

The Right to Refuse to Kill

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In a century called "the century of total war" more than 62,000,000 human beings met death in two World Wars. These figures do not include people killed in conflicts such as those in Korea, Vietnam, and the Middle East. The striking difference between the First and Second World Wars was the number of estimated deaths among noncombatants: 5 per cent in the First and 48 per cent in the Second.

In the lesser conflicts the incidence of noncombatant deaths rose to previously unheard-of proportions; in the Korean hostilities, over 80 per cent of the casualties are estimated to have been civilians.

No figures have been forthcoming about the long-drawn-out carnage in Vietnam, but it is generally believed that the proportion of noncombatant deaths will be higher than that in Korea. This likelihood stems from the nature of the conflict in which each side, claiming either "military" or "liberation" strategy, destroyed entire villages.

In the sixties and seventies general revulsion against war, particularly among young people, the right not to kill, not to take part in organized slaughter, entered the public consciousness through demonstrations, desertion, the frequent choice of prison or exile, and an extensive literature in many languages. Recognition of this right might be expected at the United Nations, the organization of the world's peoples dedicated to a world without war. However, when the right to be a conscientious objector to military service and war first surfaced at the U.N. in its twenty-fifth year, it brought forth not a welcome but an explosive collision of worldviews.

It had become dreadfully clear by World War II that the obedience of the young was abused when

they carried out orders for mass destruction of human beings—whether this was achieved through air strikes or liquidation camps. Millions of young men, drafted into the military, were given little choice but to submit to induction and, after that, to follow orders. Yet in the wake of the Second World War the ultimate responsibility of the individual was asserted, even though that individual had been part of a military machine oiled by the principle of unquestioning obedience.

The international tribunal at Nuremberg refused to accept the argument from obedience as exoneration for individuals who had carried out the legal but lethal commands of their superiors—when these commands called for the commission of crimes against humanity. The "Nuremberg principle"—first applied only by the victors to those among the vanquished adjudged guilty of such crimes—was seized on by peace activists as a principle capable of a wider, general application.

The subject of conscientious objection to military service was one of the absolute taboos at the United Nations since its founding. When the taboo was finally broken and the question surfaced as a human right on the U.N. agenda, some member states saw it as so great a threat to their sovereignty that they tried to expunge it from consideration by every available means. One such instance occurred last March.

As the Human Rights Commission at the New York U.N. Headquarters drew near to the end of its 1974 session, one of the final agenda items was "Conscientious Objection to Military Service as a Human Right." The agenda item preceding conscientious objection was a general and recurring item dealing with "further promotion and encouragement of respect for human rights and fundamental freedoms." This pro-forma item was expected to evoke pro-forma responses larded with rich rhetoric on human rights. Instead the delegate from the Soviet Union asked for the floor to launch what turned out

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to be an extended, surprising, and often impassioned speech on the right to life itself.

As minute after minute ticked by, those interested in discussing conscientious objection began to realize that there would be no time to do so before the session was declared closed. The Non-Governmental Organization representatives (NGOs), of whom I was one, were never heard. The delegate from the Netherlands, ready to speak to a resolution on conscientious objection circulated among the member states, could claim the floor only long enough to put his resolution formally on the table and to propose priority consideration for the question at the 1975 session of the Human Rights Commission. Only in the United Nations could a lengthy discussion of the "right to life" serve to block off a discussion of its corollary, "the right not to take life."

"It was a clear filibuster," a seasoned U.N. staff member told us. Was it simply a filibuster, or, more significantly, a collision of worldviews?

What had happened was that a specific human right had been driven from the floor by a political discussion in which human rights became nonspecific, generalized, dependent on political settlements.

The thirty-two-member Human Rights Commission, for those of us who have sat through years of its annual sessions, gives fascinating examples of such collisions of worldviews. The debate on conscientious objection brought forth one of the most fascinating of all such collisions, and the history of that debate in the U.N. is revealing.

Until the taboo on even the mention of conscientious objection was broken when I raised it publicly in 1970, the question had never actually surfaced at the U.N., although it was mentioned in a report of a U.N. sub-commission, the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities. And I was able to raise it in 1970 only because of some recent actions.

During the U.N. International Year for Human Rights in 1968 the U.N. held a conference in Teheran dealing with the promotion of human rights. A resolution was passed there urging that the education of youth in respect for human rights be a subject for discussion and study by the United Nations. At the same time Devi Prasad, Chairman of War Resisters International (WRI), deliberately chose that year to launch a World Appeal for U.N. Recognition of Conscientious Objection to Military Service as a Human Right. Prasad worked to collect signatures around the globe, and chiefly during the Gandhi centenary year of 1969 gathered over forty thousand signatures. The petition stated simply: "We the undersigned call upon the Commission on Human Rights to recognize conscientious objection to military service as a human right." Three Nobel Prize winners gave their support to the petition: Max Born, Alfred Kastler, and Abbé Pierre. Other noted signers

included Dr. Benjamin Spock, Josue de Castro of Brazil, Danilo Dolci of Italy, Martin Niemöller of Germany, Jayaprakash Narayan of India, and Vo Van Ai, exiled Buddhist peace leader from Vietnam.

On January 30, 1970, Igal Roodenko of the War Resisters League, U.S. affiliate of WRI, lodged the signatures with the Division of Human Rights at U.N. Headquarters. Roodenko deposited the fifteen-pound carton of signed petitions along with a letter of transmittal. He asked that the petition be transmitted to the Commission so that the question could be taken up "with the urgency demanded by the evils and carnages of our time."

What Roodenko did not know was that the petition could have but one end, entombment in the U.N. archives. Already storage space in the bowels of the U.N. Headquarters had been exhausted, and material was being retired to a drab warehouse in Astoria, Queens, near the Long Island Railroad freight yards. Here it might find a resting place near the decaying mile-long petition of a million signatures requesting a plebiscite for Kashmir.

Within three months after those signatures were deposited, however, I was able to resurrect the petition before the members of the Human Rights Commission, and I cited the World Appeal for recognition of conscientious objection as a human right. I was able to raise the question as representative of Pax Romana, an international, multi-racial movement of Catholic students and graduates. *The Church in the Modern World*, which the Catholic Bishops of the world accepted at the Second Vatican Council in 1965, contained not only support for conscientious objection but a hope that nations would "make humane provision" for the conscientious objector through some form of alternative service. This was associated with a statement of the World Council of Churches and the great spiritual traditions of Hinduism and Buddhism and Islam.

The day after the circulation of the statement, the question of conscientious objection leapt across the table, from the NGO side to the government side, when two delegations spoke up for conscientious objection in the context of a human right. Klaus Törnudd of Finland asserted: "My delegation would without hesitation consider conscientious objection to military service as a human right." Felix Ermacora of Austria agreed that the question was of special concern to youth and should be a matter of concern for discussion in the United Nations. *Conscientious objection had at last been publicly mentioned by U.N. member states.*

The question was raised in discussion once more when I was given the floor at a night session to add some data to the written statement. I began by stating that youth seemed ahead of its elders in respect for life and that for many young people a commitment to the U.N. aim of a "warless world" began

with their commitment not to take life.

In an effort to speak for as large a spectrum of youth as possible, I said that there were many young people around the globe who considered that military service was a privilege of citizenship and a sacred duty. I explained that I was raising my voice for others who felt that even the so-called "just wars" might be questionable in their means. They therefore would wish to serve their country by some means other than the military. I referred to still others whose religious or ethical beliefs enjoined them from the intention to injure or kill another person for any reason whatsoever. I asked if a person could be free if he were not free to choose the means whereby he filled his duty to his country and to mankind.

I pointed out that in several countries, in Eastern European and Latin America, where no formal provision for conscientious objection was to be found in the legal system, administrative decisions allowed the objectors to substitute work in mines, on construction, or reforestation. I repeated a phrase of Peter Nebdailo, delegate of the Ukrainian SSR, who had evoked "the humanist tradition of Lenin which is a common patrimony of mankind," and reminded the delegates that the head of Lenin's office staff, many of his close co-workers, and even his wife had been conscientious objectors. Even when the Russian Revolution was at its violent height, allowance had been made for conscientious objection and alternative service, generally in hospitals and antiepidemic teams.

No sooner had I finished speaking than the arm of the Soviet delegate shot up. Ambassador Nikolai Tarassov told the Commission that he had listened with great interest to the Pax Romana statement. Lenin had, as was well known, drawn a distinction between just and unjust wars, such as wars of aggression waged by imperialist and colonialist powers. On the other hand, a fight waged against invaders in the defense of, or to liberate, one's country was a just war and constituted a sacred duty of all citizens, irrespective of their religious or political conviction.

I saw deep irony in the situation, since what Tarassov was explaining was the traditional doctrine of the just war, a Scholastic formulation that seemed to have so little application to modern war that it was not even mentioned in the updated teachings of *Pacem in Terris*. Most of us were glad to see the just war tradition fade away, since it allowed churchmen to rent out the faithful to every nation fighting its own "just war."

Tarassov had barely finished his intervention when the Human Rights Commission came in for a surprise. Ambassador Jamal Baroodi of Saudi Arabia, not a member of the Commission but a prominent figure at the U.N. since its birth, asked for the floor. Baroodi started by saying

that he felt impelled to speak on the question of the education of youth. His concern was not simply that youth held the future of mankind, but that in his view the modern world had betrayed the confidence of youth. Under slogans cloaking imperialist and economic interest, youth had been led like sheep to the slaughter. In such circumstances it was not surprising to him that the youth in many countries were in revolt and demanding their rights.

No one commented on Baroodi's statement, and the question of youth and human rights was postponed for the next session of the Human Rights Commission to be held in Geneva.

Baroodi, however, did not wait for the next session of the Commission. He was known for unexpected actions. For his fearless, impassioned, and often impolitic interventions he had earned from some the title "conscience of the United Nations" and from others the title "court jester of the United Nations." Baroodi presented a document on youth to the Third Committee of the General Assembly and in it brought up the right of conscientious objection. His hand was strengthened by the fact that conscientious objection to military service had been endorsed by the delegates to the World Youth Assembly held during June, 1970.

On November 11, 1970, when the report of youth came to the vote in the General Assembly, Baroodi presented his case in impassioned terms. He then requested that the General Assembly agree to transmit his document to the Human Rights Commission and to all who had participated in the World Youth Assembly. Without endorsing the contents of the statement, the delegates voted in the affirmative on both counts.

Baroodi's unorthodox action had positive effects. It locked the question of conscientious objection into the agenda item on youth, and it placed before the Human Rights Commission a document which specifically alluded to conscientious objection. As the Commission alternated its sessions between New York and Geneva, it was Geneva's turn in 1971.

I came to Geneva for the twenty-seventh session of the Human Rights Commission with a much stronger draft of a statement than the one presented in New York. Not only was there the strong assertion of the World Youth Assembly, but a powerful declaration on the right of conscientious objection had been made at the Tokyo World Conference on Religion and Peace. This Conference, held in October, 1970, issued a statement on conscientious objection which represented a consensus by leaders of the ten major living world religions.

Duncan Wood, U.N. representative of the Friends World Committee for Consultation in Geneva, set up a meeting with other NGOs, and under his sure hand a consensus was reached on a combined statement for seven NGOs. The Pax Romana statement

was used in its entirety, and some key provisions were added. Besides the Friends and Pax Romana, the other NGOs supporting the statement were the World Council of Churches (represented by the Commission of the Churches for International Affairs), the International Student Movement for the United Nations (ISMUN), the International Movement for Fraternal Union Among Races and Peoples, the World Student Christian Federation, and the World Young Women's Christian Association. We agreed to ask the Commission on Human Rights to draft a declaration on the human rights of conscientious objectors or, failing that, to request that such a declaration be drafted by the Sub-Commission on the Prevention of Discrimination and Protection of Minorities for the next session of the Commission.

Duncan Wood, through the Geneva Quaker office, supplied all NGOs and U.N. delegates with a C.O. information packet containing the text of the resolution adopted by the Council of Europe in January, 1967, and the statement of the SODEPAX Conference held in Baden in April, 1967. The statement of SODEPAX (Social Development and Peace) was a breakthrough, because it was an agreement between representatives of two world religious bodies, the World Council of Churches (Committee on Society, Development and Peace) and the Catholic Church (Pontifical Commission on Justice and Peace). It also contained the Draft Charter for Conscientious Objectors of the International Peace Bureau based in Geneva. The Charter came from the hand and brain of a long-time fighter for human rights, in particular the rights of the conscientious objector, Séan McBride, former Minister for External Affairs of Ireland. The packet also referred the delegates to "Conscription: A World Survey" edited by Devi Prasad and Tony Smythe and published by WRI.

When introduced at the Commission, the topic of conscientious objection exploded and upset the timetable, spilling over from two sessions into the better part of seven. The official, governmental sector took up the question, five governments—Austria, Chile, the Netherlands, New Zealand, and Uruguay—deciding that the C.O. Question did indeed fall within the purview of the Human Rights Commission. They therefore presented a resolution on the matter. This was one example among many where the cumbersome machinery of the U.N. was set in motion through the initiative of NGOs.

The explosive content of the C.O. Question first showed itself, and first blood was drawn, when the Commission called on Duncan Wood to address the delegates. Wood reminded the members of the Commission of the Quakers' long tradition on the position of conscientious objection. Youth, to whom the C.O. Question is of greatest moment, "is not necessarily prepared to display three centuries of patience." Wood, an Englishman, said

he had enjoyed the right to make a choice according to his conscience with regard to his nation's wars, and he had not taken part in World War II as a soldier.

The delegate of the Ukrainian SSR asked for the floor. Stung by the testimony of a man who had refused army service, Igor Lukashuk said he was proud to have defended his country against the invader in the Second World War. It was cowardice and an unethical act to refuse to defend one's country against enslavement. "I did not bury my friends."

On March 18, 1971, Mr. Theo van Boven, Netherlands delegate and chief sponsor of the resolution, presented a two-hundred-word draft resolution to the Commission. The delegates were asked to vote for a request to the U.N. Secretary-General "to seek from Member States up-to-date information on national legislation and other measures and practices relating to conscientious objection to military service and alternative service." It linked the C.O. Question with U.N. positions in its preambular paragraph: "Recalling Articles 3 and 18 of the Universal Declaration of Human Rights, enunciating the right to life, liberty and the security of the person and the right to freedom of thought, conscience and religion. . . ."

Another preambular sentence was amended immediately by the delegates, who asked that instead of the words, "Aware of the increasing interest among young people in the question of conscientious objection. . . .," the resolution should state, "Aware of the increasing interest among young people in *certain countries* in the question of conscientious objection. . . ."

The cosponsors of the draft resolution refused an amendment put forward by Igor Lukashuk of the Ukrainian SSR, who suggested inserting after "in certain countries" the words "the Governments of which are conducting colonial and aggressive wars."

The C.O. discussion evoked statements deriving from many philosophical, religious, and national civil rights traditions. Mrs. Leela Menon of India said she felt that in defense of a just cause all people should be ready to fight, whether violently or non-violently. This choice was not a new one, she continued, since it was a theme of the Bhagavad-Gita, the synthesis of Hindu philosophy. Despite the lack of conscription in India, she would support the resolution to study the Question.

The Iraqi delegate, Hisham Al-Shawi, said it was his duty to explain that the jihad was the duty of each Muslim. To renounce it would be to renounce Muslim law requiring each Muslim to participate in a war waged in defense of justice and religion. Islam, he explained, with its profound humanitarian principles, does not ignore the collective aspects of life. Despite the fullest understanding of the noble aspirations of the younger generation, he would have to vote against the resolution on conscientious objection.

In contrast, the delegate from Pakistan, a Bengali Muslim, gave a broader view. Dr. Abu Sayeed Chowdhury stated as regards conscription that he was of the opinion that conscience was the greatest weapon of man. No one, in his view, should be forced to do anything against his conscience. To force a man to act against his conscience is to fritter away the inner reality of the person. "The greatest value," Chowdhury asserted, "should be attached to the views of those who speak for the rights of conscience of the individuals." Chowdhury voted in favor of the C.O. resolution before he suddenly took leave of the Commission to return to embattled East Pakistan, the region that became Bangladesh and which made him its first President.

A particularly incisive defender of the resolution was Sir Keith Unwin, who made several interventions as the discussion grew more heated, recalling at one time that conscientious objectors had been persecuted and imprisoned in many countries, including his own. He felt that it took more courage to defend freedom of conscience than physical freedom and urged the NGOs not only to continue their struggle for the recognition of the right of C.O. but also for the formation of a U.N. organization in which C.O.'s could give service to mankind.

When called upon to take the floor I explained that Pax Romana supported the right of conscientious objection, not out of a general acceptance of pacifism but out of belief in the primacy of conscience. The movement included those who believed in military service as a privilege of citizenship. I added that freedom of choice as to means of serving one's country—military or civilian—was demanded by true freedom of conscience.

I asserted that all present in the Commission were conscientious objectors—to something. Using our powers of conscientious judgment, we decide to oppose apartheid and other racist systems, slavery, colonial oppression, and any other system which degrades and humiliates man. The main burden of the Commission on Human Rights was to focus on such centers of infection and to mobilize movements of conscientious objection toward their eradication. The Commission served as the eyes of the human community in locating the particular situations where human rights were violated. I could not see, given the Universal Declaration of Human Rights, how the Commission could fail to approve a study of the legislation regarding conscientious objection and the treatment accorded the objector.

A heavy blow to the resolution came from the Tanzanian delegate, who termed himself a pacifist, but stated that in his country national service, including military service, had been instituted for citizens between the ages of eighteen and thirty-five. In a developing country like his own, recently come into freedom, the principle of recruiting citizens is new

and the question of conscientious objection had not been heard of. The C.O. Question, he maintained, was of vital concern to nations other than the developing ones, and more specifically to the militarily powerful among the nations.

The dilemma of the developing countries was real. They had to establish the principle of compulsory national and military service and succeed in carrying it out before dealing with the right to object to it. We talked with some of the Latin-American delegates whose constitutions contain a clause about compulsory military service. They were willing to vote for the resolution so that they could see the study and learn from the experience of others.

Heavy, sledgehammer blows against the resolution came from the delegates of the Ukrainian SSR and the Soviet Union. They wanted no discussion of such an issue in the United Nations, and they brought up formidable arguments. Nikolai Tarassov, who had described the just war approach at the first surfacing of the C.O. Question, stated that the notion of conscientious objection was completely contrary to the Constitution of the USSR. In fact, he explained, Article 132 expressly forbade it, propounding that "universal military service is the law." Article 133, he continued, states that the protection of the Fatherland is the sacred duty of every citizen of the USSR. A law adopted on October 12, 1967, he told us, spelled it out even further by declaring that "All male citizens of the USSR, irrespective of race, nationality, religion, or geographic position, are required to engage in active military service in the armed forces of the Fatherland."

Igor Lukashuk brought on even heavier weaponry against the concept of conscientious objection. Conscientious objection, he claimed, was not only contrary to the constitutional law of his country, but also contrary to international law and morality and the provisions of the U.N. Charter. The vehemence of the attack on so mild a resolution, a resolution that asked for nothing more than a study of the C.O. Question, startled many of the delegates.

At one point Lukashuk admitted that morality authorized a citizen to refuse to participate in a war if it was a war of aggression against a liberation movement. The constitutional law of the Ukrainian SSR was not in contradiction to such an attitude, but since the Ukraine would never declare such a war, the issue of conscientious objection was irrelevant. Duncan Wood smiled at this admission and commented to me: "Lukashuk, without perhaps fully realizing it, has come out in support of the most avant-garde interpretation of the C.O. position, that of 'selective objection.'"

Van Boven of the Netherlands cited an example from Soviet history in defense of the position of conscientious objectors. Van Boven had read the exten-

sive coverage of conscientious objection in the Soviet Union contained in "Conscription: A World Survey." While both the Ukrainian and Soviet delegates, said van Boven, had stated that the principle of conscientious objection was contrary to their constitution, it did not seem contrary to Marxist-Leninist doctrine. He held up the text of a decree signed by Lenin in 1920 which provided for the exemption of certain persons from military service for reasons of conscience. The number of exempted persons in Moscow alone had run into tens of thousands from historical accounts. The present situation, he agreed, was different from that of 1920, but such a decree would not have been promulgated if it had been contrary to Marxist-Leninist doctrine.

There was a silence. Neither Tarassov nor Lukashuk undertook to reply at that time. The next day, however, Lukashuk returned to the matter of the Lenin decree. He told the Commission that he wanted to explain the existence of the Lenin decree on conscientious objection. It was a humanitarian measure justified at the time. There were sects, various religious sects, which took a position against military service, but by now all those sects had disappeared.

A young Marxist, who had listened avidly to the explanation, turned to us in puzzlement and whispered, "What happened to those sects?" One of the so-called "sects," I knew, was composed of Christian Socialists, many of whom had accepted the promise of Lenin's revolution. We suggested that he read the history of the period to find out how such groups had disappeared.

One of the recurrent arguments against the principle of conscientious objection was that its practice would constitute a privilege, would constitute a denial of the equality of citizens and the equality of sacrifice. A sponsor of the resolution, Mr. Quentin-Baxter of New Zealand, confronted this argument, pointing out that in life, as within the armed forces, it is impossible to ensure equality of sacrifice. In fact, the objector himself may be called upon to make greater sacrifices than many soldiers. The question of conscientious objection, he said, brings us to the very heart of the problem of human rights, since it deals with the relation of the individual to his nation and to society.

It had become clear to us that it was precisely at this point that the collision of worldviews occurred. Those who opposed dealing with the subject of conscientious objection to military service seemed to oppose more than objection to military service. The right to object to such service on a political level had been publicly conceded by Mr. Lukashuk. The major block seemed to be the flaming word "conscience," and the injection of the notion of individual conscience into the whole subject of human rights.

When the vote on the C.O. resolution came, the result was a surprise. It passed with eighteen votes, only three votes against and eight abstentions. The

bloc of Soviet and Afro-Asian nations was split in three directions. Iraq voted against the resolution, as its delegate had announced in advance, and was joined by Morocco and the USSR. Three Muslim nations abstained, and one, Pakistan, cast a favorable vote. The Ukrainian SSR and Poland abstained, while Yugoslavia registered a favorable vote.

Conscientious objection had not only surfaced at the United Nations. It was to be the subject of a study by the U.N. Secretary-General among the member nations.

Two years later, in 1973, the report on conscientious objection by the U.N. Secretary-General was presented to the twenty-ninth session of the Human Rights Commission in Geneva. It contained replies from fifty-seven countries in response to the letter of the Secretary-General addressed to all member states on November 11, 1971. Enclosing the C.O. resolution passed by the Human Rights Commission, the communication noted that in replying each government may "... wish to bear in mind such questions as: whether there is any national legislation, other measure or practice relating to conscientious objection to military service and alternative service; the grounds upon which conscientious objection to military service can be claimed; the authorities competent to determine exemptions from military service on grounds of conscientious objection; and the procedure applicable, including provisions for appeal; the penalties and sanctions applicable to conscientious objectors; the forms of alternative service required or permitted, and the conditions of such service in relation to military service; and whether national legislation or other measures and practices relating to these matters apply equally in peacetime and emergency situations."

The NGO representatives read the seventy-two-page report hungrily. Of the nations replying, twenty-three stated that they did not maintain conscription, twenty-one maintained conscription without provision for conscientious objection, and thirteen had conscription along with various provisions for conscientious objection. The report revealed many little-known approaches to conscientious objection, such as that of Madagascar. This nation stated that while it maintained compulsory national service, it did not need to specify "conscientious objection" in its national defense act, since it conceived of "national defense" as "a matter of combating the country's economic, social, and cultural undevelopment." In 1968 Madagascar had introduced a new form of national service known as "national service outside the armed forces" consisting of service in "public, quasi-public or private bodies contributing to the objectives specified above with regard to national defense. By its very nature, it isolates the citizens concerned from any armed activities."

We had hoped that exchanging experiences on the

issue would prove of value between nations. Madagascar's solution was useful to all developing countries, especially those of the African continent. Another small member state gave a reply that could have application to the many newly independent states added to U.N. membership. Mauritius, while explaining that it maintained no naval, military, or air force, explained that its constitution "by necessary implication, ensures that any future legislation on the matter should provide for conscientious objection."

Pakistan, in asserting that military service is voluntary, added that "Anyone who does not wish to serve in the armed forces simply does not get himself enrolled." Luxembourg, Saudi Arabia, and other states echoed the same sentiment.

A far more comprehensive study of conscientious objection was published in the December, 1972, issue of *The Review*, publication of the International Commission of Jurists. It covered legislation and C.O. practices in 150 countries around the world and had been prepared by a husband-and-wife team, David Weissbrodt and Patricia Schaffer. Their article, entitled "Conscientious Objection to Military Service as a Human Right," was far more revealing than the U.N. study, since it relied on facts gathered by disinterested observers rather than on what governments had to say about themselves. It also carried material on countries which for reasons of their own did not reply to the Secretary-General's letter.

The article listed eighty-four countries as maintaining conscription, of which twenty-four allowed at least partial recognition of conscientious objection. Another twelve countries were known to have made administrative arrangements for dealing with conscientious objectors, often on an ad hoc basis. In the latter group were Bulgaria, the German Democratic Republic, and Hungary. Research had revealed that in the USSR local army commanders had responded to the claims of conscientious objectors by assigning them to nonmilitary posts in hospitals—or merely sending the C.O.'s back home and ignoring them. If these commanders had adhered to the letter of the law they would have referred the objecting recruits for prosecution with possible penalties of one to three years' imprisonment in peacetime. Schaffer and Weissbrodt gathered evidence of persons claiming the right of conscientious objection in forty-eight countries of the world which had no provision for conscientious objection. Of these claims, eighteen occurred in developing countries, nine in Eastern Europe, ten in the Americas, eight in Africa and the Middle East, and the remaining twenty-one in Western Europe, Australia, and the Pacific.

The spirit of the NGO representatives was high at the beginning of the 1973 session, especially when the "Youth item" was moved up to tenth place on the agenda. There were now

two sections to the item, one on conscientious objection and the other on the teaching of human rights in universities. Seven international youth organizations presented a youth statement on conscientious objection and ten adult organizations presented a separate statement. Both were strong and clear.

One of the organizations signing the adult statement was the International Commission of Jurists, whose representative asked for the right to speak. A young lawyer, he addressed himself to a crucial issue, namely, the fact that the constitutions of no less than sixty-five countries specify that citizens have a duty to defend their country. Alluding to the need to provide alternative civilian service for those objecting to military service, he went on to confront the constitutional question.

"There are some states," he said, "who will object that their constitutions demand obligatory service, especially in time of national danger. It is important to realize that such service is not in opposition to the right of conscientious objection, provided that it does not take a form which involves the killing of human beings." Indeed, "most conscientious objectors would take the position that their stand against war and their work for peace, when accepted and encouraged by their governments, are in fact service to their nation and a greater defense against the scourge of war than military activity." And he added:

A constitutional provision requiring all citizens to defend the country should prove no barrier to the legal recognition of conscientious objection any more than it requires the universal conscription or the placing of women and children in the battle lines in war.

It is therefore a question of whether a country wants to use its constitutional provision requiring national service to deny a human right or whether it is willing to interpret it in a way consistent with human rights.

The resolution produced by the delegates of the Netherlands and Austria made milder demands than those contained in the NGO statements.

The resolution was worded with great care, omitting the request for an outright declaration on conscientious objection at that point. It invited states with compulsory military service to make provision for conscientious objectors and for alternative service. Rather than stating that conscientious objection is a human right, the preamble to the resolution declared that "conscientious objection to military service involves questions of fundamental human rights." Now that the Secretary-General's report was in hand and it was known that large numbers of states made no provision whatever for objectors, the resolution was an effort to keep the whole subject alive. It asked that the Secretary-General seek further information from member states regarding pro-

vision for those who object to military service "on the grounds of conscience or profound moral conviction," as also the provision of objectors with "appropriate work for the advancement of the well-being of society."

When the temperate and measured resolution was placed on the table, Theo van Boven said: "This question of conscientious objection has not only the support of my mind but of my heart." Five delegations came forward in praise and approval of the resolution in its draft form: the United Kingdom, India, Norway, the United States, and France. The French delegate reminded the Commission that his country had only recently accorded some recognition to conscientious objectors to conscription.

The flag of opposition was raised by the USSR, whose spokesman was now N. Evdokayev. After an extended discussion of the lack of opportunities for youth to take part in social development in capitalistic societies, he stated flatly that placing conscientious objection on the agenda was unjustified interference in the domestic affairs of states. States, he went on, might be divided into two groups, those who have decided on compulsory military service and those who have decided it is not necessary. The latter have no need to consider the question of conscientious objection. Since every state has the right to decide in which group it should belong, the C.O. resolution was inadmissible and contrary to the Soviet Constitution. Evdokayev completely ignored the third category of states as described in the Secretary-General's report, namely, those which had compulsory military service *and* provision for conscientious objection along with alternative service. Mr. van Boven explained that the phrasing of the resolution—"invites member states"—could hardly be construed as interference in the domestic affairs of member states.

Iraq joined the USSR in opposing the resolution, but gave reasons other than the Muslim orthodox position presented at the 1971 session. Its delegate gave a more political turn to his argument, pointing out that since the U.N. is powerless to prevent aggression, the smaller, developing countries must resort to conscription. He felt it was the only way to preserve for countries like Iraq the power to defend their independence. If such countries as his own allowed conscientious objection, they would be under a handicap with regard to the large industrialized countries, which have nuclear arms and can thus dispense with large military forces.

Bulgaria accused the resolution of militating against the equality of all citizens before the law, the principle on which all democratic states base themselves, and Byelorussia took the floor to echo the USSR in finding that the C.O. resolution dealt with a matter completely within the domestic jurisdiction of member states, citing the U.N. Charter.

Again the USSR contributed to the debate. The

Soviet Union, its delegate reminded the Commission, and its people had shown their dedication to the ideals of peace by launching the idea of general and complete disarmament. If this idea had been accepted, wars would have ended and conscientious objection would have become an academic question.

NGO spokesmen were called upon to address the Commission before the conclusion of the debate. Duncan Wood spoke for us all when he told the delegates: "The conscientious objectors do not ask for much: They seek freedom from persecution and the recognition that their stand is a valid expression of the right of freedom of conscience. . . . It cannot be doubted that you would not be sitting here discussing human rights under the auspices of the United Nations had there not been generations of men and women prepared to risk persecution and ridicule for the sake of the conviction that war is neither an acceptable nor a pre-ordained method of settling disputes."

The fifth intervention of the USSR precipitated what Duncan Wood called "the debacle." The Soviet delegate recapitulated his earlier statements, laying stress on the incompatibility of the C.O. resolution with the U.N. Charter. There was a somnolent air in the chamber, as often when arguments came round repeatedly.

The chamber came to life when Evdokayev proposed an immediate vote on deferring the C.O. Question on the basis of Rule 61 of the Rules of Procedure. There was a question as to whether Rule 61 was really appropriate in this case, but it had worked to block off debate. It could only defer the question, however, not block debate for good. The question of conscientious objection would be on the agenda of the next session of the Commission. That had been the fallback position of the sponsoring delegates in any case, and it had been achieved.

The "proper attention" which was supposed to be given to the question of conscientious objection at the 1974 session of the Human Rights Commission turned out to be the filibuster on the "right to life" that I initially described, so that the "right not to take life" was crowded off the calendar without debate.

Following the 1973 session I boarded a plane at the Geneva airport to return to New York. Thinking back on our struggle for the rights of conscience, I found that Thoreau's pithy question kept running through my mind: "What is each man given a conscience for if he is not to use it?" I was pondering on the fact that the championing of every human right involves implementation in a given nation. As I reviewed the debate in my mind, I looked ahead and saw that my companion on the flight was Mr. Evdokayev, who was chatting with a fellow-Russian. I introduced myself and told him that I was one of the NGO representatives concerned

with the resolution on conscientious objection at the Human Rights Commission. Finding out that I was an American, his companion asked: "Why do you support this particular resolution? Why are you not supporting resolutions against racism in America? There is still discrimination against black people and Jews."

I replied that I was against all discrimination and that I was part of the civil rights movement as well as the peace movement. I then asked Evdokayev what he would say to young Portuguese recruits who refused to fight in Angola, Mozambique, and Guinea-Bissau against the Africans who wanted freedom from colonialism.

"I would tell them not to fight," Evdokayev answered promptly.

"That is what we mean by conscientious objection," I said, feeling I had made an important point. "These young men are recruited by a country which maintains conscription but no provision for conscientious objection and alternative service. As you know, they can only follow their conscience by becoming exiles. Many of them have deserted the army."

"Could you then support in principle a resolution on conscientious objection, since it covers cases like this?" I asked.

"No," he replied. "We could not support it in the abstract. The Portuguese soldiers should stop fighting. Portugal should stop that colonial war. That case does not refer to us. Our constitution obliges everyone to perform military service. Van Boven's resolution is too abstract."

"Under what conditions could you support a resolution on conscientious objection?" I wanted to know.

Evdokayev pondered several seconds.

"The resolution would have to define the type of war that the person objects to. War objection that could be understood, against unjust wars—like the war in Vietnam—also wars of aggression, colonial wars, against serving in occupation forces in foreign territory. The resolution would have to be more specific."

"But is it possible to be specific in a resolution that is to be applied generally?" I asked.

"It would be sufficient to specify the type of unjust wars, without naming places like Angola or Mozambique." Evdokayev focused his narrow blue eyes on me as if I were a slow-witted student. "But it must be understood that when the war is just, then everyone must obey the order to fight. A just war," he intoned, "is a war in defense of one's territory if it is invaded and for the independence of one's country."

He continued impatiently. "When we fought Hitler, everybody in the whole country fought. That is why we won—and maybe why the Netherlands did not win. What would you want us to do when the Germans came into Russia? Let them come and do what they wanted? We had to resist."

"I agree with you," I said, and he nodded with satisfaction, as though at last he had penetrated a slow mentality.

"But suppose," I went on, "a few people wanted to resist nonviolently. I myself belong to the Gandhian tradition of resisting evils, including violence, by means of nonviolence, by means that do not kill or injure another human being."

I suddenly thought back to my first intervention at the United Nations, and I continued: "Even Krupskaya and the Christian Socialists believed in resistance that did not involve killing. Wouldn't it be possible to permit conscientious objectors to killing to fight disease or epidemics instead of people? Couldn't they serve the country that way?"

"No, we do not allow nonviolence," said Evdokayev.

"Everybody must obey the call of the country. To allow a different type of service would not be possible."

His companion interjected: "If there was another type of service, some clever people would find a way not to fight. Everybody must obey and fight together."

"But I still look at it from the other side," I insisted, though I could see that both men were restive. "I still see the plight of Franz Jägerstätter, who refused to kill Russians and Poles for Hitler, though Hitler said that everybody must fight together."

"I repeat," said Evdokayev, "a just war in the defense of the integrity, the sovereignty, and the independence of one's country is something that no one can refuse to take part in for any reason whatsoever." He considered the conversation closed.

I took a deep breath. I had to strike one more non-violent blow for the principle of conscientious objection. "If the resolution would state that one can only be a conscientious objector to unjust wars, and every country says that every war it is fighting is just, where does that leave the conscientious objector?"

There was an uncomfortable silence, which Evdokayev did not break. His face was red, perhaps with anger, perhaps with impatience at having a peaceful air crossing interrupted by such arguments. Humanly speaking, I could hardly blame him. Yet I waited. The other Russian finally remarked: "It is a very complicated matter." And we left it at that.

I realized as I went over our exchange in my mind that Evdokayev had never once used the word "conscience" or "conscientious." War objection he could accept, as long as it was political and as long as the political stripe was that of the USSR. It was the word "conscientious," a word implying that a person has choices, free choices that may not jibe with those of his own nation, that caused the gulf across which communication could hardly be maintained. It is exactly on that word and on what it implies that the collision of worldviews is likely to continue.