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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by the Alliance Defense Fund, a non-governmental organization in special consultative status

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

[22 August 2014]

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

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Conscientious Objection

The Alliance is a not-for-profit international legal alliance of more than 2,200 lawyers dedicated to the protection of fundamental human rights. It has been involved in over 500 cases before national and international forums, including the Supreme Courts of the United States of America, Argentina, Honduras, Mexico, Peru, India and the Inter American Court of Human Rights and the European Court of Human Rights. It also has provided expert testimony before several European parliaments, as well as the European Parliament and the United States Congress. It has accreditation with the Economic and Social Council of the UN, as well as the Organization for American States, Organization for Security and Cooperation in Europe and the European Union (the European Union Agency for Fundamental Rights and the European Parliament).

Freedom of conscience is a fundamental human right and is protected in the domestic law of liberal democratic societies as well as in international law. Article 1 of the Universal Declaration of Human Rights 1948 states that “all human beings” are “endowed with reason and conscience” and article 18 holds that, “Everyone has the right to freedom of thought, conscience and religion.” Such declarations soon followed in other international and regional human rights treaties, including article 18 of the International Protocol on Civil and Political Rights, article 9 of the European Convention on Human Rights, and article 10 of the Charter of Fundamental Rights of the European Union.

In recent years the general right to freedom of conscience has been interpreted by numerous international and regional human rights bodies as including a right to conscientious objection from military service.

In General Comment No. 22 the Committee stated that while the ICCPR does not explicitly refer to a right to conscientious objection, “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.” Building on this, the Human Rights Committee has developed its interpretation of conscientious objection in a number of communications under the Optional First Protocol and Concluding Observations of States Parties to the ICCPR. For example, in the communication of *Jong-nam Kim et al v. Republic of Korea* (Communication No. 1786/2008) the Committee reiterated that, “[T]he right to conscientious objection to military service is inherent to the right to freedom of thought, conscience and religion. It entitles any individual to exemption from compulsory military service if the latter cannot be reconciled with the individual’s religion or beliefs.”

Similarly, the European Court of Human Rights held in *Bayatyan v. Armenia* (2012) 54 E.H.R.R. 15 that “opposition to military service, where it is motivated by a serious and insurmountable conflict between the obligation to serve in the army and a person’s conscience or his deeply and genuinely held religious or other beliefs, constitutes a conviction or belief of sufficient cogency, seriousness, cohesion and importance to attract the guarantees of Article 9.” The court went on to hold that “the imposition of a penalty on the applicant, in circumstances where no allowances were made for the exigencies of his conscience and beliefs, could not be considered a measure necessary in a democratic society.”

Beyond the specific circumstance of conscientious objection to military service, the right of conscience has been recognized in many other situations. For example, in some countries Sikhs may conscientiously object to wearing a safety hat on a construction site or a safety helmet when riding a motor cycle, Jews and Muslims benefit from special rules relating to animal slaughter methods, and shop workers may object to working on a Sunday. One area of particular concern at present is the right to conscientious objection from abortion procedures.

In 2010, the Parliamentary Assembly passed Resolution 1763 (2010) on “the right to conscientious objection in lawful medical care”, which states that: “No person, hospital or institution shall be coerced, held liable or discriminated against in any manner because of a refusal to perform, accommodate, assist or submit to an abortion, the performance of a human miscarriage, or euthanasia or any act which could cause the death of a human foetus or embryo, for any reason.”

The resolution reflects the situation in many countries that have already explicitly recognized the right to conscientious objection from abortion procedures. However, this right is increasingly under threat. In recent years more and more medical professionals have been faced with an impossible choice: either perform an action that goes against your deeply held beliefs, or be dismissed from work. The following three cases are representative of an emerging human rights problem in some countries regarding failure to recognize rights of conscientious objection.

In 2012, two highly experienced nurses, Concepta Ward and Mary Teresa Doogan, were told by their employer, a public hospital in Glasgow, Scotland, that they were required to supervise abortion procedures as part of their duties.

In 2013, Högländssjukhuset women's clinic in Sweden rescinded a job offer as a midwife from Ellinor Grimmark after she explained that she could not perform abortions because of her Christian faith. The head of the maternity ward left her a telephone message saying that "she was no longer welcome to work with them" and questioned "whether a person with such views actually can become a midwife." A few months later, Grimmark tried to obtain employment with Ryhovs women's clinic, which told her that a person who refuses to perform abortions does not belong at a women's clinic.

In 2014, Dr. Bogdan Chazan was fined and fired from his position as Director of Obstetrics and Gynecology at the Holy Family Hospital in Warsaw, Poland for refusing to perform an abortion. Since 1998 Dr. Bogdan Chazan served as Department Head of one of Poland's most important hospitals. After refusing to perform the abortion, the Mayor of Warsaw, Hanna Gronkiewicz-Waltz, called for Dr. Chazan's contract with the hospital to be cancelled; disregarding his right to conscientious object to performing the life-ending procedure.

International law explicitly recognizes and elevates the right of conscience as a fundamental human right. Moreover, many international and regional human rights bodies, as well as national courts and legislatures, have interpreted this right to explicitly include conscientious objection from military service. There is now a pressing need for such protections to be applied to the issue of abortion.
