"The Ballad of East and West" - Afghanistan

Drafting Rules of Engagement for a Fledgling Government's Armed Forces

By Lieutenant Colonel John W. Grimes

"Oh, East is East, and West is West, and never the twain shall meet,
Till Earth and Sky stand presently at God's great Judgment Seat;
But there is neither East nor West, Border, nor Breed, nor Birth,
When two strong men stand face to face, tho' they come from the ends of the earth!"

These are the opening lines from Kipling's "Ballad of East and West", which is the story of Kamal, a Pashtun brigand, who sneaked over the border and stole the horse of the colonel who headed a detachment of Raj Guides. The colonel's son chased him and caught up with him. The two realized that they were both brave men, so Kamal sent his son to escort the son back to the Guides' camp. The son abandoned his career as a brigand and became a Guide. The ride was dangerous, since behind every rock hid a Kamal man with a gun. It sounds like Afghanistan today. Guerrilla warfare by such people was the main reason the Soviets gave up and withdrew from the country, hastening the collapse of the Soviet Union. Kipling worked in Peshawar, close to the Afghan border. The rivalry between Pashtuns and Tajiks is now a basic component in the problem of establishing an Afghan government. The British had established the 1,200-mile long Durand Line between Pakistan and Afghanistan to keep the bandits on the Afghan side. This split the Pashtun tribes on both sides of the line. The Pashtuns are a majority in Afghanistan. The British noticed that the Pashtuns adapted more easily to democratic government than the other tribes, which boosted the Pashtuns’ claim that they descended from the armies of Alexander the Great, and were thus Europeans.

By Ronald Hilton, November 17, 2001
Under the auspices of Operation Enduring Freedom Afghanistan’s President Harmid Karzai, through his Ministry of Defense, requested assistance from the U.S. Government to train and develop his fledgling governments’ first national internal defense force. This would be no small undertaking in view of the fact that the country’s only real semblance of law and order for generations consisted of a loosely knit band of territorial warlords. In fact, many historians credit the lack of national unity and identity as a leading factor contributing to the ultimate highjacking of the country by al Qaida and Taliban influences in the wake of the Soviet Union’s departure in defeat at the hands of the Moujahadeen.

Foreign Internal Defense being one of the recognized bedrock mission sets of US Army Special Forces, the task naturally fell to the Combined Joint Special Operations Task Force – Afghanistan (CJSOTF-A). As the Task Force Staff Judge Advocate, I had deployed my legal teams over three remote special operations forward operating bases across the Afghanistan theater of operations. After the decision was made to concentrate CJSOTF-A efforts to train an unprecedented Afghan National Army (ANA) in the nation’s capitol, Kabul, it became apparent in late 2002 that the fledgling ANA, and its government as well for that matter, would need assistance in developing its own Rules of Engagement (ROE). Many factors of a tactical, operational and strategic nature would have to be taken into consideration. These “Rules” would need first of all to be compatible with the cultural and social norms of the Afghan people; while somehow promoting a novel sense of pride and ownership in a national government; but not offending any of the individual territorial warlords who were all too suspicious of one another gaining inordinate power at the expense of others. Further, these ROE would need to focus upon building a strong internal defensive legal framework and, in many cases and areas throughout the countryside, represent the seminal notion of the most basic premise of the rule of law; where the rule of arms had prevailed for generations. And lastly, these ROE must be compatible with those of OEF partner nations if combined and joint operations were ever to be conducted; especially complicated by the fact that U.S. ROE for Operation Enduring Freedom were classified and could not be shared with the Afghans.

So the task of developing a simple, unclassified, set of ROE that would promote a sense of national unity under the banner of a single unified government of Afghanistan fell to a few military attorneys in Bagram Airbase, Afghanistan. When pondering what shape and direction this seminal set of rules should take, I reflected often on the classes I had taught in Criminal Procedure and Judicial Process as a member of the faculty of the University of Alabama at Birmingham before being recalled to active duty for Operation Enduring Freedom. Particularly, I recalled my many lectures on how our own first ten amendments to the US Constitution (i.e., Bill of Rights) in many ways reflected the fears and concerns that our forefathers had experienced in England and Western Europe when they decided to flee such tyranny and explore and settle the new frontier.

Fundamental notions of the inherent right of self-defense would not only have to be articulated to the Afghans clearly on paper, but also developed into instructional plans and programs for training these troops on the implementation and application to combat scenarios. Short of attempting to democratize the ANA, and secondarily the Afghan population, we nonetheless had to provide them with basic building blocks necessary to
recognize a “hostile” act or intention and then train them on the appropriate range of progressively reactionary responses. One note for anyone facing a similar challenge in the future was our heavy reliance upon utilization of definitions as the basic building blocks for getting these foreign (admittedly “western”) ideas and concepts across to our target audience. In fact, our finished product consisted of five pages of ROE and also five pages of definitions; a testament to our recognition of the imperative to begin with the basics when introducing legal concepts seemingly so fundamental to us, but so foreign to our protégé trainees.

But a word of humorous caution is in order here. When we delivered the English version of the Primary Rules of Engagement for the Afghan National Army to their Ministry of Defense for translation into Dari and Pashtun, review and adoption by the Karzai Government, and then translation back into English for use by our Special Forces trainers it had been retranslated into the “Primary Bases of Facing the Enemy.” “Engagement” translated into “touching or facing” the enemy. As the old saying goes, the words only tell half the tale.

I enjoy sharing this account with my students now that I am back on campus at UAB. I feel especially privileged to have played a small role in helping introduce the rule of law to such an impoverished people who truly yearn for peace and liberty. And, I submit, not too terribly unlike similar motivations driving our forefathers when they came here to escape the ravages of tyranny in search of a better life and future.

“Extremism in the defense if liberty is no vice; and moderation in the pursuit of justice is no virtue.”

Barry Goldwater

The First Battalion of the Afghan National Army stand in review with the bombed-out ruins of the Kabul Military Training Center and mountains of southern Afghanistan in the background.

LTC John W. Grimes left his position on the faculty of the UAB’s Department of Justice Sciences in April 2002 when he was recalled to active duty in US Army Special Forces in support of Operation Enduring Freedom. He was awarded the Bronze Star for his combat service in a variety of roles as Commander, Chief of Staff, and Senior Legal Advisor of the Combined Joint Special Operations Task Force-Afghanistan.