

LAW, ETHICS, AND MORALITY IN WAR
DURING THE BATTLE OF ALGIERS

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Military History

by

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ABSTRACT

LAW, ETHICS, AND MORALITY IN WAR DURING THE BATTLE OF ALGIERS,
by Jonathan D. Howell, 98 pages.

The most notorious period of the French-Algerian War was the Battle of Algiers. The war was brought on by many developments beginning with the original French invasion in 1830 and subsequent annexation of Algeria as part of the French empire. Ultimately, the simplistic legal definition of who was French and enduring distinctions between citizens and subjects were at the root of the war. Noteworthy international land warfare laws evolved during France's rule of Algeria. Notable acts of legislation compounded the discrimination between the French and the Algerians. These laws, many overwhelmingly supported in a nation founded upon the idea of equality, culminated with special powers extended to the military when the politicians and domestic law enforcement entities could no longer maintain the status quo discrimination. Algerians found themselves protected by neither domestic nor international laws. Notwithstanding the legality of French actions, moral and ethical contradictions with French concepts of the rights of man prevented military success from eliminating dissent domestically as well as internationally. Legitimate war must therefore not only be legal but also moral and ethical or popular support may diminish, falter, or even disappear. There are distinctive parallels between the French-Algerian War and the Global War on Terror--The Long War beyond the origins of contemporary doctrine for counterinsurgency. The study of these historical lessons, provides examples of good and bad, right and wrong, insight for success and, just as important, foreshadowing of failed tactics and techniques to avoid.

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Many thanks must also be given to the patience of my committee. Unbeknownst to them for the greater part of my study of the Battle of Algiers I did not know just what it was that I expected to discover. Perhaps this is just as well given that I have resolved to continue my study in greater depth.

The parallels between the French experience in Algeria and the United States of America's ongoing experience in Iraq and Afghanistan are unnerving. The laws regarding how the French treated indigenous peoples are eerily similar to the ambiguous definition of contemporary detainees in the Global War on Terror--The Long War. In much the same way that contemporary detainees are not treated as prisoners of war nor afforded protection of arrested criminals, Algerians were neither prisoners of war nor provided the protection of French laws as they were not French citizens although they lived on French domestic territory. Even with obligatory arrest documentation, the perceived injustice of treatment ethically and morally was sufficient to influence domestic French opinion negatively after initial overwhelming popular support.

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ACRONYMS

ALN	<i>Armée de Libération Nationale</i> (National Liberation Army)
CIPCG	<i>Centre d'Instruction et de Préparation à la Contre-Guérilla</i> (Center for Training and Preparation for Counter-Guerrilla War)
COIN	Counterinsurgency
CT	Counterterrorism
DPU	<i>Dispositif de Protection Urbain</i> (Urban Security Service)
FLN	<i>Front de Libération Nationale</i> (National Liberation Front)
FM	Field Manual
GCMA	<i>Groupement de Commandos Mixtes Aéroportés</i> (Mixed Airborne Commando Group)
GWOT	Global War on Terrorism--The Long War
ICRC	International Committee of the Red Cross
MNA	<i>Mouvement National Algérien</i> (Algerian National Movement)
NCO	Noncommissioned officer
OIF	Operation Iraqi Freedom
OP	Occasional Paper
OAS	<i>Organisation de l'Armée Secrète</i> (Organization of the Secret Army)
OS	<i>Organisation Spécial</i> (Special Organization)
PCA	<i>Parti Communiste Algérien</i> (French Communist Party)
PCF	<i>Parti Communiste Française</i> (French Communist Party)
PPA	<i>Parti Peoples Algérien</i> (Algerian Peoples' Party)
SAS	<i>Section Administrative Spécialisée</i> (Special Administration Section)
U.S.	United States

YMCA Young Men's Christian Association

ZAA *Zone Autonome d'Alger* (Autonomous Zone of Algiers)

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CHAPTER 1

INTRODUCTION

Contradictions in Law and War

The field of research into the Algerian War is vast in size, and much of it as yet un-reconnoitred.

— Lt. Colonel Frédéric Guelton¹

The French-Algerian War, or the Algerian War of Independence, is a huge topic, as Lieutenant Colonel Guelton noted in 2002. Even the most notorious period of the war, the Battle of Algiers, is a broad topic. The history of international and domestic laws for war and, more specifically, how they influenced the way in which the Battle of Algiers was fought is the subject of this analysis. Further, French military advocates promoted multiple theories for counterinsurgency, counterterrorism, and counter-guerrilla warfare leading up to the battle. However, not all of these theories placed a preponderance of emphasis on the rule of law in the balance of a triad for legitimacy including morality and ethics in addition to legality. Competing strategies to conduct war legitimately as perceived by the population must not only be legal but also moral and ethical or popular support may diminish and falter or even disappear.

The purpose of this study is to examine the relationship between international laws for war and domestic laws of the French during the Battle of Algiers balanced with the requirements to conduct moral and ethical combat. The objective is to determine if contradictions in the balance of legal, moral, and ethical requirements placed on military forces influence the outcome of a conflict in contrast to battlefield operations. More simply put, is it possible to achieve a perceived legitimate victory in a legally acceptable conflict by immoral or unethical means? While the answer would seem to be obviously

“no,” all three elements are dynamic and it is possible to make adjustments in order to eliminate the contradictions restoring balance. Nonetheless, this study suggests that equivocation on what is and is not explicitly legal has less importance than maintaining the societal and cultural values of citizens, expressed in collective morals and ethics, called upon to support any action with blood and treasure.

This review of the Battle of Algiers also includes a historical comparison to two controversial American counterinsurgency operations: the Philippine-American War and the ongoing contemporary U.S.-Iraq War, more commonly known as Operation Iraqi Freedom (OIF), part of the Global War on Terror--The Long War (GWOT). By studying the Battle of Algiers, perhaps the U.S. may avoid the mistakes of the past.

Algeria Becomes Part of France

L'Algérie, c'est la France!^{*}

Pierre Mendès-France²

The birth of the French republic in 1789 amidst the throes of the French Revolution foreshadowed the manner in which Algeria was defined as well. Justification for conflict in Algeria was seldom if ever explicitly legal by contemporary standards or demonstrably legitimate in practice. Notwithstanding, French law and French conflict framed Algeria from 1830 through 1962.

Ironically, the principles of liberty, equality, and fraternity (or brotherhood)[†] expressed in the French national motto and the explicit equality defined in the French

^{*} Algeria is France! This became the definitive justification for military action in Algeria by the French government beginning in 1954. The illegitimate counterterrorist group known as the Organization of the Secret Army (OAS, *Organisation de l'Armée Secrète*) added, “and will remain so” (*et le restera*), to the original justification in its motto.

Revolution's essential document, the Declaration of the Rights of Man and of the Citizen,[†] were not applied to Algerians. Adoption of the Indigenous Code[§] in 1865 legally justified French departure from traditional moral and ethical principles. Despite the altruistic intentions of the Declaration of the Rights of Man and of the Citizen, France's history with religious and ethnic acceptance was discriminatory.

France actually implemented the Indigenous Code in Algeria on Bastille Day, 14 July 1865, after nearly 17 years as an integral part of France. Subsequent modification of the Indigenous Code in 1881 legalized an inferior position for all Algerians and ultimately all French subjects as well, in order to address the challenges of governing a growing French empire. While French subjects could petition for French citizenship under the Indigenous Code, the benefits of citizenship were not transferable to subsequent generations, ensuring legalized discrimination based on ethnicity and, more significantly for Algerians, religion. A further act of religious discrimination was demonstrated by "conferring automatic French citizenship upon the whole Jewish community of Algeria" in 1870 by the Crémieux Decrees.³

Only Muslims were expected to officially renounce their religion to obtain citizenship. Even though they could legally practice their religion afterwards, cultural and religious identity and distinctiveness would inevitably be diminished as each generation would have to repeat such apostasy. Intended to delegitimize the competing authority of

[†]*Liberté, égalité, fraternité.*

[‡]*Déclaration des droits de l'Homme et du citoyen.*

[§]*Code de l'Indigénat.*

Islamic courts with secular French courts, such an extreme measure ensured cultural and religious discrimination from the perspective of Muslims.

Immediately following the German surrender of the Second World War, Algerians assembled for representation and recognition. Alistair Horne described Sétif, Algeria, as “A Town of No Great Interest,” yet the events in Sétif on 8 May 1945 resulted in a transition point for many Algerians from peaceful petition to open revolt and insurrection.⁴ While the particulars of the day are unclear, the response by the French government was immediate, intense, and overwhelming. It became known as the Sétif Massacre.

While most of Europe celebrated the end of the Second World War, Algerians in Sétif marched ostensibly to pay tribute to the fallen Muslims at the town monument. Notwithstanding the presumption of a peaceful if somber procession, those in the assembly were clearly harboring resentment. Whether the French police or armed troublemakers among the marchers fired the first shots, shocking atrocities occurred over the next five days. Algerians hunted down Europeans as enraged locals murdered, raped, mutilated, and burned whole towns. The Algerian nationalists slaughtered more than one hundred men and women including the elderly as well as children. The ensuing French response resulted in thousands of Algerian deaths; the precise figures are uncertain but totals range from a low estimate of 6,000 to over 50,000.

Applying the same techniques used by Field Marshal Robert Thomas Bugeaud in Algeria 100 years earlier; techniques which were also deplored by Samuel Clemens and Lieutenant General Nelson A. Miles in the Philippines 50 years later, the French authorities employed “Senegalese units legendary for their ferocity” and “involved a

number of summary executions.”⁵ These so called “‘pacifying’ operations” included bombing more than forty “less accessible *mechtas*, or Muslim villages . . . while the cruiser *Duguay-Trouin* lying off in the Gulf of Bougie bombarded the environs of Kerrata at extreme range (and, presumably, comparable accuracy)”⁶ (see figures 2 and 3).

The French official reaction implemented what would continue to be the primary method of addressing Algerian desire for reform--military intervention. Seemingly ignorant of the evolution of public perception involving brutal treatment of indigenous peoples, the French government ultimately legalized “all necessary measures,” even those in dissonance with prevailing national values, to restore stability. Commanding the French military operations following the Sétif Massacre, General Raymond-Francis Duval reported, “I have secured you peace for ten years. If France does nothing, it will all happen again, only next time it will be worse and may well be irreparable.”⁷ It was to be a remarkably accurate forecast.

Obligations

The Muslim resident is French; however, he will continue to be subjected to Muslim law. He may be admitted to serve in the terrestrial and marine Army. He may be called to functions and civil employment in Algeria. He may, on his demand, be admitted to enjoy the rights of a French citizen; in this case, he is subjected to the political and civil laws of France.⁸

Through an ironic turn of counterrevolutionary application, the *corvée*,^{**} previously outlawed by the French Revolution, was reinstated as *prestation*^{††} in 1871. With this, the Indigenous Code created a subordinate work force taxed by the French

^{**} Compelled labor imposed by the state or a chore imposed by an authority figure.

^{††} Payment of an obligation.

empire to provide funds and services for France, subject to punishment outside of due process, and further subject to compulsory conscription distinctly from genuine French citizens. The fact that the European residents of Algeria (*pieds noir*^{‡‡}) expected such obligations and the Algerian people endured them so long is remarkable considering that the ultimate objective of the Indigenous Code was to produce French citizens.

Thousands of native Algerians served French authorities without receiving the privileges of French citizenship. In fact, only a very limited number of Algerians ever became French citizens. According to Alistair Horne, “by 1936, after seventy-five years of ‘assimilation’, no more than 2,500 Muslims had actually crossed the bar to French citizenship.”⁹ In 1944, Frenchman Robert Aron noted, “France did much for Algeria, too little for the Algerians.”¹⁰

Many Algerians, whose culture was less alien to that of France or who had learned to speak French, adopted France by service in the military. Military duty, however, was insufficient to achieve French citizenship. In the First World War, 173,000 Algerians served in the Army of Africa, approximately 25,000 of these died.¹¹ Many of the leaders of the National Liberation Front (FLN^{§§}) had also served with the French army during the Second World War. Three of the nine founding members of the FLN, known as the *neuf historiques*,^{***} Ben Bella, Mostefa Ben Boulaid, and Belkacem Krim,

^{‡‡}Common term for Algerian residents of European descent, literally “black feet” perhaps ascribed to work boots or military boots. Another commonly used term to describe non-native Algerians was *colons*, literally “colonist.”

^{§§}*Front de Libération Nationale.*

^{***}The *neuf historiques*: Hocine Ait Ahmed, Ahmed Ben Bella, Mostefa Ben Boulaid, Larbi Ben M’Hidi, Rabbah Bitat, Mohamed Boudiaf, Mourad Didouche, Mohamed Khider, and Belkacem Krim.

were in fact decorated and promoted for their actions with the French army. Even before serving himself, Belkacem Krim noted “My brother returned from Europe with medals and frost-bitten feet! There everyone was equal. Why not here?”¹² Both exemplifying the *pieds noir* expectations that distinctions between Europeans and Algerians should be maintained and highlighting the reasons for Belkacem Krim’s voiced frustration, the senator from Oran in 1919 remarked; “The *indigènes* have fulfilled their duty *vis-à-vis* ourselves and deserve to be recompensed. But to do this [facilitate Muslim access to French citizenship], is it necessary to resort to imprudent measures?”¹³

Ultimately, moderate Algerians sought recognition of their rights as French citizens. They sought freedom from the oppression of the discriminatory Indigenous Code with its separate punishments and their ambiguous categorization as French subjects. In 1935 governor-general of Algeria Maurice Violette issued a prophetic warning following rejection of his proposal for reform known as “assimilation:”

When the Muslims protest, you are indignant; when they approve, you are suspicious; when they keep quiet, you are fearful. *Messieurs*, these men have no political nation. They do not even demand their religious nation. All they ask is to be admitted into yours. If you refuse this, beware lest they do not soon create one for themselves.¹⁴

The *pieds noir* had all the rights of French citizenship, but refused to consider granting political and social reforms to Algerians that gave any hint of reducing the hegemony and monopolistic prosperity of the European minority.

The Eve of Battle--1954-1956

The French maintain that ‘Algeria is France’ and, on paper, admit Algerians to full citizenship (with voting rights for 15 Deputies in the French National Assembly).^{†††} Yet Algerians are no longer beguiled by the notion that they are

^{†††}In 1947, France created the Algerian Parliamentary Assembly with half of the

Frenchmen. 'We are only French when they want us to fight or die for them . . . Once we loved the French like brothers, and many of us hated to turn against them. But now they have put hate into our hearts.'¹⁵

Much as Indochina had sought independence from France at the conclusion of the Second World War, independence-minded Algerians asserted their desire for autonomy from French imperial power in consonance with the joint declaration by Great Britain and America of the Atlantic Charter in 1941.¹⁶ The French crushed the nascent nationalist movement in Algeria forcefully during the weeks following the worldwide celebration of victory over Germany. Following the Sétif Massacre of 1945, Algerian nationalist fervor lay temporarily dormant. In French Indochina, there was no such latency.

Prior to the reemergence of vigorous opposition to French rule in Algeria, the Geneva Conference of 1954 established the independence of the individual states of Indochina from France after nine years of war culminated with the French defeat at the battle of Dien Bien Phu. During the interim, newly installed French Prime Minister Pierre Mendès-France additionally brokered independence for Morocco and Tunisia. Both Morocco and Tunisia were protectorates^{†††} of France with differences from a colony such as Indochina. However, having lost these colonies and protectorates, the French were more determined than ever to retain control of Algeria.

120 seats reserved for votes from Muslim Algerians. As Algerians represented nearly 90 percent of the population, there was disproportionate representation of the non-Muslim French European population (see endnote 13).

^{†††}A form of international guardianship that arises under international law, which governs the relationships between states or nations, when a weaker state surrenders by treaty the management of some or all of its international affairs to a stronger state. (*West's Encyclopedia of American Law*, edition 2, The Gale Group, 2008).

During the interval from the Sétif Massacre to the Geneva Conference Messali Hadj, a revolutionary Muslim advocate of Algerian independence, founded the Movement for the Triumph of Democratic Liberties (MTLD^{§§§}). Placed under house arrest in Europe, Hadj ultimately lost control of the MTLD in 1954 and it subsequently fractured into disparate groups with different opinions on acceptable means to achieve their ends. Prior to its dissolution, the MTLD struggled to exist as a moderate and accommodating organization intent on obtaining reconciliation of Algerian grievances with France. Basically, the MTLD wanted to achieve progress and recognition in much the same way as had Morocco and Tunisia.

Failing to achieve accommodation within the official French system, reform-minded Algerians once again took up active opposition to the distinct and discriminatory treatment they endured under French authority. On 1 November 1954, the FLN issued its own intent to achieve independence from France.¹⁷ The distinctions between Algeria and Indochina, Tunisia and Morocco as wholly French territories or colonial protectorates were peculiar as Mendès-France asserted:

One does not compromise when it comes to defending the internal peace of the nation, the unity and integrity of the Republic. The Algerian departments are part of the French Republic. They have been French for a long time, and they are irrevocably French. . . . Between them and metropolitan France there can be no conceivable secession.

This must be clear once and for all, in Algeria and in metropolitan France as much as in the outside world. Never will France--any French government, or parliament, whatever may be their particularistic tendencies--yield on this fundamental principal.

Mesdames, Messieurs, several deputies have made comparisons between French policy in Algeria and Tunisia. I declare that no parallel is more erroneous, that no compromise is falser, or more dangerous. *Ici, c'est la France!*¹⁸

^{§§§} *Mouvement pour le Triomphe des Libertés Démocratiques.*

Even with a policy that Algeria was France and during a period of autonomy extended to French protectorates, the French still denied citizenship to the Algerians.

In 1954, the population of Algeria was 8.7 million, with fewer than 1 million of those of European descent.¹⁹ The remainder of the population was primarily Muslim and Arab and most notably, marginalized without genuine and credible representation in the government that assured them of *Liberté! Égalité! Fraternité!* While overwhelmingly the majority in Algeria and part of domestic France for over 120 years, few enjoyed French citizenship.

Algerians fought for the French in both the First and Second World Wars and even participated in the official response to the Sétif uprising. Nevertheless, the French government segregated the Algerians from the Europeans in both political accommodations and living conditions. Having been denied the ability to participate legitimately in local government, Algerian insurgents attacked the institutions of French military authority and, most poignantly, the aspects of civilian French society most distinct from Algerian society with coordinated terrorist acts throughout Algeria on 1 November 1954.

In addition to the defeat in Indochina and the beginnings of transition to full autonomy for Morocco and Tunisia, the events surrounding the Suez Crisis of October 1956 perhaps especially strengthened the perception in France that international forces supported the Algerian insurgency. In the days leading up to the Suez Crisis, the French intercepted a Sudanese flagged vessel smuggling weapons bound for Morocco and destined for the FLN and paid for with Egyptian funds. The weapons and ammunition represented substantial assistance from the Egyptians to the FLN.

In addition to the capture of weapons, French intelligence also determined that senior members of the FLN would be travelling from Morocco to Tunisia. Four of the *neuf historiques* were afterwards hijacked by the French military by forcing the pilot, a French reserve officer, to land in Algiers. The four *neuf historiques* thereafter became political prisoners held without trial under penalty of death for their crimes.²⁰ Despite the evidence of foreign support leading to internal French instability, violation of Moroccan sovereignty by the French military raised international objections. Subsequent international condemnation of Britain, France, and Israel in the Suez Crisis influenced French leaders, especially military leaders, to place less emphasis on foreign opinion and focus more on obtaining tangible national security results.

National security for the French included the elimination of any insurrection within Algeria perceived to be organized, influenced, and funded by international communist sympathizers such as the “Soviet-inspired agitation and nationalist movements” of Egypt.²¹ France became paranoid that “the rebellion was being directed from President Nasser’s Cairo, and consequently, it was assumed, by the USSR.”²² This paranoia extended to France’s allies “once the Gaullists concluded not only that the enemy was international communism, but that France was alone among the Western Allies in recognizing the fact.”²³ Compounding the isolation was a perceived betrayal of France by America in Indochina and in Suez:

. . . America was guilty once again of not recognizing the fundamentally *anti-Western* aspect of national liberation movements; as Debré put it, In Washington they refuse to see, behind Arab imperialism, an ardent political crusade against the West . . . The American dream which hopes to defend the West by replacing France with an anti-European but pro-American nationalism is an unheard-of chimera.²⁴

A few months after the Suez Crisis, a new exchange of reprisals between the Algerian insurgents, known as *fellagha*,^{****} and the *pieds noir* prompted French leaders to implement operations to avoid a perceived attack on national sovereignty.

Since the end of the Second World War, French and Arab residents of Algeria had exchanged attacks, though disguised by subterfuge, and each had taken actions against the civilian population of the other, primarily in rural areas. On 10 August 1956, however, a large bomb detonated within the Arab district known as the Casbah^{††††} in Algiers. The civil authorities were incapable of preventing the *fellagha* attacks and may even have had a part in the August attack or may have at least turned a blind eye upon the illicit behavior of one group of the population.²⁵ The instability in Algeria contributed to the failure of both the Mendès-France and the subsequent Edgar Faure premierships.

Body of Research

In 1905, George Santayana wrote, “Those who cannot remember the past are condemned to repeat it.”²⁶ Because of the parallels of a Western nation fighting in a less developed predominantly Muslim country were obvious, the 1966 film “The Battle of Algiers” by Gillo Pontecorvo was shown to high-level administration and military officials of the U.S. government as the GWOT began in late 2001. Saadi Yacef, the FLN military commander in Algiers was a principal advisor to Pontecorvo. His nemesis Paul

^{****} Arabic word meaning “bandit” referring in this case to Algerian nationalists affiliated with the FLN.

^{††††} Arabic for citadel, in Algiers the Casbah was the focal point for rebel *fellagha* coordination and operations. Based on the original city foundations, its labyrinth-like alleyways and byways were unmarked and densely inhabited making anonymous passage all the easier.

Aussaresses, instrumental in intelligence collection during the Battle of Algiers, subsequently published his memoir *The Battle of the Casbah: Terrorism and Counter-Terrorism in Algeria 1955-1957* in 2002. Ted Morgan, born Comte St. Charles Armand Gabriel de Gramont with dual French and American citizenship, published *My Battle of Algiers: A Memoir* in 2005. Again the similarity of protagonists and settings, as well as the tragic similarity of terrorist activity precipitating military action in Algeria and Iraq as well as the timing of the publications of these memoirs served to highlight French and American perspectives on law and war for both the Battle of Algiers and the U.S.-Iraq War. Not foregoing the opportunity to comment on the similarities, Morgan portrayed U.S. actions of interrogation and torture at the Abu Ghraib prison in Iraq as having been conducted in a “circus atmosphere.” He further defined the acts as both equally “ineffective” and “clumsy” in comparison to the cold, ruthless efficiency of Aussaresses whom he might characterize as a “sociopath with little regard for human life” or one of the “brutes and sadists who like their work.”²⁷

Interestingly, Morgan became a conscripted French soldier in 1955 while working in the U.S. as a reporter for the *Worcester Telegram* in Massachusetts. Morgan’s memoir revealed his transformation from pacifist to active participant in brutality and then to propagandist and ultimately prey to enhanced interrogation at the hands of French intelligence in Algiers. In contrast to Aussaresses, Morgan was not a military professional but adapted readily to the expectations of the French army. He also succumbed to the ennui of military life and sought a more active role to avoid a self-imposed fatalism.²⁸

Following his own rough treatment of the *fellagha*, he became a propagandist for the 10th Parachute Division, appointed by its commander, General Jacques Massu

himself. Early in his assignment, through a shared personal connection with the American consular officer in Algiers, Lewis Clark, Morgan met with an American, Don Davies, working in Algiers. Morgan recalled his initial discussion with Davies regarding the work of Massu's paras. "“Massu may help stop the terrorism,’ Davies said, ‘but he’s also digging the ditch that separates the two communities a little deeper by acting on the theory that every Arab is guilty until proven innocent. For every terrorist he catches, he makes two more Arab enemies.’”²⁹

Prior to the recent memoirs of Paul Aussaresses and Ted Morgan, Martin Evans published *The Memory of Resistance: French Opposition to the Algerian War (1954-1962)* in 1997. An Algerian viewpoint for the Battle of Algiers and in fact the entire French-Algerian War, Mouloud Feraoun's *Journal 1955-1962: Reflections on the French-Algerian War* presented a day-by-day account from a Muslim perspective. All of these works identified the extreme methods the French military used against Algerians to dismantle the Algerian terrorist network and insurgency. The alienation of one part of the population for the protection of another was racist and unethical yet legal.

The definitive history of the French-Algerian War, *A Savage War of Peace: Algeria 1954-1962*, by Alistair Horne, provided much of the objective background for this study. Mouloud Feraoun's *Journal 1955-1962: Reflections on the French-Algerian War* was instrumental for actual accounts during the Battle of Algiers. Feraoun's daily contemplations highlighted the anxiety, fear, and vision of further violence propagated by the retribution and vengeance in Algeria. His assassination by the Organization of the

Secret Army (OAS^{††††}) was intended to disrupt the 1962 peace talks known as the Evian Accords but merely continued a *pieds noir* penchant for silencing parties willing to negotiate.³⁰ Ultimately, Feraoun was the ideal *indigène*^{§§§§} desired under the Indigenous Code and promoted by Algerian governor-general Maurice Violette. Feraoun's most significant contribution for this study was providing the unique lens of actually enduring *modern warfare* in practice.

Among soldiers, Roger Trinquier documented French theory for counterinsurgency warfare in *Modern Warfare: A French View of Counterinsurgency*. David Galula captured his thoughts in *Counterinsurgency Warfare: Theory and Practice*. Aspects of the collection of intelligence described by Trinquier, Aussaresses, and Morgan also appear in more disturbing and visceral detail in *The Question* by Henri Alleg. Galula further described the related theory of pacification in *Pacification in Algeria 1956-1958*. Simon Murray described the tactics in the field of the French Foreign Legion in his memoir *Legionnaire* providing insight similar to Morgan's experiences and in contrast to native French perspectives.

Domestic French perspective on international relations, national security, and a growing sense of isolation was described in an essay by Stephen Tyre in *France and the Algerian War (1954-62): Strategy, Operations, and Diplomacy* entitled "The Gaullists, the French army and Algeria before 1958: Common Cause or Marriage of Convenience?" Another short essay "The French Army 'Centre for Training and Preparation in Counter-

^{††††}*Organization de l'Armée Secrète.*

^{§§§§}Meaning an indigenous person of Algeria, not a settler.

Guerrilla Warfare' (CIPCG^{*****}) at Arzew” by Lt. Colonel Frédéric Guelton in *France and the Algerian War* provided further insight to French strategy and operations. *France and the Algerian War* edited by Martin S. Alexander and J.F.V. Keiger furthermore provided support for the application of tactics through the short article “A Case of Successful Pacification: the 548th Bataillon du Train at Bordj de l’Agha (1956-57)” by Alexander Zervoudakis. Collectively, the three articles by Tyre, Guelton, and Zervoudakis provided clear insight to the fractures between the ends, ways, and means, respectively, of French national strategy. A national-level paranoia justified extreme measures to ensure security despite the presence of a military center for cultural understanding and capable officers with effective techniques to neutralize the insurgents without alienating the population. Both Alexander and Keiger collaborated with Martin Evans to edit another publication *The Algerian War and the French Army, 1954-62: Experiences, Images, Testimonies* which documented the psychological effects of Algerian combat on the French soldiers and, more significantly, the experiences of native Algerians known as *harkis* who fought with the French against the FLN.

In direct opposition to the French army strategy, *The Algerian Guerrilla Campaign: Strategy and Tactics* by Abder-Rahmane Derradji presented the *fellagha’s* vision. Furthermore, this work identified the competing operational challenges of the struggle against the Algerian Nationalist Movement (MNA^{††††}). Founded by Messali Hadj when he transformed the MTLD, the MNA and the FLN waged a second war in Algeria and metropolitan France known as the *café wars*. Interestingly, the MTLD itself

^{*****} *Centre d’Instruction et de Préparation à la Contre-Guérilla.*

^{††††} *Mouvement Nationaliste Algérien.*

had risen from the banned Algerian Peoples' Party (PPA^{†††††}). The FLN itself was an offshoot from the Secret Organization (OS^{§§§§§}) and had been born from dissatisfaction within the MTLN and with Hadj's vision. While the MNA remained united under the singular direction of Hadj even while he was under French arrest. The FLN was more dynamic with its hydra-headed leadership springing from the nine founding members known as the *neuf historiques*. Several of the *neuf historiques*, as well, began their independence struggle with the MTLN. Popular French opposition to the Algerian War characterized by so-called suitcase carriers was expressed in Martin Evans' book *The Memory of Resistance*. Additional opposition to French government actions came from Hadj in his article, "Fight Against French Imperialism!" and from Mohammed Harbi's article "Massacre in Algeria." Both men were active throughout the French-Algerian War with the Algerian nationalist movements.

Research for this topic included perspectives from French government figures including prominent French Communist Party (PCF^{*****}) member Jacques Duclos, found in his published speech on 12 March 1956 entitled "Jacques Duclos Explains the Communist Vote in Favor of the Government." Further sources included actual legislation passed such as the Indigenous Codes of 1865 and 1881 and the Special Powers Act of 12 March 1956, which interestingly extended the military service obligation of conscripts such as Ted Morgan.³¹

^{†††††}*Parti du Peuple Algérien.*

^{§§§§§}*Organisation Spéciale.*

^{*****}*Parti Communiste Française.*

International land warfare laws for the 19th and 20th centuries are documented in the Yale Law School's online directory known as *The Avalon Project* at <http://avalon.law.yale.edu>. The text of the Lieber Code, notable in 19th century land warfare legislation, is available in two editions of the Combat Studies Institute Press's *Occasional Paper (OP)* series which also provided background on the Philippine-American War. *OP 24, Savage Wars of Peace: Case Studies of Pacification in the Philippines, 1900-1902* also provided an examination of the consequences for lack of popular domestic support in the continued justification of war. The most recent 21st century legislation passed in the U.S. is available at the Library of Congress online at <http://thomas.loc.gov>.

Twenty-two additional articles published in *Time* throughout the eight-year French-Algerian War illustrated the self-defeating alternative terrorist acts of the *pieds noir* and the French army's brutal implementation of harsh measures. However, John Talbott's "The Strange Death of Maurice Audin," published in the *Virginia Quarterly Review* in the Spring 1976 issue poignantly demonstrated the presumption of guilt by the military on the very citizens and subjects that Trinquier and Galula identified as the center of gravity. Article 9 of France's defining constitutional document, the Declaration of the Rights of Man and of the Citizen,^{††††††} states, "As all persons are held innocent until they shall have been declared guilty, if arrest shall be deemed indispensable, all harshness not essential to the securing of the prisoner's person shall be severely repressed by law."³² While not absolutely in consonance with Napoleonic law regarding guilt and innocence, the perception of injustice on the part of European French citizens and

^{††††††}*Déclaration des droits de l'Homme et du citoyen.*

Algerians as well as Americans was implicit. The case of Maurice Audin, coupled with Henri Alleg and in parallel with the assassination of Mouloud Feraoun, demonstrated just how acute the bitterness against Muslim ascension to full citizenship affected European French (in)sensibility.

¹Frederic Guelton, “The French Army ‘Centre for Training and Preparation in Counter-Guerrilla Warfare’ (CIPCG) at Arzew” in *France and the Algerian War (1954-62): Strategy, Operations, and Diplomacy* (London, UK: Frank Cass, 2002), 34.

²Alistair Horne, *A Savage War of Peace: Algeria 1954-1962* (New York, NY: The Viking Press, 1978), 98.

³Ibid., 36.

⁴Ibid., 23.

⁵Ibid., 26.

⁶Ibid.

⁷Mohammed Harbi, “Massacre in Algeria,” *Le Monde diplomatique*-English Edition, May 2005, <http://mondediplo.com/2005/05/14algeria> (accessed 3 November 2009); and Annie Rey-Goldzeiguer, *Aux origines de la guerre d’Algérie 1940-45* (Paris: Le Découverte, 2002), 330-334.

⁸Indigenous Code, 14 July 1865, http://encyclopedie-afn.org/index.php/D%C3%A9cret_d%27application_de_la_loi_du_14_juillet_1865 (accessed 3 November 2009), Article 1.

⁹Horne, *A Savage War of Peace*, 35.

¹⁰Ibid., 65.

¹¹Ibid.

¹²Ibid., 77.

¹³Ibid., 36.

¹⁴Ibid., 37.

¹⁵Unattributed, “Revolt of the Fellagha,” *Time*, 26 December 1955.

¹⁶Mohammed Harbi, “Massacre in Algeria,” *Le Monde diplomatique*-English Edition, May 2005, <http://mondediplo.com/2005/05/14algeria> (accessed 3 November 2009).

¹⁷Horne, *A Savage War of Peace*, 94-95.

¹⁸*Ibid.*, 98.

¹⁹Helen Chapman Metz, *Algeria: a country study* (Washington, DC: U.S. Government Publishing Office, 1994), 76.

²⁰Horne, *A Savage War of Peace*, 157-164.

²¹Stephen Tyre, “The Gaullists, the French Army and Algeria before 1958: Common Cause or Marriage of Convenience?” *France and the Algerian War (1954-62): Strategy, Operations, and Diplomacy* (Portland, OR: Frank Cass, 2002), 103.

²²*Ibid.*

²³*Ibid.*

²⁴*Journal Officiel de la République Française, Conseil de la République*, 14 January 1958.

²⁵Horne, *A Savage War of Peace*, 184.

²⁶George Santayana, *The Life of Reason, Volume I* (New York, NY: Charles Scribner’s Sons, 1905), <http://www.gutenberg.org/files/15000/15000-h/vol1.html> (accessed November 2009).

²⁷Ted Morgan, *My Battle of Algiers*, (New York, NY: Smithsonian Books, 2005), xix.

²⁸*Ibid.*, 76, 92, 125.

²⁹*Ibid.*, 129.

³⁰Horne, *A Savage War of Peace*, 37.

³¹Benjamin Stora, *Algeria, 1830-2000: A Short History* (Ithaca, NY: Cornell University Press, 2001), 47; and John Talbott, “The Strange Death of Maurice Audin,” *Virginia Quarterly Review* (Spring 1976): 224-242, <http://vqronline.org/articles/1976/spring/talbott-strange-death/> (accessed 3 November 2009); and Morgan, 128.

³²National Assembly of France, “Declaration of the Rights of Man and of the Citizen” (Paris: National Assembly of France, 26 August 1789), Article 9.

CHAPTER 2

EVOLUTION OF LAND WARFARE LAWS

The right of belligerents to adopt means of injuring the enemy is not unlimited.

— Laws and Customs of War on Land (Hague II), Article 22.

I cannot believe that this is me; that my senses have been dulled to this extent, that I am past caring about anything or that my values have disappeared. What are my values? Christ, what a thought.

— Simon Murray, *Legionnaire*¹

Hugo Grotius, a Dutch philosopher, jurist, and theologian undertook some of the earliest work to develop international laws for land warfare. In 1625 his three-volume set, *On The Law of War and Peace*,* explained legitimate causes for war. The second volume actually defined examples of legitimate causes and more significantly provided reparations and punishments for violations. The final volume actually set forth appropriate conduct for combatants and treatment of both prisoners and neutral parties. This work on laws for war followed Grotius' earlier publication of *The Free Sea*† in 1609. Establishing the international usage of the seas, the ability of states or nations to stake maritime claims was limited to the range of weapons capable of defending them. Defined after Grotius' death in 1702 this gave rise to acceptance of the three-mile limit in staking maritime claims. Grotius' extensive thought coupled with his general guidelines provided sufficient foundation for consensus around and adoption of the principles he championed as the basis for international law. These principles endured with growing international adoption and acceptance without much change for over 200 years.

* *De Jure Belli ac Pacis*.

† *Mare Liberum*.

Land warfare laws affected the conduct of both French and American military leaders as well. The laws for land warfare evolved through consideration of the impact on the local population affected by the wars as well as through the popular perception by domestic citizens. This evolution has been captured from America's Lieber Code in 1863 and France's Indigenous Codes of 1865 and 1881, through the international Hague Conventions of 1899 and 1907, and interspersed along the way with several international Geneva Conventions.

These bodies of laws, both domestic and international, were influenced by perception of advocates who sought to ensure warfare would be conducted in a just manner as Hugo Grotius had in the 17th century. Policy makers and others in authority should heed advocates of just war. History demonstrates if they do not, they are in peril of losing support for a cause while simultaneously attempting to practice an effective and perhaps legally-evolving war. Even so, while maintaining appropriate legal conditions are important they are not singular in importance to preserving legitimacy. In order to sustain the support of the population called upon to supply blood and treasure, ethics and morality are of equal if not greater importance. These aspects may also evolve through time.

19th Century Law

Modern times are distinguished from earlier ages by the existence at one and the same time of many nations and great governments related to one another in close intercourse.

Peace is the normal condition; war is the exception. The ultimate object of all modern war is a renewed state of peace.

The more vigorously wars are pursued the better it is for humanity. Sharp wars are brief.²

Views of warfare in the late 19th century included the concept that intense action would lead to shortened conflict and thereby reduce casualties. Such a noble purpose ignored the suffering of those individuals caught between the combatants. Just as the developments of the Gatling gun by Richard Gatling and dynamite by Alfred Nobel created easier ways to kill despite the hopes of their inventors, the results of unbounded warfare were reprisals and escalation of atrocities. The published effects described from these acts were beyond the limits of moral and ethical expectations of many nations, governments, and individual people and eventually prompted international action for humanitarian reform by way of Algeria.

The Geneva Convention of 1864

The International Committee of the Red Cross (ICRC) is an impartial, neutral and independent organization whose exclusively humanitarian mission is to protect the lives and dignity of victims of armed conflict and other situations of violence and to provide them with assistance.

The ICRC also endeavors to prevent suffering by promoting and strengthening humanitarian law and universal humanitarian principles.

Established in 1863, the ICRC is at the origin of the Geneva Conventions and the International Red Cross and Red Crescent Movement. It directs and coordinates the international activities conducted by the Movement in armed conflicts and other situations of violence.³

In 1856, a Swiss entrepreneur and advocate for the Young Men's Christian Association (YMCA) named Henry Dunant opened an agricultural and exporting business in Sétif, Algeria. In 1859, as a result of difficulty in dealing with the local government in Algeria, Dunant planned to appeal for intervention directly to Emperor Napoléon III who was on campaign in Italy against Austria. Ultimately, Dunant met Napoléon III on the field following a day of fighting. He subsequently documented the aftermath of the Battle of Solferino and described in vivid detail the suffering of the

wounded combatants as well as atrocities against casualties from friend and foe alike. In 1862, he published *A Memory of Solferino* using his own funds.⁴ Its circulation and widespread reception led to the development of the International Committee of the Red Cross (ICRC) in 1863 and subsequently led to the first Geneva Convention in 1864 and established the “obligatory force from the implied consent of the states which accepted and applied them in the conduct of their military operations.”⁵ France was one of the original twelve signatories of the first Geneva Convention in 1864. The United States followed the lead of other international powers with ratification in 1882. The creation of the YMCA and ICRC as well as the ratification of the first Geneva Convention clearly demonstrated the evolution of government and public perception of acceptable practice in warfare.

Lieber Code of 1863

A place, district, or country occupied by an enemy stands, in consequence of the occupation, under the martial law of the invading or occupying army, whether any proclamation declaring martial law, or any public warning to the inhabitants, has been issued or not. Martial law is the immediate and direct effect and consequence of occupation or conquest.

The presence of a hostile army proclaims its martial law.⁶

About the same time that Henry Dunant was establishing the ICRC in 1863, the United States of America published General Order 100, Instructions for the Government of Armies of the United States in the Field. General Order 100 was also commonly known as the Lieber Code after its primary author, Francis Lieber. Published in 1863, this regulation was the first modern attempt to codify the treatment of insurgents who were not part of the organized army of a nation state. The Lieber Code granted liberal and ultimate power to the U.S. military forces operating in areas without civil government in

order to promote the restoration of domestic administration and government through martial law; “Martial law is simply military authority exercised in accordance with the laws and usages of war.”⁷

The foundation for the Lieber Code was the commonly accepted practice of warfare of that period. Both the U.S. Army and the U.S. Marine Corps benefited from the authority to serve as judge, jury, and executioner during counterinsurgency operations such as those conducted during the Caribbean “Banana Wars,” and most poignantly in the Philippine-American War at the turn of the 20th century.

Among the documented principles in the Lieber Code were the use of military tribunals or courts to judge conduct by military personnel and civilians, both American and otherwise. In principle, with the ability to review actions taken, the Lieber Code sought to maintain restraint and mutual respect between combatants by avoiding unnecessary escalation of hostilities:

Military oppression is not martial law; it is the abuse of the power which that law confers. As martial law is executed by military force, it is incumbent upon those who administer it to be strictly guided by the principles of justice, honor, and humanity--virtues adorning a soldier even more than other men, for the very reason that he possesses the power of his arms against the unarmed.⁸

Notwithstanding otherwise righteous principles, one of the more controversial aspects of the Lieber Code was the authorization for the military to carry out reprisals in response to acts committed by enemy forces:

The law of war can no more wholly dispense with retaliation than can the law of nations, of which it is a branch. Yet civilized nations acknowledge retaliation as the sternest feature of war. A reckless enemy often leaves to his opponent no other means of securing himself against the repetition of barbarous outrage.

Retaliation will therefore never be resorted to as a measure of mere revenge, but only as a means of protective retribution, and moreover cautiously and unavoidably--that is to say, retaliation shall only be resorted to after careful

inquiry into the real occurrence and character of the misdeeds that may demand retribution.

Unjust or inconsiderate retaliation removes the belligerents farther and farther from the mitigating rules of regular war, and by rapid steps leads them nearer to the internecine wars of savages.⁹

Viewed from a modern perspective, this equivocation over what constituted a legitimate breach of accepted warfare practices set the army on an inevitable path towards the very internecine warfare it purported to hope to avoid.

Foreshadowing the severe measures the U.S. military used later in the Philippines and again in Algeria by a different French army, noted French philosopher Alexis de Tocqueville remarked in 1841 how such harsh measures were necessary for the war in Algeria:

. . . war in Africa is a science. Everyone is familiar with its rules and everyone can apply those rules with almost complete certainty of success. One of the greatest services that Field Marshal [Thomas Robert] Bugeaud has rendered his country is to have spread, perfected and made everyone aware of this new science. . . . In France, I have often heard men I respect but do not approve of, deplore that crops should be burnt and granaries emptied and finally that unarmed men, women and children should be seized. In my view these are unfortunate circumstances that any people wishing to wage war against the Arabs must accept.¹⁰

Later in 1843, Lieutenant Colonel Lucien-François de Montagnac, a soldier fighting in Algeria under Field Marshal Bugeaud's command, wrote home of the French military's adoption of de Tocqueville's recommendations:

All populations which do not accept our conditions must be despoiled. Everything must be seized, devastated, without age or sex distinction: grass must not grow any more where the French army has put the foot. Who wants the end wants the means, whatever may say our philanthropists. I personally warn all good soldiers which I have the honour to lead that if they happen to bring me a living Arab, they will receive a beating with the flat of the saber. . . . This is how, my dear friend, we must do war against Arabs: kill all men over the age of fifteen, take all their women and children, load them onto naval vessels, send them to the Marquesas Islands or elsewhere.¹¹

Notwithstanding the esteem of de Tocqueville and his soldier advocate, the American press of the early 1900s did not well receive America's similar application of the Lieber Code in the Philippines following that era's common practice of warfare. No less notable an American figure than Samuel Clemens, better known as Mark Twain, characterized the legalized conduct of the Philippine-American War as imperialist and predicted the use of repressive force against the population:

. . . I have carefully read the treaty of Paris [which ended the Spanish-American War], and I have seen that we do not intend to free, but to subjugate the people of the Philippines. We have gone to conquer, not to redeem. It should, it seems to me, be our pleasure and duty to make those people free, and let them deal with their own domestic questions in their own way. And so I am an anti-imperialist. I am opposed to having the eagle put its talons on any other land.¹²

Later on, a cartoon from the *New York Journal* (see figure 1) depicting Brigadier General Jacob H. Smith's order for firing squad execution of Philippine boys over the age of ten echoed the words of Lieutenant Colonel de Montagnac and seemingly validated Clemens' earlier characterization.

Any captured person, native to an area where U.S. military operations were taking place and held by the U.S. military, were subject to punishment for the actions of insurgents and guerrillas opposed to any U.S. occupation, "[t]he citizen or native of a hostile country is thus an enemy, as one of the constituents of the hostile state or nation, and as such is subjected to the hardships of war."¹³ In some cases far from having provided assistance to the insurgents or guerrillas or having actively engaged in explicit revolt, these detainees were in peril merely because:

A prisoner of war remains answerable for his crimes committed against the captor's army or people, committed before he was captured, and for which he had not been punished by his own authorities.

All prisoners of war are liable to the infliction of retaliatory measures.¹⁴

Even though the Lieber Code provided consistent and objective legal guidance, by the end of the 19th century overzealous commanders exploited imprecise language and lack of oversight. Further attempts to control the media subsequently created a domestic response in the U.S. against a perceived European way of war; harsh and distinctly un-American.

Eventually the U.S. military's leadership determined that the self-justified legality of the Lieber Code in the face of public disapproval was not an effective strategy:

To add fuel to the fire, the last full-time Commanding General of the [U.S.] Army, Lieut. Gen. Nelson A. Miles joined the fray on the side of the critics of the Army's efforts. . . . His reports, submitted in February 1903 . . . repeated many of the same charges of the previous years, including . . . destruction of property, the use of the water cure,[‡] and the mistreatment and execution of civilians and prisoners. The report, formally released in the *Army and Navy Journal*, received widespread coverage in the newspapers at the time.¹⁵

Ultimately, Brigadier General Smith was convicted by a court martial for conduct prejudicial to good order and discipline.

By the end of the 19th century, critics of the Lieber Code found too much leeway within its legal definitions and argued that it was far too easy to impose reprisals as vengeance or even to use harsh measures in advance as preventative means. One additional contributing factor for opposition to the Lieber Code during the Philippine-American War was the autonomy military leaders exploited beyond widely held principles of the Monroe Doctrine. Consistent with the viewpoint of Samuel Clemens and much of the American public, the Philippines were well outside the limits of the Monroe Doctrine's boundaries of the western hemisphere. Eventually political will and military

[‡]A technique of torture to induce its subject to provide answers during interrogation. The method may include pumping a subject's stomach full of water or repeated near drowning by immersion.

capability merged with the Roosevelt Corollary to the Monroe Doctrine when the U.S. military began intervention in Latin America.

Despite the changing international social attitudes for acceptable conduct during warfare, the Lieber Code further served as an intermediate progression for continued evolution of land warfare laws as it provided more precise language than Grotius' earlier work. Ultimately, the U.S. imposed punishment upon its military leaders who exceeded their authority to act independently and thereby restored the legitimacy of the Lieber Code for a time. Identifying the Lieber Code's shortcomings eventually facilitated the further advance of land warfare laws in the 20th century.

The Indigenous Codes of 1865 and 1881

In order to prevent us from crying out: 'Thief! Assassin!' imperialism gags us with the *Code de l'Indigénat*, a vestige of the darkest barbarism. By virtue of this code, all the violence carried out on the natives by the colonists are [sic] legitimated in advance. Theft, torture, and murder are openly encouraged, and the guilty assured of impunity.¹⁶

During the period between America's adoption of the Lieber Code and its application in the Philippine-American War, France imposed the Indigenous Code upon the Algerian people on Bastille Day in 1865, less than one year after signing the first Geneva Convention. Charles Louis Napoléon Bonaparte, otherwise known as Emperor Napoléon III, intended for the Indigenous Code of 1865 to provide Muslim autonomy within a portion of France. Napoléon III travelled to Algeria and wanted to create an Arab kingdom within Algeria, essentially a protectorate, with himself as the king of the Arabs. The frequent revision of French constitutions during the last half of the 19th century contributed to inconsistent oversight of domestic intentions for Algerians because of subsequent international conflict such as the Franco-Prussian War.

Under the Indigenous Code, Napoléon III intended to divide Algeria into a French zone, an Arab zone, and a military zone. The capture of Napoléon III in 1870 during the Battle of Sedan, however, ended the idea of an autonomous region within French Algeria. Originally well-intentioned, in June 1881 the new Third French Republic revised the spirit of the Indigenous Code to explicitly authorize punitive power over the indigenous Algerians.

The 1881 revision of the Indigenous Code imposed discrimination upon all French subjects in any French colony. In Algeria, its punitive measures ensured European control of the agriculturally productive regions to offset the loss of territories and farmlands of Alsace-Lorraine due to France's defeat in the Franco-Prussian War. Authority to impose punishment was arbitrary for vague offenses such as disrespect and resided with the lowest echelon of French government administration, the *Cercle*.¹⁷ These *Cercle* commanders wielded the same authority as their U.S. military counterparts during the Philippine-American War under the Lieber Code: judge, jury, and executioner. Ultimately, *Cercle* commanders collected taxes, fines, and coordinated projects by naming chiefs from the local population to serve at their pleasure or whim. New settlers displaced from the lost territories subsequently expanded the cultivation of Algeria resulting in the further loss of indigenous Algerian land ownership.

The inflow of new *colons* brought voting rights with them and imposed progressively harsher conditions upon the native Algerians by systematically depriving them of land under the authority of the Indigenous Code. The most successful entrepreneurs, who became known as the *grands colons*, enjoyed tax breaks from the French government to stimulate the growth of their businesses. Their power and

influence enabled them to designate public projects to enhance their businesses. By the middle of the 20th century, Europeans in Algeria earned thirty times the average Algerian annual wage. Furthermore, the wealthiest *grands colons* earned five times the income of their counterparts in metropolitan France but paid lower taxes.¹⁸

20th Century Law

Hague Conference of 1907

There were significant shortcomings in the application of the Lieber Code during the Philippine-American War as Major General Arthur MacArthur noted on 20 December 1900:

In the armed struggle against the sovereign power of the United States now in progress in these islands [the Philippines], frequent violations of important provisions of the laws of war have recently manifested themselves, rendering it imperative . . . to remind all concerned of the existence of these laws, that exemplary punishments attach to the infringement thereof, and that their strict observance is required not only by combatant forces, but as well by noncombatants, native or alien, residing within occupied places.¹⁹

The Hague Conference of 1907 substantially clarified land warfare laws regarding reprisals and retribution. Article 23 on the laws and customs of war on land added to prohibitions already expressed in the 1899 Hague Conference:

[I]t is especially forbidden- . . . To declare abolished, suspended, or inadmissible in a court of law the rights and actions of the nationals of the hostile party. A belligerent is likewise forbidden to compel the nationals of the hostile party to take part in the operations of war directed against their own country, even if they were in the belligerent's service before the commencement of the war.²⁰

This statement reinforced the earlier and consistent Article 4 protecting prisoners of war from individuals and army commanders: "Prisoners of war are in the power of the hostile Government, but not of the individuals or corps who capture them."²¹ Bound legally, commanders were representatives of their governments in the treatment of prisoners of

war distinct from the individual authority of martial law notwithstanding the Lieber Code's exhortations of soldierly "principles of justice, honor, and humanity."²²

Despite the progress of legal precision in the evolution of land warfare laws, the concept that intense conflict could shorten war and spare lives in the long run endured. The First World War prompted battles of massive scale in manpower and materiel. Governments mobilized their militaries and instituted conscription. As previously mentioned, France called upon Algeria and many Algerians responded with service in the armed forces, for a time enjoying the equality of battlefield hardships.

Geneva Conventions of 1929 and 1949

Most of the small wars of the United States have resulted from the obligation of the Government under the spirit of the Monroe Doctrine and have been undertaken to suppress lawlessness or insurrection. . . . [C]ampaigns of conquest are contrary to the policy of the Government of the United States. It is the duty of our statesmen to define a policy relative to international relationships . . . There is mutual dependence and responsibility which calls for the highest qualities of statesmanship and military leadership. The initiative devolves upon the statesmen.²³

The Geneva Conventions of 1929 and 1949 framed the Sétif Massacre of 1945 not only in date but also in principle from the perspective of Algerians. While France viewed the French-Algerian War as large-scale maintenance of public order, many Algerians opposed the discriminatory Indigenous Code and its contradiction of the 1946 version of the French Constitution's preamble. These opponents viewed Algeria as occupied territory without a legitimate state and therefore desired representation or independence. Having failed to achieve progress with the policy of assimilation promoted by Algerian governor-general Maurice Violette in 1935, radical Algerians took military actions and sought protection under either the Geneva Convention of 1929 protecting

prisoners of war or the 1949 Geneva Convention protecting civilians against the consequences of war. France ratified the fourth Geneva Convention of 1949 in 1951. The fourth Geneva Convention set down rules for treatment of civilians by a foreign military; it included modifications to the third Geneva Convention of 1929 that dealt with the treatment of prisoners of war. The French government extended neither the protection of prisoner of war status nor the protection of accused criminal status to Algerians; it instead extended martial law culminating with the Special Powers Act of 12 March 1956.

Special Powers Act of 12 March 1956

The French Republic, faithful to its traditions, shall respect the rules of public international law. It shall undertake no war aimed at conquest, nor shall it ever employ force against the freedom of any people.²⁴

Preceding the summer furor of terror that led to a notorious exchange of terrorist bombings, the *pieds noir* bombarded the new French Prime Minister Guy Mollet with rotten tomatoes on his first visit to Algiers on 6 February 1956.²⁵ General Jacques Massu, who would later receive the authority to restore order in Algiers, was concerned by the popular uprising, “The *indigènes* have an instinct of respect, of fear of the leader. They absolutely don’t understand the behavior of the French who insult the head of their government, bombard him with tomatoes . . .”²⁶ The diary of Mouloud Feraoun contradicted Massu’s stereotypical view however,

Mr. Mollet came. He was supposed to come in order to calm [8 million Algerians] down but instead he threatened us even though we asked him for nothing and we were careful not to insult him. His compatriots insulted him; he remained calm, and the good words that he promised us were then directed toward them. Then he got back on his plane, knowing quite well that we are used to waiting.²⁷

Mollet had coordinated the new coalition government on the promise of negotiations with the FLN to restore peace in Algeria. In 1944, Messali Hadj summarized Algerian

perception of French motivation: “The achievement of France is self-evident. It leaps to the eyes, and it would be unjust to deny it; but if the French have done a lot, they did it for themselves.”²⁸

Three days after his day of tomatoes,[§] Mollet called upon the National Assembly to authorize an extension of French military service to 27 months and recall reservists to duty in February 1956.²⁹ This action would give the French army more than 500,000 personnel to conduct operations primarily in the Algerian countryside (*bled***). Approved by a vote of 455 to 76, the Special Powers Act of 12 March 1956 ultimately granted virtually unrestricted power to create policies and programs without oversight. Implementing a program of counterterrorism to defeat the military arm of the FLN before negotiating with its political apparatus, Mollet eventually ceded authority normally reserved for domestic law enforcement to the military.

Mollet’s policy was a radical shift from his coalition government’s platform for negotiations with the FLN, as Feraoun’s journal entry reflected. Mollet’s vice prime minister was none other than Pierre Mendès-France who had granted independence to both Morocco and Tunisia during his tenure as Prime Minister. Despite previous plans to reconcile, with more personnel to pursue the *fellagha*, French forces implemented new tactics to counter the ability of the insurgents to hide amongst the population.

Failing to maintain public order during the period from 1 November 1954 to early 1956, the government of France transferred generous civil authority to the military in

[§]The event came to be known as *la journée des tomates* (the day of tomatoes) in France and Algeria. The date was also significant historically as right-wing riots in Paris had nearly tipped France into civil war on 6 February 1934.

** Arabic word for vast open country.

order to address the law and order shortcomings in Algeria. Ultimately, the heavy-handed treatment of the population led to unified Algerian nationalism and independence for Algeria despite a losing military insurgency. By adopting the principle of reprisals against the population that they were supposed to protect and secure, the French military alienated the Algerian majority. The French army failed an old adage of war described to Ted Morgan by his supervisor Major de Brissac, “Those who try to impose the Indochina model on Algeria fail to see that this is not Communism, it’s Islamic nationalism. So lesson number one: ‘Understand your enemy.’”³⁰

21st Century Law

Ultimately, the French army won the Battle of Algiers militarily but lost the Algerian war morally and politically. The moment the French army adopted a strategy of torture and discrimination, a moral victory was denied. Violations of international laws for war, even when justified by domestic authorization, may have influenced the outcome of the Algerian war after the Battle of Algiers. More recently, the U.S. government redefined individuals captured during combat operations in Afghanistan and Iraq as “illegal enemy combatants” rather than enemy prisoners of war. Also, the U.S. government redefined, or explicitly omitted from the definition, “torture” methods expected to produce valuable information from these “illegal enemy combatants” in the GWOT.

Patriot Act of 26 October 2001

Any investigative or law enforcement officer, or attorney for the Government, who . . . has obtained knowledge of the contents of any wire, oral, or electronic communication, or evidence derived therefrom, may disclose such contents to any other Federal law enforcement, intelligence, protective, immigration, national

defense, or national security official to the extent that such contents include foreign intelligence or counterintelligence . . . or foreign intelligence information . . . to assist . . . in the performance of his official duties. . . .³¹

Notwithstanding any other provision of law, it shall be lawful for foreign intelligence or counterintelligence . . . or foreign intelligence information obtained as part of a criminal investigation to be disclosed to any Federal law enforcement, intelligence, protective, immigration, national defense, or national security official in order to assist . . . in the performance of his official duties.³²

In the days following the 11 September 2001 attacks on America, elected officials overwhelmingly voted cooperative information sharing to prevent the repetition of coordinated terrorist activity on American soil. The full title of Public Law 107-56 enacted on 26 October 2001, was Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism, the USA PATRIOT Act. The Patriot Act was approved in the U.S. House of Representatives by 83 percent and in the U.S. Senate by 98 percent.

The Patriot Act was contentious even upon its reauthorization vote in 2005. The Patriot Act was approved in the U.S. House of Representatives by 58 percent and in the U.S. Senate by 89 percent. Proponents voting in the majority hailed cooperation amongst government agencies previously unable to share domestic information against international threats and vice versa. Opponents complained it eroded protections against government intrusion protected by the Bill of Rights. The Special Powers Act of 12 March 1956 had passed the French National Assembly by 86 percent despite the fact that, “among other things, [it] suspended most of the guarantees of individual liberties in Algeria.”³³

Fundamentally, the Patriot Act changed five earlier U.S. laws: the Foreign Intelligence Surveillance Act of 1978, the Electronic Communications Privacy Act of

1986, the Money Laundering Control Act of 1986, the Bank Secrecy Act of 1970, and the Immigration and Nationality Act of 1952. Of note, the Foreign Intelligence Surveillance Act of 1978 was a direct result of domestic spying brought about by the Watergate scandal.

Military Commissions Act of 2006

To authorize trial by military commissions for violations of the law of war, and for other purposes.³⁴

Authorized by Congress to use all necessary and appropriate military forces to pursue the individuals and organizations responsible for the terrorist attack of 11 September 2001, President George W. Bush issued an order creating military tribunals to address the potential criminal proceedings against these individuals and organizations. The creation of these tribunals met the letter of international law for regularly constituted courts but the latitude afforded the executive branch to determine whether a combatant was legal or illegal did not eliminate the requirement to treat all captured personnel as a prisoner of war initially. Extended detentions without either the protection of prisoner of war status or criminal procedures of speedy trial harkened back to the excessive individual authority in martial laws of the Lieber Code or Special Powers Act. French military tribunals in Algiers meted out harsh sentences for *fellagha* activity (see table 1). Even convictions for *fellagha* political activity, which produced zero death sentences, carried lengthy incarceration for criminal activities. Despite the appalling conduct which precipitated such sentences, it was the imprecise method of determining who was *fellagha* that created the backlash from both the French and Algerian population. To

determine who was an insurgent, the French tortured tens of thousands of Algerians and even European French citizens.

A similar backlash domestically and internationally surrounded the enhanced interrogation techniques purportedly used to elicit operationally useful information on tactics and personnel from “illegal enemy combatants” whether at the point of capture or detained at Guantánamo Bay detention facility. While pale in comparison to the number of French subjects and citizens who “disappeared” as described by Paul Teitgen, the inappropriate behavior on the part of American soldiers and government officials damaged the perception of American morality and righteousness.³⁵ Just as when public opinion for the Philippine-American War turned despite the effective use of the “water cure,” international perception of American policy and military intentions and professionalism in the GWOT waivered.

Further exacerbating the modern dilemma of appropriate treatment for detainees, and highlighting the flaw in French treatment of its citizens and subjects during the French-Algerian War, calls for release of prisoners who were improperly categorized as “illegal enemy combatants” have been met with *Catch-22* treatment. This also mirrors an equivalent flaw in the French treatment of its citizens and subjects during the French-Algerian War. For example, on 4 October 2009, Scott Shane described the case of Alla Ali Bin Ahmed in the *New York Times*. Having been detained in error, U.S. District Court Judge Gladys Kessler ordered Ahmed’s release. Nevertheless, apprehension at transformation of Ahmed’s beliefs while under detention at Guantánamo Bay delayed his release: “Guantánamo itself might have radicalized him, exposing him to militants and embittering him against the United States.”³⁶ This situation was remarkably similar to the

state of perception for Algerians released from French authorities after questioning. Perspective for sufficient security therefore faces reflection upon the words of Benjamin Franklin, “Those who can give up essential liberty to obtain a little temporary safety, deserve neither liberty nor safety.”³⁷

¹Simon Murray, *Legionnaire: An Englishman in the French Foreign Legion*, (London, UK: Pan Books, 2000), 197.

²Robert D. Ramsey, III, *Occasional Paper (OP) 24, Savage Wars of Peace: Case Studies of Pacification in the Philippines, 1900-1902* (Fort Leavenworth, KS: Combat Studies Institute Press, 2008), 135.

³International Committee of the Red Cross, *The Mission* (Geneva, Switzerland: International Committee of the Red Cross, 2009), <http://icrc.org/HOME.NSF/060a34982cae624ec12566fe0032612/125ffe2d4c7f68acc1256ae300394f6e?OpenDocument> (accessed 3 November 2009).

⁴Henry Dunant, *A Memory of Solferino*, (Geneva, Switzerland: International Committee of the Red Cross, 1986), 2.

⁵George B. Davis, “The Geneva Convention of 1906,” *The American Journal of International Law* (Washington, DC: American Society of International Law 1, no. 2, 1907), 410.

⁶Ramsey, *OP 24*, 135.

⁷*Ibid.*, 136.

⁸*Ibid.*

⁹*Ibid.*, 139.

¹⁰Alexis de Tocqueville, 1841-Extract of *Travail sur l’Algérie*, in *Œuvres complètes* (Gallimard: Pléiade, 1991), 704 and 705.

¹¹Lucien-François de Montagnac, *Lettres d’un soldat* (Paris: Christian Destremeau, 1998), 153.

¹²Samuel Clemens, Interview, *New York Herald*, 15 October 1900.

¹³Ramsey, *OP 24*, 138.

¹⁴*Ibid.*, 145.

¹⁵Thomas Brusino, “‘Its Officers Did Not Forget’ The Philippine War, the Press, and the Pre-World War I U.S. Army” (paper presented to Military History Symposium, Fort Leavenworth, KS, 26 August 2009), 5.

¹⁶Messali Hadj “Fight Against French Imperialism!” <http://www.marxists.org/archive/messali-hadj/1928/fight-french.htm> (accessed 3 November 2009), 1928.

¹⁷Victor T. Le Vine, *Politics in Francophone Africa* (Boulder, CO: Lynne Rienner, 2004), 48-51.

¹⁸Alistair Horne, *A Savage War of Peace: Algeria 1954-1962* (New York, NY: The Viking Press, 1977), 63.

¹⁹Ramsey, *OP 24*, 159.

²⁰Hague Conference, “Regulations Respecting the Laws and Customs of War on Land (Hague IV),” (The Hague, Netherlands: 18 October 1907), Annex to the Convention, Article 23.

²¹Hague Conference, “Regulations Respecting the Laws and Customs of War on Land (Hague II & IV),” (The Hague, Netherlands: 29 July 1907 and 18 October 1907), Annex to the Convention, Article 4 (both).

²²Ramsey, *OP 24*, 136.

²³United States Marine Corps, *Small Wars Manual (Reprint of 1940 Edition)*, (Washington, DC: U.S. Government Printing Office, 1987), 2.

²⁴National Assembly of France, *Preamble to the Constitution*, (Paris: National Assembly of France, 4 November 1946), http://conseil-constitutionnel.fr/conseil-constitutionnel/root/bank_mm/anglais/cst3.pdf (accessed 3 November 2009).

²⁵Horne, *A Savage War of Peace*, 147.

²⁶*Ibid.*, 151.

²⁷Mouloud Feraoun, *Journal 1955-1962: Reflections on the French-Algerian War* (Lincoln, NE: University of Nebraska Press, 2000), 73.

²⁸Horne, *A Savage War of Peace*, 65.

²⁹*Ibid.*, 151.

³⁰Ted Morgan, *My Battle of Algiers: A Memoir* (New York, NY: Smithsonian Books, 2005), 126.

³¹USA PATRIOT Act, Section 203(b)(1)(6) (Washington, DC: 26 October 2001), <http://thomas.loc.gov/cgi-bin/query/z?c107:H.R.3162.ENR> (accessed 3 November 2009).

³²USA PATRIOT Act, Section 203(d)(1) (Washington, DC: 26 October 2001), <http://thomas.loc.gov/cgi-bin/query/z?c107:H.R.3162.ENR> (accessed 3 November 2009).

³³Benjamin Stora, *Algeria, 1830-2000: A Short History* (Ithaca, NY: Cornell University Press, 2001), 47.

³⁴Military Commissions Act (Washington, DC: 17 October 2006), <http://thomas.loc.gov/cgi-bin/query/D?c109:3:./temp/~c109IVsy2P> (accessed 3 November 2009).

³⁵Patrick Rotman, stated by Paul Teitgen in “L’ennemi intime [The Best of Enemies],” episode 3, “États d’armes,” 2002, documentary film (disc 3, “The Battle of Algiers,” The Criterion Collection, 2004).

³⁶Scott Shane, “A Detainee’s Case Shows the Hurdles That A Release Poses,” *New York Times*, 4 October 2009, 1.

³⁷Benjamin Franklin, *Memoirs of the life and writings of Benjamin Franklin* (London, UK: British and Foreign Public Library, 1818), 270.

CHAPTER 3

MODERN WARFARE, PACIFICATION, AND SMALL WARS

The Battle of Algiers

It was up to the army to run Algiers, without interference. The time of the leopards (as the paras were known) had come.¹

By 4 January 1957, the escalation and continued violence, especially in the city of Algiers, prompted newly installed French Prime Minister Guy Mollet to transfer authority from the local civilian police to the military in order to restore order. On 7 January 1957, the Algerian Resident Minister Governor-General Robert Lacoste essentially established martial law under General Jacques Massu. The delegation of power to Massu included provisions to suspend or eliminate many legal protections otherwise enjoyed under the rule of law. The former *l'heure du gendarme*,* hour of the police, gave way to the *l'heure du para*, the hour of the paratrooper.² As a result, while the desire to restore civil order and peace was legitimate, the methods adopted within what was considered metropolitan France were not. The harsh measures against the population further alienated any ambivalent French subjects who may have previously desired citizenship.

Governor-general of Algiers Robert Lacoste ordered the French army into Algiers on 7 January 1957 following a series of terrorist acts and reprisals exchanged between the FLN and the European *pieds noir*. Gillo Pontecorvo's film "The Battle of Algiers" accurately depicted the June 1956 rampage by FLN *fellagha* in Algiers following the

*Notably, a *gendarme* is not explicitly a policeman but is rather a para-military individual performing police functions. This individual is part of the *gendarmerie* but may not necessarily be part of the army. Interestingly, the *gendarmerie* of France is simultaneously under the authority of the ministries of defense and interior.

death sentence of another FLN prisoner.[†] Frustrated by their impotence to prevent these terrorist attacks and to arrest the terrorist *fellagha*, the police collaborated with extremist *pieds noir* and conducted their own counterterrorist reprisal in a spirit not unlike the Lieber Code against a suspected terrorist safe house on 10 August 1956. The *Rue de Thèbes* bombing in the Casbah, as the native Algerian enclave of Algiers was known, destroyed four houses and killed 70 residents including women and children.

The FLN responded with a coordinated reprisal on the *pieds noir* youth with nearly simultaneous bombings of a milk bar and a disco. Three young Algerian women-- Zora Drif, Djamila Bouhired, and Samia Lakhdari--adopted the dress and style of their European counterparts. Carrying small homemade explosive devices into the heart of Algiers, these women were able to avoid the ubiquitous searches of Arabs departing the Casbah. Diverting the French guards from their attention to duty with veiled flirting and distraction, all three managed to smuggle their charges to sites for vengeance against the *pieds noir*.

While these bombings contributed to the sense of instability in Algeria and were a new field for terror by both the FLN and the *pieds noir*, Ali Amara's assassination of Mayor Amédée Froger as he left his home provided an equally compelling flash point for the Battle of Algiers. Ali Amara, known as Ali la Pointe, was a former pimp, purveyor of gambling, well known for breaking French laws as well as Sharia.[‡] Saadi Yacef, who was

[†]Two FLN prisoners were actually executed: Ahmed Zabana and Ferradj Abdel-Kader. (See Horne, *A Savage War of Peace*, 183 and Morgan, *My Battle of Algiers*, 107-108 for the account).

[‡]Islamic religious law, ubiquitous to all aspects of Muslim life.

in charge of military operations within the Autonomous Zone of Algiers (ZAA[§]), enlisted Ali la Pointe for his knowledge of the Casbah and its less savory inhabitants.

General Massu moved his forces into Algiers quickly (see figure 4). Noteworthy was the fact that Massu's 10th Parachute Division had recently returned to Algeria from the failed Suez Crisis operation with British and Israeli forces. Additionally, the French established a new school known as the Center for Training and Preparation for Counter-Guerrilla Warfare (CIPCG) for the expanded military presence in Algeria at Arzew east of the city of Oran (see figures 2 and 3). General Massu divided the city and assigned his four regiments to control communities in a system known as *quadrillage* or the block warden system. Colonel Marcel Bigeard, commanding the 3d Colonial Parachute Regiment (*Régiment Parachutiste Coloniale*, or RPC) was given control of the Casbah. Bigeard established checkpoints at every entrance and instituted a census of the Casbah complete with identification of the houses and alleyways with numbering. Most significantly, the paras collected all police files and began arresting all known and suspected FLN agents and supporters. Paul Teitgen, the general secretary of the Algiers police, documented each arrest. Copies of the arrest documentation would be central to determining the extent of the military's operations and their terminal effects.³

Coinciding with the arrival of the 10th Parachute Division, the FLN coordinated a general strike to publicize its control of Algeria to the UN General Assembly. While most of the FLN's leadership advocated indiscriminate terrorism, Larbi Ben M'Hidi "criticized

[§]*Zone Autonome d'Alger*. The FLN divided Algeria into six sectors known as *Wilayas* in Arabic. Algiers represented a special revolutionary location and as such was one of two autonomous zones discrete from the other *Wilayas*.

[sic] ‘useless bloody operations’ that made a bad impression on public opinion.”⁴ He proposed:

to demonstrate in the most decisive manner the total support of the whole Algerian people for the F.L.N., its unique representative. The object of this demonstration is to bestow an incontestable authority upon our delegates at the United Nations in order to convince those rare diplomats still hesitant or possessing illusions about France’s liberal policy.⁵

The French army broke the strike using tactics that ultimately estranged many who lived and operated in the Casbah but had to participate out of fear of the FLN.

Highlighting the ability of the FLN to hide amongst the population, one citizen requested that the paras “Call two gendarmes so that they can rough me up a bit, and I’ll open.”⁶ Mouloud Feraoun, who kept a day-by-day account of the French-Algerian War, recorded “In the evening there was a large procession of compatriots who were being brought back from the villages, namely the owners of the stores who will remain here like prisoners behind their counters.”⁷ The presence of the paras did not assuage the population’s fear of the FLN when their actions were not directed at the criminals. Once again, Feraoun observed, “the FLN is notorious for not being amused when its orders are not respected . . . a half-dozen primary school teachers have already been executed by the so called FLN for various reasons . . . because they are traitors.” Notwithstanding the fear of the FLN in the Casbah, the paras measured self-defined success: “[Colonel Yves] Godard [Chief of Staff to General Massu] claims that, whereas only seventy [Muslim students] attended at the end of January, numbers had risen to 8,000 a fortnight later.”⁸ The strike failed for the FLN in the short term. The French army was stronger and more unified in action from training and consistent command messages to break the strike regardless of the cost. The strike succeeded for the FLN in the long term as the ethical

and moral costs from placing results ahead of perceptions exceeded the domestic French, international, and Algerian public's willingness to endure. The army broke the strike but forged the resolve of the FLN and more importantly, public perception at home and abroad.

Saadi Yacef and the FLN resumed terrorist attacks but the army continued to glean information from the citizens through intense interrogations. Through use of a systematic census of the Casbah and efficient reporting through the 10th Parachute Division's intelligence section, terrorist activity steadily declined (see figure 5). There was a dark side to the system, of course. Counterterrorism conducted by the paras terrorized the general population as much as the terrorist cells captured by the paras. The number of Algerians detained was significant: "between thirty and forty per cent of the entire male population of the Casbah were arrested at some point or other during the course of the Battle of Algiers."⁹ Paul Teitgen documented and recorded a majority of these arrests. The discrepancy of over 4,000 between those detained and those released or imprisoned demonstrated the extent of the dark work. Everyone was a suspect and subjected to the questioning later described by Colonel Trinquier's theory of *Modern Warfare*; even French citizens and French soldiers such as Maurice Audin, Henri Alleg, and Ted Morgan were to discover.

Ultimately, the actions surrounding Ali la Pointe, Saadi Yacef, and his girls became the bookend acts for the Battle of Algiers. Their capture and deaths at the hands of General Massu's paras were the final acts of the battle. From Mayor Amédée Froger's assassination on 28 December 1956 to the death of Ali la Pointe on 8 October 1957 only nine months had elapsed. The French-Algerian War endured another four and a half

years, but the effects from the methods employed by the French during the Battle of Algiers reverberated much longer. Successful military operations thus became the primary reason for ultimate political failure.

Modern Warfare

While he was in Stockholm to receive his award, Camus spoke to a group of university students and said the following about Algeria: 'I have always condemned terrorism. I condemn the blind terrorism that strikes in the streets of Algiers, which could strike my mother or my family. I believe in justice, but I will defend my mother first.'¹⁰

In order to understand the French situation, one must first consider contemporary French counterinsurgency theory. The individual who wields proficiency in and personal experience of an emerging military theory gains great legitimacy as an advocate and may transform a military organization through a military revolution. Personal experiences and beliefs may also influence that military revolution in a negative manner. While blending or merging similar viewpoints and attitudes may weaken a concept, the additional considerations from multiple perspectives can result in a compromise that is more favorable and sustainable. Trinquier helped develop counterinsurgency concepts for the French army during the French-Algerian War. His belief in and experiences with the French empire of the first half of the 20th century influenced his values and his lenient interpretation of what was acceptable under the laws for land warfare. The tactics he described in *Modern Warfare: A French View of Counterinsurgency* reflected the basis for division level operations tested during the Battle of Algiers.

Trinquier's experiences as a commando in Indochina influenced the development of his theory of counterinsurgent tactics. He had not only participated in French efforts to suppress the Vietnamese opposition, but also commanded the *Groupement de*

Commandos Mixtes Aéroportés (GCMA^{**}), the French effort to organize counter guerrillas in Laos and Vietnam. He further believed that most of the civilian population of Algeria was coerced by fear of the FLN and really supported the French government. In effect, Trinquier argued that a terrorist was not entitled to the protections accorded to prisoners of war because the anonymous terrorist had not accepted the risks of a legitimate uniformed soldier. According to his thinking, the terrorist could only become a prisoner of war after divulging the names and locations of other cells and cell members.

Ultimately, Trinquier's advocacy of torture was explicit and matter of fact. Nevertheless, he ignored the unintended-yet-potential consequence of alienating the innocent civilian apprehended as a suspected terrorist. Certainly, Trinquier foresaw the challenges of categorizing a terrorist as distinct from a criminal or prisoner of war. However, he was not personally involved in conducting torture and did not anticipate nor realize the dehumanizing aspects of torture for both the suspect and the torturer. Paul Teitgen, however, who had endured the Gestapo at Dachau understood torture:

Because if you once get into the torture business, you're lost. . . . Understand this, fear was the basis of it all. All our so-called civilisation [sic] is covered with a varnish. Scratch it, and underneath you find *fear*. The French, even the Germans, are not torturers by nature. But when you see the throats of your *copains*^{††} slit, then the varnish disappears.¹¹

While Trinquier's advocacy at the operational and strategic level led to effective military operations, the unintended effects of torture included nearly universal adoption by Algerians of the insurgents' cause and gave the FLN the ability to recover politically from each successive military operation. By contrast, the French government failed

^{**}Mixed Airborne Commando Group.

^{††}Friends.

politically despite repeated military successes. In particular, the image of German members of the Foreign Legion interrogating suspects outraged French public opinion, which had suffered similar torture during the German occupation of 1940-1944.¹²

Nevertheless, Trinquier was not the sole advocate for a military strategy in the French army. Two French army commanders at the highest echelons helped shape counterinsurgency and pacification. Of note:

The French command and control structure in Algeria at the time was well suited for counterinsurgency. It duplicated the existing French system of civil administration to help ensure unity of command in support of operations. Algeria's three main sectors (*igamies*^{‡‡}) corresponded to the three French Army corps, its 15 departments to France's 15 divisions, and its 72 districts (*arrondissements*^{§§}) to 72 regiments.¹³

Even before the stunning success of the Battle of Algiers, in early 1956 General Jean Olié, the military and civil governor of Kabylie and subsequently the corps commander for the Army of Constantine (see figure 3), used the newly created Special Administration Sections (SAS^{***}) to coordinate the responsibilities of reliable Berber elder councils in the Kabylie region. The Berbers were the original inhabitants of Algeria, predating the arrival of Carthaginians, Romans, Arabs, and eventually French *colons*. Many Algerians, especially the Berbers although having adopted Islam previously and subject to Sharia, nevertheless had a culture distinctive from the Arab culture. General

^{‡‡}An *igamie* was the jurisdiction of an *igame*, which is an acronym for *inspecteur général de l'administration en mission extraordinaire* (administrative inspector general on special mission). Each *igamie* corresponded to one of the original three departments. From 1955-1957, France elevated a number of subordinate districts to department status but maintained the three original department boundaries for administrative control.

^{§§}The equivalent of a district; a collection of a number of cities within a department of Algeria.

^{***}*Section Administrative Spécialisée*. A civil-military detachment.

Olié's adaptation of local councils served as a beacon for pacification that David Galula and Jean Pouget practiced later. Olié eventually replaced General Maurice Challe as the commander in Algeria following Challe's unsuccessful military coup to wrest power from President Charles De Gaulle.¹⁴

To the east of General Olié, division commander General André Beaufre divided the Constantine area in three parts: zones of pacification, zones of interdiction, and zones of operations.^{†††} Each zone was distinctive. The zones of pacification received the greatest concentration of French forces and the greatest economic support. Zones of interdiction were cleared of inhabitants and became areas where any presence was eliminated, and zones of operations were the areas “where F.L.N. bands were relentlessly pursued and harried by Beaufre's élite mobile forces . . . he was the first senior commander in Algeria to show tangible success in beating the rebels on the purely military level.”¹⁵

Both Trinquier and Beaufre shared similar experiences in Indochina. General Beaufre's strategy evolved through Trinquier into the *Modern Warfare* strategy adopted throughout Algeria despite the successes of General Olié with different methods under different cultural circumstances. General Olié and General Beaufre as well as Colonel Trinquier were supported by subordinate officers and noncommissioned officers (NCOs) trained at the French Army Center for Training and Preparation in Counter-Guerrilla Warfare (CIPCG) at Arzew. The CIPCG provided instruction on cultural specifics and tactical characteristics of fighting in Algeria. In his essay on the CIPCG, Lieutenant Colonel Guelton described its mission:

^{†††}*Zones de pacification, zones interdites, zones d'opérations.*

[the centre has to] provide teachings that are as concrete as possible about Muslim psychology and sociology, as well as about the political bases of the Algerian rebellion. It must do so with a view to giving the cadres the essential fundamentals they will require to carry out pacification activities with success, in accordance with the directives of the minister for Algeria. [It must, furthermore] provide instruction in counter-guerrilla methods that will enable these cadres to conduct, at different levels and in any type of terrain, at night as well as by day, nomadic actions as well as offensive or defensive operations.¹⁶

Instructors from the field rotated into the center to provide accurate and up-to-date information for newly posted officers and NCOs. Eventually, the commander of Algiers, General Raoul Salan, transformed the CIPCG into a psychological warfare school following the success of tactics employed in the Battle of Algiers (see figure 5).

Pacification

On March 7, Massu [Commander of the 10th Parachute Division in Algiers] ordered Bollardière [Commander of a brigade of paratroopers reinforcing Massu] in writing to give priority to police actions over pacification, since he was getting reports that Bollardière's sector was overrun by the FLN, and that he was more interested in building roads and digging irrigation ditches than he was in fighting the rebels. On March 8, Bollardière resigned his command and asked General Salan for a transfer. Salan agreed, on condition that he keep his reasons to himself and refrain from writing articles.¹⁷

While Trinquier practiced his tactics in Indochina and orchestrated the military's strategy during the Battle of Algiers, Galula actually used Trinquier's tactics at the company level. However, Galula's own experiences of religious discrimination and first hand analysis of Chinese revolutionary warfare may have led him to advocate less politically volatile techniques of counterinsurgency. Because he was Jewish, the French army expelled Galula in 1941 after the defeat of France in 1940. Later, he observed the Chinese communists prior to their defeat of the Nationalist Chinese forces. From August 1957 through April 1958 Captain Galula commanded an infantry company in the Algerian counterinsurgency. In his own interpretation of Trinquier's model in

Counterinsurgency Warfare: Theory and Practice, Galula advocated the “problem now is rather how to impress the counterinsurgent personnel with the necessity of remaining inwardly on guard while being outwardly friendly.”¹⁸ Clearly, Galula understood the implications of second order effects from overly aggressive and harsh measures.

Galula also recognized that offensive operations were still necessary to prevent insurgent forces from seizing the initiative during more friendly pacification operations. Effective offensive operations rely upon information. Galula did not specifically address how to obtain information from any source, whether that source was a captured insurgent or a supporter of the insurgency. However, he did not indicate divergent thinking from accepted laws for land warfare and the ordinarily expected treatment of criminals or prisoners of war through police, courts, and military systems. Certainly, the validity of Trinquier’s and Galula’s counterinsurgent methods is evident even today. Perhaps had the French Army combined their ideas or omitted the politically questionable endorsement of torture, the French government could have co-opted the cause of the FLN by granting French citizenship to Algerians as proposed under the concept of “assimilation” endorsed in 1936 by Maurice Violette.

Galula employed Trinquier’s tactics and operational art in pure form and with great effect. Similarly, Major Jean Pouget applied the principles of respect and protection for the Algerian population with a group of recalled conscripts who were themselves notorious for their disrespect, disobedience, irresponsibility, and general lack of discipline. Notwithstanding this, Major Pouget diverged in practice from the pure conduct of modern warfare, as defined by Roger Trinquier, by the omission of identity cards and counting of livestock. Using the tactical form of *quadrillage* only after

obtaining the invitation of the local community leaders, Major Pouget conducted pacification more closely to the fashion of David Galula. The most remarkable aspect of both Galula and Pouget was that in both instances their troops discarded former actions of brutality for acts of respect and ultimately won the support of the population.

Major Pouget's 584th *Bataillon du Train* (support battalion) transformed the indifferent population of Bordj de l'Agha, located near Bou-Saada, 150 miles from Algiers (see figures 2 and 3), into a stalwart anti-*fellagha* group at the same time that Trinquier applied the existing French doctrine and strategy during the Battle of Algiers. Pouget also conducted offensive counter-guerrilla and counterinsurgency operations. From November 1956, just prior to the commencement of the Battle of Algiers, to November 1957, just beyond the conclusion of that battle, Pouget's 584th "had taken part in 50 operations in the area of the COSA,^{†††} in the North Sahara Zone. It had also initiated 12 battles that resulted in 126 confirmed dead, 35 PoWs, and captured 200 machineguns and rifles along with ammunition. This was accomplished with the loss of only eight killed in action and 20 wounded."¹⁹ More significantly and in contrast to the treatment of civilians in Algiers, especially the 4,000 who disappeared from Algiers such as Henri Alleg's friend Maurice Audin, Pouget enforced the dignified treatment of prisoners. In fact, Pouget described the insurgent as a legitimate soldier, not a criminal and certainly not as someone predetermined as guilty; Pouget allowed no reprisals or field justice. From his own experience as a prisoner in Vietnam, he realized the benefits

^{†††}*Commandement Opérationnel du Sud-Algérien* (Operational Command of South Algeria).

of turning former insurgents and intimately understood the futility of humiliating prisoners.

Interestingly, Pouget also wrote many of the concepts later captured in the U.S. Army's Field Manual (FM) 3-24 *Counterinsurgency*. The idea that some of the most effective weapons against insurgents or terrorists do not shoot is among the counterinsurgency paradoxes. Pouget reflected upon a very effective counterinsurgent from the 584th, Private Jean-Claude Veber. Private Veber became a schoolteacher in a village, "Veber was unarmed, dressed in civilian clothes, and his only contact with the rest of the battalion was at meal times. Otherwise he lived outside the post."²⁰ Despite not using information he was able to gather from both his students and their parents, the *fellagha* understood that Veber represented the authority of the government providing education and security to the population. However, when the *fellagha* assassinated Veber, the population turned upon the attackers. The 584th was restrained once more as:

Major Pouget made sure that no reprisal was taken against the village, which had nothing to do with the murder. The *fellaghas* were expecting, and hoping for, a violent French reaction. None was to come.

The rebels had pushed the villagers into the hand of the 584th by committing a crime in their village where the schoolteacher [Veber] was a guest.²¹

By contrast, the counterterrorists-counterinsurgents in Algiers extracted information with intense methods of questioning, and by individuals other than "specialists perfectly versed in the techniques to be employed."²²

Small Wars

This type of guerrilla war is won or lost by the relationship one has with the local population: once their support is lost, then so is the war and from then on it just becomes a matter of time. How much time is another thing.²³

Half a world away from North Africa, the U.S. Marine Corps had developed its own counter-guerilla tactics. These evolved largely from experiences during the Banana Wars from the 1890s through the 1930s. The *Small Wars Manual* became the basis for irregular warfare operations. American anti-colonial values formally expressed in the Monroe Doctrine received greater international scrutiny with the adoption of the Roosevelt Corollary for Western Hemisphere policing by the United States, frequently using the U.S. Marine Corps. During the Banana Wars, critics from Latin America and Europe asserted that the Roosevelt Corollary was an excuse for the United States to install friendly governments or client states under the guise of stability. Regardless of national policy, the experiences with local populations led the U.S. Marine Corps to conclude “tolerance, sympathy, and kindness should be the keynote of our relationship with the mass of the population.” Furthermore, in dealing with the difficulty of distinguishing between insurgents and the general population, “[The military individual] will rarely fail to receive support if he has acted with caution and reasonable moderation, coupled with the necessary firmness.”²⁴ The U.S. Marine Corps determined the necessity of maintaining balance of legitimacy with the population both domestically and internationally.

From the example of effective application of similar techniques used by the U.S. Marine Corps and Galula, the role of Trinquier’s personal experiences in Indochina as a counter-guerrilla may have influenced inclusion of a negative aspect that otherwise could have been omitted or compromised in his military revolution for the French Army. All three focused on denying safe havens to enemy insurgent forces. Trinquier was the only theorist that allowed for and justified the use of brutal techniques to identify the location

of those enemy forces and eliminate them quickly. The tactics were sound but alienated the population and provided the basis for further development of anti-government support. The U.S. Marine Corps and Galula, in contrast to Trinquier, identified the population's security as key with removal or denial of the enemy forces as critical but subordinate in priority.

¹Ted Morgan, *My Battle of Algiers: A Memoir* (New York, NY: Smithsonian Books, 2005), 127.

²Alistair Horne, *A Savage War of Peace: Algeria 1954-1962* (New York, NY: The Viking Press, 1977), 28.

³Paul Aussaresses, *The Battle of the Casbah: Terrorism and Counter-Terrorism in Algeria 1955-1957* (New York, NY: Enigma Books, 2002), 84.

⁴Horne, *A Savage War of Peace*, 144.

⁵*Ibid.*, 190.

⁶*Ibid.*, 191.

⁷Mouloud Feraoun, *Journal 1955-1962: Reflections on the French-Algerian War* (Lincoln, NE: University of Nebraska Press, 2000), 174.

⁸Horne, *A Savage War of Peace*, 191.

⁹*Ibid.*, 199.

¹⁰Morgan, *My Battle of Algiers*, 238.

¹¹Horne, *A Savage War of Peace*, 204.

¹²*Ibid.*, 196 and 198.

¹³Philippe François, "Waging Counterinsurgency in Algeria: A French Point of View," *Military Review* (September-October 2008): 64.

¹⁴Unattributed, "Algeria: The Third Revolt," *Time*, 28 April 1961.

¹⁵Horne, *A Savage War of Peace*, 166.

¹⁶Frederic Guelton, “The French Army ‘Centre for Training and Preparation in Counter-Guerrilla Warfare’ (CIPCG) at Arzew” in *France and the Algerian War (1954-62): Strategy, Operations, and Diplomacy* (London, UK: Frank Cass, 2002), 37-38.

¹⁷Morgan, *My Battle of Algiers*, 165.

¹⁸David Galula, *Counterinsurgency Warfare: Theory and Practice* (Westport, CT: Praeger Security International, 2006), 85.

¹⁹Alexander Zervoudakis, “A Case of Successful Pacification: The 584th Bataillon du Train at Bordj de l’Agha (1956-57)” in *France and the Algerian War 1954-62: Strategy, Operations and Diplomacy* (London, UK: Frank Cass, 2002), 57.

²⁰*Ibid.*, 62.

²¹*Ibid.*

²²Roger Trinquier, *Modern Warfare: A French View of Counterinsurgency* (Fort Leavenworth, KS: Combat Studies Institute, 1985), 23.

²³Simon Murray, *Legionnaire: An Englishman in the French Foreign Legion* (London, UK: Pan Books, 2000), 63.

²⁴United States Marine Corps, *Small Wars Manual 1940* (Washington, DC: U.S. Government Printing Office, 1940 reprint), 32-33.

CHAPTER 4

TERRORISM, REPRISALS, AND TORTURE

The effectiveness of torturing people to make them betray their cause cannot be disputed. But with all the good results--the 'fingering' of many *fellagha*, the betrayal and subsequent capture of many of the rebel leaders--was a steady build-up of hatred against the French--a hatred that comes from living in fear and terror. And this antagonism drew the Arabs, so often before divided among themselves, into a common cause; it made them feel the necessity of combining for survival and it made them finally aware of their own strength. The French became the foreign intruder and the concept of nationalism was born in the Arabs, which was never there before.

– Simon Murray, *Legionnaire*¹

Harsh Measures

I think that all the means available to wreck tribes must be used, barring those that the human kind and the right of nations condemn. I personally believe that the laws of war enable us to ravage the country and that we must do so either by destroying the crops at harvest time or any time by making fast forays also known as raids the aim of which is to get hold of men or flocks.²

In one word, annihilate all that will not crawl beneath our feet like dogs.³

The Battle of Algiers was a defining struggle for counterterrorism and counterinsurgency. While French military forces were able to identify and dismantle the terrorist structure quickly and effectively, their tactics resulted in alienation of both the French public and more significantly the Algerian population other than the *pieds noir*.

Algeria was an important part of the French Republic economically and was not a colony but in fact, constituted three French departments. Nonetheless, dissatisfaction with the French government grew among ethnic Algerians and the French government subsequently turned to the French military when local police forces were incapable of maintaining security. The French government suspended individual rights of Algerians

and granted authority to the French military to conduct domestic police functions in Algeria.

Open insurrection began on 1 November 1954. To suppress this insurgency, the French military leadership used lessons not only from their recent conflict in Indochina (1946-1954) but also from their experience at the hands of German occupation forces during the Second World War. By adopting techniques employed by both communist and fascist opponents, the French military and government violated French moral principles as well as accepted laws for war.

These lapses of moral judgment were justified by many methods including the rationalization by French military leaders that, as they themselves had been subjected to intense interrogation techniques and the French government authorized their intentions, these techniques were for the greater good. Another rationalization was that international laws did not apply domestically when rule of domestic laws authorized the actions and activities, “the legitimization of torture does not occur in a vacuum. It is usually accompanied by a restriction on civil liberties.”⁴ As Benjamin Franklin noted, liberty and security are not mutually exclusive.

Terrorism

Roger Trinquier’s theory of *modern warfare* included the idea that terror was merely a weapon system and therefore study of its operational employment was valid. He asserted that due to the illegitimate conduct of terrorists, they could not expect protection of international laws of war or domestic law enforcement rules. He advocated methods of interrogation that included “the suffering, and perhaps the death” of prisoners for acts they may or may not have committed or merely observed.⁵ In effect, Trinquier intended

to bring terror to the terrorist despite acknowledgement of the breaches of both international laws for war and domestic laws against crime:

[the terrorist] must be made to realize that, when he is captured, he cannot be treated as an ordinary criminal, nor like a prisoner taken on the battlefield. What the forces of order who have arrested him are seeking is not to punish a crime, for which he is otherwise not personally responsible, but, as in any war, the destruction of the enemy army or its surrender.⁶

As justification, Trinquier clearly demonstrated the magnitude of the FLN's activities through his description of its military tribunals:

In the month of September, 1958, the forces of order took possession of the files of a military tribunal of one of the regions of the F.L.N. In the canton of Michelet alone, in the arrondissement (district) of Fort-National in Kabylie, more than 2,000 inhabitants were condemned to death and executed between November 1, 1954 and April 17, 1957.⁷

Ultimately, the full scope of terrorist activity in Algiers alone was demonstrated by the so-called smallpox chart for the period November 1956 through April 1957 (see figure 5).

As implied by the far-ranging incidents of terror, there were a variety of terrorist activities used by the FLN. The 70 coordinated attacks on 1 November 1954 which initiated the French-Algerian War included conventional hit-and-run tactics of guerrillas against public officials and government facilities.⁸ The FLN used religious courts to sentence Algerians to disfigurement, cutting noses and lips from those accused of smoking tobacco or drinking alcohol. The FLN also murdered those who refused to pay tribute fees or brutalized children and their families if they continued to attend European schools. The terror of the population was palpable and the people sought security just as Trinquier theorized, "When the country begins to fear and detest you [the FLN], you will no longer amount to anything. You will be nothing more than bandits, just as you are already called, or criminals who deserve to be hanged. And when they execute you, the

country will breathe a sigh of relief.”⁹ Unfortunately for the population, the French brought just as much terror to those who desired security as to the terrorists themselves. “The result is that the army is spreading terror throughout the villages. This is splendid pacification!”¹⁰

Reprisals

The law of war does not allow proclaiming either an individual belonging to the hostile army, or a citizen, or a subject of the hostile government an outlaw, who may be slain without trial by any captor, any more than the modern law of peace allows such international outlawry; on the contrary, it abhors such outrage. The sternest retaliation should follow the murder committed in consequence of such proclamation, made by whatever authority. Civilized nations look with horror upon offers of rewards for the assassination of enemies as relapses into barbarism.¹¹

The interrogators must always strive not to injure the physical and moral integrity of individuals. Science can easily place at the army’s disposition the means for obtaining what is sought.

But we must not trifle with our responsibilities. It is deceitful . . . to refuse interrogation specialists the right to seize the truly guilty terrorist and spare the innocent.¹²

At the dawn of the Battle of Algiers, the internecine nature of war in Algeria became clear in two unrelated incidents. On 8 January 1957, Mouloud Feraoun recalled his colleague’s reports of events in his hometown:

. . . we cannot dispute the truth about the atrocious crimes and systematic rapes that have taken place in the Ouadhias. Soldiers were free to defile, kill, and burn. The maquis [*fellagha*], for their part, found it necessary to overwhelm and terrorize the population in order to prevent them from rallying around the French. It is as if the *fellagha* and the French soldiers were competing to see who could be the most cruel.¹³

Further defying logic, *pieds noir* attacked the commander of all French forces in Algeria, General Raoul Salan, using two bazooka rounds after the army had been ordered to eliminate the FLN terror network in Algiers.¹⁴ The army represented the only method to

maintain *colon* hegemony, yet self-defeating irrational behavior became commonplace even within the military itself. By attacking their defenders, the *pieds noir* could have changed the perception of European French public opinion on the legitimacy of maintaining an Algeria for *colon* exploitation. Adopting pacification rather than *modern warfare* might have provided the means to restore balance between legal, moral, and ethical legitimacy for war in Algeria.

In the contest for the support of the population, the FLN and the French army used terror and reprisals to coerce. Rather than protecting the population, the French army abused the population in an effort to obtain intelligence necessary for operations against the FLN. In contradistinction to successful pacification methods used by Galula and Pouget, the harsh measures of *modern warfare* were immoral and unethical. Ultimately, to determine innocence an interrogator subjected a suspect to the same treatment as that of a guilty individual.

The French army was between and engaged with combatants of both sides. The French government, clearly abrogating responsibility to the military, appeared ineffective to all parties. Feraoun recorded his perception on 10 January 1957 as:

The French prime minister promises the Muslims of Algeria what they have always hoped for in vain. Then he promises the French in Algeria what they have always had and now fear losing. Yet, as the prime minister can only offer us what he would take from them, his declaration of intent becomes, as I see it, nothing more than the blinding light from a gigantic soap bubble.¹⁵

Even before having begun the first action of the Battle of Algiers, the French army was in a position of defending an illegitimate cause from the perspective of the Algerian population it was supposed to protect. Furthermore, the army condoned the discriminatory practice of assuming that all Algerians were *fellagha*, with notable

exceptions such as Captain David Galula, Major Jean Pouget and General Jacques Pâris de Bollardière.

The death of French soldiers led to reprisals on the part of their comrades--often aimlessly directed against innocent Algerians. French soldiers as well as *pieds noir* frequently exacted vengeance upon the first Algerian they encountered following an FLN terrorist attack. Even Ted Morgan accepted the brutalization tactics employed against captured Algerians. Before he was assigned as a propaganda officer for General Jacques Massu, Morgan was an intelligence officer for an infantry battalion in the *bled*. On one occasion following the death of a close friend, Morgan beat a captured Algerian suspected to be a political commissar, until the restrained prisoner was dead.¹⁶ In an even more rabid display of undisciplined conduct, Alistair Horne related the experience of French recruit Alain Manévy following a terrorist attack. The soldiers with Manévy broke into a Jewish shop, unable to find any native Algerians to lynch. Eventually, an SAS officer stopped the marauding soldiers:

‘I am Captain Bottier; I fought myself; I did thirty-seven jumps with the Resistance . . . You band of little idiots--you’re doing exactly what the F.L.N. terrorists count on you doing. . . .’ to Manévy, Captain Bottier disclosed that he was an S.A.S. officer in from the *bled*, adding, ‘Two months of work as an S.A.S. officer are wrecked in one evening like this.’¹⁷

The treatment in general of the population drove the Algerians to the FLN. “‘*Voilà*, we’ve won another battle. They hate the French a little more now. The stupid bastards are winning the war for us.’”¹⁸

During the Battle of Algiers, wide spread arrests and subsequent interrogation, enhanced by torture, provided much information regarding the FLN network in the city. Larbi Ben M’Hidi, one of the *neuf historiques*, was captured during the night of February

15-16, 1957.¹⁹ Regarded as the mastermind for the general strike at the beginning of the Battle of Algiers and for the various terrorist attacks in the FLN's ZAA, Major Paul Aussaresses assassinated Ben M'Hidi on 4 March 1957 after discussions with General Massu and Colonel Trinquier reached consensus that a trial for a leader of the FLN was not a good idea.²⁰ The aftermath of the assassination, committed as a masquerade of a suicide, validated the tactics from the perspective of the French army. "The death of Ben M'Hidi was a decisive blow to the FLN in Algiers. The attacks died down and the bulk of the rebels began retreating toward the Atlas Mountains near Blida."²¹ Despite success tactically, Feraoun was unconvinced of the security provided from the French army or of the (un)civilized behavior of the French government:

[T]he daily [newspaper], reports the death of Mehidi [sic], an arrested FLN leader who had just 'committed suicide' in his cell . . .

L'Express is publishing its first comments of Servan-Schreiber.* It is fantastic. But censorship will bring down its implacable claw upon the daily. That is to be expected.²²

Ultimately, in much the same way that *grands pieds noir* imposed funding of *colon* public work projects upon the *indigènes* through *prestation*, the French army imposed reprisals upon the population to discover the location of the *fellagha*.

Torture

'Now listen,' he said, in his North African accent. 'The lieutenant is giving you time to think, but afterwards you'll talk. When we have a European we look after him better than the "wogs". Everybody talks. You'll have to tell us everything--and not only a little bit of the truth, but everything.'²³

* Jean-Jacques Servan-Schreiber was the founding editor of the weekly newspaper *L'Express* and the author of the controversial book *Lieutenant en Algérie* (Lieutenant in Algeria) published in 1957. General Jacques Pâris de Bollardière publicly supported Servan-Schreiber's ideas in a letter published in *L'Express* on 27 March 1957 resulting in a military sentence of 60 days arrest. See Horne, page 203.

The French army arrested more than 24,000 residents of Algiers in 1957 as documented by records maintained by Algiers Police Chief Paul Teitgen.²⁴ Notably, more than 4,000 of those arrested simply disappeared. These people were likely killed during interrogations, which could be severe, as demonstrated by the treatment of Henri Alleg described in detail in *The Question*.[†] While Alleg was not killed during interrogation, nor made to disappear like other *crevettes Bigeard*[‡] (victims thrown into the sea weighted down with concrete blocks affixed to their feet), Alleg's treatment demonstrated the French military's willingness to use intense and extreme methods of coercion not even allowable against enemy combatants let alone domestic citizens accused of a crime. Teitgen eventually resigned in protest of the methods employed by the military near the end of the battle.

Interestingly, among the first official protests against the use of torture came from the military itself. General Jacques Pâris de Bollardière, one of the brigade commanders deployed to Algiers from the *bled* in 1957 to restore civil order, observed that after the debacle of Dien Bien Phu, the professional army “instead of coldly analysing [sic] with courageous lucidity its strategic and tactical errors . . . gave itself up to a too human inclination and tried--not without reason, however--to excuse its mistakes by the faults of civil authority and public opinion.”²⁵ This same reflection later found voice in the U.S. Army following the departure of American forces from Vietnam and the eventual fall of South Vietnam in 1975. Among the strategic errors General Bollardière could have

[†]Henri Alleg, *The Question*, University of Nebraska Press, 2006.

[‡]Bigeard's shrimp; referring to Colonel Marcel Bigeard, the commander of the 3d Colonial Parachute Regiment of General Jacques Massu's 10th Parachute Division.

pointed out was the divergence from protection of the population to reprisals against the population.

Ostensibly, “The French used two methods of interrogation to collect intelligence-torture when they needed information quickly, and standard questioning when they did not.”²⁶ During the Battle of Algiers, time was critical to prevent terrorists from continuing their wanton destruction of life and infrastructure. As a result, and imbued with the authority of police control during a state of emergency where individual rights were ignored, nearly every interrogation included torture even when it involved Europeans.

Notwithstanding the explanation of torture necessitated by timeliness, the military arrested Audin and then Alleg on 11 and 12 June 1957, respectively. Both men were members of the Algerian Communist Party (PCA[§]) and the military suspected them of providing support to terrorist cells in Algiers. The paranoia of the military against external support from international communists was endemic following the defeat of the army at Dien Bien Phu and the failure of military operations during the Suez Crisis.

Alleg was tortured immediately and intensely. At one point, the interrogators brought the two men together and instructed Audin to “tell him what’s in store for him.” Audin answered “It’s hard, Henri.”²⁷ Alleg was tortured non-stop for six days and then subjected to a sodium pentothal injection to induce him to talk. The questions were simplistic, “Where have you been hiding? To whom have you spoken?” The methods of extracting answers to these questions were savage.

[§]*Parti Communiste Algérien.*

Audin died during interrogation on 21 June 1957 but the military promoted a fabricated cover story as they had for Larbi Ben M'Hidi and documented that Audin was shot during an escape attempt. While Alleg thought he heard Audin shot to death nearly a month after his arrest, no less credible a figure than Paul Teitgen was involved in eventually uncovering that Audin had been strangled:

Teitgen described in detail the difficulty he had had in getting the military authorities to admit that they had Audin in their custody. . . . A police officer . . . had come to . . . his superior . . . with the most disquieting news: in the evening of June 21, in the course of a final interrogation, Maurice Audin had been strangled. His body had been secretly buried at Fort L'Empereur, the 'escape attempt' mounted, and the cover story arranged.²⁸

Even Ted Morgan was subjected to an intense battery of questioning regarding his various contacts and travels in Algiers including the Casbah. His three days of time-deprivation and methodical cross-referencing of his answers to documented surveillance would not be worth mentioning except that even a commissioned French officer, albeit a French-American, was arrested, isolated, questioned, and reviewed.²⁹ Considering that nearly 40 percent of the Muslim male population of Algiers was arrested during the Battle of Algiers, that 4,000 simply vanished without a trace, and that a further 29 were condemned to death in August 1957, it was not difficult to understand how the population became alienated by such an illogical expectation that "Once the interrogation is finished . . . the terrorist can take his place among soldiers."³⁰

Paramount in French counterinsurgency theory was protection of the population. Trinquier understood that the population had information on the insurgent, guerilla, or terrorist. Trinquier's technique of questioning to obtain intelligence on the insurgent network was disingenuous at best. Described at great length and in excruciating detail by Henri Alleg, the questions were perfunctory. It is ironic that for so effectively capturing

the essence of counterinsurgency, Trinquier practiced it poorly. For while Trinquier was successful at counterterrorism and even counter-guerrilla warfare, the application of his style of by Aussaresses' aggressive questioning of all suspects apprehended under the broad Special Powers Law of 12 March 1956 created the conditions that fostered nationalism among formerly neutral or disinterested Algerians.

¹Simon Murray, *Legionnaire: An Englishman in the French Foreign Legion* (London, UK: Pan Books, 2000), 63.

²Alexis de Tocqueville, 1841-Extract of *Travail sur l'Algérie*, in *Œuvres complètes* (Gallimard: Pléiade, 1991), 704 and 705.

³Lucien-François de Montagnac, *Lettres d'un soldat* (Paris: Christian Destremeau, 1998), 153.

⁴Marnia Lanzareg, *Torture and the Twilight of Empire: From Algiers to Baghdad* (Princeton, NJ: Princeton University Press, 2008), 265.

⁵Roger Trinquier, *Modern Warfare: A French View of Counterinsurgency* (Fort Leavenworth, KS: Combat Studies Institute Press, 1985), 21.

⁶Ibid.

⁷Ibid., 20.

⁸Martin S. Alexander, and J.F.V. Keiger, eds., *France and the Algerian War 1954-62: Strategy, Operations, and Diplomacy* (London, UK: Frank Cass, 2002), x.

⁹Mouloud Feraoun, *Journal 1955-1962: Reflections on the French-Algerian War* (Lincoln, NE: University of Nebraska Press, 2000), 87.

¹⁰Ibid., 108.

¹¹Robert D. Ramsey, III, *Occasional Paper (OP) 24, Savage Wars of Peace: Case Studies of Pacification in the Philippines 1900-1902* (Fort Leavenworth, KS: Combat Studies Institute Press, 2008), 155-156.

¹²Trinquier, *Modern Warfare*, 23.

¹³Feraoun, *Journal*, 166.

¹⁴Alistair Horne, *A Savage War of Peace: Algeria 1954-1962* (New York, NY: The Viking Press, 1978), 180-182.

¹⁵Feraoun, *Journal*, 167.

¹⁶Ted Morgan, *My Battle of Algiers: A Memoir* (New York, NY: Smithsonian Books, 2005), 91.

¹⁷Horne, *A Savage War of Peace*, 173.

¹⁸*Ibid.*, 174.

¹⁹Paul Aussaresses, *The Battle of the Casbah: Terrorism and Counter-Terrorism in Algeria 1955-1957* (New York, NY: Enigma Books, 2002), 133.

²⁰*Ibid.*, 137-140.

²¹*Ibid.*, 141.

²²Feraoun, *Journal*, 191.

²³Henri Alleg, *The Question* (Lincoln, NE: University of Nebraska Press, 2006), 41.

²⁴Patrick Rotman, "L'ennemi intime [The Best of Enemies]," episode 3, "États d'armes," 2002, documentary film, (disc 3, "The Battle of Algiers," The Criterion Collection, 2004).

²⁵Horne, *A Savage War of Peace*, 176.

²⁶Philippe François, "Waging Counterinsurgency in Algeria: A French Point of View," *Military Review* (September-October 2008): 65

²⁷Alleg, *The Question*, 46.

²⁸John Talbott, "The Strange Death of Maurice Audin," *Virginia Quarterly Review* (Spring 1976), <http://vqronline.org/articles/1976/spring/talbott-strange-death/> (accessed 3 November 2009).

²⁹Morgan, *My Battle of Algiers*, 258-262.

³⁰Trinquier, *Modern Warfare*, 22.

CHAPTER 5

CONCLUSION AND FINDINGS

The French have not been very subtle in their treatment of Arabs in the towns either. The Battle of Algiers in 1957 must have lost them many friends.

– Simon Murray, *Legionnaire*¹

Comparison to the Global War on Terror--The Long War

In Algeria, Afghanistan or Iraq, limited insurgencies challenged the capabilities of a world-class military. The French-Algerian war lasted from 1954 to 1962 and ended with Algerian independence. The GWOT, begun in 2001, continues today despite a much-publicized public message of mission accomplishment in Iraq in 2003. While the *casus belli* for war in each location was distinctive, the insurgencies in each country brought terror to the populations while also targeting infrastructure and institutions. Similarly, counteractions against the insurgencies by the French and U.S. militaries, perceived or publicized as reprisals, served to alienate the populations involved further from the existing governments. Most significantly, the unwillingness to reject torture and provide sufficient security has been and was the greatest shortcoming in each case.

In both France and America, the rule of law is a strong component in the culture of morality and ethics. Legitimacy of each government is balanced among all three elements. Unethical or immoral laws do not long endure. Immoral or unethical behaviors are punished, often in both professional organizations and in courts of law. Laws, ethics, and morality are dynamic and evolving. In order to maintain legitimacy, a government must ensure laws keep up with changing ethics and morals when society progresses beyond previously held beliefs. Similarly, legitimate governments pass laws to prevent erosion of morals and ethics in order to preserve society. This dynamic balance and

cooperative process is critical for maintenance of legitimate authority of a government that calls upon the blood and treasure of its citizens for defense and in order to flourish.

The French war in Algeria was simultaneously a domestic effort to maintain a dwindling empire and an internal war against international communism waged on home soil. From the Algerian perspective, the war was an effort to achieve independence from non-representative and despotic French rule. In contrast, the U.S. led invasions of both Afghanistan in 2001 and Iraq in 2003 represented a strategic foreign policy to prevent war on American soil. The specific aims were to overthrow the governments of the Taliban and of Saddam Hussein, respectively, and to protect American territory and lives from foreign adversaries using these countries as safe-havens, and both as training and launching sites for attacks on America. From the contrarian perspective, critics argued that the GWOT was a dual effort to impose Western-style hegemony and misappropriate rich Persian Gulf states' oil resources.

Whether because of conquest or liberation, the war against the U.S. and its coalition by the remnants of the Taliban in Afghanistan; the Ba'ath government of Saddam Hussein in Iraq, other Iraqi elements, and other foreign fighters, whether aligned with al Qaeda or not; was very different from the Algerian insurgency or independence movement against France. Nevertheless, there were similarities between the Algerian insurgency and that which the diverse international combatants waged in the GWOT. Understanding these similarities and differences is necessary to wage a successful and, most importantly, effective counterinsurgency. Critical to success is explicit compliance with international land warfare laws regarding prisoners of war status for legitimate combatants or prosecution under established criminal law with disclosure and the myriad

attendant requirements of the adversarial process. To treat any captured personnel differently, regardless of their actions, invites reprisals and the inevitable descent towards isolation and barbarism once more.

According to both Roger Trinquier and David Galula, modern or revolutionary warfare is a contest for the support of the general population. Contemporary U.S. Army counterinsurgency doctrine borrows heavily from the writings of both Trinquier and Galula. Security of the population from acts of terrorism serves to prevent support to an insurgency. Furthermore, security provides an environment for collection of information regarding the operations of insurgent forces. When the population feels protected and perceives that effective security comes from the legitimate government, residents of the protected population provide useful information on the location and activity of insurgents. If left unprotected, even the part of the population that supports the legitimate government has little recourse other than begrudging aid to the insurgents or a choice with inevitable consequences. As a result, both Trinquier and Galula noted that terror was a weapon system employed by the insurgent to subjugate the population and to demonstrate the impotence or indifference of the legitimate government to the conditions of the population.

When the French military adopted torture of the Algerian population, they demonstrated immoral and unethical behavior from the perspective of both neutral Algerians and domestic French public opinion. The Algerians moved to support the FLN while the French public expressed its displeasure to spend blood and treasure on further acts of discriminatory warfare. The erosion of support in France and the growing support of the FLN against France was a result of the loss of legitimacy in French ideals.

Following the 2003 invasion of Iraq, American foreign policy makers and military leaders alike expected approval and support from the Iraqi population to establish a new government in place of Saddam Hussein's Ba'ath party. Yet, when the military was disbanded and the Ba'ath party outlawed, former Iraqi government leaders and other Ba'ath party members were able to co-opt the disenfranchised soldiers much as the FLN in Algeria included alienated former French army Muslim soldiers. As a result, in both cases the insurgents took advantage of inadequate security to cripple infrastructure, foment instability, acquire weapons and ammunition from unsecured military storage facilities, and conduct guerilla warfare.

The Iraqi population, caught in the midst of the guerilla tactics, responded unfavorably to "cordon and search" operations and began to support the insurgents actively or started to organize religious and ethnic sectarian militias. Following legitimate elections of a transitional government, security improved with the addition of U.S. military forces and a new partnership to reestablish Iraqi security forces. As Iraqi national forces gained credibility with the population, confidence in the government improved and the insurgents' ability to manipulate the population dwindled. While the final outcome from this cooperation-and-partnership approach, as well as the growing potential of Iraq and its security forces has not been determined, the attention given to avoiding reprisals against the population by U.S. military forces has thus far prevented unification of disparate ethnic, political, and religious groups into a common insurgency.

The same may not be said of the GWOT in Afghanistan. Afghanistan is a larger country than Iraq, in terms of territory, with a more diverse population. Security forces used heavy-handed measures conventionally to make up for a lack of personnel. These

measures have not protected the residents. An insurgency in Afghanistan may endure as long as Afghans do not feel secure from a return of the Taliban and al Qaeda or if they fear an attack from U.S. unmanned drone aircraft, bombs, or artillery.

Of primary importance in all aspects of GWOT is the righteousness of U.S. ideals and principles. “American leaders must understand that in counterinsurgency war, the moral component can be strategically decisive.”² Whether persons are detained at Guantánamo Bay or in the U.S., whether they have better accommodations than criminals--in their home countries or not--it is vital that the international community not lose confidence in U.S. adherence to international law. The international community’s support is necessary for continued operations in the GWOT just as the support of the French population of 1954-1962 was necessary to pay for a large force in Algeria. The addition of forces and extension of duty allowed the French to pursue *fellagha* as never before. By adopting immoral and unethical tactics, their initial successes proved counterproductive. The U.S. must maintain strict adherence to existing international law regarding torture and treatment of both prisoners of war and criminals detained on the battlefield in the GWOT or risk either widening the fight or losing support. Both prospects place U.S. security at greater peril. Ultimately, any forces employed are rightly cautioned to heed Galula’s advice regarding outward professionalism and inward wariness.

Despite the differences in justification for war in Algeria and either Afghanistan or Iraq, the conduct of counterinsurgency by French forces and terrorist activity targeting civilians, infrastructure, and institutions provided U.S. forces a vital education in unexpected consequences. Even a small insurgency may challenge the capability of a

world-class military. Providing security to the population and yet avoiding reprisals becomes a daunting task.

Whether the threat is political instability, economic exploitation, or criminal activity, it is vital that due process and rule of law be maintained as a primary consideration for both political and military leaders. Legitimacy and effectiveness are equally important to the counterinsurgent. The study of historical lessons, even when under different circumstances, provides examples of both good and bad, right and wrong, providing insight for success and, just as important, foreshadowing failures to avoid.

¹Simon Murray, *Legionnaire: An Englishman in the French Foreign Legion* (London, UK: Pan Books, 2000), 63.

²Lou DiMarco, "Losing the Moral Compass: Torture and *Guerre Revolutionnaire* in the Algerian War," *Parameters* (Summer 2006): 76.

ILLUSTRATIONS

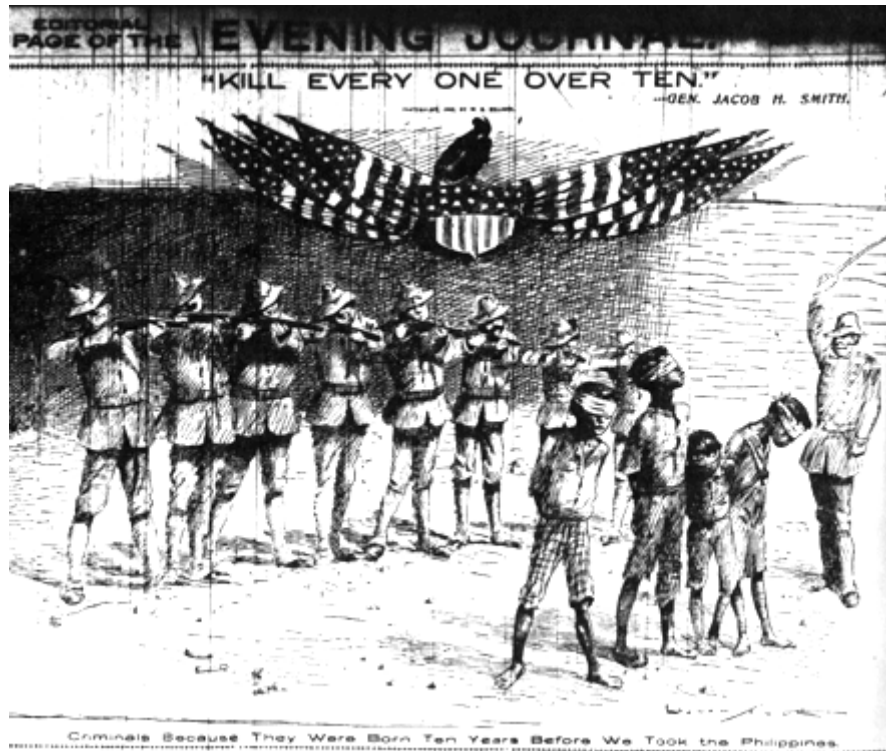


Figure 1. *New York Journal* cartoon
Source: "Kill Every One Over Ten," *New York Journal*, 5 May 1902.

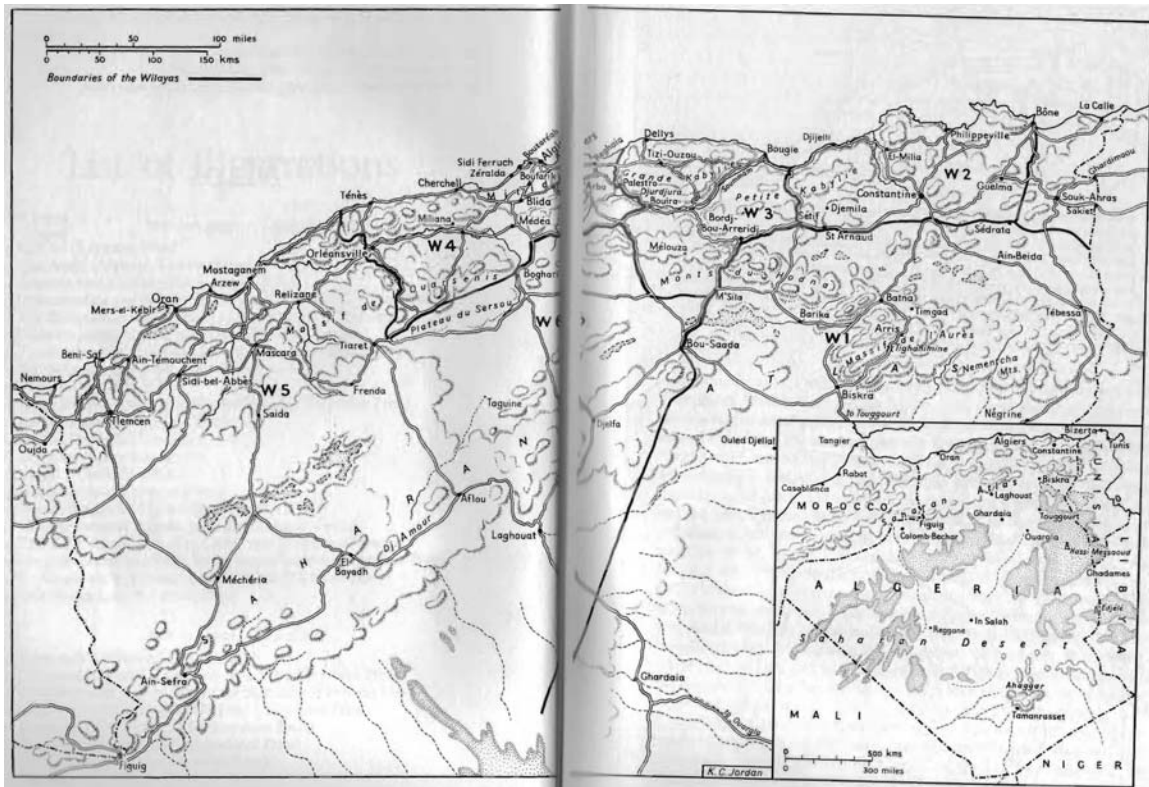


Figure 2. Map of Algeria

Source: Alistair Horne, *A Savage War of Peace: Algeria 1954-1962* (New York, NY: The Viking Press, 1977), 10-11.

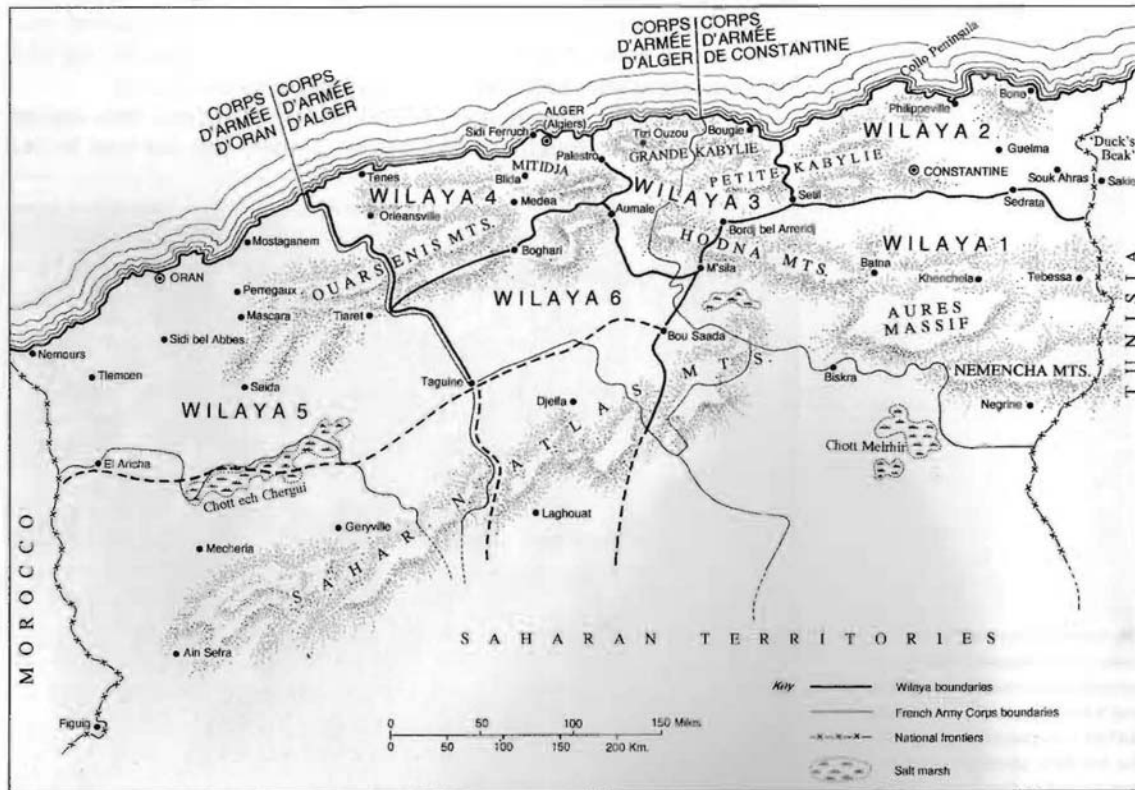


Figure 3. Map of Algeria with Military Boundaries

Source: Martin Windrow, *The Algerian War: 1954-1962* (New York, NY: Osprey Publishing Ltd., 2005), 4.

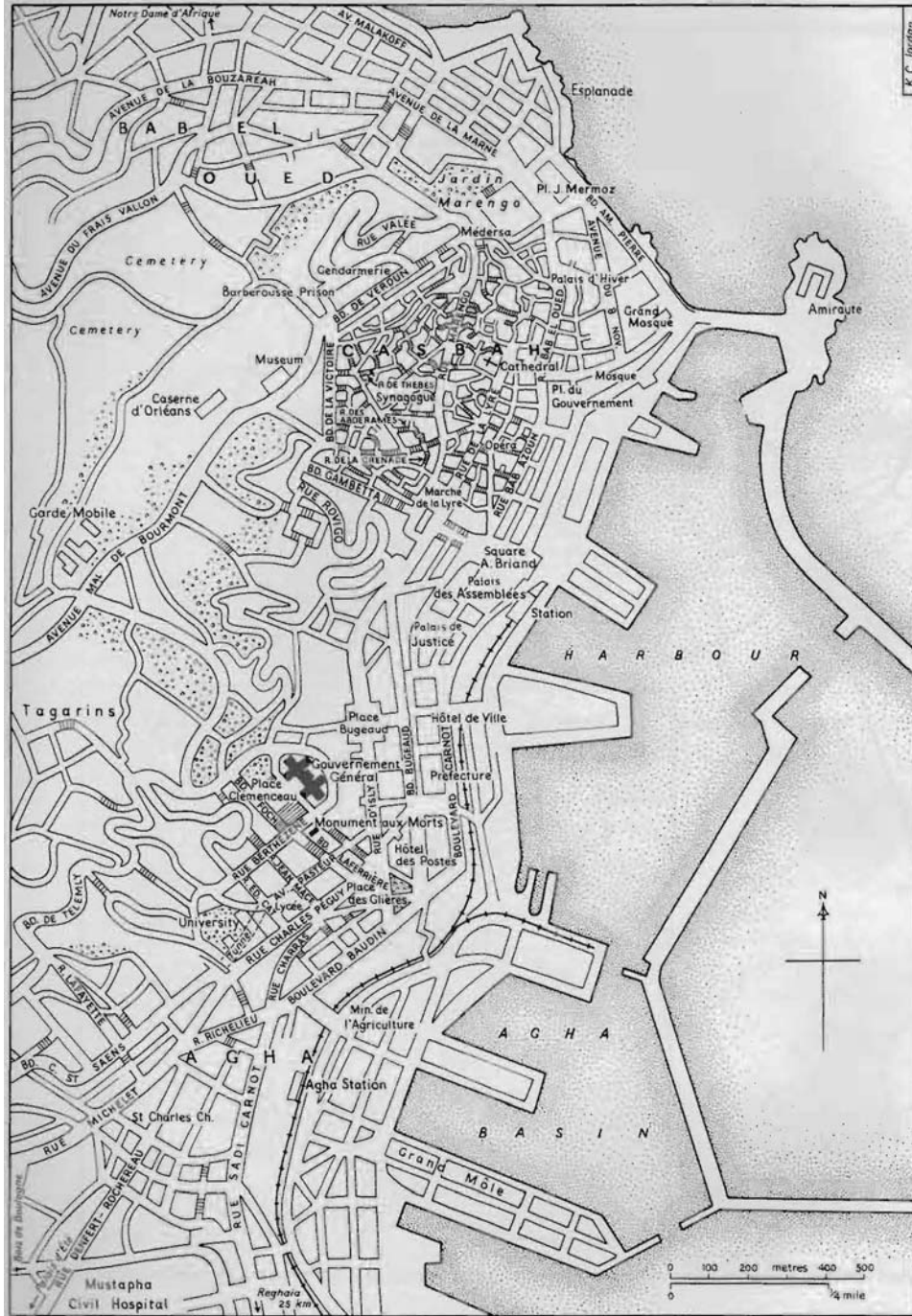


Figure 4. Map of the city of Algiers

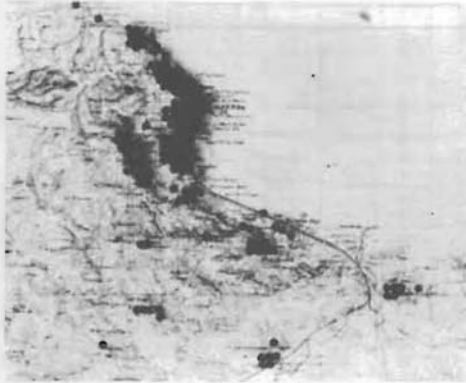
Source: Alistair Horne, *A Savage War of Peace: Algeria 1954-1962* (New York, NY: The Viking Press, 1977), 12.

LA VICTOIRE SUR LE TERRORISME



Novembre 1956.

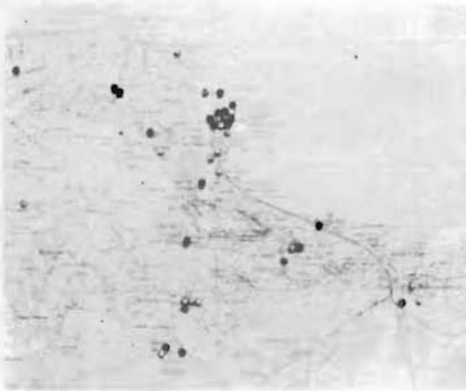
C'est en janvier 1957 que l'activité rebelle atteindra, à Alger, son maximum d'intensité. Comme le montrent ces cartes établies par la gendarmerie nationale, le terrorisme, dès le mois de février et après l'échec de la grève, sera en régression.



Janvier 1957.



Février 1957.



Mars 1957.



Avril 1957.

Figure 5. The Victory Over Terrorism-The Smallpox Chart*
Source: Jacques Massu, "La Victoire Sur le Terrorisme" (La Vraie Bataille d'Alger, Librairie Plon, 1971), photo inserts between 332 and 333).

**La Victoire Sur le Terrorisme.*

TABLES

Table 1. Guilty Verdicts from August 1957 (Algiers Military Tribunal) [†]								
Rebel Activity	Political			Military				
Charges	Violation of the safety of the State	Criminal association	Possession of illegal arms	Conspiracy to attempt assassination	Abetting assassination	Attempted assassination	Assassination	Concealment of criminals (those who gave asylum to the Chiefs of the rebellion)
Nature of sentences								
Acquittals	3					2 (a)		
Prison: 2 years	3		2					
3 years	5	2	2	2				
4 years	1	1	1					
5 years	1	1	3					
Forced labor and :								
- 5 to 10 years	0	3	11		2			
10 to 20 years	0	5	15		3			
Life	0	0	1	1			1	
Death	0	0	0	3	6	6	12	2 (b)
Total Death Sentences	Zero			Twenty-nine				

(a) For the record, these individuals who were faulted in point of fact were not making an attempt.

(b) The two condemned attempted to give asylum to the two chiefs: AMAR Ali alias <ALI-la-POINTE> and YACEF SAADI.

Source: Jacques Massu, *La Vraie Bataille d'Alger* (La Vraie Bataille d'Alger, Librairie Plon, 1971), 379.

[†]*Condemnations de Mois d'Aout 1957 (T.P.F.A d'Alger)*, where T.P.F.A. is the shortened version of *Tribunal Permanent des Forces Armées*.

GLOSSARY

ALN (Armée de Libération Nationale). Military wing of the FLN.

Bled. Arabic word for the vast open countryside.

Colon. European colonist or settler of Algeria.

DPU (Dispositif de Protection Urbain). City protection deployment of the block warden system (also see *quadrillage*).

Fellagha. Arabic word for bandit. Name given to Algerian rebels.

FLN (Front de Libération Nationale). Originally an Algerian group which started to bid for independence from France and later became the official voice of the Algerian freedom movement

Gégène. Electrical device used for torture.

Harki. Algerian soldier fighting with the French army.

Mechta. Arabic word for dwelling or village.

OAS (Organisation de l'armée secrète). Secret army founded by French civilians in Algeria with the aim of preventing Algerian independence.

Pieds noir. Literally “black feet” in French. Refers to a European colonist. Also see *colon*.

Quadrillage. The block warden system of cordon and separation of areas by French army units in the French-Algerian War. Promoted by Colonel Roger Trinquier in his book, *Modern Warfare: A French View on Counter-insurgency*.

SAS (Sections Administrative Spécialisées). The French army civil-military cooperation unit.

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