

Script: The contents of Freedom of Religion or Belief - conscientious objection

Freedom of thought and conscience are protected by article 18 of the Covenant on Civil and Political Rights, alongside religion and belief, so the right to conscientious objection is part of freedom of religion or belief.

Conscientious objection means refusing to do something you are required to do, because doing it would violate your conscience or religious belief.

Examples of things people claim a right to refuse to do include compulsory military service, taking oaths, receiving blood transfusions or participating in some medical procedures. The only specific form of conscientious objection mentioned in UN documents is the right to refuse military service. And it's not mentioned either in legally binding UN conventions, or in the Universal Declaration of Human Rights. Instead, it's mentioned in General Comment 22 of the United Nations Human Rights Committee. This is a document written by UN human rights experts which explains how states should interpret article 18 of the International Covenant on Civil and Political Rights. This committee concludes that article 18 supports a right to conscientious objection to military service, if being required to kill seriously conflicts with your freedom of conscience, and the right to manifest your religion or belief.

Many countries recognize this right, and offer alternative national service systems and exemptions. But there are still a number of states that imprison those who refuse to do military service because of their religious or pacifist beliefs. Jehovah's Witnesses are the group most heavily affected by this. For example, in South Korea 389 Jehovah's witnesses were serving prison sentences for conscientious objection in December 2016.

According to UN Human Rights bodies, alternative non-military service arrangements should be accessible to all conscientious objectors without discrimination, and everyone affected by military service should have access to information about the right to conscientious objection and how to claim it. Conscripts and volunteers should be able to object both before and during military service.

In addition to conscientious objection to military service, other forms of conscientious objection are often recognised at the national level. This mainly relates to health care, for example midwives and doctors who refuse to perform abortions. In some countries, conscientious objection issues have been raised in relation to same sex marriages. Often difficult questions about rights in conflict come up, for example if the right to

conscientious objection comes into conflict with women's rights or anti-discrimination legislation.

There is no clear international legal norm for these kinds of conscientious objection yet. In fact the issue is very controversial.

Here are the three arguments you're most likely to meet:

Some people argue that conscientious objection is part of the absolute right to have your religion or beliefs, that may never be limited. They argue that following your conscience should not result in any punishment or cost. After all, it's impossible to be a devout pacifist and a soldier, so forcing pacifists to be soldiers violates their internal, absolute right to have a religion or belief.

Some others agree that it's an absolute right, but think circumstances matter. They argue that conscripts, prisoners and others who have no choice about their situation should never be forced to violate their conscience. But that people who voluntarily apply for a job and are free to leave it can't automatically expect their employer to accommodate their conscience. In other words, choosing to act in accordance with your conscience may involve a cost.

And others argue that conscientious objection is an act, and that is therefore a manifestation of your conscience, religion or beliefs. Manifestations may be limited, but only where necessary to protect the rights and freedoms of others, public health, order or morals. In relation to conscientious objection to military service, it's important to note that national security is not a legitimate ground for limiting freedom of religion or belief.

Legal experts disagree on which of these positions is correct.

To sum up, in this film we have looked at conscientious objection. Conscientious objection is the right to refuse to do something you would normally be expected to do. The right to conscientious objection to military service is protected in international human rights law. Many countries recognize this right, but some imprison conscientious objectors. Many states also recognise other forms of conscientious objection at the national level. However, these rights are controversial and international law on the topic is not fully developed.

You can find more information about the right to conscientious objection, including texts of human rights documents that refer to it, in the training materials on the website.

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