

HORIZONTAL AND VERTICAL INTEGRATION OF LOAC INTO MILITARY ACADEMY CURRICULUM

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Abstract: *This article signals the need for an integrated approach to curriculum development and implementation with a focus on a group of disciplines related to the Law of Armed Conflict (LOAC). By highlighting various teaching approaches of LOAC, I argue that there is a risk that LOAC be perceived by many non-legal practitioners, like the cadets, as difficult to grasp, interpreted and correlated with real situations they will face daily in operations, exercises or even during execution of routine peace-time duties. I support the idea that the LOAC, as a horizontal discipline in a military academy curriculum, need to be integrated dynamically, both horizontally (in relation to other operational disciplines) and vertically (along the academic path of a military cadet) into the overall construct of learning the basics of the profession of arms. To operationalise this finding, I propose an integrated educational model that suggests horizontal coordination of the academic schedule and enhanced cooperation among the teaching staff of the relevant disciplines.*

Keywords: law of armed conflict, military ethics, integration, curriculum

1. Introduction

Learning is the result of integrating acquired knowledge, skills, responsibility, and autonomy into the bigger picture of life, by connecting related and apparent disparate dots and constructing new knowledge and experiences. Professional learning developers take the traditional way of building a curriculum that follows the process of erecting a house, by laying bricks on a solid foundation and putting a roof on top. You cannot arrange them in any order but in *that* specific order: foundation, bricks, roof. This approach should be replicated at all curriculum components: programme, module, discipline, or lesson. To have a solid curriculum capable of preparing for a professional life, one needs stable rocks like values and principles (foundation) that give learners stability whatever the magnitude of

a quake, a number of bricks (courses/ disciplines) that give meaning and substance to the programme and a roof to bridge the walls and protect the overall construct (a capstone course or experience to test the sequential acquisition of knowledge, like an internship or an integrated, interdisciplinary exercise). However, that is not enough, and these layers may be dangerously instable unless linked and connected. Therefore, it takes connecting elements to keep all these parts together, like cement, beams, or keystones. If the foundation, bricks, and roofs suggest *verticality*, the connecting elements indicate *horizontality* – a transdisciplinary effort. The stability of the house depends on each of the constituent elements and the relationship between them. No one even thinks of starting the house without cement, beams, and other connecting elements.

Although the curriculum is by its essence an interactive system of instruction and learning [1], one of its weaknesses could be the poor connectivity among the constituent parts or disciplines and courses that prevents students understanding the big picture and hides possible unnecessary duplication or excessive overlap between disciplines. Reaching a solid and coherent curriculum is not an easy job as it takes a lot of horizontal coordination, a culture of talking laterally between developers, teachers, and students (which should be actively and constantly involved in curriculum development) and an iterative, continuous curriculum development process, in successive painful working sessions. All these take time, which although not paid, when invested, it pays off in the longer run.

This article signals the need for an integrated approach to curriculum development and implementation with a focus on a group of disciplines related to Law of Armed Conflict (LOAC).

2. Models of Teaching LOAC

There are many models of teaching LOAC, and they vary very much with the audience. Students in *Law* may have distinct learning needs and priorities compared to students in *Arms*. The International Committee of the Red Cross (ICRC) offers several models to teach LOAC that can be tailored to fit the audience's background and programme objectives. Depending on the envisaged weight and depth of knowledge, LOAC may be taught in 2, 8 or 40 lessons, or even in a year-long programme [2]. However, most of these models are aimed at a civilian audience, specialised in law.

When it comes to future military commanders, LOAC teachers with a military background have long been concerned with inculcating rules and norms into soldiers' behaviour in a manner that comes natural and logic in relation with their actions on the battlefield, and most

importantly by avoiding the (excessive) use of "legalese" [3].

Military lawyers, or Legal Advisors (LEGAD) in a military jargon, by their professional obligations, should know the law by the articles of the conventions, to advise commanders and the staff for a variety of situations and ensure its implementation by its letter and spirit as well. It is expected that military lawyers' education takes them through the complexities of the law in depth. However, it is no surprise that the law may be perceived by many non-legal practitioners (like the cadets) as difficult to grasp, interpreted and correlated with real situations they will face daily in operations, exercises or even during execution of routine peace-time duties, like guarding a military objective. So, how do military prefer to learn the law? Military people like procedures, regulations, and rules but not the *Law*. However strange may sound, although law is composed of rules, using the term "law" may sometimes be discouraging for learning. In this regard, a "marketing" technique in devising a LOAC related discipline could be to avoid references to the *Law of...* although they may be obvious constituents of a specific branch of law that forms the basis of that particular discipline. An example is the *Handbook on International Rules Governing Military Operations* that frames the LOAC as part of a broader set of rules applicable to military operations [4].

Colonel Frédéric de Mulinen has been credited with moving from a standard, legalistic paradigm to a practical, applicative model of teaching LOAC to a military audience [5]. He tested this approach while teaching a course on the LOAC at the International Institute of Humanitarian Law in San Remo, Italy. His two-week course did not follow the traditional approach of a sequential presentation of LOAC institutions but focused on practical examples and case studies for which a very simple theoretical

introduction was needed. The course supporting material (*Handbook on the Law of War for Armed Forces*) was devised in 1987, in a manner to serve this purpose by avoiding scrupulous references to articles of the conventional law or to the rules of customary international law. Colonel Bill Nott acknowledged Colonel Frédéric de Mulinen's heritage, took his model even further and validated his approach when coordinated in 2013 the *Handbook on International Rules governing Military Operations*, a book dedicated to operational commanders and their staff. Another former officer, David Lloyd Roberts, suggested a course structure in which LOAC is discussed along well-established lines of military activities: weapons, conduct of operations, command responsibility, or logistics [6].

In the same spirit, departing from a pure legalistic approach, Mark S. Martins proposed a "training model" of implementing the Rules of Engagement (ROE) in soldiers' reflexes and mentality, based on training schema, vignettes and exercises, methods preferred by soldiers, which proved to be more efficient than theoretical briefings or lessons or "threatening" them with legal provisions of charges in case of breaking the law [7].

The conclusion emerging from all these approaches and models is that LOAC should be immersed into the military affairs, that is positioned within the programme curriculum, so that the learning of this discipline is meaningfully related to other areas with which it naturally interacts in as much a realistic way as possible.

As mentioned in one of the reference materials, integration of LOAC in education means making the law an "*integral part of all matters taught [and] wherever relevant [...], the subject matter should include realistic dilemmas related to compliance with the law, allowing all ranks to learn how to respect the law in a given situation*" [8]. In other words, the integration of LOAC in education should be

adapted to the soldiers' learning needs in the context of the battle space.

3. Horizontality and Verticality in Curriculum Development

In learning development, horizontality and verticality may have different objectives. At the highest level of describing learning, in qualifications framework development, where learning complexity distinguishes by levels (for example, the Sectorial Qualifications Framework for the Military Officer Profession (SQF-MILOF) consists of four levels of distinct leaning complexity and four levels of military organization, broken down by multiple learning areas), "*horizontality consistency is achieved when the learning required to achieve the learning outcomes uniformly increases in complexity for each level, for all the learning areas*"[9]. When it comes to verticality, its consistency is achieved "*when the actual learning required to achieve a learning outcome in each learning area and the military organizational level is distinctly different from all of the other defined learning, and that all of the learning in the sector is captured*" [10].

Horizontality and verticality in curriculum development are indicators of rational allocation of subjects and progression on both axis, that make the big picture of learning clear and logic. Horizontal dimension of a curriculum ensures that the programme is regarded as a whole, securing consistency, cohesiveness, and mutual awareness among disciplines at the same grade level. As far as the horizontal disciplines are concerned, they can be streamlined throughout the year in relevant disciplines. The horizontal interrelation between different modules is captured through the formulation of learning outcomes. The broader the relationship, the higher the level of learning outcomes is. Vertical integration of learning is aimed to facilitate an incremental acquisition and development of new knowledge and skills

at higher level of complexity across all grades [11]. It is important to note that, although knowledge and skills are critical learning domains in any discipline, teaching and learning of LOAC and other related disciplines should focus more on attitudes, responsibility, and autonomy of the learner in dealing with life-and-death decisions regarding the fate of participants in an armed conflict: friendly forces, enemy, prisoners of war or civilians.

If we do LOAC as late as the third year of a bachelor's degree, we imply that cadets would not hear or know anything about LOAC until then, although they do tactics and engage the 'enemy' in fire ranges from day one of their training. We should avoid the 'aha' moment coming too late into cadets' behaviour, thus preventing the development of wrong attitudes preached by the LOAC and other related disciplines. The vertical alignment of the curriculum and 'injection' of key principles in operational disciplines from day one might be a solution. Cooperation, constant exchange of views and sharing best practices between LOAC teachers and those

of other relevant disciplines (tactics, decision making processes, ethics etc.) is paramount in this respect.

The result of marrying up the law with operations is a discipline called *operational law*, which cannot be considered a standalone body of law, but rather a functional grouping of branches of national and international law regulating the operational activities of the armed forces, in principle during operations (e.g. in addition to LOAC, this may include the norms of using force in peace and crisis in internal security operations or counter-terrorist activities, targeting law, rules of engagement (ROE) or procurement of military equipment) [12].

Figure 1 depicts a generic and rational distribution of LOAC and other related disciplines horizontally (at the corresponding level of learning complexity in concert with other disciplines) and vertically (at the right moment in time, building on previously acquired knowledge, skills, and attitudes).

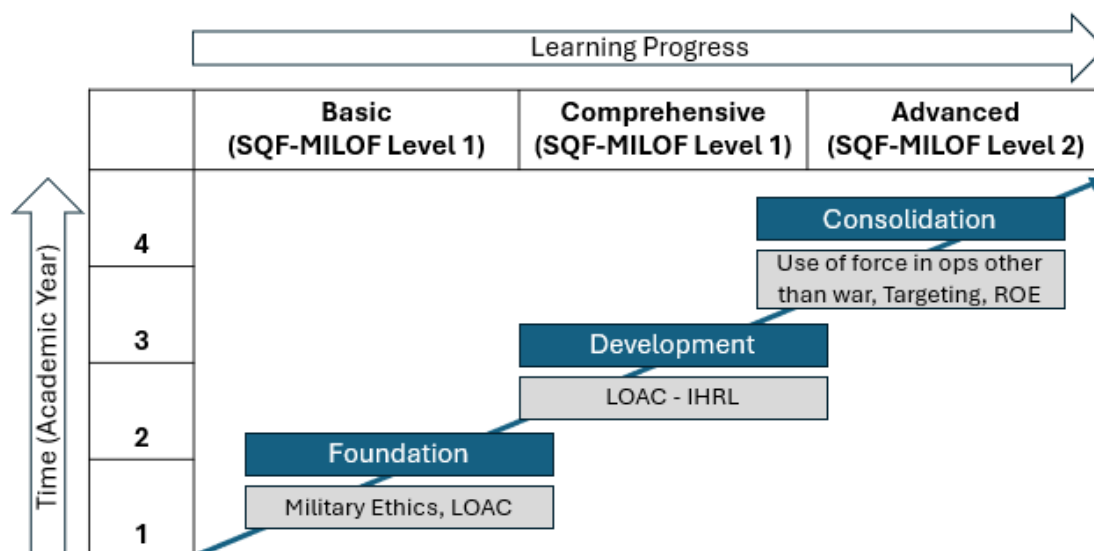


Figure 1: Horizontal and vertical integration of LOAC into the curriculum
Source: Author's representation

The answers to several questions may be of help for a discussion on horizontal and vertical integration of LOAC into the curriculum. When and how should the cadet learn about *precautions* provided by the law that, as future commanders, they should take when planning and conducting an *attack* against a military objective? When and how should they learn about what *weapons* (systems) and ammunition should be selected and employed to achieve an effect that is necessary to neutralize a military objective in a reasonable manner with due considerations of civilian population and objects located in the proximity of that military objectives. The simple and most common answer is “whenever appropriate and the academic schedule permits”. Although realistic, this is not a good answer as more often than not, horizontal disciplines like LOAC (and others unfortunately) may be, if not deleted from the curriculum, at least marginalised and used as fillers for the programme schedule. The result of such an approach is an ad-hoc curriculum implementation method resulting in grouping sessions for the sake of execution and not necessarily for the logic of interdisciplinary integration. The elaborated answer to *when the cadet should learn the LOAC* is “throughout the programme” (vertical dimension) and to question *how the cadet should learn the LOAC* is “in an integrated way with due consideration of other operations-related disciplines” (horizontal dimension).

4. Classification of LOAC-Related Disciplines

Professional military ethics, Law of Armed Conflict, Rules of Engagement are categories that need to be well known and practiced in all situations: peace, crisis, or armed conflict. Given the context in which armed conflicts emerge and are conducted nowadays, the proliferation of non-state actors, private security and military companies, the norms of LOAC may need

to be supplemented and carefully applied through the support of other disciplines.

The technological support of decision-making process, the specialisation and interplay between various disciplines suggest an integrated approach in conduct of education and training, in which the LOAC delivery is harmonised with that of other disciplines.

In a military programme curriculum, there are three categories of disciplines on which consideration of LOAC may have an impact and that suggest a certain degree of connectivity; we call them, for the purpose of this article: LOAC-related disciplines.

The first category groups disciplines dealing with the *management of the use of force* like (not an exhaustive list): the management of military organisation, leadership, decision making, operations planning, targeting. The integration of LOAC in the decision-making processes is well captured by the ICRC material on “*Decision-Making Process in Military Combat Operations*”, which has as desired outcome “*staff procedures which ensure the development of military plans and orders that accurately and effectively integrate compliance with the Law of Armed Conflict into operational practice*” [13].

In a second category, we may consider the disciplines treating the application of violence through the armed force, the very essence of the military profession, which we may call the *use of force* disciplines: operations, tactics, techniques and procedures, weapons (systems), munitions, explosives, exercises and scenarios, modelling, and simulation.

And finally, there are those disciplines that contextualise and configure the social, political, moral, and legal framework of the use of force, usually in a restrictive manner. These are disciplines that *regulate the use of force* within their scope: military ethics, targeting law, rules of engagement (ROE), international human rights law (IHRL) and the legal framework of the use of force in situations other than armed conflict.

These disciplines, which we alluded them as part of the Operational Law, are the most connected and intimately linked to the LOAC, thus deserving a brief explanation.

Military ethics aspects relevant to the use of force represent the foundation of a humane and civilised behaviour in battle. By military ethics in this context we do not refer to the ethical dimension of academic writing and research, like intellectual property and plagiarism, or to the issue of integrity in procurement (although these are also key dimensions of the moral profile a future officer should display) but to the moral and professional principles that should be inculcated in our future officers, in the name of humanity, so that they refrain from using excessive and unnecessary force and from discriminatory or retaliatory behaviours on the battlefield [14]. The LOAC need a foundation, a background for character development that should be crafted at the very beginning of a cadet life in academy. This is the realm of *Military Ethics* or the *Ethics of the Use of Force* that position the future officer on a solid scale of values and beliefs.

Targeting law is the application of LOAC principles of distinction, military necessity, unnecessary suffering, and proportionality to the operational process of managing targets.

ROE inform operators about the political and legal restraints imposed on their freedom of action. Political and legal advisors (POLAD and LEGAD) advise commanders and staff by ensuring alignment between law (including LOAC) and political guidance, on the one hand and operational needs, on the other hand.

IHRL applies in all situations (peace or armed conflict) as a general law from which LOAC derogates, as a special law (*lex specialis derogat legi generali*), when it

comes to regulating the use of force against lawful targets.

The use of force in situations other than armed conflict (i.e. internal security operations, peace support operations), although LOAC principles continue to be observed by armed forces, is limited to self-defence and defence of designated personnel and civilians.

5. Integrated Educational Model

To operationalise these needs, I propose an integrated educational model that suggests horizontal coordination of the academic schedule and enhanced cooperation among the teaching staff of the relevant disciplines. At an embryonic level, the integrated educational model presented in this paper, was elaborated as part of a broader work dedicated to the topic of ROE [15]. The cited model acknowledges that training and education for grasping both the spirit and letter of ROE is a long-term, complex process, spanning the entire professional military education and includes ethical, political, legal, and military general and specialised education. To satisfy the interoperability needs of our armed forces derived from our membership to NATO and the EU, the proposed integrated educational model should be referenced and connected to SQF-MILOF and implies the integration, in an applicative manner, in all operational disciplines of the relevant topics from military ethics, LOAC, ROE, national criminal law, or IHRL. To operationalise the model, the theoretical and introductory portion of the mentioned horizontal disciplines would be allocated 30% of the total time assigned to each of those disciplines, remaining that most of the time (70%) be dynamically attached to the other disciplines such as kinetic operations, tactics, cyber operations and delivered in common or chained sessions by the teacher owning the discipline, as shown in Figure 2.

Disciplines	
Theory, Introductory sessions, e-Learning (standalone sessions)	Practical sessions Discussions, case studies, exercises (chained sessions)
Operational Law (Military ethics, LOAC, Targeting Law, ROE, IHRL)	Kinetic Operations (offensive, defensive, urban, SOF), transitional phases
	Operational Law (LOAC, Targeting Law, ROE, IHRL)
	Cyber Operations
	Operational Law (LOAC, Targeting Law, ROE, IHRL)
	Weapons, Explosives
	Operational Law (LOAC, Targeting Law, ROE, IHRL)
	 Operational Law (LOAC, Targeting Law, ROE, IHRL)

Figure 2: Notional Educational Integrated Model.

Source: Bodescu A. *Reguli de angajare: forța sub control democratic, “Nicolae Bălcescu” Land Forces Academy Publishing House. Sibiu. 2023. Table 4, p. 165.*

In practical terms, a curriculum may be implemented in various ways, depending on many endogenous and exogenous factors like the availability of teaching staff and instructors, the access to the fire ranges and field units for internship or the schedule of integrated, multilayered exercises. The most common methods are the modular (where the disciplines are delivered as a block and no other topics interfere with the module), the interdisciplinary (where most disciplines run on parallel lanes and sessions intermingle according to the criteria described above) and a mix of these two methods. Although all methods have their advantages and disadvantages, an integrated approach prefers the interdisciplinary method.

Although the organisation and structure of the LOAC and other related disciplines (i.e. the teaching workload) should not change, except general and introductory topics, all other topics could be integrated into or at least specifically associated (*chained*) with selected topics from other disciplines and

taught by the LOAC teacher. Chaining a LOAC topic to a specified topic from another discipline implies that, whatever factors impact on the schedule, the LOAC session is inseparable to its chained topic and should be scheduled accordingly. For example, the general session on offensive operations should be followed by a session on targeting law to highlight the application of principles of distinction, proportionality, and precautions in attack. On the same token, a special session on offensive operations in urban terrain should be chained with a session on LOAC to discuss the protection of cultural property, dual use infrastructure and protection of civilian population still residing in the area. The LOAC chained session will be developed by the LOAC teacher in close cooperation with the operations teacher and both then organise a common seminar or practical session. The same would apply to sessions on defensive operations, or reconnaissance, engineer support or logistics.

6. Conclusions

LOAC applies in time of armed conflict and its main objectives are to protect vulnerable persons and limit the violence to what is necessary to achieve the military objectives. As an academic discipline in a military academy programme, LOAC is very much a horizontal discipline, which means it cannot be taught and learnt in isolation and its principles transgress across multiple other disciplines. If a standalone approach can be taken in a civilian university where LOAC may be an elective and the relationship with other disciplines (e.g. International Human Rights Law) may be left at a discretion of relevant departments, teachers, or students, this is not possible in a military academy. Discussing about *weapons* as lawful means of using armed force in armed conflict or precautions in *attack* are not theoretical and abstract issues

but the very object of a military professional. Cadets, unlike a civilian student, do not “imagine” what an attack could look like, they practice it in exercises after having learnt the process in a “Tactics” course.

In this article I proposed an integrated educational model that promotes cooperation, interdisciplinarity, vertical consolidation of knowledge, skills and attitudes and horizontal exchange of information, expertise, and best practices with a vocation to position the LOAC and other related disciplines within the curriculum and not at its margins. The operationalisation of this model could contribute to laying the foundation for an ethical and lawful behaviour of our future commanders.

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