

VENRO position paper

Armed forces as humanitarian aid workers?

**Scope and limits of co-operation
between aid organisations and armed forces
in humanitarian aid**

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1. INTRODUCTION

In the context of humanitarian aid, the involvement of national and multinational armed forces has been extended considerably since the end of the East-West Conflict. Since humanitarian aid is traditionally provided by private, politically independent humanitarian aid organisations, the points of contact between non-governmental organisations (NGOs) and armed forces have also increased over the last few years. Experience in Somalia, Bosnia, Kosovo or Afghanistan has shown that linking up military aims and humanitarian aid is very problematic, especially when it comes to armed conflicts. The question whether and how aid organisations and armed forces can co-operate is not so much a practical but a political issue.

The aid organisations represented by the Association of German Development NGO's (VENRO) have played a constructive role in helping to develop the discussion process that has been underway at the level of the "Co-ordinating Committee for Humanitarian Aid" since June 2000 with its two position papers "Humanitäre Hilfe von Staats wegen?" (June 2000) and "Zum Verhältnis zwischen humanitären Hilfsorganisationen und Streitkräften in Naturkatastrophen und Konflikten im Ausland" (September 2001).¹ The policy document on hand, which forms a continuation of the two above-mentioned statements, represents a detailed political positioning of the German aid organisations regarding the scope and limits of co-operation with armed forces in humanitarian aid. To this end, the normative foundations and humanitarian principles as established in international humanitarian law are explained first of all. The extension of military involvement in humanitarian aid at the level of the United Nations, NATO, the European Union and Germany is analysed in the second section. In the next chapter, a number of cases are referred to for an account of experience that aid organisations have gathered so far in co-operating with armed forces. Issues of principle regarding civil-military co-operation in humanitarian aid and the description of guidelines already in place for such co-operation are at the forefront of the subsequent chapter. The final chapter consists of conclusions and recommendations. This document focuses mainly on co-operation with armed forces in the context of armed conflicts, for such conflicts are far more problematic than natural disasters in terms of the relationship between aid organisations and armed forces in their political and practical impact on the work of non-governmental organisations (NGO).

Since editing of this policy document was completed in the spring of 2003, i.e. shortly after the Iraq War had started, military intervention in Iraq and its effect on international humanitarian aid could not be considered in the framework of the document. However, without the intention of anticipating a final assessment of this state of affairs, it already became apparent in the spring of 2003 that the US Defence Secretary's plans to "embed" humanitarian aid in the USA's military strategy both during the war and the post-war phase in the framework of the "Freedom for Iraq" operation represent a continuation of the tendency towards a militarisation of humanitarian aid as described in the following. Thus, to a growing degree, humanitarian aid is becoming an integral element of political and military intervention strategies and is intended to support, flank or legitimise them. So the activities of aid organisations are increasingly running the risk of becoming subordinated to a prescribed political and military logic.

¹ Cf. <http://www.venro.org/publikationen/einzelveroeffentlichungen.php>

2. NORMATIVE FOUNDATIONS AND HUMANITARIAN PRINCIPLES

Humanitarian aid is performed first and foremost by private aid organisations that act autonomously and politically independently in accordance with their philosophy and legal status and are committed solely to the humanitarian imperative and international humanitarian law. The normative foundations of humanitarian aid are above all based on the relevant regulations of the 1949 Geneva Convention, the supplementary protocols of 1977 and customary international law as well as the principles that the International Committee of the Red Cross (ICRC) and the International Red Cross and Red Crescent Movement have developed in the course of their nearly 150 years of history. However, an almost inflationary use is being made of the term “humanitarian” in political discourse. Occasionally, this results in the creation of paradox phrases such as the term of “humanitarian” intervention or NATO spokesman Jamie Shea’s reference to “humanitarian” bombs in connection with the Kosovo War. In the last few years, the uncritical use of this term has also resulted in harnessing humanitarian aid for political purposes. There is hardly a better example to symbolise this than the simultaneous dropping of bombs and aid by US military planes in Afghanistan towards the end of 2001, which was referred to by the responsible authorities as a “humanitarian” operation flanking military action. Harnessing aid in this manner can jeopardise victims and aid workers alike, for humanitarian aid is frequently only permitted by the conflict parties if it is not regarded as political interference with a conflict. So the term “humanitarian” should not be used randomly or, worse still, harnessed for political purposes. Rather, its application has to meet certain standards.

2.1 What is “humanitarian”?

Humanitarian aid addresses the victims of crises and disasters. It is aimed at saving lives and mitigating human suffering and is performed independently of the victims’ ethnic, religious and political affiliations. Humanitarian aid is based on principles describing what is humanitarian and what is not. The International Red Cross and Red Crescent Movement applies the following definition:

Measures are humanitarian if they meet the principles of neutrality, impartiality and independence. Aid measures that do not do this are not humanitarian, regardless of any well-meaning intentions and their effectiveness.²

Since armed forces are subordinated to a political mission, the military cannot be neutral, impartial or independent and is therefore not perceived as a humanitarian actor by the conflict parties. Thus the concept of “humanitarian” intervention is misleading and a contradiction in terms too, since, on the one hand, political and military aims are semantically associated with humanitarian activities, and on the other, since military interventions ought to be aimed at those causing victims, while humanitarian aid workers care exclusively for the victims. United Nations (UN) Secretary-General Kofi Annan also pointed out this Babel of languages when he said: “Let’s get right away from using the term humanitarian to describe military operations.”³

2.2 Normative foundations

In accordance with international humanitarian law, it is up to the international community of states to ensure that the framework of international law is observed for the benefit of protecting the civilian population and the aid organisations. With international humanitarian law, the international community of states has agreed on rules to humanise war. In accordance with customary international law, these comprise in particular the protection of the civilian

² Editors’ translation, cf. German Red Cross, p. 28.

³ United Nations, p. 3.

population, treatment of prisoners of war and access to victims of conflicts by independent and neutral aid organisations. The normative foundations for humanitarian aid are above all provided by the 1949 Geneva Convention, which was ratified by 190 states, and the two Additional Protocols of 1977, which were ratified by 161 and 156 states respectively. Together, the above-mentioned agreements form the most important set of regulations in currently applicable humanitarian international law. The states have thus committed themselves to complying with these rules themselves and commonly asserting that they be observed.

The two Geneva Convention Additional Protocols of 1977 define humanitarian aid as impartial. In accordance with Article 70, Paragraph 1 of Additional Protocol I of the Geneva Conventions, “relief actions which are humanitarian and impartial in character and conducted without any adverse distinction shall be undertaken, subject to the agreement of the Parties concerned in such relief actions. Offers of such relief shall not be regarded as interference in the armed conflict or as unfriendly acts.”⁴ Article 18, Paragraph 2 of Additional Protocol II also underlines impartiality as a precondition for humanitarian aid:

“If the civilian population is suffering undue hardship owing to a lack of the supplies essential for its survival, such as food-stuffs and medical supplies, relief actions for the civilian population which are of an exclusively humanitarian and impartial nature and which are conducted without any adverse distinction shall be undertaken subject to the consent of the High Contracting Party concerned.”⁵

It can be deduced from these treaties of international law that aid that is not impartial because, for example, it gives preference to a certain section of the population, should not be referred to as humanitarian.

2.3 Humanitarian principles

Beyond this framework of international law, humanitarian aid is committed to the humanitarian principles as set down in the “Code of Conduct for the International Red Cross and Red Crescent Movement and NGOs in Disaster Relief”⁶. In particular, this means that aid exclusively serves the purpose of mitigating an existing humanitarian crisis; aid is given regardless of ethnic affiliation, religion, nationality, political conviction, sex or other distinguishing characteristics of those affected and exclusively according to their needs; it will not be used to further a particular political or religious standpoint; the humanitarian activities of the aid organisations are independent of politics and governments.

This impartiality of aid organisations is an indispensable prerequisite for access to the “victims” on all sides of a conflict; it cannot be ensured by state authorities but only by private aid organisations acting independently of the state. In countries such as Liberia, North Korea, Burundi, Congo, etc., independent aid organisations were even granted access to the suffering population when all organisations with a political mandate were barred. The ICRC is only granted access to prisoners of war by the conflict parties thanks to its recognised neutrality.

As soon as state policy questions the impartiality of humanitarian aid organisations or restricts or influences them regarding its political interests, which means

⁴ 1. Additional Protocol of the Geneva Conventions of the 12.8.1949 on the Protection of Victims of International Armed Conflicts (Protocol I), http://www.admin.ch/ch/d/sr/c0_518_521.html

⁵ 2. Additional Protocol of the Geneva Conventions of the 12.8.1949 on the Protection of Victims of Non-International Armed Conflicts, http://www.admin.ch/ch/d/sr/c0_518_522.html

⁶ Cf. International Federation of the Red Cross and Red Crescent Societies, <http://www.ifrc.org/publicat/conduct/>

harnessing them for its own interests, humanitarian aid loses its basic precondition: its impartiality.⁷

Since the military is always pursuing a military mission, armed forces cannot act in a neutral, impartial and independent manner. Neither are they perceived by the conflicting parties as such. Calling for maintaining the independence of humanitarian aid, a demand that has above all been raised again and again by aid organisations, is not unworldly going on about principles but represents a political principle with a specific impact on the implementation of humanitarian aid measures.

⁷ Editors' translation, cf. VENRO 2000, p. 2.

3. INCREASE OF MILITARY INVOLVEMENT IN HUMANITARIAN AID

3.1 Changing framework conditions

Since the end of the East-West Conflict, the foreign and security policy framework conditions have changed considerably for humanitarian aid. With the end of bloc confrontation, a number of inter-state and internal state conflicts developed, and states began to disintegrate, accompanied by new forms of violence, such as in Yugoslavia, Afghanistan and Sierra Leone. The aim of the warring factions is not necessarily always that of military victory, but it may also be control of raw material deposits, production plants and, to a degree, resources brought into a country via humanitarian aid.⁸ In the 1990s, the increase in inner-state conflicts resulted in a significant increase in expenditure on humanitarian aid in post-conflict situations. This development also had a considerable impact on the framework conditions for humanitarian aid: in several crisis regions, aid for war victims is being provided more and more frequently in the theatre of war itself, and in the new civil wars, violations of the standards set by humanitarian international law and blurring of the distinction between combatants and the civilian population are occurring constantly. More and more frequently, the staff of aid organisations are being targeted by the conflict parties, too. In those conflict regions that are of hardly any economic or strategic interest to the global powers, such as in Rwanda, Sudan or Afghanistan, humanitarian aid often becomes a substitute for (a lack of) political action. In an exaggerated manner, the consequences of a political dichotomy of states that are, or are not, of interest in terms of geopolitics or foreign trade can be put as follows: “The rich get diplomats, the poor get aid workers”⁹.

In parallel to this development, the effort on the part of the international community of states to maintain peace internationally has also increased significantly. Between 1991 and 2001, the United Nations Security Council deployed a total of 36 peace missions, almost three times as many as over the previous period of 40 years. These peace missions bore considerable deficits in terms of their mandate, planning and implementation and resulted in a series of grave failures, e.g. in Somalia, Rwanda und Bosnia-Herzegovina, that also had serious consequences for humanitarian aid in these regions. Recently, military interventions have been referred to more and more as a precondition for humanitarian aid, e.g. in Kosovo in 1999 and in Afghanistan in 2001. The demand for military protection of humanitarian aid is a new phenomenon and is being raised mainly by political decision-makers, whereas, in most cases, aid organisations were able to ensure their safety with strategies of their own prior to the end of the Cold War.

The increase in military involvement in the context of humanitarian aid becomes apparent at the following levels:

3.2 The United Nations

Since the end of the East-West Conflict, points of contact between aid organisations and armed forces in humanitarian aid have arisen mainly in the context of UN peace missions. Here, a distinction has to be made between peacekeeping in accordance with Chapter VI of the United Nations Charter and peace enforcement in accordance with Chapter VII. In some of these operations, humanitarian aid was an integral element of the mandate, whereas in others, it was not. In most of these peace missions, military UN staff were either directly or indirectly involved in humanitarian aid.

Towards the middle of the 1990s, the United Nations peacekeeping missions slipped into a deep legitimacy crisis that was aggravated by the failures in Somalia, Rwanda and Bosnia. It was for

⁸ Cf. Kaldor, p. 111; Münkler, p. 153pp.

⁹ Macrae 2002, p. 11.

this reason that a concept of multidimensional peace operations was devised in the second half of the 1990s. In this concept, human rights, peace-promoting and humanitarian goals were to be linked at the conceptual and operative level under the heading of “coherence”. In 2000, the Brahimi Commission appointed by UN Secretary-General Kofi Annan submitted a report on the improvement of UN peace missions. This report suggests radical reforms in the political, military, financial and staff sector to ensure that the UN peace missions are more successful and credible in the future. The most important recommendations of the Brahimi Report refer to a clear formulation of the mandate for peacekeeping forces and the provision of the staff and material resources required to fulfil such missions. What is noteworthy in this report is the fact that humanitarian aid is regarded as an element of conflict transformation:

The Brahimi report presents an extreme example of the merging of humanitarian aid and political agendas by suggesting a need for an overarching command-and-control structure that uses humanitarian aid as simply a ‘tool in the toolbox’ of conflict management.¹⁰

The debate over the concept of the “Strategic Framework” in Afghanistan, with which co-ordination between UN organisations and private aid organisations at local level was to be improved and all measures were to be oriented on a uniform strategy, is a further example of the coherence approach, which turns humanitarian aid into an instrument of foreign and security policy. The conceptual challenges that this integration of different approaches in a uniform conflict resolution strategy poses for the humanitarian UN organisations could be observed in Angola. Following the cessation of civil war in Angola in 2002, the attempt was made to subordinate humanitarian aid to political objectives on the basis of such a holistic approach. But this meant that the aid organisations no longer had unrestricted access to the victims.

The remarks made by US President George W. Bush in the spring of 2003 in connection with the Iraq crisis that the United Nations was on the verge of becoming irrelevant suggest that the UN tends to have a subordinate role in the architecture of international security. The military mission of the coalition headed by the USA in Afghanistan and NATO in Kosovo already showed that the United Nations had to accept a considerable loss in significance in spite of its responsibility for world peace and for maintaining international security as enshrined in the UN Charter. The model of a global division of labour, which the media occasionally abbreviate with “The US fights, the UN feeds, the EU funds”, would certainly also have far-reaching consequences for the humanitarian actors, further reference to which, however, will not be made here.

3.3 The North Atlantic Treaty Organization (NATO)

After the threat posed by the confrontation of the two blocs had ceased and the failure of the UN peace missions in the early 1990s, NATO became increasingly involved in the area of peace missions, e.g. in the context of the IFOR and SFOR peacekeeping troops in Bosnia-Herzegovina and KFOR in Kosovo as well as “Operation Fox” in Macedonia. In April 1999, NATO introduced its new “Strategic Concept”, which provides for a wider range of tasks for NATO. On the basis of this new concept, NATO can engage in extended, “out of area” crisis management and can also mandate itself for combat missions. In Article 49 of the new “Strategic Concept”, humanitarian emergencies are explicitly referred to as a demand on NATO: “In contributing to the management of crises through military operations, the Alliance’s forces will have to deal with a complex and diverse range of actors, risks, situations and demands, including

¹⁰ Barry / Jefferys 2002, S. 8.

humanitarian emergencies.”¹¹ The new “Strategic Concept” was already applied in the spring of 1999 in the framework of NATO’s unilateral intervention in the Kosovo conflict. A further step towards the transformation of the alliance was made with the setting up of the “NATO Reaction Forces” (NRF) at the NATO Summit in Prague in November 2002. This NATO rapid intervention unit is to be operational by the end of 2004, consisting of around 20,000 elite soldiers who can be deployed anywhere in the world within a matter of days. However, increased unilateralism on the part of the USA in the wake of 11.9.2001 has resulted in NATO’s not playing a substantial role either in planning or implementing the military interventions in Afghanistan and Iraq.

Reaching beyond this strategic reorientation, NATO developed a new concept in 2000. “Civil-Military Cooperation” (CIMIC) describes co-operation between military sections and civil authorities and institutions. CIMIC, the range of tasks of which also includes humanitarian aid according to NATO’s military interpretation, is nothing else than civil support measures to back up military operations. One of CIMIC’s chief purposes is “force protection”, supporting troops by creating optimum relations and conditions in overseas missions. This can also include direct support services in the area the troops have been deployed in. For example, members of the NATO troops were involved in aid measures for the refugees in Albania and Macedonia.

3.4 The European Union (EU)

In the 1997 Treaty of Amsterdam, the European Union (EU) resolved to set up a Rapid Reaction Force (RRF). This EU force is to number a total of 60,000 troops and became operational for the first time in Macedonia on the 31st March 2003. Under the title EU Mission Concordia, around 350 troops are securing the Peace Treaty of Ohrid, which put an end to Macedonia’s internal conflict with the KLA rebels. This mission represents a further step towards the European Union’s visible ability to take action in the area of foreign and security policy. Generally, the mandate of this EU intervention force is outlined in the context of the so-called “Petersberg Tasks”: “humanitarian and rescue tasks, peacekeeping tasks, and tasks of combat forces in crisis management, including peacemaking.”¹² The EU Member States have repeatedly announced their readiness to implement the RRF. Although it is as yet unclear how the humanitarian tasks mentioned in the Petersberg Tasks are to be operationalised, what has already become apparent is that the EU intends to extend its competencies in the area of foreign and security policy. Indications of this are Javier Solana’s appointment as EU High Commissioner for Foreign and Security Policy in 1999, the setting up of an EU Situation Report Centre that is manned round the clock with civilian and military staff and the draft EU Convention, in which elements of a common foreign and security policy are to be extended. However, it is as yet completely unclear how the tasks of the Rapid Reaction Forces are to be delimited from the activities of the NATO Reaction Forces in a specific case.

3.5 Germany

The range of activities of the German Federal Army has also been extended considerably since the early 1990s. Since the ruling by the Federal Constitutional Court of the 12th July 1994 on the constitutionality of Federal Army “out of area” missions, the Federal Army has taken part in a military capacity in around 20 missions abroad. The geographical focus of the Federal Army’s “out of area” deployments is the Balkans. In the meantime, the Federal Army has assumed the leading role for NATO’s mission in Macedonia in the context of the NATO Fox 2002 operation. And, in February 2003, together with The Netherlands, it took on leadership of the International

¹¹ NATO, The Alliance’s Strategic Concept Approved by the Heads of State and Government participating in the meeting of the North Atlantic Council in Washington D.C. on 23rd and 24th April 1999, cf. <http://www.nato.int/docu/pr/1999/p99-065e.htm>

¹² Cf. Barry / Jefferys, p. 6.

Security Assistance Force (ISAF) in Afghanistan. In addition, the Federal Army has committed itself to providing around 18,000 troops for the EU Rapid Reaction Forces as from 2003. The costs of deployment abroad amounted to around 1.6 billion euros in 2002, representing a tenfold increase compared to 1998.¹³ There are growing signs that the Federal Army has reached or even overstretched its capacity limits in its large number of missions abroad. Even if this appears to speak more for restricting the Federal Army to its core tasks, the reorientation of the Federal Army is in full swing, especially in the wake of the terrorist attacks on the USA in September 2001. The Federal Army is consistently being turned into an intervention army, and in the spring of 2003, the Federal Government will be submitting new “Defence Policy Guidelines” in which crisis management is to replace national defence. The creeping extension of the Federal Army’s mandate culminated in Federal Defence Minister Peter Struck’s statement towards the end of 2002 that, with a view to the new threats posed by terrorism, the security of the Federal Republic was also being protected in the Hindu Kush.¹⁴ In public, the restructuring of the Federal Army is again and again being justified by referring to new challenges in the area of crisis management, including humanitarian aid.

The Federal Army has developed its own CIMIC concept that is strongly oriented on the NATO concept. In parts of the Federal Army, there is increasing mention of CIMIC instead of humanitarian aid, and at the same time, it is stressed that CIMIC’s objective differs from that of humanitarian aid.¹⁵ The new sub-concept for “Civil-military Co-operation of the Federal Army” of 2001 states in clear terms that the CIMIC area is to be extended. The Federal Army is also represented with strong CIMIC units in the framework of its ISAF contingent in Afghanistan. Now, the Federal Army is even being provided with public funds from the Humanitarian Aid Planning Staff at the Foreign Office, e.g. for house repairs in Afghanistan.

The term “humanitarian” continues to be used in an undifferentiated manner in Germany. The Coalition Agreement of the Red-Green Federal Government of the 16.10.2002 also lists the following as tasks of the Federal Army: “National and Alliance defence and international conflict prevention and crisis management in the framework of the United Nations Charta, including humanitarian missions and evacuations.”¹⁶

¹³ Cf. the Federal Government’s reply to the minor interpellation of the PDS, Bundestagsdrucksache 15/176.

¹⁴ Cf. press release of the Federal Ministry of Defence of the 5.12.2002, http://www.bmvg.de/sicherheit/021205_pk_projekte.php

¹⁵ Braunstein, p. 47.

¹⁶ Cf. “Erneuerung, Gerechtigkeit, Nachhaltigkeit“, www.spd.de/servlet/PB/show/102394/Koalitionsvertrag.pdf, 16.10.2002.

4. CASES OF THE INVOLVEMENT OF ARMED FORCES IN HUMANITARIAN CRISES

Since the beginning of the 1990s, several humanitarian crises have occurred in which the military has been directly involved and in which massive problems have developed in co-operation between armed forces and aid organisations.

4.1 Iraq, 1991

In April 1991, following a UN Security Council resolution, a major emergency aid operation was carried out on the Iraqi-Turkish border that could only be accomplished with support provided by the military's air-force transport capacities. In this case, co-operation between the military and aid organisations did not cause any serious damage because the Western powers were able to dictate their political and military terms to Iraq following their victory in the Gulf War and humanitarian aid could therefore be performed in a relatively stable security policy environment. However, access for aid organisations to the victims on the Iraqi side was no longer possible once the military operations had commenced. In spite of this, the military mission was initially hailed as an example of a successful "humanitarian" intervention. But this was to change very soon.

4.2 Somalia, 1992

A further "humanitarian" intervention was carried out in Somalia in 1992 and failed miserably. The intervention in Somalia in the framework of the "UN Operation in Somalia" (UNOSOM II) in 1992 represented the first linking up of a mandate for a Peacekeeping Mission in accordance with Chapter VII of the Charter with the exercising of military force for decades. And Somalia was the first case of a military intervention having the declared goal of protecting humanitarian aid. Incidentally, there was no mention of the Somali victims of the civil war in this context. In August 1992, television companies started to broadcast pictures of starving children, putting pressure on politics to take action ("CNN Effect"), although by then, the worst famine was already over in Somalia. In the course of this campaign, the Peacekeeping Mission increasingly turned into a conflict party, and from 1993 on, UNOSOM II was in a state of open war with one of the Somali civil war parties. At the same time, the US-led military "Operation Restore Hope" attempted to hunt down clan-leader General Aidid. The hostility this triggered among the Somali population subsequently jeopardised the aid organisations, since they were directly associated with the military campaign. The USA's military and political strategy was pursued without any consideration of the devastating impact it had on the work of the aid organisations and the conditions they were working in. After 18 US soldiers had been killed in battles with Somali militia towards the end of 1993, the USA withdrew from Somalia in 1994 and left the aftermath of the failed intervention to be sorted out by the international aid organisations.

The Federal Army had a very difficult task in Somalia. It had been commissioned to secure supplies for a unit of Indian soldiers in Belet Huen. But they never came. A small number of Federal Army troops then engaged in aid projects such as providing the local hospital with medicaments and instruments. In addition, the Federal Army provided purified drinking water for the population for some months. However, this aid ended abruptly when the Federal Army was pulled out of Belet Huen. Experience made in Somalia by the Federal Army has demonstrated that a hospital that has been efficiently supported in military terms or a technically perfect well will only be sustainable, and therefore of any help, as long as the foreign troops remain present. Humanitarian aid is more than technology and logistics. It is about protecting people with a view to achieving context-appropriate and, whenever possible, sustainable aid.

4.3 Bosnia-Hercegovina, 1992

In their initial stages, the “UN Protection Force” (UNPROFOR) operations in ex-Yugoslavia featured classic peacekeeping missions. However, the UN soldiers soon found themselves between the fronts, were taken hostage and had to look on helplessly as the events in this civil war progressed. In the wake of the Srebrenica tragedy, responsibility for military peacekeeping was handed over to NATO in the autumn of 1995. The failure of military peacekeeping had a negative impact on humanitarian aid in Bosnia-Hercegovina. When UNPROFOR took the military offensive in 1994/95, which was followed by NATO air strikes, aid organisation staff were also taken hostage or killed. The humanitarian aid operations suffered bitter setbacks owing to the failed peacekeeping mission, which clearly demonstrated the danger of too close a military-humanitarian co-operation. Separating military peacekeeping from humanitarian aid was then implemented by the follow-up mission, IFOR, which was under NATO’s command. The humanitarian organisations were to remain independent of the political and military conflict. One of the lessons learnt in the Bosnian conflict was that humanitarian organisations that are held to be biased run the risk of being attacked. UNPROFOR attempted to carry out a large number of minor humanitarian operations but failed to perform its true mission of guaranteeing security e.g. in the UN-protected areas such as Srebrenica. Thus it would follow that, rather than becoming involved in “humanitarian” operations, the armed forces should concentrate solely on their military objectives.

4.4 Rwanda, 1994

Since 1993, the “United Nations Assistance Mission for Rwanda” (UNAMIR) was supposed to monitor the implementation of the Arusha Agreement between the Rwandan Patriotic Front (RPF) and the Rwandan Government. The UN Security Council had decided to raise the UNAMIR contingent to 5,000 troops. But when genocide began in April 1994, the Belgian Government, which had provided the largest UNAMIR contingent, opted for a withdrawal of the Belgian troops. Up to June 1994, the Security Council stubbornly refused to use the term “genocide” and draw the corresponding conclusions from such an appraisal of the factual situation. Finally, the UN Security Council authorised the deployment of French-headed peacekeeping troops with a strictly “humanitarian” mandate, “Operation Turquoise”, in order to secure supplies for internally displaced people in south-western Rwanda via a “humanitarian corridor”. For one thing, these “humanitarian” interventions came too late to stop the genocide, and second, France, under the command of which this military operation was carried out, was pursuing its own political objectives and was therefore regarded as a conflict party by the RPF.

The Rwanda conflict represented a turning point in humanitarian aid. In Rwanda, genocide was announced and carried out according to plan, while 90 percent of the UN soldiers stationed in the country were withdrawn at the height of the genocide campaign. The international community of states subsequently responded with massive humanitarian aid to support the roughly two million people that had fled the country. Since victims and perpetrators were not separated in the refugee camps, the Hutu militia were able to start mobilising again in these camps. The peacekeeping mission in Rwanda was a spectacular failure in terms of one of the military’s core tasks, that of restoring security and order and protecting the civilian population. In some cases, genocide was committed with the UN soldiers looking on.¹⁷ So it came as no surprise that the new Rwandan Government, which was dominated by the RPF, declared that UNAMIR was obviously biased and demanded that it be withdrawn, which it was in 1996.

¹⁷ Cf. Faber, p. 293.

4.5 Kosovo, Albania and Macedonia, 1999

NATO's "Allied Force" operation against Yugoslavia from March to June 1999 was not based on a UN Resolution but was a unilateral NATO intervention that was justified in public as a "humanitarian" war aimed at protecting human rights and as aid benefiting sections of the population that were under threat. It was only when the air strikes were suspended on the 10.6.1999 that the UN Security Council deployed the "United Nations Force" (UNFOR) and the "United Nations Interim Administration Mission in Kosovo" (UNMIK), authorising the NATO intervention belatedly. The "humanitarian" objectives of this intervention, i.e. improving the situation of the refugees and safeguarding human rights, were, to a large degree, not achieved. However, the military intervention resulted in massive security problems. Since the refugee camps in and around Blace and Kukes were situated close to the Yugoslav border and had been set up by NATO soldiers, they represented a legitimate target for the Yugoslav Army. This functional change in NATO's role of simultaneously acting as a warring faction, an instrument in implementing global political order and a humanitarian organisation has resulted in a further intermingling of politics and humanitarian aid.

The military intervention against Yugoslavia by the North Atlantic Treaty Organization (NATO) in March-June 1999 on behalf of the Albanian population of Kosovo represents the final disappearance of the narrowing divide between humanitarianism and politics: a war initiated for humanitarian principles.¹⁸

One of the rare evaluations on the role and the activities of the military in the context of humanitarian aid arrives at the result that there was no requirement for the Federal Army to operate in the refugee camps in Macedonia:

Technically, it was not necessary to have the German soldiers build these camps - a local contractor and local labour in co-operation with NGOs and the refugees themselves were clearly capable of doing so; politically, the German alternative was the easiest solution.¹⁹

Both in Albania and in Macedonia, the Federal Army was commissioned to set up one liaison office each for German humanitarian aid in the early stages of aid measures. In Kosovo, which only became accessible later on, this role was performed right from the onset by a representative of the Foreign Office. Given the extent of the refugee crisis, the Federal Army was of major assistance in setting up and equipping the refugee camps in Albania and Macedonia. However, it proved overtaxed in terms of skills and capacity in running the refugee camps. The Federal Army's role in the context of humanitarian aid in Macedonia would have resulted in considerable political problems in the long run, for Macedonia's Slavic population and the Serbian population of Kosovo, with which it is closely affiliated, felt neglected by the international community. This was above all attributed to the NATO troops involved in the Kosovo war, so that the Federal Army, which was interested in stabilising Macedonia, was at the same time rejected or even regarded with hostility by the Slav majority.

4.6 Afghanistan, 2001

Following the withdrawal of the Soviets from Afghanistan towards the end of the 1980s, the Afghans were more or less abandoned to their own fate for more than ten years. The terrorist attacks of the 11.9.2001 and the US war against international terrorism once again brought Afghanistan onto the international political agenda. At the same time as military targets were

¹⁸ Woodward, p. 331.

¹⁹ UNHCR 2000, p. 114.

bombarded²⁰ in Afghanistan, food and medicaments were dropped from planes. Those responsible for this dropping referred to it as a “humanitarian” operation flanking military action. By dropping aid packages, political support was to be gained in Afghanistan and throughout the rest of the world. Given that they were clearly part of war propaganda, these operations did not represent humanitarian aid but constituted an intermingling of military objectives with humanitarian aid. When the bombing campaign commenced, many aid organisations had to suspend their work in Afghanistan for security reasons and leave the country for three months, while others continued their activities with local staff. When war broke out in October 2001, the borders with the neighbouring countries were sealed and the suffering Afghan people were prevented from fleeing the hostilities.

The flanking measures of the US military represented a classic “hearts and minds” operation to rally support among the Afghan population. “The operation aimed to ensure that the oppressed people of Afghanistan know the generosity of America and our allies.”²¹

From the angle of the aid organisations, random dropping of food packages represented a spectacular violation of humanitarian aid standards:

- it was not those most in need who got the aid;
- the contents of the food packages were not adjusted to the needs of the recipients since they did not correspond to the customary eating habits in the country;
- control of where the aid went was not ensured;
- owing to the explosive remains of cluster bombs, the outward appearance of which made them easy to confuse with food packages, this inappropriate distribution even exposed people who were already suffering to health hazards.²²

The American military’s plans to deploy “Provincial Reconstruction Teams“ (PRT) to a number of Afghan provinces in the spring of 2003 in order to improve the security situation there and support the reconstruction process sets a new precedent for the inadmissible intermingling of military objectives with humanitarian Aid. These PRTs consist of specialised reservists who are supposed to not only co-ordinate reconstruction in Afghanistan but also support it. An initial team called “Civil Military Operation Center” (CMOC) was already formally installed in the provincial capital of Paktia early in February 2003 to rehabilitate schools, wells and health care centres. In addition, CMOC is intended to provide NGOs, international organisations and others with a forum to meet and promote the reconstruction process. Here, it is also worth noting that the projects are not short-term, as has been the case in the past, but have a medium-term horizon.

Moreover, aid organisations repeatedly pointed out last year that the presence of US or British military members in plain clothes (but armed) hinders and jeopardises their activities, since e.g. there might be confusion at checkpoints. When a warlord was arrested by the US military in eastern Afghanistan in mid-February 2003, international aid organisations operating in the region were subsequently threatened with abduction. In Kandahar, the former Taliban stronghold, facilities of aid organisations were hit by bombs and rockets following an intensification of activities by American troops against alleged rebels in the region.

4.7 The terrorist attacks of the 11.9.2001 and their impact on humanitarian aid

As yet, it cannot be accurately forecast what humanitarian impact the “war on terror” is going to have. As far as the USA and other industrialised countries are concerned, the terrorist attacks of

²⁰ However, civil targets were also hit in several cases, such as the warehouse of the International Committee of the Red Cross in Kabul.

²¹ Cited from Barry / Jefferys, p. 7.

²² Editors’ translation, cf. VENRO 2001.

the 11.9.2001 have substantially changed the perception of threats. This is why many of the activities of international politics serve the purpose of the “war on terror”. While the “humanitarian” intervention to protect human rights in Kosovo was already politically controversial, further military interventions against the countries US President George W. Bush has associated with international terrorism (the “Axis of Evil”) could prove to be just as problematic. With the so-called Bush Doctrine, which turns a military pre-emptive strike into a tool of American foreign policy, the US Government has clearly lowered the threshold for the use of force as a means of international politics. The two military interventions in Afghanistan and Iraq have already been justified by the Bush Administration with reference to the “war on terror”. From a humanitarian angle, the concept of pre-emptive self-defence entails three problematic areas: 1. integrating humanitarian aid as a strategic element in the “war on terror” , 2. undermining international law and the monopoly the United Nations has on the use of force and 3. lowering the threshold to exercise force, the victims of which are, as a rule, civilians.²³ Not only do pre-emptive wars violate international law, but they can also set dangerous precedents. For activities are already being carried out in the guise of combating terrorism that ignore human rights, such as in Chechnya, Palestine or Kashmir.

Irrespective of the “war on terror”, the most important humanitarian problems world-wide have remained the same as they were before the 11th September 2001:

Access to populations in need of humanitarian action, negotiating terms of engagement with non-state actors, extracting from belligerents compliance with international norms, strengthening local institutions, and making the necessary links between relief and development needs. Those challenges have not changed as a result of the prevailing constructs through which geo-political events have been understood.²⁴

²³ Torrenté, p. 44.

²⁴ Minear, p. 2.

5. SCOPE AND LIMITS OF CO-OPERATION BETWEEN AID ORGANISATIONS AND ARMED FORCES

Humanitarian aid organisations are committed solely to the humanitarian imperative, while armed forces are politically bound by instructions and principally follow a military logic. Owing to these different mandates, it is necessary to define the political framework conditions for co-operation between aid organisations and armed forces as accurately as possible.

5.1 General considerations

Subsidiarity

The state supports the services of private aid organisations on a subsidiary basis, i.e. governments and their subordinate authorities do not take operative action if private aid organisations and their partners can cope with a task in the countries affected by crises and disasters on their own and offer a higher level of competency.

Different mandates of aid organisations and armed forces

The state is above all responsible for compliance with the framework set by international law, while the humanitarian aid organisations bear the responsibility for the implementation of aid measures. The task of armed forces on peacekeeping missions is to guarantee or restore security and order. Experience with many political conflicts over the last few years has shown that the international community of states has performed this core role, i.e. protecting the civilian population, insufficiently or has failed to do so altogether. Rwanda, Bosnia and Chechnya can be quoted as examples of such failure.

Against this background, the report of the “International Commission on Intervention and State Sovereignty” (ICISS), which was appointed at the Canadian Government’s initiative in 2000, represents a positive development. It is no coincidence that ICISS called the report, which was published towards the end of 2001, “The Responsibility to Protect”. While this recognises the principle of sovereignty of states, it also restricts their sovereignty by pointing to their responsibility to protect their citizens. In doing so, the report brings the needs of victims of crises and disasters to the fore and explicitly notes that the states bear responsibility for the protection of their citizens:

Its central theme, reflected in the title, is “The responsibility to protect”, the idea that sovereign states have a responsibility to protect their own citizens from avoidable catastrophe – from mass murder and rape, from starvation – but that when they are unwilling or unable to do so, that responsibility must be borne by the broader community of states.²⁵

In the ICISS report, the threshold for military intervention has consciously been set at a very high level. The following criteria are defined that have to be fulfilled if military force is to be exercised:

Large scale loss of life (actual or apprehended), with genocidal intent or not, that is the product of deliberate state action, or state neglect or inability to act, or a failed

²⁵ International Commission on Intervention and State Sovereignty (ICISS), p. VIII.

state situation; or large scale ‘ethnic cleansing’, actual or apprehended, whether carried out by killing, forced expulsion, act of terror or rape.²⁶

Humanitarian aid in natural disasters and in political conflicts

Provided that they are not warring factions themselves, armed forces can perform an important supportive role in unexpectedly occurring or very large-scale emergency situations, especially in the event of natural disasters, e.g. by providing technical services such as transport facilities, rescue equipment, air reconnaissance or mine clearing. In the case of political conflicts, a clear and strict separation of tasks and roles performed by aid organisations from those of armed forces is absolutely essential. Especially in the case of conflicts where there are no clear-cut fronts, the impartiality of the aid organisations and their general acceptance is indispensable in gaining access to the victims and to providing effective humanitarian aid. In no circumstances must armed forces be employed in cases in which a military mission would explicitly clash with the principles of humanitarian action, e.g. NATO in the Kosovo conflict or the US armed forces in Afghanistan. In these cases humanitarian aid could be regarded as a guise under which military objectives were being pursued.

Civil co-ordination

In order to prevent humanitarian aid from being subordinated to political and military strategies by donor countries, which would result in aid organisations losing their credibility in the long run, co-operation or co-ordination between aid organisations and armed forces – should it come about – has to be subject to civil co-ordination, e.g. by the Office for the Coordination of Humanitarian Affairs (OCHA) or the UNHCR in the case of UN missions or institutions representing national government in the case of the breach in the Oder dam or the Elbe floods. From the angle of the aid organisations, the question arises here how the United Nations can once again be bolstered, given the threat of losing political significance, so that the primacy of independent civil co-ordination of humanitarian aid can be maintained.

Viewed from the outside, insisting on these general considerations may seem petty. However, humanitarian aid is increasingly being integrated by the donor countries in their political and military strategies and subordinated to these strategies. This entails the risk of the principles of humanitarian aid, and hence the foundations the activities of aid organisations are based on, being undermined and humanitarian aid losing its credibility in the long run:

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 in the Red Cross Code of Conduct.²⁷

5.2 Existing guidelines on co-operation between aid organisations and armed forces

Setting out from the humanitarian principles, various actors have already attempted to describe the scope and limits of co-operation between aid organisations and armed forces in the shape of guidelines.

The “Oslo Guidelines”

In 1994, the Office for the Coordination of Humanitarian Affairs (OCHA) published the “Oslo Guidelines”, a non-binding document for the UN Organisations that describes civil-military co-operation in technical and natural disasters. In June 2001 a draft version of the “Oslo Guidelines”

²⁶ Ibid., p. XII.

²⁷ Barry / Jefferys, p. 20.

was then published for the area of “complex emergencies”. This latter draft emphasises that military activities should generally not be mixed up with UN activities in humanitarian aid. In addition, if it is employed in the area of humanitarian aid, the military should withdraw from this area as early as possible. Three principles are suggested for civil-military co-operation:

- complementarity, i.e. the military only takes action if the capacities of the civil organisations are insufficient;
- civil control: if military capacities are employed in UN peacekeeping missions, they have to be under civilian control;
- costs: the military generally provides its capacities free of charge.

The “ICRC guidelines for civil-military cooperation”

In a contribution for the “International Review of the Red Cross” of June 2001, three general principles are stressed:²⁸

1. The ICRC is not involved in conflict resolution, and humanitarian activities must not be subordinated to military objectives.
2. The task of the armed forces is the area of security and conflict resolution.
3. The ICRC has to maintain its independence, while, at the same time, it attaches considerable importance to co-ordination at all levels with the armed forces.

The following options are described for co-operation with the military: approval of a dialogue with military and political decision-makers, operative co-operation with peacekeeping forces, use of military resources, participation in military training courses. The publication of detailed ICRC guidelines for civil-military co-operation is scheduled for the end of 2003.

ODI criteria for the assessment of civil-military relations²⁹

The Overseas Development Institute (ODI) makes the following recommendations:

- The debate on civil-military co-operation has to be led primarily from a humanitarian perspective, i.e. all actors are to commit themselves to complying with the humanitarian principles.
- The military activities in humanitarian aid ought to be evaluated independently according to the following criteria: cost-benefit analysis, impact, cultural appropriateness, involvement of the target groups, implications of interventions for the economic, political or social structures, sustainability.
- The various actors are to settle and define how the term “humanitarian” is used and what it refers to. In this context, the ODI draws attention to Swiss legislation in which a conceptual delimitation of military activities from humanitarian activities is formulated: “States and military forces must avoid the use of the term humanitarian when their actions are motivated by political or military objectives, regardless of the benefits to the population.”³⁰

²⁸ Cf. Studer, pp. 387-390.

²⁹ Cf. Barry / Jefferys, pp. 15.

³⁰ Cited from *ibid.*, p. 16.

6. CONCLUSIONS AND RECOMMENDATIONS

The German aid organisations do not generally rule out co-operation with armed forces in the context of humanitarian aid. However, the following principles are of particular importance in clarifying the scope and limits of co-operation between aid organisations and armed forces:

1. The term “humanitarian” must not be used randomly or harnessed for political objectives. Since armed forces have a political mission and are not perceived as humanitarian actors, the separation of military activities from humanitarian aid should also be reflected in political debate.
2. Humanitarian aid is above all provided by humanitarian aid organisations, which act autonomously and politically independently in accordance with their philosophy and which are predominantly committed to the humanitarian imperative and international humanitarian law.
3. Humanitarian aid is committed to the humanitarian principles as set down in the “Code of Conduct for the International Red Cross and Red Crescent Movement and NGOs in Disaster Relief”. In particular, this implies that it exclusively serves the mitigation of an existing humanitarian emergency; it is delivered regardless of ethnic affiliation, religion, nationality, political conviction, sex or other distinguishing characteristics those affected may bear and is afforded exclusively according to their neediness.
It is not used to promote a certain political or religious standpoint; humanitarian activities of the aid organisations are independent of politics pursued by governments. In addition, in the case of German humanitarian aid abroad, the twelve basic principles approved in the then “Discussion circle on Humanitarian Aid” of the 17.06.1993 apply.³¹
4. Armed forces and aid organisations have different tasks and mandates and are guided by different goals, interests and approaches. Being aware of and respecting the respective differences is a precondition for the exchange of information, co-ordination, and/or co-operation if they are operating in the same crisis region.
Whether and to what degree aid organisations and armed forces co-operate depends on the respective specific case and the special circumstances of the humanitarian emergency. Aid organisations have to reject co-operation with armed forces if political or military objectives may jeopardise their activities and their profile, which in turn would question their independence and neutrality.
5. Armed forces can render humanitarian aid services on a subsidiary basis in the event of natural disasters if the civil aid organisations are unable to provide aid measures on their own or quickly enough owing to the extent or the special circumstances of the disaster. The armed forces are deployed under a political mandate. And in the case of natural disasters, a request for aid by the government affected is required, and liaising with national/international organisations operating at local level is desirable.
6. If national or international armed forces take action in conflict situations, the tasks and scope of their military action as well as civil back-up measures accompanying their mission, e.g. measures aimed at raising acceptance among the civilian population, are, as a rule, prescribed by a corresponding political mission. Here, overlapping and points of friction with the activities and goals of humanitarian aid organisations working at local level cannot be ruled

³¹ Cf. http://www.auswaertiges-amt.de/www/de/aussenpolitik/humanitaere_aid/grundregeln.html

out. In this context, armed forces have to respect the independent status of the aid organisations.

Owing to their military objectives, co-operation between aid organisations and armed forces in their civil ancillary measures has to be ruled out for reasons of neutrality and independence of the humanitarian organisations.

7. If both aid organisations and armed forces are active in a humanitarian emergency, information should be exchanged intensively and at an early stage, and measures that may have to be taken need to be co-ordinated. Here, the principles in Item 6.3 have to be observed. In the country affected itself, the responsible overseas representations and/or a civil international organisation commissioned to co-ordinate measures can assume an initiating role. Responsibility for the co-ordination of aid measures at local level ought to lie with a civil international organisation. Civil-state liaison committees can fulfil this role or be set up to do so. In Germany, special sessions of the “Co-ordinating Committee for Humanitarian Aid” are held to this end.
8. The items of the Federal Budget for humanitarian aid and emergency and refugee aid are to be used exclusively to finance the programmes and projects of civil implementing organisations of humanitarian aid.

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organisationen e.V. (VENRO)
Kaiserstr. 201
D-53113 Bonn
Tel: +49 (0) 2 28 / 9 46 77-0
Fax: +49 (0) 2 28 / 9 46 77-99
Email: sekretariat@venro.org
Homepage: www.venro.org

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