and 48% in their current countries. Likewise, among returnees, 42% recognized Red Cross and Red Crescent actors as independent in their country of birth, and 40% in their current countries. Yet, even among these groups, there was still a significant lack of clarity, as between 39% and 47% of these migrants were unsure of the level of independence of Red Cross and Red Crescent actors.

These findings highlight two key interrelated lessons. First, despite the Movement's commitment to independence as stated in the Fundamental Principles, there is a lack of clarity and varied perceptions among migrants as to the actual level of independence that Red Cross and Red Crescent actors have in practice. Addressing this lack of clarity in perception – or any actual shortcomings in the way the Fundamental Principles are respected – is critical. Second, there is a space for a principled approach where independence remains at the core of supporting migrants in vulnerable situations. The existence of relatively positive perceptions among migrants in certain countries and among certain groups signals the existence of good practices that can be considered and adapted in other contexts. This is particularly timely given the growing risk that the broader conflation of humanitarian and securitization agendas poses to the relationship between humanitarian actors and migrants in vulnerable situations.

Indeed, a significant number of migrants surveyed by the RCRC Global Migration Lab (25%) associated seeking assistance and protection from any humanitarian actor with risks of detention or deportation. This resonates with existing research – particularly among migrants in Africa – which has found that migrants may distrust or avoid humanitarian actors because authorities have targeted them at sites where humanitarian assistance is provided, and/or due to broader concerns about the association of humanitarian actors with detention, deportation and the discouragement of migration.⁵⁸ Among the migrants

58 Independent Monitoring, Research and Evidence Facility, “Exploring Migrants’ Trust in Humanitarian Organisations”, *ReliefWeb*, 19 March 2021, available at: <https://reliefweb.int/report/world/exploring-migrants-trust-humanitarian-organisations-march-2021>; Ida Marie Savio Vammen, Sine Plambech, Ahlam Chemlali and Ninna Nyberg Sørensen, *Does Information Save Migrants’ Lives? Knowledge and Needs of West African Migrants En Route to Europe*, Danish Institute for International Studies, Copenhagen, 2021.

surveyed by the RCRC Global Migration Lab, the fear of detention and deportation when seeking humanitarian assistance or protection was more prominent among migrants with a lived experience of return, especially deportees (48%), as well as persons whose asylum applications had been refused (40%) and migrants with an irregular status (37%). These figures further demonstrate a need for increased awareness among migrants of the independence of humanitarian actors and highlight the considerations noted above around instrumentalization of aid regarding support to migrants who have been involuntarily returned.

Likewise, according to qualitative data collected by the RCRC Global Migration Lab, for many migrants, the perceived (or actual) lack of independence of various humanitarian actors has the potential to both impact the ongoing views and increase the vulnerabilities of migrants throughout their continued journeys. Interviews and focus group discussions indicated that where migrants experienced a negative interaction with humanitarian actors at one stage of their journey, they were less inclined to seek assistance or support at another stage of their journey, even if in a different location and with a different humanitarian actor.

Unsurprisingly, perceptions of independence and the perceived safety of and confidence in humanitarian actors are influenced by migrants' interactions, experiences and observations, as well as hearsay or rumours across countries of origin, transit and destination. This echoes other non-migration-specific studies which demonstrate that when the independence of some humanitarian actors is compromised, or is perceived to be compromised, it can cast doubt on the independence of other humanitarian actors by association and/or proximity.⁵⁹ For global humanitarian organizations like the Movement, which is united around the world by the principle of universality, this has key implications given that the actions of one component, office, branch, etc. – positive or negative – in a particular country have the potential to influence migrants' perceptions of other components, offices, branches, etc.⁶⁰ Indeed, in many cases, it may be challenging for migrants to distinguish between different components of the Movement, as well as between the various humanitarian actors encountered along their journeys more broadly.

59 G. Broussard *et al.*, above note 53, p. 11; Murat Civaner, Kevser Vatansever and Kayihan Pala, "Ethical Problems in an Era Where Disasters Have Become a Part of Daily Life: A Qualitative Study of Healthcare Workers in Turkey", *PLoS One*, Vol. 12, No. 3, 2017; Barbara Ann Rieffer-Flanagan, "Is Neutral Humanitarianism Dead? Red Cross Neutrality: Walking the Tightrope of Neutral Humanitarianism", *Human Rights Quarterly*, Vol. 31, No. 4, 2009; Hugo Slim, "The Continuing Metamorphosis of the Humanitarian Practitioner: Some New Colours for an Endangered Chameleon", *Disasters*, Vol. 19, No. 2, 1995.

60 The principle of universality means that the failings or omissions of one component affect the entire Movement. The integrity and public image of the Movement depend on adherence by all to the Fundamental Principles. See ICRC, "The Fundamental Principles of the International Red Cross and Red Crescent Movement: In Brief," August 2015, available at: www.icrc.org/sites/default/files/topic/file_plus_list/4046-the_fundamental_principles_of_the_international_red_cross_and_red_crescent_movement.pdf.

Addressing challenges to independence in operational contexts

As evident in the literature and demonstrated by the varied perceptions of migrants towards humanitarian actors, the engagement of humanitarian actors in migration contexts is often fraught with contentious politics. Humanitarian action can come with pressure from States (and public authorities at the local level) to compromise a principled approach, with the potential to threaten independence and the capacity of humanitarian actors to act with autonomy and therefore reach the most vulnerable. Indeed, the securitization of migration and the instrumentalization both of aid and of migrants themselves not only pose significant challenges to the safety, dignity and well-being of migrants but also contribute to a narrowing space for principled humanitarian action in the field of migration.

The findings of the RCRC Global Migration Lab echo that of wider, non-migration-specific studies which suggest that independence (and thus autonomy) is central to trusted humanitarian action. As a core principle, efforts to apply and implement independence require sustained planning, investment and considerable effort.⁶¹ But being independent in practice alone is not enough, as demonstrated by migrants' perceptions and lived experience; concerted efforts are needed to raise awareness of humanitarian actors' independence among migrants in need of their services and to ensure that such independence is perceived as credible, particularly considering the varied experiences and circumstances that migrants may encounter throughout their journeys and the range of public authorities with whom humanitarian actors may interact or collaborate in the provision of humanitarian assistance along migration routes and in different locations.

Funding for humanitarian action

To address challenges associated with instrumentalization, one key avenue for humanitarian actors to consider in maintaining independence in both practice and perception is to undertake risk assessments prior to accepting donor funding, including from States, for migration-related programming. Indeed, in other sectors, some humanitarian actors have “maintained independence by refusing to accept funds conditional upon particular program changes or by investing [in] and developing their own asset management strategies to avoid reliance upon, or sharing assets with, partisan groups”.⁶² This underlines the importance of securing funding that allows humanitarian actors to make independent (and impartial) decisions based on their own needs assessments and can be applied in

61 Ed Schenkenberg van Mierop, “Coming Clean on Neutrality and Independence: The Need to Assess the Application of Humanitarian Principles”, *International Review of the Red Cross*, Vol. 97, No. 897–898, 2016.

62 G. Broussard *et al.*, above note 53, p. 11. There is also related action in migration by Médecins Sans Frontières: see Médecins Sans Frontières, “Financial Independence and Accountability”, available at: www.msf.org/reports-and-finances.

migration contexts as well. Such an approach facilitates the ability of humanitarian actors to provide inclusive support to all migrants in vulnerable situations, irrespective of their legal status and based on their needs. This contributes to maintaining both real and perceived independence among migrants throughout their journeys.

Engaging with public authorities

Perceptions of autonomy when engaging with public authorities in joint and collaborative programming are also critical to consider. This may necessitate turning down requests from public authorities that may conflict with humanitarian principles or developing specific, pre-agreed and regularly reviewed guidelines and parameters for collaboration. For example, National Societies are under no obligation, as auxiliaries to public authorities in the humanitarian field, or otherwise, to have a role in coercive acts or migration control.⁶³ Engagement by humanitarian actors in collaborative programming with States requires careful planning, risk evaluation and mitigation, as well as consideration of the perceptions of migrants and local communities, and other partners, in all situations.

It is equally important to communicate to migrants how, where and why collaboration with public authorities is occurring, and the limits of such collaboration, particularly in situations where migrants may have concerns about personal security, data protection and privacy due to their irregular status, or where migrants have previously experienced negative interactions with or abuse at the hands of authorities at some point in their journeys.

Data protection and privacy

This relates to the critical importance of humanitarian actors upholding strong data protection and privacy standards in the context of migration. Any programming targeted to support migrants in vulnerable situations must advocate for, and ensure compliance with, ethics and data protection standards.⁶⁴ This includes the provision of health and medical services to migrants through fixed and mobile clinics, as well as the provision of cash and voucher assistance. In such programmes, humanitarian actors are likely to collect personal data which is often sensitive and could potentially place migrants at risk if known to the authorities.

Any personal data should be processed and used fairly, lawfully and proportionally,⁶⁵ and it should be clear from the outset that humanitarian actors will not share such information with authorities for non-humanitarian purposes, such as immigration enforcement. If humanitarian actors do share, or are

63 IFRC, above note 3, p. 3.

64 Dragana Kaurin, *Data Protection and Digital Agency for Refugees*, World Refugee Council Research Paper No. 12, Centre for International Governance Innovation, Waterloo, May 2019.

65 Christopher Kuner and Massimo Marelli (eds), *Handbook on Data Protection in Humanitarian Action*, ICRC, Geneva, 2020.

perceived to be sharing, this type of information in such contexts, trust will understandably be broken and migrants will be unlikely to feel (or be) safe accessing critical humanitarian assistance and support.⁶⁶ It is up to humanitarian actors to consider situations where they would not be able to guarantee the security of data if it were in the hands of other public or private entities, and the consequences of this, including in terms of their position of independence and potential risks to migrants.⁶⁷

Valuing lived experience

Systematically valuing and including the lived experience and the meaningful participation of migrants in the design, implementation and evaluation of humanitarian action is also central to ensuring and maintaining independence in migration. People with lived experience understand the realities of migrants' journeys, including risks and fears, and have significant knowledge to share which can inform the operations of humanitarian actors. With more migrants represented at all levels, from volunteers to staff and leadership, humanitarian interventions will be better shaped by the actual and varied experiences of migrants in seeking humanitarian assistance and protection along their journeys. Not only does this mean that such interventions will be more relevant and impactful, but listening to, learning from and acting on the expertise, insights and recommendations of people with lived experience will support more independent decisions, being directly informed by migrants' humanitarian needs and concerns.

Advocacy and humanitarian diplomacy

A final consideration, but one that is of utmost importance, is the need for continued and sustained humanitarian diplomacy, including advocacy,⁶⁸ by humanitarian actors calling on States to respect and enable principled humanitarian action in migration. Humanitarian actors have a responsibility to advocate for people in the most vulnerable situations, and engaging in dialogue with States based on a principled humanitarian approach to migration – underscoring the needs and protection risks affecting migrants and highlighting possible solutions to prevent and respond to these – is necessary to prevent and minimize the humanitarian impacts of restrictive laws, policies and practices and to ensure the safety, dignity and well-being of all migrants. Including people with a lived experience of migration in such advocacy efforts is also critical, in order to ensure that their expertise, knowledge and experiences guide and influence policies and practices. At times where independence risks being undermined by the securitization of migration and the

66 Hanna Rioseco, *The Promise and Peril of Biometrics in Delivering Humanitarian Aid*, Centre for Human Rights and Legal Pluralism Working Paper Series, Vol. 9, No. 1, 2020, available at: www.mcgill.ca/humanrights/files/humanrights/rioseco_ihrip_v9_2021.pdf.

67 C. Quijano Carrasco, above note 22, p. 6.

68 IFRC, *Humanitarian Diplomacy Policy*, July 2017, available at: www.ifrc.org/sites/default/files/Humanitarian-Diplomacy-Policy_EN.pdf.

instrumentalization of aid and of migrants themselves, it is essential that humanitarian actors remind States of the humanitarian imperative and their obligations and responsibilities towards migrants in vulnerable situations under existing international law.

Conclusions

Independence underscores principled humanitarian action in migration; it is instrumental in making humanitarian action more effective,⁶⁹ and it is key to ensuring neutrality and impartiality. Further, perceptions of independence matter in migration contexts, just as much as independence itself.⁷⁰ But independence is under threat – in practice, from the securitization of migration and the instrumentalization of aid and of migrants themselves, and in perception, by humanitarian actors falling short in communicating and more effectively demonstrating their independence to migrants and communities.

Despite the complex dynamics of migration and the increased politicization of the issue, there remains scope for humanitarian actors to work collaboratively with States to better address the humanitarian needs of migrants in vulnerable situations, and to do so without compromising the principle of independence. A principled basis for collaboration must be clearly articulated and effectively communicated to, and understood by, migrants, communities and public authorities alike. An agreed understanding from States (and public authorities) of what independence means, what limitations and boundaries it creates, and what respect for it entails, is essential. Without such respect for independence, the integrity of the humanitarian system risks being undermined and the capacity of humanitarian actors to support States in life-saving humanitarian interventions is weakened. Likewise, without clear accountability and communication to migrants of what a principled approach means and what can be expected from independent humanitarian actors, including in relation to personal security, data protection and privacy standards, migrants may be deterred from accessing humanitarian assistance and protection due to (real or perceived) safety concerns.

Indeed, as the lived experience of migrants demonstrates, it is not enough for humanitarian actors to consider themselves independent; this independence must be known and trusted by those who need and access their services. Lack of clarity among migrants as to the relationship between humanitarian actors and public authorities – or actual shortcomings in the way independence is respected in practice – must be urgently addressed.⁷¹ Carefully considering and understanding migrants' perceptions and designing targeted communications and approaches to alleviate migrants' concerns, as well as taking actions to guarantee

69 E. Schenkenberg van Mierop, above note 61, p. 15.

70 M. Arias Cubas, N. Hoagland and S. Mudaliar, above note 8, p. 4.

71 Magdalena Arias Cubas, Nicole Hoagland and Sanushka Mudaliar, "Migrants in Need Report Barriers to Assistance and Fragile Trust in Humanitarian Organizations", *Migration Information Source*, 2 February 2023, available at: www.migrationpolicy.org/article/migrants-needs-trust-humanitarian-organizations.

autonomy (such as advocating with States to respect and enable a principled humanitarian approach, undertaking risk assessments prior to acceptance of donor funding, conducting independent needs assessments, ensuring the protection of personal data of migrants, and avoiding real or perceived involvement in the implementation of immigration and border control policies), will contribute to bolstering independence – in practice and perception – and will support humanitarian actors in their efforts to ensure that migrants in vulnerable situations receive life-saving assistance and support.