

Amnesty & work of  
reconciliation

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UNITED STATES CATHOLIC  
CONGRESSIONAL TESTIMONY

# AMNESTY: A WORK OF RECONCILIATION



*Submitted to the House  
Subcommittee on Courts,  
Civil Liberties, and the  
Administration of Justice  
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behalf of the USCC.  
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The agreement the United States and other nations signed over a year ago brought a formal cease-fire to the war in Vietnam. We must acknowledge, however, that this action did not achieve fully the expectation of establishing peace for the people of Indochina, nor did it eliminate all of the conditions which that most tragic war inflicted upon the people of the United States.

Domestically, the effects of the war are still with us; in fact there is a risk that its after-effects can leave a residue of bitterness which could poison our national life for years to come. This must not be allowed to happen. We must instead seek to resolve the situations which cause divisions among us in a spirit of reconciliation. Reconciliation is the theme and motivating idea of this presentation; reconciliation is also the primary need of the moment in this country.

The manifestations of the need for reconciliation are nowhere more apparent than in the lives of those directly touched by the war. The consequences of the war are diverse and call for a plurality of modes of reconciliation. On a prior occasion the Catholic bishops of the United States called attention to the needs of returning veterans, especially the wounded and the prisoners of war ("Resolution on Imperatives of Peace," November 16, 1972). In the last few weeks some of these very men have come to Washington to remind the Congress and the country that their needs have not been adequately met as yet. The reintegration of these returning veterans into the full life of the society and the provision for their medical, social and economic needs is one dimension of reconciliation due to them because of the valor they have displayed and the sacrifices they have made.

An equally important task of reconciliation to which we would like to give specific attention in this testimony relates to those young men whose critical judgement of the Vietnam war led them to resist military service. This testimony today in favor of amnesty is rooted in prior evaluations which the American Catholic bishops have made about these young people. In 1968 the bishops offered the following assessment of those who oppose military service:

There is sometimes ground for question as to whether the attitudes of some toward military duty do not spring from cowardice. In this problem, as in all crises which test generosity and heroism, cases of moral as well as physical cowardice doubtless occur. But a blanket charge of this kind would be unfair to those young people who are clearly willing to suffer social ostracism and even prison terms because of their opposition to a particular war. One must conclude that for

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many of our youthful protesters, the motives spring honestly from a principled opposition to a given war as pointless or immoral.

Nor can it be said that such conscientious objection to war, as war is waged in our times, is entirely the result of subjective considerations and without reference to the message of the Gospel and the teaching of the Church; quite the contrary, frequently conscientious dissent reflects the influence of the principles which inform modern papal teaching, the Pastoral Constitution [of the Second Vatican Council] and a classical tradition of moral doctrine in the Church, including, in fact, the norms for the moral evaluation of a theoretically just war. ("Human Life in Our Day," chapter 2, *The Family of Nations*, November, 1968)

The purpose of recalling these words is to focus our concern today on those who have suffered prison terms and social ostracism, even to the point of self-imposed exile, as a result of their opposition to the Vietnam war. It is our belief that in the present context of our country the granting of amnesty is a work of reconciliation. It is important to specify what we mean by amnesty; to grant amnesty requires both an understanding of its precise meaning and a recognition of how it relates to reconciliation.

Amnesty does not mean that society or the nation "forgives" a person for his unlawful acts. Rather, amnesty is a healing act of deliberate and selective "forgetting," used in situations where the nation both admits its own need for reconciliation and recognizes that need for healing of injustices suffered by the individuals in question. To grant amnesty, then, brings about healing and reconciliation to some divided members of society and reconciliation of these members with society as a whole. The government's grant of amnesty becomes the law's own way of undoing what the law itself has done.

Who should be granted amnesty? Three broad categories of cases become evident. First, those young men who were subject to the draft but whose informed conscience led them to oppose participation in the Vietnam war, even though they could not say in conscience that they were opposed to all use of military force. These selective conscientious objectors are now serving prison terms. We do not believe any useful purpose is served at this time by continuing the incarceration in federal prisons of these young men whose consciences instructed them not to engage in the killing and dying in the Vietnam war. Therefore for this first group I would repeat the injunction of the American Catholic bishops made in 1971:

We urge civil officials . . . to consider granting amnesty to those who have been imprisoned as selective conscientious objectors. ("Declaration on Conscientious Objection and Selective Conscientious Objectors," October 21, 1971)

Secondly, we also recognize that an additional group of young men are in a somewhat similar position, that is, men in military service, who for reasons of their consciences were compelled to refuse to serve in the war and who were imprisoned or given less than honorable discharges. Here again the complicating impact of selective conscientious objection upon the structures of military law is evident. However, we do not believe that the individual forfeits his right to exercise the dictates of his conscience once he enters the ranks of the military, or, for that matter, any other form of employment. The request for amnesty for selective conscientious objectors in federal prisons, therefore, should also be extended similarly to men in military jails.

Thirdly, there is the group of young men who have left the country or who have remained in the country as fugitives from the law because they felt compelled to follow their consciences rather than the law. Certainly their experiences of sufferings and separations have been trying for them personally as well as for their families and friends. We again urge officials and all Americans to respond to their conspicuous need to find a solution to the problems of these men through the reconciling work of amnesty.

Why should amnesty be granted to these men? I have already cited one reason: the political and spiritual need to deal with the divisions in the fabric of our national life. There is, however, also a second reason of the moral or jurisprudential order. All three of the categories cited are made up of men who held the position of conscientious objection to a particular war, that is, selective conscientious objection. Catholic teaching on the morality of warfare fully supports those who with informed conscience oppose participation in all forms of warfare. The dominant moral position in the Catholic community for several centuries, however, has been the moral doctrine of the just war. This position while legitimating the use of force against injustice in political affairs as the *ultima ratio*, refuses to condone any and all uses of force. Such a teaching, requiring the individual to exercise responsible discriminating judgement about the moral validity of each use of force, is the matrix from which the judgement of *selective* conscientious objection issues.

Because selective conscientious objection is so explicitly a product of a Catholic moral doctrine, the American bishops expressed their concern in 1968 about the

inadequacy, indeed the injustice, of the failure of our legal system to provide for this very sound moral posture.

The present laws of this country, however, provide only for those whose reasons of conscience are grounded in a total rejection of the use of military force. This form of conscientious objection deserves the legal provision made for it, but we consider that the time has come to urge that similar consideration be given those whose reasons of conscientious objection are more personal and specific. ("Human Life in Our Day," chapter 2, *The Family of Nations*, November, 1968)

This testimony today is motivated by the fact that because of the inadequacy of the civil law a number of individuals suffered and are still suffering imprisonment, or have left the country and are still in voluntary exile, or have taken refuge from the law, because they felt compelled to follow their consciences rather than the law. The failure of the law to provide for the selective conscientious objector position impelled the bishops in 1968 to recommend that it be revised by enacting "a modification of the Selective Service Act, making it possible, although not easy, for so-called selective conscientious objectors to refuse—without fear of imprisonment or loss of citizenship—to serve in wars which they consider unjust, or in branches of the services (e.g., the Strategic Nuclear Forces) which would subject them to the performance of actions contrary to deeply held moral convictions about indiscriminate killing." (*Ibid.*)

In taking this position there is no attempt to underestimate the difficulties of the jurisprudential problem involved here for legislators in seeking to construct a law which respects both demands of public order and the dictates of an informed conscience protesting the character of a specific instance of warfare. Rather, the intention is to highlight the notion that where the imperatives of the moral law contradict the demands of the civil law in a properly formed conscience, in Catholic teaching the moral order must take precedence. This primacy of the informed conscience was the basis of the following counsel offered by the American bishops in 1968:

Whether or not such modifications in our laws are, in fact, made we continue to hope that in the all-important issue of war and peace, all men will follow their consciences. We can do no better than to recall, as did the Second Vatican Council, 'the permanent binding force of universal natural law and its all embracing principles', to which 'man's conscience itself gives ever more emphatic voice.' (*Ibid.*)

In 1971 the bishops specified their support of selective conscientious objection:

In the light of the gospel and from an analysis of the Church's teaching on conscience, it is clear that a Catholic can be a conscientious objector to war in general or to *a particular war* because of religious training and belief. (italics added) ("Declaration on Conscientious Objection and Selective Conscientious Objection," October 21, 1971)

On three occasions ("The Catholic Conscientious Objector," October, 1969; "Military Conscription," March, 1971; "Declaration on Conscientious Objection and Selective Conscientious Objection," October, 1971) the United States Catholic Conference reiterated the bishops' original recommendation in 1968 for a change in the Selective Service legislation affecting selective conscientious objectors. However, in fact, the law was not changed. During this period two cases were appealed to the Supreme Court involving selective conscientious objectors. The young men involved had refused to participate specifically in the Vietnam war on grounds of conscience although neither of them was conscientiously opposed to war in general. The Court upheld the convictions considering the present draft law constitutional, even though it did not provide an exemption for those who object in conscience to a particular war. However, the Court expressly stated in its majority opinion that Congressional action to recognize the right of selective conscientious objection could also be constitutional.

Obviously, in the view expressed in these statements we still have an unfinished jurisprudential agenda in our country on the issue of selective conscientious objection. The purpose of this testimony today is not to discuss this question in detail, but to illustrate that support for amnesty is rooted in the moral judgement that the problems of many of the young men in voluntary exile or those who are underground or those in prison were caused by the sensitivity of their consciences to the war and the insensitivity of our civil law to their conscience.

What should be our response as a nation to this situation? I would offer three reflections. First, I think it is clear that the nation's need for reconciliation is ill-served by offering these men full citizenship only on the condition that they first serve prison terms for violating a seriously inadequate law. To cause them to suffer imprisonment after the suffering and anguish they have already experienced seems a harsh and vindictive act for a nation seeking to be an agent of healing and reconciliation.

Secondly, as one guideline for determining the form amnesty should take, I would repeat the pastoral concern

expressed by the Catholic bishops of America in 1971, that "civil authorities grant generous pardon of convictions incurred under the Selective Service Act, with the understanding that sincere conscientious objectors should remain open *in principle* to some form of service to the community. (*italics added*) ("Resolution on Southeast Asia," November, 1971)

In principle, one of the objectives of the nation is to protect individual rights. In practice, the nation's laws and their enforcement are not always consonant with that principle. In principle, persons have rights and duties as citizens of the nation. In practice, these rights and duties are often imperfectly fulfilled. Such a catastrophic experience as the Vietnam war placed a tremendous strain on the delicate network of relationship between the nation and citizens, and upon the rights and duties of each. While the requirement in principle of alternative service is both a possible and reasonable requirement as a condition of amnesty and one which still commands our consideration, I would wish to stress today that it is not the only way, nor perhaps even the best way at the moment to promote reconciliation or to resolve this residual moral dilemma of the Vietnam war. I submit that the requirement of *quid pro quo*, in the present case, may be more than either reason or reconciliation require.

In any case we need to keep before us the preeminent need of these trying times: motivated by a spirit of reconciliation, the nation must surely find a way in principle and in practice to integrate these men back into society. This process requires that both parties in principle and in practice show a great spirit of generosity, and accept the weaknesses of the other party, that is, on the one hand, the nation's failure to design appropriate legislation, and on the other, the individual's failure to find a way of objecting to the war more acceptable to the total community. Faced by the urgency of the challenge, a display of generosity in this degree represents the best of the American tradition and should characterize the attitude of the government, the citizens at large and the individual directly affected. In this way we can get on with the tasks of reconciliation and healing so urgently needed in our country at this time.

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