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COMMISSION ON HUMAN RIGHTS
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Agenda item 15

THE ROLE OF YOUTH IN THE PROMOTION AND PROTECTION OF HUMAN RIGHTS INCLUDING
THE QUESTION OF CONSCIENTIOUS OBJECTIONS TO MILITARY SERVICE

Austria, Costa Rica, France, Italy, Netherlands*, Spain* and United Kingdom
of Great Britain and Northern Ireland: draft resolution

Conscientious objection to military service

The Commission on Human Rights,

Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms and to fulfil the obligations they have undertaken under the various international human rights instruments,

Mindful of articles 3 and 18 of the Universal Declaration of Human Rights, which proclaim the right to life, liberty and security of person and the right to freedom and thought, conscience and religion,

Bearing in mind that the International Covenant on Civil and Political Rights recognizes that everyone has the right to freedom of thought, conscience and religion,

* In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

Bearing in mind also General Assembly resolutions 34/151 of 17 December 1979, which designated 1985 as International Youth Year: Participation, Development, Peace, and 2037 (XX) of 7 December 1965, which states that young people shall be brought up with an understanding, and in the spirit, of peace, justice and respect for all persons, and 2447 (XXIII) of 19 December 1968,

Recalling its resolution 40 (XXXVII) of 12 March 1981, in which it pointed to the need for a better understanding of the circumstances under which military service might be objected to on the grounds of conscience,

Noting the important role of youth in the promotion of international peace and co-operation as well as of human rights and fundamental freedoms,

Recalling General Assembly resolution 33/165 of 20 December 1978, in which the Assembly recognized 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,

Expressing its conviction that consistent and sincere efforts on the part of all States aimed at the definitive removal of the threat of war, the preservation of international peace, the realization of self-determination and the development of international co-operation in accordance with the Charter of the United Nations, would ultimately result in the creation of conditions under which military service would become unnecessary,

Taking into consideration its resolution 1984/33 of 12 March 1984 and Economic and Social Council resolution 1984/27 of 24 May 1984 by which it was decided to give the widest possible distribution to the report prepared by Mr. Eide and Mr. Mubanga-Chipoya (E/CN.4/Sub.2/1983/30), with a view to receiving comments from governments, relevant United Nations bodies and specialized agencies, other intergovernmental organizations and non-governmental organizations,

Taking note of the comprehensive report submitted by Mr. Eide and Mr. Mubanga-Chipoya on the question of conscientious objection to military service containing conclusions and recommendations,

Taking note also of the replies of governments and international organizations to the Secretary-General's request for comments and observations (E/CN.4/1985/25 and Add.1-4),

NB

Having carefully considered the Sub-Commission's report on the question of conscientious objection to military service (E/CN.4/Sub.2/1983/30), which reflects the relevant international norms and standards embodied in various human rights instruments and describes State practice concerning voluntary or compulsory performance of military service,

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

1. Appeals to States to recognise that conscientious objection to military service 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;

2. Invites States to take measures aimed at exemption from military service on the basis of a genuinely held conscientious objection to armed service;

3. Recommends to States with a system of compulsory military service, where such provision has not already been made, that they consider introducing various forms of alternative service for conscientious objectors 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;

4. Recommends to Member States, if they have not already done so, that they establish within the framework of their national legal system impartial decision-making procedures to determine whether a conscientious objection is valid in any specific case;

5. Requests the Secretary-General to report to the Commission at its forty-fifth session on the question of conscientious objection to military service, taking into account comments provided by governments and further information received by him;

6. Decides to consider this matter further at its forty-fifth 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".

COMMISSION ON HUMAN RIGHTS (1987) 43rd SESSION.

MEMBERS:	YES	NO	ABST.
ALGERIA			✓
ARGENTINA	✓		
AUSTRALIA	✓		
AUSTRIA	✓		
BANGLADESH	✓		
BELGIUM	✓		
BRAZIL	✓		
BULGARIA			✓
BYELORUSSIAN SSR			✓
CHINA			✓
COLOMBIA	✓		
CONGO			✓
COSTA RICA	✓		
CYPRUS			✓
ETHIOPIA			✓
FRANCE	✓		
GAMBIA	✓		
GERMAN DEMOCRATIC REPUBLIC			✓
GERMANY, FEDERAL REPUBLIC OF	✓		
INDIA			✓
IRAQ		✓	
IRELAND	✓		
ITALY	✓		
JAPAN	✓		
LESOTHO			
LIBERIA	✓		
MEXICO			✓
MOZAMBIQUE		✓	
NICARAGUA			✓
NORWAY	✓		
PAKISTAN	✓		
PERU	✓		
PHILIPPINES	✓		
RWANDA	✓		
SENEGAL	✓		
SOMALIA	✓		
SRI LANKA	✓		
TOGO	✓		
UNION OF SOVIET SOCIALIST REPUBLICS			✓
UNITED KINGDOM	✓		
UNITED STATES OF AMERICA	✓		
VENEZUELA			✓
YUGOSLAVIA			✓
TOTAL	26	2	14

ABSENT

AGENDA ITEM: 15 VOTE ON: Conscientious Objection to
DOCUMENT NO.: E/CN.4/1987/L.73 - Military Service

U.N. Commission Passes Landmark Resolution on 'C.O.'

A landmark resolution on conscientious objection was passed March 10, 1987 by the United Nations Commission on Human Rights. The resolution, entitled *The Role of Youth in the Promotion and Protection of Human Rights Including the Question of Conscientious Objections to Military Service*, is the first ever in support of conscientious objection by a United Nations body.

The historic statement takes its support from previously established international principles contained in the Universal Declaration of Human Rights (Articles 3 & 18). The March 10 resolution was cosponsored by Austria, Italy, Costa Rica, France, the Netherlands, Spain, and the United Kingdom.

The United States, in an apparent turnaround, voted for the CO resolution. The Soviet Union abstained.

In its concluding paragraphs the resolution:

- "Appeals to States to recognize that conscientious objection to service be considered a legitimate exercise of the right to freedom of thought, conscience, and religion recognized by the Universal Declaration of Human Rights and International Covenant on Civil and Political Rights."
- "Invites States to take measures aimed at exemption from military service on the basis of genuinely held conscientious objection to armed service."
- "Recommends to States with a system of compulsory military service . . . that they consider introducing various forms of alternative service for conscientious objectors

which are compatible with the reasons for conscientious objection . . . and that they refrain from subjecting such persons to imprisonment."

Conscientious objection to war and military service has been an issue for the United Nations and its predecessor, the League of Nations, for some sixty years. In the 1978 session of the U.N. General Assembly there was a partial recognition of the right when a resolution was passed asking governments to recognize as genuine political refugees men who refuse to serve in the South African police and army due to their objection to apartheid.

In recent years there have been important advances in the recognition of the right of conscientious objection by many member states of the U.N. and the list of countries having or considering legislation to protect

conscientious objectors continues to grow. However hundreds of young people are sentenced to prison each year because of their principled objection to the taking of human life. In some cases objectors are resented upon release if their refusal to take up arms continues.

As the first universal resolution concerning conscientious objection to be passed by the United Nations, the resolution marks a significant step in recognition of the role of conscience in an individual's relation to the state.

A full report on the consideration of conscientious objection by the 43rd session of the Commission on Human Rights (1987) and a legal brief on its implications for COs are available from the *Quaker United Nations Office—Geneva, Quaker House, Avenue du Mervelet 13, 1209 GENEVE Suisse.* ■



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"THE REPORTER FOR CONSCIENCE SAKE"

APPENDIX HRESOLUTION of the EUROPEAN PARLIAMENT
on CONSCIENTIOUS OBJECTION

Adopted: 7 February 1983

Vote: 112 in favour, 15 against, 35 abstained

The European Parliament,

- having regard to Article 9 of the European Convention on Human Rights which guarantees the right to freedom of thought, conscience, and religion,
 - having regard to Resolution 337 (1967) and Recommendation 816 (1977) of the Consultative Assembly of the Council of Europe on the right to conscientious objection,
 - having regard to the laws of the Member States of the European Community concerning the right to conscientious objection,
 - having regard to the case law of the Court of Justice of the European Communities and the Joint Declaration of the Parliament, Council and Commission^o in which these institutions stressed the prime importance they attach to the protection of fundamental rights as derived in particular from the European Human Rights Convention,
 - having regard to motions for resolutions Doc. 1-796/80, Doc. 1-803/79 and Doc. 1-244/80,
 - having regard to Petitions Nos 14/80, 19/80, 26/80 and 42/80,
 - having regard to the report of the Legal Affairs Committee and the opinion of the Political Affairs Committee (Doc. 1-546/82),
1. Recalls that the right to freedom of thought, conscience and religion is a fundamental right;
 2. Notes that protection of freedom of conscience implies the right to refuse to carry out armed military service and to withdraw from such a service on grounds of conscience;
 3. Points out that no court or commission can penetrate the conscience of an individual and that a declaration setting out the individual's motives must therefore suffice in the vast majority of cases to secure the status of conscientious objector;

RESOLUTIONS OF THE COUNCIL OF EUROPE

- I. In 1967, the Parliamentary Assembly of the Council of Europe issued its famous resolution 337, explicitly advocating the recognition of conscientious objectors in the member states:

Persons liable to conscription for military service, who, for reasons of conscience or profound conviction arising from religious, ethical, moral, humanitarian, philosophical or similar motives, refuse to perform armed service, shall enjoy a personal right to be released from the obligation to perform such service.

This right shall be regarded as deriving logically from the fundamental rights of the individual in democratic rule of law states which are guaranteed in Article 9 of the European Convention on Human Rights.

- II. The Council of Europe's Resolution 337 spells out set guidelines which may be regarded as a framework for an "ideal" procedure:

1. Persons liable for military service shall be informed when they are notified of their call-up, or prospective call-up, of the rights they are entitled to exercise.
2. Where the decision regarding the recognition of the right to conscientious objection is taken in the first instance by an administrative authority, the decision-making body shall be entirely separate from the military authorities and its composition shall guarantee maximum independence and impartiality.
3. Where the decision regarding the recognition of conscientious objection is taken in the first instance by an administrative authority, its decision shall be subject to control by at least one other administrative body composed likewise in the manner above, and subsequently to the control of at least one independent judicial body.
4. The legislative authorities should investigate how the exercise of the rights claimed can be made more effective by ensuring that objections and judicial appeals have the effect of suspending the armed service call-up order until the decision regarding the claim has been rendered.
5. Applicants should be granted a hearing and should also be entitled to be represented and to call relevant witnesses.

- III. The Council of Europe (Document 4027, draft recommendation of the Legal Affairs Committee, parliamentary Assembly, October 1977) offers a set of guidelines indicating a fair process for handling alternative service for recognised objectors:

1. the period to be served in alternative work shall be at least as long as the period of normal military service.
2. the social and financial equality of recognised objectors shall be guaranteed.
3. the governments concerned shall ensure that conscientious objectors are employed in social work or in other work of national importance, having regard to the manifold needs of the developing countries.

4. Stresses that the performance of alternative service as provided for in Resolution No. 337 (1967) of the Consultative Assembly of the Council of Europe may not be regarded as a sanction and must therefore be organized in such a way as to respect the dignity of the person concerned and benefit the community, particularly in the social field and in the field of aid and development cooperation;
5. Considers that the duration of such alternative service when carried out within a civil administration or organization should not exceed the period of normal military service including military exercises following the period of basic military training;
6. Emphasizes the need to approximate the legislation of the Member States of the Community governing the right to conscientious objection, the status of conscientious objector, the procedure to be applied and the alternative forms of service;
7. Stresses the need for the procedure to be designed in such a way that they involve no additional waiting period and administrative complications as it is often the case at present;
8. Calls on the governments and parliaments of the Member States of the Community to examine their respective legislation in this field;
9. Supports efforts to include a right of conscientious objection in the Convention on Human Rights;
10. Instructs its President to forward this resolution to the Commission, the governments and parliaments of the Member States, and the Parliamentary Assembly of the Council of Europe.

° : OJ No. C 103, 27.4.1977, p.1

P.S. Copies of this Resolution are available in English, French, German, Italian, Danish, Greek and Dutch.

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