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

Conscientious objection to military service

Report of the Office of the United Nations High Commissioner for Human Rights

Summary

In the present report, the Office of the United Nations High Commissioner for Human Rights provides recommendations on legal and policy frameworks to uphold human rights in the context of conscientious objection to military service in accordance with States' obligations under international human rights law and applicable international human rights standards. The Office addresses, in particular, the recognition of the right to conscientious objection to military service in domestic law, the application procedures, genuine alternatives to military service, the promotion of conscientious objection to military service and the processing and recognition of the refugee status of conscientious objectors.



I. Introduction

1. In its resolution 51/6, the Human Rights Council requested the Office of the United Nations High Commissioner for Human Rights (OHCHR) to submit a report with recommendations on legal and policy frameworks to uphold human rights in the context of conscientious objection to military service in accordance with States' obligations under international human rights law and applicable international human rights standards.

2. On 31 October 2023, OHCHR organized a half-day intersessional workshop on conscientious objection to military service on good practices and recent developments in the implementation of the right to conscientious objection to military service in law and in practice to inform the preparation of the present report, as mandated under Human Rights Council resolution 51/6.¹ The intersessional workshop included keynote speeches by the OHCHR Director of Thematic Engagement of the Special Procedures and Right to Development Division and the Permanent Representative of Croatia to the United Nations Office and other international organizations in Geneva. The workshop members included the Special Rapporteur on the freedom of religion or belief, a member of the Human Rights Committee, the Permanent Representative of Colombia to the United Nations Office and other international organizations in Geneva, a former judge of the Constitutional Court of the Republic of Korea and a civil society representative.

3. In the preparation of the present report, OHCHR sought input from States,² national human rights institutions,³ United Nations entities,⁴ international and regional organizations and non-governmental organizations.⁵ The report also draws on a diverse range of public sources, including international and regional instruments, the practice of United Nations human rights mechanisms and reports of regional organizations, civil society, scholars and practitioners.

4. The present report builds on prior reports submitted to the Human Rights Commission and the Human Rights Council on the topic of conscientious objection to military service.⁶ Section II of the report contains details on applicable international human rights law, section III contains legal and policy frameworks to uphold the right to conscientious objection to military service and section IV contains conclusions and recommendations.

II. International human rights law

5. The right to conscientious objection to military service is a component of the right to freedom of thought, conscience and religion, recognized in article 18 of the Universal Declaration of Human Rights and in article 18 (1) of the International Covenant on Civil and Political Rights. As noted by the Human Rights Committee, the right to conscientious objection to military service inheres in the right to freedom of thought, conscience and religion. It entitles any individual to an exemption from compulsory military service if this cannot be reconciled with that individual's religion or beliefs. The right must not be impaired

¹ Information on the event can be found at <https://www.ohchr.org/en/events/events/2023/intersessional-workshop-good-practices-and-recent-developments-implementation>.

² Submissions were received from Cyprus, Ecuador, Mexico, Romania, Serbia, Switzerland and Tunisia.

³ A submission was received from the National Human Rights Commission of Nigeria.

⁴ No submissions were received from United Nations entities.

⁵ Submissions were received from the Association of Reintegration of Crimea, Connection e.V., Conscientious Objection Watch, Conscience and Peace Tax International, the Finnish Union of Conscientious Objectors, the International Center for Civil Initiatives "Our House", Joseph Bonner, Asociación Cristiana Menonita Para Justicia, Paz y Acción Noviolenta (Justapaz), Kanak Verma, Laboratorio de Paz and Provea, Maat for Peace, Development and Human Rights Association, the Observatorio de Militarismo and Acción Colectiva de Objetores y Objetoras de Conciencia, the Syrian Legal Development Programme, the Syrian Network for Human Rights, the Ukrainian Pacifist Movement, World Without War, a joint submission by the Coalition "Appeal to Conscience", the Human Rights Group "Citizen.Army.Right", the Movement of Conscientious Objectors, the Memorial Human Rights Defence Centre and the "Conscript School".

⁶ See [E/CN.4/2004/55](#), [E/CN.4/2006/51](#), [A/HRC/9/24](#), [A/HRC/23/22](#), [A/HRC/35/4](#) and [A/HRC/50/43](#).

by coercion.⁷ This interpretation of the content of the right has been consistently reaffirmed in subsequent case law by the Committee.⁸

6. Under the International Covenant on Civil and Political Rights, the freedom of thought, conscience and religion permits no exception, as opposed to the manifestation of religion or belief, which may be subject to the restrictions provided for in article 18 (3). Moreover, article 4 (2) of the Covenant precludes derogation of the rights set out in article 18. Consequently, the right to conscientious objection to military service as an inherent part of the right to freedom of thought, conscience and religion cannot be impaired, even in a time of public emergency that threatens the life of the nation.⁹

III. Legal and policy frameworks to uphold the right to conscientious objection to military service

7. In the course of the intersessional workshop, participants highlighted the importance of the recognition of the right to conscientious objection to military service in domestic law, establishing adequate domestic procedures for the identification of conscientious objectors and recognition of the status as conscientious objectors to military service, the establishment of genuine alternatives to military service, the introduction of measures to ensure the political and cultural acceptance of conscientious objection to military service and the processing and recognition of the refugee status of conscientious objectors.

A. Recognition of the right in the domestic law of the State

1. Recognition

8. Article 2 (2) of the International Covenant on Civil and Political Rights states that, where not already provided for by existing legislative or other measures, each State party undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the Covenant, to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the Covenant.

9. The Human Rights Committee has repeatedly recommended that States parties to the Covenant adopt laws recognizing the right to conscientious objection to military service.¹⁰ The Committee of Ministers of the Council of Europe has recommended legislative amendments to recognize the right to conscientious objection to military service as a means of addressing violations of the right.¹¹ Speakers and other participants in the course of the

⁷ *Jeong et al. v. Republic of Korea* (CCPR/C/101/D/1642-1741/2007), para. 7.3.

⁸ For example, *Atasoy and Sarkut v. Turkey* (CCPR/C/104/D/1853-1854/2008), para. 10.4; *Jong-nam Kim et al. v. Republic of Korea* (CCPR/C/106/D/1786/2008), para. 7.3; *Young-kwan Kim et al. v. Republic of Korea* (CCPR/C/112/D/2179/2012), para. 7.3; *Abdullayev v. Turkmenistan* (CCPR/C/113/D/2218/2012), para. 7.7; *Hudaybergenov v. Turkmenistan* (CCPR/C/115/D/2221/2012), para. 7.5; *Japparow v. Turkmenistan* (CCPR/C/115/D/2223/2012), para. 7.6; *Aminov v. Turkmenistan* (CCPR/C/117/D/2220/2012), para. 9.7; *Matyakubov v. Turkmenistan* (CCPR/C/117/D/2224/2012), para. 7.7; *Nurjanov v. Turkmenistan* (CCPR/C/117/D/2225/2012 and CCPR/C/117/D/2225/2012/Corr.1), para. 9.3; *Nasyrlayev v. Turkmenistan* (CCPR/C/117/D/2219/2012), para. 8.7; *Uchetov v. Turkmenistan* (CCPR/C/117/D/2226/2012), para. 7.6; and *Petromelidis v. Greece* (CCPR/C/132/D/3065/2017), para. 9.4. This interpretation has also been adopted by the Working Group on Arbitrary Detention (A/HRC/42/39, para. 60).

⁹ International Covenant on Civil and Political Rights, art. 4 (1). See also *Petromelidis v. Greece*, para. 9.3.

¹⁰ For recent instances, see CCPR/C/KWT/CO/4, para. 41 (b); CCPR/C/TKM/CO/3, para. 41; and CCPR/C/EGY/CO/5, para. 44.

¹¹ At its 1468th meeting, on 5–7 June 2023, the Committee of Ministers of the Council of Europe, in charge of supervising the execution of judgments by the European Court of Human Rights, “strongly urged the Turkish authorities to provide an action plan with concrete proposals for legislative amendments to address the Court’s findings” (decision CM/Del/Dec(2023)1468/H46-36; see https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=0900001680ab824a).

intersessional workshop highlighted the importance of having a domestic legal framework that recognizes and protects the right to conscientious objection to military service.

10. Many States have recognized the right to conscientious objection to military service in their domestic laws,¹² although several States have not yet done so.¹³ Among those States that have done so, there is no uniform practice for the manner in which such recognition has been expressed.¹⁴ For example, States have regulated conscientious objection to military service in constitutional law, in other laws or both.¹⁵

11. Due to a constitution's hierarchically superior status in most jurisdictions, granting protection of the right in constitutional law could protect against restrictions of the right in subordinate laws or by administrative decision. Explicit reference to the right to conscientious objection to military service can be found in the constitutions of some States. Examples include Austria,¹⁶ Brazil,¹⁷ Ecuador,¹⁸ the Russian Federation,¹⁹ Switzerland²⁰ and Ukraine.²¹ In some States, while there is a constitutional provision referencing conscientious objection to military service, it delegates the scope of exemption from military service to that provided for by subordinate law.²² In practice, this can result in the adoption of subordinate laws which unduly restrict the right or a lack of domestic legal protection in practice where there is no implementing law adopted.²³

12. In several States, the right to freedom of thought, conscience and religion is recognized by law, often constitutional law. In some cases, recognition of the right to conscientious objection to military service has been achieved through interpretation. For example, according to Brazil, constitutional legal protection is offered, despite the lack of adoption of implementing legislation envisaged in the Constitution, and has resulted in the practice of granting discharge from military service to conscientious objectors.²⁴

13. In the course of the intersessional workshop, one of the good practices referenced was the role in some States of judicial bodies in achieving recognition of the right through interpretation of the right to freedom of thought, conscience and religion. In this regard, the case law of the Constitutional Courts of Colombia and the Republic of Korea have been notable in bringing about the recognition of the right in those jurisdictions.²⁵

14. Other States explicitly recognize the right to conscientious objection in other formal laws below the level of the constitution.²⁶ However, in some States, it has been reported that legislation has not explicitly affirmed the right to conscientious objection to military service, instead stipulating the conditions for qualifying for exemption to military service or alternative service.²⁷ An argument was made at the workshop that the lack of an explicit affirmation of the existence of the right, as a human right, in such laws, constituted a risk that

¹² E/CN.4/2006/51, paras. 21 and 61. See submissions from Romania and Tunisia.

¹³ See, for example, submissions from Conscience and Peace Tax International, Conscientious Objection Watch, Maat for Peace, Development and Human Rights Association and Syrian Legal Development Programme.

¹⁴ See, for example, OHCHR, *Conscientious Objection to Military Service* (2012), pp. 48 and 49; and submission from Conscience and Peace Tax International.

¹⁵ OHCHR, *Conscientious Objection to Military Service*, p. 48; and submission from Conscience and Peace Tax International.

¹⁶ Constitution of Austria, art. 9 (a).

¹⁷ Constitution of Brazil, art. 143.

¹⁸ Constitution of Ecuador, art. 66 (12).

¹⁹ Constitution of the Russian Federation, art. 59.

²⁰ Constitution of Switzerland, art. 59; see also submission from Switzerland.

²¹ Constitution of Ukraine, art. 35.

²² This is the case, for example, with respect to Austria, Brazil and Azerbaijan.

²³ This has reportedly been the case in Azerbaijan (CCPR/C/AZE/CO/4, para. 34).

²⁴ CCPR/C/BRA/RQ/3, paras. 121 and 122.

²⁵ In the case of Colombia, through Judgment C-728/2009 of the Constitutional Court. In the Republic of Korea, through a judgment of 28 June 2018, as referenced in CCPR/C/KOR/CO/5, para. 51.

²⁶ See submission from Conscience and Peace Tax International.

²⁷ Submission from Conscience and Peace Tax International. See, for example, Argentina, Law No. 24.429 on voluntary military service, art. 20.

such legislation was interpreted and applied in a manner inconsistent with international human rights law.²⁸

2. Exceptions to the right to conscientious objection

15. In practice, exceptions to the right to conscientious objection in domestic law fall into two categories; they limit the scope of the right as compared with the protection afforded in international human rights law or they establish grounds for permissible restrictions to the protection of the right that would be impermissible under international human rights law.

16. Some States have excluded categories of individuals from the protection of the right to conscientious objection in domestic law. Such exclusion could be tantamount to a failure to take the measures necessary to give effect to the right to conscientious objection to military service and, depending on the circumstances, could also constitute discriminatory treatment on the basis of persons' thought, conscience and religion or other grounds of discrimination, including status.²⁹ Such groups include, for example, active service members, volunteers or reservists.³⁰ In this regard, Ecuador reported that there was a right to conscientious objection under its Constitution for active service members and volunteers.³¹ As previously reported, several other States have recognized the right to conscientious objection for serving members of the armed forces.³²

17. In some States, protection has only been extended to some forms of thought, conscience or religion, but not others. This includes, for example, laws that limit the right only to those holding religious views,³³ excluding secular pacifist motivations for conscientious objection. One example is Uzbekistan, which limited the right to members of registered religious organizations.³⁴

18. Other limitations to the scope of the right consist of elevating the threshold for the type of convictions that enjoy legal protection. Thus, Colombia recognizes only those internal convictions (*forum internum*) that manifest in external conduct (*forum externum*).³⁵ Wording in legislation that requires an individual's conscientious objection against military service to extend to the use of a firearm or carrying out military service "in all circumstances" potentially excludes those whose convictions preclude the use of firearms to kill human beings but not for other purposes or those that do not object to all forms of military service.³⁶

19. In some States, while laws recognize the right to conscientious objection to military service, the laws establishing alternative service could be interpreted as exceptions to that recognition. This includes, for example, narrowing the scope of protection of the right in domestic law to protect objection only to some forms of military service. In the Russian Federation, the federal law on alternative civil service reportedly does not apply to conscription based on the law on mobilization, which has rendered conscientious objectors criminally liable for failing to perform military service required under that law.³⁷ In Ukraine, the right to conscientious objection to military service is guaranteed by article 35 of the Constitution, while alternative service is regulated by a formal law from 1991.³⁸ However, Ukrainian authorities have reportedly stated that, since the general mobilization does not concern time limited military service for which alternative service is an option, the

²⁸ See also submission from Conscience and Peace Tax International.

²⁹ International Covenant on Civil and Political Rights, arts. 2 (2) and 26.

³⁰ A/HRC/41/23, paras. 22–25.

³¹ Submission from Ecuador.

³² A/HRC/50/43, para. 26.

³³ See, for example, submission from Conscience and Peace Tax International.

³⁴ CCPR/C/UZB/Q/4/Add.1, para. 183; and submission from Conscience and Peace Tax International.

³⁵ Constitutional Court of Colombia, Judgment C-728/2009, upheld subsequently in Judgment C-370/2019. See also submissions from Observatorio de Militarismo and Acción Colectiva de Objetores y Objetoras de Conciencia.

³⁶ See, for example, Argentina, Law No. 24.429, art. 20.

³⁷ See joint submission from the Coalition "Appeal to Conscience", the Human Rights Group "Citizen.Army.Right", the Movement of Conscientious Objectors, Memorial Human Rights Defence Centre and the "Conscript School".

³⁸ See submission from the Ukrainian Pacifist Movement.

constitutional right is inapplicable.³⁹ In submissions, contributors highlighted that a similar reasoning had been adopted by the judiciary.⁴⁰ A related example is Belarus, where only those who have completed alternative service, established in 2016, reportedly are exempted from reservist military training, excluding, for example, those whose conscience has changed, who were forced to carry out military service or who were prosecuted for refusing to do so.⁴¹

20. In previous reporting, the Office has noted that several States excluded selective conscientious objectors from recognition,⁴² i.e. persons who believed that the use of force was justified in some circumstances but not in others. It has been noted that selective conscientious objection is a form of adherence to international law,⁴³ in that it protects a right to refuse to fight for an aggressor force⁴⁴ and to refuse the perpetration of other international crimes.⁴⁵ The objection to the perpetration of international crimes also overlaps with conscientious objectors' religious or moral beliefs.⁴⁶ The right of selective conscientious objectors to object is consequently protected by international human rights law⁴⁷ and should therefore also be recognized in the domestic legal framework. A notable example of such recognition is the ruling of the Federal Administrative Court of Germany, in 2005, declaring that the freedom of conscience protected a major, army software engineer, who had declared that the Iraq war was illegal and refused to work on a computer programme related to the conflict for reasons of conscience.⁴⁸

21. Some States reportedly establish grounds for restricting the right to conscientious objection to military service in domestic law, for example, through the explicit provision of exceptions relating to situations of armed conflict.⁴⁹ In the course of the intersessional workshop, participants highlighted that the adoption of exceptions to the right in situations of armed conflict was a matter of concern.

³⁹ See letter by the Ministry of Defence of Ukraine in a reply to a public information request of the Ukrainian Pacifist Movement, No. 321/4480, of 21 August 2022, available at https://en.connection-ev.org/pdfs/2022-08-21_MOD-Ukraine.pdf.

⁴⁰ Submission from the Ukrainian Pacifist Movement.

⁴¹ See Felix Corley, "Belarus: UN appeal for fined conscientious objector", Forum 18, 11 January 2022.

⁴² A/HRC/41/23, para. 26. For example, in Canada, Defence Administrative Orders and Directives 5516-2, Conscientious Objection, section 2.8, states that an objection founded on the participation of the Canadian Armed Forces member in a particular armed conflict or operation does not qualify as a conscientious objection and will not entitle a Canadian Armed Forces member to a voluntary release. In the interpretation of United States Code, Title 50, sect. 3806 (j), United States courts have held that a person must oppose war in any form and that objection to a particular war, but not all wars, is not sufficient for purposes of exemption; see, for example, United States Of America, Selective Service System, "Alternative service cases", available at <https://www.sss.gov/register/alternative-service/cases/>.

⁴³ Noam Lubell, "Selective conscientious objection in international law: refusing to participate in a specific armed conflict", *Netherlands Quarterly of Human Rights*, vol. 20, No. 4.

⁴⁴ Tom Dannenbaum, "The criminalization of aggression and soldiers' rights", *European Journal of International Law*, vol. 29, No. 3, pp. 859–886.

⁴⁵ Ahmed Shaheed and Laura Rodwell, "Foundations in freedom of thought, conscience and religion or belief", in *A Missing Piece for Peace*, Michael Wiener and David Fernández Puyana, eds. (University for Peace Press, 2022). International law contains a series of related rules. For example, customary international humanitarian law imposes a duty to disobey manifestly unlawful orders or those that would entail the commission of war crimes (see Jean-Marie Henckaerts and Louise Doswald-Beck, *Customary International Humanitarian Law: Volume I – Rules* (Geneva, International Committee of the Red Cross, Cambridge, United Kingdom, Cambridge University Press, 2005), rule 154), while international refugee law grants protection to individuals facing persecution for selective conscientious objection (see Office of the United Nations High Commissioner for Refugees, "Guidelines on international protection: claims to refugee status related to military service within the context of article 1 (A) (2) of the 1951 Convention and/or the 1967 Protocol relating to the Status of Refugees", paras. 23–25).

⁴⁶ Shaheed and Rodwell, "Foundations in freedom of thought, conscience, and religion or belief", p. 150.

⁴⁷ See A/HRC/35/4, para. 63; A/HRC/41/23, para. 60 (d); and A/HRC/50/43, para. 57 (e).

⁴⁸ A/HRC/23/22, para. 47.

⁴⁹ For examples, see Norway, Act LOV-2016-08-12-77 (12 July 2016), sect. 37; and the submission from Cyprus.

22. In their submissions, Ecuador and Mexico highlighted that their domestic laws did not provide for exceptions in situations of armed conflict,⁵⁰ and, as previously reported, other States had repealed provisions allowing for the suspension of provisions regulating conscientious objection in times of armed conflict.⁵¹ Some domestic laws explicitly envisage the application of the right to situations of armed conflict or necessarily cover those contexts. In Canadian legislation, the right to conscientious objection not only covers the carrying and use of weapons, but also participation in armed conflict.⁵² The Constitution of Ecuador affirms that the right to conscientious objection guarantees the right to refuse to exercise violence and to participate in military service.⁵³

3. Consequences of lack of recognition in domestic law and the creation of undue exceptions to the right

23. The lack of a legal basis of the recognition of conscientious objection to military service in domestic law deprives individuals of domestic legal protection of their exercise of the right and can therefore contribute to its violation. In many jurisdictions, exercising the right to conscientious objection by refusing military service qualifies as a criminal offence.⁵⁴ In submissions, contributors noted the continued prosecution of individuals in several jurisdictions.⁵⁵ In Finland, total objectors, namely, those who object to military and non-military service, continue to face prosecution.⁵⁶ In some States, conscientious objectors face repeat punishments for failure to comply with renewed orders to attend military service.⁵⁷ Those prosecuted and punished face fines and/or imprisonment.⁵⁸ In Eritrea, deserters and draft evaders are reportedly subjected to severe punishment, including arbitrary detention, torture and inhuman or degrading treatment, enforced disappearance and extrajudicial killings.⁵⁹

24. In addition, in some States, conscientious objectors face a series of additional consequences. These include restrictions on the freedom of movement,⁶⁰ including restrictions in the eligibility to obtain travel documents,⁶¹ employment,⁶² including through the prosecution of employers hiring draft evaders or prohibitions against certain forms of employment for individuals with a criminal record, and the denial of citizenship.⁶³ In one State, the restrictions are so severe as to be denominated “civil death”.⁶⁴

B. Procedures of recognition of conscientious objection

25. States must adopt necessary procedures to implement the right to conscientious objection effectively,⁶⁵ and the procedure for the recognition of conscientious objection should aim to facilitate the exercise of the right.⁶⁶ In the report to the Human Rights Council

⁵⁰ See submissions from Ecuador and Mexico.

⁵¹ [A/HRC/50/43](#), para. 29.

⁵² Canada, Defence Administrative Orders and Directives 5516-2, sect. 2.3.

⁵³ Constitution of Ecuador, art. 66 (12).

⁵⁴ [A/HRC/35/4](#), para. 62, and [A/HRC/50/43](#), para. 56.

⁵⁵ See, for example, submissions from Ukrainian Pacifist Movement, Maat for Peace, Development and Human Rights Association, the International Center for Civil Initiatives “Our House” and Connection e.V.

⁵⁶ Submission from Finnish Union of Conscientious Objectors; and [A/HRC/52/9](#), para. 138.81.

⁵⁷ [A/HRC/50/43](#), paras. 18, 19, 34, 38 and 41.

⁵⁸ [A/HRC/35/4](#), para. 42. See also submission from Conscientious Objection Watch.

⁵⁹ [A/HRC/50/20](#), para. 22, and [A/HRC/53/20](#), para. 28.

⁶⁰ Submission from Conscientious Objection Watch.

⁶¹ [CCPR/C/EGY/CO/5](#), para. 43.

⁶² [A/HRC/35/4](#), para. 42; and submission from Conscientious Objection Watch.

⁶³ [A/HRC/50/20](#), para. 49.

⁶⁴ Committee of Ministers of the Council of Europe, decision CM/Del/Dec(2023)1468/H46-36.

⁶⁵ [A/HRC/41/23](#), paras. 14–16.

⁶⁶ The Human Rights Committee has recommended that procedures for the recognition of conscientious objectors be accessible ([CCPR/C/COL/CO/8](#), para. 33).

on application procedures, the High Commissioner issued a series of recommendations to facilitate the exercise of the right to conscientious objection to military service.⁶⁷

26. Importantly, and consistent with the scope of protection of the right to conscientious objection, application procedures must be available to individuals for all forms of thought, conscience and religion protected under international human rights law, irrespective of the forms of military service in question or whether it is exercised in peacetime or during armed conflict.⁶⁸

27. In addition, States should proactively place information about the right and the means of acquiring conscientious objector status in the public domain and make every effort to ensure easy, prompt, effective and practical access to such information, to allow individuals to exercise their rights effectively.⁶⁹ The application procedure should be free, and individuals should be able to object before the commencement of military service, or at any stage during or after military service.⁷⁰

28. No inquiry process is required by international law to determine conscientious objector status,⁷¹ and the Commission on Human Rights and the Human Rights Council have welcomed accepting such claims without an inquiry.⁷² The European Parliament has also adopted such an approach.⁷³ It is reported that the challenge of understanding and endeavouring to judge the depth or validity of a conscientious objection claim is one of the reasons why non-governmental organizations have encouraged States to accept claims without subjecting them to assessment by a decision-making body.⁷⁴ Previous reporting and submissions received have also highlighted such challenges.⁷⁵ Consideration should therefore be given to amending procedures in order to accept claims of conscientious objection to military service as valid without an inquiry process.

29. States that do not accept claims of conscientious objection as valid without an inquiry process should establish independent and impartial bodies under the full control of the civilian authorities.⁷⁶ The inquiry process should be based on reasonable and relevant criteria.⁷⁷ In this regard, some States maintain conditions automatically precluding conscientious objector status, such as having a firearm or hunting licences,⁷⁸ or procedural time limits that, if not complied with, invalidate the application.⁷⁹ Other jurisdictions preclude objection to military service where the objection is based on the political opinion of the individual concerned.⁸⁰ Selective conscientious objection is a type of objection that reportedly is often conflated with a politically motivated opposition to armed conflict.⁸¹ With respect to the latter, it should be recalled that the holding of political opinions, protected by

⁶⁷ A/HRC/41/23.

⁶⁸ A/HRC/41/23, para. 60 (c) and (d).

⁶⁹ International Covenant on Civil and Political Rights, art. 19 (2); and Human Rights Committee, general comment No. 34 (2011) on the freedoms of opinion and expression, para. 19. See also A/HRC/49/38, para. 55.

⁷⁰ A/HRC/41/23, para. 60 (b) and (f).

⁷¹ A/HRC/50/43, para. 57 (h).

⁷² See, for example, A/HRC/41/23, para. 10.

⁷³ A/HRC/41/23, para. 10.

⁷⁴ Rachel Brett, "Contributions by civil society to shaping freedom of conscientious objection to military service", in *A Missing Piece for Peace*, Michael Wiener and David Fernández Puyana, eds. (University for Peace Press, 2022).

⁷⁵ A/HRC/41/23, paras. 45–48; and submissions from Observatorio de Militarismo and Acción Colectiva de Objetores y Objetoras de Conciencia and World Without War.

⁷⁶ A/HRC/41/23, paras. 36–44 and 60 (g).

⁷⁷ *Ibid.*, para. 60 (h).

⁷⁸ *Ibid.*, paras. 46 and 47. See also submissions from Serbia and Conscience and Peace Tax International.

⁷⁹ See, for example, submission from Cyprus.

⁸⁰ For example, Canada, Defence Administrative Orders and Directives 5516-2, sect. 2.8 (e).

⁸¹ Shaheed and Rodwell, "Foundations in freedom of thought, conscience and religion or belief".

international human rights law,⁸² does not preclude that the objection is grounded in the thought, conscience or beliefs of the individual concerned.⁸³

30. The inquiry process must not unduly interfere with the right to privacy of the individual concerned. In submissions, it was highlighted that, in one State, individuals were required to submit information about their social networking accounts or about their use of online platforms for gaming or movies, reportedly in order to determine violent tendencies, and eligibility for alternative service could be questioned if the individual, for example, had been tardy during his or her school years.⁸⁴ Such requirements could constitute arbitrary interference in the right to privacy of individuals concerned.⁸⁵ In some States, conscientious objectors have been exposed to unduly intrusive questioning and abusive behaviour during examination.⁸⁶

31. The process for the consideration of claims of conscientious objection should be carried out in a timely manner, so that applicants are not left waiting for an unreasonable length of time for a decision.⁸⁷ Some States have included provisions for the suspension of military service when a request for recognition as conscientious objector has been made.⁸⁸ Others exclude suspensive effects for requests by individuals already carrying out military service.⁸⁹ The freedom of thought, conscience and religion exists independently of its formal recognition, and thus the suspension of military service pending a decision helps to prevent undue interference in the freedom of thought, conscience and religion of the individual concerned.

32. Individuals should be given the right to appeal, including to independent judicial authorities, in accordance with the rights of access to justice and to effective remedies.⁹⁰ In Norway, the right of appeal to the regular civilian courts is provided for in law, and it provides that the State must cover the expenses related to the procedure.⁹¹ Such provisions could facilitate access to justice irrespective of the socioeconomic background of the individual concerned.

C. Processing and recognition of the refugee status of conscientious objectors

33. Intersessional workshop participants emphasized the importance of having procedures for the recognition of the refugee status of conscientious objectors. For example, in recent years, estimates suggest that many thousands of conscripts have been forced to flee their State of nationality to avoid participating in the armed conflict between the Russian Federation and Ukraine,⁹² a number of whom have filed asylum claims with third States.⁹³ In this context, concerns have been raised that the refugee status application procedure in some States

⁸² International Covenant on Civil and Political Rights, art. 19 (1).

⁸³ Shaheed and Rodwell, “Foundations in freedom of thought, conscience and religion or belief”.

⁸⁴ Submission from World Without War.

⁸⁵ International Covenant on Civil and Political Rights, art. 17; and Human Rights Committee, general comment No. 16 (1988) on the right to privacy, paras. 4 and 9.

⁸⁶ A/HRC/41/23, para. 59.

⁸⁷ Ibid., paras. 49–51 and 60 (i).

⁸⁸ See, for example, Norway, Act LOV-2016-08-12-77, sect. 37.

⁸⁹ See, for example, submission from Observatorio de Militarismo and Acción Colectiva de Objetores y Objektoras de Conciencia.

⁹⁰ International Covenant on Civil and Political Rights, arts. 14 and 2 (3).

⁹¹ Norway, Act LOV-2016-08-12-77, sects. 39 and 42.

⁹² See, for example, European Bureau for Conscientious Objection, *Annual Report: Conscientious Objection to Military Service in Europe 2022/2023* (2023), p. 116 (ff); and Connection e.V., “[Flucht vor der Beteiligung am Krieg: Zahlen zu Russland, Belarus und Ukraine](#)”.

⁹³ See, for example, Cheryl Teh, “At least 5 Russian men who escaped conscription have been living in Seoul’s airport for months, and their refugee status still hangs in the balance: report”, *Business Insider*, 26 January 2023; and Connection e.V., “[Country report: Russia – military service and conscientious objection](#)”, 8 October 2023, available at <https://en.connection-ev.org/article-3878>.

imposes exacting standards and burdens of proof that would render it difficult for deserters and draft evaders for reasons of conscience to achieve refugee status.⁹⁴

34. The principle of non-refoulement in international law, including international human rights law,⁹⁵ which is applicable to conscientious objectors,⁹⁶ precludes the extradition, deportation, expulsion or other removal of a person under a State's jurisdiction where there is a real risk of irreparable harm.⁹⁷ Moreover, as noted in previous reporting, the Human Rights Council has 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 Convention relating to the Status of Refugees and the Protocol thereto, to consider granting asylum to those conscientious objectors to military service who have a well-founded fear of persecution in their country of origin owing to their refusal to perform military service, when there is no provision, or no adequate provision, for conscientious objection to military service.⁹⁸ In this regard, concerns have been raised that guidance and information documents issued by States on the recognition of refugee status have not adequately reflected information on conscientious objectors to military service,⁹⁹ despite guidance on the interpretation of applicable refugee law to conscientious objectors being available, including in the guidelines on international protection on claims to refugee status related to military service, issued by the Office of the United Nations High Commissioner for Refugees (UNHCR).

D. Genuine alternatives

1. Requirement for genuine alternatives to military service

35. In its resolution 1998/77, the Commission on Human Rights recalled its recommendation that States with a system of compulsory military service must provide various forms of alternative service which were compatible with the reasons for conscientious objection, of a non-combatant or civilian character, in the public interest and not of a punitive nature. The Human Rights Committee has affirmed that alternative service must be outside the military sphere and not under military command. The alternative service must not be of a punitive nature. It must be a real service to the community and compatible with respect for human rights.¹⁰⁰

36. As noted in previous reporting, however, States are not required to impose obligations of service on individuals, military or otherwise.¹⁰¹ Thus, States may, for example, implement voluntary military service and the release from service of individuals who for reasons of thought, conscience and religion cannot be compelled to undertake military service.¹⁰² Similar arrangements have been adopted by States practising conscription. In Norway, while conscription is still in effect, the alternative service arrangement was abolished in 2012, and thus, conscientious objectors exempted from military service have no obligation to perform alternative service. Sweden retains a system of conscription and, as of 2023, conscientious objectors would technically retain certain obligations as part of a civilian reserve. However, since the civilian reserve has never been activated, in practice, this has led to no obligations being imposed on conscientious objectors. Some research suggests that a turn to voluntary

⁹⁴ Submission from Connection e.V.; and Rudi Friedrich, "Germany: Federal Office for Migration rejects asylum for Russian refusers", Connection e.V., 17 February 2023.

⁹⁵ On the latter, see Human Rights Committee, general comment No. 20 (1992) on the prohibition of torture or other cruel, inhuman or degrading treatment or punishment, para. 9; general comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant, para. 12; and general comment No. 36 (2018) on the right to life, paras. 30 and 31.

⁹⁶ A/HRC/42/39, para. 63; and Committee against Torture, general comment No. 4 (2017) on the implementation of article 3 in the context of article 22, para. 45.

⁹⁷ Human Rights Committee, general comment No. 31 (2004), para. 12.

⁹⁸ A/HRC/50/43, para. 20.

⁹⁹ Najmah Ali, "Conscientious objection to military service and refugee status determination" (Geneva, Quaker United Nations Office, 2021).

¹⁰⁰ *Jeong et al. v. Republic of Korea*, para. 7.3.

¹⁰¹ *Ibid.*, which highlights that this is a matter of political discretion, rather than legal obligation.

¹⁰² This would, however, nevertheless require a genuine alternative for selective objectors.

military service with the abolition of compulsory civilian service has been associated with increased life satisfaction.¹⁰³

2. Various forms of alternative service

37. The requirement of genuine alternatives thus mainly relates to the situation where a State chooses to impose a form of compulsory service on individuals that do not perform military service and in situations where selective objectors continue to perform military service.

38. Where States retain a system of compulsory service for conscientious objectors, they must create a system that permits various forms of alternative service. In practice, many States have done so and have taken a variety of approaches allowing for various alternatives including systems where civilian service is carried out in a variety of roles within the public sector and systems where civilian service can be performed either in the public sector or with employers outside the public sector, such as civil society organizations or research institutes. In the United States of America, the Selective Service System reportedly conducts outreach to potential employers eligible for the Alternative Service Employer Network, and these efforts are increased during periods of mobilization. In some States, candidates can apply to the available civilian service employers,¹⁰⁴ which can introduce a positive element of choice for those concerned.

39. Some States have adopted laws or policies specifying the various areas in which alternative service may be performed, although such specifications generally are broadly construed. In Switzerland, alternative service can be performed in the health care, welfare, environmental protection and agriculture sectors and through research projects and development assistance abroad.¹⁰⁵ Prior to the abolition of mandatory civilian service in 2012,¹⁰⁶ civilian service in Norway could be performed, for example, in health care and welfare institutions, schools, the cultural, peace and humanitarian sectors, including violence prevention, and the environmental sector.¹⁰⁷

3. Compatible with the reasons for conscientious objection

40. The requirement for alternative service, where States retain compulsory military service, entails a positive obligation to accommodate alternative service in a manner that does not conflict with the reasons for conscientious objection. The implementation of this requirement could be facilitated by the establishment of various alternatives to military service across various sectors and consideration for the preferences of the individual concerned for placement among those alternatives.

4. In the public interest

41. Efforts should be made to ensure that the nature of alternative service is such that participants may make a meaningful contribution to the public interest. The public interest requirement of civilian service is set out in the legislation of some States and through policy in others.¹⁰⁸ In Switzerland, for example, the purposes of civilian service by law are to reinforce social cohesion, in particular by improving the situation of people in need of help, support or care, set up structures to promote peace and reduce the potential for violence, safeguard and protect the natural environment and promote sustainable development, conserve cultural heritage and support school training and education.¹⁰⁹

¹⁰³ Andreas Eberl, Matthias Collischon and Kerstin John, “The impact of the abolition of compulsory service on life satisfaction“, *Research in Social Stratification and Mobility*, vol. 77 (February 2022).

¹⁰⁴ This is the case, for example, in Switzerland.

¹⁰⁵ Switzerland, Federal law on civilian service of 6 October 1995, art. 4.

¹⁰⁶ Dag Leraand, “Sivil verneplikt”, Store Norske Leksikon, 7 February 2022, available at https://snl.no/sivil_verneplikt (in Norwegian).

¹⁰⁷ Norway, Prop. 10 L (2011-2012): Amendments to Act No. 3 of 19 March 1965 relating to exemption from military service for reasons of conviction (abolition of civilian conscription).

¹⁰⁸ On the latter, see, for example, United States, Selective Service System, “Alternative service cases”.

¹⁰⁹ See, for example, Switzerland, Federal law on civilian service, art. 3. See also, for example, Argentina, Law No. 24.429, art. 21.

5. Be non-punitive and be non-discriminatory

42. The assessment as to whether alternative service is punitive is not only based on whether it qualifies as punitive under domestic law or pursues an ulterior punitive purpose. It also requires an examination of whether, everything considered, alternative service is punitive in effect. Thus, the Human Rights Committee has, for example, relied on the length of alternative service, alternative service locations, the conditions of alternative service and the treatment of the individuals performing alternative service, when raising concerns about punitive alternative service.¹¹⁰ It has expressed concerns with respect to alternative service arrangements that, for example, are restricted to correctional facilities or where the length of service is excessively long as compared with military service.¹¹¹

43. In addition to a prohibition of punitive alternative service, alternative service must not be discriminatory. Alternative service is discriminatory if there is direct or indirect differential treatment that has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise of rights.¹¹² In order to be lawful, such discrimination must be based on reasonable and objective criteria, in pursuit of an aim that is legitimate under the relevant human rights treaty.¹¹³ In this regard, concerns have been raised, for example, of alternative service of a duration longer than those applicable to military service.¹¹⁴

44. The Committee of Ministers of the Council of Europe has recently indicated that the system involving the exemption of individuals from military service on the condition of payment introduced in Türkiye is not a genuine alternative to military service.¹¹⁵ The system merely shortens the length of service, and the required payment is of a nature that could dissuade the exercise of the right, which could constitute indirect discrimination on the basis of the socioeconomic status of the individual.¹¹⁶ Furthermore, the required payment is higher for those individuals who have previously been fined for draft evasion, raising concerns of the punitive treatment of those individuals, including conscientious objectors.¹¹⁷

E. Other measures to respect and ensure the right to conscientious objection

1. Refrain from unduly restricting the human rights of those representing or advocating for the rights of conscientious objectors

45. In previous reporting, OHCHR has noted that, in some States, advocacy of or expressing support for conscientious objection to military service may constitute a criminal offence.¹¹⁸ Restrictions have also been imposed on the right to freedom of association. For example, on 23 June 2023, the Russian Federation reportedly declared the Movement of Conscientious Objectors, a civil society organization, a “foreign agent” for disseminating supposedly false information about the Government’s actions, decisions and policies, in addition to opposing its military actions in Ukraine.¹¹⁹ In Ukraine, Yurii Sheliazhenko, a peace activist, has been charged with criminal offences and subjected to house arrests, investigative measures and stigmatization for his advocacy for peace and the right to

¹¹⁰ CCPR/C/KOR/CO/5, paras. 51 and 52.

¹¹¹ Ibid.

¹¹² Human Rights Committee, general comment No. 18 (1989), para. 7. On direct and indirect discrimination, see Human Rights Committee, *Alhammer et al. v. Austria* (CCPR/C/78/D/998/2001), para. 10.2.

¹¹³ Human Rights Committee, general comment No. 18 (1989) on non-discrimination, para. 7; and *Genero v. Italy* (CCPR/C/128/D/2979/2017), para. 7.3.

¹¹⁴ CCPR/C/KOR/CO/5, paras. 51 and 52; CCPR/C/FIN/CO/7, paras. 36 and 37; CCPR/C/ARM/CO/3, para. 35; and A/HRC/50/43, paras. 45–48.

¹¹⁵ Committee of Ministers of the Council of Europe, decision CM/Del/Dec(2023)1468/H46-36.

¹¹⁶ See submission from Conscientious Objection Watch.

¹¹⁷ Ibid.

¹¹⁸ A/HRC/50/43, para. 37.

¹¹⁹ See <https://wri-irg.org/en/story/2023/russia-movement-conscientious-objectors-officially-labelled-foreign-agent>.

conscientious objection.¹²⁰ The special procedures of the Human Rights Council sent a communication to Ukraine requesting information on the allegations of charges against Mr. Sheliashenko under article 436-2 of the Criminal Code relating to “justifying Russian aggression”. In response, Ukraine stated, inter alia, that a pretrial investigation was under way in relation to Mr. Sheliashenko, under “part 2 of article 436-1 of the Criminal Code of Ukraine (production and distribution of communist, Nazi symbols and propaganda of communist and national socialist (Nazi) totalitarian regimes)”.¹²¹

46. At the intersessional workshop, participants noted the important contribution that civil society had played to achieve recognition for the right to conscientious objection to military service in some States and the cooperation of civil society with United Nations human rights mechanisms. Participants recognized the essential role of civil society in promoting and advocating for the protection of the rights of conscientious objectors.

2. Importance of good faith in the implementation of the right to conscientious objection to military service

47. At the intersessional workshop, one participant highlighted that, in some cases, despite the law and procedures formally in place, the rights of objectors were violated in practice. The good faith implementation of the negative and positive obligations related to the right to conscientious objection to military service is an obligation under existing international human rights law.¹²²

48. A political commitment to the effective enjoyment of the right is reflective of such good faith implementation. In this regard, participants at the workshop noted that States should highlight the crucial societal value of other forms of service and ensure that they are carried out in conditions of dignity and respect. Active political will to implement rights could contribute positively to the acceptance of conscientious objection in society at large and by State agents. Political will is also crucial in States where recognition was initially achieved without the involvement of the executive branch, such as through interpretation by the judiciary, where concerns have been raised with respect to the lack of effective implementation of the law after its recognition by the judiciary.¹²³

49. In submissions, contributors emphasized that the heightened tensions and political climate during armed conflict in some contexts gave rise to undue restrictions of the right and the adoption of undue procedural requirements for application procedures.¹²⁴ Participants at the intersessional workshop noted that, where possible, laws and procedures should therefore be put in place during peacetime, covering also situations of armed conflict, so as to ensure there was legal protection and to contribute to political support for the exercise of the right at all times.

3. Promoting human rights within the public administration

50. Negative perceptions of conscientious objection could manifest in the negative treatment of conscientious objectors by members of public administration. As noted during the intersessional workshop, the examination procedure itself could reportedly facilitate a reliance on biased assumptions about the nature of conscientious objection or conscientious objectors. In addition to ensuring a procedure that is compatible with human rights law and standards, the Human Rights Committee has emphasized that it was important to raise levels

¹²⁰ Submission from Ukrainian Pacifist Movement and the individual concerned participated in the intersessional workshop.

¹²¹ See communication UKR 1/2023, available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=28562>; and response from Ukraine of 22 January 2024, available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=38094>.

¹²² See also A/HRC/41/23, para. 60 (h).

¹²³ For concerns, see, for example, CCPR/C/KOR/CO/5, para. 51, and CCPR/C/COL/CO/8, para. 33; and submissions from Observatorio de Militarismo and Acción Colectiva de Objetores y Objetoras de Conciencia and World Without War.

¹²⁴ Submission from Connection e.V.

of awareness about the Covenant among public officials and agents of the State,¹²⁵ including through the provision of educational material and training courses, as appropriate.

4. Promoting understanding and tolerance for conscientious objection through public messaging and education

51. Negative perceptions of conscientious objection and of conscientious objectors in society at large can also have a negative impact on conscientious objectors to military service. Historically, conscientious objectors to military service have faced discrimination and stigma in many societies.¹²⁶ In this context, the Human Rights Committee has encouraged States to raise levels of awareness of the Covenant among the population at large.¹²⁷ The need to undertake awareness-raising measures is particularly acute in societies where conscientious objection to military service has enjoyed weak legal protection or where conscientious objectors have faced stigmatization or discrimination.¹²⁸

5. Participation in decision-making

52. States should implement a participatory approach to the development and review of laws and policies related to conscientious objection to military service.¹²⁹ This includes participation in the development and review of proposals for the adoption of laws and policies regulating conscientious objectors and the procedures for attaining such status, as well as on the creation or administration of alternative civilian service.¹³⁰ This means that conscientious objectors, civil society and other affected stakeholders should be able to participate in the decision-making process from an early stage, when all options are still open, and that public authorities should refrain from taking any formal, irreversible decisions prior to the commencement of the process.¹³¹ States should disseminate information on the outcome of the process in a timely, comprehensive and transparent manner and should provide information regarding the grounds and reasons underlying the decisions and feedback on how the contributions have been taken into account or used, what was incorporated, what was left out and the reasons why.¹³²

IV. Conclusions and recommendations on legal and policy frameworks

53. There is a need for a renewed political commitment to the universal implementation of the right to conscientious objection to military service. In this regard, the High Commissioner makes the following recommendations.

54. States should give recognition to the right to conscientious objection to military service in their domestic legal systems. In accordance with international human rights law, the domestic legal basis should be:

(a) General, recognizing all forms of thought, conscience and religion protected under international human rights law;

(b) Applicable to all forms of military service, including voluntary service and service in military reserve forces, as thought, conscience and religion may change over time;

¹²⁵ Human Rights Committee, general comment No. 31 (2004), para. 7.

¹²⁶ OHCHR, *Conscientious Objection to Military Service*.

¹²⁷ Human Rights Committee, general comment No. 31 (2004), para. 7.

¹²⁸ International Covenant on Civil and Political Rights, art. 2 (2); Human Rights Committee, general comment No. 31 (2004), para. 8; and Human Rights Committee, general comment No. 18 (1989), para. 10.

¹²⁹ This has been recommended by the Human Rights Committee, for example, in [CCPR/C/COL/CO/8](#), para. 33.

¹³⁰ See OHCHR, “Guidance on the effective implementation of the right to participate in public affairs” (2018).

¹³¹ *Ibid.*, para. 70.

¹³² *Ibid.*, para. 79.

- (c) **Applicable in all contexts, including situations of armed conflict and during mobilization;**
- (d) **Unconditional on the further implementation laws;**
- (e) **Justiciable.**

55. **The procedure allowing for the recognition of conscientious objection should be aimed at facilitating the exercise of the right. To this end, States should implement the recommendations contained in previous reports.¹³³ In addition:**

(a) **States should consider accepting claims of conscientious objection without inquiry; or, in the alternative;**

(b) **States retaining a system of inquiry of claims for conscientious objection should review their procedures to ensure that they preserve respect for the dignity of individuals, are conducive to protecting the right to conscientious objection to military service, are limited to identifying relevant information without arbitrary interference in the privacy of those concerned and are under civilian control.**

56. **In order to facilitate respect for the right to conscientious objection, States should consider removing compulsory alternative service for individuals exempted from military service. Should States choose to maintain alternative compulsory service, such compulsory service should:**

(a) **Be compatible with the reasons for conscientious objection;**

(b) **Serve the public interest. In particular, States should consider specifying the public interest purpose to be promoted by alternatives to military service in law;**

(c) **Encompass a variety of alternatives spanning various sectors, and States should consider including alternatives outside the public sector, as appropriate. States should also consider how to take into account the preferences of conscientious objectors for placement in alternative services;**

(d) **Not be punitive or discriminatory.**

57. **States should also take other measures to respect and ensure the right to conscientious objection to military service. To this end, States should:**

(a) **Refrain from unduly restricting the rights of those advocating for the rights of conscientious objection to military service or conscientious objectors;**

(b) **Implement appropriate measures, including education and training, to foster a culture of respect for conscientious objection to military service within relevant parts of the public administration and in the broader society;**

(c) **Implement a participatory approach in the development and review of laws and policies related to conscientious objection to military service with the involvement of affected stakeholders.**

58. **States should respect and protect the rights of conscientious objectors arriving from third States, including through adherence to the principle of non-refoulement and international human rights and refugee law and the implementation and dissemination of guidance on the interpretation of applicable international law, such as the UNHCR guidelines on international protection on claims to refugee status related to military service.**

¹³³ [A/HRC/41/23](#) and [A/HRC/50/43](#).