

ORIGINAL SCIENTIFIC ARTICLE

Marko Božić*

DISSENTERS AND DISSIDENTS: RELIGIOUS CONSCIENTIOUS OBJECTORS UNDER YUGOSLAV MILITARY CRIMINAL LAW 1945–1991

Abstract: *The paper presents results of a research focusing on a four decades' struggle for legal recognition of the right to conscientious objection in Socialist Yugoslavia. Without a pretense to evaluate it, the paper aspires to describe and explain the evolution of Yugoslav Military Criminal Law by examining its distinctive historical causes and inner logic. Methodologically, the study relies on normative analysis of relevant legal sources that have been either understudied or simply disregarded. It analyzes especially the 1989 Amendment to the Military Service Obligation Act that introduced the right to conscientious objection into the Yugoslav socialist legal system, as well as related archival materials, newspaper reports and other written accounts depicting the political background of the 1989 legal reform. The study sheds light on socialist secularism and questions the common perception of the Yugoslav People's Army as a conservative institution unwilling to compromise. It also contributes to a broader theoretical discussion on the ambiguous nature of conscientious objection as a right and/or a privilege.*

Key words: Right to conscientious objection, Socialist Yugoslavia, Yugoslav People's Army, religious conscientious objector, Protestant dissenting groups, Slovenian Peace Movement.

1. INTRODUCTION

During the recent COVID-19 pandemic, many governments introduced quarantine, lockdown and mandatory isolation in order to contain the spread of the disease, challenging in such a way religious freedoms, primarily the right to collective worship. All over the globe, such controversial legal measures provoked a public backlash ranging from acts of civil disobedience to more cautious calls for religious accommodation.

* Associate Professor, Union University Law School, Belgrade; e-mail: marko.bozic@pravnofakultet.rs

Individual right to be exempt from generally applied rules that contradict one's personal beliefs became a hot topic once again. Boosted by the ongoing debate over mandatory vaccination, the pandemic emergency brought an old dilemma up for discussion, that whether conscientious objection was another fundamental right or just a privilege compromising the egalitarian core of democracy. "Rebellious and anarchic"¹ conscience as an autonomous source of obligation requires either that an exception be made to positive law or that a positive law be modified. Either way the rule of law is called in question, as it is the democracy itself.

There is, however, a thin red line of compromise: contemporary liberal democracies recognize their citizens' right to conscientious objection to military service obligation. Sparked by the Reformation that advocated liberation of individual conscience from ecclesiastical authorities,² the concept was further developed by liberal political thought holding humans had inalienable rights *vis-à-vis* the government authority. Considering such a view seriously, it is difficult to comprehend the duty of compulsory military service obligation since it transfers the fundamental right to life and liberty over to the state.³ Fostered by liberals' fear of standing armies as an instrument of tyranny,⁴ conscientious objection on religious basis was especially welcome in Anglo-American political theory and practice,⁵ while the European, continental one was less enthusiastic about it.

- 1 Schlink, B., Conscientious Objection, in: Mancini, S., Rosenfeld, M. (eds.), 2018, *The Conscience Wars, Rethinking the Balance between Religion, Identity, and Equality*, Cambridge, Cambridge University Press, p. 103.
- 2 In Catholic theology, "conscience was given a central role in an economy of salvation, in particular by way of the practices of confession, inquisition, and excommunication. Because these practices accomplished both the discovery and absolution of sins, the preeminent power belonged to the institution of the Church, which was conceived as alone able to carry and transmit dogmatic truths, and to guide fallible consciences. [...] One of the important critiques the Protestant Reformation addressed to Catholicism concerned its system of penances and its practice of the 'terrorization of conscience'." Saada, J., Antaki M., Conscience and Its Claims. A Philosophical History of Conscientious Objection, in: Mancini, S., Rosenfeld, M., (eds.), 2018, *The Conscience Wars, Rethinking the Balance between Religion, Identity, and Equality*, Cambridge, Cambridge University Press, pp. 31–32.
- 3 Fiala, A., 2010, *Public Wars, Private Conscience, the Ethics of Political Violence*, London – New York, Continuum International Publishing Group, p. 145.
- 4 Carter, A., 1998, Liberalism and the Obligation to Military Service, *Political Studies*, Vol. 46, No. 1, pp. 72–74.
- 5 Although not recognized as a legal right neither by the United States nor Great Britain before World War I, it traces all the way back to colonial experience and the American Revolution (Fiala, A., 2010, p. 146). Further secularization of the principle, culminating during the Vietnam War, led to a transition from a compulsory military draft to an all-voluntary and professional army (*Ibid.*, pp. 148–149).

Commonly associated with republicanism, the latter tradition shifted focus from individual interests to political participation, subordination of private interest to the public good, civic virtue and, especially, to the idea that citizens' rights also imply duties such as military service obligation. Still influential in France, such perception of citizenship, "*derived from classical Greece and republican Rome, [implies that] the political status of the citizen was automatically linked to the duty to fight for the polity*".⁶ It was believed that these citizens' rights and duties taken together raise patriotism as an individual awareness of belonging to a nation.

Closer to the continental and republican tradition, the idea of compulsory military service in Eastern European people's democracies followed its own logic, though. A nation was worth of individual sacrifice only as an ideologically correctly organized community (*i.e.*, as a socialist republic). Therefore, no socialist army represented barely national defense forces, but a revolutionary tool as well. Mandatory and universal military service obligation was considered an honorable duty of each and every male citizen called to fight against national and class enemies. This was precisely the case of the Yugoslav People's Army (henceforth: JNA)⁷ emerging from the World War II partisan resistance movement led by the Yugoslav communists combating the Axis powers, but also making a revolution by fighting against local monarchist and nationalist militias as well. Consequently, the post-war JNA was assigned to protect the two major outcomes of the 1945 Partisans' war triumph: both the national independence from all external threats, as well as the socialist constitution and government from even more menacing internal ideological enemies. Under no civilian control, having its own Communist Party Organization reporting directly only to Tito as its Commander in Chief, JNA was completely autonomous in acting and achieving its goals.⁸

As a highly ideologized institution, JNA had no tolerance to reactionary practices such as religion. Hence, rough handling and heavy punishments for conscientious objectors, mostly members of small Protestant dissenting groups,⁹ who had been challenging the army silently but steadily, was an expected and common response. As such, the case of socialist Yugoslavia was not a solitary one. With a single exception of the German

6 Carter, A., 1998, pp. 70–71.

7 In Serbo-Croatian: Jugoslovenska Narodna Armija or JNA.

8 Because of its exclusive legal and political status, JNA also used to be referred to as the Seventh Yugoslav Republic.

9 Dissent is a term commonly used for all those Protestants who refused to conform to Anglican Church. In this paper, however, it designates all small Protestant dominations with no deeper roots in Yugoslav society regardless of their relations with The Church of England.

Democratic Republic,¹⁰ none of the Eastern European people's democracies had ever recognized conscientious objection as a legal right,¹¹ such a right "never being officially admitted or publicly discussed" as a socially important issue in those states.¹² Therefore, it came as no surprise when the right to conscientious objection became the first-rated topic of dissidents' movement during the late 1980s that announced the close and final end of the political system and the state that was standing upon it. That was why and how the Yugoslav army and its military criminal law became a puzzle piece of importance for a due understanding of religious freedom under socialism. Important but understudied, this topic gained only marginal attention in specialized volumes on religious freedom under the Yugoslav socialist regime¹³ and, for the time being, had only a few lines dealing with it in studies treating the JNA and its ideological function.¹⁴ The present study is about to tread on this *terra incognita* and

- 10 GDR officially recognized the right to conscientious objection on religious and "similar" (aka non-religious basis) in 1964, only three years after the Berlin wall had been built. It entails serving in distinctive uniforms, without arms and provides no punitive extension of military-duty terms. The right was introduced by a decree of National Defense Council and did not have any constitutional basis, nor foundation in law. Bebler, A., 1991, *Conscientious Objection in Socialist States: A Comparative Perspective, Studies in Comparative Communism*, Vol. 24, No. 1, p. 106. Later on, some other Eastern European socialist countries were ready to make certain concessions, with no foundation in law, i.e., on arbitrary basis. E.g., in 1977, Hungary started applying exemptions from regular military service to faithful of some minor Protestant dominations such as Nazarenes, Jehovah's Witnesses and Reformed Seventh Day Adventists, who could serve army unarmed and without any punitive extension. Since 1980, the Polish government has been allowing alternative civilian service without weapons. *Ibid.*, p. 108.
- 11 In the early period of the USSR, religious conscientious objectors were exempted from conscription duty based on Lenin's decrees of 1918 and 1919. Later on, the 1925 Soviet Statute on Military Service Obligation recognized conscientious objection as a legal right that was abolished at the dawn of World War II, *Ibid.*, p. 106. This early Soviet politics relied on certain Tsarist Russian law traditions. For more on this see Klippenstein, L., 2016, *Peace and War. Mennonite Conscientious Objectors in Tsarist Russia and the Soviet Union Before WW II, and Other COs in Eastern Europe*, Winnipeg, Mennonite Heritage Centre.
- 12 Bebler, A., 1991, p. 104.
- 13 See Radić, R., 2002, *Država i verske zajednice 1945–1970*, Vol. I, pp. 425–432.
- 14 E.g., Bjelajac, M., 1999, *Jugoslovensko iskustvo sa multietničkom armijom: 1918–1991*, Beograd, Udruženje za društvenu istoriju; Hadžić, M., 2001, *Sudbina partijske vojske*, Beograd, Samizdat B92; Dimitrijević, B., 2006, *Jugoslovenska armija 1945–1954: nova ideologija, vojnik i oružje*, Beograd, Institut za savremenu istoriju; Marković, Z., 2007, *Jugoslovenska ljudska armada*, Ljubljana, Založba Defensov; Dimitrijević, B., 2014, *Jugoslovenska narodna armija 1945–1959*, Beograd, Institut za savremenu istoriju. Important exceptions are the abovementioned Anton Bebler's comparative study on conscientious objection in socialist states that also briefly summarized the Yugoslav experience, as well as Davor Marijan's excellent piece of research treating the position

try to fill the gap by outlining a legal struggle over a man's right to serve to his socialist fatherland in compliance with his own religious beliefs.

2. PROSECUTORS AND JUDGES: MILITARY LAW AND ORDER OF THE YUGOSLAV PEOPLE'S ARMY

Yugoslav People's Army was more than just an army. As one of the central embodiments of the Yugoslav state, JNA was an agent of strengthening the new socialist-type patriotism and citizenship. For that purpose, JNA relied on an old military tradition and patriarchal order that considered army service an important part of men's lives, "*a rite de passage to male adulthood*",¹⁵ and "*one of the key elements of the normal biographies of socialist men*".¹⁶ As a forgery of socialist manhood, JNA provided much more than a simple military training: serving army was a process whereby "*the identity of a young man at the beginning of adulthood became inseparable from his identity of a soldier serving his socialist country*".¹⁷ Under such circumstances, any deviation from regular military service obligation such as avoiding, denying or openly refusing to join the army was regarded as an act of civil disobedience verging on treason.

2.1. FROM A SECULAR TO AN ANTICLERICAL DEFENSE FORCE

JNA had always been more of a *people's* (i.e., a socialist) than a *Yugoslav* (i.e., a national defense) army, achieving its political mission by spreading ideological purity in its own rows, rather than by building distinctive national identity among its troops. Defined as a *socialist* defense force, JNA symbols and ornaments were laden with ideological meaning

of JNA concerning religion based on the accessible archives entitled 'Jugoslavenska Narodna Armija i vjerske zajednice – prilog istraživanju' published in 2015 in *Croatica Christianiana periodica*, Vol. 39, No. 76, pp. 171–198.

- 15 Dumančić, M., 2023, He Who Does Not Serve Is Not Fit for a Wife: The Problems of Military Service and Late Socialist Masculinity in 1980s Yugoslavia, *The Soviet and Post-Soviet Review*, Vol. 50, No. 1, p. 92.
- 16 Petrović, T., Contested Normality: Negotiating Masculinity in Narratives of Service in the Yugoslav People's Army, in: Koleva, D., 2012, *Negotiating Normality, Everyday Lives in Socialist Institutions*, Routledge, p. 83.
- 17 Petrović, T., Becoming Real Men in Socialist Yugoslavia: Photographic Representations of the Yugoslav People's Army Soldiers and Their Memories of the Army Service, in: *CAS Sofia Working Paper Series*, 2009, Sofia, CAS, Vol. 2, p. 8, see also Petrović, T., Nostalgia for JNA? Remembering the Army in the Former Yugoslavia, in: Todorova M., Gille, Z. (eds.), 2010, *Post-Communist Nostalgia*, New York – Oxford, Berghahn Books, pp. 61–81.

rather than national connotation: instead of the Yugoslav national tricolor banners, it was the red star cockade that ornamented military hats and helmets, uniform buttons and epaulets until the very end of the Yugoslav state and army.¹⁸ Similarly, the pieces of martial music, military decorations, names of fighting units and army facilities were mostly those of cherished partisan heroes and along the lines of revolutionary traditions, and only to a lesser extent those of Yugoslav toponyms and institutions.¹⁹

Unsurprisingly, ideological integrity of JNA was particularly sensitive to religion. Army press was a committed actor in state-sponsored anti-clerical campaigns during the late 1940s and the early 1950s.²⁰ Official politics of no religious exemptions, established by a federal law in 1953,²¹ was applied even stricter in the military than civil affairs: there was no place for religious accommodations that existed in the former Royal Army, such as the policy of “*two cauldrons*” (i.e., halal meals for Muslim soldiers) or clergy immunity from military service obligation.²² In fact, not only was clergy immunity suppressed,²³ but the priests and seminarians altogether with “*religious fanatics*” – a derogatory term used for devoted members of small religious groups commonly referred to as “*sects*” – were considered morally and politically unreliable.²⁴ Moreover, those men were neither recruitable into some military units, such as Tito’s presidential guard, border patrols, military police corps, nor were they eligible for serving as non-commissioned officers.²⁵

Such strict JNA attitude towards religion was not always the same. Early in the summer of 1942, during the peak of Partisans’ antifascist struggle, the Supreme Headquarters of the Yugoslav Resistance Movement issued a special decree, signed by Tito in his capacity of the Chief Commander, appointing religious affairs officials within the Partisans’

18 Dimitrijević, B., 2006, *Jugoslovenska armija 1945–1954: nova ideologija, vojnik i oružje*, Beograd, Institut za savremenu istoriju, p. 78.

19 Dimitrijević, B., 2001, Armija i jugoslovenski identitet, *Vojno delo*, Vol. 53, No. 2, p. 145.

20 Dimitrijević, B., 2006, p. 200.

21 For more on this: Božić, M., 2019, Neither Secular State nor Laical Republic, Legal Position of Religious Communities in Communist Yugoslavia – Legal Framework Analysis, *Pravni zapisi*, Vol. X, No. 1, pp. 40–64.

22 Dimitrijević, B., 2006, pp. 201–202.

23 Up to 1952, unlike public school students, seminarists and theology students were not allowed to postpone their military service obligation until the end of their education. For more on this: Radić, R., 2002, *Država i verske zajednice 1945–1970*, Beograd, INIS, pp. 425–426.

24 Marijan, D., 2015, p. 174.

25 *Ibid.*

combat units.²⁶ These officials were clergymen in charge of performing rites and certain administrative tasks, such as keeping death registries. They wore generic religious ornaments of their faith on their hats or helmets, such as the cross for Christian priests and the crescent moon for Muslim imams, but only combined with a communist red star. This reconciliatory approach to religion did not disappear immediately after communists took over the political power and felt no more obliged to negotiate good terms with the traditional religions. Indeed, the very first Code of Conduct of Yugoslav Army that of 1946, explicitly allowed performing military funerals altogether with confessional ceremonies,²⁷ all in respect of the deceased's last will or the will of deceased's closest relatives.²⁸ However, the next JNA Code of Conduct, issued in 1957, introduced a general prohibition of performing confessional rites within the frame of a military funeral service, but allowed certain exceptions by stipulating that the general rule is applicable unless "*there is not an opposite order*".²⁹ The same stipulation was kept in the 1969 Code of Conduct,³⁰ and again in the one of 1977,³¹ the last one that Tito signed as the JNA Chief Commander. Yet, this stipulation was made stricter within the 1985 JNA Code of Conduct, inasmuch the latter military statute, unlike the three preceding ones, had "*an opposite order*" clause removed from it, making thus any exceptions from the general prohibition unlikely.³² This was not a matter of chance. A meticulous reading of subsequent of JNA Codes editions indicates an apparent rising strictness of the secular army order: e.g. the notorious provisions of the Code, those proscribing a ban of religious symbols on military uniforms and introducing a strict interdiction of religious press and

26 Naredba Vrhovnog komandanta NOP i DV Jugoslavije Druga Tita od 23. juna 1942. god. Štabovima proleterskih brigada o ustanovljenju zvanja verskih referenata u brigadama i o njihovim dužnostima, in: *Zbornik dokumenata i podataka o narodnooslobodilačkom ratu jugoslovenskih naroda*, Vol. II, Issue 4, 1955, Beograd, Vojnoistorijski institut JNA, pp. 403–404.

27 For more about this practice in the final years of the war see Manojlović-Pintar, O., 2005, *Široka strana moja rodna, Spomenici sovjetskim vojnicima podizani u Srbiji 1944–1954, Tokovi istorije*, 1–2, pp. 134–144.

28 *Pravilo garnizonske službe u Jugoslovenskoj Armiji*, 1946, Beograd, Vojno-izdavački zavod Ministarstva narodne odbrane, p. 54.

29 *Pravilo službe Jugoslovenske Narodne Armije*, 1957, Beograd, Državni sekretarijat za poslove narodne odbrane, p. 436.

30 *Pravilo službe Jugoslovenske Narodne Armije*, 1969, Beograd, Državni sekretarijat za narodnu odbranu, p. 391.

31 *Pravilo službe oružanih snaga*, 1977, Beograd, Savezni sekretarijat za narodnu odbranu, p. 252.

32 *Pravilo službe oružanih snaga*, 1985, Beograd, Savezni sekretarijat za narodnu odbranu, p. 278.

rites within military facilities, were not introduced before 1977.³³ They were only to be reiterated and further constrained by the 1985 Code that explicitly forbade attendance at or participation in religious services to uniformed soldiers and army officers.³⁴ Implementation of these provisions was even more difficult since an extensive interpretation of the rules extended the rite ban up to acts of preaching and praying.³⁵ Thus, unlike in Yugoslav hospitals and prisons, there were no clerics or religious services in the Yugoslav army barracks. Consequently, the number of believers among soldiers was declining steadily throughout the researched period. An official survey of the time³⁶ indicated that only 12.4 percent of all JNA recruits considered themselves religious upon completing their military service in 1978, compared to nearly 17% of them a year before and little less than 21% in 1973. On the other hand, atheists composed a strong majority ranging from over a half to nearly two thirds of all respondents.

2.2. ON CRIME AND PUNISHMENT

Unlike the Partisan Army, that remained open to all believers ready to go to war without fighting in it, the new Yugoslav socialist state showed no appreciation of them and soon declared these dissenters lawbreakers and criminals. Shortly after the war, the Yugoslav Federal Assembly, adopted the Military Criminal Code, the Article 34 of which penalized “*avoidance of military service obligation due to religious or other personal convictions*” as a criminal offense,³⁷ a provision previously found in the Military Criminal Code of the Kingdom of Yugoslavia as well.³⁸ This

33 *Pravilo službe oružanih snaga*, 1977, Beograd, Savezni sekretarijat za narodnu odbranu, pp. 22 and 43.

34 *Pravilo službe oružanih snaga*, 1985, Beograd, Savezni sekretarijat za narodnu odbranu, pp. 24 and 47. As a matter of fact, this rule was introduced in the mid-1970s for the first time and only by a sublegal act (see Marijan, D., 2015, p. 176), so it was actually standardized only in 1985.

35 Marijan, D., 2015, p. 177; Radić, R., 2002, Vol. II, p. 428.

36 Samardžić, R., 1983, *Religija i vjerske zajednice u Socijalističkoj Federativnoj Republici Jugoslaviji*, Beograd, [s.n.], pp. 52–53.

37 Art. 34, Zakon o vojnim krivičnim delima, *The Official Gazette of the FPRY*, No. 107/48, p. 1757.

38 Art. 45, Vojni Krivični zakon Kraljevine Jugoslavije, according to Dabić, Lj. A., 1930, *Komentar Vojnog krivičnog zakonika*, Beograd, [s.n.], p. 63. However, the scope of this criminal offense was larger since it penalized avoidance of military duties on the ground of “religious, political or other convictions” and was most likely implemented from the 1945 to 1948 on the basis of the *Law on Invalidity of Legal Acts Enacted Before 6 April 1941 and During the Enemy Occupation* [Zakon o nevažnosti pravnih propisa donetih pre 6. aprila 1941. godine i za vreme neprijateljske okupacije, *The*

crime was penalized by a maximum three years of imprisonment. However, the penalty could have been even more severe in two cases. The first was if the crime caused serious military damage or if it was considered a complicity, the punishment for which was maximum six years of hard prison time. The second was if it was committed in time of war, when offenders could have been sentenced to minimum two years of imprisonment, or even to death penalty, in both cases followed by confiscation of property. Poorly defined as it was, this criminal provision targeted all forms of disobedience to military authorities regardless of their personal causes. It is noteworthy that the stipulation *ad verbum* gave clear priority to ‘religious’ over all ‘other’ convictions might suggest that conscientious objectors of religious inspiration were perceived major troublemakers, therefore also the main addressees of the criminal provision. Additionally, the very timing of the Code enactment discloses the political background of the legislation. It was adopted in late November of 1948, surely the hottest moment of the Cold War exposing Yugoslavia to a serious threat of a Soviet invasion expected after Tito’s clash with Stalin. Closing army ranks and strengthening the discipline was an urgent necessity. Thus, the envisaged penalties were so severe, ranging from two years of imprisonment to a capital punishment followed by confiscation of property if the crime had been committed at the time of mobilization or during the war that was “*in the air*”.³⁹

The 1948 Military Criminal Code was a short-lived act, though. It was abrogated nearly three years later by enactment of the new Yugoslav general criminal legislation – the 1951 Penal Code that neither recognized “*avoidance of military service obligation*”, nor specified any religiously motivated crimes elsewhere in the body of its text. However, the 1951 Penal Code introduced some criminal provisions that could have bridged such a ‘gap’ and might still have enabled prosecution of conscientious objectors. Namely, Article 351, found in Title XXV of the Penal Code on “*Crimes Against Defense Forces*” proscribed “*refusal to carry and use of a weapon*” a distinctive criminal offense punishable by at least three years of hard prison time or, alternatively, by a death penalty.⁴⁰ Perceived broadly, the criminal provision was targeting all those members of the military who were about to refuse to carry and use arms, but only in time of war or mobilization. There was no specification of any

Official Gazette of the FPRY, Nos. 86/46, 105/46, 96/47, p. 1078]. According to this general abrogation law, every piece of old regime’s legislation was declared invalid unless it complied with the new socialist order.

39 Art. 34, Zakon o vojnim krivičnim delima, *The Official Gazette of the FPRY*, No. 107/48, p. 1757.

40 Art. 351, Krivični zakonik, *The Official Gazette of the FPRY*, No. 13/51, p. 223.

kind pertaining to a personal conviction or religious belief as qualified motives of a criminal offense. On the other hand, the criminal law doctrine took a stand that “under any circumstances, religious dogmas and provisions cannot offer a fair excuse for refusing to carry a weapon”,⁴¹ but “remain relevant for sentencing since they are reflecting a negative attitude towards military service obligation and defense forces in general”.⁴² Anyway, the fact that refusal of carry a weapon as a specific form of disobedience was incriminated as an offence *per se* may suggest that Article 351 aimed at a distinctive category of recruits willing to serve and obey within the army, but unwilling to do it armed.

The simple fact that *actus reus* of the crime could be conducted only in time of war or mobilization made any prosecutions under Article 351 unlikely. It does not mean that objectors would have passed unpunished, though. In fact, “refusal to carry and use of a weapon” may have been – and, indeed, it was – easily prosecuted at any moment under Article 327 of the 1951 Penal Code, the one that prescribed for a prison sentence with no maximum limit for any kind of disobedience coming from “a military member refusing to execute his superior’s order related to army service”.⁴³ This judicial practice influenced the Yugoslav lawmaker to introduce amendments into the 1959 Penal Code. More precisely, the Federal Assembly had abolished Article 351,⁴⁴ and replaced it with a brand new Article 327a, one penalizing “military members who refuse to carry or to use weapons against an order or in compliance with the army code of conduct”.⁴⁵ In other words, from 1959 onwards, the crime of “refusal to carry and use of a weapon” was not a distinct incrimination anymore, but only a special form of “non-execution of orders” proscribed by Article 327.⁴⁶ The aforementioned amendments were not only of nomothetic nature, but they introduced certain substantial novelties, too: they limited the maximum imprisonment sentence to 10 years. Besides, from then on, such criminal offense could have occurred anytime during military service, including during peacetime.

41 Sentence of the Supreme Military Court, no II Kz-405/62, cited by Bačić, F., 1986, *Komentar Krivičnog zakonika Socijalističke Federativne Republike Jugoslavije*, Beograd, Savremena administracija, p. 663.

42 Bačić, F., 1986, p. 663.

43 Art. 327, *Krivični zakonik*, *The Official Gazette of the FPRY*, No. 13/51, p. 220.

44 Art. 261, *Zakon o izmenama i dopunama Krivičnog zakonika*, *The Official Gazette of the FPRY*, No. 30/59, p. 814.

45 Art. 240, *Zakon o izmenama i dopunama Krivičnog zakonika*, *The Official Gazette of the FPRY*, No. 30/59, p. 811.

46 Tahović, J., 1961, *Krivično pravo: posebni deo*, Beograd, Savremena administracija, p. 504.

The last Yugoslav Penal Code, that of 1976, retained the very same system: “*Refusing to carry and use of a weapon*” proscribed by Article 202,⁴⁷ which was considered only a special form of “*non-execution of orders*” as a general incrimination conceived by Article 201.⁴⁸ According to the criminal law doctrine, the mere announcement of refusal of weapon carrying did not qualify as a crime: a conscript’s act of such refusal had to be a reaction to his superior’s specific order.⁴⁹ Circumstances under which the conscription was done were irrelevant, so even a non-uniformed draftee, one signed up for military service against his will, may have been perceived a possible perpetrator of such criminal offense.⁵⁰ The 1976 Penal Code introduced some innovations by complementing the legal definition of this criminal offense in two ways. Firstly, Article 226 provided a qualified form of this criminal offense if committed in times of war.⁵¹ In such case, its perpetrator may have been sentenced to minimum five years of imprisonment or, alternatively, to a death penalty. Similarly, Article 202 was complemented by an additional provision stipulating that “*military conscript who, without a justifiable reason, refuses to carry a weapon assigned to him for the purpose of service in the military reserve force*” would be punished by maximum of three years’ and minimum of three months’ imprisonment in time of peace.⁵² A qualified form of this criminal offense committed in times of war provided for maximum ten and minimum a year’s imprisonment.⁵³ In such a way,

47 Art 202, Krivični zakon SFRJ, *The Official Gazette of the SFRY*, No. 44/76, p. 1355.

48 This was a common interpretation in the Yugoslav criminal law doctrine (e.g.: Lazarević, Lj., 1982, *Krivično pravo: posebni deo*, Beograd, Savremena administracija, pp. 97–98; Atanacković, D., 1985, *Krivično pravo: posebni deo*, Beograd, Službeni list, pp. 83–84; Stajić, A., Vešović, M., 1987, *Krivično pravo: posebni deo*, Sarajevo, Svijetlost, pp. 59–60; Čejović, B., 1988, *Krivično pravo: posebni deo*, Beograd, Naučna knjiga, p. 115) that paid minor attention to this criminal offense, partly because of its accessory nature, but also because of its modest scope too – a relatively moderate number of offenders and their low ratio in the total number of criminals in Socialist Yugoslavia. It was due to all these reasons, but also referring to comparative law analyses showing a clear absence of this incrimination in both Western and Eastern blocks, that some Yugoslav authors questioned the meaningfulness of Article 327a and advocated for its abrogation. For more on this see: Đukić, N., 1972, Da li je potrebno postojanje samostalnog krivičnog dela iz člana 327a Krivičnog zakonika, *Bilten pravne službe JNA*, Nos. 1–2, pp. 19–22.

49 Bačić, F., 1986, p. 662.

50 Čejović, B., 1983, *Krivično pravo u sudskoj praksi, Vol. II, Posebni deo*, Beograd, Svetozar Marković, pp. 158–160.

51 Art. 226, line 3, Krivični zakon SFRJ, *The Official Gazette of the SFRY*, No. 44/76, p. 1359.

52 Art. 202, line 2, Krivični zakon SFRJ, *The Official Gazette of the SFRY*, No. 44/76, p. 1355.

53 Art. 226, line 1, Krivični zakon SFRJ, *The Official Gazette of the SFRY*, No. 44/76, p. 1359.

the range of possible perpetrators was extended considerably: Yugoslav men had to leave their jobs and families every so often in order to engage in regular military training exercises and maintain combat readiness of JNA, but also prove their personal commitment to the Yugoslav homeland and its socialist system.

Since all these criminal stipulations consistently referred to military members as the only possible perpetrators of the crime, the implementation of the law was an exclusive competence of Yugoslav military courts applying an inconsistent judicial policy-making. According to available data, sometime around 1953, the judicial practice shifted from more rigorous punishments to a more restrictive application of law and generally more moderate sentencing. After 1954, the annual average number of guilty verdicts fell from nearly 32 to only four,⁵⁴ remaining around that number until 1978 and their apparent rise at the time.⁵⁵ Sentences imposed ranged mostly from two to five years in prison.⁵⁶ Appropriate behavior of the accused, usually young people with no prior criminal records, was considered a mitigating circumstance.⁵⁷ However, good manners were insufficient to provide basis for sentence suspension or to assure a pardon for their deed.⁵⁸ Silent resilience of objectors was what troubled military courts the most: as uncompromising as the fist of socialist justice was, these zealots not only carried on with their quiet suffering, moreover: disobedience. Their trials were short and appeals rare.⁵⁹ A second, third and even fourth consecutive incarceration sentence for the same crime was not a seldom phenomenon. This was in the line with Article 77 of the 1955 National Defense Act, according to which military service obligation was suspended and then resumed only upon completion of a prison term or being released on parole.⁶⁰ In others words, there were convicts who

54 Mladenović, D., 1981, *Verski fanatizam i društvo*, PhD thesis, Novi Sad University School of Law, pp. 328–329.

55 According to data from Perica, V., 2002, *Balkan Idols: Religion and Nationalism in Yugoslav State*, Oxford, Oxford University Press, p. 136, from 1978 to 1986, this number reached nearly 14 convictions a year and it seemingly continued to raise. According to Davor Marijan's data analyses, it was steadily over 20 sentenced men a year during the mid-1980s. Marijan, D., 2015, p. 184. According to an official Ministry of Defense Report, there were 39 accused in 1986 and 22 of them in 1987. The Archive of Yugoslavia, Fund of the Presidium of the SFRY – 803, Folder 291, Unit SP 265 – 200th session of the Presidium of the SFRY, 26 May 1988, folio: 73 and 74.

56 Mladenović, D., 1981, pp. 337–338.

57 *Ibid.*, p. 345.

58 Pardon was granted to only 13% of all convicted men between 1946 and 1978. *Ibid.*, p. 347.

59 *Ibid.*, pp. 341–344.

60 Art. 77, *Zakon o narodnoj odbrani*, *The Official Gazette of the FPRY*, No. 30/55, p. 504.

served consecutive sentences, staying in jail for over ten, twenty or even more years.⁶¹ It is precisely adamant insistence of the accused during the trials in conjunction with poor results of penitentiary resocialization that was used to refer to religious zeal as the main cause of such criminal behavior.⁶² After all, there were few objectors opposing to military service obligation because of their political, philosophical, moral or other viewpoints.⁶³ Indeed, convicts were mostly believers of few Protestant dissenting groups nearing extinction. Nevertheless, in the eyes of the Yugoslav criminal law and legal doctrine, these outsiders represented a serious ideological threat because of their firm communitarian stand. Instead of embracing the brave new socialist world, all those “sectarians” and “fanatics” were stubbornly defying even exasperating an all-mighty totalitarian state.

3. DEFENDANTS AND ATTORNEYS: SMALL PROTESTANT DISSENTING GROUPS AND THE 1980'S SLOVENIAN PEACE MOVEMENT

Distrust of Yugoslav socialist state towards non-traditional Protestantism was reasonable. According to a mid-1980s exhaustive fieldwork in sociology of religion, such distrust was mutual. Namely, members of such religious groups cultivated an extremely negative attitude towards their own participation in state institutions such as the Socialist Alliance of Working People.⁶⁴ They were equally unenthusiastic about the Communist Party members willing to join their churches.⁶⁵ There was nothing new or strange in such a social distance: dissenting Protestants have always been suspicious of the state and government, trusting exclusively their religious communities and members of their congregations. The fact that the state relied on the intrinsically atheist Marxist

61 Dimitrije Mladenović's analysis of data available related to the period from 1946 to 1978, indicates that the second offense was reaching the rate of 15%. The third and fourth consecutive offenses were rare, but not excluded. Mladenović, D., 1981, p. 338.

62 The Archive of Yugoslavia, Fund of the Presidium of the SFRY – 803, Folder 276, Unit SP 519 – 174th session of Presidium of the SFRY, 18 November 1987, folio: 569 and 721.

63 According to an official Ministry of Defense Report, from 1986 to 1988, four of convicted objectors were atheists of pacifist convictions, the Archive of Yugoslavia, Fund of the Presidium of the SFRY – 803, Folder 337, Unit SP. 63 – 244th session of the Presidium of the SFRY, 15 February 1989, folio: 139.

64 Flere, S., Pantić, D., 2002, *Male verske zajednice u Vojvodini*, Novi Sad, Arhiv Vojvodine, pp. 174–175.

65 *Ibid.*, p. 176.

doctrine could only aggravate such animosity and cause further problems in this respect.⁶⁶

Historically, most dissenters were from the Autonomous Province of Vojvodina, a region differing from other Yugoslav federated entities by its highly heterogenic population. A patchwork of ethnicities and confessions, its society has always been more open and welcoming to newcomers and outsiders who had difficulties identifying with the dominant ethnic groups or traditional religions.⁶⁷ In fact, most of the small (and not so small) Protestant denominations settled their national head offices in Vojvodina.⁶⁸ Since the Province was a home of a vast majority of Yugoslav Nazarenes as the most prominent group among conscientious objectors,⁶⁹ the controversy remained an *endemic* phenomenon, relatively unknown outside the Province. Withdrawn into its own, self-imposed boundaries and without professional clergy, the Nazarene religious community included mostly indigent Serbian peasants without much education and social connections.⁷⁰ Alienated from the outside world, these “*odd ones*” resorted either to practicing their faith reclusively and spending years in jail or to emigration.⁷¹ Without powerful

66 In the specific Yugoslav context, this could not have been only a problem, but an advantage, too. As Vjekoslav Perica pointed out by following Nikola Dugandžija's earlier research, members of these communities are devoted to salvation, to which nationality is of no importance, so “*they are worth mentioning not merely to complete the presentation of the ethnoreligious mosaic of Yugoslavia but also to contrast them to the mainstream religious organizations with regard to the crucial interaction between religion and nationalism. In contrast to the four major denominations, in which religion and nationality commingle and religious leaders carry out a 'national mission' in the political sphere and through mutual competition, the religious minorities, though not altogether apolitical, are definitely less nationalistic*”, Perica, V., 2002, p. 13.

67 Flere, S., Pantić, D., 2021, pp. 178–179.

68 Most parishes and members of two traditional protestant denominations – the Evangelical Lutheran Church of Augsburg Confession (aka the Lutherans) and the Christian Reformed Church (aka the Calvinists) – were also located in Vojvodina.

69 Beside Nazarenes and Jehovah's Witnesses, reluctance towards handling the arms was also present among Yugoslav believers of the Seventh Day Adventist Reform Movement formed as a consequence of a schism in the Adventist Church over commitment to compulsory army service during World War I. As a Sabbatarian denomination, the Adventist Church focused on getting an exception permit for their members not to work on Saturdays. For more on this see: Radić, R., 2002, p. 426.

70 According to some statistics, convicted Nazarenes were men with no more than elementary education (90%), peasants (85%) and Serbian by ethnicity (65%), Mladenović, D., 1981, pp. 324–225.

71 Radić, R., 2002, pp. 430–431. Emigration was one of the main causes for a constant decline in the number of Nazarenes, eventually reducing them to female members and elderly men.

friends at home,⁷² they could rely only on help coming from abroad. Indeed, Yugoslav Government was under an international pressure by some Western NGOs, such as *War Resisters International*, *International Association for the Defense of Religious Freedom* or *Lord Russel Foundation*.⁷³ Eventually, it resulted in some important concessions by the Government, leading to milder sentencing in the early 1960s⁷⁴ and renouncing prosecution of recidivism, *aka* consecutive sentencing for the same crime.⁷⁵ However, the main Nazarenes' request to serve the army without weapons, yet in an extended term (*i.e.*, twice longer than armed soldiers), did not resound with the authorities even though the advocacy of this idea did get its first foundation in criminal law theory by 1981.⁷⁶ Nevertheless, there was no room for discussion as far as the official state-communist doctrine was concerned: the right to conscientious objection remained an unjustified "*illusion and utopia*" undermining national security.⁷⁷

From the late 1970s, the situation started changing inasmuch Jehovah's Witnesses, equally present all over Yugoslavia, gradually outnumbered Nazarenes, whose number and religious zeal had been in a constant decline.⁷⁸ At the time when the wind of change started blowing across

72 A single known exception among them was of Moša Pijade – one of the leading figures of the early Yugoslav socialist state. Pijade appreciated Nazarenes' unarmed participation in the Partizan resistance movement and took under his protection those men he spent years with in the old-regime dungeons. His advocacy followed the main line of Nazarenes' apology: by refusing to carry weapons, these men did not refuse to serve the army. They were asking for some accommodation and, therefore, could not have been treated as traitors. For more on this: Nešović, S., 1968, *Moša Pijade i njegovo vreme*, Beograd-Ljubljana, Prosveta-Mladinska knjiga, p. 738. Some archival sources, though, indicate support to Nazarenes' cause by other communist party leaders from Vojvodina, such as Jovan Veselinov or Isa Jovanović. The Archive of Yugoslavia, Fund of the Presidium of the SFRY – 803, Folder 226, Unit DT 486 – 78th session of the Presidium of the SFRY, 11 December 1985, folio: 171.

73 Radić, R., 2002, pp. 430–431.

74 *Ibid.*, p. 432.

75 Based on internal army regulations, more precisely the Internal Act of the 3rd division of JNA headquarters str.pov.no 256 of the 28 October 1960, as well as the Internal Act of the 3rd division of JNA headquarters str. pov. no. 113 of 6 March 1961. According to the Archive of Yugoslavia, Fund of the Presidium of the SFRY – 803, Folder 226, Unit DT 486 – 78th session of the Presidium of the SFRY, 11 December 1985, folio: 173 and 174.

76 In the brief conclusion of his PhD thesis, Dimitrije Mladenović suggested that conscientious objectors should serve the army unarmed, but within punitive extension of terms, Madenović, D., 1981, pp. 351–352.

77 Samardžić, R., 1983, pp. 54–55.

78 According to the Ministry of Defense Report from 1986 to 1988, 50 convicted objectors were Jehovah's Witnesses, 31 were Nazarenes and three of them Adventists;

Eastern Europe, the struggle for the right to conscientious objection was mostly associated with Jehovah's Witnesses rather than with any other Protestant dissenting group.⁷⁹ The prominent case of Ivan Čečko, a Jehovah's Witness sentenced four times and spent a total of twelve years in jail, initiated a demand to examine the constitutionality of legal provisions relevant to military service obligation. The Yugoslav Constitutional Court, however, promptly rejected the demand on the grounds of equality of Yugoslav citizens in their rights and duties, including the military service one defined by 1974 Constitution as "an undeniable and inalienable right and the highest duty and honor of every citizen".⁸⁰ The Court reasoning reflected the Communist Party official standpoint within the scope of a broader social debate on conscientious objection and alternative civil service that was lasting ever since the summer of 1986. Launched by the Socialist Youth Union of Slovenia as the home republic of most convicted objectors,⁸¹ backed by the local independent media such as *Mladina* or *Nova revija*⁸² associated with the dissident Slovenian Peace Movement demanding further liberalization and democratization based on the Western model,⁸³ the idea of decriminalizing conscientious objection got some initial support, before it was flatly refused by the federal institutions pres-

The Archive of Yugoslavia, Fund of the Presidium of the SFRY – 803, Folder 337, Unit SP. 63 – 244th session of the Presidium of the SFRY, 15 February 1989, folio: 139. Yugoslav sociology of religion was also aware of this. The *Marksističke teme* [Marxist Issues] journal issued a special compilation of Yugoslav Marxists' and sociologists' writings on small religious communities that only showed interest in Jehovah's witnesses. *Marksističke teme*, a special issue on small religious communities, 1987, No. 3–4.

- 79 It does not mean that Nazarenes totally vanished from court records and penitentiary institutions; on the contrary. For more on this see Bjelajac, B., 2019, *The Believers in the Christ – Persecution of the Nazarenes in Serbia*, Tustin, Trilogy, p. 235.
- 80 Art. 172, Ustav SFRJ, *The Official Gazette of the SFRY*, No. 9/74, p. 236.
- 81 According to an official Ministry of Defense Report, from 1986 to 1987, there were 25 Slovenians, 21 Serbs, seven Croats, two Macedonians and one Muslim among the convicted objectors. There were 15 objectors who claimed there were Yugoslavs and few of them were members of a national minority, more precisely five Slovaks, three Hungarians, two Ukrainians and one Romanian and Italian. The Archive of Yugoslavia, Fund of the Presidium of the SFRY – 803, Folder 337, Unit SP. 63 – 244th session of Presidium of the SFRY, 15 February 1989, folio: 139.
- 82 E.g., the article *Verske skupnosti in ugovor savesti*, *Mladina*, No. 15, 18 April 1986, pp. 14–15.
- 83 For more on Slovenian Peace Movement see e.g. Hren, M., *The Slovenian Peace Movement: An Insider's Account*, in: Bilić, B., Janković, V., 2012, *Resisting the Evil: (Post-) Yugoslav Anti-War Contention*, Baden-Baden, Nomos; Kenney, P., 2002, *A Carnival of Revolution: Central Europe 1989*, Princeton, Princeton University Press; Jalušič, V., Kreft, L., (eds.), 2011, *Vojna in mir: refleksije dvajsetih letih*, Ljubljana, Mirovni inštitut. For more about an intellectual background and predecessors of Slo-

sured by the pro-military lobby.⁸⁴ Once again, the key counterargument was equality before law as a core principle of a secular socialist state order that did not stand any exception.⁸⁵

The issue was of major importance. Recognition of conscientious objection was only one in a series of the Slovenian Peace Movement demands targeting the Yugoslav military system, such as giving up on heavy weapons, making national defense budget cuts and stopping arms export. In such a way, Slovenian Peace Movement was directly challenging JNA as a stronghold of the regime, but implicitly questioning a totalitarian system denying individual rights and suppressing private initiatives. The debate was actually about the ultimate source of political authority and the nature of government. The destiny of the socialist regime was at stake, as well as of the Yugoslav state, inasmuch as the inert central government and party hardliners of the time gave a perfect pretext to vocal separatist demands of all those Yugoslavs nationals willing to embrace liberal reforms. In such a way, conscientious objection became a frustrating bone of contention highly on both dissidents' agenda and in the regime's plans for army politicization as its last resort before facing its inevitable end.

4. THE SETTLEMENT: THE 1989 LEGAL REFORM

Yet, the entire affair was not a dialogue of the deaf. The Yugoslav socialist state and army were more flexible on the issue than commonly believed. Truth be told, the right to conscientious objection was regarded as a potential threat to the regular recruitment procedure, military moral, national unity and defense system in general, but the system was still reasonable enough and ready to make some concessions. At the very end of 1985 – namely, even before the debate was open – the Presidium of Yugoslavia, aka the collective Head of the State, decided to restore the politics of recidivism impunity⁸⁶ that had been abandoned

venian Peace Movement, see Ramšak, J., 2022, (*Samo*) *upravljanje intelekta: društvena kritika u kasnosocijalističkoj Sloveniji*, Sarajevo, Udruženje za modernu historiju.

84 Bebler, A., 1991, p. 110.

85 But not the only one. JNA's official media reporting on this issue were rejecting initiatives for alternative civil service as unconstitutional request also because it was opposite to socialist ethics and humanism. For illustrative examples of official media discourse see Milošević, Lj., 1987, Tačka na „nezvaničnu” raspravu, *Narodna armija*, Vol. XLII, No. 2478, 8 January 1987, p. 2; Ispolitizirana marginalna društvena pojava, *Narodna armija*, Vol. XLII, No. 2480, 22 January, p. 2; Daljević, M., 1987, Brutalan nasrtaj na Revoluciju, *Narodna armija*, Vol. XLII, No. 2490, 2 April 1987, pp. 4–5.

86 Based on internal army regulations, more precisely the Internal Act of the 3rd Division of JNA Headquarters str. pov. No 650–5 of the 18 May 1984. According to the

meanwhile.⁸⁷ Instead of another condemnation after being released from jail, a conscientious objector was to be deployed to non-combat military corps, such as engineering, quartermaster or sanitary units.⁸⁸ During the mid-1980s, these men came into an additional focus of the Presidium while it granted pardons and punishment reductions more generously than it used to before.⁸⁹

By the end of the 1980s, the national crises and international pressure forced most of Eastern-European socialist governments to undertake major structural reforms announcing their forthcoming transition. After Poland in late 1988 and Hungary in January 1989,⁹⁰ Yugoslavia was the third socialist country that officially recognized a legal right to conscientious objection, probably following an initiative of Ante Marković's reformist government. In fact, "*Prime Minister Ante Markovic's (a Croatian business leader), urged new regulation in church-state relations emulating the West European model (e.g., Sweden, the Netherlands, Belgium). Markovic' even put pressure on one of the most rigid institutions of the old regime—the Yugoslav People's Army—to begin revising military rules that banned active military personnel from attending worship service in uniform and reading religious publications inside garrisons*".⁹¹ Indeed, the last Amendments to the 1991 JNA Code of Conduct still did not allow religious rites within military facilities, but started tolerating discrete use of religious symbols

Archive of Yugoslavia, Fund of the Presidium of the SFRY – 803, Folder 226, Unit DT 486 – 78th session of the Presidium of the SFRY, 11 December 1985, folio: 174. Members of the Presidium were aware of the illegality of their decision, *aka*, that it was undoubtedly in contradiction with Article 77 of the National Defense Act. The Archive of Yugoslavia, Fund of the Presidium of the SFRY – 803, Folder 276, Unit SP 519 – 174th session of Presidium of the SFRY, 18 November 1987, folio: 888–891.

87 The Archive of Yugoslavia, Fund of the Presidium of the SFRY – 803, Folder 226, Unit DT 486 – 78th session of the Presidium of the SFRY, 11 December 1985, folio: 249 and 250.

88 Based on the Internal Act of the Ministry of Defense str. pov. No. 2207/85 of 27 August 1986. According to the Archive of Yugoslavia, Fund of the Presidium of the SFRY – 803, Folder 291, Unit SP 265 – 200th session of the Presidium of the SFRY, 26 May 1988, folio: 75.

89 The Archive of Yugoslavia, Fund of the Presidium of the SFRY – 803, Folder 276, Unit SP 519 – 174th session of Presidium of the SFRY, 18 November 1987, folio: 569.

90 Polish legal reform introduced an alternative service within civilian institutions, but with punitive extension of three years. Decision-making process stayed in exclusive competence of police. Hungary introduced alternative civil service without punitive elements through constitutional revision of the Article 70 of 1949 Hungarian Constitution. Unlike Poland, all administrative matters related to the objectors were handed over to the impartial and independent review boards. For more on this see: Bebler, A., 1991, p. 109.

91 Perica, V., 2002, p. 139.

(when worn under the uniform) and press (possessing and reading printed religious materials, without distributing them to others). It also re-allowed military funerals along with religious ceremonies (but separately and by giving priority to the military pomp).⁹² Actually, Yugoslav party and state leaders start revisiting their positions even before Marković took his office early in 1989. It was at least two times – in November 1987 and in May 1988 – that the Presidium of Yugoslavia called the Ministry of Defense to reconsider its attitude towards religious conscientious objectors.⁹³ Finally, the Presidium initiated a consequential legal reform on the 15 February 1989.⁹⁴ The Ministry of Defense submitted Amendments to the federal Military Service Obligation Act that the Federal Assembly adopted on the 20 April the same year. From then on, the relevant provision was that “*a soldier who refuses to carry the weapon on the grounds of his religious convictions will observe his military duty without the weapon, in duration of 24 months.*”⁹⁵ In other words, the Yugoslav legislator recognized the right to conscientious objection only on religious basis and with a punitive extension since the regular term of military service remained limited to 12 months. According to archival materials, the norm was designed cautiously and with a purpose: the punitive extension was about to discourage non-religious draftees asking for exemption by simulating religious convictions and objections.⁹⁶ The 1989 Amendment did not contain any implementation clauses. It meant that the entire administrative procedure related to examination of objectors’ requests was kept in the exclusive competence of the army recruitment committees, with no impartial review and no appeal rights outside the military system. Besides, draftees were not allowed to express their objections before being officially

92 *Pravilo o izmenama i dopunama pravila službe oružanih snaga*, 1991, Beograd, Vojnoizdavački i novinski centar, pp. 6 and 11.

93 The Archive of Yugoslavia, Fund of the Presidium of the SFRY – 803, Folder 276, Unit SP 519 – 174th session of Presidium of SFRY, 18 November 1987, folio: 720 and 721; and the Archive of Yugoslavia, Fund of the Presidium of the SFRY – 803, Folder 291, Unit SP 265 – 200th session of Presidium of the SFRY, 26 May 1988, folio: 103 and 104.

94 The Archive of Yugoslavia, Fund of the Presidium of the SFRY – 803, Folder 337, Unit SP. 63 – 244th session of Presidium of the SFRY, 15 February 1989, folio: 212 and 213.

95 Art. 1, Zakon o izmenama i dopunama Zakona o vojnoj obavezi, *The Official Gazette of the SFRY*, No. 26/89, p. 706.

96 It was explicitly said so in a brief discussion that Yugoslav Minister of Defense Veljko Kadjević lead with the members of Presidium, Stane Dolanc, Josip Vrhovec and Raif Dizdarevic. The Archive of Yugoslavia, Fund of the Presidium of the SFRY – 803, Folder 337, Unit SP. 63 – 244th session of Presidium of the SFRY, 15 February 1989, folio: 486–488.

summoned to military service, nor to do an alternative civil service in non-military institutions, *i.e.*, outside a military facility.⁹⁷

Even such quite limited reform caused further controversy. Archive materials indicated that the institutional opposition to such a solution was tireless until the very end.⁹⁸ According to some reports, the Amendment passed the voting in the Federal Assembly by a hair's breadth.⁹⁹ Hence, though the liberals triumphed,¹⁰⁰ the conservatives had yet not been defeated.¹⁰¹ Indeed, the Amendment did not provide any precise legal means and methods for implementation of an alternative "military duty without carrying weapons". Instead, it foresaw a four-year transitional period intended for an effective but progressive introduction of an alternative military service.¹⁰² It was up to the Federal Ministry of Defense, in fact, to specify the terms of the alternative military service

97 The Yugoslav criminal law doctrine endorsed the Amendment, without focusing on any of above-mentioned critical aspects. *E.g.*, Đorđić, B., Petrović, Z., 1990, *Komentar Zakona o vojnoj obavezi*, Beograd, Službeni list SFRJ, Službeni list SR BiH, pp. 30–34.

98 The Legislative Commission of the Federal Assembly issued a clearly unfavorable expert opinion, dated 10 April 1989, aka only ten days before the Amendment was adopted, claiming that the Amendment on conscientious objection was an unconstitutional act since it was undermining the strict secular character of the Yugoslav socialist state by introducing legal inequalities among Yugoslav citizens, *i.e.*, by recognizing certain special rights on religious grounds. The Archive of Yugoslavia, Fund: Narodne Skupštine SFRJ – 160, Folder 1516 – Zakonodavno-pravna komisija Saveznog veća, Unit 62 – 62nd Session of Legislative Commission of the SFRY Federal Assembly, 12 April 1989.

99 Bebler, A., 1991, p. 111.

100 Although, media close to Slovenian Peace Movement stayed reserved and criticized the 1989 Amendment as a false reform because it did not introduce an alternative civilian service, but only an alternative military service as a partial solution. *E.g.*: Hren, M., 1989, Propagandni manevri državnega predsedstva, *Mladina*, No. 13, 7 April, pp. 40–41.

101 The Vice Admiral Stane Brovet, one of the leading figures of JNA during the late 1980s, claimed that society finally had to face with the fact that Jehovah's Witnesses, the Nazarenes and Adventists "will never participate in an armed conflict", adding that "however, they are decent soldiers who had never made any troubles", Nenaoružani vojnici, *Danas*, No. 374, 18 April 1989, p. 32. On the other hand, the official army media opposed all such interpretations of the 1989 legal reform as a concession to dissident movements. Authors of these articles claimed that the reform had not introduced any kind of alternative civilian service, but only accommodated the compulsory military service obligation for religious conscientious objectors in neither harder nor easier way as compared to all other soldiers, except for their serving without weapons, Stojadinović, Lj. Bez ustupaka, *Narodna armija*, Vol. XLIV, No. 2600, 11th May 1989, p. 5.

102 Art. 17, Zakon o izmenama i dopunama Zakona o vojnoj obavezi, *The Official Gazette of the SFRY*, No. 26/89, p. 707.

in their own bylaws.¹⁰³ Fully controlled by the Yugoslav Army under no civilian control, the Federal Ministry of Defense has never passed any relevant regulation, most likely in order to passively obstruct the implementation of the law.

Nevertheless, the Yugoslav issue of the right to conscientious objection had not yet been completely aborted. According to some press accounts, there were as many as 17 religious conscientious objectors registered in late 1989.¹⁰⁴ “Many of these were apparently simply classified as ‘unfit’ for service and dropped from call-up rolls”¹⁰⁵ which means that “objection was thus reduced to a purely symbolic issue.”¹⁰⁶ On the other hand, an official government report from November 1992 informs about 19 condemned men since 1989.¹⁰⁷ It is highly probable that these 19 convicts were conscripts who had been stubbornly rejecting any kind of serving in military bases or any military service at all. These conclusions correspond to some facts and later military court rulings. Unlike Nazarenes, who steadily rejected carrying weapons, but readily accepted military service as such, Jehovah’s Witnesses were – and still are – categorically against any military service obligation and commitments.¹⁰⁸ Highly restrictive legal provisions on conscientious objection may have easily bypassed all of them.¹⁰⁹

103 Art. 7, Zakon o izmenama i dopunama Zakona o vojnoj obavezi, *The Official Gazette of the SFRY*, No. 26/89, p. 706.

104 ZIS odgovarja Viki Potočnik, *Delo*, No. 30, 6 February 1990, p. 3. The article reported about an official answer of the Yugoslav federal government to a parliamentary question posed by Viktorija Vika Potočnik, a MP from Slovenia.

105 Bebler, A., 1991, p. 111.

106 *Ibid.*

107 Lilić, S., Kovačević-Vučo, B., 2001, *Prigovor savesti*, Beograd, Jugoslovenski komitet pravnika za ljudska prava, pp. 23–24. However, the sentencing remained mild: most of the convicted men got only suspended sentences and only a few passed more than a year in prison.

108 During the early 1990s, the Socialist Yugoslavia ended up in a bloody war, but Slobodan Milošević’s Serbia kept its military system and order alive through the legal system of the rump Yugoslavia (a short-living Serbia-Montenegro Federation). Therefore, the rump Yugoslavia subsequent military court practice remains equally informative: e.g., the Military Court sentenced Pavle Božić in 1993 and Goran Žižić in 1999, both Nazarene conscientious objectors who rejected to do their alternative military service in army facilities. For more on these cases see Lilić, S., Kovačević-Vučo, B., 2001, pp. 89–99.

109 Jeftić, M., 1990, *Vojna obaveza i male verske zajednice*, *Vojno-politički informator*, Vol. 27, No. 3, pp. 80–82. Earlier Yugoslav judicial practice did not sentence refusing to take the military oath or to put on the uniform as distinctive criminal offenses, but considered them only as consequent criminal behavior in conjunction with the refusal to carry weapons. Sentence of the Supreme Military Court, II K No 181/73 of 30 May 1973, *Bilten pravne službe JNA*, 1974, No. 1–2, p. 91.

All indications point in the direction that the 1989 Amendment on conscientious objection was applied, but in an arbitrary and restricted way. Unsurprisingly, since the socialist Yugoslavia was facing its imminent breakdown at the time. The tensions were high and the army confused at the dawn of a war in the region. Programmed to preserve a collapsing regime and a country in decay, JNA was in a serious identity crisis. In an attempt to save face and meaning of its own existence, the army started demonstrating its power in a usual manner: by targeting 'the weakest' first.¹¹⁰

5. CONCLUSION

When is a right not a right? Most certainly once it is granted arbitrarily, so it easily turns into a privilege. As an exemption from the law of general application, the right to conscientious objection seems controversial by itself, *a fortiori* when it is granted selectively. On the other hand, the whole idea of a secular state stands for nothing but avoiding such selectiveness, especially on religious basis. For nearly half of the 20th century, the Yugoslav socialist state consistently applied such a strict non-exemption policy to suddenly abandon it in its 1989 legal reform. Not only did the latter introduce the right to conscientious objection as an exemption

110 It is noteworthy to observe that, among the eight Yugoslav federated entities, only Croatia recognized conscientious objection as a distinctive constitutional right in December 1990, pretty much in order to undermine the JNA recruitment basis and efforts. As Oliwia Berdak pointed out, the right to conscientious objection was introduced into the Croatian constitutional act "at a time when the ruling party, the Croatian Democratic Union (HDZ), and its leader Franjo Tuđman were making maximum efforts to distance themselves from Yugoslavia and present themselves as pro-democratic, pro-Western and liberal. As Croatia was, at that time, still legally a part of Yugoslavia, adopting such a law was a snub for the authority of the Yugoslav People's Army. Not only did it shift the legal responsibility for the defense of the country from Yugoslavia to Croatia, but it also undermined JNA's basic military doctrine: to be able to draw on any citizen in the interest of the country's defense. [...] Article 47 of the new Croatian Constitution clearly demonstrates a change in the way the state is conceptualized, imposing legal limits on what it can demand from its citizens and even allowing for a difference in conscience." In practice, however, "the government simply did not advertise the right to conscientious objection. Since not many people read the constitution, not many men knew they had such a right, and when they received the call-up papers, it was often too late. To complicate matters further, conscientious objection initially only applied to potential new recruits. For anyone else, the government set up a non-announced deadline – requests for civilian service had to be submitted by 1 March 1992. Other forms of discouraging civilian service included making it longer than the military service obligation – 15 rather than 10 months." Berdak, O., 2013, *Who Owns Your Body: Conscientious Objectors in Croatia in the 1990s*, *Polemos*, Vol. 16, No. 1, pp. 42–43.

from a law of general application, but privileged objections were given on religious basis against all those on non-religious grounds. What may have caused such a radical turnover?

To all appearances, the simplest explanation might be the best one: most of convicted conscientious objectors in socialist Yugoslavia were faithful of small religious communities opposed to war and violence, so they were the first to be granted such a right. In the end, the recognition of conscientious objection was a result of their decades' long struggle and suffering. Convincing enough at first glance, this answer, however, may not be a complete one. Namely, the 1989 legal reform seems even more curious considering the fact that the Yugoslav People's Army was even stricter in observing the secular socio-political order than the state it was supposed to defend. As a guardian of a socialist order, the army was demonstrating its ideological purity on daily bases. Ever since 1945, its military law and order had evolved into an anticlerical system forbidding uniformed soldiers and officers to engage in any kind of public activity or possess personal items of religious connotation. Unlike Yugoslav prisons and hospitals, Yugoslav barracks and garrisons were tightly closed for religious press, symbols and rites. Such an army treated any demand for religious exemption as an act of disloyalty, even after socialist Yugoslavia progressively started proving itself as a socialist state more tolerant to religion, abandoning its earlier anticlerical zeal.

Nearing a revolutionary act, the late recognition of the right to conscientious objection must have been a serious concession that such an army was ready to give only in order to prevent greater damage. In that sense, a broader historical context discloses a hidden *ratio legis* of the 1989 legal reform: the late 1980s in Yugoslavia were the time of separatist claims, clanking of weapons and heavy verbal clashes announcing the forthcoming war that Yugoslav People's Army was not watching from the backstage, but was actively preparing for it. Such a preparation could not have tolerated any legislation that was about to allow massive draft evasion based on a general right to conscientious objection. Hence a restrictive recognition of this right, justified only by religious motives, with a punitive extension and no alternative service in civilian institutions. Besides, an apparent absence of subsequent bylaws concerning effective implementation of this right revealed the highly arbitrary nature of the army recruitment committees' decision-making. Obviously, the law was designed to be aborted and a war was meant to be. Tens of thousands of Yugoslav young men that choose to become army deserters rather than to participate in the slaughter to come provide grounds for such an interpretation. The pending question still is: could it have been otherwise had the right been taken seriously and granted equally?

BIBLIOGRAPHY

1. Atanacković, D., 1985, *Krivično pravo: posebni deo* [Criminal Law: A Special Part], Beograd, Službeni list.
2. Bačić, F., 1986, *Komentar Krivičnog zakonika Socijalističke Federativne Republike Jugoslavije* [A Commentary of the SFRY Penal Code], Beograd, Savremena administracija.
3. Bebler, A., 1991, Conscientious Objection in Socialist States: A Comparative Perspective, *Studies in Comparative Communism*, Vol. 24, No. 1, pp. 103–113.
4. Berdak, O., 2013, Who Owns Your Body: Conscientious Objectors in Croatia in the 1990s, *Polemos*, Vol. 16, No. 1, pp. 37–59.
5. Bjelajac, M., 1999, *Jugoslovensko iskustvo sa multietničkom armijom: 1918–1991* [The Yugoslav Experience of a Multiethnic Army], Beograd, Udruženje za društvenu istoriju.
6. Bjelajac, B., 2019, *The Believers in the Christ – Persecution of the Nazarenes in Serbia*, Tustin, Trilogy.
7. Božić, M., 2019, Neither Secular State nor Laical Republic, Legal Position of Religious Communities in Communist Yugoslavia – Legal Framework Analysis, *Pravni zapisi*, Vol. X, No. 1, pp. 40–64.
8. Carter, A., 1998, Liberalism and the Obligation to Military Service, *Political Studies*, Vol. 46, No. 1, pp. 68–81.
9. Čejović, B., 1983, *Krivično pravo u sudskoj praksi, Posebni deo* [Criminal Law in Judicial Practice, A Special Part], Vol. II, Beograd, Svetozar Marković.
10. Čejović, B., 1988, *Krivično pravo: posebni deo* [Criminal Law: A Special Part], Beograd, Naučna knjiga.
11. Dabić, Lj. A., 1930, *Komentar Vojnog krivičnog zakonika* [A Commentary of the Military Criminal Code], Beograd, [s.n.].
12. Daljević, M., (interview with), 1987, Brutalan nasrtaj na Revoluciju [A Brutal Attack on the Revolution], *Narodna armija*, Vol. XLII, No. 2490, 2 April 1987, pp. 4–5.
13. Dimitrijević, B., 2001, Armija i jugoslovenski identitet [The Army and The Yugoslav Identity], *Vojno delo*, Vol. 53, No. 2, pp. 141–154.
14. Dimitrijević, B., 2006, *Jugoslovenska armija 1945–1954: nova ideologija, vojnik i oružje* [The Yugoslav Army 1945–1954: A New Ideology, a Soldier and Weapons], Beograd, Institut za savremenu istoriju.
15. Dimitrijević, B., 2014, *Jugoslovenska narodna armija 1945–1959* [The Yugoslav People's Army 1945–1959], Beograd, Institut za savremenu istoriju.
16. Dumančić, M., 2023, He Who Does Not Serve Is Not Fit for a Wife: The Problems of Military Service and Late Socialist Masculinity in 1980s Yugoslavia, *The Soviet and Post-Soviet Review*, Vol. 50, No. 1, pp. 91–118.
17. Đorđić, B., Petrović, Z., 1990, *Komentar Zakona o vojnoj obavezi* [A Commentary of the Military Service Obligation Act], Beograd, Službeni list SFRJ, Službeni list SR BiH.

18. Đukić, N., 1972, Da li je potrebno postojanje samostalnog krivičnog dela iz člana 327a Krivičnog zakonika [Is there a necessity for a special criminal offense stipulated in Article 327a of the Criminal Code], *Bilten pravne službe JNA*, No. 1–2, pp. 19–22.
19. Fiala, A., 2010, *Public Wars, Private Conscience, the Ethics of Political Violence*, London – New York, Continuum International Publishing Group.
20. Flere, S., Pantić, D., 2002, *Male verske zajednice u Vojvodini* [Small Religious Communities in Vojvodina], Arhiv Vojvodine, Novi Sad.
21. Hadžić, M., 2001, *Sudbina partijske vojske* [A Destiny of a Party Army], Beograd, Samizdat B92.
22. Hren, M., The Slovenian Peace Movement: An Insider's Account, in: Bilić, B., Janković, V., 2012, *Resisting the Evil: (Post-) Yugoslav Anti-War Contention*, Baden-Baden, Nomos, pp. 63–82.
23. Hren, M., 1989, Propagandni manevri državnog predsedstva [Propaganda Maneuvers of The State Presidium], *Mladina*, No. 13, 7 April, pp. 40–41.
24. Ispolitizirana marginalna društvena pojava [Politicization of a Marginal Social Phenomenon], *Narodna armija*, Vol. XLII, No. 2480, 22 January 1987, p. 2.
25. Jalušič, V., Kreft, L., (eds.), 2011, *Vojna in mir: refleksije dvajsetih letih* [War and Peace: Considerations Twenty Years Later], Ljubljana, Mirovni inštitut.
26. Jeftić, M., 1990, Vojna obaveza i male verske zajednice [Military Service Obligation and Small Religious Communities], *Vojno-politički informator*, Vol. 27, No. 3, pp. 79–84.
27. Kenney, P., 2002, *A Carnival of Revolution: Central Europe 1989*, Princeton, Princeton University Press.
28. Klippenstein, L., 2016, *Peace and War. Mennonite Conscientious Objectors in Tsarist Russia and the Soviet Union Before WWII, and Other COs in Eastern Europe*, Winnipeg, Mennonite Heritage Centre.
29. Lazarević, Lj., 1982, *Krivično pravo: posebni deo* [Criminal Law: A Special Part], Beograd, Savremena administracija.
30. Lilić, S., Kovačević-Vučo, B., 2001, *Prigovor savesti* [Conscientious Objection], Beograd, Jugoslovenski komitet pravnika za ljudska prava.
31. Manojlović-Pintar, O., 2005, Široka strana moja rodna, Spomenici sovjetskim vojnicima podizani u Srbiji 1944–1954, *Tokovi istorije*, 1–2, pp. 134–144.
32. Marijan, D., 2015, Jugoslavenska Narodna Armija i vjerske zajednice – prilog istraživanju [The Yugoslav People's Army and Religious Communities – A Contribution to a Research Project], *Croatica Christianiana periodica*, Vol. 39, No. 76, pp. 171–198.
33. Marković, Z., 2007, *Jugoslovenska ljudska armada* [Yugoslav People's Army], Ljubljana, Založba Defensov.
34. *Marksističke teme*, 1987, tematski broj posvećen malim verskim zajednicama [Marxist Issues, a special issue on small religious communities], No. 3–4.
35. Milošević, Lj., 1987, Tačka na „nezvaničnu” raspravu [A Full Stop to an “Unofficial” Debate], *Narodna armija*, Vol. XLII, No. 2478, 8 January 1987, p. 2.

36. Mladenović, D., 1981, *Verski fanatizam i društvo* [Religious Fanaticism and Society], PhD thesis, Novi Sad University School of Law.
37. Nenaoružani vojnici [Unarmed Soldiers], *Danas*, No. 374, 18 April 1989, p. 32.
38. Nešović, S., 1968, *Moša Pijade i njegovo vreme* [Moša Pijade and His Epoch], Beograd –Ljubljana, Prosveta – Mladinska knjiga.
39. Perica, V., 2002, *Balkan Idols: Religion and Nationalism in Yugoslav State*, Oxford, Oxford University Press.
40. Petrović, T., Nostalgia for JNA? Remembering the Army in the Former Yugoslavia, in: Todorova M., Gille, Z., 2010, *Post-Communist Nostalgia*, New York – Oxford, Berghahn Books, pp. 61–81.
41. Petrović, T., Becoming Real Men in Socialist Yugoslavia: Photographic Representations of the Yugoslav People's Army Soldiers and Their Memories of the Army Service, in: *CAS Sofia Working Paper Series*, 2009, Sofia, CAS, Vol. 2, pp. 3–17.
42. Petrović, T., Contested Normality: Negotiating Masculinity in Narratives of Service in the Yugoslav People's Army, in: Koleva, D., 2012, *Negotiating Normality, Everyday Lives in Socialist Institutions*, Routledge, pp. 83–102.
43. Radić, R., 2002, *Država i verske zajednice 1945–1970* [State and Religious Communities], Vol. I-II, Beograd, Institut za noviju istoriju Srbije.
44. Ramšak, J., 2022, *(Samo) upravljanje intelekta: društvena kritika u kasnosocijalističkoj Sloveniji*, Sarajevo, Udruženje za modernu historiju.
45. Saada, J., Antaki M., Conscience and Its Claims. A Philosophical History of Conscientious Objection, in: Mancini, S., Rosenfeld, M., (eds.), 2018, *The Conscience Wars, Rethinking the Balance between Religion, Identity, and Equality*, Cambridge, Cambridge University Press, pp. 23–57.
46. Samardžić, R., 1983, *Religija i vjerske zajednice u Socijalističkoj Federativnoj Republici Jugoslaviji* [Religion and Religious Communities in the Socialist Federal Republic of Yugoslavia], Beograd, [s.n.].
47. Schlink, B., Conscientious Objection, in: Mancini, S., Rosenfeld, M., (eds.), 2018, *The Conscience Wars, Rethinking the Balance between Religion, Identity, and Equality*, Cambridge, Cambridge University Press, pp. 102–108.
48. Stajić, A., Vešović, M., 1987, *Krivično pravo: posebni deo* [Criminal Law: A Special Part], Sarajevo, Svjetlost.
49. Stojadinović, Lj., 1989, Bez ustupaka [No Concessions], *Narodna armija*, Vol. XLIV, No. 2600, 11 May 1989, p. 5.
50. Tahović, J., 1961, *Krivično pravo: posebni deo* [Criminal Law: A Special Part], Beograd, Savremena administracija.
51. Verske skupnosti in ugovor savesti [Religious Communities and Conscientious Objection], *Mladina*, No. 15, 18 April 1986, pp. 14–15.
52. *Zbornik dokumenata i podataka o narodnooslobodilačkom ratu jugoslovenskih naroda* [Collection of Documents and Data About the People's Liberation War of the Yugoslav Nations], Vol. II, issue 4, 1955, Beograd, Vojnoistorijski institut JNA.
53. ZIS odgovarja Viki Potočnik [The Federal Government Replies to Vika Potočnik], *Delo*, No. 30, 6 February 1990, p. 3.

LEGISLATIVE SOURCES

1. Ustav SFRJ [The Constitution of the SFRY], *The Official Gazette of the SFRY*, No. 9/74, pp. 209–262.
2. Zakon o nevažnosti pravnih propisa donetih pre 6. aprila 1941. godine i za vreme neprijateljske okupacije [Law on Invalidity of Legal Acts Enacted Before 6 April 1941 and During the Enemy's Occupation], *The Official Gazette of the FPRY*, No. 86/46, 105/46, 96/47, p. 1078.
3. Zakon o vojnim krivičnim delima [Military Criminal Code], *The Official Gazette of the FPRY*, No. 107/48, pp. 1753–1759.
4. Krivični zakonik [Penal Code], *The Official Gazette of the FPRY*, No. 13/51, pp. 185–224.
5. Zakon o narodnoj odbrani [National Defense Act], *The Official Gazette of the FPRY*, No. 30/55, pp. 497–512.
6. Zakon o izmenama i dopunama Krivičnog zakonika [Amendments to the Penal Code], *The Official Gazette of the FPRY*, No. 30/59, pp. 785–817.
7. Krivični zakon SFRJ [The Penal Code of the SFRY], *The Official Gazette of the SFRY*, No. 44/76, pp. 1329–1364.
8. Zakon o vojnoj obavezi [The Military Service Obligation Act], *The Official Gazette of the SFRY*, No. 64/85, pp. 1641–1652.
9. Zakon o izmenama i dopunama Zakona o vojnoj obavezi [Amendments to the Military Service Obligation Act], *The Official Gazette of the SFRY*, No. 26/89, pp. 706–707.
10. *Pravilo garnizonske službe u Jugoslovenskoj Armiji* [The Yugoslav Army Garrisons Code of Conduct], 1946, Beograd, Vojno-izdavački zavod Ministarstva narodne odbrane.
11. *Pravilo službe Jugoslovenske Narodne Armije* [The Yugoslav People's Army Code of Conduct, Beograd], 1957, Beograd, Državni sekretarijat za poslove narodne odbrane.
12. *Pravilo službe Jugoslovenske Narodne Armije* [The Yugoslav People's Army Code of Conduct], 1969, Beograd, Državni sekretarijat za narodnu odbranu.
13. *Pravilo službe oružanih snaga* [The Armed Forces Code of Conduct], 1977, Beograd, Savezni sekretarijat za narodnu odbranu.
14. *Pravilo službe oružanih snaga* [The Armed Forces Code of Conduct], 1985, Beograd, Savezni sekretarijat za narodnu odbranu.
15. *Pravilo o izmenama i dopunama pravila službe oružanih snaga* [Amendments to the Armed Forces Code of Conduct], 1991, Beograd, Vojnoizdavački i novinski centar.

ARCHIVES

1. The Archive of Yugoslavia, Fund: The Presidium of the SFRY – 803.
2. The Archive of Yugoslavia, Fund: The Federal National Assembly – 160.

JERETICI I DISIDENTI: VERNICI PRIGOVARAČI SAVESTI I JUGOSLOVENSKO VOJNO KRIVIČNO PRAVO OD 1945. DO 1991.

Marko Božić

APSTRAKT

U radu se izlažu rezultati istraživanja koje je za predmet imalo četrdeset godina dugu borbu za priznanje prava na prigovor savesti u socijalističkoj Jugoslaviji. Uzdržavajući se od vrednosnih sudova, autor teži da opiše i objasni evoluciju jugoslovenskog vojnog krivičnog zakonodavstva kroz ispitivanje njenih istorijskih uzroka i unutrašnje logike. Metodološki, studija se oslanja na normativnu analizu relevantnog pravnog okvira koji je do sada bio nedovoljno istražen ili čak potpuno zanemaren – što je posebno slučaj sa Izmenama i dopunama Zakona o vojnoj obavezi iz 1989. godine kojim je pravo na prigovor savesti i uvedeno u jugoslovenski pravni sistem – kao i sa tim povezanom arhivskom građom, novinskim izveštavanjem i drugim tekstovima koji upućuju na politički kontekst pravne reforme iz 1989. godine. Studija baca novo svetlo na socijalistički sekularizam, propituje raširena shvatanja o Jugoslovenskoj narodnoj armiji kao konzervativnoj i kompromisu nesklonoj instituciji, te doprinosi široj teorijskoj raspravi na temu nejasne pravne prirode prigovora savesti koji se shvata i kao pravo i kao privilegija.

Ključne reči: pravo na prigovor savesti, Socijalistička Jugoslavija, Jugoslovenska narodna armija, vernici prigovarači savesti, male protestantske verske zajednice, Slovenački mirovni pokret.

Article History:

Received: 4 October 2023

Accepted: 20 November 2023