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# Perspectives

## **The Department of Defense Role in Foreign Assistance: Background, Major Issues, and Options for Congress**

**August 25, 2008**

[The following are excerpts of a report prepared for members and committees of the Congress by the Congressional Research Service. References to Annexes or Appendices have been retained in the excerpt even though the Annex or Appendix itself may not be included. A full copy of the report can be found at <http://www.fas.org/sgp/crs/natsec/RL34639.pdf>.]

### **Summary**

The Department of Defense (DoD) has long played a role in U.S. efforts to assist foreign populations, militaries, and governments. The use of DoD to provide foreign assistance stems in general from the perception that DoD can contribute unique or vital capabilities and resources because it possesses the manpower, materiel, and organizational assets to respond to international needs. Over the years, Congress has helped shape the DoD role by providing DoD with its mandate for such activities through a wide variety of authorities.

The historical DoD role in foreign assistance can be regarded as serving three purposes: responding to humanitarian and basic needs, building foreign military capacity and capabilities, and strengthening foreign governments' ability to deal with internal and international threats through state-building measures. The United States and the U.S. military benefit from DoD foreign assistance activities in several ways. U.S. diplomacy benefits from the U.S. military's capacity to project itself rapidly into extreme situations, such as disasters and other humanitarian emergencies, enhancing the U.S. image as a humanitarian actor. Humanitarian assistance, military training, and other forms of assistance also provide opportunities to cultivate good relations with foreign populations, militaries, and governments. U.S. military personnel have long viewed such activities as opportunities to interact with foreign militaries as part of their professional development. Since the terrorist attacks on the United States on September 11, 2001, DoD training of military forces and provision of security assistance have been an important means to enable foreign militaries to conduct peacekeeping operations and to support coalition operations in Iraq and Afghanistan.

DoD's perception of the appropriate non-combat role for the U.S. military has evolved over time. Within the past few years, the perceptions of DoD officials, military officers, and defense analysts have coalesced around a post-9/11 strategy that calls for the use of the U.S. military in preventive, deterrent, and preemptive activities. This strategy involves DoD in the creation of extensive international and interagency "partnerships," as well as an expanded DoD role in foreign assistance activities. Critics point to a number of problems with an expanded DoD role in many activities. Indeed, a key DoD document acknowledges that state-building tasks may be "best performed by indigenous, foreign, or U.S. civilian professionals." Nevertheless, although reluctant to divert personnel from combat functions, DoD officials believe that the U.S. military must develop its own capacity to carry out such activities in the absence of appropriate civilian forces.

In the second session of the 110th Congress, members have faced several choices regarding the DoD role in foreign assistance. The Bush Administration has proposed legislation to make permanent

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two controversial DoD authorities. It has also proposed legislation to enable U.S. government civilian personnel to perform some of the tasks currently carried out by the U.S. military, as well as to form a civilian reserve corps for that purpose. Congress may also consider options to improve DoD coordination with civilian agencies on foreign assistance activities.

## Introduction<sup>1</sup>

The Department of Defense has long played a role in U.S. efforts to assist foreign populations, militaries, and governments. The use of DoD to provide foreign assistance stems in general from the perception that DoD can contribute unique or vital capabilities and resources because it possesses the manpower, materiel, and organizational assets to respond to international needs. Over the years, Congress has shaped the DoD role through a wide variety of authorities contained in the Foreign Relations and Intercourse (Title 22 U.S. Code) and Armed Services (Title 10 U.S. Code) statutes, and through annual legislation. To some analysts, the DoD role has been in effect a product of Congress's willingness to fund defense rather than foreign affairs budgets. In some instances, the activities in which DoD participates serve an institutional purpose for the U.S. military, providing U.S. soldiers and sailors with opportunities for military training, for cultivating military-to-military contacts, and for gathering information on foreign countries where they may someday be called to operate.

The historical DoD role in foreign assistance can be regarded roughly as serving three purposes:

- **Responding to humanitarian and basic needs**—Since at least the 19th century, U.S. military forces have provided urgent assistance to foreign populations in time of disasters, such as earthquakes and floods. More recently, U.S. military forces have also provided aid in humanitarian crises such as famines and forced population movements. DoD aids foreign populations under authorities to conduct humanitarian assistance in a variety of other circumstances, including as an adjunct to military training and exercises with and as part of military operations.
- **Building foreign military capacity and capabilities**—DoD provides military equipment, weapons, training, and other assistance to build up the military capacity and capabilities of friendly foreign countries. Such support is provided to augment military capacity to perform counternarcotics, counterterrorism, internal defense, border defense, and other missions, and as part of post-conflict state-building. The origins of current programs date to the early years after World War II, when the United States sought to help rebuild Europe.
- **Strengthening foreign governments**—Besides building foreign military capacity, DoD plays a role in U.S. efforts to help foreign governments secure their territories against internal and international threats with a variety of non-military tools. These include state-building efforts, such as strengthening police forces, and bolstering the legitimacy of foreign governments by undertaking small-scale economic, health, and social projects (and in the case of conflict zones, political projects), generally in areas outside capital cities. Although such efforts were carried out sporadically as early as the 19th century, the post-World War II U.S. occupations in Germany and Japan are regarded as state-building models. More recently, DoD support for border protection and nuclear non-proliferation initiatives strengthens foreign governments by curbing international threats.

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<sup>1</sup> The introduction and overview were prepared by Nina M. Serafino, Specialist in International Security Affairs. These sections draw on the appendices at the end of the report by several CRS [Congressional Research Service] analysts from the Foreign Affairs, Defense, and Trade Division.

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During the past few years, Congress has provided DoD with new, non-combat authorities to prosecute the wars in Afghanistan and Iraq and to conduct counterterrorism<sup>2</sup> activities elsewhere. Congress granted these authorities in response not only to the immediate needs of U.S. military operations in conflict zones, but also to the Bush Administration's efforts, in the wake of the terrorist attacks on the United States of September 11, 2001 (9/11), to redirect and reshape U.S. government capabilities in a new strategic environment. As a result, some analysts believe that DoD is playing an increasing role in assisting foreign populations, militaries, and governments. Critics view this role as potentially detrimental to U.S. foreign policy, citing a perceived lack of strategic coordination between DoD and the State Department (and other agencies where applicable), a failure to ensure that DoD programs are sustainable, and a militarization of the United States' image abroad. These analysts call for greater clarity and reforms in defining DoD's foreign assistance role and responsibilities.<sup>3</sup> This report provides Congress with historical context and current information and perspectives regarding DoD's role and responsibilities in a range of foreign assistance activities.

In an overview and appendices, this report provides background information on and discusses issues related to the DoD's role in providing U.S. foreign assistance and undertaking foreign assistance-type activities. Topics include the types of assistance DoD provides, the authorities under which DoD conducts its programs, and coordination and cooperation mechanisms between DoD and other agencies. The report begins with a brief introduction to the three areas in which DoD plays a role in foreign assistance and to Congress's part in authorizing that role. Next, the report briefly discusses the general evolution of DoD's role and the Department of State's current perception of that role based on current national security needs. The report then provides an overview of the evolution of the DoD role and current activities in the three areas cited above, with a snapshot of the varying perspectives on the DoD roles in these areas. Finally, the report discusses issues that Congress may wish to consider. The appendices provide more detailed information on the current and most significant foreign assistance programs in which DoD plays a role.

This report refers to a *Department of Defense* role in foreign assistance rather than a *U.S. military* role because DoD may use either military troops or civilian contractors, or both, to implement programs. The term *U.S. military* is used only for activities in which U.S. troops are used exclusively.

2. The term *counterterrorism* in this report refers to offensive measures taken to prevent, deter, and respond to terrorism.

3. Several recent reports reflect these perceptions. Two of these are congressional reports: U.S. Congress, Senate, Committee on Foreign Relations, *Embassies as Command Posts in the Anti-Terror Campaign*, Washington, D.C., December 2006 (hereafter referred to as 2006 SFRC Report) and U.S. Congress, House, *Conference Report on the National Defense Authorization Act for FY2008* to accompany H.R. 1585, S.Rept. 110-447, Section 952, December 6, 2007. Two were produced by Washington, D.C.-based think tanks: Center for Strategic and International Studies (CSIS), *Integrating 21st Century Development and Security Assistance*, Final Report of the Task Force on Non-Traditional Security Assistance, CSIS Report, December 2007 (hereafter referred to as CSIS Task Force Final Report 2007); and Stewart Patrick and Kaysie Brown, *The Pentagon and Global Development: Making Sense of the DoD's Expanding Role*, Center for Global Development, Working Paper No. 131, November 2007 (hereafter referred to as *The Pentagon and Global Development*). Another was produced by an international organization: Organization for Economic Co-Operation and Development, *The United States: Development Assistance Committee (DAC) Peer Review*, 2006, p. 15, (hereafter referred to as the DAC Peer Review 2006). Another was produced by a group of non-governmental organizations: George Withers, Adam Isacson, Lisa Haugaard, Joy Olson, and Joel Fyke, *Ready, Aim, Foreign Policy*, a joint publication of the Center for International Policy, the Latin America Working Group Education Fund, and the Washington Office on Latin America, March 2008.

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## Overview: DoD's Evolving Response to Perceived Needs

DoD's perception of the appropriate non-combat role for the U.S. military has evolved over time. During the years in which the United States' primary national security threats were posed by other States, there were differing perspectives within DoD on the use of the military in non-combat roles. With the fall of the Soviet Union, these differences sharpened. Within the past few years, the perceptions of DoD officials, military officers, and defense analysts have coalesced around a post-9/11 strategy that calls for the use of the U.S. military in preventive, deterrent, and preemptive activities. This strategy involves DoD in the creation of extensive international (and interagency) "partnerships," as well as an expanded DoD role in foreign assistance activities.

The February 2006 Quadrennial Defense Review Report (QDR) is the first key document that reflects the evolution of DoD thinking as it grapples with the implications of 9/11 for U.S. national security and U.S. defense policy.<sup>4</sup> The assertion of top U.S. defense officials and military leaders that DoD needs "new and more flexible" authorities to operate in the current strategic environment forms the rationale for DoD's request for new authorities,<sup>5</sup> especially to advance a new "Partnership Strategy."<sup>6</sup>

As outlined in the 2006 QDR, the Partnership Strategy is one of DoD's key tools for the United States' "long war" against a new threat — that is, the decentralized networks of "violent extremists who use terrorism as their weapon of choice," who "will likely attempt to use" weapons of mass destruction "in their conflict with free people everywhere."<sup>7</sup> Countering such networks, as well as the rogue powers that may sponsor them, will require "long-duration, complex operations involving the U.S. military, other government agencies and international partners," which are waged simultaneously in multiple countries.<sup>8</sup> To do so will also require that the United States "assist others in developing the wherewithal to protect their own populations and police their own territories, as well as to project and sustain forces to promote collective security."<sup>9</sup>

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4. U.S. Department of Defense. *Quadrennial Defense Review Report. (QDR)* February 6, 2006. (Hereafter referred to as 2006 QDR.) The QDR is a congressionally mandated report (Title 10 U.S.C. Section 118) produced every four years that delineates a national defense strategy consistent with the President's most recent National Security Strategy, based on the perceived threats to U.S. interests, and defines the necessary force structure, modernization plans, infrastructure, budget, and other elements to carry out that defense strategy. The 2002 National Security Strategy, the most recent before the 2006 QDR, sets forth eight tasks for the U.S. government, among them four, which directly involve DoD: (1) "strengthen alliances to defeat global terrorism and work to prevent attacks against us and our friends"; (2) "work with others to defuse regional conflicts"; (3) "prevent our enemies from threatening us, our allies, and our friends, with weapons of mass destruction"; and (4) "transform America's national security institutions to meet the challenges and opportunities of the twenty-first century." pp. 1-2.

5. *Ibid.*, p. 83. The full quote states: "The ability to wage irregular and unconventional warfare and the skills needed for counterinsurgency, stabilization and reconstruction, 'military diplomacy' and complex interagency coalition operations are essential — but in many cases require new and more flexible authorities from the Congress."

6. 2006 QDR, *op. cit.* The previous QDR, although published in late September 2001, was written and cleared before the 9/11 attacks.

7. *Ibid.*, p. v.

8. *Ibid.*, p. 23.

9. *Ibid.*, p. 20.

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In the 2006 QDR, as elsewhere, DoD maintains that developing the foreign “wherewithal” to enhance domestic and collective security requires a “whole of government” approach. Through the November 2005 DoD Directive 3000.05, entitled the Directive on Military Support for Stability, Security, Transition, and Reconstruction (SSTR) Operations, defense leaders mandated that DoD “be prepared to conduct and support” civilian agencies in conducting SSTR operations, but also indicated doubt that civilian agencies will create the needed capabilities to carry out state-building tasks. Thus, while DoD acknowledges that state-building tasks may be “best performed by indigenous, foreign, or U.S. civilian professionals,” it also sees a need to develop its own capability to perform “all tasks necessary to establish or maintain order when civilians cannot do so.”<sup>10</sup> As reflected in the 2006 QDR, DoD is placing a new emphasis on the utility of non-combat foreign assistance activities and expects to continue to play an important, if not a proportionately expanding, role in U.S. foreign assistance in the developing world.

DoD subsequently reiterated these points. In October 2007, Defense Secretary Robert Gates referred to this new perception of the DoD role: “And until our government decides to plus up our civilian agencies like the Agency for International Development [USAID], Army soldiers can expect to be tasked with reviving public services, rebuilding infrastructure, and promoting good governance. All these so called ‘nontraditional’ capabilities have moved into the mainstream of military thinking, planning, and strategy — where they must stay.”<sup>11</sup> This theme was once again repeated in the June 2008 National Defense Strategy, which found that U.S. forces had “stepped up to the task of long-term reconstruction, development, and governance” and that the “U.S. Armed Forces will need to institutionalize and retain these capabilities,” while noting “this is no replacement for civilian involvement and expertise.”<sup>12</sup>

In a report to Congress in mid-2007, the State Department had argued in favor of new permanent DoD authorities. It viewed such authorities, including several mentioned below, as a means “to provide a flexible, timely, and effective whole-of government approach to today’s security environment that is well coordinated in the interagency [coordination process] both in Washington at the policy level and in the field at the operational level, and with appropriate, relevant oversight by Congress.”<sup>13</sup>

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10. The November 2005 DoD Directive 3000.05, the Directive on Military Support for Stability, Security, Transition, and Reconstruction (SSTR) Operations. (Hereafter referred to as DoD Directive 3000.05.) This directive discusses state-building tasks as part of stability operations. It is the first DoD document to designate stability operations as “a core U.S. military mission.” The state-building tasks it specifically lists are helping to rebuild indigenous institutions, including security forces, correctional facilities, and judicial systems; reviving or building the private sector, and developing representative governmental institutions. This directive may be accessed at [<http://www.dtic.mil/whs/directives/corres/html/300005.htm>]; last accessed July 22, 2008. For more on this topic, see CRS Report RL33557, *Peacekeeping and Related Stability Operations: Issues of U.S. Military Involvement*, by Nina M. Serafino.

11. U.S. Department of Defense. Speech by Secretary of Defense Robert M. Gates to the Association of the United States Army, Washington, D.C., October 10, 2007. Accessed through [<http://www.defenselink.mil/speeches>]; last accessed July 22, 2008.

12. U.S. Department of Defense. National Defense Strategy, June 2008, p. 17. In the same paragraph, this document stated: “Greater civilian participation is necessary both to make military operations successful and to relieve stress on the men and women of the armed forces. Having permanent civilian capabilities available and using them early could also make it less likely that military forces will need to be deployed in the first place.”

13. U.S. Department of State. *Report to Congress: Section 1206(f) of the 2006 National Defense Authorization Act*. Released by the Bureau of Political-Military Affairs. July 3, 2007. Hereafter referred to as the *Section 1206(f) 2006 NDAA Report*. This report is available through the Department of State website: [<http://www.state.gov/t/pm/rls/rpt/spec/90867.htm>]; last accessed July 22, 2008.

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The following sections discuss DoD's traditional and current responsibilities in disaster assistance and humanitarian activities, assistance to foreign militaries, and assistance in other state-building areas. They also discuss recent proposals for enhanced authorities as spelled out in the QDR and related legislation submitted to Congress.

### **Responding to Humanitarian and Basic Needs**

DoD engagement in U.S. government disaster relief and humanitarian assistance activities is longstanding, with U.S. military forces playing an important role in U.S. disaster assistance since at least the 19th century.<sup>14</sup> DoD also plays a role in other humanitarian emergency situations, such as providing aid and protection for relief workers in cases of famine or forced population movements. More routine humanitarian assistance activities and civic action programs abroad date back at least to the turn of the 20th century; these usually take place in the context of U.S. training exercises or military operations.

### **Evolution of Humanitarian Programs, Authorities, and Funding Since the 1980s**

Beginning in the mid-1980s, Congress provided specific DoD authorities for humanitarian aid as the Reagan Administration's civilian leadership sought means to support its allies in conflicts in Central America and Afghanistan. During that period, Congress provided specific authority to DoD to (1) provide non-lethal excess property and supplies from the DoD stocks when requested by the State Department and for distribution by the State Department; (2) provide space available military transportation for private donors to send supplies and food to needy foreign populations; and (3) carry out civic assistance programs that involve small-scale construction, reconstruction, and maintenance projects, and provide limited medical attention to rural populations. (See **Appendices A and C.**)

Since then, Congress has somewhat modified and expanded DoD disaster response and humanitarian programs, incorporating aid to mitigate environmental disasters and demining training, and has introduced separate health programs. (See **Appendices A, B, and C.**) Thus, DoD disaster and humanitarian aid now encompasses a broader range of potential assistance than the basic humanitarian relief of food and emergency supplies provided by non-governmental organizations. In 1994, Congress established the Overseas Humanitarian, Disaster and Civic Aid (OHDACA) DoD budget account to fund many of these programs.<sup>15</sup>

### **Disaster Relief and Related Humanitarian Assistance**

The DoD role in providing disaster relief to foreign populations when natural and manmade disasters strike serves both foreign affairs and military needs. The lead authority for disaster response is the U.S. Agency for International Development (USAID), and DoD participation is conducted on the direction of the President or at the request of the State Department, through the appropriate U.S. ambassador. Nevertheless, DoD is often the first U.S. agency to respond to foreign disasters and other humanitarian crises because of its readily deployable resources. DoD international emergency responses allow the United States to contribute effectively in alleviating suffering abroad and enhancing the country's international image, as well as the U.S. domestic and foreign image of the U.S. military. (See **Appendix A.**) Such activities are also undertaken for strategic or foreign policy reasons. A famous post-World War II example of such motivation was the 1948-1949 Berlin airlift, when U.S. Air Force and [British] Royal Air Force

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14. Carol Lancaster, *Foreign Aid: Diplomacy, Development, Domestic Politics* (Chicago: University of Chicago Press, 2007), p. 63.

15. Section 1411, PL 103-337, the National Defense Authorization Act (NDAA) for Fiscal Year 1995. The account was first authorized at \$86 million. It was established to cover activities under 10 U.S.C. 401, 402, 404 (newly established by that bill), 2547, and 2551.

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flights of relief supplies to Soviet-blockaded West Berlin demonstrated a U.S. and U.K. commitment to a strategically important area.

### **Humanitarian and Civic Assistance in the Context of Military Training and Operations**

Humanitarian and civic assistance programs, as currently conducted, usually take place in the context of training exercises and military operations. In that context, they are carried out as much for the U.S. military to gain situational awareness and the support of local populations as to alleviate suffering. When provided under Title 10 U.S. Code (10 U.S.C. 401), the primary purpose of the program must be to train U.S. armed forces. In addition, the assistance must not duplicate any other assistance, and it must meet the security interests of both the United States and the host country. Section 401 authority has been often used for training exercises for the National Guard, and for military reserve personnel and active duty personnel in certain specialties, especially medical personnel. U.S. Special Operations Forces also conduct humanitarian assistance activities as an adjunct to military training exercises with foreign militaries and as an integral part of stability and counterinsurgency operations. The Joint Combined Exchange Training (JCET) exercises with friendly foreign militaries are conducted under 10 U.S.C. 2011, primarily for the benefit of training the Special Operations Forces, but humanitarian assistance programs such as medical and veterinary visits may be added to cultivate goodwill among local populations and as part of the training for foreign troops.

U.S. humanitarian and civic assistance activities also can be an integral part of military operations. During the Korean and Vietnam conflict eras, military civic action programs that included medical assistance were an integral part of military efforts. Now, in counterterrorism and counterinsurgency operations, teams of U.S. Special Operations Forces work together with foreign militaries on small-scale humanitarian and civic action projects. The primary purposes of humanitarian and civic assistance in such operations are to extend the reach of the national government, enhance its legitimacy among local populations, and cultivate relationships and trust that may lead to information sharing on terrorists' locations and planned activities.<sup>16</sup>

### **New DoD Health Programs**

Recently, Congress has added new health programs to the humanitarian assistance portfolio of the U.S. military. Beginning in FY 2000, Congress has provided funds through the Defense Health Program to educate foreign military forces in HIV prevention activities in conjunction with U.S. military training exercises and humanitarian assistance activities in Africa. Subsequently, other DoD health programs have been added. (See **Appendix B**.)

### **Provincial Reconstruction Teams and Commander's Emergency Response Program Funds in Afghanistan and Iraq**

Congress provides special funding and authorities for programs with a humanitarian assistance component in the war zones of Afghanistan and Iraq. The DoD-lead Provincial Reconstruction Teams (PRTs) in Afghanistan and State Department-led units in Iraq, for which DoD provides security, are central to U.S. efforts to promote host government authority and stability to areas outside the capitals in those countries. These integrated civilian and military teams count humanitarian assistance among their tools to provide stability in difficult areas, extend the reach of the central government, strengthen local governments in Afghanistan and Iraq, and stimulate local economies. In addition, commanders on the ground in Afghanistan and Iraq use Commander's Emergency Response Program (CERP) funds,

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16. Authors' interview with DoD officials, January 2008.

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which Congress appropriates, to respond to urgent humanitarian relief and reconstruction needs.<sup>17</sup> (See **Appendix K**.)

### **Funding Accounts**

For many years, prior to operations in Afghanistan and Iraq, funding for DoD disaster response and humanitarian assistance projects was appropriated annually in the Overseas Humanitarian, Disaster, and Civic Assistance (OHDACA) Account. This account covers disaster response and a variety of other humanitarian assistance programs codified under six Title 10 authorities.<sup>18</sup> Congress gradually increased appropriations for OHDACA from \$49.7 million in FY 2002 to \$63.204 million in FY 2007.<sup>19</sup> These funds were available for one fiscal year. For FY 2008, Congress appropriated \$40 million in that account specifically for disaster relief and response, to be available for two fiscal years (i.e., through FY 2009), and an additional \$63.3 million to be available for those purposes for three fiscal years (i.e., through FY 2010). The Administration's FY 2009 OHDACA request is for \$83.273 million in new money.

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17. CERP was created in 2003 by the Coalition Provisional Authority in Iraq. It initially used Iraqi funds for use in that country. Subsequently, Congress has provided CERP funding for use in Afghanistan and Iraq. Congress first provided up to \$180 million for the *Commander's* Emergency Response Program in the Emergency Supplemental Appropriations for Defense and the Reconstruction of Iraq and Afghanistan, 2004, PL 108-106, Section 1110, November 6, 2003. (Hereafter referred to as the FY2004 Emergency Supplemental Appropriations Act.) Congress subsequently provided additional funds: up to \$854 million in FY2005, up to \$500 million each for FY2006 and FY2007, and up to \$500 million thus far for FY2008. (See the Ronald W. Reagan NDAA for Fiscal Year 2005, PL 108-375, Section 1201, as amended by the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror and Tsunami Relief, 2005, PL 109-12, Section 1006; the NDAA for Fiscal Year 2006, PL 109-163, Section 1202; and the Consolidated Appropriations Act, 2008, PL 110-161, Section 606(a)). Note that the spelling for the first word in the name of this program is not consistent; it is sometimes spelled *Commanders'*. This report uses the spelling first used in legislation.

18. These are 10 U.S.C. 401, 402, 404, 407, 2557, and 2561 (previously 2551). Section 401 authorizes DoD to carry out humanitarian and civic assistance activities in host nations in conjunction with military operations. Section 402, popularly referred to as the Denton Amendment, authorizes the Secretary of Defense to transport, without charge, humanitarian supplies (as well as supplies that respond to serious threats to the environment if other transport is not available) that have been provided by a non-governmental source to any country on a space available basis. Section 404 authorizes the President to direct the Secretary of Defense to provide international disaster assistance to prevent the loss of lives or serious harm to the environment. Section 407 provides authority for humanitarian demining assistance. Section 2557 authorizes providing nonlethal excess DoD supplies for humanitarian relief. Section 2561 provides additional authority for the transport of humanitarian relief and for other humanitarian purposes worldwide, as well as authority to transport supplies to respond to or mitigate serious harm to the environment.

19. The amounts in the intervening years were \$58.4 million for FY2003, \$59.0 million for each FY 2004 and FY 2005, and \$61.546 million for FY2006. Figures from annual DoD appropriations acts.

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The Bush Administration is seeking monies for humanitarian purposes under a longstanding DoD account, the Combatant Commander Initiative Fund (CCIF), that provides funds to combatant commanders for a variety of purposes. In its FY 2009 budget request, the Bush Administration asked for \$100 million for the CCIF specifically to meet unanticipated humanitarian relief and reconstruction needs. Over the past decade at least, Congress has appropriated \$25 million in annual DoD appropriation bills for the CCIF, and additional amounts in FY 2005-FY 2007 supplemental appropriations legislation, but thus far the CCIF does not appear to have been used extensively for humanitarian projects.<sup>20</sup> (The Senate version of the National Defense Authorization Act [NDAA] for Fiscal Year 2009, S. 3001, would authorize \$75 million for the CCIF, for use worldwide except in Iraq and Afghanistan as long as the CERP is available in those countries.)<sup>21</sup>

### **Perspectives on Disaster and Humanitarian Assistance**

U.S. officials state that DoD has instructed military commanders to look more broadly than in the past at humanitarian assistance, employing it as a component of U.S. security cooperation with foreign nations.<sup>22</sup> Guidance to U.S. combatant commanders has stated that DoD regards humanitarian assistance as “foremost a tool for achieving U.S. security objectives,” which can also serve several “complementary security goals.”<sup>23</sup> The “complementary” goals cited are “improving DoD visibility, access, influence, interoperability, and coalition building with military and civilian host nation counterparts; building/reinforcing security and stability in a host nation or region; generating positive public relations and goodwill for DoD that will enhance our ability to shape the regional security environment; bolstering host nation capacity to respond to disasters ... and promoting specific operational readiness skills of US military personnel.”<sup>24</sup> The 2006 QDR places humanitarian assistance and disaster relief operations under the rubric of “humanitarian and early preventive measures” and claims that the use of such measures can “prevent disorder from spiraling into wider conflict or crisis.”<sup>25</sup> State Department officials welcome the

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20. U.S. Department of Defense, *Fiscal Year 2009 Budget Request Summary Justification*, February 4, 2008, p.103. When codified in 1991 (Title 10 U.S.C. Section 166a), the CCIF (then known as the CINC Initiative Fund), provided funds for exercises and military education and training of foreign personnel, and for “humanitarian and civil assistance.” A 2006 amendment changed “civil assistance” to “civic assistance, to include urgent and unanticipated humanitarian relief and reconstruction assistance,” and made the latter a priority category, “particularly in a foreign country where the armed forces are engaged in a contingency operation.” (John Warner NDAA for Fiscal Year 2007, PL 109-364, Section 902.) To this point, this fund may not have been used for extensively for humanitarian programs. In response to a Congressional Research Service request for information in 2007, DoD stated that just under \$1 million had been used for humanitarian purposes from FY 2005 through FY 2007. (Information provided by the Office of the Chairman of the Joint Chiefs of Staff, e-mail correspondence of November 7, 2007.)

21. U.S. Congress, Senate, Committee on Armed Services. *National Defense Authorization Act for Fiscal Year 2009*, report to Accompany S. 3001, 110th Congress, 2nd session, S.Rept. 110-335, pp. 317-318.

22. Authors’ interview with DoD officials, December 2006.

23. Joint message from the Office of the Assistant Secretary of Defense for Special Operations and Low-Intensity Conflict (SO/LIC) and the Defense Security Cooperation Agency (DSCA), providing policy and program management direction for FY 2005 OHDACA planning and execution. Section 3 (General Guidance) A and B.

24. *Ibid.*, Section 3B.

25. 2006 QDR, *op. cit.*, p. 12.

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U.S. military's ability to deliver disaster and humanitarian relief assistance in a timely fashion. They also tend to favor routine humanitarian assistance and civic action projects, albeit as a matter of necessity, because such projects allow the U.S. government to provide supplies and medical services to needy populations, and to construct schools and clinics in underserved areas, where funds are not otherwise available. These projects can create goodwill and personal contact for the United States, often in areas where U.S. diplomats would otherwise not venture.

DoD and U.S. military personnel attitudes toward disaster response and humanitarian relief vary. Attitudes tend to be favorable for immediate disaster response and for training exercises, particularly for National Guard and Reserve troops. Attitudes become ambivalent when U.S. military personnel are used for prolonged periods for humanitarian assistance in conventional operations.

Over the years, observers have raised a variety of concerns regarding humanitarian and civic assistance in non-emergency situations. Analysts have long faulted such assistance for sometimes being short-sighted and producing ill will when projects are not well selected.<sup>26</sup> In the 1990s, Congress scrutinized U.S. humanitarian and civic action activities in Central America.<sup>27</sup> Critics continue to view some projects as ill-conceived and at odds with sound development policy; for instance, schools built in areas where there are no teachers to staff them undermine the credibility of the United States and the host nation government, or assistance that, albeit inadvertently, benefits one ethnic group over another exacerbates ongoing conflicts.<sup>28</sup> (See **Appendix A**.) The Bush Administration has recently created new coordination mechanisms that may address such concerns. (See the section on DoD interaction with other agencies, below.)

### **Building Military Capacity and Capabilities**

Since the early years after World War II, U.S. military assistance programs to train and equip foreign military forces have been an important component of U.S. foreign assistance and DoD has played a major role in those programs. Even though the major train and equip efforts are conducted under State Department programs, DoD has long been responsible for carrying out most of the work involved in building foreign military capacity and capabilities. Sizable military assistance programs put in place soon after World War II served the primary purpose of bolstering the defense capabilities of major allies against the Soviet Union, but in subsequent years, military assistance programs also began increasingly to serve political and diplomatic, as well as military, ends. For the past several decades, military assistance — carried out through the State Department's Foreign Military Sales (FMS) and International Military and Education Training (IMET) programs — has become an important tool of bilateral relations, intended to strengthen and cement relations with foreign governments, reward allies, and cultivate new partners. A recently added State Department program to train and equip foreign peacekeepers and a DoD program to train and equip foreign military forces for both counterterrorism missions and stability operations reflect the intention to develop capable international partners in quelling conflict and curbing terrorism. For many years, DoD training of foreign military forces was carried out by Special Operations Forces, but now DoD officials describe it as a key mission for the U.S. military as a whole.<sup>29</sup>

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26. See especially John W. DePauw, "Understanding Civic Action," in *Winning the Peace: The Strategic Implications of Military Civic Action*, Carlisle Barracks, PA: Strategic Studies Institute, U.S. Army War College, 1990, pp. 1-7. This book presents critical views of civic action from a sympathetic perspective.

27. U.S. Congress, House Committee on Armed Services, Subcommittee on Oversight and Investigations, *Role of the DoD in Humanitarian Assistance*, hearing, 103rd Cong., 2nd sess., April 19, 1994, H.A.S.C. No. 103-49 (Washington: GPO, 1995).

28. The Pentagon and Global Development, *op. cit.*

29. Secretary of Defense Gates' October 2007 speech, *op. cit.*

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## Evolution of Military Assistance Authority

The Mutual Defense Assistance Act (MDAA) of 1949 was the legal forerunner to all major post-World War II military assistance programs. Congress passed the MDAA to provide weapons and military equipment to the newly established North Atlantic Treaty Organization (NATO) and to a number of other countries.<sup>30</sup> The MDAA's successors, the Military Security Act (MSA) of 1951 and the MSA of 1954,<sup>31</sup> were the major vehicles for U.S. foreign assistance until the enactment of the Foreign Assistance Act of 1961, which stands today as current law. The MSA of 1951 created the Mutual Security Agency in the Executive Office of the President. The MSA Director was responsible for the "continuous supervision, general direction, and coordination of all foreign aid — military, economic, and technical assistance."<sup>32</sup> Thus, during the early part of the 1950s, DoD administered the military assistance programs under the White House's policy direction and guidance.<sup>33</sup> Congress subsequently moved responsibility for non-military aid to the State Department (PL 81-329, 63 Stat. 714), whose officials were charged with coordinating with DoD regarding military aid.<sup>34</sup> As described by the forerunner of the Congressional Research Service in 1959, the purpose of the State Department coordination of military aid (identified as "an important instrument of U.S. foreign policy") with other forms of aid was "to help achieve the basic policy goals decided upon by the President with the advice of the National Security Council" (NSC).<sup>35</sup>

## Origins of State Department Programs and Oversight

As economic and development assistance became the U.S. government's preferred tool for countering Soviet influence in the developing world, Congress entrusted the State Department with the leadership role for foreign assistance, including military assistance, when it passed the Foreign Assistance Act (FAA)

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30. The MDAA (PL 81-329, 63 Stat. 714) authorized military aid to the original NATO nations (Canada and 10 European nations) and to Turkey, Greece, Korea, Iran, the Philippines, and Taiwan. CRS Report 85-91 F, *An Overview of United States Military Assistance Programs*, by Richard F. Grimmett. This archived report is available from the author.

31. PL 82-165 (65 Stat. 373) and PL 83-665 (68 Stat. 832).

32. The Library of Congress Legislative Reference Service, *U.S. Foreign Aid: Its Purposes, Scope, Administration and Related Information*, February 27, 1959, pp. 139-140. Hereafter referred to as "U.S. Foreign Aid."

33. With the creation of a Foreign Operations Administration (FOA) in 1953 to administer economic aid and technical assistance, the Secretary of Defense was also subject to coordination with and supervision by the FOA Director, who reported directly to the President. Congress divested the FOA director of responsibility for supervising military aid in 1954. U.S. Foreign Aid, *ibid.*, pp. 141-142.

34. In 1955, Congress established the International Cooperation Administration within the State Department, among whose functions was coordinating nonmilitary aid with DoD administered military aid. Congress moved coordination responsibility to a higher level, the Under Secretary of State for Economic Affairs, when it created that post in 1958. U.S. Foreign Aid, *op. cit.*, p. 142.

35. U.S. Foreign Aid, *op. cit.*, p. 130.

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of 1961.<sup>36</sup> Since then, with the exception of the period inclusive of the Vietnam War in the mid-1960s to the mid-1970s, the major foreign military assistance programs — the Foreign Military Sales (FMS) and Foreign Military Financing (FMF) program, and the International Military Education Training (IMET) program — have been carried out under State Department oversight and guidance.<sup>37</sup> These programs are implemented, however, by a DoD agency: the Defense Security Cooperation Agency (DSCA) under the DoD Under Secretary for Policy, and its predecessor.<sup>38</sup> (See **Appendices D and E.**) In 2005, Congress created a third State Department train and equip program, the Global Peace Operations Initiative (GPOI), to provide training in peacekeeping skills and related equipment to foreign militaries. (See **Appendix I.**)

### **DoD Education and Training Programs**

In addition to the major programs to build foreign military capacity under State Department authority, Congress authorizes and funds DoD to conduct a wide variety of smaller military-to military education and training programs. These offer foreign military personnel the opportunity to attend U.S. military education and training programs, in addition to those funded under IMET, as well as conferences and meetings. They also provide the U.S. military with important opportunities to cultivate relations with foreign military officers. Congress generally requires all such activities to be conducted with the approval

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36. As now stated in the FAA of 1961, as amended, Section 622(c) (22 U.S.C. 2382) states that the Secretary of State, under the direction of the President, “shall be responsible for the continuous supervision and general direction of economic assistance, military assistance, and military education and training programs, including but not limited to determining whether there shall be a military assistance (including civic action) or a military education and training program for a country and the value thereof, to the end that such programs are effectively integrated both at home and abroad and the foreign policy of the United States is best served thereby.” The original, 1961 language of Section 622(c) stated that the section applied to “assistance programs authorized by this Act...” A 1976 amendment deleted this limitation. (International Security Assistance and Arms Export Control Act, PL 94-329, Section 543(b)(2)(B)). The Arms Export Control Act, which as of 1968 authorizes the FMS/FMF program, similarly mandates that the Secretary of State, under the direction of the President, be responsible for “the continuous supervision and general direction of sales, leases, financing, cooperative projects, and exports under this chapter...” (PL 90-629, as amended, Chapter 1, Section 2(b), 22 U.S.C. 2752.)

37. Foreign Military Financing, as well as Foreign Military Sales, are carried out under the Arms Export Control Act (AECA), as amended (PL 90-629). Section 2(a) of that Act (22 U.S.C. 2752) states that nothing contained in the Act “shall be construed to infringe upon the powers or functions of the Secretary of State.” Section 2(b) states that the Secretary of State, under the direction of the President, “shall be responsible for the continuous supervision and general direction of sales, leases, financing, cooperative projects, and exports under this Act...”

38. The Defense Security Assistance Agency (DSAA) became the DSCA in 1999. In 2000, DoD Directive 5105.65 expanded the responsibilities originally carried out by the DSAA. Among other tasks, DSCA helps develop, coordinate, and implement security and cooperation assistance plans and programs, including FMS, FMF, IMET, humanitarian assistance, humanitarian civic action, mine action training, and other programs. More information is available on its website, at [<http://www.dsca.osd.mil>]; last accessed July 22, 2008.

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of the Secretary of State.<sup>39</sup> Combatant commanders may also use up to \$5 million from the CCIF in any fiscal year “to provide military education and training (including transportation, translation, and administrative expenses) to military and related civilian personnel of foreign countries....”<sup>40</sup>

### **DoD Counternarcotics Train and Equip Support**

Under Title 10 U.S. Code (10 U.S.C. 124), DoD is the lead U.S. government agency on the detection and monitoring of aerial and maritime transit of illegal narcotics into the United States, but it falls under the oversight of the Secretary of State, who is charged with coordinating counternarcotics assistance (22 U.S.C. 2291). Since the 1990s, DoD has provided training and related support to foreign militaries and law enforcement authorities for counternarcotics purposes under authorities that Congress extends regularly in annual defense authorization legislation. (See **Appendix F**.) Under “Section 1004” authority, first established in 1990 to enable DoD to support counterdrug agencies and currently extended through FY 2011,<sup>41</sup> DoD may provide training and other support to improve foreign counternarcotics capabilities at the request of any U.S. federal department or agency, or of any U.S. state, local, or foreign law enforcement agency. Under “Section 1033” authority, first established in 1997 and currently extended through FY 2008,<sup>42</sup> DoD may provide patrol, boats, vehicles, aircraft, and other equipment to designated foreign governments and maintain and repair those items. Originally provided for Colombia and Peru, this authority now covers 16 more countries. Human rights concerns have figured prominently in congressional consideration of the DoD role in counternarcotics programs. Largely in response to such concerns, in 1998, Congress placed a restriction in the DoD appropriations bill prohibiting U.S. training of foreign military units for which credible evidence exists of gross violations of human rights.<sup>43</sup> This restriction has been extended annually but is less restrictive than the provision in foreign operations appropriations, first enacted in 1997 and codified in 2007, which prohibits the use of State Department

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39. Numerous DoD educational institutions offer education and training to foreign students. The military service schools offer such opportunities, as do the DoD regional centers for security studies (i.e., the George C. Marshall European Center for Security Studies, the Asia-Pacific Center for Security Studies, the Center for Hemispheric Defense Studies, the Africa Center for Strategic Studies, and the Near East-South Asia Center for Strategic Studies [the last three of which are at the National Defense University]). The Political-Military Bureau at the State Department publishes an annual report entitled *Foreign Military Training and DoD Engagement Activities of Interest*, as required by the Foreign Assistance Act of 1961, as amended, Section 656 (22 U.S.C. 2416). The State Department publishes the unclassified portions of the report on its website.

40. 10 U.S.C. 166a(e)(C).

41. NDAA for Fiscal Year 1991, PL 101-510, Section 1004 (10 U.S.C. 374 note); last extended and amended by the John Warner NDAA for Fiscal Year 2007, PL 109-364, Section 1021.

42. NDAA for Fiscal Year 1998, PL 105-85, Section 1033, last amended and extended through legislation including the FY 2007 John Warner NDAA, PL 109-364, Section 1022.

43. Department of Defense Appropriations, 1999, PL 105-262, Section 8130 and restated in annual defense appropriations acts thereafter, most recently in, DoD Appropriations, 2008 (PL 110-116, Section 8062). The latest version of the “Leahy Amendment” states that none of the funds made available by the Act “may be used to support any training program involving a unit of the security forces of a foreign country if the Secretary of Defense has received credible information from the Department of State that the unit has committed a gross violation of human rights, unless all necessary corrective steps have been taken.” The Secretary of Defense may waive this provision if he determines that “such a waiver is required by extraordinary circumstances.” The earlier version forbid the use of funds “if a member of” a potential recipient unit had committed such a violation.

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funds for any assistance to military units for which credible evidence is found of gross violations of human rights.<sup>44</sup>

### **DoD “Section 1206” Military Capacity Building Authority for Counterterrorism and Stability Operations**

In 2005, Congress provided DoD with authority and funds for a major DoD-run train and equip program. Established by Section 1206 of the NDAA for Fiscal Year 2006 as a temporary “pilot program,” this “Foreign Military Capacity Building” authority allows DoD to transfer funds to train and equip foreign militaries to enable those forces to better conduct counterterrorism operations or to “participate in or support military and stability operations in which the United States Armed Forces” participate.<sup>45</sup> Currently in effect through FY 2008, this “Section 1206” authority has provided up to \$200 million in FY 2006 and up to \$300 million in FY 2007 and FY 2008 to meet needs that emerged after the planning cycle for the regular budget submission. This authority is subject to strict conditionality. The original FY 2006 legislation required a presidential initiative to initiate a program; in FY 2007, this was changed to permit the Secretary of Defense to authorize a program with the concurrence of the Secretary of State. Although the legislation does not require the Secretary of State’s “approval,” DoD and the State Department currently interpret “concurrence” to mean “approval.”<sup>46</sup> (See **Appendix H**.)

### **DoD Desire for Permanent Foreign Military and Police Capacity Building Authority**

In 2007, Congress denied a DoD request to significantly expand Section 1206 authority to train and equip foreign military forces, substantially increase the funding, and make it permanent. In May 2007, DoD had proposed legislation for “Building the Partnership Capacity of Foreign Military and Other Security Forces” that would provide a new, permanent DoD authority to spend (or to transfer to the Department of State or other federal agency) up to \$750 million per year to train and equip foreign

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44. The comprehensive version of the human rights provision popularly known as the Leahy Amendment (i.e., the ban on any foreign operations assistance to foreign security forces for which credible evidence was found of gross violations of human rights) was first enacted as Section 570 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (PL 105-118), and in annual foreign operations appropriations thereafter. Earlier versions of this restriction had applied to specific countries, programs, or funding accounts; e.g., such a restriction was placed on counternarcotics assistance in the section on the Department of State’s International Narcotics Control account, PL 104-208, Omnibus Consolidated Appropriations for Fiscal Year 1997. Section 651 of Division J, PL 110-161, the Consolidated Appropriations Act, 2008, codifies this restriction at Section 620J (22 U.S.C. 2378d) of the Foreign Assistance Act of 1961, as amended. This provides that no assistance shall be furnished under the Foreign Assistance Act or the Arms Export Control Act “to any unit of the security forces of a foreign country if the Secretary of State has credible evidence that such unit has committed gross violations of human rights.” An exception is made if the Secretary of State determines and certifies to Congress that the government of a country “is taking effective measures to bring the responsible members of the security forces unit to justice.”

45. NDAA for Fiscal Year 2006, PL 109-163, Conference Report H.Rept. 109-360, p. 801, and the FY 2007 John Warner NDAA Conference Report H.Rept. 109-702, p. 833.

46. A DoD FY 2009 budget document states that under the “dual-key” approval system developed for Section 1206 programs, U.S. embassies and the military combatant commands are encouraged to jointly formulate programs and the responsible embassy and command “must approve each program explicitly in writing.” U.S. Department of Defense, *Fiscal Year 2009 Budget Request Summary Justification*, February 4, 2008, p. 103.

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military and security forces to conduct counterterrorism operations or to participate in or support military and stability operations. There would be no requirement, as in Section 1206, that training for military and stability operations be tied to operations in which the U.S. military participated. The extension would permit DoD to train and equip gendarmerie, constabulary, internal defense, infrastructure protection, civil defense, homeland defense, coast guard, border protection, and counterterrorism forces. Rejecting the strict conditionality of Section 1206, DoD proposed that the Secretary of State be permitted to waive any restrictions that might apply. In 2007, the House Armed Services Committee (HASC) expressed skepticism regarding an extension of the program “in the absence of ... an established record of success.”<sup>47</sup>

In its FY 2009 budget request, the Bush Administration asked Congress to codify an expanded version of Section 1206 that would increase the annual authorization to \$750 million and include a broad array of security forces in addition to military forces. The House version of the bill would extend current authority through FY 2010 (Section 1206, H.R. 5658, the Duncan Hunter NDAA for FY 2009). The Senate version of the NDAA for FY 2009 (Section 1204, S. 3001) would extend Section 1206 authority through FY 2011, increasing the annual authorization to \$400 million. It would also authorize the use of funds for security forces whose primary mission is counterterrorism, subject to the police training restrictions of 22 U.S.C. 2420. (See the section below on civilian capabilities for substantive objections to such authority.)

### **Perspectives on Building Foreign Military and Other Security Force Capacity**

DoD views training for foreign military and other security forces as an expanding area, and seeks expanded authorities for DoD programs. The 2006 QDR calls for DoD to “improve and increase IMET-like opportunities targeted at shaping relationships and developing future foreign leaders.”<sup>48</sup> More specifically, it recommends the expansion of DoD and State Department authorities “to train and equip foreign security forces best suited to internal counter-terrorism and counterinsurgency operations,” noting that these “may be non-military law enforcement or other security forces...”<sup>49</sup> In late 2007, Secretary of Defense Gates identified “the standing up and mentoring of indigenous army and police” as “a key mission for the military as a whole.”<sup>50</sup>

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47. In its report on the NDAA for FY 2008, HASC stated that it had provided DoD with the limited Section 1206 authority over the past two years, despite the State Department’s historical responsibility for foreign military capacity building, because of DoD’s expression of “strong interest” in the program. Congress, however, according to HASC, “has clearly and strongly discouraged further legislative proposals to expand or make permanent DoD’s ‘train and equip’ authorities in the absence of this required report and an established track record of success.” U.S. Congress, House Committee on Armed Services, *National Defense Authorization Act for Fiscal Year 2008*, report of the Committee of Armed Services on H.R. 1585 together with additional views, 110th Cong., 1st sess., H.Rept. 110-146, part 1 (Washington: GPO, 2007), p. 401. Hereafter referred to as HASC. Report 110-146 on the FY 2008 NDAA.

48. 2006 QDR, *op. cit.*, p. 91.

49. 2006 QDR, *op. cit.*, p. 90.

50. He suggested that this is in contrast to the past, when only Special Operations Forces focused on training missions, but the inclusion of “police” — historically the province of other agencies — may be telling. See U.S. Department of Defense. Speech by Secretary of Defense Robert M. Gates, the “Landon Lecture” delivered at Kansas State University, Manhattan, Kansas, November 26, 2007. Accessed through [<http://www.defenselink.mil/speeches>]; last accessed July 22, 2008.

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In the post-9/11 environment, some defense analysts have urged policy makers to develop more expeditious mechanisms for the United States to provide military training and military support. DoD officials argue that the routine planning processes through the traditional State Department “train and equip” authorities are too cumbersome and time-consuming, reflecting political rather than operational military needs, with the planning, budgeting, and implementation cycle taking two to three years. On the other hand, some Members of Congress have faulted Section 1206 for lacking enough added value to justify making permanent a major train and equip program outside the State Department’s authority. In a December 2006 report, the Senate Foreign Relations Committee stated its concern that the program was used largely to fund areas where the U.S. military sought to enhance military-to-military relations rather than to meet emerging needs.<sup>51</sup> The committee recommended that all security assistance, including that administered under Section 1206, be placed under State Department control.

Similarly, in line with a 2006 QDR recommendation<sup>52</sup> and the desire for more flexibility in providing assistance to allies and friendly states, DoD has also sought broader reimbursement authority for coalition support forces and expanded logistics support to other States “partnering” with the United States. Congress has been more responsive to these requests. (See **Appendix L**.)

### **Strengthening Foreign Governments Against Internal and International Threats**

DoD has supported foreign governments’ efforts to counter internal and international threats with assistance that goes beyond help to foreign military forces. In many situations, and currently in Afghanistan and Iraq, DoD has played a significant, if not a leading, role in tasks related to nation-building or state-building. Such tasks include helping establish or strengthen rule of law capabilities (police, judicial, and prison institutions and facilities), reinforcing the administrative capacity of central governments, strengthening local governments in rural areas, and bolstering national economies. Such state-building support is now widely perceived as a means to deter or control internal and international threats. Although U.S. military personnel carry out this role most often in combat situations, where the presence of untrained, unarmed civilians may be a liability, they may also carry out this role because of a shortage of trained civilian personnel. Because the circumstances have varied greatly, such assistance has usually been carried out under a mix of authorities and programs.

### **Historical Precedents and Current Activities**

The most notable example of U.S. military involvement in state-building occurred in the post-World War II military occupations of Germany and Japan, although there are earlier examples, such as the U.S. military occupation of the Philippines around the turn of the 20th century. In the 1990s, DoD personnel

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51. 2006 SFRC Report, *op. cit.* “Section 1206 assistance, with the exception of Lebanon and Pakistan, is not addressing threats to the United States that are so immediate that ... [they] cannot be included in normal budget processes. The Secretary of State should insist that all security assistance, including Section 1206 funding, be included under his/her authority in the new process for rationalizing and prioritizing foreign assistance.” p. 3.

52. 2006 QDR, *op. cit.* The recommendation is to expand DoD authority to provide logistics support, supplies and services to allies and coalition partners, without reimbursement if necessary, to enable them to participate in operations with U.S. armed forces. Two related recommendations are to “Establish a Defense Coalition Support Account to fund, and, as appropriate, stockpile routine defense articles such as helmets, body armor and night vision devices for use by coalition partners” and to “Expand Department authority to lease or lend equipment to allies and coalition partners for use in military operations in which they are participating with U.S. forces.” pp. 89-90.

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provided such assistance in peacekeeping and postconflict operations as part of military operations in Somalia, Haiti, and Bosnia. Sometimes DoD provides such assistance to foreign governments as part of military counterterrorism, internal defense, and counterinsurgency efforts. Special operations forces teams carry out a variety of state-building activities, to strengthen local leaders and defuse ethnic and other rivalries, as part of their civic assistance projects. Congress also provides DoD with authority to train and otherwise assist foreign law enforcement officials to perform counternarcotics operations, although there is no standard source for determining the degree to which DoD provides such support.

### **Activities in Iraq and Afghanistan**

In Iraq and Afghanistan, Provincial Reconstruction Teams (PRTs) carry out state-building political and economic activities, in addition to civic assistance and humanitarian activities. Although no data are available on the extent to which state-building activities are directed or conducted by U.S. military personnel, soldiers may be involved when there are not enough civilian members of a PRT.

U.S. military field commanders in those countries carry out reconstruction projects with CERP funds, with each major subordinate commander authorized to approve grants up to \$500,000. Originally intended to help military commanders establish stability in hostile areas, CERP has now become a main source of funding for infrastructure development.<sup>53</sup> (See **Appendix K** on DoD in Iraq and Afghanistan Economic Reconstruction.) Congress has thus far denied Administration requests to extend CERP funding authority for DoD use on a worldwide basis.<sup>54</sup>

In Iraq, DoD's large role in infrastructure reconstruction has been unusual. While the State Department and USAID were tapped to manage early economic assistance programs in Iraq, DoD was called on in 2004 to carry out the largest infrastructure projects. Nevertheless, DoD's own Army Corps of Engineers (ACE) also was initially found insufficient to manage the task, and DoD contracted the job directly with private companies. ACE was subsequently tapped for a management role. Although the State Department assumed responsibility in 2005 for setting priorities for most aid programs, DoD developed, and Congress funded, a DoD program to rehabilitate some 200 Iraqi firms that had been state-owned under the Hussein regime, without either State Department or USAID input. (See **Appendix K**.)

Perspectives on State-Building. Much of DoD's state-building activities have thus far been carried out within the context of military operations. For many years, DoD and U.S. military leaders rejected a nation-building role, arguing that it was not appropriate for U.S. military forces and detracted from combat readiness. As defense analysts and military personnel began to perceive state-building as essential to the success of peacekeeping and related operations, attitudes began to shift about the desirability of the U.S. military role in state-building. In 2005, DoD Directive 3000.05 identified state-building as key to the success of stability operations and stated that "U.S. military forces shall be prepared to perform all tasks necessary to establish or maintain order when civilians cannot do so."<sup>55</sup>

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53. Special Inspector General For Iraq Reconstruction (SIGIR), *Review of the Effectiveness of the Provincial Reconstruction Team Program in Iraq*, 07-015, October 18, 2007, pp. 23-34. Hereafter referred to as SIGIR Review of PRT Effectiveness.

54. The HASC, in its report on the FY2008 NDAA, stated that current DoD authority for humanitarian and reconstruction assistance under Title 10 U.S.C. Chapter 20 and 10 U.S.C. 2561 can be used by field commanders without bureaucratic obstacles. HASC Report 110-146 on the FY 2008 NDAA, *op. cit.*, p. 399.

55. DoD Directive 3000.05, *op. cit.*, p. 2.

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Critics find DoD state-building activities marred by a lack of both strategic planning and application of economic development “best practices,” by the absence of civilian input and integration with civilian efforts, and by insufficient oversight. Some critics, however, recognize that the context in which some of these activities are undertaken can justify their ad hoc nature, short-term objectives, and lack of civilian expertise, and note that DoD has made efforts to improve soldiers’ ability to carry out such tasks.<sup>56</sup> Concerns focus on the extension of state-building activities to non-conflict situations; for example, extending CERP authority worldwide, as requested by the Administration, without more State Department control, or activities of combatant commands, especially Africa Command, might lead to perceptions that the United States is “militarizing” its foreign policy.

Defense experts implicitly acknowledged a factual basis for at least some criticisms of its state-building role by expressly stating in 2005 DoD Directive 3000.05 that civilians would be better suited to accomplish political, social, and economic tasks in many circumstances. Nevertheless, DoD officials regard the United States as faced with a strategic imperative to undertake such activities in the new global environment, and the U.S. military as charged with performing them where civilians cannot. DoD officials are currently grappling with the many issues and tradeoffs involved in better preparing military forces to carry out a wide variety of political, social, and economic tasks for stabilization and reconstruction, as well as other activities, alone or in conjunction with civilian personnel, in the absence of civilian personnel.<sup>57</sup> An important part of this task for DoD, the State Department, USAID, and other civilian agencies is to determine and prioritize an appropriate civil-military division of labor in non-combat areas.

With DoD’s renewed request in 2008 to expand Section 1206 to allow training of foreign police and related security forces (including gendarmerie, constabulary, internal defense, and infrastructure) in addition to military forces, Congress is faced with a sensitive issue. Since at least the 1970s, Congress has been concerned with the possible human rights implications of U.S. assistance to foreign police forces in general, and DoD assistance in particular.<sup>58</sup> Nevertheless, many analysts argue that many more foreign police personnel are needed, especially gendarmes trained in both police and military skills, for

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56. For example, see 2006 CSIS Task Force Report, *op. cit.*, pp. 12-20.

57. A May 2006 DoD memo on implementing the 2006 QDR strategy states that DoD “must be prepared to grow a new team of leaders and operators, who are comfortable working in remote regions of the world, dealing with local and tribal communities, adapting to foreign languages and cultures, working with local networks, operating alongside or within United Nations organizations, and working alongside non-governmental organizations to further US and partner interests through personal engagement, persuasion, and quiet influence — rather than through military force alone. To support this effort, new approaches to education assignments and career incentives, as well as new authorities are needed.” Deputy Secretary of Defense, *Memorandum on Quadrennial Defense Review Building Partnership Capacity (BCP) Execution Roadmap (unclassified)*, May 22, 2006. p. 6.

58. Congress has limited the assistance that U.S. government agencies can provide to foreign police forces since the 1970s, when such assistance was provided to police forces that were perceived of as violating human rights. Over the years, Congress has loosened restrictions by adding statutory exceptions to the codified prohibition on police training (Section 660 of the 1961 FAA, 22 U.S.C. 2420) for certain situations and providing exceptions for assistance to certain countries and situations elsewhere in law. Currently, the U.S. government provides assistance through the State Department and the Justice Department to foreign police forces in many countries. In addition, as mentioned above, since the 1990s, Congress has authorized DoD to provide training and other assistance to police forces and other law enforcement officials for counternarcotics purposes.

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post-conflict operations,<sup>59</sup> and some might prefer that DoD provide personnel to fill that training gap, especially in major post-conflict zones.

## **Major Issues and Options for Congress**

### **What Are the Effects of DoD Activities on U.S. Foreign Relations and Foreign Policy Goals?**

DoD is involved in a broad range of foreign assistance activities. U.S. military personnel deploy as first responders to foreign disasters and provide humanitarian relief and basic needs assistance in other urgent situations. U.S. military personnel also provide medical and veterinary assistance and civic support (such as the construction or repair of small educational and medical facilities) as a routine part of their training and as part of military operations. U.S. troops routinely train foreign military forces and are authorized to train police forces for counternarcotics missions. Recently, in the context of military operations in Iraq and Afghanistan, and elsewhere, they have provided humanitarian assistance and taken on state-building tasks related to political and economic development. For the past several years, DoD has worked to enhance its own capabilities to carry out state-building and to draw on civilian advice. It has also urged Congress to enhance the capabilities of civilian agencies to form partnerships with DoD in those activities.

DoD stresses a national security imperative for its activities in the foreign assistance area. Critics, however, most often judge DoD involvement in foreign assistance activities in terms of its effect on foreign relations and foreign policy goals. The following sections recapitulate the perceived benefits and liabilities of that involvement.

#### **Summary of Benefits**

The United States and the U.S. military benefit from DoD foreign assistance activities in several ways. U.S. diplomacy benefits from the U.S. military's capacity to project itself rapidly into extreme situations, such as disasters and other humanitarian emergencies, promoting the image of the United States as an humanitarian actor.<sup>60</sup> Especially in conflict situations, military forces can provide needed security, intelligence and aerial reconnaissance, command and control and communications capabilities, and maritime support.<sup>61</sup> Humanitarian assistance also provides a means to cultivate good relations with

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59. The United States Institute of Peace (USIP) has published several works pointing to this gap. Recent publications include one on building U.S. police capacity to fill the gap, while another discusses the work of an Italian school to train constabulary police. See Robert M. Perito, "U.S. Police in Peace and Stability Operations," *USIP Special Report 191*, August 2007, and Michael Dziedzic and Colonel Christine Stark, "Bridging the Public Security Gap: The Role of the Center of Excellence for Stability Police Units (CoESPU) in Contemporary Peace Operations," *USIPeace Briefing*, June 2006. Both last accessed through [<http://www.usip.org>], July 22, 2008.

60. While the military can move quickly once authorized to deploy, one author points out that "The decision-making processes that activate them [i.e., military personnel] may reduce their respective advantage." Larry Minear and Philippe Guillot, *Soldiers to the Rescue: Humanitarian Lessons from Rwanda*, Paris: Organisation for Economic Co-operation and Development, 1966, p. 151. Hereafter referred to as *Humanitarian Lessons from Rwanda*.

61. This list of benefits is taken from Organisation for Economic Co-operation and Development/Development Assistance Committee, (OECD/DAC) Task Force on Conflict, Peace and Development Co-operations, *Civilian and Military Means of Providing and Supporting Humanitarian Assistance During Conflict: Comparative Advantages and Costs*, Paris: OECD, 1998, pp. 12-15. (Hereafter cited as OECD/DAC Comparative Advantages and Costs.) This document also lists a military advantage providing a response to a possible future use of nuclear, biological, or chemical weapons (p. 15).

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foreign populations, militaries, and governments. For U.S. diplomacy, military training and other security assistance can be a potent tool to cultivate or cement relations with foreign governments.

U.S. military personnel view humanitarian assistance and military training and education and other opportunities to interact with foreign militaries as part of their professional development. Such opportunities help soldiers enhance their skills to operate in a variety of foreign environments and establish contacts with foreign military personnel that may serve them in future operations. Since 9/11, DoD training of military forces and provision of security assistance have been an important means to enable foreign militaries to conduct peacekeeping operations under the aegis of the United Nations and regional organizations and to participate with the United States in operations in Iraq and Afghanistan.

### Summary of Critiques

Observers have advanced several critiques of the DoD role. These deal with the effects on humanitarian activities of nongovernmental organizations; the implications for foreign policy objectives, including counterterrorism, economic development, and state-building and democracy promotion; and the relative effectiveness of civilian versus military personnel.

Non-governmental organizations (NGOs) that carry out humanitarian missions hold mixed views on DoD humanitarian assistance activities. They generally do not criticize the use of the U.S. military in first response disaster relief operations. Some are critical, however, of the use of U.S. military forces in a broad range of “humanitarian and basic needs” activities in conflict areas. Although military forces can provide needed security in unstable environments, in some situations, military involvement in humanitarian assistance can be problematic. Especially when military personnel are directly involved in providing humanitarian assistance and other humanitarian acts, military assistance can be viewed as jeopardizing the lives and work of NGO personnel by stigmatizing them as participants in a military effort. These criticisms were provoked by the U.S. military’s humanitarian role in Afghanistan, where non-governmental humanitarian aid workers felt their neutrality was compromised by soldiers in civilian dress who distributed humanitarian aid as part of military operations. Since then, DoD has made an effort to engage nongovernmental aid workers and to develop means to work together. While some humanitarian relief NGOs now welcome the security that military forces can provide in hostile areas, others still feel that their lives are endangered by the proximity of soldiers engaged in humanitarian activities. In areas without U.S. military involvement, local populations may also take the use of military personnel for such activities as a prelude to military action or intervention.<sup>62</sup>

The use of military forces may also impede the advancement of foreign policy goals. For instance, the December 2006 Senate Foreign Relations Committee report, *Embassies as Command Posts in the Anti-Terror Campaign*, viewed the use of DoD personnel for counterterrorism programs as an obstacle: “In Latin America, especially, military and intelligence efforts are viewed with suspicion, making it difficult to pursue meaningful cooperation on a counterterrorism agenda.”<sup>63</sup> As pointed out in **Appendix F** on counternarcotics cooperation, Mexico has resisted counternarcotics assistance that would involve the U.S.

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62. 2006 SFRC Report, *op. cit.*, states that there is evidence that some host country nationals question “the increasingly military component of America’s profile overseas. In Uganda, a military civil affairs team went to the northern part of the country to help local communities build wells, erect schools, and carry out other small development projects to help mitigate the consequences of a long-running regional conflict. Local NGOs questioned whether the military was there to take sides in the conflict.” p. 12.

63. 2006 SFRC Report, *op. cit.*, p. 12.

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military. One analyst claims that “African publics and governments have already begun to complain that U.S. engagement is increasingly military.”<sup>64</sup>

In the area of economic development, some analysts question whether the U.S. military objectives in carrying out small-scale infrastructure projects in conjunction with exercises and operations respond to short-term exigencies rather than abiding by development “best practices” to accomplish long-term structural reforms.<sup>65</sup> In the cases of Iraq and Afghanistan, some analysts point out that “some normal development practices will inevitably take a back seat to operational realities.”<sup>66</sup> In the case of humanitarian and civic action activities in non-conflict areas, however, a lack of integration with long-term development plans can raise expectations of economic growth and development that cannot be fulfilled with the limited resources available.

The use of U.S. military personnel in state-building activities may convey mixed signals in activities where the objective is to promote democracy and enhance civilian control. While the use of U.S. military forces is seen as appropriate in state-building efforts that involve the training of foreign militaries, some analysts believe that it may undermine that objective when used in other state-building activities by reinforcing stereotypes in underdeveloped nations — such as that military forces are more competent than civilians — or legitimize the use of military forces for civilian governmental responsibilities. Further, some analysts believe that DoD has failed to strengthen institutional mechanisms for civilian control in its dealings with foreign militaries.<sup>67</sup>

The lack of expertise within the military to carry out coherent plans for economic and political development in foreign nations is also considered problematic. While the placement of USAID officers within combatant commands may alleviate some of the worst problems, some analysts believe that their presence may not be sufficient to ensure that best practices are routinely applied.<sup>68</sup>

Civilians are cited as enjoying an overall advantage in many humanitarian and state-building tasks. Military forces are, however, recognized as possessing a decided advantage in some humanitarian mission tasks, such as providing security and air support, particularly in hostile situations. Despite that military advantage, however, one study judged civilian personnel more effective in carrying out a wide range of humanitarian tasks in conflict situations. These tasks are acquiring the supplies necessary for humanitarian assistance operations, assessing and utilizing local resources, interacting with the local population, providing the most suitable medical response, managing refugee camps, and providing water

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64. Gerald Loftus, “Speaking Out: Expeditionary Sidekicks? The Military-Diplomatic Dynamic,” *Foreign Service Journal*, December 2007, p. 16. (Hereafter referred to as “Expeditionary Sidekicks?”)

65. The Pentagon and Global Development, *op. cit.*, p. 13.

66. *Ibid.*

67. The Pentagon and Global Development, *op. cit.* According to this report: “While the Pentagon conducts training programs to promote professionalism and civilian control of ... foreign militaries, it gives relatively less attention to broader security sector report (SSR) — including the effort to ensure that military, police, and intelligence services and ministries are accountable to democratically-elected governments.” pp. 14-15.

68. Among the findings of the Senate Foreign Relations Committee staff delegation that compiled the 2006 SFRC report was “that country teams in embassies with USAID presence are far more capable of ensuring sufficient review of military humanitarian assistance projects than those that have no USAID office. Budgetary cutbacks at USAID, affecting both personnel and programs, are repeatedly cited as a deficiency in the U.S. campaign against extremism in susceptible regions of the world.” p. 9.

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and sanitation.<sup>69</sup> Another study judged that although most multinational military personnel assisting with the Rwanda crisis in 1994 were “skilled in their own areas, [they] had no unique competence in such matters as refugee camp construction, community health and disease control, or shelter management. Moreover, their security preoccupations — for example, the prohibition against U.S. forces from leaving the Kigali airport, the reluctance of the Japanese to work in refugee camps — also circumscribed what the troops themselves were able to achieve.”<sup>70</sup>

### Relative Costs

There is a widespread presumption that using military forces for many humanitarian missions, military support, and state-building activities costs more than using civilian personnel for the same tasks, but analysts note the absence of reliable studies on relative costs. One 1998 study on the use of international military forces for humanitarian assistance in conflict situations judged that the use of the military is “generally more costly than civilian means” and “will far exceed the costs of providing the aid itself.” The study attributed the greater costs to the military emphasis on making its activities “fail-safe” rather than cost-effective, building into its procedures “safeguards, redundancies, and limitations that often do not exist with civilian means.... Civilian and commercial means are, in general, leaner and less redundant.”<sup>71</sup> The study cautioned, however, that its general conclusions were “presented as hypotheses.”<sup>72</sup>

Relative costs can vary according to the circumstances. For instance, according to the 1998 study cited above, when “military assets are already deployed (either for humanitarian assistance or for peacekeeping), the marginal cost of using these personnel and resources will be low. In these areas, then, the military can be a cost effective means of delivering and supporting humanitarian assistance.”<sup>73</sup> A variety of other factors can influence relative costs. The military’s economies of scale and shared costs may reduce the price tag on the use of military forces; on the other hand, the degree of force protection in the field and the amount of equipment with which the military deploys can raise costs.

For some analysts, cost considerations are beside the point, as there are certain situations where military forces are indispensable and certain places where few civilians will go. Decisions on the most appropriate division of labor between military and civilian personnel are better made on the basis of comparative advantage in each situation.

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69. OECD/DAC Comparative Advantages and Costs, *op. cit.*, pp. 11-12.

70. Humanitarian Lessons from Rwanda, *op. cit.*, p. 150.

71. OECD/DAC Comparative Advantages and Costs, *op. cit.*, p. 16.

72. OECD/DAC Comparative Advantages and Costs, *op. cit.*, pp. 15-16.

73. *Ibid.*