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**CONSCIENTIOUS OBJECTION
IN THE FEDERAL REPUBLIC OF
GERMANY**

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1. On the history and formal background of conscientious objection

The initial forerunner of a legal regulation concerning the exemption from military service for religious reasons in Germany was the "privilege of clemency for the Mennonite communities in the kingdom of Prussia" of 1780. This royal edict exempted in perpetuity the religious communion of the Mennonites from military service. In return, the Mennonites had to pay an annual levy of 5,000 talers (former German coin). Later (in an edict issued in 1789), the calculating basis for the levy referred to the personal economic capacity of the conscientious objector: he was obligated to pay 3% of his annual income as an additional tax every year. In addition, he was debarred from becoming a civil servant.¹

With the formation of the North German Confederation (1867), the Mennonites lost their privileged position no longer were they granted an exemption from military service. Accordingly, those persons liable to perform military service for who killing another person - even in case of war - was incompatible with their conscience due to their religious beliefs, were to be given the possibility of performing some service other than military service or service in the field. An enactment of the cabinet issued in 1868 ordered the conscription of Mennonites for (unarmed) medical service.

During World War I, those few men who refused to do active duty for reasons of conscience were either declared to be of unsound mind and ordered to undergo psychiatric treatment, or they were accused of incitement to disaffection in the armed forces and sentenced correspondingly.

After the reinstatement of general compulsory military service in the so-called Third Reich, conscientious objectors at first were threatened with penal servitude for incitement to disaffection. Later, after 1938 and, particularly, after the beginning of World War II, conscientious objection was punishable by the death penalty. Above all members of the religious communion of Jehovah's Witnesses were sent to concentration camps and murdered there on the basis of this law.

After World War II, with the impression of the terrors of the Nazi regime still fresh in everyone's mind, the right to individual conscientious objection was laid down definitely in the laws of a few Lands (Bavaria 1947, Baden-Wuerttemberg 1948). Analogously the majority of the Parliamentary Council, during the discussions on the Basic Constitutional Law, decided in favour of adopting a law protecting *conscientious objectors*. Therefore, persons liable to perform military service for who killing another person - even in case of war - is incompatible with their conscience *due* to their religious beliefs must be given the alternative of performing a service other than military service or service in the field. Accordingly, the basic Law (section 4, paragraph 1) states that the freedom of conscience is inviolable; subsequently (section 4, Paragraph 3), it is decreed that *no-one may* be forced to do armed military service against his *conscience*. *In terms of constitutional law, the right to object to military service for reasons of*

conscience takes priority over the principle of general compulsory military service.²

The Federal Republic of Germany is the first and up until now, the only state that has laid down definitely the right to conscientious objection in its constitution.

The Federal Constitutional Court has interpreted and set down the contents of this statutory rule. Consequently, the right to conscientious objection is A real constitutional right. Anyone who is obligated to do military service, even if he already is or was a soldier, also can cite this constitutional right in times of peace. It is supposed to be granted anytime without a preclusive term.

Legally, a person's conscience, which forms the basis for making the decision under discussion here, is considered to be "an inner moral conviction of what is right and wrong and the resulting obligation to act or not act in a certain way..."³ And: "The, decision made for reasons of conscience can be based on religious conviction, ethical or humanitarian views, or ideological-pacifist reasons. Rational and intellectual considerations or political opinions alone are not sufficient, but they can become intensive enough so as to affect a decision for reasons of conscience".⁴

As far as its contents are concerned, the decision for reasons of conscience "must, to all intents and purposes, object strongly to military service". However with this the Basic Law does not cover objection to military service that is "conditioned by a specific situation", i.e. a form of objection that is based on certain images of the enemy, types of warfare- or weapons. Therefore, political reasoning, in its narrower sense, formally does not fall under the protection of the law.

In order to be exempted from service in the field on the basis of conscientious objection (the Basic Law only mentions objection to service in the field, not objection to military service as such), a relevant application must be submitted six months before attaining the age of 18 at the earliest. The application is not an exemption from the pre-induction physical examination. Before a decision is made on the application, it must be determined whether the person liable to perform military service can perform such service at all or whether an exemption from military service applies. An exemption is granted, for example, if the person concerned is unfit for military service, or if he is employed in a civil defense organization or by the police. Theology students or citizens having their principal domicile in Berlin are also exempted from military service.

Initially (up to 1984) every person liable to perform military service had to establish the credibility of his reasons for conscience to an "examination board" before he was granted an exemption from military service. For one legal problems ("the capacity of the conscience of being adjudicated") and, for another, the fact that "governmental examination of a person's conscience"⁵ gave rise to a situation in which a final decision on more and more applications could not be made due to a shortage of personnel in the examination boards, caused the procedure of recognition to be revised. Moreover, although the

decision to object for reasons of conscience remained in the discretion of the persons concerned, they had no power to assess the extent to which governmental institutions were persuaded that it really was a decision made for reasons of conscience and not at all based on expedience or even a form of manifest protest against the public authorities. The revised law became effective on 1 January 1984.

It was assumed that the backlog in unprocessed applications for conscientious objection at the time induced many of the young men liable to perform military service to file an application for no other reason than to be able to complete their vocational training or studies, thereby postponing their duty to perform service. Once they had attained the limit age of 28 years, they were in a position to avoid any form of service.⁶

The revised procedure of recognition (in force since 1984) no longer prescribes an oral examination of the validity and credibility of the reasons for the application. Today, the Federal Office for Civilian Service merely checks whether the written applications (curriculum vitae and personal explanation of the motives) correspond to the legally stipulated prerequisites of completeness, conclusiveness and credibility. However, the former procedure was retained for trained conscripts, i.e. reservists and active soldiers, as well as young men who already have received their calling-up order to the Bundeswehr. These applicants must provide more detailed evidence for their decision to object for reasons of conscience (i.e. in oral proceedings).

As a rule, once a person is recognized as a conscientious objector he is committed to perform a period of service for the community. This form of service was initially referred to as "alternative civilian service" (Ziviler Ersatzdienst) ; since 1973 has been called "civilian service" (Zivildienst).

The duration of the civilian service is determined by the term of military service, the subsequent reserve duty training as reservists, and the comparably time intensive period of service of the soldiers. The term of civilian service is to be one-third longer than that of military service, thereby making it a "burdensome alternative."⁷ Since compulsory military service currently lasts for a term of 15 months, civilian service claims 20 months. For soldiers or reservists who have refused to do military service, the duration of the civilian service that still needs to be performed is determined on the basis of the time already served in the military and the difference to the 20-month term of civilian service. In the opinion of the legislature the longer duration of civilian service in comparison to draft term essentially is a kind of "touchstone" or test for the conscientiously made decision on "killing and getting killed".⁸

Within the scope of the revision the number of civilian service positions has increased to such an extent that every objector is drafted for alternative service immediately after being recognized as a conscientious objector. Moreover, the entire law governing objection to military service was dissociated from its partially close connection to Military Law (Law on Compulsory Military Service). The administrative responsibility no longer rests with the Minister of Defense, but has been designated to the Minister for Youth, Family Affairs, Women and

Health. This clearly documents that the institution of conscientious objection to military service is not supposed to be influenced anymore by the ever-changing situation in the fields of security policy or military strategy.

2. Trend of figures concerning conscientious objection

Up until the mid-1960s, the number of applications for recognition as a conscientious objector per calendar year was markedly below 6,000.⁹ As a result of the widespread discussion on the Vietnam War in the German public and the activities of the so-called extra-parliamentary opposition, the number of applications increased steeply later on. In 1973, the -First "mass attrition of the conscience" (Theodor Heuss in 1949)¹⁰ was reached when about 35,200 applications were recorded.

In 1976/77, the social-liberal coalition government in power at the time tried to abolish the obvious shortcomings of the testing procedure and to simplify the procedure of recognition. An informal declaration of intention made to the authorities responsible for the recruiting and replacement of military personnel was to be sufficient. This declaration had to state that, with reference to the Basic Law, the person concerned rejected the use of weapons between states for reasons of conscience and, therefore, wanted to object to performing armed military service. As a direct consequence of this procedure, which quickly became known as "objection by postal card" and was in force for 4 1/2 months, the number of applications soared to 69,000 in 1977. Politically, the drastic increase was rated as an indication that a de facto free choice between military and civilian service of equal duration would have undermined compulsory military service with all consequences as regards security-policy and military-strategy.¹¹ In this connection, the formal "equality" of military and civilian service, which was expressed by the postal-card procedure, was particularly disputed. Opponents to the postal-card procedure argued in this context that the social-political prerequisites for the right to conscientious objection were created, as such, by compulsory military service.

After the simplified procedure was retracted, not least because of such misgivings, the number of applications once again fell to approximately the level they had achieved before. The renewed steep increase in 1983 can be attributed to the fact that a revision of the procedure was foreseeable at the time. In addition, the prolongation of civilian service, which was planned to take effect in 1984, probably was one reason for the increase; another cause most likely was the foreseeable deletion of civilian service positions "without sufficient strain", which would make civilian service harder. Many applicants evidently hoped to be drafted under the old conditions.

Regardless of this, the steady rise in the figures since 1970 obviously has also been influenced by the increasing public discussion and delegitimation¹² of security policy and military strategy. To put it in concrete terms, the figures for the period of time from 1984-1987 most likely were affected by the discussion about arms race, the stationing of cruise missiles and the arguments of the peace movement.

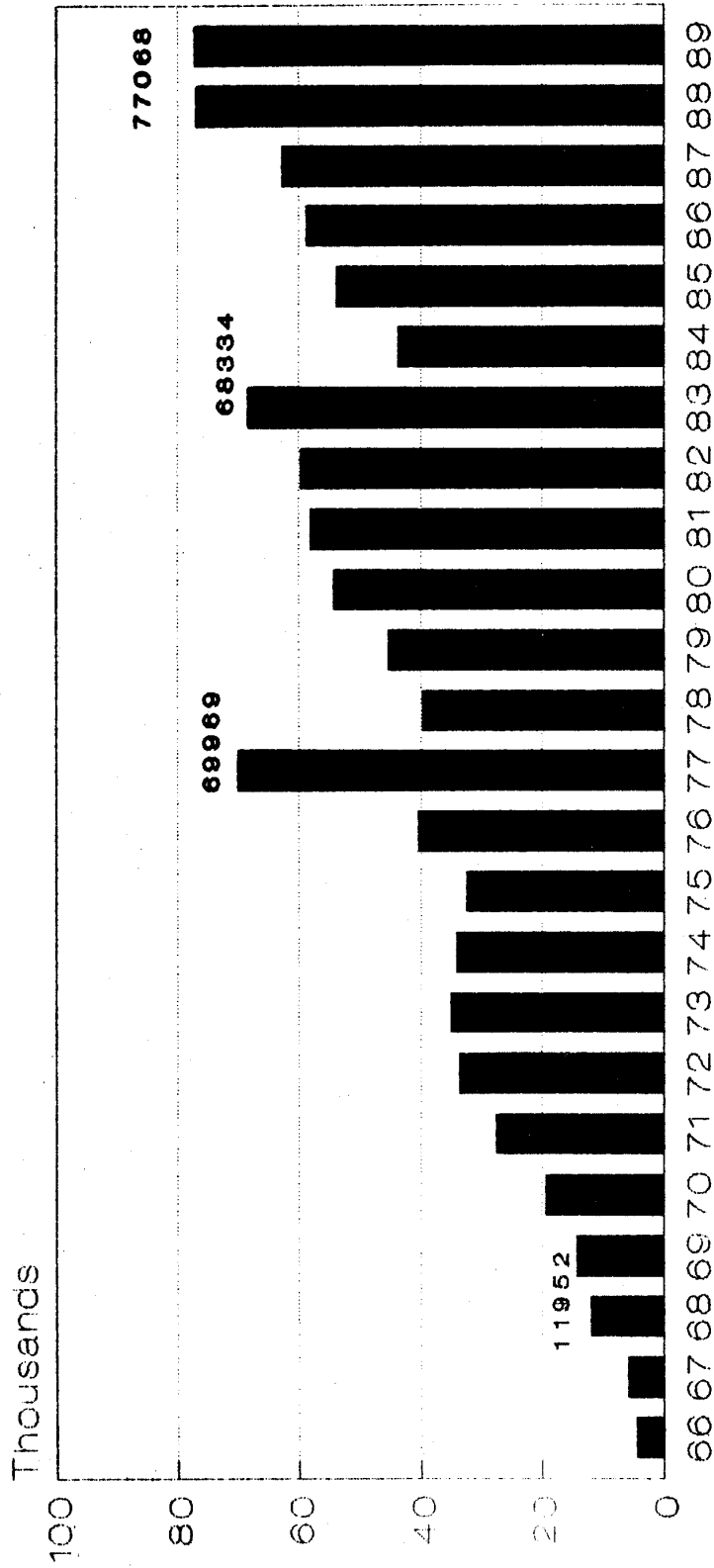
In 1988, the volume of applications reached a new record level of 77,068 applicants. In comparison with the preceding year, the figure rose precipitously by 22%. It can be assumed that the applicants hoped to fall under the old civilian service regulation that stipulated a term of 20 months before the planned prolongation of service to 24 months actually became effective.¹³ This regulation has been cancelled in the meantime. However, the figures for 1989 (77,342 applicants) show that the fear of a prolongation cannot have been the decisive motive (see graph on page 9).

The curve of the number of applications for conscientious objection submitted by soldier (i.e. by young men who already are soldiers) since 1970 has shown a comparably steady course. Peaks were recorded only in 1971 with 3,616 cases, in 1981 with 2,702, and in 1982 with 2,692. If one disregards 1971 and 1972, in which the total number of applicants was comparably low, the relative share of soldiers in the total volume, which came to 5% in 1973, declined to 2.1% in 1988.

The trend in the number of recognitions was by no means analogous to that of the number of applicants. In 1963, for example, as many as 90% of all petitioners were recognized, in 1968 this figure came to less than one third, and in 1970 it dropped for the first time to less than half.¹⁴ In this relation, the (total) recognition quota (examination board, examination panel, and administrative court combined) remained stable until about 1983. Only after the procedure was revised did the percentage clearly increase again. In 1985, it was approximately 80%, towards the end of 1987 it was close to 96%, and currently it is 99%.

In view of the forecasts, according to which the number of applications per annum will continue to remain high, it cannot be ruled out that, in the near future, a "brake in the recognition procedure"¹⁵ will be applied by asking applicants once again to prove the "credibility" of their motives.

**Applications for Recognition as C.O.
1966 - 1989 (per calendar year)**



Source: Bundesamt fuer den Zivildienst
(Federal Office for the
Civilian Service)

3. Conscientious objection and motivation for military service

Government agencies and the public follow with great interest the trend of applications for recognition as a conscientious objector. On the one hand it gives a clear indication of the young men's willingness to fulfil their duty to serve. On the other hand it provides the Armed Forces with information on the size of the shortage in personnel that will need to be covered from other sources and, finally, it lets the "Zivildienst" organization know how many positions it must keep open or can fill in future.

In order to make a meaningful statement on the willingness of draftees to serve, the number of applications for recognition as a conscientious objector needs to be expressed as a percentage of the total number of young men in the corresponding age-class who were registered for the draft. This kind of calculation, however, runs into fundamental difficulties because persons who have been registered for the draft, soldiers, and draftees can file an application for conscientious objection years after their registration for the draft. Therefore, the required statistics could only be drawn up after a long period of time. Currently, one can proceed on the assumption that statistics only provide a somewhat accurate picture of the percentage of conscientious objectors per age-class seven years after registration.

Understandably enough, the personnel planning of the military as well as the peacetime size of the Bundeswehr¹⁶ projected for the 1990s can hardly be realized if more than 10% of the age-class registered for the draft apply for status as conscientious objectors. Scepticism seems appropriate here. This critical limit already was reached by the age-class of 1955 (year of registration for the draft was 1974) and has constantly stayed above it since then. For the age-class of 1968 a conscientious-objection-quota of 13% was recorded, for the age-class of 1969 (registration in 1987) it was 14.8%. Since one has to take into consideration the close to seven-year delay before the actual quota can be computed, these values only indicate the lower limits; therefore, higher figures can be expected in reality. For this reason, one can proceed on the assumption that future quotas of conscientious objection per age-class will clearly continue to rise to 20% (and more).¹⁷

At any rate, altogether only about 160,000 persons liable to perform military service will be available per annum (due to the upcoming "years of low birth rates") in the middle of the 1990s. If the quota of conscientious objection remains at 20%, then about 32,000 would choose in favour of civilian service each year so that approximately 130,000 draftees, and not 230,000 (as has been the case in the past years, when the Bundeswehr counted a total of about 500,000 soldiers), would be available for military service. The arguments brought forth by the peace movement, the "green" political groups and, last not least, the hope for military disarmament that is commonly described by the slogan "Gorbachev effect" will provide additional impetus to choose in favour of civilian service.

**4. Positions in the "Zivildienst" -
underpaid (social) Work
at the fringes of a satiated society**¹⁸

In Germany, "Zivildienst" has two different meanings: for one it indicates the duty to perform alternative civilian service if one is exempted from military service; for another it refers to the concrete organizational form of the duties of the civilian service.

State-recognized civilian service posts for conscientious objectors undergoing civilian service must perform tasks that serve the public well-being - whatever that may mean and the interpretation of which is decided from case to case. Just recently, the organization "Greenpeace" gained recognition from the Federal Constitutional Court following a long dispute. Furthermore, state-recognized civilian service posts must ensure that conscientious objectors undergoing civilian service have a work load comparable to that of the young men undergoing military service and that they are adequately trained and advised.

At the end of 1988 there were 19,479 recognized civilian service work places in West Germany (1973: 3,978; 1979: 10,529; 1985: 15,129), which offered 98,416 civilian service slots. Roughly 97,000 (98,6%) of these posts were actually filled in 1988.

The distribution of civilian service offices and posts among the (usually) non-governmental organizations is shown in Figure 1. Comparatively many of the civilian service posts are provided by the Charitable Service of the Protestant Church, the German Red Cross, and the German Non-Sectarian Welfare Organization. It is essential in this context that the civilian service, other than the military service, has no official political goal on its own.¹⁹

Figure 1: Civilian Service Institutions

	Work- places	Slots	C0s	servicing
1. German Red Cross ¹	1017	10700	10375	(13.1%)
2. German Non-Sectarian Welfare Organization ²	2514	14232	11363	(14.3%)
3. Charitable Service of the Protestant Churches ³	4786	16401	13853	(17.6%)
4. Workers' Social Security Organization ⁴	1142	7079	5837	(7.4%)
5. Workers' Samaritans ⁵	261	4371	3444	(4,3%)
6. German Association of Hospitals ⁶	604	7086	5857	(7.4%)
7. Maltesan Welfare Service ⁷	230	2747	2316	(2.9%)
8. German Association of Roman Catholic Charitable Organizations ⁸	3675	13739	10809	(13.7%)
9. St. John's Ambulance Assistance ⁹	179	2863	2389	(3.0%)

10. Sports Association/Youth Sports Association ¹⁰	110	194	147	(0.2%)
11. German Youth Hostels Association ¹¹	418	1294	1263	(1.6%)
12. Environmental protection and conversation associations ¹²		1500	1300	(1.6%)
14. Others	3798	11421	10256	(12.9%)
TOTAL	18734	93627	79209	(100 %)

Status: 15 October 1988. See Der Zivildienst, 19th year, 10/88

Footnotes:

1) Deutsches Rotes Kreuz 2) Deutscher Paritätischer Wohlfahrtsverband 3) Diakonisches Werk 4) Arbeiterwohlfahrt e.V. 5) ArbeiterSamariter-Bund 6) Deutsche Krankenhausgesellschaft 7) Malteser Hilfsdienst e.V. 8) Deutscher Caritasverband 9) Johanniter-Unfall-Hilfe 10) Deutscher Sportbund/Deutsche Sportjugend 11) Deutsches Jugendherbergswerk 12) Umwelt- und Naturschutzverbände.

The range of duties performed by conscientious objectors undergoing civilian service is shown in Figure 2. They are primarily called upon to work in the fields of nursing and welfare work (61.4%); they are utilized in handicraft-related jobs to a much lesser extent.

Figure 2: Occupations in the "Zivildienst" arranged in the order of the work slots (Dec. 1988)

Nursing assistance and welfare	61.4%
Handicrafts	11.9%
Ambulances and rescue services	9.1%
Individual care for seriously disabled persons	6.1%
Public assistance	4.4%
Drivers	2.5%
Gardening and farming	1.8%
Environmental protection	1.6%
Business and administration	1.2%

TOTAL 98.416 slots	100.0%

Valid as per December 1988. Source: Federal Office for the Civilian Service

The function of the conscientious objectors undergoing civilian service can best be described - in a slightly overdrawn manner - as fill-ins in a private-capitalistic competitive society that is based on material wellbeing. The conscientious objectors undergoing civilian service are preferably employed in positions where private provisions for emergencies and help in distress cannot or will not be applied. These types of emergencies arise, for example, if the elderly, sick, or

handicapped are (can) no longer be attended to by their families and are entrusted to the care of organizations of voluntary as well as governmental welfare work. Conscientious objectors undergoing civilian service are sought after for attending to people who live at the edge of social prosperity despite the tightly woven state-controlled social net in West Germany - and who usually are also considered to be unproductive from an economic point of view - but who want to have their constitutional right to a dignified life recognized.

Experience has shown that the social functions assumed by *conscientious objectors* undergoing civilian service would only be performed inadequately or would be eliminated completely if they were based on the rules of competition, even in a social market economy. Wherever the material profit that can be earned remains negligible or *cannot be* financed by the relevant marginal groups, the obvious, and comparably less expensive, solution is for the state to obtain by force social welfare work that is disguised as services for the common well-being.

Conscientious objectors undergoing civilian service are already at the time indispensable assistant staff for voluntary welfare work organizations. It would no longer be possible to finance professional staff in place of *conscientious objectors*. "Estimates indicate, for example, that the number of conscientious objectors undergoing civilian service who are working in hospitals has climbed to about 10% of the total number of assistant staff members (hospital care assistants and non-examined personnel) working in public health services".²⁰

In future the "Zivildienst" will gain new social-political significance primarily for two reasons. Firstly, even more elderly people will require care and old-age assistance before long due to the predictable trend of the population structure in West Germany. Secondly, the state will be even less efficient because the funds provided to the public health and social services will become scarcer. It is already evident today that the scope of services cannot adequately satisfy the needs for social welfare work despite the extension of the term of duty of the civilian service of at the time 20 months. In this connection, the voices demanding an obligatory social service for young women too could become more insistent.²¹

Since 1971, the number of positions available in the civilian service has doubled every five years. In 1988, more than twelve times as many places were available than in 1971. An obvious question is how this increase can be explained: Is it merely a reaction to an increase in demand caused by an increasing number of conscientious objectors? Or are other interests involved? It is here at the latest that the legal postulate of the so-called neutrality of the civilian service in terms of employment comes to mind. This postulate denies the state's recognition of any civilian work places "if it can be proved that they replaced a former place of employment or want to save establishing a new place of employment".²² In this way, the state wants to avoid having conscientious objectors compete with gainfully employed persons for a place of employment, or, to put it in more concrete terms, to ensure that the civilian work places do not replace a full-time employee by a conscientious objector undergoing civilian service.²³ In general however, it is very difficult for the

Federal Office of Civilian Service to provide adequate evidence. The counter-argument that no suitable applicants were found for an advertised position is usually enough for the office to retain its status of state recognition.

Nonetheless, in addition to the effects on the employment market, the discussion on the neutrality of the civilian service with regard to employment policy particularly conceals the question as to whether the civilian-service institutions "exploit" conscientious objectors undergoing civilian service as cheap labor.²⁴

Conscientious objectors receive - like conscripts doing military service - their pay from the state. The budgets of the institutions are only burdened with housing, clothing and alimentation - altogether markedly less than would have to be paid for a regular employee. "The civilian service slots are obligated to provide the conscientious objectors undergoing civilian service with housing, food, and work clothes; however, to ensure that more positions are made available, some of these costs are also assumed completely by the Federal Office for Civilian Service, and so, finally, only the administrative costs remain."²⁵ In particular those non-governmental institutions which can finance their operation from "refunds of costs" (see no. 1-9 in figure 1) make a nice profit - as distrustful voices say - in this way: the income obtained from the full rate of refund is counter-balanced by comparably few expenses.²⁶

Figure 3:

Financial sources of the organizations of voluntary welfare Work

1. Own funds

- Unpaid services rendered by honorary members as well as underpaid work done by full-time employees (Opportunity costs, for example by nuns or monks etc.)
- Donations, gifts in kind, membership fees, and contributions from "supporting circles"
- Collections ("Adveniat", "Misereor" by the Catholic church; "Brot für die Welt" by the Protestant church)
- Bestowals, bequests, donations for religious, social and other motives
- Contributions from church-tax funds with respect to the "Diakonisches Werk" and the "Deutsche Caritasverband" from the Protestant and Catholic churches respectively
- Income from TV lotteries ("Ein Platz an der Sonne" (A Place in the Sun), "Glücksspirale" (Spiral of Fortune), "Der große Preis" (The Grand Prize))
- Postal welfare stamps

2. Public promotion funds

- Compulsory contributions of the state and communes (school-related educational facilities, e.g. kindergartens, adult education programs. Refunding of costs for hospitals)
- Voluntary payments of the state and communes (for concrete projects, in which the state also has a considerable interest, e.g. social centers and measures to help persons with psychic disorders, as well as vocational rehabilitation facilities)

3. Reimbursement of costs by charging the persons for services rendered

- Oriented according to the allowances prevalent in civil and youth welfare corresponding to the Youth Welfare Law
- Oriented according to the hospital allowances corresponding to the Law on Hospital Financing
- oriented according to the fees charged by hospitals for ambulatory treatment corresponding to the Reich Insurance Ordinance
- Cost reimbursement for measures regarding vocational rehabilitation

Sources: Hans Flierl, Freie und Öffentliche Wohlfahrtspflege. Aufbau, Finanzierung, Geschichte, Verbände. (München: Jehle 1982) See also: Die Freie Wohlfahrtspflege. Eine Arbeitshilfe zur Darstellung der freien Wohlfahrtspflege für die Aus-, Fortund Weiterbildung. Bundesarbeitsgemeinschaft der Freien Wohlfahrtspflege (Ed.). (Bonn: 1983) p. 40 ff.

Unequivocal and undisputed facts which could provide a conclusive answer to these questions are not available at present: the pros and cons of the argument confront each other - at least as far as the public discussion concerned -without factual mediation. As a matter of fact, social relief services, which did not exist formerly because they would have been too expensive to maintain, have been created within the framework of the civilian service since 1984 (mobile services and individual care for seriously disabled persons). Moreover, it is a fact that a large number of conscientious objectors undergoing civilian service are active in organizations that do not make use of the "cost refund" refinancing instrument and, therefore, cannot utilize this source of funds (for the budget structure of some voluntary welfare work associations see figure 4).

On the other hand both critical experts on voluntary welfare work as well as officials from the ecclesiastical assistance institutions for conscientious objectors and state-controlled civilian service organizations in principle confirm - unofficially, of course the results of two recent empirical studies .27 Independently from each other, both studies come to almost concurrent results:

namely, that every conscientious objector earned a "net profit" of DM 33,000 in 1987. The value of the conscientious objector's work in terms of money was calculated to be altogether about DM 2.3 billion, and "75% of this go to the central associations of voluntary welfare work and their member organizations."²⁸

Figure 4: Budget structure of 5 central associations of voluntary welfare work

	<u>Share of total volume in percent</u>		<u>Total volume</u>
	<u>Own funds</u>	<u>Reimbursement for services</u>	<u>Public contributions</u>
			<u>in 1000 DM</u>
"Arbeiterwohlfahrt"	9%	47%	44%
"Diakonisches Werk"	63%	11%	26%
"Deutscher Caritasverband"	63%	9%	28%
"Paritätischer Wohlfahrtsverband"	53%	3%	44%
"Deutsches Rotes Kreuz"	48%	7%	45%
			144,721

Source: Die Spitzenverbände der Freien Wohlfahrtspflege - Aufgaben und Finanzierung, Bundesarbeitsgemeinschaft der Freien Wohlfahrtspflege (Ed.). (Freiburg: 1985) p. 37 ff. It needs noted that the duties specified refer only to the main offices of the central associations. Nothing is known about the financial structure of the member organizations. No information was available on the sixth central association, the Central Welfare Office of Jews in West Germany.

5. Attitudes towards and opinions on conscientious objection and civilian service

It is not surprising that military service and conscientious objection occupy the two extreme positions on a hypothetical pro and con *continuum*: the more critical and controversial the discussion on military defense became in the last few years, the more positive did the image of conscientious objectors become. Nevertheless, there seem to be several intervening variables, which, in any case, interrupt a direct causal relation. After all, the liberalization in the acknowledgement procedure for conscientious objectors was accompanied by an increase in the number of civilian service participants. As a result, the substance and conditions of the work performed as part of civilian service naturally became known much better than before. The social and social-political significance of the services rendered by the conscientious objectors seems to have gradually penetrated public awareness and, correspondingly, to have attained adequate public recognition.

In Germany conscientious objection was considered deviant behaviour for a long time. In particular among persons aged 50 and over, conscientious objectors enjoyed negligible social prestige and had the reputation of being "draft-dodgers". In 1985, representative opinion polls of the population for the first time indicated a counter-trend: since that time, the positive assessment of conscientious objectors continually has remained above the negative opinions. The age group of persons 50 years old and over was no exception.

Among young men (aged 16 to 24) conscientious objection always had a good image (1983: 54%, 1984: 42%, followed by a steady increase until 1988: 57%).²⁹ In 1988, the Federal Ministry of Defense was surprised to find that "the image of a conscientious objector . . . (was higher) ... than that of a young man who had decided to volunteer for service in the armed forces".³⁰ Particularly secondary-school graduates ascribed higher moral value to civilian service. A - conservative - information service remarked on this development as follows: "If this trend continues, it is foreseeable that the conscript who joins the Bundeswehr will be the exception: a reversal of the legal situation, which declares the conscientious objector as the exception".³¹

For the sake of fairness and completeness, it nonetheless should be noted that volunteer service in the Bundeswehr also is given a continual positive rating. Since 1980 the decision of young men to volunteer for service and reinlist in the Bundeswehr has met with the consent of about 65% of the population. In 1989, however, this rate declined to 57%.³² The circumstance that both volunteers and conscientious objectors are gradually attaining a similarly high level of approval in the near future seems to reflect the population's understanding that both groups can refer to a basic right confirmed in the constitution.

The reproach for draft-dodging, which was aimed at the conscientious objectors, no longer finds an echo in the general public. Whereas about every fourth citizen of West Germany has been assuming for years that conscientious objectors have the potential intention of "changing the system", an increasing majority also acknowledges their religious and humanitarian motives (1980: 55%; 1988: 80%; 1989: 78%).³³

The social-political value of such demoscopic data is highly disputed. Different from the time of the postcard procedure, when it was feared that conscientious objection would lead to the erosion of defense readiness, political-moral arguments are predominantly brought forth today in the relevant discussions. To a great extent this can probably be attributed to the differentiated arguments of the peace movement. In this context, criticism on the part of official security policy is directed at both churches: for example, when they (as especially the Protestant Church has done) speak about "a service for peace with and without arms"; or when they state that "neither soldiers nor conscientious objectors" were "better persons"³⁴), meaning military service and civilian service; or (as has been expressed above all by the Catholic Pax-Christi-Organization) when they recommend conscientious

objection as the only correct form of conduct for Christians in view of modern warfare (Feuerstein declaration). Such positions are rebutted as moral relativism; by comparison, performing military service was to be viewed as the only ethically adequate mode of behaviour in the interest of public welfare.

In its capacity as a representative of the federal government, the Federal Civilian Service Office gives good marks to the concrete structure of the civilian service as it has been since 1984. In accordance with the requirement stipulated by the Federal Constitutional Court, the special quality of posts within the civilian service - meaning the direction that civilian service be made a burdensome alternative - has been realized. According to the opinion of the Federal Civilian Service Office this "special quality" has obviously not had any lasting effect on the readiness of young men to join the civilian service because the majority of them were committed, dutiful, and hardworking, and the civilian service was characterized "by a satisfactory rate of acceptance among administrative departments and citizens as well as by the high motivation of the civilian service participants".³⁵

It is less the representatives of the associations of voluntary welfare work than the churches and the support organizations of the civilian service participants that raise objections in this connection. Although civilian service participants took up their work with a high degree of social commitment, especially because they purposely decided in favour of doing alternative service in the social sector, they were disillusioned and resigned when they left the "Zivildienst". Formerly the undignified procedure of examining the conscience of objectors (which was prescribed until 1984) caused the conscientious objectors to feel a certain weariness concerning the state. The present situation, in which the period of civilian service is automatically one-third longer than that of military service, and which causes civilian service participants to bear special strains, leads to the same result.³⁶

The greater strain that is purposely placed on civilian service participants is not criticized because of the heavy workload but because of the mental stress. The civilian service participants were able to make their own schedules, whereas soldiers hardly ever had this possibility open to them.³⁷ Altogether the civilian service participants worked a "normal" 40-hour week, which could only be observed with difficulty in the combat units of the armed forces. One counter-argument raised in this connection concerns the existence of manifold "cushy jobs" in the Bundeswehr, where although officially designated as duty posts - no work is done.³⁸

The argument as to the issue of the psychic exploitation of conscientious objectors is based on the fact that about 75% of the conscientious objectors are employed in so-called taxing services (nursing services; lifesaving services; care of the elderly; care of handicapped and seriously handicapped). In the course of their work, the young men reached the stress limit with regard to physical, psychic and social strain. Human commitment alone is not enough for performing these services; the civilian service participants would require adequate preparatory training. A training program is offered, but it is much too short. In addition, nursing training would be necessary, which the civilian service participants do not have. Since the civilian service participants have to replace specialized personnel - because such employees either are not available or "too expensive" - they provide, in the final analysis, so-called dangerous care: the persons that need to be cared for or are harmed by the care they receive.³⁹

No longer is civilian service restricted to "meals on wheels, shovelling snow or doing the shopping ... I am experiencing that, I have a son who is doing his service in the sick ward of a senior citizens home, an infirmary that is considered to be very good. I asked him how many deaths he actually had witnessed during his one-and-a-half years of civilian service. He told me that he could no longer count them; but, on an average, there were more than one every month. And you must bear in mind what it means to a young person who has just graduated from secondary school to take care of old people - to wash and feed them, make their beds, care for them, help them up when they have fallen down and are bleeding,

go for help when one of them has a stroke - and then, at the end, watch the people, with whom he has just established contact, die. I ask myself the meaning of such arguments as the one that 'military service is a greater strain', and I wonder what justification there actually is for making conscientious objectors do service for a period of time that is one-third longer than military service" .⁴⁰

According to concurring criticism, a situation in which civilian service is designed as an onerous alternative choice involves the danger that civilian service as such develops a deterrent effect, which would cause the constitutionally guaranteed right of conscientious objection to be restricted insidiously" .⁴¹

Basically, all of the organizations concerned seem to be of the opinion that the social commitment of the civilian service participants is also exploited on an economic level. Although the beneficiaries do not publicly agree to this statement, they do not refute it either. The Federal Civilian Service Office only points out that some services were especially created or expanded for civilian service participants (above all mobile social relief work and individual care for seriously handicapped persons). It could be said of these services in particular as well as of all civilian service jobs that "there is no effective demand for these activities on the labour market or that an existing demand cannot be satisfied for reasons of cost".⁴²

The pointed criticism of representatives of the Protestant Church is an exemplary summary of the accusations: "Civilian service participants are cheap labour for the social sector. All the work that cannot be handled by specialized employees, perhaps because they are too expensive, is done by civilian service participants. Depending on need and suitability, they can be employed anywhere without having to observe the inhibitory restrictions of labour laws and they have to function at will. Civilian service participants can be employed very quickly to handle any activities that have become unattractive and for which employees cannot be found any longer. Thus, it can still happen that meaningful jobs are offered to civilian service participants, but often the employment of civilian service participants has become a matter of custom".⁴³

6. Sociodemographic studies of conscientious objectors

The basic right of conscientious objection was occasionally referred to as the "basic right of secondary-school graduates",⁴⁴ especially at the time when an objector's conscience was examined (up to 1984) . Corresponding data contributed to the validity of that reproach. For instance, "the proportion of secondary school pupils came to 50% in 1972, even though the proportion of this category of persons only was 15-20% in that conscription age group".⁴⁵ In addition, it can be assumed that the relative proportion of secondary-school graduates actually was even higher after the selection process of the recognition procedure, because "the only distinction between recognized objectors ... and applicants is the significantly higher level of education, higher intelligence, and superior eloquency" of members of the former group".⁴⁶

Looked at differently, the recognition procedure at that time discouraged from the outset many young persons with a low level of formal education and, consequently, comparably inferior abilities of articulation. The overrepresentation of secondary-school graduates corresponded to an under-representation of pupils coming from secondary modern schools (Hauptschulen) and schools leading to the GCE Ordinary Level (Realschulen). To what extent the strictness of the examination procedure was a hindrance and how little a person's "conscience" actually depended on the level of education became manifest during the short period of time in which objection per postal card was permitted. Whereas graduates from "Hauptschulen" on an average accounted for 22% of the applicants before 1 August 1977, they reached 33% in the quarter year extending from 1 August to 16 December 1977 (when the postal-card-procedure was allowed), and, in 1978, 16% were again recorded. During the same period of time, the proportion

-' secondary-school graduates declined from 56% to 38%. In 1978, the percentage climbed back to 56%.

The revision of the recognition procedure for conscientious objection in 1984 gave rise to another shift. The relative proportion of secondary-school students fell to about 39%, that of pupils from "Hauptschulen" remained under the 20% mark (19.1%), and that of pupils from "Realschulen" rose to about 37% (1985: 26%). Thus, findings published in 1981, which stated from Hauptschulen or graduates from this form of school" were more inclined to "rule out con-scientious objection as a station in the design of their lives", obviously still apply.⁴⁷

In view of such data, two interpretations suggest selves. Firstly, persons with a relatively higher level of formal education do not tend to think of the pending military service as inevitable fate, rather they view it as one of two alternatives and are willing to make their decision accordingly. On the other hand, the "jocular labelling" of the Bundeswehr as an "army of workers and farmers"⁴⁸ is still justified today. And, secondly, the recent increase in the number of pupils from "Realschulen", who generally are considered to be particularly oriented towards social ascent and, thus, willing to adapt to social norms, is a reflection of the increasing social acceptance of conscientious objection or, to put it differently, the increasing delegitimation of military service as it already was expressed in demoscopic evaluations.

7. Personality traits of conscientious objectors and arguments for objecting to military service for reasons of conscience

The question whether "typical" personality traits of conscientious objectors can be defined in accordance with psychological criteria was usually discussed in the context of considerations on the operationalization of the "conscience". In addition, it arose whenever changes in the application or recognition procedure had caused the number of applicants to rise or fall. Although systematic studies found a kind of modal personality that could be applied to conscientious objectors, they usually made the implicit and modifying suggestion that the results were influenced not only by the conviction that had initially motivated the application, but also by its intensity.

According to a study made in 1981, for instance, the "typical conscientious objector" is introverted, not very dominant, and has a slightly pronounced "political alienation". He rejects military principles of order and obedience and does not exhibit great achievement motivation, he is dissatisfied with his school or profession, and his consumption of alcohol and drugs is higher.⁴⁹

This description of the average conscientious objector's personality was more or less confirmed in a study conducted in 1986: in comparison with soldiers, the conscientious objectors were striking because they "distinctly rejected the state's law and order authorities, were definitely disposed towards unconventional forms of protest (in part accepting violence), exhibited a high degree of political alienation and estrangement, as well as clearly rejected German defense policy and thought that conflicts should be carried out by means of political and social disputes".⁵⁰

In this connection, the SHELL Youth Study '81 found analogies between personal and social perspectives: "Failures in school or vocational training, distance from his parents or not much support from them, general distrust of their demands and those of all grown ups, who are able to tell you how to lead your life -- all these are combined with a distrust of the sedate and safe course of society as a whole into the future. His decision with respect to military service is of decisive significance for his life. Individual circumstances and intentions clearly run parallel to social orientation and directions of behaviour".⁵¹

Efforts to explain these findings by means of individual psychology came up with a "loose connection between assimilating an authoritarian upbringing as an

experience of social authority, in other words replacing a predefined system of standards by a self-determined one" and the tendency towards objection. Correspondingly, traits related to "ritualism" and "escapism" were more distinct in objectors. and "conformity" was less marked.⁵²

After summarizing the empirical knowledge described above, it can be said that conscientious objectors make "their decision after giving it more than average thought" and that "the prerequisite for it, namely the disposition towards a highly theoretical planning of life, is an outcome of preceding socialization which itself is a result of an above-average high level of formal education".⁵³

An evaluation of the reasons for deciding to object to service in the Bundeswehr is less definite because it clearly depends on the scholars system of reference. Consequently, the results of an analysis of conscientious objections showed that 58% objected for ethical, 18% for religious, 13% for "personal" and 10% for political reasons.⁵⁴ The dominance of moral aspects, differentiated between "ethical-moral" and "humanitarian-rational", was confirmed in another inquiry of recognized conscientious objectors. Classical-religious patterns of reasoning did not occur often.

On the other hand, an average rank (with a rising tendency from a historical point of view) can be attributed to political reasons. Despite the multilayered structure of the arguments, only "few conscientious objectors had no ethical-moral or humanitarian-rational motivation at all".⁵⁵ To put it differently and more concisely, the decision of conscientious objectors is "the combined product of their crises and alienation from the system as well as the structure of their moral consciousness".⁵⁶

These results are basically confirmed if Kohlberg's logic's of development of moral judgement are taken into consideration in the operationalization of attitudes, which led to deciding in favour of objection.⁵⁷ According to this, half (47.5%) of the (recognized) conscientious objectors' arguments are orientated along the social contract on a post-conventional moral level (level V), one fourth (27%) is based on concrete humanitarian arguments (level III), and only about 10% tend toward law and order (level IV). Since approximately 16% having an instrumental-egotistical level of judgement also are concealed behind these figures, it is an obvious conclusion that objections simulating a higher level of moral reasoning evidently occur too.

The socio-political effects of the psychological commitment, which are involved in the individual's choice between "military service or conscientious objection", are expressed most clearly in the different attitudes towards security policy and military strategy, war and peace.⁵⁸ In the final analysis, this is accompanied by a different understanding of social values. The long-term effects of different attitude behaviour sequences have not been studied up to now. The consequences are indicated when conscientious objectors and conscripts are compared. Evidently a considerable number of those who are able to think in the categories of the social contract, no longer believe that the Bundeswehr serves the will and welfare of the majority. A weakening in the "will to self-assertion" of the German people has already been brought up in this context.⁵⁹

8. Total objectors

Total objectors reject both military service and civilian service. In their opinion, military service and civilian service are "sub-systems of a military-political-industrial complex."⁶⁰ Generally a differentiation is made between five forms of total objection:

- The objection to conscription refers to the conscription to military service, which persons liable to perform military service are subject to upon attaining the age of 18.

- The objection to preinduction Physical and psychological aptitude tests is a form of boycott against the tests that persons liable to perform military service must undergo.

Other forms of total objection are

- the rejection of the recognition procedure for conscientious objectors,
- the objection to civilian service, and
- the rejection of all control and registration measures by the military or civilian service.

Besides religious (forbiddance to kill), ethical-moral (human life is the highest good), and political reasons (criticism of the social conditions insofar as they require armed forces), antimilitaristic and anarchistic arguments (the state has no right to decide on the lives of people) often are important.⁶¹ All these assessments are based on the opinion that civilian service is an unarmed form of military service and service in the field. Another argument is that civilian service is analogous to section 3 of the Military Service Act nothing else than fulfilling one's duty to perform military service. An important reference point for such reasoning is the "right to resistance" laid down in section 20 of the Basic Law.

According to existing law, total objection is liable to prosecution, since the objector (without being recognized as such) evades both military service and civilian service. Relevant criminal proceedings up to now often ended with partially disputed compound sentences (due to the double objection).

As far as statistics are concerned, it is very difficult to "get at" (Glossner 1988) total objectors. For this reason, the number of total objectors is largely unknown. The Federal Office for Civilian Service only registers persons objecting to civilian service, the Ministry of Defense only registers persons objecting to the call-up. Only the criminal proceedings, which often drag on over several stages of appeal because of the uncompromisingness of the total objectors, attract attention. However, in order to obtain an idea of the uncertain dimensions of this problem, some relevant figures are given below.

In 1986, the Federal Office for Civilian Service passed on 126 cases of double objection to the department of public prosecution. These cases also included some proceedings against members of the Jehovah's Witnesses, which refuse both civilian and military service due to their religious conviction. There is an estimation that the number of potential total objectors comes to about 2,000 per year. This figure undoubtedly has to be taken with reservations. Under the pain of tough sanctions, the majority most likely only sympathize with total objection while they perform their duty in one of the two services.⁶²

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