

*Refusal of military service as a political act*

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4.5 REFUSAL OF MILITARY SERVICE AS A POLITICAL ACT

AND ITS SIGNIFICANCE FOR THE INDIVIDUAL

In the title of my contribution I have rejected the customary expression 'conscientious objection'. I claim that using this term would prevent the understanding of the problems I will discuss here. As an alternative for 'conscientious objection' I use expressions like 'refusal of military service' and 'refusal to enter the military', corresponding to the German term 'Wehrdienstverweigerung'. I am not sure that I have found the most precise English formulations, but I will initiate a debate on the terminology in order to make the re-thinking on the phenomenon more conscious.

My aim here is to re-think the existential situation of the individual faced by conscription in order to make intelligible the political character of the very act of refusing military service. From this perspective I then discuss the significance of the act of refusal for the individual's relation to politics in general.

I start by trying to make intelligible the procedure of 'conscientious examination', which is often treated with ridicule. The original intention of this procedure is well understandable, but problems appear with cases of obstinate refusal without appeal to conscience. To understand this situation is to see the main point in the act of refusal in itself, while the 'reasons' are merely ornamental. The way towards an adequate interpretation of the 'refuser's' situation goes through the discussion of his confrontation with demands of 'Staatsräson'.

From conscience to Reasons

In the modern 'sovereign' state the individual has to 'obey' even the laws he does not accept. This principle is both challenged and strengthened by certain exception, of which the case called 'conscientious objection' to military service is perhaps the most obvious one.

An exception strengthens the rule, if it is 'functionalized' so that the threat to the rule is minimized and the nuisance produced by consequent following of the rule is countered with the exception bound to definite conditions and forms. An attempt to functionalize the refusal to serve in the military lies in the very concept of 'conscientious objection'. It signifies a divide et impera -policy towards the refusers in trying to distinguish between those appealing to a 'conscience' which 'objects' to serve, from other refusers.

'Conscience' is thus understood as a kind of 'state' in the person, which 'compels' him to refuse military service. It is a 'fact'. The procedure of conscience examination is intelligible as an examination of finding out, whether this factual state is present in the person appealing to it or not. Task of the examination commission is to prove this appeal to be valid.

When they 'disapprove' this appeal, the person in question should, according to the logic of the situation, also himself be 'converted', i.e. he should recognize that his claim to possess a 'state in himself' preventing him to serve in the military has been mistaken. He

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has not 'known himself' profoundly. For this kind of examination the 'test cases' concerning certain extreme situations are wholly intelligible: they try to improve the self-knowledge of the candidate for 'conscientious objection'

Against this procedure there are, however, some methodological arguments. From modern philosophy of science we know the difficulty or rather impossibility in both verifying and falsifying a statement as well as a certain asymmetry in favour of the falsification. Another asymmetry also working against the candidate is that what is examined are the statements appealing to conscience, not the real experience of the conscience.

Constitutive for the situation is, furthermore, the assumption that the act of refusing to serve in the military is only a logical conclusion from the factual state of conscience. The act of refusal in itself is presupposed to have no autonomy. In other words, the refusal of military service is presupposed to be based on a 'fact', not on a decision.

According to the logic of the situation, all the refusers who have not 'proven' their appeal to conscience or who do not appeal to it at all, should be sent to the military – if they still refuse to do it – to prison. But let us also make a 'test case' similar to those of the examination commissions. Logically, the 'compulsion' of the conscience should be independent of a law providing an exception on the basis of conscience. From history we know, however, that in these cases the fact of conscience has by no means always led to refusal of military service, if judged 'illegal', while the refusal not appealing to the conscience but to the individual's decision has sometimes been more obstinate than the appeal to conscience, when both are considered 'illegal'. By this 'test case' we can argue against the assumption that the act of refusal is a situation-independent logical consequence of possessing a conscience of a certain kind.

A tacit acknowledgement of this possibility together with the pragmatic difficulties of attempted mass imprisonment of obstinate refusers of military service – i.e. with calculations about the 'Staatsräson' towards these refusers – has, in practice, led to a reversal of the examination procedure. This is the case when instead of speaking in terms of conscience the refusal from military service is accepted in cases of appealing to 'reasons' or 'grounds' of a specific kind.

The point is that while conscience is presumed to be a mere fact, reasons or grounds are always principles, something normative. This also changes the character of the examination procedure: the question is no longer of a logical relation between two facts – conscience and the act of refusal – but between a principle and a fact. A principle does not 'compel' any act, it at most 'forbids' to do something and allows to do something.

The normative character of reasons and grounds makes them subject to deliberation and decision by the individual. An appeal to them as a basis to the refusal to serve in the military is a hypothetical – not a categorical – interpretation of the relation between the norm and the fact. Furthermore, the questions of fact and norm are here not independent: the norms are not created in the abstract but are related to factual situations, and may be changed when 'threatening' to allow (or to forbid) the entering into the military in a way that this hypothetical consequence is altered.

All this makes the 'reason examination' much more difficult than the conscience examination. When the appeal to reasons is based on a choice of the individual, the seemingly obvious question of examining the sincerity of the pretendant becomes doubtful: what

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reasons could an examination commission have to an interpretation is a hypocrite when he himself obstinately denies this? How could a commission argue that its hypothetic interpretation of the relation between the given reasons and the act of refusing to enter into the military is better than the opposite interpretation of the pretendant himself? When interpretations conflict, the examination commission can maintain its superiority over the refuser only by referring to a naked 'Staatsrason' – and this reference made open might already be against the demands of the 'Staatsrason' itself.

## From Reasons to Acts

The favourite device for simplifying the treatment of the pretendants to refusal of the military service has been the division of 'reasons' into sufficient and non-sufficient ones. Compared with mere appeals to conscience this division both enlarges the use of the exceptional measure and makes a further division of the refusers into 'good and bad boys' thus trying to strengthen the 'functional' character of the possibility of the refusal of military service.

The paradigmatic case of the sufficient or legitimate reasons are those appealing to religion, later completed 'ethical' reasons. The paradigm of illegitimate reasons are the 'political' ones. Let us look closer at this distinction between the ethical and the political from the viewpoint of the conceptual history.

To use the distinction between ethical and political reasons as a basis for distinguishing between legitimate and illegitimate grounds for refusal presupposes an universal polar opposition between the ethical and the political. This does not hold at all for several important conceptions of politics, e.g. for that of Hans Kelsen, for whom politics consists of a combination of ethics and techniques (1). More generally, the alleged gap between ethical and political consideration has been subject to several attempts of 'bridge-building'.

From the cases of allegedly illegitimate refusal of military service we may find two different views both opposing the ethical and the political to each other. A distinction between a tolerable (i.e. harmless) 'absolute pacifism' and an intolerable 'relative pacifism' is attempted with applying to killing of the Kantian distinction between the categoric and the hypothetic imperative, distinction between normative and teleological grounds (2). They have, however, different consequences: when the former distinction is applied strictly, only the 'suicidal' refusal of all self-defence is accepted as legitimate, while the latter distinction allows also the possibility of a normative but merely hypothetic imperative, excluding only an appeal to pure expediency as a ground for refusal.

The history of the 'politics vs. morals' -debate allows, however, also to question the opposition between the normative and the teleological. Militarists like Treitschke, on the one hand, have tried to 'ethicise' the war through introducing a specific 'state ethics' appealing to the expediency, i.e. through ethicizing the doctrine of 'Staatsrason' (3). A non-normative pacifism, on the other hand, is developed e.g. by Kurt Hiller in the 1920's in Germany through appealing to a 'vital egoism', inspired by the Nietzschean ethics (4).

In other words, attempts to distinguish between 'ethical' and 'political' reasons in the work of the examination commissions are based on a historically dubious distinction which does not make justice to the arguments which reject the simplifying dichotomy. Those

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refusers not belonging to the standard types are obviously subject to wilful treatment due to misunderstanding of their reasoning.

Another case related to the 'political vs. ethical' dichotomy which is disturbing for the reason examination concerns the subject matter of the refusal. Those who for the reason examiners have 'strong' reasons for their refusal are often more ready to accept a non-weapon service in the military than others who have 'weaker' grounds for the refusal: they also reject the military as an institution and, correspondingly, also a non-weapon service in this institution. This refusal may be even of a categoric character, thus totally mixing the simple ethical vs. political dichotomy and manifesting that the use of this dichotomy in itself is a mere expedient instrument for the defenders of 'Staatsräson'.

The resort to the distinction between normative and teleological ground is often justified between the difference 'any army anywhere and anytime' and 'this army here and now'. The point is, however, that the act of refusal concerns the latter, while the reasons presupposed to concern the former, imaginary case. Again, it is not difficult to see that those who have 'weaker' reasons at the imaginary level often are more obstinate in their refusal at the concrete level than those having 'stronger' reasons at the imaginary level.

In short, there is neither a 'natural' point of 'refusal of military service in general', which could serve as a definite basis for the comparison with the reasons, nor a singular, unilinear hierarchy of the possible objects of the refusal. Let us only mention several alternative objects for the refusal: carrying of weapon, shooting, killing, serving in a conscription army (in contrast to a voluntary one), serving in a casern-based army (in opposition to a militia), serving in a hierarchic army (in opposition to an egalitarian 'red guard' led by soldiers' councils electing the officers by vote and by rotation), serving in an army based on an unconditional obedience (in contrast to one leaving the decision of shooting and killing in each case to the individual himself).

Replacing conscience by reasons leads to numerous questions of interpretation and judgment, which by necessity appear to those whose request to refuse the military is rejected as wilful. Contrary to the case of conscience a commission for reason examination may hardly imagine to convince and convert a pretendant to refusal by arguments. All negative decisions manifest more or less openly that arguments are only lip-service to detect the *de facto* resort to 'Staatsräson', i.e. to regulating the number of accepted and rejected cases by other means than by arguments, like by reasons of military strategy, by fluctuations of public opinion and above all by making the 'alternative' to military service still more punishment-like and boring than earlier.

The removal of the examination commission – a *la lex Pihlajamäki* in Finland – appears from this perspective only as an abolishment of an obsolete institution no longer 'functional' in treating the refusals. This removal not only replaces indirect sanctions by more direct ones but also tacitly recognizes that what counts are neither conscience nor reasons but acts of refusal themselves. For the individual faced by the conscription 'reasons' appear rather as excuses for acting just as he acts: they do not make the act in itself different.

**Refusal as Politics**

For the individual any law contains implicitly the alternative 'to obey or not to obey',

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even if the coice of the latter is concealed both by the legal text and by the near-by universal practice of obedience. The case of conscription for the entire male youth of a country tends – despite all the tale on 'duty' or 'obligation', all the propaganda for the 'men's school' et – to hold the alternative of not-entering the military open: the universal conscription is by no means an eternal institution; it is not even today universal, mighty countries not using a peace-time conscription; its strategic significance is doubtful; the half part of the population is liberated from the duty; some others are not 'taken up' etc. Especially the legal possibility of an 'alternative service' outside the military, bound to specific conditions relativizes the question of obedience. In other words, the confrontation with conscription is experienced as a more genuine choice situation for the individual than with most other laws.

"... im politischen Bereich der Erwachsenen (ist) das Wort Gehorsam nur ein anderes Wort ... für Zustimmung und Unterstützung" (5). These words of Hannah Arendt on the Eichmann trial criticizing the apology of Eichmann and other nazis for their conduct in the Third Reich can also be extended to the discussion of conscription. The overwhelming part of the young men entering the military do not experience the situation as one of a decision between the alternatives 'to enter or not to enter'. Their conduct is – to borrow another expression from Arendt on Himmler, Eichmann and other nazis (6) – like that of 'good family fathers' taking any 'job' for sustaining their family, also that of the hanger. In this sense the apparent non-decision of entering the military has no excuse but has to be treated as a 'political' act of accepting and supporting the military and conscription institutions and the demands of the 'Staatsräson', of which they are an expression.

When already the naive entry into the military has a political aspect, this aspect is obvious in every case of refusing the military. Despite the 'social worker syndrome' (7) of many refusers and the functionalizing attempts to make the 'alternative service' harmless etc, everyone refusing the military enters by this act into a confrontation with the interests of the state (as they are interpreted by those upholding the conscription). The form of refusal and perhaps the reasons for refusing may make the confrontation more or less intense – e.g. by distinguishing the legalized 'alternative servants' from the 'illegal' refusers like prisoners and deserters or those consciously confronting the 'Staatsräson' in the conscription from those driven to confrontation without intention to seek it. But these modification of intensity do not alter the paradigmatic character of the act of the refusal itself.

Until now I have spoken of the 'political' aspect of the situation of the individual faced by conscription in a way compatible with widely different conceptions of politics. When I now begin to distinguish the degrees of choice and confrontation I will narrow and specify step by step the meaning of the concept and enter into opposition with some of its current meanings.

The naive entry to the military has 'political consequences' in the sense of supporting the conscription etc, but it is questionable, whether it already is an 'act of politics'. To be this a minimum degree of consciousness and intentionality is required. Anyone refusing the military cannot avoid this minimum of intentionality – by the very fact of being confronted with an exception clause bound to special procedures in order to be accepted. In this sense the refusal is an act of the individual's 'policy', which consciously rejects something and

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tries to change something (8). This view consciously rejects the 'policy monopoly of the state' in many conventional concepts of politics and claims that the individuals can have a policy of their own in their relation to the state and are thus not only limited to support some proposals for the policy of the state against others.

In this perspective the situation of being faced with conscription contains a significant potential for the individual to create a policy of his own, compared with the conventional paradigm for political acts by the individual, like voting, where the choice is only between 'policies of others through others' – often, of course, important for the life of the individual. Also acts like joining or leaving a party or working in an interest policy, rather tending to deny the whole possibility. The challenge of being faced with conscription is for the individual perhaps even a privileged situation for forming a policy of his own in relation to the state.

In the confrontation between the individual and the state we may distinguish several dimensions. One of them concerns the legitimacy of the state, where the refusal of military service is perhaps more visible and more directly concerned with the 'roots' of the state organization than other forms of law-breaking or civil disobedience (9). Therefore, it is no wonder that just here there is provided an exception, which may both mitigate the confrontation (loyal 'alternative servants') and provoke a challenge to intensify it. But a real danger for the legitimacy of the state may the refusal become only as a mass phenomenon and by conscious common action (10).

Here my discussion remains, however, at the level of the intensity of the individual's experience. Compared with other confrontation situations with the state the act of refusing military service is dramatic especially in the totality of the confrontation for the refuser's person and life during a period. For a young man faced by conscription the act of refusing the military signifies also a radical novelty as a situation: he seldom if ever has been confronted with anything even analogous to that situation of confrontation and challenge for a formation of a personal policy to meet the confrontation. When understanding 'politics as a dramatic action situation' (11), the act of refusing the military becomes nearly a paradigm for this kind of situation in the life of the individual.

#### A Chance for Politicization

The dramatic character of the refusal is also obvious in its significance for the later life of the individual: it as if divides the time for him into 'before' and 'after' that paradigmatic act. Although this in a sense is true also to those serving in the military, in the individual's relation to politics there is a crucial difference, for the reason that no refuser can avoid the experience of a dramatic confrontation with the state.

Considered as an experience shaping the future of the individual the refusal of the military as a political act may have a widely different significance. According to the character of the break constitutive for 'politics as a dramatic action situation' I interpret the political significance of the act of refusal through three 'pure types' of experiences: an exceptional occasion, a conversion and a metamorphosis (12). Let us call these alternatives as ideal types of politicization through the refusal of the military.

In the first type the experience of being 'politicized' in an extraordinary situation, which is followed by a 'return to normalcy' (perhaps already during the 'alternative ser-

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vice'). the rise of political action and of the experience of acting politically arises directly from the confrontation with the 'Staatsrason' as a kind of self-defence, although the refuser experiences the political action as intensively as others and although he even may proudly remember his experiences and tell stories about them, he returns to the life of a 'good family father' (whether actually being one or not) after the 'critical' situation. Only a re-actualization of the confrontation in the form of imminent war of another personal threat may awake in him the 'need' or the 'duty' to act politically again. (13).

The two other types have in common that the experience of the refusal signifies for the individual a 'turning point' towards a politicization of the life. The confrontation with the 'Staatsrason' signifies a kind a paradigmatic learning situation not permitting any return to an a- or unpolitical 'normalcy'. (it might be guessed that the level of the previous political interest tends to be higher than in the first group so that the a- or unpolitical 'normalcy' has been overcome already before the refusal situation.)

The paradigmatic significance of the refusal of the military service as if 'teaches' that the confrontation with the demands, threats and suggestions of the 'Staatsrason' is something which can be met also elsewhere. The conversion signifies a critical sense for this kind of confrontation situations and the readiness to meet them with the 'abilities' learnt in the context of refusing the military, like those of reading between the lines and distinguishing significant nuances if the texts with which the individual is confronted in his life, or that of a strategic and tactical judgment – why not found Clausewitz-study circles during the 'alternative service'? In other words, the self-defence learnt during the refusal situation is extended to analogous situations of acting politically later and elsewhere.

Between conversion and metamorphosis there are hardly differences in the acts themselves, but the experience of acting politically is interpreted differently. While the conversion remains at the level of an extended self-defence, metamorphosis can be interpreted as a conversion to a 'political way of life'. The challenge of conflict and confrontation is not in calling for self-defence but in calling for an 'agonal' way of life, enjoying the conflict as the very substance of a life worth of living. (14). The strategic and exegetic abilities are used not only defensively but also provocatively, aiming not so much at success than at giving chances for the individual to develop and improve his qualities in the 'performing art' of politics (15).

Common to both 'defensive' forms of acting politically related to experiences to refuse the military service is a longing for a situation, where the individual would not have a need for acting politically, while differing in the judgment, whether this state is in the present or in the future. The conversion to a 'political way of life' signifies a break with this longing towards the absence of politics: it means a readiness to live always at the margin of the state and the society, neither integrated in them nor isolated from them but engaged in a subversive action against them. But in a sense a person adopting a political way of life is also tempted by the enter of the 'play' of the 'established politics' in state and society – in order to 'test' his 'capacities' in the 'performing art of politics' also at this arena. (16).

Without conscription army there would be no genuine possibility for understanding the refusal of the military as a political act of a high quality. A corollary of this is: without conscription there would be no possibility of 'misusing' the political act of refusing the military as a unique chance for the politicization of the individual. This does not signify

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a legitimization of the conscription army – who defends it for this reason! – but rather reminds that any institution can be consciously 'misused' against the intentions of its creators. As an existential situation the conscription system can be interpreted from the perspective of a challenge for the individual to form a policy of his own towards the state and to learn to politicize himself for the rest of his life.

## Notes:

1. Cf. esp. Hans Kelsen, *Allgemeine Staatslehre*, Berlin, Springer 1927, 27-45.
2. The first distinction is emphasized by Kant's moral philosophy in a narrow sense, esp. by *Kritik der praktischen Vernunft*, 1785 (quoted from Reclam edition, Leipzig 1978), while the latter distinction serves as one between ethical and political considerations in *Zum ewigen Frieden*, 1795 (quoted from Werkausgabe, Bd XI, Frankfurt/M, Suhrkamp 1978).
3. Heinrich v. Treitschke, *Politik*, Bd I, ed. by Max Cornicelius, Leipzig, Hirschel, 1897, esp. 105. For the ambiguities in the notion of *Staatsräson* cf. Friedrich Meinecke, *Die idee der Staatsräson in der neueren Geschichte*, 1924, Werke 1, München, Oldenburg 1960.
4. Cf. esp. Kurt Hiller, *Linkspazifismus*, 1920 (quoted from *Pazifismus der Tat – revolutionärer Pazifismus*, Berlin, Ahde 1981. For the relations between politics, morals and pacifism in Kurt Hiller's work cf. also Kari Palonen, *Politik zwischen Erlebnis und Ziel. Über den Beitrag Kurt Hiller's zur Begriffsgeschichte der Politik*, in *Politik als 'chamäleonartiger' Begriff. Reflexionen und Fallstudien zum Begriffswandel der Politik*, Department of Political Science, University of Helsinki, Research Reports, Series A, N 68/1985, 13-34. For changes in the politics vs. morals controversy in the late 19th and early 20th Germany cf. also Kari Palonen, *Politik als Handlungsbegriff. Horizontwandel des politikbegriffs in Deutschland 1890-1933*, Helsinki, Societas Scientiarum Fennica, *Commentationes Scientiarum Socialium* 28, 1985, 88-94.
5. Hannah Arendt, *Eichmann in Jerusalem*, German edition, Reinbek 1983 (1963), 329.
6. Cf. already Hannah Arendt, *Organisierte Schuld*, 1945, in *Verborgene Tradition*, Frankfurt/m, Suhrkamp 1976, esp. 40-43.
7. The expression is due to Klaus Sondermann.
8. For 'politics as policy' -conceptions cf. Karl Rohe, *Politik. Begriffe und Wirklichkeiten*, Stuttgart, Kohlhammer 1978, 61-63. For the history of these conceptions cf. Kari Palonen, *Politik als Handlungsbegriff*, op.cit., esp. 96-114.
9. Hannah Arendt's distinction between 'conscientious objection' and 'civil disobedience' fails to consider the possibility of interpreting the individual's act

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of refusal of the military as a political one, cf. *Civil Disobedience*, 1970, In *Crises of the Republic*, Harmondsworth, Pelican 1973, esp. 47-56.

10. In the late twenties Kurt Hiller developed strategies of revolution through a mass refusal of the military service as well as other services to the military and to the war industry, cf. esp. his essays *Militanter Pazifismus* (1927) and *Wie verhindern wir den nächsten Krieg* (1929), both in *Der Sprung ins Helle*, Leipzig, Lindner, 13-21, 107-119.
11. Cf. Kari Palonen, *Politics as a Dramatic Action Situation*, in Ilkka Heiskanen & Sakari Hänninen (eds.), *Exploring the Basis of Politics*, Helsinki, The Finnish Political Science Association 1983, 13-31.
12. *Ibid.*, 26-31.
13. Cf. Max Weber's division of the individual's relation to politics to 'normal times' and to 'great moments' (like war!), in *Der Nationalstaat und die Volkswirtschaftspolitik* (1895), in *Gesammelte politische Schriften*, Tübingen 1971, 18-19.
14. Hannah Arendt, *Vita activa oder Vom tätigen Leben*, München, esp. 164-185.
15. Cf. *ibid.*, 201-202.
16. Cf. in this respect the development of Joschka Fischer from a militant Sponti to the first Green minister favoring Realpolitik, see esp. his essay collection *Von grüner Kraft und Herrlichkeit*, Reinbek, Rowolt 1984.