

# **U.S. Civil-Military Relations (I)**

## **The two basic questions:**

**What is the appropriate level of involvement of the military in national security policymaking?**

**What is the role of the military in domestic affairs?**

## **U.S. Civil-Military Relations (II)**

### **The answers:**

**The military participates in national security policymaking, but the decisions are made by elected or appointed civilian leadership and institutions.**

**The military has an extremely limited role in domestic affairs.**

# U.S. Civil-Military Relations (III)

## Why these answers:

### ◆ Fears of those who wrote the Constitution

*King or man on the white horse (Cromwell)*  
*Political Culture*

### ◆ The aftermath of the Civil War

*Posse Comitatus Act*  
*Limited Role in Domestic Affairs*

### ◆ Post-World War II

*Large standing military*  
*Role in International Affairs*

#### NOTES TO SLIDE III:

The Armed forces are simultaneously seen as a bulwark of freedom and potential threat to it, as protector of national values and possible challenger to them.

A purpose of civilian control was thus "to ensure that defense policy and the agencies of defense are subordinated to other national traditions, values, customs, governmental policies, and economic and social institutions."

# **U.S. Civil-Military Relations (IV)**

## **How structured:**

### **◆ The Constitution**

*Law requires civilian control*

*Subordinate to the C-in-C, who shares power within the government with Congress*

### **◆ Chain of command**

*Limited role (advisory and planning) of Joint Chiefs of Staff and their Staff*

### **◆ Budget decisions**

*The President and Congress, advised by the military*

### **◆ Promotions and assignments**

*The President and Congress, advised by the military*

### **◆ Posse Comitatus Act**

*Law*

# U.S. Civil-Military Relations (V)

## How maintained:

- ◆ **Expectations of Society:**
- ◆ **Legitimacy**
- ◆ **Socialization and education**
- ◆ **Rule of Law**

### *NOTES TO SLIDE V:*

*The principle of civilian control has become an intrinsic part of American political culture.*

*We have been fortunate. The need for the military has been protection/defense or achievement of international goals and not for domestic needs, with the exception of the Civil War and some limited other occasions*

# U.S. Civil-Military Relations (VI)

## Tensions:

### ◆ Two different kinds of people

*NOTES: The military occasionally feels that civilian policymakers do not fully understand military affairs or are "too political," while civilian leaders see the military as parochial and insensitive to political considerations. Problems can easily occur when officers believe civilian officials are basing military decisions on electoral politics rather than strategic necessity or the national interest.*

### ◆ Presidents using the armed forces as a tool of social change

### ◆ Degree of control

*NOTES: In order for the civilian authority to maintain control, it needed to have a way to direct the military without unduly infringing on the prerogatives of the military world and thus provoking a backlash. Civilian leadership would decide the objective of any military action but then leave it to the military world to decide upon the best way of achieving the objective. The problem facing civilian authority, then, is in deciding on the ideal amount of control. Too much control over the military could result in failure on the battlefield. Too little control would create the possibility of a failure of the government.*

### ◆ **Ultimate loyalty**

*NOTES: the ultimate loyalty of officers within the framework of civilian control. Clearly this*

*loyalty should lie somewhere outside officers' individual desires or even the good of their service.*

*The question is whether ultimate loyalty resides with the commander-in-chief, the national/public interest, or the Constitution. Most of the time, there is no divergence or incompatibility among the three. Legally and ethically, ultimate loyalty should lie with the Constitution. A member of the U.S. military swears allegiance to the Constitution, not the commander-in-chief. What, then, should an officer do when convinced that the president or official policy is wrong?*

### ◆ **The Gap between Society and the Military**

*NOTES: Social composition of the officer corps, the military, and the method of recruiting military personnel.*

### ◆ **The effect of the industrial-military on economic and political power and policies**

### ◆ **Politicization of the U.S. officer corps**

*NOTES: Two issues – the gap and the increased understanding of politics. There has been a long-term, secular trend towards politicalization. Since the end of WWII, the American military has become remarkably sophisticated regarding politics, in part through a professional military education that stresses the importance of the political dimension of warfare. Also, COIN/anti-insurrection operations*

# **U.S. Civil-Military Relations (VII)**

## **Tensions arising since 9/11 and Katrina**

◆ **Terrorism, inside the U.S.**

◆ **Intelligence interface**

◆ **Posse Comitatus Act**

NOTES: *The Posse Comitatus Act is a United States federal law (18 U.S.C. § 1385) passed on June 18, 1878, after the end of Reconstruction, with the intention (in concert with the Insurrection Act of 1807) of substantially limiting the powers of the federal government to use the military for law enforcement. The Act prohibits members of the Army, and Air Force, from exercising nominally state law enforcement, police, or peace officer powers that maintain "law and order" on non-federal property (states and their counties and municipal divisions) within the United States.*

*The statute prohibits Army and Air Force personnel and units of the National Guard under federal authority from acting in a law enforcement capacity within the United States, except where expressly authorized by the Constitution or Congress. The Navy, and Marine Corps are prohibited by Department of Defense Directive, not by the Act itself. The Coast Guard, under the Department of Homeland Security, is exempt from the Act.*

*On September 26, 2006, President Bush urged Congress to consider revising federal laws so that U.S. armed forces could restore public order and enforce laws in the aftermath of a natural disaster, in the wake of Hurricane Katrina.*

*These changes were included in the John Warner National Defense Authorization Act for Fiscal Year 2007 (H.R. 5122), which was signed into law on October 17, 2006. Section 1076 is titled "Use of the Armed Forces in major public emergencies." It provided that: The President may employ the armed forces... to... restore public order and enforce the laws of the United States when, as a result of a natural disaster, epidemic, or other serious public health emergency, terrorist attack or incident, or other condition... the President determines that... domestic violence has occurred to such an extent that the constituted authorities of the State or possession are incapable of maintaining public order... or [to] suppress, in a State, any insurrection, domestic violence, unlawful combination, or conspiracy if such... a condition... so hinders the execution of the laws... that any part or class of its people is deprived of a right, privilege, immunity, or protection named in the Constitution and secured by law... or opposes or obstructs the execution of the laws of the United States or impedes the course of justice under those laws.*

*In 2008, these changes were repealed in their entirety, reverting to the previous wording of the Insurrection Act.*

*There are a number of situations in which the Act does not apply. These include: National Guard units and State Defense Forces while under the authority of the governor of a state;*

*Troops used under the order of the President of the United States pursuant to the Insurrection Act, as was the case during the 1992 Los Angeles Riots. Under 18 U.S.C. § 831, the Attorney General may request that the Secretary of Defense provide emergency assistance if civilian law enforcement is inadequate to address certain types of threats involving the release of nuclear materials, such as potential use of a nuclear or radiological weapon. Such assistance may be by any personnel under the authority of the Department of Defense, provided such assistance does not adversely affect U.S. military preparedness. Support roles under the Joint Special Operations Command*

#### ◆ **Homeland security**

*NOTES: On October 1, 2008, the US Army announced that the 3rd Infantry Divisions 1st Brigade Combat Team (BCT) will be under the day-to-day control of U.S. Army North, the Army service component of Northern Command (NORTHCOM), as an on-call federal response force for natural or man-made emergencies and disasters, including terrorist attacks.*

*This marks the first time an active U.S. Army unit will be given a dedicated assignment to NORTHCOM, where it is stated they may be "called upon to help with civil unrest and crowd control or to deal with potentially horrific scenarios such as massive poisoning and chaos in response to a chemical, biological, radiological, nuclear or high-yield explosive attack."*

*The US military will have around 20,000 uniformed personnel in this role in the United States by 2011, specifically trained*

*and equipped to assist state and local government, respond to major disasters, terrorist attack, other major public emergencies. This shift in strategy is a result of recommendations by Congress and outside experts. This response capability is not new, but now accompanies a permanent assignment of forces to NORTHCOM.*

*This formalizes a role for the use of federal troops within the United States during major public emergencies and disasters, as was the case in the aftermath of Hurricane Katrina in 2005. This has raised concern about the relationship between Posse Comitatus and the use of the military in domestic disaster support and homeland defense roles. However, federal military forces have a long history of domestic roles, including the occupation of sovereign Southern states during Reconstruction and the confiscation of private firearms in the Katrina aftermath. The Posse Comitatus Act prohibits the use of federal military forces to "execute the laws"; however, there is disagreement over whether this language may apply to troops used in an advisory, support, disaster response, or other homeland defense role, as opposed to conventional law enforcement.*