

IASC Secretariat Protecting Principles Under Stress

Author: IASC LU

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Guidance for the Development of Common UN Ground Rules Based on Agreed Principles

I. Purpose

The purpose of this Guidance is to assist UN country teams in the development of common "UN Ground Rules", based on agreed principles, for UN activities in countries in crisis, or emerging from conflict. The Ground Rules developed for each country situation are intended:

1. To ensure that the principles on which UN activities are based are understood and accepted by local authorities (including both state and non-state actors);
2. To ensure that the activities of all parts of the UN family are consistent with the agreed principles.

II. Background

The Charter of the United Nations, the Universal Declaration of Human Rights and International Humanitarian Law are reflected in the respective mandates of all UN organisations. However, interpretation and practical application of the principles contained in these documents depends to a significant degree upon the specific functions of individual organisations and also upon the contexts in which they are applied.

In recent times the United Nations has found itself in situations where the principle-based mandates of UN entities have been severely tested by a growing number of contending pressures that arise in the midst of conflict and post-conflict situations. These conditions intensify difficulties for UN organizations to establish objectives and priorities, negotiate consent for their activities with appropriate interlocutors, and to provide for security.

The following are a few of the ways in which the application of UN agency mandates have generated real or perceived conflicts among UN entities, or between seemingly competing objectives, or between the UN and its national and local counterparts:

the need for compromise to achieve political settlements has sometimes undermined the process of accountability for human rights violations and the search for justice - for example, the use, during peace negotiations, of amnesties for war crimes and human rights violations;

relief inputs may benefit the very forces that political and peacekeeping actors are seeking to influence or contain -eg. payments to warring factions for access or security;

in negotiating access, relief agencies may disrupt political negotiations - ie. by appearing to confer legitimacy or recognition on parties outside of the political negotiation process

human rights monitoring and advocacy may compromise humanitarian access, when protests against human rights violations lead to the expulsion of UN staff ;

development activity may be at odds with peace, humanitarian, and human rights agendas, when development actors work through state or presumptive state authorities that violate human rights and whose actions may contribute to or perpetuate conflict.

In spite of these pressures, it is essential that the mandates of different UN entities be seen to be compatible and complementary, and, whenever possible, mutually supportive. This can be achieved if the country team first works together to develop a joint strategic plan, in which the hierarchy of basic principles is established, and then cooperates on the development of Ground Rules to be negotiated with the authorities.

III. Objectives

This Guidance has four linked objectives:

1. To assist UN country teams to develop common Ground Rules for UN activities in specific countries, including clear agreement on the circumstances in which agencies will initiate action, withdraw, or place limits on their operations, in accordance with their mandates;
2. To facilitate negotiations with national and local authorities, and to ensure their understanding and acceptance of the principles on which UN operations are based;
3. To facilitate the joint development of strategic plans in the field;
4. To provide procedures for reconciling differences that might arise between UN organisations at the field level on matters of mandate and principle.

IV. Principles

The attached principles (Annex 1) derive from the essential purposes of the UN system, as laid out in the Charter, in particular with reference to the need to maintain international peace and security, to develop friendly relations among nations, to achieve international cooperation in solving problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and fundamental freedoms.

V. Resolving Conflicts Among Applied Principles and/or Mandates

While the principles given above are inherently equal, in practice UN country teams may be faced with situations where the simultaneous application of those principles, through UN entity mandates, may be in conflict. In such cases, the UN as a whole may be temporarily compelled to make strategic choices which reflect the following agreed positions:

Given that the right to life is paramount, life-saving assistance cannot be subjected to political conditionalities;

Given that the prospects for development can be greatly enhanced by conditions of peace, rehabilitation and development activities may be subject to political conditionalities during the operational phase of efforts to achieve a lasting political settlement.

In situations where the legal rights of refugees, displaced persons or other civilian victims are denied by the authority in power, essential life-saving assistance must nevertheless be provided;

In situations where severe breaches of international humanitarian law (Defined by the Statutes of the International Criminal Court as encompassing the crime of genocide, crimes against humanity, war crimes, and the crime of aggression) are occurring, human rights activities should be the UN's priority, even at the risk of interrupting humanitarian access.

VI. Methodology - The Development of Ground Rules

I. Within the UN family

Procedures for ensuring support for the development of ground rules by UN entities in the field have four component parts: (1) HQ support for strategic planning; (2) Instructions to the field; (3) Country-team implementation plans; (4) Procedures for review and appeal.

(1) HQ support for strategic planning

[The UN should have in place an agreed architecture for supporting strategic planning by Country Teams. Current possibilities for such architecture include the IASC, expanded meetings of the IASC, the Executive Committees, the Senior Management Group, and Task Forces established by one of the above mechanisms. To date, various elements of this architecture have been used on an *ad hoc* basis to manage crisis. Input is needed into the question of how such architecture should be developed.]

(2) Instructions for senior representatives in the field

Country-specific instructions for all senior representatives of United Nations organisations assigned to a crisis-affected country should normally be issued. The instructions should include: the objectives that senior representatives will be expected to achieve; the interlocutors that he or she will be expected to deal with to achieve those objectives; the parameters of negotiations with such interlocutors, including the use of conditionalities; specific support to be provided by the UN system to achieve those objectives; channels for ensuring timely and adequate headquarters responses to problems concerning implementation of instructions; and the circumstances in which senior representatives will speak for or on behalf of the UN system in country.

(3) Country-team implementation

The country team's first tasks are:

to develop the strategic plan, including agreed objectives and priorities for the principal activities of the UN;

to develop Ground Rules for the engagement and disengagement of the UN in the country, based on the Principles set out in this Guidance;

to negotiate consent for the activities, priorities and Ground Rules with the national

and local authorities;

to identify the issues on which the UN will "speak with one voice" and to devise the consultation mechanisms to be used to define "one voice" policies;

to ensure that detailed security plans have been drawn up and approved by the SMT and UNSECOORD;

(4) *Procedures for review and appeals*

In a situation where a dispute arises within a country team over the application of specific principles, the problem should first be referred to the senior UN official in country (normally the SRSG or Resident/Humanitarian Coordinator). [When the problem is not resolved at this level, the matter should be referred through the headquarters architecture, as referred to in (1).]

II. Negotiations with the authorities

Once developed, agreement to the Ground Rules should be negotiated with the national and local authorities, and should be widely disseminated, taking into account the following:

(1) *Conventions etc.*

In many instances, national governments will be signatories to key conventions and instruments of international humanitarian and human rights law. Presumptive authorities and even local non-state actors can be advised that adherence to these conventions and instruments is a sign of political responsibility, from which they can acquire prestige. There will often be value in providing the new authorities with copies of these texts, translated where necessary. The ICRC should be consulted, as appropriate.

(2) *Local cultural influences*

The Ground Rules should relate the Principles to local cultural traditions and values. The advice and assistance of religious and cultural leaders may be sought.

(3) *Negotiations with non-state actors*

Where access is required to areas outside national government control in order to deliver humanitarian assistance, the national government should be informed that while they will be informed of all contacts with non-state actors, the national government is obligated by international humanitarian law to allow humanitarian agencies to have access to all populations in need, on the basis of humanity, neutrality, and impartiality.

(4) *The use of "graduated response"*

Where governments or non-state actors are not willing to accept completely the principles contained in the Ground Rules, Country Teams should analyse the implications of non-compliance on their ability to implement programmes and agree on an appropriate response. The introduction or withdrawal of certain elements of an assistance programmes can be linked with human rights provisions of the Ground Rules. Decisions to graduate or calibrate an assistance programme should be clearly signaled to authorities, indicating reasons for withdrawal or resumption of activities and the conditions for continued operation.

(5) *Communications Strategy*

The development and implementation of Ground Rules cannot take place in isolation from the society and environment of the country. Key elements of civil society can be involved in the development and dissemination of the Ground Rules. The media can be encouraged to disseminate the results widely.

Annex 1

Core Principles Relating to UN Activities in Countries in Crisis

Principles affecting all people over time

[1] The right to life is inherent and inalienable, governing the actions of all human beings. The full spectrum of this right is defined by the Universal Declaration on Human Rights, the Convention on Civil and Political Rights, the Convention on Social, Economic and Cultural Rights, and international humanitarian law, and cannot be violated through the arbitrary act of any individual or institution;

[2] Respect for domestic jurisdiction and state sovereignty is fundamental, reflecting an attribute of equality between states as well as a state's duty to comply faithfully with international obligations, including those ascribed to in the Conventions;

[3] All member-states shall refrain from the threat or use of force against the territorial integrity or political independence of any state, or the threat or use of force in any manner inconsistent with the purposes of the United Nations;

[4] The right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to and enjoy all human rights and fundamental freedoms: civil, cultural, economic, political and social;

Principles affecting specific categories of peoples

[5] The child enjoys special protection, and shall be given opportunities and facilities, by law and by other means, to enable him or her to develop physically, mentally, morally, spiritually and socially in a healthy and normal manner and in conditions of freedom and dignity.

[6] Discrimination against women is fundamentally unjust and constitutes an offense against human dignity.

Principles affecting peoples in specific situations

[7] Humanitarian assistance must be provided to all in need, based upon the principles of humanity, neutrality and impartiality:

Humanity - human suffering should be addressed wherever it is found. The dignity and rights of all victims must be respected and protected.

Neutrality - humanitarian assistance must be provided without taking sides in controversies of a political, religious, or ideological nature.

Impartiality - humanitarian assistance must be provided without discrimination as to ethnic origin, gender, nationality, political opinions, race or religion; relief for the suffering must be guided solely by their needs.

[8] Free and unimpeded access for humanitarian assistance activities for those in need must be granted by all parties concerned. All non-combatants affected by the conflict have the right to request and receive protection and humanitarian assistance from the authorities and/or the international community, and no one should be persecuted or punished for making such a request.

[9] In situations of armed conflict, civilians are protected under international law from attacks, torture, and other violations of human rights. Primary responsibility for the protection and well-being of civilians rests with the Government of the state, or authorities in control of the territory in which endangered persons are located. Insurgent groups and militias should be held to the same standard of responsibility as Governments.

[10] Internally displaced persons comprise a particularly vulnerable group, requiring special protection and assistance, and enjoy as a minimum, in full equality, the same rights and freedoms under international humanitarian and human rights law and domestic law as do other persons in their country.

[11] Refugees are to be recognized as a group requiring special protection and assistance, and are to enjoy the full spectrum of rights afforded them by refugee, humanitarian and human rights law.

Annex 2

Suggestions/Past Practices for Resolving Problems

During fast-moving crisis situations, problems will inevitably arise, even if the country team has agreed on a strategic plan and has negotiated Ground Rules with the authorities. The following are some suggestions and hints for possible courses of action, grouped under relevant headings:

(1) *Separate and together*

Separate action by different UN entities on the basis of their respective mandates will not normally lead to problems, if their activities are also part of a joint strategic plan.

Having defined on what issues the UN will "speak with one voice", and having worked out the UN's policy on those issues, it is important for all UN entities to ensure that their public comments on matters relating to their own mandates do not inadvertently contradict the "one voice" line.

(2) *Political agreements and human rights*

In negotiating political settlements, or in supporting political negotiations led by regional bodies, UN political entities should strive to promote solutions which are grounded in respect for human rights and justice.

Truth and Reconciliation commissions or structures may help to overcome the tension between political compromise and human rights accountability.

When consideration is being given to the application of sanctions, humanitarian and development agencies should provide their political colleagues with an analysis of the likely impact of specific measures. When sanctions are being implemented, these agencies should collect information analysing the impact on different sections of society and sectors of the economy.

(3) *Humanitarian assistance*

Although political actors may help to obtain access to key political leaders, it must remain the responsibility of the Humanitarian Coordinator and the humanitarian agencies to negotiate access for humanitarian assistance, whether with government or non-state authorities. Humanitarian actors must be careful not to confer diplomatic "recognition" on the authorities with which they negotiate.

In negotiating access for provision of relief, humanitarian agencies should aim, in consultation with the concerned agencies, normally ICRC and UNHCR, to achieve consent for legal protection activities (registration, documentation, tracing etc.).

Country teams must develop a clear joint understanding of what constitutes "life-saving assistance".

(4) *Human Rights*

Human rights activities that are capacity-building, such as technical cooperation, will normally integrate more effectively into overall country team strategies, than activities which are confrontational in nature.

All UN entities should seek advice on the potential human rights implications of their programmes.

Severe breaches of international human rights law should lead to a collective UN response.

(5) *When to suspend or withdraw*

When developing contingency plans for suspension or withdrawal of activities, country teams should explore the option of "graduated responses". These responses can range from public condemnation by the UN team to suspension and then withdrawal of certain assistance programmes, and finally to departure of the UN altogether. All these stages of response need to be carefully coordinated with Headquarters, so that the Security Council can be briefed as appropriate, and member states having influence in the country can be mobilised in a coordinated manner.

In situations where agencies providing legal protection services are obliged to withdraw, or suspend those activities, the country team may decide that humanitarian agencies may continue to provide essential life-saving assistance. Such decisions need to be clearly communicated and explained to the authorities.

(6) *Security*

Guidance and instructions to country teams relating to security are contained in other documents. However, it is important that measures to ensure the security of UN and other humanitarian staff should be a principal component of the Ground Rules. Deliberate targeting of humanitarian staff by government or non-state actors should provoke an immediate public joint UN condemnation, including diplomatic messages from the Secretary-General.

In making their recommendations to UNSECOORD, Security Management Teams should balance their security assessments against the humanitarian impact of their decisions.