Certain NGOs like MSF or OXFAM have been recognised by States and/or the doctrine as one or several of the organisations cited in Chapter 3.

If existing NGOs are recognised as organisations cited in IHL treaties, can we consider that they have international personality? An entity with an international personality is a “subject of international law so as itself to enjoy rights, duties or powers established in international law, and, generally, the capacity to act on the international plane either directly, or indirectly through another State.”1 Therefore, through legal personality an entity can possess legal rights and obligations enforceable by law.2 Generally legal scholars do not agree on the general features and consequences of international legal personality for entities other than States.3 It is a concept “giving rise to controversy.”4

Therefore, the recognition of NGOs as organisations cited in IHL treaties as well as the development of the concept of international personality, its applicability to NGOs acting in armed conflicts, and possible consequences for NGOs, are examined below.

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1 Recognition of Existing NGOs as Organisations Cited in IHL Treaties

This section examines if, after the adoption of the 1949 Geneva Conventions and 1977 Additional Protocols, States recognised certain NGOs (like MSF) as the organisations cited in IHL treaties. Subsequent practise is useful to interpret the provisions of a treaty, provided it is consistent, and is common to, or accepted by, all of the parties. The views of the academic literature and the NGOs themselves, although not constitutive in terms of treaty interpretation, are considered as an additional indication, as they can influence the opinio juris of States.

1.1 NGOs as “Impartial Humanitarian Bodies/Organisations”

Numerous NGOs argue that they are “impartial humanitarian bodies,” or “impartial humanitarian organisations.” For example, the organisation Geneva Call defines itself as “an international humanitarian organisation” and argues that it respects the principles of impartiality and neutrality. Geneva Call has also argued that it is an “impartial humanitarian body” according to Article 3 common of the Geneva Conventions. Mines Advisory Group declares itself to be “a neutral and impartial humanitarian organisation clearing the remnants of conflict.” Action contre la faim states in its Charter that it is “a neutral, impartial, independent, non-political, non-religious, and non-profit international humanitarian organisation.” Médecins sans Frontières also considers itself to be “an impartial humanitarian body.” Likewise, the organisation

7 According to the terms of Article 3 common of the Four 1949 Geneva Conventions.
8 According to the terms of Article 59 of the Fourth Geneva Convention.
9 See www.genevacall.org.
12 See http://www.maginternational.org/.
13 See http://www.actioncontrelafram.org/.
14 See for example La Mancha Agreement: “By recognizing the risk inherent to our activities, we commit to reducing this risk, mainly by seeing to it that our presence—as an impartial humanitarian organization—and our actions are accepted,” adopted at a MSF Conference: MSF, Report of the Board, Médecins sans Frontières Switzerland, 2005–2006,