

**INTER – AGENCY STANDING COMMITTEE
PLENARY MEETING**

9 December 2002

10:00-13:00 hrs

Conference Room 9, UN Headquarters, New York

Agenda Item: Humanitarian Action and Interface with Military Actors

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The IASC is invited to discuss the relationship between humanitarian agencies and the military in complex emergencies by drawing on agency experience, to identify problems experienced in the field, and to suggest possible solutions.

The proposed questions to be addressed include: What humanitarian principles are important for clarifying the relationship between humanitarian agencies and the military? What are some of the dilemmas that have arisen in actual field situations and how were they dealt with? What are the biggest obstacles for a humanitarian agency to maintain its neutrality and impartiality in the middle of a complex emergency? What are some of the possible ways forward for resolving the dilemmas and removing the obstacles?

The Position Paper developed by the Steering Committee for Humanitarian Response (below) will serve as a background document for discussion under this agenda item.

SCHR Position Paper on Humanitarian-Military Relations in the Provision of Humanitarian Assistance

1. Background

Military peacekeeping forces and other intervention forces have increasingly intervened in countries in conflict since the beginning of the 1990s, forcing a much more direct engagement between the military, local populations and humanitarian agencies than ever before in the history of peacekeeping. It is likely this trend will continue in the coming years.

Despite this trend, existing 'terms of engagement' between humanitarian agencies and the military remain ad hoc and inconsistent. While numerous conferences and publications have addressed humanitarian-military relations, none have presented commonly agreed interagency principles and guidelines.¹

¹ However, UN OCHA has produced draft, non-binding guidelines on the use of military and civil defense assets and the use of military or armed escorts.

SCHR Position Paper on Humanitarian-Military Relations

There is a clear requirement for such principles and practical guidelines. This approach should firmly disentangle humanitarian assistance from politics by reclaiming both humanitarian space and the core principles of impartiality and independence. This is not a shift to humanitarian minimalism, purism or isolationism – it is a clear affirmation of a commitment to the principles and values enshrined in the Geneva Conventions and the Code of Conduct for the International Red Cross and Red Crescent Movement and Non-Governmental Organisations (NGOs) in Disaster Relief.²

Such guidelines should, in particular, clarify the ‘exceptions to the rules’ -- those exceptional and often unpredictable circumstances when it seems that military engagement in a traditionally humanitarian activity is required in order to save lives and/or significantly alleviate suffering.

The SCHR initiated a debate on humanitarian-military relations in July 2000 with a position paper on the roles of civilian humanitarian agencies and the military in humanitarian crises.³ Since then, SCHR agencies have maintained an interest in and concern about increasing military movement into traditional humanitarian space.

This paper is the final result of the SCHR debate. Drafted by Save the Children and reviewed by all SCHR agencies, it is a shared SCHR paper on humanitarian-military relations, specifically the role of international peacekeeping forces in the provision of humanitarian assistance. This position is based on a review of agency policies and research conducted for an ODI network paper on civil-military relations in conflict situations, including formal interviews and informal discussions with a range of NGO, UN, military and academic actors, as well as an extensive document review.⁴

As the title of this document reads, the common position formulated here refers to one aspect of a much wider issue – that of civil-military relations. This document should be read against this background, and in context of the respective positions of SCHR members as referred to in Annex A. This document intends to respond to the principal questions facing humanitarian actors when they have to operate alongside armed forces in conflict affected regions when these armed forces are engaged in humanitarian activities.

2. Existing Guidelines

There are three key documents that are particularly relevant to the debate. Two are draft ‘interagency’ guideline documents prepared by OCHA.

They are:

² MSF has signed up to its own code of conduct.

³ The position paper was drafted by OXFAM.

⁴ The discussion is currently limited to civil-military relations in conflict-related situations and does not include natural disasters.

'Use of Military or Armed Escorts for Humanitarian Convoys, Discussion Paper and Non-Binding Generic Guidelines'; OCHA, Draft December 2001

'Draft Guidelines on The Use of Military and Civil Defence Assets To Support United Nations Humanitarian Activities in Complex Emergencies', Prepared by the Secretariat of the Oslo Guidelines Process based on Inputs provided by the Drafting Committee, Geneva, December 2001.

The third document is the draft Swiss Proposal, **'Improving International Civil-Military Relations in Humanitarian Emergencies'**, published by the Swiss Agency for Development and Cooperation (SDC). This proposal is significant for two reasons -- it forms the basis for an official Swiss policy position and also offers concise, principles-based guidelines that may be appropriate for use by the broader humanitarian community.

3. Policy and Positions

An analysis of these three papers and agency policy documents indicates that there is a high level of agreement around certain key points related to humanitarian-military relations, both in terms of overall policy issues and specific guidelines and principles.⁵

3.1 Policy Framework

□ Humanitarian agencies are first and foremost committed and accountable to the people they are mandated to serve. This commitment is central to all humanitarian policy debates and decisions.

□ The core principles of impartiality and independence, laid out in the Humanitarian Charter and the Code of Conduct, form the foundation of agency policy.⁶ The principle of impartiality is particularly critical in defining the distinct roles of the military and humanitarian agencies. It is essential to keep these two roles separate – impartial humanitarian assistance as a response to an urgent and inalienable right in itself, and peace operations with an inevitably partial and political mandate.

□ Humanitarian language quite literally defines humanitarian space. The debate cannot move forward without very clear parameters and definitions of core humanitarian concepts. As MSF concludes in an article about the humanitarian language debate, we must *'agree to talk about: humanitarian intervention when referring to civilian action, military intervention when referring to military action, and to forget the fallacious slogans of military humanitarianism, and military-humanitarian interventions.'*⁷

⁵ While OXFAM, Save the Children, MSF, the World Council of Churches and the Lutheran World Federation have published various discussion papers on humanitarian-military relations, ICRC and CARE are the only SCHR agencies that have published a formal policy. A list of policy documents is attached as Annex A.

⁶ This is with the exception of MSF, which works to its own charter

⁷ Tanguy, Joelle, 'Intervention, Protection and Humanitarian Assistance at a Crossroads', Paper delivered by MSF at the World Affairs Council, San Francisco, 28 March 2000. (emphasis author's)

□The primacy of the humanitarian organisation in humanitarian work must be reaffirmed – in the first instance, humanitarian work should be performed by humanitarian organisations.⁸ Civilian implementation is always preferable to military.

□The primary aims of international military peace support forces should be:

- a) to establish and maintain order and security
- b) to protect civilians
- c) to facilitate a comprehensive settlement of the conflict

□Co-ordination: Civilian humanitarian agencies cannot operate under the command of the military. This violates the core principle of independence.

3.2 Positions

3.2.1 Direct military implementation of humanitarian assistance in 'General Circumstances'

Position: It is never appropriate for the military to directly implement humanitarian activities in general circumstances.

Both humanitarian agencies and key military policy makers agree that in principle, the military should not *normally* engage in the direct delivery of humanitarian assistance. This is clearly stated in the most recent version of the Guidelines on the Use of MCDA in Complex Emergencies -- 'military and civil defence assets supporting United Nations humanitarian activities will normally not be used in the direct delivery of assistance.'⁹

Specifically, general circumstances are situations where there are enough humanitarian agencies operating to address humanitarian needs. In such cases, military implementation of humanitarian projects is unnecessary and inappropriate. Often these are situations when national contingents that are already on the ground decide to implement quick impact style projects such as minor infrastructure repair of schools and clinics. Such so-called hearts and minds operations are conducted for the sake of publicity and psychological benefits such as ensuring community goodwill, maintaining international publicity and improving staff morale. They are partial activities intended to ensure the success of the military operation. They are not humanitarian and should never be confused with impartial, principled humanitarian assistance based on community needs and priorities.

⁸ This is one of the three guiding principles on the relationship between the humanitarian community and external military forces proposed by OCHA in 'The Use of Military or Armed Escorts for Humanitarian Convoys, Discussion Paper and Non-Binding Generic Guidelines'; OCHA, Draft of 21 June 2001.

⁹ From the 'Draft Guidelines on The Use of Military and Civil Defence Assets To Support United Nations Humanitarian Activities in Complex Emergencies', Prepared by the Secretariat of the Oslo Guidelines Process based on Inputs provided by the Drafting Committee, Geneva, December 2001.

3.2.2 Direct military implementation of humanitarian assistance in 'Exceptional Circumstances'¹⁰

Position: Only in exceptional circumstances, and very rarely is it appropriate for the military to directly implement humanitarian activities, for which there must be specific criteria, examples of which are listed below:

There are sometimes 'exceptional circumstances' when traditional humanitarian agencies do not have the logistics capacity to launch an immediate response to rapid, large scale population movements. In such cases, there is often a clear caveat that such a response is only filling a gap until the appropriate agencies can take over – therefore it should both last for a very short period of time and should be handed over immediately to civilian management as soon as it is in place.

These circumstances are extremely rare, with only three such occasions in conflict-related emergencies in the last decade -- Northern Iraq in April 1991; Eastern Zaire in July 1994 and Albania/Macedonia in April 1999.¹¹

Most agencies seem to agree that military support provided in these exceptional circumstances is not ideal, but it is acceptable. However, we lack an analysis of:

1. how often capacity and time are significant issues
2. what organisation determines whether or not the military should directly intervene
3. if the 'exceptional' interventions have actually resulted in significant, appropriate, cost-effective impact for the target populations

Even in these exceptional cases, however, while it may seem initially that the military has the capacity and the competence to initiate a 'humanitarian' response, it is questionable whether the responses were impartial.

There may be rare occasions when the scale of humanitarian need is such that agencies require short-term assistance, military or civil defence resources will be called for only when all of the following criteria are met:

- The military are means of last resort: there is no other humanitarian option.
- There is a significant level of need, as determined by civilian agencies, including the UN.
- Assets and interventions should, if possible, remain under civilian control - civilian humanitarian agencies must avoid operating under the command of the military, for this violates the core principle of independence.
- Interventions are always clearly time-bound.

¹⁰ Partially drawn from 'Draft Guidelines on the use of military and civil defence assets to support UN humanitarian activities in complex emergencies' prepared by the Secretariat of the Guidelines. Process based on inputs provided by the Drafting Committee, Geneva, December 2001.

¹¹ Schenkenberg van Mierop, Ed 'The role of the military in providing security and protection to refugees: some humanitarian NGO views' Presentation at a seminar on "The role of the military in refugee camp security – policy and practice" 10-12 July 2001, Eynsham Hall, England

We recommend that the interventions that do take place in exceptional circumstances be independently evaluated.

3.2.3 Use of Armed Military Escorts/Protection for Humanitarian Staff and Goods:

Position: Humanitarian agencies will only use military armed protection as a last resort in extreme circumstances, according to the criteria listed below.

The use of armed military protection for aid workers and assistance remains highly controversial. It can violate humanitarian principles and can endanger both aid workers and local populations. While humanitarian agencies do use this protection on rare occasions, this is only in *extreme circumstances*.

NGOs only use armed protection on a regular basis in four of the approximately 55 conflict-affected countries world-wide, including Northern Iraq, Somalia, Russia (Ingushetia/Chechnya) and northern Kenya. Agencies also occasionally use armed escorts on a case-by-case basis in either volatile security situations that may require rapid assessments or if an escort is required at a border (for example, between Pakistan and Afghanistan).¹²

International peacekeeping protection is possible only in East Timor, Eritrea/Ethiopia and Sierra Leone (UN mandated missions) and Bosnia, Kosovo and Macedonia (NATO-led). Currently, humanitarian NGOs do not use peacekeeping escorts in any of these countries.

□As a rule, humanitarian agencies do not use armed protection as it potentially compromises impartiality.¹³ This is particularly the case if the protection is not provided by a 'neutral force.'

□The decision to request or accept the use of military or armed escorts should wherever possible be made by humanitarian organisations, not political or military authorities, based solely on humanitarian criteria.

□'Parties to the Conflict' – including peacekeeping forces to the extent that they may also be seen as 'parties to the conflict' – should not be used, unless under extreme circumstances, and in all cases, international humanitarian law should be respected.

There are certain exceptional circumstances where the use of military or armed escorts is accepted. These are where there are considerations of:

¹² The United Nations humanitarian convoys use military or armed escorts in 7 of the 22 complex emergencies where OCHA is currently involved. (*Use of Military or Armed Escorts for Humanitarian Convoys, Discussion Paper and Non-Binding Generic Guidelines*⁴; OCHA, Draft of December 2001).

¹³ Although the principle of impartiality, rather than neutrality, is highlighted here, neutrality is also a key concept for humanitarian agencies.

4.Sovereignty – If the sovereign power or local authorities are unwilling or unable to provide a secure environment

5.Need – If humanitarian assistance cannot be delivered without the use of armed or military escorts and the lack of such assistance would lead to unacceptable human suffering.

6.Safety – If escorts can provide the credible deterrent needed to enhance the safety of humanitarian personnel and the capacity to provide assistance to intended beneficiaries.

7.Sustainability – If the use of an armed or military escort would not compromise the longer-term capacity of the organisation safely and effectively to fulfil its official mandate.

8.Impact – If, there is no anticipated negative effect on the intended beneficiaries through the use of such a force.

3.2.4 Information Sharing

Position: Certain types of information can and should be shared between humanitarian agencies and the military, as described below.

While there is some agreement that information sharing with international military forces is both necessary and appropriate, there is a need to clearly define **what types of information** should and should not be shared. As the Swiss Agency for Development and Cooperation (SDC) points out in its draft position paper, ‘there is no question that in many situations, especially those involving internal conflict and war, that this information has military or political value to some actors.’

Information sharing could be acceptable on the following issues:

- 1)Security conditions
- 2)Conditions in shared space (transport, aid movements, common use airfields, etc)
- 3)General estimates about the scope of the emergency

Information should not be shared if it could, in any way, endanger communities or risk staff security.

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SCHR Position Paper on Humanitarian-Military Relations

Annex A: Existing Policy among SCHR Agencies

Agency	Official Policy	Policy References
ICRC	TRUE	<ul style="list-style-type: none"> □ Studer, Meinrad, 'The ICRC and Civil-Military Relations in Situations of Armed Conflict', ICRC Humanitarian Debate: Law, Policy, Action, June 2001, Vol. 83, No 842 □ Tauxe, Jean-Daniel, 'The ICRC and civil-military cooperation in situations of armed conflict', 45th Rose-Roth Seminar, Montreux, 2 March 2000. □ ICRC Guidelines for Civil Military Co-operation, Date unknown
CARE	TRUE	<ul style="list-style-type: none"> □ 'A Policy Framework for CI's Relations with Military and Paramilitary Forces'; CARE International, Draft: 12th October 2000 □ Mayhew, Barney; 'CARE International's Relationship with the Military: Draft Discussion Paper', '5 February 2000. □ Pelton, Emily 'Mission Creep?...Peacekeepers' Influence on Humanitarian Aid Delivery in Kosovo and East Timor', CARE Policy and Advocacy Unit, August 15, 2000 □ Ian Smillie, 'Civil-Military Cooperation in Complex Emergencies', June 2000 (commissioned by CARE Canada)
OXFAM	FALSE*	<ul style="list-style-type: none"> □ Stockton, Nick, 'Can you Herd Cats? (and should you even try?)', Speaking Notes, Wilton Park Conference, 23 April 2001 □ Smith-Lomas, Paul, 'Steering Committee for Humanitarian Response: The Roles of Civilian Humanitarian Agencies and the Military in Humanitarian Crises'
SCF	FALSE*	<ul style="list-style-type: none"> □ Aaronson, Mike, 'NGOs and the Military in Complex Emergencies: The New Realities -- the NGO Perspective'; Save the Children UK Paper Presented at the Wilton Park Conference 23 April 2001 □ Barry, Jane, 'A Bridge too far: Humanitarian Agencies and the Military in Humanitarian Response', ODI Network Paper, February 2002.
MSF	FALSE*	<ul style="list-style-type: none"> □ Terry, Fiona; 'Military Involvement in Refugee Crises: A Positive Evolution?', MSF-France (date unknown) □ 'Intervention, Protection and Humanitarian Assistance at a Crossroads', Paper delivered by Joelle Tanguy, US Executive Director, MSF at the World Affairs Council, San Francisco; 28 March 2000
WCC	TRUE	'The protection of endangered populations in situations of armed violence: toward an ecumenical ethical approach,' <i>Adopted by The Central Committee of the World Council of Churches, in Potsdam, 29 January – 6 February 2001</i>

False*: no formal published policy, but does have draft policies and discussion papers.