

Maximum Toxicity: Civil-Military Relations in the Trump Era

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Abstract

Civil-military tensions are a perennial feature of American history. Although fraught during the Trump administration, civil-military relations became especially toxic during its final months. Commentators have so far tended to place most of the blame on Trump, but military leaders—both active and retired—share the blame for the degradation of the relationship. Healthy civil-military relations depend upon mutual trust, respect, and understanding between civilian and military leaders. These elements were not in evidence during the Trump administration, but they began to falter even before he took office. It will take a concerted effort to place US civil-military relations back on a sound footing.

Civil-military tensions are nothing new in American history. Indeed, they date from the very founding of the republic. Although there are many examples of unhealthy civil-military relations during the Clinton, Bush, and Obama administrations, civil-military relations were particularly fraught during the Trump presidency. Indeed, by the end of his time in the White House, they were at such a toxic level that they were in danger of triggering a constitutional crisis unlike any since the presidency of Andrew Johnson.

The reason for this toxicity is that healthy civil-military relations depend upon mutual trust, respect, and understanding between civilian and military leaders. Unfortunately, mutual trust was not often evident during much of the Trump presidency, especially toward the end of his term in office. Although most commentators place the blame on Trump, he shares responsibility with the military for this state of affairs.

Renegotiating the US Civil-Military Bargain: Changing Norms

Donald Trump entered the White House as an outsider who did not hesitate to express skepticism about the direction of the foreign and de-

fense policies of his predecessors, arguing against the alleged verities of the post-9/11 consensus as articulated by the “security community.” In particular, Trump criticized many of America’s overseas commitments, including the ongoing efforts in Afghanistan; called into question the value of NATO; and argued that the United States was being undone by its adherence to free trade.

Trump’s very presidency was an affront to this foreign policy/national security consensus and to the people who articulated it. According to his critics, Trump upended the “norms” of civil-military relations.¹ But civil-military norms are neither eternal nor sacred. They have changed over time in response to the periodic renegotiation of a US “civil-military bargain.” Of course, not all norms are equal. Those that reinforce democratic values should be strengthened or maintained. Nevertheless, many of these norms were already being undermined before Trump, reflecting the increased hyperpartisanship afflicting US politics. Understanding the state of civil-military relations during the Trump presidency requires appreciation of the nature of this civil-military bargain, the parties to this bargain, and how the bargain has been renegotiated lately.

The US civil-military bargain must be periodically renegotiated in response to geopolitical, social, and political change. This process has occurred many times since the beginning of the republic. There are three parties to this bargain: civilian policy makers, the uniformed military, and the American people.² All too often, civil-military relations are viewed in terms of only the first two. But in the long run, no policy established by civilian and military leaders alone is sustainable without the concurrence of the American people. This has been true from the founding.

For instance, the leading lights of the American War of Independence—Washington, Hamilton, and Knox—believed that US security required the establishment of a regular army, but anti-army ideology dominated public opinion. Even the idea of a more uniform militia failed to pass muster among the people at large. It took the failure of the militia during the War of 1812 to change public opinion, and even then, standing armies remained unpopular. Subsequently, the militia gave way to short-term volunteers raised at the state level.

More recently, in 1993, a Democratic House and Senate passed a law prohibiting military service by open homosexuals (not to be confused with “don’t ask, don’t tell,” a Pentagon policy that allowed the law to be skirted). But in 2012, Congress repealed that law, illustrating that Congress and the president are ultimately constrained by public opinion.³ The same principle has applied to US wars. Public support for Vietnam and the

post-9/11 wars eventually evaporated, leading to a change in policy in each case. Although political leaders try to shape public opinion, history shows that those attempts are often limited.

There are five questions that define the aforementioned civil-military bargain. First, who controls the military instrument and how? Second, what level of influence should the military have in a liberal society such as the United States? Third, what is the appropriate role of the military? Fourth, what pattern of civil-military relations best insures military success? And fifth, who serves?

During the Trump presidency and the early transition to the Biden administration, three of the five issues came to the fore. One was the control of the military in the relationship between Trump and his generals, including the meaning of professionalism and the possibility of “praetorianism.” Another was the influence of the military, in particular the role of the retired officer corps. The last one was the role of the military, especially regarding domestic disorder.

As the civil-military bargain is renegotiated, it is to be expected that the norms of US civil-military relations will change as well. The legal basis for US civil-military relations is the US Constitution and the laws and statutes that arise from it. Norms do not necessarily have any statutory basis. They are not to be found in regulations or statutes. For instance, there is no statutory basis for the Huntingtonian norm calling for a nonpartisan professional officer corps. Indeed, through most of American history, officers were partisan. The earliest generation of officers were Federalists, and their actions shaped the early republic. One of the reasons that Thomas Jefferson established the Military Academy at West Point was to end Federalist influence in the Army.⁴ As the old Republican Party of Jefferson became the Democratic Party of Andrew Jackson, the officer corps reflected that Democratic partisanship, with certain exceptions such as Winfield Scott and Zachary Taylor. The significance of party affiliation became apparent during the Civil War when generals such as George McClellan often opposed Lincoln’s policies regarding prosecution of the war.

Similarly, the idea that active duty officers should not publicly criticize the country’s political leadership is of modern vintage. Both Taylor and Scott criticized the leadership of President James Polk during the Mexican War. Union generals took issue with Lincoln’s conduct of the Civil War.⁵

The reality is that the dominant norms of today’s civil-military relations arose in conjunction with the rise of the modern conception of professionalism, which was a product of the Progressivism of the late nineteenth and early twentieth centuries. These norms have dominated US civil-

military relations since World War II. Until the rise of Progressivism, the American conception of military professionalism differed from that of most European countries.⁶

But with the rise of Progressivism, US military officers began to view themselves as part of a distinct profession with a separate ethos and body of expertise and specialized knowledge. As Samuel Huntington argued, a central tenet of this military professionalism was the idea that the Army and the Navy were apolitical servants of the state, owing allegiance to a legitimate government irrespective of political party.⁷

Although his opponents criticize Trump for violating civil-military norms, which he often did, these norms have been eroding for some time as the United States moved from the Cold War world to the post-9/11 environment. The most conspicuous characteristic of this era has been continuous conflict in the Middle East and Central Asia. The military—the Army, Marine Corps, and special operations forces in particular—has been stressed in ways that exceed previous periods.

Referencing the “Team America” episode during the Obama administration, historian Andrew Bacevich described how protracted wars can erode civil-military norms:

Long wars are antithetical to democracy. Protracted conflict introduces toxins that inexorably corrode the values of popular government. Not least among those values is a code of military conduct that honors the principle of civilian control while keeping the officer corps free from the taint of politics. . . .

. . . Circumstances . . . such as these have bred praetorianism, warriors becoming enamored with their moral superiority and impatient with the failings of those they are charged to defend. The smug disdain for high-ranking civilians casually expressed by McChrystal and his chief lieutenants—along with the conviction that “Team America,” as these officers style themselves, was bravely holding out against a sea of stupidity and corruption—suggests that the officer corps of the United States is not immune to this affliction.⁸

This reality in no way absolves Trump of his contributions to the degradation of civil-military norms. Among other things, he publicly criticized unnamed active duty officers who opposed his decision to pull US forces from Syria as “failed generals.” He also excoriated both active and retired military leaders who had criticized him, impugning their character and competence purely for political reasons. Further, he lavished praise on the active duty military voters whom he believed supported him.⁹

Trump and the Generals

During his campaign for president, Donald Trump routinely slammed the leadership of the US military, claiming that “the generals under Barack Obama” had not been successful. During the 2016 campaign, Trump asserted, “Under the leadership of Barack Obama and Hillary Clinton, the generals have been reduced to rubble, reduced to a point where it is embarrassing for our country.” He implied that, as president, he would replace Obama’s military leadership with generals and admirals who would not subordinate military effectiveness to “political correctness.”¹⁰

Obviously, as president, Trump did not replace the military’s leadership. Indeed, he elevated four Obama-era generals to important administration positions. He appointed retired Marine general James Mattis as secretary of defense and retired Marine general John Kelly first as secretary of Homeland Security and then as White House chief of staff. Further, he selected retired Army lieutenant general Michael Flynn as national security adviser and active duty Army lieutenant general H. R. McMaster also as national security adviser.¹¹

The proliferation of generals in high administration posts led critics to express two contradictory concerns: on the one hand, they argued, these appointments undermined civilian control of the military under Trump. In addition, Trump’s delegation of authority to employ military force to military commanders would lead to the “militarization” of foreign policy and the marginalization of diplomacy and the State Department.¹² On the other hand, some contended that these military men would provide a stabilizing influence on a mercurial president. This was part of a broader argument that the permanent bureaucracy was working to ensure that the president was kept on a leash. This perspective smacked of praetorianism, a topic for later consideration.¹³

During most of his presidency, Trump’s relationship with the generals was uneven. At times, he heaped praise on them. At other times, he publicly questioned their intelligence, courage, and commitment to their Soldiers. And he certainly rejected their advice on many occasions. Clearly, the president is not obligated to accept military advice. The military has no right to “insist” that its advice be heeded.¹⁴ According to his critics, Trump’s problems with his generals could be traced to his disdain for expertise, trust in his own instincts, and his reflexive contrariness. Accordingly, he resisted any sort of coherent strategy. Finally, his notions of soldiering were simplistic and antiquated.¹⁵

Trump and the Public

However, President Trump—perhaps more than any recent president—ensured that the public played a central role in the renegotiation of the civil-military bargain that occurred during his administration. President Trump seemed to have his finger on the pulse of the American people more firmly than his generals did, and his national security policies were quite popular with a large swath of the American citizenry

Trump's positions on national security affairs were often those of a significant portion of mainstream Americans—the third party to the US civil-military bargain that had elected him—who long ago had soured on the seemingly endless conflicts in Iraq and Afghanistan. Trump seemed intuitively to grasp that changes in geopolitical circumstances required commensurate changes in US strategy, primarily from the Middle East to the Asia-Pacific. Thus, a feature of civil-military relations during the Trump presidency was the tension between the professional military and others in the national security community on one side and the American electorate on the other.¹⁶

Trump's supporters observed that he, unlike his predecessors, had a plan to counter China's clear intent to supplant the United States as a hegemonic power. That is, by exploiting innovations in domestic oil and gas production, the United States could shift the geopolitical focus of US strategy to the Indo-Pacific region. His proponents also pointed out that despite his alleged resistance to any coherent strategy, his administration produced an excellent National Security Strategy and National Defense Strategy designed to implement an effective response to the changing geopolitical reality. Even his Middle East policy advisors—despite some criticisms—have argued that Trump's strategy in that region was more coherent than his critics suggested.¹⁷

All too often, civilian leaders and the uniformed military have tended to forget the role the public plays in renegotiating the civil-military bargain. Trump did not, but senior military leaders and others in the national security establishment often did. They underestimated Trump's appeal to the public on national security affairs and failed to recognize the ways the civil-military bargain was changing as a result.

Military Professionalism and Praetorianism

Despite their self-identification as members of a profession, service members—active and retired—are not immune to self-interested behavior. The individual services can act on behalf of their budgetary and op-

erational interests, and the military often does act as any other self-interested bureaucracy. This behavior became even more egregious during the Trump era.

During the Trump presidency, some members of the national security “community” took it upon themselves to actively thwart the president’s policies. This activity was most prevalent among intelligence professionals, though it sometimes involved active and retired military officers. Over the course of the Trump presidency, it was common for the president’s critics to claim that he was a threat to national security—whether because of “collusion” with Russia or controversy over the Ukraine affair, which led to his impeachment. But the same people who had once dismissed the idea of a “deep state” blocking the president’s policies as a dangerous conspiracy theory later came to support public opposition by unelected bureaucrats as a way to curb Trump’s actions.¹⁸

In September 2018, the *New York Times* published an op-ed by an anonymous writer claiming to be a high-level member of the Trump administration. The thrust of the article was “that many of the senior officials in his own administration are working diligently from within to frustrate parts of his agenda and his worst inclinations.” The writer later followed up with a book. Observers speculated on the identity of the author, suggesting Secretary of Defense Jim Mattis or Chief of Staff John Kelley. As it happened, the author was a relatively low-level staffer from the Department of Homeland Security.¹⁹

Regardless of the writer’s rank, there is a name for this sort of activity: praetorianism. From the time of Augustus Caesar until Constantine, a corps of soldiers known as the Praetorian Guard protected the Roman emperor. Over time, the Praetorians became the real power in Rome, appointing and deposing emperors at will. In our time, praetorianism has come to mean despotic military rule, something associated with countries where the army is the real power behind the government. Praetorianism would seem to be incompatible with republican government. However, the attempted coup against President Charles de Gaulle in 1961 arose from a praetorian bent by French officers who sought to depose him over his intention to grant independence to Algeria.

Unfortunately, the idea that it was necessary to protect the country from a duly elected president has had its advocates from the beginning of Trump’s presidency. For example, right after his inauguration, Georgetown law professor Rosa Brooks, the author of *How Everything Became War and the Military Became Everything*, expressed an extreme version of this view. Writing in *Foreign Policy*, she remarked that Trump’s “first week

as president has made it all too clear [that] he is as crazy as everyone feared. [One] possibility is one that until recently I would have said was unthinkable in the United States of America: a military coup, or at least a refusal by military leaders to obey certain orders.” A senior Pentagon appointee from 2009 to 2011, she further stated that, for the first time, she could “imagine plausible scenarios in which senior military officials might simply tell the president: ‘No, sir. We’re not doing that.’”²⁰

The most dangerous version of praetorianism is a coup d’état. The United States has been blessed by the absence of a coup throughout our history. We may have come close at the end of the Revolution when George Washington defused a possible mutiny by his officers at Newburgh.²¹ George McClellan blustered about putting “his sword across the government’s policy.” So open was McClellan about opposing Lincoln’s war policy that his quartermaster general, Montgomery Meigs, expressed concern about “officers of rank” in the Army of the Potomac who spoke openly of “a march on Washington to ‘clear out those fellows.’”²²

Arguably, the closest the country has come to a coup was during the presidency of Andrew Johnson. Succeeding to the presidency following the assassination of Lincoln, Johnson was at odds with Republicans in Congress over Reconstruction legislation and the enforcement of the Thirteenth and Fourteenth Amendments. The Army was placed in the untenable position of having to choose between Congress and the president. It chose to execute the law as passed by Congress.

At one point, Johnson proposed the organization of a military unit of 5,000–7,000 men to be stationed in the capital under the command of Maj Gen William Tecumseh Sherman, whose position on race issues was similar to Johnson’s. Sherman extricated himself from the predicament by going west to fight the Indians. Would Johnson have used the Army to suppress Congress? No one knows for certain, but the consequences for the future of the American republic would have been devastating.²³

Was Trump ever the target of a coup? Not in the sense of the military ousting elected leaders and taking control of the government. But certain elements within his administration—especially within the intelligence community—took steps against him that had the makings of a bloodless coup.²⁴ In any event, the machinations of some within the administration constituted an affront to Republican government. Active and retired military officers often played a central role in these disputes.

Trump and Military Advice

Many of the methods generals and other national security officials used to constrain Trump's policy were not new, but they were egregious. Although the US Constitution provides the foundation for civilian control of the military, what this means in practice is far more complicated. As Samuel Huntington noted, the Constitution itself makes the practice of civilian control difficult. It divides control vertically between state and federal levels and horizontally between the executive and legislative branches.²⁵ Long precedent has cemented the idea that in practice, the professional officer corps is to advise civilian decision makers and then execute the policy. However, these policy makers are not required to accept the military's recommendations. Likewise, the military is not obligated to follow an illegal order.

Exactly where to draw the lines that guide the behavior of the professional officer corps is difficult in practice. One of the many claims that Trump's critics raised was that he would involve us in endless military conflicts. What would the military do if the president ordered a nuclear strike against Iran or North Korea? Would the military act?

This scenario raises a perennial question at the heart of civil-military relations: What do military leaders do if their advice is rejected?²⁶ During Trump's tenure, he and his military advisers clashed over such issues as our relationship with NATO, US military actions in Afghanistan, intervention in Syria, and the appropriate response to domestic disorder. One way the military could respond to policies it opposes involves subterfuge to weaken the president's ability to implement his agenda. This tactic could involve "slow rolling" execution, leaking to the press in an effort to diminish public confidence in the decision, and simply ignoring the policy. Bureaucracies have perfected these kinds of responses to policies with which they disagree, and those in the senior ranks of the military are often no different.²⁷

Slow-rolling is a time-tested method. The classic study of bureaucratic behavior is Graham Allison's *Essence of Decision*, his postmortem of the Cuban missile crisis and its subsequent refinements. President Clinton had to deal with slow-rolling during the campaign in the Balkans. President Bush and especially his secretary of defense, Donald Rumsfeld, did as well during the Second Gulf War. Trump also experienced slow-rolling related to his policy decisions on troop withdrawals in Syria and Afghanistan.

Every president has had to contend with leaks to the press, but no one has been victimized in this manner more than Donald Trump. For example, after the 2020 election, the president asked for options—including an attack on Iran's main nuclear site—following a report by the International Atomic

Energy Agency that Iran's uranium stockpile had reached a level 12 times higher than allowed under the nuclear accords. His advisers—including the secretary of defense, chairman of the Joint Chiefs of Staff (JCS), and national security adviser—recommended against military action.²⁸ Both the president's question and the advisers' responses were reasonable. But the fact that this affair was leaked was not. It permitted the president's detractors to portray him as seeking to provoke a conflict in his waning days in office. It also potentially signaled to our enemies that Trump, as a lame duck, would be unable to respond to aggressive provocations.

The final form of bureaucratic resistance to presidential policy is simply to ignore an order. Trump was a victim of this response more than once. The clearest case of this kind regarded his order to reduce US military manpower in Syria. Ambassador Jim Jeffrey, who served as the special envoy in the fight against ISIS, acknowledged that his team routinely misled senior leaders about troop levels in Syria. "We were always playing shell games to not make clear to our leadership how many troops we had there," Jeffrey said in an interview.²⁹

All these actions by those trying to limit the president's authority harmed civil-military relations by undermining trust. Trump's critics emphasize his demand for loyalty, arguing that it was personal and political. But these critics misconstrue the nature of the loyalty Trump demanded. Presidents have a right to expect that subordinates will execute their policy decisions once they are made. Certainly, they should expect that subordinates will not actively subvert those decisions.

Presumably, those who disagree with policy have the option of resigning. According to reports, at least some retired officers called on Gen Mark Milley to resign in the wake of Trump's actions in the nation's capital following domestic disorder there. His resignation, they argued, would help maintain the integrity of the military as an apolitical institution.

The idea that officers should resign when they disagree with the president or other civilian policy makers is based on a misreading of H. R. McMaster's *Dereliction of Duty: Lyndon Johnson, Robert McNamara, the Joint Chiefs of Staff, and the Lies That Led to Vietnam*. It is a misreading common in the military, reinforcing the belief that officers should be advocates of particular policies rather than simply serving in their traditional advisory roles. Duke University political science professor Peter Feaver has called this false belief "McMasterism."³⁰ According to this misreading, the JCS should have more openly voiced their opposition to the Johnson administration's strategy of gradualism in Vietnam and then resigned rather than carry out the policy. However, McMaster, a retired Army lieu-

tenant general and former national security advisor, argues no such thing in his book. Instead, the book contends that the Joint Chiefs should have spoken up forcefully in private to their superiors and candidly in testimony to Congress when asked specifically for their personal views. Further, they should have corrected misrepresentations of those views in private meetings with members of Congress. McMaster does not say or imply that the chiefs should have obstructed President Lyndon Johnson's orders and policies by leaks, public statements, or resignation.

For those concerned about the potential "politicization" of the military, it is necessary to clarify that high-ranking military positions are inherently "political." Thus, the very act of resignation by a senior military officer is itself a political statement. There is no tradition of public resignation in American history. Indeed, resignation under such circumstances constitutes at worst a form of mutiny. At best, such a step belies the mutual trust at the heart of healthy civil-military relations.

Healthy civil-military relations—and by extension, effective policy, good decisions, and positive outcomes—require mutual respect, candor, collaboration, cooperation, and ultimately *subordination*. Nothing would destabilize that relationship more than a resignation by a senior military officer. The role of the military is to advise and then carry out lawful policies and orders, not to make them. In the end, the threat to resign, thereby taking disagreement public, directly erodes civilian control of the military.

The Influence of the Military: The Retired Officer's Voice

From the outset of his presidency, Trump faced external and internal resistance to his national security policies. Opposition to this outsider was immediate and bipartisan. Originally, his vocal opponents were diplomats, members of the intelligence community, and academics. Largely missing were retired military officers.

What changed toward the end of his presidency was that Trump came under attack by retired military officers. It has become routine, unfortunately, for retired officers to line up to endorse candidates. But it is unprecedented—and dangerous—for so many retired officers to publicly attack a sitting president using contemptuous language that, were they still on active duty, would put them in violation of the Uniform Code of Military Justice.³¹ As one military lawyer has observed, "There is an entrenched norm in American civil-military relations, one that is not imposed by the Constitution, or any statute, or any field manual, or any regulation." Former military leaders are expected to have a "stoic regard for lawful civilian orders into retirement years, finding greater virtue in silence,

even when [they] might consider the civilian direction to be ‘lawful but awful.’”³² This was the norm for many decades.

Maj Gen John J. Pershing told 1st Lt George Patton in 1916, “You must remember that when we enter the Army we do so with the full knowledge that our first duty is toward the government, entirely regardless of our own use under any given circumstances. We are at liberty to express our personal views only when called upon to do so or else confidentially to our friends, but always confidentially and with complete understanding that they are in no sense to govern our actions.” Omar Bradley, the first JCS chairman, stated that “thirty-two years in the peacetime army had taught me to do my job, hold my tongue, and keep my name out of the papers.”³³

Officers swear an oath to the Constitution, not to an individual. But a president should be able to expect the loyalty of the officer corps and its support of an administration’s policy once a decision is made. And it is the president in consultation with Congress, not an imaginary “security community,” that has the constitutional authority to make national policy.

Trump’s opponents engaged in a concerted effort to drive a wedge between the president and the military. The *Atlantic* story alleging—anon-ymously, of course—that he disparaged fallen Americans during a visit to France in 2018 was only a particularly egregious example.³⁴ To their discredit, too many retired officers contributed to this effort.

Trump’s supporters in the retired officer community also violated the norms to which retired officers had previously adhered. During the chaotic time following the disputed 2020 election, rocked by claims of extensive voter fraud and court challenges by the Trump administration, some prominent retired generals invoked such words as “treason,” “sedition,” and “insurrection” and called for the imposition of martial law.³⁵

As citizens, retired officers are entitled to voice their opinions. However, they should be circumspect in how they go about it. Even though retired officers claim to speak only for themselves and not for the military, they are, as Richard Kohn once observed, akin to the cardinals of the Catholic Church. Thus, their statements carry weight and often reflect on those still in uniform even if that is not their intent.³⁶

Accordingly, retired military leaders should consider the public impact of their statements. They need to realize how what they say can damage trust between military and civilian authorities. In the case of Trump, the consequence of public attacks by retired officers was to undermine not only his own trust in the military but also public trust in the military as an institution. Is the military truly a nonpartisan profession in service to the US Constitution or just another interest group in service to a political

party? The idea that the military should be nonpartisan and professional is clearly a norm worth preserving even as other aspects of the civil-military bargain change.

The Role of the Military: Domestic Disorder

During the summer and fall of 2020, many large cities were shaken by large-scale looting, arson, and rioting following the unfortunate death of George Floyd at the hands of a Minneapolis police officer. Despite the loss of life and devastating damage to property, many mayors took a hands-off approach. Police forces stood down, and in some cities, the rioters were even permitted to set up “autonomous areas.”

Some called for Trump to invoke the Insurrection Act. Arkansas senator Tom Cotton made the case in an op-ed for the *New York Times*.³⁷ Trump threatened to do so, stating, “I will deploy the U.S. military and quickly solve the problem for them. . . . I am your president of law and order.”³⁸ However, he never followed through. His opponents criticized him for issuing his threat and using federal law enforcement to clear rioters from Lafayette Square after a famous church near there was torched. His position on domestic disorders elicited condemnation from several prominent retired military officers.³⁹

Those who criticized Trump—especially retired officers—for even considering the use of the military to deal with the domestic disorder that swept the country in the summer and fall of 2020 should know better. Although there are many reasons to limit the use of federal troops in domestic law enforcement, the fact is that they have been so used in many instances since the American founding. Indeed, the US Army Historical Center has published three 400-page volumes on the use of the federal military forces in domestic affairs.⁴⁰

The authority of the president to use force in response to domestic disorder arises from the Constitution itself. Section 4 of Article IV reads, “The United States shall guarantee to every state in this union a republican form of government, and shall protect each of them against invasion; and on application of the legislature, or of the executive (when the legislature cannot be convened) against domestic violence.” Although the First Amendment to the Constitution guarantees “the right of the people peaceably to assemble, and to petition the Government for a redress of grievances,” it does not protect riot, arson, and looting.

Under Article II of the Constitution, the president, as commander in chief of the armed forces—and of the militia (National Guard) when under federal control—has the authority to act against enemies, both foreign

and domestic. As a federal republic, the first line of defense against domestic disorder is local law enforcement, supplemented as necessary by the resources of the states, including the National Guard. But if mayors and governors are unable or unwilling to quell disorder, the federal government has the responsibility to act.

The president's authority is supplemented by the Insurrection Act of 1807 by which Congress explicitly authorized the US Army to enforce domestic law under certain conditions.⁴¹ Although intended as a tool for suppressing rebellion when circumstances "make it impracticable to enforce the laws of the United States in any State or Territory by the ordinary course of judicial proceedings," presidents used this power on five occasions during the 1950s and '60s to counter resistance to desegregation decrees in the South. It was also the basis for federal support to California during the Los Angeles riots of 1992, when elements of a US Army division and a Marine division augmented the California National Guard. More recently, active duty forces have deployed in response to Hurricane Katrina.

Those who have criticized President Trump for threatening to use the National Guard "against the will of state governors" might want to consider this example. After the Supreme Court mandated school integration in 1954, some Southern governors refused to execute the law. In 1957, Arkansas governor Orval Faubus deployed the National Guard to defy federal authority by preventing the integration of a high school in Little Rock. President Eisenhower responded by placing the Arkansas National Guard under federal control and deploying Soldiers of the 101st Airborne Division to enforce the law. In view of the invective directed against President Trump for his threat to use federal troops to quell domestic disorder, it is interesting to note that, in a letter to Eisenhower, Democratic senator Richard Russell of Georgia explicitly compared Soldiers of the 101st Airborne Division to Hitler's "storm troopers."

Many who denounced Trump for his threat to deploy federal troops to restore order did not question his legal authority but the normative implications of doing so, including public trust in the military and the right of citizens to assemble peacefully.⁴² Although many of the demonstrations following the incident in Milwaukee were peaceful, many were not. As citizens not only of individual states but of the United States, people have an expectation that the authorities will protect them from mayhem. If local authorities fail to do so, that protection becomes an obligation of the national government.

Militarizing Politics: The 2020 Election and Its Aftermath

The lead-up to the 2020 election was an especially troubling time for US civil-military relations. The subsequent period was even more so. There were calls from Trump opponents and supporters to involve the US military in determining the outcome of the election and its aftermath.

As the election approached, some expressed fear that Trump would not abide by an electoral result that did not return him to office. These individuals wanted the military deployed to forcibly remove him from office should he fail to accept electoral defeat. For example, in August 2020, two retired Army officers wrote an open letter to Gen Mark Milley, JCS chairman, arguing that he should be prepared to deploy active duty troops to remove Trump if he refused to concede.⁴³

The letter was factually inaccurate and politically dangerous. As the senior military advisor to the president, the chairman has no command authority: he does not possess the power to command or issue orders to any members of the armed forces. That is the duty solely of the service chiefs and combatant commanders. More generally, this is not the military's role. No military officer is empowered to exercise such unconstitutional discretion. Fortunately, the letter was roundly denounced for suggesting that the military should anoint itself the final arbiter of a political question by calling for the chairman to exercise unconstitutional discretion. Such a step would remove the military from civilian oversight by granting it alone the authority to resolve a political dispute.⁴⁴

This incident was just another public manifestation of the idea that the US military has such power. When questioned about the possibility of Trump refusing to leave office after electoral defeat, then-Democratic presidential candidate Joe Biden responded, "You have so many rank-and-file military personnel saying, 'Whoa, we're not a military state. That is not who we are.' I promise you, I am absolutely convinced they will escort him from the White House with great dispatch."⁴⁵

However, the behavior of some of Trump's supporters was even more dangerous. The election of 2020 led to a chaotic outcome with charges and countercharges of voter fraud. As Trump pursued legal remedies, some of his supporters called for measures to overturn the election, which would have created a constitutional crisis. For instance, in the aftermath of the election, retired US Army lieutenant general Michael Flynn—the former director of the Defense Intelligence Agency and Trump's first national security adviser—circulated an online petition calling for Trump to suspend the Constitution, declare martial law, and have the Pentagon oversee a "revote" of the presidential election. Retired Air Force lieutenant general

Thomas McInerney called for martial law and investigations of Trump's opponents for "treason."⁴⁶

To his credit, General Milley pushed back strongly against any use of the military in the event of a dispute over the outcome of the election. "I believe deeply in the principle of an apolitical U.S. military," Milley said. "In the event of a dispute over some aspect of the elections, by law U.S. courts and the U.S. Congress are required to resolve any disputes, not the U.S. military. I foresee no role for the U.S. armed forces in this process."⁴⁷ This is the proper response: helping to determine the outcome of an election would be the most open political interference possible from a military that takes pride in its presumably apolitical character.

So toxic had civil-military relations become by the end of Trump's presidency that speculation about possible actions by the president took on a decidedly conspiratorial flavor. When Trump fired Secretary Mark Esper and some of his subordinates at the Pentagon and replaced them with "loyalists," critics were apprehensive that he was preparing for a military strike against Iran, a precipitous withdrawal of troops from Afghanistan, or, as mentioned before, use of the military to keep him in office despite a loss in the Electoral College.⁴⁸

Inspired by Trump's rhetoric claiming that the election had been stolen, a large pro-Trump crowd assembled in Washington, DC, on 6 January 2021 in support of his allegation. Many had been convinced that the Congress, led by the vice president, could refuse to certify the results of the Electoral College. While Trump was still addressing his supporters, part of the group made its way to the Capitol and breached its security.

That event led to charges that Trump had "incited" an "insurrection" and provided justification for a second impeachment. The 6 January incident certainly amounted to criminal trespass. Some of those involved assaulted police officers and committed vandalism as well as other transgressions.⁴⁹ The incident was a disgrace and helped discredit Trump and taint his legacy. However, to call it an "insurrection" seems a stretch. Disruption, not seizure of the government, was the objective. Unfortunately, by characterizing the incident as an insurrection, the table was set for what was essentially a military occupation of the capital.⁵⁰ President Biden's inauguration was scaled back, and some 25,000 National Guard troops were deployed to DC, marking the first inauguration since 1865 featuring a large number of armed Soldiers. No violence occurred, but a substantial force has, as of this writing, remained in the city.⁵¹

The period from the 2020 election until Biden's inauguration and beyond marked a low point in US civil-military relations. Among other

things, Trump's opponents suggested that the slow response of the National Guard to the violence at the Capitol on 6 January was due to the purposeful inaction of President Trump and his Pentagon appointees. In reality, the slow response was the result of normal bureaucratic factors and concerns that a forceful response would be criticized as overreaction, as was the case with the earlier riots the previous summer.⁵² Some critics point to the testimony of Maj Gen William Walker, DC National Guard chief, that political constraints made it more difficult for him to stage his personnel to support the response in January. However, these constraints likely were imposed by Army secretary Ryan McCarthy because of criticism leveled against McCarthy and the National Guard over their roles in responding to events in June.⁵³

Conclusion

Americans don't often think about civil-military relations, and that's a good thing. It means that paratroopers are not seizing communications centers and tanks aren't rolling down Pennsylvania Avenue toward the Capitol. Since US civil-military relations are generally healthy, when Americans do talk about them, they often do so in apocalyptic terms. Each example of civil-military tensions, it seems, portends a crisis.

In the past, these tensions were in reality the result of the periodic renegotiation of the US civil-military bargain. That was certainly the case during the Clinton, Bush, and Obama administrations and, indeed, through most of Trump's presidency. But by the end of his term, civil-military relationship had become dangerously toxic.

Trump bears a great deal of responsibility for this state of affairs, but as I have tried to show in this article, he is far from alone. The officer corps, both active and retired—aided and abetted by a press eager to paint Trump in the most negative light—shares much of the blame. It is also the case that during the Trump administration, too many in the military seemed to have forgotten that the president is charged with establishing US policy. The military provides advice but cannot presume that the president will accept it. US history also illustrates that the military is not always right, even when it comes to military affairs, as Vietnam makes clear.

Meanwhile, the denizens of the administrative state, particularly those members of the so-called national security community, have worked to undermine Trump from the beginning of his administration. These denizens have routinely been lionized as heroes, saving the republic from Trump. As argued above, this smacks of praetorianism.

Retired officers were particularly irresponsible, failing to consider the public consequences of their statements. They consistently failed to realize how their public statements damaged trust between the military and the president. In short, they failed to exercise prudence.

There is another issue that has influenced civil-military relations during the Trump years. As noted at the outset, US civil-military relations can best be understood as a bargain that is constantly being renegotiated as circumstances change. All too often, the first two parties to the bargain—the civilian leadership and the uniformed military—have tended to forget the last party to the bargain. The people may be wrong, but anyone who tries to conduct security policy without taking into account the citizens of the United States will fail.

President Trump may have been more attuned to the American people than the national security community was. The public shows little support for continuing the stalemate in Afghanistan. It is leery of continued adventures in Syria and elsewhere in the Middle East. This skepticism is something that military commanders and others within the national security community did not seem to understand. They therefore underestimated Trump's appeal to the public on national security affairs.

The reality is that both the military—active and retired—and the former president bear responsibility for the toxic state of civil-military relations during the previous administration. The missing element has been trust—the mutual respect and understanding between civilian and military leaders that enables the exchange of candid views and perspectives as part of the decision-making process. If we are to reestablish healthy civil-military relations in the country, civilians and the military must reexamine their mutual relationship. Mutual trust ultimately lies at the heart of healthy civil-military relations. **SSQ**

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