



Canadian Friends Service Committee

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Oral Presentation to the House of Commons' Standing Committee on Citizenship and Immigration, based on our written submission

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Introduction:

Good afternoon. My name is Gianne Broughton, I am a Programme Coordinator for Canadian Friends Service Committee, the peace and service arm of the Religious Society of Friends in Canada (commonly called "Quakers").

We thank the committee for inviting us to present to you.

In addition to the points that I am about to present, our written brief, which I will submit today, includes:

- information on Quakers;
- textual quotations of international law concerning the rights of conscience; and
- a proposed definition of conscientious objection based on international standards.

Right of conscience:

The right to conscientious objection to military service derives from the right to freedom of thought, conscience and religion. It can be based on religious, ethical, moral, philosophical, humanitarian or related motives. These rights are captured in the Universal Declaration of Human Rights, Article 18 and International Covenant on Civil and Political Rights, also Article 18. Canada is a signatory to both, and includes these rights in its constitution.

These instruments assert that these rights apply to everyone.

Conscientious objection to military service is a legitimate exercise of this right. A decision by the UN Human Rights Committee in 2006 in favour of two conscientious objectors from the Republic of Korea put to rest any question of this.

Military personnel, whether volunteer or conscript, can *develop* a conscientious objection. Resolution 1998/77 of the UN Human Rights Commission recognised this. That resolution puts no limits on whether the objection would be to all war or a particular war. Indeed, it is most often through experience itself that many basic human attributes, including conscience, are developed.

Also, many States clearly recognise that members of the “voluntary army” may develop conscientious objection, because they have provisions to allow such objectors to seek discharge. Sadly, policy and practice in the US often do not align. Soldiers who are uninformed of their rights and do not have access to an independent assessment process are left with a choice: to desert or to violate their conscience, which is perhaps the most sacred aspect of being human.

The “war resisters” have unqualified non-derogable rights as conscientious objectors to military service—**but are they refugees?** We believe that they qualify as refugees under the UN High Commission for Refugee’s Handbook, paragraph 170:

And I quote:

There are, however, also cases where the necessity to perform military service may be the sole ground for a claim to refugee status, i.e. when a person can show that the performance of military service would have required his participation in military action contrary to his genuine political, religious or moral convictions, or to valid reasons of conscience.

The published record and the testimony given in hearings and courts shows that these young men and women meet this requirement. This said, according to paragraph 171 of the Handbook, their right to asylum hinges on the military action they are objecting to being condemned by the international community.

The Iraq War is condemned by people around the world. It did not meet the standards set out in Chapter VII of the UN Charter¹, and it has included many documented violations of basic rules of human conduct. Given these conditions, we have to question the idea that these young deserters do not qualify as refugees.

Are Americans disqualified as refugees on the basis of nationality? Given the outcomes of the military trials related to the abuses at Abu Ghraib prison in Iraq, how can it be asserted that “mere foot soldiers” are not in need of protection if they squelch conscience and follow orders? We are left questioning the rationale of the Court.

Given the weight of their case, the rights of conscientious objectors, and Canada’s history of accommodating people with a conscientious objection to war, there is a compelling argument for conscientious objectors to the Iraq War to be able to stay in Canada.

An in-Canada application process should be a modification of existing immigration processes.

All applicants should be subject to most of the same requirements applied to other immigrants: police checks, collection of personal information including information on their family members and places of residence, letters of support regarding their application, medical examination, etc. A caveat would be that any outstanding warrants

¹ Charter of the United Nations. Available at: <http://www.un.org/aboutun/charter/>

that are related to their desertion should not pre-empt qualification for permanent residency.

The applicants would need to provide a detailed narrative, as spousal sponsorship applications do currently. In this case, the narrative would chronicle the development of their conscientious objection, including efforts they made to seek a discharge from the military, or a rationale as to why they did not take such action; their decision to go Absent Without Leave; and their decision to come to Canada. Letters of support should provide information to support the credibility and sincerity of the applicant's conscientious objection and their suitability to become a permanent resident of Canada.

The "points system", which is biased towards the very well educated, should not be applied. In addition, the requirements for a particular level of financial means should be waived because they may well have limited financial means, and they would not have a sponsor, such as a spouse or other type of refugee would have.

Accommodations such as these are available through "humanitarian and compassionate" applications currently, so this should be an acceptable modification.

Some staff within Immigration Canada would need to be trained in rights of conscience pertaining to conscientious objection to military service in order to be able to adjudicate applications.

These modifications of existing procedures would not seem to be onerous upon the Government to implement.

Conclusion:

The right to conscientious objection to military service to a particular war is recognized in international law. Such objection can be a basis for claiming refugee status. It is also recognized that people can develop that conscientious objection after beginning military service. The Iraq War is condemned internationally for not meeting international standards for military action.

Canada can make simple accommodations to existing immigration procedures to create a legal framework for such conscientious objectors to apply for refugee status after arriving in Canada. CFSC urges that this be done.