

The State and the Soldier

di Lawrence Freedman

Kori Schake has worked at senior levels in the US Defense and State Departments and also on the National Security Council staff. She was the senior foreign policy adviser to John McCain during this 2008 presidential election campaign.

She now leads the foreign and defence policy team at the American Enterprise Institute. With US civil-military relations at a particularly tense stage I was pleased to be able to talk to Kori about her important new book “The State and the Soldier: A History of Civil-Military Relations in the United States” published by Polity.

Lawrence: *First congratulations on your new book, which is, as expected, extremely interesting and timely. The title seems to me to be a dig at Samuel Huntington [His book is entitled The Soldier and the State].*

Kori: I hate Sam Huntington’s book on civil military relations. I’m shocked we teach from it, given that he believed, as he concludes in the book, that an effective military is incompatible with democracy in America, and democracy in America needs to change.

One of my many complaints about The Soldier and the State is that Huntington seems to believe that effective strategy requires the military having a completely separate sphere and only connecting to political objectives at the very top. But you can’t build a good strategy unless the military is much more knowledgeable about the political constraints that those civilian leaders are operating under, and the civilian leaders can’t give good direction if they don’t have a much more intimate understanding of the military issues. So I just think he’s wrong, and I’m puzzled by this because he lived through World War Two, when you had possibly the most intimate civil military

interweaving in American history, and he thought that was a failure, which is objectively crazy.

Lawrence: *So looking forward to your book. Why did you start with the state and then the soldier?*

Kori: One of the reasons that Huntington is unstable as a model for civil military relations is that he inverts what has been the subordination of the American military to civilian leadership. And I wanted to emphasize both with the title and with the cover of the book, which pictures Franklin Roosevelt reviewing troops, that from its founding the United States has been a country fearful of a standing military, and the way we have made ourselves comfortable is the ironclad subordination to civilian control. And I think emphasizing that the state is superior to the soldier underscores that, at least for me.

Lawrence: *The fear, as you explain very elegantly, looking back at the founding fathers and especially Washington, was of a standing army and how you keep that under control. How do you stop an army turning on the government? Leaving aside the complexities of the civil war, the US Army has stayed out of politics in that sense. So are you saying that the problem is the other way around? Might it be too subordinate? What are the guidelines for the military to accept civilian control without getting itself into a mess, or without being put in a position where it must break the laws of war or becoming a threat to the American people.*

Kori: I think that's right. I'm a real fan of the ethicist Pauline Shanks Kaurin. She grapples with the problem of the unprincipled principal, which is where I think we are. In the American system the military is directly and unquestionably subordinate to civilian control, that is built on the presumption that orders will be legal. We are now really struggling with the unprincipled principal. A lot of people who are worried about democracy in America want to relax the constraints on military subordination. They want the military to be the adjudicator of whether orders are legal. What that would do is actually put the judgment of the military above the judgment of the civilians. And I think they're not as uncomfortable with that as they ought to be. The main reason I gnash my teeth about Huntington is that in that door stopper book of

his he never really grapples with the problem of praetorianism, of a military that comes to consider itself different and better than the civilians in charge of the government. That has historically been the path to military coups, to the corrosion of democracy. And so where I come down, and it's not a happy place, I'm not comfortable with it, is that the military can't save us from the civilians we elect. The American system has only civilian solutions to this problem, and they are predominantly Article One of the Constitution solutions. That is congressional superiority over the executive branch, and the fact that that's not being exercised by my fellow Republicans is not a problem that the military can solve for us.

***Lawrence:** So let's take a particular issue that's developed in recent weeks, and therefore well after your book went to press, which is this question of an operation of uncertain legality, where the US Navy is taking out random boats on the assumption that they're carrying narcotics. And then when a couple of guys are holding on to a bit of wreckage, you take them out too. The way this is developing is that the admiral who gave the specific orders is starting to carry the whole weight of it on his shoulders. Yet, apparently, he believed he was fulfilling the wishes of the Secretary of Defense, who believed he was fulfilling the wishes of the President? How do you disentangle something like this as a practical matter, with Congress now taking it seriously?*

Kori: So I would emphasize two things. First I do think the strikes are illegal because there's not an authorization for the use of military force by the Congress, and I'm starchy about constitutional issues. The fact that Congress doesn't want to do it means the President needs to expend the political capital to persuade the Congress and to persuade the American public. So the President is failing by not making the case for why this is in the national interest. Congress is failing by not either providing or denying the executive the authority to do this. And I think it is both morally and practically wrong to put the whole weight of this on the military commander's shoulders, because civilian control means that the legal justification provided by the Secretary of Defense and the Office of Legal Counsel in the Justice Department are and ought to be superior to the military's judgment.

So again the solution is that the contestation should be in civilian channels. The military has the responsibility to believe that orders they receive are, in fact, both legal and ethical. There's a very good piece by [Joshua Braver in the Wall Street Journal](#) last week that talks through just what is required for a service man or woman to refuse an order as unlawful as they will be court martialed for it. The burden of proof is on them to show that the order is illegal, and that's a very big burden to place on the shoulders of people who are not lawyers, and so the deference to the civilian leadership definition seems to me a practical one. You can't have a military consistently adjudicating orders they are receiving, but it's also an ethical one, and the behavior of the Secretary of Defense to distance himself from the choices that his orders set in motion is, I think, reprehensible, and so I'm glad that Congress is taking it up.

Lawrence: *So how far do you think Congress can take this and perhaps pushing back a bit further. What are the consequences when you have an administration that doesn't seem very interested in what Congress thinks and will wish to go its own way anyway? My question is, really, is there a breaking point in all of this? Because I think that that potentially is the concern that the military, as you note in the book, have been pretty good at finding ways to take a lower profile, not take overtly political positions, get along with an administration they must find difficult to respect. But is there a breaking point in all of this?*

Kori: Of course there is, and as with nuclear deterrence, we're going to know it was working when it fails, but I don't think we are close to that point. You know, one of my favorite reflections on American civil military relations comes from our mutual friend Elliot Cohen, in 2000 during the presidential election. He said that it's really important that George W Bush get elected, so that the military learns to hate Republicans again, because there was so much friction over cultural issues with the Clinton administration. And the military did grumble about a lot of the culturally forward leaning policies of the Biden administration, but I think they're pretty nostalgic for those problems now that they're dealing with the problems of the Trump administration.

I have been watching two things to see if we're near the breaking point. And one is, are there people being appointed to positions that the administration has fired people from without giving any explanation -- the 18 firings of three and four star generals and admirals that the administration has undertaken. First of all, it's important that the President can fire any military leader they want. It's one of the two tests of whether the system's working and everybody has saluted, understood that they serve at the at the President's pleasure and become civilians. What really matters is whether the people being appointed into the positions vacated are more politicized than the people who'd been fired, and so far, at least, with the possible exception of the special forces commander who's in the spotlight now because of the Caribbean strikes, they're not.

The Chairman of the Joint Chiefs of Staff, General Caine, is navigating extraordinarily well. He is not aggregating to the military decisions that are properly civilian. He's trying to colour inside the lines. And for example, I think it really matters that he went to Capitol Hill with the commander to quietly, privately explain what they thought they were doing and why they thought it was legal. It's disgraceful the secretary wasn't there. But General Caine, I think, is navigating this very adroitly in an extraordinarily difficult set of circumstances.

Lawrence: *You're very critical of his predecessor but one, General Milley, for not being so adroit and for getting himself into a more prominent political position.*

Kori: I do think the way General Milley did the job actually created a lot of the perception of the military being, you know, woke and not focused. The example that that really struck me with General Milley was the congressional testimony on critical race theory. Because, first of all, nobody asked him the question. They asked the civilian Secretary the question, and the appropriate role for the uniforms when cultural issues come up is to hide behind the suits. And the secretary of defense gave a perfectly acceptable answer to the question, but General Milley couldn't resist the temptation to show off his Princeton education, and so he went into a long digression about how he didn't become a communist when he read Mao. But the problem with him leaning into that is that now it's fair game for every officer going up for

confirmation to have to answer that question. So he opened a window of vulnerability into more political activity by the military leadership. And I think that was a mistake. He made a number of those kinds of mistakes. The justification that the people around him gave doesn't exonerate the vulnerabilities he created for the military.

Lawrence: *We're coming back to where we are now. You mentioned with the Milley example that the civilian Secretary gave a perfectly adequate answer. But Caine's civilian [Hegseth] wasn't there. One of the things that, from a distance, seems striking about the Pentagon is the weakness of the civilian leadership and the focus on, in some ways, a rather odd set of issues, such as the warrior ethos and how fat generals are and their beards. It must be quite hard for the for the military to have the sort of confidence in the civilians given all the lectures they're being given. Eight hundred of them have been gathered from all around the world to listen to a lecture on obesity and beards.*

Kori: The Quantico meeting at which the President and the Secretary gave disgraceful, politicized campaign speeches is actually a great example of how well the American military is navigating this difficult moment. They all had a responsibility to show up when summoned by their civilian leadership, and they also had a responsibility not to participate in political activity. And they navigated it exactly right. Everybody sat and nobody clapped. Somebody prepared the President for the fact that nobody was gonna react, probably the Chairman of the Joint Chiefs of Staff, because I would expect that nobody in either the White House or the civilian leadership of the department would know enough about what they're doing to have anticipated that and tried to shape the President's reaction. So I think it's a good example. But you're right that this is extraordinarily difficult. There hasn't been this much politicization pressure on the American military since the constitutional crisis of 1866/67. They ought to get graded like Olympic diving, with a degree of difficulty factored into their score.

Lawrence: *And one of the issue with Hegseth is that he has a military background, if not exactly to the highest levels. Do you think that his approach is shaped by the by the level of command he reached, which was pretty low?*

Kori: Absolutely. He's behaving like a company commander instead of like the Secretary of Defense. I mean, just for example, instead of summoning 800 senior military leaders to a dog and pony show in Quantico, he should have been spending his time making sure that when the government shut down, the military was still going to get paid. He is doing a job that any captain in the army could do instead of doing the job only the Secretary of Defense can do. And that's a colossal failure. America's allies are nervous justifiably and America's enemies have to be turning cartwheels down the hallways of their buildings to see a country this strong serving its own interests this poorly.

Lawrence: *And Congress is passing a massive new military bill, \$900 billion or something like that. Are they going to improve their oversight of how that is spent and the strategy behind it, because there doesn't seem to be a lot of it up to now?*

Kori: Yes, I agree there is reason for scepticism, given how little they have exercised their constitutional authorities so far. But I do think it's trending in a positive direction. I mean, when the President's budget was released, Senator McConnell, who chairs appropriations in the Senate, said it's dead on arrival, and the chairs of the Armed Services committees are working on a bipartisan basis. This is the only bipartisanship going on in Congress, both on the budget and on oversight of the strategy and the strikes in the Caribbean. So I do think Congress begins to grind the gears of their authorities.

Lawrence: *to pull you onto a question of interest to Europeans at the moment, which is the new National Security Strategy, reading the document there are lines which are perfectly acceptable and lines which are utterly objectionable in terms of sort of interference in European politics. But the issue is whether that's going to be followed up with the new military guidance, and what's planned for US forces in Europe, and obviously this is, at the moment, a very big and sensitive issue. Do you get any sense of red lines for Congress and all of this? I've always assumed that they would not really not be happy if the Supreme Allied Commander was not an American. Yet when you go below a certain point in numbers that would be the logical conclusion. But do you*

have a sense of how that debate will be carried on with Congress? Because from this side of the Atlantic, it's a very important one.

Kori : Both in the first Trump term and in the current term, Congress has had language in the National Defense Authorization Act prohibiting the president from spending any money to reduce American forces in Europe or Asia. When the White House this last time wanted to decline to nominate an American for the position of Supreme Allied Commander in Europe, it was congressional Republicans who quietly went to the White House and explained the importance, for example, of SACEUR's operational control over US forces in Europe, including US nuclear forces in Europe. Whether Congress actually has the authority to prevent the president from withdrawing troops is a constitutional question that I think may get tested in the next three years, because the administration has already announced that they want Europeans to be wholly responsible for the conventional defence of NATO territories by 2027. And so, as with so much in the Trump administration, they are testing the limits of executive power in ways that haven't been tested in a very long time.

Lawrence: *Even if that was a sensible objective and everybody signed up for it, that would be an awful lot of change that you'd have to introduce very quickly.*

Kori: Yeah, I think the previous SACEUR conducted an assessment of the minimum amount of American contribution to the conventional defence of NATO territory in Europe, and judged that it was about 20 percent. There are things that the United States can uniquely provide that are required for a coalition war to be effective against the adversaries we're likely to fight - that is Russia, with assistance of China, North Korea and Iran. I think there's a big fight yet to be had among conservatives in the United States pushing back on the recently released National Security Strategy, which looks to me like an act of vandalism against the things that have actually made the United States strong, safe and prosperous. I think the Trump administration genuinely doesn't understand international politics and they think they can behave in the way they are behaving, and others will still voluntarily assist us in achieving our interests. And I think they're fundamentally mistaken about that in ways that are

going to endanger American security, not to mention the security of our closest friends.

Lawrence: *It also strikes me that, whereas prior to the last election, the assumption was and pushed by people like Elbridge Colby, that you'll go down on Europe, and then go up in Indo-Pacific. And that probably will not happen.*

Kori: The National Security Strategy literally doesn't mention Chinese or Russian aggression. And from what I hear, the national defence strategy is trying to insert as the second priority defence against China, but that is literally inconsistent with the political guidance from the White House. So that will be an interesting area to watch, because I suspect Congress will support a more robust defence strategy than the national security strategy.

Lawrence: *In a year's time, at the end of 2026, there's the midterms. At the moment it would be very surprising if the Democrats don't take the House. If that is the case, and assuming still that the Republicans hold the Senate, how much of a battle will the Trump White House have in terms of imposing this much more radical vision of American interests?*

Kori: Well, they will have an enormous problem, because all legislation commences in the House of Representatives, and the Trump administration has been very aggressively against bipartisanship. The head of the Office of Management and Budget wants the budget to pass without a single Democratic vote in favour. The Trump administration isn't very good at working Congress. They're good at terrifying Republicans, but not working in a constructive way to build a bipartisan basis for their policies. So I think it will get very frustrating for the Trump administration if they lose one or both houses of Congress in 2026 because they haven't demonstrated either the skills or the inclination to build a foundation that is sustainable for the policies they want to enact and the way they have gone about the first year in office has so alienated not just Democrats and not just independents, but even quite a large swath of Republicans, that will make it difficult for them to legislate subsequently.

Lawrence: *So do you see the coming year as one that has to be endured?*

Kori: I see the coming three years as years that have to be endured. But the Trump administration wants to be compared to Franklin Roosevelt's 100 days. They want to move so fast that the courts and the Congress and civil society is left in the wake of their actions, and start from being on the back foot. What I think we are already seeing is the courts and legislators and civil society beginning to exercise their authorities and their independence of action to constrain the administration. As you know, I am a hopeful animal and in my most hopeful moments, I think the longer term consequence of the Trump presidency will be much more stringent restrictions on the executive power of the president of the United States.

***Lawrence:** Given that, in meetings in London recently I've heard from quite a lot of people a fear that Trump really doesn't want the night the 2026 elections to take place. I've even heard it suggested that he would use the National Insurrection Act, call a state of emergency, martial law or whatever. And I don't personally go that far, but you can imagine forms of intimidation, the way the National Guard has been used in American cities and so on. The suggestion came, maybe playfully, out of Trump's lips, that the American military might practice on the American people. All of these things does make one nervous about the potential use of military power, not in the ways that the Founding Fathers may have feared, but actually the subordination of the military to a ruthless executive power that does real damage to American democracy. How concerned are you about any of that?*

Kori: I'm pretty concerned about it, to be honest, because I think we see moves by the President in the way he's pushing Republican led states to gerrymander their congressional districts in advance of the 2026 election, the use of the National Guard, how Republican political operatives have been trying to change the election rules in Republican led states. So they clearly are worried that there's going to be a blue wave, and they're trying to use existing authorities to put a big thumb on the scale before the 2026 election. And those moves are damaging to democracy in America, unquestionably. But I also think the saving grace of the American system is federalism, states control elections, and the gerrymandering attempts are likely to backfire. Once California, my great home state, weighs in it'll eliminate Republican districts there.

So the fact that the Trump's people are actually just genuinely terrible strategists, I think, makes it hard for me to believe that they can orchestrate an elegant election fraud that the American public won't rise up against, and that the courts could be suborned, and that National Guard would willingly turn themselves into a repressive force. I don't see that happening. And I think Governors have powers. State legislatures have powers. The American public has power. Civil society groups like Protect Democracy are the people who bankrupted Rudy Giuliani for his attempts to threaten poll workers in Georgia. 'We the People' is where it starts, and it's what protects us at the end of the day.