

DISARMAMENT - BUT HOW?



Swedish Professionals against
Nuclear Arms

The Right to Say No

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There is no declaration of human rights which mentions the right to say "no". If you ask the citizen in the street, he would probably answer that there is no need to guarantee this right. We have to fulfill our duties, we have to observe the rules that everybody else observes — but apart from that, we are free to refuse what others demand of us.

This view is as widespread as it is incorrect. Even if there is no legal obligation to do something, we are often compelled by social constraints to assume some attitude or to accept a duty we do not really like. We spend Sunday with the in-laws instead of going to a football match; we go to a concert because the "better half" wants to; we don't vote for an extreme rightwing or leftwing party because nobody else in the neighbourhood does. We keep putting money in a bank even if this bank finances investments in South Africa.

In each case, we could do the opposite — go to the football match, miss the concert, vote for the extreme party or move our money to another bank — but we don't. We don't want to be considered impolite, selfish or ignorant. We don't want to be the odd man out. As we know, there are exceptions: there are exceptions to every rule. But the social system, society as we know it, continues to function even if some individuals express their fundamental disagreement. In this respect, the right to say no — the right to depart from normal behaviour — exists, but is not exercised by the vast majority. This is a pity, because the consequences would be considerable. Withdrawing all our funds from a certain bank would amount to enormous pressure. But this is a departure.

If you ask a lawyer, he will see the question as a legal one: does a citizen have the right not to fulfill legal obligations; for instance, his labour contract or his duty as a soldier? Even if only a tiny minority practised such a right, the consequences would be far more important than the refusal to behave according to a socially accepted pattern.

Obviously a lawyer could never give an affirmative answer — law without coercion is no law; obligations which do not need to be observed are no real obligations. But even the law knows of some exceptional situations where rules can be neglected. The oldest is perhaps still the most important — it is the right to strike. Workers can refuse to work if they act collectively; the obligation to work derived from the labour contract is suspended. Some legal orders accept this right without demanding further conditions. Some other legal orders require preceding collective negotiations and disqualify the wildcat strike. Whatever the conditions, the right to strike is the most important achievement of the labour movement. Attempts to replace it with codetermination and workers' participation have been unsuccessful. Strikes take place even in Yugoslavia, where managers are elected.

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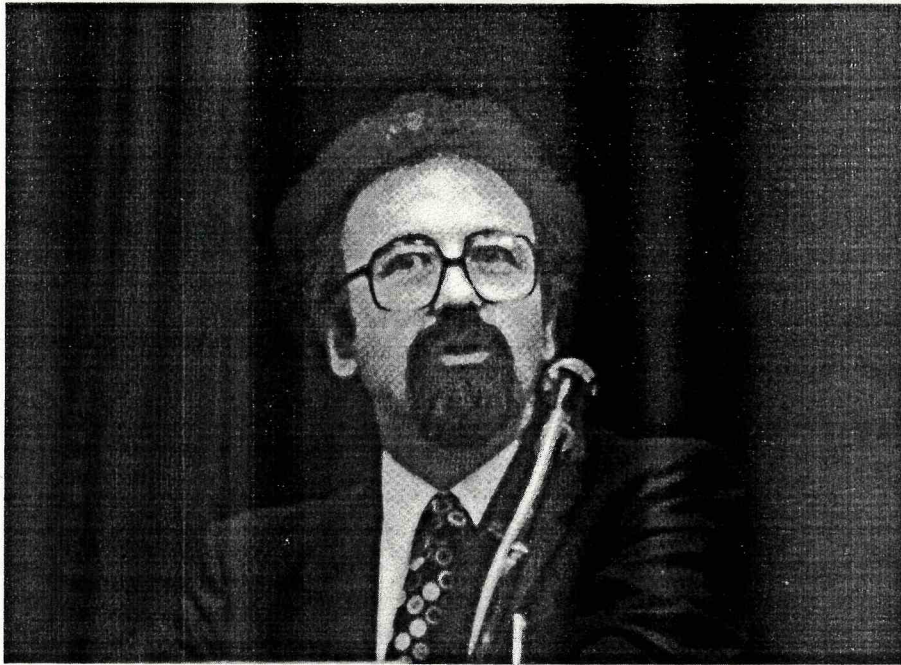
In the public sphere, there is no comparable legal institution of collective action. The right not to pay taxes is nowhere recognized. But there are some individual rights which are based on the respect of conscience and of scientific liberty. Some countries accept the right to refuse military service for reasons of conscience. In my country, this right is recognized in a very narrow sense — only the conviction that violence is immoral in all possible circumstances is considered sufficient. The view that in the actual situation a war would be immoral is without legal significance: it is not an acceptable reason for refusing military service. Nevertheless, the cases of conscientious objectors have increased in recent years.

The most controversial and important question, however, is another: what can a worker — a manual worker as well as a scientific worker — do when obliged to perform a task the results of which are in contradiction to his fundamental moral standards? There are recent cases which indicate the difficulties which arise when a person, in following his conscience, refuses to work.

The first case concerns a printer. He had worked for the same employer for a number of years without conflict. In November 1981, he was asked to print a prospectus offering neo-fascist literature. He refused, as one of the books glorified German military victories and another contained an approving biography of Goebbels. His department chief accepted his decision and assigned him to a different machine printing other texts. The following day, however, his employer ordered him to print a letter recommending a record of Hitler's speeches. He refused again and was immediately fired. With the support of his union, the printer took the issue to the labour court, demanding reinstatement. He argued that he could not be obliged to do things in direct contradiction to his conscience. He belonged to an anti-fascist organisation and had conscientious objector status. He lost his case in the Elmshorn labour court and lost an appeal to a court in Kiel.

In 1984, three years after the printer had been fired, the Federal Labour Court declared his dismissal to be illegal: a worker cannot be fired for refusing to act against his conscience and — a second condition — if the employer can assign him to another job. There was no appeal against this decision but the lawsuit was not over yet. The printer's employer had demanded to be allowed to terminate the man's contract after paying him compensation. In German labour law, this is possible only if there is sufficient grounds not to continue the labour relationship. It was up to the appeals court to decide whether the facts permitted a dissolution. The court ruled in favour of the employer and the printer once again turned to the Federal Labour Court. In May, 1987, the court decided that the dismissal was illegal and that the printer should be given his job back. On the 9th of June, nearly six years after his dismissal, he was reinstated. In all but one of the intervening years, he had been unemployed and had received only unemployment benefits. But there was not to be a happy ending: two months after reinstatement, he was again terminated. His employer now argued that the printer had become redundant. He is again unemployed and has turned once more to the courts for help.

The second case involved a person made unemployed for straightforward economic reasons. In German law, an unemployed person loses the right to benefits for three months if he refuses suitable work offered by the labour market authorities. The issue was whether work in the armaments industry was "suitable" for a person with pacifist views. Once again, it was a conscientious objector, this time refusing to work for a ship builder repairing ships for the German navy. The Federal Social Security Court decided that, in general, the character of the employer's work is without legal significance if



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the activity is not in conflict with the law. An exception was made, however, in this specific case — to work directly for the army or navy in repairing war ships would not be suitable work for a pacifist. The unemployed worker could therefore keep collecting his unemployment cheques, although he would have lost them if the ship builders had offered him an office job and he had refused.

The third case concerned 25 Lufthansa pilots, technicians and stewardesses. They were refusing, with the support of their trade union, to transport people who had been refused political asylum in the Federal Republic back to their home countries. For the plaintiffs, the issue was clear: the people being sent back to Iran or Sri Lanka risked at least prison and persecution for their political stand. The Federal Administration Court has even refused political asylum to people who were tortured in prisons in their home countries and who were likely to be tortured again if returning. Since the pilots and stewardesses know they risked dismissal, they did not openly state their position. The pilots told Lufthansa that security on board could not be guaranteed and therefore they would not fly. This excuse could not be used too often. The 25 asked the Frankfurt Labour Court if they had to obey even if the result of their work would be in fundamental contradiction to their moral standards. The court is still deliberating and will shortly deliver judgement.

The fourth case is less encouraging but rather important. Three medical doctors were employed doing scientific research at a pharmaceutical firm near Düsseldorf. One of their tasks was to develop a new medicine to calm the stomach after the body has been exposed to x-rays. In an informal paper, the company announced that the medicine would be meeting a big demand in connection with anti-cancer therapy but that the demand would be *huge* from the military: the medicine would keep soldiers functioning several hours after exposure to radiation from an atomic explosion. The potential demand from the military sector was deemed far more important than civilian demand.

The three doctors refused to cooperate in the project; they told their employer that they did not want to support in any way a nuclear war strategy. The employer, the German affiliate of the Beecham group, did not accept this argument and dismissed two of the three doctors. The third was not on contract and was told he would not be given one. The two who were fired sued unsuccessfully through the local Neuss Labour Court. The court ruled that it was not a clear-cut case of conscience!

What conclusions can we draw from these four examples? Firstly, it is important to note that they are recent cases. Twenty years ago, the problem was more or less unknown. Secondly, the right to say no is a very uncertain one. The different decisions taken by labour courts in the case of the printers indicate that in many situations it is extremely difficult to know whether or not an unemployed person may refuse to accept work. What is direct support (like the work on the warship itself) and what is indirect support? If you transport some screws needed to repair the ship, will it be direct or indirect support? If the scope and the limits of a right are uncertain, the more powerful of the dissenting parties wins — he can make the ground rules while waiting for a court decision that may take three, four or five years. Thirdly, even if the right is acknowledged by the courts, the so-called dissident is taking a big risk. The printer's case shows that you can lose your job even if you are right, and to be three months without unemployment benefits can be a personal catastrophe which cannot be balanced by a court decision some years later. To find people who are undaunted by all these consequences is very encouraging for all of us. One example can be followed by others; the militarization of society has its limits.

There is a fourth point; the individuals saying no are with the exception of the medical doctors, not scientists. This is both astonishing and shows that the peace movement and, if I may say so, the civil rights movement are not restricted to certain intellectual groups. In all four cases I described, there was support from trade unions — perhaps the most important condition, because those who resist must never get the impression that they are left on their own.

But let me deal with scientists, whose contributions are very important and whose voices are heard in society.

For a scientist, it will normally be less dangerous than for most other citizens to say no. If the scientist is a university teacher, the worst sanction will be financial. Research financed by the Ministry of Defence for example will be terminated. But one's livelihood will not be endangered; neither salary nor tenure. If the scientist is working for a private firm, however, he can be dismissed, as the doctors' case shows. But a physician is less liable to be dismissed than a printer; newspapers would write about the case, a lot of people will be critical and the reputation of the company may suffer. The status of a scientist is so high that a solidarity movement may emerge. If worst comes to worst and the scientist is dismissed, it will normally be possible to get another job; electronics engineers and doctors are not unemployed for long.

The cooperation of scientists is becoming more and more important. Modern production methods — military or civilian — depend on the ability of specialists to handle machines and computer systems. If their will to cooperate decreases, if they stop wanting to develop creative solutions, the apparatus will not function.

The strong position of the scientist is seldom put to use. There are specific obstacles of a more traditional kind. Scientists are not accustomed to resisting — they are privileged workers and therefore are not normally in situations

where they are forced to defend their working conditions or struggle for better salaries. They are not accustomed to collective action. Without this experience, risk-taking can seem rather dangerous. Can the individual really change things? Is it justified to renounce financial support without gaining anything beyond an article in the local press? Joseph Weizenbaum said that this idea of the weakness of the individual is the most widespread mental disease of our days. I think he is right because often substantial changes in society are brought about by the example of a few courageous persons.

Many scientists would accept this, but still think their situations are not very clear. Is basic research really supporting military goals? For an answer, Edward Teller may be quoted: "There are no boundaries between basic and applied research." In this respect, Teller can be trusted implicitly — he knows what he is talking about. In many cases, scientists deliberately avoid thinking about the ultimate purpose of their findings. Recently, a German aircraft constructor described the terminology which facilitates this: "We say 'transport capacity' and mean the weight of bombs. We say 'mission efficiency' and mean the destruction of a town or area." You see what you want to see because it is too difficult to live with a bad conscience or in contradiction to the people around you.

But these obstacles, which exist within the individual and are due to education and social situation, are not insurmountable. To analyse the social consequences of a scientist's actions is not only a moral duty but can also be based on ethic codes and even on legal regulations. Let me cite three examples:

In November 1974, the UNESCO General Conference adopted a recommendation regarding the status of scientific researchers. Point 14 of the recommendation deals with civic and ethical aspects of scientific research:

"Member states should seek to encourage conditions in which scientific researchers, with the support of the public authority, have the responsibility and the right:

- a) to work in a spirit of intellectual freedom to pursue, expound and defend the scientific truth as they see it;
- b) to contribute to the definition of the aims and objectives of the programmes in which they are engaged and to the determination of the methods to be adopted, which should be humanely, socially and ecologically responsible;
- c) to express themselves freely on the human, social or ecological value of certain projects and in the last resort withdraw from those projects if their conscience so dictates;
- d) to contribute positively and constructively to the fabric of science, culture and education in their own country, as well as to the achievement of national goals, the enhancement of their fellow citizens' well-being and the furtherance of the international ideas and objectives of the United Nations."

These principles are complemented by the statement that "member states, when acting as employers of scientific researchers, should specify as explicitly and narrowly as possible the cases in which they deem it necessary to depart from the principles set out in the above paragraphs."

In the Federal Republic of Germany, this recommendation has had practically no effect at all. Nevertheless, it can be helpful when discussing scientists' responsibility and possibilities of action. We should ask our governments what measures they have taken to ensure the observation of Point 14 of the recommendation and if they have done anything to fulfill Point 15, where

member states are obliged to take all appropriate steps to urge all other employers of scientific researchers to follow the recommendations contained in Point 14.

A second example which merits mention is the Uppsala Code of Ethics for Scientists, adopted in January 1984. The code assumes that scientists should attempt to estimate the practical consequences of their research. It is intended for the individual scientist and contains four important points:

1. Research shall be so directed that its applications and other consequences do not cause significant ecological damage.
2. Research shall be so directed that its consequences do not render it more difficult for present and future generations to lead a secure existence. Scientific efforts shall therefore not aim at applications or skills for use in war or oppression. Nor shall research be so directed that its consequences conflict with basic human rights as expressed in international agreements on civic, economic, social and cultural rights.
3. The scientist has a special responsibility to assess carefully the consequences of his/her research and to make them public.
4. Scientists who form the judgement that the research which they are conducting or participating in is in conflict with this code shall discontinue such research and publicly state the reasons for their judgement. Such judgements shall take into consideration both the probability and the gravity of the negative consequences involved.

It is of urgent importance that the scientific community support colleagues who find themselves forced to discontinue their research for the reasons given in this code.

By this final statement, the individualistic approach of the code is set aside.

The third example is that of the University of the State of Hessen. Normally, laws do not deal with these matters — legislators are not anxious to open the door to developments the results of which are very uncertain. Even if there is a rule, its contents are rather modest in comparison with the UNESCO recommendation and with the Uppsala Code. Article 6 of the Hessen University laws obliges the teaching and research personnel of the university to think about the social consequences of their findings. If they know about results which could, if used irresponsibly, cause severe damage to life, health and peaceful living, they should inform the governing body of the university. Some conservative teachers thought that this was going too far and petitioned the constitutional court but had their case rejected. It is clear that everything still depends on the individual scientist, but it becomes easier to discuss the use of scientific findings if there is a legal obligation to do it.

Three moral or legal rules do not automatically change reality. But the conscience of European and American scientists has developed. The most outstanding occurrence during the last year was the mass refusal of American scientists to cooperate in projects connected with SDI. Nearly 7000 scientists and engineers signed a declaration of non-cooperation, agreeing not to ask for research funds emanating from the SDI programme. 57% of the twenty top institutions in that country have signed the declaration. This means that the realization of the programme becomes much more difficult. For the first time, we can allow ourselves optimism. We should not forget that similar activities create better conditions for disarmament treaties. *An individual's activity is important as an example, but thousands of individuals acting together form a power. A majority can make history.*

Let us continue our work.