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Professional Integrity and Disobedience in the Military

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ABSTRACT *Do military personnel have a professional duty to refuse to participate in military operations that violate the constraints of jus ad bellum? It is sometimes argued that military personnel might be justified in conscientiously objecting to participation in such wars (even if they are already in the military), but the idea that such refusal might in fact be a professional duty has not, as yet, been countenanced. This paper argues that such a duty exists, and arises from the military's commitments to the laws of armed conflict as well as from the moral principles underlying these laws. The military, by claiming to be a profession, commits itself to stringent moral constraints on how and when military force may be used. Such constraints give rise to a positive moral duty on the part of individual military personnel of all ranks to refuse to allow their military expertise to be used in ways that violate these moral commitments.*

KEY WORDS: Professional integrity, disobedience, conscientious objection

Introduction

The modern military refers to itself as a profession.² Like other professions, the military's claim to professional status is intended to indicate both that the military serves an important moral good – the protection of national security – and that the military is governed by high moral standards. Military personnel are expected to be more than competent at their work; they are expected to be people of good moral character.

Given the extraordinary violence of military action, we should take the military's claim to be a profession very seriously indeed. Without professional status the military would be morally no better than a mercenary army. Yet professional status imposes constraints on what may be done in order to serve the ends of the profession. Professionals in professions that serve important moral goods (such as the professions of medicine and law) typically recognise a moral duty to only use their professional expertise in ways consistent with the ends of their profession, and to refuse to provide their services when doing so would violate their profession's moral commitments – a duty that can be captured by the concept of professional integrity. It is widely accepted, for example, that doctors should refuse to participate in torture sessions, and

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lawyers have been criticised for attempting to convince juries of the innocence of a client they know to be guilty.³

As will become clear, such forms of refusal of professional services are importantly different from conscientious objection. Unlike conscientious objection, which is a refusal to provide one's professional services on the grounds that doing so would violate important personal moral values, refusal of services on professional grounds is based on a commitment to the moral values of one's profession. Yet in the literature on refusal of service in the military this distinction has largely been ignored. This has resulted in a failure to analyse the concept of professional integrity in the military, and a failure to address the question of when refusal to fight in an unjust war might be justified on the grounds of commitment to the military's professional ideals.

This paper argues that if the military is a profession committed to important moral values, then military personnel have a professional duty to refuse to fight in wars that violate the constraints of *jus ad bellum*. The fact that such refusal rarely occurs points to an inconsistency between the concept of professional integrity that is consistent with the military's claim to be a profession, and the widely held belief that the military must, in the final instance, obey the orders of the state. This inconsistency raises serious doubts about the military's professional status and undermines the claim that the military serves an important moral good.

Professional Integrity

Professional integrity can be either a 'thick' concept encompassing a conception of correct professional behaviour and a set of ideal character traits that enable professionals to best serve the ends of their profession (see Oakley & Cocking 2002),⁴ or it could be conceived in a more minimal form, as simply a conception of good professional behaviour that best serves a profession's guiding aims. Regardless of which version is adopted, the concept of professional integrity serves two important functions. It serves the positive function of clarifying the virtues and/or behaviour that are most appropriate for professionals in relation to the ends of their profession and, as Justin Oakley and Dean Cocking (2002: 83) argue, it serves the negative function of setting limits on such behaviour by providing grounds on which professionals should refuse to provide their services. There are appropriate limits to what a professional should do within their professional role and those limits are at least partly set by the governing ideals of the profession.

In order to develop an account of professional integrity in the military, we must first establish the military's regulative ideal – the conception of professional excellence that best serves the ends of the military profession and that can guide military personnel in developing an understanding of what counts as good professional behavior and character (Oakley & Cocking 2002: 27). If we understand professional integrity in the military to be a conception of excellent professional functioning (relative to the different roles and ranks in the military), the purpose of which is both to guide the behaviour of military personnel and to serve as an ideal toward which they

can strive, then such a conception will also provide guidance about when it would be inappropriate or immoral to provide the military's professional services.

It is beyond the scope of this paper to explore in detail the military's claim to be a profession.⁵ For the purposes of this paper, it seems *prima facie* plausible to grant the military the status of a profession. Certainly the military fulfils many of the widely accepted criteria of a profession. Like the universally acknowledged professions of law and medicine, the military profession holds a monopoly on the provision of its services (Camenisch 1983: 43; Bayles 1988: 28), and professional roles in the military require specialised and high-level training and the exercise of judgement, reflection and wisdom at all ranks (Bayles 1989: 2). Furthermore, like other professions, it is generally expected that military personnel should be more than merely competent at their work; they should also be people of good moral character.⁶

Modern descriptions of the ideal military professional include a list of virtues (for example, loyalty, honour, and integrity) that has remained largely unchanged despite the many changes to the technology and nature of warfare in the last century.⁷ Good character is claimed to be crucial for military personnel because of the unique nature of the military's special permissions – which include permission to kill enemy combatants, destroy cities and send military personnel into extremely dangerous situations. Even military personnel at the lowest ranks are bound by the values of the military profession – a soldier who is untrustworthy, immoral and disloyal endangers not only his/herself but his/her fellow soldiers as well. Military personnel of all ranks are therefore expected to develop not only the technical expertise relevant to their role but also moral character traits such as loyalty, patriotism, and integrity (Hartle 2004:12).

But there is a further criterion of a profession that is more problematic in the case of the military. Professions are often claimed to have unique moral status because they serve an important moral good, or at least an important human need (see Oakley & Cocking 2002; Bayles 1988: 28). The claim that a profession should serve a significant moral good is important because reference to such a moral good is often used to justify professional actions and roles that would otherwise violate ordinary or broad-based moral constraints. For example, adversarial defence lawyers often defend sometimes controversial witness examination practices by reference to the ideal of serving justice, and doctors might defend upholding patient confidentiality in cases where a patient with a sexually transmitted disease (STD) has not told her former sexual partners by claiming that confidentiality is essential to the ends of medicine because it promotes patients' trust and wellbeing. If such practices did not in fact serve the ends of justice or medicine, it would be hard to provide an adequate justification for them, given the suffering that harsh witness examinations can sometimes cause witnesses, and the dangers of allowing individuals to remain in ignorance of the risk that they might have contracted an STD.

In the case of the military, it is absolutely essential to establish that the military serves an important moral good, given that the military claims

special moral permission to use lethal force on a massive scale. If the military does not serve an important moral good, it would be very difficult indeed to justify the level of destruction that military operations typically involve.

What is the moral good or human need that the military profession exists to protect? An obvious answer is that the military exists to protect the nation, understood as the community of citizens, from threats to its security. Such an end seems clearly morally important. But this is too swift. Even though it is widely assumed that protecting the nation counts as an important moral good, it is far from clear that protecting the nation is in fact the primary function of the military. In most nations the military is used in ways that have little to do with national defence. As Martin Cook (2000: 118) points out: ‘the military exists to serve the will of the political leadership of a particular state. The military will, at times, be employed for less-than-grand purposes in the service of the state . . . Only rarely do militaries . . . fight in wars that genuinely defend national political sovereignty.’

The majority of the US military’s post World War II operations have not been wars of national defence, and the majority of the Australian military’s recent missions have been peacekeeping or humanitarian operations. It is therefore misleading to characterise the *raison d’être* of the military as the protection of the nation. A truer characterisation of the military’s role is that of servant of the state (Huntington 1957). Understood in this way, the military’s primary function is not to protect to nation, but to serve the civilian government by carrying out the government’s defence policies, even if those policies have little to do with national defence and even if those policies endanger the nation.⁸

In this view of the military’s role, the decision to use military force is ultimately a political decision. The military’s role is to advise on how military force can be used most effectively to achieve the state’s desired aims, not on whether using military force is politically or ethically justified in the first place (Cook 2002/2003: 26).⁹ As Samuel Huntington (1957: 41) argued: ‘The existence of the military depends upon the existence of nation-states capable of maintaining a military establishment . . . the justification for the maintenance of employment of military force is in the political ends of the state.’

But if the military’s role is that of servant of the state, then this raises serious problems with the claim that the military serves an important moral good. Protecting the nation is arguably an important moral good, but serving the state is not in itself morally valuable, since ‘the political ends of the state’ may be neither morally justifiable nor legal. Indeed, governments sometimes pursue policies that are not only immoral but that could in fact endanger the nation’s interests and wellbeing. For example, some commentators have argued that Australia’s involvement in the current war in Iraq has actually increased the risk of terrorist activity against Australia.¹⁰

If we are to rescue the military’s claim to professional status, we must therefore set limits on the military’s obedience to the government. If the military will execute the government’s orders even when those orders violate

the laws of armed conflict or are manifestly likely to endanger the nation's interests, then the military cannot claim to be committed to serving an important moral good. Merely objecting to the government's policies is not sufficient if, ultimately, the military will still execute those policies.

In order for the military to claim professional status and the special moral permissions that follow from that status the military's obedience to the government must be conditional on the legality and morality of the government's defence policies.¹¹ This conception of the military's role requires that we understand the military's professional jurisdiction as incorporating not only military strategy and tactics but also the law of armed conflict and just war theory, a point to be returned to in the third section of this paper. Such a conception of the military's professional jurisdiction is consistent with the claim that the military is committed to upholding the laws of war. Just as it is appropriate for doctors to have professional jurisdiction over the moral issues arising from their profession (for example, it is considered well within the jurisdiction of the medical profession to decide whether or not doctors should participate in lethal injections), so it is appropriate for the military to claim expertise in the moral issues relating to the use of military force.

Furthermore, it is already well accepted within the military that there are constraints on military obedience in relation to the conduct of war. In most modern military forces in liberal democracies the defence of superior orders is no longer accepted as a legitimate defence in cases where illegal and/or immoral orders have been carried out.¹² The obligation of military personnel to refuse to obey illegal orders is more than a permission to refuse to obey such orders; it is a positive duty to refuse – a duty arising from the military's commitments to the moral constraints of *jus in bello*. If we accept that the moral constraints on the conduct of war form part of the military's professional jurisdiction (and ground a duty to refuse illegal and immoral orders) then there is, I argue, no reason why the moral constraints of *jus ad bellum* should not also form a legitimate part of the military's professional jurisdiction and similarly ground a duty to refuse to participate in military operations that violate these constraints.

In theory, therefore, it seems that if the military is a profession serving an important moral good, then the military's professional status gives rise to a conception of professional integrity that would require disobedience (at both an institutional and individual level) of the state in those cases where the state ordered the military to engage in operations that would violate the moral requirements of *jus ad bellum*.

Disobedience as a Professional Duty

Generally, the question of whether it is permissible for military personnel to refuse to serve in particular military operations has been addressed in the context of debates about conscientious objection and selective conscientious objection. However, there are important differences between conscientious objection and refusal of service on the grounds of professional integrity.

Conscientious Objection

Conscientious objection is a refusal to provide a professional service on the grounds that to do so would violate a professional's deeply held moral or religious views. In relation to the military, conscientious objection can either be an objection to serving in the military at all (a topic that is of less concern in the present day since many countries no longer have conscription), or an objection to participating in a particular military operation – an issue that is subject to much debate (see Friedman 2006; Robinson 2008; Wilson 2008).¹³

Conscientious objection (selective or otherwise) has four distinct features.

First, it is widely accepted that a conscientious objector must demonstrate that his/her objection to military service in general or to serving in a particular war is based on sincerely held moral convictions.

Second, a conscientious objector typically appeals to a moral or religious duty that he/she believes takes precedence over the duty to serve in the military or deploy in a particular war. This overriding duty therefore rests on moral and/or religious principles that are taken to be *external to* and *in conflict* with the duties that arise from the objector's role as a citizen or as a member of the military.

Third, the objector believes that the duty to refuse applies to his/herself by virtue of religious or moral commitments, but does not necessarily apply to anyone else. As James Childress (1979: 318) explains, the conscientious objector is making a 'first-person claim, deriving from standards that he may or may not also apply to the conduct of others'. The conscientious objector therefore need not see his/herself as making a claim about the rightness or wrongness of others' participation in the war that this individual is objecting to.

Finally, the conscientious objector is motivated at least partly by the belief that if he/she were to participate in the war in question, he/she would be morally responsible for personal actions in that war and would be unable to reconcile responsibility for those actions with moral standards already held. Worse, that participation would deeply violate his/her sense of moral integrity. The conscientious objector is therefore implicitly rejecting the view that military personnel are not responsible for the morality of the wars in which they fight.¹⁴

Refusal of service on the grounds of professional integrity is different from conscientious objection in several important respects. Unlike the conscientious objector, a professional who refuses services on professional grounds does so because he/she believes that the act he/she is being asked to perform violates certain *professional* values, rather than his/her own personal values. For example, a doctor might refuse to agree to a patient's request for euthanasia because it conflicts with that practitioner's beliefs about what *as a doctor* he/she should do, not because it conflicts with personal religious beliefs. The doctor might believe that performing euthanasia violates the legitimate goals of medicine, particularly the goal of promoting patient health (Oakley & Cocking 2002: 83). So the professional who refuses services on professional grounds is not appealing to a moral duty *external to* and *in conflict with* his/her duties as a professional. Instead, he/she is appealing to

the moral duties that person believes arise *from* his/her role as professional and that are justified by the moral good that the profession serves.

This means that the individual's judgement about the basis for a refusal of service has implications for how that person believes others in the profession should behave. Because refusal of service on professional grounds is based on a conception of professional integrity derived from the profession's guiding moral ideals, that refusal implicitly involves a judgement about what *all* members of the profession should do in relevantly similar situations.

As Oakley and Cocking (2002: 81) point out, the concept of professional integrity not only delineates the grounds for refusal of professional services, but also provides grounds for criticising professionals who provide their services when doing so seems to violate the ideals of their profession. Doctors who do not conscientiously object to practices such as carrying out legal late-term abortions are not generally judged to be bad doctors on that account, but doctors who participate in torture sessions are using their medical skills in a way that actively violates the guiding ideals of medicine; they have betrayed the ideals of their profession and the public welfare that their profession exist to protect.¹⁵

However a professional who refuses his/her services on professional grounds is similar to the conscientious objector in one important respect. Like the conscientious objector, the professional who refuses services on professional grounds does so partly because he/she believes that using professional services as requested, will make one morally responsible for these actions and this responsibility would violate one's professional and personal moral integrity. He/she would not be able to separate what he/she does as a professional from the sense of being as an integrated moral agent. So the professional who refuses services on the grounds of professional integrity accepts that one cannot escape responsibility for one's professional actions by appealing to an artificial distinction between one's professional and private self.¹⁶

It is clear from the above discussion that disobedience conceived of as a professional duty imposes a strong moral demand on professionals. Unlike the right to conscientious objection, which permits but does not demand that an agent refuse to participate in a practice that he/she believes violates personal moral or religious commitments, the concept of professional integrity grounds a positive *duty* to refuse to provide one's professional services when doing so would violate the central moral commitments of one's profession, and provides grounds for criticising professionals who do provide their services in such cases. As we shall see, this has important implications for the conception of disobedience as a professional duty in the military.

Disobedience in the Military

Individual Disobedience

As I noted earlier, it is already accepted that military personnel have a duty to disobey orders that are manifestly illegal or immoral. However, while some

authors have argued for a right to selective conscientious objection, few have argued that military personnel might have a *duty* to refuse to participate in an illegal or immoral war, rather than just permission to refuse. Yet according to the conception of military professional integrity that I have outlined, if military personnel are ordered to participate in a military operation that they have good reason to believe violates the military's moral and/or legal commitments, they not only have *permission* to refuse to participate in such actions; they have a positive moral *duty* to refuse to participate, on the grounds that participation would violate the very moral values that the military profession is supposed to be committed to.

There are two objections that are likely to be raised at this point.

First, it might be objected that military personnel do not have the requisite knowledge to make an informed judgement about the moral justification of the wars in which they are asked to fight, and so they are justified in relying on the judgement of their military superiors.

Second, it might be objected that accepting a duty to refuse would result in an ineffective military force that would be unable to prosecute wars when required to do so.

In response to the first objection, it is important to separate two issues. The first is whether military personnel are capable of making an informed judgement about the justness of a war. In response to this concern, I argue that in liberal democracies with volunteer military forces it is simply not true that military personnel cannot obtain the information they need to make a reasonably informed judgement about the morality of the wars in which they are asked to fight. However, we might still wonder whether military personnel, particularly those of lower ranks, *should* have to make such a judgement, rather than relying on the judgement of their superior officers who are likely to have greater resources, time, and education at their disposal. Even if low-ranking military personnel can make an *informed* judgement, it is likely to be the case that more senior military personnel will be able to make a *better* judgement.

In response to this second point, it is important to stress the seriousness of what military personnel are being asked to do – they might be required to kill enemy combatants, and will be part of an operation that is likely to cause great destruction to another country's cities, environment, and infrastructure. It is therefore surely not unreasonable to demand that military personnel think seriously about whether their participation is justified. But the seriousness of military action also imposes a duty on officers to provide sound reasons for the military operation in question. As G. Albert Ruesga (1995: 71) argues, to require one person to kill another without sufficient reason appears to be 'an inexcusable form of cruelty'. Military officers therefore have a duty to ensure that military personnel are given good reasons for going to war. But this does not mean that low-ranked military personnel thereby escape the duty to consider whether a war is just.

If it were the case that military personnel could be sure that every effort had been made to ensure that a particular war was just, then it might be reasonable for military personnel of lower ranks to rely on the judgement of

their superior officers as to the justness of the war. As David Estlund (2007: 229) argues, if a decision to go to war was only made after a process of 'robust public deliberation' and debate, during which there was a genuine attempt to ascertain all the relevant facts and to ensure that the war was just, then individual military personnel might be obliged to obey an order to fight even if they correctly believed the war to be unjust. Yet it is far from clear that this demanding process takes place in most states. History has demonstrated that military personnel cannot assume that states will only use military force for a just cause. It is therefore crucial that *all* military personnel reflect upon whether their participation in war can be justified by reference to the military's stated moral commitments.

In response to the second objection, it is highly unlikely that if there were good reasons to believe that a war was just, the state would be unable to find sufficient willing military personnel to fight it. Military personnel, by virtue of joining the military, have shown themselves willing to fight when required to do so, and to my knowledge there has never been a case of a just war that was unable to be fought because too many soldiers believed it to be unjust. For that matter, I am not aware of any unjust wars (even patently unjust wars) that were unable to be prosecuted because too many soldiers refused to fight.

Furthermore, if the state is unable to persuade the military of the justification for going to war, that alone would provide good reason to question whether a justification is in fact available. David J. Garren (2007: 9) makes the same point: 'if the liberal state were unable to convince its soldiers of the justice of its cause and thus unable to wage war, that, I suspect, would be all to the good. Soldiers, after all, are citizens of the state and if they cannot be persuaded of the justice of the cause for which they are to fight; then the state, I think, ought not wage war.' If a war could not be fought because too many military personnel believed the war to be unjust, then we would have good reason to question whether the war should in fact be fought.¹⁷

What are the implications of the duty to disobey? It is beyond the scope of this paper to offer a full discussion of the changes that accepting a duty to disobey would require, but I will mention two changes that would be necessary: military personnel of all ranks would have to be educated about the morality and legality of the use of force, and there would be a much stronger duty on the part of the state and the military leadership to make a good case for the justness of a particular war. It would not be sufficient for the civilian government to merely *claim* that a particular war is just; they would have to provide good *evidence* for this claim – evidence that had been subject to some form of external review (by, for example, an international body such as the United Nations). But neither of these changes is impossible, and both are warranted by the fact that military personnel are owed a good explanation for the necessity of going to war.

Institutional Disobedience

I noted above that the duty to disobey falls on all military personnel, given that as things stand military personnel cannot assume that states will only use

military force for just causes. However, the duty to disobey falls most heavily on the military leadership, particularly those officers who are in an advisory role to the state, for it is these officers who have greatest access to the facts regarding the justification for war, and who (as I will argue) are in a position to disobey the state if carrying out the state's demands would require the military to violate the military's moral and legal commitments.

It was argued earlier that the scope of the military's professional expertise properly includes not only tactical and strategic matters, but also the law and moral norms governing the use of military force. This means that disobedience of the state can be justified on moral grounds as well as strategic or tactical grounds, a view that is at odds with traditional ideas of civil–military relations and the legitimate scope of military disobedience. Samuel Huntington (1957), for example, denied that the military's area of professional expertise includes the morality or political justifications for the use of force, and so, he argued, officers are only justified in refusing orders that directly impinge on issues of strategy. In cases where there is doubt about the morality and legality of a proposed military action, officers should give priority to obedience to the state: 'only rarely . . . will the military officer be justified in following the dictates of private conscience against the dual demand of military obedience and state welfare' (1957: 78).

Yet here Huntington makes the mistake of assuming that a military officer's objection to a statesman's orders on moral grounds must be a matter of 'private conscience'. But, as I have argued, such objections can and should be a matter of *professional* conscience arising from the military profession's commitment to the laws of war and the moral good that the military claims to serve. Ordered to engage in a war that is manifestly unjust and/or illegal, the military officer has a *professional* duty to refuse to obey the statesman's orders.

But it might be objected that if the military is permitted to make judgements about the morality and legality of the state's orders and permitted to refuse to execute policies that violate the military's ethical commitments, then the military has violated the civil–military distinction and become directly involved in politics.

It is certainly true that maintaining a clear distinction between political authority and military force is very important, given the quite reasonable fear of what well-armed and powerful military forces might do if they believe they may take part in the political arena. Military coups are extremely destructive and dangerous, and in such coups the military might justify its actions by claiming that the current leadership was failing to protect the interests of the nation. But my account does not license the military to usurp power from the civilian government. Instead, my account of the military's professional status delineates the appropriate limits of state power. The state does not have *carte blanche* in how it may use military force. Since the military is the instrument that the state will use to carry out what may be extremely violent and destructive operations, the military has a moral duty to ensure that the military's professional expertise is used only in ways consistent with the armed forces' moral and legal commitments. If the military is genuinely committed to its stated moral values, then it should not be a mere tool of the government but

must be willing to set limits on how its professional expertise is utilised. Furthermore there is an important difference between refusing to carry out an order and usurping political authority. It is possible to find a middle ground between blind obedience to the state and taking over the state.

Indeed, there are some real-life examples of military forces refusing to obey the civilian authority without then usurping power. During December 1989 the Romanian Army, after having previously obeyed orders to fire on protestors in several regions, refused outright to obey President Nicolae Ceausescu's orders and went on to play a central role in his downfall (Sarvas 1999: 103). More recently, the Armed Forces Chiefs of Staff in Britain, led by Chief of Defence Admiral Sir Michael Boyce, refused to go to war in Iraq in March 2003 until they were assured only ten days beforehand that the war was legal by the Attorney General. While this concern could be simply a wish to avoid future legal prosecution, it is also arguably a genuine concern that the military forces in the UK be only used for legal wars (Bright et al. 2004). In both these cases, the military did not undermine or overthrow the political process. Instead, they attempted to ensure that their professional expertise was used in the correct way. Such disobedience is a mark of professional integrity, not a sign of an incipient military coup.

Conclusion

The military's claim to professional status grounds a conception of professional integrity that sets limits on appropriate professional behaviour and in some cases gives rise to a professional duty to disobey orders. By claiming to be a profession the military is binding itself to a set of professional ideals that limit when and how its professional expertise should be used. The military therefore has a positive moral duty to refuse to provide its services when providing its services would violate the guiding ideals of the military profession and the laws of war.

Acknowledging the existence of a duty to disobey will pose a challenge to most military forces, since this duty confronts long and deeply held assumptions about the relationship between the military and the state, and the duty of military personnel to fight when ordered to do so. But if the military is genuinely committed to the laws of war, then military disobedience must be permitted. Otherwise the military is no different, morally speaking, from a mercenary army.

Notes

- ¹ Jessica Wolfendale's attendance at the 2008 Defence Ethics Conference at the Defence Academy of the United Kingdom was supported by a British Academy Conference Grant.
- ² Many websites of military academies refer to the military as a profession, to developing professionalism, and to creating professional officers. Most books on military ethics also refer to it as a profession.
- ³ For example, in 2002 San Diego lawyer Steven Feldman was heavily criticised for conducting an zealous defence of his client David Westerfield (accused of abducting and killing a little girl named Danielle Van Dam) when he knew that Westerfield was guilty, as Westerfield had revealed that he knew the location of the girl's body. During cross-examination of Danielle's parents, Feldman brought out the fact that they had held sex parties in their home, and that a guest at one of these parties might have

- killed the girl. He thus attempted to persuade the jury to believe what he knew to be a false theory (Jeralyn 2002). Similar criticisms were levelled at O. J. Simpson's attorneys.
- ⁴ Oakley and Cocking (2002) derive a virtue-ethics based account of professional ethics based on the concept of a regulative ideal – the conception of professional excellence that best serves the ends of the profession and that guides professionals in developing good professional character traits. See p. 27 for their detailed discussion of the concept of a regulative ideal.
- ⁵ For a detailed discussion on the military's claim to be a profession, see Hartle (2004) and Wolfendale (2007, Ch. 3).
- ⁶ Similarly, the common-sense conception of the good lawyer and the good doctor includes not only technical competence but also a set of moral character traits such as trustworthiness and loyalty (Camenisch 1983: 45).
- ⁷ Samuel Huntington (1986: 23–34), for example, claims that 'the standards of professional military competence apply in Russia as in America, and in the nineteenth century as in the twentieth'.
- ⁸ For a discussion of the relationship between the military and the government see Betros (2001), Bland (2001), and Feaver (1996).
- ⁹ This is not to suggest that the military could not attempt to persuade the government to adopt alternative courses of action if it felt that the government's policy was likely to be ineffective or dangerous. However, once a policy decision is made, the military is expected to carry out the policy in the most efficient manner.
- ¹⁰ For example, an FBI counter-terrorism expert claimed that Australia's alliance with the US and its involvement in Iraq has made it a more obvious target for terrorist attacks ('Terrorist attack on Australia inevitable, warns FBI expert', *Sydney Morning Herald*, 16 March 2004).
- ¹¹ It is important to distinguish legality and morality in discussing when the military may be justified in refusing to carry out the government's policies. It may be the case that a government's policies are legal, but that to carry out those policies would be immoral according to the moral principles that the military profession is committed to, such as the moral principles underlying just war theory.
- ¹² It is still accepted in a certain limited number of situations. In the Australian *Defence Force Discipline Act 1982* for example, 'the "defence of superior orders" is available where: 1. the act or omission was in execution of the law; or 2. was in obedience to (a) a lawful order; or (b) an unlawful order that the person did not know, and could not reasonably be expected to have known, was unlawful' (Wheate & Wheate 2003: 20). For an excellent discussion of the current law regarding obedience to illegal orders, see Osiel (1999).
- ¹³ For a discussion of the issue of selective conscientious objection in the Vietnam War, see Redlich & Feinberg (1969).
- ¹⁴ A view shared by several notable philosophers. See McMahan (2006) and McPherson (2004).
- ¹⁵ Legitimate refusal of service based on a conception of professional integrity is also importantly distinct from what a professional might legally be permitted to do. In some countries it may be quite legal for doctors to perform euthanasia at a patient's request. In several countries it is legal for a lawyer to reveal a rape victim's past sexual history in court (Oakley & Cocking 2002: 125), and in some countries soldiers are permitted to torture people suspected of terrorism. The fact that certain actions are legally permitted within a professional practice does not mean that those actions serve the profession's stated values.
- ¹⁶ The distinction between a professional and private self can in some cases allow professionals to maintain necessary emotional distance from the demands of their professional roles (something that can be important for professionals such as doctors, who must deal with emotionally distressing situations as part of their professional duties), but this distinction is easily corrupted. For example, military torturers often describe themselves as professionals and draw a sharp distinction between their professional work and their personal moral character as a way of avoiding feelings of guilt or responsibility about their work. Several professional torturers from Brazil who were interviewed by sociologist Martha Huggins (2000) show pride in how well they performed their tasks – pride in their successful separation of 'justified' torture (authorised, professional, efficient, unemotional) from 'unjustified' torture ('off-duty', unauthorised, excessive, sadistic). See also Wolfendale (2007, Ch. 7) for a detailed discussion of the moral psychology of military torture.
- ¹⁷ Given that states can also contract with private military companies to carry out operations that the national military is unable or unwilling to undertake, there is even less reason to believe that accepting

disobedience as a professional duty would undermine the state's ability to prosecute wars (Garren 2007: 9).

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Biography

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