

RESPECT FOR HUMANITARIAN MANDATES IN CONFLICT SITUATIONS

INTRODUCTION

Today's multiple and complex humanitarian crises pose challenges to the mandates and response capacities of the United Nations and the international community. The increasing demand for international action in internal conflicts is a reflection of a new dimension in international relations. This booklet describes the current situation and proposes guidelines for action.

PART I

Shared Concerns And Problems Of The Political, Military, Human Rights And Humanitarian Components

The Changing Context

Actions taken by the United Nations Security Council to resolve conflicts, to keep or enforce peace, or to implement peace agreements within national borders, are becoming more and more numerous. Consequently, political, military, human rights, and humanitarian components have become more interrelated in United Nations operations. New methods for cooperation and coordination are required to integrate these components.

Although primarily concerned with political issues, the Security Council is increasingly becoming involved with humanitarian issues. The Security Council, therefore, must be fully and continuously informed of humanitarian concerns, since its decisions have an impact on the implementation of humanitarian mandates.

Humanitarian action by the United Nations cannot take place in isolation but must be seen as part of a comprehensive response to complex emergency situations. Given the interrelated causes and consequences of complex emergencies, humanitarian action cannot be fully effective unless it is related to a comprehensive strategy for peace and security, human rights, and social and economic development, as proposed within the framework of the Agenda for Peace¹. It must also be recognized that humanitarian mandates are not limited to the objectives or duration of a specific peace-keeping operation.

¹Boutros Boutros-Ghali, "An Agenda for Peace" UN Document DPI/1247, New York: United Nations, 31 January 1992.

The post-cold war era offers expanded opportunities for addressing root causes of conflict. Measures taken by the international community, such as rapid response to early warning indicators and development of conflict resolution mechanisms, can promote progress toward peace and security.

Interaction Among the Political, Military, Human Rights and Humanitarian Components in Complex Emergencies

Presently, the United Nations is seeking to balance political, military, human rights and humanitarian objectives in several operations authorized by the Security Council. Experience has shown that humanitarian objectives may be compromised unless the political will to resolve conflict exists. This is particularly true if humanitarian action becomes a substitute for exercising the necessary political will.

Political, military, human rights and humanitarian components can be integrated effectively in emergency operations. For successful integration, mandates of the humanitarian agencies must be respected, and standards and procedures for cooperation and coordination must be established including information sharing, transparency, joint planning and logistics.

It is well recognized that all United Nations personnel operate on the basis of neutrality and impartiality. However, the principles governing humanitarian agency operation normally require that agencies maintain a certain degree of independence from UN-authorized political and/or military activities. This independence of agencies needs to be clearly recognized, particularly with regard to maintaining a humanitarian identity and decision-making.

In some instances, integrated operations are under the overall direction of a Special Representative of the Secretary-General. While it is important that humanitarian organizations maintain reporting lines to their respective Headquarters, there must be a simultaneous flow of information between agencies in the field and headquarters with the UN Emergency Relief Coordinator. It must be asserted that the tasks of assigning responsibilities, facilitating the activities of operational agencies, and ensuring effective cooperation and coordination are undertaken by DHA and the Emergency Relief Coordinator, in consultation with the Inter-Agency Standing Committee.

Role of the Military in support of Humanitarian Action

Peace-making and peace-keeping are seen as complementary to humanitarian action. It is recognized that military resources may be required to create secure conditions which allow for the safe delivery of humanitarian assistance. If troops are deployed, however, the impact of the military operations must not marginalize the purpose of humanitarian action.

In the context of traditional peace-keeping operations, interaction between the political, military, human rights and humanitarian components does not normally present major difficulties. Problems have arisen, however, in situations where there is no cessation of hostilities or where peace enforcement action under Chapter VII² is authorized.

²See *Charter of the United Nations*, Chapter VII, Articles 39-51, on measures that may be undertaken by the Security Council to maintain or restore international peace and security.

The division of responsibilities and the role of each actor should be clearly established in a United Nations operation. The role of the military must be clearly defined so that the affected population correctly perceives the nature, purpose and capabilities of United Nations humanitarian action.

Access to the Affected Population

Humanitarian action should be based on the principles of neutrality, impartiality, and humanity. Free and unimpeded access to the affected persons must be granted by all parties at all times. Where difficulties arise, the humanitarian component, under the general guidance of the Emergency Relief Coordinator, determines the strategies to be pursued in negotiations with the parties. One objective of humanitarian action should be to offer a broader range of incentives for promotion of peace, cooperation and reconciliation.

Security and Protection of Personnel and Facilities

As many humanitarian operations are carried out in difficult situations, Member States should continue efforts to enhance security and protection of personnel and facilities of the United Nations and related agencies. The need for an institutional response to security incidents is widely recognized. Protagonists will be held directly accountable to the United Nations and the international community for attacks on staff connected with a UN humanitarian operation, and also for denial of access and diversion of aid.

To achieve the objectives of peace in conflict situations, the growing trend is an international call for a United Nations presence. In these situations, humanitarian personnel often work with peace-keeping forces, yet this close cooperation and collaboration is not reflected in jointly coordinated security obligations and systems. This results in separate categories of personnel operating in the same place and at the same time under different security support systems.

It is crucial that security arrangements extend to all personnel in recognition of the peace-keeping and humanitarian nature of their work. These include peace-keeping forces, internationally and locally recruited United Nations staff, as well as NGO and IGO relief personnel working side by side with the United Nations. All staff members in these categories uphold the international community's efforts to achieve its objectives and to implement humanitarian programmes, and therefore, all must be protected.

Improvement of Cooperation and Coordination

Cooperation and coordination between the various components engaged in complex emergencies should be enhanced at UN Headquarters and at the operational level. Senior level task-force meetings convened by the Secretary-General provide a forum for policy formulation on all important issues. The Emergency Relief Coordinator, through consultation with all concerned, should be able to express the joint position of the humanitarian agencies whenever appropriate.

Mechanisms for effective coordination of all aspects of an integrated operation need to be strengthened both at UN Headquarters and in the field. More frequent contacts and exchanges between heads of department and among staff should be encouraged. Procedures for policy formulation, information sharing, and reporting need to be streamlined. Joint training programmes and seminars that bring together people of diverse backgrounds and experiences in the political, military, human rights and humanitarian fields should be developed.

Efforts to increase knowledge and understanding of complex emergencies should be encouraged and supported. In this context, the relevant international and regional human rights and refugee law instruments provide a valuable contribution. These include the “Code of Conduct for the International Red Cross and Red Crescent Movement and NGOs in Disaster Relief”³ and the “Convention on the Rights of the Child”⁴. In addition, similar initiatives by non-governmental organizations and from academic circles contribute significantly to this goal.

PART II

Humanitarian Concerns

Security Council Deliberations and the Humanitarian Imperative

With increasing frequency during the past three years, the Security Council has focused its attention on humanitarian concerns in conflict situations. This development has highlighted the humanitarian imperative, or need for humanitarian action world-wide. It has also had the effect of bringing the humanitarian organizations closer to the political and military dimensions.

Advocacy efforts to highlight humanitarian issues should be actively directed to the Security Council and other key actors. For example, humanitarian organizations and advocates must ensure that all relevant issues are brought into the deliberations and that they may be reflected in the decisions of the Security Council. Key issues include the identification of principles guiding the humanitarian component, shielding humanitarian action from the impact of sanctions, and the protection and security of personnel and facilities.

Humanitarian Law and Principles

Respect for Neutrality, Impartiality, Humanity

Impartiality with regard to humanitarian action is generally understood to mean providing humanitarian assistance to all persons in need without discrimination, or, equal treatment on the basis of need. In other words, commitment to humanitarian principles requires taking sides with all affected persons. This perception must be universally preserved and respected, particularly to maintain the credibility of humanitarian agencies, create a climate of confidence with all parties and secure respect for their action. This does not contradict the principle of neutrality, as described in the Geneva Conventions of 1949 and the Additional Protocols of 1977⁵.

In undertaking peace enforcement, the United Nations may have to take action against one

³Ten principles and directives on interagency relationships compiled by IFRC and 6 NGO networks in 1994.

⁴United Nations Convention on the Rights of the Child of 1989.

⁵ The four Geneva Conventions of 1949 and the two Additional Protocols of 1977 are the principle sources of international humanitarian law.

party to a conflict. When this occurs, United Nations humanitarian operations, by virtue of association with the United Nations military forces, may no longer be viewed as neutral and impartial. Reactions by parties of a conflict may include restricting humanitarian access and endangering United Nations staff. It may consequently become necessary for some humanitarian organizations to distance themselves from peace enforcement activities.

The Security Council should require the parties to a conflict to respect and apply the “spirit and the letter” of international humanitarian law and established principles relating to humanitarian action. In this regard, steps need to be taken to define in practical terms the responsibilities of the parties to facilitate humanitarian action.

Human Rights Law, International Humanitarian Law and Refugee Law

Some principles to be emphasized regarding international law include:

All parties involved in a conflict situation must respect fundamental human rights and uphold international humanitarian law.

Civilians are protected under international humanitarian law from attacks, torture, and other violations of their physical and moral integrity. Humanitarian action contributes to the implementation of basic human rights related to the safety and dignity of the affected persons and should be supported through appropriate implementation measures.

Diplomatic efforts for the implementation of international human rights law, humanitarian law, and refugee law, as well as an effective international presence, contribute to enhancing the safety of vulnerable persons or groups and to deterring violations of these laws.

Non-politicized Humanitarian Action

Humanitarian action should not be a substitute for political negotiations, nor become a pretext for delay of those negotiations. Moreover, humanitarian action should not be used by the parties in a conflict as a means to achieve political and military goals. In situations where response by United Nations organizations is not possible, alternative methods of providing assistance must be sought.

Inter-Agency Standing Committee

The Inter-Agency Standing Committee (IASC), as established in General Assembly Resolution 46/182⁶, is the policy-making body in humanitarian affairs. The IASC is therefore the most appropriate forum for consideration for all matters of concern to humanitarian organizations related to complex emergencies. The use of this forum should be optimized to improve cooperation and coordination, and to mobilize resources within the humanitarian community.

At the onset of a complex emergency requiring a coordinated and integrated response, the humanitarian organizations, within the framework of IASC, need to rapidly agree on a coordinated strategy to be pursued by the United Nations. The agreed upon response should be announced in a joint public statement.

Financing

⁶UN General Assembly Resolution 46/182 of 1991, the resolution which created DHA, is a set of broad, legal principles to guide relief operations.

Continuous attention should be given to allocating funds for military, political, human rights and humanitarian operations. The present disproportionality of funding for peace-keeping as opposed to humanitarian operations needs to be addressed.

An early response to humanitarian appeals makes it possible for action to be taken with fewer resources. Response in the early stages of a crisis is significantly more cost-effective than in a later stage when, in many cases, the situation has deteriorated.

Effect of Sanctions on Humanitarian Action

Humanitarian and political objectives do not always coincide and even may be contradictory. Economic sanctions, for example, often have negative consequences for vulnerable groups and often directly affect the poorest strata of the population. Sanctions may hamper the delivery of humanitarian relief and the ability of agencies to respond quickly and effectively to the needs of the most severely affected persons. Procedures must be streamlined to limit the effect of sanctions on humanitarian action as much as possible. Humanitarian organizations could pursue a unified proactive approach, within the framework of IASC, which would serve as an effective instrument of humanitarian advocacy in the Security Council and in other fora.