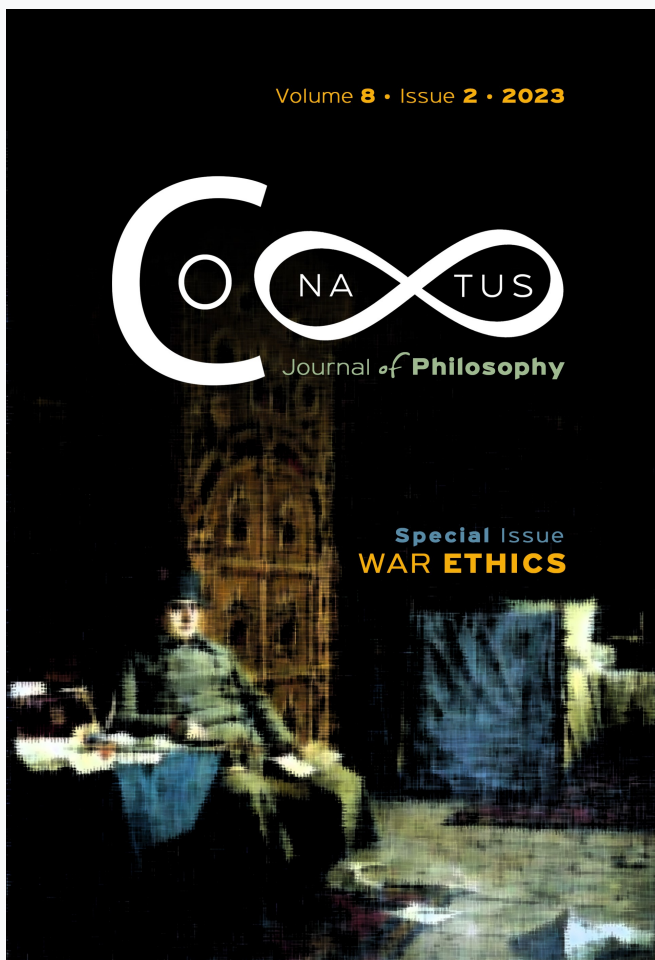


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# Suspending Voluntary Reserve Service: New Questions in Israeli Military Ethics

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## **Abstract**

*Military activities with the framework of the IDF [Israel Defense Force] is carried out by citizens in a variety of positions. In addition to the ordinary positions of career officers and NCOs, the IDF consists of conscripted men and women as well as reservists. Some of the latter serve under an ordinary command to serve for a certain relatively short period. Other reservists, including pilots and special forces officers have served since they volunteered to serve. Facing the political clash between the government, who have been viewed as trying to change the democratic nature of the state, and the popular opposition, who have tried to protect the judiciary and other elements of democracy, many officers who belong to the latter reservist group have suspended their voluntary service or even retired. Their decision has raised the obvious issue of whether such decisions can be justified, morally, ethically, and democratically. This is the topic of the present paper.*

**Keywords:** *military ethics; moral justification; reservist; voluntary reservist service; suspension of service; Israel; IDF; democracy; political opposition; spirit of IDF*

## I. Background

In late 2022, elections were held in Israel resulting in a coalition government consisting of five right-wing parties. The government's slim parliamentary majority depended upon the participation of all of these parties in the coalition. Although the election campaign focused on issues such as the cost of living, domestic security, and similar matters, the government's main legislative activity has been in a "judi-

cial reform” aimed at severely weakening the status of the “gatekeepers” of the democratic regime, the Supreme Court and the Attorney General.

What the government presented as judicial reform was perceived by a large part of the country’s citizens as an attempt at a regime change that would strip the country of its democratic character and place unconstrained legislative and executive power in the hands of the Prime Minister and his supporters. Opposition to the attempted regime change was primarily manifested in mass demonstrations. Impressive numbers of people participated week after week for many months. Demonstrations took place all over the country and were conducted without violence or lawbreaking other than temporary blockage of traffic.

A unique expression of resistance to the government’s policy arose in reserve service in military units, mainly the Air Force and Intelligence Corps. Three groups make up the IDF: soldiers serving their conscription service, career military, and soldiers serving in the reserves. The professional and operational training of a man or woman for their roles begins during mandatory service and continues during career service. After being discharged, many who are not obligated continue to perform reserve duty in their units voluntarily. For example, pilots maintain and develop their readiness by serving one reserve duty day per week in their operational unit. The arrangement of volunteering for reserve duty allows the operational activity to retain highly professional individuals, with rich operational experience and unique capabilities. Volunteers for reserve duty constitute a significant component of the military force in those branches of the military.

As an expression of protest against the attempt at a regime change, many reservists of all ranks, up to the rank of brigadier general, announced the cancelation or suspension of their volunteering for reserve duty or their intention to consider doing so in the future. From time to time, meetings were held with the participation of hundreds of reservists to discuss options for changing their volunteer status. The author of this article participated in one of these meetings and received the organizers’ permission to publish what he said. Some of the ideas in this article were expressed on that occasion.

## II. The ethical questions

The following discussion relates to the decision of a person serving voluntarily in the reserves to cease to do so or to temporarily suspend doing so as a practical expression of opposition to the regime change

that the government and the coalition are trying to carry out in the country.

The ethical questions are questions of justification: Is there justification for ceasing to volunteer for reserve duty as a personal, unilateral decision, regardless of the view of the related military unit or the army's opinion? Is it justified to cease to volunteer for reserve duty as a practical expression of protest against the "regime change" actions of the government and the coalition? To answer these questions in an orderly manner, we must present the ethical standards we will use to formulate those answers.

Let us distinguish between explicit and implicit standards. Explicit standards are the values delineated in the IDF's basic ethical document, "The Spirit of the IDF"<sup>1</sup> and standards derived from them, without added interpretation of a partisan nature. Since the principles of "The Spirit of the IDF" explicitly include the identification of Israel as a Jewish and democratic state, implicit standards include, among other things, the principles of democracy. To avoid possible disputes about the nature of a democratic regime, whether of a general theoretical nature or those particular to an Israeli context, we will discuss only the value of human dignity, which is one of the IDF's explicit values. The principle of equality, the principles underlying civil and human rights, and their protection by the court and the "gatekeepers" can all be derived from a full understanding of the value of human dignity.

### III. Methodological introduction

Our discussion takes place against the backdrop of an intense public controversy, with distinct political aspects. Naturally, disputes reflect, among other things, the different points of departure of the conflicting parties. These differences in points of departure influence the entire discussion and hinder reaching shared conclusions. It is important to overcome this difficulty, as one of the goals of our discussion is to form positions and propose suggestions for officers and soldiers interested in the disputed issues not only because they are citizens likely to be involved in the affairs of the state, but also because they are considering the practical possibility of adopting a certain stance and taking action that represents their personal position.

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<sup>1</sup> The author of the present paper played a major role in writing the first IDF code of ethics, "The Spirit of the IDF – Values and Fundamental Principles," and its implementation within the IDF since it was established in 1994. See Asa Kasher, "Teaching and Training Military Ethics: An Israeli Experience," in *Ethics Education in the Military*, eds. Paul Robinson, Nigel De Lee, and Don Carrick, 133-145 (Aldershot: Ashgate, 2008).

To hold a discussion whose conclusions could apply to every officer and soldier, regardless of their political views, we impose on ourselves a methodological limitation. We do this using one of the IDF's principles, a principle that has been discussed for many years but was only added to the IDF's ethical document, "The Spirit of the IDF," in 2022. This is the principle of *mamlakhtiyut* [respect for the role of the IDF within the framework of the state], which requires all those serving in the army to refrain from actively taking sides in any political dispute. We will therefore conduct the discussion in the spirit of *mamlakhtiyut*.

#### IV. Military ethics and democratic principles

The ethics of any organization, as expressed in its ethical code, reflect the organization's identity, mission, values, and procedures. The IDF's ethics include its values, which manifests its identity and guides the behavior of the soldiers. It is clear to anyone reading the IDF's ethical code, the "Spirit of the IDF," that Israel is a democratic state and the nation-state of the Jewish people.

Any change in Israel's regime, from a democratic state to a dictatorial one, or from the nation-state of the Jewish people to a state that is not a nation-state but only a state of all its citizens, like the USA, would fundamentally change the ethics of the IDF (as well as the ethics of any other state body, like the Shin Bet, Mossad, Police, and Ministry of Defense). The expected change is not merely a change in name or of a background side component. The change is substantial, with a clear impact on values and norms. A non-democratic regime can erase from the IDF's values the value of human life (which applies not only to Jews) or the value of "purity of arms" (which restricts the use of force, in war, in operations, and in routine security). Without these two values, the IDF would change its identity, it would not be the same organization, would not be the same IDF. This is a central assumption of our discussion, and this assumption is clearly relevant to *mamlakhtiyut*.

#### V. Democracy and volunteering

A person who volunteers to act within a certain organization does so based on the identity of the organization. I volunteered to act in a community center because it is an organization with educational goals that I want to help realize. What happens if the identity of the organization I volunteered to work in changes? What if it turns out that the community center is a cover for drug dealing? I did not volunteer to work for a drug dealer, so my volunteering for the community center is canceled. If I volunteer to

serve in the IDF, as the military of a democratic state, my volunteering is canceled if the IDF becomes the military of a non-democratic state.

#### a. Change of status as a volunteer

For a citizen, often a reservist, to change his or her status as a volunteer is not a simple step and it is appropriate to distinguish between the different possibilities. A person in uniform can signal to his commanders that there is a possibility that in the foreseeable future, he will cease to volunteer; he can announce to his commander that he intends to stop volunteering in the near future; he can announce that he is partially suspending his service as a volunteer; he can announce that he is fully suspending his service as a volunteer; and he can announce that he is immediately ceasing to volunteer to serve in the reserves. An officer or soldier contemplating the possibility of changing his status as a volunteer must justify to himself the specific change he intends to make, within this range of possibilities. The question of the possibility of justifying such changes is at the heart of this article.

In addition, the timing of the decision to change one's status as a volunteer can vary. The change could take place during the Knesset (Israeli parliament) committee discussions of a specific relevant law; it can happen after the committee vote or after the Knesset plenary vote; it can also wait for the decision of the Supreme Court on a controversial law whose acceptance is considered a step in changing the regime from democracy to dictatorship. Again, the justification the soldier gives for his decision regarding his status as a volunteer will clarify why the timing he chose is justified.

#### b. Proportionality

An intelligent decision by a responsible person on a complex issue is supposed to stand the test of proportionality, a comparison test weighing the expected positive outcomes of its execution and the expected negative outcomes of its execution.<sup>2</sup> A responsible person acts in accordance with whichever side weighs more heavily. Let us see now how the comparison is made and what in fact weighs heaviest. We will also see what should be done after the decision.

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<sup>2</sup> For a general discussion of proportionality and the doctrine of double effect, see Alison McIntyre, "Doctrine of Double Effect," *The Stanford Encyclopedia of Philosophy* (Fall 2023 Edition), eds. Edward N. Zalta and Uri Nodelman, <https://plato.stanford.edu/archives/fall2023/entries/double-effect/>.

### c. The positive value

A decision regarding a change in one's status as a volunteer contributes to the prevention of three dangers:

(a) The danger of receiving orders contrary to the law, international law, or IDF values. We call these orders "Hawara orders," named after a claim raised by the current Minister of Finance who heads an extreme right-wing party. He called to wipe out the Palestinian village of Hawara after several of its residents carried out a terrorist attack against Jews in which two Jews were murdered.

(b) The danger of legal proceedings at the International Criminal Court in The Hague, against officers and soldiers participating in military activities in Palestinian territories.<sup>3</sup> As long as Israel operates an independent, professional court that fundamentally examines the legality of planned military actions, the International Criminal Court in The Hague will operate according to the "complementarity" principle, which allows reliance on the internal review conducted by a state regarding the activity of its military personnel, without the need for an external, professional and independent review. A significant weakening of the court in Israel will preclude the International Criminal Court in The Hague from using the principle of complementarity. Officers and soldiers who participate in military activities in Gaza or the Judea and Samaria areas may find themselves under arrest throughout parts of Europe and brought to trial in The Hague.

(c) The danger of providing significant service to a non-democratic regime. This is a danger that affects not only one aspect or another of a person's life, but his supreme values, his ideals, and his identity. The life of a person who significantly works for a regime with values opposed to his own is like the life of a slave and servant. This is a danger that cannot always be translated into the language of harm, but it is a severe, deep, and unsettling injury.

The combination of preventing these dangers is the positive value of the decision. The comparison required for a practical decision based on considerations of proportionality between the positive value of a practical decision and its negative value is not based on merely identifying

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<sup>3</sup> On the ICC, see the most informative site of the court: <https://www.icc-cpi.int>.



the dangers and marking their prevention as having a positive value. The practical decision must consider not only the danger itself and the importance of preventing it, but also the assessment of the danger, the assessment of the damage involved in it, and the assessment of the expected contribution of the implementation of the decision to the prevention of the danger, under the given conditions. Such detailed assessments are beyond the scope of the current article, so we will suffice with an outline.

The danger of “Hawara orders” is not negligible. Anyone serving in uniform in Israel has undergone training that presented the distinction between an illegal order and a “manifestly illegal” order. Everyone is familiar with the 1956 incident in which citizens were shot during military operations, after receiving a patently illegal order to do so, and everyone knows that it is their duty to refuse to execute such an order.<sup>4</sup> Commanders know they are forbidden to issue such orders. There might be “Hawara orders” that will be refused as manifestly illegal, but there is no basis for assuming that this will completely thwart the danger. An order may not be considered manifestly illegal if it is an order to carry out the procedure of warning civilians of an imminent attack (a “knock on the roof” procedure) after which the order will be to destroy a line of houses in the village of Hawara one after another, as an act of revenge to a terrorist attack carried out by residents of that village. This order may be presented as a deterrent action. Such an order, which sends military personnel to carry out collective punishment, is contrary to international law even if not every soldier may see it as a manifestly illegal order. The danger of “Hawara orders” is thus not thwarted by the doctrine of the manifestly illegal order. If there is a danger that there will be a political actor who will use their power to issue such orders, the danger will continue to exist for those in uniform. In the current situation, there is a possibility that politicians from the extreme right will issue instructions to execute “Hawara orders,” despite the objections of the military legal advisors, especially if the Supreme Court and Attorney General lose the authority to prohibit the execution of such orders.

Apparently, the danger of “Hawara orders” can be thwarted on the basis of the Air Force commander’s announcement that soldiers will not be given orders that do not conform to the spirit of the IDF and

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<sup>4</sup> On the Israeli conception of “manifestly illegal command” see Mark J. Osiel, *Obeying Orders: Atrocity, Military Discipline and the Law of War* (New Brunswick, NJ: Transaction Publishers, 1999), and Alona Dana Roded, *What “Pierces the Eye and Revolts the Heart”: Boundaries of Obedience and Complexities in Moral Reasoning in the Israeli Military* (PhD diss., University of California Berkeley, 2013).



moral principles (respect for human dignity), but even this mechanism does not completely thwart the danger, as long as there is a possibility that the political echelon will order military activity that the Air Force commander cannot block, despite it being unethical and immoral. A person in military uniform cannot accept the authoritarian regime of a non-democratic state in which only the Air Force commander, a moral and excellent person in all respects, protects the soldiers from involvement in unethical and immoral activity.

The danger of “Hawara orders” has not subsided. It is undoubtedly a real danger, but it is hard to estimate the degree it is likely to occur. Certain politicians can be identified as those who might be the source for “Hawara orders,” but other politicians can also be identified who would likely not allow such orders to reach the people in military uniform. It is hard to estimate what can be expected in our fluid political situation. Therefore, while it is not appropriate to dismiss this danger, it is also not appropriate to assess it as an imminent danger.

The risk assessment of standing trial before the International Criminal Court in The Hague is not straightforward. The prosecution’s considerations for trying someone in this court are not transparent and there is no way to assess the risk to, for example, an Israeli pilot who carried out military operations in Gaza who one day arrives at the airport in London, whether as a civilian pilot or as a tourist. He could find himself arrested due to a suit brought in the International Criminal Court in The Hague. The analysis of the risk he faces from such a suit is, as we have seen above, in the realm of defenses that should stand to his credit if a lawsuit is filed against him. The “complementarity” defense is, of course, a central element in the defense of the pilot against the very existence of proceedings in the International Criminal Court. The risk that such a defense will not be available to the pilot due to changes in Israel’s legal system and especially the status of the Supreme Court and the Attorney General, is a significant risk. To see how much this defense is already undermined in the current state of the law in Israel, it is enough to mention a proposal raised by a minister in the current government to legislate a law that would prohibit the investigation and prosecution of person in military uniform for their actions in the course of their duties. If such a law is passed, an Israeli pilot will not be able to claim, if he stands before the Court, that his conduct in the course of military operations was conducted in a way that was examined and approved by the legal authorities of the state. If these authorities cannot be involved in examining military operations, this will open the door to the International Criminal Court examining mili-

tary operations. They may have stricter standards than those approved by the Israeli court. The attitude with respect to the separation barrier between different parts of the territories conquered by Israel in 1967 is an example.

Resistance by a reservist pilot, in our example, to changes that the government is trying to introduce into the courts and legal advisory systems is, therefore, part of an attempt to thwart the danger of losing the complementarity defense in case there is a need to use it. The risk assessment depends, of course, on the assessment of the chances of the government successfully introducing the changes into the legal and legal advisory systems. Although this is a political and public process, it is difficult to estimate its results. It would be reasonable to assume that the risk of success of the government's attempt is far from negligible and therefore the risk of losing the "complementarity" defense when needed is not negligible and there is justification for acting to thwart it.

Finally, we need to assess the risk of serving a non-democratic regime. Indeed, the fact that a person in military uniform acts within a framework operated by the current government or any other government does not in itself justify any objection or reservation. According to the Israeli Basic Law: The Army, which is one of the first basic laws of the state, the army is subject to the command of the government, and conducting military operations without the government's authorization is forbidden. However, the establishment of a non-democratic regime changes the picture substantially. If the regime is democratic, the person in military uniform's actions in the government's name are supposed to follow democratic principles and any deviation from them will be prevented by the constitution, the law, and ethics. However, in a non-democratic regime, these obstacles will not exist or will have changed to the point where there is no guarantee that the person in military uniform will act according to democratic principles, morals, and ethics. Even if the possibility of inappropriate action by the person in military uniform in service to a non-democratic government is not realized on every occasion, it exists and constitutes a real and immediate threat to the person in military uniform's ability to be confident that his orders accord with the norms that motivated and obligated him from the time he put on the military uniform until now.

The situation of a person in military uniform in the service of a non-democratic regime can be compared to that of a citizen of a non-democratic country, whether or not he works for that government. The practical rules by which he will act will include a practical

distinction between laws and guidelines that are appropriate for any regime (such as traffic laws) and those that are inappropriate for a democratic regime (such as the suppression of political expression). It is not only the difficulty of living according to this distinction that pains the citizen of a non-democratic country. It is also his very participation in a framework whose basic principles preclude just social arrangements.

The weight of this burden is not objectively measurable. Beyond the common recognition of anyone who bears this burden, that it is a burden with no moral justification, there may be individual differences between different citizens and different people in military uniform based on their relationship to the forced partnership imposed on them within a framework that has no moral justification.

The probability that the government will succeed in establishing a non-democratic regime in the country is also not objectively measurable. These are processes that, while not very prolonged, are very complex, because at every stage many factors are involved that pull in different directions. One of the main factors is the protest movements against regime change. These movements are many, with different purposes and values. Over dozens of weeks, they have demonstrated a joint ability to hold mass non-violent protests across the country but our ability to assess their continued activity is still highly subjective.

We therefore have no choice but for the assessment of this third danger, alongside the assessment of the effectiveness of the volunteer's refusal to continue to serve as a means of thwarting the danger, to be left to the discretion of each person in military uniform individually. In any case, the value of changing his status as a volunteer seems positive, without entering the details of how he does so.

#### d. The negative value

On one side of the proportionality considerations, we saw the positive value of any decision regarding changing one's status as a volunteer. We will now look at the other side of the scale, to see the damage that such a decision may cause. These damages are of three types: (a) readiness; (b) unit cohesion; and (c) other damages.

It is clear that stopping training or changing the amount of training in which a soldier actively participates somewhat reduces his readiness to perform certain military actions. However, experts recently explained that the damage to readiness is low and reversible. Major General (Ret.) Amos Yadlin, former head of Military Intelligence and previously a combat pilot and commander of Air Force bases, recalled a period in which training was frozen for budgetary reasons that did not cause damage once regular training was restored.

The damages to unit cohesion are more complex. There is no doubt that such cohesion is one of the important values in the ethics of any fighting army. Unit cohesion (or by other names, camaraderie, or brotherhood of warriors) is a necessary condition for the existence of a fighting force. Military psychology has long established that a major motive for soldiers' actions in battle is their relationship with the soldiers fighting with them, including their commanders. This understanding of soldiers' motivation is also reflected in military ethics. The most striking manifestations of camaraderie are cases where soldiers save the lives of their comrades in danger at great personal risk. This behavior is obligatory: The norm of "not leaving a wounded man in the field," even at the risk of one's life, is one of the norms known to soldiers from the early stages of their military training.

The suspension of volunteering for reserve service may in practice occur in situations where members of a unit are called for volunteer reserve service, and some turn up and others do not. Unit cohesion will be damaged, as the fundamental assumption of every person in military uniform is that during military actions his comrades will be by his side, will fight together with him, and will participate in any mission needed to come to his aid.

This general claim includes a component worth noting in the current context. General willingness to serve in the reserves corresponds to situations of preparation for a military action, war, or operation. Readiness is certainly one of the foundations of combat power during a war or an operation. It is necessary for functioning of the unit, but is it also necessary for building the unit? It may be that the importance of readiness is lower when it comes to reserve service that is based on the partial response of reservists to a call-up, whether planned or in the routine circumstances of partial response to reserve call-up. The obligation to maintain unit cohesion remains an important one, but the precise conditions under which it should be acted upon vary and may leave room for volunteers' partial or complete suspension of reserve service. The question of whether the conditions of reserve service allow a particular person in military uniform to suspend his volunteering, in part or in whole, without harming the integrity of his unit, needs to receive a detailed and responsible answer from the person in military uniform himself, according to his service conditions.

Another type of damage that could be caused by someone's suspending or canceling his volunteering could be a feature of the special circumstances of his service. Imagine a person in uniform whose service is in the field of defensive or offensive cyber warfare and who has special expertise in this field. His absence from reserve duty could cause unique damage insofar as the military activity relies on the expertise of that soldier.

There may be circumstances in which a person in military uniform knows exactly what his unique expertise is and the extent of the damage caused by his absence from reserve service for a certain period. This soldier will need to include on the negative side of the balance of his proportionality considerations the damage he knows he is about to incur by his absence from reserve service, which he canceled or suspended. However, there may be circumstances in which the person in military uniform with a particular expertise does not know how to assess the damage his absence might cause. His commander may be better able to assess the damage that the absence of a reservist with unique expertise from reserve service could cause. To properly assess proportionality considerations regarding the decision to change the volunteering status for reserve service, the person in military uniform should meet his commander in advance to receive a more complete and responsible assessment of the expected or at least possible damages due to his suspension or cancellation of his volunteer reserve service.

To summarize the considerations on the negative side of the decision to cease or suspend volunteering for reserve service, several prominent issues stand out. First, significant parts of the assessment of the damage that the decision could cause are of an individual, subjective nature and depend on the soldier's personal assessment. There is no room for sweeping generalizations in these cases. Secondly, in cases where the person in uniform has special expertise such that his not serving could cause unique damage, his commander's opinion on this matter must be taken into consideration and again there is no room for sweeping generalizations. Thirdly, parts of the damage on the negative side of the balance can be objectively assessed, primarily the harm to operational readiness. Here, the professional assessment that attributes a low value to the danger of this harm occurring is relevant.

To summarize the considerations of proportionality, we can distinguish between components of different types. Certain components of the picture can be objectively valued, both in the realm of positive value and in the realm of negative value, and our discussion leads to the conclusion that the positive value of these components outweighs their negative value. Other considerations do not allow for a sweeping assessment of their weight, as they depend on subjective assessments or changing data available only to commanders. There is therefore no place for a general conclusion that would say that considerations of proportionality indicate a positive or negative assessment of the decision to change one's status as a volunteer. The proportionality considerations leave the decision in the hands of each person in military uniform, who will assess the balance based on his own subjective assessments and the data in his possession.

## VI. Minimizing damage

The full solution to any dilemma involves more than just deciding in favor of one of the two opposing sides. After a person faced with a dilemma has concluded that side A outweighs side B and he should act accordingly, he has reached the central part of the solution to the dilemma, but not the only part. The full solution to the dilemma has another component since both horns of the dilemma contain positive elements. A decision against one horn of the dilemma thus involves harm in its implementation.

A secondary set of considerations must thus be added to the central part of the resolution of the dilemma. Its role is to minimize the damage caused to those positive elements of the minor horn of the dilemma. Of course, this should be done without harming the full implementation of the preferred horn.

The considerations of proportionality we dealt with are considerations for decision-making in a dilemma between the advantages of ceasing or suspending volunteer reserve service and the damages that this change might incur. Whatever the decision may be, it is appropriate to also discuss the appropriate steps for minimizing damages.

If the positive value is greater than the negative value, then the issue is how to minimize the damage to military readiness, unit cohesion, and whatever damage arises from the soldier's not making use of his expertise.

It is difficult to find an effective way to minimize the damage considering the risk of damage to operational readiness. There are no civilian frameworks in which one can train in a way equivalent to the training in a military framework. Even if someone wanted to establish an alternative civilian framework, it is hard to see how it would be possible given the organizational, professional, and budgetary requirements of establishing and maintaining that alternative framework.

However, there may be contexts where certain types of training can be done less intensively without harming operational readiness. In such contexts, the ethical obligation to minimize damages requires considering the option of reducing the intensity of training in volunteer service rather than ceasing to volunteer altogether.

It is easier to take steps to minimize damage in the context of the danger to unit cohesion. Maintaining cohesion requires joint activity in a context that clearly expresses the obligations and feelings of each of the members in relation to all the rest. Military units can organize educational activities to maintain cohesion, in a format of open conversations and joint activity and not necessarily in actual training. People in military uniform who have suspended or ceased to volunteer as

reservists can still organize such activities, in collaboration with their military units or independently.

Minimizing damages considering the fear of damage rooted in the unique expertise of the person in uniform depends on the special circumstances of that expertise and there is no place for generalization here other than pointing out the ethical obligation to try to minimize the damages.

Minimizing damage is also ethically required in the reverse situation when the negative value of refraining from volunteer service becomes decisive. In such a case, minimizing harm will be directed towards the dangers that arise from the background circumstances.

Naturally, the danger will be of providing significant services to a non-democratic regime. At this point, minimizing damage will require an increased effort to act against a non-democratic takeover of the state. Protest movements against regime change provide citizens with many options for actions to resist the attempt to change the character of the state. It can be assumed that lowering the risk of regime change also lowers the risk of “Hawara orders” and of people in military uniform being brought to trial before the International Criminal Court in The Hague.

## VII. Counterclaim: Refusal

Against our line of argument, various objections are sometimes raised. At the end of this article, we will briefly discuss three of these claims.

The first claim is about the meaning of our discussion, that not only does it not completely reject changing one’s status as a volunteer for reserve service, it admits the possibility that a person is entitled, ethically and morally, to do so. This objection is that the meaning of this discussion is that refusal to participate in military activity is thus rendered legitimate. This is a misleading claim.

Refusal is an action taken by a person in military uniform on active service, to carry out a legal order given to him. Refusing an order is an action within the military. Ceasing to volunteer for reserve service is not done within the military but is the act of a civilian. It is possible to take a position like that in this article, on the one hand, and at the same time claim that refusing legal orders is illicit. In the routine activity of the Air Force, there is no place for refusing orders, but, as this article shows, ceasing or suspending volunteer reserve service can be legitimate.



### VIII. Counterclaim: Politics

A common claim against protest activity involving suspending volunteer reserve service is that such protest activity politicizes the army. If reservists allow themselves to influence the army based on their political positions by suspending their reserve service, it can be expected that under other circumstances, when a government with completely different views is in power, reservists with other political opinions will do the same. Linking participation in the military and identification with the government's policy makes it very difficult for vital and effective military activity to take place.

Among the values of the IDF is the value of *mamlakhtiyut* which obligates all those serving in military uniform to act in a way that leaves the army out of routine political activity in the Knesset, the media, or social media. The army formulates and presents professional policy positions, identifying with no party or political body. Linking participation in the military to political identification does not comply with what is required according to the value of *mamlakhtiyut*.

This argument is mistaken because the dispute at hand is not a routine dispute between political opinions that we are familiar with from the Knesset, the media, and social media. Countless soldiers and officers have participated in vital, complex, and often dangerous military operations while not identifying with the political positions of the government when they think as citizens about the political issues at hand. The present issue at hand is not a political dispute, which people in military uniform are supposed to ignore, but a danger to the character of the regime, which also includes a change in the identity of the army, its values, and norms. Future disputes on routine political issues will not justify protests of the kind occurring at present, because they will not call into question a basic component of the state's identity, that of being a democracy. The current protest activity does not open the door to creating persistent linkage between participation in military operations and identification with government policy (or the policy suggested by the opposition) and thus does not undermine the value of *mamlakhtiyut*.

### IX. Counterclaim: Emigration

On one occasion, after presenting the arguments of the current article, I was asked what I think about someone who is now contemplating leaving the country, as a radical solution to the problem of regime change. I answered that every person and family have the right to make their own decisions, but leaving the country is for me not an option,

first of all for the personal reason that the graves of my firstborn son and forefathers are located here, and I would never consider abandoning them. Moreover, I believe that it is appropriate to continue to fight for the character of the state, especially given the real chance of succeeding in this struggle.

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