

Equal and Conscripted: Liberal Rights Confront Mennonite Conceptions of Freedom in Nineteenth-Century Germany

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In 1869 just over 1,800 Mennonite leaders and church members signed a petition that was delivered to the parliament of the North German Confederation asking that their right to vote, which they had had for about twenty years, be taken away from them. “Why allow us to vote? We do not demand it and would be more than happy to give it up at any time.” In exchange they asked that their freedom to practice their religion be returned to them. The parliament in October 1867 had voted explicitly to require Mennonites along the Vistula River in provincial Prussia to serve in the military, an act these Mennonites saw as “the annihilation of our freedom of religion.”¹ The advent of even the most limited democracy, along with parliamentary rule, equality before the law, and the introduction of rudimentary basic human rights in Germany had resulted, in the view of some Mennonites, in the end of their religious freedom. The actions of the North German Confederation initiated a process that made Mennonites almost completely equal before the law by 1874, yet also saw them conscripted into the

Prussian and German armies without exception up until the end of World War II. Their initial response in their petition was to claim that, “those of us who still cling to our confession of faith do not desire any kind of equality before the law along with other Prussian citizens, nor an end to the discriminatory laws aimed at us, nor any kind of political rights at all, rather we request *only the toleration of our faith and the exemption from military service that derives from it.*”²

The roughly 12,000 Mennonites settled along the Vistula River, mostly in the delta region, had arrived as religious refugees from the Low Countries in the sixteenth century. Under Polish kings and local rulers they had indeed found the toleration whose loss they now lamented. They had also, however, faced religious discrimination that limited church construction and required some extra taxes that only Mennonites paid as well as economic restrictions that regulated where they could settle and what kind of work they could do. After 1772 the area came under Prussian rule. While particularly limits on building church structures had been overcome by then, Prussian administration added new restrictions that prohibited land purchases beyond the amount of land owned by Mennonites in 1803, effectively barred marriages between Mennonites and non-Mennonites, and imposed a collective tax on the Mennonite community to be paid as the cost of a communal exemption from military service. In exchange, Mennonites had royal permission to worship as they pleased and to organize their religious affairs without state interference. This arrangement granted Mennonites religious freedom in a way that fulfilled the hopes of their sixteenth-century ancestors at least after the debacle at Münster and was seen as being analogous to the toleration they had under Polish rule for those who could acquire property under the new restrictions.

The advance of civil and political rights in nineteenth-century Germany challenged traditionalist conceptions of freedom held by Mennonites, and many others, by redefining political understandings of liberty. The older thinking focused on freedoms within specific social groups, or estates, each one with a different set of restrictions and opportunities. For Mennonites freedom in this arrangement meant privileges and permits awarded by kings that granted permission to reside in royal territory and to worship as they wished. The newer model linked liberty to political and civil rights defined by constitutions and elected parliaments that would limit the arbitrary power of kings and nobles. Thus the nineteenth century saw a shift in Germany, as elsewhere in Europe, from a conception of people as subjects under a sovereign to seeing them as citizens who were part of the sovereign. The German expression of moving from a *Standesgesellschaft* to a *Staatsbürgergesellschaft* elegantly captures this transition.

A key aspect of this new political theory was the idea of a social contract between the ruled and the ruler. This concept can be traced from the late Reformation through John Locke's writings on the Glorious Revolution of 1688, which highlighted the rights of men and their proper role in asserting them against monarchs who trammel them.³ In the eighteenth century Enlightenment thinkers argued that only broad political participation of the masses – democracy – could maintain liberty against the tyranny of the elites. They envisioned a new society, Jonathan Israel has argued, based strictly on individuals ruled by reason, denying the authority of tradition and religion and the duality of body and spirit.⁴

In addition, they were convinced that their system of social organization was the only one that could be applied broadly to all people with justice, since it was based on reason and not particular to a special interest such as the monarchy or various organized religious confessions. "This moral universalism was a key common feature of British, American, and French radical thought alike, for it was this that anchored their common rejection of ecclesiastical authority in social and political matters in whatever shape or form, and all intrusion of theology into legislation and politics."⁵ Political theorist Paul Kahn has noted how this coercive rationalism lays at the foundation of democratic liberalism, "Western states, including our own, have traditionally been quite willing to force people to comply with moral truth. ... Once the truth was grasped, there was no more difficulty in making it compulsory than there was in making individuals follow the rules of mathematics."⁶

The French philosopher Jean-Jacques Rousseau's 1762 essay *On Social Contract or Principles of Political Right* modified this theory by arguing that reason alone would not build new political communities, but that common emotional commitments, termed civil religion, would also be necessary. These mutual commitments made duties the necessary counterpart to rights, the government as a whole could not function to protect the rights of all if it could not ensure that each did his duty to maintain the political system as a whole.⁷

These enlightenment ideals of autonomous individuals, universal rights, and coercive social duties developed in the first half of the nineteenth-century in Prussia under special conditions. The Prussian state had been annihilated by Napoleon in 1806 and only then did local elites fully embrace these principles in order to fashion society into a weapon with which to drive the invaders out. As Matthew Levinger has argued, the Prussian Enlightenment, building on Kantian precedents arguing for the important of obedience to the sovereign, in the face of external threat privileged internal harmony over individual claims or chaotic debate.⁸

Jews faced this pressure perhaps even more intensely than Mennonites. Moses Mendelssohn, an eighteenth-century German Jewish philosopher living and writing in Berlin, worked to realign Jewish beliefs with the new conditions while calling on German society to grant Jews civil rights and meet them on the common ground of rational discourse. He complained publicly that Jews were unjustly accused of not being willing to serve in the military since they would be willing to do so if required. He noted that it was doubly unfair that restrictions on Jews were tougher than those imposed on Mennonites, who in fact would refuse to serve.⁹ Thus although debates over what to do with Mennonites and Jews ran on very different tracks in the first half of the nineteenth-century, those tracks were at least roughly parallel.

The transition in nineteenth-century Germany from subjects to citizens placed Mennonite freedoms under the scrutiny of parliaments that had different assumptions than the ruling dynasty about the relationship of religious freedom and national duties. Once parliaments decided to rearrange the rank in priority of citizens' rights and duties, they consistently gave loyalty to the state as expressed by military service greater importance than religious freedom if that included religious-based opposition to killing. Two key tests of this tension between religious freedom and military service were the debates in 1848 in the Frankfurt National Assembly and the resolution of the Prussian constitutional crisis in the aftermath of the 1866 Austro-Prussia War. As the German state and German national identity developed in the nineteenth century, Mennonites either embraced a new definition of religious freedom as equal and conscripted or emigrated in order to preserve their traditional interpretation of freedom.

Religious Freedom in the Frankfurt National Assembly

Revolutions across Europe and especially in the German Confederation in 1848 created a new opportunity for broader discussion of freedom and human rights. Press censorship and prohibitions on political meetings and groups were lifted as a result of street demonstrations that caused monarchs in Prussia, Austria, and elsewhere to dismiss conservative ministers and appoint more liberal ones. German liberals strove to combine the project of German unification with that of liberal political reform by creating a National Assembly that would write a constitution for a new united German constitutional monarchy. To that end, the first all-German elections were held in spring and the National Assembly took up its work in the Confederation's capital of Frankfurt. Until the revolution of 1848, the main conceptions of freedom under discussion in Mennonite affairs were those held by

government officials and the Mennonites themselves. The creation of the Frankfurt National Assembly brought many more diverse voices to the debate over Mennonites' place in German society. The 800 delegates not only discussed the Mennonite question specifically, a wider public was also involved, sending in between 25,000-30,000 petitions overall, a handful of which also addressed the Mennonite issue.¹⁰ The mere presence of Mennonites in Germany thus triggered a debate in the National Assembly and the wider society on the proper relationship between national duties and the rights of religion.

Following a pattern established by the French National Assembly in 1789, the Frankfurt National Assembly early on proposed a list of Basic Rights that were to be implemented by the new constitution once it was written. Three sentences in these rights were relevant to Mennonite concerns. The first sentence of paragraph six of the Basic Rights read, "all Germans are equal before the law," while the final sentence stated that therefore, "the obligation of military service is the same for everyone."¹¹ Paragraph thirteen read: "The enjoyment of civic and civil rights (*bürgerliche und staatsbürgerliche Rechte*) will neither depend nor be restricted on the basis of religion. Religion must not hinder the fulfillment of national duties (*staatsbürgerliche Pflichten*)."¹²

Although the visionaries driving the National Assembly conceived of their rights-based solution as a single coherent solution to structuring society, events forced them to prioritize among those rights, revealing a fundamental tension at the heart of the enterprise. They elected to put national interests and equality above religious freedom for a small religious minority. The National Assembly explicitly discussed and protected Protestant, Catholic, and Jewish interests in crafting the Basic Rights. The language granting civil rights regardless of religious belief was explicitly acknowledged by the assembly to grant full emancipation to the Jews, who faced a higher burden of legal discrimination at this time than Mennonites.

In return, the assembly expected those groups to rally around the vision of a new Germany. Religious communities could only make such a commitment if they believed either that the interests of their faith and Germany were compatible or if they accepted that the interests of Germany had priority over those of their religious community. Gabriel Risser, a Jewish representative in the assembly who was elected its vice-president, noted that Jews had embraced enlightened views and reformed their theology and practices to accommodate the new demands. He proclaimed to the assembly that Jews now merely longed, "to dissolve into the German nation." Thus only Mennonites evinced a clear contradiction between the priorities of religion and equality.¹³

The call for equality anchored in the opening sentence of paragraph six was squarely aimed at dismantling an older view of society that saw

freedoms as something inherently different for different groups. The next sentence proposed the abolition of all special noble privileges; the final version went even further and abolished the nobility entirely as a class. Demanding full equality was an important step in dismantling the power of the kings and empowering the National Assembly itself.

Equality in military service, as proposed in the paragraph's last clause, however, raised awkward questions for the nobility as well as for Mennonites. A special commission working on the issue of creating a national army felt uneasy about drafting former princes, counts, and dukes or their sons and proposed an amendment that would exempt ruling families from the draft.¹⁴ Two members of this same committee proposed amendments to protect Mennonites. Major Gottlob Teichert was an official in the Prussian War Ministry. Heinrich Wilhelm Martens served as a judicial functionary from Danzig and thus was familiar with the largest and most conservative settlement of Mennonites. Both tried to evade a direct confrontation over the issue by proposing different ways to postpone the issue to more detailed military service laws that would be passed once the constitution was enacted. All of these amendments were voted down. Nonetheless efforts to maintain an element of noble privilege now seem linked to attempts to retain Mennonite privilege and the struggle clearly had religious overtones. Liberal framers of the German Basic Rights tended to be more secular in their orientation. Conversely the Prussian King Frederick William IV, who ultimately upheld the Mennonites' military exemption, thought of the French Revolution and all the revolutionary ideas that flowed from it as the Beast from the book of Revelation.¹⁵

Ongoing discussion of possible military service laws nonetheless revealed how the new political assumptions about rights, equality, and citizenship were closing the avenues open to Mennonites to maintain all aspects of their religious freedom as they understood it. Members of the National Assembly's military service commission used the experience of Prussia with general conscription as their model. They borrowed statistics from Prussia to demonstrate what percentage of the population would need to be drafted to reach the desired size for a new national army. A statistical footnote, however, noted that Mennonites in provincial Prussia were not even counted as part of the population since they were not liable for military service.¹⁶ An older social system built on different freedoms and restrictions for different social groups could tolerate this odd state of affairs; one founded on equality for all would not be able to do so. Events in any case prevented the assembly from moving to final passage of any military service laws.

The most explicit discussion on religious concerns in the Frankfurt National Assembly came during discussion of paragraph thirteen, which granted full civil rights regardless of religion yet noted that

religion could not be an excuse for not fulfilling a national duty. A few representatives worried that traditional Jews would not be able or willing to serve in the army while others thought that granting Jews equal rights would be an extraordinarily bad idea. Jewish members of the National Assembly reiterated to the rest that no Jews in Germany were so conservative that they would not be willing to serve. Passage of this paragraph was acknowledged by the assembly as emancipating the Jews from the myriad of legal restrictions and special taxes placed on them.

The Mennonite claim to have a religious duty to avoid a national duty, however, forced the assembly finally to prioritize between religious freedom and equality. Several proposals were made to soften the bluntness of this clash of ideals. Leopold von Plathner, a judicial official from Halberstadt in the Prussian province of Saxony, proposed a traditional solution.¹⁷ The relevant part of his amendment read, "Whosoever refuses to fulfill a national duty due to claims of conscience has no right to the full enjoyment of civil rights." Here religious freedom was ranked higher than equality but the National Assembly rejected this proposal.¹⁸

A coalition of delegates who were particularly anti-noble, and thus insistent on absolute equality, suggested an amendment that sought to make Mennonite beliefs unconstitutional: "No one may refuse the fulfillment of a national duty *on account of religious belief*." Their amendment was also defeated.¹⁹ This group also demonstrated the other religious linkage of the day. The most radical liberals were also overtly hostile to and disdainful of religion so that for them appeals to religious freedom sounded hollow, hypocritical, and potentially dangerous as a counter-revolutionary cover for the king and nobility.²⁰

The most intense debate on Mennonite issues was generated by Martens' proposed amendment to paragraph thirteen: "Exemption from military service in consideration of religious teachings will be regulated by the proposed law concerning general military service regulations."²¹ The main speaker against Martens' amendment was Herman von Beckerath, a prominent Rhineland liberal who was also serving as Finance Minister in the all-German provisional government.²²

The irony of Beckerath's attack on Mennonite privileges was that he was himself Mennonite from the more progressive Krefeld Mennonite congregation in the Rhineland. He had been willing to serve in the military but was never called up. Beckerath argued passionately against Martens' amendment, asserting to the bravos of the delegates that exemptions from military service have no place, "in a nation whose power is based on the equality of its citizens in rights and duties."²³ For him Mennonites should value the freedom finally to integrate fully into

German society with access to the full range of opportunities afforded by equality before the law. Beckerath anticipated that Mennonites in the southwest and the northeast would soon be “educated” as to what it meant to be German and would find equality as a German more meaningful than an older identity of unique and separate religious freedom.

Martens, in defense of the Mennonites in the province of Prussia, noted that the Prussian state had worked out a suitable arrangement to respect the conscience of the more conservative Mennonites. For the new constitution to do otherwise, he asserted, would mean being less tolerant than the dreaded police state that the National Assembly was striving to replace. Martens’ amendment was defeated.²⁴ Mennonites would now be required to jettison their old understanding of religious freedom and required to take up a new definition of freedom rooted in equality with other citizens of a new German nation.

The Mennonites of provincial Prussia were quite worried by the events in Frankfurt and dismayed especially by Beckerath’s role in them. They hastened to take up one of their new freedoms and petitioned the National Assembly to express concern that their religious freedom was being denied. They accused the assembly of using coercion against their freedom of conscience despite the fact that the opening arguments of the assembly had praised the importance of conscience in establishing the new political arrangements. They likewise pointed out that Mennonites in autocratic, unequal Russia would enjoy more religious freedom than they would in Germany and suggested the assembly’s actions amounted to moral turpitude.²⁵ Although Representative Martens passed their petition along to the relevant committee, nothing came of it.

The proposals of the Frankfurt National Assembly were never enacted because the ruling houses of Germany by the spring of 1849 were able to reassert their authority and dismiss the assembly and its constitution. Nonetheless the Basic Rights passed there were incorporated into the Prussian constitution of 1850 that left most power in the hands of the king and his ministers. In addition the Frankfurt constitution remained the touchstone of democratic sentiment in Germany. The presence of the Mennonites in the country had forced the assembly to articulate the fact that they placed equality ahead of religious freedom, setting a potentially dangerous precedent that could challenge the legitimacy of Mennonites’ military exemption.

For Mennonites in provincial Prussia older concepts of religious freedom now mixed with newer understandings of equality, most notably in a controversy over whether older restrictions on acquiring property were to be considered null and void. The new Prussian constitution clearly implied they were and local courts in Prussia

agreed. Numerous Mennonites went out and bought property to expand business and farms in a move that formerly was quite impossible. The monarchy insisted that Mennonites were neither liable for military service despite the clause in the constitution that said all Prussians must serve nor were they to be allowed to buy additional property. Finally the church leadership worked with the new landowners to facilitate the sale of all property acquired without permits in order to remain in the good graces of the king and those of his officials who still held to the older definition of religious freedom. By the end of the 1850s most of the 5,600 acres in question had finally been resold.²⁶

Debating Mennonite Freedom in a Newly United Germany

The 1860s saw a series of wars instigated by Prussia that resulted in the destruction of the old German Confederation and the creation of a new German Empire. The most revolutionary of these wars in terms of toppling the largest number of ruling houses was the Austro-Prussian war of 1866. Prussia's defeat of Austria decisively ended centuries of Austrian dominance in German affairs and clearly marked Prussia's final ascendance to great power status as it annexed several of the middle German states that had sided with Austria and brought all but three of the remaining German states under its wings in a newly created North German Confederation in 1867 that was a precursor to the Empire created finally in 1871.²⁷

The 1860s at the same time marked a deep constitutional crisis in Prussia. The constitution of 1850 had been granted by the king, not created by elected representatives. As such, all of the power over the military remained with the crown. The parliament, however, was given the right to decide about new sources of revenue. When the two sides early in the 1860s could not agree on new taxes to expand the army to keep up with population growth, King William I appointed Otto von Bismarck as a new prime minister on the understanding that he would skirt constitutional restraints if necessary, something Bismarck then proceeded to do with alacrity. His main innovation was to finance expansion of the army and increase the length of draftees' service without parliamentary approval. This army's successes against Denmark in 1864 and especially Austria and its German allies in 1866 shifted liberal public opinion from opposition to the monarchy to support for royal military success.

In this context the political dynamics that accompanied the ongoing creation of the German Empire affirmed and implemented the decision of the Frankfurt National Assembly to rank equality above religious freedom. In expanding Prussian-style conscription to the North Ger-

man Confederation, the parliament debated and rejected Mennonites' claim to an exceptional status.

On August 31, 1867, north Germans held elections for the parliament of their new North German Confederation comprised of a dominant Prussia and a number of much smaller states. Unlike the Prussian parliament that had a voting system that favored the wealthy, these elections were based on the more democratic election law of 1849.²⁸ The Confederation Parliament's equal, secret, and direct voting procedures returned a moderate right of center majority. Nonetheless this election brought several Social Democrats into this parliament, long before their first appearance in the Prussian Parliament in 1908.²⁹

The parliament could dispense with the need to draw up a constitution since that had been approved in summer by a special constitutional assembly and mostly written by Bismarck in any case.³⁰ The main goal of the parliament was to set up the laws necessary to coordinate institutions that applied to the entire confederation, which primarily meant the military. Thus in October the Confederation Parliament debated the government's new military service law. Main additions to the provisions already contained in the constitution included proposed new regulations on naval service, increasing the importance of the standing army at the expense of the militia, and the reinstatement of military exemptions for the Hohenzollern family, ruling families of formerly sovereign German states, and Mennonites from the Vistula Delta.³¹

The main contour of the debate revolved around expansion of reserve duty for the standing army instead of the militia. Left liberals such as Baron Leopold von Hoverbeck and Franz Duncker attacked the government's plans as another step on the road toward creating a military that was an instrument of the monarch instead of the people.³² Once further isolated from society by longer terms of service, they feared the army would be misused to interfere in domestic affairs. It was precisely at this point that liberals saw the importance of equality in conscription, which was, "only a great and holy principle if it really allows no exceptions at all."³³ The emotional commitment posited by Rousseau as a necessary part of the social contract was here clearly expressed by anti-monarchical nationalists. They thought traditionalist Mennonites were simply mistaken to think that religious freedom had to mean a total exemption from military service. Duncker called attention to a petition from the liberal Mennonite pastor Carl Harder in Neuwied that suggested Mennonites could serve in non-combatant roles. As with Beckerath's assertions in Frankfurt in 1848, competing definitions of religious freedom as it related to military service existed among Mennonites, making it easy for politicians to rationalize more restrictive readings of a right to religious freedom.

A number of speakers nonetheless seemed fine with the proposed noble, royal, and Mennonite exemptions, even arguing for additional exemptions for special groups. A Danish member of parliament, upset with the annexation of a Danish minority in the northern part of the province of Schleswig to Germany, requested an exemption for all Danes. A representative from Hamburg wondered why Mennonites there were not included in the proposal and implied Prussian arrogance was discriminating against his region. More radically, two Social Democrats, August Bebel and Wilhelm Liebknecht, suggested military exemptions be extended to everyone and the army abolished since it was an instrument of oppression to be turned against workers in any case.

Those who spoke up against the draft comprised a list of outsiders to the new Empire; Socialists, Danes, and particularists with strong regional and weak national loyalties. Mennonites had moved, it seemed, from association with a conservative noble and royal cause to a treasonous one that could easily be denied freedom. This shift was reflected in the vote of the moderate parliament to confirm noble and royal exemptions and deny the suspect Mennonite one. None of the other exemptions proposed were approved.³⁴

The new draft law passed by the North German Confederation resulted in a flurry of petitions and lobbying by traditionalist Mennonites, resulting in a royal decree in March 1868 that allowed them to serve in noncombatant roles. Those whose conscience did not allow them to serve even in that capacity petitioned again, as we have seen in the introduction, asking for their religious freedom to be returned to them even at the cost of their voting rights and other freedoms, including those that opened up economic opportunities. "We have not allowed ourselves to be tempted by the immense material advantages that equality with others would offer us, rather we cling tightly to those restrictions so that we do not on our part break the conditions of our hard-won privilege," even though these restrictions meant that second and third sons would often not be able to acquire farmland and thus would have to emigrate.³⁵

The logic of freedom in restriction that Mennonites employed here had been articulate in writing only a few years earlier by Wilhelm Mannhardt in his *The Military Service Exemption of the Mennonites of Provincial Prussia*. "There existed and exists no irresolvable conflict between Mennonite beliefs and the state as long as the latter refrains from requiring all to meet their civic obligations in exactly the same form. In the old feudal state which sanctioned inequality of rights and duties among the various classes of citizens and grouped a number of corporate communities with various practices into a common class, acceptance of Mennonites could not be withheld in the long run as

people became convinced of their harmlessness to the general well-being ... Thus in the course of time they achieved certain concessions and well-earned rights that can or could be lost only by an act of force on the part of the state or through the Mennonites voluntarily relinquishing them.”³⁶ For traditionalist Mennonites only inequality in military service could allow religious freedom.

Some Mennonites embraced equality and recognized a need for military service, denying the older Mennonite maxim that, “a Mennonite in the moment that he takes up arms ceases to be one and must be abandoned to his conscience.” A petition from the Danzig Mennonite Church, also from March 1869, declared the non-combatant alternative acceptable, because “we unanimously agree that as citizens who enjoy all the benefits of living in a state, we see it as a holy duty to participate in the protection of our fatherland with the sacrifice of our body and not only by offering dead money.” They went on to ask for release from extra religious taxes that Mennonites still had to pay to Protestant parishes, illustrating the point that once Mennonites were equal in military service, they had the right to demand equality in other areas as well.³⁷

More liberal Mennonites in the Vistula Delta had reached a similar conclusion already the year before, sending in a petition asking for the abolition of other discriminatory laws soon after the royal decree offered the option of non-combatant service. The petitioners acknowledged their willingness to serve in the military either as combatants or non-combatants and went on to ask for three specific new laws to insure their equality with other Germans. They first asked for the repeal of the Mennonite Edict of 1789, the legal code under which Mennonites were required to pay additional taxes to Protestant parishes, restricted from buying property from non-Mennonites, and required to raise children from mixed religious marriages in the religion of the non-Mennonite spouse. Revoking this edict would remove most of the legal inequalities. In addition, they sought two new rights, the right to incorporate their congregations so that congregations could be listed as owners on property and investment instead of individuals and the right to have their church leaders recognized as being legally able to certify births, weddings, and deaths as Protestant pastors and Catholic priests did. Most of these requests were finally granted in a new Mennonite Law passed in 1874.³⁸ A large majority of Mennonites were satisfied with this outcome, completing the transition in their definition of freedom from one that valued exemption from military service as a key aspect of freedom of conscience to seeing freedom as equality in laws that enshrined at least some basic civil rights.

Traditionalists had closed their petition with the plea to restore the older version of freedom. “We ask nothing except to be able to live

out our faith in peace in our fatherland.”³⁹ This possibility, however, no longer existed. One of their young men, Johann Dyck, who in 1872 tried to evade the draft, was arrested and imprisoned by the military. Gerhard Penner, Elder of the Heubuden congregation and leader of the traditionalist Mennonites, was taken to court in 1874 for refusing to serve communion to a church member, Bernhard Fieguth, who had joined the military. Penner argued that Fieguth’s decision to join the military was at the same time a decision to leave the Mennonite church, so that he was refusing him communion as a non-Mennonite, not as a soldier. The court ruled, however, that church officials could not penalize members for obeying a law, a key assertion of the liberals in government who were using such laws to attack the power of Catholic clergy in Prussia in the 1870s. The court argued, “the state does not demand that religious communities adjust their confessions according to the law, the state demands only that all citizens regardless of confession obey the laws.” Thus the assertion that equality and national duties had to trump religious freedom was no longer only being applied to Mennonites but from them had been extended to all.⁴⁰

The only way that traditionalist Mennonites could now reclaim their traditional understanding of religious freedom was by emigrating. Perhaps roughly 15 percent of the Mennonites of the Vistula Delta did this in from the 1860s to the 1880s. Less than half came to the United States and the rest went to Russia, although exact numbers are not known.⁴¹

Heinrich von Treitschke, the most popular historian in Germany in the late nineteenth century, perhaps best summarized the benefit of such emigration for the German Empire. He gave a lecture class entitled “Politics” every year from 1863 to 1896, at first at the University of Freiburg and after 1874 at the university in Berlin. By far the most popular course in Berlin, it drew government officials and army officers in addition to students, filling the largest lecture hall beyond capacity. Treitschke highlighted how war, the equality and universality of military service, and citizens’ emotional commitment to the nation were all crucial components to ensuring the survival of the state. “Most undoubtedly war is the one remedy for an ailing nation. Social selfishness and party hatreds must be dumb before the call of the State when its existence is at stake. Forgetting himself, the individual must only remember that he is a part of the whole, and realize the unimportance of his own life compared with the common weal.”⁴²

Treitschke obviously was no longer operating out of those Enlightenment principles that highlighted human rights and the individual. For him, the importance of the national collective as introduced by Rousseau had grown to trump all other considerations. Given this understanding of the relationship of citizens to the state, special

pleading for unique understandings of religious freedom could have no place. "It is not permissible for any one to make his religious convictions a reason for disobeying the law or neglecting his duty as a subject. A State decreeing monogamy must punish Mormons as immoral polygamists. Similarly it cannot tolerate the resistance of the Mennonites against military service or the taking of the oath."⁴³ Treitschke's formulations captured in popular form the results of three decades of debate on the primacy of either religious freedom or equality before the law sparked by the Mennonite presence in Germany. Equality before the law was, and perhaps is, a threat to Mennonite beliefs regarding social behavior that ran counter to what society decided at the time constituted a moral duty. The result was that the right of conscience to refuse to participate in killing another human was no longer recognized in Germany at a time when other human rights were being introduced for the first time.

Notes

- ¹ Mark Jantzen, *Mennonite German Soldiers: Nation, Religion, and Family in the Prussian East, 1772-1880* (Notre Dame: University of Notre Dame Press, 2010), 210.
- ² Emphasis in the original, Geheimer Staatsarchiv Preussischer Kulturbesitz, Berlin, (GStA), Hauptabteilung (HA) I, Rep. 77 (Ministry of the Interior), Tit. 332t (Militärpflicht), no. 5 (Mennonites), vol. 2, page 6 of the March 4, 1869 petition. "wir, die wir an unsern Glaubensbekenntniß festhalten, ganz und gar keine Gleichberechtigung mit den andern Preußischen Staatsbürgern, keine Aufhebung unserer Beschränkungen und überhaupt keine politischen Rechte verlangen, sondern nur Duldung unseres Glaubens und der daraus resultirenden Wehrfreiheit."
- ³ Quentin Skinner, *The Foundations of Modern Political Thought*, Vol. 2 of *The Age of Reformation* (New York: Cambridge University Press, 1978), 338-48.
- ⁴ Jonathan Israel, *A Revolution of the Mind: Radical Enlightenment and the Intellectual Origins of Modern Democracy* (Princeton: Princeton University Press, 2010), 19.
- ⁵ *Ibid.*, 156-57.
- ⁶ Paul W. Kahn, *Putting Liberalism in its Place* (Princeton: Princeton University Press, 2005), 3.
- ⁷ *Rousseau's Political Writings*, eds. Alan Ritter and Julia Conaway Bondanella, trans. Julia Conaway Bondanella (New York: W. W. Norton, 1988), 84-173.
- ⁸ Matthew Levinger, *Enlightened Nationalism: The Transformation of Prussian Political Culture, 1806-1848* (New York: Oxford University Press, 2000).
- ⁹ Moses Mendelssohn, "Remarks Concerning Michaelis' Response to Dohm," in *The Jew in the Modern World: A Documentary History*, eds. Paul Mendes-Flohr and Jehuda Reinharz (New York: Oxford University Press, 1995), 49.
- ¹⁰ Jonathan Sperber, *The European Revolutions, 1848-1851*, 2nd ed. (New York: Cambridge University Press, 2005), provides an excellent overview of the time period. The specific reference to the number of petitions and the role of public opinion is on page 159.

- 11 Franz Wigard, ed., *Stenographischer Bericht über die Verhandlungen der deutschen constituirenden National-Versammlung zu Frankfurt a. M.* (Leipzig, 1848-1849), 1:682 (3 Juli 1848). Henceforth *StB*.
- 12 *Ibid.*, 1:683; www.demokratiegeschichte.eu/fileadmin/user_upload/Material/Grundrechte-des-Deutschen-Volkes-1848-Material.pdf, accessed 1 October 2012.
- 13 On religious minorities in the Frankfurt National Assembly, see Jantzen, *Mennonite German Soldiers*, 138-140. The Risser quote is on 139.
- 14 Konrad Dietrich Haßler, ed., *Verhandlungen der deutschen verfassungsgebenden Reichsversammlung zu Frankfurt am Main* (1848-1849; reprint, Vaduz: Topos Verlag, 1984), 1:330.
- 15 Sperber, *European Revolutions*, 75-6.
- 16 Jantzen, *Mennonite German Soldiers*, 142-3.
- 17 Rainer Koch, ed., *Die Frankfurter Nationalversammlung 1848/1849: Ein Handlexikon der Abgeordneten der deutschen verfassungsgebenden Reichs-Versammlung* (Kelkheim: H. Kunz Verlag, 1989), 314.
- 18 *StB*, 3:1749, 1766, 1770.
- 19 *Ibid.*
- 20 Sperber, *European Revolutions*, 80.
- 21 *StB*, 3:1750.
- 22 Ulrich Hettinger, *Hermann von Beckerath: ein preussischer Patriot und rheinischer Liberaler* (Krefeld: Mennonitengemeinde Krefeld in Verbindung mit dem Stadtarchiv Krefeld, 2010).
- 23 *StB*, 3:1753.
- 24 *StB*, 3:1751-2.
- 25 Bernhard-Maria Rosenberg, "Petitionen aus Westpreußen an die Deutsche Nationalversammlung in Frankfurt, 1848/1849," *Beiträge zur Geschichte Westpreußens* 4 (1973): 141-3.
- 26 Jantzen, *Mennonite German Soldiers*, 151-9.
- 27 The centrality of 1866 is indicated in the structure of several influential surveys that break the history of nineteenth-century Germany at this date. See, for example: Thomas Nipperdey, *Germany from Napoleon to Bismarck, 1800-1866* (Dublin: Gill Macmillan Ltd, 1996) and the Oxford History of Modern Europe series: Sheehan, *German History, 1770-1866*; and Gordon Craig, *German History, 1866-1945* (New York: Oxford University Press, 1989, 1978).
- 28 Ernst Rudolf Huber, *Deutsche Verfassungsgeschichte seit 1789*, 4 vols. (Stuttgart: W. Kohlhammer, 1957-1969), 3:646-7, 661. The election law is reprinted in Ernst Rudolf Huber, ed., *Dokumente zur Deutschen Verfassungsgeschichte*, 3 vols. (Stuttgart: W. Kohlhammer, 1961-6), 2:225-6.
- 29 Huber, *Verfassungsgeschichte*, 3:79-100, especially 93. Max Schwarz, *MdR. Biographisches Handbuch der Reichstages* (Hanover: Verlag für Literatur und Zeitgeschehen, 1965), 118-20. Wilhelm Heinz Schröder, *Sozialdemokratische Parlamentarier in den Deutschen Reichs- und Landtagen 1867-1933* (Dusseldorf: Droste Verlag, 1995), 97-8, 167-8.
- 30 Huber, *Verfassungsgeschichte*, vol. 3, 649-50. Otto Pflanze, *Bismarck and the Development of Germany*, 2d ed. (Princeton: Princeton University Press, 1990), 1:341-61.
- 31 The final version of the law is reprinted in Eugen von Frauenholz, ed., *Entwicklungsgeschichte des Deutschen Heerwesens*, 5 vols. (Munich: Verlag C. H. Beck, 1935-41), 5:575-80. *GStA, HA I, Rep. 77, Tit. 31* (Mennonitensachen), no. 2 (Die in Ansehung der staatsbürgerlichen Verhältnisse der Mennoniten vorgenommen Anordnungen), vol. 9 (July 1862 – December 1869), fols. 133-159 contains the *Stenographische Berichte* for the debates in the Confederation House of Representatives over this law on October 17 and 18, 1867. In the following these protocols will be cited as *StB, Bund HdA*, and by the printed page numbers.
- 32 *StB, Bund HdA*, 455-7, 463-5.

- ³³ Ibid., 465.
- ³⁴ Jantzen, *Mennonite German Soldiers*, 194-6.
- ³⁵ GStA, HA I, Rep. 77, Tit. 332t, no. 5, vol. 2 March 4, 1869 petition.
- ³⁶ Wilhelm Mannhardt, *The Military Service Exemption of the Mennonites of Provincial Prussia*, eds. Mark Jantzen and John Thiesen (North Newton, KS: Bethel College, 2013), 66.
- ³⁷ Ibid., 187; GStA, HA I, Rep. 77, Tit. 332t, no. 5, vol. 2, n.p., Danzig Mennonite Church petition, March 1869.
- ³⁸ GStA, HA I, Rep. 76, III, Sekt. 1, Abt. XIIIa, no. 2, vol. 10 (1871 – 1873), 26; Jantzen, *Mennonite German Soldiers*, 204-09.
- ³⁹ GStA, HA I, Rep. 77, Tit. 332t, no. 5, vol. 2, n.p., March 4, 1869 petition, 7.
- ⁴⁰ Jantzen, *Mennonite German Soldiers*, 219-26.
- ⁴¹ Ibid., 226-28.
- ⁴² Heinrich von Treitschke, *Politics*, Hans Kohn, ed. (New York: Harbinger Book: 1963). For background on Treitschke and this lecture class, see ix-xiii. The quote is on page 39.
- ⁴³ Ibid., 145.