

Brett J. Kyle and Andrew G. Reiter (2020). *Military Courts, Civil-Military Relations, and The Legal Battle for Democracy: The Politics of Military Justice*. Routledge, 252 pages. (ISBN: 978-0-367-01986-9). Harbook/ebook

Charlotte Bascaule

Over the past decades, despite democratization processes, Latin American politics have frequently exemplified democratic governments' tendency to resort to the armed forces to handle urgent threats, most notably internal security crises. Consequently, the military is often granted expanded prerogative powers, including in the legal realm. Therefore, political scientists Brett J. Kyle and Andrew G. Reiter's investigation of military legal subordination to civilian control in democracies and of the implications of militaries' legal power for the rule of law, human rights, and achieving democratic objectives, appears particularly relevant for Latin American studies. Focusing on military courts' political role in democracies, *Military Courts, Civil-Military Relations, and The Legal Battle for Democracy: The Politics of Military Justice* aims to examine variations in military legal subordination across countries and history, in order to distinguish a model of change identifying the actors and context-specific influences which determine evolutions toward reform or backsliding. The authors' research enriches our understanding of current levels of militaries' legal power and militarized politics in countries like Brazil (ch.6) and provides insightful evidence and examples of successful democratic reform of military justice systems, like in Colombia (ch.4). This way, beyond representing a ground-breaking contribution to the broader fields of civil-military relations, military and human rights justice, and regime change, the book addresses the scholarship gap around militaries' legal power, particularly understudied in democracies.

Kyle and Reiter's expertise in civil-military relations and regime change has allowed them to develop a leading-edge analytical framework of militaries' subordination to democratic civilian control in the legal sphere, which allocates states within three categories: full subordination, jurisdictional contestation (where civilian and military justice frequently clash over jurisdiction), and military overreach (where military justice systems encroaches beyond military- and security-related crimes, even trying civilians). Going beyond investigations of *de jure* jurisdictional systems, the authors study the legal subordination dynamics *in practice* by examining independence and impartiality in courts, thus taking into account less transparent symptoms of overreach. Most studies on civil-military relations do not consider the legal power of militaries (e.g. Barany, 2012) and existing literature addressing military judicial politics remains limited to authoritarian regimes (Ginsburg and Moustafa, 2008; Pereira, 2005), preventing an understanding of the relationship between military justice, military political power, and regime type. Thus, processing an original global dataset of 120 democratic states and examining a greater timespan (over two centuries) than

previous studies on military justice, these mutually-exclusive categories allow a clear mapping of variations, generating the first comprehensive picture of evolutions in military justice globally and throughout history.

The authors combine this overarching framework with well-chosen paired case studies for each category, undertaking within-case in-depth analysis of the country's historical evolution, including during non-democratic periods, enabling the identification and assessment of causal factors and dynamics between actors and networks of interest. Portugal and Colombia illustrate the achievement of full subordination—Portugal through radical institutional reconstruction, as part of its democratic transition, and Colombia through long-term complex process of incremental reform (ch.4). Indonesia and Fiji exemplify jurisdictional contestation, resulting respectively from stalled reform and backsliding (ch.5). Brazil and Pakistan exhibit military overreach—the former a case of intractable overreach, the latter repeatedly reforming toward jurisdictional contestation before backsliding again into overreach (ch.6). Chapter 7 centers on the United States to demonstrate systems of consistent full subordination punctually shifting into military overreach when faced with security threats. Beyond supporting the authors' cross-national findings, these case studies highlight the impact of regime change and illustrate the model of change constructed from their data-analysis.

Indeed, the authors identify three main actors—government, military, and high courts—whose interests, strategies and interactions determine the military justice system, and whose preferences and decision-making are influenced by domestic forces (public sentiment; civil society) and international factors (human rights courts; NGOs, IOs and external states), which together explain the evolutions of military legal subordination over time. Case studies detailing processes of backsliding (Fiji), even punctual (U.S.), or countries unyielding to reform (Brazil), emphasize notably the military's strong attachment to prerogatives and far-reaching willingness to protect them (e.g. when faced with antagonizing civilian attempts at encroaching on internal military affairs). These examples remind us that military legal subordination to civilian control cannot be taken for granted: this cautionary tale on the long-term dangers of 'exceptional' expansion of military power and jurisdiction aimed at addressing urgent problems thus suggests to focus instead on building effective civilian institutions and legal instruments. On the other hand, Kyle and Reiter's analyses of cases of successful reform, through radical legal-political transformations triggered by regime change (Portugal), as well as cases of incremental long-term efforts (Colombia), demonstrate how sustained combined efforts by several actors pressuring for reform are most conducive to improved or full legal subordination, which the authors present, if not as a guide, as a thought-provoking conclusion of their research.

While making innovative global observations about military justice systems, this book makes a particularly strong contribution to our understanding of Latin American military politics and mechanisms of democratization. Illustrating persistent military overreach insensitive to

international court pressures with Brazil (ch.6), the authors emphasize the underlying need to address tensions around the military's accountability for past abuses and the long-standing social imaginaries surrounding the military's responsibilities in domestic politics, notably in a policing role aimed at solving the country's crime and violence crisis. Such observations should ring particularly relevant to scholars and policymakers aiming to address the Brazilian military's contentious political involvement. Meanwhile, the case of Colombia (ch.4) presents an encouraging narrative for its Latin American neighbours regarding the possibility of breaking from a regionally widespread and entrenched level of overreach, through the exploitation of juncture moments of shifting public sentiment by powerful institutional forces on both the domestic (notably high courts) and international levels. The Colombian case is also thought-provoking as it highlights the military's increased willingness to make concessions over legal prerogatives when it sees its demands in power and prestige satisfied in other areas, emphasizing the significance of mutually non-antagonizing behaviour and cooperative civil-military relations, in order to achieve reform.

Overall, Kyle and Reiter's book provides a remarkably innovative and useful typology of military justice systems, insightfully analyzing data to construct a ground-breaking model of change in degrees of military legal subordination, which they illustrate through relevant case-studies. A focus on military courts in democracies obviously does not answer all questions regarding militaries' political influence. An all-encompassing understanding of the relationship between regime type and military legal power would require incorporating non-democratic regimes. Also, a study of military court jurisdiction over police and quasi-military bodies, particularly relevant to Brazil with its *Polícia Militar*, would broaden our understanding of civil-military relations, social imaginaries of the military, and impunity surrounding abuses against civilians. Nonetheless, Kyle and Reiter's study enlightens many aspects of civil-military dynamics, the underlying interests of the various actors involved and contextual influences impacting militaries' positioning on the political stage. Thus, although their initial theory-building will have to be tested and refined in future research, as encouraged by the authors themselves, this comprehensive understanding of military justice systems globally certainly represents a milestone for scholars of justice systems, military politics, civil-military relations, regime change and democratization, and would be highly recommended to policymakers and legislators dealing with military justice as well.

Cited works

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