

The US Army War College Quarterly: Parameters

Volume 51
Number 1 *Parameters* 51(1) Spring 2021

Article 7

Spring 3-2-2021

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Recommended Citation

Rosa Brooks, "Are US Civil-Military Relations in Crisis?," *Parameters* 51, no. 1 (2021), <https://press.armywarcollege.edu/parameters/vol51/iss1/7>

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PROSPECTIVES 2021: US CIVIL-MILITARY RELATIONS

Are US Civil-Military Relations in Crisis?

Rosa Brooks

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ABSTRACT: Civil-military relations has been a subject of *Parameters*' articles for the life of the journal. Although interest in the topic waxes and wanes, in recent years it has been the focus of concern due to the appointment of two recently retired general officers to the post of Secretary of Defense and the ahistorical proposed use of the military by a president to address internal unrest. Undue worry over this issue, however, detracts from other more pressing problems facing civil society and our democracy today.

Claims of civil-military crisis are a recurring feature of American politics, and the current moment is no exception. Some skepticism, however, is warranted regarding whether we now truly face a uniquely urgent civil-military crisis. An examination of some of the most frequently made arguments about the dire state of civil-military relations finds the evidence is equivocal. While there is indeed reason for concern about several aspects of this relationship, we should be wary of adopting purely formalistic conceptions of civil-military relations, which can serve to distract us from other, more subtle threats to American democracy.

The frequency with which claims of civil-military crises are made should not be a surprise: the American Republic was born out of violent military and political rebellion, and since the nation's birth, civil-military tensions have periodically erupted. Although what is understood as constituting a civil-military crisis has varied over time, public and scholarly hand-wringing has accompanied each instance.

In 1783 for example, Continental Army officers, angered by poor pay and conditions after eight years of war, nearly mutinied against the Continental Congress.¹ In 1818, when General Andrew Jackson attacked Spanish military posts in Florida in contravention of orders from his civilian leadership, Secretary of War John C. Calhoun denounced his

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1. Douglas V. Johnson II and Steven Metz, *American Civil-Military Relations: New Issues, Enduring Problems* (Carlisle, PA: Strategic Studies Institute, April 24, 1995), <https://ssi.armywarcollege.edu/american-civil-military-relations-new-issues-enduring-problems/>; and Ugonna Eze, "George Washington Calms Down the Newburgh Conspiracy," National Constitution Center, Constitution Daily (blog), March 16, 2018, <https://constitutioncenter.org/blog/george-washington-calms-down-the-newburgh-conspiracy>.

acts as insubordinate and unconstitutional.² The American Civil War was most assuredly a civil-military crisis, among other things. Scores of US military officers took up arms against the elected civilian leadership of the United States. President Abraham Lincoln struggled to control even his own Union generals. Major General John C. Fremont, for example, famously ignored clear direction from Lincoln and issued a proclamation emancipating enslaved people in Missouri. Subsequently Fremont actively sought to prevent Lincoln's emissaries from delivering the presidential message relieving him of command.³

Nearly a century later, angst about civil-military relations continued. In 1951 General Douglas MacArthur's public defiance of President Harry Truman led Truman to relieve MacArthur of command. In the 1990s tensions over the "Don't Ask, Don't Tell" policy regarding gay and lesbian individuals serving in the military led active duty military members to criticize President Bill Clinton publicly, which in turn led many, like historian Richard Kohn, to warn of a "crisis in civil-military relations."⁴

After the 9/11 terrorist attacks, jeremiads about civil-military relations continued, albeit with a striking shift in tenor. With patriotic fervor and public esteem for the military running high, concerns over tensions between military and civilian leaders were replaced by anxiety about changing military demographics, civilian ignorance about military issues, and what was widely conceptualized as the "civil-military gap."⁵

More recently, the nature of the angst over civil-military relations has shifted once again. During the administration of President Donald Trump, persistent worries about the civil-military gap were joined by growing concerns over the prominent role of retired senior officers in partisan politics, the high number of current and former senior military officials in the president's inner circle, the sidelining of civilian expertise within the Defense Department, and the use and potential use of the military for essentially domestic missions including law enforcement

2. Herman von Holst, *John C. Calhoun* (Boston: Houghton, Mifflin and Company, 1888), 88–93; Roger Wendell Anderson, "Andrew Jackson's Seminole Campaign of 1818: A Study in Historiography," (master's thesis, Montana State University, 1956), 12, <https://scholarworks.umt.edu/cgi/viewcontent.cgi?article=2580&context=etd>; and Robert P. Wettemann Jr., *Privilege vs. Equality: Civil-Military Relations in the Jacksonian Era, 1815–1845* (Santa Barbara, CA: Praeger Security International, 2009), 25–27.

3. Ronald E. Franklin, "How Abraham Lincoln Fired General John C. Fremont," Owlcation, June 17, 2018, <https://owlcation.com/humanities/How-Abraham-Lincoln-Fired-General-John-C-Fremont>; and Allen C. Guelzo, *Lincoln's Emancipation Proclamation: The End of Slavery in America* (New York: Simon & Schuster, 2004), 50.

4. Richard Kohn, "Out of Control: The Crisis in Civil-Military Relations," *National Interest*, March 1, 1994, <https://nationalinterest.org/article/out-of-control-the-crisis-in-civil-military-relations-343>.

5. Jon Rahbek-Clemmensen et al., "Conceptualizing the Civil-Military Gap: A Research Note," *Armed Forces & Society* 38, no. 4 (Fall 2012); and James Fallows, "The Tragedy of the American Military," *Atlantic* 315 (January/February 2015), <https://www.theatlantic.com/magazine/archive/2015/01/the-tragedy-of-the-american-military/383516/>.

and election security.⁶ In recent years, a growing chorus of voices have suggested (or warned) that military personnel might find, at times, that honoring their constitutional responsibilities requires disobeying—or at least politely ignoring—their commander in chief.⁷ This essay examines and evaluates some of the most common claims of civil-military crises.

Evidence of a Crisis

Claim 1: The US military is poorly understood by most American civilians.

This claim is surely true. Studies reveal Americans know little about the military to which, since the 9/11 attacks, they have so eagerly offered rhetorical support.⁸ But while the American public's wholesale ignorance of the US military may tell us something about America, it highlights little that is unique to civil-military relations. After all, the list of things most Americans do not know is distressingly all-encompassing: three-quarters of Americans are unable to name all three branches of the federal government; 37 percent cannot name any of the rights protected by the First Amendment; most cannot correctly estimate the population of the United States, and, as of 2014, a whopping 26 percent of Americans thought the sun revolved around the earth.⁹

This general lack of knowledge suggests a crisis in American education and civics in particular. It does not, however, suggest ignorance about the military is an isolated variable, categorically different from, or more important than, other gaps in basic civic knowledge. By itself, the lack of familiarity is no barometer for measuring or predicting good or bad decisions or healthy relationships among elite decisionmakers on either the military or the civilian side.

6. Phillip Carter, "The Military Is Not a Political Prop," Center for a New American Security, February 12, 2018, <https://www.cnas.org/publications/commentary/the-military-is-not-a-political-prop>; Wright Smith, "The President's Generals," *Harvard Political Review* 44, no. 1 (Spring 2017), https://issuu.com/harvardpoliticalreview/docs/hpr_spring_2017_proofed_2; Loren DeJonge Schulman, Alice Hunt Friend, and Mara E. Karlin, "Two Cheers for Esper's Plan to Reassert Civilian Control of the Pentagon," *Defense One*, September 9, 2019, <https://www.defenseone.com/ideas/2019/09/two-cheers-esper-plan-reassert-civilian-control-pentagon/159716/>; and Thomas Gibbons-Neff et al., "Former Commanders Fault Trump's Use of Troops against Protesters," *New York Times*, June 2, 2020, <https://www.nytimes.com/2020/06/02/us/politics/military-national-guard-trump-protests.html>.

7. Anthony Colangelo, "Would the Military Really Have to Obey a Trump Command to Fire a Nuclear Weapon?" *Los Angeles Times*, August 4, 2017, <http://www.latimes.com/opinion/op-ed/la-oe-colangelo-duty-nuclear-20170804-story.html>; and John Nagl and Paul Yingling, "' . . . All Enemies, Foreign and Domestic': An Open Letter to Gen. Milley," *Defense One*, August 11, 2020, <https://www.defenseone.com/ideas/2020/08/all-enemies-foreign-and-domestic-open-letter-gen-milley/167625/>.

8. Kori N. Schake and Jim Mattis, eds., *Warriors and Citizens: American Views of Our Military* (Stanford, CA: Hoover Institution Press, 2016).

9. "Americans Are Poorly Informed about Basic Constitutional Provisions," Annenberg Public Policy Center (blog), September 12, 2017, <https://www.annenbergpublicpolicycenter.org/americans-are-poorly-informed-about-basic-constitutional-provisions/>; Harry Alsop, "Americans Surveyed: Misunderstood, Misrepresented or Ignorant?," *Telegraph*, February 15, 2014, <https://www.telegraph.co.uk/news/worldnews/northamerica/usa/10640690/Americans-surveyed-misunderstood-misrepresented-or-ignorant.html>; and Brian Resnick and *National Journal*, "26 Percent of Americans Say the Sun Revolves around the Earth," *Atlantic*, February 16, 2014, <https://www.theatlantic.com/politics/archive/2014/02/26-percent-of-americans-say-the-sun-revolves-around-the-earth/453834/>.

Claim 2: Less than 1 percent of the American public serves in the military, and few members of the public have direct contact with military personnel.

This claim is at once true and, in itself, neither here nor there. The percentage of the US population serving in the military on active duty is unquestionably far smaller today than during the First and Second World Wars or the Vietnam era. As a result, far fewer Americans today have close ties to the military.¹⁰ But US wars involving mass conscription have been historical anomalies. For most of American history, the US military has been small and relatively isolated from the broader population. In 1806 the size of the US Army and Navy combined numbered fewer than 5,000 men, well under 1 percent of the US population.¹¹

The size of the military ebbed and flowed over the decades as wars were fought and then ended. In the early 1930s, for instance, after the demobilization that occurred following the First World War, the size of the Army and Navy combined hovered around 235,000 out of a population that exceeded 120 million.¹² These small numbers were not viewed as a civil-military problem but simply as the postwar reversion to the norm of a small army—something perceived as a civic good for most of American history.

The small percentage of the US population currently serving in the military is often cited to explain the public's ignorance of military matters. Perhaps, but it is entirely possible a broad survey of, say, Army personnel about Navy size, budgets, structure, or deployments, might yield answers nearly as inaccurate as those of the general public. The scale and complexity of the US military challenges even senior military officials and scholars who devote their lives to its study.

Claim 3: Those who serve in the military are different from those who do not.

Undoubtedly the all-volunteer military is less geographically diverse than it was during periods of mass conscription. Today's armed forces are more Southern and less urban, and those with a parent or sibling in the military are far more likely to serve than those without family links to military service.¹³ The US military also remains far more male

10. "The Military-Civilian Gap: Fewer Family Connections," Pew Research Center, Social & Demographic Trends, November 23, 2011, <http://www.pewsocialtrends.org/2011/11/23/the-military-civilian-gap-fewer-family-connections/>.

11. "US Navy Personnel Strength, 1775 To Present," Naval History and Heritage Command, August 2, 2016, <https://www.history.navy.mil/research/library/online-reading-room/title-list-alphabetically/u/usn-personnel-strength.html>; and Marvin A. Kreidberg and Merton G. Henry, *History of Military Mobilization in the United States Army 1775-1945*, Department of the Army Pamphlet 20-212 (Washington, DC: Headquarters, Department of the Army, November 30, 1955), https://history.army.mil/html/books/104/104-10/CMH_Pub_104-10.pdf.

12. "Between World Wars," chap. 19 in *American Military History*, Army Historical Series (Washington, DC: Center of Military History, United States Army, last modified April 27, 2001), <https://history.army.mil/books/AMH/amh-19.htm>.

13. Dave Phillipps and Tim Arango, "Who Signs up to Fight?" *New York Times*, January 10, 2020, <https://www.nytimes.com/2020/01/10/us/military-enlistment.html>.

than the overall population (women make up just 16 percent of enlisted personnel and 18 percent of officers).¹⁴

In many other ways, however, the military differs from the civilian population in that it is more diverse: racial minorities make up 33 percent of the enlisted workforce, compared to a civilian population benchmark of 23.7 percent, perhaps reflecting the military's enduring and largely justified reputation as an institution that allows for merit-based advancement.¹⁵ (Numerous studies suggest that despite significant ongoing concerns about equality, women and minorities within the military generally view it as a more equitable environment than the civilian world.)¹⁶

In recent decades several studies of military partisan affiliation have suggested that the military, especially the officer corps, skews Republican, but evidence for this finding is mixed. An August 2020 *Military Times* poll found 41 percent of those surveyed said they planned to vote for Democratic presidential candidate Joe Biden in the 2020 election, while only 36 percent said they planned to vote for Republican President Donald Trump.¹⁷

The more important question, however, is not whether those who serve in the military are different from those who do not, but whether those differences make a difference. Many professions differ in discernable ways from a random cross section of the population. Lawyers, clergy, doctors, engineers, and bankers all differ from the overall population in patterned ways, but we rarely label this a problem much less a crisis. If demographic or partisan affiliation differences between military personnel and civilians lead reliably to problematic differences in policy or performance, we might have reason to be concerned. But thus far, although military personnel in the aggregate differ from the civilian population in the aggregate, no clear evidence indicates these differences translate consistently into differences in policy or performance at the national level.

Certainly there are independent reasons to seek a military that better reflects the demographics of the United States. Considerations of fairness argue in favor of a more gender-balanced military and a military in which both women and minorities are better represented at the highest ranks and in all branches and military occupational specialties. Research from other occupations also suggests increasing diversity (in particular, increasing gender diversity) correlates with improved

14. Office of the Undersecretary of Defense for Personnel and Readiness (OUSD-PR), *Population Representation in the Military Services: Fiscal Year 2017 Summary Report* (Washington, DC: OUSD-PR, 2017), 6, https://prhome.defense.gov/Portals/52/Documents/MRA_Docs/MPP/AP/poprep/2017/Executive%20Summary.pdf.

15. OUSD-PR, *Population in the Military Services*, 26.

16. Sarah Kliff, "The Most Satisfied Military Employees? Black Women. Least Satisfied? White Men," *Washington Post*, January 23, 2013, <https://www.washingtonpost.com/news/wonk/wp/2013/01/23/the-most-satisfied-military-employees-black-women-least-satisfied-white-men/>.

17. Leo Shane III, "Trump's Popularity Slips in Latest Military Times Poll," *Military Times*, August 31, 2020, <https://www.militarytimes.com/news/pentagon-congress/2020/08/31/as-trumps-popularity-slips-in-latest-military-times-poll-more-troops-say-theyll-vote-for-biden/>.

organizational performance, making it reasonable to worry that during periods in which the military draws from relatively narrower slices of the population, groupthink may increase and military innovation and creativity may decrease.¹⁸

But without more clarity on which differences make a difference—and the kind of difference these differences make—it is hard to argue that demographic divergences between the military and the overall population should primarily be construed through the lens of civil-military relations or seen as a sign of crisis.

Claim 4: Too many current or retired military personnel were given executive branch leadership positions under Trump.

This claim is difficult to evaluate. Trump's appointment of several recently retired generals to his first cabinet triggered concerns his administration was tilting too far in a military direction. But President Barack Obama similarly appointed recently retired generals to senior positions. And President Biden selected retired Army General Lloyd Austin as his first Secretary of Defense.

How many generals is too many, and why? Some argue that a cabinet stocked with senior military personnel might bias an administration toward military rather than political, economic, or diplomatic solutions to problems, but no clear evidence indicates that senior advisers with military backgrounds provide advice to presidents in a manner that differs in predictable ways from the advice of civilian senior advisers. During the Trump administration, for instance, Secretary of Defense James Mattis was viewed by many as a counterweight to the often more hawkish and bellicose views of several of Trump's civilian advisers, despite Mattis's status as a recently retired Marine Corps general.

A different critique suggests that if senior military officials begin to view political appointments as a natural next step after leaving the military, they may tailor their actions and comments as active duty officers to fit the perceived political preferences of their favored political actors. This hypothesis seems plausible, but it remains untested. Also unknown is the degree to which senior military officials might already tailor their decision making in order to garner congressional funding or position themselves for postretirement positions with defense contractors or on high-profile boards.

Some unique issues relate to having recently retired generals serve as Secretary of Defense.¹⁹ In 1947 Congress prohibited retired military personnel from heading the Defense Department without a seven-year cooling-off period. The cooling-off period was designed to address two

18. David Rock and Heidi Grant, "Why Diverse Teams Are Smarter?" *Harvard Business Review*, November 4, 2016, <https://hbr.org/2016/11/why-diverse-teams-are-smarter>.

19. Rosa Brooks, "Perspective: The Pentagon Needs More Civilian Control over the Military Now, Not Less," *Washington Post*, December 9, 2020, <https://www.washingtonpost.com/outlook/2020/12/09/lloyd-austin-civil-military-control/>; and Jim Golby, "Sorry, Gen. Lloyd Austin. A Recently Retired General Should Not Be Secretary of Defense.," *New York Times*, December 7, 2020, <https://www.nytimes.com/2020/12/07/opinion/biden-defense-secretary-dod.html>.

concrete concerns: first, that recently retired military personnel might be overly loyal to their own service branch, and second, that they would not yet be sufficiently acculturated to the needs and concerns of civilian policymakers, rendering them less effective as the primary liaison between civilian leaders and military officials.

We do not have many data points to evaluate the validity of these concerns because presidents have nominated recently retired officers—and requested Congress waive the cooling-off period—on only three occasions (George C. Marshall in 1950, Mattis in 2017, Austin in 2021). That said, it is troubling that two presidents in a row have asked Congress to pass legislation exempting specific individuals from a clear statutory ban. Arguably, however, this trend is concerning more as a matter of respect for the law than as a civil-military relations matter; a law respected neither by presidents nor by Congress itself is not much of a law.

Claim 5: Too many active duty and retired military personnel take partisan positions in political campaigns and become involved in controversial domestic political issues.

This concern predates the Trump administration, and here too, both sides make compelling arguments. Given the high level of public confidence in the military, it is no surprise political candidates from both parties have sought to surround themselves with military figures with stars on their shoulders and relatively broad name recognition. Moreover, the trend toward seeking military endorsements has accelerated in recent election cycles.

In June 2020 General Mark Milley, chairman of the Joint Chiefs of Staff, was much criticized for accompanying then President Trump to a staged photo opportunity in Lafayette Square after peaceful protesters were dispersed with tear gas. Milley subsequently described his actions as a mistake, acknowledging his “presence . . . created a perception of the military involved in domestic politics.”²⁰ While Milley’s actions triggered a good deal of dismay about partisanship on the part of military officials, this did not stop either 2020 major party candidate from reaching out to retired senior military personnel to speak at campaign events and offer endorsements.

Trump also contravened long-standing norms against using military personnel domestically in a politicized manner. While numerous statutory authorities allow presidents both to federalize National Guard troops and deploy active duty troops domestically, the assumption has been presidents will not use such authorities in narrowly partisan ways or to

20. Helene Cooper, Eric Schmitt, and Thomas Gibbons-Neff, “Milley, America’s Top General, Walks into a Political Battle,” *New York Times*, June 5, 2020, <https://www.nytimes.com/2020/06/05/us/politics/protests-milley-trump.html>; and Helene Cooper, “Milley Apologizes for Role in Photo Op: ‘I Should Not Have Been There’ ” *New York Times*, June 11, 2020, <https://www.nytimes.com/2020/06/11/us/politics/trump-milley-military-protests-lafayette-square.html>.

control or suppress Constitutionally protected activities.²¹ But during the racial justice protests that followed the killing of George Floyd by Minneapolis police, the Trump administration was widely condemned for its overly militarized response, which included the threatened invocation of the Insurrection Act to enable the deployment of active duty troops in US cities.²² In the period before and after the 2020 election, President Trump also suggested the military might be used to “safeguard” or monitor voting and vote counting.²³

But do any of these actions bespeak a civil-military crisis or excessive influence of the military in domestic affairs? Once again it is important to tease out the different issues at stake. Some argue the growing role of military endorsements in partisan politics may, like the appointment of recently retired generals to senior political positions, ultimately jeopardize the military’s reputation for impartial service or erode public confidence in the military.²⁴ These are legitimate concerns, but they rest on the assumption that a high level of public confidence in the military is an independent good and that it is possible to draw a clear, reliable, and meaningful distinction between advice that is military in nature and advice that is merely political.²⁵

Arguably, public confidence in the military is not a good thing in and of itself. Such confidence is a good thing only if the military serves the public well. But has the high level of public confidence in the military since 9/11 been justified by accurate public perceptions of military professionalism, impartiality, and success? Or is high public support for the military instead indicative of public anxiety, guilt, or misinformation? If it is the latter, then an erosion of public confidence in the military might be a healthy recalibration.

Further, can we say with certainty that we know the difference between advice that is strictly military in nature and advice tainted by politics? If war is “politics by other means,” it is politics nonetheless. To assume military professionals inhabit some pure, politically neutral realm is to imagine war as something it has never been and never can be. This is not to say that norms of military professionalism do not matter. Most Americans believe a clear and critical difference exists between good

21. Mark Nevitt, “The President and the Domestic Deployment of the Military: Answers to Five Key Questions,” *Just Security*, June 2, 2020, <https://www.justsecurity.org/70482/the-president-the-military-and-minneapolis-what-you-need-to-know/>.

22. Rosa Brooks, “Perspective: Trump Wants to Crush Black Lives Matter with a Law That Fought Segregation,” *Washington Post*, June 2, 2020, <https://www.washingtonpost.com/outlook/2020/06/02/trump-military-insurrection-act/>.

23. Deana El-Mallawany, Christina Kwon, and Rachel Homer, “Trump Can’t Lawfully Use Armed Forces to Sway the Election: Understanding the Legal Boundaries,” *Just Security*, September 23, 2020, <https://www.justsecurity.org/72500/trump-cant-lawfully-use-armed-forces-to-sway-the-election-understanding-the-legal-boundaries/>.

24. David Barno and Nora Bensahel, “How to Get Generals out of Politics,” *War on the Rocks*, September 27, 2016, <https://warontherocks.com/2016/09/how-to-get-generals-out-of-politics/>; and Michael A. Robinson, “Danger Close: Military Politicization and Elite Credibility,” *War on the Rocks*, August 21, 2018, <https://warontherocks.com/2018/08/danger-close-military-politicization-and-elite-credibility/>.

25. James Golby and Mara Karlin, “Why ‘Best Military Advice’ is Bad for the Military—and Worse for Civilians,” *Orbis* 62, no. 1 (2018): 139.

faith disagreements about ends and means and politically motivated lies. In practice, however, the difference is often more difficult to discern. Concerns about the danger of military politicization resonate with all of us—but here too, claims of a civil-military crisis may overstate or mischaracterize the case.

Similarly a president's actual or threatened domestic use of the military to further partisan ends poses urgent issues related to civil liberties, the rule of law, and the misuse of executive power. It is less apparent, however, that it makes sense to view these actions through the lens of civil-military relations. In the case of the racial justice protests in the summer of 2020, military leaders were quick to reaffirm the nonpartisan US military is loyal to the Constitution rather than to a particular president.²⁶

Following the January 6, 2021, breach of the Capitol Building by armed rioters openly supportive of Trump, Speaker of the House Nancy Pelosi reportedly took the unprecedented step of asking the chairman of the Joint Chiefs to ensure safeguards would be in place to prevent the outgoing president from using his nuclear launch authority in his last days in office.²⁷ Needless to say, this too presents issues of civilian control. I and others have argued there might be certain extreme exigencies in which military disobedience to the commander in chief's orders would be the lesser of two evils, even if those orders were not facially unlawful.²⁸ If, for example, a president embroiled in circumstances such as those of early January 2021 ordered a unilateral, offensive nuclear strike against a target the military did not view as an imminent threat, should ethical officers go along with those orders? Or should they instead refuse to carry them out, perhaps asserting in such a context, the order would violate core law-of-war principles?

Even in this case, it is not clear such ethical and legal dilemmas are evidence of a civil-military crisis. For the United States to have reached a point at which such exigencies are other than purely theoretical, other crises must already have erupted.

Obscured by Overstatement

Thus far I have argued that many recent claims of a crisis in civil-military relations prove, when closely examined, to be somewhat overstated or to mischaracterize the issues. While there are genuine reasons for consternation with regard to some matters, the evidence of crisis is either lacking or ambiguous in others. When it comes to civil-military relations, perhaps things are not as bad as they seem. Or,

26. Paul Sonne, "Joint Chiefs call Riot a 'Direct assault' on the Constitutional Process, Affirm Biden as Next Commander in Chief," *Washington Post*, January 12, 2021, https://www.washingtonpost.com/national-security/military-statement-biden-commander-in-chief/2021/01/12/9b722200-551a-11eb-89bc-7f51ceb6bd57_story.html.

27. David E. Sanger and Eric Schmitt, "Pelosi Pressed Pentagon on Safeguards to Prevent Trump from Ordering Military Action," *New York Times*, January 8, 2021, <https://www.nytimes.com/2021/01/08/us/politics/trump-pelosi-nuclear-military.html>.

28. John Ford, "When Can a Soldier Disobey an Order?," *War on the Rocks*, July 24, 2017, <https://warontherocks.com/2017/07/when-can-a-soldier-disobey-an-order/>.

at any rate, often the things that are bad have less to do with civil-military relations than with other challenges—from widespread civic disengagement to abuses of executive power.

More than anything, our ongoing preoccupation with civil-military crises may reflect our increasing uncertainty about the overall purpose of the military and our growing inability to define the role of the armed forces—or the distinction between the political and military realms—in any coherent way. Considering today's complex, hybrid challenges such as terrorism, epidemic disease, climate change, cyber threats, Russian information warfare, and expanding Chinese global influence, it is impossible to draw neat distinctions between the role of the military and the role of diplomacy, development, and trade policy—or for that matter, between foreign and domestic issues and threats.²⁹ But with the lines between war and not war, foreign and domestic, and military and civilian growing ever blurrier, it is less clear what we mean when we talk about crises in civil-military affairs.

Of course, the categories we rely upon to structure and give meaning to our world—war, peace, foreign, domestic, military, civilian, and so on—are categories we have created. These categories are neither sacred nor stable, and if they no longer serve a useful analytic purpose—if they are beginning to obscure more than they clarify—then we must develop new ways of thinking about power, force, control, and the institutions and rules we need.

This is an urgent challenge. Indeed, it could be our continued fondness for civil-military jeremiads risks diverting attention away from different but just as insidious threats to American democracy—threats that may have more to do with other forms of state capture and democratic dysfunction than with a crisis in civil-military relations or civilian control of the military.

The Founders cared deeply about civil-military relations and civilian control of the military. But they cared about this relationship for quite pragmatic reasons—in the late eighteenth century, those who controlled organized militaries had a unique ability to control the state and its resources. The founders of the fledgling American republic crafted a representative democracy in which, they hoped, the will of the people would always prevail and not be hijacked by force of arms.

The commitment of the framers of the Constitution to civilian control of the military stemmed from their deep mistrust of concentrated power. The US Constitution represents a comprehensive effort to break up concentrations of power, to ensure no one branch of government can outmuscle the others, and to ensure no one individual, region, party, faction, or group can permanently capture the state. In 1789 organized militaries were the sole actors with the ability to cause mass destruction of life and property; they consequently possessed a unique ability to capture, coerce, and control other would-be political actors. A general

29. Rosa Brooks, *How Everything Became War and the Military Became Everything: Tales from the Pentagon* (New York: Simon & Schuster, 2016).

commitment to diluting concentrations of power, then, translated into a specific commitment to ensuring that the military, in particular, would be subject to multiple checks and balances.

Moreover these Constitutional checks and balances relating to the use of military force took many different forms. The Constitution established a system in which the military was subordinated to the elected representatives of the people, and for good measure they also divided control over the use of military force between Congress and the president. The framers' normative goal was to prevent concentrations of power that could displace or distort the will of the people, and civilian control of the military was valued because (and only because) it was one of several overlapping mechanisms to ensure that the will of the people would prevail over the will of the powerful.

Today, these core normative goals are as relevant as they were in 1789, for to believe in democracy is to believe that the political legitimacy of a government derives from the free and informed consent of the governed. Most of us believe that the choices of the American people—constrained by our constitutional commitment to individual rights and due process, but otherwise uncoerced and unmanipulated—should guide our foreign and domestic policies.

But a formalistic commitment to civilian control of the military no longer achieves what it promised to achieve more than two centuries ago. For one thing, the US military today is nothing like the redcoats of King George III, and nothing like the ragtag militias hastily assembled under General George Washington. Instead, the US military now has elaborate internal checks and balances and a deeply ingrained respect for democracy and the rule of law.³⁰ Most critically, the ability to destroy—and hence to coerce and control—is no longer in the exclusive possession of those with military forces and weapons.

Unlike in 1789, nonstate actors—even lone individuals—can now cause death and destruction on a mass scale, and increasingly both states and nonstate actors also have a range of nonkinetic means of coercion at their disposal, from cyberattacks and bioengineered viruses to the deliberate global spread of disinformation and fake news. All over the world coercive power has become simultaneously more diffuse and more concentrated. Individual billionaires, multinational corporations, hackers, and nonstate terrorist groups can increasingly compete with state militaries in their ability to control the behavior of both ordinary people and political actors.³¹

At the same time, as noted earlier, the lines between military and civilian tasks have grown increasingly indistinct. In today's murky world of gray-zone conflicts and persistent shaping operations, uniformed military personnel train judges, eavesdrop on electronic communications,

30. Laura A. Dickinson, "Military Lawyers on the Battlefield: An Empirical Account of International Law Compliance," *American Journal of International Law* 104, no. 1 (2010): 1–28, <https://doi.org/10.5305/amerjintlaw.104.1.0001>.

31. Brooks, *Everything Became War*.

vaccinate cows, and develop microfinance programs—and civilian Intelligence Community employees and contractors conduct raids, plan drone strikes, and execute offensive cyber operations. Both military and civilian actors engage in information and influence operations.

In this blurry world, we need to ask ourselves a serious question: what work, if any, is the concept of civilian control of the military doing today? When we say it was dangerous for Trump to offer too many senior administration positions to retired generals, or discourage President Biden from doing the same, what exactly do we mean? What specific negative consequences do we imagine would be more likely to happen if retired generals make up half the president's cabinet—and what positive outcomes could result if we keep retired generals out of a president's inner circle? When we say we do not want retired military officials to make partisan statements, why not? Similarly, when we worry about military involvement in domestic politics, or about military obedience to civilian commands, we would do well to define the harms with greater specificity.

Conclusion

The notion of civilian control of the military in America today has come unmoored from its original purpose and arguably is no longer an effective means to achieve the normative ends we still rightly value. Instead it is at risk of becoming a rule of aesthetics, not ethics, and its invocation is at risk of becoming a soothing ritual without accomplishing anything of value.

Going further, in today's world a purely formalistic conception of civilian control of the military carries with it potential dangers. If we focus on formalistic rules at the expense of substantive normative ends, we may persuade ourselves that if we can just keep the generals inside the Pentagon and away from the campaign trail and the White House, we will have accomplished something meaningful—even as we blind ourselves to the frightening new forms of power and coercion that increasingly distort our democracy and destabilize our world.

Unlike in 1789, both states and nonstate actors have increasingly found ways to achieve substantial power and control even without the ability to cause large-scale death and physical destruction. Financial manipulation, cyberattacks, social media-enabled propaganda, and disinformation campaigns can demonstrably shift balances of power. In the future, artificial intelligence and other emerging technologies will continue to make the use of physical force just one technique among many.

Humanity continues to wage war the old-fashioned way in many parts of the globe, with success and failure measured in broken bodies and terrain lost or gained. But technological changes have both diminished the ability of states and their organized militaries to monopolize violence and created numerous nonkinetic means of coercion and control. As a

result, military power no longer represents the *unique* potential threat to American democracy it represented in 1789 (or 1861, 1941, or even 1970).

Should we still worry about the capture of the American state through non-rights-respecting, nondemocratic means? Certainly. But today the problem is not solely or fundamentally a civil-military one, if it ever was. The greatest threats to American democracy stem less from an out-of-control military than from electoral gerrymandering, information warfare, and foreign and domestic influence campaigns, complicated by big data, big money, rising economic inequality, and partisan divisions distorting our political system.

In an era in which foreign hackers, the superrich, and the purveyors of fake news can manipulate the American electoral process by sowing division, mistrust, and violence within the electorate and causing chaos in the international system, society must find effective ways to prevent the powerful from distorting or derailing democratic processes. To focus primarily on the notion the United States is experiencing a civil-military crisis, however, risks forgetting our history and ignoring our present perils.

