

Reconstruction as a Case Study in Flawed Conflict Transformation

**A Monograph
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Abstract

RECONSTRUCTION AS A CASE STUDY IN FLAWED CONFLICT TRANSFORMATION
by MAJ John J McDermott, III, U.S. Army, 60 pages.

The U.S. involvement in Afghanistan and Iraq demonstrates that in the twenty-first century the U.S. will become more involved in stability operations as it continues to deny sanctuaries for transnational and non-state threats. The reprioritizing of stability operations and current operations has led the military to realize that a more comprehensive and inclusive process for building post conflict peace needed to be developed. A new framework referred to as Amnesty, Reconciliation, and Reintegration (AR2) addresses this. The framework explains that a lasting peace is built or shaped by enabling a common societal level change to take place. This societal level change is brought about by reforming or creating new and inclusive elements of society that generally fall into the economic, political, or security dimensions of society. The monograph examines the policies of the two different Reconstruction plans executed in the United States after the U.S. Civil War through the lens of AR2. The Reconstruction case study provides an example of how a failure to understand the interaction of the different societal dimensions prevents a lasting peace from being built.

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Introduction

The U.S. involvement in Afghanistan and Iraq demonstrates that in the twenty-first century the U.S. will become more involved in stability operations as it continues to deny sanctuaries for transnational and non-state threats. The United States military leadership has learned that a stable security environment is important in enabling a political solution in violent sub-national conflicts. In Iraq, the military engaged with and brought a relatively disenfranchised minority back into the political process. However, this has been a long process with the U.S. military relearning many old lessons.

Until very recently, the U.S. military did not view these types of operations as important or relevant to its primary role of defeating a peer or near peer competitor on the battlefield. The military focused on what is known as Major Combat Operations (MCO). MCO centric doctrine drove the U.S. military to focus on destroying a conventional force in the field. Anything beyond MCO involved another organization outside of the U.S. Department of Defense as the organization or party responsible for the planning, be it another lead federal agency or an international organization like NATO or the UN.

The publication of DoD directive 3000.5 in 2005 changed the institutional view that U.S. military held of stability operations. DoD directive 3000.5 states that stability operations are a core responsibility of the U.S. military.¹ Furthermore, 3000.5 directs

¹ U.S. Department of Defense. Department of Defense Directive 3000.5 *Military Support for Stability, Security, Transition, and Reconstruction (SSTR) Operations*, Department of Defense memorandum (Washington, D.C.: Department of Defense, 2005) ,2. DoD 3000.5 is considered a significant and needed change in that for the first time since the end of the Cold War the U.S. military has been directed to train and equip forces for stability operations at the same priority as MCO.

the U.S. military establishment to look at these missions as broad based political, military, and economic solutions². The problem that military planners and leaders face is the lack of doctrine that truly explains this system well.

The Development of AR2

Many theorists have explained what they believe will win a war. However, many of these constructs explained how and why victory is achieved on the battlefield; very few, however, explained or hypothesized on what came after the battlefield victory. Clausewitz addressed this issue with his famous quote “War is merely the continuation of policy by other means.”³ Clausewitz’s dictum implies that military leaders and planners should understand that after success on the battlefield, to win the war a political plan that also wins the peace is necessary. U.S. doctrine even calls for a transition as a phase in planning, and transition is a means from one type of operation to another such as MCO to stability operations.⁴

While Clausewitz explained his thoughts in an incomplete work, he did make it clear, however, that he viewed war and major combat operations as part of a political continuum. Clausewitz contended that war conducted for something other than a desired political outcome was not capable of being won. However, Clausewitz and many other

² Ibid.

³ Carl von Clausewitz, *On War*, trans. and ed. Michael Howard and Peter Paret (Princeton, N.J.: Princeton University Press, 1984), 87

⁴ Department of the Army, *FM 3-0 Operations*, U.S. Army Field Manual , (Washington, D.C.: Department of the Army 2001), paragraph 6-81, Department of the Army, *FM 3-24 Counterinsurgency*, U.S. Army Field Manual , (Washington, D.C.: Department of the Army, 2006), paragraph 2-43.

theorists have spent little effort in trying to explain what role the military plays in order to build a lasting peace after hostilities end.⁵

Historically, the modern U.S. military viewed post-conflict transitions as an afterthought. The U.S. military viewed itself as an enabler for various initiatives in the international community that executed conflict transformation during the Cold War and the post-Cold War era. The U.S. military tended to view these operations as distractions from its main mission of fighting a major war in accordance with the descriptions written by many theorists.⁶ When the U.S. military participated in post-conflict transitions, it often served as a peacekeeper between warring factions as an “honest broker” serving as an outside security apparatus for operations known as Disarmament, Demobilization, and Reintegration (DDR).⁷ The U.S. military, however, did not view itself as long term solution to the security problem. Any post-conflict transformation would be solved by political leaders outside the U.S. defense establishment. This condition was greatly viewed by the military with a “not our problem” mentality.

In the post-Cold War era, however, sub-national conflict became more prevalent. These conflicts utilized both regular and irregular forces to fight wars. Political, ideological, and ethnic differences often served as the policy impetus for war in locations

⁵ Clausewitz, *On War*, 80-81.

⁶ Max Boot, *War Made New*, (New York: Gotham Books, 2006), 332-336. U.S. military doctrine for MCO is known as Air-Land Battle doctrine which was optimized to structure the U.S. Army to fight a conventional peer-to-peer/near peer war. This doctrine did not address the types of operations associated with post-conflict operations. The doctrine was developed by GEN Don Starry, then a major, at the direct GEN DePuy, first head of TRADOC. Arguably, DePuy’s experiences in WWII and Viet Nam influenced his thinking on doctrine development.

⁷ United Nations, “Integrated Disarmament, Demobilization, Reintegration Standard: module 1.10,” <http://www.unddr.org/iddrs/html>, (accessed January, 22, 2008), 1.

like the Balkans, Africa, and the Middle East.⁸ When the U.S. military did become involved in peacekeeping and related activities, it was often after the factions had ended their fighting and only as an honest body out of the international community to provide security in order to allow the political process to take place such as the role NATO and the UN played in the Balkans.⁹

Regular militaries often provide the manpower and expertise for DDR. DDR is a relatively objective program that is used to demilitarize a population. The DDR process revolves around the demobilization of combatants as an enabling activity to separate the political process that actually builds the peace¹⁰. DDR provides a method for security forces to return to the pre-conflict status as far as composition and equipping in accordance with the interim or permanent political settlement.¹¹ DDR accomplishes this mission by marshalling fighters, especially irregular ones, at secure locations where they do not have to fear reprisals. The various factions then turn in their weapons to the honest broker and reintegrate into society. The reintegration can be as simple as the fighters returning to their previous careers or a complete education of the individual as to

⁸ Martin Van Creveld, *The Transformation of War*. (New York: The Free Press, 1991), 139; 192-223. Van Creveld defines the Westphalian system as the creation of the nation-state, and the states monopoly on the use of violence. Van Creveld claims that in the future wars would be fought over ethnicity instead of politics.

⁹ Francis Fukuyama, introduction to *Nation-Building Beyond Afghanistan and Iraq* ed. Francis Fukuyama (Baltimore, Md.: Johns Hopkins University Press, 2006), 1-14. Throughout this collection of essays, the various authors specifically use examples of NATO's mission in the Balkans as a method of examining what has worked and what hasn't in developing a methodology for reconciliation.

¹⁰ United Nations, "Integrated Disarmament, Demobilization, Reintegration Standard: module 1.10, 2.

¹¹ Ibid, 1-3.

how to act in civil society, but it does not address how to conduct a policy of reconciling the various parties.¹²

From a military perspective, DDR works well because it uses objective metrics to assess the program's success. For example, the creation of storage sites for weapons in Bosnia administered by NATO demonstrates the complicated, but not complex, nature of DDR. DDR specifically speaks to removing weapons and reducing the numbers of fighters which are quantifiable goals.¹³ It does not tend to focus on the political efforts other than the agreement to end the fighting.¹⁴ The DDR process does not explain or detail how to develop qualitative goals and mechanisms that can bring about lasting peace; instead it focuses on quantifiable metrics for actual disarmament. The success of reintegration is debatable because a system that assumes success based on quantifiable metrics without qualitative assessments endangers building a lasting peace. While DDR addresses the need for a building a lasting peace, it is only an enabler and not the actual process which builds the lasting peace.¹⁵ This deficiency has led to development of a new framework that explains how to develop a plan based on a holistic approach that encompasses both the quantitative approaches of DDR and the qualitative means for enabling a political reconciliation. This framework is known as Amnesty, Reintegration, and Reconciliation or AR2.

¹² Ibid.

¹³ Ibid, 2.

¹⁴ Ibid.

¹⁵ Ibid.

What Is AR2 and Why Is It Needed?

The rise of transnational terrorism and unstable regions has forced the U.S. military to reassess its view of stability operations. After the September 11, 2001 attacks, U.S. leadership, both political and military, realized that the U.S. military ground forces would operate in regions both geographically and philosophically removed from the Westphalian model that the international system tended to follow.¹⁶ The National Command Authority realized that this change was occurring. Therefore, the U.S. Department of Defense published DoD 3000.5 in 2006. This document told the U.S. military that stability operations and the preparation to conduct these operations was to be given the same priority as major combat operations.¹⁷

The reprioritizing of stability operations and current operations has led the military to realize that a more comprehensive and inclusive process for building post conflict peace needed to be developed. The previous processes and frameworks were not obsolete but were not comprehensive enough to serve the current needs of the U.S. military. What the current operating environment has taught the military is that a lasting peace is only brought about by a comprehensive societal reconciliations that involves more than amnesty or DDR taking place as stand-alone events.¹⁸ Failures to develop

¹⁶ Martin Van Creveld. *The Transformation of War*, 139; 192-223. Van Creveld defines the Westphalian system as the creation of the nation-state, and the states monopoly on the use of violence. The Westphalian system defined in this paper refers to the modern construct of nation-states that identify themselves as operating within the norms of creation and diplomacy as first codified in the Treaty of Westphalia in 1648.

¹⁷ DoD 3000.5, 1.

¹⁸ Fukuyama, *Nation-Building Beyond Afghanistan and Iraq*, 1-14. In various essays published in *Nation Building Beyond Iraq and Afghanistan* individual authors from diverse backgrounds that transcend political and philosophical like Michelle Flournoy and Larry Diamond agree that a holistic approach has to

integrated and systematic plans has led to a long term and expensive commitment of military forces beyond what military and political leaders initially believed in cases like Haiti and Bosnia.¹⁹

Dr. Michael Mosser, an instructor at the Army's School of Advanced Military Studies, has developed a new framework to meet this need. The framework is referred to as Amnesty, Reconciliation, and Reintegration (AR2). The framework explains that a lasting peace is built or shaped by enabling a common societal change to take place. This level change is brought about by reforming or creating new and inclusive elements of society that generally fall into the economic, political, or security dimensions of society.²⁰ This construct enables a planner to look at what the societal cause of a conflict was. By examining the underlying causes of conflict, a planner utilizes the AR2 model to determine what the plan should encompass and measure the success of the plan to win the peace.

The importance of the individual societal dimensions in the AR2 model change in each situation. Traditional linear problem-solving does not tend to adequately examine how these dimensions interact. This is where AR2 is different from previous concepts. AR2 states that these dimensions have a relationship, but the relationship is unique to its individual case. Regardless of the unique case, however, this key dimension or aspect of all these dimensions has to be changed to enable societal reconciliation. This societal

be taken to building peace. All authors believe that the civilian aspects of power and an understanding of time, and defining what is achievable must be determined and agreed upon before embarking on such an undertaking.

¹⁹ James Dobbins, "Learning the Lessons of Iraq", in Fukuyama, 220-221.

reconciliation is long process, but it is the change in societal dimensions over time that builds a society that believes in a political system viewed as legitimate by the previously fractured polity.

The role of an honest broker is important in the AR2 model. The honest broker serves as an engine of change, or as a forcing function to reform institutions, or to create new institutions that are viewed as legitimate by the previously warring factions.²¹ In examining U.S. problems in transitioning Iraq to self-government, Larry Diamond points out the legitimacy of security forces, both internal and external, is important.²² Furthermore, the AR2 model acknowledges that these processes begin before the conflict is over.²³ The starkest contrast is that the AR2 model states that planning has to begin *before* the major combat operations have ended.²⁴ Sub-national conflicts have shown that there is little proclivity to lay down arms and begin talking; instead, it is mixture of both, and AR2 acknowledges this.

Important to success in the AR2 construct is clear guidance on what is the political objective or end-state for the war. An initial understanding as to what the desired long-term end-state for the territory being fought over can provide enough information to develop a plan that should be flexible enough to account for changes in

²⁰ Michael Mosser, "The Armed Reconciler." *Military Review* LXXXVII, no. 6 (2007),13

²¹ Ibid, 15-17

²² Larry Diamond, "What went Wrong In Iraq," in Fukuyama pp181-183. Diamond contends that once security forces are viewed as an impartial occupier by a majority of the populous, then the security forces have lost legitimacy and the efficacy of their effort is in doubt.

²³ Mosser, "The Armed Reconciler." 16.

²⁴ Ibid.

desired objective or end-state over time. This is important in developing a campaign plan with proper phasing and synchronization of the forces. AR2 points out that political guidance has to be issued in order for the military forces to develop a plan for the post-conflict period. The importance of this guidance is to prevent the albatross of “victor’s justice” from taking over after the heat of battle.²⁵ The AR2 framework provides a theory and model for military planners to utilize in winning the peace to reach the desired political objective of a war beyond defeating an enemy’s armed forces.

The monograph utilizes AR2 as lens to examine some important policy decisions in the case study of Reconstruction. Did the failure of clearly defining the desired political end-state for the southern states hinder the reconciliation process? Did the U.S. government and the U.S. Army create or adequately reform institutions of state and local government to enable a fully functioning AR2 process? The failure of the political leadership to develop and describe a thorough political end state for the Civil War era, coupled with partisan politics and political identity, prevented the military leadership from developing and implementing sound security policy for the reconstruction of the southern states.

Recent post-conflict scholarship often focuses on the roles that the U.S. has played as a supporting member of a coalition. The U.S. Reconstruction Era provides a valuable case study. The AR2 lens used to study Reconstruction highlights mistakes made in the nineteenth century that can and often are still relevant today. The reconstruction Era provides valuable insights into how an AR2 process works in that

²⁵Ibid, 18.

Americans know the culture, because it us. In the Reconstruction Era, the U.S. Army failed to reform or to create viable institutions that could overcome political identity of the southern population and provide legitimate security for the residents of this region.

This monograph is organized into four sections. In the first section, the introduction established the intellectual thought behind AR2 and how it is an evolving concept that helps provide a way ahead in today's operational environment. The next section, chapter 1, names and describes the events that occurred during Presidential Reconstruction. Furthermore, this section examines the preliminary attempts at reconstruction made by President Lincoln in order to demonstrate where early lessons were not captured and applied. The next section, chapter 2, examines Reconstruction run by the legislative branch of government known as Radical Reconstruction. The fifth section, chapter 3, describes the policies that became acceptable after reconstruction ended which led to a rebirth of sectionalism, segregation, and the failure of amnesty and reconciliation. The final section, chapter 3, highlights themes and concepts based on successes and failures during Reconstruction that can be applied to other AR2 situations in which the United States might become involved.

CH 1: Presidential Reconstruction

“.....With malice toward none, with charity for all, with firmness in the right as God gives us to see the right, let us strive on to finish the work we are in, to bind up the nation's wounds, to care for him who shall have borne the battle and for his widow and his orphan, to do all which may achieve and cherish a just and lasting peace among ourselves and with all nations.”²⁶ ...Lincoln's 2nd Inaugural Address

The United States Civil War and its causes presented the problem that the Reconstruction Era attempted to fix. The U.S. Civil War resulted from failed political compromise between factious political agendas over the division of power between the United States government and the respective state governments. The rancor between the states and the federal government manifested itself in various ways but most significantly in the issue of slavery.²⁷ The issue became one of state's rights over the right of the federal government in setting policy and laws. The southern states most closely tied to the institution of slavery seceded from the Union over this issue and caused the U.S. Civil War.

²⁶ Lincoln, Abraham, 2nd Inaugural Address, April 1865 download from January 2008

²⁷ Sean Wilentz, *The Rise of American Democracy Jefferson to Lincoln*, (New York: W.W. Norton and Company, 2005), 62-66, 222-240, 379-388. This disagreement goes to the earliest day of the U.S with the Whiskey Rebellion of 1794 which was one of the first times that the federal government tried to impose a tax, and it was met with violence. The issue of slavery became the key issue of the nineteenth century with tariffs a close second. The Missouri Compromise demonstrated that many understood that the federal government would have to tread carefully between competing state and ideological issues over slavery as manifested in the Missouri Compromise. The next crisis was between the U.S. and south Carolina over tariffs which resulted in the nullification crisis of 1833 which was resolved when President Andrew Jackson threatened to invade the state with the federal army.

The Union victory at Appomattox provided both a cause for celebration and a cause for deep concern. The ongoing disagreement between the President and the Congress over the legitimacy of the newly elected congressional delegation from Louisiana demonstrated that the friction between the President and Congress of reconstructing the former Confederate states had not ended with the war. Lincoln believed that the time had come for further implementation of his “Ten Per Cent Plan”.²⁸ Lincoln’s re-election in 1864 and success as commander-in-chief provided him with considerable political power that enabled him to implement his policies that appealed to a majority of the Congress by incorporating aspects that appealed to both radicals and moderates. In his final public address Lincoln claimed that he alone did not have the final plan on reconstruction, but that his plan was a good plan and that there was room for compromise when necessary.²⁹ Lincoln’s final address made in the spirit of his second inaugural address once again called for the nation to heal itself once the fighting ended.³⁰ However, Lincoln’s assassination by John Wilkes Booth, a Confederate sympathizer, made an already difficult situation even worse.

²⁸ Eric Foner, *Reconstruction: America’s Unfinished Revolution*, (New York, Harper, Row, and Collins, 1988), 36.; Eben Scott, *Reconstruction During the Civil War*, (Cambridge, Mass.: Riverside Press, 1895), 272-273.; Hans L. Trefousse, *The Radical Republicans: Lincoln’s Vanguard for Racial Justice*, (New York, Alfred Knopf, 1969), 283. Lincoln announced his plan in a proclamation of December 8, 1863. Lincoln’s plan became known as “The Ten Percent Plan” The Ten Percent Plan required for the states to elect new legislatures and officials who had not been senior members of the Confederate administration or vocal supporters of them. Lincoln further stated that once ten percent of the electorate of 1860 had taken a loyalty oath, the state could then hold elections for delegates to a state constitutional convention to rewrite or modify the pre-existing state constitution to abolish slavery and prevent the reestablishment of slavery.

²⁹ Abraham Lincoln, “A Righteous and Speedy Peace.” Public Address April 11, 1865. In *Reconstruction*, ed. Richard N. Current (Englewood Cliffs, NJ: Prentice Hall, 1965), 6.

³⁰ Abraham Lincoln, 2nd Inaugural Address, March 4, 1865

The assassination of Abraham Lincoln ended any immediate unifier for reconstruction policy at the national level. Vice-President Andrew Johnson, the former military governor of Tennessee and U.S. senator, became the President. Johnson's plan differed from Lincoln's in that he specifically exempted certain classes of southerners from amnesty and pardon. People subject to these exceptions had to apply for a presidential pardon. The President defined these people as being either senior Confederate officials or people who owned \$20,000 or more in taxable property.³¹ He saw this change as essential to breaking the power of the planter class.³² President Johnson met with key Radical leaders like Senator Charles Sumner and Senator George Julian and reassured them of his desire to hold those who committed treason accountable for their actions; however, President Johnson maintained his belief that the states determined voter eligibility and this did little to reassure the Radical leaders. However, Johnson's plan initially placated many in Congress which viewed his plan as harsher towards the South than Lincoln, but his implementation of his plan would turn out to be quite different.

Johnson's policy focused on rapidly reconstructing state governments. Johnson issued his first formal Reconstruction guidance in two edicts on May 29, 1865. Johnson's first edict granted amnesty or pardon to all participants in the Civil War provided they took a loyalty oath.³³ This included the restoration of all property rights,

³¹ Foner, *Reconstruction* , 179.

³² James Shenton, *The Reconstruction: A Documentary History of the South After the War*, ed. James Shenton, (New York, Md.: G.P. Putnam's Sons, 1963), 3; Ibid, 179.

³³ Foner, *Reconstruction*, 18.

except those classifying former slaves as property.³⁴ The second proclamation, which was later followed by similar proclamations for other southern states, named William Holden provisional governor of North Carolina.³⁵ The proclamation instructed Holden to hold a state-level constitutional convention to draft a North Carolina constitution that was acceptable to the newly victorious United States.³⁶ Under Johnson's plan, when the convention wrote a new constitution and ratified the 13th Amendment, that state could re-enter the Union, provided Congress approved.³⁷ In addition to his lenient terms towards the states, Johnson also generously granted pardons to those who did not meet the criteria for the loyalty oath or were exempt from his amnesty.³⁸ Over an eighteen month period, Johnson pardoned 13,500 Confederates who were not covered by the amnesty.³⁹ This perceived leniency, however, put him at odds with the Congress, especially the leadership and key influencer like the Radicals.

In contrast to the President, the Congress did not have its own plan for reconstruction at this early stage of the reconciliation process. The Republicans held a majority over the Democrats in both houses at this time. However, the Republican Party continued to be split into two factions, known as the Radicals and the Moderates. The Moderates tended to view Johnson's plan as acceptable, as did the Democrats. Johnson

³⁴ Ibid.

³⁵ George Blackburn, "Radical Republican Motivation: A Case History." *The Journal of Negro History* 2, no. 54 (1969), 114.

³⁶ Foner, *Reconstruction*, 183.

³⁷ Blackburn, *The Journal of Negro History*, 115.

³⁸ Hodding Carter, *The Angry Scar: The Story of Reconstruction* (Garden City, N.Y.: Doubleday and Com., 1959), 64.

³⁹ Ibid, 65.

believed he was carrying out the will of Lincoln and many moderates and Democrats agreed with this assessment.⁴⁰ The Radicals, on the other hand, did not believe Johnson's plan went far enough in punishing Confederates, especially when the President began to grant pardons to almost any former confederate who asked for a pardon. Despite internal disagreements over who should control Reconstruction policy and how punitive the policy should be towards the South, once Congress began to receive reports from the southern states, all factions began to realize that they had to do something to enable the freed slaves to begin to make a living as free members of society.

Many members of Congress and the cabinet viewed themselves as members of the Radical wing. Many of these individuals had joined the Republican Party from the earlier abolition movement. The primary leaders of the Radicals in the Congress were Senator Charles Sumner of Massachusetts and Representative Thaddeus Stevens of Pennsylvania.⁴¹ Radicals also served in key cabinet positions namely Secretary of War Edwin Stanton and Secretary of State William Seward.⁴² While Radicals did not dominate in the judiciary, Secretary of the Treasury and soon to be Supreme Court Chief Justice Salmon Chase provided a voice for radical policies in the court.⁴³

⁴⁰ George Milton, *The Age of Hate*. (New York: Coward-McCann, Inc., 1930), 189.

⁴¹ Foner, *Reconstruction*, 216-218 228. Trefousse, *The Radical Republicans*, 5, 13. Sumner's key allies included Senators Ben Wade of Ohio, Henry Wilson of Massachusetts, and Zachariah Chandler of Michigan. Representatives George Julian of Illinois James Ashley of Ohio also served as key Radical leaders in the House. Many other Republicans identified themselves as radicals in Congress, but the previously identified people provided the key leadership. Radicals also served in key cabinet positions namely Secretary of War Edwin Stanton, and Secretary of State William Seward

⁴² Ibid, 216-218; Ibid, 339. The other moderates consisted of Senator Lyman Trumbull of Illinois, Senator William Fessenden of Maine, and Senator James Grimes of Iowa.

⁴³ Trefousse, *The Radical Republicans*, 300.

The Moderates and Conservatives of the Republican Party, on the other hand, provided a key balance to the Radicals in Congress. Senator John Sherman of Ohio, the brother of General William T. Sherman, served as key moderate Republican leader in the Senate.⁴⁴ The key moderates in the House of Representatives were John Bingham of Ohio and James Blaine of Maine.⁴⁵ Key conservatives in the Republican Party were Senator James Doolittle of Wisconsin, Senator James Dixon of Connecticut, and Edgar Cowan of Pennsylvania.⁴⁶ Governor Oliver Morton of Indiana provided another important national voice for the Conservative wing of the Republican Party.⁴⁷

This split between the Radicals, Moderates, and Conservatives tended to break down over the role of free African-American's in society, suffrage rights, and the amount of involvement that the federal government should have in determining and protecting these rights.⁴⁸ The Radicals coalesced around the issue of equal rights for freed slaves and supporting government involvement in creating racial equality.⁴⁹ Radicals viewed this as a moral duty regardless of political cost.⁵⁰ Conservatives, however, opposed this particular issue based on little or no political support for universal suffrage in the North let alone the South.⁵¹ Conservatives believed that states should determine voter and

⁴⁴ Foner, *Reconstruction* , 241.

⁴⁵ Trefousse, *The Radical Republicans* ,339.

⁴⁶ Ibid.

⁴⁷ Foner, *Reconstruction* , 222.

⁴⁸ Trefousse, *The Radical Republicans* , 337-339.

⁴⁹ Ibid.

⁵⁰ Ibid.

⁵¹ Foner, *Reconstruction* ,222-223.

citizenship eligibility in accordance with the Constitution.⁵² Moderates tended to provide swing votes and compromise by agreeing with Radicals that Freedmen needed their new freedoms protected, but that determining voter eligibility was the role of the states and not the federal government.⁵³ On economic issues, there was little unity in the Republican Party.

Exacerbating the issue of Freedmen's rights was the fact that the Civil War left the agrarian-based economy of the South in ruins. The end of slavery and war losses led to uncertainty as to what the source of labor would be. Furthermore, the Confederate infrastructure was in ruins as a result of Grant and Sherman's waging of total war, the rebuilding of which enables reintegration of former combatants into society. The South also did not have readily available capital to rebuild its infrastructure. White southerners hoped for an investment of federal capital to rebuild their economic institutions.⁵⁴ Many southern antebellum holders of wealth had converted their investments into Confederate currency or Confederate Bonds.⁵⁵ This meant that there was little liquidity in the South, leaving many property owners unable to pay taxes on their property leading to federal

⁵² Ibid.

⁵³ Ibid, 222, 313-314; Trefousse, *The Radical Republicans* ,339. The Democrat Party did not play a key role during Presidential Reconstruction. The Democrats were the party out of power which was associated with states' rights, and they were looking for how to regain a majority in Congress and eventually the Presidency. The Democrats favored Johnson's policies that put power in the hands of individual states. They believed that universal suffrage would hinder them politically. The Northern Democrats focused on building a political coalition based on opposing large corporations and political elites, and simultaneously incorporating new immigrants into the party by playing on their fears. The Democratic Party favored Johnson's policies in that his policies kept with the tenants of their party, and his policies did not create a politically biased South.

⁵⁴ Carter, *The Angry Scar* , 34.; William Dunning, *Reconstruction, Political and Economic* (New York: Harper and Row, 1962), 150; Shenton, *Reconstruction* ,10-11.

seizures.⁵⁶ The federal government did provide some economic support, but not nearly what the southerners needed or requested. In the period from 1865 to 1875, the southern states received 9,500,000 dollars out of 100,000,000 spent nationally in federal funds for public works.⁵⁷ Failure to provide capital reinvestment into the South made it difficult for the government to reintegrate former combatant into society in a constructive manner. In building a lasting peace, the federal government needed to demonstrate a level of investment in rebuilding the former rebel areas.

The southern states also had a problem with banking infrastructure to support their economic rebuilding. The National Banking Act of 1863 set monetary reserve limits for banks based on towns of specific population densities.⁵⁸ These limitations led to a small number of banks available for southerners so that in 1893, southerners averaged only one bank for every 58,000 residents.⁵⁹ The lack of banks meant that outside investors only had limited abilities to invest in the region.

Economic ruin and the abolition of slavery presented two new problems for the newly convened state legislatures. The Freedmen, upon learning of their freedom, tended to wander and not work in the fields for their former masters.⁶⁰ Southern industrial agriculture had relied almost exclusively on slave labor before the war, and the available post-war labor, the Freedmen, was not actively seeking employment. White southerners

⁵⁶ John Ezell, *The South Since 1865*(New York, Macmillan Co., 1963), 28-29.

⁵⁷ Carter, *The Angry Scar*, 34.

⁵⁸ Ibid.

⁵⁹ Ibid.

also worried about their safety if Freedmen, moving throughout the region, massed and sought some type of physical retribution for slavery. To address these issues, the southern legislatures therefore passed the “Black Codes”.⁶¹

The “Black Codes” sought to enumerate what role freedmen would play in southern states, socially and economically.⁶² The “Black Codes” provided a solution for labor that mitigated the southern financial issues that plagued the South at this time. These laws incorporated many social aspects into their writing based on southern lawmaker’s racist beliefs that freed slaves were not intellectually mature enough to care for themselves.⁶³ At the same time, however, these codes did validate “slave marriages” and granted Freedmen the right to own property, enter into contracts, and sue.⁶⁴ While the codes appeared social in nature their purpose was largely economic.

The “Black Codes” also severely limited the rights of the Freedmen. The codes often dictated where a Freedman could own land.⁶⁵ Many states limited the movement of Freedmen by legislating curfews and requiring passes from employers.⁶⁶ The states also defined vagrancy in very broad terms. Vagrancy now included those who were unemployed or chose not to work in an effort to coerce the Freedmen to work in their old

⁶⁰ Foner, *Reconstruction*,133.

⁶¹ Carter, *The Angry Scar* ,51; Ezell, *The South Since 1865*, 8-51; Ibid,198-201.

⁶² Ibid.

⁶³ Foner, *Reconstruction*, 199.

⁶⁴ Ezell, *The South Since 1865*, 48.

⁶⁵ Ibid, 48; Foner, *Reconstruction*,198-201.

⁶⁶ Ibid.

jobs.⁶⁷ The “Black Codes” had severe sentencing guidelines for vagrancy that required steep fines or jail.⁶⁸ The states sold the labor of those who could not pay their fines until the debt was retired, and those who were incarcerated could be leased to landowners.⁶⁹ This brought into existence the chain gang, and it provided a legal method to coerce labor. To add insult to injury, often federal forces on occupation duty found themselves enforcing these laws despite having recently fought to free African-Americans from slavery.⁷⁰

The post-Appomattox Army faced many different military dilemmas. The U.S. Army knew that with victory came a reduction to its peacetime establishment while also engaging in expanded roles for the force which included responsibility for reasserting American security along its frontier, contending with a major European power, France, who was trying to maintain control of Mexico by military force, and finally, providing an occupation force for the areas that once made up the Confederate States of America. These multiple tasks stretched an Army trying to reorganize after winning a war.

The Army that occupied the South found itself facing many non-traditional problems. As previously mentioned, the war left the South’s economy wrecked and little capital remained for rebuilding the economy.⁷¹ The Army found itself handing out rations to Freedmen and whites who had no food available. In Virginia, this amounted to almost

⁶⁷Ibid.

⁶⁸Ibid.

⁶⁹Ibid.

⁷⁰ James Sefton, *The United States Army and Reconstruction 1865-1877*, (Baton Rouge, La.: Louisiana State University Press, 1967), 27-30.

⁷¹ Carter, *The Angry Scar* ,51; Sefton, *The United States Army and Reconstruction 1865-1877*, 9.

29,000 rations per day by August of 1865.⁷² Furthermore, the collapse of the Confederate government forced the military to act as a police force providing law and order in many locations.⁷³ This led to the military initially using local officials, often a former Confederate official who might not have taken a loyalty oath depending on the commander.⁷⁴ Regardless of what actions the military took, local commander's discretion in these matters often led to a lack of consistency due to a lack of clear guidance from the President and contrarian statements from Congress.

To establish a level of consistency in enabling national reconciliation, President Andrew Johnson's North Carolina Proclamation set the path for military policy in the postwar South. On June 27, 1865, the War Department reorganized the administrative and command structure of the Army by creating five new geographic divisions.⁷⁵ The five divisions were the Atlantic, the Gulf, the Tennessee, the Mississippi, and the Pacific.⁷⁶ The divisions broke their respective areas into departments which were the states themselves (i.e. the department of Texas, the department of Virginia, etc.).⁷⁷ The division commanders were LTG George Meade for the Division of the Atlantic, LTG Philip Sheridan for the Division of the Gulf, LTG William Sherman for the Division of the Mississippi, and LTG George Thomas for the Division of the Tennessee.⁷⁸ Major

⁷²Ibid.

⁷³ Sefton, *The United States Army and Reconstruction 1865-1877*, 8.

⁷⁴Ibid, 12-16.

⁷⁵ Ibid, 17

⁷⁶ Ibid.

⁷⁷ Ibid, 17-24.

⁷⁸ Ibid.

and brigadier generals provided the commanders for the various departments under these divisions. All of these officers had attained high rank due to battlefield success during the Civil War, and some were acclaimed heroes. The division of the territory now provided the War Department with commanders who owned a particular battlespace.

In the uncertainty of the immediate post war period, the military sought guidance from its civilian leadership, namely the Commander-in-Chief, President Johnson. Johnson's Amnesty Declaration in May established the framework for the reconstruction of the state governments and who could participate.⁷⁹ Johnson's plan, however, did not outline the role of the military which allowed the department commanders to determine the nature of their relationship with civilian authorities.⁸⁰ The department commanders were therefore left to their own experiences and educations to develop some guidelines in the relationship between the military and civilian authorities. According to historian James Sefton, Major General Steedman, commanding the Department of Georgia, issued some of the most comprehensive guidelines which explained the role of the military with the civilian population, the civilian courts, federal officials, and the Freedman's Bureau.⁸¹ Major General Steedman's order described military operations in five categories.⁸²

⁷⁹ Milton, 187-189, Ibid, 25.

⁸⁰ Sefton, *The United States Army and Reconstruction 1865-1877*, 25. James Sefton addresses the role that the federal armed forces played during reconstruction. Sefton's book is important in that most Reconstruction history focuses on the role of the militias for partisan purposes, which is not the same as Federal forces or the role of the Freedman's Bureau, a civil-military organization. An analogy would be failing to account for the actions of MNC-I, and instead only focusing on the CPA and the ISF in the future histories of the Iraq War. The role of the military before the passage of the reconstruction acts and independent of the Freedmen's Bureau remains a hole in the study of the era.

⁸¹ Ibid, 25.

⁸² Ibid. The first category stated that the Army would support the provisional governor and his agents in executing their duties, and that the military should not interfere with official actions of the

According to Sefton, Steedman's ideas were used by other department commanders but the details of the policies varied from department to department.⁸³ These guidelines provided a framework that provided a level of legitimacy to military occupation in the South.

The first Army-centric problem facing the commanders was force structure. The end of the Civil war led to a drastic reduction in military forces. Between 1865 and 1867, the Army dropped from 202,227 officers and men in the South to an army total of only 20,117.⁸⁴ Yet the Army's complicated roles of defending the country, demobilizing, and maintaining a legitimate force in the South remained.

The Division of the Mississippi and the Department of Texas provided multiple problems for their commanders. The Department of Texas had the multiple responsibilities of supporting Reconstruction, all the types of activity Major General Steedman outlined, while simultaneously fighting Comanche Indians who roamed freely over many sections of western Texas, and watching French action in Mexico.⁸⁵ The Division of the Mississippi encompassed much of the Great Plains and the Department of Arkansas, and the units assigned to the Division of the Mississippi fought against the

governor; however, the Army was the last resort, civil authority should be used first. The second category gave guidance on civilian arrest, and it stated that nobody should be detained without a sworn complaint or warrant and that the military was to protect the legal rights of all citizens. The third category explained the military relation civilian federal officers in that military would provide support when they needed it. The fourth category explained relationships with Freedmen. The army would support the Freedman's Bureau, but it also would support state laws as well. Steedman's fifth category described troop conduct in that soldiers and officers were to be well-disciplined at all times.

⁸³ Ibid, 35.

⁸⁴ Ibid, 261. The Military Peace Act drew down the U.S. Army primarily by demobilizing the volunteer units and reorganizing the Regular Army.

⁸⁵ Ibid, 92.

Plains Indians until the signing of the Medicine Lodge Treaty in 1867.⁸⁶ This meant that the Army had to continuously supply soldiers to the frontier at the expense of other regions.

The reduction in the size of the Army presented the next problem for the commanders to tackle; the demobilization of the volunteer units. The demobilization of longer-serving white units led to problems throughout the South.⁸⁷ Many of the volunteer units were African-American which had been formed late in the war and would remain in federal service longer.⁸⁸ White southerners did not trust African-American units to be fair and impartial.⁸⁹ U.S. commanders therefore attempted to mitigate this risk by transferring units and placing forces in areas where they would be less offensive to the populace.⁹⁰ These actions demonstrated that the military leaders knew that the Army had to be perceived as a legitimate honest broker by all sides in the South.

The role of supporting the state governors, however, began to hinder the Army's ability to be the honest broker. As the states had both their constitutional conventions and elected new governors, the department commanders saw their role as supporting the governor in establishing legitimate order for developing reconciliation.⁹¹ An example of

⁸⁶Ibid, 23.

⁸⁷ Ibid.

⁸⁸ Ibid, 50.

⁸⁹ Ibid, 52.

⁹⁰ Ibid, 52-53. Often, commanders placed African-American units in the cities and white units in the rural areas in an attempt to maintain harmony. Furthermore, commanders carefully chose demobilization locations for African-American soldiers in order to prevent problems in the local Freedman community.

⁹¹ Ibid, 24-27.

the tension occurred when the provisional governor of Mississippi decided to form two companies of militia in accordance with his constitutional authority. Major General Henry Slocum, commander of the Department of Mississippi, sent troops to disband the militia since it was predominately former Confederate soldiers.⁹² Initially, Major General Slocum received support from Washington; however, repeated complaints by Governor Sharkey to the President led Johnson to tell Major General Slocum to assist the governor.⁹³ Furthermore, in states that had not yet formed a militia or were lacking in law enforcement, the Army often enforced vagrancy laws and labor agreements, both of which were part of the odious “Black Codes”.⁹⁴ This led to soldiers being put in situations of supporting either whites or Freedmen, and losing a degree of impartiality when they did so.

The requirement to support federal civilian agents and the Freedmen’s Bureau also presented challenges to maintaining legitimacy. Often, the Army was asked to help support treasury agents enforcing tax law.⁹⁵ Treasury agents executed broad-reaching powers and confiscated property or coerced better-than-market deals from southern citizens which enabled the agents to make a personal profit on the resale of the acquired property.⁹⁶ This practice became such a contentious issue that General-in-Chief Ulysses Grant issued guidance telling his commanders to be very careful in determining if

⁹² Ibid, 27.

⁹³ Ibid.

⁹⁴ Ibid, 27-30

⁹⁵ Carter, *The Angry Scar* ,33; Ibid, 34. Et al.

⁹⁶ Carter, *The Angry Scar* ,33.

property was truly Confederate or not.⁹⁷ The complaints about corruption became so persistent that Secretary of the Treasury Hugh McCulloch asked for the military to help him fight malfeasance by his treasury agents on the ground in the South.⁹⁸ While the military still maintained a level of legitimacy in this effort, being the face of property seizure certainly did not help build a closer relationship with white southerners.

In addition to the problems associated with supporting the Department of the Treasury, the Army also faced problems in supporting the Freedman's Bureau. Congress created the Freedmen's Bureau in March of 1865 as the Bureau of Refugees, Freedmen and Abandoned Lands, or The Freedmen's Bureau to help freed slaves and other refugees have their civil rights protected and to provide for their welfare, and Major General Oliver Howard, an ardent abolitionist and devout Christian, served as the commissioner of the Freedmen's Bureau.⁹⁹ The Freedmen's Bureau was created as an institution that was to provide a stable transition for African-American's from slavery to free laborers.¹⁰⁰ Congress and Major General Howard believed that the Freedmen's Bureau presented the best chance to integrate the Freedmen into society. Major General Howard received assistance in his duties from assistant commissioners who ran operations at the state

⁹⁷ Sefton, *The United States Army and Reconstruction 1865-1877*, 38-39.

⁹⁸ Ibid, 39.

⁹⁹ John Cox and LaWanda Cox, "General O. O. Howard and The "Misrepresented Bureau", *The Journal of Southern History* 19, no. 4 (1953). 450-451. Ezell, 50-51; Foner, *Reconstruction*, 69. Congress created the Freedmen's Bureau based on reports received from the American Freedman's inquiry Commission. The commission conducted a survey of Union held areas of the south, and they determined that freedmen were not prepared to assume an independent existence. Congress created the Freedmen's Bureau based on reports received from the American Freedmen's inquiry Commission. The commission conducted a survey of Union held areas of the south, and they determined that freedmen were not prepared to assume an independent existence.

¹⁰⁰ Ezell, *The South Since 1865*, 50; Foner, *Reconstruction*, 68-70.

level.¹⁰¹ The creation of a separate entity, initially under the control of the War Department, and then Congress, led to cooperation becoming disjointed between Army units on occupation duty and Freedmen's Bureau agents.¹⁰² This too led to problems with the perception of the U.S. Army as the honest broker in the South as time progressed causing problems in reconciliation taking place.

The initial manning of the Freedmen's Bureau proved problematic for the Army. After the appointment of Major General Howard and the assistant commissioners, the remaining military officers were often detailed from units on occupation duty.¹⁰³ Sefton contends that this served as a detriment to the units because leaders detailed to occupation duty were now assigned to other tasks.¹⁰⁴ Because officers were assigned based on who was available and who a unit was willing to do without, Major General Howard and his assistant commissioners remained concerned over the quality and honesty of the officers the Freedman's Bureau was receiving.¹⁰⁵ The policies taken by Major General Howard, and what he attempted to do in forming his bureau's leadership, demonstrates that the success of the mission could only be achieved by maintaining legitimacy with the

¹⁰¹ Cox and Cox, *The Journal of Southern History*, 431-432. The assistant commissioners were all senior army officers. Below the assistant commissioners were county and municipal commissioners and various agents. Some of the lower-level commissioners were civilians, and others were seconded from Army units on duty in the area.

¹⁰² Cox and Cox, *The Journal of Southern History*, 432-434; Sefton, *The United States Army and Reconstruction 1865-1877*, 47.

¹⁰³ Sefton, *The United States Army and Reconstruction 1865-1877*, 47.

¹⁰⁴ Ibid.

¹⁰⁵ Cox and Cox, *The Journal of Southern History*, 431-438; Sefton, *The United States Army and Reconstruction 1865-1877*, 49. According to historians John and LaWanda Cox, Major General Howard issued guidance that assistant commissioners carefully review any officers they recommended for continued active duty. Major General Howard viewed the Freedmen's Bureau as serving a nonpartisan role

southern population. However, the dual chains of command for officers serving in the bureau had the potential to present disjointed military actions that could be perceived as ineffective, inconsistent, or partisan by both white and African-American southerners.

The selection and appointment of the civilian members to the Freedmen's Bureau also proved problematic. The civilian members were political appointees with a wide spectrum of political views. In some cases, such as in Virginia, military officers developed lists of candidates by engaging both with the Freedmen and the local white community to develop acceptable candidates.¹⁰⁶ All too often, however, the dire need to fill these positions resulted in white northerners, some with partisan agendas, becoming local bureau agents.¹⁰⁷ The introduction of these less-than-savory individuals into local positions led to decreased legitimacy for the Freedmen's Bureau.

In its first year, the Freedmen's Bureau focused on handing out assistance aid, providing education, and helping freedmen with wage negotiations. The Freedmen's Bureau provided 21,000,000 rations and provided medical treatment for 148,600 freedmen and white refugees.¹⁰⁸ The responsiveness of the Freedmen's Bureau in the immediate post-war destruction gave it a level of credibility and legitimacy even with the white southerners.

and, Howard believed accusations of corruption would hinder the Freedmen's Bureau and therefore gave guidance that corruption would not be tolerated and it should be rooted out.

¹⁰⁶Richard Lowe, "The Freedmen's Bureau and Local White Leaders in Virginia", *The Journal of Southern History* 64, no. 3 (1998): 455-72., 456-458.

¹⁰⁷ Carter, *The Angry Scar* , 59; Cox and Cox, *The Journal of Southern History*, 448-449; Foner, *Reconstruction*, 145.

¹⁰⁸ Carter, *The Angry Scar* , 58; Ezell, *The South Since 1865*, 51. The Freedmen's Bureau charter included refugees so destitute whites received aid as well.

The Freedmen's Bureau played an important role in changing the economic model of the South. The commissioners of the Freedmen's Bureau saw that they could build trust between African-American and whites by serving as an honest broker in labor negotiations.¹⁰⁹ The Freedmen's Bureau attained a level of success in this area, as businesses and the labors came to agreements on wages, but the wages were not suitable for long term economic growth by the freed slaves.¹¹⁰ The lack of hard currency and capital prevented the land owners from being able to enter into true labor negotiations for a wage.¹¹¹ This led to the development of a labor system known as contract-labor whereby work was traded for a share of the end profit.¹¹² Over time, this system of contract-labor served as solution to two problems. Contract labor helped solve the problem of land upon which freed slaves could live because the contracts provided land for the freeman and his family to live.¹¹³ The contract-labor system also solved the labor issues for the planters and wages for freed slaves, but planters felt they lost some control of their land and the freed slaves still felt under compensated.¹¹⁴ According to historian

¹⁰⁹ Cox and Cox, *The Journal of Southern History*, 453; Ezell, 52, Foner, *Reconstruction*, 164-168.

¹¹⁰ Foner, *Reconstruction*, 166.

¹¹¹ Ezell, *The South Since 1865*, 52-53; Ibid, 164-168; Sefton, *The United States Army and Reconstruction 1865-1877*, 44.

¹¹² Ibid, 52; Ibid, 164; Ibid.

¹¹³ Carter, *The Angry Scar*, 58; Ezell, *The South Since 1865*, 52-55; Foner, *Reconstruction* 160-163, 164, 167-168, 174.; U.S., *Statutes at Large, Treaties, and Proclamations of the United States of America*, vol. 13 (Boston, 1866), pp. 507-9. Initially, the Freedman's Bureau tried to settle the freed slaves on abandoned lands in accordance with section 4 of the Freedman's Act of 1865. However, there was not enough land to do this for everyone, and owners later appeared with deeds to lands thought abandoned by the bureau agents. Furthermore, Freedmen's Bureau officials failed to dismiss a rumor in December of 1865 that Freedmen were going to receive 40 acres and a mule. Eventually, the contract labor system mutated into the sharecropping system as a method that provided tenant farmers with land in exchange for labor, and a portion of the crop profits.

¹¹⁴ Foner, *Reconstruction*, 174.

John Ezell, the sharecrop system was to serve only as an interim method to enable a transition of land to African-American ownership over time through traditional methods; however, the sharecrop system became an end unto itself instead of remaining a means.¹¹⁵ This development led to a legitimate system which kept poor whites and African-Americans from being able to improve their position in life.

To overcome the inadequacies of the African-American existence, General Howard introduced the concept of publically-funded education to a majority of the South.¹¹⁶ In its first year, the Bureau opened 975 schools with 90,778 students, and 1,405 teachers.¹¹⁷ Howard did this by utilizing his tax assessing authority under the Freedman's Act to build schools.¹¹⁸ The real problem with the schools came in the form of the faculty. Initially the faculty tended to be local employees, but according to historian Eric Foner many of these teachers were racists.¹¹⁹ To overcome this development, many northerners, mostly young women, headed south to bring education to the Freedmen.¹²⁰ Many of the teachers came from Methodist organizations in New England, and from colleges like Oberlin in Ohio.¹²¹ These organizations were closely allied with the early abolitionist movement and thus served to shape Freedmen's political opinions and link the advancement of the Freedmen with the political fortunes of the

¹¹⁵ Ezell, *The South Since 1865*, 54.

¹¹⁶ Cox and Cox, *The Journal of Southern History*, 454.

¹¹⁷ Ezell, *The South Since 1865*, 55

¹¹⁸ Carter, *The Angry Scar*, 187-189; Cox and Cox, *The Journal of Southern History*, 454

¹¹⁹ Foner, *Reconstruction*, 144.

¹²⁰ Carter, *The Angry Scar*, 186; Ibid, 144-145.

¹²¹ Ibid.

Republican Party.¹²² This seriously undermined the credibility of the Freedmen's Bureau with white southerners who began to view the schools as tools for political indoctrination instead of education.

The original charter for the Freedmen's Bureau gave it a life of only one year. The passage of the Black Codes and reports from the South, however, led Congress as a whole to pass a law continuing the existence of the Freedmen's Bureau for another year.¹²³ The new law also expanded the scope of responsibilities for the Freedmen's Bureau by granting authorities to the Bureau to form special courts to protect African-American Civil Rights.¹²⁴ The law gave the Freedmen's Bureau powers to trump state and local-level courts whenever Freedmen were involved.¹²⁵ President Johnson vetoed the bill because he believed it overstepped the government's constitutional authorities.¹²⁶ The Congress, especially the Radicals, angered by what they saw as a continued Confederate rebelliousness from the provisional state governments, overrode the President's veto, to continue the Freedmen's Bureau. The creation and continuation of these courts, however, coupled with unscrupulous actions taken by a minority of local officials, further caused the Freedmen's Bureau and the Army to lose legitimacy and become disliked in the South.

¹²²Carter, *The Angry Scar* ,59,188; Foner, *Reconstruction*,144; Wilentz, *The Rise of American Democracy*, 405.

¹²³ Carter, *The Angry Scar* , 59; Foner, *Reconstruction*,248-251; Donald G. Nieman, "Andrew Johnson, the Freedmen's Bureau, and the Problem of Equal Rights, 1865-1866," *The Journal of Southern History* 44, no. 3 (1978): 418. Congress continued to authorize the Freedman's Bureau up to 1872 on an annual basis.

¹²⁴ Ibid.

¹²⁵ Ibid.

The civil rights courts established by the Freedmen's Bureau themselves became problematic. These courts did provide a level of fairness which Freedmen had not previously received at the state level.¹²⁷ However, white southerners viewed these courts as a violation of their states' rights.¹²⁸ To help establish a clear policy, The Civil Rights Act of 1866 gave President Johnson authority to develop rules and regulations for the courts and the Freedmen's Bureau.¹²⁹ While Army officers had to execute Presidential directives, they were also required to support mandates of the court.¹³⁰ However, U.S. Army troops executing arrests and trials under the jurisdiction of enforcing legal equality for Freedmen made the Army part of the political terrain instead of being the honest broker.

The security situation during Presidential Reconstruction therefore presented a myriad of problems for the military. During this period, there was a level of mistrust between whites and African-Americans. White southerners continued to fear a violent uprising by Freedmen, and Freedmen with their white supporters presented stories of violent intimidation by racist whites.¹³¹ Under martial law and in support of the Freedmen's Bureau, the Army began to arrest, detain, and try offenders under military

¹²⁶ Ibid.

¹²⁷ Foner, *Reconstruction*, 205.

¹²⁸ Carter, *The Angry Scar*, 55-63; Donald G. Nieman "Andrew Johnson, the Freedmen's Bureau, and the Problem of Equal Rights, 1865-1866," 406-13.

¹²⁹ Nieman, "Andrew Johnson, the Freedmen's Bureau, and the Problem of Equal Rights, 1865-1866," 418-420

¹³⁰ Sefton, *The United States Army and Reconstruction 1865-1877*, 48.

¹³¹ Carter, *The Angry Scar*, 48-51; Foner, *Reconstruction*, 119-123.

commissions.¹³² These problems led General Grant to issue General Order 44 which gave the military commanders wide-ranging arrest authorities.¹³³ The use of the military to enforce civil laws was viewed as legitimate; however, once white southerners took the political actions they believed necessary for home rule; the military lost much of its credibility as an impartial law enforcement element.

Throughout Reconstruction, the Army typically supported the President's policy. However, the creation of the Freedmen's Bureau by Congress led to some problems for General Grant and Secretary of War Stanton. Secretary of War Stanton, General Grant and other military leaders like General Sheridan did not support the President's policy as they viewed it as too lenient.¹³⁴ Furthermore, the state courts reestablished under the Johnson plan began to file civil suits against soldiers for actions taken while martial law was in effect during the war and in its aftermath.¹³⁵ Soldiers being punished in civilian courts for good faith decisions while in government service led to a lack of faith by the serving military to the executive. The President's failure to support the military in these cases led to the President and his policies losing traction with the armed forces and

¹³²Harold M. Hyman, "Stanton, and Grant: A Reconsideration of the Army's Role in the Events Leading to Impeachment." *The American Historical Review* 66, no. 1 (1960): 91-93.; Sefton, 34-38. These actions raised considerable rancor with the white southerners. Furthermore, white southerners began to sue over the constitutionality of these acts resulting in the Milligan decision by the Supreme Court. Milligan established the limits on martial law and military authorities within the United States, a precedent that still carries weight today.

¹³³ Hyman, "Stanton, and Grant: A Reconsideration of the Army's Role in the Events Leading to Impeachment." , in *The American Historical Review*, 92.

¹³⁴ Ibid, 88.

¹³⁵Ibid; Sefton, *The United States Army and Reconstruction 1865-1877*,56

further exacerbated Johnson's problems with Congress. This type of divergence led to a failure of legitimacy between the occupation force and the local citizenry.

CH 2: Radical Reconstruction.

As the President lost face, the Republican Congress looked at a variety of bills to address Civil Rights, punishment of Confederates, and Confederate debt.¹³⁶ In 1866, the Republicans wrote the 14th Amendment, which would codify these ideas into the Constitution by declaring specific people ineligible to vote and declaring that African-American were considered U.S. citizens because they were born in the U.S..¹³⁷ Except for Tennessee, the 14th Amendment was not ratified by three quarters of the states, including all of the presidentially reconstructed states.¹³⁸ The ratification failure led the Republicans in Congress to view the states Reconstructed under Johnson's plan as illegitimate. Furthermore, ex-Confederate leaders serving in state level leadership and in the new Congressional delegations, coupled with the creation of "Black Codes" in the South, reinforced the Radical belief that drastic changes were needed.¹³⁹ Not all southerners acted in this manner; some key southern leaders, like ex-Confederate Lieutenant-General Wade Hampton, turned down opportunities at political leadership because they understood that this would be viewed negatively in Washington.¹⁴⁰

¹³⁶ Foner, *Reconstruction*, 257-258; Johnson became viewed as too lenient in his Reconstruction policies, and Congress believed he no longer had the legal or moral authority to direct the policy.

¹³⁷ Ibid, 258.

¹³⁸ Harpers Weekly, "Southern Rejection", <http://14thamendment.harpweek.com/HubPages/CommentaryPage.asp?Commentary=03Rejection> (accessed October 21, 2007).

¹³⁹ Carter, *The Angry Scar*, 117-118; Ezell, *The South Since 1865*, 78; Ibid, 224-225; Shenton, *Reconstruction*, 7. Alexander Stephens the former Vice-President of the Confederacy was voted into the Senate from Georgia in 1866, Lucius Q.C. Lamar drafted the Mississippi Ordinance of Secession and he served as key member of the 1865 state convention under Johnson's plan. After Reconstruction, Lamar returned to the Congress, and eventually became a Supreme Court justice.

¹⁴⁰ Milton, *The Age of Hate*, 126.

However, the actions taken by southern state legislatures and state constitutional conventions provided evidence to the Radical Republicans that President Johnson's plan was a failure.

In addition to the actions of the southern political bodies, the Congressional leadership heard reports from constituents serving in the South about poor treatment afforded to loyal unionists residents and Freedmen.¹⁴¹ Representative Benjamin Butler, a former Union general and occupation authority in New Orleans, waved a bloodied shirt to the floor of the House of Representatives claiming it was the shirt of Mississippi carpetbagger who had been flogged by unrepentant Confederates.¹⁴² Prominent military figures like George Custer reported that in Texas, regardless of the oath taken, the population remained loyal to the Confederacy and not the United States.¹⁴³ An Army officer named Russell Alger, who was later a Republican governor of Michigan, stated

The preservation of the union has cost too much to be thrown away now or given into the hands of its enemies.

All soldiers respect an honorable foe in the field as a foe. But it by no means follows that because they fought well they should now be given the power to govern...On the Contrary, I hope they will be left where they are until they give proof of their sorrow for their sins and guarantee good behavior for the future.¹⁴⁴

¹⁴¹ George M Blackburn,. "Radical Republican Motivation: A Case History." *The Journal of Negro History* 54, no. 2 (1969): 120.Carter, 122; Sefton, 45.

¹⁴² Carter, *The Angry Scar* , 109; Foner, *Reconstruction* , 487. The phrase "waving the bloody shirt" became a description of politicians utilizing emotional driven issues to win votes. It can be considered the pre-runner of today's 'October surprise'.

¹⁴³ Blackburn, "Radical Republican Motivation: A Case History.", in *The Journal of Negro History*, 120.

¹⁴⁴ *Ibid*, 121.

This statement from an Army officer serving in the South further encouraged many Congressional Republicans to view the President as out of touch with reality leading the Republicans in Congress to view Johnson's plan as a policy failure and the supposedly "Reconstructed" state governments as at best illegitimate and at worst still in a state of rebellion.¹⁴⁵

The perceived failures of President Johnson in Reconstruction led the Radical Republicans to win a majority in the Congressional elections of 1866.¹⁴⁶ Furthermore, many conservative and moderate Republicans supported Radical positions towards the South because they had concerns about their continued political viability with the successful conclusion of the Civil War.¹⁴⁷ With a solid coalition, Congress decided that it needed to set the Reconstruction policy and not the President.

With the new Radical majority, Congress began a showdown with the President by passing three military acts that became commonly known as the Reconstruction Acts. The Military Act of March 2, 1867 and its same-day supplemental divided the southern states into military districts and gave the military commanders the power to control the political process in these states.¹⁴⁸ The generals who commanded the military districts

¹⁴⁵ Ibid, 122.

¹⁴⁶ Ibid, 111; Ezell, *The South Since 1865*, 73; Foner, *Reconstruction*, 260. The Radical Republicans believed that the South needed to be punished for the Civil War.

¹⁴⁷ Ezell, *The South Since 1865*, 72.

¹⁴⁸ Sefton, *The United States Army and Reconstruction 1865-1877*, 114-123; Hyman, "Stanton, and Grant: A Reconsideration of the Army's Role in the Events Leading to Impeachment," 91-97; U.S., Statutes at Large, Treaties, and Proclamations of the United States of America, vol. 14 (Boston, 1868), pp. 428-429. The Reconstruction Acts reorganized the former Confederate states into five military districts. An officer in the rank of Brigadier General or higher commanded each district. Virginia became the First District commanded by General John Schofield; the Carolinas comprised the Second District under the command of General Daniel Sickles; Georgia, Alabama, and Florida composed the Third District under the

had the authority to hold elections, control the voter rolls, enforce laws, and try citizens by tribunal in accordance with sections 4 and 5 of the Military Act.¹⁴⁹ This gave the Army the role of serving as the government for the South, and therefore officially ended Presidential Reconstruction. Furthermore, the Radicals realized they had an opportunity to build the institutions of state government in a manner that they believed would both perpetuate Republican control in the South and also serve as a model for racial integration for the rest of the country.¹⁵⁰ In the Supplemental Bill of March 23, 1867 Congress defined who was eligible to vote in each state by requiring a specific loyalty oath which became known as the “Ironclad Oath”.¹⁵¹ The language of the bill effectively undid the earlier amnesty granted by President Johnson. With this act, the Congress disenfranchised anybody who could not take the oath in good faith like former Confederate soldiers and officials at even the local. These acts passed after Congress

command of General John Pope; General Edward Ord commanded the Fourth District which had Arkansas and Mississippi, and General Phil Sheridan commanded the Fifth District with Texas and Louisiana. All of these men served as prominent commanders during the Civil War. All of the commanders were charged to carry out the Reconstruction Acts, but there was little guidance on how to implement the acts. The various commanders all developed their own campaign plans for their own districts. All of these commanders implemented their initial plans with varying levels of success. These officers were appointed by President Johnson apparently because they already were General Officers. Some such as Sheridan had demonstrated considerable military capability, while others like Pope were not known as successes.

¹⁴⁹Carter, *The Angry Scar* ,126-127, ;Sefton, *The United States Army and Reconstruction 1865-1877*, 111-113,

¹⁵⁰Charles Calhoun, *Conceiving a New Republic* (Lawrence, Ks.: university of Kansas Press, 2006), 12-13; Robert J. Kaczorowski, "To Begin the Nation Anew: Congress, Citizenship, and Civil Rights after the Civil War," *The American Historical Review* 92, no. 1 (1987). 49; Wm. A. Dunning Source: Political Science Quarterly, Vol. 12, No. 3, (Sep., 1897); 383; Jack B. Scroggs, "Southern Reconstruction: A Radical View," *The Journal of Southern History* 24, no. 4 (1958). 410. The Republicans saw they could accomplish this by creating a political majority out of southern whites who had remained loyal to the Union throughout the Civil War and the freed slaves.

¹⁵¹ Foner, *Reconstruction* , 244.

assembled a super majority to override President Johnson's veto.¹⁵² Furthermore, this represented what many viewed as federal encroachment into an area normally controlled by the states.¹⁵³

The implementation of military rule now forced the Army to take on many functions that were not traditionally viewed as military in nature. The district commanders and their subordinates had the responsibility of providing services to the population such as tax assessment and collection, law enforcement, and the administration of justice.¹⁵⁴ These roles became viewed by the southerners as undemocratic and unrepresentative. To execute these tasks, the Army had 20,000 soldiers in the southern states with 5,000 of these soldiers in Texas.¹⁵⁵

The military administration presented a real issue of legitimacy for the southern whites. The Army generally became involved in trials by military tribunal in the case of felonies or civil rights in order to keep costs to the federal government low and not take

¹⁵² Carter, *The Angry Scar*, 124-127; Ezell, *The South Since 1865*, 80; Foner, *Reconstruction*, 272-276. et al. President Johnson vetoed the military acts because he viewed them as an overstep of federal power. President Johnson believed strongly in the right of the individual states to determine who was qualified to vote as enumerated in the Constitution.

¹⁵³ Wm A. Dunning, "The Constitution of the United States in Reconstruction," *Political Science Quarterly* 2, no. 4 (1887). 596.; Foner, *Reconstruction*, 244. Et al. There is little contention among the collected body of work that the federal government was now empowered beyond its enumerated powers in the Constitution. However, there is some disagreement for the need of this. Almost all historians agree that these laws turned out to be negatively. Foner and Dunning represent to polar ends of the spectrum of reconstruction history.

¹⁵⁴ Carter, *The Angry Scar*, 146-150; Ezell, 78-82, Foner, *Reconstruction*, 307-308, 457-458; Sefton, *The United States Army and Reconstruction 1865-1877*, 110-118-121, 142-143; et al. Historians do not argue about the role of the Army during Reconstruction. Many treat the military leaders sympathetically as good men put in a bad situation, but there also tends to be a degree of hyperbole especially in the narrative in the South.

¹⁵⁵ Ezell, *The South Since 1865*, 82; Sefton, *The United States Army and Reconstruction 1865-1877*, 261.

away from the other duties of commissioned officers.¹⁵⁶ The narrative of the role and fairness of military tribunals changed over time. The military viewed themselves as enforcing laws and authorities granted to them by law.¹⁵⁷ However, the white southerners tend to view this differently. Many white southerners believed that the military tribunal system treated them unfairly. This belief came from the punishments handed out by the tribunals. White southerners saw men convicted of crimes such as discouraging Freedmen to register to vote and disloyalty receiving from 90 days to 2 years of hard labor in the Dry Tortugas while conversely Freedman's Bureau agents convicted of corruption received a "guilty, but acquitted" verdict.¹⁵⁸ White southerners also viewed punishment for murdering a freedman as harsh with men receiving ten years in jail, but the Army also punished pro-Radical elements just as harshly for murder, and it merely shows the underlying racism that existed in the civilian courts.¹⁵⁹

The Army also had a problem with how rigidly they enforced the concept of loyalty. The district commanders and their subordinates took the issue of disloyal language very seriously. The First Amendment of the Constitution guaranteed freedom of speech for individuals, especially political speech. Army officers assigned to Reconstruction duty frequently closed newspapers that wrote editorial viewed as disloyal. Commanders often defined this disloyalty as either conservative political thought or

¹⁵⁶ Sefton, *The United States Army and Reconstruction 1865-1877*, 146.

¹⁵⁷ Ibid.

¹⁵⁸ Carter, *The Angry Scar*, 148.

¹⁵⁹ Ibid; Sefton, *The United States Army and Reconstruction 1865-1877*, 146-147.

disparaging comments made about army officers and federal agents.¹⁶⁰ In Vicksburg, Mississippi, for example, the Army seized, tried, and incarcerated the editor of the *Vicksburg Times*, W.H. McCardle, for disloyalty based on criticizing both General Ord and the Congress.¹⁶¹ The editor eventually sued in federal court for a writ of habeus corpus claiming he had never been subject to due process.¹⁶² The U.S. Circuit court upheld the military's actions, and McCardle, the editor, eventually appealed to the U.S. Supreme Court. Congress, however, passed a law which took jurisdiction away from the court for such cases, and white southerners saw this as yet another case where their fundamental rights were abrogated. Southerners therefore believed that federal efforts at Reconstruction were increasingly illegitimate.¹⁶³

As much as selective censorship of the press angered white southerners, the military government's role in taxes brought the impact of military, and later Radical governance, directly to their doorstep. The Yerger case, a murder trial over tax assessments, became a negative example to white southerners of perceived military

¹⁶⁰ Sefton, *The United States Army and Reconstruction 1865-1877*, 146-153.

¹⁶¹ Carter, *The Angry Scar*, 148.

¹⁶² Ibid.

¹⁶³ Ibid, 146-150. In Jackson, Mississippi, the military mayor, Colonel Crane, ordered a piano of the local newspaper editor, E.M. Yerger, seized and auctioned to pay a tax debt. Yerger's family produced documentation that piano was the property of Mrs. Yerger before the marriage and not subject to seizure. Furthermore, Mr. Yerger was out of town, and he petitioned Colonel Crane to wait until he returned in order to settle the debt. Colonel Crane seized the piano regardless of the Yergers' wishes, and when Yerger returned to Jackson and encountered Colonel Crane an altercation ensued in which Yerger stabbed and killed Colonel Crane. The Army imprisoned Yerger and prepared to conduct a military Tribunal, but before the tribunal could be conducted Yerger's uncle petitioned the Supreme Court for a writ of habeus corpus to hear the case. The Army withheld from trying Yerger because of political concerns from the executive branch. Once civilian government replaced the military government in Mississippi, the government released Yerger claiming he would be subject to double jeopardy.

dictatorship while northern Radicals viewed it as the continued southern intransigance.¹⁶⁴

The examples of Yerger and McCardle caused southerners to view the military authorities as at best biased and at worst despotic causing a further erosion of legitimacy.

Besides cases involving corruption and censorship, the generals faced many problems in implementing the new governance policies towards the South. The first problem the generals dealt with was the painful requirement of registering voters and running elections.¹⁶⁵ The military now found itself managing voter rolls, determining voter eligibility, securing polling locations, and administering the loyalty oath.¹⁶⁶ The military successfully executed these diverse and non-traditional tasks which allowed the southern states to hold elections for state level constitutional conventions.

The next problem the district commanders faced stemmed from the first. The Reconstruction Acts placed the responsibility for civilian security requirements on the Army. The previous state-level law enforcement and militias were viewed by the Freedmen and the Radicals as a continuance of the Confederate status quo instead of serving as vehicle for allowing integration or reconciliation.¹⁶⁷ This problem magnified itself as commanders assumed new assignments and were replaced.¹⁶⁸ These changes led to southerners viewing the rules to Reconstruction as a changing mark on the wall subject

¹⁶⁴ Ibid.

¹⁶⁵ Sefton, *The United States Army and Reconstruction 1865-1877*, 128.

¹⁶⁶ Carter, *The Angry Scar*, 150-151; Ibid, 112-113. During this time the Army registered 703,000 black voters, 627,000 white voters, and disenfranchised 150,000 white voters in accordance with the Reconstruction Acts.

¹⁶⁷ Carter, *The Angry Scar*, 120-123 ;Ezell, *The South Since 1865*, 70-72;

¹⁶⁸ Ibid.

to the political whims of a Republican Congress using the military to execute its political agenda. The disenfranchisement of many white southerners and the granting of African-American suffrage did much to fracture the Scalawag portion of the Republican coalition in the South.¹⁶⁹ This fracture reinvigorated the southern branch of the Democratic Party.¹⁷⁰ The few native southerners who remained in the Republican Party found that the Radicals now set the agenda and were either alienated or marginalized.¹⁷¹ The harshness of the Reconstruction Acts therefore caused many southerners to feel betrayed by the federal government.

While the elections of 1867 and 1868 demonstrated to the southerners that words alone would not be enough to win elections. Prior to this election, white southerners who ran on conservative or anti-radical platforms attempted to influence Freedmen to vote for them. These politicians attempted to use an argument that the former slave masters had the Freedman's best interests in mind because they needed one another economically.¹⁷² However, because of the loyalty oath requirements, the conservatives were not able to win. The elections placed Radical Republicans in power, and this led to eventual violence between disenfranchised ex-Confederates and Freedmen. Furthermore, the

¹⁶⁹ Foner, *Reconstruction* , 304-305; Allen W. Trelease, "Republican Reconstruction in North Carolina: A Roll-Call Analysis of the State House of Representatives, 1868-1870." *Journal of Southern History* 42, no. 3 (1976): 452-453. A scalawag is a native southern who became members of the Republican party. This term became pejorative because those who remained Republicans became viewed as traitors doing the bidding of the Radical Republicans..

¹⁷⁰ Carter, *The Angry Scar* , 123; Ezell, *The South Since 1865*, 83; Allen W. Trelease, "Republican Reconstruction in North Carolina: A Roll-Call Analysis of the State House of Representatives, 1868-1870." *Journal of Southern History* 42, no. 3 (1976): 466.

¹⁷¹ Foner, *Reconstruction* , 304-305, Trelease, *Journal of Southern History* , 466.

¹⁷² Carter, *The Angry Scar* , 152; Ezell *The South Since 1865*, 82-83; Wyn Wade, *The Fiery Cross.*, (New York.: Oxford University Press, 1987),44.

election of General U.S. Grant to the presidency led to continued national support for Radical Reconstruction.

Having won political power in the South, the Radical Republicans believed that they could build and perpetuate a strong political base in the reconstructed south by utilizing the source of amnesty for former Confederates as a political tool. The Radicals believed that they needed African-American votes in order to be politically successful, and they reintroduced the Fourteenth Amendment to achieve that goal.¹⁷³ Included in the amendment was Section 3, which permanently disenfranchised certain former Confederates, and empowered Congress to grant amnesty by stating:

Section 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. However, Congress may by a vote of two-thirds of each House, remove such disability¹⁷⁴

This language specifically took the power of granting amnesty from the executive branch and gave it to the legislative branch, and codified it in the Constitution. The southern state governments, under Radical control from 1868 until 1872, ratified the Fourteenth Amendment.¹⁷⁵

¹⁷³ Charles Calhoun, *Conceiving a New Republic* (Lawrence, Ks.: University of Kansas Press, 2006), 12-13; Robert J. Kaczorowski, "To Begin the Nation Anew: Congress, Citizenship, and Civil Rights after the Civil War," *The American Historical Review* 92, no. 1 (1987). 49. Wood, 101.

¹⁷⁴ U.S. Constitution, Amendment 14, section 3

¹⁷⁵ Ibid, Foner, *Reconstruction*, 271-277. Virginia, April 11, 1868; February 23, 1870; North Carolina, July 4, 1868; South Carolina, July 9, 1868; Georgia, July 15, 1870; Florida, June 25, 1868;

The creation of Radical state governments through disenfranchisement led to problems throughout the South. In the eyes of southerners, the federal government effectively changed the rules to the game in mid play. Many white southerners accepted defeat on the battlefield and they accepted the rules for reintegration into the Union. The changing of political rules that put power in the hands of Freedmen and Radical Republicans, however, was unacceptable. The implementation of this program by disenfranchising white southerners led to a dramatic political polarization.

Taxation policy became the catalyst for the white southerners. Landowners carried a majority of the state tax burden, and yet most of the landowners were disenfranchised white southerners. As a result of war and Radical politics, the southern states had an exponential growth in tax rates against decreased economic output meaning that after roughly five years of Reconstruction, the former Confederate states paid roughly four times more in taxes than they did in 1860.¹⁷⁶ Many of these taxes were supposedly utilized to improve infrastructure.¹⁷⁷ State legislatures appropriated money for a variety of purposes. Many state legislatures voted various perks, such as exorbitant per diem rates for travel, for state officials, all of whom were Republican.¹⁷⁸ States also voted funds to buy land at inflated prices from Republican allies or sell land at a discount

Alabama, July 14, 1868; Mississippi, February 23, 1870; Arkansas, June 22, 1868; Louisiana, July 9, 1868; Texas, March 30, 1870.

¹⁷⁶Ezell, *The South Since 1865*, 85. Southern states public debt increased 132,000,000 dollars during the period of 1868 to 1872 when radical governments ruled all ten states. The rise in public debt was coupled with a decline in property values. In 1870 southern states paid roughly four times the amount of state taxes they had in 1860, and their property values had dropped in value by about 50%.

¹⁷⁷ Carter, *The Angry Scar*, 156, Ibid, 85-88;

¹⁷⁸ Carter, *The Angry Scar*, 157

to political friends.¹⁷⁹ The white southerners who were disenfranchised carried the burden of these expenditures, and not only began to view themselves as suffering from taxation without representation, but also began to act out in various ways considered to be illegal.

The Reconstruction Acts effectively placed the U.S. Army in charge of security and law enforcement. The Radicals saw that this could be used for political advantage as well. The second section of the second Reconstruction Act called for the states to disband their militias.¹⁸⁰ The new state governments now sought to establish security forces that would serve their interests and therefore established state police forces and new militias under Radical control.

The establishment of state-level police forces was a new concept in the South.¹⁸¹ The governors were the commander's-in-chief and were empowered to levy taxes to support the militias.¹⁸² This further angered the southern whites who carried the new tax burden with only minimal representation.¹⁸³ The Radical state governments also discouraged whites from joining because they were uncertain of the political loyalty of potential white members.¹⁸⁴ Furthermore, the state militias engaged in intimidating the

¹⁷⁹ Ibid, 157-158. A South Carolina legislator lost 1000 dollars on a horse race and the legislature voted him a 1000 dollar bonus to pay off the debt. South Carolina bought land for \$700,000 which was worth only \$100,000.

¹⁸⁰ Sefton, *The United States Army and Reconstruction 1865-1877*, 112.

¹⁸¹ Otis A. Singletary, "The Negro Militia During Radical Reconstruction," *Military Affairs* 19, no. 4 (1955). 178.

¹⁸² Ibid., 178.

¹⁸³ Ibid., 182.

¹⁸⁴ Ibid., 179.

population that was not pro-Radical or pro-Republican.¹⁸⁵ This led to an increase in political violence across the South.

The political mobilization of the Freedmen by the Radicals led to problems with the militia and the police forces. The Radical political leaders in the South created Loyal Leagues.¹⁸⁶ Many Freedmen who became active supporters of the Republican Party joined the new state militias under the control of the Radical state governments. Many southern whites began to view the Loyal Leagues and the state militias as one in the same. Loyal Leagues conducted military style maneuvers often as a show of force to intimidate voters.¹⁸⁷ The demonstrations of force conducted by these organizations provided a cause to unify white southerners against the Radical Republican state governments and develop their own organizations capable of using force.

The Ku Klux Klan provided the first organization that white southerners could use as a counter to the Loyal Leagues and militias. The Ku Klux Klan was founded in 1866 in Tennessee as a social organization for Confederate veterans.¹⁸⁸ Early Klansmen did not view their organization as a political tool, only a social organization. The early members often rode at night and conducted pranks such as making ghost sounds, against superstitious freedmen. Many freedmen viewed the actions of the Klan as silly.¹⁸⁹ This

¹⁸⁵ Ibid.,184.

¹⁸⁶ Carter, *The Angry Scar* ,55; Ezell, *The South Since 1865*, 85, Foner, *Reconstruction* , 110; et al.

¹⁸⁷ Carter, *The Angry Scar* , 120-123 ;Ezell, *The South Since 1865*, 70-72.

¹⁸⁸ Foner, *Reconstruction* , 342; Wade, *The Fiery Cross*, 36.

¹⁸⁹ Wade, *The Fiery Cross* , 36. Wade cited many examples of reports by African-Americans discussing that the Klans men would show up and make statements about being a dead Confederate soldier and needing a drink of water which win provided was poured back on the generous host. Many African-Americans knew who the person under the hood was.

early and relatively benign organization, however, provided the framework for what would become an organization utilizing terror for political purposes.

Due to the emergence of the Loyal Leagues, the Klan rapidly expanded beyond Tennessee. Many disaffected white southerners joined the Klan or other similar organizations, like the Knights of the White Camellia in Louisiana, during this time.¹⁹⁰ Generally these groups were known as patrol groups or night riders because they conducted similar type night intimidations operations.¹⁹¹ Eventually these groups all became commonly referred to as the Ku Klux Klan.

The Klan eventually created a centralized structure, by holding a meeting in April of 1867, in Nashville in order to create a unity of effort and unity of action.¹⁹² This meeting coincided with a meeting of the Democrat Party and shortly after the passage of the Reconstruction Acts.¹⁹³ Historian Wyn Wade contends this developed a unified strategy for fighting the Radical Republicans.¹⁹⁴ Regardless of ulterior motives, the Klan became an organized reality when former Confederate Brigadier-General George Gordon became the first grand Dragon of the Tennessee Klan.¹⁹⁵ Gordon wrote a postscript to the convention that organized the Klan into a hierarchical organization divided by county,

¹⁹⁰ Carter, *The Angry Scar* , 202.; Foner, *Reconstruction* , 425; Wade, *The Fiery Cross*, 37. In theory, groups calling themselves the Ku Klux Klan petitioned the original chapter in Pulaski, Tennessee. Many of these organizations did not do this, especially during the period of time that the Congress debated and passed the Reconstruction Acts.

¹⁹¹ Wade, *The Fiery Cross*, 37.

¹⁹² Ibid, 38.

¹⁹³ Ibid.

¹⁹⁴ Ibid.

¹⁹⁵ Ibid.

congressional district, and the state.¹⁹⁶ This structure provided a tool that placed organization at the levels of political action. This enabled the Klan to impact or even dominate politics if it so desired.

The Klan leadership knew that it needed a strong and respected leader in order to bring the various state organizations into region-wide compliance. Therefore, the Klan leadership chose former Confederate General Nathan Bedford Forrest to become the Grand Wizard. Under Forrest's leadership, the Klan became more visible in its activities.¹⁹⁷ However, Forrest also sought to keep Klansmen in line and out of politics by keeping the Klan directly out of any civil disturbances.¹⁹⁸ The Klan perpetuated a narrative that they were everywhere and nowhere during this time. However, they stayed out of the political debate for the time being. The Radical win of 1867 at the state level, and again in 1868 forced the conservatives to admit that influence would not be gained and led the Klan to utilize violence against the Reconstruction governments. The Klan often attacked specific targets such as known radical activists¹⁹⁹. The targeted people often held important positions in the local Freedman's Bureau, were influential Freedmen, or Carpetbagger activists.²⁰⁰ Local law enforcement and criminal systems

¹⁹⁶ Ibid.

¹⁹⁷ Ibid, 44.

¹⁹⁸ Ibid.

¹⁹⁹ Richard Current, "Ku Klux Reaction." In *Reconstruction*, ed. Richard N. Current (Englewood Cliffs, NJ: Prentice Hall, 1965), 90; Wade, *The Fiery Cross*, 46

²⁰⁰ Ibid.

often did not punish the Klan members when caught as the local judicial and enforcement systems were either coerced or sympathetic to the Klan.²⁰¹

As the states ratified the 14th and then 15th Amendments, their Congressional delegations, composed mostly of Carpetbaggers, assumed seats in Congress and the states were readmitted to the United States as Reconstructed.²⁰² This presented a new problem for Radicals because the states now had their full rights under the Constitution. The States' authorities now both had legal authority and responsibility for providing law and order for their populations. Concurrently, the Democrats tried a policy called "The New Departure".²⁰³ The Democrats at the state level ran moderate candidates who were disaffected with Radical policies and the intrusion of outside political elites, known as Carpetbaggers, into their native states.²⁰⁴ This now presented a viable and legal alternative to the Radical candidates.

Therefore, the re-admittance of the southern states into the Union led to an increase in political violence. The Klan executed terrorist activities like targeted political assassinations and random lynchings to dissuade candidates from seeking office, suppress

²⁰¹ Current, *Reconstruction* ,90;Ezell,104-107.

²⁰² Foner, *Reconstruction* , 294-297;Nicholas Lemann. *Redemption, the Last Battle of the Civil War*. 1st ed. New York: Farrar, Strauss, and Giroux, 2006, 41. Many of the Radical political leaders were recently arrived residents from northern states who had moved south either seeking business fortunes or political success. These people are known as carpetbaggers, a term of degradation still used today to define a political opportunist who relocates to gain a political advantage. Virginia, February 23, 1870; North Carolina, July 4, 1868; South Carolina, July 9, 1868; Georgia, July 15, 1870; Florida, June 25, 1868; Alabama, July 14, 1868;Mississippi, February 23, 1870; Arkansas, June 22, 1868; Louisiana, July 9, 1868; Texas, March 30, 1870.

²⁰³ Foner, *Reconstruction* ,412.

²⁰⁴Foner, *Reconstruction* , 413. These candidates became decisive because they were able to pass the disqualification criteria of the 14th Amendment.

voter participation, and coerce political support for the Democrats.²⁰⁵ The Radicals utilized Loyal Leagues and the state militia to hunt down the Klansmen or provide a defense against the Klan's activities.²⁰⁶ The level of violence rapidly escalated with the Klan controlling the night, and the Radical governments having limited control during daylight. The Klansmen were typically viewed as folk heroes by many southerners because they were fighting for their political rights.²⁰⁷

The violence became so pervasive that Congress believed it had to act, and therefore passed the Enforcement Acts of 1870 to curb violence in the south.²⁰⁸ Congress held heated political debate over the granting of broad enforcement powers to the government. The Act to Enforce the Provisions of the 14th Amendment became known as the Ku Klux Klan Act and outlawed conspiracy to deny civil rights, hinder those attempting to enforce civil rights, or actually take actions that denied civil rights.²⁰⁹ The Ku Klux Klan Act allowed the President to utilize the militia, army, or navy as an enforcement tool, and the President could also suspend the right to habeus corpus if the President felt compelled to do so to establish order.²¹⁰

President Grant utilized this law to destroy the Klan in South Carolina. In October of 1871, Grant suspended habeus corpus in nine South Carolina counties and

²⁰⁵ Carter, *The Angry Scar* , 210-215; Current, *Reconstruction* , 90; Ezell, *The South Since 1865*, 104-107; Wade, 61-66.

²⁰⁶ Carter, *The Angry Scar* , 215.

²⁰⁷ Ibid, 215-217. Appendix B

²⁰⁸ Calhoun, *Conceiving a New Republic* , 19-21; Current, *Reconstruction* ,70; Lemann, *Redemption, the Last Battle of the Civil War*, 48.

²⁰⁹ Calhoun, *Conceiving a New Republic*, 30.

²¹⁰ Ibid.

utilized the 7th Cavalry and the 18th Infantry to arrest hundreds of Klan members.²¹¹

Because the federal court system could not handle this many prisoners, and only 5 Klan leaders were tried and convicted.²¹² The court indicted but did not imprison a further 161 members, and released a further 281 members without being tried. The combined actions of Grant and the judiciary successfully ended the influence of the Klan in South Carolina.²¹³

President Grant's successful destruction of the Klan in South Carolina effectively ended federal involvement in enforcing laws in the southern states. The Congress finally recognized that political disenfranchisement was the root cause of the violence in the South, and in 1872 Congress passed an Amnesty Act of 1872 .²¹⁴ This act granted Amnesty to all former Confederates, except about 500 former high leaders, and negated Section III of the 14th Amendment.²¹⁵

This amnesty created the same political landscape that existed in 1866 before the the passage of the Radical's Reconstruction Acts. However, the southern political landscape of 1872 was now more violent with a polarization of race identity coupled to partisan politics. Instead of setting positive conditions for societal reconciliation, Radical

²¹¹ Ibid, 30;Wade, *The Fiery Cross*, 93-94

²¹² Wade, *The Fiery Cross*, 103.

²¹³ Calhoun, *Conceiving a New Republic* , 30-32,

²¹⁴ Ibid, 40-44.

²¹⁵ James A. Rawley, "The General Amnesty Act of 1872: A Note," *The Mississippi Valley Historical Review* 47, no. 3 (1960). 482. The Act allowed many of those disenfranchised in sec 3 of the 14th Amendment. This law was not challenged in the courts.

reconstruction had created a hyper-stratified society that now resorted to segregation to maintain order.

CH. 3: Conclusions

The U.S. Civil War sought to restore the Union by force. According to Clausewitz, war and force should be used only when a desired political objective can be achieved and that objective is clearly understood.²¹⁶ The Radicals saw war and its' aftermath as an opportunity to bring about the total abolition of slavery in the United States while Conservatives and moderates viewed the conflict instead as a battle to preserve the Union.²¹⁷ The resolution presented a good political objective for ending major combat Operations, but it did little to lend itself to developing a "Phase IV" transition plan. This led to military commanders making decisions based on their personal knowledge and biases while making adjustments for drastic changes in political policy over time. This led to a lack of consistency over both time and space. The lack of consistency served to frustrate and eventually anger the citizens of the entire country over the 12 years of Reconstruction.

The AR2 model recommends the use of amnesty to enable reintegration and eventual societal reconciliation. The failure to provide a perceived fair and legitimate amnesty instead of a corrupt or punitive amnesty until seven years after the end of the Civil War led to failure. Failures to address economic needs, coupled with later disenfranchisement and tax burden led to former combatants and newly freed slaves from

²¹⁶ Clausewitz, *On War*, 87.

²¹⁷ Eben Scott, *Reconstruction During the Civil War*, (Cambridge, Mass.: Riverside Press, 1895), 244-247; Eric Foner, *Reconstruction: America's Unfinished Revolution* (New York, Harper, Row, and Collins, 1988), 4-5;; Trefousse, 173; (John Crittenden Senate Years of Service: 1817-1819; 1835-1841; 1842-1848; 1855-1861, House 1861-18163 Party: Democratic Republican; Whig; American (Know-Nothing); Unionist (The day after the Battle of Bull Run, Representative John J. Crittenden of Kentucky

being reintegrated and integrated into a new southern society. The creation of systems at the local level that placed political power into an all or nothing model led to reconciliation occurring for almost another century.

AR2 recommends using institutions to enable reintegration and reconciliation. During Reconstruction, attempted institutional reforms in the security, legal, and political systems resulted in the systems being converted into tools for partisan advantage. Instead of forcing reintegration and reconciliation, the “Reconstructed” militias, jails, judges, legislatures, and even the military served to punish and oppress those out of political power both white and black. The government created a new institution, the Freedmen’s Bureau, in an attempt to integrate the Freedmen and assist the refugees from the war, and while it showed great promise, the federal government failed to staff the Bureau with quality personnel at the tactical level leading to the public perception of the Freedman’s Bureau as a Radical tool instead of an integrating agency. The failure of the southerners to reform their security/legal sector during Presidential Reconstruction followed by Radical failure during Radical Reconstruction ended any short term success for the government in creating a legitimate institution for security.

In transitioning from war to peace, there has to be a legitimate policy and enforcement for all parties. These actions have to take place at the lowest level. President Johnson’s policy focused on states solving their problems. However, the failure to resource the federal efforts at the local level led to a lack of consistency.

proposed a resolution in the House of Representatives that defined the goal of the Civil War as a war to preserve the Union.)

Furthermore, the establishment of separate chains of command and organizations further led to a lack of consistency and enabled a decrease in the perceived legitimacy of the occupation forces. This led to a loss of legitimacy with the southern population when contentious issues like suffrage for freed slaves became introduced. Johnson's greatest failure came in recognizing southern states as reconstructed while these same states had passed "Black Codes". A holistic look at the south, even with the methods of learning and observing at the time, would have produced better and more realistic policy towards the South. This would have enabled the policymakers to realize that better uses of resources like the Freedmen's Bureau would have led to a better implementation of policy in the South.

The military played a key role in Reconstruction. The military served as the policy implementer in the South. However, competing demands led to the military not being able to keep political violence to an acceptable level. AR2 calls for the military to potentially serve as an honest broker, but if policymakers apply biased policies then the military loses its air of impartiality and new honest broker has to be sought. In the American system, the courts often serve as the honest broker, but during Reconstruction the government rarely utilized the courts to provide impartial decisions. The military performed quite admirably given the competing and contradictory political policies.

The U.S. Army, however, made two crucial mistakes that led to failure in post-conflict transformation. The actions taken by the army, closing newspapers, in the name of loyalty, suppressed the 1st Amendment right to freedom of speech. Residents of southern states, now back in the United States, believed that they had the rights of citizens, and they viewed these actions as illegal. Furthermore, the army's use of its

ability to suspend the requirement of a writ of habeus corpus coupled with the use of military tribunals caused the people to view the Army as a partisan tool of oppression and not an honest broker. The Army's action in these areas led to the passage of the Posse Comitatus Act which prevents the federal military being used inside the United States except in very specific conditions. Reconstruction failed for many reasons.²¹⁸

The actions taken by the U.S. government in reconstructing its own sovereign territory were not unique to its era. The U.S. government took many actions that have been attempted on the modern battlefields of Iraq and Afghanistan. The key behind examining Reconstruction is that this provides an opportunity for the Army to learn from the mistakes it made in a previous large-scale attempt. The reasons for failure manifested themselves across all aspects of the DIME.²¹⁹ The failures led to 90 years of legitimized discrimination based on race. Furthermore, the failures led to a re-energized belief in sectional loyalties over the national loyalty which took two world wars to overcome. This failure of Reconstruction still casts a shadow on today's modern American political environment. If the policies of Reconstruction had worked as conflict transformation, these issues would have been put to rest long ago.

²¹⁸ Calhoun, *Conceiving a New Republic*, 161. The Posse Comitatus Act prohibits the President from using federal troops from executing law enforcement operations inside of states. This act was a direct fall-out from reconstruction as the new "redeemed" southern Congressional delegations sought to prevent the President from being able to send troops back into the South.

²¹⁹ DIME: elements of national power, diplomatic (political), informational, military(security), and economic.

APPENDIX A

Key excerpts from the 1st Reconstruction Act

Whereas, no legal State governments or adequate protection for life or property now exists in the rebel States of Virginia, North Carolina, South Carolina, Georgia, Mississippi, Alabama, Louisiana, Texas, and Arkansas; and whereas, it is necessary that peace and good order should be enforced in said States until loyal and republican State governments can be legally established; Therefore - Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That said rebel States shall be divided into military districts and made subject to the military authority of the United States as hereinafter prescribed; and for that purpose Virginia shall constitute the first district; North Carolina and South Carolina the second district; Georgia, Alabama, and Florida the third district; Mississippi and Arkansas the fourth district; and Louisiana and Texas the fifth district.

(Sec. 6. And be it further enacted, That until the people of said rebel States shall be by law admitted to representation in the Congress of the United States, any civil government which may exist therein shall be deemed provisional only, and in all respects subject to the paramount authority of the United States at any time to abolish, modify, control, or supersede the same; and in all elections to any office under such provisional governments all persons shall be entitled to vote, and none others, who are entitled to vote under the fifth section of this act; and no person shall be eligible to any office under any provisional governments who would be disqualified from holding office under the provisions of the third article of said constitutional amendment.²²⁰

²²⁰ U.S., Statutes at Large, Treaties, and Proclamations of the United States of America, vol. 14 (Boston, 1868), pp. 428-429; legislature.state.al.us/misc/history/constitutions/1868/1868enablingst (accessed and downloaded December of 2007).

APPENDIX B

The Ironclad Oath (3rd Reconstruction Act)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That before the first day of September, eighteen hundred and sixty-seven, the commanding general in each district defined by an act entitled "An act to provide for the more efficient government of the rebel States", passed March second, eighteen hundred and sixty-seven, shall cause a registration to be made of the male citizens of the United States, twenty-one years of age and upwards, resident in each county or parish in the State or States included in his district, which registration shall include only those persons who are qualified to vote for delegates by the act aforesaid, and who shall have taken and subscribed the following oath or affirmation:

"I, _____, do solemnly swear, (or affirm), in the presence of Almighty God, that I am a citizen of the State of _____; that I have resided in said State for _____ months next preceding this day, and now reside in the county of _____, or the parish of _____, in said State, (as the case may be); that I am twenty-one years old; that I have not been disfranchised for participation in any rebellion or civil war against the United States, nor for felony committed against the laws of any State or of the United States; that I have never been a member of any State legislature, nor held any executive or judicial office in any State engaged in insurrection or rebellion against the United States, or given aid or comfort to the enemies thereof; that I have never taken an oath as a member of Congress of the United States, or as any officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, and afterwards engaged in insurrection or rebellion against the United States, or given aid or comfort to the enemies thereof; that I will faithfully support the Constitution and obey the laws of the United States, and will, to the best of my ability, encourage others so to do: So help me God"; which oath or affirmation may be administered by any registering officer.²²¹

²²¹ U.S., Statutes at Large, Treaties, and Proclamations of the United States of America, vol. 14 (Boston, 1868), pp. 428-429; legislature.state.al.us/misc/history/constitutions/1868/1868enablingst (accessed and downloaded December of 2007).

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