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Civilian Control: New Perspectives for New Problems

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SYMPOSIUM

CIVILIAN CONTROL: NEW PERSPECTIVES FOR NEW PROBLEMS

ADAM YARMOLINSKY†

Civilian control of the military establishment seems so basic and generally accepted a principle as scarcely to be worth discussing. And yet we are surrounded by distressing evidence that civilian control of today's booming military establishment is a good deal less than a generally prevailing reality.

To take examples only from this decade: the Chairman of the Joint Chiefs of Staff conducts an espionage operation, including the purloining of secret documents not intended for his eyes, from the offices of the Assistant to the President for National Security. An Air Force Major General conducts a private war in Vietnam, apparently unsanctioned by his superiors, military or civilian. Cost overruns on the full-scale development of forty-five weapons systems have amounted to $31 billion.1 And the Pentagon public information and legislative liaison services show no signs of diminishing the size or intensity of their efforts, despite mounting criticism from the outside world.

It is tempting to attribute these out-of-control episodes to the excesses of the power-hungry military. But there is no reason to believe that American military men are more power-hungry than their counterparts in civilian bureaucracies, in or out of government. There are conflicting strains in the training and indoctrination of the career military, so that military men are anxious to receive policy guidance from their civilian "masters," at the same time they seek to protect their professional autonomy—an endeavor which may, in their view, include making judgments about how much is necessary, in men, weapons and dollars, to protect the national security.2

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1. See GENERAL ACCOUNTING OFFICE, REPORT TO THE HOUSE ARMED SERVICES COMMITTEE, March 26, 1973 (B163058).

2. Robert Kennedy recalled his conversation with the President on this subject: During the Cuban missile crisis President Kennedy was disturbed by the inability of the military to look beyond the limited military field. . . . [H]e said we had to remember that they were trained to fight and wage war—that was their life. Perhaps we would feel even more concerned if they were always opposed to using arms or military means—for if they would not be willing, who would be? But this experience pointed out for us all the importance of civilian direction and control and the importance of raising probing questions to military recommendations.

The fact is that the apparatus of civilian control that was developed to implement the original concept of the founding fathers has proved wholly inadequate to control an establishment several orders of magnitude larger and more complex. The problem is not the overweening military, but the inadequate civilians, who, lacking the means, cannot even test their determination to exercise effective control. The danger in this situation is not that the military may take over the country, but that the country is not able to preside over the military.

This is not to suggest that civilians know better than military professionals how to establish a beachhead, or how to design a weapons system. It is to assert that, as an earlier generation discovered that war was too important to be left to the generals, so the current generation has found that planning a military force designed primarily to deter war is also too important to leave entirely to the generals.

Concern about civilian control of the military has been a continuing, if minor, theme in American political history, beginning with the debates in the Constitutional Convention. But by and large this concern, as expressed in constitutional and statutory provisions, has been addressed to the supposed danger of the military assuming civilian authority, rather than the danger of civilian authority losing effective control of the military qua military. In *The Federalist Papers*, the thrust of Hamilton’s argument goes to the need for a standing army in peacetime, and the absence of any internal threat from such a force, given the protection provided in the Constitution.

The three constitutional checks on the power of the military—the power reserved to the Congress to declare war, the two-year limitation on Army appropriations, and the specification of a civilian Commander in Chief—were all taken quite seriously by the founding fathers. In fact, they have proved largely irrelevant to the central dilemmas of civilian control in the second half of the twentieth century.

The allocation of the war power to the Congress has been a subject of controversy between the legislative and executive branches, not be-

3. "War is much too serious a matter to be entrusted to generals." G. Clemenceau, quoted in *The Great Quotations* 162 (G. Seldes ed. 1960).
7. U.S. Const. art. I, § 8, cl. 12.
tween the civil and the military arms—and even here it has not prevented the Executive from conducting two full-scale wars, in Korea and in Indochina. The last congressional declaration of war was in 1941. The two-year limitation on appropriations has not prevented the Pentagon from making long-range commitments for the development of weapons systems, which the Congress finds difficult if not impossible to repudiate. Further, the Attorney General has determined that a congressional appropriation of so-called "no-year" funds—funds that need not be expended in the fiscal year for which they are appropriated—is not a violation of the two-year limit.

Lastly, the powers of the President as Commander in Chief, vis-à-vis the military establishment, have never been tested in the courts, and the bare constitutional declaration has not perceptibly strengthened his hand, nor helped him to resolve the specific problems of control that will be discussed in detail below.

The Congress has been scrupulous to supplement with statutory language the purpose of the constitutional provisions, but it has done so in areas that again have relatively little bearing on the major issues. Congressional actions here look suspiciously like an elaborate effort to lock the barn door without looking to see whether the horses are there or not. In the National Security Act of 1947, which first created a (relatively) unified Department of Defense, the Congress specified that the Act was not intended "to establish a single Chief of Staff over the armed forces nor an overall armed forces general staff." The Joint Chiefs of Staff, created as a body in the 1947 Act, were not supplied with a Chairman until the 1949 Amendments, which were careful to provide: "While holding office, the Chairman outranks all other officers of the armed forces. However, he may not exercise military command over the Joint Chiefs of Staff or any of the armed forces." In addition, the size of the Joint Staff has been severely limited by statute, and members of the Joint Staff are prohibited from serving as such for more than three years, and from being reassigned to the Joint Staff after less than a three-year interval.

11. The limitation, of course, applies to the Army but not to the Navy; consider its applicability to the Air Force.
But these highly specific provisions were not designed to protect the civilian authorities from the pressures of centralized military authority. Rather, they were carefully worked out to protect the autonomy of the separate military services from centralized (military) control. It is perhaps more significant that the Congress specifically provided that "[t]he Joint Staff shall not operate or be organized as an overall Armed Forces General Staff and shall have no executive authority." Further, it was provided that the individual members of the Joint Chiefs of Staff (who are also the military chiefs of their respective services) are free to present their views to the Congress even without being requested to do so—a provision that has been described as "legislated insubordination."

In another area, the Congress has been even more explicit. In restricting the authority of the Director or the Deputy Director of the Central Intelligence Agency, it has provided that one, but not both, of these two positions may "be occupied simultaneously by commissioned officers of the armed services, whether in an active or retired status."

Section 102 of the National Security Act provides that if a commissioned officer is appointed to one of these posts,

he shall be subject to no supervision, control, restriction, or prohibition (military or otherwise) other than would be operative with respect to him if he were a civilian in no way connected with the Department of the Army, the Department of the Navy, the Department of the Air Force, or the armed services or any component thereof . . . .

But these minutely specific provisions do not affect the representation of the military departments on the United States Intelligence Board, which formulates the official positions of the intelligence community.

Thus we can see that constitutional and statutory restrictions on military power have been addressed to the specter of the man on a white horse, rather than the need for civilian authority to set the guidelines by

21. The Congress provided additional restrictions by specifying that a military officer in the Director or Deputy Director post shall not possess or exercise any supervision, control, powers, or functions (other than . . . as Director, or Deputy Director) with respect to the armed services or any component thereof, the Department of the Army, the Department of the Navy, or the Department of the Air Force, or any branch, bureau, unit, or division thereof, or with respect to any of the personnel (military or civilian) of any of the foregoing.
50 U.S.C. § 403(b) (1) (B) (1970).
which the military conducts its own business—now the largest business in the United States. In fact the military establishment has recently been surpassed by the health care industry as taking the largest share of the Gross National Product, but the military budget, including transfer payments as well as expenditures for goods and services, is still the largest budget in the federal system. The military reached its present size (apart from the two World Wars) only with the Korean War, when the combination of real need to combat the growing power of the Soviet Union, and panicky overreaction to the fact that the United States was no longer protected militarily by two oceans, served to prevent the major reduction of military strength that normally followed a war. Somewhere in the fifties, the forces working for expansion of the military establishment overbalanced the forces that had traditionally returned military strength to peacetime size. The figures appear in Table 1.

II

Before turning to the question of new means to achieve civilian control of the military establishment itself, we need to consider, at least briefly, the question of the adequacy of civilian will and determination. That will and determination are significantly limited by what has been described as the military-industrial complex—and might more accurately be described as the military-industrial-labor-congressional complex. The phenomenon of the military-industrial complex is well known.22 The coincidence of interest, among military men, defense contractors, labor unions and politicians, not to mention bankers, lawyers and public relations types, is so clear that no conspiracy theory is required to predict its consequences in encouraging expansion of the military establishment and restraining criticism of defense spending.23 What is less obvious is that the military-industrial complex is only a special case of a generalized phenomenon in modern industrial society that includes, for example, the

22. See President Eisenhower's Farewell Address, January 17, 1961:
   This conjunction of an immense military establishment and a large arms industry is new in the American experience. The total influence—economic, political, even spiritual—is felt in every city, every State house, every office of the Federal government. We recognize the imperative need for this development. Yet we must not fail to comprehend its grave implications. Our toil, resources and livelihood are all involved; so is the very structure of our society.

23. In testimony before the Joint Economic Committee, Secretary of Defense Schlesinger maintained that although all of the defense budget can be justified on the grounds of military requirements, a portion of the budget would not have been submitted to Congress if it were not for the downswing in the economy. Hearings on the National Budget for the Fiscal Year 1975 Before the Joint Economic Comm., 93d Cong., 2d Sess. (1974) (unpublished as of September 1974).
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Source: DOD Directorate for Information Operation OASD Comptroller

Actual dollar figures deflated by Implicit Price Deflator, Department of Commerce, Bureau of Economic Analysis
highway-industrial complex, or the educational-industrial complex.\textsuperscript{24} The major differences between the military-industrial complex and all the other such relationships are first that it is bigger by at least an order of magnitude, and likely, for the foreseeable future, to remain uniquely so. No practical proposals have been advanced for cutting the defense budget by more than, say, twenty-five percent.

The second major difference is that decisions based on the special interests of the complex can have a profound (and sometimes dangerous) impact on the national security. Spending an additional, and unnecessary, increment of funds on the military establishment may not only be wasteful; it may also destabilize the nuclear balance, set off an arms race, or create troublesome international political problems.

Because the military-industrial complex is uniquely large, its existence tends to sap the will and determination of the politicians in the legislative branch, and of the President himself, who must also be a politician. The political pressures generated by the far-flung constituencies of the military establishment are increased by the politician's reasonable fear that if he is responsible for denying a military request, and the national security is then impaired—or believed to be impaired—he will be blamed.

The pressures resulting from economic considerations are likely to bear more heavily on the legislative branch, because the economic issues are likely to be local ones, and because members of the legislative branch are generally more responsive than the executive branch to local pressures. On the other hand, pressures resulting from concerns about national security are likely to weigh more heavily on the President, since he is the single individual ultimately responsible. This distinction is reinforced by the fact that the Congress exerts its control over the military primarily by refusing to appropriate money, while the Executive may take substantive initiatives in changing the force structure and strategy.\textsuperscript{25} In fact, the Congress is even reluctant to make specific budget cuts because of the extraordinary amount of technical detail involved; Congressmen prefer to make overall budget adjustments, or to introduce procedural

\textsuperscript{24} For a more detailed discussion of the military complex, see A. YARMOLINSKY, THE MILITARY ESTABLISHMENT 38-68 (1971) [hereinafter cited as MILITARY ESTABLISHMENT].

requirements instead. Congressional alliances with the military hierarchy are a well-known fact of life, particularly those between senior members of the relevant congressional committees and senior military officers. On the other hand, the Congress is probably less reluctant than the executive branch to confront the military directly on a broad issue, since the Congress does not operate under quite the same constraints of having to govern the military establishment with and through the military itself.

As the will to exercise civilian control is a variable quantity, so the nature of the control that is appropriate and feasible, even under ideal circumstances, also varies considerably with the subject matter.

III

Whatever civilian control has meant over the past two hundred years, it can mean a number of quite different things today. Its scope extends from control of research and development decisions affecting future weapons systems to control of actual military operations. The degree of civilian control varies widely across this broad spectrum of activities. Part of this variation is attributable to the appropriateness of varying degrees of civilian control, and part of it is due to the relative effectiveness of the control that is actually exercised. Actions of field commanders cannot be controlled as closely as actions of desk-bound officers; but rules of engagement, which may be critical to the political conduct of a war, can be more or less effective depending on how they are drafted and how consistent they are with overall foreign policy objectives.

Civilian control also has different meanings in different contexts. It can mean control over aberrations from established policy, or determination of new policy directions. It can mean a general curb on the expansionist tendencies of some military activities, or it can mean a strengthening of some military activities, undervalued by the military itself, partially or wholly at the expense of others. And, as indicated above, it can be exercised primarily by the Congress, by the White House (and its appendages, the National Security Council Staff and the Office of Management and Budget), or by civilians within the Department itself.

The simplest—if not the easiest—way to increase civilian control across the entire spectrum of military activity would be to reduce the size of the military establishment. But a reduction of twenty, thirty, or even

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forty percent in the military budget, beyond anything that has been pro-
posed in recent budgetary debates, would still leave an institution uniquely
large and complex. Further, the processes of cutting back the budget
and force structure—although in the view of this writer highly desirable
—tend to freeze attitudes and to heighten intra-institutional jealousies.
The reforms of the early sixties were made easier because they were car-
ried out in the context of an expanding overall defense budget.

Since the simple way is not open, it is necessary to break down the
problem into its component parts, and to look at ways to increase civilian
control in five areas: overall budgeting, research and development, force
structure, contingency planning, and actual military operations. This
catalog is arranged in ascending order of difficulty, the order in which
we shall address it. If this is a novel way of approaching the problem of
civilian control, it is dictated by the size and shape of the problem today.

IV

Civilian control of the overall military budget has involved close
scrutiny of detail by the civilian authorities in the Pentagon, and resolute
avoidance of detail by the civilian authorities in the White House. The
Kennedy administration used to take pride in the budgetary instructions
from the President to his Secretary of Defense to determine the budget
necessary to protect the security of the United States, without regard to
arbitrary or predetermined budget ceilings. No one asked at the time
whether similar instructions had been given to the Secretary of Health,
Education and Welfare, or to the Administrator of the Housing and
Home Finance Agency—or, if they had, how the government would have
been able to construct a manageable budget. In fact, President Kennedy
was saved from the consequences of his instruction only by the extra-
ordinary ability of his Secretary of Defense to focus on questions of de-
tails as they arose in literally hundreds of “subject issue papers” during
budget season. And even then there had to be some tacit understanding
between the Secretary and the President that the budget would be more
(or rather less) than the sum of its parts. Somewhere in their discus-
sions about specific budget issues, an overall budget ceiling emerged.

The overall size of the peacetime budget is as much a response to the
pressure exerted on the total federal budget by nonmilitary spenders as it is
a function of the military needs of the country. Because the decision is so
quintessentially political—a matter of choice, in which the components
cannot possibly be quantified, and the pressures must be balanced largely
by intuition—civilian control is less difficult to achieve here than in any
other area. Most military pressures for specific weapons systems can be
accommodated within almost any given budget ceiling by making appropriate adjustments elsewhere in the budget.

**The Budgetary Process**

To understand the issue better it may be useful to look at the process by which the budget ceiling is developed. Before the advent of the McNamara budgeting reforms in 1961, the allocation of the military budget was largely determined by bargaining among and within the military departments, after an overall ceiling had been fixed by the President with the advice of the Secretary of the Treasury. McNamara introduced three major reforms: organization of the budget by functional categories (e.g., strategic nuclear forces, general purpose forces, reserves, research and development, etc.) which cut across service lines; multi-year programming, which projected the total costs of forces and weapons systems, including systems still in a development phase, at least five years ahead; and intensive review and examination of budget submissions from the military departments by civilian staff in the Office of the Secretary of Defense, which addressed questions of the military justification for particular weapons systems or system characteristics, as well as traditionally “civilian” questions of cost and technical feasibility.

Since the McNamara system did not involve any predetermined budget ceilings, however, it tended to result either in increased overall budgets or in major eleventh-hour cuts, as the Secretary and his staff reviewed the final total program costs for budget purposes. The changes in the system introduced by Secretary Laird provided for initial dollar targets for the military departments, based on very preliminary and general planning documents (sometimes characterized as “wish lists”) submitted by the military, so that the final budget decision by the Secretary was not a total shock to the military departments and their bureaucracies. These preliminary budgetary determinations also came to involve review by an interdepartmental group, including the Secretary of State and the Assistant to the President for National Security Affairs. At the same time, Laird reduced the role of his civilian staff in proposing program directions, and left the initiative more to the uniformed planning staffs in the military departments.

Given this sequence of decisionmaking, the major substantive issues in the budget—whether or not to build another nuclear carrier, whether or not to add (or subtract) an Army division or a Marine Corps brigade, whether or not to proceed with MIRVing the Minuteman missiles—are settled privately between the Pentagon and the White House, although there may be some judicious leaking to the press by both sides while the
discussion is going on. The President will then fix the overall size of the military budget. He will undoubtedly be influenced in his ultimate judgment by the decisions arrived at previously on specific issues. If, for example, he had agreed to buy a new carrier, he cannot preserve a level budget (even in constant dollars) unless he insists on a cutback in some other part of the force structure. But the decision is his, in the last analysis. Even if the Congress tries to add a major Pentagon proposal rejected by the White House, it is unlikely to succeed. Defense legislation is not like a Rivers and Harbors bill. And the White House is on stronger ground in refusing to spend money actually appropriated for defense than it is when domestic appropriations are at issue.

Congressional Options

The public issue is likely to be the amount of overall increase or reduction from the previous year's budget. Whether the Administration's proposals amount to an increase or not may, however, be a controversial question. When the FY 1975 budget request for the Department of Defense was sent up to the Hill, it was accompanied by an FY 1974 supplemental budget request for $6.2 billion. The supplemental included $3.4 billion for pay increases authorized by Congress after the original 1974 budget was adopted, and $2.8 billion to cover fuel price increases and extra costs incurred in supplying equipment to Israel during the Middle East War. But it also included $2.1 billion essentially to augment inventories and to buy new weapons and equipment. Absent an emergency, this kind of request is not normally included in a supplemental; when it is, it has the effect of increasing the current year's budget and reducing the succeeding year's budget, thus reducing the politically critical (apparent) budget differential, if the succeeding year's request is higher than the request for the current year—as it is at this writing.27

If, on the other hand, the civilian authorities wish to propose a substantial decrease, there is no simple device to minimize its political impact, and it may present serious political problems to the President, and to the Congress. The Congress is probably in a better position to make across-the-board cuts in the budget than to quarrel with the massive expertise of the

27. The 1974 Joint Economic Committee Report points out that the concept of baseline costs is also subject to distortion, as in the case of emergency aid to Israel. The Administration had requested and Congress had approved $2.2 billion for emergency aid to Israel. These funds are a proper part of the 1974 defense budget total. In the budget submitted to Congress, these costs were added to the baseline. They do not belong in the 1974 defense baseline because they do not represent an enhancement of our military force structure. Adding emergency aid to Israel in the baseline exaggerates the cost of United States military forces last year and biases the comparison of the 1974 and 1975 baselines. H.R. Rep. No. 927, 93d Cong., 2d Sess. 61-63 (1974).
military on specific cuts. Also an across-the-board cut cannot be identified as affecting the constituents of a particular Congressman or Senator, while a specific cut can be traced to the particular defense contracts and subcontracts it will affect. But the knowledge that even an across-the-board cut may have a significant impact on the economy of his district or state cannot help but have some deterrent effect on a legislator, and makes it more difficult for the Congress than for the President to take the budget-cutting initiative.

V

In order to maintain effective civilian control over the military budget as a whole, therefore, without losing control of its basic components, the civilian authorities must involve themselves deeply in the second and third issues: control of research and development, and control of force structure. The principal difficulty they encounter is in mastering the technical complexities that go into a choice among differing weapons systems, or a decision as to the need for a new version of an existing system. The basic problem of expertise is exacerbated by the following five factors:

1. The decisionmaking process for new weapons systems is almost insidiously gradual. A new concept is explored because it looks promising, because it costs relatively little to explore, because it is thought to be important not to fall behind in the research and development race, even because exploring new ideas is a necessary activity in order to hold together a first-rate research and development team. When the new idea turns out to be promising, it is only natural to put a little more money into it, and then a little more. Turning back on the road to full weapons development becomes more and more difficult as the investment in the idea grows. Many ideas are abandoned at various stages because they become impractical, although even as impractical an idea as the nuclear-powered airplane was pursued for years before the decision to drop it was made. But to abandon an extremely promising new weapons system, only because it is not really needed—or because its job can be done more cheaply—is the most difficult decision of all.

2. Neither the Secretary of Defense, nor the President, nor the Congress, separately, nor all of them together, can marshal the staff of experts to match the staffs of the military departments, even if those staffs were reduced to the absolute minimum necessary to carry on enough research and development to keep up with our major foreign antagonists.

28. See Aspin, supra note 26, part III.
3. At least some of the essential facts necessary to exercise judgment about research and development alternatives are classified, and while civilians can and do penetrate the veil of secrecy when they can establish a "need to know," the very circumstance that they must establish such a need makes it difficult to ascertain in advance what information may be missing. How does the civilian decisionmaker or his staff person learn what it is that he needs to know in order to make the decision?

4. In addition to the impact of the classification process properly employed, there is the inevitable use of the classification system to hide adverse facts that the proponents of a particular weapons system would prefer not to disclose. Curbing the abuse of the system is extraordinarily difficult, and even major reforms are unlikely to avoid the kind of abuse involved here. There is no automatic way in which a military research and development staff can effectively be required to disclose, even to properly authorized outsiders, all their fears and concerns about a particular development.

5. Lastly, there is an understandable reluctance on the part of civilian outsiders to make adverse judgments on complex issues of military research and development when a wrong decision against a weapons system could, just possibly, mean defeat for the United States in a future conflict, while a wrong favorable decision would only mean unnecessary dollars for defense. That a favorable decision might launch a new and destabilizing arms race, or that those dollars might be spent for a more needed military purpose, within an overall ceiling, are logical arguments, but not emotionally persuasive ones under the circumstances.

The more troublesome subject-matter area for civilian control of weapons development is the nonnuclear one, despite the fact that the most publicized debates concern the choice of nuclear weapons: ABM's, MIRV's, a new strategic bomber, a new generation of nuclear attack submarines. Nuclear weapons development options are fairly clearly identified with specific strategic policies: ABM's go with emphasis on damage limitation; MIRV's are associated with counterforce. The issues are complicated enough here. And the military can usually be expected to advocate new and more complex systems (unless the system is caught in the crossfire of interservice rivalry). But the strategic policy decisions

29. The first of these inter-service battles developed in 1949 when the Air Force sought approval of the B-36 jet bomber as the centerpiece for the nation's emerging "deterrence" strategy. The $15 billion defense budget could not allow both the B-36 and the fleet of new "supercarriers" sought by the Navy as a supplementary means of getting nuclear bombers to distant foreign targets. The Air Force got its B-36 but the Navy's supercarriers were denied. MILITARY ESTABLISHMENT, supra note 24, at 194. See also E. KOLODZIEJ, THE UNCOMMON DEFENSE AND CONGRESS 109-11 (1966).
are ultimately made by civilians, and the weapons development decisions follow.

On the nonnuclear side, however, the characteristics of the new main battle tank, or the loiter time for a new strike aircraft, are not as clearly identified with particular strategies, and the military pressure to develop weapons to meet all possible requirements is greater. The extraordinary difficulties experienced with the F-111, originally designed to be the first two-service aircraft, were probably not in the basic civilian-inspired concept, but in the conflicting requirements imposed by the two services, which were never really translated into alternative strategies and evaluated by civilian authorities.30

Perhaps the best preparation for a civilian manager who must deal with decisions about developing new weapons systems is an intensive course in the classical schoolboy art of précis writing. He must be able to break through enormous technological complexities to the basic issue of military usefulness, and he must be able to translate the most elaborate cost-benefit analysis into layman's terms. If he fails, his superiors in the Pentagon and the White House will either have to spend more for defense than is reasonable in the light of other national needs, or they will have to buy a force that is overequipped in some ways, but inadequate in other ways—most likely in sheer numbers—to meet national defense requirements.

VI

Even more difficult for civilians to cope with are issues of force structure—particularly nonnuclear force structure. Again, the question of the mix of manned strategic bombers and land-based and sea-based nuclear missiles is relatively uncomplicated, as compared with the question of what kind of divisional structure is appropriate to the kinds of nonnuclear conflict in which the United States might become involved, or the question whether organization should stop at the next smaller size unit below the division, the brigade. These nonnuclear force structure issues are becoming increasingly critical because they involve much more manpower (as well as a larger share of weapons and equipment costs); and with the end of the draft, the availability of volunteer manpower on any reasonable pay scale may be the limiting factor on the size of the military establishment. Also, force structure issues have the most direct political implications, as, for example, in the question of substituting a militia-type defense structure for many of the standing armies in the defense of

Force structure issues are seen as even more "military" than issues of weapons development. They are not as technologically complex, but they involve more imponderables, and there are fewer civilian analysts competent to deal with them. It is more difficult, therefore, for civilian authorities to understand these issues. Traditionally, force structures were taken for granted; decisions about them were entirely within the province of the military. If they are to be brought into the arena of civilian reexamination and ultimate decisionmaking, the first requirement will be to develop a body of civilian expertise sufficient to critique military practice and to explore the implicit major premises of military proposals.

VII

If force structure issues are more "military" than issues of weapons development, then contingency planning and actual military operations are closest to the bone in the structure of military professionalism and military autonomy. It was not so long ago that the Secretary of War did not have access to the war plans of his general staff. The "war plans" for nuclear conflict are now a subject of intense political discussion; while nonnuclear contingency plans, particularly in Western Europe, precipitate serious disagreements among allies. The principal device for civilian control of military operations is the promulgation of rules of engagement—rules governing the circumstances under which forces can be committed to military action.

In direct confrontations between nuclear powers, not only the rules of engagement, but the details of their application as well, are determined by civilian authorities, as in the Cuban missile crisis, or the several Berlin crises of the fifties and sixties. Since the danger of escalation is so great, and the application of nuclear force is recognized as involving the life or death of civilizations, the closest control of such military operations by civilian authorities, often directly from the White House, is assumed and accepted. The limiting factor on civilian control is the refinement of so-called command and control technology, which enables headquarters in Washington to maintain rapid communication with the field, even under quite adverse conditions, and in some cases to be able physically to control the operation of nuclear weapons. The overseas deployment of large numbers of so-called tactical nuclear weapons further complicates the problem. Clearly, the danger, however limited, of an unauthorized or

32. See Military Establishment, supra note 24, at 110-13.
inadvertent nuclear exchange must be viewed in the light of the potential disaster that would result.

United States military forces in Vietnam operated under what were probably the tightest nonnuclear rules of engagement in United States military history. When the rules were violated, it was as much because of their inconsistency with the one-sided military situation, or with inflammatory civilian rhetoric, as because of deliberate disregard of civilian authority. On the other hand, blinkered pursuit of conventional military objectives consistently obstructed broader war aims in Vietnam.

The war in Southeast Asia was a tragedy initiated by civilians and continued through civilian decision. More effective civilian control of the military could not have redeemed it. But as a case study in civil-military relations, it confirms the proposition that civilian control of military operations in a modern guerrilla war (or even a quasi-guerrilla war) cannot be maintained merely by issuing orders from civilian command. The problems are too complex, the interplay of political and military considerations too subtle. Senior military commanders need to understand and share the objectives of their civilian superiors.33

Achieving this kind of understanding is perhaps the most difficult task for the civilian management of the military. Every bureaucracy suffers from some form of professional distortion. President Kennedy's frustration with the State Department bureaucracy during his administration is well known: he characterized it as "a bowl of jelly."34 Other characterizations might be more appropriate for the Pentagon, but its bureaucracy can be equally frustrating—or even frightening. Military men are trained to achieve at whatever cost the objective towards which they are directed.35 They are not trained to examine the incidental costs of achieving those objectives. Military men work in an institution that is remarkably effective at avoiding the gross phenomena of disorder, and they are therefore inclined to minimize the likelihood that any of their actions will result in gross disorder. And military men are encouraged to compete fiercely for advancement within their own system, so that they are somewhat less responsive to the judgments of outside observers.

Students of military sociology have pointed to a phenomenon in the

33. Samuel Huntington first drew the distinction between "objective control" of the military by encouraging military professionalism, with the concomitant respect for civilian authority, and "subjective control" by instilling in the military the substantive social philosophy of the civilian authorities. In S. Huntington, The Soldier and The State 80-97 (1957), he expressed a preference for objective control. But he was writing in an earlier age.
35. I recall the colonel who came into my office in the Pentagon one day for an assignment, and announced, "Just tell me what to do, sir, and then I'm all arms and legs."
post-World War II development of the military that they call "convergence" of military and civilian life styles. The modern military man is a good deal closer to his civilian counterparts in the nature of his work and his life style than in previous generations. This convergence makes objective control of the military more difficult. It does not necessarily make subjective control any simpler. One must avoid the easy but dangerous assumption that greater exposure to the processes of civilian life automatically carries with it greater understanding of the nonmilitary aspects of United States foreign policy. A military man can be quite at home in the institutions of civil society, and at the same time can accept uncritically the most superficial assessments of and assumptions about political realities that are common in that society.

Enhancing civilian control of actual military operations, then, is at least to some extent a matter of education, and the educational process is a life-long one. It extends from efforts to broaden the curriculum of the military academies, and to increase the proportion of officers coming into the services through ROTC programs, to efforts to provide greater in-service educational opportunities in high-quality civilian institutions, particularly at the graduate level. It includes the creation of satisfactory career lines for officers specializing in politico-military relations, and even the possibility of lateral entry for civilian specialists into the officer ranks.

One of the ways to educate the military is to involve them more extensively in the making of national security policy, not as a by-product of internal Pentagon decisions about weapons systems and force structures, but explicitly, as valued professional advisers on the military implications of alternative foreign policy choices. So many internal Pentagon decisions do have foreign policy implications which military men ought to bring to the attention of their civilian colleagues, but they cannot be ordered to do so. They may, however, be persuaded by the same spirit of comity that reputedly led Dean Acheson and George Marshall, as Secretaries of State and Defense respectively, to agree that neither one would ever say to the other: "This is a purely political issue," or, "This is a purely military issue." And if military men are taken more into the confidence of their civilian counterparts, they are less likely to set up informal information gathering networks that can proliferate with typically single-minded military efficiency into full-fledged espionage systems.

37. See Military Establishment, supra note 24, at 73-78; but cf. id. at 222.
Mutual trust and confidence is in no sense a sufficient condition for effective civilian control of the full range of military activities. But mutual trust is clearly a necessary condition. Civilian control requires presidential will and determination, congressional willingness not to insist on protecting local economic interests, and extraordinary expertise and energy in the Secretary of Defense and his staff. But it depends at least as much on changes in attitudes towards the military in the government and in the country: less concern about the prospects for military interference in civilian affairs, and more concern about the need for civilian involvement in military affairs.