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Should Military Governance Guidance Return to its Roots?

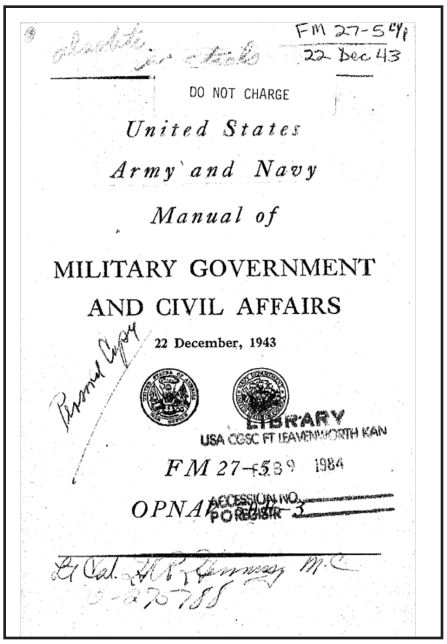
A Doctrinal Comparison Between Field Manual 27-5 (1943) and Field Manual 3-05.40 (2006)

By Colonel Hugh Vanroosen, United States Army

A comparison of the 1943 United States Army and Navy *Manual of Military Government and Civil Affairs* with the most recent (2006) United States Army *Civil Affairs* Field Manual reveals major changes in doctrine in the intervening sixty three years. While to some degree changing national and international conditions make many of those changes understandable, after reading the two manuals one can argue a need to recapture the 'military government' essentials found in the 1943 document.

The 1943 *Manual of Military Government and Civil Affairs* focused on the authority, responsibility, scope, and organization for how U.S. forces were to administer militarily-occupied territories. In contrast, the 2006 *Civil Affairs* manual focuses more on tasks performed in support of existing indigenous governments, in concert with other governmental and nongovernmental agencies. The 1943 manual defined military government as "the supreme authority exercised by an armed force over the lands, property and the inhabitants of enemy territory, or allied or domestic territory recovered from enemy occupation, or from rebels treated as belligerents."[1] The 2006 *Civil Affairs* manual does not include the term 'military government,' but does briefly discuss the concept under the topic of civil administration in an occupied territory:

> "establishment of a temporary government, as directed by the Sec[retary of] Def[ense], to exercise executive, legislative, and judicial authority over the populace of a territory that U.S. forces have taken from an enemy by force of arms until an indigenous civil government can be established."[2]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United States
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Manual of
MILITARY GOVERNMENT
AND CIVIL AFFAIRS
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Front Cover of the 1943 Army & Navy doctrinal manual on "Military Government and Civil Affairs"

The 1943 manual defined civil affairs as:

1. U.S. War Department, United States Army and Navy Manual of Military Government and Civil Affairs, Field Manual 27-5 and OpNav 50E-3 (Washington, DC: U.S. War Department and U.S. Navy Department, December, 22, 1943), 1.
2. U.S. Department of the Army, Civil Affairs Operations, 3-17.

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The views expressed in this student academic paper are those of the author and do not reflect the official policy or position of the Center for Strategic Leadership, the U.S. Army War College, the Department of the Army, the Department of Defense, or the U.S. Government.

> "the activities of the [indigenous] government of the occupied area and the inhabitants of such an area except those of an organized military character,"[3]

and identified civil affairs officers as:

> "military officers, who, under the military governor, are engaged in the control of civilians."[4]

A Civil Affairs officer pays civilian workers in the liberated Philippines during World War II

The 2006 manual identifies civil affairs as the personnel who assist a commander in conducting civil-military operations (CMO), which are:

> "the activities of a commander that establish, maintain, influence, or exploit relations between military forces, governmental and nongovernmental civilian organizations and authorities, and the civilian populace in a friendly, neutral, or hostile operational area in order to facilitate military operations to consolidate and achieve U.S. objectives."[5]

The 1943 *Manual of Military Government and Civil Affairs* outlined authorities for the theater commander (in his role as military governor) that are no longer found in today's doctrine. For example, "The taking of hostages, the imposition of collective fines, or the carrying out of reprisals" most probably constituted extraordinary measures for U.S. commanders to consider even in 1943, but nonetheless were still allowable.[6] None of these actions are politically feasible or doctrinally recognized today. Censorship was another military technique in 1943 (seen as an excellent source of intelligence on the civil populace of the occupied area) that is politically uncomfortable now, and more a potential source of enemy counter-propaganda. On the other hand, the 1943 manual recommended that "local laws, customs and institutions be retained" and that "it is unwise to impose upon an occupied territory the laws and customs of another people."[7] That wisdom has been overturned in recent years in our policy to democratize other nations? Other areas of difference between the 1943 and the 2006 manuals are in the stated supremacy of military personnel over "civilian agencies of the United States and its allies participating in the later phases of military government" (directly opposite from current doctrine that recognizes a policy of State Department supremacy),[8] and in assigning explicit responsibility for the tasks of securing banks, arts/monuments/archives (in 2006 no longer doctrinally designated to civil affairs).

ARTICLE III

Censorship

7. All correspondence, personal papers and documents and all communications by telephone, teletype, telegraph and radio (when these services are restored) must conform with the detailed censorship regulations and must only be transmitted through authorized channels. Correspondence carried by civilian travellers is equally subject to censorship.

8. The effective regulations as from the date of this law are the "CENSORSHIP REGULATIONS FOR THE CIVILIAN POPULATION OF GERMANY UNDER THE JURISDICTION OF THE MILITARY GOVERNMENT" copies of which will be displayed in so far as possible in every post office and which will be published in the Military Government Gazette. These regulations may be extended and amended from time to time.

9. All officials and employees of the Reichspost will take all practicable steps to ensure that Censorship requirements are fully met and that there is no evasion of censorship.

ARTICLE IV

Penalties

10. Any person violating any provision of this Law shall, upon conviction by Military Government Court, be liable to any lawful punishment, including death, as the Court may determine.

ARTICLE V

Effective Date

11. This Law shall become effective upon the date of its first promulgation.

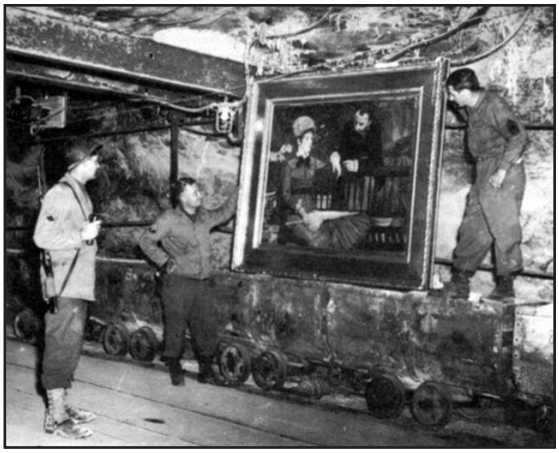
BY ORDER OF MILITARY GOVERNMENT.

Censorship guidance extract from "Handbook for Military Government in Germany: Prior to Defeat or Surrender"published in December 1944

The basic elements of the 1943 doctrine were that "military necessity is the primary underlying principle for the conduct of military government," that the exercise of military government must be in accordance with the Hague Convention, and that the Theater Commander is designated as military governor, but

3. Ibid.
4. U.S. War Department, United States Army and Navy Manual of Military Government and Civil Affairs, 1.
5. U.S. Department of the Army, Civil Affairs Operations, Field Manual 3-05.40 (Washington, DC: U.S Department of the Army, September, 29, 2006), 1-1.
6. U.S. War Department, United States Army and Navy Manual of Military Government and Civil Affairs, 7.
7. Ibid, 8.
8. Ibid, 32.

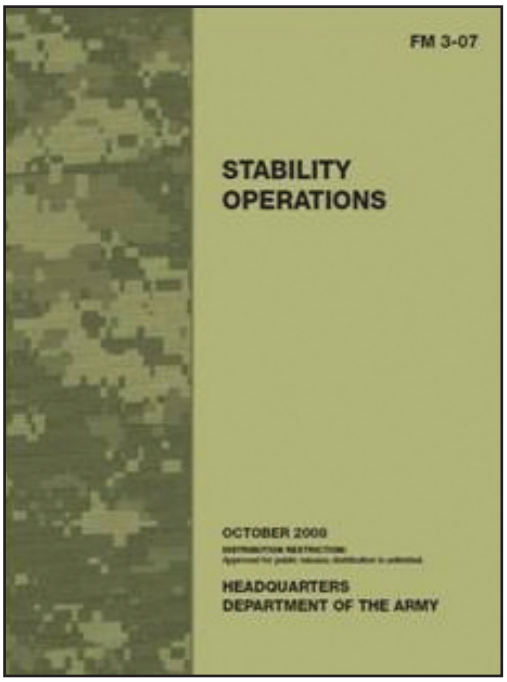
may delegate the title and authority.[9] The 2006 manual defines the core tasks of civil affairs as: population and resources control; foreign humanitarian assistance; civil information management; nation assistance; and, support to civil administration. Beyond the brief paragraph on civil administration, the 2006 manual does not provide any direct guidance on how the military is to exercise its responsibilities to reestablish a viable government in accordance with international law. Furthermore, current training of civil affairs personnel completely ignores this function. Beyond the 2006 *Civil Affairs* manual, the most recent stability operations doctrine indirectly addresses the requirement to conduct military government (without naming it as such):



A Civil Affairs team with a Manet painting recovered from Merkers Mine in occupied Germany

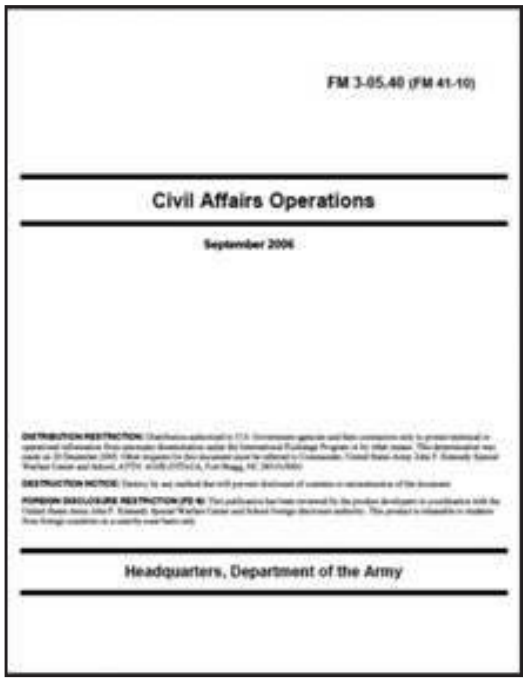
> "Stability operations are usually conducted to support a host-nation government. However, stability operations may also support the efforts of a transitional civil or military authority when no legitimate government exists."[10]

but does not provide significant guidance on the execution of that military authority.



Front Cover of the most current U.S. Army "Stability Operations" doctrinal manual

Nation-states continue to practice war against other nation-states in places such as Afghanistan, Iraq, Georgia, and Kashmir, as well as increasingly against non-state actors. When the U.S. military is directed to intervene at the nation-state level to effect regime change, the requirement to conduct military government has remained. Leaving this function up to brigade combat team commanders to reinvent, without doctrine and training, invites inconsistency and a lack of connection to U.S. policy. The inevitable requirement for conducting military government and the discomfort of the U.S. government with that requirement have remained constant throughout U.S. military history. Current civil affairs doctrine principally reflects that political concern. As a result, the military is faced with having to exercise de facto military government without appropriate authority or training. Recent stability operations doctrine and the initiation of a State Department Civilian Reserve Corps only partially address the issue of how to properly control occupied territories, at least during and immediately after armed conflict. The next iteration of civil affairs doctrine should directly recognize the need for temporary military government, and establish a baseline against which the military can train, organize and equip to meet the need.



Front Cover of the most current U.S. Army "Stability Operations" doctrinal manual

"As long as military operations continue, some degree of control [over the civilian population and resources] will be necessary."[11]

9. U.S. Department of the Army, Civil Affairs Operations, 1-3.
10. U.S. Department of the Army, Stability Operations, Field Manual 3-07 (Washington, DC: U.S Department of the Army, October, 6, 2008), 2-2.
11. U.S. War Department, United States Army and Navy Manual of Military Government and Civil Affairs, 4.