

# 'Don't Ask Don't Tell' and military defiance of civilian control

Written by Aaron Francis O. Chan

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AARON FRANCIS O. CHAN, JAN 25 2011

### **Fighting the Experts: Objective Control as the Legitimizing Discourse of Military Disobedience**

In 1993, the Clinton Administration proposed the integration of homosexuals into the United States military. Previously, gays were in the same undesirable military category as “psychopaths, vagabonds, drug addicts, and alcoholics.” (Singer 2008, p.3) In fact, waltzing into the Army recruiting office like a gay man was an easier way to dodge the Vietnam draft than driving to Canada or Mexico. President Clinton had promised to change this policy in his campaign, believing that the issues at stake involved social tolerance and the integration of minorities. The military thought otherwise.

The scale and intensity of the military backlash caught the White House off guard. The American officer corps was so outraged that it even made the dispute public, quickly finding political allies in the conservative right. General Colin Powell, then Chairman of the Joint Chiefs, publicly asserted that openly gay soldiers would disrupt unit cohesion in the force, putting military effectiveness at risk. (Singer 2008, p.8) The only word that describes such explicit military resistance to civilian preferences is disobedience.

As a mature democracy, the United States had long accepted the doctrine of civilian supremacy over the military, which states that “all decisions of government, including those over national security, are to be made or approved by officials outside the professional armed forces...by popularly elected officeholders or their appointees.” (Kohn 1997, p.142) In principle, the military is bound to obey even those civilian orders affecting military policy, or the size, shape, organization, and doctrine of the force. In practice, civilian control depends on the level of political culture. Theoretically, the military cannot displace civilian authority in mature democracies because legitimacy is firmly held by elected civilian authority and “public sanction would be unobtainable.” (Finer 1962, p.88)

However, public opinion over the dispute actually supported the military’s disobedience of the elected president. This lack of public outcry was surprising, but the framing of military complaints was also interesting. Despite the social discrimination against homosexuals rampant at the time, the military never claimed that gay soldiers would lead to moral ruin. Instead, the official military line claimed that the policy would affect the public perception of the institution, bring down recruitment, and undermine unit cohesion. (Singer 2008)

The White House ultimately reached a compromise with the military known as “Don’t Ask, Don’t Tell”, a policy still in effect today. The Clinton Administration backed down from demanding the open service of gays and the military vowed restraint in asking any questions about sexual orientation, implicitly declaring that it would not go purging gays from the ranks. However, if any service members were discovered to be gay, they would be immediately discharged without benefits. (Singer 2008)

As terrible as the policy might be for the gay community, this essay is not concerned with the outcome of the “Don’t Ask, Don’t Tell” debate, only with its conduct. Specifically, it is concerned with the way the military found public support and claimed legitimacy for its open defiance of civilian control.

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While stable civil-military relations rules out coup attempts in mature democracies, the military can still resist civilian authority in other ways. "The test is whether civilians can exercise supremacy in military policy and decision-making—that is, frame the alternatives and define the discussion, as well as make the final choice. When the military enjoys great prestige, possesses advanced bureaucratic skills, believes that its ability to fulfill its mission may be at risk, or comes to doubt the civilian leadership, civilians can face great obstacles in exercising their authority." (Kohn 1997, p.141)

The problem of this essay concerns only those civil-military disputes that consequently find some public support for military disobedience. Civil-military friction in these situations is relative to "the degree to which the military is willing to display public opposition to announced civilian policy." (Feaver 1999, p.220) If this situation occurs, what are the legitimizing discourses used by the military to claim public support for its disobedience of civilian authority in a democracy?

This essay proposes that the widespread acceptance of civilian supremacy has forced the military to articulate its resistance in terms of a particular legitimizing discourse. Framing its intransigence as a professional military issue allows the military to claim rational-legal legitimacy for actions that otherwise undermine civilian control. This appeal to Weberian rational-legal legitimacy raises public support for the military on the basis of its professional "expertise" in a distinctive military field.

Framing the debate as a military issue is a necessary condition for the military to win public support for its disobedience, but not a sufficient one. Such a radical disruption of the norm requires many other conditions, making the search for sufficient ones a far more complex examination of social contingency than the ambition of this essay permits. The objective here is solely to provide an idiographic explanation of a specific situation, not a nomothetic study of social change. In any case, a necessary condition is still a relevant focus of study because no change would occur without it.

This essay will make some basic assumptions. First, the military has certain corporate interests that are shared throughout the institution. Second, that various factions and individuals within the military can unite to protect these corporate interests. These are based on the image of the military as a bureaucratic institution, here defined as a "formal, rationally organized social structure with clearly defined patterns of activity in which every series of actions is functionally related to the purposes of the organization." (Merton 1971, p.47)

The sociological framework of this essay builds on the work of Max Weber, for whom modern social organization is characterized by the rationalization of life. (Orum 2000) For Weber, rationalization is a broad and pervasive trend reshaping every aspect of life according to calculability, predictability, and reason. Even the legitimacy of modern institutions is sustained along rational-legal lines. Weber's concept of rational-legal legitimacy rests on a "belief in the legality of patterns of normative rules and the right of those elevated to authority under such rules to issue commands." (Weber, 1968, p.223) Appointment to these legal offices is justified by rational claims to expertise and effectiveness, making the *legal* aspect of rational-legal legitimacy contingent on the logically prior *rational* aspect.

The bureaucracy, as the apotheosis of rationalized organization, dominates Weber's vision of modern society. "The development of modern forms of organization in all fields is nothing less than...the development and continual spread of bureaucratic administration. This is true of church and state, of armies, political parties, economic enterprises, interest groups, endowments, clubs, and many others. Its development is, to take the most striking case, at the root of the modern Western state...if bureaucratic administration is, other things being equal, always the most rational type from a technical point of view, the needs of mass administration make it today completely indispensable." (Weber 1947, p.223)

The Weberian state is a unified system of bureaucracies, and holds a monopoly over the legitimate use of force. The military serves as the coercive arm of the state, the "users of force" implied in Weber's definition. Of course, the modern military is itself structured as a bureaucracy, its organizational characteristics of hierarchy, discipline, and conformity rationally designed to increase the effectiveness with which it can defend the state. For Robert Merton (1971), the military characteristics of reliability of behavior, high conformity of personnel, and prescribed patterns of

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action are all functions of the bureaucratic discipline at the heart of the military institution.

The modern military institution is functionally and socially differentiated from civilian society. In *The Soldier and the State*, Samuel Huntington notes that the shape of military organizations is determined by functional and societal imperatives. "Functional imperatives are special characteristics of military organizations driven by their need to be capable of defending the state against external threats." (Nielsen 2005, p.65) Societal imperatives are those social forces, ideologies, and institutions dominant in society. (Huntington 1957)

For example, the isolation of military training is a functional imperative. When cadets are sent to military academies, they enter environments intentionally designed to fully immerse future military officers in a "pure" military culture. (McCoy 1999) Cadets are trained in the hierarchy of the military institution, taught to obey orders from superiors, and disciplined in the harsh requirements of a Spartan lifestyle, in the name of imparting the officer's craft, the management of violence. (Huntington 1957)

Both functional and societal imperatives shape the nature of civil-military relations. Samuel Finer, in *The Man on Horseback*, states that military intervention in politics is contingent on a favorable combination of disposition and opportunity. If political culture is defined as the extent to which civilian control is ingrained in society, then coups d'état are obviously more likely to occur in states of minimal political culture than in those of developed political culture. (Finer 1962) The juxtaposition of political culture and military intervention approximates the unity of functional and societal imperatives that shapes the doctrine of civilian control over the military.

Civilian control is now so widely accepted in mature democracies that Suzanne Nielsen even remarks that the academic emphasis placed on it might have edged out other relevant issues. Here, civilian control is defined as the right of the elected civilian authority to create and change any aspect of military policy. "That is, civilians are morally and politically competent to make the decisions even if they do not possess the relevant technical expertise." (Kohn 1997)

"The civil military problematique is thus a simple paradox: the very institution created to protect the polity is given sufficient power to become a threat to the polity." (Feaver 2003, p.4) The issue of how civilian control is maintained animates the core of the civil-military relations literature, which offers two explanations to resolve this dilemma. Both also seek to explain the day-to-day operation of civilian control in mature democracies. Using Huntington's terminology, democracies can exert either "objective control" or "subjective control" over the military.

For Huntington (1957), the functional imperative of the Soviet threat and the societal imperative of an American "anti-military" tradition were irreconcilable. Since the former was an empirical constant, the latter had to give way, creating a condition that he called "objective civilian control". The key mechanism of objective control relied on civilian respect for autonomous military professionalism in an independent military sphere of action. "Objective control weakened the military politically without weakening it in military terms, that is, without degrading its ability to defend society, because professionalizing the military rendered it politically sterile or neutral." (Feaver 2003, p.18) Civilian interference or meddling in this sphere of action would undermine civilian control.

This portrait of an apolitical, professional military has become popular as an ideal type civil-military relationship. In her analysis of the Philippine armed forces in the Marcos years, even Carolina Hernandez (1997), the doyen of Philippine civil-military relations, subscribed to Huntington's thesis in describing military involvement in development work and local politics as a corrupting experience that tarnished the professionalism of the Philippine military.

Subjective control, on the other hand, implies regular civilian involvement in military affairs. Naturally, its exponents are diametrically opposed to Huntington's characterizations. Morris Janowitz and Charles Moskos, for example, build their arguments by challenging his basic premise, particularly the possibility of an "autonomous military sphere" amidst the complexity of modern warfare.

In *The Professional Soldier*, Janowitz (1960) argues that social trends like technological progress and the democratization of recruitment make the sharp "professional" distinction between military and civilian institutions

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harder to sustain, even as an ideal type. Although a professional military inevitably protects its political interests, civilian control via the integration of civilian values can still be exerted. Charles Moskos (2000) follows the same premise in his depiction of a “postmodern” military. With the threat of interstate war receding, Moskos saw the military inevitably having to deal with the threat of non-state actors, exposing the military to any number of political issues raging at the substate level of conflict.

The most flexible model of civilian control in mature democracies lies in Peter Feaver’s application of a principal-agent framework to his “agency theory” of civil-military relations, which allows him to structure the incentives and choices of the relevant actors in the civil-military relationship. Outlined in rationalist language, civilian control is a function of how the military perceives the cost of disobedience, the chances of which increase with intrusive monitoring by civilians. (Feaver 2003, p.113) In *Armed Servants*, Feaver describes the American government’s intrusive monitoring of the military during the Cold War, casting doubt on Huntington’s objective control model.

The debate over civilian control in democracies carries strong implications for assessing the conduct of public civil-military disputes. Evaluating both sides reveals that theories of civilian control generally provide post hoc explanations for why civilian control is so stable in mature democracies. However, these explanations often have implicit normative foundations, making it necessary to assess both objective and subjective control using standards of realism in characterization and applicability.

By these standards, objective control, as defined by Huntington, borders on tautology. Granted, his apolitical, professional military is an ideal type, but Huntington’s normative argument of civilian control requires readers to buy into the reality of this “ideal”. If the military is professional, then it must be apolitical. If the military is not apolitical, then it is not professional and civilian control is impossible. Without accepting his admittedly ideal characterization, Huntington’s objective control cannot explain why a professional military would ever publicly resist civilian authority. The only explanation the model can offer is to label the American military unprofessional.

The concept of subjective control has enough analytical room to explain such civil-military friction. Objective control argues that the only way to exert civilian control is to leave the military to its own devices. Subjective control, as the concept is used here, is a loose category that can explain both military obedience and military disobedience. Following Janowitz and Moskos, civilians might have to contend with a politicized military, whatever the reason. Or the military might remain apolitical. Either way, Feaver’s agency theory can explain the outcome of conflict in terms of the expected costs. If the military ever seeks to resist the civilians, subjective control in the form of intrusive monitoring and its associated costs can deter and defuse such situations.

While objective control cannot explain the outbreak of civil-military disputes like “Don’t Ask, Don’t Tell”, agency theory describes the situation as military outrage exceeding the likely cost of disobedience. The corporate interest in maintaining the status quo rallies military interests to protest as a unified body. The reality of a military with political interests intuitively implies the need for subjective control to police acceptable boundaries. Unfortunately, the existence of a public dispute also intuitively implies that the necessary subjective control either failed or was never put in place.

The United States has a mature political culture and a professional military, even if this professionalism cannot measure up to Huntington’s strict apolitical standards. “The military should *advise* civilians and *represent* the needs of the military inside the government, but *should not advocate* military interests or perspectives publicly in such a way as to undermine or circumscribe civilian authority.” (Kohn 1997, p.146) However, once public fights over policy erupt, arguments explaining civilian control become a moot point. Subjective control is gone, but the maturity of the polity means that the public could never accept military displacement of the regime. How then can the military persuade the public that its disobedience is legitimate? This is where the discourse of objective control reenters the fray.

The rationalization of modern society has made the functional and societal imperatives of civilian control a hegemonic discourse of democratic legitimacy. The public will not tolerate military disobedience if it cannot be reconciled with some measure of civilian control. Rationalization also makes it necessary for the military to claim

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legitimacy on a rational-legal basis. Objective control is the only concept of civilian control able to reconcile these two pressures.

Objective control depends on military professionalism, which Huntington (1957) defines as the expertise, responsibility, and corporateness of the officer corps. Expertise, as an expression of specialized technical knowledge and ability, is the most important characteristic of professionalism because it implies the existence of an exclusively "military" sphere of action, justifying the need for expert autonomy from civilian interference. "Thus, the specialized knowledge and skill that experts provide plays a pivotal role in framing decision-making agendas and the substantive outcomes which flow from them." (Reed 1996, p.574)

Expertise is the hidden premise of Huntington's argument and lies at the very foundation of objective control. Since rational-legal legitimacy requires a *rational* justification above anything else, the portrayal of military officers as experts in their professional field enables the military to make a *rational* appeal for public support. Expertise, after all, is a function of rational organization. Claiming the legitimacy of objective control allows an intransigent military to work within one measure of civilian control, even as it overrides its *spirit*.

Civilian control is defined as the civilian competence to decide military policy even without technical expertise, but the discourse of objective control appeals to the longstanding public practice of granting experts a high degree of professional autonomy, in the expectation that autonomy fosters effectiveness. "Because of their expertise and role as the nation's guardians, military leaders in democracies can possess great public credibility, and can use it to limit or undermine civilian control, particularly during and after successful wars." (Kohn 1997, p.146)

In the wake of the first Gulf War, the military used the legitimizing discourse of objective control to great effect in the "Don't Ask, Don't Tell" controversy. By presenting itself as an expert authority on force composition, the military appropriated gay integration as a technical issue that undermines its professional ability to wage war. Officers played up unit cohesion and team dynamics as sacrosanct in the effectiveness of operations, pointing out how the disruptive effects of gay integration outweighed any military benefits. In justifying his opposition at the time, Army Lt. Colonel Robert Bateman points out how the combined cost of integration- costs of "sensitivity training", lost labor, command distractions, and prosecutions of abuse- will be taken out of the Operations and Maintenance Fund, creating an opportunity cost at the expense of combat effectiveness. (Singer 2008, p.10) Whether one deems this conclusion to be right or wrong, the framing is typical of the official military position.

This paper concludes that the conduct of public civil-military disputes in mature democracies shows how civilian control has essentially won. Civilian control is so ingrained in these societies of mature political culture that even military resistance to full control is framed as an *alternative* form of control. This objective control bases its claim to legitimacy on the power of expertise as a rational form of organization, tapping into the rational-legal roots of modern society. Hence, in public fights between military and civilian interests, civilians are no longer just fighting soldiers. In the military perspective, they are fighting the experts.

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Written by: Aaron Francis O. Chan  
Written at: University of the Philippines Diliman  
Written for: Professor Nicole Curato  
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