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The Loss of Strategic Legitimacy

Robert J. Weimann

“War leads to war crimes, and the only sure way to avoid that seems to be to avoid war. Good example, discipline and control (good leadership) can only reduce the problem.”

- - Comment on *Small Wars Journal* discussion board thread titled “The Kill Company” dated 15 July 2009¹ concerning *The New Yorker* Article, “The Kill Company” by Kaffi Khatchadourian, July 6 2009²

Looking at the latest edition of the DOD Joint Operations Manual (Joint Operations JP 3.0),³ you noticed, under the “Summary of Changes Section”, the addition of three new Principles of Joint Operations (Principle of War). There, in the change section, it states that the publication:

“Establishes 12 “principles of joint operations” by adding three “other principles” — restraint, perseverance, and legitimacy — to the traditional nine “principles of war”⁴

The Department of Defense use to have only nine “principles of war” that included Mass, Objective, Offensive, Security, Economy of Force, Maneuver, Unity of Command, Surprise and Simplicity. These principles were burned into the minds of entry level lieutenants with the permanency of a branding iron during their initial officer training using the acronym “MOOSE MUSS”. Ahhh yes, good old MOOSE MUSS; because of it most officers will never forget those nine strategic principles of war. The change also raises a question; why, after more than forty years of military institutionalization, did the Department of Defense changed the “Principles of War” with three additions.

Because the original nine principles are based on Clausewitz’s work “On War”, they represented a young officer’s initial introduction to military strategy. Of course, strategy is the realm of generals and junior officers need to know only the basics. Back then, most officers fully agreed to that unwritten rule because they recognized that the basic operation and function of an M-60 machine gun would be much more valuable working at that “eyeball-to-eyeball” level of war. Junior officers and NCOs trusted that the generals had their backs on that strategy thing. The new additions to the principles of war that were added in February 2008 are explained as follows:

¹ <http://council.smallwarsjournal.com/showthread.php?t=7707&page=4#>

² The New Yorker, July 6, 2009; “The Kill Company” by Kaffi Khatchadourian, p. 41

³ JP 3-0, Joint Operations, 17 September 2006, Incorporating Change 1, 13 February 2008

⁴ Ibid., p. iii

*“... Restraint ... The purpose of restraint is to limit collateral damage and prevent the unnecessary use of force...
... Perseverance ... “The purpose of perseverance is to ensure the commitment necessary to attain the national strategic end state...
... Legitimacy ... The purpose of legitimacy is to develop and maintain the will necessary to attain the national strategic end state... Legitimacy is based on the legality, morality, and rightness of the actions undertaken. Legitimacy is frequently a decisive element. Interested audiences may include the foreign nations, civil populations in the operational area, and the participating forces.”⁵*

For some officers, the first reaction to these terms and definitions is that they strike you more as legal terms when compared to the old principles of war. Some have to wonder if the reason they crept into the “Principles of War” is due to the bad press we take when a “war crime” headline hits the media. Of the three, however, the quest for legitimacy is the key to what we are seeing in the prosecution for war crimes in both Iraq and Afghanistan.

At the end of April 2004, the Abu Gharib prison photos were released onto the US public highlighting one of the greatest military strategic failures in the history of this nation. The moral high ground and “legitimacy” essential for the war’s public support took a devastating blow. The cognitive dissonance created, between the images of heroic Marines and Soldiers successful invading Iraq from the previous year and the degrading torture photos of prisoners prostrate under smiling “thumbs-up” and subjecting US service men and women, lost the legitimacy principle to a now confused public perception. Abu Gharib was a strategic embarrassment and failure. The senior military leadership’s response was to embark on a quest to again find that legitimacy within their administrative realms.

Clearly war crimes were committed at Abu Gharib, but the war crimes responsibility also rests with the general’s failure to set the strategic tapestry⁶ necessary for success in both Iraq and Afghanistan. The lack of good strategic thinking botched⁷ the Iraqi occupation and set up Abu Gharib’s war crimes. Multiple strategic failures combined to drive the Abu Gharib public affairs disaster and not just a “few bad apples”, as portrayed by the court marital of small group of junior enlisted MPs (Military Police).⁸

A shortage of occupation forces attributed to a “stiff-necked” Secretary of Defense, and general officers failing to establish an effective occupation strategy created an expanding insurgency. These are both major contributing factors.

In addition, the strategic reaction to the growing insurgency that was spinning out of control was to initiate massive and ineffectual security raids. The security raids were an attempt to capture the initiative general officer’s no longer controlled. The raids were not only bad counter insurgency tactics but also they would dump thousands of security detainees into Abu Gharib in

⁵ JP 3-0, Joint Operations; 17 September 2006, Incorporating Change 1, 13 February 2008, p. A-3 to A-4.

⁶ The Strategic Game of ? and ?; Col Boyd Brief, Slide #58

⁷ <http://politicom.moldova.org/news/webb-graham-spar-over-iraq-war-56649-eng.html>

⁸ <http://www.reuters.com/article/pressRelease/idUS182705+22-Apr-2009+PRN20090422>

a matter of weeks. Detainees entering Abu Gharib at a rate of 3000 per month,⁹ quickly overwhelmed the general's own detainee system built upon limited untrained personal and non-existent procedures.¹⁰

The senior military leadership went into the knee-jerk reaction mode after Abu Gharib hit. Instead of fixing and establishing an effective detainee program, they played to the politics with a “catch and release” policy that undermines our frontline warriors dealing with that eye-to-eye insurgency battle.

Second, they institutionalized a sensitivity or a “no tolerance” policy for any perceived war crime when combat operations against insurgents, using civilians as shields, represents a vast grey area that is never adequately covered with any rules of engagement set.

As a positive example and after eight years of war in Afghanistan (and almost seven in Iraq), one of our generals finally gets it. General McCrystal Afghanistan Assessment states:

“Effective detainee operations are essential to success. The ability to remove insurgents from the battle field is critical to effective protection of the population. Further, the precision demanded in effective counter insurgency operations must be intelligence driven; detainee operations are critical to this ... the detention process must be effective in providing key intelligence and avoid ‘catch and release’ approaches that endanger coalition and ANSF forces.”¹¹

Capt Roger Hill and 1st Sgt Tommy Scott ran afoul of the 96 hour “catch and release” policy during their 2008 deployment to Afghanistan. The Captain, based on his 30+ casualties due to ambushes to his 90 soldier company, is suspicious of his Afghanistan military partners who also help man his Forward Operating Base defensive perimeter. He sets up a sting operation and catches 12 Afghanistan soldiers, including his interpreter, facilitating another ambush. The captain takes those 12 Afghan soldiers into custody and informs his battalion what has happened. For the next 80 hours (3 plus days), Captain Hill tries to get help from his battalion headquarters. At hour 80, with the clock running out because of the 96 hour “catch and release” rule, he takes matters into his own hands and with the help of his first sergeant conducts an interrogation. His initiative is rewarded with charges of “detainee” abuse and other war crimes. His additional reward is his discharge from the Army and his first sergeant losing a stripe.

In Iraq in the spring of 2007, 1st Sgt John E. Hatley's company is taking casualties to include a recent death from an enemy sniper team operating in his company's area of responsibility. 1st Sgt Hatley and two of his NCOs captured four Iraqis with assault rifles, ammunition, and two sniper rifles.¹² After they take the Iraqi's into custody and during transport they receive orders to release their prisoners. These soldiers are later charged and found guilty of executing the four Iraqi prisoners. 1st Sgt Hatley and another NCO receive life sentences and the third NCO

⁹ <http://dir.salon.com/story/books/int/2005/11/10/karpinski/index.html>

¹⁰ <http://news.findlaw.com/hdocs/docs/iraq/tagubarpt.html> (Gen Taguba Report)

¹¹ COMISAF's Initial Assessment (McCrystal Assessment) to The Honorable Robert M. Gates, Secretary of Defense, dtd 30 Aug 2009. p. 2-16

http://media.washingtonpost.com/wp-srv/politics/documents/Assessment_Redacted_092109.pdf

¹² <http://www.theaustralian.news.com.au/story/0,25197,25328908-12335,00.html>

received 35 year in prison. You have to ask the question whether or not this incident would have ever happened, if these soldiers had a detainee system they could not only trust but also have confidence in to protect their backs.

The other reaction the generals had to the Abu Gharib fiasco is that they became very sensitive to any allegations of war crimes. We see this sensitivity in the 2005 Haditha Marine incident.

Here a couple of Iraqi's with a "Heresay" story approach a *Times* correspondent who has been ordered by his editor to do a piece on civilian casualties. The reporter's simply inquiry to Commander of Multi-National Corps – Iraq headquarters basically sets off multiple investigations that are leaked to a known reckless and irresponsible US Representative.¹³

To this date, of the eight Marines charged in this case; charges have been dropped on five of those Marines; one has been found not guilty; the Battalion Commander's case was dropped because of undue command influence but he is awaiting a Board of Inquiry; and the squad leader, SSgt Wuterich, is still pending court martial (four years later) because the prosecutor cannot find enough evidence to bring him to trial. To top all that injustice and wasted effort, numerous other Marine officers in the chain of command associated with the Haditha incident have been relieved and censured.

The question this raises is; How on earth could the then, Commander of Multi-National Corps – Iraq, believe that his reporting system and chain of command were providing him with less information on the Haditha incident, compared to a *Times* reporter listening to two former Iraqi prisoners who were not eye witnesses?

The strategic story to tell in the Haditha incident; is that the enemy is using civilians as shields and not that Marines are murdering civilians. The story to tell is; that Haditha is no longer ruled by a murderous and intimidating enemy who is conducting daily public beheadings.¹⁴ The story to tell is; that when 3/1, the Marine Battalion's deployment ended, the Haditha population turned out to throw flowers at the Marines as a show of gratitude.

There is a long list of generals and admirals names commanding the wars in Iraq and Afghanistan that all share in the strategic failures of both wars (Franks, Sanchez, Abazaid, Fallon, Casey, Chiarelli, Kensinger, Kearney, and McKiernan). In Iraq, it took the US strategic leadership four years (2003 to 2007) to implement the "Surge" and in Afghanistan it took eight years to propose (yet to be implemented) a decent detainee program. The unfortunate costs of bad strategic calls are paid for by the Marines and Soldiers fighting the battle. In other words, the general's are no longer watching the backs of our combat warriors.

Lieutenant Colonel Robert Weimann's career spans 24 years as an US Marine Infantry Officer including participating in Desert Shield and Storm with the 2nd Marine Division. He retired in 1996, and lives with his family to Raleigh, NC where he works as an information technology program and project manager. He is also a contributing editor of the Defend Our Marines Web site (www.defendourmarines.com).

¹³ <http://censuremurtha.com/>

¹⁴ "Under US Nose: Brutal Insurgents Rule Sunni Citadel"; The Guardian, August 20, 2005

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