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Is conscription a guarantee of national defense? Some remarks on the justification for reactivating conscription

by *Philipp Lange*

The debate about conscription in Germany seems to have returned suddenly in the summer of 2018. People are in favor of or against reactivating conscription in lively debates which are also about the introduction of a national service for men and women. Many people in Germany broadly agree with the arguments of the political parties represented in the Bundestag for or against reactivating conscription. However, the debate about conscription has been dominated by educational and social policy motives for decades. Any decision to reactivate conscription as a means of national defense should mainly be justified on the basis of security policy. Is such a justification still possible?

Why conscription? – a change in legitimization

Debates about the legitimacy of conscription are as old as the Bundeswehr itself. Some essential policy issues have persisted with remarkable continuity in the debate about conscription conducted at varying levels of intensity. It seems that only the conditions in which this debate takes place are changing. The beginnings of the Bundeswehr under Chancellor Adenauer are a case in point. The nucleus of the Bundeswehr, which was created in 1955, consisted of volunteers, but West Germany's new army was to be a conscription army from the start so that the 12(!) field divisions Germany had pledged to NATO could be raised. Universal military service, which was introduced in 1956, was at that time not only a means of Chancellor Adenauer's long-term policy of integrating West Germany into the West. It also was a guarantor of the seamless (forward) defense of its territory. The mobilization capability associated with this made it possible to almost double the strength of the Bundeswehr from 500,000 in peacetime to 850,000 in a defense emergency. It served a comprehensive conventional deterrence purpose, which was indispensable for the seamless territorial defense of West Germany's external borders. Of course, this was controversial domestically. In this context, it must not be overlooked that the catastrophic experience of two world wars and of the anti-democratic volunteer army of the Weimar Republic, the Reichswehr, led the founding fathers of the Bundeswehr to regard conscription as a major ethical and social factor. Thus, conscription was henceforth considered the "legitimate child of democracy" preventing the army from becoming a state within a state. The ethical-moral integration of its members into West German society as "citizens in uniform" and the necessity to maintain a mobilization capability for national defense therefore formed a state-supporting entity combining universal conscription and the ability of the Bonn Republic to defend itself.

There was a marked shift in the balance between social justification and military necessity after the end of the Cold War. The duration of conscription was reduced gradually as were the size of the Bundeswehr and the number of its garrisons. This was done to cut costs and to adapt the structures of the Bundeswehr to challenging deployments abroad. Since the 9/11 terrorist attacks and the subsequent Bundeswehr deployment to Afghanistan at the latest it was mainly argued that conscription made sense because conscripts were needed at

home while (exclusively) extended-voluntary-service conscripts as well as temporary-career volunteers and professional soldiers were posted abroad. It was also argued that conscripts could provide assistance in natural disasters and particularly severe accidents. However, the more powerful arguments of those in favor of conscription actually were of a social, fiscal and demographic nature. The need to maintain conscription in the interest of security provision in wartime only played a minor role in their arguments. Also proposals to transform conscription into a national service made by Peter Struck of the Social Democratic Party (SPD) and by Friedrich Merz of the Christian Democratic Union (CDU) in 2003 and 2004 were based on a more educational argument according to which young people should “practice mutual solidarity”, help relieve the “emergency in nursing care” and “give something back to the community”. These proposals are very reminiscent of the current debate.

For their part, the opponents of conscription mainly argued that the security policy justification for conscription no longer existed. The Greens were of the opinion that the task of national defense was obsolete and that conscription was therefore disproportionate. The Free Democrats (FDP) argued that under the constitution compulsory services were only permissible in emergency situations, that it made much more sense to build a well-trained army with rapid reaction and deployment capabilities and that this should lead to the creation of a volunteer army. Already at that time, the Social Democrats showed themselves to be deeply divided on whether conscription should be maintained or not. They could not make up their minds which option to favor although they made several attempts to do so in the 2000s. This was in part because the issue of conscription was eclipsed by other controversial social policy issues such as Agenda 2010. The Federal Constitutional Court ruled in 2003 that the choice of a particular form of military service was not only determined by the security situation but also by “political prudence and economic expediency”.

From active peacetime conscription to hypothetical wartime conscription

As a decision for or against a particular form of military service is thus a political decision reserved for the German parliament rather than a legal decision, there were few obstacles to the suspension of conscription in 2011. The security policy agenda of the Bonn Republic, which consisted of West Germany’s orientation to the West, rearmament and conscription, was replaced by Defense Minister zu Guttenberg’s “Agenda 2010 for military policy”. The latter transformed conscription from a constant factor into a variable factor so that the Bundeswehr could be reformed again with the aim of downsizing it. The new agenda was no longer about maintaining conscription in one form or another. It was about whether conscription was an obstacle to a radical modernization of the Bundeswehr and to its fundability. It seemed to be highly unlikely then that Germany would be required to activate its full military capability in a national and collective defense scenario. When conscription was suspended, German defense policymakers worked on the assumption that they had 10(!) years to reconstitute the Bundeswehr for conventional collective defense. The German Government suspended conscription in 2011 (across party lines and with virtually no resistance) because it was under intense pressure to cut the defense budget by about 8 billion euros starting in 2011, close down garrisons, prepare the Bundeswehr for deployments abroad in earnest and make it safe from demographic developments.

Conscription has played a very minor role since its suspension, but it is still on the statute book which means that a mobilization capability still exists in Germany at least in theory. The Legal Status of Military Personnel Act and the Compulsory Military Service Act still are the main legal foundations for mobilization in Germany below the level of the Basic Law. Especially section 60 of the Legal Status of Military Personnel Act states that persons can be drafted into the Bundeswehr indefinitely in a state of tension or a state of defense even against their will, if necessary. This means that wartime conscription de facto exists in Germany. In addition, the Compulsory Military Service Act regulates the framework conditions for military service and the drafting of conscripts including responsibilities for their registration, mustering, induction and control. Section 1, which defines the term “liable to military service”, is the only section of the Compulsive Military Service Act that is still in force. Its other regulations are only applied in a state of tension or a state of defense. This means that the form of military service practiced in Germany is defined as nonactive conscription under the Compulsory Military Service Act while the Legal Status of Military Personnel Act regulates the duties of the individual soldier.

However, in general public perception as well as in common language conscription has been abolished rather than suspended. This is not only because persons liable to military service are no longer being drafted into the Bundeswehr and because they have ceased to be a part of military culture as a result. It is also because most mechanisms for registering, mustering and controlling conscripts have been deactivated since the start of the reorientation of the Bundeswehr in 2011. The training facilities for thousands of recruits, especially the instructors and quarters, which were distributed across the country in the past have mostly been centralized and have been adapted to the lower recruitment levels of the newly created volunteer army. Despite this, the policy document of 2013 known as Bundeswehr Concept left back doors open for the creation of a mobilization capability and for comprehensive drafting. In theory, all available forces including the reserves were to be liable to mobilization for national defense on the basis of applicable laws. In reality, there were no detailed plans to set up, prepare and exercise the competent authorities needed as replacement for the former selection and induction offices.

National and collective defense without conscription?

NATO seemed to be totally unprepared for the annexation of Crimea, Russia's military activities in eastern Ukraine and its use of hybrid warfare in the midst of the restructuring of the Bundeswehr, which still had to contend with the aftermath of the suspension of conscription and its combat experiences in Afghanistan. National and collective defense have been the fashion in Germany and Europe again since then. A direct military conflict with Russia is not likely, but it is not impossible. Germany would then be directly affected by the use of means of modern warfare in Central Europe. Warning times have become much shorter as a result of the events of the last few years. The warning times of 10 years that were assumed until recently have proved to be unrealistic.

The German Government's White Paper of 2016 has taken account of the short-notice nature, volatility and unpredictability of security threats. The creation of the White Paper was accompanied by a wide-ranging debate, but there was virtually no talk of potentially reintroducing conscription. While the White Paper restores the focus on national and collective defense as equally important tasks together with the deployments abroad, which had been given priority in previous years, it did not say – in any way – what that meant for conscription. As this issue is still on the table, it is worth looking at today's military-strategic setting, which differs from that of 2011 and 1989. Apart from the currently raised question of how compulsory military or national service should be (re)introduced, it is necessary to answer the question of why this should be done. The criterion for the answer to that question is security policy. This means that the military capabilities Germany needs should be determined on the basis of an assessment of the security situation and on the basis of an analysis of purpose, goal and means and that the form of military service and the force structure should be optimized accordingly. Many forecasts on the duration, character and occurrence of conflicts were out in the past. Standing armies based on a permanently high mobilization level on the one hand, and, on the other hand, full reliance on small active, but readily available forces and flexible mobilization structures are at least conceivable options for possible scenarios. If such an assessment and such an analysis reveal that warning times are actually much shorter, as the White Paper of 2016 does, it is important to know the answer to the following questions: How large is the scope of the necessary peacetime preparations for mobilization, and how can we use our existing capabilities to deal with modern threats effectively?

NATO requirements and steps towards internal optimization

The planning goals of NATO provide a clue to the actual mobilization capability Germany needs. Germany committed itself to these goals in order to make a comprehensive contribution to deterrence. Accordingly, the Bundeswehr must be capable of making three ground divisions and a comprehensive naval and air component available to NATO for collective defense in future. These will have an overall strength of about 60,000 to 70,000. In addition, there will be the rapidly deployable and highly trained brigade-strength Very

High Readiness Joint Task Force (VJTF) in 2019. The focus is thus shifting from mass armies to speed, mobility and credible conventional deterrence. Put simply, an experienced rank-and-file soldier with ten years of service is more valuable than a large number of untrained recruits. It is therefore necessary to lay to rest the Cold War idea that citizens are called to arms throughout Germany at short notice.

As the warning times for crises on the fringes of the NATO area would probably be short, there would virtually be no time to prepare for the reintroduction of “wartime military service”. In addition, a conflict would have to escalate beyond the state of tension and state of defense level for the system to be activated. A smart enemy would act at such a low level and so covertly that a conflict would not escalate into a full-scale war. Yet, should the preconditions for the reactivation of conscription be in place, the whole process from the registration of conscripts through their mustering and induction to their actual drafting and subsequent training would have to be carried out swiftly in order to make the legally authorized number of forces available. All this would have to occur with the defense situation in progress and all active forces of the Bundeswehr already committed. These would then have to carry the additional burden of a training organization that would have to be mainly geared to the needs of an immense pool of incoming persons with no military service (for quite some time). After all, one of the arguments of the opponents of conscription was that up to one third of the training personnel of the Bundeswehr could be freed up for other tasks by suspending peacetime conscription. Any decision to reactivate wartime conscription would initially commit more forces than it generates – at a time when the most important thing is to deploy fully equipped and fully trained forces rapidly.

The recently published new Bundeswehr Concept of 2018, which translates the guidelines of the White Paper of 2016 into capabilities the Bundeswehr needs in future, confirms that national and collective defense now is the primary task of the Bundeswehr. It states that conscripts may be used as a pillar of meeting the personnel needs of the Bundeswehr only in a state of tension or a state of defense. Also, for long-term security provision, the Bundeswehr is to have a general buildup potential for capabilities and force numbers not foreseeable at this time. This sounds as if conscription is to be made possible again, but it means that the internal optimization of the Bundeswehr on the basis of defense capability criteria must continue. In future, all Bundeswehr members including reservists can be assigned tasks that are to be performed either permanently or in a state of tension and defense.

An example in this context is the teaching staff at academies and training facilities who could be assigned defense-relevant tasks. This means that there is a personnel pool in the Bundeswehr including its reserves that has rarely been used for national and collective defense tasks so far and that can be recruited and trained to ensure a comprehensive defense capability without actually reactivating conscription. If this is taken seriously, the next step would thus be to examine how active incumbents of non-defense-relevant posts can be mobilized and how, in addition to an assignment to relevant posts, complementary training and rudimentary sustainment training can be provided for them during routine duty. This could be appropriately complemented by a stronger systematic integration of reservists into collective defense tasks in particular. Of course, this cannot be limited to the Bundeswehr. Within the scope of comprehensive security provision, it would have to be done for all ministries and authorities involved in the supply of the population and military forces and in movement control. These personnel measures should be combined with the identification of recruitment requirements, with the stockpiling of materiel and with planning and having in place training capacities and training infrastructure.

A further optimization could be achieved by reactivating the regulations of the Compulsory Military Service Act governing the registration and control of conscripts without implementing military service in practice. This, however, would require a legal amendment. A reactivated mustering and registration of persons liable to military service could identify specific qualifications, for instance in computer science or logistics, to obtain a planning basis for an emergency. Such potential mustering centers could also launch recruitment campaigns for both voluntary active and voluntary reserve service.

Summary

The capability for optimal buildup on the basis of military strategy aspects currently is no justification for reactivating universal conscription in times of peace. The argument that conscription is needed to prevent the Bundeswehr from becoming a state within a state has proved to be unfounded especially since conscription was suspended. Germany is democratic and mature enough to choose its form of military service primarily on the basis of security considerations. The Bundeswehr will be able to accomplish its tasks when it is a well-funded and well-equipped volunteer army. At the same time, the foundations for mobilization that exist in theory in a state of national and collective defense must be examined. Continuing the consistent internal optimization of the capabilities of the Bundeswehr could be a solution. This optimization should be combined with an attractive concept for the reserves based on aspects of defense policy. While this should, as a general rule, be done in a way that takes account of demographic factors and funding factors and of the popularity of the Bundeswehr with German society at large, social and educational arguments alone are insufficient for justifying a reintroduction of conscription.

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