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Rule of Law – Preparation of the Environment

A Perspective on Preparing to
Conduct Rule of Law Activities in
Stability Operations

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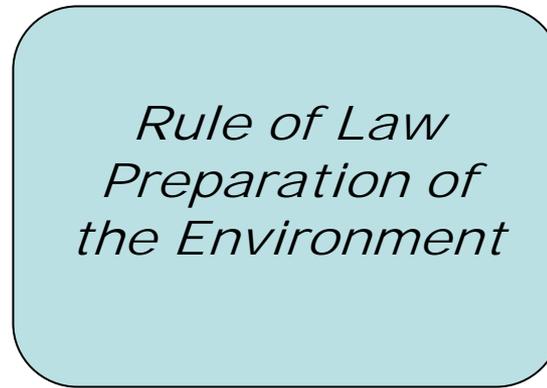




IPB v. OPE

IPB

“An analytical methodology employed to reduce uncertainties concerning the enemy, environment, and terrain for all types of operations. Intelligence preparation of the battlespace builds an extensive database for each potential area in which a unit may be required to operate. The database is then analyzed in detail to determine the impact of the enemy, environment, and terrain on operations and presents it in graphic form. Intelligence preparation of the battlespace is a continuing process. Also called IPB.”



Precedents

- JA Country Law Study & Staff Estimates
- CA Assessments and Estimates

OPE

“Non-intelligence activities conducted to plan and prepare for potential follow-on military operations conducted under Title 10 authority.”





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Which Tool -- Analyze the Host Nation Rule of Law Status Quo Ante

ASCOPE

UN
Definition

*Can Might
Make Rights?*
& CLAMO
RoL
Handbook

JFCOM
Framework

MPICE

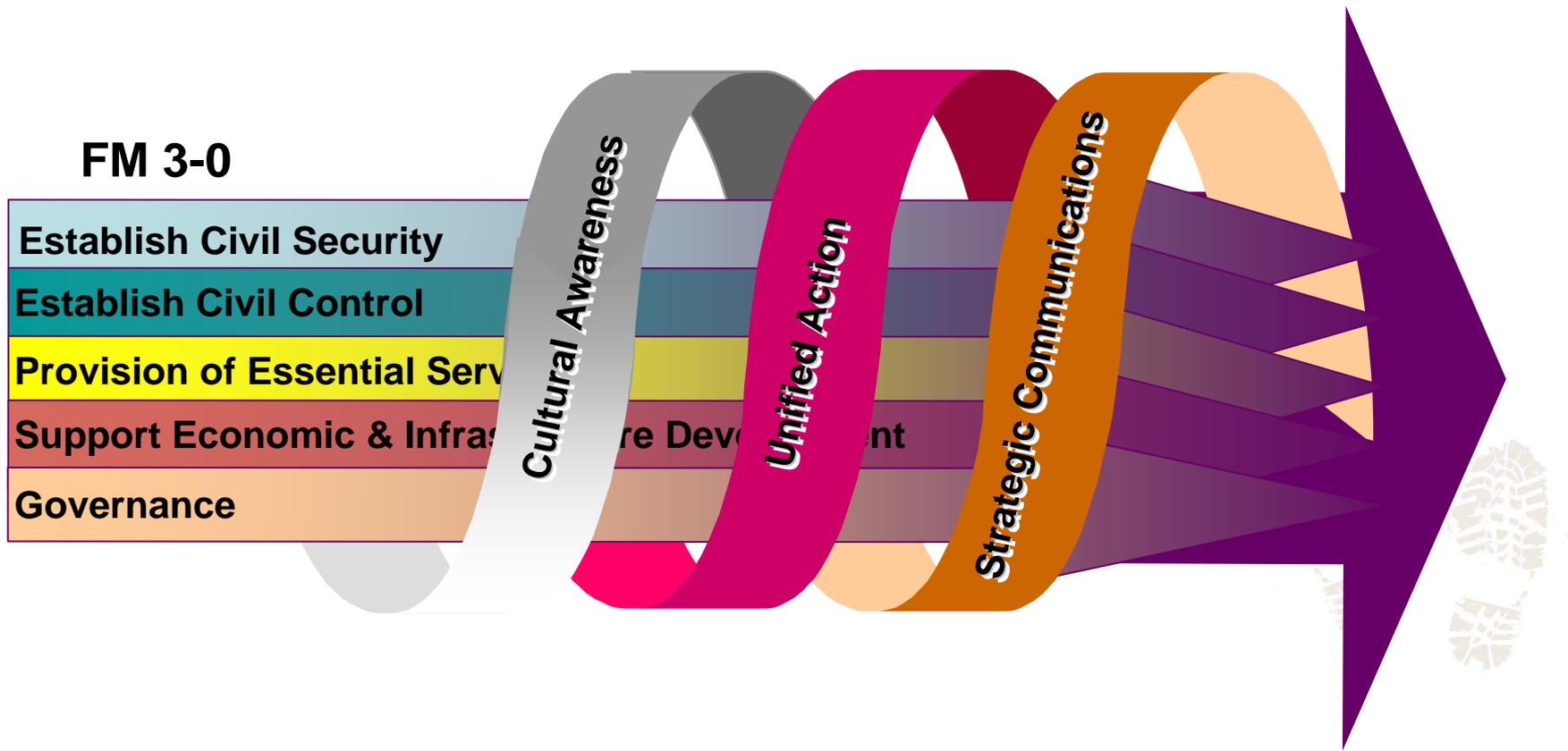




Stability Operations

Definition of Stability Operations from JP 3-0:

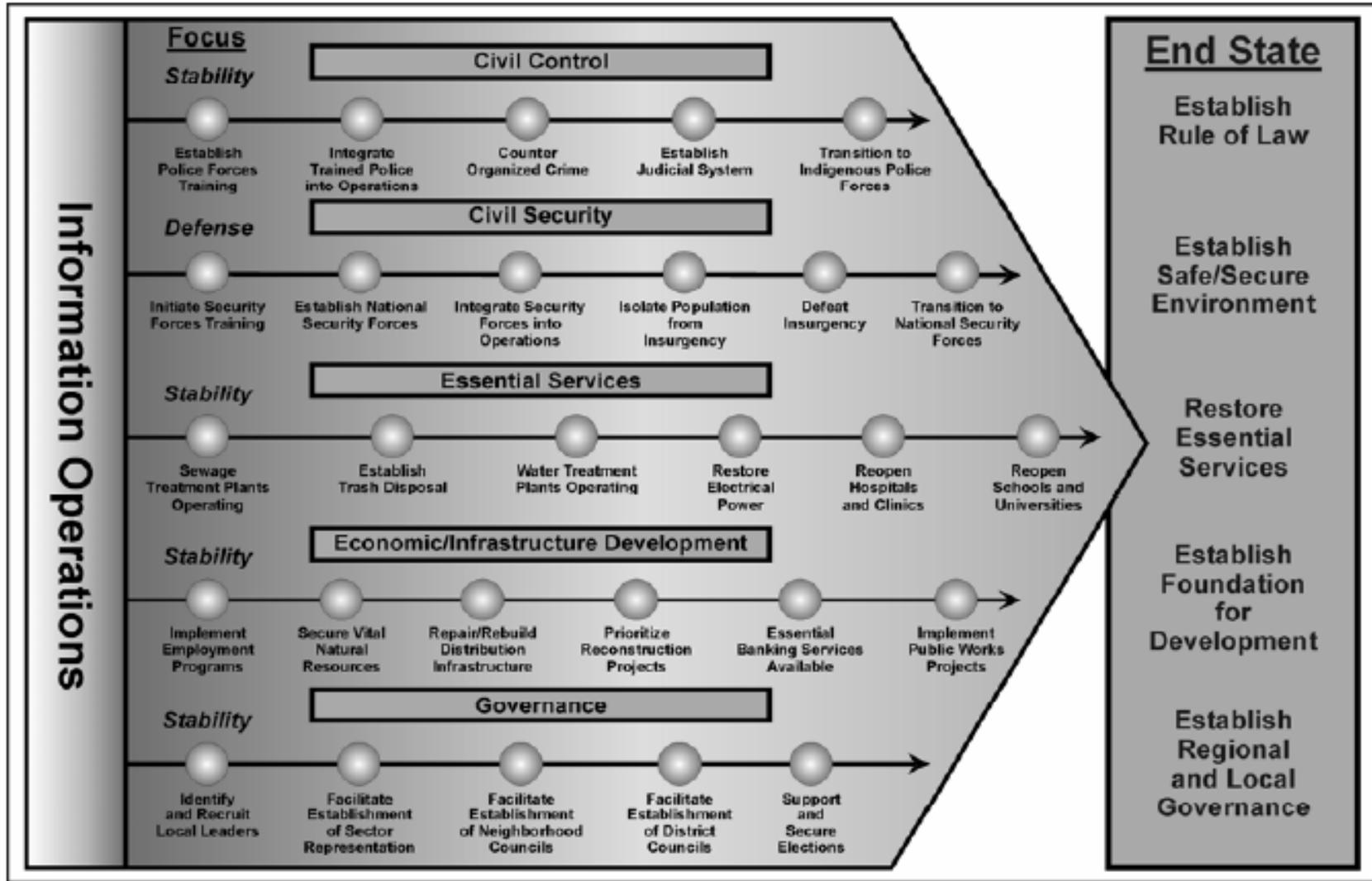
Various military missions, tasks, and activities conducted outside the US in coordination with other instruments of national power to maintain or re-establish a safe and secure environment, provide essential government services, emergency infrastructure reconstruction, and humanitarian relief.





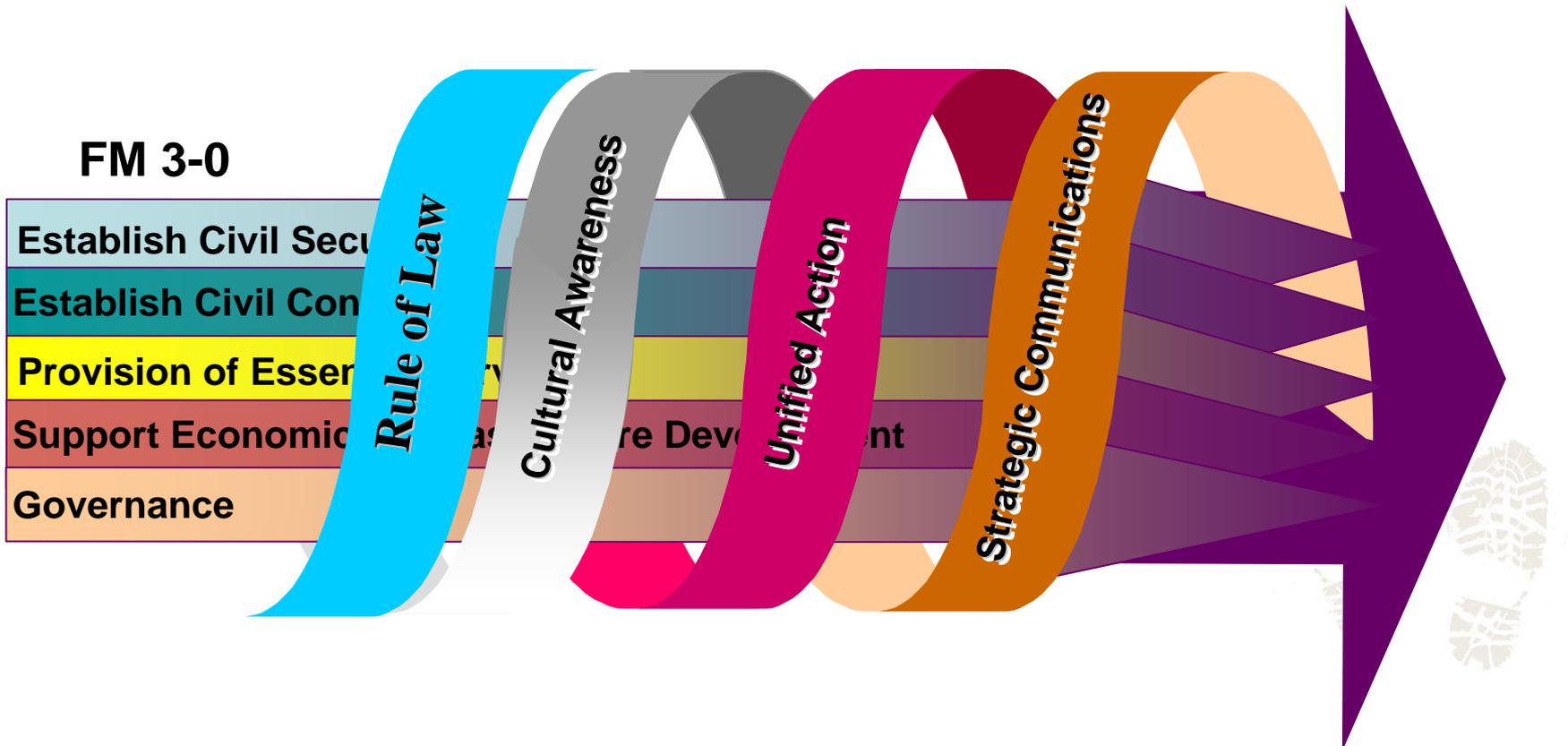
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FM 3-0 *Lines of Effort and the Role of Rule of Law*





Rule of Law efforts in support of other elements of Stability Operations?



ARMY DOCTRINE HIERARCHY



Joint Doctrine
JP 0-2, JP 1, & JP 3-0



Army Capstone Doctrine
FM 1 & FM 3-0



CONTINUUM OF OPERATION

ELEMENTS OF COMBAT POWER

FULL SPECTRUM OPERATIONS

OPERATIONAL ENHANCE

SUPPORTING DOCTRINE



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An Operational Construct for Rule of Law

* Stability Operations

Rule of Law — “a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness, and procedural and legal transparency.”

Monopoly on force

Individual Security

State bound by law

Law determinable &
stable

Individual access to
legal system

State protects rights

Individuals rely on law
in daily lives

Rule of Law “Activities”



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Definition of the Rule of Law – an Objective

“a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness, and procedural and legal transparency.”

UN Secretary General's
Report on the rule of law and
transitional justice in conflict
and post-conflict societies,

UNSCR S/2004/616





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Rule of Law Effects from Can Might Make Rights?

- The state monopolizes the use of force in the resolution of disputes
- Individuals are secure in their persons and property
- The state is itself bound by law and does not act arbitrarily
- The law can be readily determined and is stable enough to allow individuals to plan their affairs
- Individuals have meaningful access to an effective and impartial legal system
- Basic human rights are protected by the state
- Individuals rely on the existence of legal institutions and the content of law in the conduct of their daily lives





Military Rule of Law Activities

Categories of actions designed to support development of host nation Rule of Law capacity, functional effectiveness, and to achieve the Rule of Law Effects in order to support the Interagency strategic Rule of Law objective.

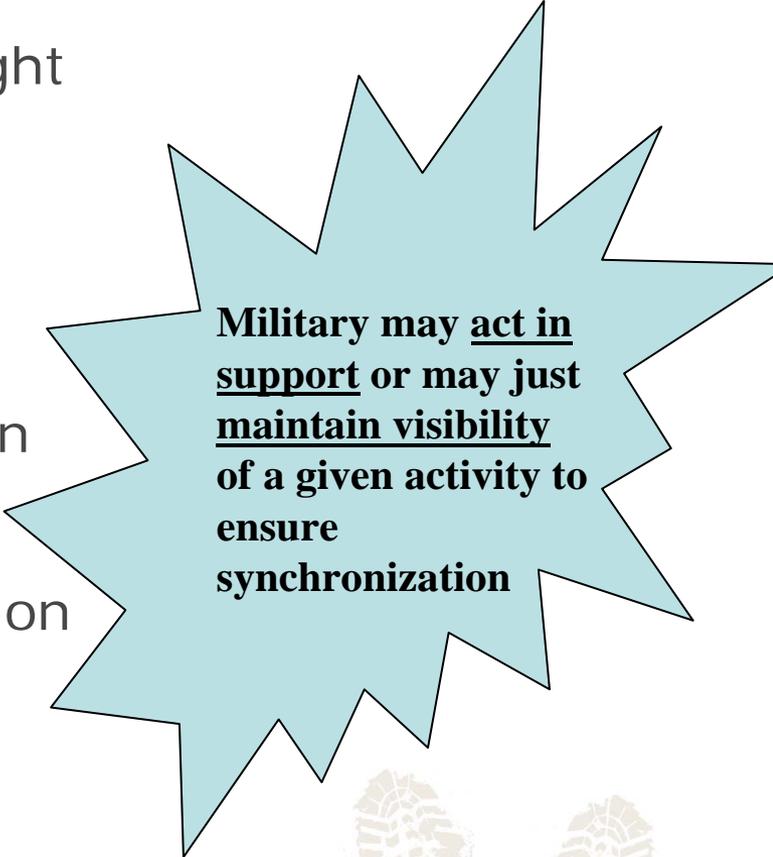
- * *These actions must nest with all five Stability Operations primary tasks as defined in the joint force commander's stability operations plan.*
- * *Military efforts may be limited by the commander's capability, but could be combined with Interagency resources.*
 - * *Actions must be identified from information in initial assessments, validated during planning, synchronized during execution, and continually reassessed for effectiveness.*



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Examples of Rule of Law Activities

- Police and Internal Security
- Border and Coastal security oversight
- Armed Forces oversight
- Intelligence oversight
- Detention, Jails, and Prisons
- Competing Power and Security Structures & DDR
- Judiciary and Judicial Administration
- Legislative and Administrative Regulation
- Transitional Justice and Reconciliation
- Customary Law/Informal Dispute Resolution
- Democratic oversight
 - Anti-Corruption
 - Constitution
 - Elections or other Access Mechanisms
 - Public/Private Legal Community and Institutions
 - Human Rights and Equality and accountability
 - Internally Displaced Persons/Refugees



Military may act in support or may just maintain visibility of a given activity to ensure synchronization





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JFCOM Framework for Rule of Law Actions

- HN Legal Framework
- HN Justice Architecture
- HN Security Architecture
- Countering Transnational Crime
- Law Enforcement
- Corrections
- Accountability, Oversight, Anti-Corruption
- Public Information/Records
- STRATCOM/Perception Mgmt
- Sovereignty
- Conflict Resolution/Peace Implementation
- Reconciliation, Restoration, Restitution, and Reintegration
- Civil Governance
- Security Sector Reform
- Demobilization, Disarmament, and Reintegration
- Integrated Border Mgmt
- Human Rights
- Legitimacy
- Infrastructure and Sustainability
- Intelligence and Information Sharing
- Use and Integration of Government Contractors

20 Cross Cutting Issues

