

# Britain: Soldiers face court martial for refusing to fight in Iraq

By Richard Tyler  
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Two British soldiers have been sent home from the Gulf for refusing to fight “in a war involving the death of innocent civilians”. A third soldier has reportedly refused to leave for Iraq.

In a story that was first reported in the *Sunday Times* at the weekend, Justin Hugheston-Roberts, chairman of Forces Law, a network of lawyers giving advice to service personnel, said he had spoken to the solicitor advising the two men returned to Britain.

“I believe that these two soldiers have told their commanding officers that they will not fight in a war involving the death of innocent civilians.”

The two soldiers face a possible court martial, and up to two years imprisonment if found guilty.

According to the *Sunday Times*, the two “refuseniks” come from the 16 Air Assault Brigade, a frontline unit active in southern Iraq near Basra. The two soldiers, a private and a technician, are said to have been flown back to their base in Colchester, Essex from Kuwait before the invasion of Iraq.

As the story began to be picked up by the media, the Ministry of Defence (MoD) launched a damage limitation exercise, telling the press there was “no evidence that anybody has been sent back for refusing to fight,” and claiming the men had been flown back on “medical and compassionate grounds”.

Lincolnshire-based lawyer Gilbert Blades has accused the Ministry of Defence (MoD) of trying to hush up the cases, however. “The MoD are trying to disenfranchise our servicemen by preventing them from exercising their rights under article 10 of the European Convention on Human Rights to express their genuine concerns about the wisdom of prosecuting the war against Iraq.”

Hugheston-Roberts told the press that the case raises “extremely serious issues as to the conscience of the

individual over and above the necessity to obey lawful commands”. He also admitted that he was in contact with other soldiers who did not want to fight, “we had a number of enquiries from services personnel saying we want to leave now.”

Leading barrister John Cooper, an expert on Article Three of the European Convention on Human Rights, prohibiting torture, inhuman or degrading treatment, said the soldiers had a “potential defence” under this article. The Convention was incorporated into UK law in October 2000.

According to one press report, a third soldier from the reserves has refused to travel to Iraq, despite orders from his commanding officer.

On Tuesday April 1, the *Guardian* newspaper reported on the first US conscientious objector from the war against Iraq.

Stephen Eagle Funk, 20, was to give himself up to a marine base in California that day. A reserve due to be sent for combat duty has been on “unauthorised absence” from his unit.

Funk told the *Guardian* that he believed the war was “immoral because of the deception involved by our leaders”.

“I know I have to be punished for going UA but I would rather take my punishment now than live with what I would have to do [in Iraq] for the rest of my life. I would be going in knowing that it was wrong and that would be hypocritical.”

Originally from Seattle, Funk had met a recruiting officer last year after dropping out of university in Los Angeles. Recruits have their college fees paid after completing service and he had hoped to return to university.

His 12-week induction period at boot camp made him doubtful about continuing.

“Every day in combat training you had to yell out ‘Kill! Kill!’ and we would get into trouble if you didn’t shout it out, so often I would just mouth it so I didn’t get into trouble.”

Funk said he had gone public to try and dissuade others from joining the army. He was to hand himself in at his San Jose base, accompanied by his lawyer and former conscientious objectors from previous wars.

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