

# PEACE & STABILITY OPERATIONS JOURNAL ONLINE

THE OFFICIAL JOURNAL OF THE PEACEKEEPING & STABILITY OPERATIONS INSTITUTE

## INSIDE

**5th Annual  
Training and Education  
Conference**

**Children Trafficking:  
Stain on Humanity**

**Rule of Law and Justice  
in Security Sector Reform**

**Transitions Conference: Issues,  
Challenges and Solutions**



[HTTP://PKSOI.ARMY.MIL](http://PKSOI.ARMY.MIL)



# PEACE & STABILITY OPERATIONS JOURNAL ONLINE

Volume 1, Issue 1

October 2010



2

## Features

2 Rule of Law and a Favorable 21<sup>st</sup> Century World Order  
*by Harry R. (Rich) Yarger*

7 Laying the Foundation of Rule of Law for  
Fragile States through Constitutional Development  
*by Mr. Raymond A. Millen*

10 Children Trafficking: Stain on Humanity  
*by Dr. Ibrahim Elghazawi*

13 Rule of Law and Justice in Security Sector Reform  
*by Colonel (retired) Anthony S. Lieto*

17 International Humanitarian and International Human  
Rights Law  
*by J.H. Nichols*

20 The Pacification Efforts in Haiti's Cite Soleil and  
Martissant  
*by LTC Tony Johnson*

22 PKSOI Upcoming Events, 1<sup>st</sup> Annual Transitions  
Conference  
*sponsored by PKSOI*

23 The 5<sup>th</sup> Annual Stability Operations Training  
and Education Conference  
*sponsored by PKSOI*

25 SOLLIMS Update, Stability Operations Lessons  
Learned & Information Management System



13



20

You can view previous issues and sign  
up for our mailing list at:

<http://PKSOI.army.mil>



# PKSOI



# DIRECTORS CORNER

by COL. Steve Smith

## Rule of Law: A Solution to Instability

In this edition of the Journal, we focus on the issue of rule of law. The authors in this Journal examine rule of law from various perspectives and offer their insights of this issue in today's world. Rule of law limits the power of government by setting the rules and procedures to prohibit autocratic power and ensure justice. It also establishes the baseline for peaceful and positive competition within the international community. It is essential to both legitimate and effective governance as well as stability within the international environment.



In the first article, Dr. Rich Yarger argues that rule of law is the strategic lynchpin of stability in the 21<sup>st</sup> century. He offers definitions and a perspective for thinking about rule of law at the state and international levels. He points out the distinctions between rule of law, rule by law, and justice – arguing that while they can in many ways be the same, the differences are important. He finds no inherent contradictions between religious ideas of justice and rule of law justice and suggests that rule of law is the one thing the world's people can in fact agree on. As a result, stability can be founded on states and an international order that adheres to rule of law.

In the second article, “Laying the Foundation of Rule of Law for Fragile States through Constitutional Development,” Professor Raymond Millen reminds us that a constitution is a contract between the citizens and the federal government, so domestic conflicts are likely when flaws in the constitution represent a breach of the social contract. Accordingly, it becomes paramount that the international community devotes meaningful attention to the crafting of a constitution, especially the enlisting of constitutional scholars. Perhaps the greatest gift the international community can give a struggling state is an enduring constitution, one that enshrines and promotes a state based in rule of law.

In “Children Trafficking: Stain on Humanity,” visiting professor Dr. Ibrahim Hassan Elghazawi calls attention to the growing market of human trafficking. This trade flourishes in regions with weak law enforcement. The high demand associated with

the human trafficking results in illicit profits reaching \$32 billion annually and involves an estimated 13.5 million children, women, and men in the sex trade or slave market. Although the United Nations has taken positive steps to combat human trafficking, Dr. Elghazawi concludes that:

...the fight against children trafficking is failing, and greater efforts are desperately needed to even make a dent in it. Greater international cooperation, greater use of advanced technology, and greater joint military-police training, planning, and implementation are essential. It is not enough to state that human trafficking is a stain on humanity.

Poignantly, Dr. Elghazawi brings a human dimension to a statistic: “What if it were your child?” His research emphasizes why rule of law must be a global enterprise.

Professor Tony Lieto provides a unique insight into detention operations from his experiences as the former Deputy Commander of Task Force 134 in Iraq. Conceptualized as “the counterinsurgency behind the wire,” the focus of TF 134 effort was on programs, evaluations, and schools to assist with the reintegration of detainees into a civil society.

Professor Hank Nichols’ article on international humanitarian law and international human rights law discusses the origins and differences between the two in addition to the current international trend toward complementary application.

In the Police operations corner, our resident Military Police Officer, who deployed to Haiti and conducted United Nations Police training, provides an insightful perspective of the importance of international police trainers building police forces capable of restoring rule of law.

PKSOI continues to stress stability operations as part of full spectrum operations. One of the overall goals is for the local population to have confidence that they will be treated fairly and justly under the law. They must also have access to justice and an open and participatory government. The trust and confidence of the people in the institutions, entities, and persons who govern are ultimately founded in rule of law. In essence, rule of law encapsulates the international norms of creating a nation governed by laws and not the arbitrary actions of men.



# Rule of Law and a Favorable 21<sup>st</sup> Century World Order<sup>1</sup>

by Harry R. (Rich) Yarger

Where the law is subject to some other authority and has none of its own, the collapse of the state, in my view, is not far off; but if law is the master of the government and the government is its slave, then the situation is full of promise and men enjoy all the blessings that the gods shower on a state. Plato<sup>2</sup>

“Rule of law” is one of those big ideas that are essential to a favorable world order in the 21<sup>st</sup> century. As Plato’s quote above reminds us, rule of law is not a new idea and historically it appears to have a degree of universality. For example, throughout Islamic history, the population and rulers alike were expected to conduct themselves in accordance with the word of God as recorded in the Qur’an (Koran) and the Prophet’s life as provided in the Sunnah and expressed in Sharia. In a similar manner, John Locke believed he was consistent with “natural laws” when he stated “Wherever law ends; tyranny begins.” Hence, these philosophers’ conclusions are not inconsistent with religious points of view as in some manner all major religions seek to explain how men should live in society and provide for justice among themselves. In the 21<sup>st</sup> century rule of law writ large is a secular expression of the nature of and moral justification for the modern state and, increasingly, the international order as we know it. Its conceptualization is broader than in the past. One could argue rule of law is not so much a new idea as it is a global manifestation of what a functioning 21<sup>st</sup> century state and international order must be—a manifestation that states wishing to compete successfully in the modern world must embrace and one that, if successful nations want a favorable future, they must propagate. In essence, rule of law is the price of admission to the advantages of the 21<sup>st</sup> century globalized world order and the linchpin of its stability—clearly worth thinking strategically about it!

## Justice, Rule of Law, and Rule by Law

The concept of justice is universal among societies; the inculcation of rule of law in governments as we use it today is less so. While on the surface the two concepts appear rather analogous and are often used interchangeably, they are not the same things. You can have “justice” without “rule of law.” This is clear in the way the United Nations defines the two:

For the United Nations, justice is an ideal of accountability and fairness in the protection and vindication of rights and the prevention and punishment of wrongs.

Justice implies regard for the rights of the accused, for the interests of victims and for the well-being of society at large. It is a concept rooted in all national cultures and traditions and, while its administration usually implies formal judicial mechanisms, traditional dispute resolution mechanisms are equally relevant.<sup>3</sup>



**Conference on The Rule of Law in Afghanistan 3 July 2007, Rome Foreign Ministry International Conference Hall**

On the other hand The Secretary General of the United Nations explained rule of law as:

The rule of law is a concept at the very heart of the Organization’s [United Nations] mission. It refers to a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency.<sup>4</sup>

In simple terms, justice can be rendered by God, chance, individuals, communities, or governments. Rule of law sets the secular rules and standards for determining what is acceptable and right in the affairs of men within the state and among states and peoples in the global order. Rule of law tenets can be founded in logic, philosophy, and religion; but as a whole it is a secular concept about governance that has widespread appeal. Rule of

law and justice are inexplicitly linked—when the rules are collectively agreed on and followed, a secular justice prevails—but they are not always one and the same, as any theologian would argue God’s justice is independent of man’s.

Other definitions for rule of law exist. U.S. Army FM 3-07 Stability Operations defines rule of law as: “A principle under which all persons, institutions, and entities, public and private, including the state itself, are publically promulgated, equally enforced, and independently adjudicated, and that are consistent with international human rights principles.”<sup>5</sup> In other words “the [secular] rule of law may be most concretely defined as a theory of governance relying upon a series of legal and social constraints designed to encourage order and to prevent arbitrary and unreasonable exercise of government power.”<sup>6</sup> All of these definitions are appropriate; however, none quite captures the relationships among and the criticality of rule of law to modern state governance and a favorable international order. In the increasingly interconnected 21<sup>st</sup> century world order, adherence to a universally accepted concept of rule of law explains how states must exercise sovereignty at home and abroad and a state’s adherence to and support of rule of law internally and in foreign affairs is the visible symbol—the measure of—the legitimacy of the individual state as well as the success of the international order.



**Gardez Mayor Soribor, Paktia Governor Hakim Taniwal and PRT Commander LTC Brendan O’Shea cut the ceremonial ribbon for the Gardez Road improvement project sponsored by USAID and the Gardez Provincial Reconstruction Team.**

Even in the West, where rule of law as a theoretical construct is more readily accepted, it is often applied differently or not embraced fully. In other societies, different mechanisms, such as religion or cultural practices, serve to direct and constrain governance toward more socially acceptable and just ends. In some cases governments through cults of personality, oligarchies, and

brute force still imposed their will on their populations irrespective of any form of law or justice. In others, religion is used by elites to control populations as opposed to religion helping to define justice in a modern world. Any of these states may use rule by law but do not have rule of law. The distinction is important. In rule of law, law is founded in man’s universal rights and governments serve the people and are subordinate to the law; whereas in rule by law, governments use law as a method to exercise control over the people. Rule by law can be arbitrary, as with dictators or oligarchies, where the rules change or are enforced at the whim of elites or principled, wherein codes are more uniformly enforced.

The ideas of modern rule of law are universal and its ideas are integral to western and non-western cultures and religion alike. Its tenets, or principles, have often been referred to as part of “natural law” to explain their universal appeal. While various sources offer somewhat differing lists, the following explanation of rule of law provides a prospective summary of broad “principles.”

Rule of law refers to an end state in which all individuals and institutions, public and private, and the state itself are held accountable to the law, which is supreme. Laws must be consistent with international human rights norms and standards, legally certain, legally transparent, drafted with procedural transparency, and publicly promulgated. This end state requires equal enforcement and equality before the law, independent adjudication of the law, fairness in the application of the law, and avoidance of arbitrariness. Access to justice—the ability of people to seek and obtain a remedy through informal or formal institutions of justice—is a mutually reinforcing component of rule of law. The rule of law requires the separation of powers and participation in decision-making. Rule of law is the ideal that states strive for; stabilization requires urgent focus toward this end.<sup>7</sup>

## 21<sup>st</sup> Century Globalism and the Rule of Law

In the past rule by law practices were good enough even when morally questionable, but the globalization of the 21<sup>st</sup> century directly challenges such traditional practice and is much less tolerant of perceived injustice as well as inconsistencies with more progressive global trends. Globalization’s increasing interconnectiveness has made progress in successful states more noticeable and has universally raised the expectations of both domestic and global populations in regard to quality of life, governance, and justice. While extremists and populists have played somewhat successfully to these expectations in recent years in



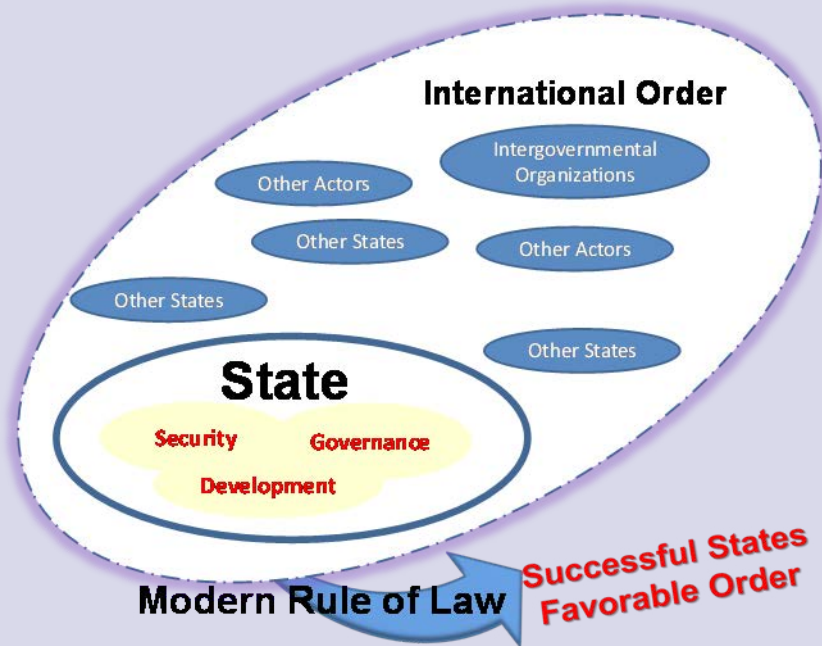
various states and regions, the disadvantaged populations of less successful states and in reality been more motivated by universal ideas of human rights, human dignity, and greater social progress than any particular ideological movement. Peoples' access to information and realization of their society's relative shortcomings have led many citizens to question the legitimacy of their own governments, while global concern grows over how some states mistreat or neglect their domestic populations. In many cases, people's religious and cultural understanding of justice contributes to their disappointment in existing governance. In such fragile, failing, or regressive states, adoption of modern rule of law with appropriate cultural nuances is the roadmap to a successful 21<sup>st</sup> century for the state and its people. Governments that cannot provide this roadmap will be confronted by increasing challenges to their legitimacy, and subsequently challenges to their sovereignty.

Make no mistake. States remain the most viable organizing mechanisms for a stable international order in the 21<sup>st</sup> century. However, the paradigm for successful states has changed from the 19<sup>th</sup> century state model in which the ability to exercise sovereignty through control of violence equated to legitimacy, or the paradigm of most of the 20<sup>th</sup> century when ideology excused governments' failures. Under these paradigms, states could suppress their populations with little regard to outside intervention. However, with the end of the Cold War and the advent of globalism, the aspirations of the world's people for a better life for all have been rekindled, similar to the embracement of Wilsonianism at the end of the First World War and the end of colonialism at the end of the Second.

More and more governments are being held accountable by their own people, or through the indirect and direct actions of external actors, to the broader ideas inherent to the rule of law codified in agreements such as The Universal Declaration of Human Rights adopted long ago in 1948 by the United Nations General Assembly.<sup>8</sup> In the new paradigm, successful states are those that are able to integrate security, governance, and development under the sphere of rule of law in such a manner that a near-continual progress for their populations ensues. In this paradigm, success begets a level of domestic and international legitimacy that empowers these states to exercise a broader sovereignty in domestic affairs and to collaborate more effectively with other successful states to build a favorable world order for their citizens.

## Rule of Law, Sovereignty, and Legitimacy

The peoples of the world increasingly define good governance as states' abilities to respond to citizens' needs beyond providing a



degree of physical security and demand more services of governments as well as increased competence and accountability. Expectations of state sovereignty are greater. The more successful nations of today illustrate the benefits of this broader exercise of sovereignty and achieve it by better leveraging their human capital to further development within the state. Development funds greater state services—and success is not just a Western phenomenon! Governments that fail to embrace rule of law and create the conditions in which their human capital can flourish—security, good governance, and development—cannot compete in positive ways with other states and provide the range of essential services expected in the 21<sup>st</sup> century. Consequently, such a state's legitimacy is always in question. Governments of such states increasingly depend on subterfuge—escalating use of force, false threats to security, and demagoguery—that is ultimately self-defeating, leading to state failure or successful political challengers. It is true the willingness to use brute force has its own legitimacy, but for most states brute force largely limits the exercise of sovereignty to internal affairs and is inherently and increasingly risky for the régime that relies on it in the more globalized 21<sup>st</sup> century. The rule of law is essential to a successful state, and ultimately to governing elites. It creates the internal conditions for success and by its nature bestows legitimacy on the state that adheres to it.

Furthermore, global interconnectiveness internationalizes traditionally internal state issues of legitimacy and sovereignty beyond the borders of the state and into the world arena. Contrary or inappropriate actions and the inability or refusal of a state to adhere to more universally accepted rule of law principles interact with the external strategic environment on multiple planes: economic, civil society, and intergovernmental.

tal levels—international business, humanitarian concerns, and international relations. Such interconnectiveness extends to all aspects of how a state exercises sovereignty and accumulates legitimacy.

Today, the world's economy is so interconnected that for a state to ensure an acceptable standard of social well-being to its citizens it must compete successfully in the globalized economy. To compete in the global economy the state's rule of law must support a market economy internally and externally. State laws must accommodate and complement a body of international law, agreements, and practices because these international "rules" are the stabilizing force behind global economic development, and subsequently each state's economic development. Global economic practices are increasingly rooted in rule of law. Some see such rules as an infringement on the autonomy of states, but the phenomenon is better understood as a rule set for exercising state sovereignty in regard to economics in the 21st century world order. Ultimately, the success of the state in providing security and governance is dependent on development of a successful economy to support them.<sup>9</sup> Yet, a successful economy is equally dependent on the security and governance that promotes such development.

Globalization has also given rise to a global civil society that acts beyond and across state boundaries, creating transnational identities and uniting populations and communities of interest in regard to specific issues. The global society includes a vast array of institutions and organizations: academia, activists and interest groups, charities, consumer and professional organizations, volunteer groups, businesses and trade unions, and others. Such organizations and groups can act independently or cooperatively among themselves. They also act through various state, intergovernmental, and other global structures such as the media to influence conditions and governance within particular states and around the globe. Some argue a collective mentality governs this greater civil society and the peoples of the world more generally, significantly enhancing civil society's power relative to states. If so, it is because the states collectively accede to it. Civil society can influence state governments directly, states' populations, differing interest groups and sectors within states, relationships among states, and states relationships with intergovernmental organizations and other global organizations. Civil society's power lies in part in the legitimacy the civil actor enjoys and in larger part their individual and collective ability to confer or detract from a particular state's legitimacy. Not surprising, civil society's growth and influence is a consequence of the increased adherence to rule of law by states, and the ensuing reciprocal relationship is helping to shape and promulgate modern rule of law.

Equally important, rule of law is pivotal in intergovernmental relationships with significant implications for state sovereignty and legitimacy. It provides a common basis for expectations in other states' roles and behavior in governance and increasingly shapes relationships among states. Traditional sovereignty largely granted states impunity for their internal actions in regard to both their populations and geography. Other states were able to look the other way as long as their particular security interests were unaffected. Globalization and interconnectivity have changed this. States who, through their ideology or shortcomings, cannot meet the needs and expectations of their people or in some manner challenge the stability of the still emerging rule of law centric world order will find both their legitimacy and sovereignty challenged by other states.

Fragile or failing states whose problems are exported to other states, or whose actions interfere with the security, governance, and development of other states, are problematic for the international community overall. Abuse of populations, or some part of them, and economic crisis can result in migrations that pose real problems for gaining states—physical and fiscal ones that challenge sovereign capabilities, threaten internal stability, and create new sets of legitimacy issues. Internal state issues exported through symptoms such as international crime and terrorism directly challenge the sovereignty and legitimacy of states far around the globe as well as neighboring states. Other nations' populations can react to humanitarian crises by politically demanding intervention—demands that politicians in a media-swayed environment may be unable to resist, even when action is strategically imprudent. Hence, bad governance anywhere poses potential security, governance, and developmental threats for more and more affected external powers and the global community in general.

Sufficient bad governance ultimately compels the members of the international community to act in ways that affect the aberrant state's sovereignty and legitimacy, often to the detriment of the political elites in power. Intervention, even when invited, affects a state's exercise of its sovereignty to some degree and poses potential legitimacy issues as people look to other sources for services. Regressive governments may be excluded from access to those mechanisms of international governance where the degree of legitimacy determines the role particular states play in how the world order is shaped.

For example, North Korea has the legitimacy afforded by United Nations membership and plays a minor role in balance of power posturing, but its legitimacy garners little else from the international community beyond a baying voice in the General Assembly. Each time the North Korean régime appears ready

to step into the 21<sup>st</sup> century, they bump into some minor aspect of rule of law (expectations in regard to internal or external governance) and react in a manner that invariably compromises what little legitimacy allowed them a seat at the conference table—neither grasping the relationship among security, governance, and development, nor recognizing the essentiality of rule of law to a successful state and their own long-term survival. The North Korean elites continue to survive amongst shrinking resources and increasing risk, but only affect world affairs through military posturing and the international sympathy for their starving population.


## Conclusions

Peoples in the vastly differing states around the world observe that others are more successful and grasp that it is the universality of the ideas and mechanisms—the sphere—of rule of law that encourage the flourishing of that miraculous balance of security, governance, and development leading to a successful state, and subsequently a successful international order. Modern rule of law as a concept is complex and its inculcation is often difficult—that is why it has a whole body of literature devoted to it. Nonetheless, it is not inherently contradictory to the ideas of justice of any culture or religion and the strategic lessons are self-evident.

First, in building successful states, modern rule of law creates an essential new balance of internal sovereignty and legitimacy in the state that best serves the expectations of 21<sup>st</sup> century populations. It explains the “what and the how” of security, governance, and development, and the relationships among them. Fundamentally, rule of law in its comprehensive modern form offers a new basis of trust among peoples and their governments whereas in the past physical security and force dominated this bond. However, rule of law is more than just an internal relationship among a state’s government and its people.

The second strategic lesson is that modern rule of law is also the coin of trust among the various states and actors in the still emerging interconnected and largely interdependent world order of the 21<sup>st</sup> century—the linchpin that holds a favorable world order for creating successful states together. If this trust does not exist or is lost within a state, between a state and the international community, or among sufficient states within the international order, stability is at risk and security concerns may again dominate internal and international affairs. Consequently, rule of law must be understood comprehensively in the context of internal state affairs and external state affairs, and while disparities with rule of law principles within and among states

can and do exist, differences cannot be so great that they cause a successful internal challenge to the state, prevent the state’s successful participation in the international order, or destabilize the international order.

Transforming to a 21<sup>st</sup> century rule of law state may be complex and difficult, but the need is clear and the advantages compelling to any true statesman. The need to propagate rule of law is equally obvious, and the security consequences of the international community failing to do so are more than compelling. 

<sup>1</sup>*This article is adapted from Harry R. Yarger, “Successful State-Building: Thinking Strategically About Stability Operations” (Draft Monograph, U.S. Army Peacekeeping and Stability Operations Institute, Carlisle, Pennsylvania, 2010)*

<sup>2</sup>*Plato, quoted in “Common Sense and the Rule of Law” by Richard Salbato, May 29, 2009; available at <http://www.unitypublishing.com/Government/RuleOfLaw.htm>; accessed 20 August 2009.*

<sup>3</sup>*Secretary General of the United Nations, “The rule of law and transitional justice in conflict and post-conflict societies,” Report to Security Council, S/2004/616, 23 August 2004; available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N04/395/29/PDF/N0439529.pdf?OpenElement>; Internet; Accessed 11 November 2009, 4.*

<sup>4</sup>*Ibid.*

*U.S. Army, FM 3-07 Stability Operations (Department of Army: Washington, D.C., 6 October 2008) Glossary 9.*

<sup>5</sup>*The University of Iowa Center for International Finance and Development, [http://www.uiowa.edu/ifdebook/faq/Rule\\_of\\_Law.shtml](http://www.uiowa.edu/ifdebook/faq/Rule_of_Law.shtml), accessed 7 October 2009.*

<sup>7</sup>*United States Institute of Peace and United States Army Peacekeeping and Stability Operations Institute, Guiding Principles for Stabilization and Reconstruction (United States Institute of Peace Press: Washington, D.C., 2009) 7-64.*

<sup>8</sup>*United Nations, “The Universal Declaration of Human Rights,” available at <http://www.un.org/en/documents/udhr/index.shtml>; accessed 20 August 2010.*

<sup>9</sup>*The University of Iowa Center for International Finance and Development, [http://www.uiowa.edu/ifdebook/faq/Rule\\_of\\_Law.shtml](http://www.uiowa.edu/ifdebook/faq/Rule_of_Law.shtml), (accessed 7 October 2009).*



# Laying the Foundation of Rule of Law for Fragile States through Constitutional Development

by Raymond Millen

One of the early milestones for Security Sector Reform (SSR) involves the establishment of a constitution for a newly formed government. As the cornerstone for rule of law, development of a constitution is a strategic imperative. However, the degree to which the nations involved in SSR take this task seriously is open to question. If development of a constitution is regarded as a menial task, to complete expeditiously so the United Nations can attend to more immediate SSR matters, then there stands a high likelihood of flaws in the constitution, perhaps fatal flaws, which may confound the maturation of a young democracy. In view of the profound impact a political system has on society, the creation of a new constitution deserves serious attention, with constitutional scholars assisting in its drafting. Without this dedicated, intellectual foundation, a constitution becomes nothing but a scrap of paper.

Fundamentally, systemic and structural flaws in a political system are not self-correcting, but tend to worsen over time, leading to rising discontent, grievances, and conflict. Government corruption, arbitrary governance, and general arrogance of power are all symptoms of constitutional defects. Rendering scholarly expertise on the essential elements of a constitutional structure must be the first step in establishing rule of law.

From his treatise on government, the great philosopher John Locke deduced that a constitution is the social contract between the people and the government. Government serves one grand purpose—to preserve the property of its citizens. Property, in this sense, includes not only possessions acquired or developed through labor, but also life itself.<sup>1</sup> Hence, the essence of a constitution is to protect the inalienable rights of the citizenry. Since they are tied to natural laws, inalienable rights include inter alia property, self-preservation, self-protection, no unlawful detention, the petition for a writ of habeas corpus, no taxation without representation, and the inviolability of the contract. Essential constitutional mechanisms to protect these rights include separation of powers, checks and balances, and limited central government.<sup>2</sup> Under such a political arrangement, sovereignty remains with the people, and hence, the government governs through consent of the people. If a government does not govern by consent, its domestic legitimacy becomes brittle. Under these circumstances, no amount of effort, money, and resources by friendly foreign powers will be enough to keep the government propped up.



**An Afghan man shows off his ink-stained finger after taking part in his country's parliamentary elections in Kabul, Afghanistan, Sept. 18, 2010. U.S. Army photo**

Because government arrogation of power represents a threat to personal liberties, political structural arrangements in the formulation of a constitution deserve the greatest attention and scrutiny. On this point, it is instructive to highlight the rationale behind the American Constitution. From their study of former democracies, the Founding Fathers learned that democracies shared the fate of eventual self-destruction through anarchy or tyranny. The primary cause was due to systemic structural defects in the political system, which created the opportunity for pernicious populist policies to take root. The common revelation of this study was that all men are inherently imperfect and that they are driven to pursue power, usually in pursuit of some noble but utopian good for society.<sup>3</sup> It is worth noting that widespread government corruption, arbitrary laws, and oppression are manifestations of structural flaws and not necessarily endemic to certain cultures.

The American political system apportioned vested powers among the executive, legislative, and judicial in such a manner that each branch needed the support of the other two in order to carry on the business of government.<sup>4</sup> Normally referred to as reciprocal checks and balances, this system relied on the self-interests of each branch to resist encroachments of the other branches. In this manner, no single branch could amalgamate power at the expense of the other branches. Despite the adoption of a limited, republican government, the Founding Fathers

were also quite aware of the tendency of central government to grow into a tyranny through the accumulation of power. Consequently, the Bill of Rights was appended to the Constitution with the Tenth Amendment devolving all powers to the states which were not specifically vested in the federal government.

This description of the American political system is not meant to suggest a transitional or host government must adopt it. Certainly, the new government should be exposed to other political systems, but the worst course is to allow a new government to create its own constitution without a guiding hand. As a political contract, a constitution serves the dual purpose of safeguarding inalienable rights and limiting government encroachments. Hence, the new constitution must have crafted into it checks and balances at the federal level as well as separation of powers among the central government, sub-national governments (i.e., provinces and local communities), and individuals. From a legal perspective, a well-crafted constitution empowers citizens to challenge unconstitutional acts.

It is well to recognize that local self-government represents the primary association for citizens. Attempting to govern every aspect of human activity through a central government is not only politically foolhardy, but also impractical. It is like trying to turn lead into gold. Individual self-interest undermines central authority over time, every time. Consequently, a constitution needs to institutionalize this relationship by vesting few powers in the federal government and consigning all other powers to the sub-national governments and individuals. It is a practical, balanced structure, which assigns responsibility for the resolution of problems at the lowest level possible. The Tenth Amendment of the U.S. Constitution enshrines this separation of power, which serves as a powerful check on the federal government. Thomas Jefferson recognized that the greatest protection for the citizen was in strong local government and weak central government:

The way to have good and safe government is not to trust it all to one, but to divide it among many, distributing to every one [sic] exactly the functions he is competent to [perform best]. Let the national government be entrusted with the defense of the nation, and its foreign and federal relations; the State governments with the civil rights, laws, police, and administration of what concerns the State generally; the counties with the local concerns of the counties, and each ward [township] direct the interests within itself. It is by dividing and subdividing these republics, from the great national one down through all its subordinations, until it ends in the administration of every man's farm by himself;

by placing under every one [sic] what his own eye may superintend, that all will be done for the best. What has destroyed liberty and the rights of man in every government which has ever existed under the sun? The generalizing and concentrating all cares and powers into one body, no matter whether of the autocrats of Russia or France, or of the aristocrats of a Venetian senate.<sup>5</sup>

Without the guiding hand of constitutional scholars, a new constitution can become a mélange of random rights, trivial issues, and utopian aspirations. Because a constitution is a strategic document, the listing of rights should be limited to universal or inalienable rights (i.e., life, property, speech, etc.). Subsequent government legislation is better suited for the quotidian affairs of society rather than bloating the constitution. Similarly, trivial issues such as the design of the national flag, recognizing ethnic groups, proclaiming the official language, etc. are best left to the legislative branch. Utopian aspirations, like the eradication of poverty or guaranteed job security, create unrealistic expectations which no government can guarantee and are inappropriate in a constitution. Inevitably, demagogues or populists will use the utopian passages in the constitution to advance their power rather than govern responsibly. Initial government exuberance soon gives way to failed enterprises, which anti-government forces can use to justify their actions.

Over the last eight years, a substantial number of problems plaguing Iraq and Afghanistan can be traced to deeply flawed constitutions. That the United Nations took such a lackadaisical stance in this matter is lamentable. Fragile states are proof of failed governance and poor political structures. To assume their own officials can write their own constitution without outside assistance is folly.




**Afghan Government Officials attend Rule of Law Conference in Jalalabad, Nangahar Province, Afghanistan**



Because a constitution serves as a mechanism to prevent a tyrannical government, particular care must be taken to avoid attempts to foster an omnipotent central government. Dictatorships seek greater efficiency and unanimity at the expense of individual rights. Well-functioning democracies experience gridlock, dissension, and gradualism, keeping the public interest in mind. The appeal of dictatorships in the 1920s and 1930s stemmed from their ability to implement programs and policies quickly, as well as mobilizing all national resources without restraints. But, their continued viability depended on the infallibility of the leaders, and that became their strategic flaw. The catastrophe of World War II, the disclosure of crimes against humanity, and the wholesale collapse of economies discredited dictatorship as a respectable form of government. In contrast, democratic political systems proved much more stable, predictable, and economically vibrant. Not all representative democracies bloom into powerful nations, but they prove to be resilient as long as the people are exercising power.

A sound constitution is neutral on specific issues, such as race, gender, class, religion, etc., because these are populist and invariably divisive themes. The principle of equal rights is overarching, and subsequent legislation can address specific issues. Injecting socialist and statist measures into a constitution is a prescription for disaster for a fragile state. Although wealthy nations have the luxury to adopt some socialist or statist programs, binding a poor country to unsustainable programs through its constitution relegates its people to perpetual poverty or makes it a ward of the United Nations.

If little attention or care is given to a constitution, then it becomes nothing more than a tool for demagogues and populists only, rarely looked upon for guidance and more rarely used to defend citizens from violations of the constitution. The irony is that the United States has the greatest vested interests in spreading the gift of representative government to other states when the opportunity presents itself. The constitution is the bedrock of a nation's rule of law. It is high time the United States made the development of a sound constitution for fragile states a strategic goal. 

<sup>1</sup>John Locke, *Second Treatise of Government*, ed. C.B. Macpherson (Indianapolis: Hackett Publishing Company, Inc, 1980), *passim*.

<sup>2</sup>W. Cleon Skousen, *The Five Thousand Year Leap: Twenty-Eight Great Ideas that changed the World* (Franklin TN: American Documents Publishing, L.L.C., 2009), 40.

<sup>3</sup>Skousen, 19, 27.

<sup>4</sup>The U.S. Congress has another set of internal checks and balances, in which a bill requires passage in both chambers before it is submitted to the President for consideration.

<sup>5</sup>Quoted in Skousen, 171.

## 2010 PKSOI/Rutgers Univ. Conference Carlise Barracks, Pennsylvania Conference Theme: New Armies From Old: Integrating Competing Military Forces After Civil Wars



**Author of previous article and the conference organizer for the New Armies From Old Conference Mr. Raymond Millen shown left and alongside the academic facilitator for the conference, Dr. Roy Lickliden**

From 31 August to 01 September 2010, PKSOI hosted a joint conference with Rutgers University titled “New Armies from Old: Integrating Competing Military Forces after Civil Wars.” The conference brought together scholars from around the world to study the correlation between military integration of former warring factions into a new national army and the likelihood of civil war recurring. Selecting a number of case studies from Africa as well as Bosnia and the Philippines, the panels examined three themes: the origins of military integration, the creation of an integrated military force, and the outcome of the integration. Rutgers University plans to publish an anthology once the conference papers are revised.

See Dr. Roy Lickliden interview on PKSOI's YouTube channel

[http://www.youtube.com/watch?v=\\_iAKF-\\_bX64](http://www.youtube.com/watch?v=_iAKF-_bX64)

## Children Trafficking: Stain on Humanity

### by Dr. Omar Elghazawi

*The victims of modern slavery have many faces. They are men and women, adults and children. Yet, all are denied basic human dignity and freedom. ... All too often suffering from horrible physical and sexual abuse, it is hard for them to imagine that there might be a place of refuge.<sup>1</sup>*

#### The Milieu for Children Trafficking

The hallmark of a functional state is a firmly established rule of law with well-defined legal systems and law enforcement institutions. Together, they serve to protect the inalienable rights of life and property, as well as rendering justice to criminals.<sup>2</sup> In contrast, fragile and failing states cannot effectively manage organized crime.<sup>3</sup> Insurgencies are particularly pernicious to rule of law, because policemen are often caught up in the violence, resulting in the weakening or even total disintegration of law enforcement institutions.<sup>4</sup>

The instability and lawlessness created by insurgents are fertile grounds for criminal organizations, which seize the opportunity to conduct illicit activities with near impunity. It is within the swaths of under-governed lands that the trafficking of women, especially children, has become a burgeoning trade.

#### Human Rights and Armed Conflicts

War is a scourge on humankind, not only due to the merciless killing of myriads of combatants and civilians, but also because of the chronic scars it leaves on society long after the dead are buried and the debris cleared away.

Human rights are the first victim in any armed conflict, regardless of locale. Tragically, the international community's response is typically wary, and even if it does intervene in a conflict, the wholesale breaches of human rights and untold human suffering have already run their course.<sup>5</sup>

Although conflicts create universal victimization, violence against women and children is of epidemic proportions. Women and young girls are particularly vulnerable to gender-based persecution, discrimination, oppression, and forced sexual slavery. The fact that crime flourishes in conflict regions is lamentable, but for criminals to resort to human trafficking is both reprehensible and barbaric.<sup>6</sup>



**Ibrahim Hassan Elghazawi, PhD.**

Here, criminals exploit the absence of government authority to prey on society's most vulnerable people.

#### The Definition of the Child

According to the UN Convention on the Rights of a Child (CRC), a child is defined as a "human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier."<sup>7</sup> On 25 May 2000, two important protocols to the CRC prohibit the involvement of children in military conflicts and prohibit the sale of children, child prostitution, and child pornography. To date, more than 120 states have ratified the protocols.

On the other hand, the UN and the CRC must respect the domestic interests of nations, because their legal systems determine the status of children as aligned with the community interests. The labor age, legal age for engaging in contracts, and the legal age for military conscription are just a few considerations which individual nations must manage.

#### Human Trafficking

Article 3 of the UN Palermo Protocol 2000 defines Human Trafficking as "the recruitment, transportation, transfer, harboring or receipt of people for the purpose of exploitation. Trafficking involves a process of using illicit means such as threat, use of force, or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability."<sup>8</sup>

Like all markets, human trafficking responds to both demand and supply forces. Without the demand, there would be no human trafficking, but it is very difficult to curb demand. On the supply side, upheavals, poverty, corruption, and the



human drive to improve one's lot make people vulnerable to the lures of trafficking. Hence, the area requiring the most attention falls in the "push" factors.<sup>9</sup>

## Children Trafficking

The most reprehensible form of human trafficking is the recruitment, transportation, transfer, harboring, or receipt of children for the purpose of exploitation. Commercial sexual exploitation, prostitution, and child pornography are common motives for trafficking. However, other lucrative ventures for traffickers include forced labor, slavery, servitude, organ harvesting, adoption, forced marriage, military recruitment, begging, and sports (e.g., child camel jockeys or football players).

Every year, an estimated 1.2 million children are trafficked for sexual exploitation or cheap labor. Over twelve million adults and children (56 percent are female) are employed in forced labor, bonded labor, and forced prostitution around the world, yielding \$32 billion annually.<sup>11</sup> Human trafficking is the third most lucrative criminal activity after illegal drugs and arms trafficking. According to the United Nations Office on Drugs and Crimes (UNODC), it is one of the fastest growing criminal activities in the world.<sup>12</sup>

## Repercussions of Children Trafficking

Children trafficking debases human dignity and deprives the victims of their core values: self-respect, dignity, faith, self-confidence, and trust in others. It deprives some communities of their cultural heritage while creating a ticking time-bomb in others. It creates a lost generation of youth who drift into crime, exacerbating the rise in criminal gangs. Perhaps most germane, trafficking destroys the innocence of children. Trafficking does not end with one transaction either. A child trafficked into one form of labor may be further abused in another, and victims are frequently bought and sold many times over, often sold initially by family members.<sup>13</sup>

## Enhancing UN Military and Police Role in Combating Children Trafficking

In light of this detestable blight on humanity and its expansion, the UN military and UN civilian police in deployed regions need greater resources and a broadened mandate to combat human trafficking. In this regard, UN peacekeeping operations can gain efficiencies as follows:

- Make human trafficking a high priority during Peacekeeping Operations




**Dr. Omar Elghazawi shown above enjoying the beautiful Mediterranean weather speaking to participants at the 50<sup>th</sup> session of the Refugees International Law Conference hosted by the International Institute for Humanitarian Law in San Remo, Italy.**

- Greater attention of joint police-military coverage of coastal areas traffickers tend to use in order to avoid border controls
- Augment existing human trafficking combat teams with more specialized experts from both police and military
- Greater usage of military advanced technologies for detecting trafficking activity and hiding places
- Joint planning and cooperative execution between the UN Police and Military in anti-trafficking operations
- Creating effective legal mechanisms to combat trafficking, using police and military advice and assistance
- Establish an international computer data-exchange system on trafficking
- Devote greater attention to training the military and police capacity in the latest tactics, techniques, and procedures for combating human trafficking

## Conclusion

The International Covenant on Economic, Social and Cultural Rights issued an eloquent declaration for the struggle against human trafficking:

Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labor should be prohibited and punishable by law.<sup>14</sup>

The fight against children trafficking is failing, and greater efforts are desperately needed to even make a dent in it. Greater international cooperation, greater use of advanced technology, and greater joint military-police training, planning, and implementation are essential. It is not enough to state that human trafficking is a stain on humanity. What if it were your child? 

<sup>1</sup> President Barack Obama, *Trafficking in Persons: Ten Years of Partnering to Combat Modern Slavery*, State Department report of Human Trafficking, 2010.

<sup>2</sup> *Environmental Scan 2006*, Pearson Peacekeeping Training Centre, Ottawa, Canada, 2006, P.1 Et .Seq.

<sup>3</sup> *Id.*, P1.Et Seq..

<sup>4</sup> That example was the obvious situation in Bosnia during Bosnian civil war , the police was taking parts instead of holding law and order, that fact added to the over all suffering of the country and doubled their pains.

<sup>5</sup> On 1951, The United Nations adopted the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, 96 U.N.T.S. 271, entered into force July 25, 1951.

<sup>6</sup> Trafficking in persons is considered to be modern-day slavery, involving victims who are forced, defrauded, or coerced into labor or sexual exploitation. The International Labor Organization (ILO) estimates that 12.3 million people worldwide are enslaved in forced labor, bonded labor, forced child labor, for details refer to *The World Fact book*, CIA, last checked on 9th May, 2010:

<https://www.cia.gov/library/publications/the-world-factbook/fields/2196.html?countryName=&countryCode=&regionCode=%C2%BC>, See also: *Environmental Scan 2006*, Pearson Peacekeeping Training Centre, Ottawa, Canada, 2006, P.2 et seq.

<sup>7</sup> Brought into effect by the General Assembly on 2 September 1990, the CRC established the civil, political, economic, social and cultural rights of children. The compliance of its provisions is monitored by Committee on the Rights of the Child. As of November 2009, 194 countries have ratified it, including every UN member state except Somalia and United States. Article 1, Convention on the Rights of the Child. <http://www1.umn.edu/humanrts/instreet/k2crc.htm> . Under UN protocol, Article 3 (d), a child is any person under eighteen years of age, following the definition of the CRC. According to Article 5 of protocol, “each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences the conduct set forth in article 3 of this Protocol, when committed intentionally”

<sup>8</sup> The Trafficking Protocol entered into force on 25 December 2003, on October 2009, the Protocol had been signed by 117 countries, and there were 133 parties. [http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=XVIII-12-a&chapter=18&lang=en](http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12-a&chapter=18&lang=en); The UN General Assembly resolu-

tion 53/111 issued on 1998 established an intergovernmental committee for an international convention against transnational organized crime and an international instrument addressing trafficking in women and children. United Nations convention against transnational organized crime, adopted in 2000 (aka the Palermo Convention) and its two protocols aim to prevent, suppress and punish trafficking in persons, especially women and children as well as prohibit the smuggling of migrants by land, sea and air. [http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=XVIII-12-a&chapter=18&lang=en](http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12-a&chapter=18&lang=en).

<sup>9</sup> State Department report on Human Trafficking : <http://www.state.gov/g/tip/rls/tiprpt/2005>. P 9.

<sup>10</sup> For definition of pornography: <http://www.missingkids.com/missingkids/servlet/PageServlet?PageId=1504>

See the State Department report on Human Trafficking : <http://www.state.gov/g/tip/rls/tiprpt/2005/>

<sup>11</sup> 49,105 victims identified worldwide, a 59 percent increase over the last reporting year (2008) Prevalence of trafficking victims in the world: 1.8 per 1,000 inhabitants (in Asia and the Pacific: 3 per 1,000) , 4,166 successful trafficking prosecutions in 2009, a 40 % increase over 2008 . See for details; *TRAFFICKING IN PERSONS: Ten Years of Partnering to Combat Modern Slavery*, State Department report of Human Trafficking, 2010.

<sup>12</sup> [http://www.ecpat.net/EI/Publications/Trafficking/Full\\_Report\\_Global\\_Child\\_Trafficking\\_for\\_Sexual\\_Purposes.p](http://www.ecpat.net/EI/Publications/Trafficking/Full_Report_Global_Child_Trafficking_for_Sexual_Purposes.p)

<sup>13</sup> State Department report on Human Trafficking: <http://www.state.gov/g/tip/rls/tiprpt/2005>, P 13.

<sup>14</sup> Article 10 (3), International Covenant on Economic, Social and Cultural Rights, (1966), 993 U.N.T.S. 3, entered into force Jan. 3, 1976.



## Rule of Law and Justice in Security Sector Reform

### by Colonel (retired) Anthony Lieto, U.S. Army

As part of a Rule of Law program, the ability to deal with Detention Operations is vital to the stabilization of a civil society. As we move into an era of uncertainty and persistent conflict, the lines separating war and peace, enemy and friend are often blurred. Emerging and budding conflicts and instability are combining with rapid cultural, social, and technological changes to further complicate our understanding of a secure environment.

Rule of Law is a principle which our forces, institutions, and public and private entities should support. This support should be given to laws that are accepted by the local population and equally enforced, adjudicated and consistent with international human rights. A key element that will face us in gaining legitimacy is how we and our coalition forces deal with detention operations.

In Iraq, Task Force 134 was responsible for the care and custody of detained persons. The United Nations Security Council Resolutions 1483, 1511 and 1546 authorized the Coalition Forces to detain a person if he or she posed an imminent security threat to Coalition Forces. This included threats to the Iraqi Security Forces to include the Iraqi Military, Iraqi Police and Interior Forces. The key to detention is to ensure that only persons which pose “no longer an imminent security threat” are released back into a civil society. Those criminal elements who are detained and who have violated the host nation’s rules and laws and can be prosecuted by their laws should be moved into the civil/criminal court system of the host nation, so they can be prosecuted under the laws of the nation.

In any combative environment to include counterinsurgency, it will become difficult distinguishing an insurgent from a civilian and often impossible. They dress, speak, and act as local citizens. Treating a civilian like an insurgent is a sure recipe for failure. Individuals may be detained for two reasons:

- To prevent them from conducting attacks or further attacks
- To gather information to prevent other insurgents / combatants from conducting attacks

After every operation there will be detained persons who are either detained because they have been caught conducting an illegal activity such as an attack, or are considered an Imminent Security Threat as to warrant their detention.

The question is what to do with the detainees and how to re-integrate them back into a civil society.



**An Afghan guard and a U.S. Army soldier work together at the detention facility in Parwan, Afghanistan, Aug. 23, 2010. On Aug. 27, 2010, news media representatives were permitted to take video and still photos at the facility for the first time since it became operational in December 2009. DoD photo by U.S. Air Force Master Sgt. Adam M. Stump**

If detained, persons must receive humane treatment until properly released. They also must be provided the minimum protection of Geneva Conventions. They may not be transferred to the host nation or any foreign government if we have substantial grounds to believe the detainees would be in danger in the custody of others.

Task Force 134’s overarching strategy was to empower the moderate detainees and provide them with the tools to lead a productive life after their release. This only could be accomplished if the Task Force first identified the radical element and ensured it was no longer a threat to the moderates. TF-134 could not consider ‘isolating insurgents’ from the population – they needed to weigh impacts of detention policy on creating insurgent sympathizers, supporters and recruits. The objectives were:

- To assist the detainees to find a purpose and a sense of belonging to Iraq and to their families instead of some radical movement
- To develop programs centered on education and job skills.

The morale and motivational studies conducted by Rand Corporation and Intelligence Agencies highlighted that poverty and violence are closely connected and affect their detention. Task Force 134 developed programs centered around education and job skills.

Initially, detention operations in Iraq from 2003 were typically viewed as intake (capture), interrogate, hold and release operations. After Abu Grab, Task Force 134 was established to consolidate and provide oversight and coordination to Coalition Force Detention Operations. As a side note, through Task Force 134's extensive research and studies conducted by the Rand Corporation and Intelligence agencies, the number one recruiting tool used to recruit Foreign Fighters, Al Qaeda membership, and suicide bombers was the five minute Abu Grab video and pictures from the abuse at Abu Grab. These pictures were posted throughout Iraq, especially in the volatile Al Anbar Province.

## Consolidation Phase:

The establishment of Task force 134 enabled the Coalition Force to improve the quality of life of detainees by closing Theater Internment Facilities at Fort Suse in Northern Iraq and at Abu Grab, located in the west end of Baghdad. Detainees were moved to a new detention facility at Camp Cropper, located at the Baghdad International Airport (BIAP) facility and moved to the expanded facility at camp Bucca vicinity Basra, Iraq. Detention Operations, however, were still viewed as a liability to Coalition Forces and in response to Abu Grab, focused mostly on the care and custody of those individuals detained by Coalition Forces.

Errors in Detention: Studies have pointed out five common historical errors nations commit when conducting Detention Operations.

- Detaining innocent individuals
- Releasing insurgents who pose a threat / danger to Coalition or Host Nation Forces
- Mistreating detained individuals
- Failing to anticipate the effects of arrests and internment on the information campaign
- Allowing prisons / detention facilities to serve as a training and recruiting ground for insurgents

Unfortunately, Coalition Forces repeated many of these common errors. The result was an increase in the support for the insurgency, routine violence, extremist recruitment, and insurgents training inside the Coalition Theater Internment Facilities. Additionally, there was a decrease in trust and confidence in the Coalition Forces' mission and people. One has to realize that just because there is an insurgent in detention, he has not "taken a knee" and instead considers himself still in the fight.

Detention facilities offer insurgents the ability to recruit to intimidate the weak and to legitimize their fight against Coalition Forces and those of the host nation, whom they consider as traitors to their cause. Studies indicated that most of the movements that have come to associate with or know as Al Qaeda have their roots in the prisons of Egypt, where the new extremists were recruited and trained. It was the same for Coalition detention facilities, where the strong preyed on the weak and could intimidate them while recruiting the next generation of fighters for their cause.

The Rand study found out that usually "uneducated people join militias for money, if there were jobs, fewer people would join and this would also deter future fighters from turning towards militias and extremist movements."

## A New Approach to Detention:

In April 2007, Task Force 134 was under new leadership and set the course for a new way to conduct detention operations in Iraq. The Task Force assessed the current situation inside the theater internment facilities at Camp Cropper and Camp Bucca, and sought to understand the challenges presented by past mistakes and the upcoming surge of forces in support of the Baghdad Security Plan. Two fights were identified by the Task Force; a close fight to ensure the standards of care and custody were met, and a deep fight to turn detention operations from a strategic risk to a strategic advantage for the Coalition Forces.



**A detainee receives medical care from a U.S. Army soldier at the detention facility in Parwan, Afghanistan, Aug. 23, 2010. DoD photo by U.S. Air Force Master Sgt. Adam M. Stump**



- **Close Fight:** The care and custody of detainees was, and remains, the paramount mission of Task Force 134. It is the number one priority for all U.S. and Coalition Forces in any conflict where they will be engaged or deployed. This mission includes ensuring housing, culturally appropriate meals, medical and dental care, and an established administrative review process to determine eligibility of release. This mission must also include the planning, resourcing and building additional capacity to safely intern and anticipate a larger detainee population as a result of a surge. Additionally, the longer the force remains engaged, the more the number of irreconcilable detainees will increase.

- **Deep Fight:** The new way of looking at detention operations comes from the Deep Fight of turning detention operations from a Strategic Risk to a Strategic Advantage. After an intense in-depth study of multiple groups to include the Multi-National Corps-Iraq (Combat Force), Multi-National Force-Iraq (Higher Headquarters), Iraqi Government Officials, Iraqi Professionals, detainees themselves, and members of the Detention Force, the Task Force recognized that the center of gravity for the fight was the “battlefield of the mind”. If detention was a way of extremists to recruit and train the next generation of fighters, why not make it a way to recruit and train moderates? The success can only be achieved by establishing an alliance with moderate Iraqis and empowering those moderates to marginalize the extremists.

- **Action:** After understanding the battlefield and what was needed to achieve success, the Task Force began developing programs to change detention operations from a strategic risk to a strategic advantage and to ally with moderates in detention inside the theater internment facilities to empower them to marginalize the extremists.

## Objectives of the New Detention Programs

The overarching objective in detention operations is to ensure the standards of “care and custody” are maintained. This overarching objective can be divided into two subordinate objectives. These two objectives are focused on those detainees deemed *imminent security risks* but who will ultimately be releasable into a civil society, and secondly on those who are irreconcilable and not releasable.

The first objective is to determine if a detainee is an imminent security risk. If the detainee is considered an *imminent security risk*, the objective is to reduce the risk and replace their destructive ideology. When the detainee no longer is an *imminent security risk*, he is released into a civil society.

Keeping detainees in detention when they no longer pose an *imminent security risk* will damage your program and the reputation of Coalition Forces.

The other objective is to identify the Irreconcilables and ensure they cannot continue to influence the moderates. Any insurgency within the Theater Internment Facilities must be defeated. Extremists must not be allowed to recruit through intimidation, threats, and coercion. They must be quickly identified during the in-processing phase of their detention and not be allowed to mingle with moderates. Wrong detention policies can aid in creating insurgent sympathizers, supporters and recruits.

Victory in detention will be achieved when there is an alliance established with the moderates in detention. You must also empower these moderates to effectively marginalize violent extremists. Each detainee is a “chip” who can influence up to 100 other personnel in society. The policy must not include general mass releases. Mass releases will often include high risk detainees. In other words, under mass releases one sends the message that good as well as bad behavior is rewarded. The key to successful detainee operations will be the percentage of recidivists which come back into detention. Recidivists are those that actively participated in attacks or supported attacks against Coalition Forces or ISF. Those detainees who were rounded up due in part to sweep operations and later released are not included as recidivists.

## Defeating Insurgency within a Theater Internment Facility

History has shown that the Islamic extremist movement has its origins in the prisons of Egypt. Al-Qaeda’s number two in command was an Egyptian from this movement. Prisons are a place to recruit. Task Force 134 had a saying that the new detainees were viewed as “recruits” by the extremist elements in the theater internment facilities. Task Force 134 initiated a three phase process to address the tactical and strategic challenges in their battlespace.

- **Phase I:** Apply Counter Insurgency (COIN) principles to the Theater Internment Facility (TIF), separate extremists from the population and protect the remaining population both inside the TIF and by an individual screening process, outside the TIF.

- **Phase II:** Defeat the insurgency within the TIF, take away the violent extremists sanctuary and succeed in the “battlefield of the mind” while identifying those techniques and ideas which are both effective and contagious.

- Phase III: Engage with the population of moderate detainees, their families and those that are released, establish a ‘social epidemic’ which advances the objective to have empowered and emboldened the moderate members of the Ummah so that they will reject the conquering goals of political extremism and marginalize the violent extremists within their population.

## **Building of a TIFRIC (Theater Internment Facility Reintegration Center):**

Task Force 134 realized that the TIF was just a warehouse of detainees and no process existed for the reintegration of these detainees back into a civil society. The TIFRIC concept was built on COIN principles and de-radicalization program while being compliant with military police Detention Operations standards. The TIFRIC has two distinct parts, the first being detention and the second focusing on reintegration. Once a detainee enters the TIF, he receives a number and through a very detailed in processing review is assigned a risk level. This in processing review includes interrogation by trained personnel who are monitored as well as the detainee going before a Magistrate Review Cell. If the detainee has violated the criminal laws of the country, all effort is made to transfer this individual to the country’s central criminal court. This enables the more moderate detainees to live free from fear of intimidation. The objective inside the TIF is to minimize the detainee on detainee violence. The guard force must be constantly vigilant of this and must implement measures to immediately defuse such incidents before they escalate. If an act occurs, the guard force must investigate the matter, identify the perpetrators, and send their case to the central criminal court to dispense justice.

To prevent detainees from gravitating towards the insurgency, the re-integration phase must now be a focus. In detention, the moderate detainee must be prepared to be released and provided the tools to enter with skills into a civil society. Task Force 134 offered a variety of programs to include:

- Education
- Vocational training
- Civics
- Islamic discussion (hired Sunni and Shia clerics who would moderate and would teach the Koran)
- Family visitation (families were given a stipend for their expenses based on UNHCR costs)
- Pay for work programs that continue to emphasize moderate behavior and marginalize extremist behavior

Among the most important skills to teach a detainee is the ability to read and write. Additionally, a detention program must

include facilities and programs for women, juveniles and the mentally challenged. Programs focused on these particularly “at risk” groups were incorporated in the TIFRIC.


Transparency was an important element of TIFRIC operations. There will always be those that criticize the detention program and will find supporters in the press. Therefore, detention operations must be transparent and international organizations such as UNHCR must be allowed to come into the TIFs and report. The message must be that the care and custody piece of detention is without flaw and detainees are given an opportunity to improve their lives.

## **Irreconcilables**

Any detention program must address detainees who are considered, irreconcilable, extremists, or criminal. Again, all effort should be made to move these individuals into the country’s central criminal court. If that effort fails then an agreement should be made as Coalition Forces draw down and are withdrawn that the care and custody is turned over to some international organization or host country. If the host country has made threats against these extremists, then under the UN rules we cannot turn these individuals over and put them into danger or the threat of death. At the end of a conflict this question will remain and must be addressed. As part of this process four steps become apparent: 1) Collate existing threat lists; 2) Screen the threat lists based on FBI or other agency factors; 3) Screen detainees; 4) Present a proposed list for final decision. There will always be detainees or prisoners who should not be released back into a civil society. The objective is to correctly identify, segregate and then detain in a facility that will house them and not let them interfere with moderates and or continue their recruitment efforts.

## **Conclusion: The “End State” for Detention Operations**

The end state for Task Force 134 is transitioning their programs to the Iraqi authorities. The expectation is for the Iraqis to continue working with the Task Force as partners and assume more responsibility for the programs over time. Every program which the Task Force ran had Iraqis in the lead or near the lead. The objective is to design a program that the host nation can continue to run long after the Coalition Forces have transitioned to over-watch.

The end state for the Iraqis is a detention system that follows the Rule of Law (RoL), is transparent, upholds the Articles of the Geneva Convention and is acknowledged by the Iraqis as being fair and just. 



# International Humanitarian and International Human Rights Law

by J. H. Nichols

The terms International Humanitarian Law (IHL) and International Human Rights Law (IHRL) sound similar. Are they synonymous, distinct, or complementary areas of law? The question is raised repeatedly as more service members are confronted with situations where humanitarian concerns and human rights are issues. This article addresses the principles that apply to each, how IHL and IHRL are distinct from one another, and why current trends suggest a complementary approach. This article is not intended to serve as an official or even unofficial guide for US service members. Rather, it is a general discussion of IHL and IHRL. Service members with specific legal questions should consult the judge advocates in their organizations.

IHL and IHRL are separate bodies of law and have different sources, treaties and conventions. IHL applies specifically during armed conflict, whereas IHRL is meant for peace time. However, some of these embodied principals protect an individual at all times, in war and peace. The past few years have seen movement towards complementary application. In some conditions under IHRL, governments can derogate (temporarily suspend) certain human rights in situations of public emergency. No derogations are permitted under IHL, because it was specifically conceived for namely armed conflict.

## International Humanitarian Law

Armed conflict between two or more nations is characterized as international armed conflict. Armed conflict can also be internal to a nation, such as an insurgency. An armed conflict of this type is known as non-international armed conflict, and it can also include the involvement of another nation to support or assist the nation in countering an insurgency. Legal regulation of international armed conflicts is more comprehensive and the protection afforded by the law is greater than in the case of non-international armed conflicts.

IHL is also known as the Law of Armed Conflict (LOAC). IHL developed over time to regulate the conduct between states and consists of treaties, conventions and customary laws. Customary law need not be written law but can be behaviors that have been habitually practiced to the point that they became universally recognized because of their many years of observance. The Geneva Conventions are the most readily known

instruments in IHL but not the only source. IHL is humanitarian in its intent to protect those not engaged in the armed conflict, civilians, or those persons no longer engaged in the armed conflict, such as the wounded or prisoners of war. IHL is referred to as *lex specialis*, or law governing special situations. IHL developed over time to regulate the conduct between



**Abdul Rahim Wardak, Afghan Minister of Defense, presents Afghan 2<sup>nd</sup> Lt. Homira Safian, Afghan National Army Female Officer Candidate School instructor, with a U.S. Army Achievement Medal during an award ceremony, Sept. 22. Safian received the medal for instructing 29 Afghan female officer candidates during 20 weeks of training, which included 8 weeks of basic training and 12 weeks of advanced training. The advanced training was in logistics and finance. (U.S. Air Force photo/Staff Sgt. Laura R. McFarlane.)**

states beginning with the point of initiation of hostilities. It is not the arbiter of whether a state may use force (see: the UN Charter Ch 7, Art 51 regarding self defense), but rather comes into effect at the time hostilities are initiated and applies to all parties in the conflict. IHL presumes that armies or armed groups act under orders from their leadership. IHL assumes that armed groups intend to harm their opponents. If the hostile intent is met with hostile action in response, IHL does not require a state to apply the minimum necessary force as a response but allows the use of deadly force as the primary reaction against armed forces. However, protected persons and collateral victims are protected from excessive effects of a lawful attack based on distinction.

## Distinction

International humanitarian law is based on the principle of distinction, which applies in all armed conflicts. Combatant forces are required to distinguish between combatants and others. Distinction requires the warring parties, whether states or non-state armed groups, to target only military objectives and not the civilian population, individual civilians, or civilian objects such as homes, schools and hospitals as long as the enemy is not using them. Disregarding this principle during military operations represents an indiscriminate attack and is a war crime.

Treatment of persons designated as “protected” is a principle of IHL. Protected persons are civilians not taking part in combat and combatants who are hors de combat -- persons who are no longer taking part in combat due to injury, surrender or capture. This distinction is clear in theory but more complicated in practice.

## Military Necessity and Proportionality

Military necessity is a legal concept used in IHL as part of the legal justification for attacks on legitimate military targets that may have adverse consequences for civilians and civilian objects. Military necessity does not give combatants carte blanche to take action that would otherwise be impermissible, for it is always balanced against other humanitarian requirements of IHL. Three constraints curb the free exercise of military necessity. First, any attack must intend to defeat the enemy. Any attack not so intended cannot be justified by military necessity. Second, proportionality must be considered. This means the military advantage to be gained must be worth the risk to civilians and civilian property. Protocol I to the fourth Geneva Convention addresses proportionality in international armed conflict; however, the United States has not ratified this additional protocol but may address proportionality through command policy. Third, military necessity cannot justify violation of any other rules of IHL.

IHL law recognizes that total avoidance of civilian casualties is impossible in armed conflict. Therefore, in recognition of humanitarian concerns, the law requires the parties to the conflict to take precautions during military operations to minimize civilian casualties. Military forces in planning military actions are permitted to take into account the practical requirements of a military situation at any given moment, but commanders must



**Afghan National Army soldiers hold provincial-level swearing-in ceremony.**

weigh the expected military advantages of an operation against the possibility of protected person casualties and damage to civilian objects. If “excessive” non-combatant casualties and or other civilian property damage outweigh the military advantage to be gained, the operation is not a viable option, and it should be cancelled or suspended. The concept of military necessity acknowledges that winning the war or battle is a legitimate consideration, but it requires winning to be weighed against humanitarian concerns.

## International Human Rights Law

If IHL is the law during armed conflict, then IHRL is the law during peace. The modern concept of human rights developed in the aftermath of the World War II, partly as a response to the Holocaust, culminating in its adoption by the Universal Declaration of Human Rights by the United Nations General Assembly in 1948. However, while the phrase “human rights” may be a modern term, the forerunner of the human rights discourse is the enlightenment concept of natural rights elucidated by John Locke and appearing in the United States Declaration of Independence, the Bill of Rights and the French Declaration of the Rights of Man and of the Citizen. Human rights have a universality that spans both time and circumstance.

Modern International Human Rights Law consists of the human rights provisions of the UN Charter, the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and the Covenant



on Civil and Political Rights and their Optional Protocols. These rights cover the subject sufficiently for the purpose of this article. Some experts contend that IHRL responsibilities and authorities are not only applicable to the territory of a state but also extend to any territory which is under a state's effective jurisdiction, even if the territory is outside the state's borders. The United States does not subscribe to this interpretation and maintains that IHRL applies only within the boundaries of the nation, not extraterritorially.

IHRL was developed to prohibit arbitrary treatment of citizens by their own state. IHRL presumes that individuals act according to their own will and that they normally comply with state authority. Consequently, citizens or civilians are therefore inoffensive as compared to enemy combatants, who are assumed to be inherently offensive by IHL. IHRL requires state governments to make individualized judgment in regard to deprivations of life and liberty. Citizens can be punished individually as criminals, but populations or groups cannot be deprived of life and liberty arbitrarily. Under IHRL, use of force must be restricted to restore the situation to its previous status, and deadly force is used only as a last resort. Thus, IHRL also protects a person who is the object of state violence from the application of excessive force.

IHRL anticipates occasions when certain rights maybe derogated – temporarily suspended or limited – unlike IHL, which permits no derogation. Derogation is contemplated in time of war, when IHL is applicable, or other public emergency threatening the life of the nation. The extent of the derogation is limited to that strictly required by the exigencies of the situation. States can lawfully limit the free exercise of human rights in order to protect public health, public safety and morals, to restore order, and to protect fundamental rights and freedoms of others. Limiting rights as opposed to derogation means the rights stay in force but are restricted by law. Some rights may never be suspended: the right to life, the prohibition of torture, the prohibition of slavery and servitude, the prohibition of detention for debt, the prohibition of retroactive criminal laws, and freedom of thought, conscience, religion and belief. Any suspension of rights must not involve discrimination on grounds of race, color, sex, language, religion or social origin.

## Proportionality

IHRL does not specifically address proportionality, but it is incorporated in the prohibition against the arbitrary deprivation of the right to life. IHRL's definition of proportionality differs from that in IHL. Under IHRL, use of force must be


that force necessary to apprehend the person subject to that force. Deadly force is used only as a last resort and protects the person who is the object of state violence from the application of excessive force. Killings committed pursuant to a legitimate use of force authorized by law are not considered to be arbitrary executions. Most nations' laws ordinarily restrict the use of force by law enforcement officials in accordance with a principle of proportionality.

## Complimentary Approach

During the recent rise of intrastate conflict, a global movement has developed to approach IHL and IHRL as complementary to one another. Contrary to past perspectives, this movement sees the two bodies of law not for distinct or conflicting circumstances, but mutually supporting law in an increasingly unstable environment. Non-international armed conflict appears to favor the application of IHRL to supplement IHL, because rules are less well defined than those for international armed conflict, but this is a controversial legal area. One should look carefully to the origins and purposes of these bodies of law when deciding what laws apply to a particular situation. Does the situation lend itself to peace or armed conflict? Is the object of state violence a combatant or non combatant? Is it a matter of human rights or humanitarian actions?

## Conclusion

Each area of the law has different origins, but both IHL and IHRL seek to instill or require humanity in the treatment of persons who are either (1) subjects of state action in peace, or (2) protected from state action in war. IHL is for a specific situation – wartime – and it allows no derogations. IHRL is generally applicable in peace and war, but many provisions must yield to IHL in wartime; there are even provisions for derogation in the case of serious tumultuous situations that may not rise to the level of war. Complementarity is the emerging approach to these different sets of laws. In this approach, one determines which body of law would be applicable to a given situation. To do this, the individual facts must be examined, with a close study of the underlying purpose / intent of the law.

This is a cursory look at IHL and IHRL, both of which are complex in theory and practice. Laypersons should always seek legal advice from the appropriate legal practitioners. Judge advocates are the proper experts for military members seeking advice and opinions on legal questions. 

## The Pacification Efforts in Haiti's Cite Soleil and Martissant by LTC Anthony Johnson

Prior to Haiti's devastating earthquake in 2010, the pacification efforts executed by the United Nations Stabilization Mission in Haiti (MINUSTAH), military forces along with the Haitian National Police (HNP) were highly successful. Despite having successfully organized national elections in 2006, MINUSTAH still faces major challenges: strengthening Haiti's state institutions, assisting the government to reform its rule-of-law structures and assisting the Haitian authorities in the management of its porous borders. Undeterred by these challenges, MINUSTAH continues its rewarding endeavors of capacity-building and security sector reform at all levels within the Haitian government.

On the positive side, MINUSTAH provides technical assistance and expert advice for the development of key institutions, including major ministries, the parliament, the judiciary, and relevant local governing bodies. However, while a certain degree of political stability was achieved through uninterrupted presidential, parliamentary, and local elections in 2006, the security situation remains highly volatile. For instance, organized crime cartels and gangs intensified their indiscriminate killings and kidnappings in the poorest sections of the capital, Port-au-Prince.

In particular, the extremely tenuous rule of law in the largest shantytown areas of Cité Soleil and Martissant has undermined Haitian economic life due to their proximity to the harbor, airport and industrial zones. The illicit activities of Haitian gangs and drug dealers have depressed a substantial portion of local merchant cash-flow and unfettered flow of commerce between the two urban areas. As a result, these gang-controlled areas present a major challenge to stability and have allowed the gangs and their leaders to operate with impunity. Furthermore, the gangland power brokers have rejected all government proposals concerning the voluntary turn-in of weapons. In July 2006, the collapse of the voluntary disarmament program prompted the government and MINUSTAH to increase pressure on the gangs. In December 2006 following a dramatic increase in kidnappings, the Haitian Government requested MINUSTAH security assistance in Cité Soleil and Martissant. Consequently, a series of intelligence-driven and intensive security operations in urban areas, particularly in Port-au-Prince and Gonaïves, successfully restored state authority.



**On July 26, 2009, LTC Anthony (Tony) Johnson participated in MINUSTAH's Joint Civic Outreach Program for the "Peligre Orphanage" in Mirebalais, Haiti, along with the Philippine Contingent and Nepalese Contingent in support of about 150 orphans.**

From 22 December 2006 to 28 February 2007, MINUSTAH military and police troops, in cooperation with the Haitian National Police, conducted a total of 19 security operations in Cité Soleil and Martissant. The year 2007 saw further important achievements in the stabilization of Haiti. Thanks to the comprehensive and targeted military operations conducted by the MINUSTAH in early 2007, the security situation of the country improved significantly. For example, substantial progress in the targeting of gang activities in urban areas improved the overall security posture and enhanced the MINUSTAH mission's ability to take on additional tasks. On 24 January 2007, in a major move forward, peacekeepers took control of the so-called "Blue House", a battered, four-story building that provided gang members with a headquarters from which to target UN troops with gunfire. The building was also used as a base for extorting money from local businesses and vehicles travelling along National Highway One. By the end of the week, peacekeepers had taken control of the area and began to conduct numerous cordon and search missions in search of weapons and criminals. The operation yielded numerous caches of rifles, drugs, false identity cards, and ammunition.

The cordon and search missions were highly successful and disrupted the major gang leader's command and control



# The Pacification Efforts in Haiti's Cité Soleil and Martissant

mechanism. By the end of July, joint operations throughout the country led to the arrest of some 850 suspected gang members, including the notorious gang leader known as Evens, who was wanted for multiple counts of kidnapping and murder throughout Haiti. Although members of armed groups launched sustained counter-attacks that injured six peacekeepers, armed resistance decreased markedly after two of the remaining gang leaders sought asylum in the Dominican Republic.


Altogether, the operations paved the way for the Haitian National Police, in coordination with the support of MINUSTAH, to return to Cité Soleil and surrounding areas and begin joint patrols in March. In restive Port-au-Prince neighborhoods such as Martissant, peacekeepers carried out joint patrols with UNPOL and Haitian National Police to combat gang violence and crimes. On 22 January 2007, MINUSTAH military, police and civilian components established offices in the Haitian National Police headquarters. This joint law enforcement effort led to a sharp decrease in violence and won the praise of the people of Haiti.

The tactical and operational missions, conducted under the Brazilian Force Commander and jointly with UNPOL and the HNP, reached their highest intensity in early 2007. The pacification operations had the full support of the Haitian government and resulted in the dismantling of the toughest gangs, the eventual detention of the majority of their leaders, and the restoration of state authority to Haiti's largest shantytowns.



**An aerial view of Port-au-Prince, Haiti, from an MH-60S Sea Hawk helicopter assigned to the Military Sealift Command hospital ship USNS Comfort, shows the devastation of the 7.0 earthquake that struck Haiti Jan. 12, 2010. Approximately 230,000 Haitians are reported to have died as a result of the earthquake. U.S. Navy photo by Petty Officer 2nd Class Chelsea Kennedy**

The establishment of checkpoints and regular joint patrols by MINUSTAH and the HNP enabled UN agencies and NGOs to return to work in Cité Soleil and Martissant safely.

In general, the crackdown by MINUSTAH and the HNP on the gangs and criminal networks in Cité Soleil and Martissant yielded major improvements to the overall security sector reform posture. By July 2009, significant decreases in kidnappings contributed significantly to stabilization in Haiti. Prior to the earthquake on 12 January 2010, the litmus test for continued stabilization would have been successful parliamentary elections in February 2010 and a successful presidential election in November 2010. The earthquake changed that calculus, and therefore the new litmus test is the extent to which the government provides for its people and how quickly the elections are rescheduled. 



**Pfc. Jonathan Pflueger holds his hands above a crowd of women to try to get them to sit down at a humanitarian aid distribution point in Port-au-Prince, Haiti, Jan. 19. The 82<sup>nd</sup> Airborne's 1<sup>st</sup> Squadron, 73<sup>rd</sup> Cavalry Regiment provides security for the distribution point out of its makeshift forward operating base.**

# PKSOI UPCOMING EVENTS

**TRANSITIONS:  
ISSUES, CHALLENGES  
AND SOLUTIONS**  
NOVEMBER 16-18, 2010  
CARLISLE BARRACKS, PA

**AIRBORNE**

UNITED STATES  
INSTITUTE OF PEACE

**3D** Development  
Diplomacy  
Defense  
**Security**

**RAND**  
CORPORATION

**PKSOI**  
U.S. Army Peacekeeping and Stability Operations Institute

**Alliance for  
Peacebuilding**

**CAC**

**CDHAM**  
CENTER FOR DISASTER AND HUMANITARIAN ASSISTANCE

**NPI** Norwegian Institute  
of International  
Affairs

**Center for  
Humanitarian  
Cooperation**

**INSCT**  
INSTITUTE FOR  
NATIONAL  
SECURITY AND  
COUNTERTERRORISM  
SYRACUSE  
UNIVERSITY

**FIRES**  
Center of Excellence

**GEORGE C. MARSHALL  
EUROPEAN CENTER FOR SECURITY STUDIES**

**JOINT CENTER FOR OPERATIONAL ANALYSIS  
SUFFOLK, VIRGINIA**

“TRANSITIONS: Issues, Challenges and Solutions” is a three-day international conference hosted by the US Army Peacekeeping and Stability Operations Institute at the US Army War College in historic Carlisle Barracks, Pennsylvania. The conference brings together key thinkers and practitioners from academia, civil society, government, and the military in an open forum to explore, examine, and understand transitions as a crucial process during recovery from crisis and conflict. With daily panels of experts presenting their work around a specific theme, followed by facilitated small-group discussions, we will examine issues, opportunities, and lessons learned in the empowerment of host nation governments and civil society, and the subsequent transition of responsibility and control to indigenous agencies and organizations. Additionally, we seek to advance opportunities for networking and collaboration among the various communities involved in these activities. Keynote speakers include General (Retired) David D. McKiernan, former Commanding General, International Security Assistance Force (ISAF) and Lieutenant General Robert L. Caslen, Jr.

The conference is open to interested members of academia, civil society, government, and militaries who desire to learn about and share information on the wide range of activities associated with transitions.

Check out the new Youtube Interview:

<http://www.youtube.com/watch?v=M-MXMFSKchk>

Registration is now open at:

<http://pksoi.army.mil/events/transition/transition.cfm>



# Civil Military Teaming:

# LEARNING FROM EXPERIENCE



**October 26-28, 2010**  
**National Conference Center**  
**Lansdowne, VA**



To register for the event: Please visit us @

<https://resweb.passkey.com/go/pksoi>

SPONSORED BY







PHOTO: L – R John Papavizas, Taylor Phillip, Merin Yu, and John Murdock.

PKSOI is pleased to welcome our fall slate of interns. This fall we have eight interns: five from Dickinson College, two from Penn State Harrisburg, and one from Messiah College. They are working on a variety of research projects and come from a variety of backgrounds and interests.

Kyung (Stephan) Cha (Dickinson College) is returning from the summer internship program. He is a former member of the Korean Augmentation to U.S. Army (KATUSA) - is a competitive program for members of the Republic of Korea Army that puts them to work with U.S. forces. Stephan and Taylor Phillip (Dickinson College) are updating a series of United Nations' case studies.

Allie Reed and John Papavizas (Dickinson College) are looking at the National Incident Management System (IMS) used by emergency responders and seeing how that model may apply in an interagency system.

Merin Yu (Dickinson College) is working with our Department of State Special Staff as a research assistant for a project involving diplomatic efforts before war.

Douglas Grove (Penn State – Harrisburg) is working on the Peace, Stability Operations and COIN research project. Doug started working on this project over the summer and is seeing it through the fall.

Daniel Potts (Penn State – Harrisburg) is another summer intern that enjoyed his projects supervised by our Professor of International Development and USAID Special Staff so much that he has also stayed on for the fall.

Lastly, John Murdock (Messiah College) is addressing lessons learned regarding economic development in Afghanistan for future case studies that are to be used in educational settings.



# SOLLIMS

## Stability Operations Lessons Learned and Information Management System

Here at PKSOI we are constantly looking for ways to improve the functions and capabilities of SOLLIMS and the overall quality of our users' experience. To that end, this note is intended to provide an update on the many improvements/changes we have made to SOLLIMS over the last year -We have been very busy ! If you haven't been up on SOLLIMS in a while, please take some time now to the site and browse around to see the various changes.

We are not going to list all the changes but here's a few of the most important changes:

- Our new publications called the "SOLLIMS Samplers" - Two are currently available on the site – one with focus on "Protection of Civilians in Peacekeeping Operations" and the second focused on "Rule of Law and Legitimacy". A third Sampler will be out at the end of October 2010 that addresses "transition" issues, lessons, and best practices.
- PKSOI Blogs: in the SOLLIMS Discussions Groups area we have available all the ongoing PKSOI blogs dealing with stability operations issues and topics. Some examples include: Haiti Humanitarian Assistance and Reconstruction, Non-Military Solutions to Terrorism in Afghanistan, When will the Civilian Surge Begin?, and many more.
- UN Pre-Deployment Training modules: located at the Master Tier level in the document library section; we are also working with the US DoD Joint Staff to provide access to their current training vignettes and materials - note the Civ-Mil Training Tier.
- STABOPS DIRECTORY: this was a US DoD Joint Staff initiative; the intent is to capture in one place a listing of those agencies/organizations that have a stability operations function in their mission statement or organizational purpose. We encourage you to add your organization to this growing list.
- Lesson/Report Builder: formerly the AAR Report Builder - We cleaned up hidden header fields and have provided you the option to save your lesson report in either .PDF or .DOC formats.

Coming in FY11:

- SOLLIMS LITE: a low bandwidth version of SOLLIMS to support data collection in remote/austere geographical areas.
- Mobile SOLLIMS: initially this will be a MS Access app that you can load on your laptop to do data collection where there is no internet access at all – then download to a master database

We welcome and encourage your personal input in the form of documents, articles and O&R data entry - as well as your comments on the technical development of SOLLIMS. Remember, we are always available to provide an online or onsite demonstration of SOLLIMS for you and/or your organization - just send us a note and we will start coordinating a date – recall that we will set up your own agency's Tier1 workspace at no cost; you just need to provide a Tier Manager to help us tailor the site for your needs - get your logo on the front page right now and start building your own stability operations knowledge environment ! It's time to make a difference in global peace and stability operations community – we need YOU to start sharing your key observations and insights, lessons and best practices.



The views expressed in this journal are those of the author and do not necessarily reflect the official policy or position of the U.S. Army, PKSOI, the Department of the Army, the Department of Defense, or the U.S. Government. This journal is cleared for public release; distribution is unlimited and published quarterly by the Publications and Knowledge Management Division. Content is not copyrighted. Material may be reprinted if credit is given to the original author.

## Volume 1, Issue 1

**Staff**  
**DIRECTOR**  
COL Steve Smith

**DEPUTY DIRECTOR**  
COL John Bessler

**MANAGING EDITOR**  
Chris Browne

**EDITOR**  
Karen Finkenbinder  
**FORMAT DESIGNER**

Mike White  
Carolyn Holl

**WEB EDITOR**  
Tadd Clouse

## You could be in the next Peace & Stability Operations Journal Online!

Announcing the January theme: Training and Education

If you are interested in contributing to the journal, send your letter or articles for submission to the PKSOI Publications Coordinator: Carl\_PKSOIResearchandPublications@conus.army.mil no later than 1 December 2010 for consideration in the next edition. Also provide sufficient contact information. Note that articles should reflect the topic of Training and Education as it relates to Peace and Stability Operations. The Bulletin Editor may make changes for format, length, and inappropriate content only, and in coordination with original author.

For article submission to future editions disregard the theme, and it will be consideration for future inclusion.

**U.S. Army War College, Carlisle Barracks**  
**Upton Hall, 22 Ashburn Drive**  
**Carlisle, PA 17013**

For more information visit <http://pksoi.army.mil>