The Milleytary Oath: Speech Act Theory in the American Civil-Military Context

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Abstract

American General Mark Milley appealed to his military oath of office various times during his term as Chairman of the Joint Chiefs of Staff; particularly, when the civil-military relationship was put to the test during the Trump administration. Speech act theory offers an opportunity to conceptually analyse the military oath as a speech act in civil-military relations. In this approach, the 'magic military-oath formula' serves as a trust mechanism in the legal framework of democratic civil-military relations to keep the constitutional order intact and working. Unlike domination, the military oath implies reciprocity of loyalty in a vertical authority relationship. The main tenet of this paper is to provide an alternative angle on American civil-military relations by studying the military oath through the lens of speech act theory. This research primarily investigates various references to the military oath by General Milley during the last year of the Trump administration. While directly referring to what is sworn in the military oath, he implicitly publicly reprimanded his Commander-in-Chief, President Trump. While some considered Milley's actions honourable, others questioned it. Milley's actions prove, however, the reciprocity of loyalty in military oath taking and civil-military relations.

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Introduction

I, [name], do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.

The military oath has shown to be crucial in American civil-military relations. 'We are all trusting you,' said Nancy Pelosi. 'Remember your oath.' The former Speaker of the House allegedly said these words to General Mark Milley, Chairman of the Joint Chiefs of Staff in the United States, the week after the November 2020 elections.[1] President-elect Joe Biden had won the elections while President Trump refused to acknowledge defeat – and continues to do so. In his speech at Fort Belvoir, a few days after Biden was declared winner,[2] General Milley felt the exceptional need to publicly refer to his oath and underline that military professionals take an oath to the Constitution rather than to individuals.

While President Trump publicly labelled the election process as fraudulent,[3] General Milley – while referring to his oath – implicitly stated that President Trump could not automatically rely on the armed forces to retain his presidency. On top of that, the elections were officially not considered falsified. Two months later, after the January 2021 Capitol Hill riots, as an ardently apolitical institution, he and his Joint Chiefs of Staff sent a letter to the US troops. Both veterans as well as active military members had participated in the riots, apparently also appealing to the military oath.[4] The Joint Chiefs, however, openly stated in their letter that the event was 'a direct assault to […] the Constitutional process', which not only goes against the military's 'traditions, values, and *oath*', but is also unlawful. They stated that in line with constitutional processes, President-elect Joe Biden was going to be their next Commander-in-Chief. Basically, the Joint Chiefs had publicly set aside the 45th Commander-in-Chief, President Trump. Currently, the former president has been indicted four times,[5] facing thirteen charges in Georgia for allegedly trying to bend the election 2020 outcome. 'Violation of oath by public officer' is one of the charges.[6]

The events in the US and the role of General Milley were extensively discussed in the media and in various publications in which some provided references to the oath. Some questioned Milley's actions,[7] while others remained in the middle and described events on how Milley tried to balance the civil-military relationship.[8] There were also authors who bluntly claimed that it was Milley's responsibility to remove President Trump by military force if needed.[9] What the authors all do have in common, though, is that they acknowledge that the civil-military relationship has been put to

1 Carl Leonnig and Philip Rucker, *I Alone Can Fix It: Donald J. Trump's Catastrophic Final Year* (London, Bloomsbury, 2021) 364.

2 Stephen Collinson and Maeve Reston, 'Biden defeats Trump in an election he made about character of the nation and the president', *CNN*, November 7, 2020. See: https://edition.cnn.com/2020/11/07/politics/joe-biden-wins-us-presidential-election/index.html.

3 Linda Qiu, 'Fact checking the breadth of Trump's election lies', *The New York Times*, August 17, 2023. See: https://www.nytimes.com/2023/08/17/us/politics/trump-election-lies-fact-check.html.

4 Konstantin Toropin, 'More than 100 troops revealed in oath keepers membership data leak', *Military*, September 7, 2022. See: https://www.military.com/daily-news/2022/09/07/over-100-troops-were-oath-keepers-members-months-around-jan-6-analysis-claims.html.

5 Derek Hawkins et al, 'Tracking the Trump investigations and where they stand', *The Washington Post*, October 24, 2023. See: https://www.washingtonpost.com/politics/interactive/2023/trump-investigations-indictments/?itid=lk_inline_manual_21.

6 Brandon Drenon, 'What are the charges in Trump's Georgia indictment?', *BBC*, August 25, 2023. See: https://www.bbc.com/news/world-us-canada-66503668.

7 Doyle Hodges, 'A duty to disobey', *Lawfare*, August 19, 2022. See: https://www.lawfaremedia.org/article/duty-disobey; Kori Schake and Jim Golby, 'The military won't save us – and you shouldn't want them to', *Defense One*, August 12, 2020. See: https://www.defenseone.com/ideas/2020/08/military-wont-save-us-and-you-shouldnt-want-them/167661/; James Joyner, 'Who decides who is a "domestic enemy"', *Defense One*, August 13, 2020. See: https://www.defenseone.com/ideas/2020/08/who-decides-whos-domestic-enemy/167704/; James Joyner and Butch Bracknell, 'They make you take an oath to the constitution: they don't make you read it', *War on the Rocks*, October 31, 2022.

8 Peter Baker and Susan Glasser, *The Divider: Trump in the White House* (New York, Doubleday, 2022).

9 John Nagl and Paul Yingling, '"…All enemies, foreign and domestic": an open letter to Gen. Milley', *Defense One*, August 11, 2020. See: https://www.defenseone.com/ideas/2020/08/all-enemies-foreign-and-domestic-open-letter-gen-milley/167625/.

the test due to a president acting unconventionally. Joyner and Bracknell made an interesting claim that the military's oath of loyalty is 'necessary but not sufficient' to keep the constitutional order intact.[10] They belong to a minority, however, despite the fact that Milley specifically referred to his oath in his public appearances at the time.

This paper builds on existing literature by going back to the basics of the oath and applying speech act theory to the oath as well as to Milley's public references to it during the final stages of the Trump administration. Approaching the military oath of office as a speech act displays that by administering the words, reality is constituted rather than merely described, affirmed or registered. The Milley case illustrates how the significance of the oath works through in practice. My research implies that in the vertical authority relationship between the state and the armed forces, loyalty embedded in the military oath of office is reciprocal. In other words, the civil authority that requires an oath from members of the armed forces cannot only profit from the military's loyalty; it has to put in its share of loyalty as well.

This paper evolves around the question: *Was General Milley loyal to the Constitution as sworn in the military oath of office during the final stages of the Trump administration?* I shall proceed in eight parts and will solely focus on the vertical authority and loyalty relationship between the state, represented by the President who is also the Commander-in-Chief, and the armed forces, represented by the Chairman of the Joint Chiefs of Staff as the most senior military officer.[11] First, an overview of the current state of the art of the oath in civil-military relations theory is presented; then the theory of the military oath as a speech act is discussed: what is the American military oath of office through the lens of speech act theory? Subsequently, I will look at the concept of loyalty embedded in the military oath and address General Milley's public apologies for appearing in a picture with his Commander-in-Chief, his references to the oath in his public speech at Fort Belvoir, and the memorandum for the joint force in the final stages of the Trump administration. The article will be concluded with a discussion of my findings.

The Oath in Civil-Military Relations Theory: a Bird's Eye View

Congress, the civil part of civil-military relations and whose members are directly chosen through election, has drawn up the military oath for more than 200 years.[12] In other words, Congress has the final say in what is said in the oath and why. Its members have also codified that the oath of office applies to both federal civil servants and commissioned officers of the uniformed services.[13] The classic paradox in civil-military relations is that the armed forces are created to protect the polity and awarded an immense arsenal of weapons to do that; at the same time, they also have the means to become a threat to the same polity that has asked for their protection.[14] The legal framework is a tool with the function to prevent the latter from happening. The purpose of the oath, derived from civil-military relations theories, is individual subordination to the state. The goal is to guarantee that the primacy of the use of force lies with the state, also known as civilian control.[15]

10 Joyner and Bracknell, 'They make you take an oath to the constitution'.

11 The oath of enlistment is not part of this research.

12 U.S. Army Center of Military History, 'Oaths of Enlsitment and Oaths of Office'. See: https://history.army.mil/faq/oaths.html.

13 United States Senate, 'About the Senate & U.S. Constitution, Oath of Office'. See: https://www.senate.gov/about/origins-foundations/senate-and-constitution/oath-of-office.htm.

14 Peter Feaver, 'The civil-military problematique: Huntington, Janowitz, and the question of civilian control', *Armed Forces & Society* 23 (1996) (2) 149-178; Peter Feaver, 'Civil-military relations', *Annual Review Political Science* 2 (1999) 214; Robert Atkinson, *The Limits of Military Officers' Duty to Obey Civilian Orders: A Neo-classical Perspective* (Carlisle, U.S. Army War College Press, 2015) 3.

15 Samuel Huntington, *The Soldier and the State* (Harvard, Harvard University Press, 1957); Morris Janowitz, *The Professional Soldier* (New York, Free Press, 1960 ed. 2017) 220; Peter Feaver and Richard Kohn, 'Civil-Military Relations in the United States: What Senior Leaders Need to Know (and Usually Don't)', *Strategic Studies Quarterly* 15 (2021) (2) 12-37.

Civilian control lies at the core of military 'Huntingtonian' professionalism, which is monopolised by the state rather than regulated as is the case with some civilian professions.[16] The concept of professionalism comes down to four elements. Firstly, professionals are defined by expert knowledge and skill obtained through academic education. Secondly, professionals operate in a social context and deliver a service to society. They are not so much focused on financial gain as they are on service and good work. Thirdly, professionals are part of a professional body that distinguishes itself from other experts with intellectual skills as they carry a social responsibility. Finally, professions thrive on autonomy: they tend to self-organise and self-regulate.[17] Considering these elements, military professionalism's product in society's productive field is its expertise in the use of force with instruments of violence. It requires trust from society to obtain a certain standard of autonomy to organise their field of work.[18]

16 Huntington, *The Soldier and the State*; Risa Brooks, 'Paradoxes of professionalism: rethinking civil-military relations in the United States', *International Security* 44 (2020) (4) 7-44.

17 Abraham Flexner, 'Is social work a profession?', *Research on Social Work Practice* 11 (2001) (2) 152-165; Huntington, *The Soldier and the State*, 8-10; Eliot Freidson, *Professionalism: The Third Logic* (Cambridge, Polity, 2001) 180; Marc Loth, *Private Law in Context* (Cheltenham, Edward Elgar Publishing, 2022) 233; Arie-Jan Kwak, *The Legal Junction* (Alblasserdam, Haveka BV, 2005) 17-19.

18 Don Snider, 'Dissent and strategic leadership of the military professions', *Orbis* 52 (2008) (2) 256-277.

19 Janowitz, *The Professional Soldier*.

20 Feaver and Kohn, 'Civil-Military Relations in the United States', 12; Brooks, 'Paradoxes of professionalism: rethinking civil-military relations in the United States', 20; Janowitz, *The Professional Soldier*, 220; Atkinson, *The Limits of Military Officers' Duty to Obey Civilian Orders*, 48; Dayne E. Nix, 'American civil-military relations: Samuel P. Huntington and the Political Dimensions of Military Professionalism', *Naval War College Review* 65 (2012) (2) 103.

21 Huntington, *The Soldier and the State*; Janowitz, *The Professional Soldier*; Peter Feaver, *Armed Servants* (Cambridge, Harvard University Press, 2003); David J. Wasserstein, Jimmie R. Montgomery & Marybeth P. Ulrich, 'On "The Politics of Oath-Taking"', *Parameters* 51 (2021) (2) 111-116.

22 Marybeth P. Ulrich, 'The Politics of Oath-Taking', *Parameters* 50 (2020) (2) 43-50; Marybeth P. Ulrich, 'The USAF at 75: reviewing our democratic ethos', *Aether* 1 (2022) (1) 71-81.

23 Kenneth Keskel, 'The oath of office: a historical guide to moral leadership', *Air & Space Power Journal* 16 (2002) (4) 47-57; Thomas Reese, 'An officer's oath', *Military Review* 44 (1964) (1) 24-31.

24 This is a play on Shakespeare's Hamlet, 2.2.247-248: "there's nothing either good or bad but thinking makes it so".

25 John Austin, *How to Do Things with Words* (Cambridge, Hardvard University Press, 1962) 94-108.

Janowitz, however, has elevated civilian control into an integration of the civilian world into the armed forces as a type of reinforced constabulary force at some expense of military professional autonomy.[19]

Civil-military relations theory generally seems to address the 'professional' military oath as a selection of words that are syntactically, phonetically and semantically sound in which a meaningful promise is made. It is usually used as a stepping-stone to address a different element in civil-military relations or merely as an example or a footnote.[20] So far, civil-military relations have been primarily observed through a sociological institutionalist lens.[21] That is mostly also the case for the military oath;[22] however, there are also semantic approaches as well as historical accounts of the military oath.[23] Even though quite a lot of research has been done on oaths and promises in general and civilian professional oaths and oaths of office in specific, not much literature has really addressed what the military oath actually is from a linguistic perspective; in other words, how does the mechanism of the military oath work in civil-military relations, and *why* is it *necessary* to refer to the military oath in a situation in which the relationship between the armed forces and the state has been put to the test? Especially this is puzzling.

Speech Acts: There's Nothing Either Good or Bad, but *Saying* Makes it So[24]

Speech acts not only convey information, but they also perform an act at the same time: saying makes it so.[25] It means that by saying the words, something is done and set in motion. John Austin coined the term in his seminal work *How to Do Things with Words* (1962) and John Searle completed it into a theory in his book *Speech Acts* (1969). Speech acts are mostly observed from the position of the speaker.[26] Military oaths, however, are imposed by the state, which is the oath administrator as well as the hearer. It is thus also interesting to know what it does to the hearer (society, the state) once the words in the oath have been uttered in public and something is done.

Speech acts can roughly be divided into three major categories: assertives (like true or false statements), directives (like requests or commands) and commissives (like oaths, vows and promises).[27] Although there is a vast array of literature on commissives in linguistics,[28] literature on the military oath as a speech act in civil-military relations is scant. This section will first provide a brief context on speech acts. Then it will expound on the distinction between oaths and promises in order to finally address loyalty in the military oath as a speech act.

Speech Acts

In linguistics, speech acts are a phenomenon in the study of pragmatics. Whereas syntax can be considered the mathematical or technical side of language independent of context (for example, sentence construction and grammar), speech acts could be considered the physics of language dependent on context (how does context contribute to meaning?). It displays how our social reality is shaped. A very simple example of a speech act is 'I will call a lawyer.' This sentence can be uttered to convey a promise (a commitment to call the lawyer), a threat (Be careful, or else!) or a prediction (in the future, the act of calling a lawyer will take place). Speech acts have roughly three levels: the locutionary act, which is the actual use of the words, five in the case of the example; the illocutionary act, which concerns the intention *in* the use of the words, like either conveying a promise, a threat, or a future course of action; finally, the perlocutionary act, which completes the speech act in a certain context by creating a certain effect on the hearer; for example, fear in case of a threat, relief in case of a promise and expectation in case of a prediction.[29]

Speech acts have roughly three approaches.[30] The first is the performative approach. John Austin's original approach contained a rather conventional paradigm of performative conditions in which speech acts should satisfy performative conditions and a rules system in order to become felicitous.[31] This means, for example, that various procedures should be lived up to before a promise or an oath or an apology can be considered valid. Barack Obama's inauguration in 2009 is a good example of performative conditions. Chief Justice John Roberts had obtained the authority to administer the oath and not, for example, Tom Brady. Obama lived up to the conditions of article 2 of the Constitution; for example, he was born on US territory and was at least 35 years old. However, White House law specialists became quite puzzled when Chief Justice Roberts stumbled over administering the words in the oath to Obama, who, as a consequence, made errors in uttering the word formula himself. The deficiency in the oath ceremony apparently contained such a legal concern, i.e., there was no legitimate authority on the legal gravity of the oath, that the next day the whole procedure was repeated behind closed doors at the White House just to be safe.[32]

Secondly, according to Searle's *Speech Acts*, the commitment in a speech act is embedded in the illocutionary force as it relies on the intention of the speaker. In this so-called mentalist approach, a promise is still a promise even when the speaker does not intend to keep her word and an apology is still an apology even though it is not sincere. The commitment is merely made to the *intention* of performing the action of a promise or

26 Frans van Eemeren and Rob Grootendorst, *Speech Acts in Argumentative Discussions* (Dordrecht, Foris Publications, 1984) 19.

27 Kent Bach and Robert Harnish, *Linguistic Communication and Speech Acts* (Cambridge, MIT Press, 1979); John Searle, *Expression and Meaning* (Cambridge, Cambridge University Press, 1979); Mikhail Kissine, *From Utterances to Speech Acts* (Cambridge, Cambridge University Press, 2013), 174; Bart Geurts, 'Communication as commitment sharing: speech acts, implicatures, common ground', *Theoretical Linguistics* 45 (2019) (1-2) 1-30.

28 John Searle, *Speech Acts* (Cambridge, Cambridge University Press, 1969); John Searle, *A Classification of Illocutionary Acts* (Cambridge, Cambridge University Press, 1976); William P. Alston, *Illocutionary Acts and Sentence Meaning* (Ithaca, Cornell University Press, 2015); Mikhail Kissine, 'Speech acts classifications', in *Pragmatics of Speech Actions*, ed. M. Sbisa and K. Turner (Berlin, De Gruyter, 2013) 173-202; Bruno Ambroise, 'Promising', in *Pragmatics of Speech Actions*, ed. M. Sbisa and K. Turner (Berlin De Gruyter, 2013) 523-555.

29 Betty Birner, *Introduction to Pragmatics* (Chichester, Wiley-Blackwell, 2013).

30 Kissine, *From Utterances to Speech Acts*.

31 Austin, *How to Do Things with Words*, 14-15; Marina Sbisa, 'Speech acts in context', *Language & Communication* 22 (2002) 421-436; Ambroise, 'Promising', 503; Kissine, *From Utterances to Speech Acts*, 175-176.

32 Barack Obama, *A Promised Land* (London, Penguin Random House UK, 2020) 230; Mark Rutgers, 'Will the phoenix fly again?', *Review of Social Economy* 72 (2013) (2) 249-276.

an apology, not the actual action to live up to one's word or *being* regretful.[33] The various statements of regret by the UK on the 1919 Amritsar massacre in India are a good example of formally *expressing* regret but not *being* regretful by publicly apologising for the killing of some 1,000 civilians by the British colonial troops.[34] Aiming for more in formal collective public apologies, like sincerity or substance, is not considered logical as the only objective is to formally recognise transgressions in order to rebuild relationships.[35]

In *The Construction of Social Reality* (1995), though, Searle seems to embrace a third socio-normative approach in speech acts. On the one hand, he claims that the capacity of humans to represent objects, like money or the law, is based on intentionality, which is having the belief or desire that something is the case.[36] At the same time, he considers these representations as commitment-sharing rather than conveying psychological states. 'I am doing something only as part of our doing something.'[37] In other words, every speech act commits the speaker and hearer to act on a propositional content. Searle claims there are, on the one hand, so-called 'brute facts', which exist objectively and independently from human intervention like molecules, the Amazon Forest or the Grand Canyon. Humans have no part in creating them. Language used on these propositional contents tends to have a descriptive nature as nothing can be said that changes their reality. This language contains a so-called 'word-to-world' direction of fit. On the other hand, Searle argues that our social reality is interconnected. We create institutional facts by subjective human intervention through the use of language; more specifically, speech acts. In essence, our society consists of speech acts creating personas with their own roles, responsibilities and actions that altogether construct our social reality. So, speech acts in the law create personas like policemen, magistrates, suspects, civilians, soldiers, et cetera.[38] According to Joseph Vining, 'The law is a fabric of personifications'.[39] In this so-called socio-normative approach to speech acts, with intentions alone, our society would be unable to function. It is commitments that connect personas (speakers and hearers) with propositional contents.[40] This language contains a so-called 'world-to-word' direction of fit. Without human intervention, there would be no social constructs and no institutional facts like the law, like personas, like money, like apologies, like presidents, like the military. Making a commitment is, therefore, not about *expressing* an intention; it is about *having* the commitment to act. Essentially, social groups and societies are constantly coordinating each other's actions while making commitments to each other: washing and drying the dishes, batting and bowling on the cricket pitch, conducting and attending meetings, defending and prosecuting in court, withdrawing or advancing on the battlefield, et cetera. Commitments are about 'coordinating actions through action coordination'.[41]

Oaths and Promises

According to Thomas Hobbes, an oath is 'a form of speech added to a promise…'.[42] He continues to say that the words in a contract alone are not sufficient to rely on: 'The force of words, being (…) too weak to hold men to the performance of their covenants'.[43] Hobbes seems to imply that intentions are not adequate enough to hold men to their contracts. Interestingly, a contract or covenant is created on the basis of a mutual promise: the law is the common denominator

33 Searle, *Speech Acts*, 62; Grice, 1957, 383-384; Ambroise, 'Promising', 505.

34 Robin McKie, 'UK "deeply regrets" Amritsar massacre – but no official apolog', *The Guardian*, April 13, 2019. See: https://www.theguardian.com/world/2019/apr/13/uk-deeply-regrets-amritsar-massacre-but-no-official-apology-india.

35 Tavuchis, 1991, 117.

36 Searle, *The Construction of Social Reality* (London, Penguin Books, 1995) 7.

37 Searle, *The Construction of Social Reality*, 23.

38 Arie-Jan Kwak, 'De persoon van Loth', in *Meester in Context*, ed. L.A.B.M. Wijntjes et al (Amsterdam, Boom Juridisch, 2023); John Searle, *The Construction of Social Reality*; Mark Loth, *Handeling en Aansprakelijkheid in het Recht* (Arnhem, Gouda Quint, 1988); Alston, *Illocutionary Acts and Sentence Meaning*, 54.

39 Joseph Vining, *The Authoritative and the Authoritarian* (Chicago, The University of Chicago Press, 1986) 198.

40 Geurts, 'Communication as commitment sharing'; Philippe De Brabanter and Patrick Dendale, 'Commitment: the term and the notions', *Belgian Journal of Linguistics* 22 (2008) (1) 1-14; Kissine, 'Speech acts classifications', 148-165.

41 Geurts, 'Communication as commitment sharing', 3-6.

42 Thomas Hobbes, *Leviathan* (Oxford: Oxford University Press, 2008), 94. Thomas Hobbes, *Leviathan* (Oxford, Oxford University Press, 2008) 94.

43 Hobbes, *Leviathan*, 94.

for two *equal* parties in a horizontal relationship. However, in order to commit people to living up to their word, Hobbes considers fear and honour of a higher abstract concept to enforce intentions into commitments. Fear of the consequences of bad faith, like the wrath of God, and honour in, for example, a profession may prevent people from violating their oaths. According to Pitt-Rivers, honour is 'the value of a person in his own eyes but also in the eyes of his society. It is his estimation of his own worth, his claim to pride, but it is also the acknowledgement of that claim, his excellence recognized by society, his right to pride'.[44] Oaths, therefore, go beyond contractual relations;[45] they are also concerned with vertical authority relationships.[46]

Even though both promises and oaths fall into the same speech act type of commissives, there are distinctive differences. The literature on professional oaths rejects the concept of oaths as a mentalist approach, in which intentions are conveyed as they demand commitments and actions.[47] Unlike promises, which are 'contractual' in nature and whose unity is at risk of becoming void when circumstances may change, oaths refer to a vertical authority relationship. Any alteration in the circumstances still binds the swearer to the commitment as it is validated by a higher force and comes with consequences when not lived up to.[48] Unlike promises, oaths are uttered publicly and carry greater moral weight. Moreover, an oath not only has a more general and abstract scope in commitments like being faithful to the Constitution, but it is also provided from beyond the influence of the speaker and is therefore 'administered'. Promises tend to be more specific and often constructed by the promiser himself. Violations of oaths, therefore, are possibly more about shame towards the community whose trust in the oath taker has been damaged,[49] whereas the breaking of a promise may concern feelings of guilt towards the person to whom the promise has been made. Furthermore, oath takers put themselves at stake and they mortgage their honour[50] whereas promisors 'merely' their reputation.[51] It is possibly the sense of honour that professionals may refer to when they choose to solemnly affirm rather than swear the oath: their professional honour and pride prevents them from violating their oath rather than the wrath of a divine force. The commitment in the oath is rather made *for* others and not so much *to* others as is the case with promises. In other words, promises are primarily about intentions and oaths about commitments: one keeps one's promises but is faithful to one's oaths.[52] However, regardless of these differences '…oath and solemn affirmation are conceptually identical as social speech acts' for the law.[53] At the end of the day, oaths are social constructs and not religious ones, according to Rutgers.[54]

Implementing an oath does not automatically imply the right behaviour. In professional oaths, actions should be aligned with what is required from the profession to enter the group of fellow professionals, like the Hippocratic oath.[55] The banker's oath in the Netherlands, for example, has shown that the working culture must first be on par with what is desired from the profession (i.e. if banking is considered a profession) before the effect of an oath pays off.[56] Paradoxically, the banker must swear that despite the fact that a bank is a commercial institution with

44 Julian Pitt-Rivers, 'Honour and Social Status' in *Honour and Shame: The values of Mediterranean Society,* ed. J.G. Peristiany (Chicago, The University of Chicago Press, 1966) 19-77.

45 Trui P.S. Steen and Mark Rutgers, 'The double-edged sword', *Public Management Review* 13 (2011) (3) 343-361.

46 Mark Rutgers, 'The oath of office as Public Value Guardian', *The American Review of Public Administration* 40 (2010) (4) 428-444.

47 Daniel Sulmasy, 'What is an oath and why should a physician swear one?', *Theoretical Medicine and Bioethics* 20 (1999) 329-346; Vincent Blok, 'The Power of Speech Acts: Reflections on a Performative Concept of Ethical Oaths in Economics and Business', *Review of Social Economy* 71 (2013) (2) 187-208; Steen & Rutgers, 'The double-edged sword'; Rutgers, 'Will the phoenix fly again?'; Tom Loonen and Mark Rutgers, 'Swearing to be a good banker: Perceptions of the obligatory banker's oath in the Netherlands', *Journal of Banking Regulation* 18 (2017) (1) 28-47.

48 Sulmasy, 'What is an oath and why should a physician swear one?', 333; Rutgers, 'The oath of office as Public Value Guardian', 434.

49 John Rohr, *To run a Constitution: the legitimacy of the administrative state* (Lawrence, University Press of Kansas,1986), 189.

50 R. D. Parry, 'On swearing', *The Personalist* 57 (1976) (3) 266-271.

51 Sulmasy, 'What is an oath and why should a physician swear one?', 331-332.

52 Ibidem, 334.

53 Rutgers, 'The oath of office as Public Value Guardian', 434; 2013, 253.

54 Mark Rutgers, 'Belofte of eed, met of zonder God en Allah', *Staatscourant* (2009) 9.

55 Rutgers, 'Will the phoenix fly again?', 256.

56 Loonen & Rutgers, 'Swearing to be a good banker'.

the principal aim to make a profit, the public interest will be safeguarded.[57] According to Rutgers, oaths concerning the public interest are so-called oaths of office. By saying the words, an individual is 'granted the moral authority of the state to make decision (sic) affecting the lives of other citizens who are not kin, friend, or protegee'.[58] The oath of office combines three elements: loyalty, integrity and professionalism.[59] Rutgers defines the oath of office as 'a social-linguistic act that provides the highest warranty a person can give for promises regarding the acquisition of office, loyalty to the political regime, the use of public authority, and the proper execution of tasks, according to his/her moral convictions and beliefs, that is accepted as such by the social community, and that is accompanied by specific rituals, including specific gestures, and that is recorded.'[60] Oaths of office are, thus, political oaths as they are compulsory by law. However, according to Rohr (1986), the idea of the oath is not to personally isolate the public official but to grant professional autonomy implying that within the discipline, the individual acts accordingly, i.e. 'applying the fundamental principles that support our public order'.[61] Autonomy is about making judgements independently. However, it is not sheer independence as the community, i.e. the professional discipline, supports the context of independence.[62] What the oath does at the end of the day is uphold political order.[63] The principal purpose of an oath of office is to provide trust and security.[64] Rutgers seems to consider members of the armed forces as plain civil servants in public office.[65] However, they are armed military servants whose character and personas are psychologically, ideologically and professionally developed outside civil society in order to live up to the vertical authority relationship in the military oath of office due to being bearers of arms.[66] Their personas are fundamentally different from those of civil servants as well as those of civilian professionals, as they have the right to kill when appealed to by the state and the duty to put their own lives at risk when necessary. Loyalty is crucial in the military to live up to its duties.

Loyalty

Interestingly, the oath of office is administered to both federal civil servants and commissioned officers in the armed forces. This phenomenon creates an interesting linguistic-philosophical angle. What exactly is done in the oath of office and for whom? The wording may be the same, but that does not mean the outcome of the speech act is as well. As this paper focuses on the military oath of office as a commissive speech act, oaths of office, thus, combine loyalty, integrity and professionalism.[67] Integrity is similar to being loyal to principles and doing the right thing, which may clash with being loyal to a group as that could lead to doing the wrong thing.[68] Moreover, the military oath of office specifically requires loyalty to the civil authority. This is derived from civilian control in civil-military relations theory due to the vast array of instruments of violence that could become a threat to the polity. What exactly is meant by loyalty from an armed forces perspective?

First of all, according to Rutgers, oaths demand loyalty.[69] Loyalty of the armed forces to the authority of the state is fundamental to guard, guarantee and maintain civilian control and avoid the danger of a (violent) military junta.[70] Subsequently, civilian control is the core of military professionalism to guarantee civilian

57 Rutgers, 'Will the phoenix fly again?', 250.
58 Rutgers, 'The oath of office as Public Value Guardian', 434-435.
59 Ibidem, 2010.
60 Rutgers, 'Will the phoenix fly again?', 255.
61 Rohr, *To run a Constitution*, 191.
62 Stuart Rosenbaum, *Recovering Integrity: Moral Thought in American Pragmatism* (Lanham, Lexington Books, 2015, 20-21.
63 Steen & Rutgers, 'The double-edged sword', 350.
64 Rutgers, 'The oath of office as Public Value Guardian', 435; Rutgers, 'Will the phoenix fly again?', 250.
65 Rutgers, 'The oath of office as Public Value Guardian', 436; Rutgers, 'Will the phoenix fly again?', 255.
66 Huntington, *The Soldier and the State.*
67 Rutgers, 'The oath of office as Public Value Guardian'.
68 Peter Olsthoorn and Blom-Terhell, 'Loyalty: a grey virtue?' in *Ethics and Military Practice*, ed. D. Verweij et al (United States, Brill, 2022) 40-52.
69 Rutgers, 'The oath of office as Public Value Guardian'.
70 Torbjorn Engelkes et al, 'Predicting Loyalty: Examining the Role of Social Identity and Leadership in an Extreme Operational Environment – A Swedish Case', *Armed Forces & Society* (2023) 1-21; Huntington, *The Soldier and the State.*

authority from 'the guys with the guns'.[71] Even though civil servants are administered the same word formula, the idea of civilian control does not so much apply to civil servants, whose outcome of the oath as a felicitous speech act is different, as they do not have professional access to brute force. Generally, they do not knowingly and willingly risk their lives to support and defend the Constitution. It is the military that does that and their uniform is an outward symbol of their professional identity and persona which sends the signal of trust and integrity.[72] At the same time, loyalty to uphold civil authority due to the threat of having the violent means to overtake the civil authority, integrity to 'faithfully discharge the duties of the office', and military professionalism may sometimes conflict with the subordination to civilian control. On the one hand, military professionals are subjected to the state, but on the other hand, they feel responsible for national security. In their profession, military officers have a public body, which contains role-bound obligations and military values while they also have to deal with personal moral codes in professional ethical dilemmas. According to Luban, these role-bearing conflicts occur when character built by performing the role conflicts with other norms within that role.[73] The military oath, consequently, seems to be a public declaration of loyalty and subordination in a vertical authority relationship with the state.

The Oxford English Dictionary defines loyalty as 'faithful adherence to one's promise, oath, word of honour' and, furthermore, it can mean 'faithful adherence to the sovereign or lawful government'. Interestingly, loyalty in the military has a paradoxical element. In order to activate loyalty in the vertical authority relationship, the armed forces invest heavily in horizontal loyalty: loyalty to the group. In order to actually make soldiers fight and kill leads to constructing a social reality within their group by separating them from their initial social environment and ingrain a new idea of the world in them through loyalty and obedience.[74] It is thus about being faithful to colleagues and the organisation rather than to groups outside theirs.[75] According to Connor, loyalty 'depends upon reciprocity and the fulfilment of responsibilities to others.'[76] Reciprocity is built on the belief of mutual acknowledgement between people. If loyalty to the state is demanded in the military oath, it cannot be a one-way street. Authority is about reciprocity. Whereas the state ought to be able to rely on loyalty from the armed forces, the military should be able to rely on the state to responsibly deal with the authority entrusted to them.[77]

The Military Oath as a Speech Act

In summary, the military oath of office is a speech act and belongs to two approaches. It firstly has a performative function that requires a correct procedure and specific conditions. Ceremony and protocol for the military, for example, are an essential part of that performative function and are about displaying a hierarchical order.[78] This means that an individual's position in a stately setting is clarified. In other words, it displays how one is related to the state. The hearer, which is the state as well as the society, has decided that the speaker swears allegiance to the Constitution. However, as a speech act – by saying the words, something is done – the speaker becomes a military professional commissioned officer. The sworn-in officer acknowledges that the state (the civil authority) has the primacy of the use of (brute) force and because of that, he also becomes subservient and thus loyal to the state.

71 Huntington, *The Soldier and the State*.
72 Richard Holmes, *Acts of War* (London, Weidenfeld & Nicolson, 2003).
73 David Luban, *Lawyers and Justice: An Ethical Study* (Princeton, Princeton University Press, 2018) 108.
74 James Connor, 'Military Loyalty: A Functional Vice?', *Criminal Justice Ethics* 29 (2010) (3) 282.
75 Peter Olsthoorn, *Military Ethics and Virtues* (London, Routledge, 2011) 66-92.
76 James Connor et al, 'Military Loyalty as a Moral Emotion', *Armed Forces & Society* 47 (2021) (3) 533.
77 Hans Lindahl and Bart van Klink, 'Reciprocity and the Normativity of Legal Orders', *Netherlands Journal of Legal Philosophy* 43 (2014) (2) 108-114.
78 G. Monod De Froideville and M. Verheul, *An Expert's Guide to International Protocol* (Amsterdam, Amsterdam University Press, 2016) 184.

Apart from the conventional performative paradigm, the military oath also requires commitment, for which it fits in the socio-normative approach of speech acts. The individual makes a commitment to acknowledge civilian control in the primacy of the use of force, commitment to his profession, commitment to be loyal to the Constitution as well as to the state. The oath as such activates a future course of behaviour on various levels: it converges loyalty, integrity and professionalism. At the same time, the state is not discharged from – or better, has to take – responsibility and accountability in the vertical authority and loyalty relationship with the speaker. In other words, the commitment made in the oath is not a one-way street: it is reciprocal. The same counts for loyalty: the state and its military need to be loyal to each other. Only then are they able to trust each other, which is essential if they come in harm's way. In speech act terms, both speaker (military) and hearer (state) are condemned to each other and need to be able to rely and trust each other. The state should be able to assume that the armed forces are loyal to the polity. In return, the armed forces ought to be able to rely on the civil authority to responsibly deal with the authority entrusted to it. Only then are members of the armed forces able to knowingly and willingly put their lives at risk on missions for the state.

General Milley's Case in the Final Six Months of the Trump Administration

On 11 June 2020, General Milley apologised for creating a 'perception of the military involved in domestic politics'.[79] He appeared in a photograph taken on 1 June while walking alongside his Commander-in-Chief, President Trump, in his combat uniform on Lafayette Square during the peaceful Black Lives Matter-demonstrations in the aftermath of the police's excessive use of force on George Floyd, who as a result died on 25 May. The protesters were forcefully removed to clear the distance towards St. John's Church.[80] Shortly after, President Trump posed for photographers holding up the Bible in his hand.

Milley apologised for being present at the incident on Lafayette Square while addressing an audience of graduates of future military leadership at the National Defense University. He advised them to 'always maintain a keen sense of situational awareness.'[81] He continued to apologise for his error of judgement: 'As senior leaders, everything you do will be closely watched, and I am not immune. As many of you saw the result of the photograph of me at Lafayette Square last week, that sparked a national debate about the role of the military in civil society. I should not have been there. My presence in that moment and in that environment created a perception of the military involved in domestic politics. As a commissioned uniformed officer, it was a mistake that I've learned from, and I sincerely hope we all can learn from it.'[82] Milley underlined strongly to 'hold dear the principle of an apolitical military'[83] by considering the rights and values embedded in the Constitution as the military's moral North Star.[84]

Exactly five months later, on 11 November 2020, a few days after the presidential elections, General Milley opened the National Army Museum in Fort Belvoir. He delivered a speech in which he uniquely felt the necessity to publicly refer to his military oath: 'We do not take an oath to a king or queen, a tyrant or dictator. We do not take an oath to an individual. No, we do not take an oath to a country, a tribe, or religion. We take an oath to the Constitution

79 'General Mark Milley Keynote Speech Transcript: Apologizes for Photo Op With Trump', *Rev*, June 11, 2020. See: https://www.rev.com/blog/transcripts/general-mark-milley-keynote-speech-transcript-apologizes-for-photo-op-with-trump; Ryan Browne et al, 'Top general apologizes for appearing in photo-op with Trump after forceful removal of protesters', *CNN*, June 11, 2020. See: https://edition.cnn.com/2020/06/11/politics/milley-trump-appearance-mistake/index.html.

80 Browne, 'Top general apologizes'.

81 'General Mark Milley Keynote Speech Transcript'.

82 Ibidem.

83 Ibidem.

84 Ibidem.

and every soldier that is represented in this museum [Fort Belvoir], every sailor, airman, Marine, Coast Guardsman, each of us will protect and defend that document regardless of personal price.'[85] He continued by quoting Thomas Paine: 'Tyranny, like hell, is not easily conquered. And from 1775 till today, the United States Army has stood there – has stood on the wall, stood in the breach, and defended the liberty of Americans.'[86]

That particular week in November was quite eventful. The presidential election outcome was not in Trump's favour. According to the State Election Offices, Biden had won with 306 electoral votes while Trump had 232.[87] He disputed the victory and refused to acknowledge his loss. Furthermore, Trump fired his Secretary of Defence, Mark Esper, and also replaced three Pentagon officials with loyalists.[88] Milley's words wielded quite some leverage in this context.

On 6 January 2021, Congress was getting ready to formally acknowledge Biden's election victory. At twelve o'clock in the afternoon, President Trump started his speech near the White House. In his speech to his supporters, in which he referred to the election process as a 'disgrace', Trump claimed 'there's theft involved' in the election outcome and that 'We will stop the steal'. He also promised to 'lay out evidence' that the Republicans had won the election 'by a landslide'.[89] Trump ended his speech by saying that he was after 'election security' due to 'how corrupt our elections were'. He claimed something was very wrong and that 'We fight; fight like hell and if you don't fight like hell, you're not going to have a country anymore.' He continued, 'We're going to the Capitol (…) to try and give them the kind of pride and boldness that they need to take back our country.'[90]

Trump encouraged Vice-President Mike Pence to reject the election outcome in Congress and send back the votes to the states to recertify.[91] Pence, however, publicly released a letter soon thereafter, on the same day, in which he said that even though he questioned the integrity of the election, his oath constrained him from 'claiming unilateral authority to determine which electoral votes should be counted and which should not'.[92] He publicly declined Trump's suggestions to send back votes to the states.

While the pro-Trump protesters gathered at Capitol Hill, Trump himself did not go to the Capitol but returned to the White House. Soon afterwards, at around 13.00hrs, Congress opened the session. Until approximately 18.00hrs, the world witnessed the attack on the Capitol building by the pro-Trump protesters. Five people lost their lives during the riots at Capitol Hill. Amongst the rioters were also actively-serving as well as veteran members of the military. Many appealed to their military oath as they also questioned the election outcome, having supported Trump since 2016. Many of them aligned with the so-called 'Oath Keepers' movement.[93] Eventually, the Capitol Hill area was cleared and Congress was able to certify and formalise the election results that night.

85 'General Mark Milley Address at the Opening of the National Army Museum', *American Rhetoric*, November 11, 2020. See: https://www.americanrhetoric.com/speeches/markmilleynationalarmymuseum.htm.

86 'General Mark Milley Address'.

87 State Elections Offices, 'Official 2020 Presidential General Elections Results', January 28, 2021. See: https://www.fec.gov/resources/cms-content/documents/2020presgeresults.pdf.

88 Lara Seligman, 'The White House is making big changes at the Pentagon – but Biden can reverse them', *Politico*, November 12, 2020. See: https://www.politico.com/news/2020/12/11/white-house-trump-changes-pentagon-biden-reverse-444494.

89 Kat Lonsdorf et al, 'Trumps full speech at D.C. Rally on Jan. 6', *NPR*, June 9, 2022, 2.00-5.30. See: https://www.npr.org/2022/01/05/1069977469/a-timeline-of-how-the-jan-6-attack-unfolded-including-who-said-what-and-when.

90 Lonsdorf, 'Trumps full speech', 68.00-end.

91 Ibidem, 5.30-6.30.

92 The Vice President, 'Open letter', January 6, 2021. See: https://int.nyt.com/data/documenttools/pence-letter-on-vp-and-counting-electoral-votes/9d6f117b6b98d66f/full.pdf.

93 Andrew Lokay, et al, 'The oath keepers', *Dynamics of Asymmetric Conflict* 14 (2021) (2) 160-178.

On 12 January 2021, almost a week after the Capitol Hill attack, the Joint Chiefs sent a Memorandum for the Joint Force. They (re-) confirmed that 'the U.S. military will obey lawful orders from civilian leadership'. They condemned the events of January 6 by stating that 'The violent riot in Washington, D.C. on January 6, 2021 was a direct assault on the U.S. Congress, the Capitol building, and our Constitutional process', which not only went against their 'traditions, values and oath' but which was also 'against the law'. They furthermore stated: 'On January 20, 2021, in accordance with the Constitution, confirmed by the states and the courts, and certified by Congress, President-elect Biden will be inaugurated and *will become* our 46th Commander-in-Chief'.[94] The letter was signed by Chairman of the Joint Chiefs of Staff, General Milley, as well as the seven Service Chiefs.

Discussion

General Milley's public statements during the final six months of the Trump administration were a struggle in balancing loyalty, integrity and professionalism.[95] The reciprocal loyalty as sworn in the military oath had reached boiling point. American democracy, and especially its democratic organs that also constitute the civilian control of the military (including the Commander-in-Chief), was severely put to the test. Speech act theory projected on the military oath of office gives a linguistic insight into the workings of reciprocal loyalty and trust as well as into integrity and military professionalism, the basis of which is laid down in the military oath of office for commissioned officers.

On the one hand, General Milley's public performances are seen by critics as problematic, as only civilian policy makers have the authority to make judgements.[96] They are elected and generals are not. Furthermore, the Goldwater-Nichols Act solely makes Milley, as Chairman, the principal military advisor and not decision maker. If Milley's intention was to prevent President Trump from 'pursuing a particular course of action' then it would be a political act.[97] Moreover, it can be questioned whether civilian policy makers were indeed unwilling or unable to apply checks and balances on presidential powers. If the election results can indeed even be remotely questioned, then it is a duty, also to the President, to review the election process and evidence of possible fraud or corruption should clearly be provided. Furthermore, on January 6 at the end of the day, Vice-President Pence, for example, despite his worries about the integrity of the presidential elections, did not give in to his superior and remained loyal to the Constitution. Finally, the memorandum and its formulation are very interesting from a speech act perspective. The Joint Chiefs stated that, in line with various Constitutional processes, 'President-elect Biden *will become* our 46th Commander-in-Chief'. This could be perceived as a promise, a threat, or a plain future course of action. It is also a matter of debate whether Milley and his Joint Chiefs sent the memorandum exclusively to their subordinates of the armed forces or whether it was also a message to the citizens of the United States, or perhaps both.

On the other hand, the military oath does not *express* an intention; it belongs to the performative and socio-normative type of speech acts. It commits both state (hearer) and armed forces (speaker) to the propositional content of being loyal to the Constitution and to each other to uphold public and political order as well as a commitment to civilian control. Milley's public performances could, therefore, be seen as living up to his share of the propositional content. At the National Defense University, he visualised his struggle with loyalty, integrity and professionalism to an audience of future military leadership. Milley was committed to 'supporting

94 The Joint Chiefs of Staff, 'Open Letter', January 12, 2021. See: https://www.jcs.mil/Portals/36/Documents/JCS%20Message%20to%20the%20Joint%20Force%20JAN%2012%2021.pdf.

95 Milley summarised this powerfully during his transfer of command in his valedictory address on 29 September 2023, underlining the importance of the military oath several times.

96 Joyner & Bracknell, 'They make you take an oath to the constitution: they don't make you read it'.

97 Hodges, 'A duty to disobey'.

and defending' the Constitution and rectified the politisation of the armed forces by saying he should not have been in that picture on Lafayette Square together with his Commander-in-Chief. Additionally, his speech at the opening ceremony of the army museum at Fort Belvoir on November 11, was given only a week after the presidential elections. Probably not completely coincidentally, that day at Fort Belvoir, it was also Veterans' Day, which coincides with Remembrance Day: at the eleventh hour of the eleventh day of the eleventh month in 1918, World War One had ended. Milley appeared to have used this symbolism to underline the military oath of office, for which veterans have put their lives at risk and actively-serving military personnel continue to do so. At the time, Trump did not acknowledge or, more precisely, refused to accept the outcome that Joe Biden had won: 'If you count the legal votes, I easily win. If you count the illegal votes, they can try to steal the election from us'.[98] He had publicly called the election process corrupt without providing evidence.[99]

Milley seemed to have anticipated on Trump's allegations that the elections were corrupt. He had sent a clear message by explicitly referring to his oath, but he implied that President Trump, according to the Constitution, could not rely on the armed forces to retain his presidential position. Even when the election commission and the judges had (re-)confirmed Biden as the next president in December that year, Trump continued to label the election process as fraudulent but had still not provided evidence.[100]

As far as the memorandum is concerned, it took the Joint Chiefs nearly a week to formulate the letter. It may indicate they had given a lot of careful thought to constructing the memorandum. By stressing that 'in accordance with the Constitution, confirmed by the states and the courts, and certified by Congress' President Trump would be no longer their Commander-in-Chief from January 20. Milley and his Joint Chiefs stressed the primacy of the civil authority in their message rather than trying to 'trump' it.[101]

Conclusion: the Willing Suspension of Disbelief

This paper started with the following research question: *Was General Milley loyal to the Constitution as sworn in the military oath of office during the final stages of the Trump administration?* I have perceived the military oath of office as a speech act. This is crucial as it serves as a guarantee of the primacy of civilian control over the armed forces. The military oath of office is uttered publicly to increase pressure to commit to the task and the responsibilities as a commissioned officer. A violation of the oath would mean a violation of loyalty, integrity and military professionalism. It would mean a breach of trust to the state and society. It also means that the state (being the administrator as well as the hearer) commits itself to being loyal and trustworthy to the armed forces in return.

Oaths of office are essential as they provide a certain professional autonomy to apply fundamental principles to uphold public and political order. On that note, military professionalism may incidentally conflict with civilian control. Even though Trump represented civilian control as Commander-in-Chief, he still tried to politicise the military. By doing this again and again in the final stages of his presidency, he slowly lost the trust and faith of the armed forces' leadership. For Milley, as Chairman of the Joint Chiefs, it was, therefore, necessary to apologise to retain trust in and credibility of the armed forces. However, if anyone should have considered apologising, it should have been the civil

98 Miles Parks, 'Trump latches onto conspiracies, as legal battles fail and path to win narrows', *NPR*, November 6, 2020. See: https://www.npr.org/2020/11/06/931888744/trump-latches-on-to-conspiracies-as-legal-battles-fail-and-path-to-win-narrows.

99 Sam Gringlas et al, '"Far from over": Trump refuses to concede as Biden's margin of victory widens', *NPR*, November 7, 2020. See: https://www.npr.org/sections/live-updates-2020-election-results/2020/11/07/932062684/far-from-over-trump-refuses-to-concede-as-ap-others-call-election-for-biden.

100 National Archives, '2020 Electoral College Results', April, 16, 2021. See: https://www.archives.gov/electoral-college/2020; Mark Sherman, 'Electoral College makes it official: Biden won, Trump lost', *AP*, December 15, 2020. See: https://apnews.com/article/joe-biden-270-electoral-college-vote-d429ef97af2bf574d16463384dc7cc1e.

101 Feaver, 'Civil-military relations', 216.

authority; or perhaps even better: the president heading the civil authority. At the end of the day, since the civilian authorities are in control, they ought to carry the responsibility that comes with integrity.[102] Politicising the military brings them in harm's way as they have to ignore what they have sworn in their oath as well as their acknowledgement that the primacy of the use of the armed forces lays with trustworthy civilian authorities that are bound to the Constitution. The military oath of office does not let the civil authority off the hook as it functions as a trust mechanism: loyalty is reciprocal.

General Milley seems to have realised that to uphold the integrity and persona of the armed forces, he had to retain its credibility by using his oath while de facto stressing it is his moral compass – as he also underlined later on in his speech at the Airforce Academy during the 2021 graduation ceremony.[103] He in fact stresses that the vertical authority relationship of the state and the armed forces is enforced in the military oath. This is in line with the literature on the military oath of office as a speech act in civ-il-military relations.

Authority is about credibility and reciprocity. The oath was the only manual to rely on for Milley while being confronted with a president that acted erratically on a regular basis. According to Rutgers, the oath of office transcends the 'contractual, managerial and legal approach' to public authority.[104] The January 6 riots at Capitol Hill were the climax of the civilian-military leadership – five people lost their lives. Americans for a moment were prepared to trust the system by suspending their disbelief of what they witnessed at Capitol Hill in the media and rely on the ones in office who had committed themselves to upholding public and political order, military or civilian. The military, with General Milley as the supreme representative of the armed forces, enforced trust in the system with the clear message in the memorandum signed by all Joint Chiefs. This message was far from a threat, or a promise or a mere future prediction; it was a guarantee to protect civilian control embedded in the military oath of office, which Milley clearly and publicly lived up to. ■

102 Alice Friend, 'The civilian and the state: politics and the heart of civil-military relations', *War on the Rocks*, October 17, 2022. See: https://warontherocks.com/2022/10/the-civilian-and-the-state-politics-at-the-heart-of-civil-military-relations/.

103 Ray Bowden, '"Don't wait to be bold": U.S.'s top military officer gives keynote speech at Academy's 2021 graduation ceremony', *USAFA*, May 27, 2021. See: https://www.usafa.af.mil/News/News-Display/Article/2636045/dont-wait-to-be-bold-uss-top-military-officer-gives-keynote-speech-at-academys/.

104 Rutgers, 'The oath of office as Public Value Guardian'.