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FOREIGN MILITARY FORCES EMPLOYMENT IN HUMANITARIAN OPERATIONS AFTER NATURAL DISASTERS

Humanitarian action is aimed at alleviating suffering where it exists. Relief aid after natural disaster tries to make life of affected population as it was before the catastrophe. All available resources including military forces should be used to minimize the human cost of a natural disaster. This study examines the advantages, limitations and implications of using foreign military assets as part of the international response after natural disasters. The criteria of military involvement in humanitarian operations aimed at overcoming the impacts of natural disasters are described in the article. Special attention is given to the principles, instruments and mechanisms of civil military coordination in humanitarian operations. Due regard is also paid to the peculiarities of the use of the United Nations special military forces in humanitarian operations and tasks that military may perform. The article analyses the criteria of efficiency of military presence in affected area, explores the challenges of military involvement in humanitarian operations, examines the role of national commander in combined humanitarian operation.

Key words: natural disasters, overcoming of natural disasters, foreign military forces, UN forces, coordination of military and civilian forces.

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While wars occur once in two or three decades, disasters strike regularly. Disasters result in heavy casualties and losses, much more than the casualties of conventional wars. In case of armed conflict it is possible to predict when the humanitarian catastrophe may occur and when the assistance of international community will be urgent. International organizations have enough time to plan humanitarian operation, to find donors. But no one knows when and where natural hazard will strike. In case of natural disaster the fails in the mechanisms and instruments of international humanitarian action are become evident.

National government is responsible for protection of its population. This principle is enshrined in international law and affirmed by the United Nations. Each state has the responsibility first and foremost to take care of victims of natural disasters and other emergencies occurring on its territory. Hence, the affected state has the primarily role in the initiation, organization, coordination, and the implementation of humanitarian assistance within its territory¹.

The magnitude and duration of many emergencies may be beyond the response capacity of many affected countries. In any such case the affected state can address international community for help. International governmental and non - governmental organizations often become active part of the international response with coordinating role of the organization of the United Nation.

Certainly in situations where a state is suffering severe damage caused by natural hazard and as a result population's needs cannot be met in affected countries, assistance of the international community is able to save more lives and to foster rapid recovery. But in some humanitarian operations the involvement of military units is urgent. The armed forces are supposed to be called upon to intervene and take on specific tasks only when the situation is beyond the capability of civil administration.

The issue of military involvement in humanitarian crises is quite controversial, especially in the context of humanitarian organizations. There are many examples where the military forces directly involved in humanitarian assistance, including the crisis in Ethiopia in 1935. The military were involved in organizing Berlin Air Bridge in 1948. In many countries, national armed forces should ensure rapid

¹ UNGA Res 67/231 (9 April 2013) UN Doc A/RES/67/231).
<<http://www.preventionweb.net/files/resolutions/N1249246.pdf>> (2015, April, 10).

response to natural disasters.

The use of military forces aimed at conducting operations after natural disasters have been subject to discussion within the humanitarian community for many years. Among the sources of discussion are the following issues: the politicization of aid; outflow of donor funding from humanitarian organizations; erosion of identity and as a result increased tension that appears in negotiations on access to affected populations.

It is believed that humanitarian assistance is becoming increasingly politicized. Most Western countries accused of using humanitarian action including that during natural disasters to achieve strategic or tactical purposes. These concerns caused first of all by the fact that international military began to take a more active part in the disaster. The US military, for example, deployed their forces in the areas of disaster more than 40 times since 2004¹. These figures indicate an increase in military intervention in humanitarian actions. The presence of foreign military forces may be seen as a threat to the sovereignty and territorial integrity of the affected countries. However such frequency may indicate availability of resources in the United States to provide humanitarian assistance and the USA prominence among donor.

The interest of the military in responding to disasters is growing. Assisting relief efforts can improve the military's image. Humanitarian operations provide training opportunities, and may also be regarded as a way for the military to diversify their role in period when armed forces globally are experiencing budget cuts².

But the presence of foreign military units on the territory of affected state can be seen as threat to national sovereignty. The most prone to natural hazards states have weak governance. So armed forces can outstay their welcome. As the threat to life recedes, cultural properties, temporarily forgotten can re-assert themselves, and transgressions of cultural taboos, temporarily forgiven, can cause great offence. Longterm dependency on international aid can cause its own problems, and the end up of this aid can have a second disastrous effect on the affected state, resulting in resentment and negating the goodwill that generally accompanies the military in its role as saviors³.

In recognition of the fact that humanitarian relief is and should remain a predominantly civilian function, in accordance with international norms conditions and limitations on the use of foreign military force in humanitarian operations after disaster: these assets should be used only if they meet a genuine humanitarian need, operate in accordance with humanitarian principles (neutrality, humanity, impartiality, independence) and coordinate with the other actors of the humanitarian operation.

The Oslo Guidelines stipulates the principle of "last resort" concerning the military involvement in humanitarian operations. Armed force should be seen as a tool complementing existing relief mechanisms in order to provide specific support to specific requirements, in response to the acknowledged "humanitarian gap" between the disaster needs that the relief community is being asked to satisfy and the resources available to meet them. Therefore, foreign military and civil defense assets should be requested only where there is no comparable civilian alternative and only the use of military or civil defense assets can meet a critical humanitarian need. The military or civil defense asset must therefore be unique in capability and availability⁴.

The principle of last resort contradicts the criterion of effectiveness, that mean that military assets should be employed at the stage of response and they need to start their action as soon as possible in order to save more lives and to minimize loses.

The armed forces in relief operations should meet the principle of "first responder last resort". Both governments and humanitarian actors acknowledge that there are some areas where the military tends to possess unique capabilities, primarily in transport and logistics. In such areas, the last resort criterion is

¹ Sylves, R.T. (2008). Disaster policy and politics: emergency management and homeland security. CQ Press.

² Hofmann, Ch.-A., Hudson, L. Military responses to natural disasters: last resort or inevitable trend? *Humanitarian Practice Network*. <<http://www.odihpn.org/humanitarian-exchange-magazine/issue-44/military-responses-to-natural-disasters-last-resort-or-inevitable-trend>> (2015, April, 01).

³ Elayne, J. Optimising the Use of Armed Forces in Natural Disasters. *Defence Viewpoints from the UK Defence Forum*. <<http://www.defenceviewpoints.co.uk/articles-and-analysis/optimising-the-use-of-armed-forces-in-natural-disasters>>.

⁴ Guidelines On The Use of Foreign Military and Civil Defence Assets In Disaster Relief - "Oslo Guidelines" Updated November 2006 (Revision 1.1 November 2007). *Reliefweb*. <<http://reliefweb.int/sites/reliefweb.int/files/resources/8706B7B69BD77E00C1257233004F0570-OCHA-Nov2006.pdf>>.

therefore more easily fulfilled.

Civilian authorities turn to the military for help in humanitarian operations for several reasons. Military can provide civil authority with such vital elements of humanitarian operation as manpower food, fuel, communications, building supplies, medicines, tools and equipment, transport (land, sea and air), technical assistance (especially logistics and communications) and facilities. Military units are distinguished by discipline and self-support. While disaster victims usually worry only about their own needs after natural hazard, civilian authorities cannot mobilize indigenous people to clean rubble or patch roads, but military units can do it well.

When disaster strikes civil administration is usually severely limited because communications are likely to be affected and staff members may be among the victims requiring assistance. In cases where local military forces have been affected or have been ordered back to their barracks while an international peacekeeping force guarantees disengagement, the internal communications and command-and-control systems of the outside force are likely to be even more sophisticated and secure. To a civil relief official in the midst of post-disaster chaos, a disciplined, ordered system is just what is needed to get things out to the affected population.

The disaster management cycle can be divided into six stages: prevention, mitigation, preparedness, response (rescue and relief), rehabilitation and reconstruction. The involvement of armed forces is urgent to assist in the response stage of the disaster management cycle for search, rescue and relief. This is the most crucial stage of the "Disaster Management Cycle" and timely and effective employment of the armed forces in search, rescue and relief operations can limit damage and save lives.

Countries affected by natural hazard usually turn first to their neighbors for assistance for several reasons. Among them is proximity of their assets; their probable good understanding of the political, social and geographic characteristics of the affected country. This is especially true in the first days of a disaster relief operation

The decision to provide military assets to a disaster relief operation in another country is rather political. Political considerations may be domestic, when public opinion pushes government to respond to human suffering or to the need to help citizens of the affected country. Some countries use their involvement in humanitarian operations as means to contribute country's desired profile on the world stage. Countries contributing military assets often take such decision because they have historical, political or strategic stake in the affected country. Reciprocity can also be a factor. Given that humanitarian assistance must be provided exclusively on the basis of humanitarian need and in accordance with the principles of impartiality, neutrality, humanity and independence, politically motivated deployments of foreign armed forces is a challenge for humanitarian community. Taking decision to deploy military contingents to the affected country the contributing government should be guided by political consideration. Political motivations can lead to the situation when government dispatches military assets that do not correspond to the needs of the response. This can cause a lot of problem for coordination in the affected country.

The main task for international community is to create such a humanitarian space, where all available resources are used, different actors are engaged and where is no threat to national sovereignty of the affected countries. That's why there should be established instruments and mechanisms for civil-military coordination.

Crucial for establishing efficient cooperation between military and civilian is development and adherence to principles of civil-military coordination such way that an affected state's sovereignty is not violated, and humanitarian actions are conducted in accordance with the particular needs of the affected population.

In this context, it should be emphasized that the responsibility for all actions after disaster rests on an affected States. The national government's action to restore the affected areas may be only supplemented by foreign military resources and means of civil defense, allocated as part of international efforts for conducting humanitarian operations.

Most deployments of foreign military assets in disaster relief operation are provided after direct, bilateral negotiations between governments, or even between national militaries, based on established relationships, and rarely through the United Nations Office for the Coordination of Humanitarian Affairs (OCHA).

Military resources should be seen as complementary tool to the existing delivery mechanisms to provide particular support in accordance with the existing needs, taking into consideration the recognized "humanitarian gap" between the needs of the affected population and availability of such resources.

Military resources and civil defense facilities may include personnel, equipment, supplies and services provided by foreign military and civil defense organizations during international humanitarian operation, when these forces are controlled by the UN [94]. One should note that civil defense organization is any organization that is controlled by the government and performs the functions listed in paragraph 61 of Additional Protocol 1 to the Geneva Conventions of 1949¹.

Military units and civil defense forces performing tasks in support of UN humanitarian action should act in accordance with the operational environment. Provided that the appropriate course of action does not violate any of the humanitarian principles of humanitarian aid and the Coordinator or any other responsible authority shall authorize the United Nations to perform such task.

However, there are situations where the use of military resources is the issue of extreme necessity to provide timely and efficient humanitarian operations. In such cases, military assets should be used if they are available. In general, these resources may be divided into two categories: military resources and means of civil defense placed at the disposal of the United Nations and other resources of the involved forces.

The principal difference between the two kinds of resources is that UN military resources and means of civil defense are placed under the control of the UN and/ or humanitarian agencies based on a regular basis to support humanitarian goals of the United Nations. When emergency occurs, available resources are usually limited. Military resources and civil defense may be deployed on a bilateral basis or according to regional agreements as "other forces involved" or as part of the United Nations operation. The second group also includes UN peacekeeping forces.

The UN military resources and means of civil defense must always remain under the control of civilian personnel. However humanitarian agencies using the UN military resources and means of civil defense should realize that commander of the military units or civil defense forces is ultimately responsible for the safety and security of these resources and a state, providing assistance usually does not jeopardize lives of its soldiers and personnel, if it considers some tasks to be too risky or irrelevant. So actually the UN cannot completely rely on foreign forces.

Usually the UN unarmed military resources and means of civil defense when they are perceived as neutral or impartial, that in fact distinguishes them from other military units, may be used to support all forms of humanitarian activities. However, the question of their involvement in providing direct support is to be decided in each case and only if it meets the criterion of "last resort". But as a rule they should be used for indirect assistance and infrastructure support tasks².

Military manpower engaged solely in support of the UN humanitarian actions should look different from the personnel of the units used to address other military missions and receive adequate protection from the affected countries.

All assistance including military resources and civil defense facilities should be provided at the request or with the consent of an affected state. A state suffering a natural disaster, if it needs international assistance should call up for help as soon as possible to maximize its effectiveness. The Office for the Coordination of Humanitarian Affairs is responsible for distribution reports on the situation. Some states do not call up for international assistance, but different international organizations and countries propose their help, and only after consent of the affected state is given, they can start the humanitarian operation. If the impacts of natural disaster are devastating and a state does not have enough resources to overcome these impacts, no state can deploy its assets to help affected population until the affected country agrees to such action. Some countries reject any possibility of international assistance on its territory. Usually states with such policy have weak governance.

So international law stipulates that requests for military assets and means of civil defense should not be construed as consent to certain military operations or be used as a justification for military operations, use of force or violation of the sovereignty of an affected state. For this aim states should establish cooperation with OCHA beforehand for conducting efficient humanitarian operations on critical phase.

The national government is responsible for planning disaster preparedness, which should include the receipt of foreign aid, the procedures for obtaining and using military forces.

Prone to natural disasters states that are potential recipients of foreign military forces should notify

¹ Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), (adopted 8 June 1977, entered into force January 1979). <<https://www.icrc.org/ihl/INTRO/470>> (2015, March, 06).

² Sebastiaan, J.H. Rietjens, Myriame, T. I. B. Bollen (2008). *Managing Civil-Military Cooperation: A 24/7 Joint Effort for Stability*. Ashgate: Publishing, Ltd.

OCHA on the size of needed international aid complementary to national capacity of affected countries to meet the needs that may arise as a result of a disaster. In addition a country that often faces natural disasters, should report OCHA on a single national point of contact that starts its work in case of emergency.

States that allow humanitarian agencies to use military resources provided by other states should notify OCHA of all restrictions on the use of force, and include such organizations in Agreement on the Status of Forces concluded by their governments with the governments or coalitions. This does not preclude the possibility of state in each case to impose restrictions on the use of military forces deployed on its territory¹. [90, c. 102].

Affected countries should provide the international community with timely and accurate information about the nature and scale of the disaster in order to improve the efficiency of external assistance. If necessary, OCHA can assist the country experiencing natural disasters in this task by means of United Nations Disaster Assessment and Coordination.

The primary responsibility for providing humanitarian assistance to affected population rests on the affected state. An affected state may reject option of using military resources, even though the United Nations has received a request for assistance from the affected state or from the UN Secretary General.

States that adhere to specific policy of use of on its territory military forces of foreign countries may consider bringing this to the attention of the Coordinator of Humanitarian Assistance and Resident Coordinator and to the Office of the Coordination of Humanitarian Affairs of the United Nations.

Foreign military forces involved in humanitarian operation, will be used on the basis of bilateral or multilateral agreements, where status of deployed forces engaged in the relief operations hold be laid down. If such an agreement is not concluded before the occurrence of the disaster, the process for providing military humanitarian operation is much more complicated, because the state need to conclude such agreement, that takes time, that is crucial for saving lives. If a state is willing to deploy military forces to help the affected state but the bilateral agreement is not concluded, the sides are to begin negotiation process, that can last for a long time. The main problem is that a lot of states do not have such agreements even with their neighbors, that makes the UN the main source of assistance for them.

The UN may use military resources and means of civil defense only if the following criteria and provisions are met:

- Requests for use of military resources and civil defense assets in support of the UN agencies should come from the Humanitarian Aid Coordinator or Resident Coordinator and should be based exclusively on humanitarian criteria.

- Humanitarian agencies should use military force as a last resort that means, in the absence of other alternatives to resolve civil emergency humanitarian problems in those terms.

- Any humanitarian operation in which military assets are used must preserve its civilian nature and character.

- Military resources must remain under the control of the military, but the whole operation as such should be conducted under the guidance and supervision of humanitarian organizations. Although it's not allowed any civil to command and control military.

- Military units in humanitarian operations, as far as possible, should not provide direct assistance.

- Any use of military force should be limited from in time.

- States proving military units in support of the UN humanitarian operations should ensure that they will adhere to humanitarian principles².

To ensure rapid response to requests for assistance states should also inform OCHA and other states of the structure of the local authority responsible for disaster relief, as well as how they are going to carry out management of foreign military forces.

To help population suffering natural disasters, humanitarian operation should begin as soon as possible. Therefore, it is vital that affected countries facilitated the arrival foreign military forces, and contributed to their deployment by providing:

- permission to fly over the territory and landing;
- failure of commercial documentation;
- exemption from customs duties;

¹ Sylves, R. T. (2008). *Disaster policy and politics: emergency management and homeland security*. CQ Press.

² Sebastiaan, J.H. Rietjens, Myriame, T. I. B. Bollen (2008). *Managing Civil-Military Cooperation: A 24/7 Joint Effort for Stability*. Ashgate: Publishing, Ltd., 270.

- waive visa requirements;
- free access to disaster zones;
- recognition of certificates;
- permission to use transport and communications.

For the same purpose affected countries that are acting parties to the Tampere Convention on the provision of telecommunications means to prevent, mitigate and overcome natural disasters should extend the provisions of the Convention on the foreign military forces deployed in their territory.

A state that suffered devastating impacts of natural disaster in order to prevent infringement against sovereignty shall notify the OCHA and other members of the humanitarian activities when relief operation must be stopped, and draw up plans of the withdrawal of foreign military forces. Thus the state protects itself from the occupation and encroachment on its sovereignty.

When natural hazard occurs the Coordinator of humanitarian assistance is usually appointed in the affected country. After his appointment the Coordinator of humanitarian assistance is responsible for initiating requests for the use of military force by the United Nations or other use of military resources and civil defense assets. If a coordinator of humanitarian assistance is not appointed, the UN Resident Coordinator should take decision on involvement of the UN military forces in the overcoming of the consequences of natural disaster.

Before sending a request to use the above mentioned resources and funds the UN Resident Coordinator or Humanitarian Coordinator should consult the authorities of the affected State, respectively. In the absence of Humanitarian Coordinator or the UN Resident Coordinator the government of the affected countries after consultation with the Inter-agency Standing Committee should take decision to use military forces to support humanitarian action of the United Nations.

Resident Coordinator or Humanitarian Coordinator should ensure the availability of coordination mechanisms to use humanitarian UN agencies involved in relief action effectively. If it is high risk that an emergency will have long-term effect or conditions when the state will need assistance again, humanitarian agencies of the United Nations system shall take appropriate measures to meet the needs of the resources in the devastated by means of affected state or other private sources.

When armed forces are used by humanitarian agencies of the UN system, the Resident Coordinator or Humanitarian Coordinator should ensure availability of appropriate control mechanism over the use of the UN armed forces that should meet the United Nations rules and regulations.

Resident Coordinator or Humanitarian Coordinator together with the commanders of military units and civil defense forces should regularly monitor methods of work of armed forces and give appropriate recommendations. Special attention should be given to types of tasks that may be performed; equipment of the military units and the cases when they may use force; order of subordination; criteria when the mission comes to an end [64].

The main responsibility of the United Nations Humanitarian Civil-Military Coordination section established as a part of the Office for the Coordination of Humanitarian Affairs, is to mobilize the military capabilities of the United Nations and to ensure coordination between civilian and military in emergencies. The United Nations Humanitarian Civil-Military Coordination section should handle requests to use the UN military forces, conclude arrangements with the State Member and supervise the use of these resources by the UN humanitarian agencies.

In spite of many instruments and mechanism established in order to improve coordination between all actors engaged in humanitarian operation there is still states that are afraid of international assistance after natural disaster.

To minimize the threat to national sovereignty states should establish relations with OCHA, conclude bilateral and multilateral agreements stipulating the principles and limitations of the international assistance in case of natural disaster, especially as concerns the military involvement.

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