

MILITARY ETHICS: RETHINKING CIVIL-MILITARY RELATIONS IN BRAZIL*

ÉTICA MILITAR: REPENSANDO AS RELAÇÕES CIVIL-MILITARES NO BRASIL

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ABSTRACT *This paper presents a solid normative approach in military ethics, which justifies the rule of law in a constitutional regime capable of fixing the proper role of the Armed Forces in Brazil. Deploying this ethical framework, it analyzes the relevant literature, especially authors who defend civilian supremacy for the good functioning of a democratic society. Afterwards, some models of civil-military relations are introduced to establish the parameters and indicators of proper democratic consolidation. These parameters are applied to recent events, revealing that Brazil is regressing in its civilian control over*

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the military. Finally, some practical proposals for reversing this tendency are put forward in pursuit of a fully democratic regime in Brazil.

Keywords: *Ethics. Civil-military relations. Democracy. Brazil.*

RESUMO *Este artigo apresenta um enfoque normativo sólido na ética militar capaz de justificar o Estado de Direito num regime constitucional que estabeleça a verdadeira função das Forças Armadas no Brasil. Aplicando esse referencial ético, o trabalho analisa a literatura relevante, especialmente autores que defendem a supremacia civil para o bom funcionamento de uma sociedade democrática. A seguir, alguns modelos nas relações civil-militares são introduzidos para estabelecer parâmetros e indicadores da consolidação democrática. Esses parâmetros são confrontados com fatos recentes mostrando que o Brasil está regredindo no controle civil sobre os militares. Finalmente, algumas propostas práticas para reverter essa tendência são apresentadas, buscando a consolidação de um regime democrático pleno.*

Palavras-chave: *Ética. Relações civil-militares. Democracia. Brasil.*

Introduction

When the Brazilian Constitution of 1988 closed the book on more than 20 years of military dictatorship, it was widely believed that our country would finally enter an era of full democracy. It has become clear over the last decade (2011-20), however, that this transition was fragile and even incomplete. Recently, without a traditional *coup d'état*, the military has returned to political activities and regained positions of power. Representatives of the Armed Forces have held public offices in the last two federal administrations, in such vital departments as the Defense Ministry and many others. Does this mean that the military is outside civilian control and that Brazil remains a fragile democracy subject to a continued authoritarian menace?

In this paper, we propose a new military ethics for the Brazilian Armed Forces with the aim of preventing them from pursuing an undemocratic regime. We also identify the main factors that seem to authorize the military so frequently to break its compromise with liberal democratic values. To achieve this, in the first section we sort out the Triple Theory and the main tasks of *military ethics* in defining the institutionalized Armed Forces' mission in a nation state governed by a constitutional regime. In the next section, building upon the proposed normative ethics (Triple Theory), we review that literature

on civil-military relations which establishes the parameters and indicators for a truly democratic consolidation, with a special emphasis on Latin America in general and Brazil in particular. In the third section, we scrutinize some of the impediments to a full transition to democracy in Brazil. We also argue for a new normativity in civil-military relations in our country, as recent events show that the Brazilian Armed Forces do not respect the main role of the military in a liberal democratic regime. In the final remarks, we show that democracy is in the country's best interest and good for both the military institution and for civilians.

The main proposal of this work is to contribute to an acknowledgement that a complete transition to a fully democratic regime demands civilian control of the military, and that the latter should only hold roles to address external threats. This has been subject to recent debate in Brazil. Diniz and Rocha (2021), for example, argue that a return of the military to the barracks is both economically and politically desirable. The continued involvement of active military personnel in civilian affairs has demonstrated repeatedly that they are not qualified to perform fundamental governmental roles. For example, General Pazuello's performance as Health Minister was disastrous, and so was General Braga Neto's security intervention in Rio de Janeiro—as General Villas Bôas has acknowledged (Castro, 2021, p. 211). Therefore, the study of civil-military relations, from a normative ethical and political approach, contributes to the literature in the field since it brings together the study of ethics and of political science. Finally, the main proposals in our concluding remarks are an urgent matter for Brazil's democracy.

1. What is Military Ethics?

Before trying to stipulate a clear definition of *military* ethics and its main theoretical tasks, it is crucial to understand ethics itself and distinguish it from morality. For the purposes of this work, ethics is conceived in broad terms as the philosophic-scientific *study* of moral phenomena. According to some authors, for example, Borges *et al.* (2002), it comprises three main spheres: (i) *metaethical* problems (e.g., whether there is objective moral knowledge or whether judgements are just subjective); (ii) *normative* issues (for instance, whether utility, rights or character is the standard by which to judge the correctness of actions, leading to consequentialism, deontology or virtue ethics) and (iii) *applied* questions such as whether a particular war is just or not. As we can see, military ethics is a domain of applied ethics as are many other areas such as medical ethics and environmental ethics, each of which discusses

practical problems related to special subjects. To be more specific, military ethics may, among other things, examine the conditions of war not only in its economic and political aspects, but also in the permissibility of deploying force that leads to violent events and deaths.

In this work, we will assume a cognitivist and realist metaethics and apply a normative ethical approach based on Parfit's Triple Theory, which combines elements of consequentialism and deontology, to scrutinize some issues in civil-military relations. Despite the fact that it goes beyond the limits of this work to sort out in a detailed way this normative approach, it is worth clarifying some of its main principles. In the first volume of *On What Matters* (2013, p. 411), the author reinterprets three well-known ethical theories in order to achieve normative convergence. To state briefly, they are:

- i) *Rule Consequentialism*: Everyone ought to follow the principles that are optimific;
- ii) *the Kantian Formula*: Everyone ought to follow the principles whose universal acceptance everyone could rationally will;
- iii) *Scanlon's Contractualism*: An act is wrong if it would be disallowed by any principle that no one could reasonably reject.

Basically, then, the Triple Theory states that an "act is wrong just when such acts are disallowed by the principles that are optimific, uniquely universally willable, and not reasonably rejectable" (Parfit, 2013, p. 413). Thus, according to Parfit, both Kantianism and contractualism are deontological theories, which are compatible with rule consequentialism, leading to this fundamental ethical metaprinciple.

It might be objected that the Triple Theory would be received with some skepticism by traditional Kantians and Utilitarians. This may well be true, but one must also bear in mind that not all theories are fully taken on board (act consequentialism or Kant's own ethics are not accepted) and that Parfit is mainly reinterpreting ethical theories in order to achieve congruence. In fact, the second volume of *On What Matters* contains commentaries by Susan Wolf, Allen Wood, Barbara Herman and T. M. Scanlon, and Parfit's answers to them. We believe Parfit made a substantial contribution to normative ethics (see also Singer, 2017, for further discussions). As Parfit argues (2013, p.419), "It has been widely believed that there are such deep disagreements between Kantians, Contractualists, and Consequentialists. That, I have argued, is not true. These people are climbing the same mountain on different sides." We cannot fully reconstruct this debate here since we are more interested in *applying* it to a subfield of practical ethics. One way of recognizing the Triple Theory's

cogency is testing it against our ordinary moral beliefs. By the way, Parfit himself made some applications holding that rich people should give up some luxuries, ceasing to overheat the Earth's atmosphere, and taking care of our planet so it continues to support life (Parfit, 2013, p. 419). Thus, we will deploy Parfit's Triple Theory, in this and the next section, to present a solid approach in military ethics. Later, we will use the above metaprinciple to justify our specific proposals for a full transition towards democracy in Brazil. Before doing that, let us better clarify what military ethics is all about.

To better understand the role of military ethics and most issues it deals with, we can use the "just war theory," which provides a good illustration of some *moral* problems in this field. Just war was discussed in Greek (Aristotle) and Roman (Cicero) antiquity, through medieval (Augustine and Aquinas) and modern times (Locke, Kant etc.), and up to our contemporary age, especially post World War II, as exemplified by Walzer's (2000) seminal work *Just and Unjust Wars* (see references). Usually, a just war theory deals with three main issues: (i) it asks in which circumstances and to what aims is organized military force justified (*jus ad bellum*)? This may include examining the *raison d'être* of the military itself, for instance, whether it is for the protection of a nation's borders only or may have other internal roles; (ii) just war theory also asks what are the norms that govern military action in war (*jus in bello*)? For example, the Geneva Convention forbids the killing of civilians; finally, (iii) just war theory deals with the complexity of post war issues (*Jus Post Bellum*), for instance, the military's role in reconstruction, peacekeeping, civilian security, and upholding human rights and democracy. Different answers to these questions give rise to a range of views extending from pacifism (force and violence are never justified) to radical realism, as expressed in the saying "all is fair in love and war," and more nuanced forms of pragmatism. These issues also lead to different *models* for discussing civil-military relations: liberal, corporatist, militarist, or neopatrimonialist political culture (Mares, 1998, p. 4). We will discuss some of these models in the next section, but it is clear that military ethics involves many empirical issues as well as normative ones. We are especially interested here in how civil-military relations *ought to be*, not only how they are currently conducted in Brazil. Irrespective of the best model the Triple Theory can justify, we can at least agree that military ethics is a branch of applied *normative* ethics.

Bearing this ethical scheme in mind (metaethics, normative and applied ethics), and the military questions involved in classical war issues, we are now in a position to postulate not only a clear definition of military ethics, but also to sort out its *main problems and theoretical tasks*. According to, for example,

Baumann (2007, p. 35), the definition of military ethics can be made in these terms:

Military ethics judges and justifies military actions from a moral point of view. It defines standards of good behavior for individual military personnel (as individuals and/or members of a group) and develops these standards. It asks critical questions of existing laws and regulations in connection with organized military force and seeks to change these laws, if necessary, within the framework of the democratic process.

Military ethics comprises, then, both moral standards for judging personnel's behavior and institutional issues concerning the role of the armies within a democratic regime. In this work, we will not deal with questions related to individual soldiers' actions. A soldier's behavior is a problem for "*professional* military ethics;" that is, the personal qualities (character, virtues) necessary to be a good soldier. This depends on many circumstances and may include specific rules of behavior, values and military training. These issues can, just to illustrate, be found in the Military Statute (as adopted by, for instance, AMAN [Academia Militar de Agulhas Negras]), which specifies rules for discipline and obedience as well as values such as honor. Rather, we are here more concerned with other problems, namely, "*institutional* military ethics." According to Baumann (2007, p. 36), "Military ethics, as applied ethics, has as the most important points of reference constitutional law honoring international law and the Law of Armed Conflict (should level) and the conscience of the individual soldier (want level)." Consequently, we will focus only on the institutional aspects of the Brazilian Armed Forces in relation to their justifiable constitutional role within a democratic regime. This must establish their mission, structure and budget under, as we will see, civilian control.

The set of moral issues that therefore interests us in this work has to do with the second statement in Baumann's characterization of military ethics quoted above; that is, critical questions regarding existing regulations of organized military force that could contribute to changing these laws if necessary within the framework of the democratic process. This gives rise to the problem of civil-military relations in their institutional framework. For instance, *how can we assure the primacy of civilian authority and the political neutrality of the military?* That is to say, we are concerned with the *constitutional* role of the Armed Forces in a democratic regime.

It is first necessary to clarify that by using the Triple Theory, the most basic constitutional assumption in the civil-military relations debate is the acceptance of *the rule of law* in a democratic state in defining the role of the Armed Forces.

That is to say, the rule of law is optimific, universally willable and would not be rejected by a reasonable person. Now, the idea of the rule of law can be traced back to Aristotle (1287^a21): “The rule of law is preferable ... to that of a single citizen” since individuals are subject to passions, and rulers “... should be made ‘law-guardians’ or ‘servants’ of the law.” These ideas lead to the *law-governed state* ideal (in German, *Rechtstaat*; in French, *État de droit*; in Portuguese, *Estado Democrático de Direito*). As has been established since modern times, a republican state avoids absolutism (authoritarian regimes) by dividing political power into three main branches: the legislative, judiciary and executive (see Locke, 1994, p. 364). There are no other legitimate political powers in a democratic regime guided by the rule of law. A republic must seek the right balance between these powers. According to Kant (8: 352), republicanism is simply the political idea of division of power to avoid authoritarian and despotic regimes.

The question becomes, then, what characterizes the rule of law within a democratic republic? Roughly speaking, and following Gingham’s excellent work (2011, p.8), we may state that the rule of law is the constitutional principle which asserts that all persons must be governed by a fair system of public rules that specify rights and obligations establishing the elements of the common good, are enacted by a competent legislative authority, are democratically voted for by all citizens, and applied in litigating cases by impartial judges in fair trials. If one then asks “*how* can it be justified?” the Triple Theory can be used to show that following the constitutional principle is optimific and is therefore universally desirable. This juridico-political principle, as we will see below, amounts to the idea of autonomy or self-rule, which is arguably the most basic premise of modern democracies.

To establish the role of the Armed Forces under this constitutional principle, we need to set out in more detail some tenets of a democratic regime. Before doing that, however, let us ask: what makes democracy so valuable that it is considered the best form of government? According to some authors (e.g., Graham, 1986), democracy should be favoured both for its consequences and for its intrinsic properties. We support this view, since democracy allows persons to pursue their own interests (non-moral consequences) as well as justice and liberty (moral consequences), *and* it involves treating people with the proper respect to which they are entitled. Again, we can appeal to the Triple Theory to justify the moral component of a democratic regime: it is optimific, universally willable and would not be rejected by a reasonable person. This means that democracy is valuable both in itself and for its results, making it the best form of government from both a deontological and consequentialist perspective.

That is, democracy in any form (direct, participatory, representative etc.) is the political materialization of autonomy or of a person's self-rule. Unfortunately, exploring the different *types* of democratic regime goes beyond the limits of this study (on this point, see: Gutmann, 1995).

Democracy is sometimes conflated with majority rule only or other common-sense beliefs such as the government "of the people, by the people, and for the people". This is not the whole truth. Actually, a democratic regime comprises several complex institutional arrangements beyond the above-mentioned division of power. According to Dahl (1998), a real democratic regime must also consist of: (i) elected public officials; (ii) free, fair and frequent elections; (iii) freedom of expression; (iv) alternative sources of information; (v) associational autonomy, and (vi) a sense of inclusive citizenship. These institutions are crucial in judging whether a particular state has a truly democratic regime or is moving in the direction of democratic consolidation. Democracy in Brazil is still very fragile indeed, and the system of checks and balances does not always work properly. One indicator that we need to do more to achieve democratic consolidation is that the Defense Ministry is, at the time of writing (October 2021), exclusively controlled by the military. And some believe that this gives the forces a special power to moderate and mediate the relationships between executive, legislative and judiciary. We will return to this point in the next two sections.

Among the fundamental values of democracy (interests, liberties etc.) *equality* is paramount in understanding civil-military relations. Most contemporary political philosophers and ethicists alike argue that, from a moral point of view, all people are equal (Rawls, 1999; Dworkin, 2005). That is to say, everyone has the same moral rights and responsibilities, and this can, again, be justified by the Triple Theory. Thus, political equality (for instance, as stated in the rule "one person, one vote") is based on moral personality, especially the idea that persons are free and equal beings no matter their civic condition. A truly democratic regime depends on the moral equality of individuals whatever their status: civilian or military. Unfortunately, militarism denies this fundamental democratic value with no proper moral justification. Therefore, it is only under a democratic regime that civil control of the Armed Forces guarantees moral equality independently of a person's civilian or military public role.

We can now recognize that from the rule of law and the main moral assumptions of a democratic regime, the best model of *state-society relations* in establishing the role of the military is, in Mares' terms, "the liberal one" (1998, p. 4). As we will see in the next section, in this model ('liberal' in the political, not economical sense), the basis of sovereignty is *the people*; consequently, the

military must be subordinated to civilian control. The corporatist, militarist or neopatrimonialist models invert the people–government relationship, leading to a fundamental moral distortion since society is dominated by the military. These models break the rule of law and fundamental democratic values such as moral equality.

Having set out the main problems and theoretical tasks of military ethics, let us now analyze more specifically some issues related to civil-military relations. As we will show, Brazil has a bad historical record concerning respect for democratic values and the rule of law, and the military have frequently been involved in implementing dictatorial regimes.

2. Some normative issues in civil-military relations

Bearing the previous section in mind, growing scholarly concern has prompted the development of a civil-military relations subfield that deals with some important *normative* issues. It is beyond the limits of this work to present all the questions this field deals with (For good appraisals, see: Croissant, Kuehn, 2017; Bruneau, Matei, 2013; Feaver, 2017; Brooks, 2019); it is, however, worth briefly pointing out some of its main topics and developments so we can establish the normative aspects of military duties in a democratic society. Existing theoretical frameworks are important since they elaborate the parameters of analysis, conceptual contributions and typologies which will reinforce our contention that Brazil’s civil-military relations have regressed over the last decade. This section therefore resumes the previous topic of military ethics. It does so to lay the foundations for the final section, in which we make some normative and other practical recommendations to reorganize Brazilian civil-military relations.

Let us begin by recalling a classic distinction in this area. Samuel Huntington’s (1957) seminal “*The Solider and the State*” established a model for distinguishing civilian “subjective control,” in which the military is subordinate to a specific group in power; and “objective” control, in which subordination exists no matter who holds office. Objective control generates military effectiveness and apolitical professionalism. Scholars of civil-military relations are interested in evaluating progress in terms of “objective” control, and they assume that democracy is the best form of government (Mares, 2014), an idea that, as mentioned above, we support.

An apparent paradox intrinsic to this debate is what Feaver (1999) calls the civil-military “*problematique*”. On the one hand, the military is a regime and the State’s chief protector. On the other, the military is an actor which

can turn its guns on the government and remove leaders, making it a source of insecurity and threat. From Huntington's typologies to Feaver's paradox, the study of civil-military relations involves a range of topics, including the relationship between the military and wider society, the military and other government actors, and between leaders and organizations within the military (Nielsen, Snider, 2009, p. 3).

Given the many historical and current examples, military *coups d'état* have been a primary concern of scholars in the field (Gassebner *et al.*, 2016; Thompson, 1973; Nordlinger, 1977; Belkin, Schofer, 2003; Powell, 2012; Böhmelt, Pilster, 2015; De Bruin, 2018). Preventing these *coups*, explaining their origins, and—especially important to Latin America in general and to Brazil—consolidating a truly democratic society where the military is subordinated to civilian rule is the strand in which our article is embedded. The variables and parameters that allow an analyst to determine which norms and institutions must change and how we can verify these changes pose the following question: what indicators of democratic consolidation are we looking for? (Martínez, 2014).

This is the question of civilian control, and it is arguably the most important in military ethics in general and the subfield of civil-military relations in particular. Even in a “formal democratic” constitutional and institutional situation, the military can wield an extraordinary amount of political power through several sources. Political scientists, especially bureaucratic theorists, expect bureaus and institutions to maximize their budget, prestige, and monopoly over their role (Allison, 1969; Allison, Halperin, 1972). This, together with the historical role of the military in Brazil and their self-perception as the true representatives of the people's will, means it is even more important to act urgently to create solid instruments for civilian oversight and control. The military, as a powerful bureaucratic actor, manages large budgets, privileged information and specific missions which can influence governability. Like other bureaucratic actors, they fight for their own interests, and to do so they coalesce with civilian constituencies and other political actors (Fordham, 2001). The military can contest civilian authority via informal means (Stepan, 1973; Pion-Berlin, 1997). The degree of civilian control depends on the allocation of prerogatives, civilian bureaus' institutional capacity, and the entities in charge of overseeing military activity (Bruneau, Tollefson, 2006).

Given the importance of these issues, scholars have elaborated indicators and frameworks to evaluate the consolidation of civilian rule in democracies (Mares, Martínez, 2014; Albright, 1980; Perlmutter, 1969). Authors generally agree about the main factors necessary for democratic consolidation (Mares,

Martínez, 2014): i) legislative modification and withdrawal of the military from all branches of civil administration; ii) a solid, civil-led defense ministry with strong civilian oversight; iii) demarcation of the proper role of the military as defense of the country against *external threats*, and iv) parliamentary control of security and defense policy, among others. We can justify these elements with the Triple Theory, and this will lead to democratic and civilian control of the military.

We can now state more clearly the *main* mission of the legitimate Armed Forces (military). This issue is crucial since many argue that the military must have a role only in national defense against *external* forces (e.g., to protect borders and to kill enemies if needed) or in the UN's peacekeeping forces. Given the results of the previous section, we support this view based on the liberal model against militarism and other alternatives. To better understand the differences between them, we would like to spell out Mares' framework for an analysis of the civil-military relations underlying the role of the military:

- i) Liberal political culture: the basis of sovereignty is the people; the government is subordinated to the people; the military is part of the governmental apparatus, and as such, it is subordinated to the will of the people via the civilian government;
- ii) Organic corporatist political culture: the basis of sovereignty is inherent to the state and the government is dominant; military participation in politics is facilitated by constitutional clauses that permit fairly easy declarations of states of emergency;
- iii) Militarist political culture: the basis of sovereignty is inherent to the state and the government is dominant; the military is the repository of the national vision, and there are historical moments in which it has the moral obligation to assume leadership;
- iv) Neopatrimonial political culture: the basis of sovereignty is inherent to the state and the government is dominant; the military is perceived as one more group of elites who wish to gain favor with the leader and whom the leader wishes to include in his coalition (cf. Mares, 1998, pp. 3-5).

In the model we are defending here, the military is subordinated to civil control and is responsible for national defense against external threats only. As we anticipated, the corporatist, militarist or neopatrimonialist models invert the people–government relationship, leading to a fundamental moral distortion since society is easily dominated by the military.

The question becomes, according to Lee (2012, p. 290): “what is a state permitted to do through the use of military force to those outside its borders?” As we saw above, just war theory provides classical answers. Now, as we will see in more detail in the next section, one of the main problems in Brazil (and in Latin America in general where democracy remains fragile) is that the legislation prescribes the military other *internal* roles, for instance, law and order maintenance (so-called LOGOS “Law and Order Guarantee Operations”). Apart from being ineffective, as the recent Rio de Janeiro intervention showed, this leads to many other problems, such as the killing of innocent civilians, since the military do not have proper training in securing internal stability. To put it in Mares’ terms (2018, p. 5), “in Argentina and, to a lesser degree, Brazil, the civil-rights horrors and economic disasters of the bureaucratic-authoritarian governments of the 1970s and 1980s fundamentally changed each country’s political culture by delegitimizing military rule and state power.” The military are trained for combat in legitimate wars, which implies a depersonalization of the external enemy and the use of lethal force if necessary. That is why the military cannot be used to secure internal order. To achieve stable internal order, the civil police seems to be a better fit. We will return to this point in the third section.

We need, however, more specific criteria to recognize the dysfunctionality of the military when they fail to keep to their proper role and jeopardize democratic regimes. Martínez (2014, pp. 23-24.) has created a framework including a series of indicators with the aim of analyzing the consolidation of democracy in the Armed Forces. The author divides these indicators into four main spheres i) civil supremacy; ii) military neutrality; iii) “civilianization of the military,” and iv) civil culture. It is important to point out that if all these indicators are accomplished, a fully democratic liberal society will emerge. However, bargaining, conflict, and profound modifications to government, the military and civil society would be necessary to achieve the author’s full range of proposals, making it a difficult task. Nevertheless, the completeness and highly detailed nature of Martínez’s model make it a good starting point for an evaluation of democratic consolidation. As will become clear in the next section, Brazil has, especially over the last decade, regressed in all these indicators towards a less democratic society. Martínez’s framework and indicators are presented in Table 1.

Table 1- Consolidation of a Military Administration under a Democratic Regime

Objectives:	Action and Reforms
i) Civil Supremacy	<p>i) Creation of Ministry of Defense; ii) Civil command over the Armed Forces; iii) Ministerial control of military promotions; iv) Removal of military officers from any presence in all other areas of administration; v) Parliamentary approval of legislation on Defense; vi) Creation of a parliamentary commission to oversee the area of Defense; vii) Exclusion of military officers from matters of public order; viii) The level of military autonomy to be determined by the government, and; xix) Civil control of Intelligence Services.</p>
ii) Neutrality	<p>i) Non-membership of any political parties for all military personnel; ii) The limitation of certain public rights and freedoms for military personnel; iii) Acceptance by the military of the new juridical-institutional framework; iv) Conversion of the military into a branch of the administration; v) Acceptance by the military of any potential territorial division of political power; vi) Non- interference in determination of foreign policy or alliances; vii) Elimination of special legal jurisdiction for the military; viii) Eradication of military ownership of public enterprises and ; xix) Government control over decisions on buying and selling of armament, ships, vehicles, aircraft and other material.</p>
iii) Civilianization	<p>i) Elimination of military privileges; ii) Proximity to essential values of society as a whole; iii) The growth of occupationalism; iv) The reduction of military endogamy; v) The normalization of recruitment from non-traditional groups (women and foreign migrants), and; vi) The end of discrimination for reasons of sexuality.</p>
iv) Civil Culture	<p>i) Acceptance of democratic institutions and values; The reform of training and study programs and procedures in military academies; The re-socialization of society as a whole in relation to the Security and Defense field, and; iv) Demilitarization of the public culture regarding matters of internal security.</p>

Source: Martínez, 2014, pp. 25-27.

This paper does not aim to cover all Martínez's parameters and indicators for a truly civil-military democratic consolidation. But recent developments in Brazil demonstrate that in many ways—most ways—the country is on a path away from true civil rule and therefore democracy. The Brazilian military's perception of its role as a “moderator power” and as having the right to engage in “law and order maintenance” is influenced by a number of factors, including what some sectors of society sometimes ask of it. To be a moderator power is, however, not their constitutional attribution, going against the most basic democratic principles. Furthermore, a lack of civilian control over operations and accountability, and the lack of a clearly established role for the military, create a serious problem for the goal of civilian rule. The military and its supporters can inappropriately extend their institutional autonomy “into realms that make it difficult for civilian governments to remain in control” (Mares; Martinez, 2014, p. 212). In Latin America, the military expanded to have missions in both external and internal defense, as is clear in Brazil's case. As Mares & Martinez (2014, p. 215) states:

Latin America still has not solved the puzzle of civil-military relations [...] Indicators show those democratic institutions are not strong and thus militaries do not face as severe constraints on transforming their domestic roles into political authority in crisis periods as many have assumed.

Brazil's path towards a healthy civil-military balance and the consolidation of civilian rule and democracy is not straightforward, and many authors have pointed out the distortions in its constitutional and political system, such as prerogatives still in place from the most recent military dictatorship.

We now turn to the recent regression in civil–military relations in Brazil. In the previous section, we showed how military ethics helps to ground civilian control of the Armed Forces in a democratic regime. This section then briefly outlined the parameters, indicators and resultant political actions for the consolidation of democracy, as well as some challenges to this. Next, we analyze some Brazilian idiosyncrasies and the specific steps necessary to move towards civilian rule. This analysis allows us to generate some concrete proposals given the reality in the country.

3. Brazil: The civil-military question as an urgent matter for democracy

Keeping in mind the main results of the two previous sections, namely the way military ethics based on the Triple Theory helps to better ground civil-military relations in a constitutional regime under the rule of law, in this part

we examine why Brazil must change if it is to achieve true democracy: this is optimistic, universally willable and would not be rejected by a reasonable person. As we will see, the most recent transition to democracy did not guarantee the necessary instruments for civilian supremacy in government, whether in developing defense policy or supervising the actions of the Armed Forces. As touched on above, the promulgation of the 1988 constitution maintained most of the military's prerogatives and privileges, with a large margin of autonomy from the Brazilian political system (Soares, 2019; Saint-Pierre, 2002; Montero, 2014). Many problems consequently remained unsolved. To deepen the analysis of the civil-military relations in Brazil, we will give special focus on the last decade only.

Nonetheless, it is worth recalling that the Amnesty Law of 1979 protected military interests from the necessary accountability for their human rights violations during the dictatorship. And they further ensured that they would not be held accountable for their crimes through pressuring and oversighting the formulation of the last Constitution and the final report of Truth Committee of 2012, protecting them to this day (Soares, 2019). In article 142 of the Constitution, the Law and Order Guarantee Operations (LOGOS) were established. This maintained an institutional role for the Armed Forces in the domestic arena, which expanded over the years, especially through Complementary Laws 97, 117 and 136, and Decree 3.987. The military continue to operate internally on several fronts (Santos, Pinto, Fayal, 2019, p. 226). Furthermore, the balance of competences in defense issues has continued to favor the Armed Forces (Bruneau *et al.*, 2006; Pion-Berlin, 2005; 2006; Pion-Berlin, Trinkunas, 2007).

It is important to note that there are many forms of military meddling in civilian governments that are not necessarily a classic *coup d'état* or *violent* overthrow of a particular government. Saint-Pierre (2002) points out that the military in Brazil perceive themselves as sovereign, above usual politics, and sometimes have civilian support in this perception, utilizing several means of political leverage and control. The author elaborates a taxonomy in which he demonstrates that the 1988 Constitution was inadequate regarding the military due to the ambiguity about their precise role. Furthermore, according to Saint-Pierre's taxonomy, the forces' participation in politics can be deviant, serving corporate interests or using public office to influence the national debate and pursue substantive changes with or without formal constitutional attributions. Civilian rule can also consent to or concede deviant functions to the military, or the military can impose itself in these roles, which are present in Brazil. This relates to what Huntington called "subjective control":

military institutions that only reflect social values may be incapable of efficiently fulfilling their specific function” and “Countries that cannot maintain a balanced civil-military relationship are wasting resources and subject to incalculable risks” (Huntington, 1957, p. 20).

These deviant attributions are neither in accordance with the military ethics developed in the first section nor the democratic parameters presented in the second section. The two decades following the 1988 Constitution were marked by events which seemed to favor civilian supremacy, but other events were clear signs of regression in democratic consolidation. These apparent contradictions were the topic of considerable academic debate. Some authors have highlighted initiatives such as the creation of the Defense Ministry in 1999; the publication of the National Defense Strategy in 2008 and Brazil’s first national defense white paper in 2012; the Truth Committee in 2012; and the participation of civilians, including as ministers of defense, and the concurrent training of defense scholars (D’Araujo, 2010; Amorim Neto, 2012; Figueiredo, 2010; Hunter, 1997). Others, however, argued that the basis of civilian supremacy was weak, and this “optimistic period” would be transitory, highlighting the prerogatives of the Armed Forces for internal law and order, budgets, intelligence, and national security attributions (Zaverucha, 2005; Bruneau, 2018; Cortinhas, Vitelli, 2020; Winand; Saint-Pierre, 2010). The latter view was corroborated by subsequent events. The increasing number of domestic missions through LOGOS, the weak role of the legislative, and the occupation of pivotal positions in government are some indicators of the weakness of civilian control in present-day Brazil.

Soares (2019) argues that the role of the Brazilian military over the last thirty years is characterized by a perspective focused on domestic issues rather than one aiming to protect Brazilian sovereignty and guard against external threats. The author (2019, p. 162) highlights the military’s self-attributed mission to be “protector of the nation” in its own identity. Regarding LOGOS, there were 132 operations between 1992 and 2018, and a brigade was created exclusively for these operations. One highly problematic issue was a change in the military penal code in 2017 which determined that crimes perpetrated by the Armed Forces against civilian lives in these operations would no longer be answerable in the civilian justice system but rather by military proceedings. According to Santos, Pinto and Fayal (2019), the number of LOGOS substantially increased over time, with around 5 per year from 2000-2017 compared to just under 3 per year from 1989 to 1999. These operations vary in their purpose, from security to basic sanitation, health, national infrastructure, and distribution of vital resources (Santos, Pinto, Fayal, 2019). The movement out of the barracks

towards political engagement should be viewed negatively in terms of the risks created in the system of political power as the military ascends in its political role. This is in clear opposition to the democratic indicators highlighted in section 2 of this paper.

Scholars have argued that civilian supremacy requires significant congressional participation. For instance, Donadio (2004) states that the greater influence the legislative has over defense, the stronger the civilian control over the military. Greater involvement can provide transparency and legitimacy, and a stronger role for society will bring greater stability to defense policy. Crucial in this aspect are parliamentary committees which provide oversight for the military (Pion-Berlin, 2005; Giraldo, 2006). Brazilian legislative oversight is weak, with no summoning of ministers, freedom of information requests, public hearings, or active and influential committees. Legislative elites lack the proper knowledge to act as assessors in defense matters (Jungmann, 2009, p. 8). All the above contributes to making matters of defense exclusive to military personnel. Another highly problematic issue is budgeting and proposed military projects, which are not closely reviewed by the legislative and have a direct impact on national defense, strengthening the forces' corporate privileges. According to Castro Santos (2005), military proposals pass the lower and upper house almost by consensus, without proper debate and scrutiny.

There are other problems. The Defense Ministry's structure, even if led by a civilian, must be evaluated in the context of a broader constitutional arrangement. What civilian instruments guide the formulation of defense policy? Answering this requires further analysis of the Ministry's composition and not only its formal structure, which according to Cortinhas and Vitelli (2020) favors the military's pivotal role in decision-making. The Defense Ministry has never really been staffed by civilians (Bruneau, 2018), so the required transparency of defense policy is even more dampened, and the Armed Forces enjoy a near monopoly. Cortinhas and Vitelli (2020) argue that there has been an increase in the institutional autonomy of the Armed Forces, with the pivotal positions in the Ministry—involving for example, resource distribution (important in matters of defense) and civilian control—headed by military officers.

It is clear, then, that there has been a downgrading of civilian control over the last decade, especially following President Dilma Rousseff's impeachment. President Temer started by recreating the Office for Institutional Security (GSI – *Gabinete de Segurança Institucional*) and appointed the influential Sérgio Etchebegoyen to lead it, reestablishing the office's control over intelligence services by presidential decree (8793/2016). In addition, General Walter Braga Neto was appointed as federal intervener for "peacekeeping" in Rio de Janeiro,

intensifying the LOGOS' role. Braga Neto went on to become Bolsonaro's Chief of Staff and subsequently defense minister. Public statements made by General Villas Bôas concerning former President Lula's supreme court trial, pressuring the Judges to vote to discount his constitutional rights, add to the long list of troubling examples. By the end of Temer's term, the Armed Forces held positions in eight important ministries and had been appointed to key secretariats and bureaus.

A recent study by the *Instituto de Pesquisa Econômica Aplicada* (IPEA) presents important data regarding the increasing role of the military in the federal government. From 2016 to 2020 there was a 102.2% growth in the number of military staff occupying civilian functions in the federal administration, and from 2013 to 2021 the number of military personnel employed in state owned enterprises increased from 6 to 96 (Schmidt, 2022). An interesting fact is that the Army accounted, by 2021, for more than 50% of the origin of this staff, while the Navy and the Air Force were responsible for approximately 20% of the assigned positions each (Schmidt, 2022). Moreover, while the defense budget has averaged 1.5% of the GDP in the past decades (Sipri, 2022), around 80% of that was destined to personnel, a high cost in comparison with other countries (Silva, Teixeira, 2021). This needs to be addressed with scrutiny since it has a direct impact on possible investment resources (for example, affecting R&D expenditure increase). Consequently, further analysis of the budget composition is also pivotal to the civil-military debate, although it is beyond the scope of this paper.

This level of military occupation of the executive was unprecedented in the democratic era, and since the transition to Bolsonaro's government, the forces' role in governance has grown even stronger. The GSI has broadened its remit under the leadership of the controversial General Augusto Heleno, who is well-known for statements denigrating democracy. The vice-president of the republic, General Hamilton Mourão, also plays a leading role in government and presents himself as more moderate than, for example, the civilian far-right former ministers Abraham Weintraub, Ernesto Araújo and Ricardo Salles. The fall of these "ideological" extreme right-wing players can also be seen as representative of a growing role for the military. The Armed Forces gained further control and assumed a "moderator power" role as a tutelary institution of the republic. In the midst of a severe economic crisis, Bolsonaro's supposedly fiscally conservative government increased military budgets and benefits for personnel while cutting welfare spending on civilians. Furthermore, during the terrible mismanagement of the COVID-19 pandemic, General Eduardo Pazuello was appointed health minister. This resulted in accusations that, for example,

the government had promoted ineffective treatments such as chloroquine and ivermectin and was negligent in vaccine procurement as well as allegations of corruption, as the Congressional Investigative Commission (CPI) is now revealing. Even after leaving office, Pazuello, a serving officer, participated in a public demonstration in Rio de Janeiro, violating the army's own disciplinary code. His violation was investigated by the military and the judgement sealed for 100 years. He now holds the office of Secretary for Strategic Affairs in the Secretariat for Strategic Affairs (*Secretaria de Assuntos Estratégicos*). It is evident that civilian control over the military is very weak and that there is a long way to go before Brazilian democracy is consolidated.

Indeed, by all the indicators presented in the literature on civil-military relations, Brazil is moving further away from civilian control. The transition to a fully democratic regime was never completed, and the military never lost its prerogatives. This opens institutional space for them to exercise tutelage or act as a “moderator power” in face of a “socialist threat” or “widespread corruption,” among many other never fully verified internal problems. For these reasons, the concluding section of this paper proposes a series of actions that could lead to genuine civilian control. We do this using the lenses of the solid ethical and political values desirable in a democracy and the instruments we proposed above.

Final Remarks

In this paper, we sorted out the main outlines of a military ethics capable of justifying (using the metaethical and normative assumptions of the Triple Theory) the proper moral requirements in civil-military relations within a constitutional democratic regime. Moreover, based on the civil-military relations literature, we reconstructed the parameters and indicators which demonstrate the extent of consolidation in a democratic regime with civilian supremacy, for instance, the precise role attributed to the Armed Forces. Afterwards, we reviewed recent events in Brazil which demonstrate that the transition to full democracy is incomplete given the roles still played by the military in internal affairs.

Based on our findings, we propose the following actions to rectify the problems in civil-military relations and move in the direction of a fully democratic state:

- 1) redefine the constitutional role of the Armed Forces, clearly limiting their remit to protecting the country from external threats;

- 2) forbid active military personnel from occupying positions in government, as already proposed by PEC 21/2021;
- 3) compel the Armed Forces to remain apolitical and neutral in the sense of not participating in public political engagement such as popular demonstrations;
- 4) strengthen the role of congress by: i) summoning ministers, allowing freedom of information requests, and holding public hearings; ii) establishing the role of commissions, especially regarding budgets and accountability, so that it can perform a greater role in defense matters;
- 5) create civilian positions in the Defense Ministry, especially in auditing (fiscal and compliance), budgetary analysis, appropriations studies, among others;
- 6) try military common crimes in civilian courts, revoking the change in Military Code of 2017;
- 7) open national defense debates to involve legislative and civilian actors, such as universities and firms, to enhance defense policy, technological innovation, and so on.

Rectifying the civil-military relations in Brazil through these actions and moving in the direction of a fully democratic state is optimistic, universally willable and would not be rejected by a reasonable person.

In conclusion, the military is not the patron of the nation: it should not act as a “moderator power” or interfere by positioning itself politically. It must be subordinated to civilian control. The return of the military to the barracks benefits both the country *and* the military. The Armed Forces could improve their performance in defense matters, by solely focusing on their designated missions and enhancing their professionalism. For the country, it would not only be more efficient in economic terms, but it would also help to strengthen our democracy and political stability.

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