



Canadian Friends Service Committee (Quakers)

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Urgent Action: US conscientious objectors facing deportation

November 27, 2014

An alarming number of US Iraq War resisters in Canada are threatened with deportation now – and more are expected. Seven C.O.s have received negative decisions on various applications to stay in Canada this fall. While two have already received stays of removal (i.e. deportation) from the court, this may not last past January; other cases are in process, including three who will receive their removal dates in mid-January (with likely one week's notice to leave Canada).

Now more than ever your support is needed!

Please support the rights of these conscientious objectors by writing to Chris Alexander, Minister of Citizenship and Immigration, and send a copy to your Member of Parliament.

Let the Minister know that:

- Under international law, military personnel can desert and expect protection from foreign governments, particularly when they “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” (UNHCR Handbook, paragraph 170).
- There have been many court decisions critiquing how their cases have been assessed and noting what factors Canada must consider (and did not) in its adjudication of their cases. The war resisters ability to expect a fair hearing was compromised by the government calling them “bogus refugees”.
- The majority of Canadians want the war resisters to stay in Canada.¹
- All removal orders/deportations should cease – those who return (or are deported) to the US will be tried and imprisoned by the US military. Punishment for deserting or refusing to perform military service, when based on deeply held moral, religious or political convictions, is a form of persecution.
- Like the Viet Nam war resisters² before them, the US war resisters came to Canada because of their conscientious objection to an illegal and immoral war. They should be allowed to stay.

Contact information:

- Chris Alexander, Minister of Citizenship & Immigration, House of Commons, Ottawa, ON, K1A 0A6 or Chris.Alexander@parl.gc.ca
- To find the contact info for your MP, visit this site and enter your postal code under “Find a Member of Parliament”: <http://www.parl.gc.ca/SenatorsMembers.aspx?Language=E>

Consider making a donation to the War Resisters Defence Fund (to support their legal cases). Send a cheque made out to “War Resisters Support Campaign” to WRSC, 427 Bloor Street West, Box 3, Toronto, Ontario, M5S 1X7.

Learn more about the issues – read the following “backgrounder” on conscientious objection and why the US war resisters should be allowed to stay, for legal and moral reasons.

¹http://www.angusreidglobal.com/wp-content/uploads/2012/08/2008.06.27_Soldiers.pdf

²“During the Vietnam War an estimated 20,000 to 26,000 draft dodgers and 10,000 to 30,000 *military deserters* [italics added] came to Canada between 1965 and 1975” (see “The re-writing of history: The misuse of the draft “dodger” myth against Iraq war resisters in Canada” by Luke Stewart at <http://activehistory.ca/papers/history-papers-12/>)

Backgrounder: Conscientious objection – why should we “let them stay”?

September 23, 2014

Conscientious objection to military service, whether by draft resisters or deserters, is a widely recognized ground for granting refugee protection, both in Canada and internationally. Rights of conscience and religion hold a particular significance for Quakers and other churches as we seek to encourage people to live faithful lives. When people have followed their conscience in the decision they made to refuse to serve in war and to come to Canada, their circumstances warrant humanitarian and compassionate relief. Their beliefs are protected under domestic and international law, and Canada would be facilitating their punishment by returning them to the United States.

Canadian law

Conscientious objection to war is the most well known expression of conscience that brings the individual into potential conflict with the state. Canada has a long history of accommodating conscientious objectors,³ including the Militia Act of 1793, which exempted Quakers, Mennonites and Brethren in Christ from service. Notably, the Militia Act recognized "scruples of conscience" as a valid ground for conscientious objection, in addition to the validity of religious grounds.

Since 1868, Canada has passed laws or made provisions for conscientious objectors that reflected evolving interpretations of rights of conscience. Through the *Canadian Charter of Rights and Freedoms*, Canada now recognizes the right of freedom of conscience. Significantly, the Canadian Forces recognizes that those who join the military can develop a conscientious objection to war and bearing arms at any time and can seek a discharge on this basis.⁴

While this is laudable, it does not yet reach the current standard of interpretation in international law which clarifies that conscientious objection can be selective, such as to particular war when the person believes it contravenes international standards of law or human rights.⁵ This is the case for most of the US war resisters in Canada.

Disappointingly, on July 22, 2010, Citizenship and Immigration Canada sent a directive, Operational Bulletin 202⁶, to all immigration officers in Canada, focusing on the processing of military deserters who claim refugee status in Canada. The first paragraph of the directive implies that military deserters from other countries who are seeking refugee protection in Canada may also be serious criminals and therefore inadmissible to Canada, as desertion is a serious crime in some countries. When this effort to discourage military personnel prevents them from exercising conscientious objection rights guaranteed in the *UN Handbook for Refugees* then this is not in accord with respect to Canada's adherence to the norms of universal human rights.

We note with profound concern that OB202 may not just be the basis of refusing entry to potential conscientious objectors, it may be the basis of rejection by the Ministry of Immigration and Citizenship of legitimate spousal sponsorship applications by US war resisters and their Canadian spouses (i.e. the US spouse is "criminally inadmissible" because they deserted the US military).

³<http://co.mcc.org/canada/co/history.html>

⁴<http://www.admfincs.forces.gc.ca/dao-doa/5000/5049-2-eng.asp>

⁵ Even the earliest ideas in Christian and non-Christian tradition of "just war theory" identified the existence of selective objection to war.

⁶<http://www.cic.gc.ca/english/resources/manuals/bulletins/2010/ob202.asp>

International law

The UN High Commission for Refugees' (UNHCR) *Handbook*, the *International Covenant on Civil and Political Rights*, the *Universal Declaration of Human Rights*, and the *Canadian Charter of Rights and Freedoms*, all protect the fundamental right to freedom of thought, conscience and religion. This fundamental right includes the right to conscientiously object to military service based on religious, moral, ethical, humanitarian, or similar motives.

The US war resisters have been arguing their case for protection as refugees since arriving in Canada. The UNHCR *Handbook* specifically addresses the question of principled objection to military service (paragraphs 167-174). At paragraph 170 the *Handbook* instructs that:

There are, however, 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.⁷

The scope of interpretation of this right includes those who develop principled objections to military service after having volunteered to serve, and includes those who selectively object to only certain types of, or aspects of, military service.⁸

Regarding whether protected conscientious objection to military service concerns only objection to war in general or also includes selective objection, or objection to a specific war, the UNHCR has instructed:

In line with the UNHCR *Handbook* and **evolving human rights law**, punishment for refusal to perform compulsory military service in the form of draft evasion or desertion may also be considered to be persecutory, if the reasons for refusal to serve are based on deeply held moral, religious or political convictions (conscientious objection). **The question as to whether the objection is selective is irrelevant in this regard.** UNHCR trusts that Member states will take this aspect into account.⁹(*emphasis added*)

Conclusion

Conscience is not limited to a person's religious beliefs – it prods us and leads us regardless of faith and is recognized not just philosophically but legally. Rights of conscience are recognized in Canadian and international law, which speaks to their prominence in the function of society. Such rights of conscience in Canadian and in international law are not dependent on a rootedness in religious belief.

In terms of conscientious objection, people serving in the military can (and do) develop sincerely held beliefs against war, a war (selective objection), or bearing arms, and have rights under international law to such status. If punished or imprisoned for their convictions – as the US war resisters who have returned to the US have consistently been – their punishment may amount to persecution – one of the grounds for seeking refugee status in the first place (well-founded fear of persecution).

⁷UNHCR *Handbook on Procedures and Criteria for Determining Refugee Status*, Office of the UNHCR, Geneva, January 1992, paragraphs 167 - 174

⁸CCPR/C/21/Rev.1/Add.4, General Comment No. 22: *The right to freedom of thought, conscience and religion (Art. 18)*: 30/07/93

⁹UNHCR *Annotated Comments on the EC Council Directive 2004/83/EC of 29 April 2004 on Minimum Standards for the Qualification and Status of Third Country Nationals or Stateless Persons as Refugees or as Persons who otherwise need International Protection and the Content of the Protection Granted. (OJ L 304/12 of 30.9.2004)*

The US war resisters are not criminals or bogus refugees – they are people of principle and of conscience who have already paid a high price for their beliefs and witness for peace: loss of country, loss of family and friends, insecurity of income, medical treatment, and home. What they have not lost is their courage to stand up for what is right – refusing to participate in an illegal and immoral war that the UN and Canada itself refused to participate in.

We continue to believe in the legitimacy of the US war resisters' claims for protection by the government of Canada and that they should be allowed to stay in Canada, be that as refugees, on humanitarian and compassionate grounds (which is at the Minister's discretion), or as the legitimate spouses of Canadian citizens who seek to sponsor them (as is the case for some, and is a decision made by the Ministry of Immigration).

Additional learning resources:

"International Standards on Conscientious Objection to Military Service", educational resource by Rachel Brett, Quaker UN Office Geneva (January 2014):
<http://quino.org/sites/default/files/resources/International%20Standards%20on%20Conscientious%20Objection%20to%20Military%20Service%202014.pdf>

"Guidelines on International Protection No. 10: Claims to Refugee Status related to Military Service", issued by UN High Commissioner for Refugees' (UNHCR) (December 2013):
<http://www.refworld.org/docid/529ee33b4.html>

"Conscientious Objection to Military Service", an educational publication by Office of the UN High Commissioner on Human Rights) (2012):
http://www.ohchr.org/Documents/Publications/ConscientiousObjection_en.pdf

Canadian Council of Churches' letter in support of the US war resisters (May 2012):
<http://quakerservice.ca/news/cfsc-welcomes-churches-support-for-conscientious-objectors/>

World Council of Churches minute in support of the right of conscientious objection (September 2009):
<http://www.oikoumene.org/en/resources/documents/central-committee/2009/report-on-public-issues/minute-on-the-right-of-conscientious-objection-to-military-service>

World Council of Churches' study on the right of conscientious objection to military service (June 2009):
http://www.overcomingviolence.org/fileadmin/dov/files/wcc_resources/dov_documents/Consc_Obj_MiI_Serv_Study.pdf