

Our Religious Rights During Times of War

As early as the colonial period in United States history exemptions for military servitude have been granted to religious objectors. Many times this right is abused by citizens who value their own well being rather than the common good of the people. Times like the present, when war seems eminent, the misuse of religion for exemptions has immense social costs. As definitions of religion and beliefs have progressed, grounds for exemptions have become somewhat muddled.

The cases of *United States vs. Seeger* and *Welsh vs. United States* illustrate when exceptions were eventually made for the objectors due to contemporary application of section 6 of the Universal Military Training and Service Act of 1948. The government took special care to recognize the legitimacy of Mr. Seeger and Mr. Welsh's beliefs en route to their exemption. Upon elaborating on the facts of the given cases the argument is made that perhaps the exemption of Mr. Seeger and Mr. Welsh is not conducive to the preservation of the social agreement upon which our government is founded. To substantiate this argument, the particular philosophies of Jean Jacques Rousseau in his work The Social Contract are relevant. The theories provided suggest that perhaps Rousseau would have in fact convicted Seeger and Welsh of refusing to be inducted into military servitude on grounds of hindering ultimate public good.

Both the *United States vs. Seeger* and *Welsh vs. the United States* were cases involving conscientious objection to military servitude. In each case the defendants

sought exemption from military service on the basis that their religious preference, although untraditional, was still a “sincere and meaningful belief occupying in the life of its possessor a place parallel to that filled by the God of those admittedly qualified for the exemption.”¹ Both cases question the constitutionality of section 6 of the 1948 Universal Military Training and Service Act. The crux of the argument concerning section 6 of this Act was the meaning of the phrase, “religious training and belief”. The phrase came to be defined as “an individual’s belief in a relation to a Supreme Being involving duties superior to those arising from any human relation, but not essentially political, sociological, or philosophical views or a merely personal moral code.”² The problem with this statement, as apparent in *Seeger*, was the words, “Supreme Being”. There is a conventional way these words are interpreted for the majority of us, and that is that “Supreme Being” means God. However, this is the meaning of Supreme Being as it is traditionally understood. In the case of *United States vs. Seeger*, the defendant claimed more contemporary ideas of a Supreme Being in that he abided by a “belief in and devotion to goodness and virtue for their own sakes, and a religious faith in a purely ethical creed.” Originally *Seeger* was convicted, but the decision was overturned by the Court of Appeals because “distinguishing between internally derived and externally compelled beliefs was an impermissible classification under the Due Process Clause of the Fifth Amendment.”³ The *Seeger* case shows how the language of section 6 can be molded to fit a more progressive definition of what it means to have religious training and belief. The fact that Mr. *Seeger* was originally convicted on the grounds that his belief was based on philosophies of Plato and Aristotle, illustrates that Congress was

¹ *United States vs. Seeger*; (*Held*) p.173-180

² *United States vs. Seeger*; concerning the amendment of the Act in 1940

perhaps negligent in its presumed application of the words “Supreme Being”. The language was expanded in this instance to include more recent definitions of what religious training and beliefs are legitimate causes for exemptions to military service. Seeger and Welsh differ slightly in terms of what each defendant was claiming as the reasoning for their exemption. Seeger as stated before claimed belief in a “purely ethical creed.” Welsh, on the other hand, claimed no religious conviction in the traditional sense, but rather opposed war on the basis that killing another human being was morally and ethically wrong. Welsh, like Seeger, was originally convicted of refusing to submit to induction into military service and his conviction later overturned. The Supreme Court reversed the decision on the grounds that:

“the proper test in determining whether a conscientious objector’s objection to war was “religious” under section 6 was whether his opposition to war stemmed from moral, ethical, or religious beliefs about what was right and wrong, it being necessary that such beliefs be held with the strength of traditional religious convictions.”⁴

This time the language was not expanded to include other possibilities for meaning in the phrase "Supreme Being", but rather what beliefs could be construed as religious.

Section 6 of the Universal Military Training and Service Act has been stretched in both Seeger and Welsh. This section of the 1948 Act was most likely written similar to the style indicative of our constitution. This meaning simply that section 6 was drafted with the intent to be pliable to future situations. The framers of the constitution drafted the document in such a way that it would continue to be applied effectively throughout the existence of the United States. It provided a broad foundation on which to guide our government in making decisions concerning public good. The idea is similar with respect

³ United States vs. Seeger; The Facts in the Case, No. 50

⁴ Welsh vs. United States; Summary, No.76

to section 6. Although much more specific in its purpose than the constitution, it is continually being applied to include more and more exemptions to military servitude on a much more broad basis. While it may be best in terms of public interest to exempt those opposed to war because of their apparent apathy and dissent to the objective, but are these objectors contributing to the public good by not participating. When considering decisions for public or common good the philosophies of Jean-Jacques Rousseau in his work The Social Contract seem applicable.

The main idea of The Social Contract is that each individual is a collective effort towards a socially agreed upon common good. “Each one of us puts into the community his person and all his powers under the supreme direction of the general will; and as a body, we incorporate every member as an indivisible part of the whole.”⁵ The general will that Rousseau speaks about aims for the common good. Keeping this in mind, Rousseau might have had qualms with the eventual reversal of both of the decisions in Seeger and Welsh. Rousseau could have viewed Seeger and Welsh as hindering the common good by holding their personal beliefs a priority over the general will.

Perhaps Rousseau would not have had individual gripes with Seeger and Welsh respectively, but his theories suggest that Rousseau himself would not have decided to overturn Welsh’s or Seeger’s original convictions. This is illustrated through several passages within The Social Contract. The main contributing theories relative to the two cases at hand involve duties of citizenship, the preservation of the state, and a citizen’s right to life and death.

Concerning the duties of citizenship, Rousseau subscribes to a school of thought akin to that of Greek and Roman schools of thought. These are characterized by “strong

civic spirit in that citizenship was and honor and a defining characteristic of who one was.”⁶ Also, keep in mind that Rousseau thought aristocracies were the most stable forms of government. With that said, Rousseau does not believe that people should not have or practice private beliefs, but rather that they should observe a common commitment.

“This formula shows that the act of association consists of a reciprocal commitment between society and the individual, so that each person, in making a contract, as it were, with himself, finds himself doubly committed, first, as a member of the sovereign body in relation to individuals, and secondly as a member of the state in relation to the sovereign.”⁷

Rousseau places the importance of duty as a citizen and member of a sovereign body above that of obligation to oneself. Perhaps Rousseau would not have overturned the reversals of Welsh’s and Seeger’s decisions based only on the fact that they each put their beliefs before that of the general will. However, this deference to the common good in conjunction with the second theory, preservation of the state, would be motivation for Rousseau to convict both of these objectors. Along with civic duties, Rousseau believes the friction between individuals and the sovereign, and in turn, between the sovereign and the government will lead to the eventual dissolve of the state.

“Fancying that the artificial person which constitutes the state is a mere fictitious entity (since it is not a man), he might seek to enjoy the rights of a citizen without doing the duties of a subject. The growth of this kind of injustice would bring about the ruin of the body politic.”⁸

This passage suggests that the more citizens not subscribing to the contract of public good will eventually hinder the cohesion of the body politic. Rousseau could have

⁵ The Social Contract, p.61

⁶ “Jean Jacques Rousseau”; <http://www.utm.edu/research/iep/r/rousseau.htm>

⁷ The Social Contract, p. 62

⁸ The Social Contract, p. 64

convicted Welsh and Seeger on the grounds that their conscientious objection, if allowed, would set a precedent for the crumble of the social contract. The more exceptions made, the less resilient our structure of government becomes because less and less people are willing to adhere to the idea of a socially accepted common good.

Perhaps the most compelling theory of why Rousseau would have convicted Welsh and Seeger for refusing induction to military servitude is his explanation of the right to life and death. Although described in the context of a society lead by a prince, Rousseau suggests that our lives are something that we commit to the state in exchange for security as a citizen.

“It is expedient for the state that you should die, then he should die, because it is only on such terms that he has lived in security as long as he has and also because his life is no longer the bounty of nature but a gift he has received conditionally from the state.”⁹

Although a dismal thought, this particular idea deserves consideration with respect to our citizenship. Rousseau would respond to gripes of war as immoral by pointing out that Welsh and Seeger would not have enjoyed as much security in another country. Perhaps it is not explicitly stated that you should give your life to America in exchange for her protecting your daily life and freedoms, but is that such an irrational thought? While many may not agree with this thought, Rousseau would find it feasible to convict Welsh and Seeger for blatantly violating the social contract in this fashion.

In the cases of conscientious objection presented here Jean Jacques Rousseau would have most likely convicted objectors on much more conventional basis. Each case’s conviction was eventually overturned at some level of judicial consideration for contemporary reasons, such as progressive ideas of the meaning behind “Supreme Being”

and what is legitimately regarded as religious. However, Rousseau would see the two cases as obstacles to the preservation of an understanding upon which our society is founded and deem them catalysts for the demise of our government. However inconsiderate of contemporary personal beliefs and theories Rousseau's ideas might be, they still present compelling reasons for conviction where public good and preservation are concerned. The United States is filled with many different religious groups all claiming unique ideas of morality. With liberties such as religious freedom comes the responsibility not to abuse the privileges afforded by our constitution. Objection to defending the freedoms our society affords us should be made with distinct conviction, otherwise those freedoms could become obsolete.

⁹ The Social Contract p.78-9