The COIN Paradox.docx

Joseph N Williams, II
The Counterinsurgency Paradox: Conventional Rules and Asymmetric Conflict

Clausewitz, “The laws of war are almost imperceptible and hardly worth mentioning”

Counterinsurgency (COIN) operations are a difficult monster for any military to tackle. History is littered with examples: the American Revolution, the French and United States (US) experience in Vietnam, and more recently, in Iraq and Afghanistan. This gives us the essential paradox that members of the military and political communities, particularly the US and its allies, have to solve: assuming involvement is the only option, how can a powerful state avoid the trap of fighting a less powerful native force? Another way to ask this question is why do technologically superior forces continually lose out to weaker insurgent armies? Part of the problem may be that the question is too simple. A popular adage for the US military is that it is always ready to fight the last war. Becoming engrossed in the idea of simple victory on the battlefield is the tendency of a military designed to win against other professional forces, which have a hard time blending into populations or disappearing on a whim. Strategically, COIN operators are stuck using tactics for an enemy you can see against an enemy that cannot be seen; soldiers on the ground are essentially fighting with one hand tied behind their backs.

These strategic concerns are part and parcel of the legal issues in COIN operations. Typically, these types of missions are undertaken in a scenario where the more advanced or stronger force is attempting to impose its will, either by establishing its own rule (as in the Colonial era) or attempting to foster a native government (as in failed states or in forced regime changes). In conventional war, the end goal was to defeat the opposing state and take concessions of some type from them; the end game of COIN is less definite. Winning on the battlefield and remaining within legal constraints in that field is only a small aspect: success in COIN lies somewhere at the intersection of humanitarian law, law of war, and a domestic rule of
law. Even this, however, is a simple enough observation to make. Of course, in a scenario where an invading power is trying to establish stability, you have to take care of the native population (humanitarian law), only fight and kill by the book (law of war), and eventually turn over control of any operations to the local government (domestic rule of law). But these simply drive further questions. When is a local government strong enough to take over? What sort of humanitarian aid must an invading power provide (if it must at all)? What are the laws of war regarding dealing with a smaller, more mobile force? What do those rules of engagement (ROE) allow an invading force to do to flush out enemies hiding among native populations? Here, I will attempt to address the confusion surrounding how the laws of war intersect with COIN.

To understand how to answer these questions, it is important to establish what COIN is, the most prominent COIN strategies, and what ROE have been used to implement. I accomplish this in several parts. First, I will create the legal framework necessary to understand the problems in applying conventional laws of war in a COIN operation. This section will detail the development and modern context of the laws of war and humanitarian law, which intersect in evolving standards for ROE. This backdrop will inform the discussion of the difficulties of applying laws made with a “kill-capture” strategy in mind as opposed to the multidimensional approach of modern COIN strategy. Second, I will examine the history of modern US COIN doctrine, specifically the inspiration for US Army-Marine Corps Field Manual 3-24 (FM 3-24). This will be accomplished by exploring the history and source material for FM 3-24, in both the French history of African colonialism and the subsequent work of David Galula, a 19th Century French officer. This will provide the historical context for the discussion of the legal issues in a COIN operation. Having established both a strategic and legal framework, the final section of the paper will detail how these concepts have been applied in the field, and demonstrate the issues
that arise. This will be illustrated with two brief case studies: Somalia in the 1990s (before the writing of FM 3-24) and the modern War on Terror, focusing on the drafting of FM 3-24 and the COIN efforts in Iraq. A special focus will be given on attempts to restore domestic rule of law and alleviate the suffering of the civilian population while actively engaging the enemy.

This paper is only the first step into COIN research. It is meant primarily as an attempt to understand and survey the current state of the law in the context of COIN operations. By the end, however, I should be able to draw several conclusions. First, as is often noted, the various world military powers are poorly prepared to handle COIN operations, at least in any meaningful way. This leads directly to the second conclusion, and the basis for future research: the militaries of the world, especially the US and the UN, must reform and overhaul their entire training program in order to create a force which can navigate the myriad issues, both strategic and legal, in a COIN theater.

**Legal Foundations of the Laws of War: Kill-Capture**

Despite the insistence of the Roman scholar Cicero on the silence of law in times of conflict, war is as much a legal event as it is a strategic or political event (Banks 2013). While not pleasant, leaders of states throughout history have, to a lesser or greater extent, accepted war as a necessity at times. It is, according to some scholars, simply politics by other means. However, this does not downplay the horror of war. Soldiers are forced to leave their homes and travel to foreign lands to fight, kill, and die. Beyond the actual battles within the war, civilians are uprooted, displaced, and killed in direct or indirect ways. Because war is a horrible necessity, laws governing the practice and conduct of war developed over time. These laws are codified in various international treaties and conventions, such as the Hague and the Geneva Conventions (Ganor 2013, 141). The purpose of these laws and regulations is to both limit what the states who
are parties to the agreement can do to each other and to protect civilian life to the greatest extent possible. According to Dr. Ganor, these laws boil down to four basic principles, which inform the ROE of countries in conflict. They are listed below:

“(1) The principle of distinction and civilian immunity: Parties to a conflict are at all times required to ‘distinguish between the civilian population and combatants and between civilian objects and military objectives
(2) The principle of proportionality: Even when targeting legitimate military objectives, military commanders must ensure that the losses to the civilian population and the damage to civilian property are not ‘excessive in relation to the concrete and direct military advantage anticipated’…
(3) Respect for the basic rights of POWs [ensuring that POWs will not be charged in connection with battlefield actions and will be treated humanely]
(4) Use of legal weapons only: [this principle merely summarizes the idea that some weapons, such as biological or chemical weapons, cannot be used because of the destruction they cause on civilian populations and the local environment]” (2013, 143).

Taken together, these principles sum up most of the laws of war. The first two principles can prove the most troublesome in a COIN scenario, however. The intent of the law has not changed, certainly. The protection of civilian populations remains in the forefront of any military operations. But these principles may be anachronistic. The laws of war as currently understood developed in the tradition of “kill-capture strategy” and not in the current multidimensional landscape faced by today’s militaries. “Kill-capture” is a term of art meant to convey the traditional mission of battlefield commanders: obtain victory on the field by killing or capturing enough of the enemy that he or she is forced to surrender (Sitaraman 2009, 1752). How these laws developed is important to understanding why they may be a problem in the current military climate.

The “kill-capture strategy” is as old as war. For commanders such as Gustavus Adolphus, Frederick the Great, and Carl Von Clausewitz, “the central feature of warfare was battle against the army” and the total defeat of the same by destruction. However, there was no real codification of the laws of war until the nature of war shifted from the idea of army on army to
“total war”, or the concept of defeating the army in the field and by crippling its economic base of support. This concept involved increasing contact between militaries and civilian populations and required a new set of rules regarding battlefield conduct. One of the first examples of total war, the American Civil War, also featured one of the first codified laws of war. This code was known as Army General Orders No. 100, or the Lieber Code (2009, 1754). Promulgated by Abraham Lincoln, the code established military necessity as a concept to limit violence. The code did not bar brutal or violent tactics, but did require those tactics to be in some sense necessary to winning. The key for this code was less about direct protection of civilians and more about shorter wars. Concurrently, the international community banned “exploding bullets” and recognized a principle in war of unnecessary suffering. “The Declaration [The 1868 St. Petersburg Declaration] stated its goal as ‘fixing the technical limits at which the necessities of war ought to yield to the requirements of humanity’” (1755-6). At the turn of the 20th century, the international community met again, this time at The Hague. Importantly, these conventions not only established the principle of distinction mentioned above, but declared the central feature of war to be killing and capturing the enemy, narrowly defined as the combatants of the enemy army (1756). These codes prevent moving into undefended towns, overlong detaining of prisoners of war (POWs), and codifies reciprocity (id). These rules held sway through World War II, when the world community met again and established the Geneva Conventions in 1949. The Geneva conventions reflected a shift in concern to humanitarian needs of the civilian populations which increasingly became caught in the cross-fire. The four conventions further drove home the principles of reciprocity, distinction, legal weapons, and the rights of POWs (1758).
Strategic Foundations for COIN

These principles are still the legal authorities militaries must adhere to in creating ROE for individual conflicts. But the fundamental assumption in these laws is wrong and potentially dangerous within a COIN operation. A COIN mission is not so simple as “kill-capture”. To be successful in a COIN mission requires being able to win over a population while simultaneously excising the insurgency. Having established the current legal framework, it is now important to setup the strategic framework in which COIN operates. The basis for this framework is in, as General Petraeus declares in FM 3-24, a “hearts and minds” focus (FM 3-24). “Hearts and minds” strategy is a huge shift in traditional military thought. It takes the center of gravity (a term borrowed from Clausewitz) and shifts it from the opposing force (the insurgent) to the civilian population; fighting remains integral but is a subsidiary to the larger interest of engaging the population (Banks 2013). The idea originated in the 19th Century within the context of French colonialism in Northern Africa and Madagascar.

David Galula’s Influence: French Algeria

The founding father of modern COIN strategy is a 19th Century French officer, David Galula. His writings were the main inspiration for COIN in Iraq and Afghanistan. But his ideas were not created in a vacuum. In fact, much of the practices that he observed and recorded had been established well before his time. There were three key concepts he drew on (Rid 2010, 731). These concepts are detailed below, and will look familiar to anyone who has followed modern operations in the Middle East.

The first concept was developed in the 1830s. Called the ‘razzia’, it was actually a concept borrowed from Bedouin societies. ‘Razzia’ were simply massive raids; the French would swoop into a village, block all exits, burn the village, and seize the supplies (2010, 732). The
only difference in the Bedouin and French strategies was that, to impose their will, the French also slaughtered or captured all those within the village; the Bedouin raids featured less loss of life (*id*). The strategy was a response to the same problem modern militaries face in COIN operations: an enemy who has no fixed base or supply lines, but instead is dispersed among the population. Without “traditional” military targets, the French were left to target the only installations the native population had, namely the villages and livestock the people of Algeria depended on (735). This strategy proved militarily effective but ultimately caused more problems than it solved. A number of scholars who toured Algeria at the time began to see that the brutality of the raids was essentially resulting in the colonial force spinning its wheels; calm and stability were unattainable, as one insurgency led to another (736). This is an early warning sign against traditional “kill-capture” when facing an insurgent force. Victory on the battlefield undermines long-term goals.

This realization of the weakness of the ‘razzia’, led to the ‘bureaux arabes’: the development throughout the nineteenth century of indigenous affairs officers, or civilian liaisons. At the time, this was a novel concept. Such a job required a military officer with knowledge of local customs and culture, who could work with the population and interpreters; the French also utilized local leadership in junior officer roles, ingraining the French forces with the local population and giving the military an ear to the ground in terms of intelligence (740).

While this represented an improvement over the brutality of the razzia, there continued to be issues. The biggest issue was that the ideal commander in theater was experienced in local customs, language, and its system of justice. This simply was too large a task in Algeria, where the nature of the ‘bureaux arabes’ more often than not put junior officers in charge of making monumental decisions based on local laws of which he had no understanding (742). The
structure also separated the junior officers from their commanding officers, leaving groups of
three or four officers essentially stranded in different regions (742). It was also felt, by the
Parliament back in Paris at least, that the organization aligned too closely with the Algerians and
not close enough with French colonial interests (742).

The ‘razzia’ and ‘bureaux arabes’ coalesced in Madagascar, with General Joseph-Simon
Gallieni implementing them in an effective COIN operation (743). Before Gallieni’s arrival, the
situation for the French in Madagascar was approaching catastrophe. Similarly to Algeria, the
military found itself putting out fires instead of preventing them from being lit. The insurgency
was well-established, and every attempt to crush it only strengthened it. Gallieni, fresh off COIN
campaigns in Vietnam and modern day Mali, had a plan. First, he put in place a single military
structure that covered the whole territory. This was similar to the ‘bureaux arabes’ but managed
to centralize decision-making both in terms of policy and geographically. Second, his first orders
were that the organization work to instill confidence in the local population in the idea that the
French could protect them. This involved a show of force at French installations and a
simultaneous empowerment of local chieftains.

The key here was the focus on simultaneous political and military action. Certainly,
military operations were a part of the mission, and the French military worked to secure the links
between the capital and the ports. But the military was able to hold ground taken because as
territory was taken from the insurgents, the French also worked to separate the insurgents from
the local tribes politically, removing their base of support and shoring up the position of the
military (750). These ideas were not new at the time. But what Gallieni accomplished was to fuse
both the idea of quick and powerful military action with political maneuvering to achieve some
sense of stability, and allow civilian controllers to step in and take over. The work took roughly a
decade, but the plan worked, and Madagascar was stabilized enough to turn it over to civilian control (2010, 750).

**Galula: COIN Architect**

Drawing on this history, Galula developed his theories of COIN or “revolutionary war”, as he viewed it (Grenoble and Rose 2011, 282). His work is based around four key laws. First, “…the support of the population is as necessary for the counterinsurgent as for the insurgent” (284). Second, the population consists of three subsections: a favorable minority, a neutral majority, and a hostile minority; the counter-insurgent must focus on rallying and expanding the favorable minority to win over the majority and neutralize the hostile elements within a population (284-5). Third, a population’s support is conditional on the relative power of the counter-insurgent and the insurgent: a favorable minority will remain silent if it feels the counter-insurgent cannot protect him or her (285). The fourth law is the only one to focus on the counter-insurgent and not the population. It declares that a COIN operation is a long term, resource intensive activity (*id*). Each of the laws builds to one overarching theme: the counter-insurgent must have its focus on the population, and not on the insurgency. Certainly, conflict with the insurgent is inevitable, but that conflict must not take away from a population-centric approach. As Galula notes, a COIN mission is not a quick fix and should not be taken on lightly. The population must feel safe and have confidence in the counter-insurgent; this requires time, money, and manpower to build that comfort with what amounts to an invading army within your borders.

**Modern COIN: Galula to “Hearts and Minds”**

We see in the above hints at what the future of COIN would hold. While the methods stayed the same, however, the overall objective began to shift as the colonial age of the world
ended. In the post-World War II era, the focus of states around the world was not to move in and endlessly occupy. Under the auspices of the United Nations and the benevolent attitudes it represented, the world became more interested in stabilizing nations weakened by both internal and external crises. However, the strategic focus of major military operations was still stuck in the primary goal of “kill-capture”. Humanitarian efforts were made, but they were usually of a strictly supply based nature, and not of infrastructure or civil support. When ROE based on the “kill-capture” strategy were used alongside these efforts, disaster struck. An illustration of this failure of “kill-capture” to mesh with a COIN or multidimensional mission is in Somalia in the 1990s, under UNOSOM I and II.

**Somalia: “Kill-Capture” in Multidimensional Warfare**

After the collapse of the Soviet Union in 1989, the UN was able to turn its focus from combating communism to promoting statehood around the world. Thus began a decade of aggressive interventions in areas that had begun to destabilize around the world. One such area was the country of Somalia, located on the horn of Africa. This small country found itself on the brink of ruin in the early 1990s. At the end of 1991, the Somalian leader, a dictator by the name of Siyad Barre, was forced down by insurrection (Augelli 1995, 339). The resulting power vacuum created a devastating civil war, and for over a year the combatants fought across the countryside, with especially vicious conflict focused in and around Mogadishu, the capital of Somalia (340). The conflict, coupled with a staggering famine, killed an estimated 300,000 and displaced many more (Patman 1997, 509). The conflict was prolonged by two groups, with the more powerful group led by Mohammed Farah Aideed (1995, 341). The situation seemed hopelessly dire by the end of 1992, when the UN decided humanitarian aid would not be enough.
Initial security forces landed in December of 1992, pursuant to UN Security Council (UNSC) Resolution 751.

In Somalia, the UN (and US in a support role) faced a unique problem. Humanitarian missions had been taken on before, but the large scale destruction, lack of central authority, and constant fighting by small militias made even the smallest moves difficult. On top of that, the militias were ingrained within the local population; soldiers on the ground protecting convoys had a hard time distinguishing a threat from a civilian with a gun. Hot spots within Mogadishu (where the missions and the violence were focused) changed daily. The problems can be tracked through the changing legal documents that authorized the various international activities within Somalia. First, UNSC Resolution 751, noted above, established a UN mission in Somalia (what later was known as UNOSOM I). This was a standard mission: UN forces, specifically 500 Pakistanis, operated to protect humanitarian aid drops (1997, 509-10). However, the ROE the Pakistanis operated under were highly restrictive; UNOSOM I was authorized to secure the peace, but was not authorized to engage those who disturbed the peace, and the violence continued.

Seeing a problem, the Bush Administration offered conditional aid under “Operation Restore Hope” (1995, 62). The conditions were simple enough: the US led coalition forces (UNITAF) would act independently of the UN chain of command and operate on a time limited basis (1997, 510-1). UNSC Resolution 794 gave UNITAF the blessing of the international community and a broader mandate. Paragraph 10 of Resolution 794 authorized “member states” to utilize “all necessary means to establish as soon as possible a secure environment for humanitarian relief operations in Somalia” (UNSCR 794, Para. 10, 1992). This was an unprecedented grant of power from the UN, so much so that the two chains of command could
not agree on what exactly fell within the limits of the mission. US forces believed the mission was “narrow and clearly defined: to provide security for the delivery of relief supplies” (1995, 63). UN forces, however, believed UNITAF should have been engaging in active disarmament of the local population in order to provide this security. This initial mission was stuck, legally and strategically, somewhere between humanitarian mission and “kill-capture” outright war.

The US had four main concerns about active disarmament as opposed to providing security to aid drops: 1) Humanitarian interventions risked a long-term, untenable commitment, 2) systematic and aggressive disarmament would involve a high number of casualties (essentially going to war against all the various Somali factions), 3) the complexity of the security environment in Somalia made identification of targets almost impossible, and 4) the monetary cost of disarmament would be astronomical (1997, 512). UNITAF’s ROE reflected their limited commitment: US forces were authorized to engage and disarm with all necessary force any armed persons within areas they controlled, but those individuals were required to be released once they were relieved of their weapons (1995, 64). The emphasis on these ROE was force protection; there was no clearance to actively engage agitators who were not directly threatening UN or UNITAF forces. This, along with deteriorations in the political process, led to a sharp uptick in crime and violence within Mogadishu as the factions realized that they could operate with impunity so long as they avoided coalition forces (1997, 512).

With the increase in violence, and the surrounding questions on what the mission actually entailed, the UNSC issued Resolution 814. This document spelled out a comprehensive state-building mission. Noting the deteriorating situation, Resolution 814 specifically recognized a need for disarmament and a need to rebuild local political institutions, two recognitions that were absent from the UNITAF mission. UNOSOM II, authorized by 814, was entrusted with
implementing economic recovery, political rebuilding, re-establishment of the local police forces and active disarmament of local militia. Essentially, Resolution 814 took all four of the activities the US had previously balked at, packaged them, and returned them to the forces on the ground as legal authorization (UNSCR 814, 1993). This represented a legal changing of gears for the UN and coalition forces. Where before forces were only authorized to respond and not be proactive, the new mission, UNOSOM II, was authorized and encouraged to proactively engage in the hot spots of activity in and around Somalia.

The story from this point on in Somalia is a sad one. UNOSOM II’s mandate was broad, bold, and revolutionary; its manpower allotments, however, were not. UNITAF forces in support of UNOSOM I totaled over 30,000 troops, the majority of which were US Marines. Under the consolidation that led to UNOSOM II, the mission was broadened but the number of personnel dwindled; US involvement was reduced to 4,500 troops, much of which was logistics personnel (1995, 66). The total commitment by UN member states was only 16,000 (1997, 519). The new mission immediately came under fire by the militias, including a horrific attack that killed 24 Pakistani peacekeepers on June 5, 1993. The attack was led by militias controlled by Aideed, mentioned above as the main agitator in the conflict. Despite reduced numbers and a dearth of proper equipment, US and UN forces engaged in a manhunt for Aideed and ramped up their disarmament efforts. This eventually culminated in the now infamous raid on the Olympic Hotel, which trapped US Special Operations deep within Mogadishu overnight, resulting in the deaths of several US troops and many Somalis.

Somalia represented COIN operations before the international community had really gotten a grasp on the concept. Looking at it through the strategic framework I developed, a number of issues jump to the fore. First, in terms of legal and strategic positioning, there was a
clear delineation between chains of command for the US and UN, to the detriment of both. The US operated on a limited “force protection” basis; despite superior numbers, it was unwilling to engage actively in the ongoing conflict, fearful of being drawn into the civil war with no way out. The UN saw the mission, despite the narrow language of Resolution 794, as far more broad, requiring active disarmament and engagement in order to create a stable and secure scenario in which humanitarian aid could be delivered. They made the same mistake the French made in Northern Africa; without a centralized authority, neither the US nor the UN could be sure what the other was doing, and so despite some gains the early portion of the mission was hopelessly bungled. When the mission expanded under UNOSOM II and command was unified, it was too late; the coalition forces had ceded the advantage to the various Somali factions. ROE under both missions was too slow to evolve from “force protection” to active engagement because of this lack of unity in mission objectives. Confusing legal authority hampered strategic efforts, and by the time the authorizations and mission guidelines were properly aligned it was too late.

**Iraq in the “Age of Petraeus”**

Nearly a decade later, the US became embroiled in the “War on Terror” as a result of the terror attacks on the World Trade Center in New York City on September 11th, 2001. Two years later, on March 20, 2003, the second Bush Administration declared war on Iraq as part of the mission to eradicate breeding grounds for terrorists. This conflict represents a turning point in strategy for the US and its allies in addressing asymmetric warfare. As the conflict wore on, it became clear that standard “kill-capture” would not be enough; this realization directly led to FM 3-24 and to the “hearts and minds” strategy currently employed.

The initial push was successful, as Saddam Hussein, the leader of Iraq, was toppled in a matter of weeks; Baghdad was successfully taken by US and allied forces on April 9, 2003 (New
York Times, “Timeline of Major Events in the Iraq War”). This was seen as a major victory in the overall “War on Terror”. Allied forces had toppled the oppressive government and taken Iraq successfully under a “kill-capture” strategy, defeating Saddam Hussein’s professional military and taking the capital.

As 2003 wore on, however, it became clear Iraq was a long way from being stable. An increasing Sunni insurgency peppered US forces as they attempted to rebuild Iraq (Kahl 2007, 173). US response was, at best, uneven; with no doctrine to fall back on, commanders on the ground were largely left to their own devices to determine appropriate strategy. Having been trained in conventional warfare, forces on the ground engaged in massive offensives to attempt to kill or capture the enemy; without being able to hold the ground they took or protect civilians, however, these offensives only served to alienate the population and embolden the insurgency as civilians began to get caught in the crossfire (174).

This embodies the strategic and legal paradox I am driving at. Brutal “kill-capture” techniques can work in a COIN scenario, but it requires the occupying power to have a complete disregard for the local population and any semblance of the laws of war. However, a force concerned with proportionality, identity of targets, and civilian immunity, cannot operate against an invisible force indistinguishable from civilians if the goal is to kill and/or capture every single insurgent. Thus, in late 2003, the US and its allies were in a bind. As Colin Kahl noted, they were stuck being not violent enough to rule through brute force and not in touch with the population enough to dissuade revenge for mistakes made (2007, 174).

It was not until three years later, in 2006, that the US military was able to publish a training manual to identify and address the gap between the constraints of the laws of war and US military strategy. The publication was FM 3-24, the US Army and Marine Corps COIN
Manual. Drawing on the population-centric model of David Galula, FM 3-24 laid out new objectives for the forces on the ground in Iraq and Afghanistan. Under the new model, the role of the counterinsurgent was not to merely pacify the local population, as the French did in North Africa; the key was protecting the population, both from insurgent attacks and military cross-fire (Jenks 2013, 113). The manual emphasizes the high ethical burden placed on individuals operating in the field. Engaging the enemy at all costs, as soldiers did in the early stages of the war, was a good way to achieve short-term success and long-term failure. It engages and emphasizes several of the paradoxes of COIN: 1) more protection may be less safe, 2) more force may be less effective, 3) successful COIN must reduce force and accept more risk to troops, and 4) “doing nothing is often the best reaction” (*id*).

While this was a novel development at a time when strategy and the Iraq war had grown stagnant, it may represent no more than the best of bad options. The risk balancing required of current troops in the field is not something that is naturally learned. The requirements of FM 3-24 are for the counterinsurgent to actively engage in a balancing act between engaging and sitting still; in the field, this means making a split second decision on whether to engage someone opening fire on your unit, weighing it against the odds of causing unwarranted civilian casualties. That is a split second of hesitation many units simply cannot afford. The overall strategy of “clear, hold, and build” is difficult to pull off when you can identify the enemy; in Iraq, the enemy is any one of hundreds of nameless and faceless foot soldiers and suicide bombers (2007, 175).

**Future Research: Where Can We Take COIN From Here?**

What lessons can we draw from Somalia and Iraq? Somalia is perhaps more useful, if only because we have more distance from it. Troops were “withdrawn” from Iraq in 2011, but
military advisors and US personnel remained on the ground, and with the rise of the group the Islamic State of Iraq and Syria, it remains to be seen whether the embracing of FM 3-24 has actually accomplished anything. The odds seem to be in favor of the current strategy as theoretically sound but a failure in practice. Both conflicts together, however, highlight a number of strategic and legal concerns and lessons. First, any military force entering a conflict needs to know what conflict it is entering. The US entrance into both Somalia and Iraq was highlighted by confusion about what the goal was or should have been; as a result, it ceded any advantage its overwhelming power may have had to the enemy by hesitating and feeling out the conflict.

Second, Somalia highlights the need to unify legal authority in the conflict. By having separate chains of command and separate ROE for the US and the UN, neither was able to take advantage of the 1992-3 stalemate and establish any sort of foothold. In Iraq, this issue was highlighted by the uneven attempts of commanders in the field to establish footholds before the publishing of FM 3-24.

The laws of war and current military training, as they are currently understood, are wholly inadequate for COIN operations. The laws of war were written, developed, and geared toward a time when the enemy was easily identifiable and the goal was to defeat the enemy to gather concessions or defend your territory. The game has changed considerably, but the rules have remained the same. The very idea of combatants in the international sense has to be revisited and revised. The problem is compounded by the training mission of militaries around the world; the US military, as an example, trains the greatest war fighters in the world. But if nothing else can be drawn from the above, it is that “wars” as we understand them are no longer fought. The soldier must no longer only be skilled in small-unit tactics and weapons handling.
They must also be a combination international lawyer/diplomat/social worker to fully realize the mission laid out by FM 3-24 and other COIN doctrines.

The goal of this paper was simply to lay out the legal and strategic issues of COIN. It provides the groundwork for future research. Future work must attempt to get a grasp of how successful “hearts and minds” strategy can be through fieldwork and quantitative research. Further legal research must also be done on how to properly define civilians and combatants in the post-Iraq War world.
WORKS CITED


Chapter 8: Ganor, Boaz, “Terrorism and the Laws of Multidimensional Warfare”


http://www.nytimes.com/interactive/2010/08/31/world/middleeast/20100831-Iraq-Timeline.html?_r=0#!/time111_3262


United Nations Security Council Resolutions
751
794
815

US Army and Marine Corps Field Manual 3-24