

debate

In FMR 13, an article on 'Civil-military relations in Afghanistan'¹ raised concerns over the blurring of roles between military and humanitarian actors in Afghanistan. In this piece, Ted van Baarda and Larry Minear debate more fully the question of uniforms...

Military haberdashery in Afghanistan

Aid agencies acknowledge the contribution that soldiers can make in Afghanistan by reconstructing schools and roads but protest when US troops do aid work in civilian clothes and carrying weapons. Blurring essential distinctions between humanitarian and military personnel, they argue, puts professional aid workers at risk. By contrast, European military forces in the International Security Assistance Force doing civic action work wear uniforms throughout.

The laws of armed conflict, including the four Geneva Conventions on the Protection of Victims of War adopted following World War II, require combatants to be visually distinguishable from non-combatants. When 15 respected American aid agencies wrote to US Defence Secretary Donald Rumsfeld and National Security Advisor Condoleezza Rice to emphasise the risk posed to them by US servicemen doing civic action work in civilian garb, the Bush administration accommodated their request to the extent of requiring American troops dispensing aid in Kabul and Mazar to wear full military uniforms. Elsewhere, they would be expected to wear only a piece of their uniforms. Aid agencies view these concessions as inadequate. Three fundamental issues arise.

First, to be lawful according to international law, a combatant must wear insignia or uniform that distinguishes him or her at a distance from the civilian population and carry his/her weapons openly. US military personnel who wear civilian clothes and conceal their weapons while on duty risk losing their status as lawful combatants. That is the very point that US officials have themselves made in seeking to deny captured Taliban and al-Qa'ida forces prisoner of war status. But the Defence Department has its own concerns. "When the bad guys start wearing uniforms so that they can be shot at 300 metres", a US commander in Kabul states, "my guys will do so too". Yet the issue is fundamental. Although a uniformed combatant who fulfills the stated criteria may lawfully kill an enemy combatant, an American soldier in mufti may not necessarily do the same. Winning the war on terrorism by copying al-Qa'ida tactics may represent a Pyrrhic victory.

Second, international humanitarian law makes firm distinctions between humanitarian activities and military operations. According to the International Court of Justice, the former should comply with the Red Cross Movement's fundamental principles including independence from political considerations, neutrality with respect to issues at the heart of the conflict and impartiality (i.e. aid responses based on need rather than

political or other extraneous factors). In contrast, the military is not independent of but - in democracies, at least - subject to political control. Yet in Afghanistan, as earlier in Kosovo, US forces are belligerents. When American troops, civil affairs personnel and Special Forces carry out aid activities, considerations of humanity are not an end in themselves but a tool to advance military and political aims. As a result, fundamental principles may be eroded.

Third, humanitarian law specifies that just as military operations must be distinct from humanitarian operations, so too must their personnel. Humanitarian personnel are non-combatants and may not be shot at. As US servicemen in civilian clothes repair school buildings, they are likely to be seen as unlawful combatants or spies (one objective is, in fact, intelligence gathering) and become a legitimate target for hostile fire. The desire for camouflage endangers aid professionals of all nationalities who pride themselves on their transparency, and imperils those they assist.

Aid professionals have good reason to encourage the military to give top priority to ensuring security for Afghan civilian populations rather than doing hands-on relief work. The refusal of the US to join the new International Criminal Court and the Pentagon's rather loose interpretation of the laws of war may well call into question the desirability of further military-civilian cooperation.

Given the internationally recognised legal obligations of military personnel, it is not too much to insist that American soldiers dress properly for the aid jobs they tackle.

Ted van Baarda directs the Humanitarian Law Consultancy in the Hague, Larry Minear the Humanitarianism and War Project at Tufts University in Medford, Massachusetts.

Emails: humlaw@wxs.nl and larry.minear@tufts.edu

1. FMR13 pp14-15. www.fmreview.org/FMRpdfs/FMR13/fmr13.5.pdf

Royal Marines, Kabul, 2002.

