

☐ International Conference on Conscientious Objection to Military Service

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Status Report on Conscientious Objection in Israel 2003

Amir Givol

Introduction

This report will deal with conscientious objection to military service in Israel regarding several aspects of this phenomenon. Israeli society is divided in many ways, two of its major divisions are the Gender division between men and women and the National/Ethnic/Religious division between Israeli Jews and the rest, mainly the Palestinian minority and its subdivisions. This report will examine some of the unique issues that characterize Israeli COs regarding these divisions. We will also examine the work of the Conscience Committee, the status of Imprisoned COs, the alternative to military service and the general perception of CO, mainly in the media and the legal system.

Military service in Israel is a cornerstone of Israeli society. Military service is compulsory for all permanent residents, but includes mainly Jewish men and women, Druze men. There are those eligible by law but exempted as a matter of policy (Palestinian Israelis, people with health problems, etc.) who may volunteer. Men and women are called to service at the age of 18, men are supposed to serve for 3 years and women for 2 years. Men are also supposed to stay in reserve duty after completing compulsory service, usually called upon around once a year, until the age of 45¹⁾.

Although supposedly everyone enlists (the Israeli army is touted as the People's Army) in fact New Profile's estimations of exemption rates show that approximately 45% of the population is exempted before being drafted²⁾ and another 10% are exempted during their service. It is very hard to estimate how many of those who are exempted are COs³⁾ but it does seem that the CO phenomenon is perceived as a

1) some women in specific roles are also kept in reserve duty, until the age of 24 at the latest, most women however are exempted automatically from reserves. According to law, this age is 51. In fact, it is usually 45 or 41 (depending on the unit).

2) This figure includes 20% of the population, Palestinians who are automatically exempted from military service. Reasons such as medical exemptions, having a criminal record, being too old (the army doesn't enlist people over the age of 30)

3) Estimating actual rates of CO exemption is hard both because the army is treating the data it

serious (and overt) threat to the domination of the military in Israeli society, regardless of the relatively small number of COs out there. It would seem that the fear is to allow exemption of men from military service based not only on a person's social or medical categorization but based on an ideology.

Much like anywhere else, there are many types of convictions that come into play when considering CO in Israel (for example Anarchism, Veganism, Buddhism). However there is a common distinction in Israel that requires some clarifying. It is common in Israel to refer to a CO as either a full objector or as a selective objector. A full objector can only be a pacifist, someone who objects to violence of any kind and under any circumstance, and would therefore also object to serving in any role in the Israeli army. A selective objector is someone whose convictions lead him to object to a certain aspect or aspects of the Israeli military, for instance a vegan opposed to the mistreatment of animals in the military. Israeli authorities only recognize complete objectors as COs (and even that only officially and not in practice as will be discussed later) and consider selective objection illegitimate. The label of selective objection is usually used when considering what in many cases is referred to also as political objection, a person who objects (on moral grounds) to certain political decisions that the military is carrying out, most notably the enforcement of the occupation of Palestinian territories.

The Israeli CO movement is mainly divided into four major movements: New Profile, of which I am a member, is a movement that supports the demilitarization of Israeli society and therefore supports all objectors of military service as part of its agenda. The Shministim movement (The Seniors Letter) is a group of high school seniors whose individual convictions vary but are united by their opposition to the occupation. Yesh Gvul is a movement that started in retaliation of the occupation of south Lebanon in 1982 and has now turned its focus on the occupation of Palestinian territories. Courage to refuse is a group of soldiers, mostly reserve, who object to the war crimes committed by Israel in the context of the occupation (as well as the occupation itself) and therefore refuse to be stationed in the Occupied Territories. Because of their objection to the Occupation, most of the outspoken COs in Israel are considered political objectors and therefore their objection is deemed selective and illegitimate, without even considering the convictions that their individual objection is based on.

does have as classified and because many COs would not declare themselves to be such, either in order to avoid imprisonment or because they don't have sufficient information about their options.

Women CO's

When we speak around the world about military service we usually refer to men, simply because almost everywhere⁴⁾ men are the only ones who are compelled to enlist. That is not the case in Israel, where both men and women are compelled to serve in the army, albeit in most cases very different types of service. When we speak in Israel of CO we usually also refer to men, because until recently we were much more focused on the aspects of men COs.

The attitude towards women COs reflects deep rooted chauvinist perceptions of women in Israeli society in general and specifically women in military service. The common perception is that women should play a supporting, secondary role to men and women's military service is also geared towards supporting roles. This leads to a perception that women's military service is in many cases redundant and society would be better off having women act as housekeepers and child bearers. Since women's military service is held in such low regard it comes as no surprise that there are several legal paths for women to receive an exemption from military service. Women are automatically exempted from military service if they are married, pregnant or have a child. Orthodox Jewish women can sign a declaration stating that they live an orthodox way of life and get exempted, with practically no scrutiny. Women COs can apply to a Conscience Committee for women and practically all of them get exempted if they are persistent enough and know their rights.

However, military service is so central to life in Israel that women COs still face many difficulties. Although the women's CO committee exempts practically everyone (upon appeal), according to witnesses it is an offensive, degrading and humiliating process (including outright verbal abuse) which attempts to hurt and belittle the applicants and their beliefs. The military takes great lengths at concealing relevant information such as the regulations that the committee works by (for example the right to appeal its initial decision), the applicants rights, or even the mere existence of the committee from possible applicants. The committee itself is comprised almost exclusively of civilianed military personnel. Many applications are rejected without probable cause only to be accepted at an appeal, without any change in the applicant's position, for the seemingly sole purpose of testing her

4) Recently Sudan has made military service compulsory for women as well, but is yet to enforce this new legislation.

integrity and determination.

Even if women's military service is held in low regard, they are still expected to enlist, just like everyone else, and those who refuse for reasons of conscience are often labeled as traitors or sociopaths by family and friends⁵⁾. These women, usually still in the care of their parents practically if not legally find themselves without proper support for their beliefs, without proper information regarding their options and rights, and dependant upon people who in many cases actively oppose their choice.

Women's CO in Israel is a unique phenomenon. At first glance it may seem trivial, as indeed it has seemed to most Israelis, even feminist ones. However it is an aspect of CO that requires much more emphasis, at least on our part here in Israel, both because it is definitely not an easy experience for the women COs and because it is a fascinating aspect of the way militarization reproduces gender divisions in society. It is very difficult to estimate the extent of women's CO in Israel, much less the extent of women's CO in Israeli history.

The Conscience committee for Men

The gender division in Israeli society creates a different set of expectations for men and women. While women are supposed to support men, men themselves are supposed, among other things, to serve in the army as combat soldiers, considered the most difficult and prestigious position in the military (this is very clearly stated in the popular expression the best men go to military aviation, the best women go to military aviators). As a result fit Jewish men are considered indispensable to the military and men's CO is not recognized by law. However, following several appeals to the minister of defense, in 1995 the right of CO was technically recognized and a CO committee was appointed by the minister of defense. This committee is able to exempt COs under the paragraph in Israel's conscription law allowing the minister of defense the discretion to exempt whomever he deems right. Although this might appear to be a recognition of men's CO, it is not a legal recognition, the committee has no legal mandate as such, there are no clear regulations, it can be abolished at the blink of an eye, everything based on the whims of the army's willingness to

5) That is not to say that absolutely everyone is against CO, just that most Israelis are against it and it usually takes a long time for them to accept that person's beliefs and support her life choice. Unfortunately, supporters of COs in practice, as opposed to supporters of COs on the theoretical level, are hard to come by.

release COs. There are many who do not address the committee because of lack of information regarding its mere existence and its regulations and in many cases disinformation created by military authorities.

It appears this committee, unlike the women COs committee, is willing to consider only applications by pacifists. All other forms of CO are rejected without a hearing. This is a grave injustice towards COs who have every reason, according to their beliefs, to object to military service but are completely unrecognized by this so-called recognition of CO. This means that there are a lot of COs who do not even address the committee and do not show up in any statistics.

Allowing pacifists to approach the committee doesn't mean that they are recognized as COs. Apparently, according to the committee's actual proceedings (as it has no formal regulations), a pacifist can't have a political opinion (that would turn him into a political objector), he is supposed to be a devout vegetarian or vegan (although the relation between pacifism and hurting animals is only circumstantial), a pacifist cannot be a man of large physical dimensions (large body, low voice) for such a man is presumably a violent person and not likely to oppose violence, to name but a few of the absurdities raised in cases brought before the committee. In essence it would seem that the committee has no regulations, at least not consistent ones, apart for the attempt to to reject any and all applications (except for accepting a handful of applications, again for no consistent reason). In fact, it would seem according to the committee's work that there is very little connection between its definition of pacifism and how pacifists (or anyone with half a mind) define it.

The problem of having a political stance is all the more troubling in Israel, whose political situation doesn't allow anyone to be without a well defined political agenda. The last two years of violent clashes between Israelis and Palestinians has put many COs' beliefs to the test, especially when they are asked to serve the military at a time of war and extreme violence. Rejecting COs' applications because they object to the current state of warfare (and are therefore deemed selective objectors) is beyond absurd.

All in all it is safe to say that the committee works mainly to find reasons to justify a decision not to exempt rather than considering the applications according to their merits. It is not surprising that all the committee's members are military personnel who work under an informal principal guideline of adhering to the military's personnel needs ahead of considering the applicants' beliefs. The

committee members are appointed according to their skills at assessing the military's needs and the applicant's usefulness to the military or his potential for trouble-making. It appears they have no training or knowledge in matters of faith and ideology, nor do they think such knowledge is relevant.

Of the few people exempted by the committee after all (almost all of which are reservists), not one has received any document stating he was exempted as a CO. Some were exempted on grounds of 'unsuitability', others were just discharged, as if they've finished their military service as required, others still were discharged 'according to law' (as the discharge papers read), but none was discharged as a CO.

Much like the women's CO committee, the men's committee is almost a secret, unpublicized and unknown even to most of those in the military who are supposed to know about it. In its work since 1995 we estimate that it handled only about 250 applications. Official military data we received regarding the committee's work between the years 1998-2000 shows that only 8% of the applicants were exempted (9 out of 115)⁶. An exemption rate of 8%, when compared with work done by other CO committees worldwide seems ludicrous (For example, Finland's CO committee exempts 70% of the applications and is considered very strict).

There are alternative ways for COs (and anyone else) who wish to do so, to avoid military service besides addressing the CO committee. One of the most popular ways is to get an exemption on medical grounds, either physical or mental. This is known as profile 21, the army's code for medical exemption. Unlike its treatment of COs, it seems the military has very lenient standards regarding the release of those with health problems, especially mental ones, and so many COs use real or exaggerated problems as a way to avoid military service without having to face the long odds of the CO committee. A person can stir problems within the unit he is supposed to serve in (the unit he's assigned to or the prison), so much so that he'll be referred to an unsuitability committee which holds the power to exempt those unsuited for military service. For those less inclined, there is the possibility of going abroad or simply not showing up when called upon. These last two are of course partial solutions but in many cases after a short prison term they ultimately lead to exemption, usually on the grounds of unsuitability. Most COs choose one of the

6) 10 of the applications that were not exempted were partially accepted. It is not clear what partial acceptance means. In one case that we know of a partial acceptance meant the postponement of enlistment by a year.

alternative methods for avoiding military service, rather than applying to the CO committee. These COs are not officially recognized as such and in many cases have to break the law, or at least act dishonestly, in order to preserve their beliefs.

Imprisoned COs

One of the annoying aspects of the CO committee for men is that recently the heads of the Israeli army have claimed, in response to criticism, that the army recognizes CO and that true COs can get exempted. This comes as a response to criticism raised concerning the issue of the imprisonment of COs. Declared male COs, those who don't take an alternative route to exemption, who may have or have not applied to the CO committee, ultimately find themselves behind bars.

It is the stated policy of the military that imprisonment of COs serves both as a punishment and as an attempt to force the COs to enlist, or in other words to cause the COs to betray their convictions. The procedure for imprisoning COs usually follows these lines: a CO will arrive at the assigned military unit (usually the enlistment base), upon arriving he will declare that he objects to serving in the military (or serving in the occupied territories in some cases), an officer will try to convince him to enlist and then try him⁷⁾ on the grounds of refusing an order for a term of approximately one month⁸⁾. In the case of new enlisters they are subjected to repeated sentencing and imprisonment, in clear breach of their civil right not to be repeatedly sentenced for the same felony.

Till recently the standard was that a CO will serve around 2-3 prison terms (around 3 months) and then be exempted by an unsuitability committee. In recent months we have been witnessing a dramatic rise in the number of prison terms given to COs before they are exempted, to the point where several COs are into their 7-8th term, with no end in sight.

As long as repeated imprisonment is not considered a violation of human rights by the Israeli legal system, the amount of prison terms given to COs is entirely at the discretion of the military officers who are in charge of handling the COs. However, we have seen signs that continuing local and international pressure is affecting the

7) It is important to note that a court marshal is not a proper trial, it is basically a sentencing forum which allows the accused to speak on his behalf, but his input is mostly ignored.

8) There are of course many variations to this procedure. It would seem that the military prefers to try the COs for relatively light offences to avoid a full tribunal with lawyers and a public chance for COs to state their case, although it appears that this is also changing.

military's judgment in its policy of repeated imprisonment of COs. Although the situation seems dire at the moment we are hopeful that matters will turn for the better soon, but continued pressure regarding this issue is still very important⁹⁾.

In the case of reserve soldiers, who usually object to serving in the occupied territories (but don't object to military service entirely), they are usually sentenced to one prison term (about a month) and sent home afterwards. They are given another prison term only when their unit is summoned again (usually once a year). In many cases a reserve soldier who objects to serving in the Occupied Territories will receive special consideration and stationed away from his own unit outside the Occupied Territories.

Inside the prison, COs receive almost no consideration for their convictions. The staff and other inmates are usually oblivious to the COs convictions, which probably saves them from a lot of harsh treatment, however this also means that many COs find themselves in solitary confinement when they refuse to cooperate with the prison authorities (for instance objecting to wearing a uniform or cutting one's hair, refusing to obey commands, objecting to working for the military as part of prison labor).

Druze COs

In the beginning of this report we stated that Druze and Bedouin men are expected to enlist, even though they are Palestinians and Palestinians in general are not summoned for military service. The Druze are usually considered by the Israeli authorities as Israelis regarding their obligations and Palestinians regarding their rights, meaning they have the same obligations as Jewish Israelis, mainly to enlist to a full military service, although not the women, but are treated as Palestinians in matters such as funding, civil rights, etc. The enlistment of Druze men is traced back to historic agreements signed with past leaders of these communities in the 1950's¹⁰⁾, and nowadays many Druze men serve in the military.

Unfortunately, we do not have enough information regarding Druze COs. We know that many Druze are objecting to military service, usually on the grounds of religious convictions or simply because they refuse to enlist to an army that fights their fellow Palestinians. The military's treatment of Druze COs has traditionally

9) For details on how to act regarding the situation of imprisoned COs you can contact the new-profile site <http://www.newprofile.org> or the seniors letter site <http://www.shministim.org>

10) Agreements whose validity is being challenged by some of the current leaders.

been much harsher than its treatment of Jewish COs, Druze COs will usually face much longer prison terms for refusing to enlist. Many of them who are aware of this harsh treatment prefer to defect from military service, which ultimately leads to even longer prison terms. Many Druze COs are afraid to reveal any identifying information for fear of even harsher punishments.

Alternative Service

Israel has no alternative service for those wishing to avoid military service. However, many COs who are exempted from military service sign up for National Service. National Service is a voluntary system of between 12 years established for those who do not serve in the military but wish to contribute to Israeli society by volunteering to different civil organizations. Those who complete their National Service tenure are eligible to receive certain benefits that the state grants to discharged soldiers. National Service was originally created as a way to allow Orthodox Jewish women (who, as mentioned previously, sign a declaration and automatically get exempted) to find an alternative route to military service. As such, until recently National Service, which is a legal institution defined by the National Service law, was only available to women, Orthodox Jews or other, but now there is an undergoing experiment to allow exempted men to serve a National Service as well. It's important to note that you cannot apply to National Service unless you already have an exemption from military service.

Conclusions

In these turbulent times of war in the middle-East CO's convictions are being put to the test more than ever. Although some progress has been made in recent years regarding the status of COs in Israel, our work has just begun. When reviewing UNCHR resolution 1998/77 regarding Conscientious objection to military service it becomes emphatically clear that Israel is violating practically every single clause of this resolution. Israel's treatment of COs is one huge violation of a basic human right, the right of free conscience.

CONSCIENTIOUS OBJECTION CAMPAIGNS IN SERBIA AND MONTENEGRO

Igor Seke

1. Brief historical review(1945 ~ 1990)

After the Second World War, Yugoslavia introduced a specific sort of socialism. Not just because they were the only socialist country in Europe that was not a part of the Warsaw pact, but also because they openly opposed the resolutions of communist "Inform-bureau" on several occasions, Yugoslav authorities were forced to approach Western countries in search of necessary economic support, while almost all contact of any kind with the Soviet Union ceased. Especially during the first post-war years, the politicians were frightening citizens by over-emphasizing the possibility of Russian invasion. Bearing in mind that Yugoslavia was the only non-aligned country surrounded either by NATO or Warsaw Pact countries, the Yugoslav People's Army developed a specific military doctrine rooted in the strategy of "total defence", where no one could be made exempt from the duty to defend the country. (This remark is important because the same strategy is still alive not only in the minds of a large number of officers of what is now called The Army of Serbia and Montenegro, but also in its official military doctrine.) A big part of former Yugoslavia's industry was oriented, or in some way connected to the Army, or to military industry. In order to preserve the multinational character of the Army, and to make republics more dependant on each other, the country's military industry was decentralized: each republic had to play a practical part in the process of making and developing weapons.

Besides that, the "warrior tradition" has been (and still is) the "national trait" children were taught to be especially proud of. Nevertheless, attempts were made to disguise the level of militarization, with the official policy of "brotherhood and unity". Still, its negative consequences were inevitable.

During the 1980s, the first initiatives for conversion of the military industry and demilitarisation of the country occurred. These voices came from several youth organizations from the Republic of Slovenia, the most liberal of all the former Yugoslav republics. After the loud negative response from the federal government, Slovenian youth started only to ask for the demilitarisation of their own republic

and for the introduction of some sort of civilian service for those Slovenians who object to military service. The Yugoslav People's Army considered this to be a direct attack on the country's ability to defend itself and refused even to discuss this initiative, accusing, at the same time, Slovenian youth for separatism, anti-socialism and for working for foreign intelligence services. After the definitive secession of Slovenia in 1991, a genuine civilian service was immediately introduced and recent statistics says that more than 50% of conscripts choose this kind of service.

After Slovenia, Croatia introduced this right in 1992, but this right was only theoretical until 1995, when the country emerged from years of war. In 2002 over 40% of conscripts in Croatia served a genuine civilian service. Serbia and Montenegro, Bosnia and Herzegovina and Former Yugoslav Republic of Macedonia still suffer from incomplete laws and very unsatisfactory practice.

During the recent wars between former Yugoslavian countries, conscientious objectors had to desert or, if they were lucky, to leave the country. However, some of them were shot and many of them ended up in prison. During the 10 years of war, more than 100.000 people deserted, and more than 300.000, mostly young people, left the country in order to avoid call up.

2. The present situation

As I have already mentioned Serbia-Montenegro and Macedonia failed to fully introduce the right to conscientious objection, while there is still a lot of confusion about this issue in Bosnia.

For Serbia-Montenegro and Macedonia we can define the same key problems:

In their constitutions they have recognized the right to conscientious objection, but only within the framework of compulsory military service;

Conscientious objectors are only given the opportunity to perform military service in a different way, through non-combat service in military barracks, or through service in military economic institutions;

Conscripts are not informed about their constitutional right to object to military service, so this work is done by NGOs, while armies of the aforementioned countries consider NGOs to be branches of foreign intelligence services and that

NGOs are working to destabilize the domestic army in favour of other countries' armies¹¹⁾;

Conscientious objectors do not have the opportunity of legal protection from the military system, as no civilian court has jurisdiction over "military issues";

The only way for a person not to serve the Army is to be declared "unfit for military service" by the supreme military medical commission.

In Bosnia there is a possibility of genuine civilian service but the legislation is not very clear and conscripts are not informed about this possibility, so there are just few cases of those who managed to successfully go through the entire procedure.

I believe that this introduction has given us enough of an insight to understand why we have had to lead a diverse and multi-directional campaign for the recognition and implementation of the right to conscientious objection. Although we are sharing the same problems, besides several common actions and seminars I have to admit that so far we have failed to organize a strong common campaign with Bosnian and Macedonian CO groups.

Our campaign, in what is now Serbia and Montenegro, consisted of several types of activities:

1) Work on the introduction of the new legislation on conscientious objection.

Article 137 of the Constitution of (now former) Federal Republic of Yugoslavia and Article 297 of the Law on Yugoslav Army mentioned the right to conscientious objection, but their implementation meant non-combat military service for objectors.

Trying to solve this problem, the Network of NGOs for Conscientious Objection took part in a campaign for the collection of 30.000 signatures necessary for the "Legislative Initiative for Amendments and Changes of the Law on Yugoslav Army" made by YUCOM (Lawyers Committee for Human Rights) to get into the parliamentary procedure. The Initiative asked for the immediate introduction of genuine civilian service, equalizing the length of both military and civilian service,

11) The same pattern used by Yugoslav People's Army in the case of the Slovenian youth initiative

and their shortening to 7 months from 12 and 24 months respectively. Many groups of different orientation took part in this activity: feminist groups (Women in Black took the initiative and motivated tens of NGOs to join this campaign), some political parties like the League of Socio-Democrats of Vojvodina, human rights groups, students. Signatures were collected on the streets, in university faculties and different kinds of events (i.e. rock and punk concerts) were organized in order to attract and inform as many young people as possible about the Initiative. Although our target group was supposed to be the male population under the age of 27 (military service must be performed by this age) the best response came from women, especially those in their middle ages whose sons, we suppose, were about to go to serve the military. When we talk about the male population, it was common for those who had already served the military service to refuse signing the petition with "if I could serve so can you" type of excuse. Those who hadn't yet served at that time were eager to sign the petition, asking more about the length of service than about the conditions.

There was an opportunity to organize a group of Members of Parliament to suggest this Initiative in the Federal Parliament, but during our campaign we had an opportunity to talk to people, explain to them what we want, for most of them they were hearing for the first time about conscientious objection. It was the first time that this issue attracted the interest of the media; newspapers as well as radio and TV.

During our campaign Yugoslav Army made its own draft of new law on Army. According to their draft, the conditions of two types of military services (both combat and non-combat) would remain the same, while their lengths would be 10 and 18 months respectively. The Chief of General-Headquarters would have almost as much authority as the president of the republic himself, and military police would gain far more jurisdiction than it had so far. On 15th of May, International day of Conscientious Objectors, our Initiative was handed over to legal service of the Federal Parliament. Instead of putting it into the procedure (officially the Initiative should be voted on within a 3 month period) the President of Parliament sent it to the Army Headquarters in order to get their opinion on the Initiative. The final outcome was the shortening of the "normal" military service from 12 to 9 months and service without arms from 24 to 13 months. The conditions of both services remained the same.

We didn't let this situation discourage us, and a new possibility appeared sooner

than we expected: former FR Yugoslavia started the process of transformation into the Union of Serbia and Montenegro. Our next goal was to have the right to conscientious objection clearly and unambiguously formulated in the new Constitutional Charter of the Union of Serbia and Montenegro. Almost 100 organizations, both national and international signed the appeal we sent to the Federal and Republic Governments. It took them 10 months to finish this document, but at the end there was a paragraph in the Constitutional Charter saying that: "recruits are guaranteed the right to conscientious objection". Nevertheless, there is still a problem with the old Law on Yugoslav Army defining conscientious objection as a right to serve without weapons in military institutions. This initiated the second aspect of our campaign.

2) Creating a database of places where genuine civilian service could be performed

Although we are trying not to focus our activities solely on the introduction of civilian service, and we are trying to promote other aspects of conscientious objection to the military system (including total objection, objection of war taxes, etc.) as well, we have to admit that most of the COs in Serbia and Montenegro we dealt with were ready to accept alternative civilian service, if there was any.

The official explanation as to why COs cannot serve in civilian institutions given by the representatives of the Yugoslav Army was very discriminatory: they claimed that only members of religious sects¹²⁾ were asking to serve in civilian health-care institutions, and that these people were trying to convert the patients and the people working in these health-care institutions into the confession of these sects, so the managers of the health-care institutions broke the contracts they had signed with the Ministry of Defence and refused to accept any more COs. Even if this was the case, this explanation is discriminatory and illegal. Still, we doubt that this is the truth, because the Yugoslav Army never gave proof that even one single person had ever been sent to serve outside military barracks or institutions.

Our idea was to approach the directors and managers of health-care institutions, general salvation organisations, organisations for the rehabilitation of handicapped persons and other organisations and institutions of general interest, in order to make the list of those organizations who are ready to accept conscientious objectors. Many NGOs from different regions of Serbia took place in this action. The result we

12) All religious groups that are not orthodox or Catholic Christian (with the exception of Islam) are considered by the Military authorities to be religious sects.

got was that 90% of the organizations we interviewed showed great interest in this initiative. Most of them are ready to accept COs immediately, because the humanitarian situation in these organizations is terrible, so any kind of help for them is more than welcome. During this action we found out that the Yugoslav Red Cross had a similar initiative as well, but the Headquarters of the Yugoslav Army refused it because the Red Cross holds the status of an NGO. This was obvious proof that the main obstacle in introducing genuine civilian service was, and still is, the Army itself.

3) Informing the public about CO issues

In order to inform the public about our activities and the development of the campaign we have organized numerous activities. As a CO group working with Women in Black we issued the "Prigovor!" (Objection!) newsletter, the only one of its kind in the region. The newsletter was distributed widely and throughout our network of NGOs and the whole territory of Serbia and Montenegro was covered.

For the purpose of informing the public we have printed out thousands of flyers, posters, brochures and other materials emphasizing conscientious objection as a basic human right. As a group of COs we have participated in many street actions that Women in Black have held fairly regularly in Belgrade's main square, but also in many other towns in both Serbia and Montenegro. These protests were usually days of remembrance of tragedies that occurred during the recent wars in former Yugoslavia (and protests for still not having put those responsible for these crimes on trial or in jail), or they were actions of support for peace groups all over the world (Israel-Palestine, Colombia). It was the same with May 15th (International CO day), November 9th (International Day against Racism and Xenophobia), May 9th (Day of Victory over Fascism), March 8th, etc. Not having too much sympathy from the media (largely they still have strong nationalist backgrounds), these kinds of actions were the best way to do our 'public relations' activities. On May 15th we organized Food Not Bombs actions in the morning, protests in the main Square in the afternoon and rock concerts at night.

As a network of NGOs supporting conscientious objection we've organized several seminars and trainings, with the help of our friends from international CO and peace groups like MOC-Spain, Connection e.V, War Resisters' International, Amnesty International, EBCO

During their actions Women in Black gave statements to the media (local media

were far more cooperative than the national), but on several occasions we held press conferences only for CO issues. In the town of Leskovac, for example, when one CO was denied the right to apply for genuine civilian service, we tried to organize a peace-camp and a press conference in front of the local military department. Police allowed us to hold the protest, but representatives of the Army told us they would consider it a "terrorist attack on the territory of Yugoslav Army". In the end the press conference was held in the Women's Centre.

4) Legal support for conscientious objectors

With the help of organisations for human rights such as YUCOM (Lawyers Committee for Human Rights) and Humanitarian Law Fund, we tried to give as much legal support to COs as possible. As there is still no alternative civilian service, conscripts who object the military service have 3 choices:

- a) to serve in non-combat units or in military-economic institutions,
- b) to try to prove that they aren't fit for military service, so that they are temporary or permanently exempted, or
- c) to refuse to take the call up and end up in jail

Option a) means 13 months in a military-economic institution, where COs are asked to give an oath that they are ready to give their lives for their country. They don't wear uniforms, but it is still a military service (or rather, a 'service for the military').

Option b) means that the medical commissions find the COs "unfit for military service" for reasons such as being unable to adjust to a military regime of life" or "having a temporary neurotic reaction", meaning that these people are healthy when they are not in the barracks, but once they are inside the barracks their mental health deteriorates. This phenomenon has become massive, especially over the last two years, but it is definitely not a proper solution for the CO issue, for they want to present Conscientious Objection as a kind of "abnormality". We insist that it is necessary for conscientious objection to be recognized as a human right, not just as a right to be exempted from military service.

Option c) is when one refuses to take the call up for military service and one has

to go on trial. The first sentence is usually conditional (of 4-6 months in prison), such that the person cannot commit the same offence (not taking the call up) in a 2-year period or he will be sent to prison. Just one or two months after the trial local military departments send a new call up. The CO refuses to take the new call up as well, and he is "officially" breaking the conditions of his suspended sentence. At the second trial the CO is not only sentenced for the 4-6 months from the first trial but he is also charged for "a repeated violation of the law". Some of them spend up to 4 years in prison until they are finally left alone and do not receive any new call ups. At the moment there are 12 religious COs (Jehovah's Witnesses) on trial or in jail.

We are not in a position to advice anyone to break the law and not take the call up, but we are trying to give them the necessary legal support if they themselves decide to take this step. What we can do is to tell them what the legal provisions are and what kind of consequences they can expect if they decide to go on trial. Not a single CO has ever won a case. However, there was a case of a CO who got permission to serve in a purely civilian institution (according to the Constitution), but finally was sent to a military-economic institution. He refused all orders there, ended up in jail, and when he got out he left the country. This is still how many CO cases end.

Concerning the present situation, there are a few more points we have to emphasize in order to better understand the level of militarization of Serbian society today:

A strong relationship between the Serbian Orthodox Church and Army of Serbia and Montenegro has been established. Right-wing clerical youth organizations have their offices in the building of the Army's Club. They work together on a campaign against small religious groups of any kind, comparing them all to Satanism (There is an official campaign called "The Foundation against Drugs, Alcoholism and Sects"). At the same time they promote the idea that conscientious objection is an invention of religious sects and a tool used against "the true orthodox knighthood of Serbian soldiers". The spokesman of the Army of Serbia and Montenegro, Zivko Radisic, just recently published a book called "Satan Is Not Hiding Any More", in which he elaborates the aforementioned

ideas.

Numerous military and paramilitary organizations connected with war crimes and political murders still have very strong position in society (and possibly in the state). Many people believe that these groups were defending Serbian national interests during the wars, and consider them to be the heroes, rather than possible war criminals. Some of these organizations are almost fully independent and there is no state-control of any kind over them.

On several occasions more than 1000 bodies were found in, or close to military and police barracks in several mass-graves. Still, there was no serious investigation on who killed those people and where they were killed, and who ordered their burial at the Army territory.

3. Future

The new Constitutional Charter of the Union of Serbia and Montenegro guarantees the right to conscientious objection. Besides that, military courts are being abolished, so COs would have a chance to ask for protection from purely civilian bodies. Military-economic institutions are about to be converted into civilian institutions, so COs wouldn't have the option to serve there anymore. Concerning the above, there are two possibilities: either the CO will be sent to serve in the non-combat units inside the military barracks, or a genuine civilian alternative service will be introduced. It would be too much to expect that the CO does not receive any kind of call up at all, but it is an option we are trying to advocate whenever and wherever we can. Nevertheless, this process is still in its initial phases, and we are sure that the Army will resist its reorganization, especially the efforts to recognize the right to conscientious objection. It is quite clear to the Army that the introduction of an alternative civilian service would be a first step towards ending conscription in Serbia and Montenegro, and an end to conscription is our ultimate goal.

Since the beginning of 2003 we have started to develop a new strategy, including the student organizations and the youth sections of some political parties in the preparation and implementation of our campaign plans. We are also connecting our campaign and efforts with Bosnian and Macedonian CO campaigns through a project called "Strategic Plan to Develop Conscientious Objection in Former Yugoslavia" organized by EBCO. Through the framework of this project we can approach European institutions more easily and more frequently than we have

been able to so far. It is obvious that the governments of countries of the former Yugoslavia react more to pressures from abroad than to pressure from inside. We believe that the strategy of combining these pressures rationally might get us to the point we want.

In Serbia and Montenegro our efforts focus on the introduction of the "Law on Conscientious Objection to Military Service". This law should not just be the law on civilian service: it should define and protect the right to be beyond any kind of jurisdiction of military authorities.

To conclude, our future activities will focus on the further 'demystification' of conscientious objection and awareness-raising among the general public in the country. The problem of conscientious objection is one of the key problems of societies in this region. It's the point where all other problems in these societies meet, because in discussing and solving this issue we see who wants to solve the problems of the past, and create new, more democratic societies and who doesn't. This issue leads to a discussion about the nature of the wars we had in the region over the last 12 years, and why people have decided not to take part in them and to instead leave the country. The fact that young people are still running away from these countries because of military service means that psychologically we are still at war. We will work to increase tolerance towards conscientious objectors, since due to the strong patriarchal and militarist spirit, some of them are afraid to tell their friends and families that they do not want to serve in the military. This would also help to increase tolerance towards religious objectors and their religious groups, which would be a great influence in the democratisation of our society in general.

Current Situation of Conscientious Objection in Korea

Yu Ho-Gun

To begin with, greetings on the solidarity for peace. I'm Ho Keun, YOO, one of Conscientious Objectors according to political conviction on peace and unification of North and South.

After I knew the misery of the Korean War in 1950 through much concern and activities on unification of north and south while in college, I thought that the tragedy like that would never be happened again and I gave my word making every effort to make a peaceful world. I'm very proud that my twenties, even not that long, is full of that kind of activities.

Korea is a highly militarized country. Nearly two millions military personnels of north and south are holding their antagonist. In the basic period of 2000, there are nearly two millions military personnels on service(690 thousands in south, 1050 ~ 1170 thousands in north)¹³⁾ and the first reserve about ten million(3040 thousands in south¹⁴⁾, 7480 thousands in north¹⁵⁾), which means almost one third of men in korean peninsular is on the status of military personnel or the first reserve. In comparison with the military force of other countries having the territory of the similar size, the number is nearly 10 times(Japan 240 thousands, England 220 thousands, German 220 thousands, France 290 thousands, Israel 170 thousands etc.) and it is bigger than that of the USA(1400 thousands) as the most powerful country in the world.

The militarized social reality like that forces every man not to make a protest against the remark of "the military life makes a person a man" and there is a way of military thinking widely even among the general public. At college, work, even at home, we are easily able to find the militarized feature, which means the militarized society.

In this reality the refusal to join with army has been considered as 'an impudence impossible to imagine', and I also at my childhood had a dream to be an officer like boys in their childhood. However, while growing up and having my values and

13) The Military Balance 2001 • 2002(2001. 10th)

14) To the first reserve of 8 years after discharged from military service

15) 교도대, 노동적위대, 붉은청년근위대, 사회안전부 요원 포함

conviction putting peace and unification over war and the partition in the first place in my mind I had a conflict between reality and conviction.

This collision between the reality that all man must joined with army and the conviction that I shouldn't aim a gun at compatriots - even more human beings- gave me a great affliction. After being in anguish for long time and choosing my conviction, as one of the Conscientious Objectors, I've found the amazing fact that more than ten thousands had been put in jail by reason of the objection to military service. Moreover, among them, there was the man who had been jailed for ten years three times by the same case of objection to take arms. Even now about 14 hundreds is put in jail. I also had been jailed and now I'm out on bail with judgement postponed. It's because the existing military service law is now in unconstitutionality litigation and the judgement has been put off until the Constitutional Court' decision.

While so many objectors were put into jail, most people including me didn't know their existence, condemned them, even regarded them as 'deviators form our society' and kept them in isolation. That fact made me even more surprised than by the number of person under restraint. They have been deprived of their rights of a member of our society only by reason of objection to take arms. I'm now one of Conscientious Objectors like them, which means that I was transformed from an injurer in the past to a victim in the present. Through this process, self-reflection time was much needed.

Changed situation and it's meaning

In 2001, a weekly newsmagazine informed the matter of Conscientious Objectors to korea society which has been hidden in the meantime, and the society began to get interested in that matter. However, at that time the focus on Conscientious Objectors was not their 'conscience' and 'human rights' but only 'sympathy' and 'pity' on them. But, after a buddhist Oh Tae-Yang's open declaration of objection to military service on 12, 2001, Conscientious Objection has been recognized not as the matter of special denomination, and the matter of 'Conscientious Objection' and 'Conscience' began to deal with in earnest. Moreover in 2002 non-religious Objectors including me came out in succession, and now Conscientious Objection is one of the main agendas in korean society. It can be said that this situation has several meanings.

First, it gives us an opportunity to ponder upon 'Conscience'.

For the last decades experienced dictatorship in Korea, to act according to the dictates of one's conscience had required terrible sacrifices. It's true that it came to hundreds of people who were sentenced to death or put into prison for decades by reason of acting according to their conscience. Under this condition in the past, 'conscience' was defined in abridgment, as only a certain degree of 'kindheartedness' or 'goodness' or 'obeying the law' without the meaning of 'religious, political, and private conviction'.

Meanwhile, there has been a conceptional distorted view among progressive persons. They are reluctant to call Conscientious Objectors of Jehovah's witness the prisoner of conscience. It is said that it's because the reason why they are imprisoned is non-political issue. The word of conscience is being used quite subjectively and there has been a kind of duplicity keeping their eyes on only their own conscience rather than being generous to others' conscience. But, recently the voice of self-reflection is getting bigger and the tendency to enlarge social leniency, 'tolerance' is also getting bigger.

Second, the new situation is being conducive to recover the proper worth of peace and human rights.

The long dictatorship in the past was very generous to resistant violences, and treated frequently the issue of peace and human rights as subordinate things to a certain issue. Although there could be the distinctiveness of the phases of the times, the generosity to resistant violences exposed its own rationalization and inconsistency between thinking and practice. It was of frequent occurrence to use an 'unavoidable' violence for peace

Now that the procedural democracy has comparatively been built and the abnormal state is being turned into normal one as compared with the past, we have to build up our values setting peace and human rights into the first place. In order to maintain the dignity of human beings and be happy together 'Conscientious Objection' sets 'peace and human rights' before everything and carries them into practice. Nobody has to be oppressed and suffered against one's own will. And also 'Conscientious Objection' keeps an eye on daily violences and fascism. Korea society has been generous and even lethargic to violences. 'Conscientious Objection' could be conducive to change this daily oppressive culture into the expansion of the tolerant culture.

Third, we can tell about a function advancing rational society, economic democracy through 'demilitarization'.

The reality that all man has to join the army has caused to make our society into the army-like one by those who come back from the army. Owing to the prevalence of orders, authoritarianism, assault etc., our society has not been the rational, efficient society but a boss-centered, irrational one, and not got a organization operating. Reversely, that had been a kind of means to keep a military dictatorship.

The militarized society has brought a big economic burden to us. For the last decades, south korea has spent the 20-30% of the national budget on the national defence expenditure every year. And also the proportion of economic power to the national defence expenditure of north korea is more serious. The sharing structure could be improved by reforming the distorted economic structure and increasing investment to social welfare.

The new situation could bring a great fruit on improving undemocratic organization of the military. Actually, as soon as Conscientious Objector became a big issue in our society, Ministry of National Defence began to inform their managements on military affairs. All through, the military of Korea have been severely criticized for assaults, doubtful deaths and wastes of labor. We can expect the impact that the appearance of Conscientious Objector and the introduction of alternative military service will contribute to improving human rights in the military.

The influencing power of Conscientious Objection has been spread to all over the country within not more than three years since it was suggested. According to the result of Yonhapnews' research, 46.5% of the answerers answered that Conscientious Objectors should get an opportunity for alternative military service. What makes this result more valuable is the fact that the answerers of this research was manhood. We have conducted the signature-seeking campaign centering around the college towns where most of the military ages are crowded. And about 30 NGOs gathered together to make "Korea Solidarity for Conscientious Objection(KSCO)". In the mean time, Objectors themselves having been rendered public services and conducted the Anti-Iraqwar campaign. And some seminars having been held for Objectors themselves.

Tolerance on being different, Consciousness of being not different

As a matter of fact, despite of our efforts, there are still many voices of contrary. We are holding our eye to their insistences, and know the basis of their insistences.

They've lived in the condition that the military, totalitarian culture is full over the whole part of society. Tolerance to others was very strange saying in that situation, and their military life gave them inhuman and brutal experiences. On that ground, we can say that they also are another kind of victims of brutal social situation.

Tolerance on being different must be a majority's virtue toward minority. And It is also minority's courage to majority. Now, we need in our society the tolerant culture appreciating and allowing each other. Tolerance on being different is same as a consciousness of not being. The meaning of the buddhist word "In heaven and on earth, I alone am foremost", is not an expression that "I alone" is a fore most being, but an expression that, by seeing all beings in the world as another "I", we can live a harmonious life without any conflict or confrontation.

Not by conflicting with others who opposite us, but by showing our true will and behavior towards peace and human rights, we can make this world into true One. As the saying goes, the situation is mountain upon mountain. But because our belief is firm and our active is reasonable and more and more peoples have been become our fellow walker, I don't doubt that new ages will come true in the near future when Conscientious Objection be admitted and the peace and the human rights be respected.

Let all of us advance ourself toward peace and human-rights!

Current situation and challenges of the CO movement

Andreas Speck

Conscientious objection to military service is an old phenomenon probably as old as human history, and certainly as old as conscription or any form of forced recruitment. As Rachel Brett will tell us more about this aspect tomorrow, and I'm not a historian, I won't elaborate on this here today.

As I said here in Seoul in December last year, there was hardly any country in the world in 1921 when War Resisters' International was founded that recognised the right to conscientious objection. Today, conscientious objection is widely recognised as a human right, although only derived from Art 18 of the Universal Declaration of Human Rights, which deals with freedom of conscience, thought, and religion. I will come back to this later. But this recognition doesn't necessarily mean that conscientious objection is recognised in every country, and we here know that South Korea is among those countries which still send conscientious objectors to prison some 1,500 conscientious objectors are presently in prison in this country. This shows that we still have a long way to go.

What is conscientious objection?

Before I look at the challenges, I want to look at conscientious objection itself. What do we mean when we talk about conscientious objection to military service? What do we want to achieve?

Let me start from my personal experience. When I decided for conscientious objection about 20 years ago in 1983 it was the time of the broad peace movement against the deployment of new US nuclear missiles in Western Europe. For me my conscientious objection then was not just an individual unwillingness to join the German military it was also an act of protest against militarism in general, and the new round in the East-West arms race in particular. When I objected, I still had to defend my application in front of a committee which rejected my application for conscientious objection. Only on appeal I was recognised as conscientious objector. This humiliating process made me think. I started to read more about militarism, and about alternative civilian service, and in the end I

decided to refuse both military and alternative civilian service. I saw my total objection as an act of civil disobedience against conscription and militarism, and as a contribution to a movement for the abolishment of conscription as a first step to abolish the German military or any military¹⁶⁾. For me it was much less an issue of freedom of conscience, and much more an issue of resisting militarism.

In the word of Albert Einstein: Serious-minded pacifists should try actually to do something instead of contenting themselves with idle dreams or merely talking about their pacifism. Our next step is to act to do something. We must realise that when war comes, everyone considers it his duty to commit a crime the crime of killing. People must be made to understand the immorality of war. They must do everything in their power to disentangle themselves from this antiquated, barbarous institution and to free themselves from the shackles of slavery.

For this I have two suggestions. One of them has already been tried and found practical. It is the refusal to engage in war service of any kind, under any circumstances. Even at the risk of great personal sacrifice and hardship, all who wish to do something concrete toward world pacification, must refuse war service.¹⁷⁾

In the early 1970s, then WRI Council member Pietro Pinna wrote: C.O. is a focal point of antimilitarist action. By its witness of living adherence to the idea, it operates as a major focus of debate and mobilisation. In the wider revolutionary strategy, C.O. offers a fundamental indication, i.e. the assumption of responsibility, of autonomy and personal initiative; it serves as point of reference, as paradigm, for the extension of the concept of 'conscientious objection' in any other sectors of social life.¹⁸⁾

In short: conscientious objection is seen as an antimilitarist action, aimed at social change. Important in conscientious objection which by its very nature is always an individual act, even when the individual acts as part of a collective is that an individual takes responsibility for its own actions, or non-actions.

The human rights discussion is much more limited than this. It does not talk about demilitarisation of societies, about social change. It focusses on individual human rights on freedom of conscience. Although this is nice and important, we

16) Andreas Speck: Sich fgen heisst lgen. Die Geschichte einer totalen Kriegsdienstverweigerung. Schriften der Erich Mhsam Gesellschaft. Heft 10. Lbeck: Erich-Mhsam-Gesellschaft 1995.

17) Albert Einstein, The War Resister No XXVIII, spring 1931, page 2

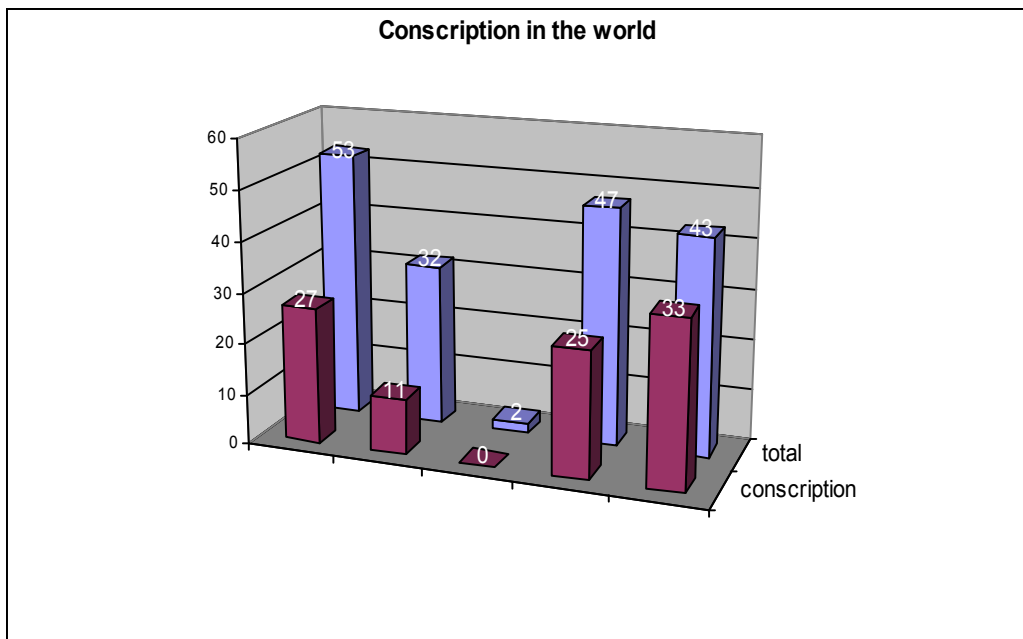
18) Pietro Pinna: Functions and policy of WRI. War Resistance Vol 3, 1st & 2nd quarters 1973

need to go far beyond, making use of the human rights discussion where appropriate, and leaving it behind when necessary. I will come back to the human rights level later.

Partial success recognition of conscientious objection

Since the foundation of War Resisters' International in 1921, the situation regarding conscientious objection improved a lot. In 1921, only two countries Denmark and Sweden recognised conscientious objection, soon to be followed by the Netherlands and Norway¹⁹⁾. Today, out of 177 countries which were included in WRI 1998 world survey, 96 countries have conscription (see graphic1). Out of these, 30 recognise the right to conscientious objection although often in a very unsatisfactory way (see graphic 2). Although this is a huge step forward compared to 1921, it also shows that there is still a lot to do, as 66 countries with conscription still don't recognise the right to conscientious objection.

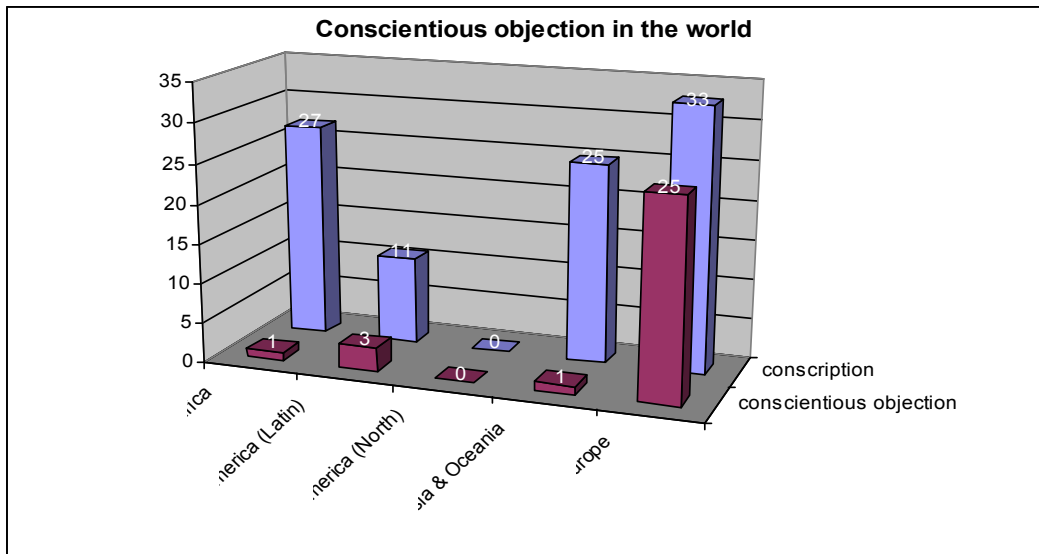
Graphic 1: Conscription in the world



Source: War Resisters' International 1998, updated 2003

¹⁹⁾ The War Resister No XIII, July 1926

Graphic 2: Conscientious objection in countries with conscription



Source: War Resisters' International 1998, updated 2003

We can see that many European countries with conscription recognise the right to conscientious objection, while outside of Europe the picture looks much worse. The picture is even worse when we include the question of conscientious objection for so-called voluntary, professional soldiers. Only very few countries recognise their right to conscientious objection²⁰.

But what about the other aspect of conscientious objection resistance to militarism, or removing the causes of war? I don't think I need to answer this question. It is obvious, that most countries still rely on military force, and that militarist logic dominates most of the world. The present Gulf War is only one all too obvious example.

Conscientious objection and alternative service

Unfortunately, alternative service is often a consequence of conscientious objection. I say unfortunately, because this lead to the mixing of two completely different issues, and to some confusion. Not by coincidence some people talk about a

²⁰) Bart Horeman/Mark Stolwijk: Refusing to bear arms. A world survey of conscription and conscientious objection to military service. War Resisters' International, London, 1998. Some country information was updated.

right to alternative service, when they speak about conscientious objection, and the United Nations too linked the two issues, when it demands that provisions for alternative service should be made for those who have a conscientious objection to military service²¹⁾. To make it simple: conscientious objection is opposed to serving in the military it's that easy. I refuse to do something which I think is ethically wrong. The state then in most cases imposes an alternative service on those who it recognises as conscientious objectors for several reasons, which I don't want to discuss here²²⁾. This doesn't have anything to do with conscientious objection itself, but can be a consequence of the recognition of the right to conscientious objection.

The discussion how to deal with alternative service is probably as old as organised CO movements. Some groups strictly oppose alternative service, others promote it, and see the CO's willingness to perform an alternative service as an important argument for the right to conscientious objection.

In 1925, WRI passed a resolution at its international conference in Hoddesdon, which points to the two dilemmata of alternative service: This conference refrains from laying down a general rule regarding alternative service in view of the different opinions and circumstances of the affiliated organisations. It registers the view, however, that in its opinion acceptance of alternative service may be taken to imply the recognition of the right of the State to impose military service on others. The War Resisters' International denies this right, and urges that in time of war alternative service should be strongly opposed, because all such service becomes part of the war organisation.²³⁾

21) See for example Resolution 2002/45, and others. The UN is only one example here. The same link is made by most inter-governmental organisations which deal with conscientious objection: the Council of Europe, the European Union, and the Organisation for Security and Cooperation in Europe (OSCE, former CSCE).

22) The first laws on conscientious objection already included the obligation to perform alternative service. Denmark introduced an alternative service in 1917, and Sweden's law came into force on 21 May 1920. In both cases COs remained conscripts, and were liable to punishment in case of not fulfilling their service duty in form of an alternative service. In the early times many COs refused alternative service too (Wilfred Wellock: Alternatives to Military Service. War Resisters' International, Bulletin No II, November 1923, page 2-4). War Resisters' International included COs performing alternative service in its Prisoners for Peace Honour Roll, and probably only dropped them from the list some time in the 1970s (Bart Horeman: History of the Prisoners for Peace list, The Broken Rifle No 53, November 2001, page 8). See also: Bernard Withers: The Case for Absolutism. The War Resister No 68, June 1955, page 3-7

23) The W.R.I. view of alternative services. The War Resister No XIII, July 1926, page 4. The same issue of The War Resister also includes an overview of alternative service laws of the time (Denmark, Norway, Sweden, Holland)

Very much in the same line the WRI Council Meeting in 1967 stated: The WRI is opposed to all conscription for military or civilian purposes and advocates its total abolition. Because the WRI is opposed to conscription on principle, it does not recognise the right of the State to impose an alternative to compulsory military service. Nevertheless it admits that in countries where military conscription exists, the provision of alternative service may be a step forward. In such cases we consider that civilian alternative service should be granted to all who apply for it. Such service should be socially constructive and should include the possibility of international service or participation in a peace programme under the auspices of a voluntary agency.²⁴⁾

WRI sees two main problems connected with alternative civilian service:

1. it recognises the right of the State to conscript its citizens;
2. it is or can be part of the war organisation, even when organised as an entirely civilian service²⁵⁾.

However, WRI does not promote a certain response to this problem. While WRI supports total objection to both, military and alternative civilian service, it does not condemn those who perform alternative civilian service, and it recognises that alternative civilian service might be better for some conscientious objectors than imprisonment.

Situation of the movement for conscientious objection to military service

The CO movement certainly goes beyond what is organised in War Resisters' International. But I think I'm on safe ground to say that traditionally conscientious objectors' groups were based in Europe the large number of European countries which recognise conscientious objection is one result. In Latin America, an organised movement for conscientious objection evolved in the late 80s/early 90s, with the end of military dictatorships in most of Latin America. Still, only very few groups achieved the recognition of the right to conscientious objection most groups still have a long way to go.

Organised conscientious objection is a very new concept in the rest of the world

24) War Resistance Vol 2, 3rd quarter 1967, No 22, page 5

25) The German model is one example for this. In times of war, conscientious objectors can be called up indefinitely to serve in alternative service, i.e. in hospitals, civilian defence, including clearing mines, refugee control, etc A German minister responsible for the organisation of alternative civilian service back in the 1980s explicitly stated this.

in Africa and most parts of Asia. Although there always are religious conscientious objectors especially Jehovah's Witnesses, who form the majority of those imprisoned for their conscientious objection to military service; in this country alone some 1,500 Jehovah's Witnesses are in prison most of them do not get involved in organising a movement for conscientious objection. And without a political movement change can rarely be achieved thus the right to conscientious objection is not recognised in almost all Asian and African countries with conscription.

In many ways Africa is a special case. Although only half of all African countries have a conscription system, those which don't still might use forced recruitment to fill the ranks of the military. Many African countries were involved in war recently, or are still in a situation of war or armed conflict. In such a situation, those who refused to fight often face torture, long-term imprisonment, or even instant execution. Under these circumstances, an organised movement for conscientious objection can hardly develop those who don't want to fight go into hiding, leave the country, or try in others ways to escape the military recruiters.

It seems one precondition for an organised movement for conscientious objection is at least some amount of stability, and the existence of some civil society. Often, conscientious objection is also a concept of the more educated middle classes, while draft evasion and desertion can be seen as the conscientious objection of the poor and less educated. This too explains why organised conscientious objection is strong in Europe, but much weaker in Africa. I will come back to this later.

Challenge I: conscientious objection and human rights

As War Resisters' International, we claim that we have the human right to conscientious objection, and we don't recognise the right of the State to force us to do military service. At the same time we work on the international level to achieve the universal recognition of this human right. That we are not there yet was again pointed out to me at a meeting with a representative of the British Foreign Office at the end of January this year. Although Britain recognises conscientious objection, the representative of the Foreign Office repeatedly pointed out that conscientious objection is not generally recognised as a human right. Unfortunately, the statistics which I presented earlier prove her right.

In 1953, Harold Bing, then WRI General Secretary, looked at the situation at the human rights level. He summarised the situation: None of the international agreements so far in existence gives any satisfactory basis for a recognition of the

right of conscientious objection to military service, and at present there is no provision by which individuals or private associations can make effective complaints of the infringement of the rights which have been officially recognised²⁶⁾. War Resisters' International then demanded that the right to conscientious objection should be included in the International Covenant on Civil and Political Rights, which was being discussed at that time²⁷⁾. In 1968 WRI launched a World Appeal for a Recognition of Conscientious Objection as a Human Right, and collected more than 40,000 signatures. These were handed over to the UN on 30 January 1970, and then stored in a sort of UN graveyard²⁸⁾ probably that's where they still are.

However, although the right to conscientious objection is still not part of the International Covenant or any additional protocol, some progress has been made. The Commission on Human Rights repeatedly passed resolutions recognising the right to conscientious objection as a human right, derived from Art 18 of the International Covenant, freedom of conscience and religion. The latest resolution was passed in 2002²⁹⁾. Important standards set out in these resolutions are:

The recognition that a conscientious objection to military service can develop at any time in a person's life. This means that conscientious objection needs to be available to soldiers serving in the army, and that an application for CO needs to be possible at any time, and not just during a certain period of the drafting process;

Information on the right to conscientious objection needs to be available to all persons affected by military service this means it needs to be provided by state institutions freely, and not only on request;

Non-discrimination against conscientious objectors in relation to their terms and conditions of service, or any economic, social, cultural, and political rights.

26) Harold F. Bing: Conscientious objection and human rights. The War Resister No 63, autumn 1953, page 9-15

27) The International Covenant on Civil and Political Rights was only adopted and opened for ratification more than 10 years later, on 16 December 1966. It only came into force on 23 March 1976 almost another 10 years later.

28) Eileen Egan: Conscientious objection stalled in Human Rights Commission. War Resistance Vol 3, 3rd quarter, 1973

29) Important resolutions are: UN Commission on Human Rights resolution 1998/77, 2000/34, and 2002/45.

There are also some standards we do not really agree with, or which are to say the least very problematic. I want to point to some principal problems:

War Resisters' International has big problems with the process of determining whether a conscientious objection is genuinely held in a specific case. We don't think that any institution however impartial can determine one's conscience. This is always a very personal decision, and the attempt to judge this decision is a form of inquisition. It can only be up to the person to determine whether he or she is a conscientious objector and the state just has to accept this!

As mentioned earlier, we don't agree that an alternative service is a real solution to the issue of conscientious objection, as it is just another form of fulfilling the duties derived from conscription which basically means military duties.

Of course, resolutions at the level of the UN are fine and to some extent important but they don't help us in specific cases of imprisonment of conscientious objectors. The whole system of international human rights law is a tiger without teeth there are no enforcement procedures, and if a state decides to ignore international human rights law, then some more resolutions might be passed, but that's about it. Our friend from Israel can tell a hell load of stories about this.

Still, UN resolutions can help us in our political struggle. They can be used as arguments, and we can wave them at government representatives who accuse us of just being a crazy bunch of either religious sects or radicals. Not that I mind being called a radical I certainly am a radical pacifist, a nonviolent anarchist and antimilitarists but having UN backing for our demands can have an impact. It is also important to point to the standards set out by UN resolutions, as these standards are rarely met even in countries which recognise the right to conscientious objection. I would like to see the military sending out a leaflet explaining the right to conscientious objection with their first draft notice, but this rarely happens. With UN resolution 1998/77, we can argue that this should be the case.

While we should work with the UN system and WRI does this, often in close cooperation with the Quaker United Nations Office in Geneva we should not get stuck in the human rights discourse. We should merely see it as a sometimes useful

tool in our struggle, and sometimes as a protection, but we never should accept its logic.

Challenge II: Conscientious objection and war resistance

To me, the grassroots level is much more important, and the link between conscientious objection and war resistance. In 1967, Tony Smythe, then WRI Council and Executive member and co-editor of WRI's 1968 Conscription. A world survey³⁰⁾, wrote in a provocative article that although a central aim of WRI has been the recognition of the right of conscientious objection by governments, this issue is in the last analysis largely irrelevant to the anti-war struggle to-day.³¹⁾ After describing the achievements that had then been made in the struggle for the recognition of conscientious objection, he then went on to say that even if this list of achievements were extended, it is all too obvious that the objectives which more politically minded COs could endorse, such as the end of conscription, mass resistance to war and social change to remove the causes of war, are as far away as ever. The difficulty has been that COs have never constituted a movement with precise political aims.

If we look at Tony Smythe's words 35 years later, can we then say that he was wrong? Even more was achieved regarding the recognition of conscientious objection, but where does that leave us in terms of war resistance? What exactly are the aims of the so-called CO movement?

To be clear: the recognition of the right to conscientious objection can be something, but to me it is not in itself the aim of conscientious objection. To come back to Pietro Pinna, whom I quoted earlier, conscientious objection is a focal point of antimilitarist action, and acts as a focus of debate and mobilisation. Seen this way, we need to go far beyond the recognition of the right to conscientious objection, and when we fight for recognition, we need to be aware that we want to go far beyond.

One obvious aim is the end of conscription of any kind of forced recruitment. This was the approach the Spanish CO movement opted for, and to some extent very successfully³²⁾. However, the result is inevitably a professional army, although

30) Devi Prasad and Tony Smythe (ed): Conscription. A world survey. Compulsory military service and resistance to it. War Resisters' International, London, 1968

31) Tony Smythe: Conscientious objection and war resistance. War Resistance Vol 2, 2nd quarter, 1967, No 21, page 17-22

in the Spanish case the antimilitarist mobilisation made it much more difficult for the Spanish military to recruit a sufficient number of volunteers. Still, the demand for abolishing conscription is nowadays often made by military modernisers, and if we demand the same we might just suit them well nothing we really want to do³²). And of course we still wouldn't be satisfied with the end of conscription we only see it as yet another step towards abolishing the military.

The challenge is how we on the one hand make conscientious objection part of a broader resistance to war, and build coalitions with other anti-war groups because that's what conscientious objection is about and on the other hand work with human rights organisations on the recognition of the right to conscientious objection. As conscientious objectors, as War Resisters' International, we have to find the right balance between two approaches the approach of human rights, and the antimilitarist approach, the resistance to war. We need to be aware that at the very heart the issue of conscientious objection is NOT about human rights, but about social change, a very radical change of our societies towards cooperation and nonviolence, and against military might. This becomes even more important in times when the whole world goes to war, lead by the remaining hegemonial power, the United States of America.

Ever since conscription was first introduced in France in 1793, there was resistance, although not necessarily open conscientious objection. If we look at the situation during the wars on the Balkans in the past decade, there were a lot of draft evaders and deserters at some times estimates went as high as 50% – but very few open conscientious objectors. During NATO's bombing campaign in 1999 War Resisters' International and Amnesty International estimated that some 15,000 young men evaded being drafted or deserted in Yugoslavia, but it was quite hard to find only a handful of people who openly declared themselves conscientious objectors.

In Turkey, there are now some 50 declared conscientious objectors, but estimates

32) Rafa Ajangiz: Civil disobedience gets rid of conscription (Spain, 1985-2000). <http://wri-irg.org/nvse/nvsecase.htm#insumiso>

33) WRI's Hungarian affiliate Alba Kr has a difficult debate about support for the Hungarian anti-conscription league at present, as this anti-conscription league does not have an antimilitarist background and in effect plays into the hands of Hungary's military modernisers, who want to abolish conscription to make Hungary's military fit for NATO. It seems successful: on 14 February 2003 the Hungarian government declared that it wants to phase out conscription by 2005 (Farkas Henrik: Email 18 February 2003)

of draft evasion go as high as 400,000. And in Israel, the Israeli military is complaining about a low turnout to reserve duty. But while a huge amount of young men and women in Israel avoid military service for various reasons almost 30,000 every year³⁴⁾ – and according to newspaper reports, there were about 2,600 deserters in 2002, and 1,500 deserters in 2001 a total of 4,180 in two years³⁵⁾, the number of imprisoned conscientious objectors listed in WRI's report on conscientious objection in Israel is with some 180 COs for an even longer period (September 2000–January 2003) comparatively low³⁶⁾.

Russia is another example. The Russian media reported that in the city of Nizhniy Novgorod, the number of people considered draft evaders outnumbers the number of those drafted. In all Russia, every year more than 30,000 young men ignore draft notices and fail to appear for conscription proceedings³⁷⁾. Again, at the same time the number of open conscientious objectors is comparatively low WRI and Amnesty International probably dealt with less than a handful of CO cases in the past years.

What role then has conscientious objection to play? Is it true as Tony Smythe wrote 35 years ago that conscientious objection in the accepted sense has little relevance for resistance to war in the future³⁸⁾?

I don't think it is true. Conscientious objectors whether there is a right to CO or not have an important role to play. As Sergey Sandler, an Israeli CO activist, wrote: As for the declared conscientious objectors – in terms of numbers they may be a marginal group in Israeli society, but they lead the way for many others. Every act of conscientious objection is a living and publicly visible antithesis to that would-be consensus surrounding the army as an institution and to the criminal policies implemented by the Israeli army in Palestine.

Every person who refuses to serve in the army, by his or her very refusal to automatically back the decisions of the generals in the army and in government, joins the political struggle against militarism in Israeli society.³⁹⁾

34) Sergey Sandler: Statistics. Email 10 November 2002

35) Conal Urquhart: Israeli army desertions rise. The Guardian, 19 November 2002

36) War Resisters' International: Conscientious objection to military service in Israel: an unrecognised human right. Report for the Human Rights Committee in relation to Article 18 of the International Covenant on Civil and Political Rights. London, 3 February 2003

37) Human Rights Watch: Conscription through detention in Russia's Armed Forces, New York, November 2002

38) Tony Smythe: Conscientious objection and war resistance. War Resistance Vol 2, 2nd quarter, No 21, page 17–22

Conscientious objectors are important because they take a public stand, because again in the words of Sergey Sandler, they are delivering the message, loud and clear. In doing so, they give a voice to all those who evade the draft, find ways of avoiding the draft, or desert. We again can see that the Israeli military and most militaries are aware of this. They can live with a certain amount of avoidance; in fact they even benefit from it, as it keeps the worst troublemakers out of the military. But open refusal, open resistance to militarism, is something they are very worried about, which is the reason why the Israeli military presently increases repression against young conscientious objectors heavily.

We need to build on this. We not only need to fight for the right to conscientious objection this might even be secondary but we need to organise conscientious objection, on as broad a scale as possible. And this leads me to the next challenge.

Challenge III: building a political conscientious objectors' movement

Building a movement is always a difficult task. Bill Moyer, an US American movement organiser, described as the main task of any social movement the fight between the movement and the powerholders for the hearts (sympathy) and minds (public opinion) and active support of the majority of the people⁴⁰⁾". To be able to do so, we need to build our own strength as a movement; we need to empower ourselves, and those who get involved in the movement of conscientious objectors.

This task is especially difficult in the early stages, when the movement is not yet a movement, but merely consists of small groups and individuals, and when it still faces severe repression when those who publicly declare their conscientious objection are faced with the option of imprisonment.

Again empowerment is key. Support groups, counselling, and democratic or even better consensus decision making are important elements to empower ourselves. Nonviolence training even training to prepare conscientious objectors for their time in prison can also be important elements⁴¹⁾. And although we want to promote conscientious objection, and we want to fight for every soul that we can get out of

39) Sergey Sandler: Delivering the message, loud and clear. The Broken Rifle No 53, November 2001, <http://www.wri-irg.org/news/2001/pfp01-en.htm#sandler>

40) Bill Moyer: Movement Action Plan. A Strategical Framework Describing the Eight Stages of Successful Social Movements. Social Movement Empowerment Project, San Francisco, 1987

41) Julia Kraft and Andreas Speck. Nonviolence and Social Empowerment. London/Oldenburg, 2000, <http://www.wri-irg.org/nvse/nvse-2.htm>

the hands of the military, we need to be aware of the needs and capacities of each individual concerned. If we call for conscientious objection, that also gives us some responsibility. We don't want people to go to prison at all on the one hand, but we might not be able to avoid this. We then don't want people to go to prison who are not prepared for it, and who don't have the strength to go through this.

Tony Smythe wrote about British COs during the first World War: Of the 6,264 who were refused recognition, 4,500 worked outside prison under penal regulations and 1,500 went to prison for non-cooperation. Of these 900 served sentences of 2 years or more, 10 died in prison, 31 went insane, 34 were sentenced to death (but later reprieved through the direct intervention of the Prime Minister) and many suffered permanent disability because of appalling prison conditions.⁴²⁾ Of course, prison is never easy, but we don't want to be responsible for conscientious objectors who can't stand it anymore and go insane, or who have to suffer disability for the rest of their life, because they chose conscientious objection, and we promoted it.

I know from my own experience as a total objector in Germany, that it can be important to advise someone against becoming a conscientious objector. We don't need and don't want heroes or martyrs, we want to build a movement of empowered people who take responsibility. And although support groups and international solidarity can play an important role in making life in prison easier or safer, prison will always be hard. It should be part of our struggle to give advice on legal or semi-legal ways to avoid military service for whoever doesn't want to face prison, or whoever we or the person or group who counsels a certain CO feel doesn't have the strength to go through prison.

This can somehow also apply when conscientious objection is recognised. The procedure can be very humiliating and disempowering. And while support and counselling can help someone through this process, there will be some people for whom other ways of avoidance are more suitable. Although confrontation with the military system is important, it is not for everyone to take up the challenge.

The conscientious objectors and their support groups have to be at the heart of the movement, if the movement wants to achieve more than the recognition of a human right. Here again I want to point to an important difference: from a human rights perspective, the right to CO needs to be provided for those who seek it, even if it is just one person. From a human rights perspective we might argue that

42) Tony Smythe: Conscientious objection and war resistance. War Resistance Vol 2, 2nd quarter, No 21, page 17-22

information on the right to CO needs to be freely available, but here it ends. It remains a matter of individual choice. From a perspective of war resistance, we need to promote conscientious objection, and we need to fight with the military for the hearts (sympathy) and minds (public opinion) and active support of each and every person, and especially those being drafted. This is a big task, and this afternoon we will have a session dedicated to building a movement.

Closing remarks

I want to come to the end. I know, here in South Korea we see the beginning of a new CO movement. It is important that this new movement now decides what it wants to achieve, that it becomes clear of its goals. I hope this conference here will contribute to this. It is you who need to decide about the right balance between a human rights approach and a perspective of war resistance. I think, as an organised movement we can achieve quite a lot. But what we end up with depends to a large degree on what we struggle for, on the goals we set. The movement in South Korea is now at a crucial point. I hope you will make the decisions that suit you.

Thank you for your patience, and I hope that what I had to say is useful for your/our discussion.

Strategy planning of CO movement

James Reilly

Greetings, and thank you for inviting me to take part in this exciting conference on the issue of conscientious objection in Korea. I would like to thank all the conference organizers, particularly Giyoun Kim and Choi Jung Min, for all their hard work in making this event possible.

I will make a few introductory remarks in the form of a series of extended questions, and then open the floor up for a group discussion. I offer these comments humbly, as a newcomer to both the issue of conscientious objection and to the country of South Korea, in the hopes that they will give rise to useful discussion both this afternoon and throughout the conference. My questions are grouped into four categories: overall concepts, movement dynamics, strategy, and tactics.

Conceptual Issues

" Every subjects duty is the Kings; but every subjects soul is his own. "

-William Shakespeare, Henry V

Ever since governments existed, there has been a debate as to the proper dividing line between civic duty and individual liberty. The issue of conscientious objection goes to the heart of this issue.

1) Conscientious objectors can be divided a number of ways: on the basis of their opposition (secular or religious), on the extent of their opposition (opposed to all wars, to particular conflicts, or just particular weapons), and by their willingness to serve (refuse all service, do civilian service, or non-combatant service in military). Should Korea embrace all of these types of COs? If not, where should the line be drawn? Fundamentally: who is a CO, and who gets to decide?

2) Many of the fundamental notions of citizenship in Korea are tied up with the

tradition of military service. How can the CO movement coherently address questions of patriotism, of service to the nation, and assuring national security in a way that both builds the movement internally and expands public support and understanding?

3) Over the past decade, recognition of the right of conscientious objection has accompanied the strengthening of democracy in Eastern Europe and Latin America. How can the CO movement in Korea draw the connection between a more complete democracy in Korea and the right to conscientious objection? What potential does this have for gaining new allies? What recent successes or failures can we point to?

Movement Politics

1) Social movements always face a tradeoff between retaining internal unity and building a broad coalition of support. For the CO movement, the primary challenge appears to be bridging potential gaps between the peace movement and religious groups. One challenge is how to stand together with the Jehovahs Witnesses who make up the vast majority of CO prisoners in Korea; another is how to build links to the progressive Christian groups who were so critical in the democracy movement in Korea? How are these two issues related?

Strategy

1) The question of when and how to compromise in politics is never an easy one. What kinds of compromises are likely necessary in Korea in the near future on issues such as the length (and existence of) alternative service, the type of service, definitions of COs, the administering of a CO system, and proper cooperation between the government and NGOs? What kinds of problems do these compromises raise in regards to long-term goals and to retaining movement unity?

2) How can or should the CO movement relate to the issue of South Korea's policy toward the North? Is it beneficial or proper to combine the two issues, i.e. to link the CO movement up with the issue of national security policy?

Tactics

1) What groups represent important, yet largely untouched, potential allies for the CO movement? What about families of individuals who have suffered under military service?

2) What are the best ways to increase the number of COs? What role can counseling before, during, and after military service play in such outreach to potential COs?

3) Which parts of the government should the CO movement focus on—the courts, legislature, or the President? What are some effective lobbying tactics, and how can international organizations and international pressure help these efforts?

Meaning and History of Conscientious Objection to Military Service

Rachel Brett

Introduction

The issue of conscientious objection to military service has a long and honourable history. For more than 300 years, Quakers have refused to participate in war, believing it is wrong to kill or to train people to kill. It is on these grounds that Quakers claim the right to conscientious objection to military service, not only for themselves but for all who share their pacifist beliefs.

At the same time, Quakers have recognised the need to find alternative methods to resolve the inter-state problems that are bound to arise. This is why they are strong supporters of the United Nations, maintaining offices to the United Nations in both Geneva and New York, and holding General Consultative Status with the UN Economic and Social Council as an international non-governmental organisation.

Quakers support the resolution of conflicts by peaceful means, including through mediation, negotiation, arbitration and the International Court of Justice. They also recognise the importance of addressing the causes of wars: it is not enough to refuse to participate. We must also work to reduce the reasons why they arise in the first place.

Background

One of the conceptual problems which arises in relation to conscientious objection to military service is the confusion between national defence, security, patriotism and the use of military force. Many people see these as one and the same thing. However, this is not necessarily the case. South Africa appointed a Deputy Minister of Defence who is a known Quaker and pacifist because the government recognised that defence did not necessarily have to mean the use of military force. Many pacifists are deeply devoted to their country, and are willing to serve in other ways: this is where the question of a civilian service as an alternative to military service comes in: it mediates between the conscience of the individual and the

demands of the State.

Standards

Conscientious objection to military service has been recognised in some States for many decades. Its recognition in international law is a more recent development. It is not specifically included in any of the existing international or regional human rights treaties. In 1989, however, the United Nations recognised conscientious objection to military service as a legitimate exercise of the right to freedom of thought, conscience and religion.⁴³⁾ Since 1993, it has also been accepted as being included within the International Covenant on Civil and Political Rights by the Human Rights Committee, the supervisory body for that treaty.⁴⁴⁾

The right to freedom of thought, conscience and religion is an unqualified and non-derogable right, even during times of national emergency threatening the life of the nation.⁴⁵⁾ The right to manifest one's religion or belief too is non-derogable, although some restrictions on it are permitted. However, it is subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.⁴⁶⁾ Unlike some other human rights provisions, no limitation is permitted on the grounds of national security.

The basis of conscientious objection to military service in the right to freedom of thought, conscience and religion gives it an extensive rather than a restrictive

43) UN Commission on Human Rights resolution 1989/59, reinforced and developed in succeeding resolutions 1993/84, 1995/83, 1998/77, 2000/34 and 2002/45.

44) Human Rights Committee General Comment 22(48), followed and developed in subsequent questioning of States reporting under the Covenant and in the Committee's consideration of individual complaints under the First Optional Protocol to the Covenant. None of the regional human rights courts has yet ruled on the question. However, the Committee of Ministers of the Council of Europe Recommendation 8 (1987), recommended that the Council's Members States provide for the release from the obligation to perform military service those who refused "for compelling reasons of conscience", and the Charter of Fundamental Rights of the European Union (proclaimed in December 2000) in the provision on the right to freedom of thought, conscience and religion, states specially, Article 10(2): "The right to conscientious objection is recognised" Similarly, the Inter-American Commission on Human Rights invited OAS States whose legislation did not exempt conscientious objectors from military service to review their legal regimes (98th session, Annual Report, 1997, Chapter VII - Recommendations of the Inter-American Commission on Human Rights).

45) Article 18, Universal Declaration of Human Rights; Article 18 (1) International Covenant on Civil and Political Rights

46) International Covenant on Civil and Political Rights, Article 18(3)

scope. The Human Rights Committee's General Comment 22 states that Article 18 covers theistic, non-theistic and atheistic beliefs, as well as the right to change one's religion or belief. The Committee has also made clear that providing for conscientious objectors only on religious grounds is not acceptable.⁴⁷⁾ Conscientious objection has been specifically acknowledged as deriving from "principles and reasons of conscience, including profound convictions, arising from religious, moral, ethical, humanitarian or similar motives"⁴⁸⁾.

Conscientious objection to military service is not limited to pacifists, that is those who object to all use of armed force or participation in all wars. It also encompasses "those who believe that the use of force is justified in some circumstances but not in others, and that therefore it is necessary to object in those other cases (partial objection to military service)".⁴⁹⁾ There is a long history of "selective" or "partial" objection, for example on the basis of the Just War concept. Although General Comment 22 refers to situations where "the obligation to use lethal force may seriously conflict with the freedom of conscience and the right to manifest one's religion or belief"⁵⁰⁾, at no point does it specify that the objection has to be to the use of lethal force at all times.

Practicalities

Even where conscientious objection to military service is recognised by the State, this recognition may be notional rather than real. In order to be valid, the following conditions must be met:

1. it must be established by law and the law must be applicable in practice;
2. its availability, and the means of claiming it, must be known to those for whom it is relevant;

47) See, for example, the Human Rights Committee's concluding observations on Ukraine (CCPR/CO/73/UKR of 12 November 2001, para. 20) and on Kyrgyzstan (CCPR/CO/69/KGZ of 24 July 2000, para. 18)

48) UN Commission on Human Rights resolution 1998/77. At the same time, the Human Rights Committee's General Comment 22 makes clear that "Article 18 protects theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief. The terms belief and religion are to be broadly construed." (paragraph 2)

49) UN Report, "Conscientious Objection to Military Service" by Eide and Mubanga-Chipoya (New York, 1983)

50) Paragraph 11

3. the recruitment practices must be such as to enable a claim of conscientious objection to be made;
4. the procedure for claiming it must meet the international standards, for example, who decides on the validity of claims and on what basis;
5. the scope (grounds) of the recognition must not be restricted in ways not permitted by international law;
6. It must be available to serving soldiers and reservists as well as to new recruits. Although the question of conscientious objection to military service arises most frequently in the context of conscription (compulsory or obligatory military service), it can arise even when the original decision to join the armed forces was voluntary, or when the obligation to undertake compulsory military service was initially accepted.⁵¹⁾
7. the nature, conditions and duration of alternative service must be compatible with the requirements of international law;⁵²⁾ and
8. there must be no discrimination against conscientious objectors either during the time of alternative service or afterwards, in law or practice. Such discrimination would be a continued violation of their right to freedom of thought, conscience and religion.⁵³⁾

Alternative Service

Since conscientious objection to military service is an expression of the right to freedom of thought, conscience and religion, any alternative service required instead of military service must be compatible with the grounds of the objection. Many States provide a number of alternatives, including unarmed military service for those whose objection is only to the personal use of arms and civilian service under civilian administration for those whose objection is to all use of military force.⁵⁴⁾

51) UN Commission on Human Rights resolution 1998/77 explicitly acknowledges this, "Aware that persons performing military service may develop conscientious objections", and at no point limits the issue to objection to compulsory military service. The Universal Declaration on Human Rights, and General Comment 22 of the Human Rights Committee both explicitly recognise the right of the individual to change their religion or belief, which leads to the same effect.

52) UN Commission on Human Rights resolution 1998/77, paragraph 4, "Reminds States with a system of compulsory military service of its recommendation that they provide for conscientious objectors various forms of alternative service which are compatible with the reasons for conscientious objection, of a noncombatant or civilian character, in the public interest and not of a punitive nature".

53) Human Rights Committee General Comment 22

Alternative service is not always required of conscientious objectors: they, or some categories of them, may be exempted from military service. Alternative service which is punitive in nature, whether because of the type of service or its duration in comparison with the length of military service, is not acceptable because it seeks to deter or punish the exercise of the right to freedom of thought, conscience or religion. If not of the same duration as military service, the alternative service must be "comparable in length"⁵⁵⁾ to it. Any disparity in length is only permissible if it is based on "objective and reasonable criteria, such as the nature of the specific service concerned or the need for a special training in order to accomplish that service".⁵⁶⁾

Who decides?

The difficulty of ruling on the validity of another person's conscientious objection to military service has been resolved in some States by allowing the individual a free choice between military and alternative service, in Finland for example. If an external process is adopted, this cannot be an internal or military one, but an "independent and impartial" body "with the task of determining whether a conscientious objection is genuinely held in a specific case, taking account of the requirement not to discriminate between conscientious objectors on the basis of the nature of their particular beliefs."⁵⁷⁾

Conclusion

The increasing recognition of conscientious objection to military service internationally, regionally and nationally is a significant contribution to the protection of the human rights of individuals who otherwise are forced to either undergo punishment (often repeated imprisonment) or to violate their most fundamental beliefs or principles. It should also be viewed as a positive

54) See for example Recommendation (1987) 8 of the Committee of Ministers of the Council of Europe.

55) Recommendation (1987) 8 of the Committee of Ministers of the Council of Europe

56) Human Rights Committee in *Foin v France*, Communication No. 666/1995 (CCPR/C/67/D.666/1995), decided on 3 November 1999, similarly *Venier and Nicolas v France*, Communications Nos. 690/1996 and 691/1996, and *Maille v France*, Communication No. 689/1996, all decided 10 July 2000.

57) UN Commission on Human Rights resolution 1998/77, para. 3



contribution to society, nationally and internationally, rather than a negative refusal to participate. It is an affirmation of life and of the importance of seeking alternatives to war and the use of military force.

United Nations, Recognition of the Right to Conscientious Objection, and Practices of Alternative Services⁵⁸⁾

Lucie Viersma

The purpose of this report is to: (1) show the historical developments on the issue of conscientious objection within the main organs of the United Nations dealing with human rights matters; (2) lay out the legal basis for the recognition of conscientious objection by the United Nations; and (3) raise awareness on the relevant jurisprudence of the Human Rights Committee as well as on how the individual cases of conscientious objectors are treated by the special procedure mechanisms of the Commission on Human Rights, which could be of use to human rights practitioners.

Part I of the report details how the issue of conscientious objection has progressed through the Sub-Commission on Prevention of Discrimination and Protection of Minorities, Commission on Human Rights and the General Assembly. Part II of the report demonstrates how the Human Rights Committee has been interpreting the issue, including through its general comment, jurisprudence and recommendations. Part III of the report demonstrates how the special procedure mechanisms of the Commission on Human Rights have addressed the state practices and acts that are contrary to the principle of conscientious objection.

While the Commission on Human Rights, in its resolution of 1989, recognized the right of everyone to have conscientious objections to military service as a legitimate exercise of the right to freedom of thought, conscience and religion as laid down in article 18 of the Universal Declaration of Human Rights as well as article 18 of the International Covenant on Civil and Political Rights, the issue of conscientious objection has been on the United Nations agenda for more than three decades.

The right to freedom of thought, conscience and religion is contained in article 18 of the Universal Declaration on Human Rights [hereinafter UDHR] and article 18 of the International Covenant on Civil and Political Rights [hereinafter ICCPR].

58) This report does not represent the views of the Office of the High Commissioner for Human Rights.

Article 18 of the Universal Declaration on Human Rights establishes that:

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

According to article 18 of the ICCPR,

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.

2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.

3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.

4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

The right to life, liberty and security of person, education, freedom of expression, and the right not to be discriminated against have been also deemed relevant for the issue of conscientious objection.

I. Historical developments within the United Nations

The UN Commission on Human Rights, which is the main subsidiary organ of the United Nations dealing with human rights matters, has addressed the subject of conscientious objection since 1971.

In its resolution 11 B (XXVII) of 22 March 1971, the Commission requested that the Secretary-General make available to it the information on conscientious

objection to military service, included in the country monographs which were prepared in connection with the Study on Discrimination in the Matter of Religious Rights and Practices; to seek from Member States up-to-date information on national legislation and other measures and practices relating to conscientious objection to military service and alternative service; and to submit a report on this matter to it as soon as possible. The resolution made a reference to the issue of conscientious objection to military service in the context of the education of youth and the strengthening of its respect for the rights of and fundamental freedoms.

In accordance with the resolution, in 1973, the Secretary-General prepared a report on the question of conscientious objection to military service.⁵⁹⁾

In its resolution 1 A (XXXII) of 11 February 1976, the Commission took note of the Secretary-General's report and decided to give adequate consideration to the problem of recognition of objection to military service at its next session.

In its resolution 33/165 of 20 December 1978, the General Assembly, which is the main deliberative organ of the United Nations composed of representatives of all Member States, recognised the right of all persons to refuse service in military or police forces used to enforce apartheid and called upon Member States to grant asylum or safe transit to another State, in the spirit of the Declaration on Territorial Asylum, to persons compelled to leave their country of nationality solely because of a conscientious objection to assisting in the enforcement of apartheid through service in military or police forces. The resolution was the most specific endorsement of the right to refuse military participation in cases where the use of armed forces is considered illegal by the international community.⁶⁰⁾

Subsequently, in its resolution 38 (XXXVI) of 12 March 1980, the Commission requested the Secretary-General to seek once again from Member States up-to-date information on national legislation and other measures and practices relating to conscientious objection to military service and alternative service, together with any comments they may wish to transmit on the matter.

59) E/CN.4/1118 and Corr.1 and Add.1-3.

60) Conscientious Objection to Military Service, Asbjorn Eide and Chama Mubanga-Chipoya, United Nations publication, Sales No. E.85.XIV.1, para. 68.

In 1981, the Secretary-General issued a report on the role of youth in the promotion and protection of human rights, including the question of conscientious objection to military service.⁶¹⁾

In its resolution 40 (XXXVII) of 12 March 1981, the Commission requested the Sub-Commission on Prevention of Discrimination and Protection of Minorities [hereinafter Sub-Commission] to study the question of conscientious objection to military service in general, and in particular the implementation of General Assembly resolution 33/165 of 20 December 1978, with a view to making recommendations to the Commission.

In its resolution 14 (XXXIV) of 10 September 1981, the Sub-Commission, which is the main subsidiary body of the Commission on Human Rights composed of experts acting in their personal capacity, requested the experts Mr. Asbjorn Eide and Mr. C.L.C. Mubanga-Chipoya to make an analysis of the various dimensions of conscientious objection to military service and its interrelationships with the promotion and protection of human rights⁶²⁾ and to present to the Sub-Commission a concise report together with their conclusions and recommendations.

In 1982, the Sub-Commission examined a preliminary report prepared by the experts. In its resolution 1982/30 of 10 September 1982, the Sub-Commission requested the experts to prepare a final report based on the comments received on their preliminary report and to develop principles relating to the question of conscientious objection⁶³⁾

In 1983, the experts Mr. Asbjorn Eide and Mr. C.L.C. Mubanga-Chipoya submitted to the Sub-Commission a comprehensive final report on the issue⁶²⁾, reflecting the relevant international norms and standards embodied in various human rights instruments and describing State practice concerning voluntary or compulsory performance of military service. The study, inter alia, requested that the General Assembly to recommend that States should recognize by law the right

61) E/CN.4/1419 and Add. 1-5. See also E/CN.4/1509.

62) Conscientious Objection to Military Service, Asbjorn Eide and Chama Mubanga-Chipoya, United Nations publication, Sales No. E.85.XIV.1.

of persons who, for reasons of conscience of profound conviction arising from religious, ethical, moral, humanitarian or similar motives, refuse to perform armed service, to be release from military service.⁶³⁾ With regard to alternative service, the General Assembly was requested to recommend that States should provide alternative service for the objector, which should be at least as long as the military service, but not excessively long so that it becomes in effect a punishment. States should, to the extent possible, seek to give the alternative service a meaningful content, including social work or work for peace, development and international understanding.⁶⁴⁾

In its resolution 1984/33 of 12 March 1984, the Commission decided to give the widest possible distribution to the report prepared by the experts Mr. Eide and Mubanga-Chipoya, with a view to receiving comments from Governments, relevant United Nations bodies and specialized agencies, other intergovernmental and non-governmental organizations. In 1985, the Secretary-General issued a report containing the comments of Governments, United Nations bodies and non-governmental organisations on the study.⁶⁵⁾

In its resolution 1987/46 of 10 March 1987, the Commission appealed to States to recognize that conscientious objection to military service should be considered a legitimate exercise of the right to freedom of thought, conscience and religion recognized by the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, and recommended that States refrain from subjecting to imprisonment persons exercising this right.

Significantly, in its resolution 1989/59 of 8 March 1989, the Commission on Human Rights recognised the right of everyone to have conscientious objections to military service as a legitimate exercise of the right of freedom of thought, conscience and religion as laid down in article 18 of the Universal Declaration of Human Rights as well as article 18 of the International Covenant on Civil and Political Rights. The resolution also recommended to States with a system of compulsory military service, where such provision has not already been made, that

63) Ibid., para. 153 (1) (a).

64) Ibid, para. 153 (3).

65) E/CN.4/1985/25 and Add.1-4.

they introduce for conscientious objectors various forms of alternative service which are compatible with the reasons for conscientious objection, bearing in mind the experience of some States in this respect, and that they refrain from subjecting such persons to imprisonment. The resolution further emphasized that such forms of alternative service should be in principle of a non-combatant or civilian character, in the public interest and not of a punitive nature.

In its resolution 1991/65 of 6 March 1991, the Commission requested the Secretary-General to report to the Commission on the matter at its forty-ninth session during 1993 and decided to consider the question further at its forty-ninth session under the agenda item 'The role of youth in the promotion and protection of human rights, including the question of conscientious objection to military service'.

In 1993, the Commission considered the report of the Secretary-General on the issue.⁶⁶⁾ In its resolutions 1993/84 of 10 March 1993 and 1995/83 of 8 March 1995, the Commission reaffirmed the right of everyone to conscientious objection to military service as stated in resolution 1989/59 and reminded States of its previous recommendation with regard to alternative service and its nature. The Commission resolutions from 1993 and 1995 also affirmed that persons performing military service should not be excluded from the right to have conscientious objections to military service.

The Commission's activities in identifying standards on conscientious objection peaked in 1998. In its resolution 1998/77 of 22 April 1998, the Commission, *inter alia*:

Recognized that conscientious objection to military service derives from principles and reasons of conscience, including profound convictions, arising from religious, moral, ethical, humanitarian or similar motives;

Was aware that persons performing military service may develop conscientious objections;

66) E/CN.4/1993/68 and Add. 1-3.

Recalled article 14 of the Universal Declaration of Human Rights, which recognizes the right of everyone to seek and enjoy in other countries asylum from persecution;

Drew attention to the right of everyone to have conscientious objections to military service as a legitimate exercise of the right to freedom of thought, conscience and religion, as laid down in article 18 of the Universal Declaration of Human Rights and article 18 of the International Covenant on Civil and Political Rights;

Welcomed the fact that some States accept claims of conscientious objection as valid without inquiry;

Called upon States that do not have such a system to establish independent and impartial decision-making bodies with the task of determining whether a conscientious objection is genuinely held in a specific case, taking account of the requirement not to discriminate between conscientious objectors on the basis of the nature of their particular beliefs;

Reminded States with a system of compulsory military service, where such provision has not already been made, of its recommendation that they provide for conscientious objectors various forms of alternative service which are compatible with the reasons for conscientious objection, of a non-combatant or civilian character, in the public interest and not of a punitive nature;

Reiterated that States, in their law and practice, must not discriminate against conscientious objectors in relation to their terms or conditions of service, or any economic, social, cultural, civil or political rights;

Emphasized that States should take the necessary measures to refrain from subjecting conscientious objectors to imprisonment and to repeated punishment for failure to perform military service, and recalls that no one shall be liable or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country (paragraph 5);

Reiterated that States, in their law and practice, must not discriminate against

conscientious objectors in relation to their terms or conditions of service, or any economic, social, cultural, civil or political rights;

Encouraged States, subject to the circumstances of the individual case meeting the other requirements of the definition of a refugee as set out in the 1951 Convention relating to the Status of Refugees, to consider granting asylum to those conscientious objectors compelled to leave their country of origin because they fear persecution owing to their refusal to perform military service when there is no provision, or no adequate provision, for conscientious objection to military service;

After 1998, the Commission moved towards encouraging implementation of the already established standards on conscientious objection. In its most recent resolutions 2000/34 of 20 April 2000 and 2002/ 45 of 23 April 2002, the Commission called upon States to review their current laws and practices in relation to conscientious objection to military service in the light of its resolution 1998/77. Both resolutions also requested the Office of the United Nations High Commissioner for Human Rights to prepare a compilation and analysis of best practices in relation to the recognition of the right of everyone to have conscientious objections to military service, as a legitimate exercise of the right to freedom of thought, conscience and religion, and the provision of alternative forms of service, and to seek such information from Governments, national human rights institutions, the specialized agencies and relevant intergovernmental and non-governmental organizations and to submit a bi-annual report containing this compilation and analysis. The next report on the conscientious objection to military service is to be submitted to the Commission at its sixtieth session in 2004.

II. Treaty-Monitoring Bodies

Treaty monitoring bodies, or committees, monitor the implementation of the core United Nations human rights treaties. Treaty bodies are composed of independent experts of recognized competence in the field of human rights who are elected by States parties. The states' compliance with the International Covenant on Civil and Political Rights is monitored by the Human Rights Committee. The Human Rights Committee (1) examines State party periodic reports and adopts concluding

observations summarizing its main concerns and making appropriate suggestions and recommendations to the State party; (2) elaborates general comments which consolidate the Committee's understanding of issues arising under the Covenant; and (3) examines individual complaints in a quasi-judicial manner and adopts views.

a. General Comment 22 of the Human Rights Committee

On 30 July 1993, the Human Rights Committee adopted General Comment 22 on the right to freedom of thought, conscience and religion. The General Comment 22, *inter alia*, affirmed that the right to conscientious objection to military service can be derived from article 18. In paragraph 11 of the General Comment 22, the Committee stated the following:

Many individuals have claimed the right to refuse to perform military service (conscientious objection) on the basis that such right derives from their freedoms under article 18. In response to such claims, a growing number of States have in their laws exempted from compulsory military service citizens who genuinely hold religious or other beliefs that forbid the performance of military service and replaced it with alternative national service. The Covenant does not explicitly refer to a right to conscientious objection, but the Committee believes that such a right can be derived from article 18, inasmuch as the obligation to use lethal force may seriously conflict with the freedom of conscience and the right to manifest one's religion or belief. When this right is recognized by law or practice, there shall be no differentiation among conscientious objectors on the basis of the nature of their particular beliefs; likewise, there shall be no discrimination against conscientious objectors because they have failed to perform military service. The Committee invites States parties to report on the conditions under which persons can be exempted from military service on the basis of their rights under article 18 and on the nature and length of alternative national service.⁶⁷⁾

b. Views adopted by the Human Rights Committee

The Committee's position on conscientious objection has evolved over the years. In one of its earlier decisions from 1985, the Committee deemed inadmissible the

67) CCPR General Comment 22, Right to freedom of thought, conscience and religion (Art. 18): 30/07/93, para. 11.

communication of L.T.K, a Finish citizen. L. T. K. claimed to be a victim of a breach by Finland of articles 18 and 19 of the ICCPR, stating that his status as conscientious objector to military service has not been recognized in Finland and that he has been criminally prosecuted because of his refusal to perform military service. The Committee stated:

The Covenant does not provide for the right to conscientious objection; neither article 18 nor article 19 of the Covenant, especially taking into account paragraph 3 (c) (ii) of article 8, can be construed as implying that right. The author does not claim that there were any procedural defects in the judicial proceedings against him, which themselves could have constituted a violation of any of the provisions of the Covenant, or that he was sentenced contrary to law.⁶⁸⁾

Following the adoption of General Comment 22, the Committee had before it several cases of conscientious objectors which it considered in relation to article 26.⁶⁹⁾ For example, in 1993, the Committee found that Mr. Henrikus A.G.M. Brinkhof was not a victim of a violation of article 26 and stated:

The Committee considers that the exemption of only one group of conscientious objectors and the inapplicability of exemption for all others cannot be considered reasonable. In this context, the Committee refers to its General Comment on article 18 and emphasizes that, when a right of conscientious objection to military service is recognized by a State party, no differentiation shall be made among conscientious objectors on the basis of the nature of their particular beliefs. However, in the instant case, the Committee considers that the author has not shown that his convictions as a pacifist are incompatible with the system of substitute service in the Netherlands or that the privileged treatment accorded to Jehovah's Witnesses adversely affected his rights as a conscientious objector against military service. The Committee therefore finds that Mr. Brinkhof is not a victim of a violation of article 26 of the Covenant.

The Committee, however, is of the opinion that the State party should give equal

68) Communication No. 185/1984, L.T.K. v. Finland, para. 5.2.

69) According to article 26 of the ICCPR, All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

treatment to all persons holding equally strong objections to military and substitute service, and it recommends that the State party review its relevant regulations and practice with a view to removing any discrimination in this respect.⁷⁰⁾

During 1999 and 2000, the Committee considered several communications against France and found a violation of article 26. In *Frederic Foin v. France*, the Committee stated the following:

The issue before the Committee is whether the specific conditions under which alternative service had to be performed by the author constitute a violation of the Covenant. The Committee observes that under article 8 of the Covenant, States parties may require service of a military character and, in case of conscientious objection, alternative national service, provided that such service is not discriminatory. The author has claimed that the requirement, under French law, of a length of 24 months for national alternative service, rather than 12 months for military service, is discriminatory and violates the principle of equality before the law and equal protection of the law set forth in article 26 of the Covenant. The Committee reiterates its position that article 26 does not prohibit all differences of treatment. Any differentiation, as the Committee has had the opportunity to state repeatedly, must however be based on reasonable and objective criteria. In this context, the Committee recognizes that the law and practice may establish differences between military and national alternative service and that such differences may, in a particular case, justify a longer period of service, provided that the differentiation is based on reasonable and objective criteria, such as the nature of the specific service concerned or the need for a special training in order to accomplish that service. In the present case, however, the reasons forwarded by the State party do not refer to such criteria or refer to criteria in general terms without specific reference to the author's case, and are rather based on the argument that doubling the length of service was the only way to test the sincerity of an individual's convictions. In the Committee's view, such argument does not satisfy the requirement that the difference in treatment involved in the present case was based on reasonable and objective criteria. In the circumstances, the Committee finds that a violation of article 26 occurred, since the author was discriminated against on the basis of his conviction of conscience.⁷¹⁾

70) Communication No. 402/1990, *Henrikus A.G.M. Brinkhof v. The Netherlands*, para. 9.3 and 9.4.

71) Communication No. 666/1995, *Frederic Foin v. France*, para. 10.3.

In *Richard Maille v. France*, the Committee noted:

The issue before the Committee is whether the specific conditions under which alternative service had to be performed by the author constitute a violation of the Covenant. The Committee observes that under article 8 of the Covenant, States parties may require service of a military character and, in case of conscientious objection, alternative national service, provided that such service is not discriminatory. The author has claimed that the requirement, under French law, of a length of 24 months for national alternative service, rather than 12 months for military service, is discriminatory and violates the principle of equality before the law and equal protection of the law set forth in article 26 of the Covenant. The Committee reiterates its position that article 26 does not prohibit all differences of treatment. Any differentiation, as the Committee has had the opportunity to state repeatedly, must however be based on reasonable and objective criteria. In this context, the Committee recognizes that the law and practice may establish differences between military and national alternative service and that such differences may, in a particular case, justify a longer period of service, provided that the differentiation is based on reasonable and objective criteria, such as the nature of the specific service concerned or the need for a special training in order to accomplish that service. In the present case, however, the reasons forwarded by the State party do not refer to such criteria or refer to criteria in general terms without specific reference to the author's case, and are rather based on the argument that doubling the length of service was the only way to test the sincerity of an individual's convictions. In the Committee's view, such argument does not satisfy the requirement that the difference in treatment involved in the present case was based on reasonable and objective criteria. In the circumstances, the Committee finds that a violation of article 26 occurred, since the author was discriminated against on the basis of his conviction of conscience.⁷²⁾

In *Marc Venier and Paul Nicolas v. France*, the Committee stated:

The issue before the Committee is whether the specific conditions under which alternative service had to be performed by the authors constitute a violation of the Covenant. The Committee observes that under article 8 of the Covenant, States

72) Communication No. 689/1996, *Richard Maille v. France*, para. 10.4.

parties may require service of a military character and, in case of conscientious objection, alternative national service, provided that such service is not discriminatory. The authors have claimed that the requirement, under French law, of a length of 24 months for national alternative service, rather than 12 months for military service, is discriminatory and violates the principle of equality before the law and equal protection of the law set forth in article 26 of the Covenant. The Committee reiterates its position that article 26 does not prohibit all differences of treatment. Any differentiation, as the Committee has had the opportunity to state repeatedly, must however be based on reasonable and objective criteria. In this context, the Committee recognizes that the law and practice may establish differences between military and national alternative service and that such differences may, in a particular case, justify a longer period of service, provided that the differentiation is based on reasonable and objective criteria, such as the nature of the specific service concerned or the need for a special training in order to accomplish that service. In the present case, however, the reasons forwarded by the State party do not refer to such criteria or refer to criteria in general terms without specific reference to the authors' cases, and are rather based on the argument that doubling the length of service was the only way to test the sincerity of an individual's convictions. In the Committee's view, such argument does not satisfy the requirement that the difference in treatment involved in the present cases was based on reasonable and objective criteria. In the circumstances, the Committee finds that a violation of article 26 occurred, since the authors were discriminated against on the basis of their conviction of conscience.⁷³⁾

In 1999, the Committee considered a communication *Westerman v. The Netherlands* in light of article 18 but found no violation. The Committee stated:

The question for the Committee is whether the imposition of sanctions to enforce the performance of military duty was, in the case of the author, an infringement of his right to freedom of conscience. The Committee observes that the authorities of the State party evaluated the facts and arguments advanced by the author in support of his claim for exemption as a conscientious objector in the light of its legal provisions in regard to conscientious objection and that these legal provisions are compatible with the provisions of article 18. See General Comment 22 (48),

73) Communication No. 691/96, *Marc Venier and Paul Nicolas v. France*, para. 10.4.

paragraph 11 dealing with the right to conscientious objection. The Committee observes that the author failed to satisfy the authorities of the State party that he had an 'insurmountable objection of conscience to military service because of the use of violent means' (para. 5). There is nothing in the circumstances of the case which requires the Committee to substitute its own evaluation of this issue for that of the national authorities.⁷⁴⁾

Six members of the Committee dissented, stating that the author's reasons for conscientious objection to military serviceshow that his objection constituted a legitimate manifestation of his freedom of thought, conscience or religion under article 18 of the Covenantand that the State party has failed to provide justification for its decision to interfere with the author's right under article 18 of the Covenant in the form of denial of conscientious objector's status and imposing a term of imprisonment.⁷⁵⁾

There were additional cases⁷⁶⁾ of conscientious objectors that the Committee treated in light of Article 27.⁷⁷⁾

c. Concluding Observations and Comments of the Human Rights Committee

The Committee has further addressed the issue of conscientious objection in its concluding observations and comments, thus recommending action to various Member States.

For example, in recent Concluding Observations on Georgia, the Committee expressed

its concern at the discriminations suffered by conscientious objectors owing to the

74) Communication No. 682/1996, *Westerman v. The Netherlands*, para. 9.5.

75) *Ibid*, Individual opinion (dissenting) by Committee members P. Bhagwati, L. Henkin, C. Medina Quiroga, F. Pocar and M. Scheinin.

76) Communication No. 511/1992, *Ilmari Lansman et al. v. Finland*; Communication No. 549/1993, *Francis Hopu and Tepoaitu Bessert v. France*.

77) According to article 27 of the ICCPR, In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.

fact that non-military alternative service lasts for 36 months compared with 18 months for military service; and regretted the lack of clear information on the rules currently governing conscientious objection to military service. The State party should ensure that persons liable for military service who are conscientious objectors can opt for civilian service the duration of which is not discriminatory in relation to military service, in accordance with articles 18 and 26 of the Covenant.⁷⁸⁾

In Concluding Observations on Viet Nam, the Committee took note of:

the fact that the law makes no provision for the status of conscientious objector to military service, which may legitimately be claimed under article 18 of the Covenant. The State party should ensure that persons liable for military service may claim the status of conscientious objector and perform alternative service without discrimination.⁷⁹⁾

In Concluding Observations on Kyrgyzstan, the Committee noted that:

conscientious objection to military service is allowed only to members of a registered religious organization whose teachings prohibit the use of arms. The Committee regrets that the State party has not sought to justify why the provision on alternative service entails a period of service twice as long as that required of military conscripts, and why persons of higher education serve for a considerably lesser period in the military and in alternative service (arts. 18 and 26).

Conscientious objection should be provided for in law, in a manner that is consistent with articles 18 and 26 of the Covenant, bearing in mind that article 18 also protects freedom of conscience of non-believers. The State party should fix the periods of military service and alternative service on a non-discriminatory basis.⁸⁰⁾

In Concluding Observations on Ukraine, the Committee noted:

with concern the information given by the State party that conscientious objection to military service is accepted only in regard to objections for religious reasons and only with regard to certain religions, which appear in an official list. The Committee is concerned that this limitation is incompatible with articles 18 and 26

78) CCPR/CO/74/GEO (19 April 2002), para. 18.

79) CCPR/CO/75/VNM (26 July 2002), para. 17.

80) CCPR/CO/69/KGZ (24 July 2000), para. 18.

of the Covenant.

The State party should widen the grounds for conscientious objection in law so that they apply, without discrimination, to all religious beliefs and other convictions, and that any alternative service required for conscientious objectors be performed in a non-discriminatory manner.⁸¹⁾

In Concluding Observations on Venezuela, the Committee noted that: there is no provision in Venezuelan law for conscientious objection to military service, which is legitimate pursuant to article 18 of the Covenant.

The State party should see to it that individuals required to perform military service can plead conscientious objection and perform alternative service without discrimination.⁸²⁾

III. Special Procedures

of the UN Commission on Human Rights and the Economic and Social Council

The Commission on Human Rights and the Economic and Social Council have established several extra-conventional mechanisms or special procedures which also monitor the implementation of human rights standards. The Commission special procedure mechanisms have been entrusted to working groups of experts acting in their individual capacity or individuals designated as Special Rapporteurs, Special Representatives or independent experts.

The Commission mechanisms such as the Working Group on Arbitrary Detention, the Special Rapporteur on Religious Freedom and the Special Rapporteur on Freedom of Expression have recently addressed the issue of conscientious objection.

a. Working Group on Arbitrary Detention

The Working Group on Arbitrary Detention considered the case of Osman Murat Ikte, a conscientious objector from Turkey and adopted Opinion No. 36/1999 (Turkey).⁸³⁾ According to the communication, having burned his call-up papers, he was questioned, arrested and detained by the military authorities on several

81) CCPR/CO/73/UKR (12 November 2001), para. 20.

82) CCPR/CO/71/VEN (26 April 2001), para. 26.

83) Opinions Adopted by the Working Group on Arbitrary Detention, E/CN.4/2001/14/Add.1, page 53.

occasions, beginning on 7 October 1996, for refusal to perform military service. He received seven sentences of imprisonment of a few months each. On 4 May 1998, he was sentenced to seven months' imprisonment, bringing the total duration of the sentences to 43 months. With the exception of the period from December 1996 to 28 January 1997, Mr. Ike has been in continuous detention since 7 October 1996. According to the source, Mr. Ike expects to be tried again for the same reason. The source maintains that Mr. Ike's detention is contrary to article 18 of the Universal Declaration of Human Rights. Military service is compulsory in Turkey and the authorities do not recognize civilian service as a legitimate alternative in the case of conscientious objectors.⁸⁴⁾

The Working Group, *inter alia*, stated in its opinion that:

there is, since, after the initial conviction, the person exhibits, for reasons of conscience, a constant resolve not to obey the subsequent summons, so that there is one and the same action entailing the same consequences and, therefore, the offence is the same and not a new one (see Decision of the Constitutional Court of the Czech Republic, 18 September 1999, No. 2, No. 130/95). Systematically to interpret such a refusal as being perhaps provisional (selective) would, in a country where the rule of law prevails, be tantamount to compelling someone to change his mind for fear of being deprived of his liberty if not for life, at least until the date at which citizens cease to be liable to military service.

It follows that the Working Group considers that Mr. Ike's detention from 7 October to December 1996 was not arbitrary. Regarding the other periods, and in view of the foregoing, the Working Group considers that Mr. Ike's detention is arbitrary, it having been ordered in violation of the fundamental principle *non bis in idem*, a principle generally recognized in countries where the rule of law prevails as being one of the most essential guarantees of the right to a fair trial.

In the light of the foregoing, the Working Group expresses the following opinion:

The deprivation of liberty of Mr. Osman Murat Ike from October to December

⁸⁴⁾ Ibid, Opinion No. 36/1999(Turkey), para. 5 and 6.

1996 was not arbitrary. His detention since 28 January 1997 is, however, arbitrary, being contrary to article 10 of the Universal Declaration of Human Rights, and it falls within category III of the principles applicable in the consideration of the cases submitted to the Working Group.⁸⁵⁾

In its 2001 report to the Commission on Human Rights, the Working Group adopted the following Recommendation with regard to the detention of conscientious objectors:

The Working Group notes that conscientious objection – which has its theoretical basis in the freedom of conscience and thus of opinion – gives rise, particularly in countries that have not yet recognized conscientious objector status, to repeated criminal prosecutions followed by sentences of deprivation of liberty which are renewed again and again.

The question before the Working Group was whether, after an initial conviction, each subsequent refusal to obey a summons to perform military service does or does not constitute a new offence capable of giving rise to a fresh conviction. If it does, deprivation of liberty, when applied to a conscientious objector, is not arbitrary, provided that the rules governing the right to a fair trial are respected. If it does not, detention must be considered arbitrary as being in breach of the principle of non bis in idem, a fundamental principle in a country where the rule of law prevails, as borne out by article 14, paragraph 7, of the International Covenant on Civil and Political Rights, which states that no one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or punished. This principle is the corollary of the principle of res judicata.

Notwithstanding the above, repeated incarceration in cases of conscientious objectors is directed towards changing their conviction and opinion, under threat of penalty. The Working Group considers that this is incompatible with article 18, paragraph 2, of the International Covenant on Civil and Political Rights, under which no one shall be subject to coercion which would impair his freedom to have or

85) Ibid, Opinion No. 36/1999(Turkey), para. 9-11.

adopt a belief of his choice.

Accordingly, the Working Group recommends that all States that have not yet done so adopt appropriate legislative or other measures to ensure that conscientious objector status is recognized and attributed, in accordance with an established procedure, and that, pending the adoption of such measures, when *de facto* objectors are prosecuted, such prosecutions should not give rise to more than one conviction, so as to prevent the judicial system from being used to force conscientious objectors to change their convictions.⁸⁶⁾

b. Special Rapporteur on Religious Freedom

The Special Rapporteur on Religious Freedom has addressed the practices and acts contrary to the principle of conscientious objection in his communications to several Member States⁸⁷⁾ and during his country visits.⁸⁸⁾

In his 2001 report to the Commission on Human Rights, the Special Rapporteur concluded that:

First of all, the issue is one of discriminatory or intolerant policies, legislation or State practice, or even indifference on the part of State institutions which is prejudicial to minorities, be they of the 'major religions' or other religious and faith-based communities. Such minorities are mainly affected by: non-recognition of conscientious objection, no provision for alternative civilian service, and the punitive nature of this civilian service by reason of its duration, which particularly affects the Jehovah's Witnesses and other religious and faith-based communities in Belarus, the Republic of Korea, Eritrea, the former Yugoslav Republic of Macedonia and Ukraine; the absence or inadequacy of instruction in minority religions in

86) Report of the Working Group on Arbitrary Detention to the Commission on Human Rights, E/CN.4/2001/14, para. 91-94.

87) E.g., Interim report by the Special Rapporteur on freedom of religion or belief to the General Assembly at its fifty-sixth session, A/56/253, para. 63 and 68 and para. 4 and 5 of the Annex. See also Report of the Special Rapporteur on freedom of religion or belief to the Commission on Human Rights at its 59th session, E/CN.4/2003/66, para. 65-68 (containing a reply from Member State.)

88) See Interim report by the Special Rapporteur on freedom of religion or belief to the General Assembly at its fifty-fifth session (Situation in Turkey), A/55/280/Add.1.

educational establishments in Greece and Norway.⁸⁹⁾

c. Special Rapporteur on Freedom of Expression

The Special Rapporteur on Freedom of Expression addressed the issue of conscientious objection in his report on the visit to Sudan, stating that:

he regrets that the education of the Sudanese people has been relegated to a secondary position, even though he understands the requirements of war. He nevertheless considers that imposing military service as a condition for continuing one's studies is fundamentally a violation of the right to education. Appropriate forms of civil service or conscientious objection to military service should be sought in order to respect both freedom of opinion and the right of students to choose.⁹⁰⁾

d. Joint Communications by the Special Rapporteurs

The Special Rapporteur on Freedom of Expression and the Special Rapporteur on Torture sent joint communications addressing the situation of conscientious objectors. On 22 May 2001, they transmitted a joint urgent appeal to the Government of Turkmenistan stating that with regard to the detention of Dmitry Melnichenko, a member of the Evangelical Baptist Church in Ashgabat, consequent to his refusal to carry arms and swear an oath of military allegiance for reasons of conscience. Dmitry Melnichenko was called up for military service on 10 May 2001 and, after he declared himself a conscientious objector, was taken to a military unit in the town of Serdar in the KizylArvat district. On 15 May 2001, he was brought to the local offices of the National Security Committee where he was beaten on various parts of his body, including the head, with a truncheon. He was also insulted and humiliated before being subjected to electric shocks through wires attached to his head. On 16 May 2001, he was transferred back to the military unit in Serdar.⁹¹⁾

89) E/CN.4/2001/63, para. 182.

90) Report of the Special Rapporteur on Freedom of Expression to the Commission on Human Rights at its fifty-sixth session (Visit to the Sudan), E/CN.4/2000/63/Add.1, para. 125.

91) Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression to the Commission on Human Rights at its fifty-eight session (Country situations), E/CN.4/2002/75/Add.2, para. 231.

On 20 August 2001, the Special Rapporteur on Freedom of Expression and the Special Rapporteur on Torture also sent a communication to the Government of Armenia regarding Vahagn Ghukasian, a journalist, who was beaten on 6 June 2000 by officers of the Ministry of Internal Affairs consequent to the publication of an article critical of some Armenian law enforcement bodies. Officials from the Ministry of Internal Affairs, after searching Vahagn Ghukasian's home, confiscated floppy discs containing the text of his brochure entitled Observer's version about the events of 27 October 1999, when a number of senior officials were shot dead in the Armenian Parliament. In the same communication, the Special Rapporteurs also expressed concern about the detention of Rafik Tononian, a young Jehovah's Witness from Gegharkunik region, consequent to his refusal to perform military service in connection with his religious beliefs. He was violently assaulted on 28 August 2000, when he voluntarily presented himself at the District Department of Internal Affairs in the city of Martuni. He was verbally abused and beaten by police officers, and, as a result, suffered severe pain in his knees. Rafik Tononian was subsequently transferred to Sovetashen pretrial prison in Yerevan and sentenced to two years' imprisonment on 1 November 2000 by a court of first instance in Martuni. To the Special Rapporteurs' knowledge, he is currently serving this term in a corrective labour colony in Kosh.⁹²⁾

On 28 June 2001, the Special Rapporteur on Freedom of Expression, jointly with the Special Rapporteur on the independence of judges and lawyers and the Special Representative on human rights defenders, sent an urgent appeal to the Government of Turkey concerning the trial of 16 individuals which recommenced on 29 June 2001, at the Ankara Military Court of the Office of the General Staff. Yavuz nen, President of the RDF; Vahdetin Karabay, Chairman of the Confederation of Progressive Trade Unions; Salim Zul, Chairman of Hak-is; Siyami Erdem, former Chairman of the Confederation of the Public Workers' Trade Union; Hsn ndl, President of the Human Right Association; Cengiz Bektas, co-Chairman of the Writers' Trade Union; Atilla Maras, co-Chairman of the Writers' Trade Union; Ylmaz Ensaroglu, President of Mazlum-Der; Zuhall Olcay; Lale Mansur; Sanar Yurdatapan; Ali Nesin; Erdal z; mer Madra; Etyen Mahupyan and Sadic Tasdogan, who had published a book entitled Freedom of Thought 2000, were accused of

92) Ibid, para. 239.

driving people away from wanting to conduct their military service in violation of article 155 of the Turkish Penal Code. On 23 May 2001, they requested the Ankara Military Court to refer their case to the Constitutional Court on the grounds that they would not receive a fair trial by an independent and impartial tribunal if their case were heard by a military court; their request was rejected. They were acquitted by the Istanbul State Security Court of charges under articles 169, 311 and 312 of the Penal Code and articles 6, 7 and 8 of the Anti-Terror Law but they faced proceedings in the Penal Court of First Instance for insulting religion in violation of article 175 of the Penal Code and before the Uskudar Criminal Court for insulting the quality of being a Turk, the Republic, Parliament, Government, Ministries, [the] jurisdiction or the forces of the Government related to the military, in violation of article 159 of the Penal Code. It is alleged that these proceedings have been brought against them in order to deter them from exercising their fundamental rights and freedoms.⁹³⁾

Conclusions:

The right of everyone to have conscientious objections to military service as a legitimate exercise of the right of freedom of thought, conscience and religion as laid down in article 18 of the Universal Declaration of Human Rights as well as article 18 of the International Covenant on Civil and Political Rights has been recognised by the United Nations Commission on Human Rights in its resolution 1989/59 of 8 March 1989.

The Commission activities in identifying standards of conscientious objection peaked in 1998. Following 1998, the Commission moved from identifying standards towards encouraging implementation of the already established standards on conscientious objection.

The Human Rights Committee, in its General Comment 22 from 1993, affirmed that the right to conscientious objection to military service can be derived from article 18 of the ICCPR. During 1999 and 2000, the Committee considered several communications of conscientious objectors against France in light of the right to non-discrimination and found a violation of article 26 of the ICCPR in those cases. The Committee has also addressed the issue of conscientious objection and alternative service in its various concluding observations, inter alia, recommending

93) Ibid, para. 266.

that a state party ensures that any alternative service required for conscientious objectors be performed in a non-discriminatory manner.

Additionally, the Commission special procedure mechanisms such as the Working Group on Arbitrary Detention, the Special Rapporteur on Religious Freedom and the Special Rapporteur on Freedom of Expression have recently addressed the practices and acts contrary to the principle of conscientious objection. The Working Group on Arbitrary Detention, *inter alia*, recommended that pending the adoption of appropriate measures to ensure recognition of the status of conscientious objectors, the Governments ensure that the prosecution of conscientious objectors does not give rise to more than one conviction, so as to avoid the judicial system being used/abused to force a conscientious objector to change his conviction.

Currently, in the spirit of the most recent Commission resolution from 2002, the Office of the High Commissioner is preparing a compilation and analysis of best practices in relation to the recognition of the right of everyone to have conscientious objections to military service, as a legitimate exercise of the right to freedom of thought, conscience and religion, and the provision of alternative forms of service.

Conscientious Objection in Germany

Peter Tobiassen

Preface

Last year Seoul and other South Korean cities were hosts of the football world cup. Tens of thousands developed a liking for the German team and cheered its players. Nobody probably knew that there were conscientious objectors on the field, too, e.g. Thorsten Frings and especially Marco Bode⁹⁴⁾.

When South Korean politicians meet with German ones, they often meet conscientious objectors. Juergen Trittin for example, minister for the environment of the Federal Republic of Germany, refused to do his military service after having joined the army and did his alternative service thereafter. Some prime ministers of the German states are conscientious objectors, some of their ministers did their alternative service abroad.

At least once a week several million Germans watch the popular host Reinhold Beckmann with his talk show on German television; he also presents several entertainment and sports shows. He, too, did his alternative service in a youth education centre and was responsible there for the film projectors and video equipment a decisive element for choosing his profession afterwards. At the same time other millions watch, on a different channel, even more famous Harald Schmidt's talk show, he also being a former person doing alternative service, who often refers to his experiences during that time.

Conscientious objection and alternative service are so absolutely normal in German society these days that nobody actually notices any more who did military and who did alternative service.

Germany is the nation with the second highest number of soldiers in international operations of the UN. It plays an important role in the NATO and the UN, its

94) Marco Bode ended his distinguished career with the World Cup. About the start of his career it was reported: The talent scout invited him to a trial in early 1988. Marco Bode joined Werder Bremen's reserve team and got 500 Marks a month, 500 Marks for driving and a furnished room. A bit later he could add 700 Marks when he started his alternative service. "I was so happy about the first money I earned myself as I've probably never been again. He doesn't want to miss the experience either: "The work in an old people's home made me realise how much youth and health is really worth.

decisions on matters of security and military policy carry such a weight that the US government is very sensitive (sometimes even oversensitive) when Germany together with other European states develops its own ideas about fighting international terrorism and considers the war against Iraq to be wrong.

A lot of conscientious objectors in a country and nevertheless a military heavyweight. Is that a contradiction? Or does it even fit together? That is an exciting question, but one which I don't have to answer today. Just this: I get hope from this mixture. German as well as a European thinking and doing opens up new political perspectives in dealing with international problems. Military options lose importance, while civilian options, international law and civilian international organisations like the UN or the OSCE gain importance.

Conscientious objection

Let us move back in time, back to 1945. Germany had just been freed from National Socialism and looked back on 12 years that couldn't have been worse. People had been murdered because of their race, their belief, their political ideas or simply their ethical belief. Germany had started the most terrible war in which millions of people were killed. Germany had tried genocide on a whole part of its population, the Jews in its own country and on the whole continent. Tens of thousands of German men were sentenced to death because they refused to support the criminal war of the Nazis or to fight in it as soldiers. Germany lay in ruins, the people were starving, mourned and were desperate. But it also meant starting all over, with the help of the Allies new civilian structures were created, there were free newspapers, a free radio and the freedom of assembly. Germany was demilitarised. Two German states seemed to develop, the Soviet-dominated block in the east, later to become the now defunct German Democratic Republic, and in the west the Federal Republic of Germany, this under the control of the occupying forces of Great Britain, France and the USA.

Four years later, in 1949, a new constitution was made for Western Germany. About a quarter of the 70 women and men who worked on this task had supported the idea of giving every person the right to conscientious objection in their respective states (later to form the Federal Republic). In some of the regional constitutions this right had already been established. In the parliamentary assembly these supporters were in the minority, though. They quickly got support through tens of thousands of petitions in which individual people and organisations voiced

their wish to make the right to conscientious objection part of the new constitution.

The discussion was very difficult and at the same time very simple. Germany was demilitarised. There was no compulsory military service, no army. Nobody was forced to do military service. That made the necessary discussion so difficult, as it had to stay on an abstract level. At the same time the war experiences were present and made it simple because everybody knew what conscription meant.

Eventually the German people had achieved its aim with several thousand petitions. Since 1949 the German constitution reads: No one may be compelled against his conscience to render war service involving the use of arms. This formed part of article four, under the heading Faith, Religion, Conscience, Creed⁹⁵⁾. Conscientious objection in Germany is therefore linked to freedom of religion and conscience.

Seven years later the situation in Germany had changed very much. There was an army again and compulsory military service. This was sold to the Germans by their president Theodor Heuss as the legitimate child of democracy, although the supposedly democratic compulsory military service had been reintroduced to Germany by Hitler twenty years earlier, and the dictators Mussolini in Italy and Franco in Spain also had a system of conscriptions. Today it is undisputed that a compulsory military service in itself is neither democratic nor undemocratic, but simply a system with which an enormous number of soldiers can be recruited in a short time. That Germany was successful in operating this system within the bounds and according to democratic ideas after 1956 is undisputed.

With the introduction of compulsory military service in Germany the question arose how to deal with those who pointed to the constitution and said No one may be compelled against his conscience to render war service involving the use of arms. You would think that this should have been dealt with in the same way as other basic rights were dealt with. Freedom of religion (article 4, part 2⁹⁶⁾) meant even then that everybody can go to the church they want to and as often as they want to. Or the freedom of speech (article 5, part 1⁹⁷⁾): Everybody could write and say

95) The German regulation corresponds to articles 19 and 20 of the Korean constitution.

96) (2) The undisturbed practice of religion is guaranteed.

97) (1) Everyone has the right to freely express and disseminate his opinion in speech, writing, and pictures and to freely inform himself from generally accessible sources. Freedom of the press and

what they wanted. No censorship was allowed. For the right to conscientious objection this would have meant: The person liable for military service writes to the military institutions that he wants to make use of his right to conscientious objection and that the military institutions accept this.

Since 1949 the mood has changed. The rearmament that the government pursued also found support in the population. The division of Germany, the situation of world politics, the fear of communism and the desire to be part of the stronger half of the world accelerated this support. Still there was a strong movement opposed to the new German army. This remilitarisation could maybe only succeed because critical elements were publicly defamed by military supporters and the government back then⁹⁸).

In this situation the conscientious objectors played a pivotal role. If the compulsory military service was to be introduced without bigger problems, their number had to be kept small and all those who thought of objecting to this had to be signalled that conscientious objection could not be successful.

So the state did not simply accept the statement as it is done with all other basic rights -, but a so-called Anerkennungsverfahren (a special procedure in which the conscientious objector should be tested) was introduced.

Everybody who declared himself to be a conscientious objector soon found himself in front of the Committee of Conscientious Objection (a committee that tested his reasons and asked him questions). Usually one conscientious objector faced four men (women were rarely members of such a committee), a lawyer paid by the army and three other members who had often served in the German Wehrmacht and who still believed to have defended their fatherland. These four had the job of rejecting most of the petitioners instead of helping them to their guaranteed freedom of conscience. The hearings went accordingly. They often lasted several hours and ended with the decision: You are not entitled to object to doing your armed service.

Against this rejection you could appeal to the second instance, the Chamber of Conscientious Objection. You would meet four different faces with the same ideas as

freedom of reporting by means of broadcasts and films are guaranteed. There may be no censorship.

98) Some even had to appear before court. If you want to know more about this can read it up in the very interesting (but unfortunately only published in German) book by the lawyer Heinrich Hannover: Heinrich Hannover, Die Republik vor Gericht 1954-1974 Erinnerungen eines unbequemen Rechtsanwalts, Aufbau-Verlag Berlin, 1998.

their colleagues in the first committee. After their rejection there was only the charge at the Administrative Court left.

Many conscientious objectors were forced to serve in the army against their convictions. A considerable number couldn't deal with this and developed mental problems or committed suicide. Many fled to Berlin or went abroad. In those years you could actually flee to today's capital because Berlin was then still demilitarised and its citizens were exempted from national service.

Although I only started working at the Zentralstelle KDV (Central Office for the Right and the Protection of Conscientious Objectors) in 1978, I still witnessed the effects of the rejection of those who had tried to object: Once a young man entered the office with packed suitcases. He was on his escape to Berlin. In another case a lawyer wrote to the military offices: The petition can be filed away. The applicant committed suicide last week because of his desperate situation. Fortunately, these situations are nonexistent today.

Germany has tried over the time to comply with the regulations given by European institutions. As early as 1977⁹⁹⁾ the Parliamentary Assembly of the Council of Europe decided to accept conscientious objection for whatever reason and to make sure all people liable for military service would be informed about the right to conscientious objections when being registered as conscripts and to be recognised before an independent jury in a fair trial. The alternative service, to be done in social institutions, shouldn't be longer than the military service and the people doing alternative service should be treated equal to those doing military service. Remarkably, this decision dates back to 1977, right in the Cold War. Apparently the majority of the members of the European Council didn't think Western Europe's safety was threatened by conscientious objectors. On the contrary, they asked single member states to introduce fair regulations for conscientious objectors.

In April 1987 still during the Cold War the Committee of Ministers to member states decides that all governments of the member states, if not done already, should bring their national law and practice in accordance with the following regulations and rules¹⁰⁰⁾. Stressed are the right to information about conscientious objection, fair and military independent instances and the possibility of objecting

99) Recommendation 816 (1977) on the right of conscientious objection to military service, adopted by the Assembly on 7 October 1977

100) Recommendation R 87 (8) from April 9th, 1987, of the Committee of Ministers to member states regarding conscientious objection to compulsory service see attachment 1

conscientiously while doing military service. In addition, alternative service should have no punishing character and should not last longer than the military service.

Three years earlier 1984 Germany had tried to adjust to a part of these regulations¹⁰¹⁾ and had changed the testing procedure for conscientious objectors. The hearing before a committee and chamber only exists for those who object conscientiously while being soldiers¹⁰²⁾. Those objecting prior the order to come into the armed forces are tested in a written appeal and are usually accepted for conscientious objection. To be handed in are a certificate issued by the police, stating that the holder has no criminal record, an extensive curriculum vitae and an explanation of the reasons leading to the conscientious objection. This procedure is much more agreeable for the people liable for national service as the basic suspicion is gone; the percentage of recognition has gone up to 90 percent. Those who can argue their reasons in earnest and hands in the necessary forms are recognised.

This year 2003 the procedure of recognition is to be changed once more and to be made easier for the conscientious objectors. There will be a standardised written procedure which requires a curriculum vitae and an explanation. Soldiers, even those doing more than just military service, will be recognised as conscientious objectors if they explain why they changed their decision to become soldiers and to kill humans in a war, and why this willingness is not given any more. As women have had the right to become soldiers for two years now they, too, get the right to conscientious objection. So far this has always been a strict male problem.

We as conscientious objectors criticise this regulation, too, because the state reserves the right to recognise objectors only after testing them. But under pragmatic aspects we can live with this regulation.

As long as there is a procedure of recognition, i.e. the claim on a human right is only recognised or not after a formal procedure, the people and institutions testing have to come up with criteria according to which they want to act. These criteria have never been changed in Germany. Everyone reading up on the jurisdiction of the German Supreme Administrative Court and the Federal Constitutional Court in their substance, can be satisfied with his findings in this respect. Every earnest decision, be it motivated by religion, politics, ethics or by one's own experiences, is

101) At another place the same change of law disobeyed the regulation. Alternative service should last almost a third longer than military service (20 months as opposed to 15 months).

102) More precisely: As called-ups, as soldiers, as reserves or those who were rejected once and object a second time.

supposed to lead to recognition¹⁰³). It exclusively deals with an answer to the question whether one's own views allow the killing of people in a war or not. The real problem was and is the action of the examination committees. While about half of the petitions were rejected until 1984, since the change of legislation about 90% are recognised. While some had to undergo unbearable, hour-long examinations, others were through after just 15 minutes. It never had anything to do with what they had written in their explanations, it was all down to the views of the committee members.

Looking at the history of conscientious objection in Germany, you can see a slow, continual rise in the number of petitions¹⁰⁴). National service and in particular the security policy in the Federal Republic of Germany have never been threatened by this. The number of those the military institutions abstained from calling up was always higher than that of the conscientious objectors. In addition to that the army learned to realise that those who doubt military action make bad soldiers and tend to be unreliable. By now conscientious objectors pursuing their army while already in the army get the support of their superiors in order to speed up procedures and actually get them out of the army as quickly as possible.

Naturally military sociologists have been interested in the factors that determine a person's decision to object to military service. Political events like Germany taking part in the Gulf War in 1991 play a surprisingly minor role. The more important factors are in the personal environment. If there is a conscientious objector in the circle of friends or relatives the probability of objection rises. If the girlfriend signals that she can imagine having a boyfriend who didn't have to serve in the army to become a real man the probability also rises.

103) The Federal Constitutional Court explained in its decision from 20.12.1960 (BverfGE 12,45): Als eine Gewissensentscheidung ist jede ernste sittliche, d.h. an den Kategorien von Gut und Böse orientiert Entscheidung anzusehen, die der Einzelne in einer bestimmten Lage als für sich bindend und unbedingt verpflichtend innerlich erfährt, so dass er gegen sie nicht ohne ernste Gewissensnot handeln kann. (A conscientious decision is every serious decision that is based on the categories of Good and Evil which the individual feels bound to so he cannot act otherwise without putting himself into a serious conflict of belief.) The Supreme Administrative Court in its decision from 3.10.1958 (VII C 235/57) ruled: Handelt der Betroffene unter dem unabweisbaren Zwang seines Gewissens, dann kommt es auf die Art der Motive nicht an, die für die Auslösung der Gewissensentscheidung maßgebend waren. (If the affected person acts under his or her irrefusable force of conscience, the kind of the motives triggering this decision become irrelevant.)

104) See attachment 2

Alternative Service

In 1961, alternative service was introduced in Germany. The first 340 people doing alternative service in 1961 already did this in social institutions, hospitals, homes for handicapped people, old people's homes. These work fields haven't changed since.

Time and again government institutions and politicians voiced their opinion to make the alternative service more deterrent by accommodating them in barracks, giving them meaningless jobs, getting them far away from home and much more. Nothing was pushed through and all attempts to achieve this have failed.

That it came like that and that nowadays nobody tries to do it anymore has to do with the positive image the people doing alternative service have acquired. Their capacity for work is much in demand in social institutions. People have also realised that someone works best where they like to be and where they can see the sense of their work. Since our capitalist society loves effectiveness and productivity, artificial barriers were removed quickly.

In the German constitution it is said¹⁰⁵⁾: Males who have attained the age of eighteen years can be required to serve in the Armed Forces. and A person who refuses, on grounds of conscience, to render war service involving the use of arms can be required to render a substitute service. The duration of such substitute service may not exceed the duration of military service. Since 1971, the Ersatzdienst (substitute service) has been called Zivildienst. (alternative service) The alternative service can only be an alternative to or substitute for the normal military service. If a person is unfit for military service, he is also exempted from doing alternative service. The same applies to all other exceptions. Fathers don't have to do military service and therefore also alternative service.

The first paragraph of the law regulating alternative service reads: In the alternative service recognised conscientious objectors fulfil duties that serve the

105) German constitution, article 12a section 1 and 2 in full: (1) Males who have attained the age of eighteen years can be required to serve in the Armed Forces, in the Federal Border Guard, or in a civil defence organization.

(2) A person who refuses, on grounds of conscience, to render war service involving the use of arms can be required to render a substitute service. The duration of such substitute service may not exceed the duration of military service. Details are regulated by a statute which may not interfere with the freedom to take a decision based on conscience and which must also provide for the possibility of a substitute service not connected with units of the Armed Forces or of the Federal Border Guard.

common good, usually on the social sector. The precedence of the social sector is mirrored in the figures, 95 % of the people doing alternative service work here. The remaining 5 % work in environmental care, the preservation of historical monuments and in the sports sector.

Of those working in social institutions 58 % are in care help or look after somebody, 12 % do manual work, 2 % assist gardeners in the grounds of social institutions, 1 % works in administration, 5 % help the janitors or in the kitchen, 1 % drive handicapped people, 5 % drive ambulances, 6 % help old people in their flats and houses and 5 % look after handicapped adults and children, enabling them to keep living at home.¹⁰⁶⁾

Alternative service is usually done in already existing institutions, either private or public. Private institutions may not, however, be primarily profit-making institutions, but have to be recognised as public utilities.

In order to be able to employ a person doing alternative service, these institutions have to be recognised as a Zivildienststelle, an institution officially allowed to employ people doing alternative service. The inspection is done by the governmental Bundesamt für Zivildienst, the responsible authority.

Once an institution is recognised as such a Zivildienststelle, the people doing alternative service can be enlisted to work anywhere in the institution. Their working hours correspond to those of the other employees, but they are paid like people doing military service.

People doing alternative service are simply called up like their military counterparts by the relevant governmental institution. The same punishing measures are valid, too. Those going AWOL (Absent without leave) can be sentenced to up to five years because of desertion. And those refusing to follow an order can be sent to prison for up to three years.¹⁰⁷⁾

Even if you are formally called up to do alternative service is the way to the alternative service fairly civilian. Those about to be called up get two months notice to look for a place for alternative service. This is necessary because social institutions are not willing to take up everybody, but only those who they considered suited for the requirements. Almost all people legible to do alternative service follow this request and all the public authorities have to do is to set up the

106) See attachment 3.

107) No one is currently in a German prison because he refused to empty a waste paper basket, though.

call-up papers according to the arrangement between the individual and the institution.

Most people required to do alternative service don't wait for the call-up letter, but go looking for an available place and afterwards ask to be called up. Today we have the somewhat absurd situation of a government unable to pay all those wishing to do alternative service. Most have volunteered to be put on a waiting list in order to get a call-up for alternative service as soon as possible. In the call-up letter you can read legally correct: If you don't follow this call-up, you can be sentenced to up to five years in prison.

Nowadays the army learns from the alternative service. At the conscription authorities the people called up can state where and when they want to do national service. Here, too, the authorities have come to the conclusion that the content soldier is the better soldier.

In addition to the alternative service there are also other service which lead to an exemption from the alternative service.

There is the so-called Other Service Abroad, which is of substantial interest for young Germans. Organisations with a German headquarter can send them to a partner organisation abroad and work there in social institutions, peace or civil rights initiatives, work with homeless people or disadvantaged children. Some Germans doing alternative service are here in Seoul. They work in social projects helping children with school problems or in Christian peace organisations. Around the world there are about a thousand places like that, but roughly 10,000 young men are interested.

Another possibility to do alternative service has a special historical background. Jehovah's Witnesses were persecuted and killed under Hitler. Many of them were interned in death camps. In the mid-sixties the world was looking at Germany because Jehovah's Witnesses were imprisoned in the new Germany once more. Foreign civil rights organisations wrote to the German government. Foreign governments asked questions in international talks. Far more than one thousand Jehovah's Witnesses were imprisoned because they refused to do military or alternative service because of their religious belief. One of the most important jurists in post-war Germany, Adolf Arndt, explained in 1968 at the German jurists congress: The punishment of Jehovah's Witnesses who believe it is their conscientious duty to refuse doing alternative surrogate service is a dark shadow on our administration of criminal justice. It is an indicator that these punishments are

marked by their emotions and the moralising explanations.¹⁰⁸⁾

Adolf Arndt was certainly thinking of decisions like that of the Braunschweig district court, which read as follows: A fundamental philosophy which doesn't approve of these purposes (the tasks of the surrogate service, P.T.) has to be described as hostile to the state, antisocial and unchristian. One gets the impression that these kinds of view are directed unnoticed by the members of this sect in order to cause trouble.¹⁰⁹⁾ This had obviously nothing to do with constitutional criminal justice. That critical people abroad were reminded of the language of National Socialist administration of justice is only too understandable. Their protests against the conditions in Germany were badly needed then.

Gustav Heinemann, then (1966-1969) the minister of justice and later (1969-1974) the German President, supported a new interpretation and regulation that allowed Jehovah's Witnesses to live unpunished in Germany. Whoever sees himself unable of doing alternative service as a surrogate service because of his conscience, is exempted from it if he, after being recognised as a conscientious objector, works as a normal employee in a hospital for a one year longer time than the alternative service would take. In 1969, this introduced a solution that brought a little more freedom of belief and conscience to Germany.

Those working in civil defence or disaster control of Germany, policemen or those working for at least two years in the voluntary service overseas are also exempted from military or alternative service.

By now more than one and a half million German men have done alternative service in social institutions. One and a half million men have had the courage to enter an area that was traditionally reserved for women. As far as I know there hasn't been an empirical study how this affects society. It is self-explanatory that his can't be without consequences.

With the help of alternative service some innovations could be started in social services in the Federal Republic of Germany. That it is not necessary to have alternative service bringing innovations on their way is illustrated by a view to Germany's neighbours where due to the absence of national service there is no alternative service. People doing alternative service form 5 % of the personnel in

108) Quoted from Harrer/Haberland, Zivildienstgesetz, Kommentar zu 15a (Seite 172), Leverkusen 1992

109) From a verdict of the district court Braunschweig from 8.10.1962, quoted in: Heinrich Hannover, Die Republik von Gericht 1954-1974 Erinnerungen eines unbequemen Rechtsanwalts, Aufbau-Verlag Berlin, 1998, Seite 144.

the social sector. A sudden cessation of the alternative service would be noticeable, but would certainly not endanger any social service. This means that whatever some may claim we don't have to stick to national service because of the alternative service. After 2005 national service in Germany will come under scrutiny according to government plans. I am sure that it will not survive that scrutiny. Alternative service as well as national service in Germany will only be a topic of history books then.

Postscript

I conscientiously objected in 1973 and did my alternative service in 1975/76. The arbitrariness of the examiners is something I experienced myself. First my human right of refusing to serve in the armed forces was not granted to me and later as arbitrarily suddenly given. We were then seen demoscopically only a small part of society, exactly 5.9 % of my year. Often I was advised to go to the other side, you traitor to your country. The other side, that was the GDR, the other Germany, the Communists. A few weeks ago I was surprised with a little celebration because of my 25 years working for our Centrals Office for Conscientious Objectors. At this ceremony were present the head of the military administration in Bremen, the German representative for alternative service and the German minister in charge of alternative service. Times have really changed.

From 1985 onwards I have occasionally followed the request to go to the other side, as a visitor. Of course there were conscientious objectors in the GDR like in every other state in the world. We met and made plans how to improve the situation of conscientious objectors in the GDR. After the unification of the two German states I had a chance to look at the files the Eastern German secret service had written about our meetings. Tenor: Go to the other side, you traitors to your country. The other side was in this case the FRG, the capitalists. Militaries and secret services are struggling with people who don't follow their logic.

Those conscientious objectors that we met in the GDR during the Cold War formed an important part of the peaceful revolution that led to Germany's unification in 1990. Later some of them became members of parliament, ministers or prime ministers of a Federal German state.

Attachment 1

Recommendation No. R (87) 8 of the Committee of Ministers to member states regarding conscientious objection to compulsory service

(Adopted by the Committee of Ministers on 9 April 1987 at the 406th meeting of the Ministers Deputies)

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe, Considering that the aim of the Council of Europe is to achieve a greater unity between its members;

Recalling that respect for human rights and fundamental freedoms is the common heritage of member states of the Council of Europe, as is borne out, in particular, by the European Convention on Human Rights;

Considering that it is desirable to take common action for the further realisation of human rights and fundamental freedoms;

Noting that in the majority of member states of the Council of Europe military service is a basic obligation of citizens;

Considering the problems raised by conscientious objection to compulsory military service;

Wishing that conscientious objection to compulsory military service be recognised in all the member states of the Council of Europe and governed by common principles;

Noting that, in some member states where conscientious objection to compulsory military service is not yet recognised, specific measures have been taken with a view to improving the situation of the individuals concerned,

Recommends that the governments of member states, insofar as they have not already done so, bring their national law and practice into line with the following principles and rules:

A. Basic principle

1. Anyone liable to conscription for military service who, for compelling reasons of conscience, refuses to be involved in the use of arms, shall have the right to be released from the obligation to perform such service, on the conditions set out hereafter. Such persons may be liable to perform alternative service;

B. Procedure

2. States may lay down a suitable procedure for the examination of applications for conscientious objector status or accept a declaration giving reasons by the person concerned;

3. With a view to the effective application of the principles and rules of this recommendation, persons liable to conscription shall be informed in advance of their rights. For this purpose, the state shall provide them with all relevant information directly or allow private organisations concerned to furnish that information;

4. Applications for conscientious objector status shall be made in ways and within time-limits to be determined having due regard to the requirement that the procedure for the examination of an application should, as a rule, be completed before the individual concerned is actually enlisted in the forces;

5. The examination of applications shall include all the necessary guarantees for a fair procedure;

6. An applicant shall have the right to appeal against the decision at first instance;

7. The appeal authority shall be separate from the military administration and composed so as to ensure its independence;

8. The law may also provide for the possibility of applying for and obtaining conscientious objector status in cases where the requisite conditions for conscientious objection appear during military service or periods of military training after initial service;

C. Alternative Service

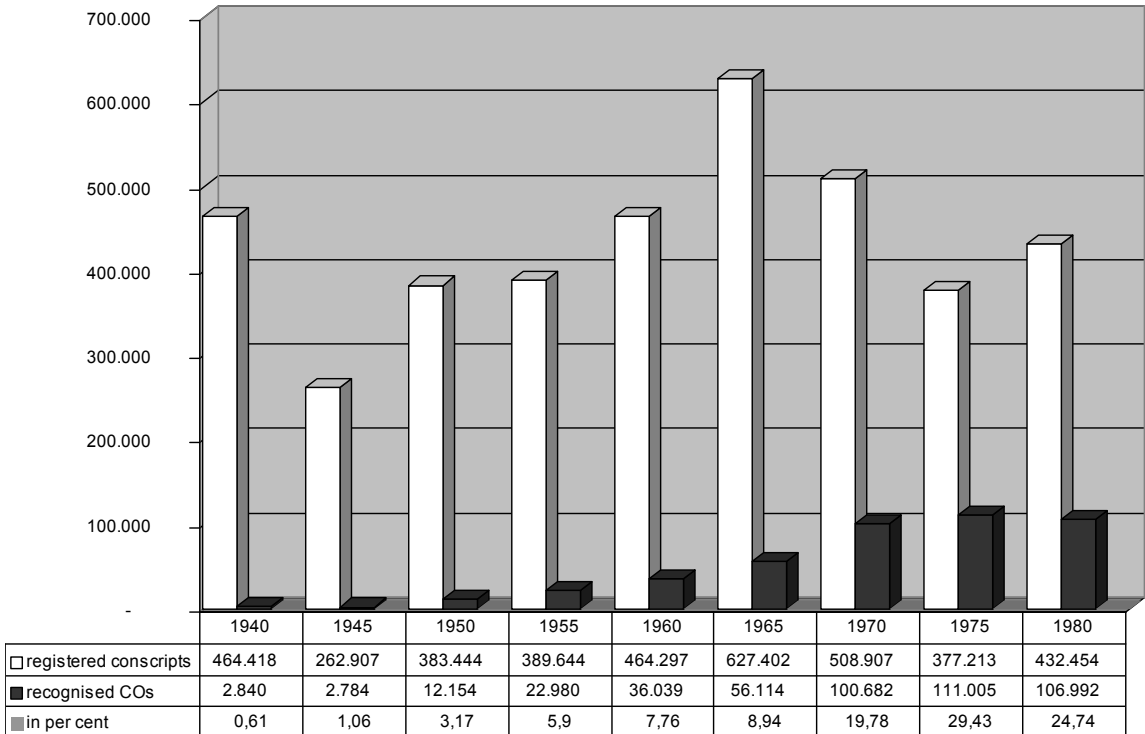
9. Alternative service, if any, shall be in principle civilian and in the public interest. Nevertheless, in addition to civilian service, the state may also provide for unarmed military service, assigning to it only those conscientious objectors whose objections are restricted to the personal use of arms;

10. Alternative service shall not be of a punitive nature. Its duration shall, in comparison to that of military service, remain within reasonable limits;

11. Conscientious objectors performing alternative service shall not have less social and financial rights than persons performing military service. Legislative provisions or regulations which relate to the taking into account of military service for employment, career or pension purposes shall apply to alternative service.

Attachment 2

Conscientious objection in Germany (Year of birth 1940 to 1980)



War Resisters' International's work in support of conscientiousobjectors

Conscientious objection

Conscientious objection has always been at the very centre of WRI's policy. WRI's declaration not to support any kind of war is a call to refuse to serve in any military or armed forces, a call to conscientious objection.

War Resisters' International supports all conscientious objectors, whether they are willing to perform a substitute service (in countries where this option exists) or not. War Resisters' International does not judge a person's motives to refuse to kill, and values a person's individual decision not to take part in war and preparation for war as an impor-tant step to end wars.

No to war

WRI will never endorse any kind of war, whether it is waged by a state, by a "liberation army", or under the auspices of the United Nations, even if it is called a "humanitarian military intervention". Wars, however noble the rhetoric, are invariably used to serve some power-political or economic interest. We know where war leads -- to suffering and destruction, to rape and organised crime, to betrayal of values and to new structures of domination.

War Resisters' International's programme *The Right to Refuse to Kill* combines a wide range of activities to support conscientious objectors individually, as well as organised groups and movements for conscientious objection.

Supporting COs in prison: co-alerts

In many countries, prison is still the fate of conscientious objectors. Thousands of COs are still in prison -- in South Korea, Israel, Finland, Spain, and many other countries. Despite many countries having introduced laws on conscientious objection, many COs still face imprisonment, because they either don't fit into the authorities' criteria, or they refuse to perform any alternative service. War Resisters' International supports conscientious objectors who are imprisoned because of their conscientious objection, or face repression by the state or state-like entities.

Co-alerts, sent out by email as soon as the WRI office receives information on the imprisonment or trial of a conscientious objector, are a powerful tool to mobilise support and protest. Co-alerts are available by email (send a message to majordomo@wri-irg.org with the text subscribe co-alert in the body of the message) or on the internet at wri-irg.org/cgi/news.cgi.

Supporting COs on the run: CO Asylum

Conscientious objectors often have to leave their country in order to flee from prosecution and imprisonment. However, conscientious objection is rarely accepted as a reason for asylum, and COs soon find themselves in danger of being deported back to their home country -- into the very situation that made them leave. War Resisters' International demands the recognition of conscientious objection as a reason for asylum. War Resisters' International supports asylum seekers in their asylum claim through providing information on military service and the punishment for draft evasion and conscientious objection.

CONCODOC

WRI, as part of a coalition of CO support organisations, is hosting CONCODOC (CONscription and Conscientious Objection DOcumentation Centre), a worldwide documentation on the situation of conscription and conscientious objection. It is the only one of its kind in the world. You can register for online viewing of all 180 CONCODOC country reports at wri-irg.org/co/form.htm; some reports are also available in Spanish.

Supporting CO movements & international campaigns

All over the world new movements for conscientious objection are emerging. War Resisters' International sees support to new CO movements -- solidarity actions, training of CO activists, and the exchange of experience -- as one of its most important tasks. During the 1990s these activities focussed on support to the CO movement in Turkey (especially during the imprisonment of Osman Murat Öke), and on the Balkans. These struggles are not over yet, but new CO movements are

emerging in South East Asia, Latin America, Israel, and in Africa. All these CO movements need international support. War Resisters' International coordinates two international days of action, which both focus on support to peace activists and conscientious objectors.

15 May - International Conscientious Objectors' Day

15 May was first celebrated as a day of action in 1982. The day focusses on the struggle for the right to conscientious objection, and WRI usually highlights one particular struggle each year, while at the same time remembering those who served this cause in the past.

1 December - Prisoners for Peace Day

Prisoners for Peace Day is a way to support those imprisoned for their stand against war and war preparations, by sending greeting cards to prisoners, and raising public awareness of prisoners for peace. Prisoners for Peace Day was introduced in the 1950s, but its roots go back to the 1920s, when WRI called for sending Christmas greetings to prisoners.

Introduction to the American Friends Service Committee and the East Asia Quaker International Affairs Program

The American Friends Service Committee, an independent Quaker organization, was founded in 1917 to provide conscientious objectors with an opportunity to aid civilian victims during World War I. Today it carries on programs of service, development, social justice, and peace education in 22 foreign countries and 43 places in the United States. Through the years, the work has attracted the support and partnership of people of many religions, races, and cultures.

A belief in the worth of all people under-girds AFSC program work in communities of great racial and cultural diversity in the United States communities that carry the burdens of poverty and powerlessness. AFSC supports the rights of immigrants, undocumented workers, small farmers, farm-workers, and refugees. It advocates on behalf of people who are hungry, poorly housed, homeless, or unemployed. It has programs on Indian reservations, in high schools, in rural areas such as Appalachia and northern New Mexico, in crowded cities, in prisons, and in factories along the Mexico-U.S. border.

In AFSCs overseas programs, staff members have fed and healed victims of war and repression without regard to their politics. In 1947, the AFSC and Friends Service of Britain together received the Nobel Peace Prize for their silent help from the nameless to the nameless. . . . on behalf of Quakers worldwide.

Today in Central and South American, the Caribbean, Indochina, Africa, and the Middle East, AFSC workers conduct social and technical assistance projects designed to enable people to develop their own power and resources.

Quaker International Affairs Representatives (QIARs), active in many troubled regions of the world, promote peace, justice, and reconciliation. They bring about

opportunities for understanding and communication among people who can effect change at grassroots, national, and international levels.

The goal of the East Asia Quaker International Affairs Program is to help support the creation of a community of neighbors in East Asia. Such a community would be characterized by reconciliation on the Korean peninsula, the resolution of disputes in the region through dialogue and regional security structures, and broadly beneficial and sustainable economic development.

Since 1994, the East Asia QIARs have worked toward this goal by promoting exchange among civil society organizations from around the region. They have sponsored conferences on arms trade and security issues; they have brought scholars and activists together in Beijing to discuss peace education; they have fostered cooperation between South Korean and Chinese environmental groups. In cooperation with South Korean NGOs they have organized a year and a half long train-the-trainers program on conflict resolution methods.

Heightened tension between China and the U.S. in the last several years has led the QIARs to increase their contact with Chinese organizations and institutions, and to address the US government plan to develop missile defense systems. The QIARs continue to seek ways to broaden and deepen the dialogue between the DPRK and the United States by bringing delegations back and forth. They travel widely throughout the region and share their analysis and experiences with U.S. audiences through speaking tours and in writing.

In its programs for peace and nonmilitary solutions to conflict, AFSC reflects the Quaker conviction that all life that of the oppressed and the oppressor is sacred. In more than twenty locations throughout the United States, AFSC staff members work to build informed public resistance to war and militarism and support for peaceful U.S. policies. They hold international exchanges with opinion makers from the United States and other countries to discern issues that cause conflicts.

The AFSC office in Washington, D.C., brings this broad range of experience to bear shaping perspectives of policy makers and press in the nations capital. The

Quaker United Nations Office in New York City represents Friends commitment to principle of the world as one community.

The AFSC is organized as a not-for profit corporation, with a governing body consisting of 180 Quakers from 23 yearly meetings (regional church bodies) of the North American Quakers. The AFSC maintains its international headquarters in Philadelphia and regional offices in eight states. The AFSC Board of Directors, drawn from the membership of its Corporation, governs the policies, programs, and administration of the AFSC. Numerous committees oversee AFSCs operations and consult with more than 400 women and men who make up the staff. Hundreds of volunteers assist in the work; thousands of contributors support it. The annual budget of the AFSC is about 33.8 million dollars.

Quakers place the authority of conscience, individual religious experience, and communal truth-seeking above the authority of creeds or traditions. The AFSC is rooted in the spiritual tradition of the Religious Society of Friends, directed by the Quaker board, and staffed by Quakers and others who believe in AFSCs mission. With these underpinnings, the AFSC gives contemporary meaning to the call of George Fox, the seventeenth century founder of Quakerism, who urged Friends to be patterns, be examples in all countries, places, islands, nations, wherever you come; that your life may preach among all. . . ; then you will come to walk cheerfully over the world, answering that of God in everyone. . . .

The AFSC holds in tenderness the dignity and promise of every individual. It emphasizes people rather than structures or ideologies. Because of its grounding in the Quaker belief that there is that of God in each person, it denies that violence can ever be right.

The New Profile Movement

The Movement to Civil-ize Israel

New Profile is a young but visible organization, the outgrowth of the belief that there is a need to question the influence of deep rooted militarism on Israeli society. The movement, comprising feminist women, men and youth, is grassroots and voluntary. Our name, New Profile, reflects the long-range aim of our organization: to change the Profile of Israeli society from a militarized society of war and might, to an actively peacemaking community in which the rights of all people are respected and promoted equally, and the military occupation of others lands ends.

We are convinced that we need not live in a soldiers' state.

We believe that Israel is capable of a determined peace politics; It need not be a militarized society.

We are convinced that we ourselves, our children, our partners, need not go on being endlessly mobilized, need not go on living as warriors.

We understand that the state of war in Israel is maintained by decisions made by our politicians.

We will not go on enabling them by obediently, uncritically supplying soldiers to the military which implements them.

We will not go on being mobilized, raising children for mobilization, supporting mobilized partners, brothers, fathers, while those in charge of the country go on deploying the army easily, rather than building other solutions.

It is hard to express this type of opinion in Israel today. In a soldiers' state there are equal and less equal citizens: the social ladder is topped by those who fight. And those are unfailingly men. In addition, in Israel, they are Jewish men. As warriors, they are held to have privileged knowledge, giving them precedence in decision making.

Attitudes casting doubts on "security" related decisions, questioning the state's enormous military budgets, or its ongoing policies of military confrontation, are branded "naive," "hysterical," "ignorant." An attitude that dares question the fundamental principle of willing enlistment, is almost incomprehensible in a

soldiers' state. It is rejected as illegitimate.

Our position – the "ignorant" one – is free of the mindsets responsible for perpetuating war in Israel for decades. It is a position prioritizing life and the protection of life. It condones painful compromises in the interests of preserving life.

We oppose the use of military means to enforce Israeli sovereignty beyond the Green Line.

We oppose the use of the army, police, security forces in the ongoing oppression and discrimination of the Palestinian citizens of Israel, while demolishing their homes, denying them building and development rights, using violence to disperse their demonstrations.

Given the widespread opposition to the kind of roles assigned the Israeli army for many years, thousands of young women and men are currently avoiding conscription or avoiding combat duty. They feel unable to identify with the implications and meaning of military service in Israel today. Faced with no legal option for conscientious objection, a discharge on grounds of unfitness or poor health is virtually their only way out.

To date, Israeli law does not acknowledge men's basic human right to conscientious objection. We regard Israeli conscription law as discriminatory and non-democratic, and call for the recognition of the basic right of every person, men included, to act in accordance with their conscience. Young women too undergo difficult, degrading interrogations by the military Exemption Committee.

Acting on one's conscience is the fundamental right of every man and woman.

We call for the recognition of men and women's right to express their social commitment by means of alternative civic service, conducted through a broad array of community services including work with non-governmental, voluntary organizations.

For our part, we refuse to go on raising our children to see enlistment as a supreme and overriding value. We want a fundamentally changed education system, for a truly democratic civic education, teaching the practice of peace and conflict resolution, rather than training children to enlist and accept warfare.

what we do

New Profile has no elected board. All participation in activities is voluntary, including that of the Treasurer, the sole titled responsibility. Other positions and

all committee work are structured around non-hierarchic pairs or groups.

There are no membership fees. Members donate what they can when they can. A team works on fundraising, assisted by other members who create connections and gather information.

General meetings are held once a month on a regular basis. Their location rotates among the members, each meeting being held in the home of a different member. Members also rotate taking down minutes that are later typed out and circulated by e-mail. Such rotation is one practical means of sharing power and decentralizing authority.

To forward our aims, we engage in the following projects.

1. Rethinking Conscription: Working to provide a support system to those who resist induction into the army, whether based on political, religious or moral belief.
2. Advocacy for Demilitarization: disseminating information about the effects of militarism, to firmly place new perspectives on the public agenda and to influence prevalent views about the relation between Israeli society and the military. Putting an emphasis on non-violent, demilitarized education.
3. Study Groups and Adult Curriculum Development: Creating a network of Feminist Study Groups.
4. Partnership in the Womens Coalition for a Just Peace: Partaking in Affirmative Action in Protest to the Hostile Aggression of the Israeli Military Forces and the Israeli Police Force.

Contact Information:

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www.newsprofile.org

newsprofile@speedy.co.il

Donations can be sent to:

HaPoalim Bank, account no. 421121, Branch 769, Trumpeldor St., Ramat Hasharon, Israel – Thank you

Antimilitaristic Manufacture

Some personal info:

Born on October 23 1975.

Studied at the College of Informatics in Novi Sad and the Anthropology Department at the Faculty of Philosophy of the University of Belgrade.

So far I have worked as a co-editor and main editor of the only anti-militaristic newsletter in the region called "Prigovor!" (Objection!). "Prigovor!" was officially published by Women in Black from Belgrade. So far we published 10 issues.

As a Women in Black's CO group activist I have participated and co-organized in many activities concerning Conscientious Objection: collecting 30.000 signatures for Legislative Initiative for recognition of CO, made and maintained our web page at www.antimilitarizam.org, took part in all street actions, made leaflets, brochures and other materials.

Since November 2001 till December 2002 I was the coordinator of the Yugoslav Network of NGOs for Conscientious Objection. During this time I have organized and attended numerous street actions, round tables, press conferences and seminars (in FR Yugoslavia and abroad). In September 2002 I was called-up for the military service, but I have objected it refusing to take uniform and weapons. This was the first time that someone made his objection on strictly political bases, so WRI, Amnesty International, EBCO and some other organizations made a (successful) campaign for my release from the barracks that resulted in Supreme Military Medical Commission's decision that I don't fit for military service, so I was released. Since December 2002 I am working as a coordinator of the project called "Strategic Plan to Develop CO in South-East European Countries" organized by several peace groups from Barcelona, like European Bureau for Conscientious Objection (EBCO), RAI, Balkans Ayuda Obrera... For purpose of this project we have founded an EBCO branch here in Belgrade called "EBCO Balkan".

Some info on the organization:

The organization I represent is called 'Antimilitaristic Manufacture'. We were

working as an informal CO group for more than a 2 years within the national Network of NGOs for Conscientious Objection, until we have registered in June 2002 as an organization for promotion of anti-militarist and pacifist ideas.

'Manufacture' is mainly focused on publishing the materials (books, brochures, CDs of musicians who supported our ideas, printing posters, flyers, stickers, maintain the web page in Serbo-Croatian www.anitimilitarizam.org, etc.). So far we were just translating foreign resources, but our intention is to encourage domestic authors to publish their work on issue of anti-militarism and pacifism.

The group is a part and one of the founders of Regional Network for Conscientious Objection "Objection for Peace", founded together with "Zasto Ne?" from Bosnia, "AntiWar Campaign" from Croatia and "Peace Action" from Macedonia.

Peter Tobiassen & Central Office for the Rights and the Protection of Conscientious Objectors

The German Zentralstelle fuer Recht und Schutz der Kriegsdienstverweigerer aus Gewissensgruenden e.V. (Central Office for the Rights and the Protection of Conscientious Objectors) was founded in 1957, right after national service had been reintroduced in Germany. It is a common institution of 26 organisations going together in order to protect conscientious objectors. Its members are human rights organisations, youth organisations of several churches, trade unions and parties, the organisations of conscientious objectors and peace groups.

The Central Office works in two important fields. It is the organisation to turn to for all people seeking advice and help with the process of being recognised as conscientious objectors, and it is a lobby organisation with the parliament and the government. It supports the abolishment of discriminating regulations introduced by the parliament, the government and the authorities. The Central Office already laid down when it was founded that it would not do propaganda for conscientious objection. It takes action when someone who has already decided to be a conscientious objector turns to it.

The Central Office supports the abolishment of national service. The right to conscientious objection is protected best when people aren't forced to serve with a gun in their hand.

The work of the Central Office is financed through membership fees (10%), donations (50%), selling of material (30%) and other takings (10%). In the office itself there work 3 people. The board of the organisation works on an honorary basis. Every year about 10,000 people are advised.

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