

**AN ANALYSIS OF UNCONDITIONAL SURRENDER AS A FACTOR  
IN THE TERMINATION OF WAR AND ITS EFFECT  
ON THE AMERICAN OCCUPATION OF  
GERMANY IN 1945 AND IRAQ IN 2003**

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**Margaret E. (Peggy) Lester, B.S., M.S.**

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## CHAPTER 1

### INTRODUCTION

Wars end and new problems begin. The difficulties involved in winning the peace are often far more costly than imagined when states determine that war is necessary. Many factors in war termination contribute to the establishment of security and stability during the occupation of a belligerent's territory. The purpose of this thesis is to explore the concept of unconditional surrender and in two modern cases, determine if it has a role in the termination of war and if it facilitates winning the peace in the occupation phase.

The primary objective of the Allied Powers in the Second World War was to attain the *unconditional surrender* of the Germans, the Italians and the Japanese. Nothing less was acceptable. Historians and political scientists alike have debated the concept of unconditional surrender in World War Two. Both sides make strong cases. Regardless of the studies done on the surrenders of Italy, Germany and Japan, the political goal of achieving unconditional surrender creates the theoretical question as to its usefulness in the facilitation of occupation after the war was terminated. If unconditional surrender did assist the Allied Powers in the occupation of their respective zones, then one can postulate that it is a policy that should be considered for terminating all wars. In

reality, however, the correlation between unconditional surrender and the facilitation of the occupation period appears to be tentative at best.

This thesis will first attempt to examine the role of unconditional surrender as a factor in the post World War Two occupation period in the American Zone of Occupation. I will then explore the initial period of legal military of occupation of Iraq by the American and Coalition forces to determine if a correlation exists. Historical scholarship on World War Two is abundant and has the benefit of the long-term perspective. However, enough time has not yet passed to allow the generation of hindsight with Iraq. Therefore, it is important to note that my suggestions, hypotheses and assumptions on Iraq are preliminary and not absolute. Time will give someone else the necessary perspective to validate or disavow my humble attempt to analyze the impact of unconditional surrender on war termination and occupation.

Contemporary conflict and the strategic planning for conflict appear to lack the concept of surrender as an objective in war. War termination can and does have many facets; and yet, the value of surrender seems to be lost on contemporary military strategists and their political counterparts. This thesis will attempt to analyze strategic unconditional surrender as an element of war termination that facilitated the initial year of the occupation of Germany by the United States during the Second World War beginning in May 1945. In addition, I will attempt to demonstrate that the rout of the Iraqi military forces and the complete capitulation of the Ba'athist government left the American and Coalition Powers without the benefit of a strategic surrender and yet, resulted in

unconditional surrender. Unconditional surrender, therefore, does not have to be a stated objective in war and can be achieved without a formal decision by the vanquished to surrender unconditionally.

### **War Termination Theories and Definitions**

According to L. Oppenheim in *International Law: A Treatise*, there are three ways in which war can be terminated. First and most rare is the simple cessation of hostilities by both sides without the benefit of a peace treaty. Second, war may be terminated through a peace treaty that establishes the conditions of peace. Lastly, a war may end with the complete subjugation of an enemy.<sup>1</sup> Oppenheim does not qualify the role of surrender in the termination of war, yet at some point in each of these three ways a decision of some level of surrender has been made to stop hostilities. While none of these methods of terminating a war states the necessity of surrender, the concept of surrender generally plays a role in the termination of war. The Second World War's introduction of unconditional surrender raises additional questions, because "the conventional laws of war did not encompass the concept of unconditional surrender."<sup>2</sup> An examination of the historical evidence of surrender in the termination of war can be of value to the understanding of its relationship to the end of hostilities and the consequences that ensue.

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<sup>1</sup> L. Oppenheim, *International Law: A Treatise: War and Neutrality, Vol. II*, (New York: Longmans, Green and Company, 1921), 356.

<sup>2</sup> Gerhard Von Glahn, *Law Among Nations: Introduction to Public International Law*, 7<sup>th</sup> ed., (Boston: Allyn and Bacon, 1996), 610.

The issue of surrender in war termination can be traced back to the writings of the ancient Greek scholar, Thucydides. In one of his most dramatic passages, he gives us the Mytilenaian Debate. In sum, the city-state of Mytilene allied with Sparta and in the fourth year of the Peloponnesian War they were compelled by the Athenians to surrender. Their surrender, however, was on the condition that their fate be determined by the people of Athens. The ensuing debate over a just punishment of the vanquished then began.<sup>3</sup> Then, as now, the complex question of punishment and the administration of defeated enemies is answered only after war is terminated. Therefore, an analysis of the issue of surrender is one historically predicated on the idea that a decision has been made to ask for a war to terminate. The idea or concept of surrender immediately invokes the premise that someone has “given up” the fight; that there is a victor and a vanquished, a winner and a loser. The term surrender is considered synonymous with submit, yield, and capitulate. Both the Department of Defense Dictionary and the list of NATO Only Terms<sup>4</sup> contain a multitude of military terms but neither provides a definition of surrender.<sup>5</sup> Paul Kecskemet studied strategic surrender as a problem in political theory and in his assessment “Surrender (capitulation) occurs when a military engagement or a war is terminated by an agreement under which active hostilities cease and control over

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<sup>3</sup> Clifford Orwin, “The Just and the Advantageous in Thucydides: The Case of the Mytilenaian Debate,” *The American Political Science Review* 78, no. 2 (June 1984): 485.

<sup>4</sup> Refers to a specific document containing military jargon utilized by North Atlantic Treaty Organization forces.

<sup>5</sup> All approved joint definitions are managed in a database by the Joint Doctrine Division, J-7, Joint Staff and are contained in Joint Publication 1-02, “DOD Dictionary of Military and Associated Terms. Located online at [http://www.dtic.mil/doctrine/jel/doddict/natoterm\\_index.html](http://www.dtic.mil/doctrine/jel/doddict/natoterm_index.html).

the loser's remaining military capability is vested in the winner."<sup>6</sup> The use of capitulation in parentheses next to surrender indicates that Kecskemet considers the words interchangeable. A variety of language surrounds both the partial and full surrender of military forces and states in time of war, thus a brief look at the language of war termination is required.

On one hand, capitulation may be synonymous with surrender and may imply the surrender took place because of specific conditions. For example, General Wainwright's forces on Bataan capitulated because they had run out of food, ammunition and other necessary means to continue their fight against the Japanese. However, another explanation of capitulation is found in a 1945 article by Francis C. Balling in which he posits "The capitulation, which—in contrast to surrender—is a juristic act, may stipulate conditional or unconditional surrender."<sup>7</sup>

The term submission denotes subordination to the victor and according to the American Heritage dictionary; George Washington stated, "*Our cruel and unrelenting enemy leaves us only the choice of brave resistance, or the most abject submission*"<sup>8</sup>. Gerhard Von Glahn's classic text on international law concedes, "There can be no doubt that an unconditional surrender does not result in a termination of a war unless the victor clearly indicates that termination will

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<sup>6</sup> Paul Kecskemeti, *Strategic Surrender: The Politics of Victory and Defeat*, (Stanford, CA: Stanford University Press, 1958), 5. Parentheses in the original

<sup>7</sup> Francis C. Balling, "Unconditional Surrender and a Unilateral Declaration of Peace," *The American Political Science Review* 39, no.3, (Jun., 1945): 474. Balling footnotes that in German-language literature, the expression "Uebergabe auf Gnade und Ungnade" is often employed to indicate unconditional surrender and cites Dr. J.C. Bluntschli, *Das moderne Voelkerrecht der civilisierten Staaten als Rechtsbuch dargestellt* (C.H. Beck'sche Buchhandlung, Noerdlingen, 1872), 698.

<sup>8</sup> <http://www.bartleby.com/61/90/S0919000.html>



accompany the submission of the defeated state.”<sup>9</sup> For example, the unconditional surrender of Italy in World War Two did not result in terminating either the war as a whole or the fighting in Italy.

Other words closely associated with surrender are armistice and cease-fire. Unlike surrender, submission, and capitulation, these words are found in the Department of Defense Dictionary. A ceasefire or truce is more likely to be a temporary agreement between forces. The DOD Dictionary defines a ceasefire as "A command given to any unit or individual firing any weapon to stop engaging the target."<sup>10</sup> Thus, ceasefire is a tactical rather than a strategic term. However, in contemporary times “several modern armed conflicts have “ended” in fact when hostilities were terminated through the conclusion of a cease-fire which was not followed by a peace treaty.”<sup>11</sup> Von Glahn lists the Korean War, the Iraq-Iran War, the Falkland War, and the three Arab-Israeli wars as examples. In addition, he states “It must be reemphasized at the outset that a cease-fire, a truce, an armistice, or even preliminary peace negotiations do not represent the *legal* termination of a war, despite much lay misunderstanding on the point.”<sup>12</sup>

While similar to a cease-fire, an armistice is defined in international law as "a suspension or temporary cessation of hostilities by agreement between belligerent powers."<sup>13</sup> Von Glahn explains that an armistice is an agreement or

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<sup>9</sup> See *Schiffahrt-Treuband v. Procurator-General*, United Kingdom, Privy Council, 1953, 1 All Eng. L.R. 364, in 47 *AJIL* 722 (1953), quoted in Von Glahn, 611.

<sup>10</sup> Von Glahn, 611.

<sup>11</sup> *Ibid.* 613.

<sup>12</sup> *Ibid.*

<sup>13</sup> <http://www.dtic.mil/doctrine/jel/doddict/>

contract between belligerents with the primary function of a *temporary* suspension of active hostilities and that the conclusion of an armistice does not end a war.”<sup>14</sup> He also indicates that a truce is synonymous with armistice.

A military rout, on the other hand, can produce a complete military tactical surrender without a political strategic surrender. A military rout is characterized by the disintegration of military discipline, the collapse of the command structure and the inability to prevent the annihilation of their forces. The disruption of the military and political structure produced by a rout can be so comprehensive as to prevent the possibility of a strategic surrender. Historical examples of a military rout are the Nazi Blitzkrieg of Poland and the Coalition rout of the Iraqi military in Kuwait during the First Gulf War. The rapid capitulation of troops can force a termination of the hostility phase because there are no armies left to fight. Thus, a rout may produce a scenario that greatly complicates the political aspects of war termination.

When surrender is preceded by the word “unconditional” it implies that the vanquished will have no say in the conditions imposed to terminate the war. The unconditional strategic surrender of an enemy state in order to terminate war is a political act rather than a tactical military act. Early Roman law recognized the right of the vanquisher to determine the consequences of the vanquished. Grotius, the Seventeenth Century Dutch jurist who penned *The Rights of War and Peace*, referred to the idea of pure or absolute surrender in his

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<sup>14</sup> Von Glahn, 611. He cites *Land Warfare*, par 749 and *Kahn v Anderson, Warden*, U.S. Supreme Court, 1921, 255 U.S. 1 as examples of this conclusion. The italics are his.

discussion of the surrender of Carthage in the Second Punic War.<sup>15</sup> “This originally unlimited right over life, liberty, and property of the capitulating enemy, the Roman *jus vitae ac necis*, was later considerably mitigated. As applied to life and liberty, it is reduced to the disarmament of surrendering troops and their treatment as prisoners of war.”<sup>16</sup> Other facets of war termination however create political and military consequences. Surrender is one such facet.

Surrender can be either tactical, strategic or a combination of the two. Tactical surrender generally refers to the capitulation of portions of a state's existing forces. Tactical surrender is done by units of a military force and do not involve the entire forces of a state. Tactical surrender is usually precipitated by a military decision to avoid complete destruction of particular forces but does not end the state of belligerency that exists between the warring parties. Tactical surrender of large and numerous forces however can, and as World War II in the European Theater showed, precede the strategic surrender that terminated the war. It can be logically concluded that tactical surrender accompanies strategic surrender.

Military considerations aside, strategic surrender as a goal of war termination shapes the political relations between belligerent states when the conflict ends. Thus, surrender is not wholly a military concept and is one of the crucial points political strategists must weigh prior to the termination of a

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<sup>15</sup> Von Glahn, 610.

<sup>16</sup> Grotius, *The Rights of War and Peace*, trans. A.C. Campbell (New York, London: M. Walter Dunne, 1901), Chap. XXII xi, paraphrased in Francis C. Balling “Unconditional Surrender and A Unilateral Declaration of Peace,” *The American Political Science Review* 39 no.3, (June 1945): 475.

conflict. Political concerns of heads-of-states often outweigh the military concerns of their respective armies. To paraphrase Clausewitz, war is the continuance of politics by violent means and is usually engaged in when heads of states are unable to reach their objectives through diplomatic means. When states engage in warfare, the hostilities phase at some point produces the termination phase.

Thus, strategic surrender refers to the conscious choice of a state to cede power to the opposing combatants. Therefore, someone in authority must be in the position to make the decision to surrender the state. If the rout of the opponent's army produces a complete capitulation of the military and civilian power structures of a state, there may not be an authority figure available to strategically surrender the state. This should be a consideration before using military force to the point that a complete and total rout of an enemy force occurs. Stopping short of complete annihilation of an army to allow political discussion to secure a strategic surrender may be beneficial to the victor's ability to create a peaceful and stable post-war relationship with the vanquished state and its indigenous population. The second problem arises when the head-of-state is captured and unwilling to cooperate in any legal recognition of defeat. In this case, the vanquished are likely to continue to engage in hostilities that may instigate a rebellious climate within which the victor must attempt to establish a stable and secure environment.

While historical evidence of unconditional surrender exists, as an element of war termination it is rare. Two cases of unconditional surrender in war

termination are analyzed in this study. First, the unconditional surrender of Germany will be examined. The demand by the Allied Powers for “unconditional surrender” from the German state was debated privately and the lack of a firm definition is still a topic of analysis. The ramifications and consequences of Germany’s decision to surrender without conditions of postwar occupation are as yet undefined. The second case will explore the “unconditional surrender” of Iraq in the current Gulf war. The American and Coalition’s rapid defeat of Iraq in Operation Iraqi Freedom has led to war termination of a different nature. The absence of the belligerent government in Iraq denied the American and coalition forces a political acceptance of defeat. The rout of the Iraqi military coupled with the complete abdication of the government forced the American and Coalition governments to contend initially with the occupation problems of instability in the complete absence of all indigenous governmental authority. This thesis will attempt to determine the role of unconditional surrender as a factor in the facilitation of occupation security and stability. The role of unconditional surrender of Germany in the initial period of occupation will be examined first, followed by an analysis of the legal military occupation period in Iraq. Lastly, I will attempt to establish that surrender is an admission of defeat that occurs when a belligerent power either lacks the ability to continue the fight or accepts the futility of continued warring and that such admission of defeat by someone in power is beneficial to the occupying powers and thus, facilitates regime change and humanitarian efforts. While this study is not definitive in scope, I hope to show that surrender is an

important element in war termination and an element that should be considered in all aspects of planning for hostilities, the termination phase of conflict and the re-establishment of post-conflict peace and stability in the occupation period. A more thorough examination of wars that terminated with conditional surrenders would allow a broader perspective and provide comparative data with the topic at hand. This thesis then is a first step towards a greater understanding of the value of unconditional surrender.

## **CHAPTER 2**

### **UNCONDITIONAL SURRENDER IN WORLD WAR II**

#### **Origins of “Unconditional Surrender” in WWII**

The decision to surrender is not made by the victors as only the vanquished can choose to surrender; the victors can stipulate under what conditions, if any, a surrender of the vanquished will be accepted. The fighting stage in Second World War ceased with the complete and unconditional surrender of all Axis Powers. First Italy, then Germany and then Japan agreed to surrender their states to the Allied Powers, unconditionally.<sup>1</sup>

Unconditional surrender as a concept forwarded by the Allied Powers has generated considerable discussion in academic circles. Questions of its necessity, its validity and its humanity have been addressed and disagreed upon. The phrase itself was left undefined; no enumeration of terms was ever issued. Thus, its lack of definition as well as the various attempts to clarify its meaning generated slight variations in the interpretation of the doctrine to alleviate the fears it generated among the peoples of the Axis powers. And while there was some degree of contention over the policy, President Franklin D. Roosevelt,

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<sup>1</sup> The Italian's surrendered unconditionally, however, great leniency was shown because they joined the fight against the Germans. Japan was considered an unconditional surrender despite the fact that the Emperor was allowed to remain as a figurehead.

Prime Minister Winston Churchill and Premier Joseph Stalin remained steadfast in their public support for the total victory that produced Germany's unconditional surrender. Historians and political scientists alike have attempted to dissect the policy and its consequences. Its military as well as its political and social ramifications have also been scrutinized. Was the demand for unconditional surrender of Axis forces the right policy for the time? If it was indeed the right policy for the time, is it a policy that could and should have been initiated in other conflicts? To determine an answer, we must first look at the historical context behind the demand for unconditional surrender that laid the foundation for the termination of World War Two.

The demand by the Allies for "Unconditional Surrender" was developed at the Casablanca Conference held 14-28 January 1943. While there was initially some controversy as to its exact origin, evidence concludes it was first enunciated by President Roosevelt on 7 January 1943 when he discussed the idea with the Joint Chiefs of Staff as a way to assure the Soviets that "the United Nations will continue until they reach Berlin and that their only terms are unconditional surrender."<sup>2</sup> Roosevelt based his ideas of unconditional surrender on the historic Civil War surrender of General Robert E. Lee to General Ulysses S. Grant at Appomattox Court House<sup>3</sup> and the idea of using it

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<sup>2</sup> OPD, Executive File, Item 10, minutes of Meeting at the White House on Thursday, January 7, 1943, at 1500, in OPD, ABC 387, sec. 1A, quoted in Earl F. Ziemke, *The U.S. Army in the Occupation of Germany, 1944-46*, (Washington D. C.: Center of Military History, 1975), 23. See Dwight D. Eisenhower, *Crusade in Europe*, (New York: Doubleday & Company: New York, 1948) as appearing in Minutes Joint Chiefs of Staff meeting January 7, 1943, OPD Exec. 10, Item 45, Department of the Army.

<sup>3</sup> Roosevelt mistakenly referred to this as "unconditional surrender" when in fact the idea was from the unconditional surrender of Confederate troops at Ft. Donelson. The magnanimity of Grant towards Lee at Appomattox however is valid.



was generated as he and Churchill struggled to deal with the recalcitrant French generals, de Gaulle and Giraud.<sup>4</sup>

The Casablanca Conference between President Roosevelt and Prime Minister Churchill occurred as Allied victories were beginning to shake the strong arms of the German Army. By January 1943, Stalingrad on the Eastern Front was a Soviet victory, and the combined American and British forces had stopped the German advances in North Africa. Despite these glimpses of future success there was no sense of elation as the end of conflict was nowhere to be seen. During the conference, Roosevelt and Churchill, according to Anne Armstrong in *Unconditional Surrender*, “were preoccupied with the immediate problem of military victory, that they were urgently concerned with strategic means, not with political ends.”<sup>5</sup> But politics is an overriding concern in wartime and coalition warfare makes it even more complex. One such concern was the Soviet fear of Allied commitment to the war and particularly to the strategic opening of a second European front. This was the political factor that “probably played a role in the call for Unconditional Surrender.”<sup>6</sup> The recollections of Elliott Roosevelt, son of the President, contends

...it was at that lunch table that the phrase “unconditional surrender” was born. For what it was worth, it can be recorded that it was Father’s phrase, that Harry Hopkins took an immediate and strong liking to it, and that Churchill, while he slowly munched a mouthful of food, thought, frowned, thought, finally grinned, and at length announced, “Perfect! And I can just see how Goebbels and the rest of ‘em ’ll squeal!”<sup>7</sup>

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<sup>4</sup> Robert E. Sherwood, *Roosevelt and Hopkins*, (New York: Harper & Brothers, 1948), 696.

<sup>5</sup> Anne Armstrong, *Unconditional Surrender: The Impact of the Casablanca Policy upon World War II*, (New Brunswick, NJ: Rutgers University Press, 1961), 8.

<sup>6</sup> Ibid.

<sup>7</sup> Elliot Roosevelt, *As He Saw It*, New York: Duell, Sloan & Pearce, 1946), 117.

Elliott Roosevelt also recalls Churchill proposing a toast at cocktails later that day by stating with determination, “Unconditional Surrender.”<sup>8</sup>

The public announcement occurred at the end of the Conference on 24 January. President Roosevelt spoke first and delivered a general statement about the conference stating:

I think we have all had it in our hearts and our heads before, but I don't think that it has ever been put down on paper by the Prime Minister and myself, and that is the determination that peace can come to the world only by the total elimination of German and Japanese war power.

Some of you Britishers know the old story—we had a General called U.S. Grant. His name was Ulysses Simpson Grant, but in my, and the Prime Minister's, early days he was called “Unconditional Surrender” Grant. The elimination of German, Japanese, and Italian war power means the unconditional surrender by Germany, Italy, and Japan. That means a reasonable assurance of future world peace. It does not mean the destruction of the population of Germany, Italy, or Japan, but it does mean the destruction of the philosophies in those countries which are based on conquest and the subjugation of other people.<sup>9</sup>

The phrase “unconditional surrender” became the principle by which the Second World War would be terminated. Roosevelt, even more so than either Churchill or Stalin, consistently defended his policy of accepting nothing less than unconditional surrender. Whenever the British or the Soviets explored the possibility of seeking conditional surrender with American emissaries, the President emphatically denied their request. The strong and irrevocable objective of unconditional surrender was therefore exercised both tactically as

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<sup>8</sup> Ibid.

<sup>9</sup> Joint Press Conference with Prime Minister Churchill at Casablanca, January 24, 1943. Found online at <<http://www.presidency.ucsb.edu/site/docs/pppus.php?admin=032&year=1943&id=6>>

individual Axis forces were defeated on the battlefield and strategically as all of the belligerent nations and their satellite allies surrendered unconditionally to Allied Forces.<sup>10</sup> The Allied Powers remained unified and while private dissension existed, no one Power publicly proposed or entertained a termination of the war based on conditional surrender by the Axis Powers.

### **The Necessity of Unconditional Surrender**

The idea of total victory over an aggressive and reprehensible enemy underlay the President's unwavering demand for unconditional surrender. The well-established facts of German militarism and its role in preceding wars were felt to be a cultural impediment to any form of lasting peace. The German General Staff along with the Prussian landowners and Ruhr industrialists were perceived as the elements in German society most responsible for the inability of democratic rule to succeed in the Weimar Republic.<sup>11</sup> The attitude in American society that German and in particular Prussian militarism was responsible for the war and many felt that "...to give democracy a chance of establishing firm roots in German soil, the power of these groups must be broken, and that, as the Germans had failed to do this for themselves after the First War, the job could not safely be left to them again after the Second."<sup>12</sup>

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<sup>10</sup> The Soviets did receive the President's blessing for the conclusion of a negotiated peace with Finland. The President conceded that some negotiation was permissible on a case-by-case basis with the satellite states forced to support the German cause. However, the possibility of negotiated surrender was never made public.

<sup>11</sup> For a detailed look at the civil-military relationships within the Weimar Government see Gaines Post, Jr., *The Civil-Military Fabric of Weimar Foreign Policy*, (Princeton, NJ: Princeton University Press, 1973).

<sup>12</sup> Michael Balfour, "Another Look at 'Unconditional Surrender'", *International Affairs (Royal Institute of International Affairs 1944-)*, 46, no. 4, (Oct., 1970): 723.

Anne Armstrong presents a contradictory point of view that raises the possibility that from the very beginning of Hitler's reign, the German military was not supportive of war and that there existed a strong anti-Nazi sentiment in the German General Staff. As evidence, she states that General Ludwig Beck, the Chief of the German General Staff in 1939 resigned in opposition to Hitler's violation of the Munich Pact.<sup>13</sup> She concluded that both the British and Americans were well aware of the German general's opposition to the war but that they chose to portray the militarists as "a war-breeding gang, as bad or worse than the Nazis."<sup>14</sup> Despite revisionist attempts to absolve the militarism of German culture, especially among the Prussian elite, the more prevalent view was that

Prussian military power must be broken. Twice over, as it seemed to the Allies, the military power of Germany (of which Prussia provided the major part) had been put at the service of a political regime set on dominating other countries. In particular, the generals were considered to have had a heavy share of responsibility for the downfall of the Weimar Republic. Historical research and discussion in the last twenty-five years has tended to endorse this verdict rather than to undermine it."<sup>15</sup>

According to many scholars, the militaristic culture of Germany did not diminish between the wars. This factor, combined with the failure of the Paris Peace Conference to enact a just and lasting peace, is credited as an underlying cause of the Second World War.

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<sup>13</sup> Armstrong, 26. Quoted from Foerster, Wolfgang, *Ein General Kampft gegen den Krieg*, Aus dem nachgelassenen Papieren des Generalstabschefs Ludwig Beck, Munich: Dom Verlag, 1949, 90.

<sup>14</sup> Armstrong, 27.

<sup>15</sup> Balfour, 733.

A “conditional surrender” formalized by the Treaty of Versailles, which ended World War One, was felt to have been an instrument idealistic in its approach to peace and prophetic as a realistic mechanism for the continuation of war. Its inadequacies led to the President’s determination to conclude the war in a manner that would erase all doubt as to the vanquished. Robert Sherwood in his book, *Roosevelt and Hopkins*, presented President Roosevelt’s view as follows:

What Roosevelt was saying was that there would be no negotiated peace, no compromise with Nazism and Fascism, no “escape clauses” provided by another Fourteen Points which could lead to another Hitler. (The ghost of Woodrow Wilson was again at his shoulder.) Roosevelt wanted this uncompromising purpose brought home to the American people and the Russians and the Chinese, and to the people of France and other occupied nations, and he wanted it brought home to the Germans—that neither by continuance of force nor by contrivance of a new spirit of sweet reasonableness could their present leaders gain for them a soft peace. He wanted to ensure that when the war was won it would stay won.<sup>16</sup>

The firm expression of unconditional surrender by the Allied Powers eliminated the loopholes that beset the formulation of peace and prosperity after the First World War. On 22 February 1944 Churchill addressed the House of Commons and reiterated the view that “Unconditional Surrender” does not mean that the German people will be enslaved or destroyed. It means, however, that the Allies will not be bound to them at the moment of surrender by any pact or obligation.<sup>17</sup> Along this thought, the concept of unconditional surrender brought about by total victory was an assurance that the vanquished were firmly

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<sup>16</sup> Sherwood, 697.

<sup>17</sup> Llewellyn Woodward, *British Foreign Policy in the Second World War*, (London: HMSO, 1962), 480-483.

aware of their defeat. “There was to be no possibility of argument, as there had been after 1918, about whether the German armed forces had really been defeated in the field and not stabbed in the back.”<sup>18</sup> The idea of total victory and unconditional surrender enabled the Allied nations to firmly assure their respective publics that the failures of the Treaty of Versailles that had led them all to give of themselves and their treasure would not be repeated when this war was over. The strong stand by leadership in time of war was a reassuring comfort to the populace who were called upon to attain the political and military goals established by their governments. Unconditional surrender was a concept the public could understand and support. On the other hand, appeasement was a policy the public would not tolerate.

Churchill from the onset established an aura of strong leadership for the British public. When the new Prime Minister was asked what the aim of the government was, he replied with a single word. “Victory.”<sup>19</sup> This strength of purpose carried Churchill through the darkest days of the war. The British public expected no less of him as they were living the consequences of Chamberlain’s appeasement of Hitler. Some evidence indicates that privately the Prime Minister was not as enthusiastic as the President in regards to the stated policy of unconditional surrender. However, a multitude of speeches indicate that publicly he strongly supported total victory as necessary to ensure a lasting peace. For example, Churchill stated in an address before the House of Commons on 21 September 1943,

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<sup>18</sup> Balfour, 734.

<sup>19</sup> Ibid., 730.

Twice within our lifetime, and three times counting that of our fathers, they have plunged the world into their wars of expansion and aggression.... Whenever they become strong, they seek their prey, and will follow with an iron discipline anyone who will lead them to it... I am convinced that the British, American and Russian peoples, who have suffered measureless waste, peril and bloodshed twice in the quarter of a century through the Teutonic urge for domination, will this time take steps to put it beyond the power of Prussia or of all Germany to come at them again with pent-up vengeance and long-nurtured plans.<sup>20</sup>

Privately however, Churchill was concerned that the policy, so strongly supported by the President, did impair the ability of the Allies to encourage the disintegration of Nazi control and to cajole the Germans into terminating the war. An example is found in a memorandum from the Prime Minister to Anthony Eden his Principal Secretary of State for Foreign Affairs. On 14 August 1943, Churchill wrote "...There is no need for us to discourage this process by continually uttering the slogan "Unconditional Surrender.... We certainly do not want, if we can help it, to get them all fused together in a solid desperate block for whom there is no choice..."<sup>21</sup>

Publicly and privately the President did not waver in his belief that the Allies were following the proper policy regarding the termination of war with the Axis Powers, as well as with satellite allies, such as Bulgaria and Romania. While slight variances of the doctrine toward satellite states received private acquiescence, Roosevelt was particularly adamant that Germany would be accorded no deviation from the policy. Even before the illumination of his beliefs at Casablanca, Roosevelt let his feelings be known in this regard. On 7

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<sup>20</sup> From a speech of Sept. 21, 1943, Winston Churchill, *Closing the Ring*, (Boston: Houghton Mifflin, 1951), 159, as quoted in Armstrong, 44.

<sup>21</sup> Winston S. Churchill, *The Second World War: Closing the Ring*, (New York: Bantam Books, 1962), 573.

January 1943 President Roosevelt made his State of the Union Address. In it he discussed the state of the war and towards the end of the speech, he laid out his basic philosophy concerning the termination of the war in a way that would secure future peace. He stated:

It is clear to us that if Germany and Italy and Japan—or any one of them—remain armed at the end of this war, or are permitted to rearm, they will again, and inevitably, embark upon an ambitious career of world conquest. They must be disarmed and kept disarmed, and they must abandon the philosophy, and the teaching of that philosophy, which has brought so much suffering to the world.<sup>22</sup>

In Roosevelt's first radio address after the Casablanca Conference, he assured the American people that German propaganda designed to create friction among the Allied Powers would not work because

--all the United Nations say—that the only terms on which we shall deal with any Axis government or any Axis factions are the terms proclaimed at Casablanca: 'Unconditional Surrender.' In our uncompromising policy we mean no harm to the common people of the Axis nations. But we do mean to impose punishment and retribution in full upon their guilty, barbaric leaders."<sup>23</sup>

Further evidence of Roosevelt's desire to hold the public to his policy is confirmed by Sumner Welles, Under Secretary of State, who wrote in *Where Are We Heading*, that the President

...believed his primary obligation was to concentrate the attention of public opinion upon the winning of the war. He was convinced that if he spoke to the American people...of postwar problems, they might be distracted from the cardinal objective of victory, and controversies might develop which would jeopardize national unity.<sup>24</sup>

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<sup>22</sup> *The War Messages of Franklin D. Roosevelt: The President's War Addresses to the People of the United States, to the Congress of the United States, and to Other Nations*, November 7, 1942 to July 30, 1943. Published by the United States of America. "The President Makes His Report to Congress and to the Nation on the State of the Union and the State of the War", 36.

<sup>23</sup> Ibid. Radio Address, February 22, 1943, 46.

<sup>24</sup> Sumner Welles, *Where Are We Heading?* (New York: Harper & Brothers, 1946), 18-19.



The announcement of unconditional surrender stirred up some private dissension among the Allies. Privately, the correspondence within high-ranking members of Roosevelt's administration also suggests that there while there was disagreement about the wisdom of the policy, Roosevelt's view remained the policy of the United Nations. The British were not overly keen on it, nor were the Russians. An example of the Soviet's private concerns occurred after the Tehran Conference, held in late 1943. A State Department memorandum was written to summarize the Soviet view on postwar Germany. It stated:

As a war time measure Marshal Stalin questioned the advisability of the unconditional surrender principle with no definition of the exact terms which would be imposed upon Germany. He felt that to leave the principle of unconditional surrender unclarified merely served to unite the German people, whereas to draw up specific terms, no matter how harsh, and tell the German people that this was what they would have to accept, would, in his opinion, hasten the day of German capitulation.<sup>25</sup>

In response to this memorandum, President Roosevelt sent a memorandum on 17 January 1944 to Secretary of State Cordell Hull that denoted his conviction to stand firm on unconditional surrender as stated and without clarification. In it Roosevelt said, "Frankly, I do not like the idea of conversation to define the term 'unconditional surrender.' Russia, Britain, and the United States have agreed not to make any peace without consultation with each other. ...Whatever words we might agree on would probably have to be modified or changed the first time some nation wanted to surrender."<sup>26</sup>

In sum, the use of the phrase "Unconditional Surrender" may have been a bit impulsive on President Roosevelt's part at the press conference and it may

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<sup>25</sup> Sherwood, 783.

<sup>26</sup> Cordell Hull, *Memoirs of Cordell Hull, Volume III*, (New York: Macmillan Company, 1948), 1573.

have been a difficult policy for the British and Russian governments to fully support, but there is little doubt that the President fully and unequivocally supported and defended the need for unconditional surrender. The British and the Russians had no choice but to concur. The American's were so instrumental in the ability of Britain and the Soviet Union to continue the fight against the German's and their European allies that they supported the policy publicly and gently sought clarification and alteration privately. If Roosevelt so strongly supported the doctrine, what were the major concerns of the opponents of it?

### **Criticism of Unconditional Surrender**

Roosevelt's Secretary of State, Cordell Hull, was not at the Casablanca Conference nor was he consulted by the President prior to the declaration that the Allied policy for war termination was one of "Unconditional Surrender." Hull contends he was opposed to the new policy for two reasons. First, he like many others felt that it would "prolong the war by solidifying Axis resistance into one of desperation."<sup>27</sup> Secondly, he was concerned that the policy would require "the victor nations to be ready to take over every phase of the national and local Governments of the conquered countries, and to operate all governmental activities and properties"<sup>28</sup> --a function no one was prepared take on. This second point is one that will be discussed in greater detail later in the paper.

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<sup>27</sup> Ibid., 1570.

<sup>28</sup> Ibid.

Incontrovertible evidence that the Allied determination to force unconditional surrender did indeed prolong the war does not exist. Critics contend that the peoples of Axis controlled Europe would be rightfully hesitant to face the unknown that unconditional surrender would bring and in light of that fear, they would continue to resist long after it was reasonable to do so. To alleviate concerns raised by the opinions of critics, Roosevelt, Churchill and Stalin all attempted to eradicate such fear by reassuring the peoples of enemy states that their goal was to end militarism and aggression, and not to punish innocents. For example, a few months after the declaration of the unconditional surrender policy, the President tried to soften his message to the Axis populations. President Roosevelt declared in a message to Congress on 25 August 1943 that:

Except for the responsible fascist leaders, the people of the Axis need not fear unconditional surrender to the United Nations... The people of Axis-controlled areas may be assured that when they agree to unconditional surrender they will not be trading Axis despotism for ruin under the United Nations. The goal of the United Nations is to permit liberated peoples to create a free political life of their own choosing and to attain economic security.<sup>29</sup>

In the President's memorandum to Secretary Hull on 17 January 1944, he instructed that the Russian and German people be told about the magnanimity shown by General Grant to General Lee at Appomattox by relating the story of how Grant allowed Confederate officers to keep their horse as they would need them for plowing when they returned to their homes.<sup>30</sup> So despite the

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<sup>29</sup> Ibid., 1751.

<sup>30</sup> Ibid., 1574. Armstrong footnotes B.H. Liddell Hart's unpublished memorandum "The Background of 'Unconditional Surrender'" July 31, 1943 and *The Defense of the West* (New York: Morrow, 1959) 52-61.

conviction of opponents of the policy, the President gave ample assurances that there was no desire on the part of the Allies to eradicate the Axis people or their states.

Churchill and Stalin also attempted to explain the impact of the policy on the German people. For example, Churchill reiterated the President's sentiments by stating:

The term "unconditional surrender" does not mean that the German people will be enslaved or destroyed. It means however that the Allies will not be bound to them at the moment of surrender by any pact or obligation. There will be, for instance, no question of the Atlantic Charter applying to Germany as a matter of right and barring territorial transferences or adjustments in enemy countries. ... If we are bound, we are bound by our own consciences to civilization. We are not bound to the Germans as the result of a bargain struck. That is the meaning of "unconditional surrender."<sup>31</sup>

The initial pronouncement at Casablanca was a result of hours of direct dialogue between Churchill and Roosevelt. One of the primary topics of discussion was the opening of a second front to alleviate some of the pressure on the Soviets. This was an area of disagreement between the United States and Great Britain. Stalin, in the concluding stages of the battle for Stalingrad did not attend the session. One of the major decisions of the Conference was to attack Europe through Italy and both the Prime Minister and the President knew this was not what Stalin had hoped for. Thus, many conclude that the announcement of unconditional surrender was made to placate and assure the

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<sup>31</sup> Winston S. Churchill, *The Second World War: The Hinge of Fate*, Boston, 1950, p 684, as quoted in John L. Chase, "Unconditional Surrender Reconsidered," *Political Science Quarterly* 70, no.2 (June 1955): 265.

Russians of the commitment of the British and Americans.<sup>32</sup> While that may certainly be the case, the Russians did support the objective of total victory characterized by unconditional surrender. However, Stalin was quick to qualify his support of unconditional surrender. Shortly after the Soviet victory at Stalingrad and just a month after the pronouncement, Stalin stated:

Occasionally the foreign press engages in prattle to the effect that the Red Army's aim is to exterminate the German people and destroy the German state. This is, of course, a stupid lie and a senseless slander against the Red Army. It would be ridiculous to identify Hitler's clique with the German people and the German state. History shows that Hitlers come and go, but the German people and the German state remain.<sup>33</sup>

Russia was concerned that the German's perception of their intentions was not allayed by the Soviet propaganda. It was however, a theme repeated continuously by Soviet propagandists.

The German attitude toward the declaration of unconditional surrender confirms the propaganda value but does not prove that Germany would have surrendered earlier had it not been for this Allied doctrine. In Michael Balfour's article "Another Look at 'Unconditional Surrender'," Goebbels, the Nazi propagandist, did not initially exploit the phrase as "there was no mention of it in his article in *Das Reich* 'Der Totale Krieg' on February 17, 1943, nor in his Sport Palast speech on February 18, 1943."<sup>34</sup> He goes on to note that the "announcement of Unconditional Surrender did not deter Dr. von Schlabrendorff and his colleagues from going ahead with their plans and putting

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<sup>32</sup> Wallace Carroll, *Persuade or Perish*, (Boston, 1948), 312, as quoted in Chase, 269. See also Armstrong, 55-58, and Hull p. 1573.

<sup>33</sup> William Henry Chamberlin, *America's Second Crusade*, (Chicago: Henry Regnery), 1950), 289, as quoted in Armstrong, 56.

<sup>34</sup> Balfour, 721.

a bomb in Hitler's aircraft on March 13, 1943, nor Major von Gersdorff from preparing to blow up both himself and Hitler eight days later."<sup>35</sup> One conclusion is that the doctrine of unconditional surrender did not deter the true Anti-Nazi from his attempts to end Hitler's reign.

Another look at the Nazi military perspective comes from Admiral Doenitz, the man who would ultimately make the decision to surrender unconditionally. The Admiral stated in his memoirs:

In view of the enemy's demand for unconditional surrender, it was quite useless for any senior commander of the German Armed Forces, who believed in 1943 or 1944 that the war could no longer be won, to tell Hitler that he must now put an end to the war and make peace; for, to unconditional surrender, which was wholly unacceptable, he could have no alternative proposal to submit to the Head of the State.

...if it were accepted in principle that when a commander realized that the military situation was hopeless, it was his duty to advocate the conclusion of peace, even if that involved unconditional surrender, there would always be a danger that the struggle might be given up prematurely. As history shows, in war even a seemingly all but hopeless situation can sometimes be radically altered...<sup>36</sup>

This particular quote implies that unconditional surrender prolonged the war; it also implies that a hopeless situation might turn around through an unexpected event and thus, the surrender would have been premature.

In another analysis, Ann Armstrong postulates the notion that the largely silent resistance elements in Germany were actively engaged in seeking a conditional termination of the war. One example given by Armstrong involved the attempt of Ernst von Weizsacker, the German Ambassador to the Holy See, whose appeals through the good offices of the Vatican for a negotiated peace

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<sup>35</sup> Ibid.

<sup>36</sup> Karl Doenitz, *Memoirs: Ten Years and Twenty Days*, trans. R. H. Stevens, (Cleveland, Ohio: The World Publishing Company, 1959), 309.

settlement were quickly rejected by the Allies.<sup>37</sup> The American government, through Allen Dulles the American intelligence chief in Switzerland, fielded several requests for negotiated settlement. One of these was by Adam von Trott zu Solz, an official of the German Foreign Office and a member the secret Kreisau Circle. Trott tried on several occasions to persuade the American's that failure to reach an agreement with the German underground would force the resistance to embrace communism."<sup>38</sup> None of these appeals met with fruition as the American's were first and foremost not interested in a negotiated settlement nor were they convinced of the ability of these groups to deliver peace.

The question of the doctrine's impact on the prolongation of the war is somewhat muted by the inability to know what would have happened. Despite evidence of anti-Nazism in Germany, no one postulates the idea that Hitler, in whom all power resided, had any inclination to seek a negotiated surrender. So whether or not the insistence on unconditional surrender prolonged the war, it is incontrovertible that the policy left no doubt among the belligerent powers that Germany suffered complete and total defeat and that their armies and governmental authorities acknowledged that fact. According to Hull, "...no future propaganda machine in Germany could ever claim, as did the Nazis during the twenties and thirties, that the German armies had not been defeated and that Germany surrendered because of the weakness of the civilian

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<sup>37</sup> Armstrong, 201, quoted from Konstantin Prinz von Bayern, *Der Papst*, 120-123.

<sup>38</sup> Ibid. 204. From Dulles, *Germany's Underground*, 131. For more on the Nazi resistance efforts to elicit Allied considerations see Armstrong, 168-224.

government and people behind the lines.”<sup>39</sup> Despite attempts by various anti-Nazi factions within Germany, there is no clear evidence to suggest that any of them would have been successful in either eliminating Hitler and his cronies or that they had any other means of gaining the authority to conclude a negotiated surrender. Even in the final days of the war, the Germans who sought terms did so without the knowledge or blessing of Hitler. Eisenhower in his book, *Crusade in Europe*, stated that his headquarters had routinely

received intimations that various individuals of prominence in Germany were seeking ways and means of accomplishing capitulation. In no instance did any of these roundabout messages involve Hitler himself. On the contrary, each sender was so fearful of Nazi wrath that he was as much concerned in keeping secret his own part in the matter as he was in achieving the surrender of the German armies.<sup>40</sup>

Eisenhower goes on to divulge his response to the suggestion of surrender from Heinrich Himmler that was given to Prime Minister Churchill from Count Bernadotte of Sweden. Eisenhower stated:

I regarded the suggestion as a last desperate attempt to split the Allies and so informed Mr. Churchill. I strongly urged that no proposition be accepted or entertained unless it involved a surrender of all German forces on all fronts. My view was that any suggestion that the Allies would accept from the German Government a surrender of only their western forces would instantly create complete misunderstanding with the Russians and bring about a situation in which the Russians could justifiably accuse us of bad faith. If the Germans desired to surrender an army, that was a tactical and military matter. Likewise, if they wanted to surrender all the forces on a given front, the German commander in the field could do so, and the Allied commander could accept, but the only way the *government* of Germany could surrender was unconditionally to all the Allies.<sup>41</sup>

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<sup>39</sup> Hull, 1582.

<sup>40</sup> Dwight D. Eisenhower, *Crusade in Europe*, (Garden City, NY: Doubleday & Company, 1948), 422-423.

<sup>41</sup> *Ibid.*, 423-424. Italics in the original.



Hitler's suicide on 3 May 1945 passed political and military authority to Admiral Doenitz and thousands of German military units began tactical surrenders in various locations along both fronts. As these tactical surrenders intensified, the Germans again approached the Allies seeking conditions for surrender. The newly appointed head of the German Navy, Admiral Friedeburg, asked General Montgomery if Germany could surrender three of its armies currently engaged in fighting the Russians. He further asked that these armies be allowed to pass through the Western lines to avoid surrendering to the Russians. Montgomery refused. The following day, Friedenburg returned and Montgomery accepted tactical surrender of the forces in northwest Germany. Neither Montgomery nor any Allied individual made any pledge that would in any way bind the Allies in regards to future decisions concerning Germany.<sup>42</sup>

The final surrender scenario began on 5 May 1945 and concluded when all hostilities ceased at midnight on 8 May. Eisenhower explained to Field Marshal von Kesselring that he would "enter into no negotiations that did not involve all German forces everywhere."<sup>43</sup> Eisenhower went on to recall that

When Admiral Friedeburg arrived at Reims on May 5 he stated that he wished to clear up a number of points. On our side negotiations were conducted by my chief of staff, General Smith. The latter told Friedeburg there was no point in discussing anything, that our purpose was merely to accept an unconditional and total surrender....Friedeburg protested that he had no power to sign any such document....I told General Smith to inform Jodl that unless they instantly ceased all pretense and delay I would close the entire Allied front and would, by force, prevent any more German refugees from entering our lines.

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<sup>42</sup> Eisenhower, 424-26.

<sup>43</sup> Message FWD-20635 (SCAF), May 5, 1945, General Eisenhower to Military Mission to Moscow, CCS, AGO. As cited in Eisenhower, p.425.

...Doenitz at last saw the inevitability of compliance and the surrender instrument was signed by Jodl at two forty-one in the morning of May 7.<sup>44</sup>

The official signatures were repeated on 9 May in Berlin for the benefit of the Russians and “to give notice to the Germans and to the world that the surrender was made to all, not merely to the Western Allies.”<sup>45</sup>

The glue that held the Allied Powers together in the final stages of the war was the commitment to one another that they would only accept unconditional surrender. As the fighting phase intensified the tactical surrender of large units of the German military, the temptation to accept conditional surrender increased as well. The firm commitment to accept only unconditional surrender probably did prolong the war; how long is an unanswerable question. The benefits achieved from having fought the war to a decisive victory highlighted by the formal acceptance by the German military and government of its total defeat may have far outweighed the added time.

### **Occupation of the American Zone**

One of the perceived benefits of the doctrine of unconditional surrender was the ability of the Great Powers to continuously postpone all decisions regarding postwar Europe. Armstrong states that because the United States, Great Britain and the Soviet Union were unable to reach definitive agreements, “the general commitment to fight on until total victory had been achieved, to

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<sup>44</sup> Messages FWD-20692 (SCAF 345), May 5; FWD-20704 (SCAF 346), May 5; FWD-20713 (SCAF 347) May 5; FWD-714 (SCAF 348), May 6; FWD-20797 (SCAF 354), May 6; and FWD-20800 (SCAF 357), May 7, 1945—all to CCS and/or Military Mission to Moscow, from General Eisenhower, AGO. As cited in Eisenhower, p.426.

<sup>45</sup> Eisenhower, 427.

fight for Unconditional Surrender, served as a substitute for war aims.”<sup>46</sup> The futility of this approach became clear in the immediate aftermath of V-E Day. To determine the impact of unconditional surrender in the American Zone we must briefly highlight the situation in Germany during the initial year of occupation. The occupation of Germany was split between the Russians, French, British, and Americans and each Power was to a great extent autonomous within their zone. The Allied Council was established to help the powers reach consensus in occupation administration, and it proved to be inefficient as well as ineffective. The problems that developed among the Four Powers after occupation is beyond the scope of this paper and will only be referred to when a direct connection requires clarification. This study will be limited to the American occupation of its designated zone and to two of the policies its military government implemented.

As previously stated, Cordell Hull as Secretary of State voiced his concerns that the decision to demand unconditional surrender would ultimately entail the full absorption of all government functions at all levels in the occupied territory. This proved to be true. The Departments of State and War tried at times to ensure the other would take responsibility for the occupation because neither felt it was within their realm of responsibility. Despite the political maneuverings in Truman’s administration, the initial year of occupation stayed in the hands of the War Department.

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<sup>46</sup> Armstrong., 34.

## Planning for Occupation

Initially, the Civil Affairs staffs or G-5s and the European Civil Affairs Division with its three regiments were charged with planning the occupation phase when unconditional surrender occurred. The German Country Unit of the Supreme Headquarters, Allied Expeditionary Force (SHAEF) assumed greater responsibility for policy development early in 1944. In July 1945, SHAEF was dissolved and replaced by United States Forces, European Theater (USFET), which contained the Office of Military Government of the United States (OMGUS).<sup>47</sup> The Americans charged with the governance of the occupied territory and its inhabitants inherited a vast array of problems ranging from the physical destruction of the war to the ensuing shortage of food supplies. In addition to the multitude of military needs, the occupying army was to assume the responsibility for all of the civilian needs. These efforts were at times hampered by government policies dictated from home as well as by inter-allied squabbles and general lack of coordination that began as soon as hostilities ceased. The occupation of Germany brought to the forefront problems in the arena of humanitarian aid, displaced persons, refugees, the development of democratic structures such as political parties and local elections, and the establishment of a fair and transparent judiciary based on the rule of law.

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<sup>47</sup> For a complete and detailed explanation of the development and structure of military government in the occupied territory as well as the structure for Allied governance see Harold Zink, "American Military Government Organization in Germany, *The Journal of Politics* 8, no. 3, (Aug., 1946): 329-349. See also, Harold Zink, *American Military Government in Germany*, Macmillan Company: New York 1947, Chapters 1-5.

During the planning phase, no portion of postwar discussions were more contentious than the area of economic reform. And in the economic arena, no plan for postwar Germany received more attention and drew more criticism than the plan submitted to Roosevelt at his request by his Secretary of the Treasury, Henry Morgenthau. The crux of Morgenthau's plan was to destroy the German industrial capacity to make war and to replace it with a peaceful agrarian lifestyle. His plan was based on his unwavering conviction that

There can be no peace on earth—no security for any man, woman or child—if aggressor nations like Germany and Japan retain any power to strike at their neighbors. It is not enough for us to say, “We will disarm Germany and Japan and *hope* that they will learn to behave themselves as decent people.” Hoping is not enough.<sup>48</sup>

Morgenthau's plan contained suggestions in fourteen areas and he outlined how he believed these various areas should be addressed. His plan could not be accused of being “too soft” on the Germans. Both the President and Prime Minister signed off on Morgenthau's plan at the Second Quebec Conference in early September 1944. An uproar over the harshness of the plan rapidly ensued and was reflected in a memorandum from Secretary of War, Henry Stimson, to the President that stated,

We cannot reduce a nation of seventy million who have been outstanding for years in the arts and sciences and highly industrialized to poverty.... It would be just such a crime as the Germans themselves hoped to perpetrate on their victims—it would be a crime against civilization itself.<sup>49</sup>

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<sup>48</sup> Henry Morgenthau, Jr., *Germany Is Our Problem*, (New York: Harper and Brothers Publishers, 1945), xi-xii.

<sup>49</sup> Earl F. Ziemke, *Army Historical Series: The U.S. Army in the Occupation of Germany 1944-46*, (Washington, D.C.: Center of Military History, United States Army, 1975), 103. As quoted from Memo, Stimson for the President, 15 Sep 44, in ASW, 370.8, and from Stimson and Bundy, *On Active Service*, 578.

Secretary of State Cordell Hull was also in disagreement with Morgenthau. In his memoirs he wrote:

This whole development at Quebec, I believe, angered me as much as anything that had happened during my career as Secretary of State. If the Morgenthau Plan leaked out, as it inevitably would—and shortly did—it might well mean a bitter-end German resistance that could cause the loss of thousands of American lives.<sup>50</sup>

The ensuing public outcry quickly caused Churchill and Roosevelt to quietly and without fanfare renounce their support. Economic control of Germany however remained an instrumental part of the post war period of occupation. The differences of opinion as to the acceptable level of reindustrialization plagued the governments of the United Nations as well as the American Military Government of the United States who attempted to carry out the various policies that at times conflicted with the realities of the economic situation in the American Zone.

In place of the Morgenthau Plan, the United States adopted the “Directive to Commander-in-Chief of United States Forces of Occupation Regarding the Military Government of Germany; April 1945 (JCS 1067).” The directive, JCS 1067, was based on five critical areas enumerated by the Cabinet Committee on Germany, which consisted of the secretaries from the Departments of War, State and Treasury. These five areas were “demilitarization; dissolution of the Nazi Party; controls over communications, press, propaganda, and education; reparations for those countries wanting it; and decentralization of the German

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<sup>50</sup> Hull, 1614.

governmental structure.”<sup>51</sup> Additional clarification of occupation plans would be placed into the Potsdam Agreement reached by the United States, Great Britain, and the Soviet Union. Much of the secret JCS 1067 directive was incorporated into the Agreement and the Potsdam Communiqué was the first indication the Germans had as to the harsh and austere conditions that were to be implemented by the victors.

JCS 1067 contained the guidelines by which Eisenhower was to conduct the initial post-surrender phase of occupation in Germany. Part One of the document established that “The rights, power and status of the military government in Germany are based upon the unconditional surrender or total defeat of Germany” and that Eisenhower was, “clothed with supreme legislative, executive, and judicial authority in the areas occupied...”<sup>52</sup> While Eisenhower remained in command, he was primarily concerned with the military matters, including the massive reduction of forces that rapidly ensued. Civil-military affairs fell on other shoulders. The man behind Eisenhower was General Lucius D. Clay, Deputy for Military Government. Clay, as both the Deputy Military Governor and later as the Military Governor was directly responsible for the administration of the American Zone. He proved himself a tireless worker whose intricate knowledge of all aspects of the occupation enabled him to successfully complete an arduous mission. Nevertheless, the

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<sup>51</sup> Earl F. Ziemke, “Formulation and Initial Implementation of U.S. Occupation Policy in Germany,” *U.S. Occupation in Europe after World War II: Papers and Reminiscences from the April 23-24, 1976, conference Held at the George C. Marshall Research Foundation, Lexington Virginia*, ed. by Hans A. Schmitt, Lawrence, Kansas: The Regents Press of Kansas, 1978), 30.

<sup>52</sup> Directive to Commander-in-Chief of United States Forces of Occupation Regarding the Military Government of Germany; April 1945 (JCS 1067), Part I, number 2 a. and b. Found online at <<http://www.usembassy.de/usa/etexts/ga3-450426.pdf>>

situation in the initial year of occupation was chaotic. Cities and farmlands had been destroyed and there was a severe shortage of manpower caused by the loss of forced labor and by the thousands of German men interred in prisoner of war facilities. To add to the chaos, the military government realized the possibility of mass starvation as food stores rapidly dissipated. To further compound the situation, the unconditional surrender of Germany brought the cessation of industrial production, the loss of transportation, and the massive influx of Germans expelled from around Europe.

Because JCS 1067 was superseded by the inter-allied agreements reached at the Potsdam Conference that took place from 6 July- 7 August 1945, the military government was forced to refer first to the agreements reached at Potsdam. In those areas where Potsdam and JSC 1067 conflicted, they were to use the guidelines found in the former, and in areas where Potsdam was silent; they were to use the latter.<sup>53</sup> From the time American forces entered Germany through the end of occupation, confusion often reigned. Some of this was caused by the lack of unified command as demonstrated by the attempt to administer Germany by four powers with differing ideologies and views on occupation and some was caused by the lack of cohesive policy within each government, including that of the United States. Evidence suggests that early attempts to plan for the end of hostilities found the Department of War, the Department of State, the military commands and the public at large unprepared for the difficulties they faced. As a result,

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<sup>53</sup> Ibid.



The prevailing interpretation of the occupation is that policy was not clear; that the planners had not prepared for unconditional surrender; that Henry Morgenthau's intervention caused confusion and difficulties that policy planners did not overcome completely until 1947; and that the conflicts between the State Department, which was responsible for developing policy, and the War/Army Department, which was responsible for carrying it out, often resulted in a policy vacuum.<sup>54</sup>

The difficulties faced by Clay and the military and civilians charged with ominous tasks were particularly prevalent during the initial year of occupation. The fact that Germany had accepted unconditional surrender and total defeat may have exacerbated some of these problems and ameliorated others. Two areas have been selected for a more detailed analysis. First, the war presented serious humanitarian concerns. The fact that the Germans were no longer enemies brought the realization to the American soldier that they were dealing with a defeated population struggling to attain satisfaction of basic human needs. How to handle these basic needs, as well as the needs of the thousands of displaced persons, refugees and Germans seeking to leave the Russian sector created problems that the American government had to address. Second, the issue of denazification loomed over the ability to restore governmental, economic and social functions to the German people. The termination of the war brought the immediate conclusion to any and all Nazi Party affiliation; in essence, no one admitted having been a Nazi. The American's plan to create a strong, democratic, demilitarized German society began with the denazification program. The eradication of a cultural inclination to warfare and aggression would present a difficult challenge. Additional problems arose from the

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<sup>54</sup> John Gimbel, *The American Occupation of Germany: Politics and the Military, 1945-1949*, (Stanford, CA: Stanford University Press, 1968), xi.

removal of substantial numbers of skilled administrators and workers from essential services. In the long run, however, the success of denazification would be of significant importance.

### **Humanitarian Concerns**

In the first year of occupation, humanitarian concerns received significant attention because it directly related to the safety and security of the American forces. Hungry, desperate people would be far more likely to become rebellious. Yet the tremendous deprivation of others by the Nazis was also of grave concern.<sup>55</sup> The military government did not want to create a standard of living for the Germans that rose above that being experienced in the war ravaged nations of former Nazi occupation. JCS 1067 instructed the military governing officials to provide a level of sustenance that would “prevent starvation or widespread disease or such civil unrest as would endanger the occupying forces.”<sup>56</sup> In addition, they were instructed to utilize any surplus for the occupying forces, displaced persons, and prisoners of war from the United Nations.

Food was rationed within the American zone and varied from place to place. The various military divisions provided for a level of sustenance that generally ranged from 900 to 1100 calories per day for Germans and 2000 per

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<sup>55</sup> The deplorable conditions and gross inhumanity suffered by the displaced Jewish population were of immediate concern for the occupation forces and their plight was addressed as quickly as possible by the military government. This topic, however, is beyond the scope of this paper.

<sup>56</sup> JCS 1067 (21)

day for displaced persons.<sup>57</sup> Early predictions for farm production were not promising. Between the devastation of farmlands, and the loss of forced labor, the level of food production in Germany would not support even the meager rations allowed. Fears of food riots prompted the Americans to import “400,000 tons of Army supplies...during the summer of 1945 to feed the displaced persons so that the local supplies could be used as far as they went in feeding the Germans.”<sup>58</sup>

Military estimates of displaced persons after unconditional surrender reached 5.2 million.<sup>59</sup> While American planning had taken into consideration the possibility of large numbers of displaced persons, it did not consider the psychological problems, the ensuing conflicts with Germans, nor the displaced persons overwhelming desire to continue moving toward their homeland. As a result of poor planning, the displaced persons “gave military government more trouble than any other single problem.”<sup>60</sup> The vast numbers of individuals transplanted by the Nazis as forced labor had to be gathered, housed, fed, organized for transport back to their point of origin, and repatriated. In addition, displaced persons created the greatest threat to security and stability within the American zone. Looting and violence toward the German population by angry, vengeful displaced persons occurred on a continuous basis and all

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<sup>57</sup> Harold Zink, *American Military Government in Germany*, (New York: The Macmillan Company, 1947), 104.

<sup>58</sup> Ibid. 112

<sup>59</sup> Ziemke, *Army Historical Series*, 284.

<sup>60</sup> Zink, 104.

attempts by the military authorities to curb it were unsuccessful. The September 1945 Monthly Report of the Military Governor, U.S. Zone stated,

Despite some local improvements in control, the Displaced Persons continued to constitute the chief source of unrest and lawlessness in the U.S. Zone. Cases of murder and organized looting occurred at an unpleasant rate. Occasional security raids on Displaced Person camps invariably produced firearms, explosives and other weapons. Feeling on the part of the German populace has been exceedingly bitter about these Displaced Person maraudings and the widespread thefts of property and food.<sup>61</sup>

The violence and stability problems stimulated efforts to repatriate displaced persons to their homelands as soon as transportation was available. The massive numbers to be repatriated, however, made this a long term project.

The thousands of non-Germans seeking to return to their countries was not the only side of the displaced persons problem. Thousands of Germans were being expelled by the surrounding nations and their return to Germany generated additional problems for the occupation authorities. An update report from General Clay to Secretary of War, Patterson sent on 13 October 1945 stated:

Expulsion of German nationals from Poland, Czechoslovakia, Austria, and Hungary has created difficult problems with certain international repercussions....Attempts to solve this problem have been prompted not only by desire to enforce the decision of Potsdam Conference providing for orderly and humane transfer but also by desire to alleviate chaotic and difficult food and housing problems in Germany.<sup>62</sup>

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<sup>61</sup> Military Government of Germany, *Monthly Report of the Military Governor, U.S. Zone*, September 1945, 1.

<sup>62</sup> *The Papers of General Lucius D. Clay: Germany 1945-1949*, ed. Jean Edward Smith, (Bloomington, Indiana: Indiana University Press, 1974), 103.

As winter approached, these problems were exacerbated not only by food shortages but also by shortages of coal for heating.<sup>63</sup> While coal was readily available, the inability to mine it in significant quantities existed. The coal shortage was hampered by the shortage of labor, the weakened physical condition of German laborers, and the reduced numbers of workers who had been properly denazified. The internal humanitarian concerns of Germany were intertwined with the difficulties the American government had with the establishment of an appropriate level of economic progress they would allow in Germany. To many, the German industrial capacity helped lead Germany to war. Thus, many people concurred with Morgenthau's assessment that Germany's industrial capacity must be quashed if Germany were to remain disarmed. The harshness of the Morgenthau Plan was tempered slightly when in early August 1945, the Potsdam Agreement was interpreted to suggest

that sufficient capacity must remain in each industry to supply German needs under the agreed standard of living, and "that enough additional productive plant must remain to provide sufficient exports to pay for required imports...*because the economy cannot operate unless sufficient excess capacity over German requirements is retained to balance all required imports.*"<sup>64</sup>

On the other hand, the stringent economic decisions to prevent the remilitarization of German industry combined with the lack of inter-zonal trade caused by inter-allied squabbling seriously hampered General Clay's ability to feed the enormous numbers of people who were dependent upon the Americans

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<sup>63</sup> These severe shortages were prevalent throughout Europe and it was a major concern of the Allies that the Germans not receive better standard of living than those whose devastation Germany caused.

<sup>64</sup> Gimbel, 25. Quoted from US Group CC, Office of the Assistant Deputy for Resources, "Reparations Directive to the Industry Division with Respect to Removals of Industrial Capital Equipment," Aug. 8, 1945, WWIIRC 177-2/3. Italics are in the original.

for sustenance. Almost a full year after the unconditional surrender of German forces, the issue of insufficient food continued to be of utmost concern. In a January 1946 memorandum from General Clay to General Joseph T. McNarney who had replaced Eisenhower as Military Governor and Commanding General, Clay advises

that War Department requires an immediate reduction in the present German ration from 1550 calories to 1313 calories.... No assurance is provided for supplies after 1 July which would permit any increase in the reduced ration. The present ration is inadequate to sustain a working population. Health authorities have indicated time and time again that it is insufficient to maintain health over any long period of time. The reduced ration is insufficient to maintain a living standard even for a short period. Sickness and malnutrition are certain to result. Even more important, the population will be incapable of the work necessary in reviving even a minimum economy with a consequent increased financial burden to the United States.<sup>65</sup>

The enormous task of preventing the starvation, disease, and death that accompanies a nation torn apart by war fell to an army that quickly transformed itself from a fighting machine to one of civil administration. The German population handled the difficult days following unconditional surrender and the ensuing initial occupation period with quiet resignation and relative tranquility. There was no doubt among the population that Germany had been defeated and that the Germans must suffer the consequences of the vanquished. While a number of factors contributed to the docility of the German population, the acceptance of defeat contributed to the relatively secure environment that enabled the military to carry out its occupation duties. The collapse of civil government was not just a result of unconditional surrender; it was facilitated

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<sup>65</sup> Clay, 180.

by the immeasurable difficulty that is faced by any conqueror. The total war concept of World War Two brought a level of physical destruction never before seen. Civilians became the enemy and the indiscriminate destruction while a factor in the unconditional surrender of Germany, resulted in the long, difficult and expensive road of reconstruction. The decision by the Allies to permanently remove all vestiges of Nazism exacerbated the problems associated with maintaining a standard of living in Germany that prevented death and disease.

### **Policy of Denazification**

The initial months of occupation resulted in the massive round up of Nazis. Arrests of suspected Nazis in May and June of 1945 were estimated at 700 a day.<sup>66</sup> The efficiency of the Germans enabled the American authorities to quickly determine party membership and affiliation. The entire registry of 12 million Nazi Party members was recovered in Munich and numerous rosters of Hitler Youth, the Peasant's League and the Labor Front were also confiscated by American occupation troops.<sup>67</sup> Literally thousands of Nazis were arrested and placed in internment camps to await decisions of their fate.<sup>68</sup> Thousands more were left in limbo as the military government officials attempted to ascertain their status. Numerous American military officials were pulled in opposite directions as they attempted to get the country of Germany up and

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<sup>66</sup> Ziemke, *Army Historical Series*, 380.

<sup>67</sup> Ibid.

<sup>68</sup> The Nuremberg Trials of infamous Nazis is an entire investigation of denazification on its own and is intentionally not explored as a part of this paper's examination of denazification in general.

running while abiding by "...the unanimous opinion of the public (German as well as American) press, and

U. S. government that denazification was what the war had been about..."<sup>69</sup> The view held by critics was that a complete and thorough removal of everyone tainted by Nazism would result in a newly democratized Germany run by the elderly.

Two incidents that intensified the American efforts at Nazi eradication were the Aachen affair and the Patton affair. The media descended upon the early scene in Germany with an intense interest in the American military's ability to govern the defeated Germans. Aachen, the first major German city to be occupied "was regarded by the press as the first major test of military government."<sup>70</sup> The American military government detachment in Aachen appointed a German businessman as *Bürgermeister* who in turn suggested others for vacant positions in local government. The newsmen on the scene soon began their own investigations into their backgrounds of local German appointees and exposed many as Nazi sympathizers through sensational stories and headlines back home. These stories quickly resulted in a pronounced wave of anger, betrayal, indignation and disappointment in the military government who had allowed these vile Nazis to hold positions of power.<sup>71</sup>

The Patton incident was similar. General Patton, never one to withhold his opinion, made several statements to the press corps that eventually resulted in

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<sup>69</sup> Ziemke, 380. Parentheses in the original.

<sup>70</sup> Zink, 134.

<sup>71</sup> Paraphrased from the account of Zink, 134-35.



his removal as Commanding General, Third Army, and Military Governor of Bavaria. When asked his views on the policy of denazification, he asked Raymond Daniell of the *New York Times* “if he did not think it silly to try to get rid of the most intelligent people in Germany.”<sup>72</sup> Later in a memorandum to Eisenhower, Patton expressed his view on Nazism stating, “It is no more possible for a man to be a civil servant in Germany and not have paid lip service to nazism than it is for a man to be a postmaster in America and not have paid lip service to the Democratic Party or Republican Party when it is in power.”<sup>73</sup> Patton then shared this thought with reporters and this was published in the *New York Times* on 23 September 1945. Patton expressed what many felt, but when Eisenhower was unable to convince him to follow the political necessities of the policy, he replaced him as Military Governor of Bavaria.

The result of these two incidents and the public outcry they produced was the formation of Military Government Law No. 8., which “prohibited employment of Nazi party members in business in any capacity other than common labor.”<sup>74</sup> M.G. Law No. 8 also called for the “blocking of property of top-level industrialists and managers.”<sup>75</sup> Military government officers struggled to implement the new policy and the tendency for various interpretations did not lead to a universally equitable implementation. Military officials in the field and Germans, alike, feared the chaotic result of the new policy. To assuage this possibility, the military government decided to transfer the bulk of the

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<sup>72</sup> *New York Times*, 19 Sept. 45. As quoted in Ziemke, 384..

<sup>73</sup> Ltr, Patton to Eisenhower, 11 August 45, in USFET SGS 00.1. Quoted in Ziemke, 384.

<sup>74</sup> Ziemke, 386.

<sup>75</sup> John H. Hrez, “The Fiasco of Denazification in Germany,” *Political Science Quarterly* 63, no. 4 ( Dec., 1948): 171.

responsibility for denazification to the Germans themselves. The Law for Liberation from National Socialism and Militarism was issued on 5 March 1946 and provided for the categorization of Nazi activists.<sup>76</sup>

Much of the vetting process was accomplished by the requirement that German citizens fill out questionnaires called a *Fragebogen*. Military officials used these to cull through the population and determine their level of involvement with Nazism. Members of the Special Branch of the American Military Government then checked these with Counterintelligence. In the first year of occupation after unconditional surrender, they received approximately 1,613,000 and removed approximately 373,762 individual as being serious tainted by Nazism.<sup>77</sup> The staggering number of cases placed before the tribunals conducted throughout the zone was an enormous administrative challenge. According to Zink, during the first five months of the occupation 583,985 cases were reviewed; 530,907 were dismissed without trial; 116 were convicted as Category I offenders; 1195 were convicted under Category II; 3,442 were convicted in Category III; 29,582 were convicted as followers in Category IV; and 7, 447 were determined to be non-offenders.<sup>78</sup> The majority of those convicted paid a fine and were then considered denazified. The remainder served a variety of punishments, including the death sentence for some in Category I.

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<sup>76</sup> Herz, 571. The categories were Nazi activists, (Major Offenders, Class I and Offenders, Class II), probationers (Lesser Offenders, Class III), Followers (*Mitlaufer*, Class IV), exonerated (Class V)

<sup>77</sup> Zink, 141-142.

<sup>78</sup> Ibid. 143.

Denazification of the entire population proved to be a vast and endless undertaking requiring a tremendous amount of time, energy, manpower and resources. The process of denazification in some form or another was conducted in the remainder of Germany under the guidelines provided in the Potsdam Agreement and implemented as each government decided. Thus, denazification varied not only throughout the American zone but also throughout all of Germany. The porous borders between zones, however, enabled a number of Nazi's to fall between the administrative cracks.

The impact of "unconditional surrender" on the process was more political than military. The public perception that the war had been fought to eradicate the evils of Nazism required a more thorough eradication of Nazi sympathizers than was probably necessary and in areas of skilled labor and administration, it probably hampered the ability of the American military government to maintain its zone with an acceptable standard of living. The public campaign of the Roosevelt administration to convince the world that the evil Nazi regime and its militarism could only be eradicated by total war and unconditional surrender may have made the process of establishing a peaceful Germany by the Truman administration more difficult. Unconditional surrender may or may not have prolonged the war but it did prolong the deployment of large numbers of troops to carry out the denazification process. German manpower, which had experience in government administration in many cases, was lost to military government officials as they tried to establish local government, introduce democratic structures and conduct elections.

Criticisms of denazification ranged from early concerns expressed by those charged with establishing a functioning society that denazification was too restrictive to the more popular view that it was too lenient. The American process, however, did provide the Germans a glimpse of the rule of law. The massive numbers of tribunals were open to the public and since many Germans were unemployed the proceedings were watched with great care and curiosity.

We can hypothesize that *conditional* surrender may or may not have enabled the former Nazis with lesser convictions to continue with their lives unscathed by the demands for their removal. We can speculate that the loss of power and the power vacuum that accompanied the removal of the multitude of men touched by Nazism may not have occurred, and that the system of autocratic German authority may not have been breeched. We can also posit that the removal of property and industrial control may not have forced reforms in the German economic structure. In reality, Germany was occupied under the unconditional surrender principle and despite severe difficulties; the power structure of Germany was successfully dismantled and rebuilt under the watchful eye of American military government officers.<sup>79</sup>

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<sup>79</sup> An examination of journalistic impressions during the initial occupations of Germany and Iraq would provide an excellent opportunity to explore the media and their role in the public's opinion of success and failure of war termination in the short term. It is, however, outside the scope of this current analysis.

## **CHAPTER 3**

### **UNCONDITIONAL SURRENDER IN OPERATION IRAQI FREEDOM**

#### **Contemporary Thoughts on Unconditional Surrender**

Some theorize that unconditional surrender has been abandoned as a factor in war termination. Their rationale is simple and poignant. Total war in the world of nuclear weaponry is no longer an option because the total destruction of humanity could be the result. The political and military establishments now struggle to find the formula that will bring a war to a peaceful termination, where the victor's goals are met and the vanquished accept and facilitate the return to security and stability. In regards to Operation Iraqi Freedom, it may be too early to determine if the correct formula has been discovered.

I posit that the complete military rout of the Iraqi military forces in effect constituted a de facto unconditional surrender. The unconditional surrender of the state of Iraq was brought about by two factors. First, the comprehensive tactical surrender of the Iraqi military forces occurred without conditions and second, the complete abdication of Saddam Hussein and the Ba'athist regime left a power vacuum where no one had the authority to seek either conditional surrender or to accept surrender unconditionally. The American and Coalition governments were therefore able to decide when to cease the formal stage of

hostilities without a decision from Iraq to request it. The rapid and decisive military victory achieved by the superior forces of the American and coalition forces placed the victors in a near complete and unequivocal control of Iraq.

The result of unconditional surrender by German authorities was the complete and unequivocal control of the state of Germany by Allied forces. The same was initially true in Iraq. The fact that no one in Iraq had the power to formally concede defeat does not diminish the fact that the result was the same. Clausewitz stated “*War is thus an act of force to compel our enemy to do our will....* To secure that object we must render the enemy powerless; and that in theory, is the true aim of warfare.”<sup>1</sup> The strategic surrender of Germany and the German military forces was unconditional; and I contend, the tactical surrender of all Iraqi forces along with the disappearance of all high-ranking government officials leads to the conclusion that the Iraqi case constitutes an unconditional surrender. I further argue that strategic military victory in Iraq is synonymous with political victory and thus is the basis for the legitimacy of the occupation of Iraq by the victorious American and Coalition forces.

If we conclude that the termination of the fighting phase in both World War Two and Operation Iraqi Freedom was the result of unconditional surrender, then the moment of unconditional surrender can become the starting point for occupation of the vanquished territory by the victor who then imposes military government. In both cases, the initial objective of the military governing

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<sup>1</sup> Carl von Clausewitz, *On War*, Michael Howard and Peter Paret, eds. and trans. , (Princeton , NJ: Princeton University Press), 1976, p. 75. Emphasis original. As quoted in Colin S. Gray, “Defining and Achieving Decisive Victory,” Strategic Studies Institute, 2. Located online at <<http://www.carlisle.army.mil/ssi/pdf/00262.pdf>>

authorities was to secure a safe and stable environment for their forces in the occupied territory. In both cases, the military government quickly took steps to address humanitarian concerns. In both cases, the governing authorities were tasked with the elimination of the ideology that sustained the totalitarian regime they fought to depose. An analysis of Iraq can determine what similarities and differences exist in the areas of humanitarian concerns and regime ideology change. In addition, we can assess how the rapid collapse of the civil and military infrastructure contributed to the power vacuum that led to the unconditional surrender of Iraq. The capture of Saddam Hussein will enable future studies in this area to determine the problems associated with the impact on the occupation forces when a captured head of state refuses to cooperate in any legal recognition of defeat.

### **Surrender and Operation Iraqi Freedom 2003**

The United States first set forth conditions for the avoidance of war when President Bush addressed the United Nations on 12 September 2002. In his speech he stated the conditions that Iraq had to meet to prevent military action.

- Immediately and unconditionally forswear, disclose, and remove or destroy all weapons of mass destruction, long-range missiles, and all related material.
- End all support for terrorism and act to suppress it.
- Cease persecution of its civilian population. Release or account for all Gulf War missing personnel.
- End all illicit trade outside the oil-for-food program.<sup>2</sup>

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<sup>2</sup> President Bush's Address to the U.N. General Assembly, September 12, 2002. Located online at <<http://www.whitehouse.gov/news/releases/2002/09/20020912>>

The rise of insurgent activities may prove to be a greater task for the security of aid workers. The porous borders of Iraq have enabled large numbers of external terrorists to enter Iraq and join the internal disaffected in creating instability and chaos. With the turn over of sovereignty to Iraq, the American and Coalition forces remain engaged at the request of the new Iraqi government. In their new role as partners in the fight against insurgents, new concerns for Iraq's ability to protect foreign aid workers are generated.

### **Policy of De-Baathification**

The removal of remaining Baathists was a primary concern of the governing authorities. The Coalition Provisional Authority (CPA), issued Coalition Provisional Authority Order Number 1, which called for the de-baathification of Iraqi society. This order first presents Bremer's rationale for the issuance of the order and states:

*Pursuant* to my authority as Administrator...,

*Recognizing* that the Iraqi people have suffered large scale human rights abuses and depravations over many years at the hands of the Baath Party,

*Noting* the grave concern of Iraqi society regarding the threat posed by the continuation of Baath Party networks and personnel in the administration of Iraq and the intimidation of the people of Iraq by Baath Party officials,

*Concerned* by the continuing threat to the security of the Coalition Forces posed by the Iraq Baath Party,

I hereby promulgate the following...<sup>18</sup>

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<sup>18</sup> Coalition Provisional Authority Order Number 1, De-Baathification of Iraqi Society, 16 May 2003. Located online at <<http://www.cpa-iraq.org/regulations/CPAord.1.pdf>>



The order enumerated the provisions for the disestablishment of the Baath Party. First, all party structures and its leadership were to be removed to insure that a more representative government would not be intimidated by a return to power of former Baathists. Second, the order removed Senior Party Members and banned them from future public service. The order indicates that each Baathist removed from their position would be investigated for criminal activities and if it is determined they were a threat to security, arrested. Third, the CPA would investigate all individuals who held positions within the top three levels of government ministries, universities, government affiliated corporations, etc. Any individual determined to be full members of the Baath Party would be removed from their position and investigated. Fourth, symbols of Baathism, particularly likenesses of Saddam Hussein were forbidden in public places. Fifth, rewards were offered “for information leading to the capture of senior members of the Baath party and individuals complicit in the crimes of the former regime.”<sup>19</sup> Lastly, the CPA retained the right to grant exceptions. Order 1 went into effect on 16 May 2003. CPA Memorandum Number 7 delegated the authority to the Governing Council to take the necessary steps to carry out Order 1. The Governing Council was empowered to place authority for the execution of Order 1 with the Higher National De-Baathification Commission. This commission was to provide written reports monthly to the Administrator and the Governing Council. Memorandum Number 7 provided additional specifications for investigating an individual’s affiliation with organizations related to the Baath regime. These organizations

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<sup>19</sup> Ibid.

included, the Feda'iyeen Saddam, Special Security, General Security or Mukhabarat, Military Intelligence, National Security, or the Special Protection for the Presidency.<sup>20</sup> This memo entered into force on 4 November 2003.

A large number of Baathists deserted their posts, and most of the 55 men on the military's list of most wanted went into hiding. At present, only 12 persons remain unaccounted for. In addition to the infamous 55, full members of the party who held the rank of *Udw Qutriyya* (Regional Command Member), *Udw Far* (Branch Member), *Udw Shu'bah* (Section Member), and *Udw Firqah* (Group Member) were to be removed from their positions and banned from all future government positions.<sup>21</sup> As numerous individuals were removed from their positions, the critics expressed fears that chaos would escalate. Anthony H. Cordesman, the Arleigh A. Burke Chair for Strategy at the Center for Strategic and International Studies expressed the opinion that:

The "de-Ba'athification" effort was handled in too rigid a way for a country that had been under the same dictatorship for nearly three decades. Senior officials and officers were excluded from the nation-building effort simply because of rank and Ba'ath membership, rather than screening on a person-by-person basis. The end result was to compound the power vacuum created by the systematic murder and purging of secular opposition from 1979 onward.<sup>22</sup>

The removal of skilled administrators could make reconstruction efforts more difficult. The civil service system in Iraq, while riddled with loyal Baathists was considered an advantage for the coalition interim government in Iraq and it was possible that "the individuals, institutions, and networks that

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<sup>20</sup> Coalition Provisional Authority Memorandum Number 7, "Delegation of Authority Under De-Baathification Order No. 1", 4 November 2003. Located online at <<http://www.cpa-iraq.org/regulations/CPAord.1/7.pdf>>

<sup>21</sup> Ibid.

<sup>22</sup> Cordesman, 14.

held positions of formal or informal power and influence in Iraq under the Baathist regime may be useful to the hard-pressed U.S. forces and CPA as they seek to deliver security, stability and services in the short term.<sup>23</sup>

Unconditional surrender that results in the removal of large numbers of civil servants, skilled labor, and businessmen often incurs difficulties in facilitating smooth transitions to reconstruction. A lack of trust, however, is only one of the problems associated with incomplete efforts to eradicate Baathists from position of authority and prestige. The reinstatement of those who perpetuated a cruel totalitarian reign will cause many Iraqis to question the validity of the victor's motivation to create a "new" Iraq. Fear of future retaliation makes it difficult to build the foundation of a new and democratically minded populace. While the occupiers remain, the possibility of retaliation is held in check. The fact that Iraq has assumed a degree of sovereignty has not dissipated the question many have as to its fate once the American and coalition forces leave.

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<sup>23</sup> Dobbins, 185.

## **CHAPTER 4**

### **CONCLUSIONS**

Unconditional surrender enables the victor to occupy the territory of the vanquished with out conditions and the lack of conditions in which war will terminate leads to the fear of consequences the vanquished will suffer. However, international law exists to define the rights and duties of military occupation. The Hague Conventions of 1899, and 1907 were in place for World War Two and the 1949 Geneva Conventions provided additional regulations for the conduct of military occupation. When people live under totalitarian regimes that do not respect the natural rights of man, their fear that an occupying force will disregard international law is probably more pronounced. The United States, for the most part, has abided by the international laws in force at the time they became occupiers. Fear of the unknown was exploited by the German propaganda machine and probably led to the length of the war. It does not appear that it had any effect on the duration of the Iraq War.

As Secretary of State Cordell Hull postulated, unconditional surrender did lead to the requirement that the victors assume all functions of government. The traditional role of the military to win wars has, in contemporary times, been extended to include the administration of peace within occupied territories.

This has proven to be an extension of responsibility that the military continues to resist.

Unconditional surrender also allows the victor to eradicate the influence of the defeated government. However, the political decisions regarding who should be removed often complicate the occupation authorities' ability to restore a functioning indigenous government. Maintaining a large army in the occupied territory also creates logistical problems to keep the army fed while ensuring that massive hunger and deprivation of the indigenous population does not produce "bread riots" or contribute to the spread of diseases that can incapacitate its own army. On the other hand, maintaining a small army in the field enhances the likelihood of renewed warfare.

Our two focus areas of study, humanitarian issues and the issue of removing totalitarian influences, provides some correlations and some contrasts. First, the humanitarian issues were vastly different in the occupation of Germany and the occupation of Iraq. The unconditional surrender of both World War Two and Operation Iraqi Freedom were both achieved by the American strategy of annihilation.<sup>1</sup> However, the length of the war and military tactics, such as the massive use of indiscriminate carpet bombing, created a humanitarian crisis in Germany of enormous proportions. The staggering numbers of displaced persons from countries throughout Europe complicated an already difficult situation. The lack of cooperation among the Allied zones of occupation exacerbated the problem even further. In contrast,

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<sup>1</sup> Russell F. Weigley, *The American Way of War: A History of United States Military Strategy and Policy*, (Bloomington, Indiana: Indiana University Press, 1973) 128-153.

the lack of a humanitarian crisis in Iraq can be attributed to the short duration of the war and the influence of the humanitarian community to ensure that the indigenous population did not suffer. Iraq had no externally displaced persons to contend with nor were there significant numbers of internally displaced persons. Thus, the unconditional surrender of Iraq had a minimal impact on the humanitarian concerns of the population. To the contrary, the occupation of Iraq has brought millions of dollars of humanitarian aid of all types to help repair an infrastructure that was in shambles prior to the war.

The primary difference in the military's ability to provide for the humanitarian concerns of Germany and Iraq is in the area of security. Security in Germany was never really an issue. A few sporadic attempts by Nazi Wehrwolves<sup>2</sup> quickly vanished and the only serious security problems the military government faced were those created by the DPs violence toward the indigenous German population.<sup>3</sup> Security in Iraq, however, continues to be an ongoing and escalating challenge for the military occupation forces. Indiscriminate violence characterized by suicide bombings and guerrilla style warfare has hampered the ability of the humanitarian organizations to conduct their efforts.

The ability of the occupying authorities to eliminate the ideological supporters of the previous regimes had to be tempered in both cases by the reality that their expertise in certain areas was instrumental to the re-establishment of a functioning society. A functioning society remains the

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<sup>2</sup> A small and ineffective group of radical Nazi's unsuccessfully attempted to continue the fight.

<sup>3</sup> The Monthly Reports Of the Military Governor, U.S. Zone beginning in 20 August 1945 bears this out.

framework necessary for the implementation of democratic systems of governance. The political insistence that the former regime be purged from all aspects of life in both Germany and Iraq created unrealistic expectations. In both cases, employment in most positions required allegiance to the party. The vetting process to determine if this allegiance was nominal or substantial was a vast undertaking. With the exception of the most notorious members of the Nazi and Baathist parties, the more expedient route was to obtain cooperation first and determine their status later.

Evidence exists that the populations of both defeated countries feared the revival of former loyalists. The long-term occupation of Western Germany virtually eliminated the opportunity for retribution. The length of an external military presence, now that the official and legitimate military occupation in Iraq has ended, is a factor that cannot at this time be determined. However, the current forces in Iraq, including American, Coalition and Iraqi, have thus far been unable to stop the sporadic and somewhat localized violence perpetrated against the Iraqi interim government that assumed sovereignty at the end of June 2004.

The numbers of troops in the occupied territory differs greatly from the point of unconditional surrender of Germany and the unconditional surrender of Iraq. Eisenhower stated, "On the day of the surrender there were, in the great Allied Force, more than 3,000,000 Americans under my command."<sup>4</sup> American and coalition forces in Iraq are estimated to be between 130,000 and 160,000.

This difference is immense and supports the claim that more soldiers might be

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<sup>4</sup> Eisenhower, p. 429.

needed to accomplish security in Iraq. Whether these soldiers will come from external sources or the newly re-trained Iraqis remains to be seen.

Another area affecting the security of the two defeated nations was disarmament. The disarmament of the Iraqi population has been hampered by the existence of various militias, the inability of the American's and coalition forces to quickly destroy weapon stockpiles and the diffusion of large numbers of soldiers and their weapons into the population as the war progressed. The military government in Germany with its large contingent of soldiers quickly disarmed the population. For example, they conducted a surprise check up of the German population on 21-22 July 1945 in which "...80,000 arrests were made, most of these were for minor infractions...and most were released in a few hours. Only small amounts of arms and ammunition were discovered,..."<sup>5</sup> At current force levels a sweep of this scope is impossible and the proliferation of weapons in the hands of the resistant segments of the Iraqi population is evidenced nightly on the news.

Lastly, the primary difference between the unconditional surrender of Germany and Iraq lay in the decision to surrender. The occupation forces in Germany had the benefit of an acknowledgement of defeat and the public signing of unconditional surrender documents that formally transferred power to the victors. No one in Iraq was available to accept formal defeat or to formally accept the unconditional surrender that simply happened by default. The hypothesis exists that the period between World War One and World War Two was simply an opportunity for Germany to prepare for the resumption of

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<sup>5</sup> Monthly Report of the Military Governor, U.S. Zone, 20 August 1945 No.1.p.13.



hostilities...that the first war had never been terminated. If there is truth to this, then the Iraqis have simply shortened the waiting period; and despite their unconditional surrender, the war has not yet been terminated. On the other hand, the war between Iraq under the regime of Saddam Hussein and those who sought to remove him is over. The new context of struggle within Iraq can be defined as an internal insurgency supported by external forces and is outside the scope of this thesis.

In conclusion, I postulate the primary correlation between war termination and occupation problems to lie in the area of indigenous acceptance of total defeat by an individual empowered to accept unconditional surrender on behalf of the vanquished state and its people. Unconditional surrender of Germany was accepted by Admiral Doenitz and he conveyed to the German people that they must submit to the conditions imposed by the victors. Iraq simply fell apart. No one has yet to verbalize the total defeat of the Iraqi state. No one expressed the legitimacy of authority to compel the Iraqi people that the Iraqi state surrendered without condition and that the people must accept the conditions imposed by the victors. The lack of a legitimate authority to unconditionally surrender the state is the strongest correlation between the termination of a war and the facilitation of restoring a peaceful, productive and secure society for the vanquished.

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## **VITA**

Margaret E. Lester, more commonly known as, Peggy, received her Bachelor of Science and Master of Science degrees from East Texas State University in 1974 and 1976, respectively. She has taught a wide variety of history classes in both middle and high school. The fall semester of 2004 will begin her 30<sup>th</sup> year of teaching. In the summer of 2002, she entered the Graduate College of Texas State University-San Marcos.

Permanent Address: 14020 Timberline Trail  
Austin, Texas 78737

This thesis was typed by Peggy Lester