



# Executive Summary

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## EXIT STRATEGY: RULE OF LAW AND THE U.S. ARMY

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Establishing the rule of law is a key goal and end state in counterinsurgency (COIN) operations and is a critical aspect of securing peace and preventing future conflict. To that aim, the development of rule of law institutions, such as an effective police force and a judicial system capable of protecting human rights and promoting justice, is essential. As such, ensuring the establishment of effective and sustainable rule of law institutions plays an important role in stability operations, and should form a key part of strategy for disengagement once those operations are complete. Critically, it should also form an integrated part of post-conflict planning before intervention is even considered. The lessons of not considering this aspect of drawdown and withdrawal are clear from Afghanistan and Iraq.

This is important and relevant to the U.S. Army, as well as to U.S. security and foreign policy interests more broadly, for two reasons. The first relates to homeland security. If the country in question is unable to maintain its own security, this volatility is likely to become a breeding ground for international terrorism and transnational crime, which in turn will pose a security threat to U.S. citizens both at home and abroad. The second relates to demand on U.S. Army resources. Further instability in a country with a U.S. presence invariably leads to a demand for greater Army resources to be allocated. As the U.S. Army is already under pressure to regenerate capacity for stability operations, it is in its interest not to have to redeploy to any given country. However, recent experience in theaters such as Afghanistan has shown that establishing effective rule of law institutions and practices is not a straightforward task. Consequently, considerations as to how and when rule of law institutions can start to be developed and integrated into the stability transition process must not only be

planned in advance, but also form part of the U.S. Army's strategy from the very start of any military intervention.

One of the biggest challenges for countries emerging from conflict is the transition from military to civilian rule, requiring a shift in capability, skills, and mindset. This is especially true for institutions such as the police who will be required to change from serving a combat function to performing a more traditional policing role. Consequently, the U.S. Army, along with its international partners deployed to provide assistance and mentoring to those organizations, must not only recognize the challenges but also take active steps to ensure that their approach and actions address rather than exacerbate these problems. An inability to take effective action will lead to unintended consequences. However, any action taken will require an in-depth understanding of the challenges that exist in the rule of law landscape, both in terms of a contextual understanding of the fragile state in question, and with respect to the response being provided by the international community.

This monograph identifies a number of issues in relation to the challenges in establishing rule of law institutions and practices in post-conflict countries, as well as how and when rule of law mechanisms could be integrated into U.S. Army stabilization operations, based on lessons identified from recent stabilization missions and deployments. These include the ability to identify the key challenges which prevent the establishment of effective and sustainable rule of law institutions, as well as to understand the unintended consequences of U.S. Army interventions in training local police forces, and how these can be mitigated or avoided. In addition, an appreciation of the conflict or confusion between COIN and state-building missions and how this conflict can undermine both operations

is necessary. Furthermore, in the context of achieving medium to long-term objectives, consideration must be given to the sustainability of rule of law interventions after withdrawal of troops as well as the impact of short-term mission objectives.

To that end, U.S. Army commanders must determine what role the U.S. Army should play in facilitating a transition from military to civilian rule of law. This may include giving consideration to how the U.S. Army could better utilize its Reserve forces to provide capacity and specialist skills to facilitate civilian transition, and determining when and how rule of law mechanisms and advisors should be integrated into stability operations. Finally, the importance of effective engagement with partner agencies and institutions is highlighted. Collectively, the analysis will assist the U.S. Army, and more broadly the Departments of Defense and State, in better facilitating a seamless rebalancing from military to police functions in post-conflict environments to ensure that sustainable and effective rule of law interventions are delivered as part of an exit strategy from COIN campaigns.

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