Emerging Threats and Capabilities Subcommittee Hearing on Department of Defense's Role in Foreign Assistance

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Chairman Stefanik, Ranking Member Langevin, Members of the Committee, thank you for inviting me to testify on this important topic.

I am the Director of Humanitarian Practice at InterAction, the largest alliance of international non-governmental organizations (INGOs) in the United States with over 190-member organizations who collectively work in every developing country in the world to provide development and humanitarian assistance. As a whole, InterAction and our members have a mission of ending global poverty and alleviating human suffering. As such, our members regularly operate in the same areas where the U.S. military is active – whether those areas are affected by sudden onset and large-scale natural disasters or where civilians have been impacted by armed conflict or other violence.

It is worthy to note that the image of humanitarian assistance in the public realm tends to be closely associated with responses to natural disasters. In reality, approximately 80% of humanitarian work by non-governmental organizations (NGOs) today occurs in conflict settings or in response to displacement caused by armed conflict. Below is an indication of the number of international humanitarian organizations that are receiving funding to respond in conflict settings, as per UN collected data: 53 NGOs in Iraq;[1] 15 NGOs in Nigeria;[2] 44 NGOs in Somalia;[3] 75 NGOs in South Sudan;[4] 40 NGOs in Syria;[5] 20 NGOs in Yemen.[6]

This reality of NGOs working more in conflict settings has increasingly made military support for non-federal entities a complex issue with many sensitivities to navigate. One important distinction to make is that while NGOs may be considered a non-federal entity by the Department of Defense (DOD), many are not because they may receive public funding or may not support a clearly stated DOD mission. A higher burden and need is placed upon humanitarian NGOs to emphasize adherence to humanitarian principles, which I will further explain, in order to articulate the distinction between their operations and those of DOD-supported non-federal entities.

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[1] https://fts.unocha.org/appeals/634/flows?order=directional_property_1&sort=asc
[2] https://fts.unocha.org/appeals/642/flows?order=directional_property_1&sort=asc
[3] https://fts.unocha.org/appeals/644/flows?order=directional_property_1&sort=asc
[4] https://fts.unocha.org/appeals/646/flows?order=directional_property_1&sort=asc
[5] https://fts.unocha.org/appeals/629/flows?order=directional_property_1&sort=asc
[6] https://fts.unocha.org/appeals/657/flows?order=directional_property_1&sort=asc

Today, I hope to provide a better understanding of the NGOs perspective on humanitarian assistance and when, how, and why our members coordinate or choose not to coordinate their activities with the U.S. military – often referred to as "civil-military coordination."

It also worth noting that NGOs and InterAction members are a diverse set of organizations guided by very different mandates, missions and modes of operations. Their willingness to engage with military actors, or knowledge of the best way to do so, varies greatly and needs to be viewed in the context of each humanitarian crisis. In that sense, there is a clear tension between a heavily resourced and hierarchical DOD and a constellation of independent entities with strong shared values and mechanisms but no recognized chain of command directing their operations.

Humanitarian Action

Humanitarian action entails assistance for people affected by natural hazards or armed conflict and seeks to enhance their protection from violence and other mistreatment occurring in these crises. NGO mandates are guided by the humanitarian imperative to save lives and reduce human suffering wherever it happens. In situations of armed conflict, the parties to conflict have the primary obligation to ensure that civilians have access to basic goods and services necessary to their survival, however, where they are unable or unwilling to do so, international humanitarian law provides for the role of impartial humanitarian organizations to offer their services to alleviate human suffering.

In addition to conflict, humanitarian actors operate in natural disaster settings – including unpredictable and/or rapid onset disasters and other crises, such as when man-made and natural factors combine to create humanitarian needs.

In order to best advance our objectives, humanitarians work diligently to adhere to four widely accepted principles for humanitarian action:[7]

- Humanity: Human suffering must be addressed wherever it is found;
- Impartiality: Humanitarian action must be carried out on the basis of need alone, giving priority to the most urgent cases of distress and making no distinctions on the basis of nationality, race, gender, religious belief, class, or political opinions;
- Neutrality: Humanitarian actors must not take sides in hostilities or engage in controversies of a political, racial, religious, or ideological nature;
- Independence: Humanitarian action must be autonomous from the political, economic, military or other objectives that any actor may hold in relation to areas where humanitarian action is being implemented.

These principles should not be seen as high-minded proclamations but as a tool to convince people affected by disasters or conflict – as well as host governments and other actors – that we are there to serve a solely humanitarian purpose, according to people's basic needs and internationally agreed upon minimum standards, and to assure them that we are not part of a political or military effort. This is essential to ensuring that we are not confused or conflated with other actors who have other objectives,

[7] https://www.unocha.org/sites/dms/Documents/OOM-humanitarianprinciples_eng_June12.pdf

including political motives, in that context. In turn, this is essential for our ability to access people in need, no matter where they are found, and mitigates the risk of attacks on our staff by armed actors.

These principles are reinforced in both international[8] and internal[9] standards that InterAction and its members strive to uphold in all aspects of our work.

Civil-Military Coordination

Civil-military coordination is the essential dialogue and interaction between civilian and military actors who may be present in the same operational environment during a humanitarian crisis. From a humanitarian perspective, any coordination with military actors should be scrutinized to predict any possible unintended consequences arising from perceived affiliation, both in the specific theaters of operations, as well as more broadly and over the longer term.

Decades of humanitarian practice and civil-military coordination has informed key guidance on these matters. These include the Oslo Guidelines – Guidance on the Use of Foreign Military and Civil Defense Assets in Disaster Relief,[10] the Use of Military and Civil Defense Assets to support United Nations Humanitarian Activities in Complex Emergencies,[11] Foreign Military and Civil Defense Assets in Support of Humanitarian Emergency Operations,[12] and Updated Non-Binding Guidelines on Use of Armed Escorts in Humanitarian Convoys.[13]

To be clear, to facilitate access to all people in need, humanitarian organization will strive to operate completely independently from any and all armed actors. Only in exceptional circumstances, will principled humanitarian NGOs consider the use of military and civil defense assets (MCDA):

- Unique capability – no appropriate alternative civilian resources exist;
- Timeliness – the urgency of the task at hand demands immediate action;
- Clear humanitarian direction – there is civilian control over the use of military assets;
- Time-limited – the use of military assets to support humanitarian activities is clearly limited in time and scale.

In 2007, InterAction worked directly with the Department of Defense (DOD) and the U.S. Institute of Peace (USIP) to develop "Guidelines for Relations Between U.S. Armed Forces and Non-Governmental Humanitarian Organizations in Hostile or Potentially Hostile Environments,"[14] which are referenced in DOD Joint Publication on foreign humanitarian assistance.[15] For example, military personnel should be

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[8] http://www.sphereproject.org/

[9] https://www.interaction.org/sites/default/files/PVO%20Standards_June%202017.pdf, page 13

[10] https://www.ndsu.edu/fileadmin/emgt/Civil_and_Military_Guidelines_and_Reference_for_Complex_Emergencies__a.k.a._the_Oslo_Guidelines_.pdf

[11] https://www.unocha.org/sites/unocha/files/01.%20MCDA%20Guidelines%20March%2003%20Rev1%20Jan06_0.pdf

[12] https://www.unocha.org/sites/dms/Documents/Last%20Resort%20Pamphlet%20-%20FINAL%20April%202012.pdf

[13] https://www.unocha.org/sites/unocha/files/Armed%20Escort%20Guidelines%20-%20Final_1.pdf

[14] https://www.usip.org/publications/2007/07/guidelines-relations-between-us-armed-forces-and-nghos-hostile-or-potentially

[15] http://www.jcs.mil/Portals/36/Documents/Doctrine/pubs/jp3_29.pdf

clearly identifiable in humanitarian settings and wear their uniforms unless to do so would place their lives in danger.

While there is a large spectrum of activities that fall within civil-military coordination, the two overarching approaches can be described as cooperation and co-existence.

Cooperation is best described as when there is a common goal, agreed upon strategy, and all parties have accepted to work together. Civil-military coordination focuses on improving the effectiveness and efficiency of the combined efforts to serve humanitarian objectives. This type of activity is often seen after a natural disaster – the 2015 Nepal Earthquake or Typhoon Haiyan in the Philippines in 2013. Both examples highlight the responses where there were multiple different militaries as well as strong coordination leadership from the affected state.

Perhaps the most high-profile recent example of cooperation was the 2014 Ebola outbreak. The U.S. military provided support to the international response through logistics including air support, medical worker training, and construction of treatment centers in partnership with the Liberian Armed Forces. DOD also supported the international response through the construction of 25 bed treatment center for use by infected medical personnel. Both the UN Office for Coordination of Humanitarian Affairs (OCHA) and the U.S. Government deployed civil-military coordination personnel to coordinate not only DOD activities but also UK forces and those under UN command who assisted in the overall response. InterAction staff briefed members of the 101st Airborne Division before deployment about what to expect on the ground and the importance of adhering to existing civil-military coordination guidance. On the ground, InterAction members, along with other NGOs, ran the operations to control the spread of the epidemic, for example, through medical interventions and programs, community mobilization, and safe burial practices. In November 2015, InterAction and USIP hosted a lessons-learned discussion on civil-military coordination to capture best practices for use in future health emergencies.

The other model of co-existence is when coordination focuses on minimizing competition and conflict to enable different actors to work in the same geographic area. This does not mean there is no coordination, but it means that coordination is focused on minimizing direct or indirect impediments of humanitarian action. This type of activity is often seen in settings where the military is either a direct party to conflict or perceived to be one – such as in Afghanistan, Iraq, Syria, and Yemen.

Co-existence seeks to deconflict humanitarian and military operations while minimizing the perception that humanitarian actors are affiliated with military forces in a specific situation. This is paramount due to the potential risks to our staff and consequences for our ability to access vulnerable populations. As such, military-based security for humanitarian work is viewed as a last resort option when other staff security mechanisms are unavailable, inadequate, or inappropriate. This is a determination made individually by each organization according to their mandate and analysis of the situation and in accordance with the guidelines mentioned above.

Additionally, humanitarian actors have learned from our DOD counterparts that there are complementary and practical concerns on their end that reinforce co-existence. The use of military capabilities to deliver humanitarian assistance can take focus away from core military objectives and is simply more expensive than any other civilian alternative. There is an alignment where both humanitarian and military actors see the benefits of principled civil-military coordination. Because of

these costs and force requirements, military assets are one of the least used – though highly visible – ways to provide humanitarian assistance.

Cooperation with the U.S. military during rapid-onset disasters

For the response to get underway upon the onset of a disaster, the Chief of Mission in a U.S. Embassy sends a disaster declaration cable, which allows USAID to use funds for foreign disaster relief. The criteria for such a declaration include: 1) the disaster exceeds the host nation / affected state's ability to respond; and 2) the host nation / affected state's government either requests or is willing to receive U.S. assistance.[16]

The State and USAID actors in-country may then determine if DOD assistance is needed and then make a request. DOD assistance is not provided in the absence of such a request, excepting the "72-hour rule"[17] which allows a commander to provide immediate, life-saving assistance with existing assets on hand. Other internal processes shape the specifics of the U.S. military portion of such operations. However, it is important to note that USAID, through its Office of Foreign Disaster Assistance (OFDA),[18] is the lead federal agency in responding to such disasters in foreign countries and will work with host governments, UN agencies, and NGOs to assure that use of U.S. military assets are coordinated with those actors[19]. In most cases, NGOs with humanitarian response capacity are already on the ground, either implementing non-emergency programs or working in disaster preparedness. As disasters strike, humanitarian NGOs also deploy their emergency teams to assess and respond to the crisis, mostly with their own funding sources.

Co-existence with the U.S. military in man-made or complex emergencies

In situations where the U.S. is a party to the conflict or providing support to national forces or non-state armed groups, civil-military coordination requires more scrutiny and active dialogue. For example, co-location of NGO and military resources will be avoided and will outright not be considered by the vast majority of humanitarian NGOs.

For the U.S. Government, the USAID-led process described in rapid-onset disasters is also used for complex emergencies. USAID also supports active civil-military coordination, in conjunction with the UN Office for the Coordination of Humanitarian Affairs (OCHA), on a range of issues. In Syria, for example, bi-weekly calls provide an opportunity for information exchange and raising of issues in a timely way.

Deconfliction

One essential aspect of civil-military coordination relates to the use of Notification Systems for Deconfliction. Deconfliction is a term that has been applied to the practice of systematic information-sharing between humanitarian actors and military actors to avoid potential hazards and obstacles and to sustain humanitarian delivery over the long run.[20] Currently, such systems are used in Afghanistan, Iraq, Somalia, Syria, and Yemen. In practice, in active armed conflict areas, it means that NGOs will share

[16] http://www.samm.dsca.mil/chapter/chapter-12
[17] http://www.jag.navy.mil/distrib/instructions/DODD_5100.46_Foreign_Disaster_Relief.pdf
[18] http://www.jcs.mil/Portals/36/Documents/Doctrine/pubs/jp3_29.pdf page II-4
[19] http://www.samm.dsca.mil/chapter/chapter-12#C12.9.
[20] https://www.unocha.org/sites/unocha/files/Stay_and_Deliver.pdf

coordinates of their offices and places of activity, such as hospitals and schools, as well as vehicle movements for humanitarian activities, such as food deliveries and vaccination campaigns.

While participation in such systems by parties to the conflict is welcome, it does not absolve any military actor of their obligations to mitigate harm to civilians and adhere to international humanitarian law (IHL) in their military operations. Under IHL, military actors are obligated to ensure the protection of civilians and assets employed towards the delivery of humanitarian assistance. All feasible actions and precautions must be taken in this regard.

There are currently three possible approaches to deconfliction between humanitarian and military operations, with their own advantages and disadvantages. When considering each approach, it is important to remember that they are all voluntary and each organization, especially NGOs, must make their own determination on whether they will participate.

UN-led notification system

In this approach, the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) is the primary interlocutor between humanitarian and military organizations. Humanitarian organizations are encouraged to provide GPS data to an OCHA focal point that anonymizes the data before providing it to relevant military actors. This approach was used in Libya in 2013 in relation to NATO operations and is currently in use in Yemen and Syria.

This approach ensures a coordinated approach and allows for more accurate reporting of existing humanitarian infrastructure and movements. The disadvantages include organizations' concerns about confidential handling of data, which can be used to identify that same infrastructure or movements.

Member state foreign ministry or humanitarian assistance agency-led notification system

In this approach, a UN member state foreign ministry or humanitarian agency is the interlocutor between humanitarian and military organizations. This approach typically occurs when a UN member state military is a party to conflict and their foreign ministry or humanitarian agency is also engaged in funding activities in the country. This approach may be utilized when OCHA lacks personnel or resources to establish this mechanism. A deconfliction mechanism along these lines was established for Somalia last fall.

This approach allows for greater information sharing without the limitations that may occur between the UN and a member state military. However, the provision of data by organizations may be viewed as supporting military operations or allowing for perceptions or allegations that organizations may be affiliated with a party to conflict.

Member state military-led notification system

In this approach, a UN member state military may serve as the interlocutor between the humanitarian and military organizations. Again, this approach typically occurs when the member state military is a party to conflict and OCHA lacks personnel or resources to establish this mechanism. This is currently in use in Afghanistan through NATO and was also used in Libya before the UN-led notification system was established.

This approach provides data directly to military actors conducting operations and may diminish the likelihood of direct or indirect damage to humanitarian infrastructure or movements. However, that provision of data is even more likely to be viewed as supporting military operations or allowing for perceptions or allegations that organizations may be affiliated with a party to conflict.

Civil-military engagement for the protection of civilians

In light of the devasting impact of armed conflict on civilian populations, there is an increasing need for humanitarian organizations to engage U.S. and other military forces on the conduct of their military operations and their consequences for civilian populations. Issues for engagement include civilian loss of life, extensive damage to civilian infrastructure, mass displacement, and widespread contamination of unexploded ordnance. While civil-military mechanisms generally work well to navigate coordination and co-existence of humanitarian organizations and U.S. military operations, as discussed above, there is a need to develop better and more timely channels to address U.S. policy and practice to mitigate civilian harm as well as to account for and respond to civilian harm when it does occur. Recent efforts to pursue such coordination in Iraq and northeast Syria can be instructive and should be further developed.

In addition, with increasing U.S. efforts "by, with, and through" state and non-state security partners to pursue security objectives, it is essential that dialogue between humanitarian organizations and the U.S. military encompass the unique challenges for the protection of civilians posed by partnered operations and U.S. security partnerships more broadly. The need for this dialogue is critical across a range of contexts, including Afghanistan, Nigeria, and Yemen as well as an ongoing need in Iraq and northeast Syria.

Conclusion

These practices, policies, and procedures have come about as a result of decades of best practices and lessons learned. They are continually being refined and adapted to new challenges and conflict dynamics. It is encouraging that Congress is taking an active interest in these issues – not only for your own understanding, but also for the sake of transparency and good stewardship of taxpayer funding – both defense spending and funding for humanitarian assistance.

Finally, we appreciate Congress' longstanding respect of the role of humanitarian NGOs and their unique role in responding to the suffering of people in contexts where humanitarian workers and the U.S. military are often the only foreign presence. Your active outreach to InterAction and its member organizations has increased our effectiveness and our mutual understanding of numerous crises in the world. This is an invaluable relationship. It saves lives and reduces human suffering.

Thank you, again, for the opportunity to testify before you and this committee.