



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/2006/NGO/125
1 March 2006

ENGLISH ONLY

COMMISSION ON HUMAN RIGHTS
Sixty-second session
Item 11 (g) of the provisional agenda

**CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF:
CONSCIENTIOUS OBJECTION TO MILITARY SERVICE**

**Written statement* submitted by Friends World Committee for Consultation (Quakers), a
non-governmental organization in general consultative**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[13 February 2006]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

Friends World Committee for Consultation (Quakers) welcomes the “Analytical report of the Office of the High Commissioner for Human Rights on best practices in relation to conscientious objection to military service” (E/CN.4/2006/51). This report provides a careful thematic analysis of the situation with regard to the provisions of the resolutions of the UN Commission on Human Rights, in particular resolution 1998/77, and contains many useful and interesting proposals which we encourage States to consider.

FWCC also welcomes the consistent attention to the right of conscientious objection to military service by the Human Rights Committee in their consideration of the reports of States parties to the International Covenant on Civil and Political Rights. The Quaker UN Office’s review of their Concluding Observations shows that in recent years they have recommended to States from all regions of the world that they provide for, or improve their provision for, conscientious objection to military service.

The Working Group on Arbitrary Detention reiterated, in Opinion No. 24/2003, its earlier Opinion (No. 36/1999) and Recommendation 2 (E/CN.4/2001/14, paras. 91-94), “that if after an initial conviction the convicted persons exhibit, for reasons of conscience, a constant resolve not to obey the subsequent summonses, additional penalties imposed for disobedience have the same content and purpose: to compel an individual to serve in the army. Therefore, the second and subsequent penalties are not compatible with the principle of *non bis in idem*, as contained in article 14, paragraph 7, of ICCPR, 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 acquitted ...”. Moreover, repeated penalties for refusing to serve in the military would be tantamount to compelling someone to change his/her mind for fear of being deprived of liberty if not for life, then at least until the age at which citizens cease to be liable for military service. 31. In the light of the foregoing, the Working Group expresses the following opinion: The second and subsequent deprivations of liberty ... are contrary to article 14, paragraph 7, of the International Covenant on Civil and Political Rights.”

In its recent judgment, *Ulke v Turkey* (application no. 39437/98), the European Court of Human Rights also addressed this issue of repeated call-up and imprisonment of a conscientious objector where no provision exists for recognition, considering it to be degrading treatment in violation of Article 3 of the European Convention on Human Rights.

A more positive approach was taken by the Government of Bolivia which entered into a friendly settlement under the Inter-American procedure. This friendly settlement not only provides specific remedies for the situation of the individual concerned but also an undertaking by the Government to incorporate the right of conscientious objection to military service in preliminary drafts for the reform of military legislation and promote approval by Congress of military legislation incorporating the right of conscientious objection to military service (*Alfredo Bustos v Bolivia*).

UN Commission on Human Rights resolution 2004/35, adopted without a vote at the 60th session with 38 co-sponsors, appealed to States to grant and effectively implement post-conflict amnesties, in law and practice, to those who have refused military service on grounds of conscience. This builds on earlier resolutions’ recognition of the need for asylum for conscientious objectors who have to leave their country of origin because

conscientious objection is not recognised. However, it is essential that any such amnesty ensures the ability of the conscientious objector to claim their right of conscientious objection (irrespective of the expiry of any normal time limits) and is not required to perform military service on return to his country of origin.

Friends World Committee for Consultation (Quakers) calls on the UN Commission on Human Rights to:

1. Remind all States of its request in Resolution 2004/35 to review their current laws and practices to ensure that they are compatible with the international standards including the Commission's resolutions, taking into account the best practices identified in the Analytical Report of the Office of the UN High Commissioner for Human Rights;
2. Request all the relevant country and thematic Special Procedures of the Commission to give consideration to issues of conscientious objection to military service; and
3. Welcome the Working Group on Arbitrary Detention's reiteration that repeated imprisonment of conscientious objectors is a violation of the principle of *non bis in idem* enshrined in article 14 (7) of the International Covenant on Civil and Political Rights.

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