Dissent, Resignation, and the Moral Agency of Senior Military Professionals

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Editor’s note: This is the first of four articles in this issue’s Symposium: Roundtable on the Ethics of Senior Officer Resignation in the United States.

Abstract
This short article answers the question of whether, in the context of current American civil–military relations, senior military professionals may loyally dissent from a decision by civilian authorities, even including by resignation. Stated another way, can their constitutional duties to obedience to civilian authority ever clash so severely with their responsibilities to their profession and its fiduciary trust with the American people that dissent is obligated. The position offered here is that senior military professionals always retain the moral agency for such dissent. It inheres in their role as a steward of an American military profession exercising the discretionary judgments that are the moral core of their professional work.

Keywords
civil–military relations, military professions, professional military ethic, loyal dissent, principled resignation, resignation in protest

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I am delighted to participate with my colleagues Peter Fever, Richard Kohn, and James Dubik in this forum on a timely and important subject, that of the appropriateness of principled resignation by senior military leaders. That said, as will be clear, we do not agree. This fact all the more boosts my delight to be able to present a particular view.

To do that I will proceed in three steps. First, I will point out what we do agree on, the historical precedents for the currently perceived norm of “no principled resignations allowed, period.” Then I will present two related arguments to establish my position that in very rare cases they are to be allowed, indeed even perhaps obligatory. In the first argument, I will draw very clear distinctions between modern military professions and military bureaucracies, their characteristics, and the expected behavior of each. Second, I will look carefully at the content and motivation of the means of social control of each institution—their ethics—for understanding of the moral obligations of their leaders. And, as we shall see, there is a small space for loyal dissent by senior military leaders, even principled resignation.

Our Start Point

I agree with my colleagues in this forum on the start point for our diverging views—it is the fact established in history that senior military leaders in our services simply have not resigned their position as a form of dissent to civilian decisions. In his influential study of every use of American forces since the end of World War II (WWII), Richard Betts stated in 1977, “There is also a myth that high-military figures have extraordinary influences and prevent their superiors from over ruling them because of a unique tendency to resign and attack their administrations. But the evidence does not support the theory.” He continued, “Chiefs have been fired, not reappointed when it was expected they would be, or carried along with short appointments, but none in the post-war period has ever resigned” (Betts, 1977, p. 7). In the second edition of his book published some 14 years later, having found no contradictory evidence in the intervening period, he concluded, “So my point in the first edition stands” (Betts, 1991, p. xii).

So the historic fact is established, and not just by Betts; others including members of this forum have arrived at the same conclusion (Kohn, 2009; Feaver, 2015). But the reasons why senior military leaders have never resigned in protest are much less clear. Those offered vary widely. One is that resignation is very personally expensive to the senior leader involved—they forfeit their retirement pay and all other emoluments to which they would be eligible for their decades of service, not a trivial amount by any means given the socialized medical care they will receive for life, and so on. Researchers of this mind go on to state,

Quitting [resignation in protest] is viewed by many as the ultimate means of expressing opposition to official policy or slight. Despite its seeming attractiveness as a way of making an emphatic point, there are complications and principals involved which make it a rarely exercised alternative. (Matthews, 1990, p. 12)
Another reason offered is that over time the positive became normative, meaning the tradition of “no resignations” was gradually accepted as the right thing to do and as such was incorporated into the evolving ethos of our military services. As just one example, General Maxwell Taylor wrote for the Army’s premier professional journal in 1980, “A Do-It-Yourself Professional Code.” In it Taylor notes,

In the absence of authoritative means to identify an unjust war in time to avoid participation, an officer has little choice but to assume the rightness if a governmental decision involving the country in war. Having made this assumption, he is honor-bound to carry out all legal orders and do his best to bring the war to a prompt and successful conclusion. (Taylor, 1980, p. 13)

This is a splendid example of one way that military professions create their expert knowledge and pass it on as authoritative to succeeding generations of leaders—the role of the respected senior professional and mentor. And in this case, one who like his peers at the time allowed little room for principled resignation.

We can also see in the content of Taylor’s admonitions another likely reason why the positive became normative—the immense influence of Samuel Huntington and his theories of civil–military relations on our Services in the post–WWII era, and particularly on the U.S. Army (Coffman, 1991). Huntington’s central contribution of civilian control of the military as best manifested by “objective” means granted the military the autonomy needed to be a profession in return for their neutrality on matters of politics and policy, areas which he believed were beyond the competency of military leaders (Huntington, 1957). In his words, then, the military was to be controlled so as to be only “a tool of the state.” Thus, he posited a clear distinction between the spheres of responsibility and action by the civilian leaders in contrast to those of the military leaders—civilians to set policy and strategy with the advice of the military and the military then were to execute faithfully such policy with little interference from civilian leaders. Eliot Cohen has subsequently shown that such “bright lines” between policy and strategy and their execution in wartime have seldom existed, nor should they in his view (Cohen, 2002). Yet, when published this theoretical ideal of American civil–military relations strongly appealed to our armed services. Such ideas and arrangements seemed to match the experiences of those leading our massed, conscripted armies of WWII; and they were taught in the postwar military schools even though the same leaders were then fighting the suffocating “centralization and over control” of bureaucracy within the occupational Army in Europe (Davidson, 1961).

However influential, Huntington’s ideas have not all stood the test of time (Nielsen & Snider, 2009). And this returns us to the issue at hand, principled resignation, or as some call it resignation in protest, because it is my contention that two misconceptions in Huntington’s theory of objective control still fuel our divergence on the appropriateness of this particular practice of dissent.
My Position I—Military Professions and Their Essential Character

Huntington’s view of the character of our post-WWII military institutions was ambivalent as to whether they were bureaucracy or profession, a distinction he never resolved. His view of military professions was derived from his own historical research and held that they were “more narrowly defined, more intensively and exclusively pursued, and more clearly isolated from other human activity than most occupations . . . the military function is performed by a public bureaucratized professional expert in the management of violence and responsible for the military security of the state.” Thus, notwithstanding an unresolved conception of whether the military was to be a military profession or a hierarchical government bureaucracy, he posited that “loyalty and obedience” were the two cardinal virtues of military institutions. To him, such normative responses were simply owed to the state through its civilian leaders via our Constitutional arrangements and were most applicable for his theory of the military as a “tool of the state.”

With respect to the essential character of American military institutions, Huntington failed to recognize what is now known, particularly from the sociology of professions, that they do not have a single character, but rather are of a dual character—that of government bureaucracy and military profession. Thus, there exists a constant, often ferocious, internal tension between them with uniformed leadership determining at any time and location which culture and behavior are predominant (Snider, 2015). Absent strong leadership, the default position is that of government bureaucracy as mandated in the Constitutional provision for executive departments. This is clearly not what is needed for the security of the Republic in the 21st century nor desired by its polity who would prefer that their military services be both effective and ethical. So, what problems does this dual character cause?

Unlike government bureaucracies that deal in routine, often repetitive, nonexpert work, a profession is “a relatively high status occupation whose members develop and apply expert knowledge as human expertise to solve problems in a particular field of endeavor” (Burk, 2005, p. 41). There are five aspects of a profession that are inferred in this definition: (1) professions provide a unique and vital service to the society served, one it cannot provide itself, (2) they do so by the application of expert knowledge and practice, (3) because of their effective and ethical application of their expertise they earn the trust of the society, (4) professions self-regulate; they police the practices of their members to ensure it is effective and applied only by following the profession’s ethic. This includes the responsibility to educate and certify professionals, ensuring only the most proficient members actually apply their expertise on behalf of the client, and (5) professions are therefore granted significant autonomy in their practice on behalf of the society.

Traditionally, the law, medicine, and theology were considered professions within Western democracies. More recently, the military, accountancy, architecture, and a few other service vocations have been accorded the status of professions by the
societies they serve. Let me expand a bit on these characteristics as they apply in particular to military professions and their civil–military relations including the norms applicable to dissent by senior leaders.

First, the service provided by military professions—providing for the “common defense”—is obviously vital to the flourishing of the protected society. Yet, such work is clearly beyond the ability of the members of most societies to provide for themselves. Thus, a deeply moral and mutual relationship of trust is created between the profession, its individual members as “professionals,” and the society served. Simply stated, the society perishes if their profession fails to provide for the common defense. The military profession, which exists only to serve and protect the society which created it, is thus morally obligated as a “social trustee” type of profession to use its military expertise only in accordance with the values held by that society, values which also so strongly inform the profession’s ethic. And, these social values do evolve over time—recent examples are the inclusion of openly serving gay soldiers and civilians and allowing women to serve in combat roles.

Second, unlike bureaucracies in the purest sense, professions create and work with expert knowledge developed into human expertise, performing uniquely expert work. Such work is not often the routine or repetitive work of a bureaucracy. A professional’s expertise is most often applied within new, often unexpected, situations. Military professionals require years of study and practice before they are capable of such expert work, either as individuals or as a unit. Effectiveness, rather than strict efficiency, is the key to the work of professionals—the sick want a cure, the sinner wants restoration, the accused and the victim want justice, and the defenseless want security. Although the professional must always aim for both effectiveness and efficiency, effectiveness is what counts most to their client.

Third, when a profession’s work is done effectively and ethically, the institution and its individual members are granted significant autonomy. Members of professions are trusted to perform their expert work without close supervision. The professional’s actual work is the continuous exercise of discretionary judgments, acted upon and followed up by the professional for effectiveness (Army Doctrinal Reference Publication 1, 2015). Think of an Air Force doctor doing surgery during an air evacuation, a junior Army leader conducting security operations in a combat zone, or a defense department civilian scientist doing research in a government laboratory. All have trained for years, all are surrounded by immensely expensive technology, and all are granted extensive autonomy in the execution of their own discretionary judgments and actions. Each is working as a professional, within a military profession.

The word “discretionary” in the definition above was carefully chosen by Army leaders as they established for the first time ever official doctrine on what it means for that institution to actually be a profession with a culture and behavior that overmatches its original, founding character of a government bureaucracy. Obviously, such discretion increases as leaders rise in rank and responsibility. But the point is that at all levels military professionals are not to act as compliance-based,
rule-following, job holders in a big government bureaucracy. Rather, discretionary
t judgments based on expert knowledge and its effective and ethical applications are
the coin of the realm in military professions and in their trust relationship with the
society they protect, and so it is with their senior leaders—the stewards of the
profession.

Stated another way, such discretion is to be informed by the professional ideology
of service that goes beyond serving others choices. Rather, it claims a devotion to a
transcendent value. Moral philosophers call this the moral or common good; in our
military profession, we call it the security of the Republic, or in Constitutional
language “the common defense.” According to one scholar of professions,

This transcendent value infuses the profession’s specialization with a larger and puta-
tively higher goal which may reach beyond those they are supposed to serve. Each body
of professional knowledge and skill is attached to such a value . . . it is because they
claim to be a secular priesthood that serves such transcendent and self-evidently desir-
able values that professionals can claim independence of judgment and freedom of
action rather than mere faithful service. (Freidson, 2001, p. 122)

Contrast now, if you will, this doctrine with Huntington’s idea that “loyalty and
obedience are to be the cardinal virtues” within the military. If so, what is left to
discretion? For that let’s turn next to a discussion of the content and power of the
profession’s means of self-control, its ethic. So the question I will address next is
loyalty and obedience to whom and for what reason. As we shall see, it is not as
straightforward as Huntington would make it seem.

**My Position II—The Power of a Professional Ethic and the
Senior Leaders’ Responsibility to It**

His second idea that fuels current debate is Huntington’s weak understanding of the
content and power of the ethic that informs the behavior of professions as institution,
and their members including their leaders. In this area, more recent research has
established new understandings about competitive military professions and their
ethics, particularly those of the U.S. Army (Abbott, 2002, Cook, 2002; Mattox,
2005; Pfaff, 2005).

The new understanding is that professions earn and maintain the trust of their
clients through their effective and ethical application of their expertise on behalf of
the society they serve. Thus, it is the society served that will determine whether the
profession has earned the high status of a noble occupation and the autonomy that
goes along with it. It is not true as Huntington implied that once a profession, always
a profession. Simply stated, modern professions die (Abbott, 1988). And in my own
experiences, this includes military ones.

I served in the U.S. Army in 1970–1971 in Vietnam when it was not a military
profession in any sense of the sociological, or military, construct. Modern
professions do die, and in the case of the U.S. Army at the end of the Vietnam War that means having morphed into its alternative character of big government bureaucracy with very limited military effectiveness, utterly untrusted and “spat upon” by the society it served. The professional culture had died and within it, also its ethic. The institution was then controlled more like an untrusted government bureaucracy than a profession. It’s professional renewal with a new all-volunteer force and a reprofessionalized noncommissioned corps was accompanied by more detailed, top-down policy guidance from both civilian and military leaders covering everything from organization to individual training, greatly restricting previously granted autonomy (Kitfield, 1995, Millett and Maslowski, 1994; Powell, 1995) This continued until the Army once again proved itself as a military profession by contributing greatly to the successful outcome of the Cold War and then decimating Saddam’s forces in Kuwait in 1990. My point, contra Huntington, is simply that the behavior of a single military institution can vary widely over time between its two organizational characters; and, military professions do on occasion die.

One major reason for this is that, again unlike government bureaucracies, the means of social control within professions is their ethic. It controls and guides the actions of the institution, the individual professionals, and the effectiveness of their work. A professional ethic is the evolved set of laws and moral values and beliefs deeply embedded within the core of the profession’s culture, which binds individual members together in common purpose to do the right thing for the right reason in the right way. The ethic sets the conditions for the creation and maintenance of a motivational, meritocratic culture for all who volunteer to serve. The ethic provides a set of standards which individual professionals willingly impose on each other to keep trust both internally and externally with their client. Hence, an actively self-policing ethic is a necessity for any military profession; nonpolicing bystanders are simply not professionals. This is of special importance for a military profession given the lethality inherent in its expertise.

A profession’s ethic also serves powerfully to motivate members of the profession (Snider, 2014). Today, businesses and bureaucracies motivate their workers primarily through extrinsic factors such as salary, benefits, and promotions. In contrast, professionals themselves place the greatest value on the intrinsic satisfactions inherent in the service they render to society, and they value those more than the remunerations society extends them. This is why service and sacrifice within a profession is a calling—something far more important and satisfying to the professional than just a job. And that also is why the inspirational power of our service’s ethic produces more effective units via transformational leadership than does the obligatory ethic of loyalty and obedience within a government bureaucracy.

**Concluding Arguments**

Turning now to the issue at hand, acts of dissent including resignation by senior military leaders at the nexus of American civil–military relations, I should be clear
that I am only discussing relationships in which the military partner is a professional in the context I have been describing. The behavior of military bureaucrats is no longer being discussed here.

Now, I want to recall from Huntington that the responsibilities of the military leader to the state are 3-fold: (1) the representative function (to represent the claims of military security within the state machinery), (2) the advisory function (judgments on alternative courses of state action from the military point of view), and (3) the executive function (to implement state decisions with respect to military security even if it runs violently counter to his military judgment.

Note that the representational and advisory functions are by many understood to be the same, and most often in practice they are. But what we are discussing here in this forum is the possibility of those few instances when, in the discretionary judgment of the senior steward of a military profession, they must of necessity diverge and by what cause. In other words, are the steward’s duties from his or her oath to “support and defend” the Constitution, and their fiduciary responsibilities to the profession, its expert knowledge, and its ethical use, always the same? This is the critical question it seems to me. Might there be rare exceptions when their Constitutional duties to “advise” and then “execute” civilian orders clash with their professional responsibilities to “represent the profession” and the effective, ethical application of its expertise—that which they alone hold as a fiduciary trust for the American people.

Professor Martin Cook, the holder of the Stockdale Chair of Ethics at the Naval War College has noted that these two obligations might diverge on occasion. He states, the challenge is:

...how to understand professionalism so that two equal values, somewhat in tension with each other, are preserved: the unquestioned subordination of military officers to Constitutionally legitimate civilian leadership; and the equally important role of the officer corps in providing professional military advice, unalloyed with extraneous political or cultural considerations. (p. 55)

As Cook believes, part of that judgment must rest on the idea that professionals are obligated not only to serve the client (in this case, ultimately, the state and its polity) but also obligated to have “their own highly developed internal sense of the proper application of the professional knowledge” (Cook, 2004). In other words, dissent without insubordination to civilian authority can rightly be based on loyalty to the profession’s expert knowledge and its appropriate application. If this were not the case, there would be no need for military professions—the Republic’s security could be provided by businesses and bureaucracies.

In a more recent paper, Cook helpfully notes two examples of parallel cases from other professions where the scope and limits of a professional’s moral autonomy will cause acts of dissent: (1) Physicians must refuse to provide medical services that are “not medically indicated” regardless of how strenuously the patient may ask for it
and (2) Lawyers will not violate disclosure rules even if the information disclosed is detrimental to their case because the integrity of our adversarial justice system rests on the “fair fight” (Cook, 2015).

Professor James Burk, currently the President and Chair of the Inter-University Seminar on Armed Forces & Society, has expressed a similar view in more detail. In a challenge to Huntington’s functionalist assertion that loyalty and obedience are the cardinal military virtues, James Burk contends that:

Military professionals require autonomy, to include moral autonomy, to be competent actors held responsible for what they do. By autonomy, I mean the ability to govern or control one’s actions with some degree of freedom. Autonomous action is a condition for responsible obedience and the opposite of blind obedience.... [There is a] conceptual space within which military professionals exercise moral discretion. The map includes a definition of responsible obedience and disobedience. But it also includes two types of actions that do not fit the classic definitions of these alternatives. They each exhibit a defect in which discretion is used either to do what is morally wrong or to do what was explicitly not authorized. Nevertheless, they are not simply forms of disobedience. They are “protected” actions, protected because the discretion to commit them preserves the autonomy on which the moral responsibility of the military profession depends. (Burk, 2010, pp. 162–163)

As I have argued several times, my own view has long agreed with the theme of those just referenced (Snider, 2008). I believe there is that narrow moral space wherein the exercise of discretionary professional judgment can lead to loyal dissent. Such acts by the stewards of military professions can fall in the “protected space” that all professionals’ actions occupy, a space that may indeed require acts of dissent or disobedience if in Burks’s words “the moral responsibility of the profession is to be preserved.”

In fact, below are several quite plausible instances in which I believe such an act of dissent should be given serious consideration. All of these situations have occurred during my decades of service to the Republic and, it seems to me, are of such moral gravity and of such grave implications for our national security that senior military professionals might exercise their discretionary judgment to consider a principled resignation:

- Civilian leaders indicate they will pursue the zero nuclear option, idealistically denuclearizing U.S. Armed Forces while allies and adversaries remain nuclear capable;
- Civilian leaders direct the planning of a war of aggression;
- Civilian leaders direct the planning of a war the execution of which is clearly not going to achieve strategic purposes, wasting the lives of military and civilians alike (e.g., as in the lack of Phase IV planning for the invasion of Iraq in 2002).
Civilian leaders refuse to resource the armed forces for probable future conflict (e.g., as in the well-known case of a future Task Force Smith).

So, with plausible cases such as these, I believe Huntington’s conceptions of loyalty and obedience simply cannot be understood to mean in every case they are to overrule a senior leader’s professional judgment. That is the behavior of bureaucracy, not of profession.

Some of my colleagues have argued that this moral space to dissent is so small that it vanishes on closer inspection and application (Golby, 2015). I respectfully disagree. Neither do I agree with other colleagues who argue that a Constitutional or political “crisis” will inevitably ensue from a military leader’s resignation in protest thereby causing grave damage to the democratic institutions and processes of our Republic. I have seen a president resign, another forced not to run for reelection, a president and his brother presidential candidate be assassinated, the firings of two secretaries of defenses, more than one service secretary and many four-star military leaders . . . and the Republic with its venerable democratic institutions still stands! So, we are to believe that the resignation in protest of one senior military professional would be more stressful than these instances? Not convincing; not at all.

Rather, I believe that the office which Army professionals enter when taking their oath is not physical workspace; it is a moral workspace. And because of the nature of their fiduciary trust as stewards of the American people’s military professions, senior military leaders can never relinquish their individual moral agency within that trust. Thus, it may in rare cases require them to act with public dissent which, of course, can include a principled resignation in protest. Without the ability to exercise such authoritative discretionary judgment, which distinguishes professions from all other occupations, they “would become little more than servants in a cafeteria . . . doing whatever is demanded of them, and seeking above all else to please.” (Freidson, 1994, p. 211).

Acknowledgment
The author thanks his colleagues on the IUS panel on Senior Officer Dissent and Resignation for the stimulating exchange of ideas over the many years that we have labored together in this discipline.

Declaration of Conflicting Interests
The author declared no potential conflicts of interest with respect to the research, authorship, and/or publication of this article.

Funding
The author received no financial support for the research, authorship, and/or publication of this article.
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