

Guidelines for UN and other Humanitarian Organizations on Interacting with Military, Non-State Armed Actors and Other Security Actors in Iraq

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1. Introduction

These Guidelines are intended to provide a practical and overarching framework to ensure a more coordinated and transparent interaction between humanitarian actors and the military (including, the Multi National Forces in Iraq (MNF-I), security and non-state armed actors) on issues of mutual concern. Whilst as a matter of policy compliance for UN organisations, they may also usefully provide guidance to other humanitarian actors where appropriate, and in keeping with their respective mandates, diversity and codes of conduct.

As with previous endeavours, the Guidelines have been developed following extensive consultation with a variety of stakeholders including, the United Nations Country Team (UNCT), Non-Governmental Organizations (NGOs), the MNF-I, and other relevant actors.

2. Context and Principles

Building on previous United Nations Security Council Resolutions (SCRs), and under the overall guidance of the Government of Iraq, the expanded mandate under SCR 1770 (2007) entrusts the UN (in partnership with others) to undertake steps towards enhancing access to vulnerable populations to better provide adequate humanitarian assistance and protection – allowing longer-term recovery activities to take hold.

At the same time, there is recognition under the respective SCRs of the important role played by the MNF-I in providing vital security and logistics support to UN staff, without which the UN's current operations inside Iraq would be further jeopardised.

The highly insecure environment, often characterised by violence specifically targeted at the UN, including its humanitarian components and other humanitarian actors, further restricting operations, has prompted the UN to rely on the overall security umbrella of the MNF-I. This situation has heightened the need to clearly differentiate the respective roles of the different parties, particularly since the MNF-I forces are also involved in reconstruction activities.

Although some NGOs are known to use private security protection under certain circumstances, NGOs and the Red Cross and Red Crescent Movement operate in Iraq without organisational security tied to the MNF-I, making operating modalities to the UN significantly different, particularly in regards to how civil-military interaction occurs. Naturally, this impacts how different humanitarian actors approach civil-military interaction more generally.

Nonetheless, the basic humanitarian principles of independent, impartial and neutral action should prevail at all times. Specifically, these Guidelines aim to underscore two basic tenets:

- A. The overall humanitarian effort in Iraq is best served through a clear division of labour: namely, humanitarian actors to provide adequate assistance and protection, whilst military actors concentrate on security related tasks under established mandates.
- B. Agreed interaction should not compromise the independence, neutrality and impartiality of operations, including as stipulated by General Assembly Resolution 46/182; nor the security and safety of staff or Iraqi civilians.

Considerations on civil-military interaction will be further guided by a commitment to 'Do No Harm'. Namely, humanitarian organisations must ensure at the policy and operational levels that any potential civil-military coordination will not contribute to further the conflict, nor harm or endanger civilians including, the beneficiaries of humanitarian assistance.

These Guidelines represent an update of the "*Guidelines for Humanitarian Organizations on Interacting with the Military and Security Actors in Iraq*" issued by the Office of the Deputy Special Representative of the Secretary General for Iraq in October 2004. The Guidelines remain in alignment with and should be read in conjunction with relevant IASC global guidance including, the Guidelines on the Use of Military and Civil Defence Assets to Support the United Nations Activities in Complex Emergencies, Revision 1, January 2006 (MCDA Guidelines); the IASC Reference Paper on Civil-Military or Armed Escorts for Humanitarian Convoys, September 2001; which are included in the 2008 IASC *Civil Military Guidelines & Reference for Complex Emergencies*, issued by the Emergency Relief Coordinator, as well other relevant materials (see item 5 below).

3. Operational Arrangements (see outline of terminology below)

The primary United Nations interface for civil-military liaison will be the Office of the DSRSG/HC/RC. In consultation with relevant actors, the DSRSG/HC/RC's Office will aim to ensure appropriate lines of communication/exchange at all levels. This does not preclude direct contact on the part of individual organisations on matters related to their respective mandates as long the DSRSG/HC/RC is kept informed. See Annex 1 for possible modalities of approach.

3.1 Operations

Agreed joint humanitarian operations should be carried out with MNF-I or Provincial Reconstruction Teams (PRTs) only in exceptional circumstances and as a last resort to respond to urgent humanitarian needs, such as through the use of armed escorts. Such activities will be undertaken on a case-by-case basis (when no alternatives are available) as determined by respective organisation heads in consultation with the Office of the DSRSG/HC/RC for operations implemented by the UN and its humanitarian partners (whilst making sure to respect partners distinct mandates and rules of operation). The agreed operation will be limited to the extent and duration necessary to urgent deliver assistance/support.

3.2 **Assessments**

Humanitarian assessments should be conducted independently, using agreed agency needs assessment frameworks and monitoring/evaluation modalities. Joint humanitarian assessments with the military should not be undertaken. Assessments with PRTs should occur only where unavoidable and in consultation with humanitarian partners. Conclusions/recommendations are to be based solely on needs. Humanitarian actors may share results of their assessments with military/security actors/PRTs as deemed appropriate by assessing agency, if it will not put communities at risk or be used for non-humanitarian purposes[see 3.3 below].

3.3 **Information Sharing**

In consultation with the Office of the DSRSG/HC/RC, humanitarian and military/security actors may exchange appropriate information to better enable a more effective and rapid response. However, this must be done in a manner which takes into account all possible consequences for the protection of civilians and for the security of UN personnel, NGOs, and other relevant stakeholders including any potentially negative effects on beneficiaries/civilians. In addition, any exchanges must be cognizant of the need for appropriate confidentiality to sufficiently protect all concerned parties. As a matter of principle, any information gathered by humanitarian actors which might endanger lives if used for non-humanitarian purposes, jeopardise humanitarian operations, compromise the impartiality and neutrality of humanitarian actors, or be used for military purposes, shall not be shared with military or other security actors. [For type of information which can be shared see Annex 1].

3.4 **Funding**

Many PRT activities may be similar to those of humanitarian organisations, while their purpose and objectives distinctly different. For that reason, it is important to develop a close understanding of their programmes to avoid inconsistency, potential duplication and minimise competition. However, the overarching rationale of PRTs remains largely associated with the wider counter-insurgency strategy and is dictated by primarily by political/security imperatives and the consequent timelines that accompany the mission. Requests for humanitarian funding should be premised solely on unmet humanitarian needs. As a general rule, and in order to safeguard the independence, impartiality and neutrality of humanitarian operations, humanitarian actors should not receive funding from any military sources, nor accept funds under an express donor obligation to work with predetermined PRTs.

3.5 **Advocacy**

Relevant advocacy vis-à-vis adherence to humanitarian principles, standards and laws may be undertaken in a coordinated manner by all relevant actors as necessary. The presence and the military operations of the MNF-I in Iraq are based on the consent of the host Government (in keeping with the relevant SCRs) and under a UN Chapter VII mandate. The current hostilities between armed actors opposing the national authorities and/or the MNF-I, amounts to a non-international armed conflict. Accordingly, all parties, including the MNF-I and associated militias remain bound by Article 3 common to the four Geneva Conventions, and by customary law applicable to non-international armed conflict as well as other relevant international humanitarian and human rights law.

In accordance with humanitarian principles, the humanitarian actors may at times be required to interact with one or more of the whole range of armed state and non-state actors operating in Iraq to in order to: (i) ensure timely provision of assistance and protection for populations in need; (ii) safeguard humanitarian space; (iii) negotiate humanitarian access and (iv) advocate for fulfilment of the legal obligations of relevant actors to protect the civilian population.

3.6 Training

OCHA's Civil-Military Coordination Section (CMCS) in Geneva can provide UN Humanitarian Civil-Military Coordination (UN-CMCoord) training and advice to humanitarian actors and their counterparts upon request by the DSRSG/HC/RC.

3.7 Use of Military Assets

(i) MNF-I assets should be used as a last resort on a case by case basis where civilian capacities are inadequate or cannot be obtained in a timely manner, and upon the request of the DSRSG/HC/RC, in his capacity as HC/RC, which is based solely on humanitarian criteria to respond to urgent humanitarian needs.

(ii) While military assets will remain under military control, the operation as a whole must remain under the overall authority and control of the responsible humanitarian organisation, as defined in the MCDA and Oslo Guidelines.

(iii) Where MNFI assets are used, particular care should be taken to ensure that beneficiaries clearly understand the independence and impartiality and neutrality of the humanitarian effort.

(iv) Identified assets will be used only for indirect assistance - this may include transport of relief or personnel, or for infrastructure support such as road repair, airspace management or power generation in so far as they facilitate relief delivery. Direct assistance including that provided to orphanages, schools and other facilities where beneficiaries are present should be undertaken only by mandated humanitarian actors, as appropriate.

(iii) Agreed arrangements must incorporate actions to support the transition back to full civilian responsibility, when appropriate.

(iv) Those assets which have been provided to the agencies on a full-time basis must be visibly identified in a manner that clearly differentiates them from those used for military operations and use limited in time and scale.

(v) Temporary use of military premises (e.g. Forward Operating Bases, air stations etc.) may be permissible upon the knowledge and prior agreement of the DSRSG/HC/RC and respective organisation heads where no alternative modalities exist and based on an assessment of the prevailing security situation, and in fulfilment of relevant security regulations (where applicable).

(vi) Whilst adhering to agreed organisational security regulations, humanitarian actors must also intensify efforts to look for alternative modalities of operation, to avoid over dependency on military assets to the extent possible – including, identification of activities which would be better undertaken through civilian means.

(vii) No asset of any kind belonging to a humanitarian actor may be used by the military actors.

3.8 Use of Military or Armed Protection

(i) As with the use of assets above, military or armed protection should be utilised only on a case by case basis when no alternative civilian means are available, and limited to the extent and duration necessary to undertake required assistance. More specifically, given the overriding need to protect humanitarian actors under imminent threat, this will be dictated by: a) the prevailing security environment; b) adherence to relevant regulations/mandates (Department of Safety and Security (UNDSS)/SCRs for UN actors); and c) the primary humanitarian imperative.

(ii) Use of armed escorts (no matter which actor) must be viewed as a precautionary measure of last resort and based on careful determination of all factors as outlined above. All such protection should be guided by relevant Inter-Agency Standing Committee (IASC) principles and guidelines [see 5 below].

4. Terminology

4.1 **Civil Military Interaction:** Interaction between civil, military and other security actors' which is necessary to protect and promote humanitarian principles, avoid competition, minimise inconsistency, and pursue common goals – as appropriate. Basic strategies may range from coexistence to cooperation/coordination.

4.2 **Complex Emergency:** The IASC definition states: "a humanitarian crisis in a country, region or society where there is a total or considerable breakdown of authority resulting from internal or external conflict and which requires an international response that goes beyond the mandate or capacity of any single and/or ongoing UN country programme".

4.3 **Humanitarian Actors:** Civilians, whether national or international, UN or non-UN, governmental or non-governmental, which have a primary commitment to humanitarian principles and are engaged in humanitarian activities.

4.4 **Military Actors:** Official forces discharging responsibilities under agreed Rules of Engagement, including agreed chain of command, be they armed or unarmed, governmental or inter-governmental. In the Iraq context, this includes Iraqi Armed Forces (Army, Air Force, Coastal Defence Force); the MNF-I (under SCR 1511, 1546 and 1770); as well as all military personnel of any foreign state in Iraq not part of the MNF-I.

4.5 **Military Assets:** Relief personnel, equipment, supplies and services provided by military and civil defence organisations.

4.6 **Non-State Armed Actors:** For the purposes of these guidelines, non-state armed actors constitute *groups that operate beyond state control*. It includes, but is not limited to the following groups:

- Armed opposition groups (groups with a stated incompatibility with the Government, generally concerning the control of government or the control of territory);
- Local militias (ethnic, sectarian or otherwise based);

- Vigilantes;
- Civil defence forces and paramilitary groups (when such are clearly beyond state control);
- Private companies that provide military and security services

4.7 **Other Security Actors:** Individually or collectively security actors other than the military, including both public and private entities involved in security and/or law/order enforcement. E.g. Iraqi Police, Border Patrols etc.

4.8 **Provincial Reconstruction Teams (PRTs):** Entities representing the civilian-military effort that is the primary interface between MNFI Coalition partners and provincial and local governments throughout all of Iraq's 18 governorates. As of mid-December 2007 there were 28 US PRTs located in all 18 of Iraq's governorates (15 embedded with military units) and staffed by approximately 700 people. There are also PRTs from other MNF-I troop contributing countries including, Italy, Great Britain and Australia.

5. References

- Security Council Resolutions 1511 (2003), 1546 (2004) and 1770 (2007)
www.un.org
- UN and IASC Civil Military Guidelines & Reference for Complex Emergencies, 2008
<http://ochaonline.un.org/cms/guidelines>
- IASC Discussion Paper and Non-Binding Guidelines on the Use of Military Or Armed Escorts for Humanitarian Convoys, September 2001
<http://ochaonline.un.org/cmcs/guidelines>
- Guidelines for Humanitarian Organizations on Interacting with the Military and *Security Actors in Iraq*, 2004
- General Guidance for Interaction Between United Nations Personnel and Military and Other Representatives of the Belligerent Parties in the Context of the Crisis in Iraq, 2003
- Guidelines on the Use of Military and Civil Defence Assets to Support UN Humanitarian Activities in Complex Emergencies, March 2003
<http://ochaonline.un.org/cms/guidelines>
- Humanitarian Negotiations with Armed Groups: A Manual for Practitioners
<http://ochaonline.un.org>
- NFR - PRT Team Leaders Conference 3-4 March – TWW 07 Mar
- US State Department Presentation – Overview of PRTs and their Resources, Informal Donors Meeting, 23-24 Jan 08, Naples
- Provincial Reconstruction Teams: Lessons and Recommendations, Woodrow Wilson School of Public and International Affairs, Princeton University, Jan 08

6. Further Information/Contacts

These guidelines are a living document. Supplementary guidance or adjustments to clarify certain issues and to match the changing operational environment may be provided at timely intervals.

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ANNEX 1

A. Examples of Information Sharing

- ✓ Access & Movement Information: Road closures, checkpoints, population movements (forced and voluntary) etc.
- ✓ Security data: relevant to safety of civilians, aid workers as may be deemed appropriate.
- ✓ Relief needs: identified by the military or other security actors;
- ✓ Humanitarian activities: Response plans/intentions of humanitarian actors, including routes and timing of humanitarian convoys/airlifts to avoid accidental strikes on humanitarian operations or to warn of any conflicting activities;
- ✓ Mine-action activities: information relevant to mine-action activities;
- ✓ Relief activities of the military and/or other security actors: information on relief efforts undertaken by the military and/or other security actors;
- ✓ Post-strike information: information on strike locations and explosive munitions used during military campaigns to assist the prioritization and planning of humanitarian relief and mine-action/UXO activities;
- ✓ In addition, assistance may be sought from the military to facilitate the movement of personnel and humanitarian goods across borders, including customs and airport clearances.

B. Possible Interaction Arrangements

- ✓ As a general rule, interaction with the military and/or other security and non-state armed actors should be conducted indirectly through local authorities wherever possible;
- ✓ Where regular direct interaction is necessary, it should be conducted through agreed focal points (e.g. DSRSG/HC's Office, OCHA etc) to reduce the exposure of humanitarian actors;
- ✓ Only designated persons (e.g. Focal Points) should liaise on behalf of an agency or a group of agencies on a regular basis;
- ✓ Other interaction (e.g. security information) should be made discreetly, preferably through e-mail or phone;
- ✓ If possible, meetings should be held at "neutral" venues, e.g., in local authority premises;
- ✓ As a general rule, no UN staff should be physically permanently co-located within MNF-I facilities unless dictated by the extraordinary security situation and on the express agreement and prior knowledge of respective organisational heads and the DSRSG/HC/RC;
- ✓ Transparency should be maintained towards national staff on why interaction is necessary and who is conducting it.