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COMMISSION ON HUMAN RIGHTS  
Sixty-first session  
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**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 status**

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

[3 February 2005]

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\* 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 UN Commission on Human Rights resolution 2004/35 adopted without a vote at the 60<sup>th</sup> session, with 38 co-sponsors. We particularly welcome the resolution's appeal 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.

The right to conscientious objection to military service derives from the right to freedom of thought, conscience and religion which is set out in the Universal Declaration of Human Rights (Article 18) and the International Covenant on Civil and Political Rights (Article 18). It has been spelled out explicitly in resolutions of the UN Commission on Human Rights, in particular resolution 1998/77. The Human Rights Committee has also considered it both in individual cases and as part of the process in considering reports from States Parties to the International Covenant on Civil and Political Rights.

The right to freedom of thought, conscience and religion is an unqualified and non-derogable right under the International Covenant on Civil and Political Rights (ICCPR)<sup>1</sup>. This means that it applies in times of war or public emergency threatening the life of the nation as well as in peacetime. Nor is the manifestation of this right subject to limitations on the grounds of national security, unlike some of the other rights under the Covenant.<sup>2</sup>

Although the question of conscientious objection to military service arises most frequently in the context of conscription, it can arise even when the original decision to join the armed forces was voluntary. Since the right to change one's religion or belief is explicitly recognised in the Universal Declaration of Human Rights (Article 18) and has also been spelled out in the Human Rights Committee's General Comment No. 22, no temporal limit can be placed on becoming a conscientious objector to military service. This means that it must be available to serving soldiers and reservists as well as to new recruits. This is explicitly acknowledged in Commission resolution 1998/77.<sup>3</sup>

Although based on the right to freedom of thought, conscience and religion, conscientious objection is not limited to religious grounds but derives from principles and reasons of conscience, including profound convictions, arising from religious, ethical, moral, humanitarian, philosophical or similar motives<sup>4</sup> and no discrimination is permitted amongst conscientious objectors on the basis of the nature of their particular beliefs.<sup>5</sup>

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<sup>1</sup> International Covenant on Civil and Political Rights Article 4(2): "No derogation from article 6, 7, 8 (paragraphs 1 and 2), 11, 15, 16 and 18 may be made under this provision".

<sup>2</sup> ICCPR, Article 18(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."

<sup>3</sup> UN Commission on Human Rights resolution 1998/77: "Aware that persons performing military service may develop conscientious objections".

<sup>4</sup> UN Commission on Human Rights resolution 1998/77;

<sup>5</sup> Human Rights Committee General Comment 22; UN Commission on Human Rights resolution 1998/77

Recognising the inherent difficulty of judging another person's conscience, UN Commission on Human Rights resolution 1998/77 "Welcomes the fact that some States accept claims of conscientious objection as valid without inquiry".<sup>6</sup> However, if this procedure is not followed, at a minimum the decision-making body to determine whether a conscientious objection is genuinely held in a specific case, is required to be "independent and impartial", irrespective of the stage of military life at which the conscientious objection is invoked.<sup>7</sup>

The nature of the alternative service must be civilian, including under civilian administration, compatible with the reasons for the conscientious objection,<sup>8</sup> in the public interest and not of a punitive nature. No discrimination is permitted between those doing military and those doing alternative civilian service - either at the time or subsequently - in relation to their terms or conditions of service, or any economic, social, cultural, civil or political rights.<sup>9</sup> Any disparity in length between alternative service and military service must be 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 the service". This is now the established test applied by the Human Rights Committee in cases under the International Covenant on Civil and Political Rights.<sup>10</sup>

Finally, Commission resolution 1998/77 calls attention to the importance of informing "all persons affected by military service" about the right to conscientious objection and the means of acquiring conscientious objector status". It is clear that appropriate and timely information is essential so that persons know their rights and how to claim them.

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 these standards;
2. Request all the relevant country and thematic Special Procedures of the Commission to give consideration to issues of conscientious objection to military service.

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<sup>6</sup> UN Commission on Human Rights resolution 1998/77

<sup>7</sup> UN Commission on Human Rights resolution 1998/77; Report submitted by Mr Emmanuel Decaux: Issue of the administration of justice through military tribunals (E/CN.4/Sub.2/2004/7 of 14 June 2004), Principle No. 12

<sup>8</sup> UN Commission on Human Rights resolution 1998/77, although where the objection is only to the personal bearing of arms, a non-combatant service may be an acceptable alternative.

<sup>9</sup> Human Rights Committee General Comment 22; UN Commission on Human Rights resolution 1998/77.

<sup>10</sup> *Foinv France* (666/1995), ICCPR, A/55/40, vol. II (3 November 1999)