

# KANDUNGAN CONTENTS



## KANDUNGAN CONTENTS

<b>Dari Meja Editor</b>	<b>2</b>
<b>Superior Orders: Is It A Legitimate Defence?</b>	<b>3</b>
Lt Kol Mohd Hanim bin Saip	
<b>China And India As Potential Threat Powers In The Space War: An Analytical Study</b>	<b>18</b>
Mej Fazilah bte Hj Mohd Ali	
<b>Promoting Effective English Language Teaching In The Malaysian Armed Forces – Some Insights</b>	<b>27</b>
Mej Dr Muhammad Salim bin Muhammad Tufail	
<b>Is The Malaysian Education System Gravitating Towards Global Literacy</b>	<b>36</b>
Lt Kol Surjeet Singh Jeggy	
<b>Low Intensity Conflict (A Case Study)</b>	<b>43</b>
Mej Christopher Ignatius Choong	
<b>Punca Konflik Masa Hadapan : Masalah Air (Fokus Sudan)</b>	<b>52</b>
Mej Azudin bin Hassan	
<b>Nuclear Strategy Of The Reagan Administration</b>	<b>61</b>
Lt Kol Saiful Anwar bin Md Ali (Bersara)	
<b>Psychological Perspectives On Maintaining Unit Morale</b>	<b>66</b>
Lt Prof Madya Dr Teoh Hsien-Jin	
<b>A Military Perspective On Situational Leadership</b>	<b>74</b>
Mej Inderjit Singh a/l Tara Singh	
<b>Why The United States And Allies Are Failing In The Afghanistan Since 2002</b>	<b>82</b>
Mej Azman Bin Abdul Razak	



*Muka Surat 72*



*Muka Surat 73*



*Muka Surat 73*

## DARI MEJA EDITOR

*Dengan Nama Allah Yang Maha Pengasih Lagi Maha Penyayang.*

*Salam Sejahtera,*

*Syukur Alhamdulillah, Edisi ke-54 Jurnal Sorotan Darat dapat dikeluarkan seperti mana yang dihasratkan. Sidang Redaksi merakamkan setinggi-tinggi penghargaan kepada semua penulis artikel yang telah menyumbang hasil penulisan masing-masing bagi Edisi ini. Pastinya artikel-artikel tersebut akan menjana minda para pembaca dalam usaha kami untuk mencungkil idea-idea bernas yang dapat memacu Tentera Darat untuk mencapai tahap prestasi yang lebih cemerlang di masa hadapan.*

*Penerbitan edisi ini memberi fokus kepada Kor Polis Tentera DiRaja (KPTD) sebagai penyumbang artikel muka depan. Artikel yang bertajuk "Superior Orders: Is It A Legitimate Defence?" amat sesuai sekali kerana ianya membincangkan tentang kesahihan arahan pegawai atasan dari sudut perundangan serta implikasi kepada anggota bawahan yang menerima arahan tersebut. Artikel ini dapat menimbulkan kesedaran terhadap aspek perundangan dalam menjalankan tugas ketenteraan kepada para pembaca.*

*Artikel-artikel lain yang diterbitkan pula menyentuh berbagai aspek penting dalam organisasi Tentera Darat seperti konflik/peperangan, kepimpinan, psikologi, pendidikan serta hubungan antarabangsa. Artikel-artikel ini merupakan sumbangan penulisan serta buah fikiran para pegawai Tentera Darat yang berpengalaman luas serta mempunyai pengetahuan dan kepakaran dalam bidang masing-masing. Diharapkan agar para pembaca merebut peluang untuk memanfaatkan ilmu yang dapat diperolehi dari artikel-artikel tersebut.*

*Akhir kata, sidang redaksi sentiasa mengalu-alukan sumbangan penulisan artikel dari kalangan warga Tentera Darat untuk dimuatkan dalam edisi-edisi Jurnal Sorotan Darat yang akan datang. Mudah-mudahan sumbangan penulisan yang berkualiti akan menyumbang kepada kemajuan Tentera Darat dalam menjadi satu organisasi yang unggul. Sebarang pendapat, komen, idea bernas serta maklum balas dari kalangan pembaca amatlah di alu-alukan untuk meningkatkan lagi kualiti penerbitan Jurnal Sorotan Darat.*

*Sekian, terima kasih.*

*Membaca Inspirasi Pengetahuan.*

# SUPERIOR ORDERS: IS IT A LEGITIMATE DEFENCE?



By Lt Kol Mohd Hanim bin Saip

## INTRODUCTION

The doctrine of superior orders is one of the most controversial and widely debated form of defence particularly in international law as well as at certain national or domestic law. Mostly it relates to the soldiers or servicemen as a prime subject. The question of whether a soldier should be punished for his crimes when he claims to have been following orders is fraught with difficult legal and moral issues. After all, under many national legal systems including Malaysia, the soldier is bound to obey the orders of his superiors promptly and without hesitation.<sup>1</sup> He is not meant to question or dispute the legality of such orders. And yet, some orders will be illegal, whether under national, international or martial law. In such cases the soldier's duty to obey will clash with his duty not to commit a criminal act. He is therefore placed in a difficult position of having to choose between two evils. Thus, should his illegal actions be excused on the basis of his superiors' orders?<sup>2</sup>

This article traces the development and application of "Superior Orders Defence" as a defence in legal proceeding. This article discusses to what extent the defence of superior order can be used as a good legitimate defence. It is aimed to give leaders and the subordinates an overview of the legitimacy and application of the orders given or received by them.

## THE NATURE AND BASIC ELEMENTS OF CRIME

As generally accepted, a crime is any act or omission of an act that is prohibited and punishable by federal statute. Four conditions must exist for an act or omission to be considered a crime: the act is considered wrong by society, the act causes harm to society in general or those in need of protection, the harm is serious, and the remedy must be handled by the criminal justice. To convict a person of most criminal offences, the prosecution must prove that two elements existed at the time the offence was committed: *actus reus* and *mens rea*. *Actus reus* refers to the physical act involved in committing the offence described by the criminal law. *Mens rea* means that the accused person had the intent to commit an offence or possessed knowledge that what he or she did was against the law. Intent to commit a criminal act means that the person meant to do something wrong, was reckless regarding the consequences of the behaviour, and knew or should have foreseen the results of the wrongful act.<sup>3</sup>

A number of possible defences are available for the act, which without it can be considered as a crime such defence of mistake, duress, insanity and so on. Amongst the most controversial defence is said to be defence of superior orders, which is the topic of this discussion. This is the area where the difficulty is to be faced in trying war criminals especially when they claim that they were acting under orders of their superior, thus they did not commit offenses of their own free will and hence, have no *mens rea*.

<sup>1</sup> See for example, Section 50 of the Armed Forces Act 1972 – Disobedience to superior officer shall on conviction by court-martial be liable to imprisonment or any less punishment provided by this Act.

<sup>2</sup> Silva Hinek, The Superior Orders Defence: Embraced at Last, The New Zealand Postgraduate Law E-Journal (NZPGLJ) – Issue 2/2005. Retrived January 8, 2007 from <http://nzpostgraduatelawjournal.auckland.ac.nz>

<sup>3</sup> The Nature of Crime, Copyright © 1995-2004, Pearson Education, Inc (31 Dec 2006).

## DEFINING SUPERIOR OFFICER, SUPERIOR ORDERS AND LAWFUL COMMAND

In dealing with the definition of superior officer and superior orders, the Judge Advocate in the *Peleus case* (*In re Eck and Others*) made the following observation. "...Superior orders...coming from a higher authority which the accused is by the law and custom of his service obliged to obey..."<sup>4</sup>

Another attempt to define the doctrine was offered by Howard Levie<sup>5</sup> who suggested that, "defence of superior orders is the claim that the accused did what he did because of he was ordered to do so by a superior officer (or by his Government) and that his refusal to obey the order would have brought dire consequences upon him."<sup>6</sup>

To quote as an example, a superior officer is defined by the British Army Act 1955, Section 33 (2) as follows:

Superior officer", in relation to any person, means an officer, warrant officer or non-commissioned officer of the regular forces of superior rank, and includes an officer, warrant officer or non-commissioned officer of those forces of equal rank but greater seniority while exercising authority as the said person's superior.

Meanwhile, Section 2 of the Malaysian Armed Forces Act 1972 states the following definition of superior officer:

Superior officer" means any officer or serviceman who, in relation to any other officer or serviceman, is by this Act or by regulations made there under or by custom of the service, authorized to give a lawful command to that other officer or serviceman.

With regards to obeying lawful command, Section 34 of the British Army Act and Section 50 of the Malaysia Armed Forces Act state the following:

Every person subject to service law under this Act who in such manner as to show willful defiance of authority, disobey any *lawful command*<sup>7</sup> of his superior officer shall on conviction by court-martial be liable to imprisonment or any less punishment provided by this Act.

From these definitions we can see that the superior orders doctrine is inseparably connected with the idea of obligation to obey higher authority due to the nature of one's service and possible consequences of disobedience. This reflects the inherent link of superior orders with a number of other concepts and problems essential in the consideration of the superior orders doctrine. These problems may include: difficulty in detecting the unlawfulness in superior orders, further complicated by the training practices that prepare soldiers not to question the orders of their superior officers; principle of moral choice and personal perception by each individual soldier regarding the received order; the limitations and requirements for the application of a superior orders defence.<sup>8</sup>

Essentially, once should consider the question when superior orders can be regarded as unlawful. In military service, starting with such initial stages as training, the soldiers are taught to obey the orders of their commanders. It is planted into the minds of the young recruits that they must follow orders. Rogers, in his book, "*Law on the Battlefield*" pointed out that military efficiency "depends on the prompt and unquestioning obedience of orders to such an extent that soldiers are prepared to put their lives at risk in executing these orders".<sup>9</sup> He contended that, "it is vital to the cohesion and control of a military

<sup>4</sup> In *re Eck and Others* (The *Peleus*), Hamburg, British Military Court, October 20, 1945; (1945), 13 Am. Dig. Quoted by Jordan Paust and Others, *International Criminal Law: Cases and Materials*, p. 101.

<sup>5</sup> Howard S Levie is Professor Emeritus of Law, Saint Louis University Law School, and Adjunct Professor of International Law, U.S. Naval War College. He is also Colonel (ret.), Judge Advocate General's Corps, U.S. Army who wrote the *History of Law of War on Land*.

<sup>6</sup> Levie on the Law of War, Michael N. Schmitt and Leslie C. Green eds, *International Law Studies*, vol. 70, 1998, p. 269.

<sup>7</sup> Footnote 4 (a), Section 50 of the Armed Forces Act 1972 defined lawful command as the command must not be contrary to Malaysian or international law and must be justified by military law. If a command is manifestly illegal the person to whom it is given would be justified in questioning and even refusing to execute it.

<sup>8</sup> Natalia M. Restivo, *Defence of Superior Orders in International Criminal Law*, Cornell Law School LL.M Papers Series, paper 18, 2006. Retrieved December 30, 2006 from <http://lsr.nellco.org/cornell/lps/papers>

<sup>9</sup> A.P.V. Rogers, *Law on the Battlefield*, Second Edition, Juris Publishing, 2004, p.208.

force in dangerous and intolerable circumstances that commanders should be able to give orders and require their subordinates to carry them out".<sup>10</sup>

Rogers's statement is similar to one of Colonel Kennedy, the presiding military Judge in the famous **U.S. v Calley** case, where the Colonel stated the following:<sup>11</sup>

*"Soldiers are taught to follow orders. And special attention is given to orders on the battlefield. Military effectiveness depends upon obedience to orders. In addition, what complicates the situation is that the soldiers are trained to presume that all the orders of their superiors are legal by default."*

Author Leslie Green in the Modern Law of War essay quotes the following statement from a proposal on superior orders: "There shall be a presumption that all orders issued by superiors to their subordinates are in fact legal".<sup>12</sup> Unfortunately, it has been proven by quite a significant number of appalling instances throughout the history of mankind and warfare that superior orders may be unlawful. What are the criteria for the determination for each individual soldier to find such an order unlawful? International criminal law scholars developed a number of key definitions that could help in the making of such determination. In the case of **McCall v McDowell**, the court defined unlawful orders based on the following criterion: "...where at first blush it is *apparent and palpable to the commonest understanding* that the order is illegal...".<sup>13</sup>

## DEVELOPMENT OF SUPERIOR ORDERS AS A DEFENCE

While some defences are relatively new, others have existed for several centuries. Superior orders is probably the oldest defence used in military trials. Dating back to the 15th century (1474), Peter von

Hagenbach was tried and convicted for mistreating, and permitting those under his command to mistreat the people of Breisach. Hagenbach, the governor of Breisach who stood accused of murder, rape and arson argued that he should be relieved of responsibility because he acted pursuant to orders of the Duke of Burgundy, who wanted to maintain illegal authority over the region. He also stated that he had no right to question the orders and was in fact under a duty to obey them. The Tribunal, however, was not impressed with this argument and sentenced him to death.<sup>14</sup>

There are many other examples in Anglo-American history of military personnel pleading superior orders by way of defence in ordinary criminal proceedings. In **Keighly v Bell**<sup>15</sup> Willes J dealt with a case of unlawful imprisonment committed by the accused pursuant to his military authority. He commented in obiter that an officer or a soldier, acting under the orders of his superior, would be justified by the orders if they are not necessarily or manifestly unlawful. In other words, the defence was recognized to exist in cases of illegal orders so long as the orders were not clearly or manifestly illegal.<sup>16</sup>

The superior orders plea was also frequently raised in the United States courts which, more often than not, paid special attention to English decisions.<sup>17</sup> In **Mitchell v Harmony**<sup>18</sup> Chief Justice Taney of the United States Supreme Court held that a soldier cannot justify himself for doing an unlawful act by producing the order of his superior. This is a civil suit growing out of the Mexican War. An American Army officer in Mexico illegally seized the goods of a trader in occupied territory. When latter sued for the price of the goods, he claimed to have acted under orders of a superior officer. The court refused to consider this plea where Chief Justice Taney declared:

<sup>14</sup> G Solis, *Obedience of Orders and the Law of War: Judicial Application in American Forums*, (2000) 15 Am U Int'l L Rev 481.

<sup>15</sup> (1866) 176 Eng Rep 781.

<sup>16</sup> Ibid.

<sup>17</sup> Leslie C Green, *Superior Orders in National and International Law*, (1976), 109.

<sup>18</sup> (1851) 54 US 115.

<sup>10</sup> Ibid.

<sup>11</sup> U.S. v Calley, 22 U.S.C.M.A. 534. 48 C.M.R. 19 (1973).

<sup>12</sup> Leslie C. Green, *Essays on the Modern Law of War*, Transnational Publishers, New York, 1999, p.282.

<sup>13</sup> McCall v McDowell 15 Fed. Cas. 1235 (No.8673, Cal. 1867).

*"It can never be maintained that a military officer can justify himself for doing an unlawful act by producing the order of his superior. The order may palliate, but it cannot justify" the deed."*

A somewhat contradictory view was expressed in **McCall v McDowell**<sup>19</sup>. The fact of the case is that, following President Abraham Lincoln's assassination, many southern sympathizers expressed their satisfaction. McDowell, who was commanding the Department of the Pacific, considered this treasonable and subsequently issued his General Order Number 27, which stated the following, in part:

It has come to the knowledge of the major general commanding, that there have been found within the department, persons so utterly infamous as to exult over the assassination of the President. Such persons become virtually accessories after the fact, and will at once be arrested by any officer or provost marshal or member of the police having knowledge of the case . . .

On April 20, 1865, John McCall, a resident of California, publicly declared that Lincoln, *"should have been shot long ago, and . . . some more of his kind would go the same way shortly."* Captain Charles D. Douglass heard of the incident and arrested McCall on June 1st and imprisoned him for 13 days before the provost marshal took him to Alcatraz where he was subjected to hard labor for 6 days. Upon release McCall sued Douglass and McDowell for false arrest, and the case came before Judge Matthew Paul Deady, a federal district judge. The court acquitted Douglass as a subordinate officer under orders, but he found against McDowell for trying to legislate by military fiat. McCall was awarded \$500 for lost work and \$135 for expenses. In his judgment, the court held:

*"Except in a plain case of excess of authority, where at first blush it is apparent and palpable to the commonest understanding that the order is illegal, I cannot but think that the law should excuse the military subordinate when acting in obedience to the orders of the commander. Otherwise he is placed in the*

*dangerous dilemma of being liable in damages to third persons for obedience to an order, or to the loss of his commission and disgrace for disobedience thereto."*

The court also found that between a plainly legal order, and one palpably otherwise, there is a wide middle ground where the ultimate legality of orders may depend upon circumstances and conditions of which it cannot be expected that the inferior is informed or advised. In such cases, the court held that justice demands that the order of the superior should protect the soldier.<sup>20</sup>

Both judgments were issued in the mid-nineteenth century by which time it became relatively common to codify national and multinational military rules and thereby outlaw certain types of behaviour. One of the more important codifications, and commonly regarded as the first general codification of the laws of war, was the Lieber Code 1863 promulgated as the military code for the Union Army during the American Civil War.<sup>21</sup> However, the Lieber Code, a document containing 157 articles, did not address the question of superior orders as a defence to violations of international law. The only mention of superior orders is made in Article 71 in relation to command responsibility rather than the responsibility of a subordinate.<sup>22</sup>

Accordingly, it would appear that in the mid-nineteenth century, the standard for the United States and Great Britain was very similar. Initially, obedience to orders could not be a defence where the orders were illegal. In practical terms, this meant that superior orders could not be a defence at all since it would only arise in cases where the orders turned out to be unlawful and, as a result, a crime had been committed. The court eventually softened, however, and started to accept the defence even where orders were illegal, so long as they were not manifestly illegal.

In essence, what became more important than the illegality of the order was the soldier's knowledge of that illegality. In other words, the

<sup>20</sup> Ibid.

<sup>21</sup> G Solis, *supra* note 14.

<sup>22</sup> Silva, *supra* note 2.

<sup>19</sup> (1867) 15 Fed Cas 1235.

soldier could not be relieved from responsibility on the basis that he was given an order if he knew that order was illegal or if he should have known it to be so because the order was so palpably illegal as to be clear to anyone.

Nevertheless, Lassa Oppenheim, a well-known authority on international law in the first half of the 20th century, produced nine editions of his comprehensive works. His views, however, changed considerably over time. In his first edition, published in 1906, Oppenheim wrote that, "If members of the armed forces commit violations by order of their Government, they are no war criminals and cannot be punished by the enemy...." It is to suggest that soldiers who commit breaches of law whilst following orders should be exempt from liability as it is the superiors alone who must carry the responsibility. Later, he drafted the British Manual of Military Law issued in 1914 and, in Article 443, repeated his proposition that obedience to orders is a complete defence.<sup>23</sup> However, by the sixth edition written in 1935, Oppenheim writes:

The fact that a rule of warfare has been violated in pursuance of an order of the belligerent Government or of an individual belligerent commander does not deprive the act in question of its character as a war crime...Members of the armed forces are bound to obey lawful orders only.

It is certainly probable that Oppenheim and his editors revised his views after witnessing World War I and the trials following it.<sup>24</sup> The *Dover Castle* case following World War I provided one of the first cases involving the defence of superior orders in the period of modern warfare. The *Dover Castle* was a hospital ship carrying the sick and wounded from Malta to Gibraltar. In spite of the fact that this was known as a peaceful ship, it was torpedoed, resulting in the death of everyone on board. The National German court found the sailor who actually launched the torpedo not guilty because, according to German law, subordinates were required to follow all orders from their superiors. The *Llandovery*

*Castle* case (discussed later) also involved a similar situation where, subsequent to the boat sinking, most of the survivors in the water were shot by the accused. In this case as well, the accused were found not guilty because they acted pursuant to a superior's orders.<sup>25</sup>

The International Military Tribunals in both Nuremberg and the Far East following World War II created the largest discussion of command responsibility and superior orders ever assembled in one place at that time. While most of these trials involved liability stemming from a command position, the development of this body of law directly relates to the defence of superior orders in that it established the guidelines and a rubric for understanding superior/subordinate relationships. And, most importantly, these decisions set a standard that liability can exist on both sides of that relationship. Several notable cases merit attention and discussion.

The most well known case from the World War II Tribunals regarding command responsibility was the trial of General Tomoyuki Yamashita at the International Military Tribunal for the Far East (IMTFE). After assuming command of the Philippines in October 1944, he was charged, convicted, and sentenced to death for the murders and rapes committed by troops under his command. The tribunal determined that because the crimes were so widespread and systematic, Yamashita either knew and ordered these acts to occur, or that he at least condoned them. In an oft-quoted statement, the Tribunal declared:<sup>26</sup>

Where murder and rape and vicious, revengeful actions are widespread...and there is no... attempt by a commander to discover and control the criminal acts, such a commander may be held responsible, even criminally liable, for the lawless acts of his troops, depending upon their nature and the circumstances surrounding them.

<sup>23</sup> M R Lippman, *Humanitarian Law: the Development and Scope of the Superior Orders Defence*, (2001) 20 Penn St Int'l L Rev 153.

<sup>24</sup> *Ibid.*

<sup>25</sup> Scaliotti, M, *Defences Before the International Criminal Court: Substantive Grounds for Excluding Criminal Responsibility – Part 1*, (2001), *International Criminal Law Review* 1, 117 - 172.

<sup>26</sup> Lippman, M, *The Evolution and Scope of Command Responsibility*, *Leiden Journal of International Law*, (2000)13, 139 - 170.

This decision was not universally supported. Justice Frank Murphy dissented, arguing that there was no precedent for such a decision in international law and that the court had erroneously ignored the principle of individual responsibility, the very foundation of all justice systems. This view was passed over in favor of placing an affirmative duty on commanders to be responsible for and informed of their subordinates' actions.<sup>27</sup>

Another significant case was the *High Command* case before the Nuremberg Tribunal. This case limited command liability to those situations where the commander had either actual or constructive knowledge of wrongdoing by his/her subordinates. In this case, the Court stated that a commander had the right to assume his subordinates were acting lawfully and that criminality is not ascribed based upon a position in the chain of command.<sup>28</sup>

Another important and famous case for the development of the superior orders defence was the trial of Adolf Eichmann in 1961. This case codified the "manifest illegality" principle, which states that a subordinate should disobey all orders that are clearly illegal. Another particularly relevant case arising from crimes committed during World War II was the trial of Klaus Barbie. In this case, the French Court of Cassation stated that the defence of superior orders is not an excuse, and may not qualify as a mitigating factor for punishment.<sup>29</sup>

Essentially, these standards of responsibility allowed defendants to make certain defences against accusations. A superior could argue that he/she did not know, nor could he/she have known, that these acts were taking place. Similarly, as long as the crimes committed were not so widespread and notorious that they could not be ignored, a commander could be found innocent for his inaction. However, there was still considerable debate as to whether superior orders constituted a defence to charges of war crimes. Drawing from some of the conclusions of the World War II cases, subordinates

had an obligation to disobey orders that were manifestly illegal and that following orders may not result in a decrease in punishment.<sup>30</sup>

## APPROACHES ON THE DEFENCE OF SUPERIOR ORDERS

### Absolute Defence (*Respondeat Superior* Approach)

One of the approaches adopted with regard to defence of superior orders is called absolute or automatic defence. This approach is usually referred to as the doctrine of *respondeat superior*. It provides that a soldier who commits an offence whilst following an order should be relieved of responsibility automatically, without any condition or qualification. It is the superior who carries all the blame for issuing an illegal order whilst the subordinate is always vindicated. Obviously, the reason for this approach is an unqualified concern for military discipline. However, it has the practical effect of creating a separate regime outside the scope of the law for members of armed forces who commit crimes under orders.<sup>31</sup>

There are, of course, other deficiencies in this approach. First, it ignores that human beings are autonomous individuals with reasoning faculties. Additionally, it is under-inclusive in that it fails to assign responsibility in cases where soldiers are aware of the illegality of the orders, but nevertheless agree with it and comply willingly and with favour.<sup>32</sup> Fortunately, this approach has rarely been embraced by national and international courts.<sup>33</sup> It reached its peak in the early-twentieth century when supported by scholars such as Oppenheim. As a result, its application was limited to mere policy adopted in Anglo-American war manuals. And, despite such a policy in the military context, no American or English court ever accepted this absolute version

<sup>27</sup> Superior Orders and Duress as Defences in International Law and the International Criminal Tribunal for the Former Yugoslavia. Retrived January 10, 2007 from [http://www.unt.edu/honour/eaglefeather/2004\\_issue/HensonC3](http://www.unt.edu/honour/eaglefeather/2004_issue/HensonC3)

<sup>28</sup> Lippman, *supra* note 26.

<sup>29</sup> Scaliotti, *supra* note 25.

<sup>30</sup> *Ibid.*

<sup>31</sup> Silva, *supra* note 2.

<sup>32</sup> J Insko, Defence of Superior Orders Before Military Commissions, (2003) 13 Duke J Comp & Int'l L 389, 393.

<sup>33</sup> R Jonassen, The Defence of Superior Orders in New Zealand Law: A Soldier's Dilemma?, (2002) 9 AULR 643, 654.

of the superior orders defence.<sup>34</sup> Accordingly, and as elaborated by the tribunal in the *Hostage* case, the fact that this position was adopted in various war manuals does not of itself mean that it became a rule in national or international systems.<sup>35</sup>

### Absolute Liability Approach

Another approach is called the absolute liability approach. It was with the Nuremberg Charter that the absolute liability approach gained international recognition and approval. It essentially provides that the defence of superior orders is absolutely prohibited whenever the soldier complies with an illegal order. At most, obedience to superior orders may only serve as a mitigating factor for sentences purposes. This approach is sometimes referred as the “doctrine of intelligent bayonets” because it requires soldiers not to obey illegal orders. In turn, this requires they must first have knowledge of national and/or international law and, second, they must examine every order issued for any trace of illegality, no matter how minor that may be.

The doctrine is diametrically opposed to absolute defence because its main purpose is to safeguard the supremacy of the law, at the expense of military discipline. Indeed, this is where the absolute liability approach faces the most criticism, as it completely fails to take into account the fact that a successful army is built on good discipline. Its proponents correctly account for this criticism by arguing that discipline is relevant only when legal orders are issued and becomes inappropriate once illegal orders are involved.<sup>36</sup> The only time this approach has been used successfully was during the Nuremberg and Tokyo trials as mentioned earlier.

### Middle Ground Approach (Manifest Illegality Principle)

As suggested, neither of the two approaches above deal with the soldier’s dilemma particularly

well. Even though they are both simple bright-line rules, they both fail in practical application. The absolute defence approach is incompatible with national and/or international law and the absolute liability approach is inconsistent with the demands of military discipline. Consequently, courts have developed a compromise whereby a soldier may rely on the superior orders defence in the event of an illegal order, unless the order he has followed is manifestly or palpably illegal.<sup>37</sup> The reason why the soldier cannot rely on the defence in the case of a manifestly illegal order is that he cannot claim he was ignorant of the orders’ illegality which, because manifest, would have been clear to anyone. In other words, the objective component of manifest illegality serves as a device to appraise the subjective knowledge of the subordinate.<sup>38</sup>

Viewed in this manner, the defence will be unavailable in cases where the subordinates knew the orders to be illegal, even though they were not manifestly illegal. In other words, the defence will be unavailable no matter how minor the illegality of the order, so long as the soldier is aware of it. By the same token, it cannot be used in cases where the order was manifestly illegal but the subordinate, nevertheless, had no subjective knowledge of its illegality. This solution is usually referred to as the “manifest illegality principle” as been explained earlier. The aim of this approach is to adjust the concurrent, conflicting demands of military discipline and the supremacy of law.<sup>39</sup> It achieves this by allowing soldiers to assume the legality of their orders unless the illegality of those orders is obvious to any person of ordinary understanding. This adequately allows for military discipline. On the other hand, this limited defence also maintains the supremacy of the law by assigning culpability in cases where a soldier knew, or must have known, of the illegality of the order and hence had knowledge of the ethical choice open to him.

To determine whether the soldier knew that the order amounted in a criminal act, Professor Yoram Dinstein said that such an order is the one

<sup>34</sup> J Insko, *supra* note 32.

<sup>35</sup> Silva, *supra* note 2.

<sup>36</sup> J Insko, *supra* note 32.

<sup>37</sup> Silva, *supra* note 2.

<sup>38</sup> Yoram Dinstein, *The Defence of ‘Obedience to Superior Orders’ in International Law*, A.W Sijthoff, Leyden, 1965.

<sup>39</sup> *Ibid.*

that “offends the conscience of every reasonable, right thinking person; it must be an order which is obviously and flagrantly wrong.”<sup>40</sup> The underlying statement is that military orders must be obeyed unless they are manifestly unlawful.

In his book, Dinstein quoted two other authors who expressed the gist of the principle, one being Maugham who stated that, “A superior order should not be a defence if the act constituting the alleged crime was clearly and obviously one of a criminal kind.”<sup>41</sup> The other author, Cave, in reference to the principle said that it “limits the impunity of the soldier to cases where the orders are not so manifestly illegal that he must or ought to have known that they were unlawful.”<sup>42</sup>

The principle of the test is that a subordinate should incur responsibility for his act if he commits a crime pursuant to a manifestly illegal order, and should be released from guilt if he commits an offense in obedience with an order the illegality of which is not palpable. Dinstein points out that the illegality test is “objective in its character and is based on the intelligence of the reasonable man”.

The *Llandovery Castle* case<sup>43</sup> is an example of the practical application of this principle. The rule set out by this case states that even if the order does not reach the degree of the manifest illegality, the person committing the act will be held criminally responsible if he himself was aware of its illegality. In this case, a group of soldiers following the orders of their U-boat commander, opened fire on hospital ship survivors with the intention of concealing the fact that the ship was sunk in the first place. This was required because the initial attack took place outside the geographic area mentioned in the German Reprisals Declaration of 1917, a fact known to the U-boat commander who issued the order. The

accused soldiers sunk at least two lifeboats and machine-gunned the survivors in the water. Of a total complement of 258, only twenty-four survived. In light of this determining factor, the hypothetical situation where the soldier commits an act not manifestly illegal to a reasonable man, but himself is aware of such illegality, he will be held criminally liable.

To conclude discussion regarding the definitions of the illegality of superior orders, a remarkable statement in this regard belongs to Judge Halevy in the decision for the *Kafr Qassem* case where he compared manifest unlawfulness of the order with the black flag which waves over the illegal order saying it is forbidden. He further mentioned about “certain and obvious unlawfulness that stems from the order itself, the criminal character, unlawfulness that pierces and agitates the heart, if the eye is not blind nor the heart closed or corrupt.”<sup>44</sup>

This statement clearly indicates that subordinates are provided with a rather simple choice to make regarding the lawfulness of the order. The criteria are based on the rational human standards and qualities of any given reasonable individual. Thus even in the time of the most severe and destructive military conflict there are certain values that prevail and consideration of these basic human values should shelter some categories that sometimes can get drawn into military action.

In conclusion the writer would like to suggest that after taking into consideration the discussion of the above points of view, it can clearly be determined that in some circumstances the illegality of the superior orders is so manifest that, in the writer’s opinion, such cases should not make available the defence of superior orders to the criminals. Clearly, this approach accounts best for all the problems surrounding the superior orders defence. It is probably for that reason that it has been, by far, the most widely accepted approach in both national and international trials.<sup>45</sup>

<sup>40</sup> Jordan Paust and Others, *International Criminal Law: Cases and Materials*, p.119.

<sup>41</sup> Yoram Dinstein, *The Defence of ‘Obedience to Superior Orders’ in International Law*, A.W. Sijthoff, Leyden, 1965, p. 26 quoting Maugham, *U.N.O and War Crimes*, 1951, p. 48

<sup>42</sup> *Ibid*, at 26 quoting Lord Cave, *War Crimes and their Punishment*, T.G.S., vol.8 (1923), p. xxiii.

<sup>43</sup> Judgment in Case of Lieutenants Dithmar and Boldt, Hospital Ship “Llandovery Castle” (1921) 16 Am J Int’l L 708.

<sup>44</sup> *Kafr Qassem*, Judgments of the District Court of Israel, vol.44, at p.362 cited by *International Criminal Law: Cases and Materials*, Jordan Paust and Others, p. 120.

<sup>45</sup> R Jonassen, *supra* note 33.

## PRESENT POSITION OF THE LAW AND MALAYSIA PERSPECTIVE

At international level, presently, the Defence of superior orders were expressly stated under Article 33 of the Rome Statute of International Criminal Court 1998 (Rome Statute). The article provides the following:

1. The fact that a crime within the jurisdiction of the court has been committed by a person pursuant to an order of a government or of a superior, whether military or civilian, shall not relieve that person of criminal responsibility unless:

(a) The person was under a legal obligation to obey orders of the government or the superior in question;

(b) The person did not know that the order was unlawful; and

(c) The order was not manifestly unlawful.

2. For the purpose of this article, orders to commit genocide or crimes against humanity are manifestly unlawful.

Aside from article 33, the Rome Statute contains other provisions that are relevant to the superior orders debate. First, Article 28 deals with the issue of superior responsibility and allows for the individual liability of those issuing illegal orders. Accordingly the liability is shared between the superior and the soldier so that the latter is not made a scapegoat. Article 32 is also relevant. It deals with mistake of fact and law. A mistake of fact is a ground for excluding criminal responsibility only if it negates the mental element required by the crime. As for mistakes of law, Article 32 (2) provides the following:

A mistake of law as to whether a particular type of conduct is a crime within the jurisdiction of the court shall not be ground for excluding criminal responsibility. A mistake of law may, however, be a ground for excluding criminal liability if it negates the mental element required by such crime, or as provided for in Article 33.

The Malaysia Penal Code, under Chapter IV – General Exceptions, Section 76 states the following;

Nothing is an offence, which is done by a person who is, or who, by reason of a mistake of fact and not by reason of a mistake of law, in good faith believe himself to be, bound by law to do it.

Illustration (a) A, a soldier, fires on a mob by the order of his superior, in conformity with the commands of law. A has committed no offence.

Under the Armed Forces Act 1972, Section 50 is the relevant provision as been discussed earlier. With regards to the compulsion of Malaysia to the international community, particularly in controlling the conduct of its forces especially during conflict, we might be bound to international humanitarian law such as the Rome Statute, the Geneva Convention etc. In ensuring the requirement of international standards is followed, there was a publication of the Army Doctrine Manual pertaining to the Law of Armed Conflict which is the Manual of Law of Land Warfare (Provisional) 2005.<sup>46</sup> In chapter 14 under the heading of “War Crimes, Individual Criminal Liability and Command Responsibility”, Para 1426 states that it is no defence to a war crime that the act was committed in compliance with an order. Para 1427 further states that:

An act is performed in compliance with an order, which is manifestly unlawful to a reasonable soldier given the circumstances prevailing at the time does not constitute a defence and cannot be pleaded in mitigation of punishment.

Similarly, Para 1428 of the manual restated the requirement to apply article 33 of the Rome Statute.<sup>47</sup> Thus, based on the codified provision and manual relating to such defence above, it is submitted that essentially Malaysia is akin to follow the application of the international community and

<sup>46</sup> MD 1.1.2 TD (Provisional) 2005.

<sup>47</sup> Same sentences or wordings used as under Article 33 of the Rome Statute of the International Criminal Court 1998.

willing to adopt the “manifestly illegality” approach in dealing with defence of superior order.

To quote as an example there was the most recent civil case in this area of law that was decided by the Federal Court on 4 July 2006. It is the case of **Ngeow Voon Yean v Sungei Wang Plaza Sdn Bhd/Landmarks Holding Bhd**<sup>48</sup> and the fact of the case is as follows:

The appellant was the General Manager of the respondent company. The respondent company had negotiated the sale of three business-premise units to one Sa-Mula Jadi Sdn Bhd ('Samula'). Two sale and purchase agreements ('SPA') were executed in respect of those three units. The SPAs were executed on behalf of the respondent by the appellant. The SPAs acknowledged inter alia that the 10% deposits had been paid by Samula to the respondent. Samula thereafter assigned all its rights and interests in both SPAs to two financial institutions. This was done through two deeds of assignment. The acknowledgment and consent of the respondent was obtained through the appellant's endorsements. The endorsements confirmed inter alia that the purchase price for the three units had been paid in full. The appellant was later hauled up before a domestic enquiry to answer to two charges of gross negligence. The gross negligence related to misrepresentations in the two deeds of assignment which stated that the price for all the three units had been fully paid when in fact that was not so.

The appellant admitted to the acts of negligence but contended that he was merely carrying out the lawful orders of his superior, one Simon Chong ('Chong'), the respondent's Executive Director. The appellant contended that he had endorsed and signed the two deeds of assignment on the instructions of Chong, who had assured him that everything was in order and that he, Chong, would take the responsibility of collecting the purchase price of the properties sold. In fact even before he signed the first sale and purchase agreement,

the appellant had inquired about the payment of the 10% deposit and he was assured by Chong that he, Chong, would issue him with a comfort note to allay his fears. That comfort note was only prepared by Chong at the time of the execution of the second sale and purchase agreement. The appellant however was found guilty of both charges and dismissed from the respondent's employment. The appellant commenced an action in the Industrial Court, which ruled in his favour and held his dismissal to be without just cause or excuse. The respondent had the award quashed in the High Court, which decision was upheld by the Court of Appeal. The appellant obtained leave to appeal to the Federal Court.

In this case the court held that, “As we accept the findings of fact made by the Industrial Court and we see nothing perverse in their application of the relevant employment laws, we allow this appeal with costs here as well as costs in the High Court and Court of Appeal, set aside the orders of the Court of Appeal dated 20 November 2003 and restore Award No. 179 of 1993 dated 16 June 1993. The deposit made in this appeal is to be refunded to the appellant.” With regards to the issue pertaining to the defence of superior order, the court said:<sup>49</sup>

(1) In Malaysia, the general rule governing the doctrine of superior orders is nothing more than the duty of obedience that is expected of an employee. The most fundamental implied duty of an employee is to obey his employer's orders.

(2) The employee's duty to comply is confined to all the lawful and reasonable orders of his employer in respect of the performance of such functions that falls within the scope of his contract of employment. Whether the employer's orders are lawful and reasonable would depend very much on the terms and conditions of the contract and the character of employment. The employer cannot give an order outside the proper scope of the employment.

<sup>48</sup> [2006] 5 MLJ 113.

<sup>49</sup> Ibid.

(3) The duty of obedience is confined to compliance with the lawful and reasonable orders of an employer and as such the concept of an order being manifestly wrong has no part in the doctrine of superior orders. In the instant case, the Court of Appeal erred when it made an exception to the general rule on superior orders when stating that an employee is entitled to disobey the orders of his superior if he, the employee is aware that that such orders are manifestly wrong. That exception holds good in military or criminal law.

(4) The duty of an employee at common law is also similar in that he is to comply with all lawful and reasonable orders given by his employer with respect to the performance of such functions within the scope of his employment. That duty is one of the fundamental obligations, which are deemed to be impliedly undertaken in every contract of hiring. The duty of obedience at common law is subject to two qualifications, firstly that the employer may not order his employee to do something illegal or secondly order his employee to do anything dangerous.

(5) Where an employee is required to obey an order and he is doubtful whether the order is legal or not, the proper course is for the employee to obey the order first and to challenge its legality in separate proceedings. This distinction is made on the basis that if the law allows the employee to disobey any order he thinks is not legal, it would be impossible for the management to maintain discipline and industrial peace. On the other hand, if the employee takes upon himself to disobey the order, which he thinks to be unlawful and unreasonable two courses are open to him. He can point out his difficulties, if any, to the superior and if the latter insists on the order being carried out, he can do the work and take the matter further in proceedings against his employer or to complain to his union. If he disobeys, he must take the risk if the court finds the order to be lawful and reasonable.

From the above case, it is submitted that the approach taken in the application of superior order defence is slightly different between civil and criminal/military law proceeding. This is particularly

as been suggested by Federal Court in the case of *Ngeow Voon Yean* above, where the court held that in civil case the duty of obedience is confined to compliance with the lawful and reasonable orders of an employer and as such the concept of an order being manifestly wrong has no part in the doctrine of superior orders. In this case, the Federal Court of the view that the Court of Appeal erred when it made an exception to the general rule on superior orders when stating that an employee is entitled to disobey the orders of his superior if he, the employee is aware that that such orders are manifestly wrong. The court further stated that, that exception holds good in military or criminal law as seen from the case of *PP v Tengku Mahmood Iskandar* where it was held that “a soldier is not protected where the order is grossly illegal.”

In the case of *PP v Tengku Mahmood Iskandar*<sup>50</sup> the court dealt with three criminal appeals. The fact in issue of superior orders as follows:<sup>51</sup>

Lt. Hussin bin Haji Othman was charged with abetting Tengku Mahmood with causing hurt to Francis Joseph Puthuchearry and Puthenpurakai Joseph s/o Verghese under section 323 of the Penal Code. He was discharged under section 173A of the Criminal Procedure Code and bound over in the sum of \$ 500 with one surety for a period of one year. The appeal is against sentence. It is quite obvious that Tengku Mahmood was his superior officer, a Major in the Johore Military Forces. He was in fact the Aide-de-Camp to the Major. His superior officer had ordered him to get a copy of the Holy Book, his “buloh” and gas canisters. In obedience to the order he had obtained them. Although he did not take any part in the assault, he had lent passive assistance to the commission of the offence. As was correctly stated by the learned president, the facts were well known to him that the order to fetch those articles could not have been for the use of his superior officer to enable him to play polo but for use in the commission of an offence. Therefore the order was clearly illegal. The issue is whether the defence of superior order in the commission of those acts is appropriate.

<sup>50</sup>[1973] 1 MLJ 128.

<sup>51</sup> Ibid.

In his judgment, Raja Azlan Shah J (as he then was) had this to say:<sup>52</sup>

*“Now a soldier is not protected where the order is grossly illegal. The only superior to be obeyed is the law and no superior is to be obeyed who dares to set himself above the law. However, it must be appreciated that he was a young man and considering the circumstances he was in, I have no hesitation in saying that he might have had an exaggerated notion of his duties...”*

## CONCLUSION

It is submitted that based on the discussion above, the defence of superior orders would appear to be a relatively easy concept to define. Despite its apparent simplicity, it causes more confusion among legal experts than one would think. In fact, this type of defence is based on obedience to the orders of a government or a superior, whether military or civilian. Some people consider it as a justification, others as a mitigating circumstance, others as both.

Determining whether or not to punish a person for a war crime for example, when they claim to have been following orders is a difficult legal and moral issue. A state may adopt an *absolute liability approach* and hold each individual responsible for his acts regardless of whether the defendant knew the illegality of his acts or could have realistically altered his conduct. Alternatively, a state may offer

an *absolute defence* of obedience to orders, which promotes military discipline while allowing some atrocious crimes to go unpunished. States may wish to strike a balance between the absolute liability approach and the respondeat superior approach and permit a defence of obedience to orders except in circumstances where the underlying order was clearly illegal i.e. *manifest illegality approach*, to a reasonable person. This hybrid approach has emerged several times throughout history, but by no means does international law require a state to adopt such an approach.<sup>53</sup>

However, in compromising the three approaches, it is the writer's humble opinion that the manifest illegality approach is the best approach to be adopted. With this in mind, the writer strongly believes that this was the intention of those who drafted the codified law pertaining the issue of superior orders defence. With regards to Malaysia, our soldiers have been trained to follow the superior orders but only lawful orders.<sup>54</sup> This is what has been doctinated to the soldiers and the superior too is bound only to give lawful orders. Thus, if there is any legal proceeding in Malaysia, where the subordinate wishes to use the defence of superior order, it seems that our judges are bound to consider the principle that was applied in the case of *Ngeow Voon Yean*<sup>55</sup> for civil suit. Alternatively, for criminal proceedings, the case of *PP v Tengku Mahmood Iskandar*<sup>56</sup> is the best to be referred to.

<sup>52</sup> Ibid.

<sup>53</sup> James B. Insco, Defence of Superior Orders Before Military Commissions, 13 Duke J. of Comp. & Int'l L. 389.

<sup>54</sup> Section 50 of the Armed Forces Act 1972 expressly deals with this issue where soldier is bound to obey orders from his superior but only the lawful orders.

<sup>55</sup> Supra, note 48.

<sup>56</sup> Supra, note 50.

### Bibliography

A.P.V. Rogers (2004). *Law on the Battlefield*, Second Edition, Juris Publishing.

G Solis (2005). *Obedience of Orders and the Law of War: Judicial Application in American Forums*, 15 Am U Int'l L Rev 481.

In re *Eck and Others (The Peleus)*, Hamburg, British Military Court, October 20, 1945; (1945), 13 Am. Dig. Quoted by Jordan Paust and Others, *International Criminal Law: Cases and Materials*.

J Insko (2003). *Defence of Superior Orders Before Military Commissions*, 13 Duke J Comp & Int'l L 389.

Jordan Paust and Others, *International Criminal Law: Cases and Material*.

Kafr Qassem, Judgments of the District Court of Israel, vol.44, at p.362 cited by *International Criminal Law: Cases and Materials*, Jordan Paust and Others.

Levie on the Law of War, Michael N. Schmitt and Leslie C. Green eds, *International Law Studies*, vol. 70, 1998.

Leslie C. Green (1999). *Essays on the Modern Law of War*, Transnational Publishers, New York.

Leslie C Green (1976). *Superior Orders in National and International Law*.

M R Lippman (2000). *The Evolution and Scope of Command Responsibility*, *Leiden Journal of International Law*, 13.

M R Lippman (2001). *Humanitarian Law: the Development and Scope of the Superior Orders Defence*, 20 Penn St Int'l L Rev 153.

Natalia M. Restivo (2006). *Defence of Superior Orders in International Criminal Law*, Cornell Law School LL.M Papers Series, paper 18, 2006. Retrived December 30, 2006 from <http://lsr.nellco.org/cornell/lps/papers>

R Jonassen (2002). *The Defence of Superior Orders in New Zealand Law: A Soldier's Dilemma?* 9 AULR 643.

Silva Hinek (2005). *The Superior Orders Defence: Embraced at Last*, *The New Zealand Postgraduate Law E-Journal (NZPGLEJ)* – Issue 2/2005.

Scaliotti (2001). *Defences Before the International Criminal Court: Substantive Grounds for Excluding Criminal Responsibility – Part 1*, *International Criminal Law Review* 1.

*Superior Orders and Duress as Defences in International Law and the International Criminal Tribunal for the Former Yugoslavia*. Retrived January 10, 2007 from [http://www.unt.edu/honour/eaglefeather/2004\\_issue/HensonC3](http://www.unt.edu/honour/eaglefeather/2004_issue/HensonC3)

Yoram Dinstein (1965). *The Defence of 'Obedience to Superior Orders' in International Law*, A.W Sijthoff, Leyden.

Malaysian Army Manual Doctrine, MD 1.1.2 TD (Provisional) 2005 – Law of the Land Warfare.

Malaysian Armed Forces Act 1972.

Malaysian Penal Code.

Rome Statute of International Criminal Court 1998 (Rome Statute).



Lt Kol Mohd Hanim bin Saip was commissioned on 8 March 1986 into the Royal Military Police Corps. He has served in various appointments within the corps mostly as Investigating Officer of the Special Investigation Branch (CPK) and also as the Staff Officer (Legal) at 4 Div and at the Army Training Command. He holds a Masters Degree in Criminal Justice from the University of Malaya and a Bachelor of Laws degree from UiTM. He attended the MAF Staff College in 2003 and was awarded with a Diploma in Strategic and Defence Studies by the University of Malaya. At present he is the Head of the Criminal Investigation Cell of the 48 CSJ KPTD HQ.

# SUPERIOR ORDERS: IS IT A LEGITIMATE DEFENCE?



By Lt Kol Mohd Hanim bin Saip

## INTRODUCTION

The doctrine of superior orders is one of the most controversial and widely debated form of defence particularly in international law as well as at certain national or domestic law. Mostly it relates to the soldiers or servicemen as a prime subject. The question of whether a soldier should be punished for his crimes when he claims to have been following orders is fraught with difficult legal and moral issues. After all, under many national legal systems including Malaysia, the soldier is bound to obey the orders of his superiors promptly and without hesitation.<sup>1</sup> He is not meant to question or dispute the legality of such orders. And yet, some orders will be illegal, whether under national, international or martial law. In such cases the soldier's duty to obey will clash with his duty not to commit a criminal act. He is therefore placed in a difficult position of having to choose between two evils. Thus, should his illegal actions be excused on the basis of his superiors' orders?<sup>2</sup>

This article traces the development and application of "Superior Orders Defence" as a defence in legal proceeding. This article discusses to what extent the defence of superior order can be used as a good legitimate defence. It is aimed to give leaders and the subordinates an overview of the legitimacy and application of the orders given or received by them.

## THE NATURE AND BASIC ELEMENTS OF CRIME

As generally accepted, a crime is any act or omission of an act that is prohibited and punishable by federal statute. Four conditions must exist for an act or omission to be considered a crime: the act is considered wrong by society, the act causes harm to society in general or those in need of protection, the harm is serious, and the remedy must be handled by the criminal justice. To convict a person of most criminal offences, the prosecution must prove that two elements existed at the time the offence was committed: *actus reus* and *mens rea*. *Actus reus* refers to the physical act involved in committing the offence described by the criminal law. *Mens rea* means that the accused person had the intent to commit an offence or possessed knowledge that what he or she did was against the law. Intent to commit a criminal act means that the person meant to do something wrong, was reckless regarding the consequences of the behaviour, and knew or should have foreseen the results of the wrongful act.<sup>3</sup>

A number of possible defences are available for the act, which without it can be considered as a crime such defence of mistake, duress, insanity and so on. Amongst the most controversial defence is said to be defence of superior orders, which is the topic of this discussion. This is the area where the difficulty is to be faced in trying war criminals especially when they claim that they were acting under orders of their superior, thus they did not commit offenses of their own free will and hence, have no *mens rea*.

<sup>1</sup> See for example, Section 50 of the Armed Forces Act 1972 – Disobedience to superior officer shall on conviction by court-martial be liable to imprisonment or any less punishment provided by this Act.

<sup>2</sup> Silva Hinek, The Superior Orders Defence: Embraced at Last, The New Zealand Postgraduate Law E-Journal (NZPGLJ) – Issue 2/2005. Retrived January 8, 2007 from <http://nzpostgraduatelawejournal.auckland.ac.nz>

<sup>3</sup> The Nature of Crime, Copyright © 1995-2004, Pearson Education, Inc (31 Dec 2006).

## DEFINING SUPERIOR OFFICER, SUPERIOR ORDERS AND LAWFUL COMMAND

In dealing with the definition of superior officer and superior orders, the Judge Advocate in the *Peleus case* (*In re Eck and Others*) made the following observation. "...Superior orders...coming from a higher authority which the accused is by the law and custom of his service obliged to obey..."<sup>4</sup>

Another attempt to define the doctrine was offered by Howard Levie<sup>5</sup> who suggested that, "defence of superior orders is the claim that the accused did what he did because of he was ordered to do so by a superior officer (or by his Government) and that his refusal to obey the order would have brought dire consequences upon him."<sup>6</sup>

To quote as an example, a superior officer is defined by the British Army Act 1955, Section 33 (2) as follows:

Superior officer", in relation to any person, means an officer, warrant officer or non-commissioned officer of the regular forces of superior rank, and includes an officer, warrant officer or non-commissioned officer of those forces of equal rank but greater seniority while exercising authority as the said person's superior.

Meanwhile, Section 2 of the Malaysian Armed Forces Act 1972 states the following definition of superior officer:

Superior officer" means any officer or serviceman who, in relation to any other officer or serviceman, is by this Act or by regulations made there under or by custom of the service, authorized to give a lawful command to that other officer or serviceman.

With regards to obeying lawful command, Section 34 of the British Army Act and Section 50 of the Malaysia Armed Forces Act state the following:

Every person subject to service law under this Act who in such manner as to show willful defiance of authority, disobey any lawful command<sup>7</sup> of his superior officer shall on conviction by court-martial be liable to imprisonment or any less punishment provided by this Act.

From these definitions we can see that the superior orders doctrine is inseparably connected with the idea of obligation to obey higher authority due to the nature of one's service and possible consequences of disobedience. This reflects the inherent link of superior orders with a number of other concepts and problems essential in the consideration of the superior orders doctrine. These problems may include: difficulty in detecting the unlawfulness in superior orders, further complicated by the training practices that prepare soldiers not to question the orders of their superior officers; principle of moral choice and personal perception by each individual soldier regarding the received order; the limitations and requirements for the application of a superior orders defence.<sup>8</sup>

Essentially, one should consider the question when superior orders can be regarded as unlawful. In military service, starting with such initial stages as training, the soldiers are taught to obey the orders of their commanders. It is planted into the minds of the young recruits that they must follow orders. Rogers, in his book, *"Law on the Battlefield"* pointed out that military efficiency "depends on the prompt and unquestioning obedience of orders to such an extent that soldiers are prepared to put their lives at risk in executing these orders".<sup>9</sup> He contended that, "it is vital to the cohesion and control of a military

<sup>4</sup> In re Eck and Others (The Peleus), Hamburg, British Military Court, October 20, 1945; (1945), 13 Am. Dig. Quoted by Jordan Paust and Others, *International Criminal Law: Cases and Materials*, p. 101.

<sup>5</sup> Howard S Levie is Professor Emeritus of Law, Saint Louis University Law School, and Adjunct Professor of International Law, U.S. Naval War College. He is also Colonel (ret.), Judge Advocate General's Corps, U.S. Army who wrote the History of Law of War on Land.

<sup>6</sup> Levie on the Law of War, Michael N. Schmitt and Leslie C. Green eds, *International Law Studies*, vol. 70, 1998, p. 269.

<sup>7</sup> Footnote 4 (a), Section 50 of the Armed Forces Act 1972 defined lawful command as the command must not be contrary to Malaysian or international law and must be justified by military law. If a command is manifestly illegal the person to whom it is given would be justified in questioning and even refusing to execute it.

<sup>8</sup> Natalia M. Restivo, *Defence of Superior Orders in International Criminal Law*, Cornell Law School LL.M Papers Series, paper 18, 2006. Retrieved December 30, 2006 from <http://lsr.nellco.org/cornell/lps/papers>

<sup>9</sup> A.P.V. Rogers, *Law on the Battlefield*, Second Edition, Juris Publishing, 2004, p.208.

force in dangerous and intolerable circumstances that commanders should be able to give orders and require their subordinates to carry them out”.<sup>10</sup>

Rogers's statement is similar to one of Colonel Kennedy, the presiding military Judge in the famous **U.S. v Calley** case, where the Colonel stated the following:<sup>11</sup>

*“Soldiers are taught to follow orders. And special attention is given to orders on the battlefield. Military effectiveness depends upon obedience to orders. In addition, what complicates the situation is that the soldiers are trained to presume that all the orders of their superiors are legal by default.”*

Author Leslie Green in the Modern Law of War essay quotes the following statement from a proposal on superior orders: “There shall be a presumption that all orders issued by superiors to their subordinates are in fact legal”.<sup>12</sup> Unfortunately, it has been proven by quite a significant number of appalling instances throughout the history of mankind and warfare that superior orders may be unlawful. What are the criteria for the determination for each individual soldier to find such an order unlawful? International criminal law scholars developed a number of key definitions that could help in the making of such determination. In the case of **McCall v McDowell**, the court defined unlawful orders based on the following criterion: “...where at first blush it is *apparent and palpable to the commonest understanding* that the order is illegal...”.<sup>13</sup>

## DEVELOPMENT OF SUPERIOR ORDERS AS A DEFENCE

While some defences are relatively new, others have existed for several centuries. Superior orders is probably the oldest defence used in military trials. Dating back to the 15th century (1474), Peter von

Hagenbach was tried and convicted for mistreating, and permitting those under his command to mistreat the people of Breisach. Hagenbach, the governor of Breisach who stood accused of murder, rape and arson argued that he should be relieved of responsibility because he acted pursuant to orders of the Duke of Burgundy, who wanted to maintain illegal authority over the region. He also stated that he had no right to question the orders and was in fact under a duty to obey them. The Tribunal, however, was not impressed with this argument and sentenced him to death.<sup>14</sup>

There are many other examples in Anglo-American history of military personnel pleading superior orders by way of defence in ordinary criminal proceedings. In **Keighly v Bell**<sup>15</sup> Willes J dealt with a case of unlawful imprisonment committed by the accused pursuant to his military authority. He commented in obiter that an officer or a soldier, acting under the orders of his superior, would be justified by the orders if they are not necessarily or manifestly unlawful. In other words, the defence was recognized to exist in cases of illegal orders so long as the orders were not clearly or manifestly illegal.<sup>16</sup>

The superior orders plea was also frequently raised in the United States courts which, more often than not, paid special attention to English decisions.<sup>17</sup> In **Mitchell v Harmony**<sup>18</sup> Chief Justice Taney of the United States Supreme Court held that a soldier cannot justify himself for doing an unlawful act by producing the order of his superior. This is a civil suit growing out of the Mexican War. An American Army officer in Mexico illegally seized the goods of a trader in occupied territory. When latter sued for the price of the goods, he claimed to have acted under orders of a superior officer. The court refused to consider this plea where Chief Justice Taney declared:

<sup>14</sup> G Solis, Obedience of Orders and the Law of War: Judicial Application in American Forums, (2000) 15 Am U Int'l L Rev 481.

<sup>15</sup> (1866) 176 Eng Rep 781.

<sup>16</sup> Ibid.

<sup>17</sup> Leslie C Green, Superior Orders in National and International Law, (1976), 109.

<sup>18</sup> (1851) 54 US 115.

<sup>10</sup> Ibid.

<sup>11</sup> U.S. v Calley, 22 U.S.C.M.A. 534. 48 C.M.R. 19 (1973).

<sup>12</sup> Leslie C. Green, Essays on the Modern Law of War, Transnational Publishers, New York, 1999, p.282.

<sup>13</sup> McCall v McDowell 15 Fed. Cas. 1235 (No.8673, Cal. 1867).

*"It can never be maintained that a military officer can justify himself for doing an unlawful act by producing the order of his superior. The order may palliate, but it cannot justify" the deed."*

A somewhat contradictory view was expressed in **McCall v McDowell**<sup>19</sup>. The fact of the case is that, following President Abraham Lincoln's assassination, many southern sympathizers expressed their satisfaction. McDowell, who was commanding the Department of the Pacific, considered this treasonable and subsequently issued his General Order Number 27, which stated the following, in part:

It has come to the knowledge of the major general commanding, that there have been found within the department, persons so utterly infamous as to exult over the assassination of the President. Such persons become virtually accessories after the fact, and will at once be arrested by any officer or provost marshal or member of the police having knowledge of the case . . .

On April 20, 1865, John McCall, a resident of California, publicly declared that Lincoln, *"should have been shot long ago, and . . . some more of his kind would go the same way shortly."* Captain Charles D. Douglass heard of the incident and arrested McCall on June 1st and imprisoned him for 13 days before the provost marshal took him to Alcatraz where he was subjected to hard labor for 6 days. Upon release McCall sued Douglass and McDowell for false arrest, and the case came before Judge Matthew Paul Deady, a federal district judge. The court acquitted Douglass as a subordinate officer under orders, but he found against McDowell for trying to legislate by military fiat. McCall was awarded \$500 for lost work and \$135 for expenses. In his judgment, the court held:

*"Except in a plain case of excess of authority, where at first blush it is apparent and palpable to the commonest understanding that the order is illegal, I cannot but think that the law should excuse the military subordinate when acting in obedience to the orders of the commander. Otherwise he is placed in the*

*dangerous dilemma of being liable in damages to third persons for obedience to an order, or to the loss of his commission and disgrace for disobedience thereto."*

The court also found that between a plainly legal order, and one palpably otherwise, there is a wide middle ground where the ultimate legality of orders may depend upon circumstances and conditions of which it cannot be expected that the inferior is informed or advised. In such cases, the court held that justice demands that the order of the superior should protect the soldier.<sup>20</sup>

Both judgments were issued in the mid-nineteenth century by which time it became relatively common to codify national and multi-national military rules and thereby outlaw certain types of behaviour. One of the more important codifications, and commonly regarded as the first general codification of the laws of war, was the Lieber Code 1863 promulgated as the military code for the Union Army during the American Civil War.<sup>21</sup> However, the Lieber Code, a document containing 157 articles, did not address the question of superior orders as a defence to violations of international law. The only mention of superior orders is made in Article 71 in relation to command responsibility rather than the responsibility of a subordinate.<sup>22</sup>

Accordingly, it would appear that in the mid-nineteenth century, the standard for the United States and Great Britain was very similar. Initially, obedience to orders could not be a defence where the orders were illegal. In practical terms, this meant that superior orders could not be a defence at all since it would only arise in cases where the orders turned out to be unlawful and, as a result, a crime had been committed. The court eventually softened, however, and started to accept the defence even where orders were illegal, so long as they were not manifestly illegal.

In essence, what became more important than the illegality of the order was the soldier's knowledge of that illegality. In other words, the

<sup>20</sup> Ibid.

<sup>21</sup> G Solis, *supra* note 14.

<sup>22</sup> Silva, *supra* note 2.

<sup>19</sup> (1867) 15 Fed Cas 1235.

soldier could not be relieved from responsibility on the basis that he was given an order if he knew that order was illegal or if he should have known it to be so because the order was so palpably illegal as to be clear to anyone.

Nevertheless, Lassa Oppenheim, a well-known authority on international law in the first half of the 20th century, produced nine editions of his comprehensive works. His views, however, changed considerably over time. In his first edition, published in 1906, Oppenheim wrote that, "If members of the armed forces commit violations by order of their Government, they are no war criminals and cannot be punished by the enemy...." It is to suggest that soldiers who commit breaches of law whilst following orders should be exempt from liability as it is the superiors alone who must carry the responsibility. Later, he drafted the British Manual of Military Law issued in 1914 and, in Article 443, repeated his proposition that obedience to orders is a complete defence.<sup>23</sup> However, by the sixth edition written in 1935, Oppenheim writes:

The fact that a rule of warfare has been violated in pursuance of an order of the belligerent Government or of an individual belligerent commander does not deprive the act in question of its character as a war crime....Members of the armed forces are bound to obey lawful orders only.

It is certainly probable that Oppenheim and his editors revised his views after witnessing World War I and the trials following it.<sup>24</sup> The *Dover Castle* case following World War I provided one of the first cases involving the defence of superior orders in the period of modern warfare. The *Dover Castle* was a hospital ship carrying the sick and wounded from Malta to Gibraltar. In spite of the fact that this was known as a peaceful ship, it was torpedoed, resulting in the death of everyone on board. The National German court found the sailor who actually launched the torpedo not guilty because, according to German law, subordinates were required to follow all orders from their superiors. The *Llandovery*

*Castle* case (discussed later) also involved a similar situation where, subsequent to the boat sinking, most of the survivors in the water were shot by the accused. In this case as well, the accused were found not guilty because they acted pursuant to a superior's orders.<sup>25</sup>

The International Military Tribunals in both Nuremberg and the Far East following World War II created the largest discussion of command responsibility and superior orders ever assembled in one place at that time. While most of these trials involved liability stemming from a command position, the development of this body of law directly relates to the defence of superior orders in that it established the guidelines and a rubric for understanding superior/subordinate relationships. And, most importantly, these decisions set a standard that liability can exist on both sides of that relationship. Several notable cases merit attention and discussion.

The most well known case from the World War II Tribunals regarding command responsibility was the trial of General Tomoyuki Yamashita at the International Military Tribunal for the Far East (IMTFE). After assuming command of the Philippines in October 1944, he was charged, convicted, and sentenced to death for the murders and rapes committed by troops under his command. The tribunal determined that because the crimes were so widespread and systematic, Yamashita either knew and ordered these acts to occur, or that he at least condoned them. In an oft-quoted statement, the Tribunal declared:<sup>26</sup>

Where murder and rape and vicious, revengeful actions are widespread...and there is no... attempt by a commander to discover and control the criminal acts, such a commander may be held responsible, even criminally liable, for the lawless acts of his troops, depending upon their nature and the circumstances surrounding them.

<sup>23</sup> M R Lippman, *Humanitarian Law: the Development and Scope of the Superior Orders Defence*, (2001) 20 Penn St Int'l L Rev 153.

<sup>24</sup> *Ibid.*

<sup>25</sup> Scaliotti, M, *Defences Before the International Criminal Court: Substantive Grounds for Excluding Criminal Responsibility – Part 1*, (2001), *International Criminal Law Review* 1, 117 - 172.

<sup>26</sup> Lippman, M, *The Evolution and Scope of Command Responsibility*, *Leiden Journal of International Law*, (2000)13, 139 - 170.

This decision was not universally supported. Justice Frank Murphy dissented, arguing that there was no precedent for such a decision in international law and that the court had erroneously ignored the principle of individual responsibility, the very foundation of all justice systems. This view was passed over in favor of placing an affirmative duty on commanders to be responsible for and informed of their subordinates' actions.<sup>27</sup>

Another significant case was the *High Command* case before the Nuremberg Tribunal. This case limited command liability to those situations where the commander had either actual or constructive knowledge of wrongdoing by his/her subordinates. In this case, the Court stated that a commander had the right to assume his subordinates were acting lawfully and that criminality is not ascribed based upon a position in the chain of command.<sup>28</sup>

Another important and famous case for the development of the superior orders defence was the trial of Adolf Eichmann in 1961. This case codified the "manifest illegality" principle, which states that a subordinate should disobey all orders that are clearly illegal. Another particularly relevant case arising from crimes committed during World War II was the trial of Klaus Barbie. In this case, the French Court of Cassation stated that the defence of superior orders is not an excuse, and may not qualify as a mitigating factor for punishment.<sup>29</sup>

Essentially, these standards of responsibility allowed defendants to make certain defences against accusations. A superior could argue that he/she did not know, nor could he/she have known, that these acts were taking place. Similarly, as long as the crimes committed were not so widespread and notorious that they could not be ignored, a commander could be found innocent for his inaction. However, there was still considerable debate as to whether superior orders constituted a defence to charges of war crimes. Drawing from some of the conclusions of the World War II cases, subordinates

had an obligation to disobey orders that were manifestly illegal and that following orders may not result in a decrease in punishment.<sup>30</sup>

## APPROACHES ON THE DEFENCE OF SUPERIOR ORDERS

### Absolute Defence (*Respondeat Superior* Approach)

One of the approaches adopted with regard to defence of superior orders is called absolute or automatic defence. This approach is usually referred to as the doctrine of *respondeat superior*. It provides that a soldier who commits an offence whilst following an order should be relieved of responsibility automatically, without any condition or qualification. It is the superior who carries all the blame for issuing an illegal order whilst the subordinate is always vindicated. Obviously, the reason for this approach is an unqualified concern for military discipline. However, it has the practical effect of creating a separate regime outside the scope of the law for members of armed forces who commit crimes under orders.<sup>31</sup>

There are, of course, other deficiencies in this approach. First, it ignores that human beings are autonomous individuals with reasoning faculties. Additionally, it is under-inclusive in that it fails to assign responsibility in cases where soldiers are aware of the illegality of the orders, but nevertheless agree with it and comply willingly and with favour.<sup>32</sup> Fortunately, this approach has rarely been embraced by national and international courts.<sup>33</sup> It reached its peak in the early-twentieth century when supported by scholars such as Oppenheim. As a result, its application was limited to mere policy adopted in Anglo-American war manuals. And, despite such a policy in the military context, no American or English court ever accepted this absolute version

<sup>27</sup> Superior Orders and Duress as Defences in International Law and the International Criminal Tribunal for the Former Yugoslavia. Retrived January 10, 2007 from [http://www.unt.edu/honour/eaglefeather/2004\\_issue/HensonC3](http://www.unt.edu/honour/eaglefeather/2004_issue/HensonC3)

<sup>28</sup> Lippman, *supra* note 26.

<sup>29</sup> Scaliotti, *supra* note 25.

<sup>30</sup> *Ibid*.

<sup>31</sup> Silva, *supra* note 2.

<sup>32</sup> J Insko, Defence of Superior Orders Before Military Commissions, (2003) 13 Duke J Comp & Int'l L 389, 393.

<sup>33</sup> R Jonassen, The Defence of Superior Orders in New Zealand Law: A Soldier's Dilemma?, (2002) 9 AULR 643, 654.

of the superior orders defence.<sup>34</sup> Accordingly, and as elaborated by the tribunal in the *Hostage* case, the fact that this position was adopted in various war manuals does not of itself mean that it became a rule in national or international systems.<sup>35</sup>

### Absolute Liability Approach

Another approach is called the absolute liability approach. It was with the Nuremberg Charter that the absolute liability approach gained international recognition and approval. It essentially provides that the defence of superior orders is absolutely prohibited whenever the soldier complies with an illegal order. At most, obedience to superior orders may only serve as a mitigating factor for sentences purposes. This approach is sometimes referred as the “doctrine of intelligent bayonets” because it requires soldiers not to obey illegal orders. In turn, this requires they must first have knowledge of national and/or international law and, second, they must examine every order issued for any trace of illegality, no matter how minor that may be.

The doctrine is diametrically opposed to absolute defence because its main purpose is to safeguard the supremacy of the law, at the expense of military discipline. Indeed, this is where the absolute liability approach faces the most criticism, as it completely fails to take into account the fact that a successful army is built on good discipline. Its proponents correctly account for this criticism by arguing that discipline is relevant only when legal orders are issued and becomes inappropriate once illegal orders are involved.<sup>36</sup> The only time this approach has been used successfully was during the Nuremberg and Tokyo trials as mentioned earlier.

### Middle Ground Approach (Manifest Illegality Principle)

As suggested, neither of the two approaches above deal with the soldier's dilemma particularly

well. Even though they are both simple bright-line rules, they both fail in practical application. The absolute defence approach is incompatible with national and/or international law and the absolute liability approach is inconsistent with the demands of military discipline. Consequently, courts have developed a compromise whereby a soldier may rely on the superior orders defence in the event of an illegal order, unless the order he has followed is manifestly or palpably illegal.<sup>37</sup> The reason why the soldier cannot rely on the defence in the case of a manifestly illegal order is that he cannot claim he was ignorant of the orders' illegality which, because manifest, would have been clear to anyone. In other words, the objective component of manifest illegality serves as a device to appraise the subjective knowledge of the subordinate.<sup>38</sup>

Viewed in this manner, the defence will be unavailable in cases where the subordinates knew the orders to be illegal, even though they were not manifestly illegal. In other words, the defence will be unavailable no matter how minor the illegality of the order, so long as the soldier is aware of it. By the same token, it cannot be used in cases where the order was manifestly illegal but the subordinate, nevertheless, had no subjective knowledge of its illegality. This solution is usually referred to as the “manifest illegality principle” as been explained earlier. The aim of this approach is to adjust the concurrent, conflicting demands of military discipline and the supremacy of law.<sup>39</sup> It achieves this by allowing soldiers to assume the legality of their orders unless the illegality of those orders is obvious to any person of ordinary understanding. This adequately allows for military discipline. On the other hand, this limited defence also maintains the supremacy of the law by assigning culpability in cases where a soldier knew, or must have known, of the illegality of the order and hence had knowledge of the ethical choice open to him.

To determine whether the soldier knew that the order amounted in a criminal act, Professor Yoram Dinstein said that such an order is the one

<sup>34</sup> J Insko, *supra* note 32.

<sup>35</sup> Silva, *supra* note 2.

<sup>36</sup> J Insko, *supra* note 32.

<sup>37</sup> Silva, *supra* note 2.

<sup>38</sup> Yoram Dinstein, *The Defence of 'Obedience to Superior Orders' in International Law*, A.W Sijthoff, Leyden, 1965.

<sup>39</sup> *Ibid.*

that "offends the conscience of every reasonable, right thinking person; it must be an order which is obviously and flagrantly wrong."<sup>40</sup> The underlying statement is that military orders must be obeyed unless they are manifestly unlawful.

In his book, Dinstein quoted two other authors who expressed the gist of the principle, one being Maugham who stated that, "A superior order should not be a defence if the act constituting the alleged crime was clearly and obviously one of a criminal kind."<sup>41</sup> The other author, Cave, in reference to the principle said that it "limits the impunity of the soldier to cases where the orders are not so manifestly illegal that he must or ought to have known that they were unlawful."<sup>42</sup>

The principle of the test is that a subordinate should incur responsibility for his act if he commits a crime pursuant to a manifestly illegal order, and should be released from guilt if he commits an offense in obedience with an order the illegality of which is not palpable. Dinstein points out that the illegality test is "objective in its character and is based on the intelligence of the reasonable man".

The *Llandovery Castle* case<sup>43</sup> is an example of the practical application of this principle. The rule set out by this case states that even if the order does not reach the degree of the manifest illegality, the person committing the act will be held criminally responsible if he himself was aware of its illegality. In this case, a group of soldiers following the orders of their U-boat commander, opened fire on hospital ship survivors with the intention of concealing the fact that the ship was sunk in the first place. This was required because the initial attack took place outside the geographic area mentioned in the German Reprisals Declaration of 1917, a fact known to the U-boat commander who issued the order. The

accused soldiers sunk at least two lifeboats and machine-gunned the survivors in the water. Of a total complement of 258, only twenty-four survived. In light of this determining factor, the hypothetical situation where the soldier commits an act not manifestly illegal to a reasonable man, but himself is aware of such illegality, he will be held criminally liable.

To conclude discussion regarding the definitions of the illegality of superior orders, a remarkable statement in this regard belongs to Judge Halevy in the decision for the *Kafr Qassem* case where he compared manifest unlawfulness of the order with the black flag which waves over the illegal order saying it is forbidden. He further mentioned about "certain and obvious unlawfulness that stems from the order itself, the criminal character, unlawfulness that pierces and agitates the heart, if the eye is not blind nor the heart closed or corrupt."<sup>44</sup>

This statement clearly indicates that subordinates are provided with a rather simple choice to make regarding the lawfulness of the order. The criteria are based on the rational human standards and qualities of any given reasonable individual. Thus even in the time of the most severe and destructive military conflict there are certain values that prevail and consideration of these basic human values should shelter some categories that sometimes can get drawn into military action.

In conclusion the writer would like to suggest that after taking into consideration the discussion of the above points of view, it can clearly be determined that in some circumstances the illegality of the superior orders is so manifest that, in the writer's opinion, such cases should not make available the defence of superior orders to the criminals. Clearly, this approach accounts best for all the problems surrounding the superior orders defence. It is probably for that reason that it has been, by far, the most widely accepted approach in both national and international trials.<sup>45</sup>

<sup>40</sup> Jordan Paust and Others, *International Criminal Law: Cases and Materials*, p.119.

<sup>41</sup> Yoram Dinstein, *The Defence of 'Obedience to Superior Orders' in International Law*, A.W. Sijthoff, Leyden, 1965, p. 26 quoting Maugham, *U.N.O and War Crimes*, 1951, p. 48

<sup>42</sup> Ibid, at 26 quoting Lord Cave, *War Crimes and their Punishment*, T.G.S., vol.8 (1923), p.xxiii.

<sup>43</sup> Judgment in Case of Lieutenants Dithmar and Boldt, Hospital Ship "Llandovery Castle" (1921) 16 Am J Int'l L 708.

<sup>44</sup> *Kafr Qassem*, Judgments of the District Court of Israel, vol.44, at p.362 cited by *International Criminal Law: Cases and Materials*, Jordan Paust and Others, p. 120.

<sup>45</sup> R Jonassen, *supra* note 33.

## PRESENT POSITION OF THE LAW AND MALAYSIA PERSPECTIVE

At international level, presently, the Defence of superior orders were expressly stated under Article 33 of the Rome Statute of International Criminal Court 1998 (Rome Statute). The article provides the following:

1. The fact that a crime within the jurisdiction of the court has been committed by a person pursuant to an order of a government or of a superior, whether military or civilian, shall not relieve that person of criminal responsibility unless:

- (a) The person was under a legal obligation to obey orders of the government or the superior in question;
- (b) The person did not know that the order was unlawful; and
- (c) The order was not manifestly unlawful.

2. For the purpose of this article, orders to commit genocide or crimes against humanity are manifestly unlawful.

Aside from article 33, the Rome Statute contains other provisions that are relevant to the superior orders debate. First, Article 28 deals with the issue of superior responsibility and allows for the individual liability of those issuing illegal orders. Accordingly the liability is shared between the superior and the soldier so that the latter is not made a scapegoat. Article 32 is also relevant. It deals with mistake of fact and law. A mistake of fact is a ground for excluding criminal responsibility only if it negates the mental element required by the crime. As for mistakes of law, Article 32 (2) provides the following:

A mistake of law as to whether a particular type of conduct is a crime within the jurisdiction of the court shall not be ground for excluding criminal responsibility. A mistake of law may, however, be a ground for excluding criminal liability if it negates the mental element required by such crime, or as provided for in Article 33.

The Malaysia Penal Code, under Chapter IV – General Exceptions, Section 76 states the following;

Nothing is an offence, which is done by a person who is, or who, by reason of a mistake of fact and not by reason of a mistake of law, in good faith believe himself to be, bound by law to do it.

Illustration (a) A, a soldier, fires on a mob by the order of his superior, in conformity with the commands of law. A has committed no offence.

Under the Armed Forces Act 1972, Section 50 is the relevant provision as been discussed earlier. With regards to the compulsion of Malaysia to the international community, particularly in controlling the conduct of its forces especially during conflict, we might be bound to international humanitarian law such as the Rome Statute, the Geneva Convention etc. In ensuring the requirement of international standards is followed, there was a publication of the Army Doctrine Manual pertaining to the Law of Armed Conflict which is the Manual of Law of Land Warfare (Provisional) 2005.<sup>46</sup> In chapter 14 under the heading of “War Crimes, Individual Criminal Liability and Command Responsibility”, Para 1426 states that it is no defence to a war crime that the act was committed in compliance with an order. Para 1427 further states that:

An act is performed in compliance with an order, which is manifestly unlawful to a reasonable soldier given the circumstances prevailing at the time does not constitute a defence and cannot be pleaded in mitigation of punishment.

Similarly, Para 1428 of the manual restated the requirement to apply article 33 of the Rome Statute.<sup>47</sup> Thus, based on the codified provision and manual relating to such defence above, it is submitted that essentially Malaysia is akin to follow the application of the international community and

<sup>46</sup> MD 1.1.2 TD (Provisional) 2005.

<sup>47</sup> Same sentences or wordings used as under Article 33 of the Rome Statute of the International Criminal Court 1998.

willing to adopt the “manifestly illegality” approach in dealing with defence of superior order.

To quote as an example there was the most recent civil case in this area of law that was decided by the Federal Court on 4 July 2006. It is the case of **Ngeow Voon Yean v Sungei Wang Plaza Sdn Bhd/Landmarks Holding Bhd**<sup>48</sup> and the fact of the case is as follows:

The appellant was the General Manager of the respondent company. The respondent company had negotiated the sale of three business-premise units to one Sa-Mula Jadi Sdn Bhd ('Samula'). Two sale and purchase agreements ('SPA') were executed in respect of those three units. The SPAs were executed on behalf of the respondent by the appellant. The SPAs acknowledged inter alia that the 10% deposits had been paid by Samula to the respondent. Samula thereafter assigned all its rights and interests in both SPAs to two financial institutions. This was done through two deeds of assignment. The acknowledgment and consent of the respondent was obtained through the appellant's endorsements. The endorsements confirmed inter alia that the purchase price for the three units had been paid in full. The appellant was later hauled up before a domestic enquiry to answer to two charges of gross negligence. The gross negligence related to misrepresentations in the two deeds of assignment which stated that the price for all the three units had been fully paid when in fact that was not so.

The appellant admitted to the acts of negligence but contended that he was merely carrying out the lawful orders of his superior, one Simon Chong ('Chong'), the respondent's Executive Director. The appellant contended that he had endorsed and signed the two deeds of assignment on the instructions of Chong, who had assured him that everything was in order and that he, Chong, would take the responsibility of collecting the purchase price of the properties sold. In fact even before he signed the first sale and purchase agreement,

the appellant had inquired about the payment of the 10% deposit and he was assured by Chong that he, Chong, would issue him with a comfort note to allay his fears. That comfort note was only prepared by Chong at the time of the execution of the second sale and purchase agreement. The appellant however was found guilty of both charges and dismissed from the respondent's employment. The appellant commenced an action in the Industrial Court, which ruled in his favour and held his dismissal to be without just cause or excuse. The respondent had the award quashed in the High Court, which decision was upheld by the Court of Appeal. The appellant obtained leave to appeal to the Federal Court.

In this case the court held that, “As we accept the findings of fact made by the Industrial Court and we see nothing perverse in their application of the relevant employment laws, we allow this appeal with costs here as well as costs in the High Court and Court of Appeal, set aside the orders of the Court of Appeal dated 20 November 2003 and restore Award No. 179 of 1993 dated 16 June 1993. The deposit made in this appeal is to be refunded to the appellant.” With regards to the issue pertaining to the defence of superior order, the court said:<sup>49</sup>

(1) In Malaysia, the general rule governing the doctrine of superior orders is nothing more than the duty of obedience that is expected of an employee. The most fundamental implied duty of an employee is to obey his employer's orders.

(2) The employee's duty to comply is confined to all the lawful and reasonable orders of his employer in respect of the performance of such functions that falls within the scope of his contract of employment. Whether the employer's orders are lawful and reasonable would depend very much on the terms and conditions of the contract and the character of employment. The employer cannot give an order outside the proper scope of the employment.

<sup>48</sup> [2006] 5 MLJ 113.

<sup>49</sup> Ibid.

(3) The duty of obedience is confined to compliance with the lawful and reasonable orders of an employer and as such the concept of an order being manifestly wrong has no part in the doctrine of superior orders. In the instant case, the Court of Appeal erred when it made an exception to the general rule on superior orders when stating that an employee is entitled to disobey the orders of his superior if he, the employee is aware that that such orders are manifestly wrong. That exception holds good in military or criminal law.

(4) The duty of an employee at common law is also similar in that he is to comply with all lawful and reasonable orders given by his employer with respect to the performance of such functions within the scope of his employment. That duty is one of the fundamental obligations, which are deemed to be impliedly undertaken in every contract of hiring. The duty of obedience at common law is subject to two qualifications, firstly that the employer may not order his employee to do something illegal or secondly order his employee to do anything dangerous.

(5) Where an employee is required to obey an order and he is doubtful whether the order is legal or not, the proper course is for the employee to obey the order first and to challenge its legality in separate proceedings. This distinction is made on the basis that if the law allows the employee to disobey any order he thinks is not legal, it would be impossible for the management to maintain discipline and industrial peace. On the other hand, if the employee takes upon himself to disobey the order, which he thinks to be unlawful and unreasonable two courses are open to him. He can point out his difficulties, if any, to the superior and if the latter insists on the order being carried out, he can do the work and take the matter further in proceedings against his employer or to complain to his union. If he disobeys, he must take the risk if the court finds the order to be lawful and reasonable.

From the above case, it is submitted that the approach taken in the application of superior order defence is slightly different between civil and criminal/military law proceeding. This is particularly

as been suggested by Federal Court in the case of *Ngeow Voon Yean* above, where the court held that in civil case the duty of obedience is confined to compliance with the lawful and reasonable orders of an employer and as such the concept of an order being manifestly wrong has no part in the doctrine of superior orders. In this case, the Federal Court of the view that the Court of Appeal erred when it made an exception to the general rule on superior orders when stating that an employee is entitled to disobey the orders of his superior if he, the employee is aware that that such orders are manifestly wrong. The court further stated that, that exception holds good in military or criminal law as seen from the case of *PP v Tengku Mahmood Iskandar* where it was held that "a soldier is not protected where the order is grossly illegal."

In the case of *PP v Tengku Mahmood Iskandar*<sup>50</sup> the court dealt with three criminal appeals. The fact in issue of superior orders as follows:<sup>51</sup>

Lt. Hussin bin Haji Othman was charged with abetting Tengku Mahmood with causing hurt to Francis Joseph Puthucheary and Puthenpurakai Joseph s/o Verghese under section 323 of the Penal Code. He was discharged under section 173A of the Criminal Procedure Code and bound over in the sum of \$ 500 with one surety for a period of one year. The appeal is against sentence. It is quite obvious that Tengku Mahmood was his superior officer, a Major in the Johore Military Forces. He was in fact the Aide-de-Camp to the Major. His superior officer had ordered him to get a copy of the Holy Book, his "buloh" and gas canisters. In obedience to the order he had obtained them. Although he did not take any part in the assault, he had lent passive assistance to the commission of the offence. As was correctly stated by the learned president, the facts were well known to him that the order to fetch those articles could not have been for the use of his superior officer to enable him to play polo but for use in the commission of an offence. Therefore the order was clearly illegal. The issue is whether the defence of superior order in the commission of those acts is appropriate.

<sup>50</sup> [1973] 1 MLJ 128.

<sup>51</sup> Ibid.

In his judgment, Raja Azlan Shah J (as he then was) had this to say:<sup>52</sup>

*"Now a soldier is not protected where the order is grossly illegal. The only superior to be obeyed is the law and no superior is to be obeyed who dares to set himself above the law. However, it must be appreciated that he was a young man and considering the circumstances he was in, I have no hesitation in saying that he might have had an exaggerated notion of his duties..."*

## CONCLUSION

It is submitted that based on the discussion above, the defence of superior orders would appear to be a relatively easy concept to define. Despite its apparent simplicity, it causes more confusion among legal experts than one would think. In fact, this type of defence is based on obedience to the orders of a government or a superior, whether military or civilian. Some people consider it as a justification, others as a mitigating circumstance, others as both.

Determining whether or not to punish a person for a war crime for example, when they claim to have been following orders is a difficult legal and moral issue. A state may adopt an *absolute liability approach* and hold each individual responsible for his acts regardless of whether the defendant knew the illegality of his acts or could have realistically altered his conduct. Alternatively, a state may offer

an *absolute defence* of obedience to orders, which promotes military discipline while allowing some atrocious crimes to go unpunished. States may wish to strike a balance between the absolute liability approach and the respondeat superior approach and permit a defence of obedience to orders except in circumstances where the underlying order was clearly illegal i.e. *manifest illegality approach*, to a reasonable person. This hybrid approach has emerged several times throughout history, but by no means does international law require a state to adopt such an approach.<sup>53</sup>

However, in compromising the three approaches, it is the writer's humble opinion that the manifest illegality approach is the best approach to be adopted. With this in mind, the writer strongly believes that this was the intention of those who drafted the codified law pertaining the issue of superior orders defence. With regards to Malaysia, our soldiers have been trained to follow the superior orders but only lawful orders.<sup>54</sup> This is what has been doctrinated to the soldiers and the superior too is bound only to give lawful orders. Thus, if there is any legal proceeding in Malaysia, where the subordinate wishes to use the defence of superior order, it seems that our judges are bound to consider the principle that was applied in the case of *Ngeow Voon Yean*<sup>55</sup> for civil suit. Alternatively, for criminal proceedings, the case of *PP v Tengku Mahmood Iskandar*<sup>56</sup> is the best to be referred to.

<sup>52</sup> Ibid.

<sup>53</sup> James B. Insco, Defence of Superior Orders Before Military Commissions, 13 Duke J. of Comp. & Int'l L. 389.

<sup>54</sup> Section 50 of the Armed Forces Act 1972 expressly deals with this issue where soldier is bound to obey orders from his superior but only the lawful orders.

<sup>55</sup> Supra, note 48.

<sup>56</sup> Supra, note 50.

## Bibliography

A.P.V. Rogers (2004). *Law on the Battlefield*, Second Edition, Juris Publishing.

G Solis (2005). *Obedience of Orders and the Law of War: Judicial Application in American Forums*, 15 Am U Int'l L Rev 481.

In re *Eck and Others (The Peleus)*, Hamburg, British Military Court, October 20, 1945; (1945), 13 Am. Dig. Quoted by Jordan Paust and Others, *International Criminal Law: Cases and Materials*.

J Insko (2003). *Defence of Superior Orders Before Military Commissions*, 13 Duke J Comp & Int'l L 389.

Jordan Paust and Others, *International Criminal Law: Cases and Material*.

Kafr Qassem, Judgments of the District Court of Israel, vol.44, at p.362 cited by *International Criminal Law: Cases and Materials*, Jordan Paust and Others.

Levie on the Law of War, Michael N. Schmitt and Leslie C. Green eds, *International Law Studies*, vol. 70, 1998.

Leslie C. Green (1999). *Essays on the Modern Law of War*, Transnational Publishers, New York.

Leslie C Green (1976). *Superior Orders in National and International Law*.

M R Lippman (2000). *The Evolution and Scope of Command Responsibility*, *Leiden Journal of International Law*, 13.

M R Lippman (2001). *Humanitarian Law: the Development and Scope of the Superior Orders Defence*, 20 Penn St Int'l L Rev 153.

Natalia M. Restivo (2006). *Defence of Superior Orders in International Criminal Law*, Cornell Law School LL.M Papers Series, paper 18, 2006. Retrived December 30, 2006 from <http://lsr.nellco.org/cornell/lps/papers>

R Jonassen (2002). *The Defence of Superior Orders in New Zealand Law: A Soldier's Dilemma?* 9 AULR 643.

Silva Hinek (2005). *The Superior Orders Defence: Embraced at Last*, *The New Zealand Postgraduate Law E-Journal (NZPGLEJ)* – Issue 2/2005.

Scaliotti (2001). *Defences Before the International Criminal Court: Substantive Grounds for Excluding Criminal Responsibility – Part 1*, *International Criminal Law Review* 1.

Superior Orders and Duress as Defences in International Law and the International Criminal Tribunal for the Former Yugoslavia. Retrived January 10, 2007 from [http://www.unt.edu/honour/eaglefeather/2004\\_issue/HensonC3](http://www.unt.edu/honour/eaglefeather/2004_issue/HensonC3)

Yoram Dinstein (1965). *The Defence of 'Obedience to Superior Orders' in International Law*, A.W Sijthoff, Leyden.

Malaysian Army Manual Doctrine, MD 1.1.2 TD (Provisional) 2005 – Law of the Land Warfare.

Malaysian Armed Forces Act 1972.

Malaysian Penal Code.

Rome Statute of International Criminal Court 1998 (Rome Statute).



Lt Kol Mohd Hanim bin Saip was commissioned on 8 March 1986 into the Royal Military Police Corps. He has served in various appointments within the corps mostly as Investigating Officer of the Special Investigation Branch (CPK) and also as the Staff Officer (Legal) at 4 Div and at the Army Training Command. He holds a Masters Degree in Criminal Justice from the University of Malaya and a Bachelor of Laws degree from UiTM. He attended the MAF Staff College in 2003 and was awarded with a Diploma in Strategic and Defence Studies by the University of Malaya. At present he is the Head of the Criminal Investigation Cell of the 48 CSJ KPTD HQ.

# CHINA AND INDIA AS POTENTIAL THREAT POWERS IN THE SPACE WAR: AN ANALYTICAL STUDY



By Mej Fazilah bte Hj Mohd Ali

## SYNOPSIS

The space technology started in 1957 with the launch of the first artificial satellite by Russian ensued by strong rivalry with US especially during the Cold War. Space technology became an important arena in this conflict especially in military applications and morale boosting social benefits besides protecting sovereignty rights against external security threats.

The race for space in the Asian region has been going on for some time with India and china being the main contenders. After the birth of India's first space program in 1962 she hope to see the cooperation of US to close the gap in achieving technological advances although budget is a constraint for faster development. The military requirement for communications in protecting their external threat at her borders with Pakistan and global terrorism has also paved the way for the future deployment of nuclear weapons. Meanwhile China's space program kick start in 1954 and subsequently developed their own missile and delivery system with many satellite launching centers all over China for both civilian and military purposes. She has recognized the military value of investing in space technology especially keeping in bay her sovereignty rights in the domain of symmetrical and asymmetrical advantage in theatres of operation in Taiwan Straits and South China Sea in Taiwan from US and other regional allies.

In spite of growing economics both nation have high poverty segments and difficult to justify huge annual space budget unlike US and Russia. Both nations require a time period of about thirty to forty years to reach the US present standards in conventional technology and currently aspire to form closer cooperation with other space capable countries and branching into commercial services. The writer felt that with the presence of growing visionary projects, growing civil military realization, presence of indigenous industries complimented with cheap labour force and strong knowledge foundation both India and China will be potential great powers to be reckoned with in space war in the near future.

## INTRODUCTION

Since the launch of the Russian Sputnik I during the heydays of Cold War in 1957, the race for space has been a constant battle<sup>1</sup>. It was initially limited to the Cold War rivals, with the US, responding with the first manned mission to the moon, and the first lunar exploration.<sup>2</sup>

The end of the Cold War has meant greater cooperation between US and USSR in the joint space venture. As the advantages of space research and the prestige it gained for the state increased, more and more countries jumped on the space bandwagon, among them are the two Asian powerhouses; India and China.

<sup>1</sup>A Siddiqi, *Sputnik I: A History of the Beginning of the Space Race*, posted in 2007, [online]

<sup>2</sup> Space Program Newspaper Archives, *Timeline of the American Space Program*, [online]

With growing economic strength, vast numbers of highly educated technocrats and technicians and the constant need for depiction of national prestige and power, India and China could be heading for an arms race or more aptly a 'space race', and they, in all respects, show the signs of becoming major powers in space.

This paper will look at the foundation mileage of space technology development in India and China by evaluating the pertinent factors leading them into a potential power threat in space war. The fundamental consideration of achieving a threat power in space war for both military desire and financial will leading to space war is discussed and analyzed with a comparison between both nations. In conclusion the writer will provide her rationale in determining whether both nations will be a threat power in space war in the future.

## THE INDIAN SPACE PROGRAM

The Indian Space Program was instituted as the **INCOSPAR** (Indian National Committee for Space Research) in 1962 with Dr. Sarabhai as the President. At the initial stages, India utilized US, Russian and UK launching systems, but since then has adopted the indigenous *Rohini* class of rockets. The growing importance of space prompted the creation of **ISRO** (Indian Space Research Organization), and the Indian agencies continued to work in close liaison with **NASA** counterparts.<sup>3</sup>

India ventured into space through the satellite **Aryabhata**, which was used a Russian launch system. Following this in rapid succession was the launch of the **PSLV** (Polar Satellite Launch Vehicle) and the **ASLV** (Augmented Satellite Launch Vehicle), as well as the production of indigenous engine systems named **Vikas** in collaboration with France.<sup>4</sup>

India entered the new millennium with the **GSLV** (Geostationary Satellite Launch Vehicle), which has a substantial payload carrying capacity. Analysts believe that this would enable India to launch manned missions to space. India is also exploiting

the economic benefits of the space program by conducting commercial launches of satellites for other countries. The **Chandrayaan** project has been launched in 2008, which carried an unmanned probe to the moon, is one of the most important projects designed by ISRO.

As of now, India has not launched a manned spaceflight, but the ISRO scientists are hopeful that they may achieve that in another seven years. Closer ties have been established with the NASA as well as US based technical agencies, and India is seeking to cooperate on several space-related issues<sup>5</sup>. Given the technological advancement of USA, and the strengthening ties, India could reduce the seven years to a possible four to five years.

## Indian Satellite Launch Centers And Tracking Stations

The majority of space flights are launched from the **Satish Dhawan Space Center (SDSC)**, formerly known as **Sriharikota** Space Center on the island of Srihari Kota. This center is capable of launching rockets with solid propellant. The main tracking station is in Bangalore, but India maintains numerous tracing stations in countries like Russia, Brunei, Mauritius and Indonesia. The military implication of this is that, through the use of such space tracking stations, India is in a position to monitor and observe a lot of areas around the world. Most of the stations are capable of conducting six launches per year. The other launch sites are:

- a. Thumba (Thumba Equatorial Rocket Launching Station) in Kerala.
- b. Balasore Rocket Launching Station in Orissa

## Indian Space Agencies

India, like all space capable states have developed a very large and very productive network of institutes, departments and other agencies which are concerned with space, aeronautics, telemetry, imagery, weather monitoring and geographical

<sup>3</sup> Mile Stones, ISRO, [online]

<sup>4</sup> Ibid.

<sup>5</sup> India Edunews, *India Can Send Crew to Space in Seven Years-ISRO Chief*, Jan 2008, [online]

observations as well as other linked fields which directly and indirectly aid the Indian Space project.

These agencies work in close liaison with the concerned governmental authorities, and they continue to get funding, directly from the government as well as from other industrial corporations which are interested in the civilian aspects of any technology which might be produced.

Some of the more prolific agencies in India are:

- a. National Atmospheric Research Laboratory (NARL) (previously National Mesosphere/Stratosphere Troposphere Radar Facility (NMRF)).
- b. Semi-Conductor Laboratory (SCL).
- c. Indian Institute of Space Science and Technology (IIST).
- d. Tiruvananthapuram – The national institute for the study and development of space science. It is sponsored by ISRO under the Department of Space, Government of India.

It is very important that any space aspiring state produce such a close link with civilian and technical agencies. This would ensure the spin off from the military and space technology is used in ways which benefit the society. The budget for any such space or technical research has to be gotten from the state funds, and the civilian population would have to be convinced of the benefits of such programs to justify the sacrifice.

### Indian Space Program and the Budgetary Constraints

In order to become a space power to be reckoned with in the future, India needs to spend more on its space research and projects. When compared to the other countries in the space club, India is running on a very tight budget of US\$ 400 million annually<sup>6</sup>, but the amount has gone up to US\$ 800 million for the year 2008.

<sup>6</sup> S Lodi, *India Launches a Space Satellite*, Indian Defense Journal, Spring 2000

The Indian space project budget, when compared to the other countries that are developing their indigenous space program, when represented in a bar graph, shows that India is lagging behind in terms of spending, when compared to the global space leader like US, which spends an annual US\$16,000 million on space research.

### Annual Space Expenditure for 2008

US \$ 16,000 million

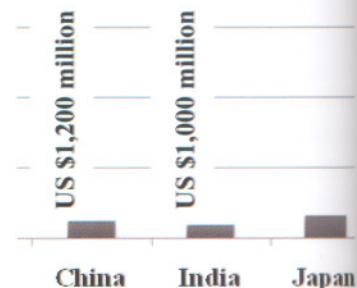


Figure 1: Defense spending in US\$1000 millions for the year 2008

(Adapted from SIPRI Military Expenditure Database)

The Indian outlay on space research is likely to increase, given the recent economic growth being felt in the country, but there are lot of competing agencies and areas which need the crucial funds. Under development, poverty, illiteracy and lack of infra structure in most rural parts of India would continue to demand more and more of the state budget, which would mean a lesser cut for ISRO and the space project.

### Indian Military and Space

As mentioned elsewhere in this paper, there is a lot of dual use for all kinds of space technology, and some of the military benefits of such programs cannot and should not be ignored. The 2001 launch of TES (Technology Experiment Satellite) with high quality resolution imagery capabilities was dubbed as a 'spy program' by the media the world around. India continued to maintain that it was a civilian project in line with their current security needs, and the opinion is divided.

Apart from US, India is the only other country to possess such capabilities, and this has meant that India was able to monitor the war in Iraq and observe Pakistani troop movement along the border. The military is also requesting for communication satellites for the sole use of military, and India has successfully launched **Resourcesat** and **Cartosat**, which are capable of high resolution imagery as well as tracking.<sup>7</sup>

The Chief of Air Staff, S Krishnaswamy also mentioned India considering the development of a space platform for the future deployment of nuclear weapons. This is a project which still classified under 'Top Secret', but India has been calling for a reevaluation of the ISL (International Space Law) which governs the deployment of weapons in space as well as protocol dealing with space debris and such aspects. India is currently the Chair of COPOUS (Cooperation on the Peaceful Uses of Outer Space) and has been lobbying for a more comprehensive and updated law which would be in line with modern technology and plans.<sup>8</sup>

## THE CHINESE SPACE PROGRAM

The Chinese space program was also initiated during the Cold War era, in 1956, through a proposal forwarded by the **Central Military Commission**, which realized the potential military benefits such a program could offer. During periods of Sino-Soviet cooperation, Russia extended a lot of technical aid to China, and this allowed China to make rapid advances in space. The first independent rocket launched by China was in 1960, and China subsequently developed its own missile and delivery systems named **Dong Feng** and **Dong Fang Hong**.

Till 1990, the space program was administered under the military, but following a rearrangement, the new China National Space Administration was formed. Along with it, several other agencies, academies and technical departments were set up to provide for a more comprehensive space research project.

<sup>7</sup> James Martine Center for Nonproliferation Studies, *Space: India, Military Capabilities*, [online].

<sup>8</sup> Indlaw.com, *India needs strong legal group in order to pursue space science*, Nov 2006, [online]

## Chinese Satellite Launch Centers and Tracking Stations

Currently, China operates four satellite launching centers. They are as follows:

- a. Jiuquan Satellite Launch Center (JSLC):** located in the Gobi desert, 1600 km from Beijing, and founded in 1959. This is the most used launch center.
- b. Taiyuan Satellite Launch Center (TSLC):** located in Shanxi province and established in 1966.
- c. Xichang Satellite Launch Center (XSLC):** located in Sichuan province and established in 1984.
- d. Wenchang Satellite Launch Center (WSLC):** located in Hainan Island. This launch facility is not operational yet.<sup>9</sup>

The importance of analyzing satellite launch centers is to assess whether they have the capabilities of launching manned space flights as well as heavy payloads. Since 95% of all space technology has dual purpose, for both civilian and military applications, the launch sites would also reveal the military implications.

In addition to the launch facilities, China, through political and economic means, has been successful in establishing a wide network of Tracking stations around the globe, ranging from the places like Canada, Namibia, Sudan, and Maldives as well as a fleet of four naval tracking ships.

## Chinese Manned Flights

The manned space flights of China were initiated in the 1960 due to the development of the recovery capabilities, but they got cancelled in the aftermath of the Cultural Revolution and the economic down turn. Funding became available in 1992 for Project 921, and under the name Shenzou, 4 unmanned flight carrying animals and test dummies were conducted.<sup>10</sup>

<sup>9</sup> JMCNS, China: *Space, Launch Capabilities*, [online]

<sup>10</sup> James Martin Center for Nonproliferation Studies, *China: Space, Military Capabilities*, [online]

The first manned flight was in 2003, which launched the first **Taikanouat** into space, and the success of the Shenzou 5 and 6 missions prompted the planning of several missions including docking and exploration. China also requested to dock with the ISS (International Space Station), but due to negative pressure from US, China had given up, even though the Chinese space shuttles are designed to offer such capabilities.

Instead, China has proposed tentative plans for its indigenous unmanned space station, with a subsequent manned station in 2010. China is also making plans for manned and unmanned lunar exploration and landing projects, as well as deep probes into Mars.

### Commercial Launch Facilities

Like their Indian rivals, China has also ventured into the commercial launching area, commercial satellite launching services, export of satellites and their components and parts, and construction and services of satellite ground TT&C (Telemetry, Tracking and Control) and application facilities have been initiated to offer a more diverse area of collaboration with international agencies.

It should be borne in mind that China, like all space capable and space aspiring states, has recognized the military value of investing in space technology. China has been accused of stealing satellite and space technology from US, which has been a constant claim by US authorities since Chinese incursion into space.

### Chinese Military and Space

The central Chinese perception of an American threat is centered on Taiwan and the imminent US intervention of a Chinese attack on Taiwan. China may not be seeking to outdistance US or even reach parity, but it is developing technology designed to keep US interference at bay for a limited time period<sup>11</sup>. The heavy US reliance on satellite and space based C4-I 2 (Command,

Control, Communication, Computers, Intelligence and Information) platforms have made the threat of Chinese counter technology great for US, and the US policy designed to abate the Russia-China and US competition in the South West Asian region is centered on such threat perceptions.<sup>12</sup>

The PLA (Peoples' Liberation Army) was also influenced to a great deal by the 2<sup>nd</sup> Gulf War in Iraq, and the use of sophisticated aerial and space based platforms by the US Air Force to inflict heavy damage on the Iraqi forces. The Chinese SCOSTIND (State Commission on Science, Technology and Industry for National Defense) has been revamped, and in conjunction with the PLAAF (Peoples' Liberation Army Air Force), the potential use of space based navigation, detection, imagery and guidance have been explored. China has become transfixed with the military application of Information Warfare, and by all means, they will pursue the development of space technology which can give them a strategic, symmetrical and asymmetrical advantage in their most likely theatres of operation<sup>13</sup>: Taiwan

Straits and the South China Sea, and against their most likely adversaries: US (alone or in conjunction with its regional allies)<sup>14</sup>.

### SPACE WAR REQUIREMENTS

For any state, either China or India, or for both of them to become threat powers in the space war in the future, there are certain requirements which they must meet. The requirements, in brief, are listed below:

- a. Strong economies which would enable huge amounts to be diverted for space research.
- b. The presence of good technical and administrative bureaucracy which would enable the working of concerned departments.

<sup>12</sup> US Army War College, *Key Strategic Issues List 2007*, Army strategic Studies Institute, Washington D. C. 2007

<sup>13</sup> Mathews, Lloyd, *Challenging the United States Symmetrically and Asymmetrically: Can America be Defeated?*, Army War College, Carlisle Barracks, Pennsylvania, US, 1998

<sup>14</sup> L M Wortzel, *The Chinese Armed Forces in the 21<sup>st</sup> Century*, Army strategic Studies Institute, Washington D. C. 1999

<sup>11</sup> J Johnson-Freese, *China's Space Ambitions*, IFRI Security Studies, Brussels, Summer 2007

c. A very large and highly qualified work force, with technological and scientific exposure.

d. A good network which would facilitate military and scientific knowledge and information sharing

e. The presence of a Military Industrial Bureaucratic Technological Complex (MIBT Complex) which would ensure funding, political support and military aid and assistance to the space project<sup>15</sup>, (or sustain any huge military and defense project).

f. A highly motivated and visionary general population and political machinery.<sup>16</sup>

These factors were and are present in the US and USSR, which, along with the cold war arms race mentality<sup>17</sup> helped to propel the race for space. Such a threat perception or *interactive arms race behavior*<sup>18</sup> might not be present in the Indian and Chinese context, but, they are in competition with one another to get more market share of commercial launching, as well as in competition with one another to produce the better technology. There is also a race to be the first to launch a lunar mission.<sup>19</sup>

After having analyzed the Indian and Chinese space capabilities and their impact on the political and military arenas, the central question of this paper would be discussed under this heading. The sections preceding this have laid the groundwork, which would help the reader to understand the history and the present of the space program in India and China, as well as give a summary of the various capabilities. The pertinent question is about the future, which would be analyzed in detail.

<sup>15</sup> Thee, Marek, *Military Technology, Military Strategy and the Arms Race*, Croom Helm, London

<sup>16</sup> *Newsmaker Forum*, Space News, 20-26 February 1995, p.22.

<sup>17</sup> Bottomo, Edgar, *The Balance of Terror: A Guide to the Arms Race*, Beacon Press, Boston, 1971

<sup>18</sup> Gray S Colin, *The Arms Race Phenomenon*, World Politics, Vol.24, 1972, p.41, [quoted in Michael Sheehan, *The Arms Race*, Martin Robertson & Company, Oxford, 1983, p.10]

<sup>19</sup> J. Fairall, *India's Global Aims*, Space, January-February 1995, pp. 17-18.

## CHINA'S AND INDIA'S GROWING ECONOMY AND THE IMPACT ON SPACE CAPABILITIES AND SPACE WAR

Any discussion about the future of the space projects in China and India has to recognize the economic growth being experienced by these two emerging Asian powers. Funding for the space project has to be appropriated from the annual budget, and while it may command a separate budget, removed from the Defense Spending, both countries would have to balance it against the need for infrastructural, educational and other social development aspects.

Details	India	China
GDP	\$ 5.21 trillion	\$ 10.21 trillion
GDP Growth (%)	9.6%	11.5%
Population below Poverty Line (%)	25%	10%
Defense Budget	\$ 23933 million	\$ 49500 million
Space Budget	\$ 1000 million	\$ 1200 million

**Figure 2: Key Economic Indicators & Spending by Key Sectors (2008) (Adapted from the CIA World Fact book 2008 & SIPRI Military Expenditure Database)**

The key economic indicators of both countries, as given above show that in spite of having growing economies, the countries also have sizeable segments of the population below the poverty line, which would make it difficult to justify huge amounts to be spent on space projects, like the annual space budget of US which tops US \$ 16,000 Million.

The other major impediment to advances in space technology would be that China and India both face very real and very present security threats and issues which need to be addressed, which again calls for an increase in defense budget.

a. China has to be constantly wary of US in the South China Sea area and Taiwan straits, which would mean investing in more conventional capabilities that would allow China to offset US power in the region.<sup>20</sup>

b. The technological level of the conventional fighting forces of both India and China are very low as compared to the US and European states. Key area like the Air Force and the Navy needs immediate improvement which again would demand budget, thus forcing the states to cut down their expenditure on space. By fair estimates, India and China would require a time period of almost 30-40 years to reach US present Western standards in conventional military technology.

c. The presence of threats to India in the form of Pakistan and the terrorism in the Kashmir valley and North East areas, which require more troops and conventional weaponry. India would have to make a very hard choice if it wants to divert the resources to advance space projects, which might not afford it desired kind of strategic advantage over the terrorists or the Pakistani conventional forces.

d. The monopoly of US in space related technology is also another factor which might hinder the development of China and India to become great space powers. Though they are producing indigenous capabilities, and there is some level of cooperation with US (especially India), there are general hostile feelings towards the space aspirations of India and China.

Give the above stated problems which stand in the way of China and India becoming space powers, they can overcome those problems by forming closer cooperation with other space capable countries, as well as branching out into commercial services. This would enable them to get the necessary funding as well as justify the spending.

## CHINA AND INDIA AS FUTURE THREAT POWERS IN THE SPACE WAR

Can India and China become threat powers to be reckoned in the space war in the future? I might

say that they can, in spite of the problems listed above. But, as mentioned earlier, it would require some hard political and economic decisions to be made, as well as a very rational judgment of the advantages and disadvantages it can offer to both the civil and military spheres.

Both India and China has many of the qualities which are important for any state to develop and become powerful. Some of the most important features of the Indian and Chinese capabilities are listed below:

- a. The presence of growing demand for visionary projects like space research, especially among the young people.
- b. The growing civil and military realization of the benefits of such research.
- c. The presence of indigenous industries which can produce heavy and sophisticated machinery.
- d. Cheap and advanced labor forces, with good knowledge.

The above features and several others indicate that India and China do have the potential to become threat powers to be reckoned with in the space war.

## CONCLUSION

The race for space in the Asian region has been a continuous flow with India and China as the main contenders. With the birth of India's first space program in 1962 she has launched many satellites through her own launching pads in India. With the cooperation of US India hopes to close the gap in achieving technological advances although budget is a constraint for faster development. The military requirement for communications in protecting their external threat at her borders with Pakistan and global terrorism has paved the way for the future deployment of nuclear weapons. Meanwhile China's space program kick start in 1954 and subsequently developed their own missile and delivery system with many satellite launching centers all over China for both civilian and military purposes. She

<sup>20</sup> Mathew, op. cit. p.221

has recognized the military value of investing in space technology especially keeping in bay her sovereignty rights in the domain of symmetrical and asymmetrical advantage in theatres of operation in Taiwan Straits and South China Sea in Taiwan from US and other regional allies.

In spite of growing economics with both nation have high segments at the poverty line and difficult to justify huge annual space budget unlike US and Russia. Both nations require a time period of

about thirty to forty years to reach the US present standards in conventional technology and currently aspire to form closer cooperation with other space capable countries and branching into commercial services. But with presence of growing visionary projects, growing civil military realization, presence of indigenous industries complimented with cheap labour force and strong knowledge foundation both India and China are potential great powers to be reckoned with in space war in the future.

### BIBLIOGRAPHY

1. Army War College, *Key Strategic Issues List 2007*, Army Institute for Strategic Studies, Washington D. C, 2007
2. Bottome, Edgar, *The Balance of Terror: A Guide to the Arms Race*. Beacon Press, Boston, 1971
2. Carlton, David & Schaerf, Carlo, *The Arms Race in the 1980s*, Macmillan Press Limited, London, 1982
4. Defense White Paper 2006, *China's Space Project*, (condensed from China View), [online], viewed on 16<sup>th</sup> Feb 2008.
5. URL: [http://news.xinhuanet.com/english/2006-10/12/content\\_5193446.htm](http://news.xinhuanet.com/english/2006-10/12/content_5193446.htm)
6. Eisenhower, Dwight, *Military Industrial Complex Speech 1961*, Public Papers of the President [online] viewed on 16 Feb 2008
7. Gray, Colin. S, *The Soviet American Arms Race*, Saxon House, Hampshire, England, 1976
8. Gray S Colin, *The Arms Race Phenomenon*, World Politics, Vol.24, 1972, p.41, [quoted in Michael Sheehan, *The Arms Race*, Martin Robertson & Company, Oxford, 1983, p.10]
9. Indlaw.com, *India needs strong legal group in order to pursue space science*, Nov 2006, [online], viewed on 16<sup>th</sup> Feb 2008.
10. URL: <http://www.indlawnews.com/B1627A40CCE6442F0927336BF6133578>
- ISRO, *Milestones*, [online], viewed on 16 Feb 2008.
11. URL: <http://www.isro.org/mileston.htm>
12. James Martin Center for Non Proliferation Studies, *India Launch Capabilities*, [online], viewed on 16<sup>th</sup> Feb 2008.
13. James Martin Center for Non Proliferation Studies, *India Military Capabilities*, [online], viewed on 16<sup>th</sup> Feb 2008.

14. URL: <http://cns.miis.edu/research/space/india/launch.htm>
15. James Martin Center for Non Proliferation Studies, *China Military Capabilities*, [online], viewed on 16<sup>th</sup> Feb 2008.
16. J. Fairall, *India's Global Aims*, Space, January-February 1995, pp. 17-18.
17. Johnson-Freese, Joan, *China's Space Ambition*, Ifri Security Studies Center, Brussels, 2007
18. Lodi, Sardar, S (Ret, Lt Gen), *India Launches a Space Satellite*, Indian Defense Journal, Spring 2000.
19. L. David, *India's Space Program Picks Up the Pace*, Aerospace America, August 1995, pp. 32-35, 45.
20. Mathews, Lloyd, *Challenging the United States Symmetrically and Asymmetrically: Can America be Defeated?*, Army War College, Carlisle Barracks, Pennsylvania, US, 1998
21. *Newsmaker Forum*, Space News, 20-26 February 1995, p.22.
22. Siddiqi, Asif, *Sputnik I: A History of the Beginning of the Space Race*, posted in 2007, [online], viewed on 16 Feb 2008.
23. URL: <http://home.earthlink.net/~sovietwebspace/SovietWebSpace/sputnik/sputnik.html>
24. SIPRI, *World Development Report: Equity and Development*,
25. Space Program Newspaper Archives, *Timeline of the American Space Program*, [online], viewed on 16 Feb 2008.
26. URL: <http://www.spaceprogramarchive.com/Timeline.aspx>
27. Thee, Marek, *Military Technology, Military Strategy and the Arms Race*, Croom Helm, London
28. US Army War College, Key Strategic Issues List 2007,
29. Wortzel, Larry, *The Chinese Armed Forces in the 21<sup>st</sup> Century*, Army Institute for Strategic Studies, Washington D. C 1999



Mej Fazilah bte Hj Mohd Ali (3005935) was commissioned under the Graduate Scheme into the General Service Corp (Public Relations) on 13 May 1993. She holds a Degree in Mass Communications from Mara University of Technology (UiTM) and a Diploma in Defense and Strategic Studies from the University of Malaya. She also has a Diploma in Public Affairs from Defense Information School (DINFOS), Maryland, United States. She is currently the Staff Officer 2 Public Relations at the 4<sup>th</sup> Division Headquarters, Wardieburn Camp, Kuala Lumpur.

# PROMOTING EFFECTIVE ENGLISH LANGUAGE TEACHING IN THE MALAYSIAN ARMED FORCES – SOME INSIGHTS



By Mej Dr Muhammad Salim bin Muhammad Tufail

## SYNOPSIS

Teaching quality is one of the major determinants of the success or failure of an English language programme. This paper explores the factors which can give rise to effective English Language Teaching (ELT) based on the works of leading experts in the field of ELT. This issue is viewed from three major perspectives, which are the requirements for a good language teacher, effective English Language Teaching, and programme (or contextual) factors in teachers' work and professional development. The requirements of a good language teacher is viewed in terms of qualifications, knowledge and skills. Effective English Language Teaching looks at how effective English Language Teaching can be achieved by teachers in terms of lesson planning and preparation, lesson presentation, execution/methods, teacher-student interaction and personal characteristics. Finally, the programme (or contextual) factors in teachers' work and professional development factor covers institutional structure and organization, support for teachers and professional development of teachers. These factors must be explored and capitalised on by the Malaysian Armed Forces Educational Institutions which conduct English courses to fully maximise their English language programme effectiveness.

## INTRODUCTION

English language teaching or ELT is fast becoming an important and a much sought-after educational activity throughout the world, especially in non-English speaking countries. Richards (2005) said that the demand for teaching English around the world is enormous. Millions of people today want to possess a good command of English for a number of reasons; (1) employers insist that their employees have a good level of English language skills, (2) fluency in English is a pre-requisite for success and advancement in education and employment, (3) to survive and thrive in new environments, and (4) so that their children will also have a good command of English (Johnson 2001; McKay & Tom 1999; Richards 2005).

In-line with this global awareness, the Malaysian Armed Forces (MAF) has also realised the importance of English in the military and decided

that certain steps are needed to Enhance the English language proficiency among its personnel. In 2003, the MAF issued the Armed Forces General Order 1/2003 (*Pembelajaran Bahasa Inggeris di dalam Angkatan Tentera Malaysia*), which states that the MAF acknowledges the importance of English in various fields as English is not only an international language, but it also acts as an agent in the transfer of technology and as a catalyst of progress (Markas Angkatan Tentera 2003). The document also stressed that as a progressive and competitive organization, the MAF has decided that the command of English among its personnel must be given serious attention, to ensure that it does not lag behind in terms of technological advancement or organizational development. One of the steps the MAF has implemented to meet these challenges is the conduct of various types of English courses throughout the Service. The success of English language courses depend most heavily on how effectively the teachers teach (Richards 2001).

Therefore, there is a need to explore factors in the language teaching context which are crucial in promoting successful English language teaching.

This paper provides insights on how effective English language teaching can be achieved based on the works of the leading experts in the ELT field. This issue is viewed from three major perspectives, which are; (1) the requirements for a good language teacher, (2) effective English language teaching, and (3) programme (or contextual) factors in teachers' work and professional development.

## THE IMPORTANCE OF TEACHERS IN A LANGUAGE PROGRAMME

According to Pennington (1989), teachers are the driving force in every educational enterprise and that a competent pool of teachers is required in a successful language programme. Richards (2001) said that "it is the teachers themselves who ultimately determine the success of a program". He added that good teachers can compensate for deficiencies in the curriculum, the materials, or the resources they use in their teaching. This can be achieved through a number of initiatives aimed towards attaining the desired goals set in a particular language programme. Darling-Hammond (1997), meanwhile said that teacher knowledge and skills make a significant difference in student achievement. It is important that the language teaching is effective in order to facilitate the teaching and learning process so that learners gain significant benefits in improving their language skills.

## ROLES OF TEACHERS IN ENGLISH LANGUAGE TEACHING

English language teachers must be aware that they have many important roles in the language classroom. Breen & Candlin (1980) mentioned that teachers have two main roles and three secondary roles arising from the main roles. The main roles are; (1) to facilitate the communication process between all participants in the classroom, and (2) to act as an independent participant within the teaching-learning group. The three secondary roles are; (1) an organizer of resources and a resource

himself or herself, (2) a guide within the classroom procedures and activities, and (3) a researcher and learner.

In addition to these roles, Richards and Rodgers (2001) said that teachers also have other roles such as a needs analyst, a counsellor, and a group process manager. Hedge (2000) gave some examples of teachers' roles where he or she can be a *controller* in eliciting particular utterances from learners, an *assessor* of learners' language ability, a *corrector* of learners' language use, an *organizer* of classroom activities, a *prompter* while learners work together and as a *resource* if learners need help. Birkmaier (1966) said that teachers are models, guides, coaches and motivators in getting students to attain competency in a modern language.

## REQUIREMENTS FOR A GOOD LANGUAGE TEACHER

One of the main ingredients of a successful language programme is a competent pool of language teachers. The following are some of the qualities that are essential in good language teachers:

1. **Qualifications.** The high demands of today's ELT profession has resulted in the development of standards for language teachers. As such, entry into the profession is now scrutinised and regulated. Only teachers with the appropriate qualifications and experience can be considered for entry into the ELT profession. As a result, an expert language teacher is now being accepted as a skilled professional (Richards 2001).
2. **Knowledge.** Without doubt a high level of knowledge is an important ingredient in becoming a good language teacher. Richards (2001) outlined the core components of teacher knowledge as follows:
  - a. **Practical Knowledge.** This involves the knowledge of classroom techniques and strategies.
  - b. **Content Knowledge.** This refers to the teacher's understanding of the subject of ELT.

c. **Contextual Knowledge.** This is familiarity with the institutional context.

d. **Pedagogical Knowledge.** This is the teacher's ability to apply content knowledge for teaching purposes.

e. **Personal Knowledge.** This refers to personal beliefs and principles, and individual approach to teaching.

f. **Reflective Knowledge.** This is the capacity to reflect and assess one's own teaching practice.

3. **Skills.** In addition to knowledge, a high degree of skills are also required in becoming an effective language teacher. The University of Cambridge Certificate of English Language Teaching to Adults - CELTA (2004) focuses on the three following areas for developing teacher skills:

a. **Teacher Language.** Teachers are expected to be accurate with language use as they are language models to learners. Teachers are also expected to adjust their language use accordingly to accommodate the multi-level classroom.

b. **Managing the Learning Environment.** Teachers must be able to balance the way they teach based on the different ways the learners want to learn and be taught, such as conducting activities to promote communication and be able to suit their teaching to the different proficiency levels and learning styles of their students.

c. **Organization of the Classroom.** Teachers must be able to organize the physical environment of the classroom (e.g. the arrangement of desks, chairs, seating arrangement, equipment etc) in the best possible way to suit different lessons and tasks.

the teaching and learning process which are crucial in giving rise to successful lessons. Teachers need to thoroughly plan and prepare for lessons in order for them to present lesson items and to employ the most effective and appropriate methods for maximum effect. They must be able to develop good interpersonal skills to conduct, sustain and enhance communicative activities. Teachers also need to develop respectable personal qualities to command the respect of the students.

## Planning and Preparation

Lesson planning and preparation is an important factor in a teacher's effective implementation of instruction. To successfully plan and prepare for lessons, teachers must have knowledge of the proficiency level of the students, the contents and organization of the syllabus, appropriate classroom activities to be conducted, appropriate language skills to be taught, type of language to be introduced and have students learn it, and the stages or sequences of a lesson (Harmer 2001; New South Wales Teachers Federation 2005). This knowledge will enable the teachers to utilise their ELT expertise to anticipate and visualise how to successfully teach future lessons. This is where teachers become aware of the lesson objectives and try to match lesson contents, materials and activities to students' needs, by taking into account their proficiency levels and linguistic requirements. Jensen (2001) mentioned three principles of lesson planning; (1) a good lesson has a sense of coherence and flow, (2) a good lesson exhibits variety, and (3) a good lesson is flexible.

Lesson planning and preparation is crucial for the successful delivery of lessons in the classroom (Harmer 2001, 2007; Jensen 2001; New South Wales Teachers Federation 2005). However, it must be borne in mind that lesson planning and preparation which takes a great deal of a teacher's work, happens outside the classroom (Crookes & Chaudron 2001; New South Wales Teachers Federation 2005). As such, teachers require time outside the classroom and effort to make effective lesson plans and preparations.

## EFFECTIVE ENGLISH LANGUAGE TEACHING

For classroom teaching to be effective, teachers need to take into account the different aspects of

## Lesson Presentation

Lesson presentation, which is how teachers deliver of lesson items to students, is a crucial

element in teaching. To successfully present lesson items to students, teachers must possess knowledge of lesson contents, the proficiency level of students and the appropriateness of material to be presented. They and they must also be able to allocate an appropriate proportion of the lesson for students' language production and satisfactorily answer students' questions (Brown 2001; Hedge 2000; Johnson 1989; Lightbrown & Spada 1999). This will allow the facilitation of a coherent and progressive teaching and learning process where a logical sequence of instruction or activities with clear aims and links can be created (Hedge 2000; Lightbrown & Spada 1999; Nunan 2003). In line with this, Lightbrown & Spada (1999) said that basic sentence and word order develop along a particular development path in stages, where learners will have to pass through the stages in sequence to progress. As such, lesson presentation is an important pedagogical skill which is crucial in the success of developmental, smooth and appropriately paced instructional sequences which promote student learning and language production.

### Execution/Methods

In a communicative classroom, the conduct of functional interactive activities like role-plays, presentations, pair and group work enable learners to attain the objectives of the curriculum (Richards & Rodgers 2001). This is because these types of activities can enable learners to; (1) practice in communicating and negotiating meaning, (2) establish rapport by maintaining communication, (3) establish how well they understand and make themselves understood, (4) use communicative processes such as information sharing and interaction, and (5) develop communicative strategies such as paraphrasing and restructuring (Brown 2001; Hedge 2000; Richards & Rodgers 2001).

According to Hedge (2000), in managing interaction, teachers need to build cohesiveness among learners. She said that this can be partially achieved through (1) appropriate seating arrangements for activities, (2) progressive conduct of activities from simple pairwork to more complex role-play activities (3) training learners in peer feedback, and (4) the management of group size.

In terms of error correction, Crookes and Chaudron (2001) said that "learners need feedback in order to differentiate between acceptable and unacceptable target language use". As such, error correction is important in helping learners to maintaining communicative engagement in a classroom. Teachers, however, need to use appropriate techniques to correct students' errors by striking a balance between correction and encouragement (Hedge 2000). Teachers must be sensitive in correcting students' errors in a classroom (Hedge 2000; Lightbrown & Spada 1999). According to Lightbrown & Spada (1999), immediate reaction to errors can be embarrassing to some students while excessive feedback on error can have a negative effect on motivation. They added that teachers can use the various methods of signalling to the student who has made an error, such as through the tone of voice, a gesture, or a facial expression.

Larsen-Freeman (2003) mentioned how the feedback can be provided; (1) recasting, (2) getting students to self-correct, (3) giving students an explicit rule, and (4) identifying the prototypical ones and deal with them later in an anonymous fashion. Whatever the methods and techniques are, as students are psychologically different from one another, it is imperative that wise judgement on the part of the teacher is required to help students whilst maintaining their motivation and rapport.

However, it must be borne in mind that the employment of methodology is something flexible as there is no "one best or particular method" in ELT (Nunan 2003). The teachers need to carry out their own preferred teaching practices based on what works best for a particular group of students, lesson contents, available material, the proficiency level of students, professional training and experience (Brown 2007; Nunan 2003; Richards 2001).

With regards to the effective use of instructional material such as coursebooks by teachers, there are five principles mentioned by Graves which need to be applied by teachers (2003), as follows:

1. **Understand how a coursebook is organized.** Familiarisation with the coursebook can help teachers make decisions on how to adapt it to a particular group of students.

2. **Adapt the material.** As coursebooks are meant to be used by different learners and as such, they are not written for a generalised target group. Therefore, they need to be adapted to a particular group of students.

3. **Prepare the learners.** Orientate the learners to the content and purpose of the activity and make sure they understand the steps of the activity (how to do it).

4. **Monitor and follow up.** Monitor by walking around the classroom to observe and answer questions. Follow up by getting students to demonstrate what they have learned or ask questions.

5. **Build a repertoire.** Build up a repertoire of ways to do each type of activity. This can provide predictability for the students where they learn familiar ways to approach an activity.

As teaching materials provide much of the language input learners receive and the language practice that occurs in a classroom (Richards 2001), its effective use by teachers is important in the teaching and learning process.

### Teacher-Student Interaction

Effective teacher-student interaction is an important element in communicative language teaching. By understanding the interactive nature of communication in a language classroom, teachers must successfully create opportunities for genuine interaction in their teaching (2001). In addition, the role of interaction in the language classroom is crucial where it pushes learners to produce more accurate and appropriate language, which in turn provides input for other students (Hedge 2000). Brown (2001) talked about establishing rapport between teachers and students to create positive energy in the classroom. He said that this must be a relationship based on trust and respect, which leads to students feeling capable, competent and creative.

Teacher-student interaction is important in CLT as teachers must be able to perform their roles as a

facilitator, a group process manager and manager of the learning environment in a communicative classroom (Brown 2001; CELTA 2004; Richards & Rodgers 2001).

### Personal Characteristics

Personal characteristics is another important aspect of a teacher. According to Sara & Reichel (2007), personal qualities is one of the two categories that comprise perceptions of the ideal teacher (the other being knowledge of the subject taught). Brown (2001) listed some personal characteristics which teachers need to possess in order to carry out their duties effectively. These characteristics include clarity of voice, correctness of language use, personal appearance, punctuality for classes, enthusiasm in teaching English and flexibility.

Teachers personal qualities also involve their qualifications, experience, a love for teaching English and the English language, a high level of motivation and a highly positive outlook of their work (Brown 2001; Richards 2001). These qualities are important as teachers must portray themselves as positive role models in order to command respect and gain the confidence of students. This is in line with a teacher's many leadership roles such as a guide within the classroom procedures and activities, as a model, a coach and a motivator (Birkmaier 1966; Breen & Candlin 1980).

### PROGRAMME FACTORS IN TEACHERS' WORK AND PROFESSIONAL DEVELOPMENT

Teachers, no matter how qualified, knowledgeable and skilled they are, still need a productive environment, adequate support and continuous professional development for them to thrive and teach effectively. Below are some programme factors that have an influence on the performance and professional development of a teacher as outlined by Richards (2001, 2002):

#### Institutional Structure and Organization

This aspect touches on how the teaching institution or department is structured and organized

in terms of human resource, which consists of teaching staff, support staff, class size and other related matters as follows:

1. **Size and Staff Structure.** A small institution with a few teachers is different from a bigger one with many teachers. In the case of the former, the teachers are likely to be closely knit and each one can sense their contribution to the programme. In the latter case, teachers may not be as close to one another and work independently, without consciously realising their contribution to the programme. The administration can overcome this by developing appropriate mechanisms of communications in order to instil solidarity and a sense of belonging.

2. **Support Staff.** The availability of support staff that can assist teachers in typing, duplicating and administrative duties.

3. **Class size.** Class size affects the quality of instruction. Ideally a language class should not exceed fifteen learners.

4. **Division of Responsibilities.** A teacher's non-teaching related responsibilities must have clear job descriptions that establish clear lines of demarcation in order to strengthen morale.

5. **Course Guides.** Teachers must be provided with sufficient information about the courses they are going to be involved in, such as course objectives, syllabus, course schedule, and assessment procedures.

6. **Teaching Release.** Teachers need to be given some time off teaching when they are involved in certain tasks such as developing course materials or mentoring. This will demonstrate institutional value to such tasks.

7. **Rewards.** Teachers who perform well should be acknowledged and rewarded accordingly.

8. **Review.** Time must be allocated for teaching staff to be involved in programme reviews, problem solving and critical reviews.

## Support for Teachers

Teachers need sufficient support in terms of physical and human aspects for them to enhance their teaching and perform their duties more productively and effectively. These are summarised as follows:

1. **Equipment.** The availability of equipment can have a positive effect on the process of teaching and learning, such as computers, audio-visual equipment and photocopiers.

2. **Teacher Work Space.** A generous work space is required for teachers to carry out their lesson preparations, to mark assignments, to interact with colleagues, and to prepare teaching materials and handouts.

3. **Teacher Resource Room.** A room where teachers can get hold of current textbooks, resource books, teaching and learning materials and magazines to update their professional knowledge and enhance their teaching.

4. **Teaching Facilities.** Are there adequate teaching facilities other than the classroom, such as a multimedia language lab, a conventional language lab, a self-access centre, and a learner resource room?

5. **Orientation.** New teachers need to be carefully orientated to their teaching assignments in order to meet the requirements of the programme. They can be placed under a more experienced colleague for guidance and advice.

6. **Adequate Materials.** Teachers need adequate course materials that are of good quality. Teachers must also be involved in the process of selecting the choice of material.

7. **Mentors.** This system is helpful in situations where there are teachers of different levels of experience and training. The senior or more qualified teachers give advice to the less experienced ones, as well as exchange ideas and discuss problems.

8. **Feedback.** Teachers need information regarding their performance, whether they are doing well or otherwise so that they can take the necessary action to improve themselves. Feedback can be in many forms, such as face-to-face talk, in writing or over the telephone.

9. **Help Lines.** This is to provide teachers with an avenue to seek assistance and advice when they need it.

### Professional Development of Teachers

As professionals in the ELT field, the organisation or department must cater for the development of teachers' skills and knowledge for both their personal and career advancement. This will ensure that teachers can progressively improve improve their teaching based on current practices and trends in ELT and achieve professional satisfaction. These aspects are summarised as follows:

1. **Practice Teaching.** This is a situation here junior teachers practice their teaching under the supervision of their more experienced and more qualified colleagues.

2. **Observation of Teaching.** Teachers can observe the teaching of fellow teachers or watch training videos on teaching.

3. **Further Training.** Opportunities must be provided for teachers to attend specialised courses to meet particular knowledge and skills, that a programme might require.

4. **Opportunities for Teacher Development.** Teachers need to update their professional knowledge and skills. The institution can cater for this requirement by providing teachers with this type of opportunity in many ways, such as conference participation, attending workshops and in-service seminars, organizing reading groups, carrying out a peer observation system, getting teachers to write about teaching, getting teachers to conduct project work, and getting teachers to conduct action research.

English language teaching establishments must create the optimum conditions for teachers to teach effectively as "quality teaching is achieved not only as a consequence of how well teachers teach but through creating contexts and work environments that can facilitate good teaching" (Richards 2002). As such, the programme factors becomes an important aspect that cannot be ignored in the quest of promoting effective teaching.

### CONCLUSION

Teachers play a crucial role in language programmes. They are at the heart of the teaching and learning process. It is important that various aspects of teachers and their teaching are fully exploited by the Malaysian Armed Forces to maximise the achievement of learners and the quality of language programmes. These various aspects are so essential in successful ELT. In fact, they are pre-requisites in ensuring that both teachers and students benefit from the overall teaching and learning process.

### BIBLIOGRAPHY

- Birkmaier, E. 1996. Evaluating a foreign language program. *The North Central Association Quarterly* 40(3): 263-271.
- Breen, M & Candlin, C.N., 1980. The essentials of a communicative curriculum. *Applied Linguistics*. 1(2): 89-112.
- Brown, H.D. 2001. *Teaching by principles*. New York: Pearson.
- Brown, H.D. 2007. *Principles of language learning and teaching*. New York: Pearson Longman.
- Crookes, G. & Chaudron, C. 2001. Guidelines for language classroom instruction. In Celce-Murcia, M. (ed.). *Teaching English as a second or foreign language*, pp. 29-42. London: Heinle & Heinle.

- Darling-Hammond, L. 1997. Dispositions: Defining, Aligning and Assessing. *Academic Leadership*. 4(4) (online) [http://www.academicleadership.org/emprical\\_research/Dispositions\\_Defining\\_Aligning\\_and\\_Assessing.shtml](http://www.academicleadership.org/emprical_research/Dispositions_Defining_Aligning_and_Assessing.shtml) (27 Apr 2009).
- Graves, K. 2003. Coursebooks. In Nunan, D (ed.). *Practical English language teaching*. pp. 225-246. Boston: Mc Graw Hill.
- Graves, K. 2008. The language curriculum: A social contextual perspective. *Language Teaching* 41(2): 147-181.
- Harmer, J. 2001. 3<sup>rd</sup> ed. *The practice of English language teaching*. Pearson: Essex.
- Harmer, J. 2007. 4<sup>th</sup> ed. *The practice of English language teaching*. Pearson: Essex.
- Hedge, T. 2000. *Teaching and learning in the language classroom*. Oxford: Oxford University Press.
- Helgesen, M. 2003. Listening. In Nunan, D (ed.). *Practical English language teaching*. pp. 23-46. Boston: Mc Graw Hill.
- Jensen, L. C. 2001. Planning lessons. In Celce-Murcia, M. (ed.). *Teaching English as a second or foreign language*, pp. 403-408. London: Heinle & Heinle.
- Johnson, R.K. 1989. A decision making framework for the coherent language curriculum. In Johnson, R.K. (ed.). *The second language curriculum*, pp. 1-23. Cambridge: Cambridge University Press.
- Johnson, K. 2001. *An introduction to foreign language learning and teaching*. Harlow: Pearson Education Limited.
- Larsen-Freeman, D. 2001 Teaching grammar. In Celce-Murcia, M. (ed.). *Teaching English as a second or foreign language*, pp. 251-266. London: Heinle & Heinle.
- Lightbrown, P. M. & Spada, N. 1999. *How languages are learned*. Oxford: Oxford University Press.
- Markas Angkatan Tentera Malaysia. 2003. *Perintah Am Angkatan Tentera 1/2003 – Pembelajaran bahasa Inggeris di dalam Angkatan Tentera Malaysia*.
- McKay, H. & Tom, A. 1999. *Teaching adult second language learners*. Cambridge: Cambridge University Press.
- New South Wales Teachers Federation. 2005. *Lesson Preparation*. (online) [http://www.nswtf.org.au/future\\_teachers/lesson.html](http://www.nswtf.org.au/future_teachers/lesson.html) (27 April 2009).
- Nunan, D. 2003. Methodology. In Nunan, D (ed.). *Practical English language teaching*. pp. 3-22. Boston: Mc Graw Hill.
- Pennington, M. 1989. Faculty development for language programs. In Johnson, R.K. (ed.). *The second language curriculum*, pp. 91-110. Cambridge: Cambridge University Press.
- Richards, J.C. 2001. *Curriculum development in language teaching*. Cambridge: Cambridge University Press.



Mej Dr Muhammad Salim bin Muhammad Tufail was commissioned into the General Service Corps (Education) on 16 March 1987 after completing his Bachelor of Science degree from UKM as an Armed Forces scholar. In addition to his bachelor's degree, he possesses a Diploma in Education from UKM, a Master of Education (Teaching of English/Education Management) degree from the University of Wales, UK and a PhD in TESL from UKM. Mej Dr Salim has served at PULAMOR, the Education Directorate and KD PELANDOK in Lumut. Currently he is serving as the Staff Officer 2 Translation at the Army Training HQ.

# IS THE MALAYSIAN EDUCATION SYSTEM GRAVITATING TOWARDS GLOBAL LITERACY



By Lt Kol Surjeet Singh Jeggy

## SYNOPSIS

Today's world is a globalised world and all countries are affected by it. With the internationalisation of business, trade, commerce, politics and education through the widespread use of ICT, the Internet, there has to be a common language to make sure that international communication can be carried out effectively. Whether we like it or not the 'lingua franca' of the international community is the English language.

Malaysia has realized the importance of English language and has thus embarked on a program to improve the standards especially in schools and institutions of higher learning. The Government has introduced the teaching of Mathematics and Science in English in schools and universities. Furthermore students have to sit for the Malaysian Universities English Test (MUET) before they can enroll into the local universities.

This article emphasises the importance of English in order to be competitive in this new world order i.e. the globalised world and the k-economy. It also discusses the steps taken to improve the English language levels of students by addressing the English curriculum based on the needs of the present day. Finally it discusses the importance of cultural understanding in language learning, which is especially so for Malaysia which has a multiracial population in facing a globalised world.

## INTRODUCTION

We are now living in a world which can be termed as a global village. Why should this be so? This is because with the advent of modernization in world transport and communication, and the advances made in science and technology, no place, culture or society seems isolated or remote. The world has indeed become 'small' and now people can communicate with one another through the internet at all times of the day from places all over the world. Information can be passed on and exchanged across the globe at the press of a button. With the blurring of borders across the world, globalization is here to stay. Giddens (1990:64) defines globalization as 'the intensification of worldwide social relations which link distant

localities in such a way that local happenings are shaped by events occurring many miles away and vice versa'.

Walters (1995:3), meanwhile said that globalisation is 'a social process in which the constraints of geography on social and cultural arrangements recede in which people become increasingly aware they are receding'. Therefore, it can be said that globalization will affect all countries in the world as well as global literacy.

We cannot ignore the importance of language as with globalization, where some languages will become more important than others. For global literacy to take place there has to be a common medium i.e. a common language. Language is

the primary medium of human social interaction, and interaction is the means through which social relations are constructed and maintained. If the world has now become a global village, then English is the global language. Moreover, it is considered to be the “language of upward social mobility” (Sarwar, 1994). This is further substantiated by Kachru’s remark:

“what draws an increasing number of people in the remote parts of the world to study English, is the social attitude towards the language . . . after all English has power, and (the masses) want their children to be equipped with this powerful linguistic tool.”

(Kachru, 1996)

Malaysia too has taken cognizance of this fact that English is very much needed for it to succeed in becoming a developed country through Vision 2020. This has been put into action by the Malaysian government teaching Science and Mathematics in English for Standard One and Form One pupils beginning with the year 2003. We have further realized that in order to succeed we must play the game by global rules and take the ‘bull by the horns’ in order to improve English language education which will affect the global literacy level of Malaysians.

This paper discusses the importance of English in global literacy and review how the Malaysian education system is coping with this situation to keep Malaysia in the running for global business and accolades. The importance of the cultural setting including the role played by teachers in fulfilling the needs of the current and future education system is also discussed.

## GLOBAL LITERACY

As Gee claims (1990:153): Literacy is always plural, Rather than a single monolithic literacy we have multiple literacies: school sanctioned literary becomes just ‘one of a multiplicity of literacies which take place in people’s lives in different languages, in different domains and for a variety of purposes’ (Gregory and Williams 2000:11).

What this means is that literacy can be achieved anywhere – in the family system, in the

work situation and in general society. However this literacy may be enough to handle the local situation but not enough to handle global situations. To do this one has to be exposed to global situations and problems and the best way would be to gear the education system of a country to be incorporated with global and international learning. This is because inadvertently all of us have become part of a global economy.

As our world is interconnected, industries, products, technologies and jobs often depend on events taking place elsewhere. In order to handle the changing situation, we need to have a global education system. The summary report in “Educating for the global community: A framework for community colleges” (1996) states that “global education is now recognized as a dominant component of meaningful, futuristic, and applicable education we can provide our learner’s with nothing more valuable than quality, comprehensive global education. It is a worthy service to them for their community, college, nation and the world.”

As stated earlier, in order to have global education there must be a common platform from which people of different countries and ethnic backgrounds can come together and liaise with one another. This common platform is the English language as it has many virtues such as:

1. English is the most widely taught language.
2. English is the most widely spoken language other than Chinese.
3. There has been a clear shift toward using more English in business oriented communication among political bodies and in the economic domain.
4. English is the language of Science and Technology.
5. The World Wide Web is based on English and thus the Internet.
6. English is one the four official languages in the United Nations, the rest being Chinese, French and Russian.
7. English is the language of the legal profession.

With the above reasons, English is heading towards an important role in global literacy. Today's university students in developing countries may well take their first qualification in an institution in their home country, but they are likely, thereafter to find themselves pursuing a more or less 'globalized' career in which English will form an important part of their professional competence.

## ENGLISH LANGUAGE KBSM SYLLABUS

The English language KBSM syllabus currently is based on the pamphlet produced by the Ministry of Education in the year 2000 and gives the overall emphasis to learning English in secondary schools in Malaysia. English is a compulsory subject in all primary and secondary schools in line with its status as a second language in Malaysia. The Cabinet Committee Report on the Review of the Implementation of the Education Policy 1979 states that the teaching of English is to enable school-leavers to use English in everyday situations and work situations as well as to pursue higher education in the medium of English.

At present, English is still taught for further studies and for work purposes. However, English is becoming increasingly important in Information and Communication Technology (ICT) and as a global language. Hence, the use of English for ICT has been included. English for ICT will enable learners to access knowledge on the Internet and to network with people locally and overseas.

The English curriculum uses knowledge not only from subject disciplines such as science and geography to provide the content for learning but also uses topics drawn from current issues. Wherever possible, learners are to carry out project work so that they will apply inquiry skills to solve problems and issues. Learners begin with issues and concerns in their immediate surroundings, i.e. the school, town and country, and later progress to issues and concerns outside the country. These activities will enable them to discuss and analyze issues and at the same time instill in them the habit of acquiring knowledge throughout their lives. With ICT, learners can share in joint activities with other schools through networking. In this way, they will develop their interpersonal skills so that they are

prepared to go out into the world when they leave school.

A small literature component has been added to the curriculum complete with a list of texts for study. These texts enable learners to engage in wider reading of good works for enjoyment and for self-development. They will also develop an understanding of other societies, cultures, values and traditions that will contribute to their emotional and spiritual growth.

Learners are also expected to understand the grammar of the English language and be able to use it accurately. They are required to speak internationally intelligible English using correct pronunciation and intonation. In addition, the use of English to acquire knowledge, to interact with people and to enjoy good works aspire to fulfill the aims and objectives of the National Philosophy of Education and the Education Act of 1996, which seek to optimize the intellectual, emotional, spiritual and physical potential of learners.

The syllabus outlines the Aims, Objectives and Learning Outcomes to be achieved. Also included are descriptions of Language Content. The Language Content provides the context for the learning outcomes.

### Aims

The syllabus aims to extend learners' English language proficiency in order to meet their needs to use English in everyday life, for knowledge acquisition, and for future workplace needs.

### Objectives

The English language curriculum enables learners to:

- i. form and maintain relationships through conversation and correspondence; take part in social interaction; and interact to obtain goods and services;
- ii. obtain, process and use information from various audio visual and print sources; and

present the information in spoken and written form;

iii. listen to, view, read and respond to different texts, and express ideas, opinions, thoughts and feelings imaginatively and creatively in spoken and written form; and

iv. show an awareness and appreciation of moral values and love towards the nation.

## Curriculum Organisation

The English language curriculum is developed in line with the way English is used in society in everyday life, when interacting with people, when accessing information and when understanding and responding to literary works. This is reflected in the learning outcomes of the curriculum. The learning outcomes are based on the four language skills, namely, the skills of listening, speaking, reading, and writing which in turn incorporate grammar, the English sound system and the appropriate use of vocabulary. In addition, the curriculum takes into account other educational emphases such as thinking skills, ICT skills and values and citizenship education.

## Language Use

The three areas of language use are the Interpersonal, the Informational, and the Aesthetic. Language for Interpersonal purposes enables learners to establish and maintain friendships and to collaborate with people to do certain things while language for Informational purposes enables learners to use language to obtain, process, and give information. Finally, language for Aesthetic purposes enables learners to enjoy literary texts at a level suited to their language and proficiency and to express themselves creatively.

## Language Skills

The language skills of listening, speaking, reading, and writing form the core of the curriculum. Learners use these skills to interact with people, obtain information and present information, respond to literary texts, and express themselves creatively. The skill of listening enables learners to understand

and extract information relevant to their needs or to enjoy the sound and rhythm of speech as in poetry and song. Oral skills enable learners to convey their thoughts and ideas clearly in speech when they pronounce words correctly and observe correct stress and intonation. The skill of reading a variety of texts will enable learners to adjust the speed and style of their reading to suit the purpose at hand and to extract both implicit and explicit meanings from the text. Writing skills will enable learners to present their ideas creatively in a logical and organized manner.

## Language Content

The Language Content of the curriculum comprises the Sound System, the Grammar of the English language, and the Word List to guide teachers. This is important to ensure that communication is done correctly and effectively so that meaning can be understood and interaction can be sustained.

## Educational Emphases

In addition, current developments in education and in English language teaching are included. These are Thinking Skills, skills of Learning How to Learn and other education emphases such as values and citizenship education. Language content also takes into account learners' multiple intelligences and emphasizes the importance of using real-life issues and problems to prepare learners for the real world.

## Learning Outcomes

Learning Outcomes are statements to guide teachers in teaching and are derived from the objectives. Learning outcomes incorporate the skills of listening, speaking, reading and writing. Learning outcomes combine language skills with aspects of language content. More details on learning outcomes and language content are laid out in the Syllabus Specifications documents.

## Culture And Language

We cannot run away from the fact there is a close relationship between culture and language

i.e. language reflects culture, it is a part of culture and it also constitutes a culture. In fact for learners, ESL classes serve the crucial function of cultural as well as linguistic orientation. If culture embodies language, teaching language should also involve teaching its culture. Teaching cross-cultural understanding has been conducted in relation to TESL and TEFL. Generally speaking, the major goal for learners is to attain cultural competence and according to Meyer (1991:143), the highest level of cultural competence is the trans-cultural competence, which he explicates as the condition where:

the learner is able to evaluate intercultural differences and solve intercultural problems by appeal to principles of international co-operation and communication which allow the learner to develop his own identity in the light of cross-cultural understanding.

Here comes the importance of the roles that teachers play as learners see them as role models and may expect them to behave in a certain way based on their cultural background. We cannot run away from the fact that adult ESL classes serve as a meeting place for learners of many and often different cultural backgrounds. Teachers have to be sensitive on topics such as gender issues, religion, race, politics and social norms. Cultural as well as personal sensitivity is vital in knowing if, when, and how to introduce topics or lessons that may be distasteful or difficult.

Based on the KBSM syllabus and the relationship of culture and language, it is vital that Malaysian schools emphasize the importance of culturally specific expectations among teachers and students. This is especially so because ours is a multi-cultural society. So I am sure the topic of cultural sensitiveness is stressed upon in teacher training. However now we must not only look at the

Malaysian situation but at the global situation and this change has to be emphasized.

If we were to look at our KBSM syllabus we give emphasis to citizenship education. We must now go globally and teach our students how to face the new situation globally. Under educational emphases, there is a statement that says students are being prepared for real-life issues and problems for the real world but this is not culture specific. We should bring in the importance of culture-specific issues based on international experiences in order that students will be more 'globally cultured'.

## CONCLUSION

To answer the question whether we are gravitating towards global literacy, we definitely are. This is because the nation has realized the value of the English Language and thus the use of it in Science and Mathematics in schools. We have also realized that today's world is based on globalization and the knowledge-based economy. The best way to face these issues is by introducing English and cultural studies in schools.

It is thus important to train the teachers to be culturally sensitive and to know about intercultural understanding as now they will not only be dealing with local students but preparing them to face life in a globalized world. Furthermore, Malaysia is promoting itself as an Educational Centre and inviting foreigners to study here. Last but not least as put forward by Mc Groaty (1993):

'Only cross-cultural efforts that require ongoing mutual discovery and adaptation by both learners and teachers can provide the concrete guidance needed to insure that literacy instruction is culturally as well as linguistically computable for all those involved.'

## REFERENCES

- Bennet, C.I. 1990 *Comprehensive Multicultural Education* 2<sup>nd</sup> Ed. Boston: Allyn and Bacon.
- Block, D. & Cameron, D. (Ed) 2002. *Globalization and Language Teaching*. London : Routledge.
- Gee, J. 1990. *Social Linguistics and Literacies: Ideology in Discourses*, Basingstoke: Palmer Press.

German C. 2002. *The Challenges of Global Learning in the New Digital Age*. Metropolitan State College of Denver.

Giddens, A. 1990. *The Consequence of Modernity*. Cambridge: Polity Press.

Gregory, G. & Williams, A. 2000. *city Literacies: Learning to Read Across Generations and Cultures*. London: Routledge.

James, E.J. (Ed) 1996. *The Language Culture Connection* RELC. Singapore.

Kachru, B.B. 1996. Teaching World English. In B.B Kachru (ed) *The Other Tongue*. New York: OUP.

Kam, H.W. (Ed) 2000. *Language in the Global Context*. RELC. Singapore.

Kaplan, R.B. & R.B Baldant, Jr. 1997. *Language Planning from Practice to Theory*. Clevedon, UK: Multilingual Matters.

McGroarty, M. 1993. Cross-Cultural Issues in Adult ESL Literacy Classrooms. ERIC Digest.

Meyer, M. 1991. Developing transcultural competence. In *Mediating Languages and Cultures*. Clevedon: Multilingual Matters.

Sarwar Z. 1994. Adapting individualization techniques for large classes. In T Kral, *Teacher Development*, Washington.

Waters, M. 1995. *Globalization*. London: Routledge.

Kementerian Pelajaran Malaysia. 2000 Sukatan Pelajaran Kurikulum Bersepadu Sekolah Menengah Bahasa Inggeris. K.L.:PPK.



Lt Kol Surjeet Singh Jeggy was commissioned as an Education Officer on 01 August 1980. He has served all the 3 Services throughout his career, namely ITU Kinrara, PUSARTI, KD PELANDOK and the Army Institute of Management, Port Dickson. He obtained his first degree in Applied Economics from University Malaya (UM). He has a Diploma in Education from UKM and a Master of English as a Second Language (MESL) from UM. He has attended many overseas courses, such as ETDC at Laverton, Australia, AELIC at Lackland AFB, USA and ECDC at Laverton. He is also an accredited ADFELPS Rater since 2000. Currently, he is the Deputy Director, Centre for Liberal and Language Studies at Universiti Pertahanan Nasional Malaysia (UPNM).

# LOW INTENSITY CONFLICT (A CASE STUDY)



By Mej Christopher Ignatius Choong

## SYNOPSIS

The long war against terrorist networks extends far beyond the borders of Iraq and Afghanistan and includes many operations characterized by irregular warfare – operations in which the enemy is not a regular military force of a nation-state...To succeed in such operations, most often an indirect approach should be taken, building up and working with others. This indirect approach seeks to unbalance adversaries physically and psychologically, rather than attacking them where they are strongest or in the manner they expect to be attacked. Taking the “line of least resistance” unbalances the enemy physically, exploiting subtle vulnerabilities and perceived weaknesses. Exploiting the “line of least expectation” unbalances the enemy psychologically, setting the conditions for the enemy’s subsequent defeat.<sup>1</sup>

- Excerpt from the 2006 QDR, Fighting the Long War, page 11.

## INTRODUCTION

Low intensity conflict (LIC) or as it is known now, military operations other than war (OOTW), occupies the lower end of the spectrum in warfare, as opposed to high intensity conflict that involves a series of complex manoeuvres and intense battles between the conventional military forces of national armed forces, or even the use of nuclear weapons. While conventional forces use sophisticated heavy equipment in battles, low intensity combatants typically use well placed bombs, light arms, grenades, traps, hand-held rockets and so forth in smaller engagements. Such is the weaponry of combatants who are called insurgents, guerrillas, terrorists, partisans, etc. Their tactics include sudden forays from concealed bases and quick withdrawals, assassinations, ambushes, kidnappings, sabotage and even armed robberies and gruesome mutilations. (Counter insurgents also mirror these tactics.)<sup>2</sup>

Examples of low intensity operations include the British campaigns against the Mau Mau in Kenya in the 1950s<sup>3</sup>, against the Malayan Races Liberation Army (MRLA) led by the communist Chin Peng in Malaya during the “Malayan Emergency” from 1948 to 1960, Aden in the 1960s, Oman in the 70s, against EOKA (Greek for National Organisation of Cypriot Fighters) in Cyprus in the 1960s and “the Troubles” in Northern Ireland from the late 1960s to mid-1990s.<sup>5</sup>

The Israeli Defence Forces (IDF) have performed hundreds of low intensity operations during the al-Aqsa Intifada, including the creation by SHABAK a large network of Human Intelligence

<sup>2</sup> Kitson, Frank, *Low-intensity Operations: Subversion, Insurgency and Peacekeeping*, Faber and Faber, 1971, ISBN 0-571-16181-2.

<sup>3</sup> Susan L. Carruthers in *Winning Hearts and Minds: British Governments, the Media and Colonial Counterinsurgency, 1944-1960*.

<sup>4</sup> <http://original.britannica.com/eb/topic-189352/EOKA>, Retrieved on 5 Feb 2009.

<sup>5</sup> Kennedy-Pipe, Caroline. *The Origins of the Present Troubles in Northern Ireland*. Longman. (1997-01).

<sup>1</sup> Department of Defense, *Quadrennial Defense Review Report: Fighting the Long War* (Washington, D.C: U.S. Government Printing Office, 6 February 2006), p. 11.

(HUMINT) agents to better enable the IDF identification and assassination of insurgent leaders.<sup>6</sup>

This paper highlights and discusses a case study of the Malayan Emergency as a low intensity conflict.

## DEFINITION AND DYNAMICS OF LIC

Military historian Trevor Dupuy, in his Dictionary of Military terms wrote: "LIC involves sporadic or limited hostilities between military forces which may, or may not, be conventionally organized, in which there may be prolonged lulls between combat encounters, or in which the weapon systems of one or both sides are limited in number, or in type, or in sophistication."<sup>7</sup> Some historians such as Noam Chomsky view LIC as a form of terrorism.<sup>8</sup>

Low intensity conflict is a political-military confrontation between contending states or groups below conventional war and above the routine, peaceful competition among states. It frequently involves protracted struggles of competing principles and ideologies. Low intensity conflict ranges from subversion to the use of armed force. It is waged by a combination of means, employing political, economic, informational and military instruments. Low intensity conflicts are often localized, generally in the Third World, but contain regional and global security implications.<sup>9</sup>

Chief among the dynamic forces that contribute to LIC are change, discontent, poverty, violence and instability. These interact to create an environment conducive to LIC.<sup>10</sup>

Change can cause great stress in a society and often produces discontent. Governments or social systems must accommodate innovation or the sudden impact of external social influences. They may not successfully be able to incorporate these changes within their age-old traditional cultural value system. Addressing the problems posed by change requires considerable time and resources. The impatience of key groups and limits on resources make it difficult to respond fully to these problems.<sup>11</sup>

A case in study would be the Malayan Emergency 1948 – 1960, a well known victory by the British who overcame the communist insurgents in Malaya. How they overcame the insurgents, the strategies employed as well as changes made would be discussed below.

## THE MALAYAN EMERGENCY: 1948-1960

### Strategic Environment (Background)

Malaya, in 1948, consisted of 53,240 square miles on a peninsula. Of this total area, almost 80% consisted of jungle and forest.<sup>12</sup> The climate is tropical and humid. Within this tropical environment, Malaya held many natural resources that were becoming strategically important in the age of industrialization. Before the outbreak of World War II, Malaya had over 3.3 million acres of rubber estates. In 1939, this rubber production met 40% of the worldwide requirement.<sup>13</sup> In addition to this substantial rubber production, Malaya had over 700 tin mines.<sup>14</sup> Control over these resources became a war aim by expansionist Japan and resulted in the Japanese occupation of Malaya during World War II.

The population in the late 1940s was 5.3 million, of which 49% were Malays, 38% were Chinese and 11% were Indians. European settlers in Malaya were limited to approximately 12,000

<sup>6</sup> Najib Ghabdian, "Political Islam: Inclusion or Violence?", in Kent Worcester, Sally A. Bermanzohn, Mark Ungar. *Violence and Politics: Globalization's Paradox*, Routledge, 2002, p. 105

<sup>7</sup> Dupuy, Trevor, Dictionary of Military Terms (1986), p. 38.

<sup>8</sup> Barsamian, David, "The United States is a Leading Terrorist State: An Interview with Noam Chomsky", Monthly Review, 2001, p. 53.

<sup>9</sup> United States Department of the Army (5 December 1990), *Field Manual 100-20: Military Operations in Low Intensity Conflict*, Ch 1 – Fundamentals of Low Intensity Conflict.

<sup>10</sup> Ibid.

<sup>11</sup> Ibid.

<sup>12</sup> Edgar O'Ballance, *Malaya: The Communist Insurgent War, 1948-1960*, Hamden, CT: Archon Books, p. 36.

<sup>13</sup> Ibid, p. 37.

<sup>14</sup> Ibid.

during this period.<sup>15</sup> Prior to independence, its political organization consisted of many independent federated and un-federated states with internal autonomy over all affairs.<sup>16</sup> During the Japanese occupation, the ethnic tensions on the peninsula, especially between the Malays and the Chinese, were greatly exacerbated as the previously strong and hegemonic control by the British was quickly eliminated. The Chinese population tended to resist, both actively and passively, the occupying force. On the other hand, the Malays generally cooperated with the Japanese.<sup>17</sup> In the aftermath of World War II, these ethnic tensions, combined with the return of a tarnished, British rule, provided a ripe environment for the application of communist insurgency.

### Development of the Insurgency

The insurgency in Malaya took place at a time when the people of Asia were inspired and fascinated by the success of Mao Tse-tung and his formula for revolutionary, communist insurgent warfare. Nevertheless, the roots of the Malayan emergency developed before Mao's strategy of protracted rural insurgency was developed. The success of communism in Russia and its spread into China was not lost on the people of Southeast Asia, especially Malaysians. In April 1930, the Malayan Communist Party (MCP) was formed on the platform of establishing a Soviet Republic of Malaya.<sup>18</sup> It had a substantial membership of 15,000 full members and an estimated 10,000 active sympathizers that largely consisted of the Chinese minority.<sup>19</sup>

The prosperity and well being of Malaysians greatly eroded with Japanese occupation that began with the British defeat in Singapore in early 1942. In this environment, the MCP was the only remaining organization capable of mobilizing the population against the Japanese.<sup>20</sup> The MCP

formed the Malayan People's Anti-Japanese Army (MPAJA) and began slowly training and equipping its members. Although the resistance was not ultimately successful, it allowed the MPAJA to learn how to live and fight in the jungle. It also established an organization, leadership and access to arms and ammunition that would enable it to emerge into a much stronger organization after World War II. The population, especially the Chinese, viewed the MCP as their only protectors against the harsh Japanese occupation and often their only source for food provision.<sup>21</sup>

### Strategy

In the aftermath of World War II, the leadership of the MCP was not united on their strategy to undermine the British colonial government. Initially, they settled on a moderate policy of stirring up industrial protest and causing economic chaos instead of overt insurrection.<sup>22</sup> The communists hoped that these conditions would encourage an accelerated British departure that would enable the communists to legally assume full control. Nevertheless, the British showed no signs of an immediate departure from Malaya and the leadership within the MCP changed in 1947. This change in leadership initiated a new strategy for the Malayan Communists.

The new strategy of the MCP was to establish a communist republic in Malaya through armed insurrection in four separate stages. The first stage would consist of guerrilla warfare in the interior. The next stage would see the development of temporary guerrilla bases in evacuated areas. The third stage would consist of the territorial expansion into the towns and villages. Finally, a guerrilla army would be trained and employed against the British forces on a conventional battlefield.<sup>23</sup> Not surprisingly, this strategy closely followed the model developed by Mao in his writings on revolutionary warfare.

### Leadership

The MCP was initially led by Lai Teck, a Vietnamese who arrived in Singapore in 1934

<sup>15</sup> Nagl, John A., *Learning to Eat Soup With a Knife: Counterinsurgency Lessons from Malaya and Vietnam*, University of Chicago, 2002, p 60.

<sup>16</sup> Ibid, O'Ballance, p. 38.

<sup>17</sup> Ibid, p. 23.

<sup>18</sup> Ibid.

<sup>19</sup> Ibid, p. 24.

<sup>20</sup> Robert C. Thompson, *Defeating Communist Insurgency: The Lessons of Malaya and Vietnam*, New York: Frederick A. Praeger, 1966, p. 14.

<sup>21</sup> Ibid, O'Ballance p. 46.

<sup>22</sup> Ibid, p. 67.

<sup>23</sup> Ibid, p. 78.

with the mission to solidify the MCP base. He was known for his organizational skills as well as his ambition and ruthlessness. By 1939, he had organized a communist network all over Malaya and was unanimously elected Secretary General of the MCP.<sup>24</sup> Remaining in command throughout the Japanese occupation, Lai Teck supported the moderate, non-violent policy when the British returned in 1945. However, this stance became more and more unacceptable to many in the party. Thus, he began to lose power within the MCP and he disappeared after March 1947, believed to have been killed by MCP forces.<sup>25</sup>

His successor was Chin Ping, a 26 year old known for his intelligence and shrewdness. Chin Ping initially continued the non-violent opposition to British rule through strikes, demonstrations and subversion but within a year the strategy had shifted to open violence.<sup>26</sup> He remained the leader of the MCP throughout the armed insurgency.

## COUNTER INSURGENCY STRATEGIES OF THE BRITISH

Before analyzing the specific aspects of British counter insurgency that proved successful, a general summary of the evolution of strategy are necessary.

### Initial Response

Despite the eventual success of the British over the insurgent forces in Malaya, the initial strategy was not successful and violated several of the key components of successful counter insurgency operations. After the state of emergency was declared on 17 June 1948, the British used their adequate intelligence resources to identify that the Chinese squatters were aiding and providing bases for the communists and generally disrupting security. Nevertheless, their collective punishment strategy against the entire Chinese population only

exacerbated tensions with the government and between the Chinese and non-Chinese people of Malaya.<sup>27</sup>

Moreover, the initial British response was very reactive and limited to the doctrinal means currently had in place. Despite additional powers being issued to the police forces, the organizational structure was still based on the strict hierarchies and divisions of labour in peacetime conditions that proved inadequate to meet the demands during the insurgency. This produced ineffective leadership, as well as confused responsibilities. Also, no clear strategy emerged for ending the conflict as it was seen as a mere nuisance. Finally, the reactive response by the British led to several atrocities among the population that increased the standing of the insurgents at the expense of the government officials.

### Subsequent Strategy

In April 1950 the British selected Lieutenant General Sir Harold Briggs as the Director of Operations.<sup>28</sup> Unlike his predecessors, he was responsible for coordinating all civil administration, police and armed forces. During his short tenure in power, he developed the "Briggs Plan" for defeating the insurgents. This plan recognized the population as the centre of gravity and worked at isolating the insurgents from their popular base. However, the strategy for defeating this robust insurgency was not yet fully developed. Despite the improved emphasis on coordination, disunity of command between the police and the military forces still existed and resulted in an overall lack of direction.<sup>29</sup>

General Sir Gerald Templer arrived in Malaya in February 1952 as the High Commissioner of Malaya and the Director of Operations.<sup>30</sup> Thus, the British had effectively put civilian and military operations under the control of one leader. Another key development under Templer was the emphasis on

<sup>27</sup> Ibid, Nagl p. 66.

<sup>28</sup> Ibid, O'Ballance p. 106.

<sup>29</sup> Ibid.

<sup>30</sup> Anthony Short, *The Communist Insurrection in Malaya: 1948-1960*, New York: Crane, Russak, and Co., 1975, pp. 336-337.

<sup>24</sup> Richard L. Clutterbuck, *The Long, Long War: Counterinsurgency in Malaya and Vietnam*, New York: Frederick A. Praeger, 1966, p. 15.

<sup>25</sup> Ibid, O'Ballance p. 71.

<sup>26</sup> Ibid, Clutterbuck, *The Long, Long War*, p 30.

the independence of Malaya as soon as possible. During his tenure, Templer continued to focus the government's attention on the people, displayed strong personal and managerial leadership and adapted the strategies of both the police and armed forces to defeat the insurgency.

## ANALYSIS OF COUNTER INSURGENCY IN MALAYA

### The Population as the Center of Gravity

Despite Britain's eventual success against the Malayan communist insurgency, the initial response in the late 1940s was certainly not a strategy that would lead to counter insurgent victory. A key component of success is identifying the population, not the insurgent army, as the centre of gravity. Nevertheless, the British, with the lessons of World War II, initially ignored the population and targeted the insurgent forces of the MPABA and the Malayan Races Liberation Army (MRLA). The military strategies were not subordinate to the political objectives of winning over the people. However, the British showed an aptitude for reflection and a willingness to adapt their strategies toward winning over the population that eventually became the most important reason for their eventual success.

Although the British correctly identified the Chinese population as a source for insurgent bases, their response was to collectively punish the Chinese population was a mistake. Instead of separating the population from the insurgents, the British government effectively isolated itself from the Chinese population. This isolation was further aggravated by large, conventional military forces that often destroyed large areas of land and damaged property within the villages. Nevertheless, the British leadership recognized this deficiency and adjusted its strategy beginning with the policies of Sir Harold Briggs. The keystone of his revolutionary "Briggs Plan" was placing the priority on winning the support of the population rather than killing insurgents.<sup>31</sup> He understood that until he could isolate the insurgents from the population, his forces could not get access to effective intelligence

that would allow more discriminate targeting of the enemy and minimize collateral damage in the villages. Thus, he emphasized that "one of our most vital aims throughout the emergency must be to commit the Chinese to our side."<sup>32</sup>

The first key component of the Briggs Plan was the resettlement of the Chinese squatters to new secure areas known as the "New Village" plan.<sup>33</sup> These "New Villages" enabled the government to provide increased security, prevent access of insurgent forces, and yet maintain most aspects of daily life for the Chinese.

The other aspect of the Briggs Plan that was critical for winning the support of the population was the systematic clearing of the insurgent forces within specific geographical areas. Eliminating insurgent forces from an area greatly enhanced the legitimacy of the government and provided the necessary security to isolate the population from the insurgents. The process was critical in slowly starving the insurgents of their critical base areas and enabling the military and police forces to focus on specific areas to eliminate the remaining threat.

Another critical element in counter insurgency that is focused on the population is a psychological warfare strategy. In Malaya, the British exhibited great flexibility in their psychological operations (PSYOPS) directed at the affected population, the general population and the enemy insurgents. However, like its initial use of force, the British PSYOPS machine was unfocused and often counter productive. Nevertheless, the British PSYOPS campaign greatly improved, first under Briggs and then again under General Templer.

Long before it became cliché, one of General Templer's favorite expressions was "winning the battle for the hearts and minds of the people."<sup>34</sup> The first priority of the new propaganda campaign was "to raise the morale of the civil population and to encourage confidence in government and resistance to the communists."<sup>35</sup> This was

<sup>32</sup> Ibid, p 74.

<sup>33</sup> Ibid, O'Ballance p 110.

<sup>34</sup> Ibid, p. 17.

<sup>35</sup> Ibid.

<sup>31</sup> Ibid, Nagl, p. 72.

done by targeting specific villages and tailoring the information and tactics to the local level. Nevertheless, the most important element of winning the hearts and minds of the population were promising statements he made in early 1952 and subsequent actions of emphasizing a quick transition to Malayan independence.<sup>36</sup> With general elections scheduled in July 1955, the British were showing the genuineness of their statements. This not only encouraged the local population, but also took away one of the key grievance platforms of the insurgency.

### Strong, Efficient Leadership from the British Military

Just as the realization that the population was the real centre of gravity in the insurgency, the search for strong, dynamic leaders and the necessary authority granted to them was also an evolutionary process. Nevertheless, the ability of the British to adjust their normal peacetime administration into an effective emergency government was a critical element of their eventual success against the communist insurgents. The first evolution in this regard was under the leadership of Harold Briggs. As Director of Operations in charge of all counter insurgency efforts, where his goal was to create a culture of "jointness" between the civil administration, military and police. This was first carried out with the creation of the Federal Joint Intelligence Advisory Committee in May 1950.<sup>37</sup> This committee coordinated the collection, analysis and distribution of intelligence throughout Malaya. He also created another joint agency, the Federal War Council, to coordinate all counter insurgency operations. However, the eventual success in Malaya could not have been achieved with only the authority granted to Templer. The counter insurgency efforts gained a boost from the *energetic, personal leadership* of General Templer.

### The Ability to Alter Strategy

When the British first declared the emergency on 17 June 1948, their strategy was focused on

defeating the insurgent armed forces. As evidenced by their initial indiscriminate tactics, gaining the favour of the population was a secondary objective. Nevertheless, the British ability to change the underlying purpose of their counter insurgency doctrine toward identifying the people as the centre of gravity enabled it to achieve eventual success in Malaya. The British strategy evolved over time and was responsive to change. Within this development of a better strategy, the most critical element was the renewed focus on timely and accurate intelligence.

### Effective use of Intelligence

The British have historically prided themselves as a nation that has used intelligence as a combat multiplier. Nevertheless, the initial intelligence operations in place at the beginning of the Malayan emergency were not strong. The amount of information collected was minimal and most of this intelligence was of low importance, unreliable and stale.<sup>38</sup> The situation was best summarized by General Sir John Harding, Commander in Chief, Far East Land Forces, in April 1950:

"Our greatest weakness now is the lack of early and accurate information of the enemy strength, dispositions, and intentions. For lack of information an enormous amount of military effort is being necessarily absorbed on prophylactic and will o' the wisp patrolling and jungle bashing and on air bombardment. Information services must depend almost entirely on the police who in their turn must depend on the confidence of the people, especially the Chinese and the civil administration generally and its power to protect them."<sup>39</sup>

However, the emphasis on intelligence soon gained momentum, especially under Harold Briggs. The results were quite impressive as evidenced by an intelligence brief of an operation that occurred in August 1952. The special branch of the police had made deep penetrations in the MCP low

<sup>36</sup> Ibid, Short p 417.

<sup>37</sup> Ibid, Nagl p 71.

<sup>38</sup> Ibid, Short p 359.

<sup>39</sup> Ibid, Nagl p 73.

ranks such that 75% of the entire organization could be identified and that many of these MCP members were actually paid by the government as informants.<sup>40</sup>

A final important point about the ability of the British to adapt their intelligence strategy was their strict policies on interrogations. The British intelligence and police services did not permit torture during interrogations.<sup>41</sup> In order to maintain the focus of the counter insurgency efforts on the people, the use of torture was seen as counterproductive. Thus, the British were successful at using the tactics necessary to support their strategy of winning the support of the people and defeating the insurgency.

### Effective Threat Response

As insurgents depend upon an asymmetric approach to defeat a more powerful force, the utility of conventional armed forces is no longer as valuable. As successful counter insurgency strategy demands a shift away from seeing the destruction of the enemy's military forces as the key objective for victory, the traditional structure and priorities of the military must also adjust. Conventional military forces must be reoriented for counter insurgency. Unlike the wars in which the U.S. relied upon the mass of firepower and shock effect of battalions, brigades and divisions, the forces that have proven most adept at defeating insurgents and their movements are focused on small-unit tactics.<sup>42</sup> Patrols, squads and platoons represent the typical size of effective counterinsurgency forces. These operations are characterized by decentralized leadership in which the leader of these smaller units has a wide discretion in his decision making. Also, the forces maintain minimal logistical requirements in order to remain flexible to new intelligence and to cause minimal disruption among the population.<sup>43</sup>

Altering the structure of conventional forces is not, however, just limited to the size and structure of patrolling counter insurgency units. It also requires a close assessment of the utility of all non-infantry type forces. In an effort to win the support of the people and avoid excessive damage within an area of operations that includes civilians and their property, the utility of heavy weapons such as tanks, artillery and close air support must be carefully considered. While these weapons can prove highly valuable in situations where intelligence is accurate and the insurgents are isolated from the population, the misuse of these capabilities can have a deleterious effect on the population's confidence in the government. Thus, the decision maker in counter insurgency operations must make a careful assessment of the geography, enemy and people in structuring an armed force that can fight and win in an insurgency.

### KEY LESSONS

The Malayan Emergency was fraught with complexities, ranging from politics, socio-cultural and military perspectives. Ultimately success was achieved and the following key lessons can be drawn from this event:

- **The Population as the Center of Gravity.** The fundamental lesson of the Malayan Emergency is the importance of emphasizing the population as the centre of gravity. As British counter insurgency strategy evolved during those twelve years, they placed more and more emphasis on "winning the hearts and minds" of the people. This was more than just an 'assumed' objective. The public statements from Generals Briggs and Templer continually re-emphasized this paramount strategy. Thus, it permeated its way throughout the ranks and the population as a constant reminder of what was at stake.
- **Effective Leadership Structure.** Another critical lesson from the British counter insurgency experience is their effective leadership structure that consolidated power into the hands of dynamic, effective commanders. From intelligence priorities to civil works projects, the management was efficient and eliminated many of the tensions

<sup>40</sup> Ibid, Short p 361.

<sup>41</sup> Ibid, Clutterbuck, *The Long, Long War*, 97.

<sup>42</sup> As a reference, battalions typically consist of between 400-1000 soldiers, brigades would be 2 to 4 times this large, and divisions can consist of 20,000 soldiers.

<sup>43</sup> Kalev I. Sepp, "Best Practices in Counterinsurgency" *Military Review* (May-June 2005), p 10.

that arise in typical interagency work in large bureaucracies.

- **Ability to Alter Policies and Strategies.**

Finally, the lessons of learning from past mistakes and the ability to alter policies and strategies to the appropriate threat must be embraced by the government and its armed forces. Resistance to change will be natural and is necessary in order to refine changes into a workable, realistic solution. Nevertheless, a government that cannot transform its institutions will be doomed to failure in counter insurgency operations.

## CONCLUSION

In this examination of a low intensity conflict, the case study of a successful counter insurgency, namely the "Malayan Emergency", the goal was to help policymakers and military leaders better understand the complexities of counter insurgency and develop a framework for developing a robust counter insurgency strategy against future asymmetric threats. Understanding and preparing for counter insurgency warfare is still critical in the 21<sup>st</sup> Century.

In order to develop a useful counter insurgency strategy, this study first examined the roots of insurgency and the key tenets of its most successful strategies. From this understanding of how the

enemy thinks, operates and fights, the creation of a framework for counter insurgency strategy that could stand the test of time and universal application could be planned for. The result was four key components of counter insurgency. First, the government's centre of gravity must be defined as the support of the population. Next, strong, efficient leadership is a critical element needed to combat any well developed insurgency. Third, the government must be able to redefine both its national and military strategies to align with the insurgent threat. Finally, the armed forces must be capable of transforming into a structure that is designed specifically to defeat asymmetric threats.

The case study serves as a great example for successful counter insurgency operation. The government initially struggled with the irregular strategies and tactics of the guerrilla forces. Nevertheless, they were able to redefine their political objectives and develop civil and military strategies that supported these political goals. The result was a rare success in the fight against insurgents in the 20<sup>th</sup> Century. More importantly, the lessons learned have helped validate the key components of counter insurgency and are still relevant to Malaysia's national security strategy today. While the struggle against irregular forces will always be likened to "eating soup with a knife," a close historical study of past efforts of counter insurgency, especially in Malaya and some other countries will certainly help widen the knife and thicken the soup.

## BIBLIOGRAPHY

### BOOKS

Anthony Short, *The Communist Insurrection in Malaya: 1948-1960*, New York: Crane, Russak, and Co. 1975.

Dupuy, Trevor, *Dictionary of Military Terms* (1986).

Edgar O'Ballance, *Malaya: The Communist Insurgent War, 1948-1960*, Hamden, CT: Archon Books.

Harry Miller, *Prince and Premier: A Biography of Tunku Abdul Rahman Putra al-Haj. The First Prime Minister of the Federation of Malaya*, London: George G. Harrap and Co., 1959.

Kennedy-Pipe, Caroline. *The Origins of the Present Troubles in Northern Ireland*. Longman, (1997- 01).

Kitson, Frank, *Low-intensity Operations: Subversion, Insurgency and Peacekeeping*, Faber and Faber, 1971.

Nagl, John A., *Learning to Eat Soup With a Knife: Counterinsurgency Lessons from Malaya and Vietnam* University of Chicago, 2002.

Najib Ghadbian, "Political Islam: Inclusion or Violence?", in Kent Worcester, Sally A. Bermanzohn, Mark Ungar. *Violence and Politics: Globalization's Paradox*, Routledge, 2002.

Richard L. Clutterbuck, *The Long, Long War: Counterinsurgency in Malaya and Vietnam*, New York: Frederick A. Praeger, 1966.

Robert C. Thompson, *Defeating Communist Insurgency: The Lessons of Malaya and Vietnam*, New York: Frederick A. Praeger, 1966.

Susan L. Carruthers in *Winning Hearts and Minds: British Governments, the Media and Colonial Counterinsurgency, 1944-1960*.

## JOURNALS

Barsamian, David, "The United States is a Leading Terrorist State: An Interview with Noam Chomsky", Monthly Review, 2001.

Kalev I. Sepp, "Best Practices in Counterinsurgency" Military Review (May-June 2005).

Department of Defense, *Quadrennial Defense Review Report: Fighting the Long War*, Washington, D.C: U.S. Government Printing Office, 6 February 2006.

## MANUALS

United States Department of the Army (5 December 1990), *Field Manual 100-20: Military Operations in Low Intensity Conflict*, Ch 1 – Fundamentals of Low Intensity Conflict.

## INTERNET

<http://original.britannica.com/eb/topic-189352/EOKA>, Retrieved on 5 Feb 2009.



Mej Christopher Ignatius Choong was commissioned into the Royal Rangers Regiment on 25th Aug 1984. He is a graduate of the Malaysian Armed Forces Staff College, Haigate and holds a Diploma in Strategic and Defence Studies and a Master of Management (with distinction) from UM. He is also a graduate of the Thai Army Command Staff College, Bangkok, Thailand. He has served at several units, training establishments as well as MINDEF. Currently he is serving at the Joint Command Force as the S02 J3-Joint Exercise Branch.

# PUNCA KONFLIK MASA HADAPAN : MASALAH AIR (FOKUS SUDAN)



Oleh Mej Azudin bin Hassan

## PENGENALAN

Air merupakan masalah utama kepada Sudan sejak berzaman walaupun pada dasarnya Sudan mempunyai sumber air daratan yang mencukupi. Namun ekoran pengurusan air yang tidak betul ditambah pula dengan musim kemarau yang panjang, menyebabkan sumber air daratan menjadi sedikit dan sukar untuk diagihkan kepada semua penduduk. Lebih-lebih lagi apabila air merupakan keperluan utama bagi pertanian dan penternakan.<sup>1</sup>

Walaupun air sehingga kini masih belum merupakan penyebab utama kepada sesuatu peperangan atau konflik di dunia namun ianya masih menjadi salah satu daripada penyebab kepada tercetusnya peperangan atau konflik ekoran kepentingan terhadap kesinambungan kehidupan di dunia ini.<sup>2</sup> Sepertimana menurut seorang pakar kajian mengenai sumber air, "**Conflicts over water arise form the fact that under conditions of increasing scarcity, competition levels also increase.**"<sup>3</sup>



Peta 1: Sudan

Sumber: Peta Sudan di laman <http://www.infoplease.com/ipa/A0107996.html> dilawati pada 13 Apr 2009.

## SEJARAH MASALAH AIR DI SUDAN

Menurut satu kajian, sumber air sangat diperlukan bagi pembangunan sesebuah negara dan dengan peningkatan pertumbuhan manusia dalam abad ke-21 ini, keperluan sumber air telah meningkat 6 kali ganda.<sup>4</sup> Masalah kekurangan sumber air bersih ini telah menyebabkan negara-negara yang semanganya kekurangan air semakin tertekan. Sudan yang mempunyai sumber air daratan sendiri dan sumber air yang dikongsi bersama dengan negara-negara jirannya, sepatutnya masalah air tidak menjadi isu melainkan sekiranya ia dilanda musim kemarau yang serius dalam tempoh tertentu. Selain daripada sumber air daratan yang dibekalkan oleh Sungai Nil dan cabang-cabangnya, air bawah tanah juga boleh diperolehi di Sudan dan ianya banyak digunakan di bahagian Selatan di mana kawasan ini adalah lebih

<sup>2</sup> Gleick, P.H. 1998, "Water and Conflict", in Gleick P.H, The World's Water 1998-1999, Washington D.C. : Island Press, ms. 105-135.

<sup>3</sup> Turton Anthony, 2004, "Water and Conflict in African Context" 27 April di halaman <http://www.accord.org> dilawati pada 20 Apr 2009.

<sup>4</sup> Johannesburg Summit, "No Water No Future: A Water Focus for Johannesburg", Rev Version: 14 Feb 2002 di lawati di halaman <http://www.iwmi.cgiar.org/accr2002/NoWaterNoFuture.pdf> dilawati pada 10 May 2009.

<sup>1</sup> Klare, Michale T, *Resource Wars: The New Landscape of Global Conflict*, New York: Owl Books, 2001.

Negara	Jumlah Tahun Bagi	
	% Jumlah Sumber Air Gantian Dari Negara Jiran*	Pertambahan Dua Kali Ganda Penduduk Masa Kini
Egypt	97%	30.1
Netherlands	89%	138.6
Cambodia	82%	27.7
Syria	79%	18.2
<b>Sudan</b>	<b>77%</b>	<b>22.4</b>
Iraq	66%	18.7

Jadual 1: Pergantungan Sumber Air Gantian Daripada Sumber Daripada Negara Jiran<sup>5</sup>

kering yang terdiri daripada Padang Pasir tandus yang luas. Namun begitu Sudan masih dibelengu dengan masalah kekurangan air dan rakyat di Sudan hidup menderita sehingga ada yang mati kebuluran ekoran ketiadaan sumber air bersih.

Carta di bawah menunjukkan negara-negara yang bergantung kepada sumber air daratan yang mengalir daripada negara jiran lebih daripada separuh sumber gantian air di negara-negara tersebut termasuk Sudan.

Masalah ketiadaan air bersih boleh mencetuskan berbagai-bagai implikasi kepada ekonomi, sosial dan juga kepada alam sekitar sekiranya masalah ini tidak diuruskan dengan baik. Di Sudan, masalah mendapatkan air bersih ini dikenalpasti berpunca daripada musim kemarau yang panjang, air yang telah dicemari dan gangguan dalam pengagihan sumber air yang merupakan perkara biasa yang berlaku di Sudan. Menurut satu kajian, semasa Cote d'Ivoire berpecah empat tahun dahulu di mana pihak penentang kerajaan memerintah bahagian Utara manakala kerajaan memerintah di Selatan, telah menyebabkan sumber air tidak dapat diuruskan dengan sempurna dan bayaran air

tidak dilunaskan oleh pihak-pihak yang berkenaan. Ini telah menyebabkan pihak yang menguruskan air jatuh mufis dan membiarkan logi penapisan dan empangan tidak terurus. Keadaan ini telah menyebabkan bertambahnya masalah penyakit di mana kes-kes penyakit bawaan air seperti kolera meningkat. Terdapat juga penganalisis sains politik yang berpendapat bahawa masalah air ini digunakan oleh pihak kerajaan bagi menekan pihak penentang di utara.

Walaupun masalah air berlaku diseluruh dunia, namun masalah tersebut tidak seberat Sudan di mana masalah air ini telah mula menyebabkan masalah kemanusiaan yang serius seperti krisis di Darfur. Masalah kecil yang melibatkan kumpulan petani nomad yang berebut air dan tanah ragut untuk ternakan yang sememangnya sedikit di kawasan padang pasir dan kering kontang. Menurut Mark Giordano daripada Institut Pengurusan Air Antarabangsa (*International Water Management Institute*) di Colombo, Sri Lanka, "kebanyakan sumber air yang tersedia di kawasan sekitar Sahara sama ada untuk tujuan minuman, ternakan dan sistem pengaliran semuanya mempunyai ciri-ciri 'transboundary' dan memandangkan sumber air ini menyeberangi sempadan, konflik berkaitan perebutan sumber air tidak dapat dielakkan"<sup>6</sup>.

<sup>5</sup> Peter H. Gleick, "Effect of Climate Change on Shared Fresh Water Resources", in *Confronting Climate Change: Risks, Implications and Responses*. 1992: Population Reference Bureau. 1993 World Population Data Sheet di halaman <http://www.itt.com/waterbook/deponothercountries.asp> di lawati pada 12 Apr 2009.

<sup>6</sup> [www.wider.unu.edu/publications/rps/rps2006/rp2006-01.pdf](http://www.wider.unu.edu/publications/rps/rps2006/rp2006-01.pdf) dilawati pada 10 Apr 2009.

## AIR SEBAGAI SUMBER KUASA DAN PENGAWALAN

Terdapat banyak spekulasi mengenai punca yang akan menyebabkan tercetusnya konflik mengenai air. Konflik boleh terjadi sekiranya pihak yang mempunyai kuasa menguasai atau mengawal penduduk dan juga ekonomi negara. Konflik juga boleh bermula sekiranya air digunakan sebagai sumber pengawalan terhadap ketenteraan, industri, pertanian, penggunaan harian dan juga sebagai kuasa politik. Melalui penggunaan kuasa ketenteraan dan politik, air boleh digunakan sebagai senjata untuk mencapai hasrat atau kuasa politik. Daripada aspek industri dan pertanian pula, konflik boleh meletus melalui penggunaan air tanpa had dan penurunan sumber pembekal yang menyebabkan masalah kekurangan air yang serius.

Konflik juga boleh berpunca melalui pencemaran ke atas sumber air sehingga menjejaskan kehidupan manusia. Negara membangun sering menghadapi masalah ini ekoran pembangunan dan industri yang tidak terkawal. Bahan buangan industri dan juga racun yang digunakan dalam sektor pertanian boleh mencemarkan sumber air bawah tanah yang sememangnya sukar diperolehi dan terhad jumlahnya. Keadaan ini boleh menyebabkan rasa kekecewaan penduduk sekaligus meningkatkan timbul masalah sehingga boleh mencetuskan konflik. Menurut Haftendorn, sekiranya sumber air yang sememangnya sedikit tidak diagihkan kepada penduduk dengan adil akan timbul situasi yang tidak sama rata diantara penduduk yang berkongsi sumber tersebut terutamanya di negara-negara membangun.<sup>7</sup>

Peningkatan pembangunan kawasan-kawasan penduduk baru telah menyebabkan keperluan untuk air turut bertambah. Sekiranya keperluan yang meningkat ini tidak dapat dipenuhi akan wujud rasa tidak puas hati dikalangan penduduk yang terlibat dan boleh mencetuskan konflik. Menurut seorang penulis, apabila masyarakat menjadi semakin maju, penggunaan sumber juga akan meningkat dan air merupakan sumber yang terjejas teruk.<sup>8</sup>

<sup>7</sup> Abigail Ofori-Amoah, "Water Wars and International Conflict", di halaman <http://www.academic.evergreen.edu/g/grossmaz/OFORIAA> dilawati pada 10 Apr 2009.

<sup>8</sup> Klare, Michale T. 2001, *Resource Wars: The New Landscape of Global Conflict*, New York: Owl Books.

## AIR SEBAGAI MASALAH KEMANUSIAAN DAN KONFLIK DI SUDAN

Sejak beberapa tahun yang lepas, Sudan mengalami musim kemarau yang agak teruk dan keadaan ini telah menyebabkan berlaku persengketaan di antara kumpulan penternak nomad dan penternak komersil bagi mendapatkan sumber air dan kawasan padang ragut. Situasi ini agak serius di bahagian Selatan dan Barat Sudan yang agak kering jika dibandingkan dengan bahagian utara yang mendapat hujan yang agak banyak. Sistem pentadbiran yang lemah terutamanya dalam pengurusan sumber air telah menyebabkan keadaan ini menjadi bertambah rumit dan memberikan gambaran seakan-akan kawasan yang dilanda masalah air ini diabaikan oleh kerajaan pusat. Kawasan yang menerima kesan hebat dalam aspek ini adalah kawasan Darfur di mana ekoran masalah ketiadaan air yang mencukupi telah menyebabkan rakyat mengalami masalah keburlaan dan tanaman musnah serta ternakan mati. Ini telah mendorong rakyat yang tidak puas hati dengan kerajaan bangun memberontak dan menyerang pusat-pusat pentadbiran kerajaan. Ekoran daripada tindakan ini, kerajaan pusat mengambil tindakan drastik dengan melancarkan serangan balas ke atas penentang-penentang kerajaan manakala para penentang yang berketurunan Janjaweed melancarkan serangan balas dengan membunuh, merogol, menyeksa, merampas harta benda serta membakar penempatan kumpulan etnik Afrika berkulit hitam menyebabkan penduduk kehilangan tempat berteduh dan menjadi pelarian ke kawasan atau negara jiran untuk menyelamatkan diri.<sup>9</sup>

Pembunuhan kaum di Darfur mencerminkan seakan-akan konflik tersebut adalah merupakan pergaduhan kaum iaitu di antara penduduk berketurunan Arab dengan kulit hitam Afrika. Namun keadaan sebenar yang mendorong kepada konflik ini adalah masalah kekurangan sumber air dan padang ragut untuk kegunaan manusia dan ternakan. Ini adalah kerana walaupun kedua-dua kumpulan ini adalah beragama Islam namun corak kehidupan mereka adalah berbeza. Para petani dan penternak di bahagian Selatan berketurunan

<sup>9</sup> Judith Latham, 2004, "International Journalists Discuss The Darfur Crisis in Sudan", 12 Nov 2004 di halaman <http://www.voanews.com> dilawati pada 20 Apr 2009.

etnik Afrika manakala penternak nomad yang hidup di Utara adalah terdiri daripada keturunan Arab. Sepertimana menurut Talal al-Haj, Ketua Biro Amerika untuk al-Arabiya, masalah yang timbul bukan berpunca daripada masalah bangsa tetapi lebih kepada hak untuk menguasai sumber air dan tanah ragut.<sup>10</sup>

Walaupun beberapa langkah diambil bagi menenangkan keadaan di Darfur namun ekoran kekurangan sokongan daripada kumpulan-kumpulan kecil penentang kerajaan dan juga limpahan pelarian ke Chad serta tindakan kerajaan pusat menghalang kemasukan pemerhati Bangsa-Bangsa Bersatu telah mengeruhkan lagi keadaan di Darfur. Tragedi di Darfur jelas menggambarkan betapa perubahan cuaca serta masalah air boleh menyebabkan berlakunya konflik dalam negara yang serius. Menurut Setiausaha Dalam Negara British John Reid, masalah pemanasan global merupakan salah satu punca yang menyebabkan berlakunya masalah *genocide* di Darfur di mana beliau berpendapat, *"Environment changes make the emergence of violent conflict more rather than less likely"*.<sup>11</sup> Beliau dengan penuh kritik menyuarakan pendapat bahawa masalah kekurangan air serta padang ragut merupakan penyumbang utama kepada konflik di Darfur dan beliau percaya bahawa kejadian tersebut sebagai amaran bahawa masalah yang lebih besar akan berlaku sekiranya tiada langkah diambil bagi menyelesaikan masalah air ini.

Musim kemarau yang berpanjangan serta masalah pengambilan air bawah tanah tanpa pengawalan di Darfur telah menyebabkan tanah di sekitar kawasan Darfur menjadi kering kontang serta padang ragut mati kekeringan. Menurut seorang pakar mengenai masalah di Darfur, Leslie Lefkow daripada *"Human Rights Watch"* berpendapat bahawa kerajaan Sudan telah gagal menyelesaikan masalah di Darfur dengan penuh tanggungjawab. Kerajaan pusat sepatutnya menyediakan peruntukan yang mencukupi bagi menyalurkan sumber air kepada penduduk di Darfur tetapi ianya tidak dilaksanakan. Tindakan ini telah menambahkan lagi situasi tegang yang sedia ada dan ketegangan ini telah diambil kesempatan oleh pihak penentang kerajaan untuk mendapatkan

sokongan penduduk untuk bangun menentang kerajaan pusat.<sup>12</sup>

Selain daripada itu, masalah air juga memberikan kesan yang serius terhadap kesihatan sepertimana menurut pendapat beberapa pakar bahawa negara yang sering dilanda masalah air bersih adalah kawasan yang sering dilanda penyakit berjangkit. Berdasarkan kepada kajian secara global yang dikendalikan oleh Bangsa-Bangsa Bersatu, air yang tidak selamat merupakan punca kepada lebih kurang 80% penyakit berjangkit dan hampir 30% penyebab kepada kematian di negara-negara membangun seluruh dunia. Sebagai contoh, kawasan Afrika dan Sahara yang menyumbang 90% daripada kes-kes malaria seluruh dunia. Masalah mendapatkan air bersih juga boleh menjejaskan pemulihan pesakit-pesakit kerana tanpa air bersih proses pemulihan daripada penyakit tidak dapat berjalan dengan berkesan. Sebagai contoh keadaan di Utara Sudan yang lembab dan mempunyai takungan air yang banyak di paya-paya dan tasik menyebabkan kawasan ini sering dilanda penyakit malaria dan wabak cholera yang sering dikaitkan dengan air yang kotor dan berlumpur.<sup>13</sup>

## LANGKAH PEMULIHAN MASALAH AIR

Sumber air daratan Sudan dikongsi bersama dengan negara-negara jirannya di mana Sungai Nil sahaja dikongsi oleh 10 negara dan ianya merupakan sumber air utama bagi Sudan. Selain daripada itu sumber air bawah tanah terbesar Sudan (Nubian Sandstone system) juga terpaksa dikongsi bersama dengan negara Chad, Libya dan Mesir.

Bagi memastikan sumber air ini tidak terjejas dan menyedari betapa pentingnya sumber ini kepada rakyat Sudan, beberapa perjanjian telah diadakan dengan negara-negara jirannya. Perjanjian Pertama Sumber Air Nil adalah di antara Sudan dengan Mesir pada tahun 1929 di mana perjanjian tersebut memperuntukan hak kepada Mesir untuk menggunakan 48 km<sup>3</sup>/setahun manakala

<sup>10</sup> Ibid.

<sup>11</sup> Ibid.

<sup>12</sup> Alex Diangá, 2005, "A cry for Water in Sudan", The Standard, di halaman <http://www.eastandard.net>. 30May dilawati pada 5 May 2009.

<sup>13</sup> <http://www.nytimes.com/2006/06/16/world/africa/16cholera.html?ex=1151553600&en=ffc0a4e5d686b030&ei=5070> dilawati pada 20 Apr 2009.

memberikan Sudan hak penggunaan hanya 4 km<sup>3</sup>/setahun. Ekoran daripada ketidakadilan dalam perjanjian tersebut, pada tahun 1959, Perjanjian Sumber Air Nil di antara Sudan dan Mesir dikaji semula dan Sudan diberikan hak penggunaan sumber air sebanyak 18.5 km<sup>3</sup>/setahun yang diukur di Empangan Aswan yang terletak di sempadan kedua negara. Namun begitu perjanjian ini tidak mengambil kira negara-negara jiran yang lain<sup>14</sup>.

Sejak beberapa tahun yang lepas, inisiatif Sumber Air Nil (*Nile Basin*) telah ditubuhkan dan telah berjaya menyediakan satu Program Strategik Tindakan yang merangkumi dua program: "*The Shared Vision Programme (SVP) and the Subsidiary Action Programme (SAP)*".<sup>15</sup> SVP bertujuan untuk mewujudkan persefahaman dalam menguruskan sumber air melalui pembangunan dan penggunaan sumber dan kepakaran bersama manakala SAP bertujuan untuk mengusahakan kerjasama pembangunan sumber air antara dua atau lebih negara. Melalui inisiatif tersebut, projek akan dipilih oleh negara yang berkaitan untuk dilaksanakan dan kemudiannya dimajukan kepada Lembaga Menteri-Menteri Sumber Air Nil (*Nile Basin*) untuk kelulusan. Melalui inisiatif tersebut juga, Sudan bersama-sama dengan Ethiopia dan Mesir bersetuju untuk melaksanakan strategi berkerjasama di mana apa-apa projek yang hendak dilaksanakan di Sungai Nil, hendaklah mendapatkan kebenaran dan memberi faedah kepada semua negara dan ianya hendaklah disertakan dengan kajian pencemaran.<sup>16</sup>

## Pembangunan Sistem Pengairan dan Irigasi

Potensi sistem pengairan dan irigasi di Sudan dianggarkan dalam 2.78 juta ha<sup>17</sup> berdasarkan kepada kriteria sumber air dan kewujudan tanah untuk bercucuk tanam. Jumlah ini tidak mengambil kira jangkaan atau kewujudan pembangunan secara besar-besaran di kawasan tanah lembab dan berair

di selatan Sudan. Sistem pengairan Sudan bermula sejak zaman pemerintahan British lagi iaitu di antara tahun 1898 hingga 1956 di mana penajaah mengutamakan penanaman kapas di sekitar Sungai Nil. Sistem irigasi menggunakan pam mula digunakan pada awal abad ke-20 menggantikan sistem pengairan tradisional yang menggunakan teknik kincir air.

Skim Pengairan Gezira merupakan sistem irigasi terbesar dan tertua di Sudan, terletak diantara Sungai Nil Biru dan Sungai Nil Putih. Dimulakan pada tahun 1925 dan secara perlahan-lahan dibesarkan sehingga mampu menampung kawasan seluas 888, 000 ha. Sistem ini menerima air daripada Empangan Sennar di Sungai Nil Biru dan dibahagikan kepada 114, 000 pengguna. Para petani menggunakan skim ini melalui sistem perkongsian dengan kerajaan dan Lembaga Gezira Sudan yang menyediakan pentadbiran sumber kewangan dan pengurusan pemasaran.<sup>18</sup> Skim ini telah berjaya memainkan peranan utama dalam pembangunan Sudan, bertindak sebagai sumber pendapatan tukaran asing kepada Sudan serta hasil cukai negara. Skim ini juga turut berjaya menyumbang kepada keselamatan sumber makanan Sudan serta menyediakan sumber pendapatan kepada 2.7 juta penduduk yang tinggal disekitar kawasan skim tersebut.

Selepas mencapai kemerdekaan, adalah dijangkakan di antara langkah segera bagi mempercepatkan pembangunan di Sudan adalah melalui pembangunan sistem irigasi secara besar-besaran di Sudan. Dengan peningkatan sumber air Sungai Nil melalui perjanjian tahun 1959 dengan Mesir, telah membolehkan Sudan memperluaskan skim irigasi Gezira dan juga membangunkan Skim irigasi Halfa Baru. Skim Irigasi Halfa Baru terletak di bahagian atas Sungai Atbara di bahagian timur Sudan. Ianya dibiayai sebahagiannya oleh Mesir selepas pembinaan Empangan Tinggi Aswan yang mewujudkan Tasik Nasser yang telah menenggelamkan Bandar Wadi Halfa Sudan pada tahun 1964.<sup>19</sup> Penduduk kawasan tersebut telah dipindahkan ke kawasan irigasi baru tersebut dan berjaya menghasilkan berbagai-bagai hasil tanaman dan ternakan.

<sup>14</sup> Belgees Fagir, 2006, "Report: Future of Water in Sudan, Fact & Numbers", Sudanese.online.com. Sep 18 di halaman <http://www.sudanese.online.com> dilawati pada 15 Apr 2009.

<sup>15</sup> Ibid.

<sup>16</sup> "Sudan Information System on Water and Agriculture", Water Report no. 29 2005.htm di halaman [ftp://ftp.fao.org/agl/aglw/docs/wr29\\_eng.pdf](ftp://ftp.fao.org/agl/aglw/docs/wr29_eng.pdf) dilawati pada 15 Apr 2009.

<sup>17</sup> Ibid.

<sup>18</sup> Ibid.

<sup>19</sup> Ibid.

Pada tahun 1970an, Sudan mendapat pembiayaan yang besar daripada negara-negara Arab terutamanya negara pengeluar minyak yang memerlukan hasil tani Sudan bagi keperluan sumber makanan negara mereka. Skim irigasi Rahad dan Managil yang menerima sumber air daripada Sungai Rahad dan Sungai Nil Biru telah berjaya dibangunkan melalui pelaburan ini. Pembangunan sistem irigasi secara besar-besaran ini telah berjaya meningkatkan jumlah kawasan pertanian di Sudan daripada 1.17 juta ha pada tahun 1956 kepada lebih 1.68 juta ha pada tahun 1977. Pada tahun 1980an beberapa langkah bagi meningkatkan kawasan irigasi di Sudan diperkenalkan. Pada tahun 1990an, beberapa skim pengairan yang kecil telah diswastakan manakala 4 skim yang besar, Gezira, Managil, Halfa Baru dan Rahad kekal dibawah pengawalan kerajaan di mana skim ini dikenali sebagai skim berstrategik.

Pada tahun 2000, sejumlah 1, 863, 000 ha kawasan pertanian menerima irigasi di mana sejumlah 1 730 970 ha menerima sistem irigasi sepenuhnya manakala 132, 030 ha dilengkapi dengan sistem irigasi secara kecilan. Namun begitu ekoran daripada kerosakan serta pengurusan sistem irigasi yang tidak cekap, hanya lebih kurang 800, 000 ha atau 43% sahaja daripada kawasan tersebut menerima sistem irigasi. Pada tahun 1995, sumber air daratan menyumbang kepada 96% daripada kawasan pengairan manakala baki 4% dibekalkan dengan sistem pengairan daripada air bawah tanah (small tube-wells) yang biasanya diuruskan oleh individu atau koperasi.<sup>20</sup>

Beberapa projek pembekalan air dilaksanakan di kawasan barat Sudan pada tahun 1970, 1980 dan lewat 1990 dengan objektif untuk mengurangkan kesan daripada musim kemarau yang panjang di kawasan tersebut. Namun begitu kebanyakan daripada projek tersebut telah terbengkalai begitu sahaja ekoran pengurusan yang tidak cekap serta masalah teknikal kerana kurang kemahiran dalam menguruskannya. Pemilihan pendekatan yang tidak betul juga turut menyumbang kepada kegagalan kebanyakan daripada skim ini ekoran pemilihan jenis pertanian yang salah dan kurang kepakaran.

## **Peranan Sistem Irigasi dalam Pengeluaran Hasil Pertanian, Pembangunan Ekonomi dan Sosial**

Sistem pengairan dan irigasi merupakan pelaburan terbesar Sudan hingga kini namun pulangan daripada kawasan irigasi ini masih di tahap yang rendah. Kajian yang dilakukan oleh Bank Dunia menunjukkan pada tempoh tahun 1976-1980, hasil pengeluaran pertanian adalah sangat rendah dan semakin menurun dari tahun ke tahun. Kajian yang dilaksanakan ke atas Skim Rahad berdasarkan data pada tahun 1977 hingga 1995 menunjukkan hasil penuaian adalah dibawah tahap potensi pengeluaran. Kajian yang sama juga turut membentangkan bahawa efisiensi penggunaan air secara keseluruhan adalah hanya di antara 63-68% sahaja.<sup>21</sup>

Di Skim Gezira berlaku masalah yang agak kompleks melibatkan masalah kewangan, teknikal dan pengurusan menyebabkan berlaku kemerosotan pengeluaran yang mendadak menyebabkan jumlah pendapatan daripada hasil pertanian terjejas dengan teruk di mana jumlah pengeluaran pada tahun 1991/92 sebanyak 80% menurun hingga 40% pada tahun 1998/99. Sejumlah 126, 000 ha kawasan tidak menghasilkan pendapatan ekoran pengurusan air yang salah yang menyebabkan berlaku kekurangan sumber air.<sup>22</sup> Ekoran daripada pengurusan air yang lembab, hampir 30% air yang disalurkan tidak dapat dimanfaatkan bagi tujuan pertanian sebaliknya terbuang begitu sahaja. Masalah ketiadaan pembangunan terhadap skim irigasi baru juga turut menyumbang kepada masalah air di Sudan.

Skim Irigasi Gezira ditubuhkan pada tahun 1925 manakala skim-skim lain ditubuhkan pada tahun 1960an dan 1970an. Sejak daripada itu tiada sebarang pembangunan terhadap skim irigasi di Sudan disebabkan oleh dua alasan: kawasan lain yang perlu dibangunkan memerlukan perbelanjaan yang tinggi dan hasil pertanian yang rendah di kawasan-kawasan irigasi yang sedia ada menyebabkan sukar untuk memberi sebarang justifikasi bagi pembiayaan untuk membangunkan skim irigasi baru. Ekoran daripada masalah ini,

<sup>21</sup> Geography of Sudan, di halaman [http://www.en.wikipedia.org/wiki/Geography\\_of\\_Sudan#water\\_problem](http://www.en.wikipedia.org/wiki/Geography_of_Sudan#water_problem) dilawati pada 17 Apr 2009.

<sup>22</sup> Ibid.

<sup>20</sup> Ibid.

bagi memenuhi keperluan sumber makanan yang meningkat setiap hari, tumpuan diberikan kepada skim pengairan yang sedia ada namun langkah ini telah terhalang ekoran penyaluran air yang sedikit dan tidak mencukupi dan hasil yang dikeluarkan juga adalah di luar jangkaan.

## PENGURUSAN AIR, POLISI DAN PERUNDANGAN BERHUBUNG PENGGUNAAN AIR BAGI TUJUAN PERTANIAN DI SUDAN

Air merupakan sumber asli penting di Sudan di mana dengan masalah kekurangan sumber air daratan dan juga bawah tanah serta masalah taburan yang tidak serata di keseluruhan Sudan menyebabkan tumpuan khas diberikan kepada sumber asli tersebut. Ini terbukti dengan kewujudan beberapa organisasi yang khusus bagi menjaga sumber air ini. Di antara organisasi yang dipertanggungjawab bagi pengurusan air ini adalah Kementerian Pertanian dan Sumber Alam (MANR) yang bertanggungjawab menyelia keseluruhan Badan-badan Korporat yang menguruskan skim-skim pengairan dan irigasi yang besar manakala Kementerian Irigasi dan Sumber Air (MIWR) bertanggungjawab menguruskan pengairan dan irigasi air ke kawasan-kawasan pertanian.

MIWR adalah merupakan Jabatan Persekutuan di Sudan yang mempunyai kuasa perundangan ke atas segala urusan berkaitan dengan sumber air di Sudan. Ia memberikan nasihat teknikal dan bantuan kepada projek-projek air di antara negari-negeri dengan syarikat swasta. Ia juga bertanggungjawab ke atas sumber air bawah tanah, sungai-sungai sumber air daratan dan lembah-lembah penyumbang air bawah tanah dan pengurusan wadi. Jabatan ini mempunyai tanggungjawab seperti berikut:<sup>23</sup>

- a. Memastikan keperluan air dipenuhi dengan secukupnya kepada keseluruhan penduduk di negara tersebut.
- b. Merancang, mengurus dan membangunkan sumber air.

- c. Menguruskan kerjasama peringkat regional dan antarabangsa terhadap sumber air daratan yang dikongsi bersama.

- d. Merancang, merangka dan melaksanakan pengurusan operasi dan selenggaraan terhadap skim-skim irigasi yang terdapat di Sudan.

- e. Mengawal pengeluaran sumber air.

- f. Membina kerja-kerja pembinaan sistem irigasi yang baru.

- g. Mengawal operasi dan senggaraan ke atas semua struktur irigasi besar-besaran dan kemudahan air minuman.

- h. Bertanggungjawab ke atas sumber kuasa hydro dan juga melindungi kawasan persekitaran yang berhubung kait dengan air.

## Pengurusan Air di Sudan

Skim Pengairan di Gezira adalah diuruskan secara bersama dengan *Sudan Gezira Board (SGB)*.<sup>24</sup> MIWR adalah bertanggungjawab menguruskan Empangan Sennar di Sungai Nil Biru dan kawasan-kawasan irigasi yang dibekalkan oleh empangan tersebut dengan memenuhi sebarang permohonan daripada pihak SGB bagi keperluan irigasi. Dalam skim irigasi tersebut, SGB bertindak sebagai pemilik yang mengendalikan operasi dan pengurusan sistem irigasi tersebut dengan memberikan bantuan dan memenuhi segala keperluan irigasi bagi petani-petani penanaman kapas yang kemudiannya di jual bagi pihak "*Sudan Cotton Company Limited*". SGB mendapatkan kembali segala sumber kewangan yang telah dibelanjakan melalui penjualan kapas sebelum ianya diagihkan kepada petani-petani. Petani pula dibenarkan mengusahakan tanaman selingan seperti sorghum, kacang tanah, forage, gandum dan sayur-sayuran secara bergilir dengan kapas dengan mempunyai kuasa sepenuhnya bagi segala pengurusan dan jualan.<sup>25</sup>

<sup>23</sup> Ghezze N. 1998. Irrigation Water Management: A Performance Study of Rahab Scheme in Sudan 1977-1996. Acta Universitatis Upsaliensis, Upsala Studies in Economy History 42 di halaman <http://FAO'S.org/agl/aglw/doc/ur42> dilawati pada 17 Apr 2009.

<sup>24</sup> Ibid.

<sup>25</sup> Ibid.

Bagi mengatasi segala masalah berkaitan dengan pengurusan dan pembangunan sistem pengairan dan irigasi, kerajaan Sudan telah membentuk satu kerangka polisi yang terdiri daripada:<sup>26</sup>

- a. Mengalihkan operasi dan pengeluaran skim irigasi bersaiz besar dan sederhana kepada para petani dan memberikan mereka tanggungjawab sepenuhnya bagi pengurusan air bagi tahap tersebut melalui penubuhan "*Voluntary Water Users Associations (Wuas)*."
- b. Mengalakkan produktiviti yang berkekalan melalui pemulihan skim besar dengan mengabungkan pengstrukturkan semula sistem kewangan dan institusi.
- c. Mengabungkan, memulihkan dan menguruskan kesemua skim-skim kecil yang menggunakan pam air di Sungai Nil Biru dan Sungai Nil Putih. Skim ini pada asalnya adalah ditubuhkan dan diuruskan oleh kerajaan. Selaras dengan pemulihan ekonomi oleh kerajaan Sudan, skim ini telah diserahkan kepada syarikat swasta yang mewakili petani-petani individu, koperasi dan syarikat persendirian.

### Sumber Kewangan

Sistem pembiayaan sumber kewangan melalui kutipan bayaran atau yuran daripada pihak-pihak yang mendapat bekalan air atau menggunakan sistem ini mula diperkenalkan selaras dengan pemodenan sistem irigasi di Skim Pengairan El Zeidab pada tahun 1909 apabila syarikat persendirian menyediakan pam bagi menyalurkan air kepada petani-petani melalui persetujuan bersama petani-petani yang terlibat. Setelah melihat kejayaan sistem tersebut selama dua penggal, pada tahun 1911/12 berlaku penurunan hasil tuaian oleh petani-petani yang terlibat dan ini menyebabkan petani-petani tidak mampu membayar yuran kepada syarikat menyebabkan syarikat pembekal pam mengalami kerugian yang teruk dan terpaksa menarik diri daripada skim tersebut.

Berdasarkan kepada pengalaman Skim El Zeidab, Skim Gezira diperkenalkan yang melibatkan kerajaan, Persatuan Petani Sudan dan petani-petani disekitar kawasan skim tersebut. Untuk mengelakkan ketidakupayaan petani dalam membayar yuran sekiranya berlaku kemerosotan hasil tani, konsep perkongsian bersama oleh ketiga-tiga kumpulan tersebut telah diperkenalkan. Sistem ini berterusan sehingga tahun 1981 apabila ianya diganti dengan apa yang dikenali sebagai "Sistem Akaun Individu"<sup>27</sup> di mana setiap petani adalah dikira secara berasingan dari segi kos dan keuntungan. Objektif sistem ini adalah untuk memberikan insentif kepada para petani agar dapat meningkatkan produktiviti. Konsep sistem akaun persendirian ini gagal mendapatkan pulangan hasil seperti yang dijangkakan di mana hasil pertanian merosot dengan teruk menyebabkan petani gagal membayar yuran mereka. Bayaran yuran bagi sistem irigasi juga diperkenalkan dibawah semua skim irigasi yang dikendalikan oleh kerajaan. Bayaran yuran ini terus dilaksanakan daripada tahun 1981 sehingga tahun 1995. Pada masa tersebut bayaran yuran yang dikutip adalah begitu rendah sekali, hanya ditahap 50% sahaja. Ini menyebabkan kos pembiayaan sumber air yang tidak dapat ditampung oleh petani-petani ditanggung oleh kerajaan.

Mulai tahun 1995 dan sebagai sebahagian daripada usaha kerajaan untuk meliberalisasikan ekonomi negara, kerajaan telah menarik diri daripada terus membiayai perkhidmatan pengairan dan irigasi serta lain-lain pembiayaan yang berkaitan. Pihak petani dibiarkan bersendirian untuk membayar yuran kepada perbadanan yang baru ditubuhkan iaitu "*Irrigation Water Corporation (IWC)*"<sup>28</sup> yang menggunakan yuran tersebut sepenuhnya untuk menyediakan bekalan air kepada petani-petani. IWC yang sepatutnya menubuhkan mekanisme sendiri bagi mengutip yuran daripada petani telah mempertanggungjawabkan tugas tersebut kepada Korporasi Pertanian (*Agriculture Corporations (AC)*) yang pada masa tersebut sedang mengalami masalah dalaman berhubung dengan kewangan. Ini menyebabkan hanya sebahagian sahaja daripada kutipan yuran sampai kepada pihak IWC. Keadaan ini menyebabkan pihak IWC mengalami masalah sumber kewangan bagi menyelenggara sistem irigasi menyebabkan sistem

<sup>27</sup> Ibid.

<sup>28</sup> Ibid.

<sup>26</sup> Ibid.

perparitan penuh kelodak dan tersumbat, masalah mesin dan pam menyalurkan air dan mutu air yang tercemar. Ekoran daripada masalah tersebut, pihak IWC gagal menjalankan tanggungjawabnya kepada petani.

Pada tahun 2000, IWC dibubarkan dan pihak MIWR mengambil alih kembali tugas penyelenggaraan sistem irigasi dan pengairan sehingga kepada keperluan petani-petani kecil. Wang pembiayaan bagi operasi dan penyelenggaraan disediakan oleh Kementerian Kewangan dan Pembangunan Ekonomi negara.

## RUMUSAN

Pada dasarnya Sudan mempunyai sumber air daratan yang mencukupi daripada Sungai Nil serta cabang-cabangnya. Namun ekoran daripada musim kemarau yang berpanjangan ditambah masalah

dalam negara serta pengurusan sumber air yang tidak cekap telah menyebabkan Sudan mengalami masalah air yang serius sehingga menyumbang kepada masalah di Darfur.

Walaupun masalah air belum pernah dikaitkan dengan mana-mana peperangan yang berlaku, masalah air juga merupakan penyumbang kepada konflik dalam sesebuah negara atau penyumbang kepada masalah hubungan antara negara dengan jiran-jirannya. Sepertimana yang berlaku di Sudan, walaupun Sudan berjaya berunding dengan negara-negara jiran seperti Mesir, Libya dan Chad bagi menyelesaikan masalah berhubung dengan air, namun Sudan masih gagal menguruskan masalah air dalam negara terutamanya dari aspek pengagihan sehingga menyumbang kepada konflik di Darfur yang melibatkan penduduk berketurunan Arab dengan Afrika kulit hitam. Semuanya ini adalah berkisar kepada perebutan sumber air untuk minuman dan juga kegunaan penternakan.



Meja Azudin bin Hassan telah ditauliahkan ke dalam Rejimen Askar Melayu DiRaja pada 17 Ogos 90. Beliau telah menghadiri barbagai kursus, antaranya ialah Kursus Pegawai Staf Rendah, Maktab Turus Angkatan Tentera serta Diploma Sains Komputer dari UiTM. Beliau pernah bertugas sebagai Ajutan 25 RAMD, Ketua Cawangan Perajurit Muda di PUSASDA dan Penolong Pegawai Memerintah 16 RAMD. Kini beliau bertugas sebagai PS2 Gerak di Jabatan Arah Infantri.

# NUCLEAR STRATEGY OF THE REAGAN ADMINISTRATION



By Lt Kol Saiful Anwar bin Md Ali (Bersara)

## INTRODUCTION

Nuclear strategy involves the development of doctrines and strategies for the production and use of nuclear weapons. Nuclear strategy attempts to allow the political leadership of a nation to answer the questions, should we develop nuclear weapons, what types of nuclear weapons should we develop, and when should we use them? Nuclear strategy differs from many other forms of military strategy because the consequences of nuclear warfare are so horrendous, that the primary goal of nuclear strategy has generally been to find ways to prevent the weapons from being used.<sup>1</sup>

The United States of America first began developing nuclear weapons during World War II under the order of President Franklin Roosevelt in 1939, motivated by a fear that they were engaged in a potential race with Nazi Germany to develop such a weapon. After a slow start under the direction of the National Bureau of Standards and at the urging of British scientists and American administrators, the program was put under the Office of Scientific Research and Development, where in 1942 it was officially transferred under the auspices of the U.S. Army and became known as the Manhattan Project. By investing heavily both in breeding plutonium in early nuclear reactors, and in both the electromagnetic and gaseous diffusion enrichment processes for the production of uranium-235, the United States was able by mid-1945 to develop three usable weapons. A plutonium-implosion design weapon was tested on July 16, 1945 ("Trinity"), with around a 20 kiloton yield. On the orders of President Harry S. Truman, on August 6 of the same year a

uranium-gun design bomb ("Little Boy") was used against the city of Hiroshima, Japan, and on August 9 a plutonium-implosion design bomb ("Fat Man") was used against the city of Nagasaki, Japan. The two weapons killed approximately 250,000 Japanese citizens outright, and thousands more have died over the years from radiation sickness and related cancers.<sup>2</sup>

The Cold War and nuclear weapons are connected inextricably. The strategic history of the period 1945 to 1989 seemingly was driven, assuredly was shaped, by what became a shared realisation of the danger that lurked in the nuclear arsenals. This was strategic history in its most literal sense. Some commentators, scholars and policy-makers, in the West at least, came to believe that the real enemy was not the Soviet Union, but rather the awesome nuclear engines of mass destruction that both sides constructed and maintained. Although those weapons and the political context of the Cold War were vitally linked, neither depended on the other for its existence. The competition in nuclear arms was an expression of ideological and geopolitical rivalry; it was not its cause. Over time, however, the scale of the threat posed by the nuclear arsenals did seem to many people to overshadow and even dominate the political context, while it largely ordered the strategic context of the struggle.<sup>3</sup>

The aim of this paper is to highlight the nuclear strategy during the Reagan administration from 1981 to 1988. This paper will discuss the Reagan tour as an important milestone in the development of nuclear strategy in the history of United States.

<sup>2</sup> Ibid.

<sup>3</sup> Gray, Colin S., *War, Peace and International Relations: An Introduction to Strategic History*, Routledge, New York, 2007, p 207.

<sup>1</sup> En.wikipedia.org/wiki/Nuclear\_strategy

## The Reagan Years, 1981-1988

The United States was beginning to overcome its so-called Vietnam hangover as the 1980s opened. The Soviet invasion of Afghanistan which underlined the perceived Soviet threat, and the capture of American hostages in Iran highlighted the degree to which American ability to influence world events had eroded. The Americans thus began to support a more assertive and self-interest role for their country within the international community. Although the Carter administration moved in this direction during the last year of its rule, it was left to the Reagan administration to define a new foreign policy that would fit this emerging mood of national assertiveness.

Ronald Reagan entered office in January 1981, intending on rebuilding the United States military strength and implementing a policy of “neocontainment” vis-à-vis the Soviet Union. Similarly, Reagan stressed his belief in the fundamental morality of the American system and American policies. In international economic affairs, Reagan emphasised free trade and the elimination of barriers to trade, and he steadfastly maintained policies that facilitated free trade, despite an American trade deficit that grew steadily throughout his presidency.

These four precepts – building United States’ military strength, containing perceived Soviet expansionism, emphasising American morality, and maintaining an open international economic system – were the main pillars of American policy throughout the Reagan administration. Nevertheless, despite extensive public support for these precepts, many Americans disagreed with one or more parts of the Reagan foreign policy.<sup>4</sup> Based on this, the paper will elaborate on the first two precepts, simply because it emphasises on the development of the nuclear strategy.

### Building the United States’ Military Strength

Reagan sought to increase the United States’ military strength across the board as part of his

new foreign policy. At the strategic nuclear level, Reagan proceeded with MX missiles, Trident II submarine-launched ballistic missiles, B-1 bombers, and cruise missiles. He also accelerated programs to improve United States’ ability to command and control nuclear weapons. These strategic nuclear programs were designed to eliminate the “window of vulnerability” that Reagan feared was developing between the United States and Soviet Union. In Europe, Reagan also moved ahead with the 1979 NATO decision to deploy 108 Pershing II missiles and 464 ground-launched cruise missiles if an agreement could not be reached with the Soviets. These 572 nuclear delivery vehicles began to be deployed in December 1983.<sup>5</sup>

Reagan also proposed the “Star Wars” strategic defense program in March 1983, when he called on American scientists and engineers to develop a system of defense against missiles that would eventually make nuclear weapons “impotent and obsolete”. To Reagan, the advantages of the Strategic Defense Initiative (SDI) were obvious. Presidents of the United States would not have to base their nuclear policy on the threat to destroy the Soviet Union or any other country that attacked the United States; but rather on their ability to defend the United States.<sup>6</sup> SDI, conventional weapons and nuclear weapons all took money, and the United States defense budget grew immensely during the early Reagan years. Many Americans supported the Reagan administration’s defense program but others questioned whether the defense buildup was destroying American economic vitality and whether the United States had misplaced its priorities by emphasising defense spending and deemphasizing social programs. As a result of these and other questions, the growth of the United States defense budget essentially ended in 1986 and 1987.<sup>7</sup>

The possession of strong and sophisticated nuclear weapons during the Reagan years reflected the willingness of the United States to use military force. Indeed, the Reagan government used military force more frequently than any other United States administration since it withdrew from Vietnam in

<sup>4</sup> Ibid.

<sup>6</sup> Ibid, p 189.

<sup>7</sup> Ibid.

<sup>4</sup> Papp, Daniel S., *Contemporary International Relations: Frameworks for Understanding*, Macmillan Publishing Company, New York, 1988, p 186.

1973. In 1981, the United States F-14 fighters shot down two Libyan fighters over the Mediterranean Sea following threatening Libyan statements about attack against United States interests; in 1983, the United States forces invaded Grenada following a coup in that Caribbean island nation; in 1983 and in 1984 the United States naval guns and aircraft bombarded Syrian and Islamic forces in Lebanon in retaliation for attacks against United States reconnaissance aircraft and marine units; from 1981 through 1986 a slow but steady United States military buildup proceeded in Central America and the Caribbean, to send a message to Nicaragua and to Cuba that the United States did not accept their adventurism in other regional states; in 1985 United States fighters intercepted and forced down an Egyptian airliner carrying the terrorists who hijacked the Italian ocean liner *Achille Lauro* and killed an American passenger; in 1986 the United States on two occasions struck against Libyan military targets and terrorist training camps; and in 1987, the United States retaliated for Iranian actions in the Persian Gulf.<sup>8</sup> These actions has portrayed to us that there is no hindrance to use and deploy conventional forces by having nuclear capabilities. Whenever an imminent threat existed, the affected parties would not hesitate to deploy all available arsenal in order to defend and protect their own self interests.

Most Americans viewed that the use of military force then was favourable due to their pride and responsibility for security within the international community. Some criticized the Reagan administration as being too willing to use military force. Nevertheless, most Americans were concerned that the American military resurgence was in fact a reality. This could be seen through their military expenditure, which climbed from US\$78 billion to US\$217 billion between 1973 and 1983; compared to the Soviet Union which grew from US\$96 billion to US\$258 billion during the same period.<sup>9</sup> The similar patterns in the increase of military expenditure indicated that an arms race was going on between the two countries during that period. Even the Third World countries' military expenditures also increased during this period, due to the upgrading of their respective military equipments. This has in turn increased their military

capabilities and any military actions against them would be costly.

However, Reagan did not initiate a revolution in America's nuclear strategy, since deterrence was already in the final stages of being replaced by a war fighting or nuclear defence strategy. What was most alarming about his administration, at least during its first term, was the ideological zeal with which its senior members accelerated the process (by what even the pro-Reagan Economist magazine has called "throwing money at the problem"), and their failure to respect the time-honoured distinction between what Desmond Ball has called "declaratory" policy and "action" policy, which is summarised as follows:

*Declaratory policy is that set of public pronouncements made by the President, the Secretary of Defense or sometimes other Senior Administration officials regarding the requirements of deterrence. Action policy, on the other hand, comprises the actual war-fighting strategy that the United States would adopt in a nuclear exchange.*<sup>10</sup>

### Containing Soviet Expansionism

The Cold War between the United States and the Soviet Union created a spear of influence to other states. Hence, Reagan believed that he must act to contain perceived Soviet expansionism, especially in the Third World. Counter expansionism to the Soviets became one of the paramount agenda of Reagan administration. He concisely summed up his attitude towards the Soviet Union in 1981 when he asserted that the Soviets reserved the "right to commit any crime, to lie, to cheat" and had undertaken "the most brazen imperial drive in history" during the 1960s and 1970s. He announced that the Soviet Union was an "evil empire" whose actions and policies had to be countered.<sup>11</sup> Based on this statement, Reagan would not compromise with any actions taken by the Soviet. He would counter any expansionism by the Soviets, therefore nuclear deterrence is vitally important. This could be

<sup>8</sup> Ibid.

<sup>9</sup> Ibid.

<sup>10</sup> <http://mil.sagepub.com>

<sup>11</sup> Papp, Daniel S., *Contemporary International Relations: Frameworks for Understanding*, Macmillan Publishing Company, New York, 1988, p 190.

seen in his defence expenditure during his tenure in the Oval Office.

Reagan's containment strategy was portrayed in his administration. He dispatched his Secretary of State, Alexander Haig to the Middle East in an effort to forge an anti-Soviet "strategic consensus" between Israel and a number of Arab states, including Saudi Arabia. However, this effort failed as most of the Arab leaders told Haig that Israel presented a greater threat to their security than the Soviet Union. During his second term, Reagan tried to go against the Soviet support to insurgencies around the world as shown in Nicaragua. Throughout the middle and late 1980s, and in some earlier cases, the United States provided military assistance to Jonas Savimbi's UNITA in its efforts to overthrow the pro-Soviet MPLA government in Angola, to anticommunist forces in Cambodia as they tried to push the Vietnamese out of Cambodia, and most notably the Mujahideens in Afghanistan in their fight against the Soviets themselves. In some cases, the United States assistance to anticommunist forces was relatively sizable; in 1986, the United States sent over US\$100 million of military assistance to the Mujahideen in Afghanistan. In other cases, it was rather small; anticommunist forces in Cambodia received US\$5 million the same year. Although most of the assistance was in small arms and munitions, occasionally more advanced technologies were provided. Thus, in 1986, the United States covertly provided short-range "Stinger" anti-aircraft missiles to the Mujahideen.<sup>12</sup> All in all, numerous efforts were taken to contain the Soviet expansion during the Reagan administration and this was a gigantic economic burden to the United States to maintain her own security and that of her allies.

<sup>12</sup> Ibid.

## CONCLUSION

Throughout the Reagan years, deterrence played an important role due since both the United States and the Soviet Union had nuclear weapons. The focus of the Reagan Administration was basically towards countering off Soviet expansionism. To do that, nuclear weapons were the only assets able to contain the Soviet interests and had to be improved from time to time. An arm race hence occurred and there was no form of control since both parties believed that by enhancing their respective nuclear weapons, they would have a more effective deterrence effect than the other. The deterrence strategy therefore played an important role during the Reagan Administration. Since deterrence is interrelated to the policy of containment and counter expansionism, the military build up and military assistance to the Third World, were in essence a form of deterrence to expand the sphere of influence during the Reagan Administration. Finally, it can be concluded that Reagan's actions were based on the likely scenario then, and the justification for the development of nuclear weapons throughout his tour of duty.

Having said that, the strategic outlook and the likelihood of a nuclear war seems unlikely or even impossible in today's globalised world. With the end of the cold war era and the normalisation of tension amongst the Great Powers of the world, the likelihood of a nuclear conflict is just a thing of a past. Too much is at stake today and more importantly, the issue of interdependency surpasses all other priorities. However, on a negative note, the probability of a nuclear weapon or device falling into the hands of a terrorist group or organization is ever present. Hence, the possibility of a nuclear attack of some sort by such elements will pose a real threat to the globalised world.

## BIBLIOGRAPHY

Baylis, John., James J. Wirtz., Colin S. Gray and Eliot Cohen, *Strategy in the Contemporary World: An Introduction to Strategic Studies*, Oxford Universities Press, New York, 2007.

Gray, Colin S., *War, Peace and International Relations: An Introduction to Strategic History*, Routledge, New York, 2007

Papp, Daniel S., *Contemporary International Relations: Frameworks for Understanding*, Macmillan Publishing Company, New York, 1988

[En.wikipedia.org/wiki/Nuclear\\_strategy](http://En.wikipedia.org/wiki/Nuclear_strategy)

<http://mil.sagepub.com>



Lt Kol Saiful Anwar bin Md Ali (Bersara) was commissioned into the Royal Malay Regiment on 23 Feb 1985. He held various appointments throughout his service, at the unit, formation and at the Infantry Directorate in MINDEF. He possesses a Diploma In Strategy and Defence, an Advanced Diploma in Strategic and Security Studies from UKM and a Masters degree in Policy and Security Studies from UKM. He has retired from the service and is currently a Senior Lecturer at the Faculty of Administrative Science and Policy Studies, Universiti Teknologi Mara, Sarawak.

# PSYCHOLOGICAL PERSPECTIVES ON MAINTAINING UNIT MORALE

By Lt Prof Madya Dr Teoh Hsien-Jin

## SYNOPSIS

Morale is important both for the soldier and the commander. In battle, higher morale is associated with greater combat efficiency, and in peacetime, it is associated with greater preparedness, and loyalty to the unit. The soldiers' moral and physical courage to prepare to fight in battle needs to be maintained by the actions of unit leaders through addressing issues related to morale. To penetrate through the psychological *fog of war*, soldiers need to be in high spirits in order to bravely advance towards the military objective. This article examines the definitions of morale, its importance and associated causes, and unit leader models for increasing and maintaining morale.

## INTRODUCTION

Morale is a critical determinant of performance during operations. It is the third element of combat power, after firepower and manoeuvre. In this article, the author describes the definition of morale, explains how it is measured, and the factors that affect morale. This is done by examining the concept of morale from a research perspective, and subsequently presenting a modular framework for how morale may change during military operations. The components of this framework are used to generate some suggestions for how morale may be maintained during operations.

## DEFINING MORALE

There are various definitions of morale which can be approached from a civilian and military perspective. Hart and Cooper (2001) propose a civilian definition that suggests that morale at work involves energy, drive and enthusiasm towards completing work tasks. On the other hand, a military definition indicates that morale is a service member's level of motivation and enthusiasm for accomplishing mission objectives (Britt & Dickinson, 2006).

## WHY MORALE IS IMPORTANT

Morale is an important component of the process of unit operations. If morale is high, there is a greater likelihood that the mission will be a success provided it is executed in a manner that has been adequately planned. When it comes to more specialized team operations or procedures, it plays an important role in forging the identity of smaller specialised military units. Finally from the perspective of retaining personnel, individuals with higher morale are less likely to leave the army.

## MEASURING MORALE

Various methods of measuring morale have been developed. They usually either involve observation of behaviour, or the understanding of attitudes. Two methods are presented in this section.

Some scales examine behaviours as indicators of morale. Motowidlo and Borman (1977) developed a morale scale that measured eight dimensions which were associated with job performance and effort. These included community relations, teamwork and cooperation on the job, reactions

	Behaviour		Very low	A bit low	Neutral	A bit high	Very high
1.	Level of motivation		1	2	3	4	5
2.	Level of morale		1	2	3	4	5
3.	Level of energy		1	2	3	4	5
4.	Level of drive		1	2	3	4	5
5.	Level of enthusiasm		1	2	3	4	5
6.	Level of eagerness		1	2	3	4	5

Figure 1: Military Morale Scale (Britt and Dickinson, 2006)

to adversity, superior-subordinate relations, performance and effort on the job, bearing, appearance and military discipline, pride in unit, army and country, and use of time during off-duty hours. They observed that increased morale was associated with positive superior-subordinate relations, performance and effort in doing the job, and pride in the unit, army and country.

In addition to the scale described above, a further scale known as the Military Morale Scale (Britt & Dickinson, 2006) was developed that was based on attitudes and energy levels. This scale is depicted in Figure 1. It is a quantitative method that can be used to determine the morale of the unit, or the individual.

#### *Military Morale Scale*

*Instruction:* Please circle one of the numbers below that best describes one of the behaviours on the left. (Scale 1-5 :Very low – Very high)

When your immediate superior officer/NCO assigns you a task, how do you currently feel?

#### RESEARCH ON WHAT PREDICTS MORALE

Morale of the individual soldier and of the military unit is an issue that military commanders have long discussed, debated, and sought to manipulate. Not surprisingly, a lot of research has been carried out on morale, and concepts such as motivation, unit cohesion and performance, that are directly associated with it. This section presents the results of a variety of these research studies.

#### *Teamwork and Cohesion*

Fostering teamwork has been found to lead towards increased motivation and morale, which affects unit performance. Tziner and Eden (1985) studied 208 tank crews over a period of two months and found that both ability and motivation had an additive effect on three-man tank crew performance when carrying out interdependent tasks. When the task was complex and required synchronization of crew members' individual activities, teaming high ability members not only ensured superior performance in each position but also enhanced the accomplishment of crew performance more than expected.

Morale has also been found to be associated with combat motivation and morale. Griffiths (1988) researched 93 companies (8,869 soldiers) which included 57 unit replacement companies (5,848 soldiers) and 36 individual replacement companies (3,021 soldiers). He found that morale was associated with group cohesion in military units. This involved both group and individual characteristics (e.g., pride, sense of purpose and meaning, commitment). The research also indicated that individual attributes such as commitment and social alienation are equally important as group attributes to the soldier's combat motivation and unit cohesion.

Shared experiences appear to encourage greater unit cohesion which in turn leads to higher morale. Tucker and Sinclair (2005) studied 1,489 U.S. Army soldiers and observed that when soldiers shared more experiences through joint missions, it encouraged more interaction and unit cohesion,

which contributed to increased morale, and improved unit performance.

When trying to motivate soldiers, it would appear that intimidation does more damage, than good, to morale. Rush (1999) reviewed the morale of the WWII German Army and contrasted the LXXIV Infantry Corps army before the war, and in 1944 whilst defending the Siegfried line. He concluded that whilst intimidation, with the threat of death of desertion, and also of falling into Russian hands, made units work more cohesively and desperately, it also led to a decline in morale.

### *Motivation and Mindset*

Understanding the mindset with regards to what motivates soldiers is important when strategizing ways of increasing morale. Bagozzi, Bergami and Leone (2003) studied 586 soldiers' motives for choosing specific goals. They studied the soldiers from the Italian Army Academy, Folgore Brigade, Garibaldi Brigade, and volunteers in training. They found that the most important intention to reenlist in the army varied from unit to unit. These included financial security (i.e., the Army Academy), self-esteem (i.e., the Garibaldi Brigade), participating in an active lifestyle (i.e., the Folgore Brigade), and feeling it is the right thing to do (i.e., volunteers in training). This suggests that if one understands the "mental mind-set" of the soldiers, then it is possible to communicate these "mind-set" messages to motivate and increase morale of the soldiers.

When one understands the motivation for enlistment, then it is equally important to meet up with these expectations when reasonable. Tannenbaum, Mathieu, and Cannon-Bowers (1991) observed 666 military trainees and reported that expectations of training predicted commitment towards the unit, and also attitudes towards the tasks. Thus, instructors and leaders at all levels have a role to play in meeting up with the expectations of their trainees, not just from the perspective of training in order to maintain morale.

### *Direction and Purpose*

Having a sense of purpose has been found to be an important contributor towards unit morale. Britt, Dickinson, Moore, Castro, and Adler (2007) studied

1,685 U.S. soldiers on peacekeeping missions in Kosovo and found that morale was maintained by the meaningfulness of the mission. Morale was predicted by engagement in meaningful work and confidence in unit functioning and leadership. They also found that in the long run, morale was affected by the perceived benefits gained from the mission. A similar observation was made during WWI by Fenton (1925) who observed that the importance of psychologically feeling part of the group was crucial to sustaining morale. He commented that for ideals to be sustained, there needs to be a purpose in the tasks, otherwise morale declines in the long run. Soldiers who feel that a danger or threat is shared fear less, as compared with a soldier who feels alone.

### *Propaganda in War*

Sometimes, the influence of propaganda and indoctrination may contribute towards increased motivation and morale amongst soldiers. Sullivan (1997) remarked that, in most cases, when battles are lost and casualties mount, morale and motivation drops. However in WWII, with the German 12th SS Waffen Panzer, motivation remained unchanged, and the actions became more radical, fanatical and brutal. It appeared that morale and motivation to continue to fight was sustained because they were loyal to a political ideology, rather than primarily to the unit. In this situation, the individual soldier's behaviour and morale was reinforced by the shared reaction of the combat unit.

### *Training and Peacetime*

In peacetime, there may not always be a sense of urgency which is life-threatening, and thus, morale of the personnel may depend on their working conditions. Motowidlo and Borman (1978) studied 614 company and platoon level officers to understand the factors that affected morale. They found that platoon morale was affected by overall satisfaction with army life, rather than specific individual factors. At the company level, morale level predicted the number of re-enlistments, and number of complaints about army living conditions.

Similar studies on motivation and morale have studied during peace-time. Ben-Dor, Pendahzur and Hasisi (2002) studied motivations, attitudes

and motives towards enlistment amongst Israeli reservists. They found that during peace time, economic and family issues become a greater priority, when compared with family matters, especially when the reservist is not earning enough. Reservists are concerned that time spent during reservist training may jeopardise their civilian work performance prospects.

In peace time, Ben-Dor et al. (2002) suggested that to maintain the morale of those serving in the military, leaders of the country and the military would need to consider the following suggestions:

- More equitable distribution of the burden of service and an attempt to refrain from discriminating against those serving in combat units
- More attention paid to the needs of the individual serving in the reserves, and especially to his economic needs while in service
- Reserve soldiers should be placed alongside with regular units where their social environment is stable and supportive and their service meaningful, instead of making them feel that they are not wasting their time

Some studies have also pointed out that playing sports may be an important factor associated with increasing unit morale. Riedi and Mason (2006) reviewed the historical usage of sporting activities, such as football, within the army as a tool that encouraged teamwork. WWI was the turning point where sports was made a compulsory training activity in the British army. Their review concluded that during WWI, compulsory sports may have contributed towards increasing unit morale and also increasing fighting spirit.

## MODEL OF MORALE DURING MILITARY OPERATIONS

There are many factors that can affect unit morale. One major factor that influences unit morale is the unit commander's actions.

When discussing unit morale, the unit commander's actions are important for the following reasons:

- Influences soldier health and adaptation to stressful environments.
- May influence the working environment.
- Capable motivating or de-motivating subordinates.
- Can identify and facilitate the development of other factors that affect morale.

To document the way in which a unit commander's actions affect morale, Britt and Dickinson (2006) developed a model showing the factors affecting morale during military operations (see Figure 2). The model is made up of many components that are described below.

### General Parts of Model

*Antecedents (refers to what happens before the action)*

- Mission relevant
- Leadership
- Unit
- Individual

*Consequences (refers to what happens after the action)*

- Psychological
- Performance

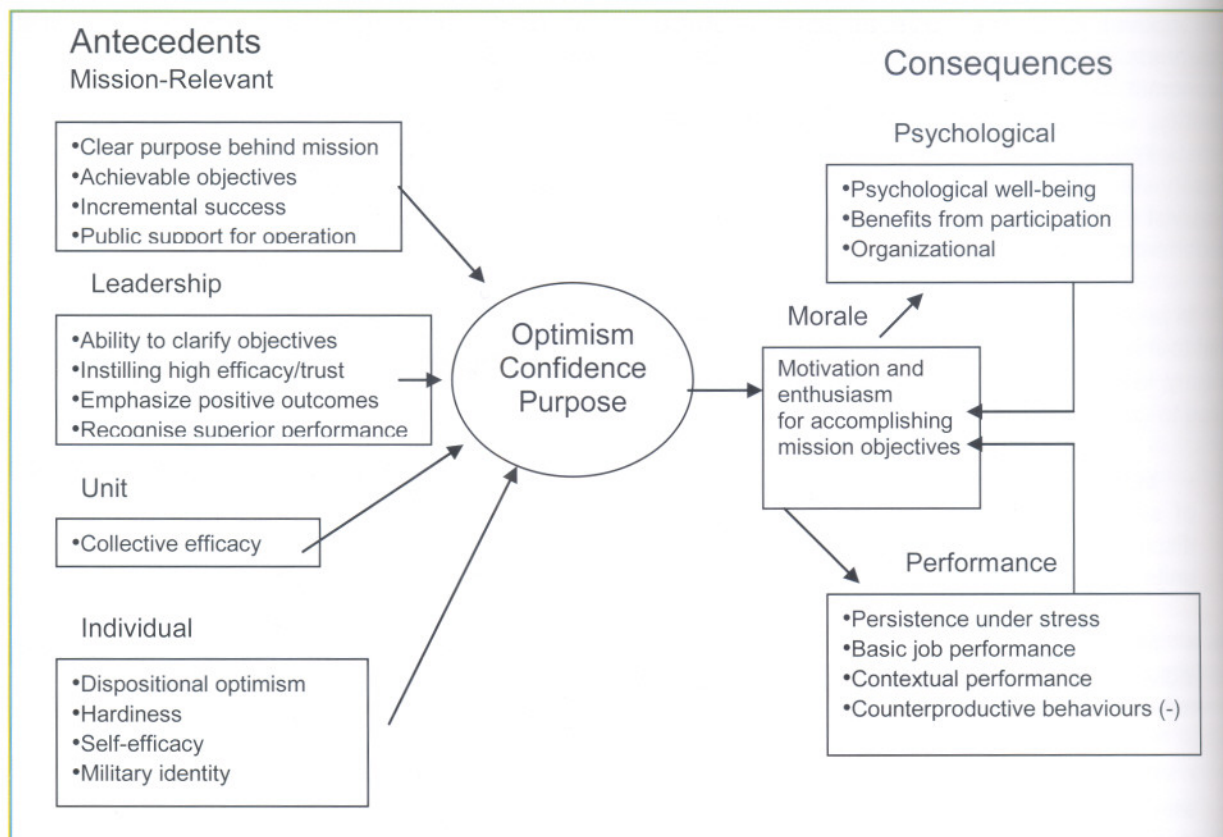


Figure 2: Model of Morale During Military Operations (Britt & Dickinson 2006)

### Detailed Components of The Model

Each sub-factor is described in detail below:

#### Mission-Relevant

- Clear purpose behind mission: *Volunteers who perceive the mission as legitimate have higher morale.*
- Achievable objectives: *In peacekeeping, a problem arises when mission success is difficult to define.*
- Incremental success: *If soldiers cannot see that the mission objectives are gradually being achieved, through their actions, morale drops.*
- Public support for operation: *This affects the soldiers' perception of purpose and importance of the mission.*

**Leadership.** One of the strongest predictors of a soldier's morale concerns their relationship with their unit commander.

Collective self-efficacy needs to be fostered. This involves the commander having the ability to:

- Clarify objectives, and be supportive.
- Instill high efficacy/trust.
- Emphasize positive outcomes.
- Recognise superior performance (i.e., awards, praise, and other recognition).

*"Promotion focussed" individuals perform better than individuals who are "Prevention focussed" (goal is to avoid failing)*

*Unit.* There are several psychological characteristics of a military unit. These include:

- Collective efficacy (i.e., feel can achieve a lot), rather than personal bonding.
- Morale and unit cohesion are synonymous.
- Individual unit member's personality dispositions are also important (i.e., optimism, hardiness).
- Commitment to the military identity is central.

*Morale* involves having the motivation and enthusiasm to accomplish mission objectives.

*Psychological.* The psychological consequences of optimism, confidence and purpose include:

- *Psychological well-being:* Those who were personally involved in the mission, report greater benefits after the mission.
- *Benefits from participation:* Morale is a group phenomenon.
- *Organizational:* The effectiveness of how personnel communicate within the organization may be affected.

*Performance.* Job performance can be measured in many different ways. From a psychologist perspective these may be described as:

- *Persistence under stress.*
- *Basic job performance* (i.e., depends on job description and expected material output)
- *Contextual performance* (i.e., measured within the battlefield)
- *Counterproductive behaviours* (i.e., actions which may endanger the unit, such as desertion, refusal to carry out orders, fear, carelessness).

## SUGGESTED GUIDELINES ON MAINTAINING MORALE

The unit leader plays the most important role in maintaining the morale of the unit. Thus a unit leader must constantly engage the unit to assess morale. Based on the reviewed papers and the model, the following checklist is a summary of actions that the unit leader could take to maintain unit morale:

- Specify clearly what the objectives of the mission are.
- Provide adequate material and resources in order to complete the mission.
- Encourage participation on deciding how the task can be accomplished.
- Trust the personnel to complete the task.
- Encourage teamwork and shared experiences.
- Use sports as a tool to encourage team spirit.
- Avoid using threats as the main motivating force.
- Regularly recognise superior performance via awards, praise, and other forms of public recognition.
- Understand the mind-set for enlistment of personnel, especially in peacetime.
- Be aware of the economic needs of reservists, and try to compensate these with productive time being spent in service.
- Ensure that training meets up with expectations.
- Use some amount of indoctrination to encourage unit loyalty and nationalism.
- Tell them how completion of the mission would benefit the unit, nation and them.
- Try to involve reservists in the activities of regular units as much as possible

## CONCLUSION

There is no doubt that a well-thought of plan, when provided with adequate resources and manpower, can succeed when unit morale is high. Given this situation it is important to regularly assess the morale of fighting units, and to be aware

of the factors that may be affecting morale. In all cases, the leadership style of each military unit would have to be examined to ensure that unit leaders are aware of how their behaviours may be affecting the morale of the unit, and the actions required to maintain morale in war and in peacetime.

## BIBLIOGRAPHY

- Bagozzi, R.P., Bergami, M., & Leone, L. Hierarchical representation of motives in goal setting. *Journal of Applied Psychology*, 88 (5), 2003, p. 915–943
- Ben-Dor, G., Pendahzur, A., & Hasisi, B. Israel's national security doctrine under strain: The crisis of the reserve army. *Armed Forces & Society*, 28 (2), 2002, p. 233-255.
- Britt, T.W. & Dickinson, J.M. Morale during military operations: A positive psychology approach. In Britt, T.W. Castro, C. A. & Adler, A. B. (Series Eds.) *Military Performance*, Vol. 1. (pp. 157-184). Praeger Security International, Connecticut. 2006.
- Britt, T.W., Dickinson, J.M., Moore, D.W., Castro, C.A. & Adler, A.B. Correlates and consequences of morale versus depression under stressful conditions. *Journal of Occupational Health Psychology*, 12 (1), 2007, p. 34–47.
- Fenton, N. Anticipation neurosis and army morale. *Journal of Abnormal and Social Psychology*, 32, 1925, p. 282-293.
- Motowidlo, S.J. & Borman, W.C. Relationships between military morale, motivation, satisfaction, and unit effectiveness. *Journal of Applied Psychology*, 63 (1), 1978, p. 47-52.
- Motowidlo, S.J. & Borman, W.C. Behaviorally anchored scales for measuring morale in military units. *Journal of Applied Psychology*, 62 (2), 1997, p. 177-133.
- Riedi, E. & Mason, T. "Leather" and the fighting spirit: Sport in the British army in World War I. *Canadian Journal of History* XLI, 2006, p. 485-516.
- Rush, R.S. A different perspective: Cohesion, morale, and operational effectiveness in the German army. *Armed Forces & Society*, 25 (3), 1999, p. 477-508.
- Sullivan, M.E. *Hitler's teenage zealots: Fanatics, combat motivation, and the 12th SS Panzer Division Hitlerjugend*. 1997, Master of Arts thesis, Graduate Academic Unit in History, Atlantic Baptist University, USA.
- Tannenbaum, S.I., Mathieu, J.E., Salas, E., & Cannon-Bowers, J.A. Meeting trainees' expectations: The influence of training fulfillment on the development of commitment, self-efficacy and motivation. *Journal of Applied Psychology*, 76 (6), 1991, p. 759-769.

Tucker, J.S. & Sinclair, R.R. The multilevel effects of occupational stressors on soldiers' well-being, organizational attachment and readiness. *Journal of Occupational Health Psychology*, 10 (3), 2005, p. 276–299.

Tziner, A., & Eden, D. Effects of crew composition on crew performance: Does the whole equal the sum of its parts? *Journal of Applied Psychology*, 70 (1), 1985, p. 85-93.



*Lt Prof Madya Dr Teoh Hsien-Jin is serving in Rejimen 515 (AW). He has a Bachelors, Masters and PhD in the field of **Clinical Psychology**. He has held appointments with various government agencies in the areas of health, science and technology, women and families, and youth issues. He is assisting Markas Latihan Tentara Darat in the development of doctrine and training materials on Military Psychology. He is currently the Head of Health and Natural Sciences, Sunway University College.*

# A MILITARY PERSPECTIVE ON SITUATIONAL LEADERSHIP



By Mej Inderjit Singh a/l Tara Singh

## SYNOPSIS

Leadership gurus stress that leaders must be able to adjust their leadership style to the situation, as well as to the people being led. Situational Leadership “relies on effectiveness in four communication components, i.e. communicating expectations, listening, delegating, and providing feedback. This is applied generically to a style of leadership, but that also refers to a recognised, and useful leadership model. In simple terms, a situational leader is one who can adopt different leadership styles depending on the situation. This article discusses factors governing the appropriate leadership requirements in a situational leadership model from the military perspective, in getting the willingness of support from the subordinates in engaging the appropriate style of leadership in different situations.

## INTRODUCTION



The Army defines leadership as influencing people by providing purpose, direction, and motivation, while operating to accomplish a given mission, as well as improving the organization. Leadership in today's Army is increasingly important with technological changes and the force-structure downsizing that all military services are experiencing. Adaptive leadership is therefore necessary in today's complex and ambiguous military environment. Technology and the availability

and flow of information contribute to a very fluid operational situation. Military leaders are different from leaders in other types of organizations because they are appointed and not emergent. In light of these considerations, military leadership has been effective as a driving force for the organization. The military leader, like any other leader, has two roles namely being the task specialist and the social specialist. His or her primary concern is to achieve the group's goal of defeating an enemy in combat. For such a role, being likable is a less-important trait than being more active, more intelligent, or better informed than his or her followers.

Due to stress in the military environment, leaders must generate high unit cohesion before hostilities begin. Leaders must be able to operate autonomously, building respect and values for maintaining the purpose and will of their units in combat. They need greater flexibility and adaptability to deal with surprise. Units must be able to operate appropriately to meet the challenge of unanticipated events. Flexibility must be a unit norm and an individual characteristic. Besides this, units must have the opportunity to train in unfamiliar situations, to learn from mistakes, and to learn the process of thorough thinking so that the initial

shock of combat stress does not cause cognitive freezing.



Military leadership guru's stresses that leaders must be able to adjust their leadership style to the situation as well as to the people being led. Leaders are not limited to one style in a given situation and, with the nature of the battlefield today and tomorrow, being able to adapt appropriate styles will influence soldiers' success. Techniques from different styles are used to motivate people and accomplish the mission. A leader's judgment, intelligence, cultural awareness, and self-control play major roles in helping him or her choose the proper style and the appropriate techniques for the task at hand. Situational leadership is a term that can be applied generically to a style of leadership, but that also refers to a recognised, and useful, leadership model. In simple terms, a situational leader is one who can adopt different leadership styles depending on the situation. Most of us do this anyway in our dealings with other people as we try not to get angry with a nervous colleague on his or her first day, or we chase up tasks with some people more than others because we know that they will forget otherwise. This article attempts to discuss factors governing the appropriate leadership requirements in a situational leadership model from the military perspective in getting the willingness of support from the subordinates in engaging the appropriate style of leadership in different situations.

### WHAT IS SITUATIONAL LEADERSHIP?

Situational Leadership theory, as originally convened, deals with the situation at hand; however

the situational theory term is much more restrictive. The original situational theory argues that the best type of leadership is totally determined by the situational variables. Currently there are many styles of leadership. The first style, which is transactional or authoritative leadership focuses on power and status. A second leadership style, transformatioal or charismatic leadership, focuses on "unique qualities surrounding charisma" (Aldoory, Tooth). A third leadership style, which is pluralistic leadership, revolves around group decision making. This style values the opinions of others. The Situational Leadership Theory (SLT) argues that no one style of leadership pertains to all given workplace situations. Rather, "scholars have asserted that effective leaders change their leadership styles to fit the situation" (Aldorry,Tooth). Thus, a leader's style changes with both the situations he or she is faced with and the environment that he or she is in. The theory suggests that not only can leaders alter their leadership styles but that they should depend or base it on the situation at hand.



But Ken Blanchard, the management guru best known for the "One Minute Manager" series, and Paul Hersey on the other hand, created a model for Situational Leadership in the late 1960's that allows leaders to analyse the needs of the situation that they are dealing with, and then adopt the most appropriate leadership style. The model proved popular among leaders over the years because it passes the two basic tests of being simple to understand, and it works in most environments for most people. The model does not just apply to people in leadership or management

positions as we all lead others at work and at home.

Situational or contingency theories which attempted to explain leadership in terms of contextual factors, such as the nature of the work being performed, the specific characteristics of followers, or the external environment surfaced in the 1960s and 1970s. Other studies using this approach attempted to ascertain whether certain leader behaviour or trait patterns would be equally effective in all situations; the assumption being that they would not. This approach lies in stark contrast to universalistic theories of leadership, which offer prescriptions of leader behaviour that are optimal in all instances.

### SITUATIONAL LEADERSHIP BEHAVIOUR MODEL

According to a recent study, successful use of Situational Leadership "relies on effectiveness in four communication components; communicating

expectations, listening, delegating, and providing feedback" (Baker,Brown). This is a term that can be applied generically to a style of leadership that refers to a recognised, and useful, leadership model. In simple terms, a situational leader is one who can adopt different leadership styles depending on the situation.

Blanchard and Hersey characterised leadership style in terms of the amount of direction and support the leader gives to his or her followers. This is represented in a simple grid as in Figure 1:

### LEADERSHIP BEHAVIOUR OF LEADERS AND FOLLOWERS

- **S1 - Telling / Directing.** *High task focus, low relationship focus* - leaders define the roles and tasks of the 'follower', and supervise them closely. Decisions are made by the leader and announced, so communication is largely one-way. For people who lack competence but are enthusiastic and committed. They need direction and supervision to get them started.

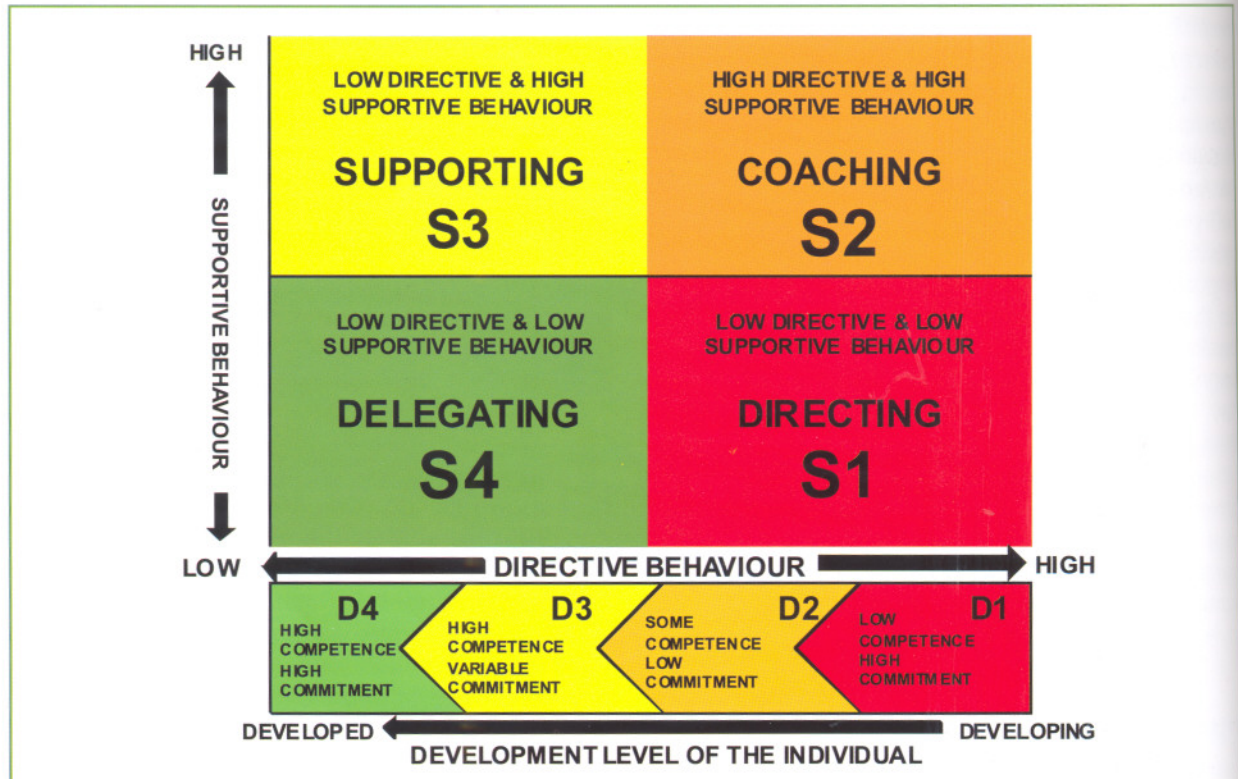


Figure 1: Situational Leadership Model (Blanchard)

- **S2 - Selling / Coaching.** *High task focus, high relationship focus* - leaders still define roles and tasks, but seeks ideas and suggestions from the 'follower'. Decisions remain the leader's prerogative, but communication is much more two-way. For people who have some competence but lack commitment. They need direction and supervision because they are still relatively inexperienced. They also need support and praise to build their self-esteem, and involvement in decision-making to restore their commitment.

- **S3 - Participating / Supporting.** *Low task focus, high relationship focus* - leaders pass day-to-day decisions such as task allocation and processes to the 'follower'. The leader facilitates and takes part in decisions, but control is with the 'follower'. For people who have competence but lack confidence or motivation. They do not need much direction because of their skills, but support is necessary to bolster their confidence and motivation.

- **S4 – Delegating.** *Low task focus, low relationship focus* - leaders are still involved in decisions and problem-solving, but control is with the 'follower'. The 'follower' decides when and how the leader will be involved. For people who have both competence and commitment. They are able and willing to work on a project by themselves with little supervision or support.

Effective leaders are versatile in being able to move around the matrix according to the situation, so there is no style that is always right. However, we tend to have a preferred style and in applying Situational Leadership you need to know which one is right for you. Likewise, the competence and commitment of the 'follower' can also be distinguished in 4 quadrants. Development levels of the 'follower' are summarised as follows:

- **D4 - High Competence, High Commitment.** Experienced at the job, and comfortable with their own ability to do it well. May even be more skilled than the leader.

- **D3 - High Competence, Variable Commitment.** Experienced and capable, but may lack the confidence to go it alone, or the motivation to do it well quickly.

- **D2 - Some Competence, Low Commitment.** May have some relevant skills, but will not be able to do the job without help. The task or the situation may be new to them.

- **D1 - Low Competence, High Commitment.** Generally lacking the specific skills required for the job in hand, but has the confidence and / or motivation to tackle it.

Similar to the leadership styles, the development levels are also situational. A person could be skilled, confident and motivated for one part of his or her job, but could be less competent for another part of the job. Blanchard and Hersey said that the Leadership Style (S1 - S4) of the leader must correspond to the Development level (D1 - D4) of the 'follower' - and it is the leader who adapts. By adopting the right style to suit the follower's development level, work gets done, relationships are built up, and most importantly, the follower's development level will rise to D4, to everyone's benefit.

Task behaviour is defined as the extent to which the leader engages in spelling out the duties and responsibilities to an individual or group. This behaviour includes telling people what to do, how to do it, when to do it, where to do it and who is to do it. In task behaviour, the leader engages in one-way communication with the 'follower' (Hersey, Blanchard, & Johnson, 2001). Relationship behaviour is defined as the extent to which the leader engages in two-way or multi-way communications. These behaviours, include listening, facilitating and supportive behaviours. In relationship behaviour, the leader engages in two-way communication by providing socio-emotional support. The third factor is the readiness level that followers exhibit in performing a specific task, function or objective (Hersey, Blanchard, & Johnson, 2001).

To determine the appropriate leadership style in a given situation, the leader must first assess the maturity level of the followers in relation to the specific task that the leader is attempting to accomplish through the effort of the followers. Maturity is the willingness and ability of a person to take responsibility for directing his or her own behaviour. People have varying degrees of maturity,

depending on the specific task, function or objective that a leader is attempting to accomplish through his or her efforts (Hersey, Blanchard, & Johnson, 2001). As the level of followers' maturity increases, the leader reduces his or her task behaviour and increases relationship behaviour until the followers reach a moderate level of maturity. As the followers begin to reach an above average level of maturity, the leader decreases both task behaviour and relationship behaviour.

Professional leadership encompasses the elements in providing direction, process and coordination to members of an organization for the purpose of attaining the organizational goals. Whilst personal leadership is the personal behavior of leaders in performing the responsibilities of professional leadership including expertise, trust, caring, sharing and morals or the people's side of leadership. According to a research by Mastrangelo (2004), professional leadership is an essential first step and provides a foundation leading to willing cooperation. Leaders who rely on the components of professional leadership to establish the mission and vision of the organization are likely to have employees who willingly cooperate. Personal leadership is also a contributor to willing cooperation. Overall organizations with top management that is perceived favourably from a personal or human side, are more likely to enjoy the willing cooperation of employees. When employees are confident in the professional leadership of the organization, it leads to personal leadership and in turn leads to employees engaging in willing cooperation.

## MILITARY APPLICATIONS OF SITUATIONAL LEADERSHIP

Military leaders must make use of the studies and histories of military units and their related statistics, and not repeat mistakes of the past. Leaders should learn from the past and focus on issues that concern soldiers with mission accomplishment. Leadership effectiveness cannot be overemphasised in leader development and training, especially the leader's effectiveness in combat. Military leadership studies must therefore focus on military leadership, instead of management. Behaviors of corporate managerial leaders do not correlate directly to the behaviors of military leaders,

although the correlation has been assumed in military leadership development programs. Modern military training for combat leaders tends to stress the managerial functions of the officer and his or her abilities to manage materiel and personnel. This managerial training generally receives greater emphasis than tactics.



Military environment either peacetime or in combat areas require a degree of exceptional leadership pertaining to the followers or subordinates, especially when it involves civilian personnel. The paradigm shift from combat to Operations Other Than War (OOTW) such as UN peacekeeping, humanitarian and support operations, requires a change in the style of leadership as this involves military and civilian personnel working together. The autocratic leadership style, so common in military leaders, have to be appropriately applied based on the situation. In most UN missions, there is always a conflict of interests or views between the Force Commander and the Special Representative of Secretary General (SRSG) and his civilian staff, in terms of the command function in a peacekeeping mission. In a UN mission, a soldier accepts and implements orders without question whilst the civilian may resist accordingly depending on the situation and the leader.

Military leaders are different from leaders in other types of organizations because they are appointed and not emergent. Military leadership is essentially autocratic and operates in a wheel rather than an all channel communication net. The flow of communication or essential information, is between the leader and his or her subordinates rather

than among all the members of his group. The wheel net, though no doubt gratifying to autocratic leaders, produces more errors, slower solutions and reduced gratification to the group than does the more democratic all channel net. Effective leaders are able to adjust communication flow by adapting the appropriate situational leadership styles. Hersey and Blanchard's 1969 theory is practical and easy to understand, but its widespread use calls for in depth empirical testing to determine its validity as a tool for leaders to impact an organization and the people within it. The theory's principles have been studied in various organizations, from corporations to schools to government departments, but there is a lack of literature on its use in the military.

Effective leaders are versatile in being able to move around the grid according to the situation, so there is no one right style. However, we tend to have a preferred style and in applying Situational Leadership you need to know which one is for you. Leaders must have the capacity to create a climate that permits rational risk-taking for more junior leaders. The climate must foster training, coaching, and developing subordinate leaders. The increasing level of sophistication in military hardware, tactics, and techniques require the military leader to empower the subordinate to take on more complex tasks with fewer resources. The leader must be aware of power and politics, which previously have been a prerequisite for only the most senior leaders.



In a study at the U.S. Naval Academy, anonymous feedback provided to upperclassmen resulted in lower discrepancies between self-ratings and subordinate ratings of transformational

leadership, and has improved subsequent leaders' performance. Leadership performance is improved through education and experience. Feedback from followers, peers and superiors is important to improve leadership performance.

Similarly, in a recent study conducted on a military population in a U.S. Army National Guard air assault battalion, the Hersey and Blanchard's 1996 SLT was tested using instruments developed for the theory. This study is significant because it used the military environment to test the SLT by using a research design that incorporated Leadership Effectiveness and Adaptability Descriptions (LEAD) and readiness scale instruments originally developed for SLT. The design used the leader style/subordinate maturity match, outcome measures of performance, satisfaction with supervision, and job satisfaction. The military environment provides a clear delineation of relationships between subordinate and superior relationships where the superior is responsible for developing the maturity of the subordinate. The study used a 360-degree evaluation of the perceptions of leader effectiveness and provides an organizational leadership effectiveness average or composite that is correlated with the outcome measures. Feedback on the leader's effectiveness is provided with self, peer, and subordinate as well as superior evaluations. The military use this type of feedback for leadership training in academic settings but not in the field or fleet environment.

## CONCLUSION

Situational leadership is a popular and widely used model that emphasizes using more than one leadership style, particularly in developing subordinates in the military. It assumes that as subordinates gain training, experience, and guidance, they will be better prepared to accomplish the goals of the organization with less leader influence. Eventually, the subordinate will be the leader. It is a complex model with complex variables. Leadership and leader styles are concepts that defy definition. 'Follower readiness' is a multifaceted dimension that is difficult to measure. The situational leadership model continues to be used in the military services as a training vehicle in virtually all formal leadership training programs.

Appropriate leadership style is determined by the leader's assessment of an individual's maturity level, relative to the task at hand. Once the leader identifies the maturity level, he can identify the appropriate leadership style (the curve determines the appropriate leadership style). Fundamental to the theory is the leader's ability to adjust his style to meet the maturity of the followers. The indication that the leader is using the appropriate style will be reflected by its performance or results/output.

Leaders may not recognise situations where different leadership styles are more appropriate

or may not have the skills necessary to apply the appropriate behaviours where delegation or a more directive style is more effective. The key factor underlying the SLT is the ability of the leader to adjust styles to meet the subordinates' maturity demands. Whether or not the leader is using the appropriate styles, should be seen in the unit's outcomes. Effective leaders are versatile in being able to move around the matrix according to the situation, so there is no style that is always right. However, we tend to have a preferred style, and in applying Situational Leadership, you need to know which one is for you.

## REFERENCES

- A. Lau, "Military Leadership," in C. Cronin, *Military Psychology: An Introduction*, (Needham, Heights, MA: Simon and Schuster Custom Publishing, 1998).
- Walter F. Ulmer, "Military Leadership into the 21st Century: Another 'Bridge Too Far?'" *Parameters* (Spring 1998), 4.
- L.E. Atwater and Francis J. Yammarino, Personal Attributes as Predictors of Superiors' and Subordinates' Perceptions of Military Academy Leadership, *Human Relations* (Greenwich, CT: JAI Press, Inc., 1993).
- James G. Hunt and John D. Blair, eds., *Leadership on the Future Battlefield* (New York: Pergamon Press Inc., 1985).
- Paul Hersey and Kenneth H. Blanchard, *Management of Organizational Behavior: Utilizing Human Resources* (Englewood Cliffs, NJ: Prentice-Hall, Inc., 1969).
- Paul Hersey and Kenneth Blanchard, *Management of Organizational Behavior: Utilizing Human Resources*, 4th Edition (Englewood Cliffs, NJ: Prentice-Hall Inc., 1982); P. Hersey and K. Blanchard, *Management of Organizational Behavior: Utilizing Human Resources*, 6th Edition (Englewood Cliffs, NJ: Prentice-Hall Inc., 1993); Hersey and Blanchard (1988).
- George W. Yeakey, "Hersey and Blanchard's Situational Leadership Theory: Military Applications," Doctoral Dissertation, NOVA Southeastern University, 2000.
- B.R. Cook, "Situational Leadership Styles of Air Force Commanding Officer," University of La Verne, Doctoral Dissertation, Dissertation Abstracts International, 53-07A, 2570.
- LTC Donald M. Craig, "Designing a Battalion Leadership Development Program," *Military Review* (May-June 1999), 7



Mej Inderjit Singh was commissioned to the Royal Signals Regiment and has attended all Signal career courses, including Staff College in 1998. He served as an UN Military Observer and later was the first Malaysian to be selected as the MA to the Force Commander in the UN Mission in Ethiopia and Eritrea (UNMEE) in 2003, earning a UN Commendation Award for his excellent service. He holds a Bachelors Degree in Science (Australia), Masters Degree in Information Technology (UM), Masters Degree in Management (UM), Diploma in Strategic and Defence Studies (UM) and Diploma Psychology (Counselling) from UKM. Currently he is a regular guest lecturer at the Royal Norwegian Command Defense & Staff College (Oslo), National Institute of Public Administration (INTAN), Institute of Diplomacy & Foreign Relations (IDFR) & the Armed Forces Leadership Centre on leadership, managing change, international negotiations and other soft management skills; besides being a prolific article contributor to the New Straits Times on general management.

# WHY THE UNITED STATES AND ALLIES ARE FAILING IN THE AFGHANISTAN SINCE 2002?



By Mej Azman Bin Abdul Razak

## SYNOPSIS

The US has appointed itself as the 'policeman' for the world. To date, it has not succeeded in fulfilling this role effectively; more so in Afghanistan. The main contributing factors to this failure arise mainly from weaknesses within the construct of the US Armed Forces and its strategic policies. Besides this, the US does not get the full support of its Allies, the Afghan government and its people. Afghanistan's internal problems and external threats from its neighbours, makes success even difficult to achieve. Given more time, combined with humane efforts, success may not be illusive but rather a reality.

## INTRODUCTION

In his joint address to the US Congress, President Obama said, "we will forge a new and comprehensive strategy for Afghanistan and Pakistan to defeat Al-Qaeda and combat extremism". The President backed his statement by his decision to send an additional 17,000 American troops to the country to prevent it from becoming an Al-Qaeda safe haven. An update records a second increase of 30,000 troops to the already existing American troops in Afghanistan.

Robert Gates, the US Secretary of Defence acknowledged that the United States is facing a "very tough test" in Afghanistan; whilst John Mc Cain, the Arizona Senator and the ranking Republican on the Senate Armed Services Committee quoted, "When you aren't winning in this kind of war, you are losing. And in Afghanistan, we are not winning. And Afghanistan is nowhere as dire as it was in Iraq".

Mc Cain, a Vietnam War veteran and former prisoner of war, also stated that the US needs to establish a larger military headquarters capable of executing "the necessary planning and coordination for a nationwide counterinsurgency campaign". Mc Cain also said that at the same time, the US

needs to boost its non-military assistance to help strengthen the "civilian institutions, the rule of law, and economy in order to provide a sustainable alternative to the threat".

The underlying meaning in all the statements above, point to one thing. The US and its allies are not accomplishing their mission objectives. Mc Cain's statements almost sums up that issues have not been properly addressed or resolved in Afghanistan, nor has the US efforts brought about significant changes or influence to the ravages of terrorism. Why is the US and its allies failing in their mission? What have gone wrong with their strategies?

This paper will try to answer all of these questions. Focus will be on some of the issues contributing to the deteriorating military situation of the US and the International Security Assistance Force (ISAF) in the conflicted country since 2002. The discussion will touch on the following issues:

- Concept of War, Strategy and Policy.
- US Strategic Culture.
- American Tradition of Unity of Command.
- US Special Forces in Afghanistan.

- International Security Assistance Force.
- Deteriorating Security Environment In Afghanistan With Some Suggestions To Improve The Current Situation.

## CONCEPT OF WAR, STRATEGY AND POLICY

'War' is a blanket term to describe diverse activities. War is almost "universally regarded as a human disaster, a source of misery on a catastrophic scale, and in the nuclear age, a threat to the entire human race". Wars are difficult but sometime they are necessary. In the art of war, there are no fixed rules. Wars can be fought for a wide range of objectives, from the quest for land and resources to the utter destruction of the enemy.

The logic of war and strategy is universal; it is valid at all times and in all places. This is so because the stakes in war are so high whilst strategy is a supremely practical endeavour. The purpose of strategy is to ultimately convince the enemy that they cannot achieve their aims. But the "most elegant strategy is useless if it lacks practical application". This is precisely the case for Afghanistan since to-date efforts by the US forces seem inadequate to solve the problem of terrorises.

Military success by itself is insufficient to achieve victory. Armies can win all the battles and yet lose the war due to a flawed strategy. However, it is pertinent to note that strategies are driven by policies and such policies protect the interests of the government of the day. Government policies in turn, determines the strategic culture and the policy objectives. These policy objectives can alter during the course of any war or conflict situation. Many finally change entirely since they are influenced by events and their probable consequences might be unpredictable; as is the case for Afghanistan.

## US STRATEGIC CULTURE

The core principles in the US strategic culture include: "American leadership of the Western Alliance with a preference for multilateral action, nuclear deterrence, and a shared belief in the utility of military force to achieve security objectives".

After the attack on the World Trade Centre on 11 September 2001, the Bush administration declared a global war on terrorism. Thus, the 'war on terrorism' has become a fundamental principle in a new strategic culture of the US and its allies. It is "a positive reaffirmation of American dominance in international security affairs, with a priority consideration for homeland security, a willingness to use military force to achieve security objectives, and a preference for unilateral actions to reduce external constraints on American behavior". Based on this backdrop and in support of this principle, as well as in the name of democracy and freedom, the US entered Afghanistan with a mission to eliminate the Taliban and the Al-Qaeda network altogether.

## AMERICAN TRADITION OF UNITY OF COMMAND

Military strategy is a central issue in the success or failure of any war mission. The military failure in Afghanistan today can be attributed to a number of factors: the lack of moral singleness, simplicity and intensity of purpose. Basically, the US Armed Forces practices the tradition of unity of command. This practice requires the placement of all forces operating in a specific theatre to achieve a distinct objective under a single commander. The efficacy of a single Commander-in-Chief (CINC) is essential to achieving military unity of effort in any given theatre of war. The CINC is assisted by a Joint Chiefs of Staff (JCS), who in turn is assisted by a combined Chief of Staff. Together, all of them are able to formulate the appropriate strategies so deemed necessary throughout the conduct of any assigned mission. The US's efforts in Afghanistan is also based on this unity of command; however as mentioned earlier, it has failed due to several shortcomings.

## US SPECIAL FORCES IN AFGHANISTAN

The Special Forces (SF) is mostly made up of "Green Berets", integrated within the Special Operation Forces (SOF). The SOF covers "units that are organized, trained, equipped and used only as a specific supplement to conventional forces in order to reach military, political, economical or psychological goals, that tend to be mostly of a strategic nature". Goals are reached through the

use of non-conventional means, generally in a hostile or politically sensitive environment, such as in Afghanistan or other 'terrorist-infested' states.

The strength of these teams lie in their "ability to perform mission autonomously or as part of a bigger unit". Among other things, their mission is "to create, organize, train and equip local indigenous forces up to battalion sized unit", to support the Special Forces in their missions. At all times, they must be capable of performing special operations under the command of a Force Commander. The American Special Forces teams infiltrated into Afghanistan in October 2001. They had three principle missions to carry out; first, "To try and set some sort of order and coordination between the various Uzbek and Tajik groups of the North Alliance"; second, "To try to create a Pashtun Maquis in the South"; and third, "To provide information on the possible targets that could be subjected to American and Coalition air power".

The Pentagon experts estimated that the conflict in Afghanistan would end by the spring of 2002. They assessed that the Taliban regime would collapse by mid November 2001 and its "Military" units no longer be considered as a organized force. Besides this, the combination of Special Operators on the ground and permanent air power above the theatre of operations, make it apparent that victory was possible. A possible victory was also achievable with the presence on the ground of the anti-Taliban North Alliance from the North of the country. Between 1996 till 2001, these guerrillas operated as regular forces and the North Alliance forces prove invaluable; not only by their courage, but also by their vast knowledge of the country and their connections. However, both the Taliban and Al-Qaeda continued to reorganize themselves and embarked on more atrocities in the country. New recruits replaced those killed or captured, and drained their overall strength against the US and her allies. But their strength became weak and they no longer posed a direct threat to the US Special Forces. It was at this juncture that the Special Forces passed over their responsibilities to the conventional forces of the US and its allies. Notwithstanding this hand-over, the crisis in Afghanistan worsened and the US faced yet more losses and humiliation from the global community.

## INTERNATIONAL SECURITY ASSISTANCE FORCE

As its definition stipulates, 'Unified Commands' are "excessively layered unwieldy and unworkable in crises and too fragmented to provide the best potential for coordinated response to a general war situation". Too often this has obstructed the JCS efforts to work with allies to determine combined objectives in war management. This was indeed a major concern in Afghanistan. In 2006, the Combined Forces Command – Afghanistan (CFC-A) passed control of the ground fight to the International Security Assistance Force (ISAF). Operations thus become split between Commander US Central Command (CENTCOM), Supreme Allied Commander Europe (SACEUR) and Commander US Special Operations Command (SOCOM). A few nations raise political objections to a CENTCOM lead, aside from bilateral military-to-military relationships, that caused serious command and control problems. The war strategy for Afghanistan were made almost entirely in Washington, and from a strategic perspective, no one was actually in charge of the overall Afghanistan mission; depicting a situation where there was so many leaders but no real leadership for the proper conduct of the entire operations.

Issues emerge with the growth of ISAF. ISAF had no real command relationship with the US headquarters in Bagram. In reality, ISAF worked through national channels to Britain and coordinated non-British assets through coalition representatives in Tampa; two strategic locations in Afghanistan. The ISAF headquarters also changed every 6 months as designated, whilst the NATO Corps headquarters assumed the mission on a rotation basis. There was essentially no continuity in command and little progress in establishing a standing relationship with HQ CFC-A. From NATO's perspective, CFC-A was another tactical level headquarters, separate and distinct from the 'Three Star' ISAF tactical headquarters, and certainly not its superior.

The ISAF on the other hand, assumed responsibility for the Northern part of the country in 2004, the western part of Afghanistan in 2005, and all territory in 2006. The final and most sensitive

part of this expansion occurred between May 2006 and 2007, in which US ground forces conducting Operation Enduring Freedom (OEF) in Regional Command East, was placed under NATO/ISAF in November of 2007.

## DETERIORATING SECURITY ENVIRONMENT

The overall security situation in Afghanistan remains fragile due to several fundamental problems. The Afghan government, the United States, NATO, the United Nations and other key allies have not to-date, agreed on a common strategy that is able to synergise efforts to find an amicable solution to the overall problem. Besides this, a large number of warlords and regional commanders, remain strong and powerful within their respective area of responsibility. Pashtun Warlord Pasha Khan Zadran and his militias control much of the Khowst region, denying complete surveillance and domination by operating forces. Eventhough affiliated to the government, other militias such as the Jama't-e Islami and Jumbesh-e Melli Islami remain rivals in the Northern part of the country; whilst Hizb-e Wahdat-e Islami led by Karim Khalili dominates the Bamiyam province and central Hazarajat region. The Taliban, Al-Qaeda and Hezb-i Islami remains active along the Afghan - Pakistani border, whereas, Amanullah Khan, Abdul Salam and Zahar Naibzala command the Herat province.

In the absence of a permanent and everlasting security, threats of the warlords and violence have increased in recent times. Inter-factional fighting continues among regional commanders in Herat, Nangharhan and other provinces, and both the Afghan National Police and Afghan National Army forces have been engaged in pitched gun battles with each other. The number of insurgent attacks have also increased since January 2002, while the number of deaths from such attacks has also risen significantly.

Prior to 2002, the insurgents directed their attacks towards the US and its allies. In 2002 and 2003, the Taliban, Gulbuddin Hekmatyar's Hezb-i-Islami and foreign jihadists, shifted their strategy towards the overall security situation. They begin to attack Afghan civilians, personnel from non-governmental organizations (NGOs), and

Afghans cooperating with the government or the coalition forces. In their attempt to destabilise the October 2004 Presidential elections and the 2005 Parliamentary elections, the insurgents targeted international personnel involved in organizing, registering and participating in the elections. Besides this, attacks were also directed at Afghans and foreigners throughout the country, causing havoc and vast destructions.

The level of criminal activities have also increased significantly. Armed robberies, abductions and murders have risen, even in the areas controlled by the Afghan National Army and Police. The warlords receive financial assistance, weapons and political support from neighboring states and other outside powers. Pakistan assists the Pashtuns, Iran the warlords on the West, and the Russian have provided equipment and assistance to Abdul Qasim Fahim, a former defense minister. The US and coalition forces also assist the warlords and military commanders in the South and East; as an interim effort to gain popular support as well as updated intelligence on the Taliban and Al-Qaeda.

Over the years, the cultivation of opium poppy has increased markedly throughout the country. Afghanistan's economy today is deeply dependent on this drug revenue and the drug trade is a very lucrative and profitable profession. It is also a source of revenue for warlords, insurgents and criminal organizations, as well as for members of the Afghan government. Thus, producing opium remains more attractive than any alternative strategy of livelihood. Although the efforts to curb and ultimately eradicate the poppy cultivation have not been successful; the relevant authorities and international community are determined to eradicate this menace altogether. Growing opium and heroin production is linked to deteriorating security and construction efforts in Afghanistan. Nonetheless, the government cannot exert much influence on the Afghans to abandon poppy cultivation since it is the sole 'bread-earner' for most of the population throughout the land.

Afghanistan is still one of the poorest countries in the world. Its internal revenue base is very low and almost 90% of its 2005 budget (for example), was externally funded. However, this international aid does not come directly to the government and it

is not able to provide basic social facilities to remote areas, or even to cities. Extreme poverty has also affected the social life of the average Afghan. The situation has been further compounded by the return of three million refugees from neighboring Pakistan and Iran in recent years. Basically the Afghan economy cannot absorb a large impoverished population; and such dire conditions have not contributed towards the overall security situation of the country.

The absence of a viable criminal justice system has also made it difficult to ensure security throughout the country. The central government is unable to exert control over the population; thus not being able to introduce justice reforms. In some areas, warlords and militia commanders have established authority over the local courts, resulting in the intimidation of centrally appointed judges. Unqualified personnel loyal to some factions are also being installed as court officials by these warlords and militia commanders. As such, they are unwilling to address widespread and deep-rooted corruption amongst the population due to the personal interests of the warlords and militia commanders. Such conditions have further rendered the effectiveness of the justice system in Afghanistan.

## CONCLUSION

In conclusion, the US and its allies have failed in Afghanistan due to several distinct reasons as discussed in this article. To summarise, the lack of a common purpose by the US and its allies have resulted in its continued failure in the country. Although there is an elaborate C2 system within the coalition forces, this structure has also failed to synergise all efforts towards the overall operational initiative. The very fragile domestic politics and governance by the warlords and militia commanders controlling several parts of the country, have also made it extremely hard for the US and allied forces to operate effectively in their area of responsibility. The elaborate and discrete networks of the Talibans and Al-Qaeda have continued to persist in the country-causing atrocities and sufferings to both the operating forces and the local civilians at large. Last but not the least, the very nature of the conflict itself and a difficult battlefield, poses a very different

outlook to the operating forces to carry out their tasks effectively.

"Unity of command is best achieved by vesting a single requisite authority". The principle of the unity of command has been forsaken in the evolution of the command construct in Afghanistan. The Allies do not share the US priorities and a failure to establish a real unity of command and centralization of administrative responsibility, has resulted in the failure of the alliance and coalition, to combat the 'forces of civil' in Afghanistan. The threats and enduring cross-border insurgency, steadily growing opium production and corruptions in the judicial system have also created an insecure environment and further destabilized the country.

The core objective of the Afghan people, US and NATO leader should be to establish a secure government in which "the Afghan people and goods can circulate safely, and licit political and economic activity can take place free from intimidation". It should focus on the safety and security of the Afghans, ensuring the support for the local population. A second objective is to ensure that the Afghan government has the capacity to establish and sustain a secure government on its own capabilities. This must also encompass that the indigenous military forces are able to defeat both internal and external threats, or from any other forms of threats to the nation.

The situation in Afghanistan is too complex to lead to any simple or easy solution. The ultimate goal is to empower the people and government of Afghanistan to strengthen their governance and deal with extremism and corruptions on their own terms. Afghans must become fully involved and responsible for their own security; if they so desire to attain peace, freedom and security in the foreseeable future. As an immediate measure, the overall security environment must be made secure and feasible. The following three suggestions may be considered as a 'starting point' towards attaining the desired endstate for Afghanistan:

- Increase the number of international and Afghan forces. Deploy more personnel to the most insecure areas and targeted provinces. Gradually build up the Afghan forces to fill in the gaps when the international forces make their exit.

- Develop a strategy for dealing with insurgents and warlords. Remove warlords from power through peaceful means where possible, and by force if necessary. The Afghans must believe that their safety and well-being will be advanced by fighting the insurgents and stabilising the region. Increase the sense of direct ownership and responsibility for progress among local citizens and their leaders. Their allies must see targets achieved within reasonable periods.

- Develop a successful strategy to increase financial assistance. The needs in Afghanistan are great; therefore there is a need to develop matching grants for community safety programs, and expand direct cash assistance to people and

local groups who demonstrate initiative or in-kind contributions. Assistance programs should also be able to show vastly larger numbers of people who have received direct assistance. Support the establishment of special investigations into official corruptions and national tragedies.

Finally, time is a key factor in establishing peace and security for the people of Afghanistan. Defeating the insurgency, curbing the drug problem and rebuilding the justice system, requires a long-term strategy and a long-term international commitment. The Allies must have the political will to remain in Afghanistan for a long run; and the US (in particular) must take the lead in determining the future of this impoverished nation state.

## BIBLIOGRAPHY

1. Baylis, John et al, 2002. Strategy In The Contemporary World: An Introduction To Strategic Studies. Oxford University Press, Oxford.
2. Mitch Letti, Eric, 2003. Special Forces War On Terrorism In Afghanistan. Histoire and Collections, Paris.
3. Urban, Mark, 1988. War In Afghanistan. The Macmillan Press Ltd, London.
4. Wahab, Saista and Barry Youngerman, 2007. A Brief Of Afghanistan, Infobase Publishing, New York.

## ARTICLES

1. Colonel Ian Hope. "Unity Of Command In Afghanistan: A Forsaken Principle Of War" November 2008.
2. Frederick Barton and Karin Von Hippel with Mark Irvine, Thomas, and Mehlaqa Samdani. "Afghanistan and Pakistan On The Brink, Framing US Policy Options, February 2009.
3. Nasreen Ghufuran. "Afghanistan In 2005, The Challenges Of Reconstruction.
4. RAND PROJECT AIR FORCE. " Flexibility and Sensitivity To Local Concerns Are Crucial To Long-Term US Security Relation With Iraq and Afghanistan, 2008.
5. Rasul Bakhsh Rais. " Conflict In Afghanistan: Ethnicity, Religion and Neighbours.
6. Seth G. Jones, " Averting Failure In Afghanistan., 2006.
7. State Of The Union With John King, " US losing War In Afghanistan , Mc Cain Says" February 25, 2009.



Mej Azman bin Abdul Razak was commissioned into the Royal Malay Regiment on 18 June 1994 and subsequently joined the Special Forces. He attended the Canadian Land Force Command and Staff College Canada in 2008. He has served in several units of the Special Forces namely 11 Special Service Regiment, Special Forces Operation Cell in Mindef, 22 Commando Regiment, 21 Special Forces Headquarters in Mersing. He was also in Bosnia Herzegovina under Malcon V as a Troop Commander Combat Rescue Team in 1997. He holds a Diploma in Management and Logistics Science (UKM) and Diploma in Strategic and Defense Studies (UM). He is currently the SO 2 Doctrine Special Forces at the Army Training Headquarters.

## NOTA UNTUK PENULIS

- \* **Had Panjang Artikel.** Disyorkan panjang artikel diantara 3,000 hingga 4,000 patah perkataan dan menggunakan font Arial, saiz 12. Sumbangan yang lebih pendek juga akan dipertimbangkan. Artikel tersebut hendaklah bertaip dengan baris dua jarak yang menggunakan kertas A4. Dua salinan berbentuk *soft copy* atau CD di majukan kepada Sidang Redaksi.
  
- \* **Sinopsis.** Setiap artikel sekurang-kurangnya mempunyai sinopsis ringkas tidak melebihi 100 patah perkataan yang mengandungi pendapat-pendapat utama dalam artikel dan kepentingannya sebagai tambahan kepada pengetahuan sedia ada atau analisis yang disertakan sebelum artikel dikemukakan.
  
- \* **Kandungan Utama.** Format penulisan berbentuk penulisan akademik atau tugas turus. Sila rujuk mana-mana keluaran US Army Military Review atau British Army Review sebagai panduan. Pembahagian utama kandungan mestilah ditandakan dan tajuk kecil di mana yang bersesuaian. Tajuk kecil, tajuk buku, dan perkataan dari bahasa asing hendaklah digariskan. Tarikh dituliskan sedemikian: 21 Mac 1980; Khamis, 20 Januari 1992. Nombor 1 hingga sepuluh dieja dan angka yang lebih tinggi dengan nombor.
  
- \* **Nota Kaki dan Rujukan.** Nota kaki boleh ditulis dengan ringkas dan bilangannya dihadkan. Ia ditulis di atas kertas berasingan, disusun mengikut abjad dan ditaip dengan dua jarak seperti di Para 6.
  
- \* **Butir-butir Peribadi Penulis.** Perkara ini dihadkan kepada aspek-aspek seperti kelayakan dan/atau pengalaman yang dapat menyokong kebenaran dan keaslian artikel. Butir-butir ini ditulis dalam satu perenggan ringkas sepanjang tiga atau empat baris yang tidak melebihi 100 patah perkataan. Gambar berukuran pasport juga dilekatkan bersama.
  
- \* **Tajuk dan Nama Jurnal.** Tajuk dan nama jurnal, tempat dan tahun dicetak hendaklah disertakan. Bentuk keseluruhannya seperti contoh-contoh di bawah:
 

Cady, John F. *South Asia: Its Historical Development*, New York: McGraw Hillo, 1964.

Mohammad Hatta, "One Indonesian View of the Malaysian Issue", *Asian Survey*, Vol. 5, November 1963, p.64.

*New Straits Times*; 16 Jun 1960.
  
- \* **Jadual dan Gambarajah.** Digunakan secara terhad di tempat yang sepatutnya diletakkan. Jadual dan gambarajah mestilah jelas dan dicetak dua kali ganda lebih besar daripada saiz sebenarnya.
  
- \* **Gambar.** Penulis juga dikehendaki menyertakan gambar-gambar yang ada kaitan dengan artikel yang ditulis. Gambar yang disertakan mestilah gambar asal bagi membolehkan gambar dicetak dengan jelas.

**PERINGATAN: SEMUA ARTIKEL YANG DIMAJUKAN KEPADA SIDANG REDAKSI MESTILAH PENULISAN SENDIRI DAN BUKAN BAHAN PLAGIAT.**

# ARTIKEL TERBAIK

## JURNAL SOROTAN DARAT

### EDISI KE - 52

#### ARTIKEL TERBAIK

**“Cognitive Readiness in Network-Centric Operations”**

oleh Lt Kol Amirudin bin Ismail.



#### ARTIKEL KEDUA TERBAIK

**“Will Malaysia Go To War With its Neighbours Over Natural Resources? ”**

oleh Kol Shamsirudin bin Mohd Shariff.



#### ARTIKEL KETIGA TERBAIK

**“Intelligence Assessment of Iraq’s Alleged Possession of Weapons of Mass Destruction(Wmd) And its Connection With Al Qaeda Prior To The Iraq War ”**

oleh Lt Kol Ho Hin Chai.

