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THESIS

**THE JUST WAR OR JUST A WAR? A PROPOSAL FOR
AN ETHICAL JOINT WARFIGHTING DOCTRINE**

by

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September 2005

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WARFIGHTING DOCTRINE**

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ABSTRACT

According to joint doctrine, winning the nation's wars is the primary purpose of the armed forces. It is the foundation of joint professional military education and training, forming the basis for how the warfighter will prosecute a war, and is a reflection of the judgments of senior military leadership. The joint and Service warfighting doctrine of the 1940s and 1950s contained two aspects of war that are not reflected in current joint doctrine. Combat now spans both war and "not war" in the new "military operation other than war", and the process of the military government has been completely replaced by the new "civil administration". This two-part redefinition of war has created a new joint doctrine that is confusing, overlapping, compartmentalized, and incomprehensible, which has in part resulted in the many military failures in the decades since World War II. In general, the second tenet of the Just War Theory dictates that the weak must be protected throughout the war effort. International law of occupation states that certain functions and institutions of the defeated nation must be restored by the occupying power. The military government, such as those found in past wars administered by the U.S. armed forces, is the vehicle to insure the war is prosecuted justly and done so in a manner that will also win the peace. This thesis recommends a return to a holistic continuum of war in two phases – formal hostilities and the post-formal transition to peace – that adheres to international law, incorporates all combat as "formal hostilities", is independent of size or scope, and that requires the armed forces to win the peace as they have successfully done in the past.

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EXECUTIVE SUMMARY

Joint doctrine, gaining its authority from Congress and the Department of Defense, provides the blueprint from which the Services recruit, train, equip, organize and educate the U.S. armed forces. Currently, joint warfighting doctrine is massive, unwieldy, disjointed, and founded upon the concept of military operations other than war instead of war. Very little of joint warfighting doctrine today concerns itself with war. Current publications are focused on providing the policymaker with a more flexible response, developed down through the decades following World War II and into the present. To meet the objectives of the policymaker through the use of force, the return to a holistic concept of war is required. In doing so, the end result of armed conflict or war is peace.

As a proposal to the Joint Staff for a change to the fundamentals of U.S. joint warfighting doctrine, this thesis finds its basis in the Just War Theory's second tenet – *jus in bello* and in international laws of war from the Fourth Geneva Convention, 1949. Regardless of historical successes at warfighting and nation-building, a gradual eradication of the military government concept and the parceling out of the components of war into separate, more flexible doctrines took place over the period after the end of World War II and the end of the Vietnam War. War as the historic holistic concept that included all combat and the transition from war to peace was broken apart and redefined to form what is represented by current joint warfighting doctrine.

According to current (1995) joint doctrine on military operations other than war, combat can exist outside of the realm of the war, creating a new category of armed conflict that falls outside the requirements of a just war with its protection of the weak during the transition to peace. This disconnection of war concepts from its whole has created another conundrum known as civil affairs and civil-military operations. The operations presently carried out under the civil affairs construct were once a function of the military government, which included maintaining security in the region so that a functional government conducive to the interests of the United States could be built as

well as a legitimate justice system, adequate medical care, a functioning education system with schools and the rebuilding the infrastructure and the homes of those destroyed in the war.

The just prosecution of the war according to international occupation law requires the protection of the defenseless until the peace is won. A clear result of a properly orchestrated and legitimate military government is the winning of the hearts and minds of the people over to a new life conducive to peace. The military government cannot be a collage of the military, nongovernmental organizations, international organizations and other U.S. governmental agencies, such as the current civil administration is constructed. The reason the military occupation and government are required for peace is tied directly to its authority from the president of the United States, its ability to maintain security while it rebuilds a nation. As seen in current events in Iraq and Afghanistan, civilian leadership of the ongoing war effort is failing. Winning the peace is part of the war, and as demonstrated by U.S. wars in the past, it takes time, legitimacy and huge expenditure of effort as well as teamwork between civilians in all capacities and the military to win the war.

I. INTRODUCTION

This thesis addresses the requirement for the U.S. military to return the concept of the military government to U.S. joint warfighting doctrine. Since the extraction of this concept from doctrine and its consequent redefinition in the 1960s, the U.S. military has failed to accomplish the objectives of its civilian leadership as seen in the results of the Vietnam War and the majority of the armed conflicts in which the United States engaged over the course of the 1970s through the present.

Chapter II highlights the significance of joint doctrine to the warfighter, who is trained and educated based upon that foundation of doctrine. Doctrine is also relevant to the civilian policymaker who desires success in the use of the military and to the civilian U.S. citizen who desires to see value to the expenditure of life. The civilian in whose country the war takes place perhaps has as much at stake as the warfighter, as his life hangs in the balance between a war that protects the weak while the peace is won and a war that fails to do so.

Chapter IV provides a review of doctrine from the 1940s forward to the present and gives a picture of where U.S. joint military doctrine was and where it is now – from the concept of the military government to the current concept of the civil administration. As the doctrinal concept of the military government is weakened and as combat is separated from the concept of war, a correlation between these concepts and the success of the U.S. armed forces in the field can be made.

Civil affairs have always been a function of these two concepts, but in different capacities. Military government in today's doctrine has been shelved as a "last resort" with the civil administration taking its place, wherein the U.S. military is relegated to an advisory position and to that of a security force.

Upon establishing the relevance of doctrine and how it has changed over the course of the past 60 years, Chapter V will review how the United States prosecuted war in the 1800s and early 1900s demonstrating that, under the direction of a holistic doctrine of war wherein all combat or armed conflict is war and the military government is the means to win the peace, success of political objectives is secured. A comparative and in-

depth review of the military failures of 1960 through the present will not be accomplished in this paper, but those failures will be mentioned in reference to concepts in passing.

The Korean War era was the pivotal point in U.S. policy and military history wherein the removal of the military occupation from joint and Service doctrine was initiated. The military occupation with its accompanying government was still at that time considered the bridge to peace in war, was not a separate entity, and consistently led to peace. With its origins in the 1950s and through the Vietnam War according to the date the doctrine was published, the convoluted joint doctrine of “not war” with its long succession of various names has led to defeat and failure in the course of the use of armed force.

Finally, the philosophical foundation for this thesis is presented in Chapter VI, which discusses the two tenets of the Just War Theory – *jus ad bellum* and *jus in bello*, as part of the background on why the U.S. military must reestablish the military government as a natural and expected process of war. Once the U.S. military goes to war, the application of the second tenet comes into play, and it is this tenet of just action in war that provides the foundation for the military government. International laws on war – specifically, the military occupation – in the form of the Fourth Geneva Convention of 1949 bring even more to the discussion in their explicit explanation of what is required of occupation forces.

In the understanding and application of these two concepts to warfighting, one can draw only one conclusion. In the prosecution of the Just War, the U.S. military has the responsibility to ensure the safety of the weak left without protection by the war. The only means to this end is the military government as seen by the success of the past and the failures of today. This important part of the war – the winning of the peace – cannot be left to chance or to others to try to secure. Although the winning of the war and the peace is always the result of a team built between civilians and the military, the responsibility for the operation and its success must fall wholly upon the U.S. military operating under direct authority from the President of the United States.

Current joint warfighting doctrine, due to the separation of the whole into its parts – combat, civil affairs, humanitarian aid – has evolved into a vast conundrum of separate doctrines, overlapping concepts, and confusing directions. Chapter VII is a proposal for a fundamental and ethical change to joint warfighting doctrine – a return to a holistic doctrine prescribing the use of the military occupation and government and a change to current terms for clear definition of roles and responsibilities.

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II. THE LANGUAGE OF WAR AND PEACE

A. CHAPTER OVERVIEW

Military doctrine is a moving target. When the United Nations began to take on collective responses to peace and security challenges in early 1950s, the nature of military force dramatically changed. Throughout the Cold War context, war and peacekeeping co-existed. (*UK Joint Warfare Publication 3-50*, p. iii). Today, the ground is shifting again with the end of the Cold War and the emergence of a new international order.

Generally speaking, military doctrine – derived from the national security strategy – is the blueprint upon which modern U.S. armed forces are built, wherein they recruit their personnel, conduct their training, organize for efficiency, and equip for tomorrow’s mission. (Joint Publication 3 [JP 3], 2001, p. I-6) Service doctrines have long existed. Joint doctrine, created officially in the aftermath of several military failures in the early 1980s, has unsuccessfully tried to become “an engine of change” in the warfighting arena. (JP 1, 2000, p. I-9) Joint doctrine has generated some success in its mission to unify the efforts of the Services by increasing inter-Service communication and coordination as demonstrated in the recent wars in Iraq. Unfortunately, the warfighting doctrine of the Joint Chiefs fails to be a doctrine of war – an armed intervention that results in peace.

Primarily, joint doctrine contains “fundamental principles that guide the employment of forces of two or more Services in coordinated action toward a common objective.” (Joint Chiefs of Staff Website; Doctrines, Definitions; accessed 16 September 2005) Assuming that the common objective is to accomplish the goals of current foreign policy, a mismatch exists between the stated purpose of the armed forces and the actual written doctrine intended to coordinate that action between the Services for mission success. If *winning* the Nation’s wars is the *fundamental purpose* of the U.S. armed forces (JP1, 2000, p. v, Executive Summary; italics added), very little attention is given to explaining and developing the subject in current joint doctrine – even at the capstone

publication level, and the result is the failure of the ability of the U.S. armed forces to be successful in the waging of a war, beginning to end.

Doctrine in general is an attempt to codify what the Services are doing in the present.¹ Joint doctrine takes this a step further in inter-Service orchestration for improved unified action. Joint doctrine provides the blueprint from which the Service draw their individual warfighting doctrines. In the big picture, ties national security strategy and national military strategy to the military's role in facilitating national policy and security through the preparation of the forces for "team warfare" and also for operations that most certainly fall outside of war, such as the humanitarian assistance in the aftermath of a hurricane. (JP1, 2000, Chairman's Letter)

Doctrine is more than a mere reflection of what the Services are trying to do today. It reflects the judgment of senior military leadership and contains shadows of philosophies of senior civilian leadership through its ties to the national security strategy. But even more importantly, it is the hands-on component of the grand strategy of national security policy. Depending on the political and international environment in which it is formed, it can be given a defensive, offensive or deterrent stance in its application of strategy to how force can and will be applied, but it remains a roadmap of purpose for the armed forces on how warfighting is to be accomplished. (Posen, pp. 13 – 14)

Perhaps the clearest and most established connection between doctrine and the field is professional training and education. Doctrine is a key reflection of the beliefs and judgments of senior military officers, and every chance is taken to teach this belief system of military strategy implementation to incoming, new and seasoned officers at each step of a career. Therefore, doctrine is one step ahead of field actions, because it is what is taught in the schools that precede being sent to the field.

Senior military leadership wants those who are following up in their footsteps to be adept at leadership along the way. The security of a nation hangs upon the ability of a professional military to follow orders under pressure and to follow the training they have

¹ Doctrine provides an opportunity to put into writing the lessons learned from recent campaigns and to set them aside for study and application. It is written direction from the Joint Chiefs with significant input from warfighting sources and relatively recent historical examples of U.S. warfighting, but due to its size and scope, it takes time to develop and publish, causing its publication to lag from time to time behind the cutting edge of current military thought. (Odom, p. 23)

received. For many senior noncommissioned officers and all commissioned officers, this is taken a step further in the ingraining of a belief system taught in doctrinal concepts that upholds the professionalism of the armed forces and leads them in the defense of the nation. (Odom, pp. 29 – 31)

The Services begin to teach their doctrine in the schools that prepare officer cadets to enter full-time active duty service. This education and training is continued throughout the first 10 years of a career. At around the 10-year point, joint doctrine is taught to officers officially through the joint professional military education program mandated by the Goldwater-Nichols Act of 1986 and under the direction of the Chairman of the Joint Chiefs of Staff.

We see then, that doctrine is a moving target. The details of doctrine must be continuously updated in order for it to remain relevant. Based upon the belief that doctrine “establishes a framework of common understanding and action that informs the decision-making process”, doctrine affects more than the Services it serves. (Cassidy, pp. 3 – 4) It is also a codification of what senior military leadership will offer up to the policymaker in the use of the armed forces in support of national objectives.

The following are the deficiencies of current joint doctrine as it is taught to the service member and as it is recommended as actionable to the policymaker:

- 1) Joint doctrine (as well as those Service doctrines founded upon it) is seriously flawed because it no longer contains a holistic concept of the continuum of war and peace.
- 2) Joint warfighting strategy and doctrine of today lost at least one significant and critical piece of the warfighting concept during the tumultuous Vietnam years, which will prevent the success of warfighting efforts until it is returned.

In other words, joint doctrine has lost the concept of the military government over time, which is the part of the war after formal hostilities are terminated that “seals the peace”. (Guttieri, 1999, p. 91) If doctrines of the past accurately reflected successful aspects of warfighting of that day, perhaps the U.S. armed forces should today entertain retaining those concepts that worked, modifying them to fit the capacities of the armed forces of today.

B. THE LANGUAGE OF WAR

The issue in this thesis is one of defining war, because joint doctrine as currently written has little to do with war. The doctrine carefully steps around the concept and pursues endless rabbit trails in search of peace through the application of specific armed forces capabilities, such as security assistance, bombing campaigns, a show of force, or humanitarian aid delivered in the middle of a civil war. War has gone by many names in the past, depending on the decade – police action, counterinsurgency, rescue operation, and low intensity conflict. An ironic doctrinal title for warfare American troops most commonly experience today is “military operations other than war” (MOOTW).

War, defined by Webster, is “a state of usually open and declared hostile conflict between states or nations....A state of hostility, conflict, or antagonism.” (Merriam-Webster Online Dictionary; accessed 16 September 2005)² Current joint warfighting doctrine states that combat transcends the boundaries of war by the use of the “range of military operations” of Figure I-1 of JP 3-07. One can deduce from this range and the accompanying chart that the U.S. armed forces can take part in combat operations without taking part in a war. (JP 3-07, 1995, p. I-2) However, it seems unlikely that combat – armed engagement between the U.S. armed forces and an enemy with the intent to kill or incapacitate – can mean anything other than war.

If a war is to be just, at a minimum the combatant must protect the non-combatant, during formal hostilities and after. Killing outside the confines of war is normally referred to as terrorism, which is a systematic use of violence to create fear and instigate change. (Encyclopedia Britannica Online; accessed 16 September 2005) Individual citizens may legitimately kill only in self-defense, and individual soldiers may kill only by direction of their civilian leadership during the prosecution of a war. Otherwise, the killing becomes something else.

In regaining a full understanding of the parameters of war, the Clausewitzian loop, defined as “the relationship between policy and force”, provides an excellent picture of war by demonstrating “a continuum from diplomacy (policy) to war (force)”.

² But the use of the word “war” is relative. Price wars, a class war and wars against disease or drugs do not contain combat, but refer instead to a struggle or a fight for something valuable. The Cold War was defined by brinkmanship and détente – by the imminence or threat of a potential nuclear strike with the goal of tactical or total destruction depending on the enemy’s advances.

The loop, shaped like a circle, is in two parts – policy or force and represents a progression along the curved line wherein there is a point that policy (diplomacy) turns to force (war). Logically, the progression from policy to force also includes a process to get back from force to policy. When still in the loop or circle and not yet back in the policy arena, a state of force or war is assumed to be the situation with post-conflict military operations marking the transition from force back to policy. (Guttieri, 1999, pp. 20 – 24)

C. THE LANGUAGE OF PEACE

A doctrine of peacekeeping has developed parallel to the “mature doctrine of war”. (Joint Warfighting Publication 3-50, United Kingdom, p. iii) This development highlights a serious deficiency with the mature doctrine of war – it does not contain a doctrine of peace. Service and joint doctrines earlier in the 20th Century attended to the challenges of peace as part of the doctrine of war, but did not call this a “doctrine of peace”.

The doctrine of occupation, martial law or the military government until the 1960s, substituted for a doctrine of peace in American field manuals. The two doctrines of making war and winning the peace were inseparable in the prosecution of war, and land warfare officers (until the doctrine was replaced) were taught to win the war by winning the peace.

In the decades before World War II and at its end, the use of the military government to tame a foreign land or newly acquired region was a well established function of the U.S. armed forces in more than one war fought and won by the armed forces of the United States. It has been a process that has not been without its difficulties, for even the armed forces themselves have resisted the task since its earliest use. (Guttieri, 1999, p. 50) Notwithstanding, civil affairs and the military concept can trace their origins to General George Washington. Not only was colonial America at war with the British, it was at war with itself with the loyalists deeply pitted against the patriots. General Washington was accomplished at dealing with the civil-military aspect of his job as the senior leader of the rebel troops, dealing with such situations as troop misconduct, civilian distress, and the establishment of a military government in Philadelphia. (Daugherty, pp. 14 – 15, 23 – 24)

In the decades since World War II, the practice of using the military government as the primary method of securing the peace during the drawdown of a war gradually disappears from doctrine. Whereas in the joint and Service doctrine of the 1940s, one finds entire volumes dedicated to the concept that were in use up to that time in various places around the globe, the current JP 3-57, *Joint Doctrine for Civil-Military Operations* (2001) labels the military government concept as a “last resort” (JP 3-57, 2001, p. I-19). As a last resort and in light of limited resources and personnel, the possibility of this means of securing the peace being used is very slight.

D. CHAPTER SUMMARY

The problem inherent in joint warfighting doctrine is two-fold. While it might be successful in the coordination of effort between the Services, it simply does not contain a doctrine of war, and therefore, cannot begin to ensure the U.S. armed forces will be successful in the *winning* of the *Nation’s wars*. War is inadequately defined, having been reduced from its original meaning and parameters in order to make room for more flexible responses to international crises. In the transition war and the use of force to diplomacy and peace, joint doctrine proposes no plan of operation to the policymaker nor directs one to the warfighter. Confusion then reigns in the determination of what is war and what is not, what is civil and what is not, and who’s in charge and who is not. (Guttieri, 1999, p. 4) In the end then, no one wins with the greatest loss being those who died in vain.

E. THESIS ORGANIZATION

The next chapter will discuss the relevance of doctrine as it fits into the role of foreign policy. Chapter IV will demonstrate the evolution of U.S. military doctrine, from the time of World War II through the present, showing the progression from the military governance concept to the current civil affairs approach found in joint doctrine today. Chapter V takes a journey through the warfighting and nation-building history of the U.S. armed forces and those results, demonstrating the amazing capabilities of the military, which were engaged in earlier times without proper training. Chapter VI is a presentation of the Just War Theory, relevant in the understanding of a holistic versus a piecemeal approach to war. Chapter VII is the summary of the paper and a proposal for specific changes to current joint publications on warfare and civil-military operations.

III. THE ROLE OF DOCTRINE

A. CHAPTER OVERVIEW

Military doctrine must first of all make sense to the armed forces who will use it. One approach to evaluating doctrine is to determine how it is used by the U.S. armed forces, whether it is implemented as intended. Another approach is to determine whether it achieves its purpose, because doctrine may be implemented as intended, yet not be pertinent to what is required to succeed.

The Services use doctrine to train, educate and prepare their forces for warfighting. As the individual officer “grows up” in the Service, he “learns the ropes” of his Service first, before pressing on to the joint arena. It is doctrine that underpins the entire training of the future leadership of the armed forces, and it is joint doctrine that opens the door for the warfighter to the highest echelon of command opportunities. It is also joint warfighting doctrine that brings the forces together in unity of effort, strengthening the war effort and in the end providing the warfighter with what he needs to get the job done and go home.

B. RELEVANCE TO THE WARFIGHTER

Joint doctrine is important to the warfighter, because the codification and teaching of doctrine that brought success in war efforts in the past most likely increases the chances for the success of the warfighter in future efforts. A comparison of two origins of doctrine – religious and military - clarifies the purpose of doctrinal development and the effect of doctrine on the organizations it serves.³ Religious and military doctrines have long been with us. The credibility of a religion is a function of its ability to resist change or compromise over timeless truths or absolutes, but also in its ability to keep up with the times in its presentation or application of those timeless truths to a present reality. (Oxtoby, pp. 199 – 200 and Wuthnow, p. 15) The development of military doctrine has been much the same.

³ Both Webster’s New International Dictionary (1954) and the Random House Unabridged Dictionary (1993) define doctrine as that which is taught and both refer to the doctrine of the Church. The newer dictionary by Random House adds that doctrine is associated usually with a certain body or system of teachings related to a particular subject and also references governmental doctrine such as the Monroe Doctrine.

For the Christian church or religion, doctrine has been those absolute truths reflected in the teachings – and some more flexible ones added in over time – that guide the leadership and their followers in the day-to-day administration of life. (Jurji, pp. 337 – 9) Obviously, disagreements have risen over what that doctrine should be, but all of the major religions that exist today are identifiable by the primary tenets of the doctrine that defines the ‘camp’ in which they reside. (Wuthnow, pp. 308 – 310) Military doctrine, much newer on the scene and far less clearly developed, follows in this example in that it also has ‘camps’ in which proponents proclaim their doctrine as truth. Historical – but still debatable – truths exist in the classic writings of Sun Tzu, Jomini, and Clausewitz.

Doctrine is defined by the U.S. Joint Staff as the “fundamental principles by which the military forces or elements thereof guide their actions in support of national objectives. It is authoritative but requires judgment in application.” (JP 1-02, 2001, p. 165) This definition implies that what is taught becomes a template for action.

British military doctrine is explicit in its connection between doctrine and education. The British Military Doctrine (BMD) on a “Design for Military Operations” (1996) produced by the Chief of the General Staff states that “doctrine is what is taught”. Britain had a long tradition of unwritten doctrine. First issued above the tactical level in 1989, the BMD describes its role as “a formal expression of military knowledge and thought that the Army accepts as being relevant at a given time, which covers the nature of current and future conflicts, the preparation of the Army for such conflicts and the methods of engaging in them to achieve success.” (BMD, 1996, p. 7)

The American approach to doctrine is that it is authoritative, but emphasizes general principles for action rather than acting as rules and regulations. It also influences how the military will think about the use of force (JP 1, *Joint Warfare of the Armed Forces of the United States*, 2000, p. vi; Emerson, p. 3) Military doctrine meets the warfighter informally in the philosophies of military leadership and formally in the classroom.

Military doctrine interfaces with military education in the teaching of military, political and civilian factors taught at different levels in the various schools of the armed forces. (Micewski, p. 19) Professional military education (PME) is expected of all

military members – officer and enlisted, but in the preparation of the armed forces for war, officers carry the burden of responsibility for the leadership, training, education and equipping that will bring victory in the field. Officers pass through four levels of PME versus skills training such as the instruction completed to fly an airplane: pre-commissioning, basic, intermediate, and senior. At these PME schools, doctrine forms the core of the instruction and in the earlier years of a career, remains Service-oriented.

The Services treat doctrine differently. The Army, due to the need to coordinate large numbers, tends to emphasize doctrine and teach it early in an officer's career. As the officer progresses in rank and time in service, formal education in joint matters is required in order to be promoted to the more senior grade of O-5. Each Service handles PME and joint PME (JPME) a little differently in regards to promotion. The U.S. Navy in particular has not placed as high a premium on education in general, because education usually takes the officer off the ship or out of operations for a time. (Osman, Personal Conversation, 2003)

Much time is invested in professional military education throughout the career of the officer. At the basic or junior officer level, the focus is on instilling the core values of the Service, the specific mission of the Service in light of the armed forces, leadership training, and various team-based exercise scenarios. The mid-level officer with about 10 to 12 years of time in the service is expected to complete Command and Staff College, either in residence or by correspondence if unable to attend. It is in this curriculum that an education in jointness is begun formally and in earnest. Senior officers usually attend or complete PME at least once in the 15 to 20-year point of their careers in the completion of in-residence or correspondence curriculum of the four Service War Colleges (Air, Army, Naval, and National).

Service schools up until the 1980s were highly Service-centric with joint education optional and unregulated. In concert with the changes made to the structure of the military advisory system at the Joint Chiefs level, joint doctrine and joint education were institutionalized. Phase I JPME was integrated into the Service schools since the only existing joint PME school – the National Defense University (NDU) – could not handle the added volume of students required to be educated by the Act. However, Phase

II JPME was reserved for NDU, wherein Congress and the Chairman, Joint Chiefs of Staff (CJCS) could retain control

The joint doctrine taught and learned by the officer through professional military can also be found outside the schoolhouse. The U.S. Army's Training and Doctrine Center (TRADOC) describes its role as follow: "recruit, train, educate the Army's Soldiers; develop leaders; support training in units; develop doctrine; establish standards; and build the future Army." TRADOC operates 33 schools and centers at 16 Army installations with 1,714 courses and 451, 682 seats. (TRADOC Website, n.d.)

The U.S. Navy operates its own Warfare Development Command in Newport, Rhode Island whose Doctrine Department promotes Navy and Joint Doctrine awareness and development. Also under the auspices of the Command are: a lessons learned system, the Navy warfare library, and a maritime battle center specializing in warfare concept development, doctrine refinement, and warfare innovation. (Navy Warfare Development Command Website, n.d.)

Finally, the U.S. Air Force has placed all of its training and education operations under the command of one four-star general – Air Education and Training Command (AETC). This command oversees the Air University at Maxwell Air Force Base, Alabama, which is host to the Air Force Doctrine Center as well as many of the Air Force's top professional education schools. The Air Force teaches Service doctrine in Service schools for the company grade officer. When the officer reaches field grade, he must then complete the joint PME prescribed by the Goldwater Nichols Act, directed by U.S. Code Title X and by the Chairman, Joint Chiefs of Staff. (AETC Website, n.d.)

As stated in its opening pages, the capstone (defined as the top group of a hierarchy of doctrine per the DOD definition on the Joint Chiefs' Website, n.d.) doctrinal publication of the Joint Chiefs – JP 1, *Joint Warfare of the Armed Forces of the United States*, 2000 "ties joint doctrine to the national security strategy and national military strategy and describes the military's role in the development of national policy and strategy." (Opening Letter signed by the Chairman, published 14 November 2000) Based upon this statement, joint doctrine provides the link or bridge between the military and its civilian leadership. It contains the judgments and beliefs of senior military leadership

that are recommended to the policymaker and also that are pressed down through the chain of command to the Services for the recruiting, training, equipping and education of the troops.

C. RELEVANCE TO THE CIVILIAN

U.S. joint warfighting doctrine is relevant to U.S. civilians as well. Civilians have always been a part of the war process, but from three different perspectives. In a democracy, civilians direct the war to take place in the first place and hold the reins of the military as it proceeds with the war effort. Secondly, civilians abound in the land in which the war takes place – usually called non-combatants, unless they themselves take up arms – wherein the international laws of warfare regarding their protection apply until the invading or occupying force departs. These laws of war can become difficult to follow when the conventions of war break down through the use of combat and armed conflict outside the parameters of war.

Thirdly, civilians such as members of the executive branch departments, the Central Intelligence Agency, nongovernmental and international organizations who work alongside the armed forces in winning the war and the peace have a vested interest in joint doctrine and in its effect on the success of the forces with which they serve.

D. CHAPTER SUMMARY

Because doctrine prescribes how the armed forces will conduct themselves in the prosecution of the war, it is vital that these truths adhere to international laws of armed conflict. The principles that make up the framework upon which joint doctrine is hung are founded on the general principles of international law, developed over time and codified in several Hague Conventions. The indigenous population in the land where the war takes place have the most stake in how military forces fight wars and secure the peace, because they stand to lose the most – not only their lives, but also their property, and their way of life due to the way the war is prosecuted and the results of the transition to peace.

Since joint doctrine is behind how the invading and occupying armed forces were trained and educated, then it is that doctrine that will direct how those forces will handle the most critical part of the war – the transition to peace and diplomacy, wherein these civilians and their future nation are the most vulnerable. The newly “created” state is very vulnerable with the inevitable insurgencies and power struggles that will take place. The

strong possibility for the wrong government to take power exists if the United States or some other great power doesn't take an active part in shaping the process. (Orr, p. 58)

Robert Orr argues that the “most important factor in determining the success or failure of a post-conflict reconstruction order effort” is a “coherent, legitimate government”, but who is going to help the defeated nation rebuild this government? U.S. civilian agencies lack the tools to take over the job of establishing peace in the post-conflict environment of war. The U.S. military has not been prepared to do post-conflict reconstruction either, but that appropriate doctrine, organization, and training could dramatically improve the outcome. (Orr, pp. 9, 14, 15)

The wrong strategic doctrine can imperil state survival. (Posen, pp. 220 – 221)
Doctrine is as the bridge between policy and security. It is the foundation for what the armed forces are taught at home and for what they practice in the field and is of vital interest to those who make war and win the peace.

IV. A REVIEW OF MILITARY DOCTRINE

A. CHAPTER OVERVIEW

In his work entitled the *Fog of Peace: Planning and Executing the Restoration of Panama*, John Fishel has written that the United States' mishandling of Operation Just Cause during the Panama invasion was either due to "being disingenuous" or a "gross error in judgment". (Fishel, 1992, p. 29) Another option is that perhaps a lack of a viable doctrine of war containing direction on how to win the peace can also result in a lack of planning and overall mission failure. Although the end state desired is by direction of the National Command Authorities, it is the military commander whose objective is, through armed force, to create it. (JP 5-00.1, 2000, pp. II-3 – 4) It would behoove the armed forces commander then to have some clear plan available for recommendation to the policymaker and for use in the preparation of the forces for war and the arduous journey to peace. (Flavin, p. 97)

If war is a continuum from diplomacy to force to diplomacy, current U.S. joint doctrine does not contain a doctrine of war, nor does it contain a doctrine of peace. Instead, joint warfighting doctrine contains a series of partial doctrines on parts and pieces of war, which have developed since World War II. (Kober, p. 4) The U.S. military does not have the doctrine and training to guide a war into peace and the result seems to be that the military is then understandably hesitant to plan for it.

Joint doctrine gains its authority from its basis upon the concepts put forth in the Department of Defense's Directives (DODDs) – short official papers that briefly address the published DOD perspective on specific issues. The joint doctrine on civil affairs and civil-military operations, for instance, is based upon DODD 2000.13, *Civil Affairs*. (Appendix A)

This chapter will bring the reader through historic joint and Service doctrine on the subject of the World War II-era conception of the "post-conflict" transition to peace – the occupation and military government.

Currently, joint doctrine has six series of joint publications (JPs): Personnel (Series 1), Intelligence (Series 2), Operations (Series 3), Logistics (Series 4), Planning

(Series 5), and C4 (Series 6: command, control, communications, and computers). Within the operational 3-series, warfighting doctrine is contained in a wide diversity of topics within the 61 publications produced on “different” kinds of operations. The doctrines on military operations other than war (MOOTW), civil affairs, peacekeeping and civil-military operations are buried within this operational series.

Joint doctrine writers in the post-Cold War era wrote doctrine for murky international peacekeeping and unilateral stability operations that rendered a full-scale war concept obsolete. One fix was to string out the “war” concept and separate it into distinct segments or phases in order to offer up these parts to policymakers as possible ways in which to utilize a newly flexible armed force without embroiling the nation in a “war”. The armed forces of the United States could then be deployed to assist in surgically segmented sections of war to knock down a government, take out one or several key targets through raids or air strikes, provide added security, or to demonstrate a show of force as such found in operations in Cuba, Grenada, Lebanon, Panama, Somalia, Haiti and Afghanistan.

As will be shown in this doctrinal review, the joint doctrine preparing the U.S. armed forces for the 21st Century not only broke apart its holistic concept of war, it released the occupying forces and the nation they represent from responsibility for the consequences of war. When post-World War II occupations were impending, entire documents were devoted to transition and post-conflict, for example, *U.S. Joint Manual of Civil Affairs and Military Government*, 1958.

In the course of this review, an examination of the historical pathway of joint doctrine – as well as a few pieces of pivotal historical Service doctrines – from 1940 into the 1990s is required to set the background for proposing new doctrine for the transition to peace. Since each nation has its own outlook on war and the role of its armed forces in the international arena or in warfighting, a comparison of what other western democracies hold as their current joint doctrine on war will also provide insight on U.S. joint military doctrine and its relevance to today.

B. U.S. WARFIGHTING DOCTRINE, 1940 – 1969

1. Field Manual 27-5, Military Government (U.S. War Department, July 1940)

This 59-page, joint manual produced by the War Department is devoted in its entirety to the proper administration of a military government due to the inability of the defeated nation to carry on these functions in the latter half of the war. It describes the civil affairs staff of the interim government, judicial procedures in the form of a 3-part military tribunal with jurisdiction over all persons in the occupied territory (FM 27-5, 1940, p. 13), and the three phases of a military government. These three phases are 1) while the fighting is still going on in the district; 2) when organized resistance has ended in the occupied district, but the U.S. government and the defeated nation have not yet come to peace terms; and 3) after the fighting has completely ended wherein a greatly diminished force occupies until the status of the defeated nation is agreed upon and the forces are then finally withdrawn. (FM 27-5, 1940, pp. 19 – 20) This FM goes on to fully define and develop the military government concept, walking the warfighter through when it is necessary and by what authority.

2. Small Wars Manual (U.S. Marine Corps, 1940)

This manual, originally written in 1940, was reissued in 1987 by the Navy's Deputy Chief of Staff for Plans, Policies and Operations wherein the forwarding letter from this office offers the manual as:

... an aid to education and training in the historical approach of Marine Corps units to conducting operations in low-intensity conflicts. In the 1930s, such conflicts were referred to as 'small wars.' (1987 Foreword Letter, USMC *Small Wars Manual*, 1940)

The foreword goes on to state that "the Small Wars Manual is one of the best books on military operations in peacekeeping and counterinsurgency operations published before World War II." The Navy offers a disclaimer for the information contained within it by calling it "informational only and not directive in nature." (1987 Reissue Foreword Letter, USMC *Small Wars Manual*, 1940)

This manual in its reprinted, scanned format contains 492 pages and discusses at great length what exactly a "small war" is and how to go about successfully waging one. The words used to define a "small war" are found in recent definitions of low intensity

conflict, counterinsurgency and today's MOOTW. Three chapters apply to what is currently labeled as the "post-conflict transition" or civil-military operations. *Small Wars* defines "military government" as the "exercise of military jurisdiction by a military commander, under the direction of the President, with the express or implied sanction of Congress, superseding as far as may be deemed expedient, the local law." (USMC *Manual*, 1940, p. 424) Many pages discuss the supervision of elections in the post-conflict transition to peace, and 10 pages are devoted to the all-important tactics of withdrawal from the theater of engagement.

Small Wars breaks the withdrawal of forces into two phases: "the withdrawal from active military operations and the final withdrawal." (USMC *Manual*, 1940, p. 1) The first phase "terminates when the local government is in complete control of the theater of operations." (USMC *Manual*, 1940, p. 2) In the application of the First Phase concept to the war in Iraq, Iraq would still be considered in Phase One. Although the U.S. armed forces are making an heroic attempt to do so, it seems that no one is truly in control of the theater of operations, let alone the Iraqi government that is trying to work without a trained police force and a reliable army. Those security capacities of the Iraqi government are being trained by U.S. forces, but under wartime conditions – a first in U.S. history. (British Broadcasting Corporation News Website, "Military Police 'Training Iraqi Force'," 24 August 2003)

The final withdrawal or Phase Two according to the 1940 *Manual* ends when all U.S. forces have evacuated with all authority and responsibility having been successfully transferred to the local government. The only exception to this transfer and for troops to remain would be in the case of a grave emergency. (USMC *Manual*, 1940, pp. 32– 33)

Two elements of this doctrine would be unfamiliar to those who have observed recent stability operations. First, the military commander, according to *Small Wars*, reports directly to the president of the United States. The Chairman of the Electoral Commission for the new government is named by the U.S. president, and the Chairman is usually a flag or general officer.

3. Field Manual (FM) 27-10, Rules of Land Warfare (U.S. War Department, October 1944)

In 1944, the War Department produced a 98-page joint document divided into twelve chapters that includes a chapter on military occupation and governance of enemy territory and another on the penalties for violations of the laws of war. The doctrine familiarizes the World War II-era warfighter with the post-conflict transition and the prosecution of a Just War.

“So far as the United States forces are concerned, military government and martial law are exercised by the military commander under the direction of the President, as Commander in Chief of the Army and Navy.” (FM 27-10, 1944, p. 3) “In power of enemy power; treated with humanity; reprisals prohibited. – Prisoners of war are in the power of the enemy power, but not of the individuals or bodies of troops who capture them. They must at all times be treated with humanity and protected, particularly against acts of violence, insults, and public curiosity.” (FM 27-10, 1944, p. 17) This philosophy on the treatment of prisoners of war was carried over the 1956 version FM 27-10, which as not yet been superseded. (FM 27-10, 1956, p. 106)

Under the auspices of the military government, the maltreatment of prisoners by military members (such as those events that took place at Abu Ghraib) is subject to action by courts martial under the military law concerning misconduct. However, Iraq wasn't under a military government, but under interim civilian rule.

According to this field manual, the occupation and military government is a question of fact. In other words, no other options were considered as alternatives in 1944 for use in winning the peace. The authors of this manual refer to the military occupation as an “incident of war” and inherent in that effort the “right to exercise control for the period of the occupation.” This doctrine or teaching makes it clear that sovereignty is not transferred to the occupying power, but that the occupation is “provisional”. It is based upon the fact of possession of enemy territory, so that law and order may be maintained and resistance may be subjugated. (FM 27-10, 1944, p. 75)

“The principal object of the occupant is to provide for the security of the invading army and to contribute to its support and efficiency and the success of its operations. In

restoring public order and safety he will continue in force the ordinary civil and criminal laws of the occupied territory which do not conflict with this object.” (FM 27-10, 1944, p. 76) The assumption is that the security of the occupier precedes the security of the occupied.

In this same section of FM 27-10, it is pointed out that calling the occupying government “military” or “civilian” is “immaterial” as “its character is the same and the source of its authority is the same”. The occupying government is characterized by force and is administered according to the laws of war. (FM 27-10, 1944, p. 76) As stated earlier, military government is exercised by the military commander under the direction of the President of the United States – whether or not it called military or civilian.

This kind of interim government is currently not in use in Afghanistan and Iraq, wherein the commander of the U.S. armed invasion and occupying forces has not been used in this fashion. The military government as described in this FM has not been used in any other armed conflicts in which the United States has engaged since the Korean War.

4. U.S. Army and Navy Manual of Civil Affairs Military Government (CAMG), FM 27-5 and OPNAV P22-1115 (October 1947)

As historic joint doctrine, it is important to note how the armed forces thought in general 60 years ago – what was common to their conception of war and what they were responsible for in their training in preparation for war. In this little booklet, one finds the early relationship between military government and civil affairs being developed in concept.

Military necessity requires in the conduct of operations, as well as in the fulfillment of obligations imposed upon invading forces under international law, that such forces institute control of civilian affairs by military government or otherwise in the occupation or liberated areas. (FM 27-1/OPNAV P22-1115, 1947, p. 1)

Military government is listed first and is defined as “the supreme authority exercised by an armed occupying force over the lands, properties, and inhabitants of an enemy, allied, or domestic territory.” This authority is exercised “whether by force or agreement and has substituted its authority for that of the sovereign or previous government.” (FM 27-1/OP NAV P22-1115, 1947, p. 3)

“Civil affairs” is defined as “the assumption by the responsible commander of an armed occupying force of a degree of authority less than the supreme authority assumed under military government, over enemy, allied, or domestic territory. The indigenous governments would be recognized by treaty, agreement, or otherwise as having certain authority independent of the military commander.” (FM 27-10/OP NAV P22-1115, 1947, p. 3)

5. Review of Field Manual 27-10, Law of Land Warfare (U.S. Army, July 1956)

Some things did change in the years that transpired between the FM 27-10 of 1944 and 1947 and that of 1956. For one, the title changed from the *Rules of Land Warfare* to *The Law of Land Warfare*. But more importantly, the 1956 version tends to bury “military government” in Chapter Six, which is entitled “Occupation”. The term and concept is still alive and is still differentiated from “martial law”, which is invoked upon domestic territory (versus the territory of a former belligerent) and is governed solely by the domestic laws of the United States (versus the indigenous law of an occupied nation or international law).

One important aspect of military government and/or martial law that remains constant over the 12 years since 1944 is that “so far as the United States forces are concerned, military government and martial law are exercised by the military commander under the direction of the President, as Commander in Chief of the Armed Forces.” (FM 27-10, 1956, p. 10) This concept of the direct authority of the President is critical in forming the foundation of legitimacy for the interim government. The interim military government cannot possibly retain its own authority, but must act on behalf of the president to whom it is fully accountable.

6. U.S. Joint Manual of Civil Affairs and Military Government (CAMG), November 1958

In this “new” version of the old 1947 CAMG publication, civil affairs (CA) is now listed ahead of military government in Chapter 1, instead of listing CA as a function of the commander of the military government in territory that might have enemies. CA is defined as “the matters concerning the relationship between military forces located in a friendly country or area and the civil authorities and people of that country or area usually involving performance by the military forces of certain functions or the exercise

of certain authority normally the responsibility of the local government.” In current joint doctrine, civil affairs is not a “matter” or a relationship. Civil affairs is presently a group of military members trained and equipped to do civil affairs activities in support of civil-military operations.

7. Joint Manual for Civil Affairs, November 1966 (FM 41-5, OPNAV 09B2P1, AFM 110-7, NAVMC 2500)

This manual introduces the concept of “military-civil relationships” in its introductory chapter. The civil affairs operations as part of some sort of military operation “bring civil attitudes, needs, and goals to the attention of the military commander, and they convey similar matters to appropriate civilian agencies.” These CA individuals through their operations offer advice, assistance, recommendations and essential liaison support between the military and the civilian community, where the hope is to live “harmoniously”. (*Joint Manual*, 1966, pp. 3 – 4)

In this same section of the introductory chapter (#1), a couple of sentences describe what has been labeled by past publications or manuals as “military governance”.

Included, also, may be complete assumption of executive, legislative, judicial, and administrative functions of an occupied enemy territory during or immediately subsequent to hostilities. Such matters as location, agreements in force, national policy, international law, and whether hostilities are in progress influence the conduct of civil affairs. (*Joint Manual*, 1966, p. 4)

The manual then outlines a laundry list of “circumstances” wherein CA operations may be conducted. The list reads like a condensed list of MOOTW of today – show of force, counterinsurgency, disaster relief, civil defense assistance, occupation of enemy or liberated territory, and during wartime activities in the United States. (*Joint Manual*, 1966, p. 4) Military government is given an honorable mention, but in a half page at the end of Chapter One in fine print so as to perhaps not be noticed.

One other item of note in this Manual is the role for the State Department put forth in this Department of Defense publication in seven (7) guidelines for “nation-building”.

In the field of civil affairs, the Department of State has primary or collateral interest in determination, among others, of policies concerning – 1) The foreign government with which the U.S. armed force were to deal, 2) the extend of governmental intervention, 3) matters that impact other foreign relations, 4) the economic level to be maintained, 5) the level of feeding for civilians, 6) all matters of psychological warfare and associated programs, and 7) the plans for turning civil affairs activities over to civilian control after the conclusion of hostilities either generally or in a given country or area. (*Joint Manual*, 1966, p. 12)

It is evident that the two Departments were supposed to plan these kinds of operations together, but with the State Department holding the reins. Perhaps, depending on the Secretaries in charge of these Departments, this kind of shared arrangement might bring with it some battles of its own, and hence, a reluctance on the part of the Department of Defense to secede power to its non-warfighting sister Department. The overall end result may have been a reluctance to take part in this kind of by either Department and the beginning of a search for new and more flexible arrangements.

8. Review of Field Manual 41-10, Civil Affairs Operation (U.S. Army, October 1969)

This mid-Vietnam War field manual puts military government and martial law squarely into the civil affairs camp as a function of the CA concept. Since the military government and martial law carry a heavy judicial component, this 1969 doctrine redirects the reporting authority of past doctrine on military government, from the U.S. president to the appropriate staff judge advocate, and in so doing removes the foundation for the legitimacy required for such an operation. (FM 41-10, 1969, p. 1-1) The FM goes on to describe the three aspects of civil affairs which are 1) the concept of CA, 2) the CA operations to attain political-military objectives, and 3) CA organization “consisting of the staffs and units particularly designed and trained” to supervise and conduct CA operations. (FM 41-10, 1969, p. 1-2)

Chapter 12 of this FM is entitled “Military Government”, which discusses the basic principles of such a situation. These principles are:

- International law requires the occupant, so far as he is able, to maintain an orderly government in occupied territory.
- No nation may expect to gain a lasting victory from modern warfare without taking into account the future activities and orientation of the enemy civil government and population.

- An organization must be planned; it cannot be improvised.
- To be effective, military government must act as both the instrument and, if adequate guidance has not been provided, the creator of foreign policy.
- Military government is not a permanent regime, and from the outset plans must be made for the transfer of power to civil authority. (FM 41-10, 1969, p. 12-1)

Next in this chapter comes the all-important “rationale for the creation of a military government”. Here, the unique capabilities of a land force are described as the providing of control of the enemy’s land and population as well as “enforcing the surrender terms after victory has been assured.” According to this FM, the U.S. Army has historically been assigned the responsibilities of military governance through the replacement of civil authority in the conquered and/or occupied territories until it can be restored by treaty or inaugurated with U.S. consent and legitimately assume power. (FM 41-10, 1969, p. 12-2)

Probably the most important aspect of this 200-plus page document, which is acknowledged by its authors, is its discussion of the legal and international foundations for such governance. It discusses at length its foundation in international law, originating with The Hague Convention No. IV, with respect to the Law and Customs of War on Land of 1907 (HR) and the Geneva Convention Relative to the Protection of Civilian Persons in Time of War of 1949 (GC). The FM expects all CA personnel to have a good working knowledge of international law and conventions and goes on then to discuss the treatment of the population, respect for existing law, and the protection of cultural property as the foundational requirements for a lawful military government. (FM 41-10, 1969, p. 12-2)

But in the end, the concept of the military occupation and government as an effective tool in the transition to peace is rendered powerless through the removal of its position, reporting directly to the President of the United States.

C. CURRENT U.S. WARFIGHTING DOCTRINE

The fundamental purpose of the Armed Forces is to win the Nation’s wars. Success in combat in defense of national sovereignty, territorial integrity, societal values, and national interests is the essential goal and measure of value of the profession of arms in American society....

Joint doctrine — an “engine of change” — serves as an important method for implementing change as forces train and build effective joint teams. It facilitates development of a common joint culture from which to integrate Service cultures and doctrines. (JP 1, 2000: *Joint Warfare of the Armed Forces of the United States of America*, pp. I-9 and III-1; Emphasis in the original)

Perhaps the best way to describe joint warfighting doctrine today is by the single term “disjointed”. Joint doctrine breaks war down into “levels” and defines war as “large scale combat operations” versus “military operations other than war” (MOOTW). (JP 1, 2000, pp. xi and III-14) As seen in an earlier review of the USMC *Small Wars Manual* of 1940, wars came in all sizes with the difference between “small” and “major” wars being who initiated them – the President in the protection of American lives, property, and interests abroad or Congress. (USMC *Manual*, 1940, p. 4) The most notable difference between JP 1 and USMC *Small Wars Manual* is that in the *Manual*, the word “combat” is fully interchangeable with the word “war”. Small wars are not limited by their size or by their cost in dollars or lives. (*Manual*, 1940, p. 23) According to JP 1, combat exists separately from war and can stand alone in a new, more general category called “conflict”. (JP 1, 2000, p. I-4)

“Small wars vary in degrees from simple demonstrative operations to military intervention in the fullest sense, short of war.” (*Manual*, 1940, p. 23) In essence, what the USMC *Manual* is calling small wars, recent joint publications are now calling MOOTW. But something is lost in this exchange of terms – namely the use of the word “war”. In the extraction of combat from war and the spreading of the combat concept across “operations other than war”, current joint publications change the foundation of war. If a combat operation is named something other than war, then perhaps all of the rules of a Just War do not apply, and even if they might apply, they can be modified. World War II-era Service doctrine taught that any combat – large or small, sustained or short-term – equated to a war and that winning the peace was integral to the concept of war. (*Manual*, p. 28) But with the onslaught of the Cold War, the United Nations and Vietnam, the traditional doctrine of war, which incorporated a holistic view of the post-conflict transition to peace, has been replaced with separate doctrines on low-intensity conflict, MOOTW, civil-military operations, and post-conflict transition.

Although stated up front in the capstone publication, JP-1 that winning the nation's wars is the primary purpose of the armed forces of the United States (JP-1, 2000, p. I-9), very little discussion on the critical role of the armed forces in conflict termination and post-conflict operations is found. Instead one finds a short description of war as "large scale combat" and its principles according to Clausewitz before it launches into a lengthy discussion of what the U.S. armed forces have done most of (by joint doctrine definition) since 1953 – military operations other than war. (JP 3-0, 2001, p. I-2)

Although war is conspicuously short-changed in both the capstone JP-1 and the more specific JP 3-0 volumes, an even larger and questionable vacuum is that found on the subject of "termination and post-conflict operations", accompanied by an almost total blackout of the term "military government" in Service doctrine. In JP-1, one finds an important cycle of policy-formulation and policy-execution, wherein the military advises the National Command Authorities (NCA), acts only with their authorization, and the NCA in turn "directs the dimensions of the conflict termination." (JP-1, p. II-6) In JP 3-0, one finds all of 38 words dedicated to discussion on the topic as authoritative guidance to field commanders in the wake of a war. (JP 3-0, p. IV-20)

If the purpose of war is peace, then the lack of developed doctrine on the transition from war to peace is a strange state of affairs in the warfighting doctrine of today. Whatever the reasons are for this state of affairs in doctrine, the fact remains that no clear plan for the U.S. armed forces is captured in joint doctrine, leaving a vacuum of training and capacity at this critical point in the warfighting process.

1. U.S. Marine Corps Doctrinal Publication 1, Warfighting (MCDP 1, 1997)

In the preface to MCDP 1, war is "timeless and ever-changing". An important aspect of war is presented to the warfighter in this publication – that the basic nature of war is a constant. The weaponry and skills of applying them may change, but the goal is the same – to make a political point or change at the pain of death. This preface also recognizes that a new nature of war has surfaced in the decade prior to the publication of

this doctrine. The authors are not specific, but this new nature seems to be the military operation other than war range that is introduced later in the publication. (Preface to MCDP 1)

The range of military operations is described as those starting on one end of the spectrum called military operations other than war, wherein military power is restrained and selective. On the other end is the “large-scale, sustained combat operation such as global conflict between major powers” or general war. (MCDP, 1997, p. 26) Although described as a range, nothing holds the middle ground of that range. There is only MOOTW and war, which is in line with the concepts put forth by joint doctrine. Putting two and two together, one reads that the new nature of war is that war’s nature is large – defined only by the size of the armed conflict and not on what the armed forces do in armed conflict.

Within this 113-page document, there is no mention whatsoever of “military government”, an old term eradicated in the military’s new conception of the nature of war – large-scale sustained combat operations, separate and distinct from the post-victory return to stability and peace. Instead, one finds here long discussions about the nature and theory of war – the human dimension, the science and art of war, the levels of war, styles of warfare, and some of the principles of war.

War is further defined as “a violent clash of interests between or among organized groups characterized by the use of military force.” (MCDP 1, 1997, p. 3) The publication recognizes that war and peace “rarely exist in practice.” (MCDP 1, 1997, p. 4) The authors go on to state that “war is a social phenomenon.... *We thus conclude that the conduct of war is fundamentally a dynamic process of human competition requiring both the knowledge of science and the creativity of art but driven ultimately by the power of human will.*” (MCDP 1, 1997, p. 19; Emphasis in the original)

A window of insight opens within this publication when it states that “military strategy can be thought of as the art of winning wars and securing peace”. (MCDP 1, 1997, p. 28) It is unusual to find the two concepts together in one sentence, yet given the history of the small wars wherein marines were very experienced and successful at the

whole war, the two concepts go hand in hand – even in present day military thinking, which is so very removed from the small wars of the past.

D. CURRENT U.S. DOCTRINE ON MILITARY OPERATIONS OTHER THAN WAR

In February 2001, the nebulous region of civil-military operations (CMO) received its own rather large joint publication, JP 3-57, a mind-boggling 195-page document, which deals extensively with the post-conflict transition to peace. In addition to the CMO doctrine, a stand-alone joint publication on Civil Affairs (CA) has also been sanctioned – JP 3-57.1, yet another 155-page document dated April 2003. This doctrine is subordinate to the CMO doctrine and states that CA are the military component forces “who are specially trained and suited to perform CMO liaison with the varied civil agencies and multinational partners in the operational area.” (JP 3-57.1, 2003, p. 9)

1. JP 3-07, Military Operations Other Than War (1995)

Perhaps the single most confusing term in current joint doctrine is what has come to be known as military operations other than war or MOOTW. Described on column #1 of page I-1 of JP3-07, MOOTW is a range of military operations *short of war*. (Emphasis added) Across the page in column #2, MOOTW is said to “focus on *detering war, resolving conflict, promoting peace, and supporting civil authorities* in response to domestic crises.” Then in bold face, the doctrine reads: *MOOTW may involve elements of both combat and noncombat operations in peacetime, conflict, and war situations.* (JP 3-07, 1995, p. I-1, Emphasis in the original) It seems as though the authors of this doctrine highlighted specific text to emphasize their own confusion. How can an operation be short of war yet involve combat in war situations? Perhaps the answer lies in not what it is, but in what it is not.

MOOTW is not only *not war*, it is also intended *not* to bind US military forces to requirements of international law. JP 3-07 conducts a very intricate tap dance, in order to avoid obligating the U.S. armed forces in the post-conflict transition – the most difficult and sometimes costly part of the war. If MOOTW remains a nebulous, gray area that is defined by whoever reads it in as many ways, then no one is exactly sure what it requires and how it can be applied. It is flexibility at its finest.

“War” is a term reserved for large-scale, sustained combat operations. However, MOOTW operates on a flexible schedule. “Many MOOTW may be conducted on short notice and last for a relatively short period of time.... On the other hand, some types of MOOTW may last for an extended period of time to achieve the desired end state.” (JP 3-07, 1995, p. I-7) The first three of the six MOOTW principles are war principles, but that the last three are MOOTW specific. These specific principles are: restraint, perseverance and legitimacy. (JP 3-07, 1995, p. II-1) If war is sustained and MOOTW can be, and if the Just War should also be characterized by restraint, perseverance and legitimacy, the war and MOOTW are not very different after all.

Interestingly, in Chapter IV, one finds a section which discusses “transition from wartime operations to MOOTW” and “termination of operations”. The publication gives the impression that these periods are separate and distinct from the battles of the war and perhaps not even really related to war at all. These activities follow “significant military involvement and include: transition to civil authorities, support to truce negotiations, civil affairs support to reestablish a civil government, psychological operations to foster continued peaceful relations, and continuing logistic support from engineering and transportation units. (JP 3-07, 1995, p. IV-12) According to this section, “a commander’s campaign plan should include a transition from wartime operations to MOOTW.” “Should” suggests “optional”.

Following the post-conflict activities, the publication moves quickly on to termination of operations in the space of one page. “As in war, MOOTW operational planning includes actions to be taken as soon as the operation is complete.” These “Termination of Operations Actions” may include but are not limited to: transition to civil authority, marking and clearing minefields, closing financial obligations, pre-deployment activities, and redeploying forces. (JP 3-07, 1995, pp. IV-12 – 13) The entire joint doctrine discussion of transition from “wartime operations to MOOTW” and the “termination of operations” that is authoritative and binding upon the Services takes approximately two pages. The rest of the entire 70 page document is taken up with the principles of MOOTW, the range of MOOTW, and the planning for MOOTW, all with one focus – to create a new category of flexible combat or near-combat that can be used

without falling into the total or general war trap with all of its responsibility and aftermath.

2. JP 3-57, Joint Doctrine for Civil-Military Operation (2001)

“Civil Administration in Hostile or Occupied Territory. In a civil administration by an occupying power, also called military government, **international law contains provisions as to the authorities of the occupying power and the obligations of the submitting government.**” (JP 3-57, 2001, p. I-18; bold-face in the original)

“The most critical civil-component is governance: who will provide civil administration of the occupied or liberated area? ...Options for post-conflict governing authorities may be to return governance to former authorities, to install a new government, to establish an international organization as an interim governing body, or, as a last resort, to establish an interim military government until a civilian government can be formed.” (JP 3-57, p. I-19, bold-face in the original; underlining added)

“The US military contributes to shaping the security environment and addresses threats to US interests by conducting CMO using a variety of types of units. ...Civil-military operations are the activities of a commander that establish, maintain, influence, or exploit relations between military forces, governmental and nongovernmental civilian organizations and authorities, and the civilian populace.... CMO may include performance by military forces of activities and functions which are normally the responsibility of local, regional, or national government.” (JP 3-57, p. I-1, bold-face in the original)

The publication then launches into a detailed discussion on when these activities might occur (before, during, after or in the absence of “other military actions”), on the range of individuals who might perform these operations (CA or other military forces or some combination thereof), and then on the range of military operations (from war to NEO). The publication mentions that CMO included liaising with multinational and indigenous forces and government agencies, non-governmental organizations (NGOs), and international organizations (IOs). The entire concept is built upon a “Country Team” foundation that includes many of the above mentioned civilian organizations, creating by the very nature of the organizations, difficulties in communication and coordination. (p.

I-4) Stated very clearly are three CMO objectives: 1) Support national objectives, 2) enhance military effectiveness, and 3) reduce negative impact of military operations on civilians. (JP 3-57, p. I-8)

3. JP 3-57.1, Civil Affairs (2003)

Civil affairs in this volume are to be “capable of providing functional expertise in civilian sector disciplines necessary for CA assessments, civil assistance, civil administration, and military government”. (JP 3-57.1, 2003, III-4) In DOD Directive 2000.13, *Civil Affairs* (1994), the military government and civil administration are interchangeable, which seems to carry over to JP 3-57.1 but with restriction. (DODD 2000.13, 1994)

First, when compared to the military government of 1940s doctrine, the civil administration of today does not report directly to the president of the United States, but instead to a designated authority or to the Secretary of Defense. Secondly, in complete deviation from the old doctrine of war, the civil administration can also act on the authority of a nation, alliance, coalition of nations or the United Nations. (JP 3-57.1, 2003, p. II-11) This new arrangement of the chain of command (a new nature) answers perhaps why U.S. military leadership today is reluctant to advise the policymaker in the use of the civil administration, since the legitimacy of the 1940s concept with its direct reporting to the president of the United States is lost.

The term “military government” is used only four times in this latest joint civil affairs manual. This publication references DOD Directive (DODD) 2000.13, *Civil Affairs*, many times as its authoritative source, and surprisingly, it lists the military government as an option under the functions DOD that may be provided in the administration of “civil affairs”. (DODD 2000.13, 1994, p. 2) The military government is defined by this directive as the “form of administration by which an occupying power exercises executive, legislative, and judicial authority over occupied territory.” (DODD 2000.13, 1994, p. 9)

Although at first, the terms seem to be interchangeable, JP 3-57.1 insists on using both terms in different locations. However, when one turns to the glossary of terms in the back of JP 3-57.1, one finds “civil administration” defined, but not the military

government. This leads one to believe that the new term for military government is civil administration, but the publication confuses the issue by using both terms throughout.

The phrase “military operations other than war” is mentioned 11 times in the new CA manual, but the most pertinent of these states that MOOTW is the Armed Forces’ “inherent secondary purpose in the advancement of national interests.” (JP 3-57.1, 2003, p. VII-1) War is mentioned 35 times without reference to the winning of the peace, but the authors are reluctant to go into detail on what exactly war includes. It is mentioned several times on a scale in conjunction with MOOTW. MOOTW is pictured as a balancing act between combat operations through the use of combat forces against hostile forces while CMO assets strengthen the civilian infrastructure. (JP 3.57.1, 2003, p. I-4)

Applying this concept to the real world, the result is a window into what the U.S. armed forces are doing currently in Operation Iraqi Freedom. The U.S. and coalition forces have faced continuous combat situations in their efforts to secure the region while CMO have being executed in the form of the Office for Reconstruction and Humanitarian Assistance Coalition directly following the declaration of victory, and followed by the Provisional Authority in May 2003. On-going through this reconstruction period under the umbrella of CMO have also been the reconstruction of the Iraqi Police Service, development of the judiciary system and the prisons, the recreation of the armed forces and the defense ministry, as well as the intelligence services. Missing from this report, however, is any mention of the reconstruction of the houses, schools and social institutions of the people of Iraq. (RAND Study, Establishing Law & Order after Conflict, 2005, pp. 115 – 116)

Joint doctrine on Civil Affairs does not contain any specific information on a continuum of war – what constitutes its beginning and its end. It provides very little insight into the military government, but negates the old use of the term by equating it with the current civil administration concept. By observing the CA concept and its accompanying civil administration in action at present in Iraq, the result is that the military is not in charge of the whole operation, to include the CMO. Instead, the work is split with the military taking the combat portion and the civil administration run by U.S. civilians and appointed Iraqi nationals. Although the civil administration does in concept

report eventually to the president of the United States, much authority and legitimacy is lost due to the middle echelons of authority in charge of the whole scenario of combat with its supporting CMO activities.

4. U.S. Army Field Manual 3-07, Stability and Support Operations (SASO)

In this publication – which superseded FM 100-20 (1990), FM 100-23 (1994), FM 90-29 (1994), and FM 100-19 (1993) in 2003, the term Stability Operations and Support Operations (SASO) seems to be the replacement doctrine for parts of the interim or transitional “military government”. The confusing and overlapping definitions continue here in the basic definition of what a SASO might be according to this manual.

Offensive and defensive operations normally dominate military operations in war, as well as some smaller-scale contingencies. On the other hand, stability operations and support operations predominate in MOOTW that may include certain smaller-scale contingencies and peacetime military engagements. (FM 3-07, 2003, p. 1-1)

In summary, MOOTW includes offensive, defensive, big-war, small-war, war-time, stability, support, and peace-time operations. Better said, MOOTW is everything except declared, global war. SASO, however, seem to be predominate in smaller-scale contingencies versus large-scale ones.

Stability operations’ purpose is to “promote and sustain regional and global stability.” *Support* operations’ primary role is to “meet the immediate needs of designated groups, for a limited time, until civil authorities can accomplish these tasks without military assistance.” These tasks can be domestic support operations (now under Homeland Security) and foreign humanitarian assistance. (FM 3-07, 2003, p. 1-2) SASO remains a nebulous, loosely defined bridge of cooperation between civilians and the military – eager to make the handoff to someone else as soon as possible. The word or words “handover” or “hand over” are used nine times in this manual. The word “transfer” is used seven times in reference to the handover or transfer of a vital piece or all of the military’s responsibility to someone else – a nonspecific civilian organization such as an international organization (IO), non-governmental organization (NGO), a non-specific civil authority, a governmental agency, or perhaps another military group.

The manual also identifies the history of SASO as grounded in such operations as the “stability operations” in the Philippines from 1899 to 1904 and in Haiti from 1915 to 1934. A good description of these long and arduous occupations is completely and conspicuously absent, considering these were not “stability operations, but full fledged military occupational governments. Although the bulk of the fighting and subjugation took place between 1899 and 1904, U.S. soldiers occupied and governed pivotal parts of the Philippines until the early 1930s. In 1935, the Philippines became a Commonwealth, but the nation was not granted independence from the United States until 1946, and the last U.S. military base was not closed until 1991. (<http://en.wikipedia.org/wiki/Philippines>; accessed 11 September 2005)

There are a plethora of other historic “SASOs” that are not covered here in the one brief paragraph that mentions the above two occupations, and the two that are mentioned were far more than “stability operations”. It must be noted that inherent in the reference to the Philippine and Haitian occupations of the early 20th Century, the U.S. Army equates stability operations with the military government, but in a lesser form according to the authoritative joint doctrine’s form of the same – “civil administration”. With the Army using SASO as their operating term, which is related to, but not exactly the same as, the joint term of “civil administration”, one begins to see how confusion might rein in the world of civil affairs.

5. U.S. Army Field Manual 41-10 (2000)

This FM is pivotal in one’s understanding of how military government became civil affairs. “On 17 August 1955, the CA Military Government Branch became the USAR [United States Army Reserve] Branch; on 2 October 1959, it became the CA Branch. The major organizational development of the branch traces back to the expansion of the War Department during WWII.” (FM 41-10, 2000, p. 3-1) There were thus three shifts: first, the organizational specialization; second, the doctrinal terms (from military government to civil affairs); and third, military government went from being an active duty function to one of the reserve component.

The CA section describes the primary function of all Army CA units as the support of CMO (civil-military operations). Ironically, the ability to govern is no longer required. This CA team is more attuned to intelligence, cultural considerations, “civic

administration” (a redefined interchangeable term with military government in JP 3-57.1, but one that means something completely different), and to help minimize civilian interference with military operations. (FM 41-10, 2000, p. 3-4) Although this doctrine describes a “government team” construct, its functions are limited to providing “technical expertise, staff advice, and planning assistance to the supported command.... [The government team] [C]onducts assessments of government resources and systems and determines how these may impact CMO.” (FM 41-10, 2000, p. 3-7)

This team provides technical advice and assistance in identifying resources for many of the same functions over which the occupying military government had authority in the past, such as that found in the Philippines in 1903 – public administration, public education, public safety, international law, public health, public transportation and communications, local economics, dislocated civilians, and engineering.

Currently, the Provincial Reconstruction Teams (PRTs), joint civil-military units in place throughout Afghanistan, act primarily as advisors to the provisional government and the joint forces commanders still working out the many issues involved in the process of winning the war still in progress. These PRTs act as advisors to indigenous governmental members on many of the issues mentioned above, but do so without authority to carry out any of those actions on which they advise.

The success or failure of the programs lies almost completely in the indigenous government and its infrastructure, whereas the PRTs’ activities are relegated to “establishing working relationships”, providing security support, developing and mentoring the Afghanistan army, and “conducting needs assessments”. (U.S. Agency for International Development [USAID] Website, Afghanistan, Provincial Reconstruction Teams Article, n.d.)

It must be noted that IOs and NGOs in today’s stabilization and reconstruction environment, however, do not in general agree with being paired with the U.S. military in the pursuit of a lasting peace. It was evident in observation of participants in the civil-military conference held at Naval Postgraduate School in August 2005 that many members of IOs, such as the Red Cross, are not keen on working side-by-side with the military. Some suspect the military presence of adding to the difficulty of ending the

armed conflict and of increasing the efforts, while reducing the safety, of those NGOs who are there to rebuild. (Personal observation, Civ-Mil Working Conference, NPS, August 2005)

The critical piece of authority under the president of the United States has been completely removed from this manual. “Civil administration” retains some aspects of the old military government much as it does in the JP 3-57.1 concept of it (FM 41-10, 2000, p. 1-1), but in the definition found in the glossary, the civil administration is imposed in hostile territory that the U.S. forces occupy by a “foreign government”. (FM 41-10, 2000, p. Glossary-3) This foreign government is not identified, might perhaps be the United States, but according to joint doctrine, should only be so as a “last resort”.

6. U.S. Marine Corps Doctrinal Publication 3, Expeditionary Operations (MCDP 3, 1998)

This publication contains no references to military governments, nation-building or small wars. It does use the word “war” 83 times, however, in its discussion of the World Wars, the Korean War, the Vietnam War, the Cold War, the Gulf War, military operations other than war, and the distinction between war and criminal violence. (USMC DP3, 1998, p. 13). In the discussion of various wars, the publication calls attention to the difference between MOOTW and major theater wars (USMC DP3, 1998, p. 89). Therefore, this Service doctrine, which at one time taught so clearly the concept of the military government, now follows the direction of authoritative joint doctrine and adds to the confusion of what to do to win the peace.

This doctrine implies that a major regional conflict is equal to the joint doctrine’s definition of war – direct military conflict with a major power (USMC) and large-scale sustained combat (joint). However, the USMC doctrine goes on to state that this kind of an event is unlikely. This discussion leads to the belief that U.S. marines are currently taught that combat is war, and war is combat – that the two terms are equal and the sum total of war is combat. This is a huge change from the USMC doctrine of the 1940s that taught that war was a continuum – a return to peace through a military government.

Military operations other than war are defined by the USMC as a “range of military operations short of war.” (USMC DP3, 1998, pp. 108 – 109) This definition implies that the USMC understands MOOTW to be something other than combat. For

the marine of 1940, war was combat, but also included an occupation. Presently, any combat going on during a war would be part of a war and not short of war, and therefore, combat is still part of war and cannot stand alone.

With this example of the use of the word war versus MOOTW, one can begin to see the difficulty that arises in having a category that spans both definitions – combat. The following passage uses the term combat in a way that contradicts the earlier USMC definition of MOOTW:

Military operations other than war may also take place in environments characterized by widespread random violence or even combat of less than large scale.

In military operations other than war more than in war, political concerns tend to restrict the application of military force. Political considerations may even necessitate military actions or deployments that are not militarily advantageous. (USMC DP3, 1998, p. 109)

As General Douglas MacArthur learned in Korea, political considerations that are not necessarily advantageous or aligned with the warfighting commanders' conception of the prosecution of the war are always a limiting factor. That limitation does not distinguish between war and "not war."

E. CURRENT BRITISH, CANADIAN AND AUSTRALIAN WARFIGHTING DOCTRINES

1. British

British Military Doctrine (BMD) takes its position on general war from the North Atlantic Treaty Organization (NATO) perspective. The forces for general war are not a large standing army, but are instead generated by a mobilization of reserve forces added to the standing units. (BMD, 1996, p. 16)

The British take a very different approach to the use of their armed forces versus how U.S. armed forces. British forces are prescribed to be used in two ways – to NATO for general war and to civil authorities for emergencies, disasters, and restoration of law and order when the civil security forces cannot do so. U.S. forces are not subject to control or use by any external authority and are not to be used to step in for the local police. (BMD, 1996, pp. 17 – 18)

“Operations other than war” is a term used in British Military Doctrine. However, no mention is made of civil administration or military government in the British Army’s military doctrine. In Army Doctrine Publication, Volume 5, *Soldiering* (Feb 2000), however, is found the statement that “soldiers operate in a complex spectrum which embraces conflict presentation operations, conflict itself, and post-conflict activities... (p. 1-1) By this statement, it seems the British Army defines war as armed conflict and recognizes that it is a continuum. However, it does not contain any direction on who performs what functions during the post-conflict activities.

2. Canadian

Canadian military doctrine is divided into eight areas on the Deputy Chief of Defense Staff website. These areas are: Personnel Issues, Intelligence, Operations, Support to Operations, Operational Planning, Joint CIS, Mobilization, and Joint Civil-Military Cooperation (CIMIC). The primary Canadian Forces Operations doctrine of war is found in one manual – B-GJ-005-300/FP-000, dated November 2004. This comprehensive 234-page document is replete with a plethora of doctrine on military operations, armed conflict, command and control, campaign planning, training, task force organization, intelligence use, defense against WMD, space operations, civil-military considerations, electronic warfare, public affairs, psychological operations, health services, and personnel support. Parts of it are “still to be written” (p. x). Supporting this mammoth publication are eight subordinate publications that seem to be amplifications of the primary publication listed above.

3. Australian

Australian military doctrine is found in its individual Service doctrines. It seems no official joint military doctrine is published. However, in the Army’s doctrine, one finds a six-chapter volume and 78 pages. This doctrine includes the classic principles of war, a discussion about the differences between “conflict” and “war”, military strategy, the Australian national security framework, levels of command, strategic context, warfighting philosophy (the maneuver approach and centers of gravity), fighting power (the moral component – purpose, integrity, morale), and measurements of effectiveness (relevance, sustainability, flexibility, efficiency). The document also contains several

annexes to include one on a description of military doctrine, on the history of Australian military strategy, on training, and on the Law of Armed Conflict.

The Australian Air Force's doctrine is very well articulated in ten chapters and provides the following definition of doctrine:

Doctrine is prescriptive and authoritative, but not directive. It is not a statement of national policy or even military strategy; it is nothing more than a set of beliefs based on historic precedent that forms a framework for military action. Doctrine is not law and never intended to be used as such. Doctrine...forms a fundamental component of our military power. (Australian Aerospace Doctrine, Chap. 1, p. 7)

The Australian aerospace doctrine goes on to state that "doctrine is only effective if applied correctly by expert practitioners who understand history, theory, culture, technology, and context" (AAD, Chap. 1, p. 7).

F. CHAPTER SUMMARY

Current joint warfighting doctrine is massive, unwieldy, compartmentalized and yet overlapping, confusing, repetitive, incomplete, and exclusive of a discussion of war. Instead of a well-developed doctrine of war, a segmented plethora of doctrines on operations other than war have developed. Due to the Congressional mandate that joint doctrine be authoritative over Service doctrine, the Services are using it as a baseline for their own. Unfortunately, joint warfighting doctrine has developed away from its historical roots in a holistic concept of war. Of course, it must be updated to meet the demands of a rapidly changing world, but certain timeless truths have been lost in time.

Doctrine begins with an understanding of why the mission is to be accomplished and what that mission should be. Well stated by the Australian Ministry of Defence, doctrine "is a set of beliefs based upon historic precedent." Doctrine then becomes the foundation for all an organization does. It is most likely a reflection of what the organization is already doing, but it should also look in all directions with a 360-degree perspective. The overarching doctrine of an organization should also be timeless, laying out general concepts, beliefs, and principles to be applied more specifically at lower levels, down to the point of the individual who makes the mission a reality.

Not surprisingly, United States, British, Canadian, and Australian doctrines on war are similar in that they are all founded upon the classic Clausewitzian principles of war and upon an ethical code of conduct. Considering that the primary purpose of armed forces is to wage and win the nation's wars, what is surprising is the scant discussion of the Just War Theory and the international laws of war, timeless truths which provide the foundation and guidelines for what the warfighter does during war. Nor do the British, Canadians or Australians discuss any post-war responsibilities of their respective armed forces or the lack thereof.

The concept of the military governance in order to shape the peace for a defeated enemy nation and territory was the way of life for the Army and the Marine Corps – regardless of the size of the war. Combat was most certainly – armed conflict between pirates, rebels or regulars and the U.S. armed forces. Military operations other than war didn't exist, because most of what engaged the U.S. armed forces on the sea and on land included combat which was part of war. When the war was won, the occupation started. Insurgencies were put down in the jungles of the Philippines, Haiti, Cuba, South America, Japan and in Europe.

War is certainly not a one-size-fits-all situation, and as the world has grown in complexity, so have the ways in which to deal with it. However, to redefine war, to break it into components, and to take out the parts that are particularly difficult at which to be successful has created a false environment called “operations other than war”. Akin to the dark side of the moon, this conundrum can be corrected with huge benefit to all.

V. THE UNITED STATES AT WAR: SIX CASES

A. CHAPTER OVERVIEW

The history of the United States shows that in spite of the varying trend of the foreign policy of succeeding administrations, this Government has interposed or intervened in the affairs of other states with remarkable regularity, and it may be anticipated that the same general procedure will be followed in the future. (U.S. Marine Corps, Small Wars Manual, 1940, p. 4)

If the past is any indication of the future, the picture the U.S. Marine Corps had in 1940 of war trends holds more truth today than it did then. John Keegan has said of the 20th Century that it is “mankind’s most bloody and hateful century.” (Keegan, p. 391) International politics have failed with over 87,000,000 combatants and civilians dead due to war and another 80,000,000 people killed deliberately by their own governments. (Brzezinski, pp. 4, 7 – 18) It is safe to assume that war is going to be with mankind well into the 21st Century, requiring armed forces that are capable and prepared to deal with it. How the United States in particular is going to deal with it now and later is the question.

Total, general, declared, large-scale war is the rare exception in the warmaking history of the United States. Only two wars come to mind as such wherein the civilian leadership of the nation was willing to do whatever it took to win the war and clearly didn’t seek to mask the intent: the Civil War and World War II. In the first 145 years of the United States’ existence (1789 – 1934), the U.S. Marines made 180 landings on foreign soil. (Boot, p. xiv) As stated above in the U.S. Marine Corps manual on small wars, foreign intervention in the form of “small wars” is the norm for the United States, and when one is the pointy tip of the spear, one had best be prepared so as to not only survive, but also to be successful in the expenditure of life.

The fighting of small wars under any name – low intensity conflict, police action, MOOTW – is not an easy job. These are usually fought in extreme and hostile environments against an invisible enemy that is vicious, not in uniform, familiar with his own territory, and bent on confusing the invaders to the point of exhaustion and demoralization and not necessarily on its opponent’s defeat.

Contrary to current public and policymaker opinion and background knowledge, it is interesting to note that historically the “norm” was for the United States to engage its armed forces in nation-building or what is currently labeled the post-conflict transition to peace – which is hardly post-conflict. Wars fought prior to the Korean War were prosecuted to the full extent of the abilities of the military with the purpose of securing peace through the building of an amenable foreign government or through full annexation as in the case of what is today the southwestern United States. Whether or not the United States had any right to have waged these wars is another debate, saved for another time. But the fact remains that the United States armed forces have a long and quite distinguished history of nation-building.

This dangerous and difficult arena known today as “post-conflict” is filled with conflict and was not in the past considered an “operation other than war”. It was the other half of the war – part and parcel of the package of war – and was the only course of action by which the peace could be secured. As illustrated in the previous chapter, doctrine today is founded upon the belief that the peace can be won without the full engagement and authority of the armed forces, but as one can see in the newspapers today, this approach is not working at present. (“The Struggle for Iraq,” BBC News Online, UK Edition, 19 September 2005)

The winning of the peace is perhaps more dangerous than the campaign itself as it is historically filled with insurrection. The wars in Iraq and Afghanistan are no different up to the point of the declared victory. At this point, instead of installing a military government to guide and ensure the peace in all aspects (security, judicial, educational, engineering), the United States installed a civilian interim government before the dust had settled and has repeated the mantra of “Iraqis to rebuild Iraq – it’s their future”. Alan Larson, Under Secretary of State for Economic, Business, and Agricultural Affairs, stated that in the aftermath of years of misgovernment – even though the military victory was swift and decisive – the rebuilding of Iraq will take longer. He goes on to explain that “most of this work will – and rightly should – fall to the citizens of Iraq.” After all, he says, it is their country. (Testimony before the Senate Foreign Relations Committee, 4 June 2003, U.S. Department of State Website)

But such was not always the case when the United States waged war. Depending on the war and the ensuing post-conflict situation, the U.S. military conducted an array of civil-military operations wherein the armed forces were the force of war and peace, beginning to end and many times over decades.

B. THREE WARS OF THE 19TH CENTURY

The nation-building expertise of the U.S. military begins, as stated earlier, with the troops of George Washington's army. Martial law and the formal occupation of New Orleans by Major General Andrew Jackson were engaged again during the war with Britain in order to contain the threat of an insurrection. (Daugherty, pp. 36 – 37) Wars in which U.S. armed forces prosecute in later years, however, provide a clearer picture of their full engagement in the civil affairs of nation-building through the use of the military government.

1. The War with Mexico, 1845 - 1849

Said Ulysses S. Grant, the Mexican War was “the most unjust war ever waged by a stronger republic against a weaker nation....an instance of a republic following the bad example of European monarchies....” (Grant, p. 54) Historically, no national leadership of a Western democracy in its right mind wants to accept responsibility for being the nation to start a war – without socially acceptable provocation. Through the waging and winning of the War with Mexico, the United States in the words of President Polk “extended the dominions of peace over additional territories.” (Price, p. 13) Notwithstanding in 1846, the New Mexico, Arizona, Utah, Nevada, and California territories along with portions of Colorado and Wyoming had been governed by Mexico – independent from Spain since 1821 – for 25 years.

As Mexican territories were taken, U.S. commanders remained in place to occupy and hold the ground until diplomacy returned between the two nations. Major General Zachary Taylor held northern Mexico, wherein he appointed a military governor for every city or important town that was defeated. Brigadier General Stephen Kearney took the New Mexico and California territories, pronouncing himself governor of New Mexico in Santa Fe on 19 September 1846. As the war effort overtook California, General Kearney arrived in California to find Major John Fremont already installed as the

governor from the territory's governmental seat of Monterey, but had to replace him soon after his arrival due to "conduct prejudicial to the public service". (Daugherty, p. 54 – 70)

Meanwhile in central Mexico, General Winfield Scott led the campaign to defeat and subdue a territory far removed from Washington, D.C. His plan was to occupy all the major towns along his single and therefore vulnerable line of communication. (Daugherty, p. 84) The lessons-learned from the War with Mexico read like the to-do list of the present war effort in Iraq. The importance of public health, local revenue, civil government, and public relations as well as good relations between the occupying troops and the local populace came to light in 150 years ago (Daugherty, pp. 86 – 93) and are as important now as they were then. But difference between now and then is that then, the U.S. armed forces, responsible directly to President Polk, won the peace.

2. The U.S. Civil War, 1861 - 1865

Arguably the most significant war in the history of the United States, the Civil War took place during a time when the United Nations didn't exist so as to conduct a Chapter VI and a Half intervention and raise hopes for an earlier end to the hostilities. The Civil War was perhaps "the deadliest conflict in American history" (Boot, p. 56). This war is an example of intra-state conflict and nation-building that was successful from the perspective of the Union and one wherein the Union army and its leadership, in coordination with local authorities, played a huge role in stitching the Union back together.

At the outset of the Civil War, the use of the military government was up for debate within the Army's top leadership. Major General George McClellan took a conservative stance on the use of armed force against the citizens of the South. (McClellan, p. 488) Other Union generals took the position that all Confederates ought to be treated like criminals and should lose their rights as citizens. (Daugherty, p. 95) The crux of the matter was the second tenet of the Just War Theory – *jus in bello*. Were the Confederates to be treated like criminals or like the peoples of a defeated nation and like prisoners of war?

But beyond the occupation of the South and its successful restoration to the Union, another great contribution to the laws that govern war was the Code of War for the Government of the Armies of the United States in the Field, produced largely as a result of the work of Dr. Franz Lieber. President Lincoln, in an attempt to secure a more uniform approach to military governance and the proper handling of the South, appointed a commission to prepare a study on conduct for the Union army. The result was the Code mentioned above, which formed the foundation for much of what has been written on Civil Affairs in the 20th Century. (Daugherty, pp. 95, 121)

3. The Indian Wars of 1800 - 1900

Throughout the end of the 1800s, the U.S. military saw many small wars with nations of Native Americans who occupied the West. Their seemingly uncivilized way of life was not comprehended by policymakers in Washington, D.C., and this expansion west was truly an exercise in invasion, occupation, military governance, and nation-building. Since the nomadic lifestyle of the plains Indians made it difficult to establish military rule, reservations were set up upon which to group the Indians in an attempt to curb the violence that haunted the West for more than 50 years.

This period came to be known popularly as the taming of the West. Settlers moved out from the East and took up residence on the rich farm and ranchlands of the plains of Oklahoma, Kansas, Colorado, the Dakotas, Wyoming and Montana. They installed fences and hunted the buffalo almost to extinction, thoroughly disrupting the lifestyle the Native Americans had enjoyed for centuries. As the towns, outlying homes and wagon trains of the invading Easterners were attacked, the U.S. government saw fit to send out the cavalry.

U.S. Army forts were built at strategic points along lines of communication throughout the West, and the soldiers that resided at these forts went to work subduing a massive insurrection across a vast territory. The West was “won” through small battles, as there are only a few large battles on record between the horse soldiers and the Indians. The most famous of those large battles was the infamous Battle of the Little Big Horn, led by Major General George A. Custer, which resulted in the annihilation of the 7th Cavalry, and the lesser known Battle of Wounded Knee, which resulted in the nearly complete extermination of the Sioux warriors and broke the back of the resistance.

C. THREE WARS OF THE 20TH CENTURY

1. The Small War: The Philippines, 1899 - 1916

Twenty million dollars paid out of the U.S. treasury into Spain's placed the 7,108 islands and 7 million Filipinos into U.S. hands for "benevolent assimilation", so called by President McKinley (Boot, p. 106). The end of the American war with the Spanish in the Philippines put American troops in Manila, surrounded by 15,000 Filipino guerilla forces who were prepared to fight and die further for their independence. Back in Washington, D.C., a debate raged on about the "benevolent assimilation" of this very foreign land. Two camps existed: those like Grover Cleveland, Andrew Carnegie, Jane Addams, and Mark Twain were part of the Anti-Imperialist League and those such as Theodore Roosevelt, Senator Albert J. Beveridge, and Rudyard Kipling made up the "progressive" group who thought "the U.S. should take up the white man's burden" and continue with the assimilation. (Kiestler, p. 44)

Ill-prepared yet again for this new war, Congress raised the strength of the regular army from 28,183 to 56,688. President McKinley then called for 120,000 volunteers recruited by the states for a one-year enlistment. (Boot, p. 107) The war to subjugate the Philippines began in earnest on Luzon, since at first there were not enough U.S. troops to garrison the entire archipelago. The organized resistance army, President General Aguinaldo's Army of Liberation, was defeated by U.S. Commanding General Otis' troops under the direction of Major General Arthur MacArthur and Brigadier General Loyd Wheaton. "By February 1900, American troops had marched the length and breadth of Luzon, scattering *insurrectos* wherever they went, and breaking the back of Aguinaldo's army.... But the war did not end. It entered a new and more dangerous phase." (Boot, p. 111)

"The Filipinos stubbornly resisted their new colonial masters, and though successive U.S. generals proclaimed victory at hand, American soldiers kept dying in ambushes, telegraph lines kept being cut, and Army convoys kept being attacked" (Boot, p. 99). As hard-line guerilla commanders tortured and killed any remnants of the Spanish still present and any Americans they could get their hands on, U.S. troops retaliated in kind with their own ways of eliciting information, punishing insurrectionists, and those

who were suspect of harboring them. (Boot, pp. 99 – 100) It was “a war of atrocities” (Kiestler, p. 43).

Among civilian U.S. policymakers, disparity over what was going on in the thoughts and minds of the Filipinos continued to cause difficulties in the field. Judge William Howard Taft, sent by President McKinley to “supervise the transition from military to civilian rule in pacified areas”, held the belief that the Filipino guerillas were merely bandits and that the upper-class with whom he primarily associated and Filipinos in general welcomed U.S. rule (Boot, p. 114). General MacArthur’s soldiers in the field fighting the war knew differently and “displayed considerable cruelty in fighting the Filipinos” (Boot, p. 115).

The War in the Philippines ended on July 4, 1902, when President Roosevelt declared the Philippine insurgency to be over (Boot, p. 124). A U.S. colony in the European fashion, the Filipinos were granted greater autonomy than those under European rule and established their own legislature in 1916, being the first Asian state to do so. In 1935, they elected their own president under the benevolent rule of the United States and in 1945 were granted their own independence. (Kiestler, p. 44) In the course of the war for the Philippines, 126,468 Americans served in 2,811 engagements with 4,234 dead and 2,818 wounded. The Filipinos fared not so well with 16,000 dead in battle, but also 200,000 civilians dead of disease, famine and “the cruelties of both sides”. (Boot, p. 125)

Perhaps the best commentary on the results of American peace-building efforts came from Filipinos themselves. President Manuel Quezon went on record in 1935 when he found it difficult to pull together enough national spirit to gain independence as having said: “Damn the Americans! Why don’t they tyrannize us more?” (Boot, p. 125) And more recently, Filipino senator-statesman, Emmanuel Pelaez – former Philippines vice president and ambassador to the United States – said when asked about English as the Philippine national language: “English was the means through which we internalized the idea of constitutional government and democratic rights. How would you translate ‘due process of law’ into Tagalog?” (Kiestler, p. 45)

Thanks to the end of the Cold War, the early 1990s saw the drawdown of American bases in the Philippine islands as the United States no longer felt the need to occupy and finally withdrew its forces at the request of the democratic, sovereign Philippine government. After almost 100 years, the Filipinos were independent of foreign intervention and hold to this day the distinction of being the only democratic nation – recognized by the West – in the Far East.

The military government with its accompanying civil affairs was in full swing at the turn of the 20th Century. The 1930s found the U.S. Army training its Civil Affairs personnel on the details of assisting a supreme commander in the administration of local government. New doctrine was being written based upon the concepts learned in the small wars at the turn of the century and their heroes were teaching their trade in the schools. (West, pp. 7 – 9)

In the international arena, the League of Nations had failed. Imperialism was spreading like a stain across Asia, threatening the newly established trade with the West, and Nazi Germany was rebuilding its war machine for revenge and to retake what it considered its own.

The attempts at creating a new Germany after World War I hadn't worked. The efforts of the international community to subdue the nation were ineffective. As the United States entered World War II, doctrine was on the shelf that provided a blueprint for peace in the aftermath of war, and the troops were being trained to implement it. The actual plans were yet to be developed, but were done so as the war unfolded. In the aftermath of World War II, a massive effort to shape the peace took place through the coalition occupation of Germany and the U.S. occupation of Japan.

The results were astounding, but in the course of history, these occupations seem to have fallen out of the history books. The great battles across Europe and in the islands of the Pacific are widely discussed in history books and in military schools of leadership. But the occupation and military governance which secured the peace and made these nations what they are today is a little discussed, but critical piece of the war effort that went well into the 1950s.

2. Germany, 1945 - 1956

The purpose of military government in Germany would be to assist the military commander to impose his will on the enemy, and the first concern would be to help maintain the striking power of the military forces by controlling movements of people and by preventing disease and disorder. (Ziemke, pp. 30 – 31)

At the end of World War II, the method employed by the military governments was “reasonably clear”:

- Identification and removal of the ruling Nazi elite.
- Identification and destruction (or modification) of the institutions by which the Nazi elite maintained itself in power.
- Substitution of new or transformed institutions within which a new leadership could grow and function.
- Encouragement and support of a new leadership to take the place of the removed Nazi elite. (Gimbel, p. 2)

In March 1945 when the town of Marburg fell, the war was not over, and Marburg was a “hotbed of Nazism”. The military governments in place around Germany in early 1945 had little guidance on how to proceed due to conflicts among military government planners not yet resolved at higher echelons. (Gimbel, p. 32) With little guidance from higher headquarters, guidance early on came primarily from reading the Army’s own Field Manuals, *Military Government* (FM 27-5, July 1940), from the *Handbook for Military Government in Germany* (based upon 27-5; originally written and distributed in 1943, revised and reissued in December 1944) and *The Rules of Land Warfare* (FM 27-10, October 1939).

In mid-1946, the governance of Germany was centralized in Berlin under an active duty U.S. Army commander and carried on with stabilization and reconstruction efforts with the Army as the executive agent for the military government, which ended in 1949. It should be noted that during the occupation period, Germany was divided up into four zones of military governance under the United States, France, Great Britain, and the Soviets, each guided by their own set of military governance schools, training and published doctrine. The British in their zone used similar procedures for military occupation and governance in the British publication, whose occupation is outlined in

such books as Civil Affairs and Military Government Northwest Europe, 1944 – 1946 (by V.S.F. Donnison, London: H.M. Stationery Office, 1961).

3. Japan, 1945 - 1952

A defeated Japan lay at the feet of the Allied Pacific forces. In mid-August 1945, Japan's Emperor Hirohito capitulated on behalf of his empire upon news of Hiroshima and Nagasaki. General MacArthur, the Supreme Commander of the Allied Powers (SCAP), entered Japan on August 30, 1945 via Yokohama harbor at 65 years of age and unarmed to accept Japan's surrender and to inaugurate his regime. "The United States was determined to retain for itself a dominant position and a deciding voice in the military occupation and control of Japan, while offering the United Kingdom, China, and the Soviet Union an advisory role." (Moore, p. 87) The Far Eastern Advisory Commission took shape, allowing other nations such as Australia, New Zealand, the Netherlands, France and the Philippines to contribute their concerns and interests as well.

The occupation of Japan began on September 2, 1945 and would endure officially until April 28, 1952. Although both Germany and Japan experience U.S. occupations and differing levels of military governance, the occupation of Japan was much, much different than the one prosecuted by the U.S. and Allied forces in Germany. Both nations had been devastated by the war, but Japan's devastation was unusually diverse. Not only had the Land of the Rising Sun lost almost 3 million souls during the war, experienced the nuclear bomb, and seen the near total destruction of its capitol city through firebombing, the nation had around 5 million members of its army and some citizens dispersed throughout much of Asia due to vast empire-building efforts of the previous 45 years. (Dower, pp. 37, 46 – 50)

While the occupation powers in Germany battled insurgents and replaced most of the government, much of the Japanese government was left intact with only those who had been in power during the war being removed. Emperor Hirohito was retained due to General MacArthur's strong stance that he'd had little to do with the war generation in the face of the dominating military powers within the Japanese government of the 1930s. The emperor was considered at that time to be a central figure in the Japanese way of life and philosophy, and his removal may have destabilized the nation unnecessarily. Since

he hadn't represented the primary war efforts to his people, he was thought to be more valuable to the regeneration efforts as emperor than as martyr. (Moore, pp. 32 – 35)

The goals of the Occupation, outlined “early” and “often”, were (1) to ensure as far as possible that Japan would never again become a “menace to the peace and security of the world” and (2) to encourage the establishment in Japan of a peaceful, democratic government. “The achievement of the first goal obviously entailed the dismantling of Japanese armed forces, destruction of related industries, and creation of a compliant ruling class by a massive purge.” (Moore, p. 9) But in consideration of the second goal, which incorporated the ideal of allowing the Japanese people to establish a government by their “freely expressed will”, the potential for conflict of interest existed. It was through this minefield and in the face of considerable opposition from Washington, D.C. that General MacArthur and his staff would have to wade.

“To rule Japan during the Occupation, MacArthur used two government structures. His general headquarters (GHQ) in Tokyo, with roughly 5,000 American personnel, issued orders and policy directives to the Japanese government, which implemented them.” (Moore, p. 34) Throughout the early months of the Occupation, much work went into the constitution efforts between the Japanese government and the Occupation powers. “The work of laying a new constitutional framework for Japan did not end on November 3, 1946, when the emperor promulgated the ratified draft, or on May 3, 1947, when it took effect.” (Moore, p. 317)

During the remaining five years of the occupation, more work was done on the constitution, and elections were reformed. Although the interim government of Japan held over from the war period was not able to gain much ground during the occupation due to public opinion, the peace that is Japan's was most certainly shaped by the forces that occupied it. Emperor Hirohito lived to see the fall of the Berlin wall, his death marking the end of an era for two participants in World War II. (Dower, p. 558)

D. WARS SINCE 1950

The Korean War, or as it was called at the time – Conflict, set the stage for the transition of military doctrine from one of winning the peace to that of winning the “war”. The naming of the Korean War as “not war” opened the door for combat or

armed conflict to be accomplished by the U.S. military outside the confines of war. Combat spans war and “not war” in present joint doctrine of MOOTW. The door was then wide open for the separation of other aspects of war – such as humanitarian aid in a war torn region, strikes, raids, interdiction, and civil affairs – to be placed into their own separate doctrinal categories of military operations.

During the Vietnam War era, the concept of the military government in doctrine was molded into the civil affairs concept, wherein it lost its legitimacy in its direct connection to the president and was changed into a collage of efforts by many organizations and departments other than the U.S. armed forces. As pointed out earlier in this paper, the military government lost its authority in the new division of labor and therefore lost its ability to effectively win the peace. Many issues contributed to the loss of the Vietnam War, with one of those reasons most likely being the lack of a cohesive plan to win the peace during a war that was “not war”.

The 1980s and 1990s saw many more military failures on foreign soil, such as the U.S. military presence in Lebanon and the humanitarian aid operations in Somalia. These military operations represent a time in U.S. military history wherein military doctrines no longer contained a holistic approach to war. The result was the failure to accomplish the objectives of the policymaker as well as the deaths of many armed forces members in military operations other than war.

The Global War on Terrorism presents yet another challenge to the concept of war at present, due to the borders it crosses in pursuit of its goals. Like the war on drugs, its parameters are hard to define as a war against a group of individuals bent on doing harm for a cause – but who are not associated with a specific government with which to make war. The clear boundaries of war and its associated concepts blur as territory is removed from the picture. However, the concepts of the Just War Theory and the laws of war still apply in the prosecution of armed conflict regardless of the circumstances.

In spite of the changing face of war, the concept of war and its foundational principles remain constant. In the pursuit of terrorists across the globe, the same rules apply in the territories wherein armed conflict takes place, because the U.S. armed forces must still justly handle the civilian populace, the indigenous government and the

rebuilding of war damages in a secure and legitimate environment. Regardless of how the war changes in references to the enemy and the battlefield, it must still be prosecuted in a just manner with winning the peace as the chief end of war.

E. CHAPTER SUMMARY

It takes more than winning the campaign to win the war. The American military won the wars mentioned in this chapter, but would not have done so had the peace not been won as well. The military engagements of the U.S. armed forces since the Korean War are dominated by failure to accomplish the political will of U.S. policymakers. The difference between the wars fought before 1955 and after is two-fold.

First, the redefining of war as only large-scale and sustained combat operations has allowed combat actions to stand alone without the other operations that complete the concept and finish the war. Secondly, the philosophy and doctrine of the military occupation set in place to secure and win the peace is no longer used, but is a last resort. For the first 150 years of American military history, it was the only option, but it worked. The actions of the U.S. occupations in western U.S. territories, the South, the Philippines, Japan and Germany demonstrate that the U.S. armed forces are up to the job and that it is successful. How much greater would be the effects of such a transition to peace if only the U.S. armed forces were allowed to train, organize, equip and prepare for this mission.

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VI. AN ETHICAL BASIS FOR A HOLISTIC JOINT WARFIGHTING DOCTRINE

A. CHAPTER OVERVIEW

The U.S. has no intention of determining the precise form of Iraq's new government. That choice belongs to the Iraqi people. . . . We will remain in Iraq as long as necessary and not a day more. America has made and kept this kind of commitment before in the peace that followed a world war. After defeating the enemies, we did not leave behind occupying armies, we left constitutions and parliaments. (Quote from President George W. Bush shortly before the invasion of Iraq – Ferguson, pp. 6 – 7)

Not only are the Iraqi people undertaking the huge job of building a new government that is legitimate in the eyes of the people, but they are trying to do so while a full-scale war is being waged around them. Almost daily, news of bombings, death and destruction come out of Iraq as a violent struggle for power and against the U.S. and coalition forces goes on and on. On one page, National Public Radio (NPR) reports that a bomber struck a U.S. convoy in Mosul, tensions are rising in Basra, and a blast in Baghdad killed at least another 31 on September 15th following the 150 killed the day before. On the same page, an article discusses the difficulties the current interim government is having gaining support from the Sunni minority for the new constitution. (NPR, Iraqi News, Website, n.d.)

Insurrection, death and destruction are part of the aftermath of every war. But what sets Iraq apart from other wars the United States has waged is that it falls into the gray territory “somewhere in between” wherein the United States hasn't totally deserted the Iraqi people, but it hasn't taken charge of the situation to ensure the peace through the use of a military government. The small wars of the 1980s saw the United States forcibly removing governments and leaving behind the nation to rebuild itself without further intervention or assistance. Operations Just Cause and Promote Liberty in Panama were defined as liberations, falling short of nation-building due to a moratorium on funds for restoring the Panamanian infrastructure. (Fishel, 2000, pp. 108, 114)

The Just War Theory and its application to the current wars of the United States has generated much on the subject. (Maynes, p. 159) Its application of the Just War

Theory to the “post-conflict” conundrum of civil-military affairs might help clarify why the military government is the single option open for policymakers that brings the greatest chance for success.

What follows the end of formal hostilities has been improperly called “post-conflict termination” or the “post-conflict transition” to peace. As in every war, the end of formal hostilities or conflict marks the beginning of *informal* hostilities and conflict. This part of the war can be more vicious than the formal conflict as seen in current events in Iraq. Perhaps a better way to conceptualize this dangerous and critical period following the cessation of formal hostilities is not “post-conflict termination”, but “conflict resolution”. (Flavin, p. 96)

This chapter is a discussion of how as those who fight the war as well as their weaponry and battle plans change, the central truths of war and “conflict resolution” do not. International laws of war have been written to codify those truths, based in part upon the Just War Theory in existence for millennia to give shape to what war is about and how it should be waged. The faces of those who wage the war may change, but war itself is like a rose – unchanging and fully recognizable even by any other name.

B. THE CHANGING FACE OF WAR

Regardless of what one considers war to be down through the millennia of time, the essence of war remains the same. The war-waging subjects, battlegrounds, weapons, tactics and procedures might change, but the essence of war does not. Clausewitz considers combat to be the essential factor in war and danger, exertion, uncertainty, and chance its characteristic elements, (Clausewitz, p. 127) Due to the nature of war, theoreticians of war have concerned themselves with the question of whether the task of military leadership is an art or a science. Possible answers to this question have also played a role in how the conduct of war has been perceived and has been presented to the public for support and legitimization.

The general attitude of the populace of the United States has varied greatly over time, not the least depending on the collective memory about the most recent war at that time. But regardless of the era and societal conditions, “the soldier, and particularly the military officer, has to be able to credibly demonstrate the true essence of military duty in

the context of the modern, tendentially pacifist societal consciousness that basically aims at the peaceful and non-violent resolution of conflicts.” (Micewski, p. 19)

Wars are usually fought to destroy one thing and to force a change to something. War can be started for just reasons, fought under just conditions and ended in just conclusions – or not. War can be directed, declared, limited, total, general, controlled, out-of-control, small, medium, large, nuclear or conventional. But whatever adjectives are used to describe a particular war, Clausewitz was absolutely right on another account: War is fraught with friction. What has been called the Clausewitzian loop describes a reciprocal relationship between force and policy. The end of diplomacy and the beginning of armed force mark the beginning of war. Therefore, the end of force and the resumption of diplomacy mark the end of it. (Guttieri, p. 20) This picture of war is the foundation of the discussion of this chapter.

“The focus upon the zone between armed conflict and the restoration of civil order is a focus upon what is arguably one of the most obscure of all possible gray areas in international relations. . . . Occupation is ruled by *jus in bello*, but is situated somewhere between war and peace.” (Guttieri, pp. 132, 135, 137) In between the making and the winning of the war is the gray zone concerning the transition to peace. War proposes two difficulties: 1) for the policymaker, the moral decision to wage it and 2) for the combatant, the process of how best to win it.

For the policymaker, the warfighter can – under the current rules of engagement and doctrine of the armed forces – be called to perform a multitude of tasks “short of war” that provide a more flexible response in the international arena of conflict. For the warfighter, there are only two categories – war and not war. There is no “range of military operations other than war” – with perhaps one exception of absolute humanitarian support in the event of a natural disaster. But even a humanitarian mission can quickly degenerate into a war (Somalia). The warfighter is either in combat, nearly in combat or not in combat.

The negation of a range of military operations short of war was clearly illustrated to me by my father – a Korean War veteran – who gave tribute to his fellow Servicemen when he was awarded the Korean War medal in May 2004, more than 50 years after the

end of America's first "military operation other than war". For decades, my father said, the U.S. government and most Americans called the Korean War a "conflict", concerned that calling it a war might trigger some sort of adverse reaction from the Soviet Union and Red China. Regardless of what Washington thought, he said, to those who fought in it, it was a war. Fifty years later, America has changed her mind and now allows proper tribute to be paid to those Servicemen and women, who served their nation and fought to win the Korean War. (Beaumont, p. 25) Even so, their sacrifice paid for the freedom of many, but not all. Notwithstanding, my father said, those who served – and even more so those who didn't come home – have earned this medal. Policymakers can call war by any name they chose, but to the warfighter, all combat is war – small or large.

Only the face of war changes, but not war itself.

C. "WAR IS WAR IS WAR"

Essentially, then, the art of war is the art of using the given means in combat; there is no better term for it than the *conduct of war*. To be sure in its wider sense the art of war includes all activities that exist for the sake of war, such as the creation of the fighting forces, their raising, armament, equipment, and training. (Clausewitz, p. 127)

According to joint doctrine, war is only those combat operations that are large scale and sustained. Under that definition, only the U.S. Civil War, the World Wars, Korea and Vietnam – due to their scale or duration, and the Persian Gulf Wars would be wars. All the other armed conflicts in which the United States has participated are too short, too small, or perhaps not grand enough to be considered wars, starting with the Barbary "Operations" in the Mediterranean at the turn of the 19th Century. But according to Clausewitz, upon whose principles of war joint doctrine is founded, war has a wider sense with activities that exist for the sake of it.

It's easy to identify the large wars, fought between states for independence and security. The United States has fought a few of those. The small wars of 19th and early 20th Centuries were fought on the same basis as the large ones, however, with full-scale occupations and rebuilding efforts to guide and secure the peace. Through the course of the Cold War and international events, we turned our back on the concept of the military government and have allowed the small wars of today to confound us and make us wonder what we're doing and how to do it.

As learned from the U.S. Marine Corps *Small Wars Manual* of 1940, the common thread between wars – small or large, legal or illegal, civil or interstate, urban or rural – is armed combat. Combat and war are not equals in that the concept of war contains more than just combat. However, combat or armed conflict by national armed forces cannot exist outside the umbrella of war.

The threat of attack and armed combat constitutes an imminent or possible war – such as the Cold War. But does that common thread of armed combat make a small war a real war? When it comes to gang violence, perhaps it doesn't. But in the employment of the national armed forces of a great world power such as the United States, I believe it does, and in the use of this great, but limited, power, it behooves such a nation to ensure it does so under full recognition and employment of the Just War concept.

1. Applying the Just War Theory

The modern theory of international law and the Just War Theory reach back centuries to the philosophical ideas of Plato and Aristotle, but gains momentum in the writings of Saint Augustine, Thomas Aquinas, Hugo Grotius, and Immanuel Kant. (Christopher, pp. 10, 29, 49, 66, and 190) The Hague Conventions of 1907 have provided a modern platform, translating the philosophical foundation into international law governing the conduct of war. The Geneva Conventions of 1929, 1949 and the Additional Protocols of 1977 have added to that legal platform, wherein 192 states have signed up to these protocols and conventions, the most recent of these being East Timor in 2003. (Federal Dept of Foreign Affairs, Switzerland; <http://www.eda.admin.ch/eda/e/home.html> , accessed on 25 August 2005) If one will go back farther into history, the laws of war find their origins in Roman and Canon Law. (van Creveld, pp. 65 – 66, 87)

The Just War Theory proposes two concepts or rules by which to make a war – *just ad bellum* and *just in bello*. In short, the Theory falls into two parts, with a first set of principles, the *Jus ad bellum* (Right to war) criteria, concerning the conditions that make the use of force permissible; and a second set of principles, the *Jus in bello* (Right in war) criteria, concerning the rules of how war should be conducted.

The decision made by the policymaker to go to war must be just as well as the prosecution of the war by the warfighter must also be just. When one looks at war from these two lenses – international law of war and the Just War Theory, one can come to only one conclusion. If war is a continuum from diplomacy to force and back to diplomacy, then until diplomacy is secured, the war is still going on. If the war is still going on, then in that *jus in bello* part of war (its prosecution by the warfighter, the weak require protection.

Taking this one step further, not only do the weak require protection, but according to the Geneva Conventions of 1949, much more is required of the occupying power than just protection of the civilian population. Restoration of the nation to working order – to include education, medical care, and fair wages to any workers employed by the occupying power – is also required. (UN Office of the High Commissioner for Human Rights Website, Geneva Conventions Relative to the Protection of Civilian Persons in Time of War, Entry to Force 21 October 1950, n.d.)

As various presidents take the United States into war – small and large, the decision to do so (*jus ad bellum*) is sometimes not very clear at the outset of the fighting. At the beginning of the Civil War, when the North declared war on the South in 1860, President Lincoln declared the war to be one of preservation – that a “house that is divided against itself cannot stand”. Three years into the war, the President issued the Emancipation Proclamation that gave the civil war a better and more just cause – against slavery and for all to have some level of rights. The same can be said of the United States’ involvement in World War II, which began through President Roosevelt’s lobbying for support of the British and its allies against German imperialism. It was later discovered that the Nazis were exterminating parts of its population, and the war cause shifted to the nobler end of ending the reign of a genocidal regime. (Temes, pp. 195 – 196)

As war is redefined as just combat and no longer incorporates the idea of protecting the weak in the return to diplomacy, two unwanted situations are already seen to have played out in the more recent wars of the United States. On one side of the coin in the aftermath of any armed conflict (whether or not it called a war), the protection of

the weak in the vacuum at the end of formal hostilities left by the would-be occupation forces is filled by whoever is the strongest and not necessarily by those who have the best interest of the nation and its people at heart – as seen with the re-establishment of the warlord system in present day Afghanistan and the on-going destruction in Iraq.

On the other side of the coin, when armed forces are used in combat alone and not under the rules of engagement in war, the national troops of a nation such as the United States are reduced to the level of common thugs – one of the root causes of the violations of international conventions in the Vietnam War. (van Creveld, pp. 92, 207) The principles of the Just War or the laws of war can be stated as the rules of engagement in these armed conflicts outside the parameters of war, but upon what basis? The concept of war is a holistic one – one that comes with all the bits and pieces that make a legitimate whole. National armed forces are bound to execute the laws of war in full and to abide by the second tenet of the Just War Theory, or they stand to lose more their legitimacy and the legitimacy of the nation for whom they fight.

2. International Law on War, Occupation and Human Rights

A shift occurred in the thinking within the international arena governing warmaking, demonstrated by the Fourth Geneva Convention of 1949, which gave legal definition to the formal military occupation. The sovereignty of the state was the focus of international law at that time, but the rights of the individual now take precedence over the sovereignty of the state. With human rights and the rights of the individual having risen to the fore, a higher value than that found in the past was assigned to the lives of those noncombatants present in a war zone, whose existence could no longer be run over by tanks without international reprisal. (Goodman, pp. 1575, 1579) This has been partly evidenced in cases brought to trial by individuals versus the nation of Germany following World War I – the occupying power in Russian Poland during that war as described in the Yale Law Journal published in February 1918. (Yale Law Journal, 1918, p. 577)

The principles drawn from international law on occupation might be best applied if tailored to the situation at hand – principles regarding “humanitarian and due process norms” as well as those guiding “human rights, self-determination, the environment, and economic development so as to create a legal regime uniquely suitable for the territory in question.” One of the driving forces behind the military occupation, more aptly called

the military government, is the protection of human rights. If human rights are not protected in the aftermath of formal hostilities, the entire war effort collapses like a house of cards. The occupation rests upon “an enormously complex legal framework” that, depending on the nation in which the war is waged and under what circumstances, creates vast possibility for violations. (Scheffer, pp. 843, 847)

Articles of the Hague Regulations require that the occupying power do all in its power to restore and ensure public order and safety, the education of the children, to ensure the protection of the rights of the worker, the maintenance of medical and hospital establishments, and so forth while respecting the laws in force in the country. (UN Office of the High Commissioner for Human Rights Website, Geneva Conventions Relative to the Protection of Civilian Persons in Time of War, Entry to Force 21 Oct 1950, n.d.) As seen in military occupations in past U.S. war history, these tasks were accomplished by the U.S. military. In more recent U.S. occupations such as those in Iraq and Afghanistan, these tasks are being accomplished by someone else – Afghanistan’s interim government, the provisional Iraqi authorities in addition to a large assortment of NGOs, IOs, and U.S. governmental organizations such as USAID in addition to their “military advisors”.

The problem with assigning or allowing such important tasks to be done by an organization other than the U.S. military is accountability and legitimacy. NGOs and international organizations are not responsible to a governing body or individual, such as the U.S. Congress or president, nor can they be forced to finish the job. The U.S. military is fully accountable to the president, which forms the legitimate foundation of the occupation and the boundaries within the occupation would proceed. Therefore, if a nation such as the United States is going to ensure the success of the war and its occupation, it would behoove that nation to put the U.S. military in charge of it in order to maintain legitimacy and accountability as well as the insurance that it will be completed as directed by the Commander in Chief of the Armed Forces.

In light of the international trials that government officials faced in the decades of post-World War II era for violations of international and humanitarian law, leaving this important part of the war up to chance would not then be an option.

D. CHAPTER SUMMARY

Reflections on the nature of war and warfare make clear that the definition of war must be all-inclusive. The focus of the second tenet of the prosecution of a just war (*jus in bello*) and the primary point of international law is security – the security (or the protection) of the weak. During formal hostilities, the weak must be protected, or the invading forces lose legitimacy. After the formal hostilities end, security becomes even more difficult as factions struggle for power within the vacuum left by the destroyed government and infrastructure, and if security is not ensured, legitimacy is lost in the eyes of the defeated civilian populace. A 2005 RAND study noted what the history of all of the wars of the United States demonstrate – that the likelihood of criminality and political violence are increased by war and regime change. (Jones, p. 9)

When combat is separated from the concept of war and used as a tool of foreign policy by itself, the security of the people on whose land the combat takes place is compromised. When war is equated to combat alone and the armed forces depart without ensuring the peace, again the security of the people on whose land the “war” is waged is compromised.

As established in the *Post-Conflict Reconstruction* task framework produced by the U.S. Army and the Center for Strategic and International Studies in 2002, security is the “precondition for achieving successful outcomes in the other pillars”, which are justice and reconciliation, social and economic well-being, and governance and participation. (Task Framework, p. 3)

Security is an absolute in transition to peace. There is no peace without security. (Jones, p. 7) However, joint warfighting doctrine on military operations other than war does not teach this principle. The current joint publication on military operations other than war states that legitimacy of action is critical to the success of MOOTW (JP 3-07, 1995, p. II-5).

However, security is established as the third (not the first) principle of MOOTW whereby warfighters are to be successful in MOOTW and is not the security of the wartorn people. The security as stated by this publication refers to that of the armed forces and their operation. Security may be provided to civilians and participating

agencies and organizations, but the security of civilians in the war zone are not mentioned, let alone guaranteed. (JP 3-07, 1995, p. II-4)

In this publication alone, it is evident that a holistic concept of the Just War is not taught to the warfighter in the U.S. armed forces, because without security, there is no legitimacy. Without legitimacy, there can be no justice in war. Without a Just War, there is no peace. The just prosecution of war, prosecuted fully according to the laws of international warfare, is the legitimate foundation for a just transition to peace – one that requires security, patience, resources, and time. (Micewski, pp. 209 – 210)

VII. A PROPOSAL FOR JOINT WARFIGHTING DOCTRINE

A. CHAPTER OVERVIEW

The military government is a concept that has faded like a sunset on Waikiki Beach. The U.S. armed forces are left instead with decades of doctrine that has taught them that winning the battle means winning the war and that a destroyed nation can and should take care of the ingrained problems that brought it to its knees. All the U.S. armed forces have to do is show them the way. Although this doctrine works well for getting the troops home faster, it leaves death, destruction and danger in its wake.

The establishment of peace after formal combat takes time. First, the losing forces must understand fully that they have lost, and then the rebuilding begins. General Micewski develops the definitive elements of traditional warfare – victory and time – in relation to asymmetrical warfare and brings together the efficient end of the war with the restoration of peace as a function of the aspect of time in light of the Just War Theory. (Micewski, pp. 209 – 210)

As recent history has shown, when the formal combat has ended, the defeated people don't necessarily welcome the victorious army with open arms and victory parades. Insurgencies, power struggles, looting, and rebuilding every aspect of the wartorn nation is what characterizes the "post-conflict transition". This transition period is far from peaceful; however, "dominance on the battlefield will be squandered if the United States does not have the tools to win the hearts and minds and secure lasting peace out of its military engagements." (Orr, p. 9)

In the confusion and hopelessness that reigns in the reality at the end of formal hostilities, one real-world example of a successful civil-military operation sheds some valuable insight into the possibilities of what the civil-military operation should at the lowest level during formal hostilities. The example spreads to the transition to peace in the use of the terms – civil and military. Due to their efforts, they won the peace in their small corner of the war – even though the war was lost in the end.

During most devastating war in the history of the United States, a small group of marines made all the difference in lives of the people whose peace and freedom they were willing to die to secure. Committed to a cause greater than that for which they'd been sent to fight, this handful of warfighters demonstrated international law, *jus in bello*, and the winning of the peace in action.

B. HISTORICAL EXAMPLE: A SUCCESSFUL CIVIL-MILITARY OPERATION

Inside the “big unit” war fought in Vietnam by Westmoreland’s troops was another “small war” known as the “pacification struggle”, waged by the Department of Defense, the Central Intelligence Agency (CIA), the Agency for International Development (USAID), the U.S. Information Agency, and the State Department.

In 1967, the Johnson administration unified all these programs under CORDS (Civil Operations and Rural Development Support), a joint civil-military office headed by a pugnacious bureaucrat named Robert Komer. Many of the pacification programs concentrated on the struggle for “hearts and minds,” spending millions of dollars to build schools and hospitals, resettle refugees, improve rice production, electrify rural areas, spread pro-government propaganda. (Boot, p. 304)

Alongside the more long-term pacification efforts was the marine-initiated Combined Action Program (CAP), which was started in 1965 at the suggestion of marine major general, Lewis Walt – who had trained under Chesty Puller, a veteran of the early 20th Century Nicaraguan “school of nation-building”, otherwise known as civil affairs. The CAP’s purpose was, as in the early days of the 20th Century, to provide immediate security to the local villagers of Vietnam from the Viet Cong, who raided constantly for food, “volunteers”, shelter, and intelligence. Paired with a platoon from the South Vietnamese Popular Forces (a militia), 12 to 15 U.S. marines worked to give the local forces a working knowledge of military “know-how”, which when coupled with the Vietnamese knowledge of local conditions, resulted in amazing strength. (West, pp. 7 – 9)

The Army’s command leadership was skeptical of the ability of the marines to be successful due to their remote location in the coastal village of Binh Nghia, 300 miles north of Saigon and 400 miles south of Hanoi. Binh Nghia was a community of seven hamlets and 5,000 residents that was “virtually run by the Vietcong”. When the U.S.

marines arrived, they “slept side-by-side with the Vietnamese in a ramshackle fort, ate the same food, smoked the same cigarettes, drew the same patrol assignments.” (Boot, p. 305)

General Walt had two stipulations for the marine volunteers. First, these had to be seasoned warfighters, and secondly, only men who could get along with the villagers could go. When marine units were polled, “the response was enthusiastic.” The results of the marines’ efforts were astounding, but the easy life they thought they were going to have in the villages did not materialize. (West, p. 11) Notwithstanding, the Vietnamese Popular Forces gained guerilla warfare skills rapidly, becoming as adept as their enemies and turned the enemy forces back more than 70 times in the first two months.

Once, when the combined forces let their guard down for only a moment, the Vietcong almost overtook the camp in a desperate firefight. Five marines lost their lives with one wounded, and when asked if they wanted to evacuate, the remaining ten chose to stay on and help train the replacements. The CAP unit gained six new marines, all volunteers, and continued its mission at Binh Nghia with increasing success. Although hit several more times by Vietcong regulars and guerillas – even after being ordered to evacuate before one particularly large assault, the CAP stayed in place and beat the odds in a war that was largely a failure for most other U.S. troops.

The U.S. marines began departing in October 1967, two years after their arrival. The remaining Popular Forces had some setbacks, but Binh Nghia remained a stronghold against the Vietcong, becoming so peaceful by 1970 that it became known as a rest and relaxation center (R & R center) to a new American district adviser.

No village protected by a Combined Action Platoon was ever repossessed by the Vietcong,” Brute Krulak wrote, “and 60 percent of the marines serving in Combined Action units volunteered to stay on with their marine and Vietnamese companions for an additional six months when they could have returned to the United States. (Boot, p. 307)

Sir Robert Thompson, the British counterinsurgency expert, said the CAPs were the best idea he’d seen in Vietnam and that it worked superbly. The Army was reluctant to put men into CAPs due to the shortage of manpower and to the potential danger of total loss. But as the war played out, CAPs saw 50 percent fewer combat casualties than

did the “big unit” search-and- destroy missions the army did on a day-to-day basis. After the war in his memoirs, General Westmoreland said that he “simply didn’t have enough members to put a squad of Americans in every village and hamlet.” (Boot, p. 307)

The point of this story is to help clarify the concept of civil-military operations that has become convoluted through the redefinition of terms and their consequent misuse. In past doctrines, civilian meant those indigenous peoples upon whose land the war was waged. These U.S. marines were civil-military “operators” – who engaged in hand-to-hand combat and yet were fully immersed in helping guide a village to security at the same time.

In the conflicted transition to peace through stability and restoration operations, the concept is the same. The enemy must be defeated, whatever form he takes, and the people must be protected by the warfighter, regardless of the cost. The only way to do this is through occupation, wherein the warfighter wins the hearts and minds of the people, first through security and then through other means. The next and natural step – had Hanoi conceded to the United States and the South Vietnamese forces – would have been the establishment of the military government throughout South Vietnam, but especially in the outlying areas near the northern border such as Binh Nghia. The warfighters who knew the people and the land would most likely have been successful in the implementation of the peace due to the foundation already laid.

C. THESIS SUMMARY

First, MOOTW should be redefined to mean only those operations that completely exclude any form or the threat of combat. Conversely, the concept of war must be applied according to its age-old definition – armed conflict of any size, to include the armed conflict that takes place while the peace is being secured. Thirdly, it should be clear in joint warfighting doctrine that once the decision is made by the policymaker to go to war, the war must then be conducted under the second tenet of the Just War Theory, whereby the weak are protected until the peace is won. The natural progression of this thinking is the incorporation of international laws of war and occupation in order to reach the primary end of peace.

If war is a permanent fixture on the horizon of international affairs, perhaps it is time for the war-avoiding doctrine of the U.S. armed forces to return to the warfighting doctrine that has proven true in the past. The recommendations for success at nation-building made by the 2005 RAND study introduced earlier read like the doctrine on military government of 1947. (RAND Study, *Establishing Law & Order after Conflict*, 2005, pp. 115 – 116) No one seems to question what needs to be done during the transition. The current question is who is going to do it and the lack of trained personnel to ensure its success is a large part of what seems to be holding up the process.

In respect to U.S. military doctrine, while we're working really hard to get part of it right, the other critical half drops off into the ocean. U.S. warfighting doctrine gets the "big unit" war right just when the guerilla war becomes what U.S. warfighting is all about – even though guerilla warfighting tactics have been a part of every war. The concept of nation-building as the transition from war to peace just in time for a Cold War with the threat of nuclear war and end to empire-building or democracy-cloning. Then, as the U.S. military begins to improve its guerilla warfare capabilities, the wars in Iraq provide engagement in major battles fought in large cities through huge urban areas full of insurrectionists, hauntingly similar to the war fought in Mogadishu in 1993.

All of these kinds of warfare are well represented in U.S. war history. The U.S. military has a rich history from which to draw its plans for recruiting, organizing, training and equipping its troops for urban, guerilla, and big-unit wars and the nation-building that is part of them all. The U.S. military – and the individual warfighter – is capable of training to do more than one thing at a time and should not turn its back on a viable, successful doctrine to make room for another more popular one that results in failure.

Military doctrine can be changed as can be seen in the Army's more recent approach to general European warfare. One thinker had something good to say of the current MOOTW doctrine:

Today's OOTW concept may sound inadequate, vague, and even a little silly, but it deserves a lot of respect. For the first time, the U.S. Army, and even the U.S. armed forces in general, have publicly acknowledged that combat smaller in scale than a World War II or Gulf War crusade deserves significant official attention. OOTW may not be the best of terms or set of ideas, but it's a start, however tentative. (Bolger, p. 38)

The statement that OOTW is a tentative start is actually true. It brings to the fore the struggle that the U.S. armed forces have been facing in their battles abroad for the past 40 years and are currently embroiled in today. It demonstrates the many forms that war can take and the difficulties of interjecting one's own forces into the middle of another's civil war.

Joint warfighting doctrine should encompass the battle for victory and the battle for peace. War, large and small, is a continuum of two battles for two goals, not one – first for surrender and then for stability. Spanning these two battles, there exists only one war for the hearts and minds of the people. First, the fact of defeat must be established. Then in order to repair the damage done, a hope secure in tomorrow must also be won.

The first battle is the easy one with clear objectives and hands-on weapons. It is won through the pitting of warfighter against warfighter with a definitive outcome on the physical battlefield. The second battle is much more difficult to win and depends wholly on the people themselves. If they are not won over to a new way of life, the entire war is lost. As has been successfully done in the past, the armed forces of the invading nation are not only in the best position to bring about the peace, but they are the only ones who can ensure it. The invading armed forces are bound by *jus in bello* and international law – timeless principles – to stabilize and restore. It is these principles that, at a minimum, should be taught in joint warfighting doctrine.

D. RECOMMENDATION TO JOINT DOCTRINE

The most critical civil-component is governance: who will provide civil administration of the occupied or liberated area?Options for post-conflict governing authorities may be to return governance to former authorities, to install a new government, to establish an international organization as an interim governing body, or, as a last resort, to establish an interim military government until a civilian government can be formed. (JP 3-57, *Joint Doctrine for Civil Military Operations*, p. I-19)

Joint doctrine on CMO says it best above, but it reduces the possibility for success in naming the interim military government as a last resort. Regardless of the reasons the policymaker sees this as a last resort, the warfighter should draw upon his own history and recommend what has worked.

1. Remove the Ambiguity on War and “Not War” in Joint doctrine by Placing All Combat under the Umbrella of War

Combat should not span both war and “not war”. The lesser and nonconventional combat that has been redefined as existing outside of war – for instance, the kind of combat that is required to put down the insurgency – has allowed for the removal of the concept of the military occupation and government (which includes much conflict, combat and potential combat) from the doctrine of war, incorrectly making the military government (civil administration) an operation other than war.

The resulting ambiguity is profound in joint doctrine and is amplified in Service doctrine as the primary land warfare Services (U.S. Army and U.S. Marine Corps) try to interpret it. Define all combat and armed conflict as war, to include the fight for the peace that follows the formal hostilities and takes the warfighter through the insurgencies that will inevitably take place. Recognize that winning the war means winning the peace, which most likely will take decades.

2. Apply *jus in bello* to the U.S. Armed Forces in Any War – Large or Small

Today, we have a convoluted concept of civil affairs and civil-military operations since we have separated it from the concept of war. Current doctrine says that the most critical component of the civil-military operations or the post-conflict transition period is governance, but the concept of the military government has been virtually eliminated. Instead, the publication for the U.S. armed forces asks the critical “who” question, but can’t answer it. The military occupation and governance that was successful in the past is not now politically or internationally acceptable and has been shelved as a “last resort”. (JP 3-57, p. I-19)

Now why is enlisting Iraqis in security and governance early so important? My view is it’s important because it is their country. We are not in Iraq to engage in nation building. Our mission is to help the Iraqis, so that they can build their own nation. It’s something that a people have to do for themselves. It cannot be handed to a people, and I think it’s an important distinction. The foreign presence in any country is in my view unnatural...*Spoken by Secretary of Defense Donald Rumsfeld, Thursday, 25 September 2003 at the Eisenhower National Security Conference* (www.defenselink.mil/transcripts/2003/tr20030925-secdef0712.html)

When the armed forces of the United States invaded Iraq in March 2003, they took apart or disbanded whatever fragile security structure the people might have had. Regardless of the condition and operating procedures of the government of Iraq in 2003, the U.S. and coalition forces became the only security the people of Iraq then had. In *jus in bello*, the invading forces have “a duty to the innocent, even when it means the risk of the [soldier’s] own life.” (Christopher, p. 25)

3. Return the Doctrine of Military Governance to the Active Portfolio and Recommend It – Even If Policymakers Chose Not to Use It

The United States seems not to be too affected by international opinion at this time, so now is a good time to return the concept of the military “occupation” to the play book. But this time, instead of renaming war, call occupation by another name – something more politically acceptable. And then train for it.

4. Develop the Continuum of War as a Corollary to *jus in bello* and the Doctrine on the Military Government – The Battle for Victory and Battle for Peace

The battle for peace should include the military government tailored to the defeated nation and its region; the rebuilding of the roads, houses, schools, basic infrastructure and public utilities of the nation; medical care for the population; security against looting and rioting; a viable justice system – militarily or U.S. civilian administered; demining and collection of unexploded ordnance; maintenance of prisons and prisoners per international law; rejoining of the indigenous armed and security forces. This is the more critical winning of the hearts and minds of the people – over to a hope for a better future through the good will, hard work and continued sacrifice of the same forces that brought death and destruction in the months before.

5. Develop Distinctive and Meaningful Terminology to Clearly Explain War and “Not War”

Much confusion exists today on the use of the words civil, military, affairs, operations, stability, reconstruction, post-conflict, and so forth. The word “civil” or “civilian” refers to any non-military individual who takes part in a war effort and in the currently distinctly separate peace process. Joint doctrine needs to lead the way on what terms refer to what operations and people. Recommend using historical doctrinal pieces as the basis for applying these words and terms. Service doctrine needs to follow suit.

This conundrum of terms and responsibilities is also due in part to the different organizations trying to make sense of things from different perspectives. Beside who's going to do what during and after the main battles are over and what is classified as civilian and what is not, a problem exists on who is in charge and the division of labor. Everybody wants to be in charge, but no one wants to do the dirty work – the story of mankind. However, the statement of the obvious is that with the restoration of the military government as part of the process of war, a natural progression occurs, beginning with clear lines of authority and teamwork.

E. RESTORATION OF TERMS

War is all armed conflict or combat and includes the transition to peace following the end of formal hostilities or a declaration of victory. The *Campaign* is the major block of battles wherein the enemy forces are primarily defeated and wherein the defeated national leader must capitulate formally and publicly in order to begin the pursuit of peace in earnest. The *Conquest for Peace* encompasses any and all operations, institutions, and agreements that bring the nation back to the international community as a stable and sovereign whole.

Civil Affairs Department is the department within the U.S. Department of Defense (DOD) and each Service akin to the Public Affairs Department whose mission is to assist primarily in the buildup of the military occupation and government or to advise on how to work with indigenous governments and institutions of foreign nations when assisting in truly humanitarian operations. These critical personnel form the foundation as a liaison to the civilian populace of the defeated nation. They also work alongside the combat warrior as the campaign unfolds, establishing the critical relationship between those indigenous civilians who can assist the war effort.

Civil-Military Operations are those liaisons undertaken and relationships built between the U.S. military and the indigenous peoples in various capacities throughout the entire war, until the troops redeploy home. These liaison officers should include Foreign Area Officers (FAOs) who are familiar with the region, its culture, and its languages, and who fall under the Civil Affairs Department of their Service.

CMO is not the relationship between the military and the State Department, NGOs and IOs. CMO, as seen in the Vietnam War example, are a joint, combined and coalition effort between various agencies in addition to the military. However, the working relationship between civilians other than the indigenous peoples and the military should be called something else.

Executive Coordination is specifically that communication required between officials in the DOD (to include the Combatant Commanders) and officials within the State Department (DOS) or other executive branch departments, similar to that described in the Marine Corps' *Small Wars Manual* of 1940, including USAID and the CIA, in concert with the National Security Council and in the pursuit of national wartime objectives.

In the event of impending invasion and wars of any size and anywhere, the DOS should organize and coordinate the participation of any and all non-governmental (NGOs) and international organizations (IOs) with the DOD and should be the conduit of all communication between DOD and any outside organizations. It should be recognized that neither the DOD nor the DOS (or the DOJ or DOE) work for each other, but that each has a specific and critical duty that is vital to the success of the war. This plan of communication requires the DOS to be involved from the beginning of the war and reconstruction plans. The DOS might utilize USAID to organize NGO and IO response and assistance.

F. CHAPTER SUMMARY

“To understand the future, then study the past.” Even as the organizations that wage war, the conventions to which it is subjected, and the aims for which it is fought remain products of historical circumstance, war itself is an “unchanging axis around which revolves the whole of human existence....” (van Creveld, pp. 192, 218) Joint warfighting doctrine is woefully inadequate in the provision of an effective tool to the warfighter in the winning of the nation’s wars. In its inadequacy, it fails the policymaker as well in the conquest for the successful accomplishment of foreign policy objectives.

In fighting the wars of the nation without the inclusion of the post-campaign transition to peace under military governance and control, the U.S. armed forces are

relegated to being the World's Police Force. Instead of reporting directly to the President of the United States as his special emissaries and strong hand in a dangerous and promising new order, the U.S. armed forces are reduced to putting their lives on the line in the endless mission of special security that is out of control.

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APPENDIX. DODD 2000_13, 1994



Department of Defense DIRECTIVE

NUMBER 2000.13

June 27, 1994

ASD(SO/LIC)

SUBJECT: Civil Affairs

- References:
- (a) Section 410 of title 10, United States Code
 - (b) DoD Directive 5138.3, "Assistant Secretary of Defense (Special Operations and Low-Intensity Conflict)," January 4, 1988
 - (c) [DoD Directive 5100.1](#), "Functions of the Department of Defense and its Major Components," September 25, 1987
 - (d) [DoD Directive 1000.17](#), "Detail of DoD Personnel Assigned to Duty Outside the Department of Defense," July 28, 1988
 - (e) through (i), see enclosure 1

1. PURPOSE

This Directive establishes policy and assigns responsibilities under references (a) through (c) for conducting DoD-wide civil affairs activities.

2. APPLICABILITY AND SCOPE

This Directive applies to:

2.1. The Office of the Secretary of Defense (OSD), the Military Departments (including the U.S. Coast Guard when it is operating as a Military Service in the Navy), the Chairman of the Joint Chiefs of Staff, the Unified Combatant Commands, the Defense Agencies, and the DoD Field Activities (hereafter referred to collectively as "the DoD Components"). The term "Military Services," as used herein, refers to the Army, the Navy, the Air Force, and the Marine Corps.

2.2. Non-DoD organizations that are participating in DoD civil affairs activities or are requesting DoD civil affairs capabilities.

3. DEFINITIONS

Terms used in this Directive are defined in enclosure 2.

4. POLICY

It is DoD policy that:

4.1. The Department of Defense shall maintain a capability to conduct a broad range of civil affairs activities necessary to support DoD missions and to meet DoD Component responsibilities to the civilian sector in foreign areas in peace and war throughout the range of military operations. Civil affairs activities include, but are not limited to, DoD actions that do the following:

4.1.1. Fulfill the responsibilities of the DoD Components under U.S. domestic and international law towards civilian populations.

4.1.2. Minimize, to the extent feasible, civilian interference with military operations and the impact of military operations on the civilian population.

4.1.3. Coordinate military operations with civilian agencies of the U.S. Government, with civilian agencies of other governments, and with non-governmental organizations.

4.1.4. Exercise military control of the civilian population in occupied or liberated areas until such control can be returned to civilian or other non-U.S. military authority.

4.1.5. Provide assistance to meet the life-sustaining needs of the civilian population.

4.1.6. Provide expertise in civilian sector functions that normally are the responsibility of civilian authorities. That expertise is applied to implement DoD policies to advise or assist in rehabilitating or restoring civilian sector functions.

4.1.7. Establish and conduct military government until civilian authority or government can be restored.

4.2. Civil affairs activities shall be undertaken to achieve an orderly and prompt transition of civilian sector responsibilities from the DoD Components to non-DoD authorities.

4.3. DoD civil affairs activities may be conducted to support national policies and interests as part of an interagency, bilateral, or multinational military or political-military operation, consistent with law and in accordance with applicable DoD Directives and policies.

4.3.1. The Department of Defense shall make DoD civil affairs capabilities available to other U.S. Government Agencies for such operations in accordance with policies in DoD Directive 1000.17 (reference (d)).

4.3.2. On mutual agreement, resources from non-DoD Agencies may be used to augment DoD civil affairs capabilities.

4.4. Before civil affairs activities are conducted, the long-term impact on current U.S. security policy goals and objectives in general and on the host country in particular will be considered.

4.5. Civil affairs is an inherent responsibility of the military commanders when their operations affect or are affected by the local civilian population, resources, or governing institutions.

4.6. Military forces shall not undertake civilian sector rehabilitation activities (subparagraph 4.1.6., above) and military government activities (subparagraph 4.1.7., above) unless directed by the Secretary of Defense, or designated representative. However, this prohibition does not prevent the Heads of the DoD Components and the military commanders from planning for such missions. Nor does it prohibit the use of military forces to support approved humanitarian and civic assistance provided in conjunction with military operations, disaster relief operations conducted in accordance with DoD Directive 5100.46 (reference (e)), or humanitarian actions that provide for the immediate response to prevent the loss of life, property, and needless suffering.

4.7. DoD civil affairs capabilities may be used to assist in domestic emergencies and to provide other support to domestic civil authorities consistent with law and in accordance with DoD Directive 3025.1, DoD Directive 3025.12, DoD Directive 5525.5 (references (f) through (h)), other DoD Directives, and supporting plans.

4.8. U.S. Army civil affairs forces are designated "special operations forces" under 10 U.S.C. 167 (reference (a)).

5. RESPONSIBILITIES

5.1. The Assistant Secretary of Defense (Special Operations and Low-Intensity Conflict), serving under the authority, direction, and control of the Under Secretary of Defense for Policy, shall:

5.1.1. Act as the principal civilian advisor to the Secretary of Defense and the Under Secretary of Defense for Policy on the policy and planning for DoD civil affairs.

5.1.2. Translate national security policy objectives into specific defense policy objectives achievable through civil affairs.

5.1.3. Formulate DoD civil affairs policies and programs for plans, resources, and implementation of civil affairs activities.

5.1.4. Oversee the implementation of DoD civil affairs policies and programs.

5.1.5. Provide policy advice and assistance to and coordinate with other Principal Staff Assistants about civil affairs activities and the use of civil affairs capabilities for their assigned areas of regional or functional responsibilities.

5.1.6. Act as the OSD point of contact for DoD civil affairs activities that relate to the activities of other U.S. Government Agencies, international organizations, and non-governmental organizations. Monitor interagency use of DoD forces for civil affairs activities and report to the Secretary of Defense whenever it appears that questions may arise with respect to legality or propriety of such use.

5.1.7. In coordination with the Under Secretary of Defense for Personnel and Readiness, approve the detail of civil affairs personnel to duty with interagency groups and non-DoD organizations, in accordance with DoD Directive 1000.17 (reference (d)).

5.1.8. Review program recommendations and budget proposals from the Secretaries of the Military Departments and the Commander in Chief, U.S. Special Operations Command, and provide recommendations on them to the Secretary of Defense.

5.2. The Chairman of the Joint Chiefs of Staff shall:

5.2.1. As the principal military advisor to the President, the National Security Council, and the Secretary of Defense, provide advice on civil affairs activities.

5.2.2. Provide guidance for the commanders of the geographic Unified Combatant Commands for the preparation and review of civil affairs plans.

5.2.3. Develop, establish, and promulgate joint civil affairs doctrine.

5.2.4. Formulate policies for coordinating joint training in civil affairs activities.

5.3. The Commanders of the Unified Combatant Commands with geographical areas of responsibility, in coordination with the chiefs of the U.S. diplomatic missions, shall:

5.3.1. Plan, support, and conduct civil affairs activities in their areas of responsibility. These activities shall be designed to achieve the following:

5.3.1.1. Support the Unified Combatant Commander's missions and objectives.

5.3.1.2. Support the goals and programs of other U.S. Government Agencies related to civil affairs consistent with those authorities governing DoD involvement.

5.3.1.3. Provide for training of U.S. civil affairs forces within their areas of responsibility. Coordinate the training with the Commander in Chief, U.S. Special Operations Command (USCINCSOC), for civil affairs units and personnel assigned to the U.S. Special Operations Command (USSOCOM).

5.3.1.4. Effect coordination and liaison with other U.S. Government Agencies operating in their areas of responsibility.

5.3.2. Ensure the integration of civil affairs activities into military plans.

5.3.3. Designate a staff element with responsibility for coordinating civil affairs activities.

5.4. The Commander in Chief, U.S. Special Operations Command, shall:

5.4.1. Provide other Unified Combatant Commanders with civil affairs forces from assigned forces that are organized, trained, and equipped to plan and conduct civil affairs activities in support of their missions.

5.4.2. Train and organize assigned civil affairs forces and monitor their preparedness to carry out assigned missions of special operation forces, including Army civil affairs forces assigned to other Combatant Commands.

5.4.3. Prepare and submit to the Secretary of Defense program recommendations and budget proposals for Special Operations Forces' unique activities and equipment for Army civil affairs forces.

5.4.4. Exercise authority, direction, and control over the expenditure of funds for Special Operations Forces' unique activities and equipment for assigned civil affairs forces.

5.4.5. Validate civil affairs requirements.

5.4.6. Under the direction of the Chairman of the Joint Chiefs of Staff, assist in developing joint civil affairs strategy, doctrine, tactics, techniques, and procedures.

5.4.7. Conduct specialized civil affairs education and individual training for assigned officers and noncommissioned officers and nonassigned DoD and non-DoD personnel.

5.4.8. Establish standards to ensure interoperability of civil affairs equipment and forces.

5.5. The Secretaries of the Military Departments shall:

5.5.1. Develop and maintain programs necessary to plan, conduct, and/or support civil affairs activities to meet their Service and Combatant Command requirements.

5.5.2. Provide for civil affairs personnel in their force structures or request such civil affairs forces from the Chairman of the Joint Chiefs of Staff. The Secretaries of the Military Departments with civil affairs units and personnel in their Reserve components shall provide for the timely mobilization and activation of such units and personnel as required to perform civil affairs activities in accordance with DoD Directive 1235.10 (reference (i)).

5.5.3. Assume DoD-wide responsibilities for specific civil affairs missions when directed by the Secretary of Defense.

5.6. The Secretary of the Army shall:

5.6.1. In coordination with USCINCSOC, recruit, organize, train, equip, mobilize, and sustain Army civil affairs forces.

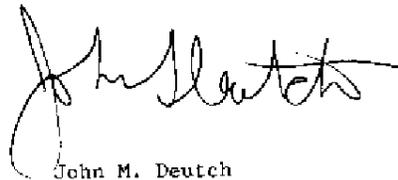
5.6.2. In coordination with the Chairman of the Joint Chiefs of Staff and USCINCSOC, provide for civil affairs personnel and units in the Army military force structure that are capable of providing functional expertise in civilian sector disciplines necessary for civil assistance and military government missions.

5.6.3. In accordance with USCINCSOC-validated requirements and reference (i), provide for the timely mobilization or activation of Army Reserve civil affairs units or personnel required to perform civil affairs activities in the accomplishment of Combatant Command missions.

5.6.4. Furnish to the other Military Departments, at their request and in coordination with the Chairman of the Joint Chiefs of Staff and USCINCSOC, U.S. Army personnel qualified in civil affairs.

6. EFFECTIVE DATE

This Directive is effective immediately.



John M. Deutch
Deputy Secretary of Defense

Enclosures - 2

- E1. References, continued
- E2. Definitions

E1. ENCLOSURE 1

REFERENCES, continued

- (e) [DoD Directive 5100.46](#), "Foreign Disaster Relief," December 4, 1975
- (f) [DoD Directive 3025.1](#), "Military Support to Civil Authorities (MSCA)," January 15, 1993
- (g) [DoD Directive 3025.12](#), "Employment of Military Resources in the Event of Civil Disturbance," August 19, 1971
- (h) [DoD Directive 5525.5](#), "DoD Cooperation with Civilian Law Enforcement Officials," January 15, 1986
- (i) [DoD Directive 1235.10](#), "Mobilization of the Ready Reserve," October 24, 1986

E2. ENCLOSURE 2

DEFINITIONS

E2.1.1. Civil Affairs. The activities of a commander that establish, maintain, influence, or exploit relations between military forces and civil authorities, both governmental and non-governmental, and the civilian population in a friendly, neutral, or hostile area of operations in order to facilitate military operations and consolidate operational objectives. Civil affairs may include performance by military forces of activities and functions normally the responsibility of local government. These activities may occur prior to, during, or subsequent to other military actions. They may also occur, if directed, in the absence of military operations.

E2.2.2. Civil Affairs Capabilities. Civil affairs forces and other DoD units and organizations that are capable of planning, conducting, or otherwise assisting in civil affairs activities.

E2.2.3. Civil Affairs Forces. Military units, detachments, or other military organizations that are designated as "civil affairs" organizations and are mission-oriented and trained to plan and conduct civil affairs activities. Also includes personnel who are trained and qualified in civil affairs.

E2.2.4. Civil Affairs Missions. Missions assigned to the DoD Components that are primarily designed to assist the civil sector.

E2.2.5. Civil Assistance. Activities undertaken by the DoD Components to assist the civilian sector in foreign areas and in the United States and its territories.

E2.2.6. Humanitarian and Civic Assistance. Assistance to the local populace provided by predominantly U.S. Forces in conjunction with military operations and exercises. This assistance is specifically authorized by 10 U.S.C. 401 (reference (a)) and funded under separate authorities.

E2.2.7. Military Government. The form of administration by which an occupying power exercises executive, legislative, and judicial authority over occupied territory.

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