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MASTER OF MILITARY STUDIES

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THE CARROT IN COIN:  
EFFECTIVELY UTILIZING THE COMMANDER'S EMERGENCY RESPONSE  
PROGRAM IN IRREGULAR WARFARE

SUBMITTED IN PARTIAL FULFILLMENT  
OF THE REQUIREMENTS FOR THE DEGREE OF  
MASTER OF MILITARY STUDIES

MAJOR KYLE G. PHILLIPS

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## Executive Summary

**Title:** The Carrot in COIN: Effectively Utilizing the Commander's Emergency Response Program in Irregular Warfare.

**Author:** Major Kyle G. Phillips, United States Marine Corps

**Thesis:** The Commander's Emergency Response Program (CERP) is more than simply a tool for humanitarian assistance and foreign aid because the employment of money as a weapons system during counterinsurgency operations provides the tactical commander an effective method to favorably shape the actions and perceptions of the civilian population.

**Discussion:** The Department of Defense (DoD) is generally restricted in expending funds for humanitarian purposes during military operations. The Department of State (DoS) and the United States Agency for International Development (USAID) are the government agencies with primacy over foreign aid, development, and reconstruction efforts. The seizure of more than \$768 million of Ba'ath party funds in Iraq following the fall of Baghdad during Operation IRAQI FREEDOM provided commanders with a tool to provide immediate relief to the Iraqi population. After the funds were exhausted Congress drafted a bill, signed by the President on 6 November 2003 funding the CERP with U.S. appropriations. The success of the program using seized funds in Iraq became the impetus for a similar appropriation for use in Afghanistan. However, over the last seven years, the appropriateness of how the CERP is used during counterinsurgency operations has raised a number of concerns. Within Congress, concerns over duplication of efforts between DoD and USAID during reconstruction programs, expertise of DoD personnel to manage and administer the program for large scale projects, and a perceived lack of oversight on small scale projects have led Congress to reduce the CERP appropriation below that requested by DoD. Additionally, Congress has increasingly attached reporting and coordination requirements to restrict uncontrolled spending in an ever-expanding counterinsurgency. Additional protests by non-governmental organizations raise the issue of whether a military force should be engaged in humanitarian support activities while the same force is concurrently conducting kinetic operations. The reality is that the CERP functions more as a non-kinetic weapons system for the tactical commander than a humanitarian or foreign aid program. As such, CERP serves as a vital tool for commanders during counterinsurgency operations whether in Iraq, Afghanistan, or operations in future theaters.

**Conclusion:** The Commander's Emergency Response Program is an appropriate and necessary tool for tactical commanders to be able to employ. The CERP is mistakenly categorized as a humanitarian and reconstruction program. The CERP successfully achieves the dual purpose of providing aid while also serving as a mechanism for commanders to shape the civilian population's perceptions and support of U.S. operations.

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## *Preface*

I first became acquainted with the Commander's Emergency Response Program (CERP) as a battalion judge advocate with Battalion Landing Team 2/4 and RCT-2 Task Force Tarawa in Barwanna and Rutbah, Iraq in 2007. The program has evolved significantly from using seized Ba'athist funds after the fall of Saddam during Operation IRAQI FREEDOM. Recently there have been a number of criticisms about the effectiveness and efficiency of the CERP in both Iraq and Afghanistan. Most of the criticism cites failed projects, poorly managed programs, and substandard performance by local contractors. However, students of counterinsurgencies all recognize the importance of influencing the population. The CERP is an essential tool that provides the local commander an ability to positively influence the operating environment. The future success of the CERP is dependent on the DoD's ability to adapt the program in order to address its critics. I hope that this study will contribute to the debate.

I would like to acknowledge Doctor John W. Gordon (Colonel, USMCR, Retired) for his mentorship and guidance. I would also like to thank my many peers who contributed to the ongoing debate involving the military's increased involvement in the tactical use of money to achieve non-kinetic effects on the battlefield.

## INTRODUCTION

The Commander's Emergency Response Program (CERP) is a critical part of the Department of Defense's approach to fighting a complex counterinsurgency in both Iraq and Afghanistan. Tactical commanders praise the program as an essential tool in a counterinsurgency. However, the CERP continues to face criticism in Congress, in the press, and from non-governmental organizations. The purpose of the CERP is to provide a non-kinetic tool for commanders in Iraq and Afghanistan "to respond to urgent humanitarian relief and reconstruction requirements within their areas of responsibility by carrying out programs that will immediately assist the indigenous population."<sup>1</sup> The guiding principles of the CERP, to include the above purpose statement, contribute greatly to the misunderstandings, criticisms, and objections to its use by opponents of the program.

This paper will examine the vexing question of whether the CERP in its current form is an appropriate tool for the United States military to use when engaged in a protracted counterinsurgency. The study will begin with origins of the program during Operation IRAQI FREEDOM and follow the evolution of the CERP from the distribution of seized Ba'athist funds in 2003 to a major portion of Congressional appropriations for humanitarian and reconstruction money in both Iraq and Afghanistan. There are three major challenges for the military directly participating in humanitarian aid. First, is the military the appropriate agency to administer a humanitarian and reconstruction program? Second, if the military should continue to administer the CERP, is the current program effective? Third, should the CERP be broken down into functional areas in order to better manage the program while maintaining the flexibility to use money in our military's counterinsurgency fight?

After examining the above issues, this paper will validate the CERP as a necessary and appropriate tool for tactical commanders, while proposing modifications to the program to ensure its future viability and support by Congress, our coalition partners, and the international community.

## **II. Funding U.S. Military Operations and the legacy of the *Honorable Bill Alexander***

### **Memo.**

Tactical units fund the majority of expenses incurred during military operations using the Operations and Maintenance budgets from the yearly appropriations by Congress. Operations and Maintenance is used “[f]or expenses, not otherwise provided for, necessary for the operation and maintenance of the [services] as authorized by law...”<sup>2</sup> Operations and Maintenance funds typically are not permissible for humanitarian assistance, reconstruction efforts in foreign countries, or other general foreign aid. *The Honorable Bill Alexander Memo*, discussed *infra*, reiterated the restrictive nature of fiscal law even when conducting military operations.

The Department of State generally is responsible, and appropriately funded, to conduct foreign assistance. Foreign assistance includes security assistance and foreign military assistance. The two exceptions to the general rule prohibiting Department of Defense funding for foreign assistance is, first, when the funding involves training whose primary purpose is for the benefit of the U.S. forces involved, and second, if Congress specifically authorizes DoD funding for the express purpose of the Department of Defense to provide such assistance. The Commander’s Emergency Response Program is a product of specific Congressional authorization for the military to use appropriated funds for humanitarian or civic needs of the indigenous population.<sup>3</sup>

The Commander's Emergency Response Program is beholden to the same principles of fiscal law applied to other Congressional appropriations. Put another way, funding military operations are subject to the same controls applicable to military units in garrison. The basic principles of fiscal law require that appropriations from Congress must be used for the proper purpose, during the time dictated in the appropriation, and for the specified amount in the appropriation. The oft-quoted U.S. Supreme Court case, *United States v. MacCollum*, made clear that "[t]he established rule is that the expenditure of public funds is proper only when authorized by Congress, not that public funds may be expended unless prohibited by Congress."<sup>4</sup> Fiscal law does not recognize any "deployed exception" to the expenditure of funds.<sup>5</sup> The history of commanders using money during military operations to achieve tactical effects is important to gain an understanding of the issues facing the CERP today.

A. The Purpose Statute and the Impact of the Necessary Expense Doctrine on Military Operations.

The purpose statute, 31 U.S.C. § 1301(a), is the most contentious fiscal control during an analysis of whether an expenditures is legal during military operations. The Comptroller General opinion in the *Honorable Bill Alexander Memo*, of June 22, 1984, is an appropriate starting point to examine military expenditures during operations involving construction, humanitarian aid, and foreign military support. The Department of Defense participated in Exercise Ahuas Tara (Big Pine) II with the Honduras military in August 1983 to February 1984. During the exercise U.S. military units constructed a 3500 foot dirt air-strip, expanded a 4300 foot dirt air strip to 8000 feet, constructed 300 wooden buildings for barracks, dining facilities, and work spaces, provided medical assistance to approximately 50,000 local Honduran civilians, provided veterinary care to

some 40,000 animals, built a school, and provided infantry, artillery, and medical training to participating Honduran military personnel.<sup>6</sup>

The extensive support to the Honduran military and civilians during the exercise raised questions prompting the Comptroller General's office to inquire as to what funding source and authorization the Department of Defense utilized to pay for the previously described expenses. The U.S. military justified the majority of the expenditures through their Operations and Maintenance (O&M) funds available to each participating unit. The various construction projects were also rationalized under O&M as "incidental to the exercise."<sup>7</sup>

The Comptroller General's opinion reiterated the "necessary expense doctrine" for expenditures during military operations. The necessary expense doctrine states that first, the expenditure must be reasonably related to the purpose of the appropriation. Second, the law must not prohibit the expenditure. Third, the expenditure must not fall specifically within the scope of another category of appropriation.<sup>8</sup> Additionally, even if the more specific appropriation is exhausted, the more general appropriation cannot be used because it would violate the "amount" principal of fiscal law and potentially creates an Anti-Deficiency Act violation under 31 U.S.C. §§ 1341-42, 1511-19. The Anti-Deficiency Act prohibits "obligating, expending, or authorizing an obligation or expenditure of funds in excess of the amount available in an appropriation, an apportionment, or a formal subdivision of funds."

The Comptroller General's review of the training, construction, and humanitarian aid provided by the U.S. military during the Ahuas Tara II exercise invalidated Operations and Maintenance as a proper appropriation for the activities conducted. For example, the Comptroller General found that funding the humanitarian aid provided to the civilian population during the exercise with O&M was improper. Because the U.S. Agency for International

Development (USAID) controls specific appropriations for humanitarian aid, O&M funding is not available unless the project is reimbursable by USAID through the Economy Act.<sup>9</sup>

The *Honorable Bill Alexander Memorandum* emphasized that there is no deployment exception to the principles of fiscal law. Fiscal controls exist during humanitarian assistance and military construction that provide a benefit to a foreign nation to ensure that an agency or department only proceeds if Congress has specifically authorized such foreign aid. The humanitarian and construction projects performed during Ahuas Tara II were likely extremely beneficial to the success of the exercise, the training of the participants, the civilians who were provided the aid, and an overall feeling of “good will” from the Honduran people. However, the U.S. Constitution, in Article I, section 9, states that “[N]o Money shall be drawn from the Treasury but in Consequence of an Appropriation made by Law.”<sup>10</sup> Congress possesses the “power of the purse” and despite the potential benefits of using money to advance U.S. national interests through innovative methods, there must always be a specific appropriation authorizing the activity.

#### B. Military Claims and the Infancy of Money as a Weapons System.

In addition to foreign assistance, the second method commanders would utilize to favorably influence the operating environment through monetary means is military claims. The use of claims in military operations is not new. General John J. Pershing during World War I recognized the need to secure popular support from the French citizenry when he requested that a claims mechanism be authorized by the War Department for acts or omissions resulting in the damage to property or injury of persons as a result of military operations. The result was the Indemnity Act of 1918 allowing the settlement of claims for the citizens of a foreign nation friendly to the United States.<sup>11</sup>

The Foreign Claims Act (FCA) evolved through the Indemnity Act from World War I and the Armed Forces Settlement Act during World War II. The FCA, enacted in 1956, became the permanent claims vehicle for commanders to have a legal means to provide compensation to the citizens of a foreign country who suffered injury or property damage due to military operations. The support of the population was a key factor in the expansion and eventual permanent claims system for the U.S. military. However, the FCA is very limited in its scope. In fiscal law parlance, there is a purpose obstacle for commanders in how they use money from the FCA to achieve their operational objective of winning the support of the population. The limitations of the FCA include the prohibition on paying claims incident to combat actions and the prohibition on paying claims to individuals “unfriendly” to the United States.<sup>12</sup>

The FCA was used extensively in combat operations in Vietnam, Grenada, and Panama. However, severe restrictions prevented a more aggressive use of FCA claims for combat related claims, limiting the ability to use money to influence neutral or adverse sectors of the population.<sup>13</sup> In addition to providing for humanitarian and reconstruction aid, the CERP also allows for “battle-damage” claims, claims payable to detainees upon release, and condolence payments for the death or injury of individuals during combat operations. The CERP provided commanders a legal method of using money to adjudicate meritorious battle-damage claims that would otherwise be excluded under the FCA or similar codified claims statutes.

### **III. The Origins of the Commander’s Emergency Response Program and the Codification of Funding Humanitarian and Reconstruction Projects in Iraq and Afghanistan.**

Upon the cessation of offensive combat operations in the beginning months of Operation IRAQI FREEDOM, the magnitude of the task for the occupation of Iraq became apparent. The rapid victory of the Coalition, led by the United States, created a vacuum of local and national

government services for the population. In addition to the task of rebuilding damaged and destroyed infrastructure from the ravages of a conventional armed conflict, the coalition faced the daunting task of restoring basic services throughout the country. Garbage collection, water and food distribution, and damaged or destroyed medical facilities required immediate attention in order to avoid a potential humanitarian disaster in the wake of a resounding military victory.<sup>14</sup> However, as stated in the preceding sections, fiscal law constraints did not provide an easy solution for the military forces, or their governments, to meet the emerging needs presented on the battlefield. The law of military occupation would allow some expenditure of Operations and Maintenance funds to meet the growing requirements of the population, but a more flexible and responsive solution was necessary.

The seizure of hundreds of millions of dollars by U.S. personnel presented one solution to meeting the immediate needs of the population. The seized funds were discovered in secret caches in and around Baghdad. Many of the caches were U.S. currency, \$100 bills in neatly stacked and sealed containers, set aside by Ba'ath Party members during their rule of Iraq. U.S. Central Command (USCENTCOM) announced that the seized funds were to be considered movable property of the State of Iraq instead of the personal property of individual Ba'athists.<sup>15</sup>

The Army V Corps commander published the regulations for the distribution of the seized funds in Fragmentary Order 104M on 7 May 2003.<sup>16</sup> The Coalition Provisional Authority (CPA) adopted the program established by the military commander and formally created the Commander's Emergency Response Program. The purpose of the CERP as stated in the implementing CPA memorandum was to "enable commander's to respond to urgent humanitarian relief and reconstruction requirements within their areas of responsibility, by carrying out programs that will immediately assist the Iraqi people and support the

reconstruction of Iraq.”<sup>17</sup> The CPA memorandum validated the tactical use of money to address the humanitarian needs of the civilian population.

The early success of the CERP led the President of the United States to include a provision to fund reconstruction efforts in an emergency supplemental funding for the war efforts. The supplemental funding request authorized using \$180 million of Operations and Maintenance for the CERP. The legislation was important because as the CERP evolved into an appropriated expenditure financed by U.S. tax dollars, the seized Ba’athist funds were quickly exhausted due to the success of the program. Operations and Maintenance (O&M) funding was used in the legislation due to the familiarity by tactical commanders and the flexibility of O&M. The legislation allowed O&M to be used for the CERP “notwithstanding any other provision of law.”<sup>18</sup> The longstanding constraints on O&M since the *Honorable Bill Alexander Memo* made the aforementioned provision critical to provide a flexible discretionary fund that commanders could easily access and easily utilize on the battlefield.

The supplemental appropriation ensured the continuation of the CERP in Iraq once seized funds were no longer available. The appropriation also created a similar program to benefit the people of Afghanistan. The CERP quickly became a popular tool for commanders in both theaters to address the humanitarian needs of the population in their battlespace while increasingly using the CERP as a counterinsurgency tool. The Department of Defense requested, and Congress obliged, an increase in funding each year for the CERP from 2004 to 2010. However, due to the discretionary nature of the CERP and the decentralized execution on the battlefield, there was little oversight of the CERP despite a provision in the legislation requiring quarterly reports to Congress. Finally, in the FY2011 budget, Congress for the first time reduced the requested funding for the CERP by \$300 million. The lack of coordination, poor oversight,

and collateral attacks on the military conducting humanitarian relief while actively engaged in kinetic operations put the CERP in jeopardy.

#### **IV. The Complex Nature of Counterinsurgency Warfare Requires a Flexible and Versatile Tool for the Department of Defense to Succeed.**

Before addressing the criticisms of the CERP by both Congress and practitioners of international humanitarian relief, an analysis of the complex nature of counterinsurgency and the importance of the population in achieving victory during irregular warfare will be addressed. The focus of any counterinsurgency will always reside in the civilian population and the level of support provided to the insurgent groups.<sup>19</sup> Mao Tse-tung wrote, “[b]ecause guerilla warfare basically derives from the masses and is supported by them, it can neither exist nor flourish if it separates itself from their sympathies and cooperation.”<sup>20</sup> Insurgent activity in the last sixty years, as well as the forces resisting insurgent efforts, succeeded or failed based on the ability to garner support from the civilian population.

The British efforts to defeat the Malayan Emergency from 1948 to 1960 highlight the role of the civilian population during an insurgency. The Malayan Communist Party (MCP) adopted the Maoist theory of guerilla warfare and popular revolution. The armed wing of the MCP was the Malayan Races Liberation Army (MLRA). A support organization known as the Min Yuen represented the organized popular support for the armed insurgents. The MCP’s popular support was generated by shortages of food, with inflation leading to a prohibitive cost of living for the Chinese peasant farmers on the peninsula, corruption among government officials, and efforts by landowners and managers to repress the laborers in the tin mines and rubber plantations.<sup>21</sup>

The British successfully checked the insurgent communist forces and reestablished government control by re-assessing the focus of their police and military actions. The Malayan

population was identified as the critical support necessary for the success of the MCP, and more specifically, the armed efforts of the MLRA. British Lieutenant General Sir Gerald Templer assumed the role of both civilian administrator and military commander in Malaya in 1952. Among many other initiatives, he is most often credited with identifying popular support as an essential element for the success or failure of an insurgency. Templer regarded this as the now frequently quoted “hearts and minds” approach to winning a counterinsurgency. In coordination with military and police actions, the strategy called for treating the indigenous people with respect, listen to their grievances, and mitigating those grievances when possible. Templer established “New Villages” relocating the squatter Chinese farmer population to areas away from MLRA influence where they ensured access to clean water, food, medicine, and small tracks of land to farm. The focus of the “New Villages” was on development of an attractive living environment for the Chinese minority in the Malay Peninsula.<sup>22</sup>

The Malaya Emergency is a prime example of how humanitarian and (re)construction aid is used by the tactical commander for an operational purpose. The humanitarian benefits to the population are obvious, however, the political realists most likely dominate this scenario more than liberalism. Templer attempted to separate the fish (insurgents) from the sea (population) in order to achieve operational success. Addressing the basic needs of the Chinese minority that initially supported the MLRA had the effect of diluting the critical support network necessary for the insurgency. Success in Malaya was measured in establishing “White Areas” resulting from the elimination of MLRA forces in an area and cooperation by the inhabitants. The individual economic and development initiatives were important, however, the real metric of success was expanding “White Area” indicating to both the Malayan population and the British government that the counterinsurgency was winning.<sup>23</sup>

The Iraq and Afghanistan insurgencies similarly relied upon the support of the population. The U.S. government obtained a correspondence between two senior al Qaida leaders applying a version of the Maoist insurgent strategy to the Islamic extremists' efforts in Iraq and Afghanistan. The letter, from al-Zawahiri, a leader of the Afghan insurgency, to al-Zarqawi, a leader of the Iraqi insurgency, is evidence of the great deal of importance the insurgent places upon popular support. Al-Zawahiri counseled that "the strongest weapon which the mujahedeen enjoy...is popular support from the Muslim masses in Iraq, and the surrounding Muslim countries."<sup>24</sup> Al-Zawahiri stressed the importance to sustain the popular support enjoyed by the Iraqi insurgency and the dangers presented by U.S. forces attempting to counter that support through efforts to meet the grievances of the Muslim communities throughout Iraq.

A useful model to understanding and countering the insurgent strategies for victory is presented by Donatella della Porta in her analysis "Left-Wing Terrorism in Italy."<sup>25</sup> Della Porta traces the emergence and evolution of terrorist groups and attributes the genesis to the unmediated interests of the masses. The movement can then assume a violent or non-violent position. If the violent repertoires are adopted, a network of individuals accepting violent action is required. Radical ideologies feed the network of individuals who will eventually feed into adopting terrorism in order to achieve the objectives of the movement. (See illustration on page 22.)

For example, the Iraqi insurgency in retrospect can be divided between the Sunni insurgency and the radical Shia insurgency. The unmediated interests of the masses included a repressed people, the Shia under Saddam Hussein. After the dissolution of the Ba'athists following the successful invasion of Iraq during Operation IRAQI FREEDOM, the perceived puppet secular government established by the Coalition Provisional Authority mobilized the

insurgents. The al-Zawahiri letter outlines the unmediated interests of the Shia populace and urges al-Zarqawi, the leader of al Qaeda in Iraq, to use the radical ideology of Islamic fundamentalism to garner support between both Shia and Sunni populations. The absence of security, perceived lack of sovereignty, loss of government services, poor economic conditions, and the humiliation by a western occupying force became drivers to support the insurgency in Iraq.

The U.S. Army Counterinsurgency Field Manual (FM) 3-24, published in 2007, addresses the unique aspects of fighting an insurgency. Full spectrum counterinsurgency operations, starting with establishing a secure environment and extending to the economic, political, and social conditions became the accepted doctrine to address the violence in both Iraq and Afghanistan. FM 3-24 echoes the principles of Lieutenant General Templer by identifying the decisive battle for people's minds as critical to the success for the counterinsurgent. Winning a counterinsurgency in the long term requires a vibrant economy, political participation, and restored hope in the community. Paragraph 1-153 of FM 3-24 emphasizes that "after security has been achieved, dollars and ballots will have more important effects than bombs and bullets. This is a time when 'money is ammunition.'"<sup>26</sup> The counterinsurgency experience in Iraq and Afghanistan validated the importance of influencing the environment through non-kinetic means. The military commanders accepted the concept of money as a weapons system to achieve effects on the population in addition to any immediate humanitarian goals. Unfortunately, the CERP's stated purpose created confusion for those outside of the military.

#### **V. Humanitarian Aid or Weapons System?**

The question presented for U.S. policy makers, especially those in Congress who provide the authority and resources for our armed forces to execute combat operations, is whether the

CERP is a traditional humanitarian aid tool or more properly evaluated as a weapons system for the tactical commanders. Humanitarian aid and reconstruction, as discussed above, is traditionally not a function of the Department of Defense (DoD) but rather falls under the responsibilities of the Department of State (DoS) and the U.S. Agency for International Development (USAID). However, if the CERP is a weapons system, used by the tactical commander in consonance with other functional areas such as maneuver, fires, and intelligence to achieve a tactical objective, then the metrics of success for monetary programs must reflect that endstate. Properly framing the purpose of the CERP is critical to the continued viability of the program for battlespace owners in combat.

A recent Government Accountability Office (GAO) audit exposed three main criticisms of the CERP in Afghanistan. The GAO audit restated the purpose of the CERP from the DoD Financial Management Regulations focusing on enabling local commanders in Iraq and Afghanistan to respond to urgent humanitarian relief and reconstruction requirements within their areas of responsibility.<sup>27</sup> GAO provided three primary criticisms of the CERP in Afghanistan. First, the GAO identified the lack of training for project purchasing officers and administrators of the CERP in Afghanistan as a critical shortfall in the execution of the program. Second, there is a lack of oversight and inability to assess the effectiveness of contractor performance, including tracking the status of current and past projects. Finally, the lack of effective coordination between battlespace owners and USAID and DoS representatives creates inefficiencies and problems with overall development strategies in theater.<sup>28</sup>

A Senate Armed Services Committee report echoed the concerns highlighted in the GAO audit. The committee identified a number of concerns with the administration of the CERP in both Iraq and Afghanistan. The committee expressed concerns over the capacity of the DoD to

effectively manage the growing number of projects initiated under the CERP. Specifically for Afghanistan, the Senate committee inquired as to the ability of Afghanistan to absorb the influx of large amounts of money in undeveloped regions. Additionally, the Senate committee advocated decreasing the maximum project amount to \$20,000,000 and establishing control measures limiting large-scale projects. Problems such as ensuring project completion and sustainment were critical shortfalls identified by the Senate committee in making their recommendations.<sup>29</sup>

The criticism of the CERP is not limited to the effectiveness of DoD's execution of the program. Non-Governmental Organizations (NGO) have threatened to withdraw support destined for Afghanistan because of the increased military involvement in delivering humanitarian aid. The NGOs reiterated the lack of project oversight as undermining reconstruction efforts. Additionally, NGOs express concern that development projects conducted by the military often become targets by the insurgents, thereby putting the lives of civilians at risk.<sup>30</sup>

Jane Barry and Anna Jefferys challenge the increased involvement of the military in delivering humanitarian aid. In the article, "A Bridge Too Far: Aid Agencies and the Military Humanitarian Response," the authors contend that military involvement in humanitarian aid politicized a crisis. Aid is directed toward people or groups who will be able to most positively affect military operations rather than an approach whereby aid is delivered to the people most in need.<sup>31</sup> Barry and Jefferys primarily focus on the military's involvement in humanitarian aid during peacekeeping and peace enforcement operations. The major critique in utilizing the military to deliver aid under these scenarios is that humanitarian relief is politicized, potentially

resulting in aid directed to achieve military or political objectives instead of humanitarian objectives.

Current doctrine, including FM 3-24 would tend to support the position that the delivery of humanitarian aid by the military is not based on the needs of the population. Indeed, many military planners understand humanitarian aid and reconstruction as a non-kinetic weapon that is employed to achieve appropriate non-kinetic effects, such as garnering the support of a neutral population during a conflict. However, an important distinguishing factor is to recognize that not all conflicts are created equal. For example, Chapter VI peacekeeping operations under a UN mandate generally involves the consent of both belligerent parties. The focus on peacekeeping operations is to remain neutral while fostering the peace already established, albeit often a tenuous peace. By contrast, peace enforcement operations under a Chapter VII mandate from the UN Security Council may involve compelling compliance and use of force to restore the peace.

U.S. operations in Iraq and Afghanistan are neither peacekeeping nor peace enforcement, rather they are more appropriately categorized as counterinsurgency operations. The Joint Publication 1-02 defines a counterinsurgency as “[t]hose military, paramilitary, political, economic, psychological, and civic actions taken by a government to defeat insurgency.”<sup>32</sup> How a conflict is characterized is critical to any discussion of what type, and under what authority, humanitarian aid is provided. FM 3-24 recognizes that typically the Department of State and USAID fund humanitarian aid under Title 22 of the U.S. Code. Furthermore, standing authorities for humanitarian aid are typically not as useful during a counterinsurgency. FM 3-24 specifically recognizes that the CERP in both Iraq and Afghanistan provide discretionary, flexible funding for a tactical commander to meet the needs of the population. Responding to the

basic needs of the civilian population is intended to influence the neutral or passive majority to support government efforts against the insurgents.<sup>33</sup> (See illustration on page 23)

## **VI. Recommendations to Ensure the Future Viability of the CERP in Iraq, Afghanistan, and Beyond.**

The three recommendations below may ensure the future viability of the CERP as an effective tool for military commanders. The first is to redefine the purpose of the CERP to reflect the focus on stability and security operations. The second recommendation is to limit the scope of the program to ensure clear lines of demarcation between a CERP project and projects more appropriately undertaken by USAID or other organizations. Finally, the training and oversight of the program must improve to facilitate proper project selection, administration, and coordination.

The DoD Financial Management Regulations defines the purpose of the CERP to enable the “commanders in Iraq and Afghanistan to respond to urgent humanitarian relief and reconstruction requirements...by carrying out programs that will immediately assist the indigenous population.”<sup>34</sup> However, many of the projects undertaken by commanders call into question the urgency of the humanitarian purpose. The *Washington Post*, in an article critical of certain CERP projects referenced a water park constructed in Iraq that never reached completion. Additional projects in Afghanistan never reached maturation.<sup>35</sup> However, the success of individual projects is a poor metric for whether the CERP is an effective tool for commanders.

Defense Secretary Robert M. Gates, during testimony to the U.S. Senate Committee on Appropriations stated:

“Commander’s Emergency Response Program or (CERP) funds are a relatively small piece of the war-related budgets...But because they can be dispensed quickly and applied directly to local needs, they have had a tremendous impact – far beyond the dollar value – on the ability of our troops to succeed in Iraq and Afghanistan. By

building trust and confidence in coalition forces, these CERP projects increase the flow of intelligence to commanders in the field and help turn local Iraqis and Afghans against insurgents and terrorists.”<sup>36</sup>

The Army’s CERP Handbook restates the DoD FMR purpose, but also acknowledges the CERP as a critical tool for commanders in stability operations. The success of the CERP is not necessarily measured in the amount of aid provided, but rather, in the effect the aid provided has on establishing security, stability, and fostering development in a commander’s area of operations.

United States Forces – Afghanistan (USFOR-A) published the most recent guidance on the CERP in December 2009. Included in the purpose in USFOR-A’s Standard Operating Procedures for the CERP was the dual intent “to meet urgent humanitarian needs *and* counterinsurgency objectives.”<sup>37</sup> (Emphasis added by this author.) Reconciling the impact that the CERP has during full-spectrum counterinsurgency operations is necessary to justify why military commanders, instead of USAID representatives or NGOs, should administer aid programs. The transparency that would accompany the CERP by clarifying the dual role monetary aid provides during operations such as a counterinsurgency would provide NGO’s the ability to understand the purpose of military aid programs. NGO’s would therefore be able to opt out of participation, augment military aid programs, or divert resources to other regions with a more stable security environment.

Closely related to redefining the purpose of the CERP is the second recommendation. Future administration of the program should appropriately limit the scope of the CERP in order to insulate the program from attacks based on the redundancy of missions and inadequate expertise by military personnel for large scale projects. The most recent legislation for the CERP proposes restricting projects to \$20,000,000.<sup>38</sup> The MAAWS-A adopted the recent changes to

the DoD FMR by including the limiting language “[p]rojects equal to or greater than \$500K are expected to be relatively few in number. Commanders are required to verify that local, national, donor nation, non-governmental organizations or other aid reconstruction resources are not reasonably available before using CERP funds.”<sup>39</sup> The intent of the limiting language is to ensure that projects are sustainable and achievable within the capabilities of the local commander.

Limiting the scope of projects is necessary in order to maintain the credibility of military personnel administering the program in the eyes of the local population, the insurgents, local officials, U.S. government officials, and the U.S. population (taxpayer). Projects exceeding the capabilities of a military unit decrease both the humanitarian impact and counterinsurgency effect. USAID has assumed an increased role by embedding personnel with military staffs. USAID personnel should assume responsibility for all large-scale projects. Limiting the CERP to projects under \$500,000 would relieve the burden on project purchasing officers and military commanders from administering projects that are time and resource intensive. Additionally, large-scale projects often have performance time frames that exceed the deployment cycle of military units. Tactical commanders should focus on small-scale projects under \$500,000 facilitating more efficient and effective administration of those projects.

The Government Accountability Office 2008 audit of the CERP in Iraq recommended more specifically defining what is “small-scale” and “urgent” in the implementing instructions promulgated by the Multi-National Force – Iraq (MNF-I). However, staffers and commanders alike were concerned that narrowly defining terms in the CERP’s purpose would infringe on the ability to effectively use the program. Unfortunately, by advocating maintaining such broad

language the DoD is faced with having to defend and justify a number of large-scale projects that more appropriately should be handled by USAID.<sup>40</sup>

In light of the changing security situation in Iraq and to a lesser extent, Afghanistan, restricting the total project costs to below \$500,000 would ensure the future viability of the CERP. Additionally, restricting the CERP projects will put the responsibility for major infrastructure development back on to USAID. USAID possesses the expertise, authority, and mandate to execute foreign aid and reconstruction. The Department of State and USAID must assume a greater role in our efforts to combat Islamic extremism if the concept of a “whole of government” approach to national security is to have any meaning.

Finally, the DoD must improve training for military personnel involved in CERP administration. Currently, most project purchasing officers (PPO’s) and pay agents (PA’s) receive their training when they arrive in the theater of operation. The GAO noted that some PPO’s only received a one hour block of training prior to receiving their appointment.<sup>41</sup> DoD should standardize training for PPO’s as well as attorneys and administrators of the CERP. Because the CERP does not follow the Federal Acquisition Regulations (FAR) for contracts, the level of training for PPO’s does not have to equal that of military contracting officers. However, mobile training teams should be available to train and certify personnel prior to their deployment.

In accordance with the GAO audit recommendation, training would also include establishing and maintaining a common database for CERP projects. Training personnel on a common database accessible to USAID and other agencies is critical to the effectiveness and efficiency of not only the CERP but also other Title 22 aid programs. The CERP will be most

effective in achieving the long-term stability goals articulated in FM 3-24 if there is an effective “hand-off” between military personnel and USAID.

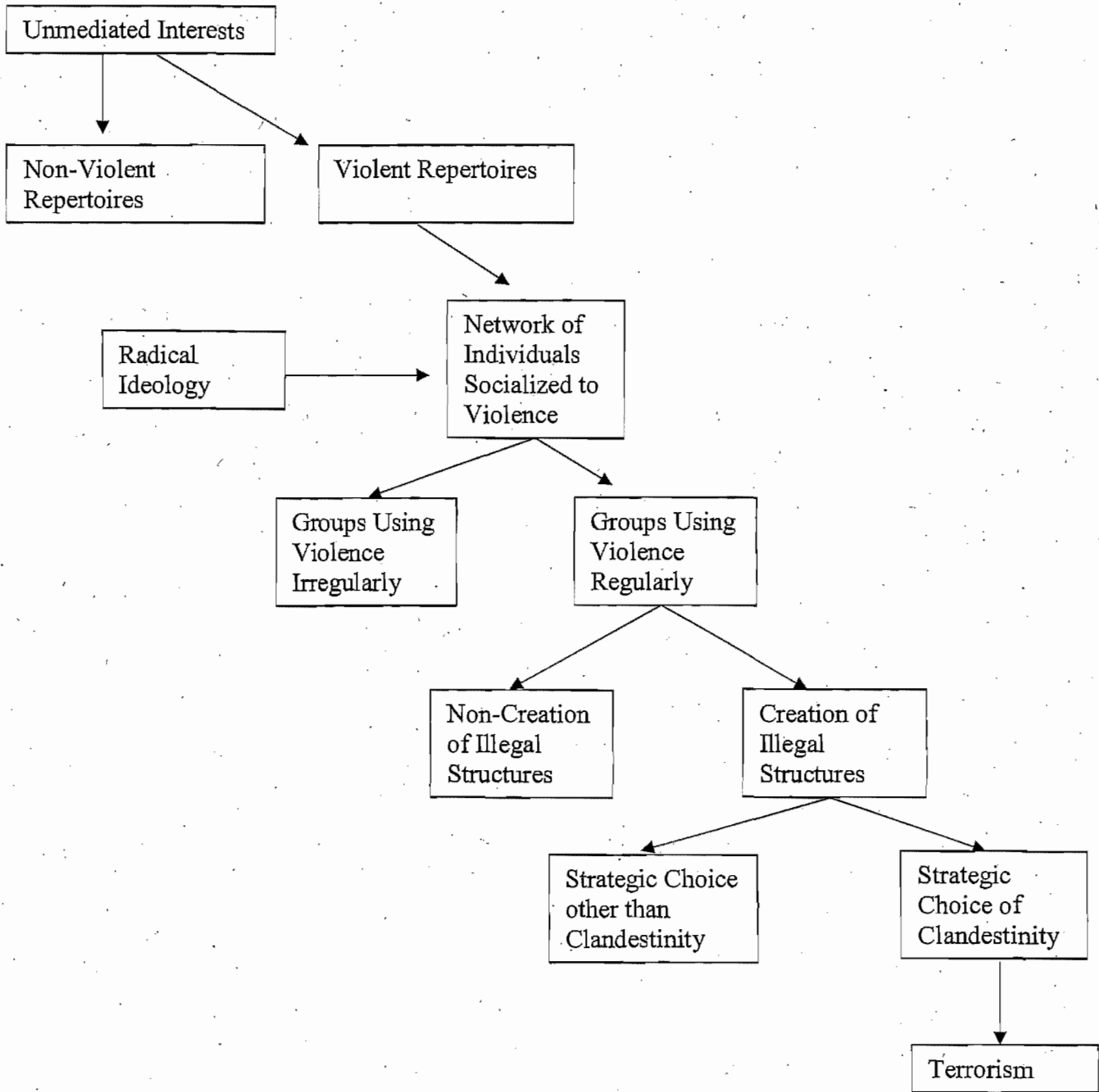
## **VII. Conclusion.**

The Commander’s Emergency Response Program is continuously evolving. The inception of the CERP as a method to re-establish essential services and address critical humanitarian needs with seized Ba’athist money created an in-road for DoD to establish “full-spectrum counterinsurgency.” The CERP provides a responsive and flexible method to address the unmediated interests that fuel the social sanctuary necessary for an insurgency to thrive.

The fiscal law constraints will always make the employment of the CERP for commanders more onerous than other tools available on the battlefield. However, by appropriately defining the purpose of the CERP to include stability operations in addition to the humanitarian function, the DoD can develop suitable metrics of success. The performance metrics must include not only sustainability and success of individual projects, but must also include the effects injecting money as a weapons system has on the security of the population. Analogous to the British military creating “White Areas” in Malaya when civilian population areas became secure, the U.S. military must assess the impact of CERP projects based on the relative support of the indigenous population.

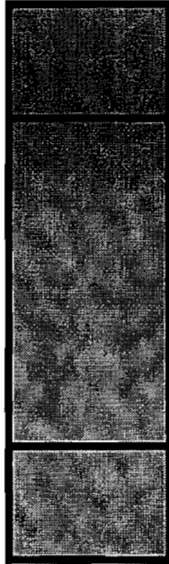
The recommendations provided in this paper are permutations of those addressed in Senate Armed Service committee reports and Government Accountability Office audits. The DoD resisted most efforts for tighter control and more restrictive language for the CERP. However, faced with increasing constraints on DoD’s budget during a global financial crisis, the CERP will have to justify the expense levied on the U.S. taxpayer. However, the relative value of money compared to bullets and blood in fighting a counterinsurgency cannot be over-stated.

Donatella Della Porta's Model for the Emergence of Clandestine Organizations<sup>42</sup>



Support for an Insurgency<sup>43</sup>

In any situation, whatever the cause, there will be -



An active minority for the cause

A neutral or passive majority

An active minority against the cause

## Bibliography

- Barry, Jane and Anna Jeffrys. "A Bridge Too Far: Aid Agencies and the Military in Humanitarian Response." *Humanitarian Practice Network*. Network Papers. (January 2002).
- Bill, Brian, Marie Anderson, and Jeremy Marsh, eds. *Operational Law Handbook*. Charlottesville: Internationals and Operational Law Department, 2009.
- Boak, Josh. "In Afghan Hands, Aid Projects Neglected: Reconstruction Funding." *Washington Post*, January 4, 2011.
- Brazier-Creagh, K.R., "Malaya" *The Journal of the Royal United Services Institution*, May 1954.
- Comptroller General Decision B-213137. *Honorable Bill Alexander Memorandum*. June 22, 1984.
- Della Porta, Donatella. "Left-Wing Terrorism in Italy." In *Terrorism in Context*. Edited by Martha Crenshaw, 105-159. University Park, PA: The Pennsylvania State University Press, 1995.
- Department of Defense Financial Management Regulations. *Commander's Emergency Response Program (CERP)*. Washington, D.C: Office of the Secretary of Defense (Comptroller), January 2009. <http://comptroller.defense.gov/fmr/> (accessed January 21, 2011).
- Galula, David. *Counterinsurgency Warfare: Theory and Practice*. Westport: Praeger Security International, 2006.
- Headquarters U.S. Marine Corps, *Mao Tse-tung on Guerrilla Warfare*, FMFRP12-8, Washington D.C: Headquarters United States Marine Corps, 5 April 1989.
- Kilcullen, David. *The Accidental Guerrilla: Fighting Small Wars in the Midst of a Big One*. New York: Oxford University Press, 2009.
- Marston, Daniel and Carter Malkasian. *Counterinsurgency in Modern Warfare*. New York: Osprey Publishing, Ltd, 2008.
- Martins, Mark. "No Small Change of Soldiering: The Commander's Emergency Response Program (CERP) in Iraq and Afghanistan." *The Army Lawyer*, (February 2004): 1-19.
- Moyar, Mark. *A Question of Command*. New Haven: Yale University Press, 2009.
- Nagl, John A. *Learning to Eat Soup with a Knife: Counterinsurgency Lessons from Malaya and Vietnam*. Chicago: The University of Chicago Press, 2005.
- Patrick, Stewart, and Kaysie Brown. "The Pentagon and Global Development: Making Sense of the DoD's Expanding Role." *Center for Global Development*, No. 131, November, 2007.

- Starkey, Jerome. "North Atlantic Treaty Organization Aid Effort Puts Lives at Risk in Afghanistan, According to Charities." *DISAM Journal of International Security Assistance Management*. Vol 32, Iss 1 (July 2010): 168, <http://www.proquest.com/>.
- U.S. Congress. Senate. Committee on Armed Services. National Defense Authorization Act for Fiscal Year 2011. *Authorizing Appropriations for Fiscal Year 2011 for Military Activities of the Department of Defense and for Military Construction, to Prescribe Military Personnel Strengths for such Fiscal Year, and other Purposes*. 111<sup>th</sup> Cong., 2<sup>nd</sup> sess., June 4, 2010.
- U.S. Congress. Senate. Committee on Appropriations. *Department of Defense Appropriations Bill, 2011*. 111<sup>th</sup> Cong., 2d sess., September 16, 2010.
- U.S. Department of the Army. *Claims*. AR 27-20. Washington, DC: U.S. Department of the Army, July 2003.
- U.S. Department of the Army. *Commander's Emergency Response Program*. Center for Army Lessons Learned. No 08-12, April 2008.
- U.S. Department of the Army. *Commander's Guide to Money as a Weapons System*. Center for Army Lessons Learned. No 09-27, April 2009.
- U.S. Department of the Army. *Fiscal Law Deskbook*. Charlottesville: The Judge Advocate General Legal Center and School, 2009.
- U.S. Department of the Army, and Headquarters U.S. Marine Corps. *Counterinsurgency*. FM 3-24 or MCWP 3-33.5: Washington, DC: U.S. Department of the Army, December 2006.
- United States Forces – Afghanistan. *Money As A Weapons System (MAAWS-A): Commander's Emergency Response Program (CERP) SOP*. USFOR-A Publication 1-06. December 2009.
- U.S. Government Accountability Office. *Military Operations: Actions Needed to Better Guide Project Selection for Commander's Emergency Response Program and Improve Oversight in Iraq*. Washington, D.C: Government Accountability Office, 2008.  
<http://www.gao.gov/new.items/d08736r.pdf> (accessed January 21, 2011).
- U.S. Government Accountability Office. *Military Operations: Actions Needed to Improve Oversight and Interagency Coordination for the Commander's Emergency Response Program in Afghanistan*. Washington, D.C: Government Accountability Office, 2009.  
<http://www.gao.gov/new.items/d09615.pdf> (accessed January 21, 2011).
- Walerstein, Jordan. "Coping with Combat Claims: An Analysis of the Foreign Claims Act's Combat Exclusion." *Cardoza Journal of Conflict Resolution* (Fall 2009): 319-351.

- <sup>1</sup> Department of Defense Financial Management Regulations 7000.14-R. *Commander's Emergency Response Program (CERP)*. Washington, D.C: Office of the Secretary of Defense (Comptroller), January 2009. Volume 12, Chapter 27, <http://comptroller.defense.gov/fmr/> (accessed January 21, 2011).
- <sup>2</sup> Brian Bill, Marie Anderson, and Jeremy Marsh, eds. *Operational Law Handbook*. (Charlottesville: Internationals and Operational Law Department, 2009), 255.
- <sup>3</sup> *Ibid*, 259-260.
- <sup>4</sup> *U.S. v. MacCollum*, 462 U.S. 317 (1976).
- <sup>5</sup> U.S. Department of the Army. *Fiscal Law Deskbook*. Charlottesville: The Judge Advocate General Legal Center and School, 2009, 10-5.
- <sup>6</sup> Comptroller General Decision B-213137 of June 22, 1984 (Honorable Bill Alexander Memo), 1.
- <sup>7</sup> *Ibid.*, 2
- <sup>8</sup> *Fiscal Law Deskbook*, 10-5 to 10-6. Honorable Bill Alexander Memo, 3.
- <sup>9</sup> The Economy Act, 31 U.S.C. § 1535 authorizes interagency orders. The ordering agency must reimburse the performing agency for the costs of supplying the goods or services. 31 U.S.C. § 1536 specifically indicates that the servicing agency should credit monies received from the ordering agency to the "appropriation or fund against which charges were made to fill the order."
- <sup>10</sup> *Fiscal Law Deskbook*, 1-1.
- <sup>11</sup> Jordan Walerstein, "Coping with Combat Claims: An Analysis of the Foreign Claims Act's Combat Exclusion," 11 *Cardoza J. Conflict Resolution*. 319, 325-326.
- <sup>12</sup> U.S. Department of the Army. *Claims*. AR 27-20. (Washington, DC: U.S. Department of the Army, July 2003), 50-51.
- <sup>13</sup> Walerstein, 334-335.
- <sup>14</sup> Stewart Patrick and Kaysie Brown. "The Pentagon and Global Development: Making Sense of the DoD's Expanding Role." *Center for Global Development*, (No. 131, November, 2007), 5.
- <sup>15</sup> Mark Martins. "No Small Change of Soldiering: The Commander's Emergency Response Program (CERP) in Iraq and Afghanistan." *The Army Lawyer*, (February 2004), 3.; Handbook No. 08-12 Commander's Emergency Response Program : Tactics, Techniques and Procedures." Quoting Testimony to U.S. Senate Committee on Appropriations, Pg 1
- <sup>16</sup> Martins, 5.
- <sup>17</sup> *Ibid* 6.
- <sup>18</sup> Martins, 11 quoting P.L. no. 108-106 sect 1110 Emergency Supplemental Appropriation Act for Defense and for Reconstruction of Iraq and Afghanistan.
- <sup>19</sup> David Galula, *Counterinsurgency Warfare: Theory and Practice*, (Westport: Praeger Security International), 2006, 4.
- <sup>20</sup> FMFRP12-8, *Mao Tse-tung on Guerrilla Warfare*, (Washington D.C: Headquarters United States Marine Corps, 5 April 1989), 44
- <sup>21</sup> Daniel Marston and Carter Malkasian, *Counterinsurgency in Modern Warfare*, (New York: Osprey Publishing) 2008, 113-114.
- <sup>22</sup> *Ibid*, 122; John A. Nagl, *Learning to Eat Soup with a Knife: Counterinsurgency Lessons from Malaya and Vietnam*. (Chicago: The University of Chicago Press) 2006, 100-101.
- <sup>23</sup> K.R. Brazier-Creagh, "Malaya" *The Journal of the Royal United Services Institution*, (May 1954), 185.
- <sup>24</sup> <http://GlobalSecurity.org>, Letter from al-Zawahiri to al-Zarqawi, pg 2.
- <sup>25</sup> Martha Crenshaw, *Terrorism in Context*, "Left Wing Terrorism in Italy" Donatella della Porta, Pennsylvania University Press, University Park, PA: 1995, 154-159.
- <sup>26</sup> U.S. Department of the Army, and Headquarters U.S. Marine Corps. *Counterinsurgency*. FM 3-24 or MCWP 3-33.5. (Washington, DC: U.S. Department of the Army, December 2006), 49.
- <sup>27</sup> U.S. Government Accountability Office. *Military Operations: Actions Needed to Improve Oversight and Interagency Coordination for the Commander's Emergency Response Program in Afghanistan*. Washington, D.C: Government Accountability Office, 2009, 1.
- <sup>28</sup> *Ibid*, 15.
- <sup>29</sup> Josh Boak. "In Afghan Hands, Aid Projects Neglected: Reconstruction Funding." *Washington Post*, January 4, 2011; National Defense Authorization Act for Fiscal Year 2011 Report to accompany s.3454, Calendar Number 414 56-612.111<sup>th</sup> Congress 2d Session Senate Report.

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<sup>30</sup>Jerome Starkey. "North Atlantic Treaty Organization Aid Effort Puts Lives at Risk in Afghanistan, According to Charities." *DISAM Journal of International Security Assistance Management*. Vol 32, Iss 1 (July 2010): 168, <http://www.proquest.com/>.

<sup>31</sup>Jane Barry and Anna Jefferys, *A Bridge Too Far: Aid Agencies and the Military in Humanitarian Response*, Humanitarian Practice Network, January 2002, pg 11

<sup>32</sup>FM 3-24, 383.

<sup>33</sup>Ibid. 358.

<sup>34</sup>DoD FMR para 270102, Vol 12, Chapter 27.

<sup>35</sup>Josh Boak, "In Afghan Hands, Aid Projects Neglected: Reconstruction Funding." *Washington Post*, January 4, 2011.

<sup>36</sup>Handbook No. 08-12 Commander's Emergency Response Program : Tactics, Techniques and Procedures." Quoting Testimony to U.S. Senate Committee on Appropriations, 1.

<sup>37</sup>MAAWS-A Dec 2009, 2

<sup>38</sup>U.S. Congress. Senate. Committee on Appropriations. *Department of Defense Appropriations Bill, 2011*. 111<sup>th</sup> Cong., 2d sess., September 16, 2010.

<sup>39</sup>United States Forces – Afghanistan. *Money As A Weapons System (MAAWS-A): Commander's Emergency Response Program (CERP) SOP*. (USFOR-A Publication 1-06. December 2009), 2.

<sup>40</sup>U.S. Government Accountability Office. *Military Operations: Actions Needed to Better Guide Project Selection for Commander's Emergency Response Program and Improve Oversight in Iraq*. Washington, D.C: Government Accountability Office, 2008, 1-2.

<sup>41</sup>GAO 09-615, 10-11

<sup>42</sup>Crenshaw, 156.

<sup>43</sup>FM 3-24, 36.