

An “Unprincipled Principal”: Implications for Civil-Military Relations

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Abstract

This article examines five ways in which a principal in civil-military relations (CMR) might be “unprincipled” and the implications of these different modes. First, it presents a general sense of the broader view of CMR into which categories are being positioned. Next, it defines the role of norms, morals, and ethics before outlining the five types of unprincipled players in civil-military relations. It concludes with the implications each has for CMR, ultimately exposing where civil-military relations will become either ineffective or untenably problematic. Alternate strategies for CMR will be necessary depending upon the kind of “unprincipled principal” with whom the agent is dealing.

The question of an unprincipled principal arises when the moral or other normative qualities—such as integrity, humility, and trust—are absent or when moral or normative perspectives differ between the principal and the agent. In the case of CMR, the principals are the president (and the secretary of defense who acts for that individual) and Congress. The agents are the military and the members of the military who act in their professional capacities. The idea of trustworthiness underlies a good working relationship between principal and agent; shared morals, norms, and other values are often taken to contribute to this relationship of trust. One might wonder why ethics and the moral and normative perspectives of the two groups in this relationship even matter. Surely CMR is a function of the interactions and transactions by those in their roles, and what moral values or normative commitments they hold are ancillary to their behavior and action. While this view has some common-sense appeal, we should recall that moral values and normative commitments (defined below) clearly influence the actions and behavior of individuals and organizations. Other actors attach meaning to the actions and

behaviors that ultimately stem from values and commitments. Therefore, values and norms are worthy objects of analysis in CMR. Discussions of morality and values tend to focus on the agents and consonance with the views of the principals and less on the morality and values of the principals themselves. This argument seeks to redress that analytical imbalance by focusing more on the principals and their moral world.

These are the core questions: How durable must the notion of norms, morality, and ethics be, and how much agreement is necessary for healthy CMR? In a political environment where one cannot rely on a shared moral worldview or even consensus on the shared norms for governance, the question takes on serious practical and theoretical importance. This article categorizes five ways in which a principal might be “unprincipled.” It first presents a general sense of the broader environment of civilian–military relations and defines the role of norms, morals, and ethics. It then proposes and describes five types of unprincipled principals. The article concludes with the implications of these various “unprincipled” actors in CMR, ultimately exposing where civil–military relations will become either ineffective or untenably problematic. Strategies for CMR will need to be adapted to the kind of “unprincipled principal” with whom the agent is dealing.

The Broad View of Civil–Military Relations

As with most discussions on CMR in the United States, we start with Samuel Huntington and his seminal book *The Soldier and the State*. He makes the case for the functional imperative and objective control over and against the societal imperative and subjective control of the military by the civilian principals.¹ Under objective control, the military is tasked with national security and military effectiveness, that is, the management of violence to win the nation’s wars. Congress and the POTUS (the principals) decide on end state and policy while the military (the agent) advises on the best strategy. Once agreed, the matter of violence and war becomes the responsibility of the military (as a profession and as experts acting on behalf of society for the common good). After military victory, responsibility reverts to civilian leaders for the political aspects of maintaining the peace. There is a strict political/military division of labor here. For Huntington, keeping the military apolitical is essential to preserving its effectiveness. The civilians do politics; the military does war.

Separate Spheres, Shared Responsibilities

According to Suzanne Nielsen and Don Snider, Huntington is concerned with giving an account of CMR that preserves military effectiveness and keeps the military out of politics.² To this end, he appeals to a notion of the military profession, including a professional officer corps rooted in objective control and the functional imperative. The military serves society in a particular function (defense and national security) and must maintain the norms and moral commitments essential to that function and that are instantiated in the apolitical military profession.

Huntington advocates that the military mind is rooted in a realist, conservative worldview. While his ideas are central and influential in the military officer corps, they are by no means universally accepted in CMR discussions. Numerous scholars have critiqued Huntington's view on several grounds. Matthew Moten and Risa Brooks reflect a common concern in noting that strategy and policy are not entirely separate domains, while retired Army lieutenant general James M. Dubik indicates that war management, like strategy and policy, is a shared responsibility between the two parties.³ This notion of shared or overlapping responsibilities seems to create problems under the separate domains in objective control. Brooks states that

Huntington's model influences civil-military relations in ways inimical to the country's strategic effectiveness, especially in conflicts where the political, strategic, and tactical levels of military activity cannot be easily divided into the separate spheres on which objective control is premised. Ensuring strategic effectiveness in the United States' armed conflicts requires a better appreciation among scholars, analysts, and military leaders of the weaknesses of contemporary norms of military professionalism.⁴

Dubik considers the different domains of objective control in terms of just-war thinking, the obligations of senior military officials, and their responsibility to advise on the resort to force and war management.⁵ His argument builds on the work of Eliot Cohen, who advocates the idea of "unequal dialogue" where civilians are preeminent but where there are coinciding areas of concern and responsibility. Dubik highlights the implications of these shared obligations and the issue of what military leaders should do when the principal and agent disagree. In contrast with Cohen, Dubik contends that resignation can override the civilian "right to be wrong" when senior military leaders believe that the decisions of civilian leaders will waste lives. According to Dubik's line of reasoning, a civilian leader's right to make unwise or immoral decisions must not remain

inviolable. Consequently, military leaders must be prepared for situations where civilian leaders fall short of meeting their moral obligations.

Principles and Principal-Agent Theory

Against the backdrop of Huntington's view, Peter Feaver and others instead have proposed thinking about CMR through the principal-agent lens from the discipline of economics.⁶ In this view, principals empower agents to do a job or work on their behalf and according to their wishes. The basic feature of this framework for CMR is the strategic interactions within a hierarchical system wherein civilians and the military hold divergent preferences and each has information that the other does not have access to. Moreover, the military (as agent) may not act as the civilians intend and so must be controlled through monitoring and punishment mechanisms.⁷ The civilians contract with the military to protect society, but they must have the means to ensure that their agents act according to their direction. The principal-agent theory offers analysis of how the principal can tolerate what Feaver calls adverse selection and moral hazard. In this case, the delegation of tasks and actions to the agent does not necessarily mean the principal's abdication of responsibility or control. The question is how the principal maintains control.

A critical question for this discussion is the place of moral values and normative commitments in this relationship. Feaver indicates that the military comes with strong moral commitments relative to the profession of arms, a strong reverence for honor, and a desire for respect.⁸ In addition, a common feature of CMR in the United States is that the civilian principal has a right to be wrong, that is, to decide on policies that actually harm national security. One might wonder if this right to be wrong also includes a right to be wrong on moral issues. While some aspects of national security might have moral aspects or implications, others may be more pragmatic or instrumental issues—especially those related to effectiveness. Further, does the civilian principal have a right to be morally corrupt? If so, what responsibilities fall to agents dealing with a "lousy" political principal? Feaver states, "Lousy political agents can commit many sins of omission and commission, but they are hard-pressed to bring down the republic." However, he seems to imply that bad military agents do have that power.⁹

Too, there is the problem of moral competence. Feaver argues that since the military operates under an unlimited liability contract, a willingness to die for the nation, the public sees it as bringing a certain kind of moral competence to the relationship in opposition to the political competence

of the civilian principals.¹⁰ Yet we might wonder if there is any special moral competence expected of the civilians by virtue of their ability to demand obedience and this sacrifice of life. If the principal sets the boundaries of appropriate behavior for the agent, does that also include morally appropriate boundaries?¹¹

To see how Feaver's premise might work in practice, it is helpful to compare it to another principal-agent relationship—that of a chief executive officer (CEO). The CEO runs the business as a fiduciary for the shareholders who relinquish control of daily operation. The CEO makes decisions to maximize shareholder value. If the decisions support that goal and do not violate the law or some moral norms that the two parties agree to, agents are free to use judgment and discretion rooted in their expertise and experience. If the agent fails to preserve or further the goal that incentivized and bound the relationship, the principal has reason to intervene and perhaps sanction or replace the agent. So what happens if the shareholders expect a certain set of moral commitments that the agent finds problematic to the agreed aim of maximizing value, such as abiding by environmental rules or social justice positions? How does the relationship function if shareholders object to what the CEO sees as well-proven and effective best practices—either from a desire to innovate or because they reject the moral or normative basis of those best practices? How much agreement on normative and moral issues is necessary for this principal-agent relationship to work?

The role of trust becomes foundational in this relationship. We can ask what the role of trust is in CMR and what that trust is based on. Is it the personal relationship between the principals and the agents, adherence to procedural norms, allegiance to deeper norms and shared moral values of political nature and democracy, or a shared moral universe—a shared view of the good life? If the principal cedes power and agency but is still held responsible for the actions of the agent, some measure of trust seems necessary. At the same time, if agents are going to act with the authority of the principal and have confidence that their actions will not be constantly countermanded or interfered with (micromanaged), they must trust the principal. Answering the above questions requires us to address the role of norms, morality, and ethics in CMR.

Ethics, Morals, and Norms

While many may use the terms *ethics*, *morals*, and *norms* interchangeably, it is necessary to bring some definitional rigor to these concepts since they function differently in CMR. First, what is ethics?¹² Ethics is the discourse

about, reflection upon, or analysis about moral claims, regardless of who makes those claims—an individual, a community, an institution, or society. Moral claims refer to what is right or wrong, often articulated in terms of concepts like duty, greatest good, virtue, or care. Moral values (like the primacy of a nonpartisan professional military) are a specific kind of moral claim that surfaces in CMR discussions. The assertion that a business ought to maximize profit for the shareholders is an example of a moral claim; ethics would be the discussion, justification, articulation of reasons, critical questioning, or defense of the claim. CMR discussions often feature ethical considerations about the moral values and moral claims central to the military profession (that one ought to fight only just wars) and the relationship between the principle and agent and to CMR more generally. They may also analyze the moral obligations rooted in the relationship between the two parties as understood within the constitutional framework and the function of national security in the common good.

Similarly, the role of norms is a part of the CMR conversation. Norms can refer to certain sets of practices or attitudes that are agreed upon (how strongly is a subject of debate) between individuals or members of a society or institution to facilitate social interactions. Sometimes there is discussion of normative values, which are values that are agreed upon but may or may not be moral in nature.¹³ Norms, in this kind of context, are seen to be regulative but in a different way from laws since the sanctions or punishments for violation, if present, are largely social in nature. Norms tend to be weaker than moral values and claims. However, the two categories overlap somewhat, making it difficult to sort out whether various authors are discussing nonmoral norms or moral norms, values, or claims.¹⁴ The discussion here keeps the categories separate for the sake of analysis, but in practice doing so is more convoluted.

Moral Values and Norms and the Profession of Arms

The clearest, most comprehensive discussion of moral values and norms occurs in accounts of the military profession and, more narrowly, the profession of arms. For this discussion, I use the following concept of *profession*: “(1) a body of expert knowledge on which basis (2) the public accords certain privileges in exchange for (3) an understanding that the members of the profession will self-regulate and (4) operate for the public or common good.”¹⁵ A profession is a community of practice that comes with traditions, history, and certain moral and normative commitments that identify the members of that community as different from those in other communities of practice. Don Snider, who has written extensively on the

military profession and the Army in particular, views the moral values and norms in the military profession through the lens of expert knowledge displayed through various roles. These roles are warrior (military/technical), leader of character (moral/ethical), servant of the nation (political/cultural), and member of the profession (human development).¹⁶

Anthony Hartle, another Army-centric writer, focuses his discussion of the norms and moral values that are part of the American professional military ethic on what he calls constitutional values.¹⁷ Hartle roots these in the oath of office, including the commitment to the Constitution and the duties within the military's professional role. He sees the moral values (not just political norms) of the Constitution as liberty, justice, and equality, where these moral and political values are understood in terms of individual rights secured by the judiciary (Supreme Court) through the norm of rule of law. In keeping with the natural law tradition, these moral values are viewed as natural moral rights secured or reflected in legal norms—especially the idea of maximum equal liberty for all citizens.¹⁸ Moreover, he cites the three core values of duty, honor, and country as constitutive elements. The norm of civilian control of the military, and the moral claim that lives of the military ought not to be wasted or risked without compelling cause, seems to imply some adherence to the principles of just war.¹⁹ Under the usual view of CMR, it is the civilians (including the people they represent) who make this determination, although civilian leaders should—and usually do—consider military judgments on these matters in light of the military's expertise.

In a slightly narrower vein, James Burk focuses on the role of moral judgment and discretion (as part of both expertise and autonomy) in the military profession, particularly because military members are still viewed as moral agents responsible for their own actions, even ones taken under civilian or higher orders.²⁰ If we expect military members to exercise judgment and discretion as experts, one might ask whether they can also do so with respect to making moral judgments about the principals. This question is especially pertinent when a decision may conflict with the moral commitments and norms of the military profession. “Don't Ask, Don't Tell” was a flashpoint on this concern, with political norms and values as well as moral commitments around sexuality and masculinity and the military's identity and effectiveness. As we will see later, such dilemmas can raise key issues about how we decide what moral values and norms will be regulative, particularly where there are conflicts or incommensurable claims between the civilian principals and the military agents.

Turning more specifically to CMR, we can see some moral values but many more norms in force. Depending on the view, there are various lists of integral norms and moral values for CMR. They can include procedural and process norms (like giving the best advice), moral values or commitments (be a team player, give candid and well-supported assessments, i.e., honesty), and a combination of moral and nonmoral values.²¹ For example, the ideas of developing expert knowledge and using the news media only for the national interest have aspects of moral values and obligations embedded in the notion of the military professional. But these concepts are also procedural and process norms that, even if one rejects them as moral obligations, are necessary for effective CMR as a normative matter.

Political or Partisan

A primary moral value for military professionalism that is also a moral value on the other side of the civilian-military relationship is that of a nonpartisan (some say apolitical) military.²² However, authors like David R. Segal and Karin De Angelis indicate that Janowitz (contra Huntington) advocates that beyond military expertise, an officer must have a political ethos and political sensitivity. The exercise of these characteristics would produce a different moral claim as well as norm.²³ Risa Brooks observes that civilians may lose trust in the military and the finality of their decisions if the military or its members engage in any range of political activity and are viewed as having veto power over the principal's decisions.²⁴ Brooks states,

Those norms involve both proscriptions and prescriptions, especially for the officer corps: officers should refrain from anything remotely political in their activities and thought processes; they should focus on cultivating military expertise and protect their autonomy to do so; they do (and should) retain a singular worldview and values system as military professionals, which necessarily separates them from their civilian counterparts in other state institutions and in society; and, especially as they assume senior leadership roles, they should readily offer politics-free assessments of military options after civilians provide them with definitive guidance.²⁵

Another issue is whether military members can have political influence or input without partisan input (as it is really the partisanship that undermines trust) or whether all political influence is necessarily partisan.²⁶ Making this distinction is challenging during periods of significant partisan polarization, and some civil-military scholars in the United States have been attempting to draw clearer normative lines.²⁷

Finally, it is necessary to consider the political norms and moral commitments around democracy. Huntington's objective control requires neutrality on politics, but does it also require neutrality on the underlying moral questions about value and the good life? If Huntington is right that the military mind is ideologically conservative, there are moral implications in tension with classical liberalism. Liberalism requires state neutrality about moral visions of value and the good life (these are to be left to the individual), provided they are compatible with procedural justice and basic democratic political values and norms. Darrell Driver asks about the connection between military professionalism and normative beliefs in pluralistic American democracy. He brings up Ronald Dahl's argument that the modern liberal state does not require a shared normative core about public life but rather an acceptance of democratic norms and processes that will govern that public life.²⁸ That said, we might wonder if the notion of the common good and the specific content that comprises that conception is a shared normative (and often moral) commitment.

Moving away from the descriptive toward a more proscriptive view, Charles Gibson argues for what he calls a Madisonian approach to civilian-military values and norms. Fundamental elements of this approach are that elected leaders have the final say and no decisions about war are beyond their purview, that there is a nonpartisan military, and that POTUS and Congress share civilian control.²⁹ Gibson finds the historical relationship of Secretary of War Henry Stimson and Gen George Marshall to be instructive. Thus, he proposes a process where the political and military constituents develop competing plans and then critique one another's plans to ensure that the best ideas and thinking prevail.

What do these discussions tell us about norms and moral values in examining the unprincipled principal? They do offer some idea of the standard moral commitments, values, and norms that have been operant in CMR discussions; which moral values and norms apply to the agent and which to the principal; and areas where scholars are proposing new directions. It is noteworthy here that most of the discussions seem to apply to the agent and how the principal will regulate the agent's behavior and much less about the principal's behavior. One might wonder at this point, Do the moral and normative commitments of the principal even matter beyond a basic commitment to the purely procedural and process pieces that define the principal-agent relationship in CMR? To answer this question, we consider five options for what an unprincipled principal might look like in CMR and assess their implications.

An Unprincipled Principal: Consider the Options

A principal (Congress, POTUS, or the secretary of defense) might be unprincipled in several ways. Aside from their roles as secretaries of defense for the United States, Donald Rumsfeld and Robert McNamara are two examples of the unprincipled principal in the principal-agent view of civilian-military relations championed by Feaver and others.³⁰ Rumsfeld rejected military expertise, autonomy, and profession of arms norms. Richard Kohn suggests that McNamara, Rumsfeld, and others were primarily motivated by political and personal ambition rather than some commitment either to moral or normative values related to civilian-military relations.³¹ More recent concerns about the use of the military by unprincipled principals were highlighted by the incident at Lafayette Square in May 2020 involving Gen Mark Milley, chairman of the Joint Chiefs of Staff, in what many viewed as a political photo opportunity (for which he later apologized). Another such occurrence was when the National Guard and potentially regular military forces were called on to disperse peaceful protestors during domestic unrest in an election year.³² The point here is to explore which kinds of unprincipled principals are most problematic for civilian-military relations and which could still be compatible with an effective relationship. In each of these five options, the core question is whether and to what extent the moral values and normative commitments of the principal matter for maintaining the trust essential for successful CMR.

Case 1: Shared Values, Conflicting Interpretations

In the first case, the principal shares the moral commitments around CMR with military members (especially in terms of the moral values and norms of the military profession). They could share many values or have complete consensus and overlap of these moral values and norms. The POTUS or secretary of defense may have served in the military, and Congress may have numerous veterans. This combination would create a great deal of consensus on the moral values and norms that are a part of the military profession, including the constitutional values discussed by Hartle. It may also enforce a commitment to the procedural and process norms of CMR. Also, there is likely to be a strong commitment to shared moral values and norms as a matter of both personal and professional conviction and experiences that support and reinforce interactions. Secretary of Defense James Mattis, to whom the press often referred by his

military title, is an example of a principal whose moral values and norms aligned with those of the agents.

This scenario would represent the least “unprincipled” principal if it can even be called that. Nevertheless, there are still two concerns here. First, unless the shared consensus is only around Hartle’s constitutional or political principles and values, this conception might be too congenial to be sustained over time. Considerable agreement on moral values, norms, and other commitments would be required to make this relationship work, something only likely given a fairly high level of veteran experience for the principals. If that were the circumstance, we might wonder if these principals become an extension of the military and the profession of arms since they just happen to be holding positions that are civilian in some sense.

Further, shared moral commitments and norms do not equate to agreement on these. The POTUS, Congress, and the military could all be committed to the moral value of equality or the norm of civilian control of the military. However, they may disagree about what that looks like in a particular case. These kinds of disagreements would seem easier to resolve by appealing to shared moral values and norms, but the parties may still not reach a consensus. In the instance of capital punishment, there is agreement on the value of life and the need to punish crimes. Still, these commonalities do not provide grounds for arguments and appeals that could resolve the issue. The problem lies in the disagreement within a set of shared moral values or norms and how to resolve what are basically internal disagreements. Accordingly, “unprincipled” here really means that the principal interprets the relevant moral value or norm differently than the agent. To return to our corporate example, the principal and agent may disagree about what constitutes profit or what means are permitted to achieve that goal. The principal may be more interested in tangible monetary gain that can be paid in dividends. The agent may be interested in the company’s reputation and other less concrete forms of profit that would benefit the company’s long-term sustainability.

Case 2: Shared Values, Different Priorities

In the second case, the parties may have a shared normative commitment about the nature of CMR and the values (nonmoral, political) that frame it. These commitments could include civilian control of the military, objective control as the mode of civilian-military relations, and respect for military expertise in certain areas (and the monopoly on that expertise others do not possess). Such values would indicate adherence to the non-partisan role of the military—not as a moral value but as a normative

commitment necessary for effective CMR and a well-functioning democratic system. Of note here is that most of these normative commitments do not rise to the level of generally accepted claims about what is right or wrong. Instead, they are based on what is necessary for effective CMR in a particular political system and context.

There may be other ideas shared and/or agreed to that do rise to the level of moral claims. These include commitment to advice and dialogue processes as partners for the common good of the nation and commitment to the good of the nation (a moral and normative claim). They can also include moral commitments of the profession of arms (either as concepts in themselves or more thinly as recognition of their regulative normative role in CMR). As with the first category, where there is stronger, more congenial agreement or commitment, these moral values will be constrained by the community of practice norms of both the civilian community of practice, including citizens, and the military/national security communities of practice, which include overlapping norms.

The problem with the moral values and norms relative to the principal in this case is that some moral values and norms may be more critical than others. Civilian control is one of these values—along with the constitutional values implicit in the oaths that military members take—that is less negotiable than military nonpartisan or political activity. Our frameworks for civil–military interactions might need to shift if we come to think that objective control can no longer balance political needs with national security. Here, “unprincipled” revolves around ranking and prioritizing one value or norm over another; if one must give way, which one? The principal may think that a nonpartisan military is sacrosanct. The agent may think that some political acumen on the part of military members is essential and advisable, perhaps even obligatory, as they act as agents of the state and as citizens. Partisan behavior and political acumen are not the same thing. Nevertheless, it may well be that acquiring political acumen requires some engagement with issues and perspectives that may be viewed as (or are in fact) partisan. Within CMR discussions, how do we decide which values or norms get priority without some partisan implications?

Case 3: Shared Process Absent Shared Values

In the third case, there may be a norm but not one of moral value. The commitment to procedure/process is purely formal (these are the rules of the game), with no agreement on priorities as in option two above. This category reflects the thinnest form of agreement that will still deliver functional objective control. Without concurrence on the ground rules, it

will be difficult for both parties to accept decisions on any matter. Moreover, processes and their resulting choices will be ad hoc and thus entirely situational—providing no precedent about how to approach future disputes. Therefore, “unprincipled” here means there are no shared ideas aside from a purely formal process. There is no agreement, consensus, or commitment to moral or normative values. Risa Brooks notes that under the Huntington view, CMR is purely transactional rather than collaborative, which seems to support this kind of view.³³ While this thin commitment to procedure and process can support the transactional relationship, it is hard-pressed to be collaborative without a congenial account such as in the first and second options above.

One might object at this juncture that commitment to the process is enough without the accounts of the first two cases. The procedural commitment would seem to assume at least some agreement on the more substantive issues from cases 1 and 2. Otherwise, why would one agree to these rules except as a provisional matter (i.e., these are the rules right now, but without a deeper grounding, why can't they change)? This question exemplifies the classic pragmatist concern with what works as the court of ultimate appeal on matters of truth.³⁴ If nonpartisan military or objective control, for example, turns out at some point not to work, what then? What replaces it? This apprehension is analogous to concerns about how one decides when and how law changes in jurisprudence, namely the rule of recognition (how one knows x is law) and the rule of change (how to change law.)³⁵

Any of the above options would be compatible, perhaps to different degrees, with effective CMR. This is true largely because of overlapping consensus and agreement on some moral and/or normative elements around which to negotiate and work together. That is not to say there will always be agreement but that there is a shared reality in which to operate. The next two options, however, present heightened threats and challenges to civil-military relations. They may well be insurmountable precisely because of this lack of shared vocabulary and reality.

Case 4: No Shared Substantive or Procedural Values

In the fourth case, there are no shared moral commitments or norms. The parties hold incommensurable views or commitments, and there is no basic agreement on the procedural/process approaches that govern civilian-military relations. This combination of ideology might take the shape of disagreement about what principles ought to govern CMR, including any or all of the following: (1) rejection of the norms and moral commitments of the military profession and/or profession of arms, spe-

cifically; (2) rejection of objective control or other salient CMR norms; and (3) rejection or renegotiation of constitutional values with other principles or values. We can see the behaviors of Rumsfeld and McNamara mentioned earlier as examples of this circumstance, especially regarding the military profession and military expertise.

In this case, “unprincipled” means a lack of both agreed upon substantive and procedural values or principles. In the case of disagreement over values and norms in option 2, there is agreement that the values and norms under dispute are all important, but it is a question of how to rank and prioritize them. Presumably, there is still some disagreement over procedural/process norms and values, especially relative to the values and commitments that arguably undergird those procedures and processes. This conflict may also be a case of rejection of relevant moral values and norms without any notion of what might be substituted, or it might be a rejection in favor of other values and norms. The claims by some that President Trump was right to pardon Chief Eddie Gallagher of war crimes were based on a rejection of the moral values of the profession of arms in favor of a view that military members are “killers” and such accountability undermines military effectiveness.³⁶

Case 5: An Amoral Principal

In the last case, the principal has no normative or moral commitments. This version is the only one where the principal is truly unprincipled in a strict sense. The behavior of the principals may be rooted in whim, public opinion, or political expediency relative to that person as an individual, not as a member of a community of practice. Secretary of War Harry Woodring and Secretary of Defense Louis Jefferson are cited as examples because their personal ambitions or other nonmoral and normative considerations drove decisions.³⁷ The problem here is a lack of consistency, guidance, and process for the civilian–military dialogue to occur or to agree on limits and rules. Further, there are no guardrails against abuse and no agreement that actions are undertaken for the common good of the nation. In this case, the civilian principal would have the right to be wrong on policy and moral questions and even to be morally corrupt or agonistic.

Implications of Unprincipled Principals

Given this range of possibilities for an unprincipled principal, one can evaluate the implications for the current discourse on CMR. As stated, there is a significant difference between the unprincipled in cases 1, 2,

and 3 and in cases 4 and 5. The first grouping can be engaged and appealed to within the shared or overlapping moral and/or normative reality and perhaps within the context of subjective control of the military. The second category cannot.

In addition to that claim, a truly unprincipled principal (case 5) is rare and would be an outlier. This does not mean we do not need to address the issue. However, it will have to be considered in a separate category, and these arguments do not apply to the other kinds of cases. If the principal really has no moral values or normative commitments, the civil-military relationship will be unpredictable and more likely be subject to the specific contexts, personalities, and relationships involved to bring some structure to the engagement. Thus, sustained trust between these communities of practice and individuals will be more difficult. To deal with this challenge, the agent will need to use pragmatic appeals oriented to the context, individual, or power of personal relationships to try and navigate the boundaries for each instance. This tactic will produce no broader CMR norms for the next instance or precedent for the future and seems a wholly unsatisfactory way to pursue civilian-military relations. It is an emergency measure where no other viable options exist to get at least agreement to the third option (shared process) for pragmatic reasons.

What is much more likely is a principal with normative and/or moral commitments incommensurable with the norms and moral commitments that govern CMR, as seen in case 4. For example, a leader may have a radical or authoritarian ideology and reject all or part of cases 1–3 in pursuit of new political and other commitments that presumably have the endorsement of the American people through the electoral process. The question then becomes whether and how to navigate this scenario to move toward basic procedural commensurability. Some negotiation or other engagement toward acceptance of certain procedural and process norms, albeit on different grounds than presented in my discussion of case 3, could provide small steps toward effective CMR that could be subsequently built upon. However, even if successful, accepted norms in this context seem to put CMR on shaky, provisional grounds subject to constant attempts to undermine agreement on procedure and process. Further, procedural/process norms could even be used as a functional mechanism to keep the military from engaging in political resistance and/or dissent.

Current theories of civil-military relations provide inadequate guidance about how military leaders should respond to the question of an unprincipled principal. Due to the problems raised by all five scenarios, it may be time to reconsider whether and to what extent subjective control is prob-

lematic for military effectiveness—especially in the strategic sense—as Huntington suggests.³⁸ Political acumen and the ability to appeal to the shared political values of the military community of practice seem to be critical to going beyond winning the nation's battles to winning the nation's wars.³⁹ A version of subjective control may present us with a model of negotiation of authority, like arguments about negotiation and command authority in the military.⁴⁰ We might still agree that the civilians have preeminence and a right to be wrong without arguing that this is a one-directional mode of principal dictating to agent.

What are the benefits of a reconsideration of subjective control? First, it acknowledges Brooks and others' critiques suggesting that objective control is problematic. It does not accurately map onto our current national security structures and processes or fit with more contemporary interpretations of military professionalism. Second, the societal imperative provides some mechanisms to negotiate and navigate moral and normative disagreement and change over time without sacrificing a meaningful, consistent civilian-military relationship over the long term. If this is an unequal dialogue as Eliot Cohen suggests, then that model and the power relations implicit in it may yield at least some insights into the relationship and this negotiation process.

The CMR tensions and crises of 2020 might illuminate the need to think more about cases 4 and 5. However, they do not mitigate the need to address possible problems with cases 1, 2, and 3 involving different conceptions and expectations about what moral and normative commitments are anticipated from the principal. There is much discussion about these ethical matters for the military agents, such as Dubik's assertion that "moral agency is expected of the general just as it is for any other soldier or leader."⁴¹ But what does this look like for the civilian principals? What if there are no moral requirements for the principals (they decide the terms), and the only normative commitments are those they set out for some version of case 3? Does the civilian right to be wrong mean that moral and normative commitments are only binding on the agents and not the principals? Why would agents consent to be used in ways that potentially go against their own moral worldview, and even if they consented, would that be moral?

The provisional questions and conclusions discussed here are worthwhile for future areas of inquiry or discussion, especially the possibility of pursuing accounts or theories of CMR that engage cases 1, 2, and 3. One recommended focus area is whether subjective control or some other framework can alleviate or provide mechanisms for addressing tensions

and conflicts. With cases 4 and 5, the core concerns are more about what kinds of moral and normative commitments and values one can and ought to expect from civilian principals. Accordingly, good CMR requires an account of moral and normative commitments, including explaining why a particular configuration of them is necessary and how agents should behave when principals arise who do not fit this model. The potential harm to CMR by issues raised in cases 4 and 5 seems so serious that agents must be prepared for them even if these cases are somewhat unlikely. Principals may have the “right to be wrong,” but agents deserve more guidance about how they should act when the moral and normative values of their principal are called into question. ❧

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Notes

1. *Subjective control* sees the military as one of many social groups vying for resources and control, and these decisions about which group prevails will vary by context. *Objective control* is rooted in the functional imperative, that is, the function of the military to manage violence and win wars. The military (based upon expertise and other professional norms) is responsible for deciding how best to achieve this end. Civilian leaders task the military to fulfill that function based upon expertise and professional norms and practices. Within its domain, the military decides how to proceed with minimal interventions.

2. Suzanne C. Nielsen and Don M. Snider, “Introduction,” in *American Civil-Military Relations: The Solider and State in a New Era*, eds. Suzanne C. Nielsen and Don M. Snider (Baltimore, MD: Johns Hopkins University Press, 2009), 5.

3. Matthew Moten, “A Broken Dialogue: Rumsfeld, Shinseki and Civil-Military Tension,” in Nielsen and Snider, *American Civil-Military Relations*, 70; and Risa Brooks, “Militaries and Political Activities of Democracies,” in Nielsen and Snider, *American Civil-Military Relations*, 213–38.

4. Risa Brooks, “Paradoxes of Professionalism: Rethinking Civil-Military Relations in the United States,” *International Security* 44, no. 4 (Spring 2020): 10, https://doi.org/10.1162/isec_a_00374.

5. In “Paradoxes of Professionalism,” Risa Brooks notes that this is less true in the Trump administration than in prior administrations.

6. Peter D. Feaver, *Armed Servants: Agency, Oversight and Civil-Military Relations* (Cambridge, MA: Harvard University Press, 2005).

7. Feaver, 54–55.

8. Feaver, 63–65.

9. Feaver, 70.

10. Feaver, 71–72.

11. Feaver, 89.
12. For a more in-depth discussion, see Pauline Shanks Kaurin, "Ethics: Starting at the Beginning," 23 August 2018, Wavell Room, <https://wavellroom.com/>.
13. See Alasdair MacIntyre's discussion of norms and values in communities of practice in *After Virtue: A Study in Moral Theory*, 3d ed. (Notre Dame, IN: Notre Dame University Press, 2007), and my use of these concepts in Pauline Shanks Kaurin, *On Obedience: Contrasting Philosophies for the Military, Citizenry, and Community* (Annapolis, MD: US Naval Institute Press, 2020).
14. For more on social norms, see Cristina Bicchieri, Ryan Muldoon, and Alessandro Sontuoso, "Social Norms," in *The Stanford Encyclopedia of Philosophy*, ed. Edward N. Zalta (Winter 2018 ed.), <https://plato.stanford.edu/>.
15. Pauline Shanks Kaurin, "Questioning Military Professionalism," in *Redefining the Modern Military: The Intersection of Profession and Ethics*, eds. Nathan K. Finney and Tyrell O. Mayfield (Annapolis, MD: US Naval Institute Press, 2018), 10.
16. Don Snider quoted in Christopher P. Gibson, "Enhancing National Security and Civilian Control of the Military: A Madisonian Approach," in Nielsen and Snider, *American Civil-Military Relations*, 256.
17. Anthony E. Hartle, *Moral Issues in Military Decision Making* (Lawrence, KS: University of Kansas Press, 2004), 37–50.
18. Hartle, 41, 43.
19. Hartle, 50.
20. James Burk, "Responsible Obedience by Military Professionals: The Discretion to Do What Is Wrong," in Nielsen and Snider, *American Civil-Military Relations*, 162, 168.
21. Christopher P. Gibson, "Enhancing National Security and Civilian Control of the Military: A Madisonian Approach," in Nielsen and Snider, *American Civil-Military Relations*, 257–60.
22. Shanks Kaurin, *On Obedience*, 194–218.
23. David R. Segal and Karin De Angelis, "Changing Conceptions of the Military as a Profession," in Nielsen and Snider, *American Civil-Military Relations*, 203.
24. Risa A. Brooks, "Militaries and Political Activity in Democracies," in Nielsen and Snider, *American Civil-Military Relations*, 216.
25. Brooks, "Paradoxes of Professionalism," 12.
26. Brooks, "Militaries and Political Activity in Democracies," 230.
27. See Jim Golby and Mara Karlin, "The Case for Rethinking the Politicization of the Military" *Task & Purpose*, 12 June 2020, <https://taskandpurpose.com/>.
28. Darrell W. Driver, "The Military Mind: A Reassessment of the Ideological Roots of American Military Professionalism," in Nielsen and Snider, *American Civil-Military Relations*, 187.
29. Gibson, "Enhancing National Security and Civilian Control of the Military," 197–98.
30. Feaver, *Armed Servants*.
31. Michael C. Desch, "Hartz, Huntington, and the Liberal Tradition in America: The Clash with Military Realism," in Nielsen and Snider, *American Civil-Military Relations*, 104; and Richard H. Kohn, "Building Trust: Civil-Military Behaviors for Effective National Security," in Nielsen and Snider, *American Civil-Military Relations*, 270.
32. For the National Guard issue, see Lindsay P. Cohn and Steve Vladeck, "The Election and the Military," *Lawfare* (blog), published by the Lawfare Institute in co-

operation with the Brookings Institution, 2 November 2020, <https://www.lawfareblog.com/election-and-military>.

33. Brooks, "Paradoxes of Professionalism," 11.

34. See William James, *Pragmatism: A New Name for Some Old Ways of Thinking* (New York: Longmans, Green, and Co., 1907), <http://www.gutenberg.org/ebooks/5116>.

35. H. L. A. Hart, *The Concept of Law*, 3d ed. (New York: Oxford University Press, 2012).

36. On the Gallagher case, see "Pardoning War Criminals Is Not 'Sticking Up for Our Armed Forces,'" Angry Planet, 27 November 2019, video, 39 min., <https://www.stitcher.com/>.

37. Kohn, "Building Trust," 270.

38. For Huntingdon, subjective control was different from objective control in that different factions within the society sought to bring the military under their control and in line with their values and priorities. As a result, the military has very little autonomy, and there is little space for military professionalism since the military is part of the social and political processes.

39. In general, I think that all members of the military profession are members of that community of practice.

40. Shanks Kaurin, *On Obedience*. 170–93.

41. William E. Rapp, "Ensuring an Effective Military Voice," *Parameters* 46, no. 4 (Winter 2016–17): 26, <https://ufdc.ufl.edu/>.

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