



*"War is a crime against humanity.
I am therefore determined not to support any kind of war, and to strive for the removal of all causes of war."*

WRI declaration

Military Recruitment and Conscientious objection in Colombia

Report to the Human Rights Committee, 97th Session

London, August 2009

War Resisters' International is an international network with 83 affiliated organisations in 42 countries. It aims to:

- ▶ connect and support war resisters around the world
- ▶ promote nonviolent action to remove the causes of war

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Summary

Colombia does not recognise the right to conscientious objection. Conscientious objectors live with the permanent risk of recruitment by the Armed Forces of Colombia, in one of the frequent *batidas*, checkpoints set up by the military on busy streets or places, to check the papers of young people at recruitment age. In addition, they face further violations of their human rights.

This report outlines the various human rights violations experienced by young people at recruitment age, and especially by conscientious objectors. War Resisters' International's main concerns are:

- The common recruitment practice of *batidas*, and the subsequent forced recruitment of young people into the Armed Forces, is a violation of Article 9 of the International Covenant on Civil and Political Rights. The Working Group on Arbitrary Detention stated in its Opinion No 8/2008 on three cases of recruitment in Colombia (para 22): "*Nor is there any legal basis or juridical support for the practice of 'batidas', 'redadas' or 'levas' for the purpose of detaining young men who cannot produce documentation of their military situation on the streets and in public places*"¹. Every year, thousands of young men are subjected to this form of illegal recruitment.
- In not providing for conscientious objection, Colombia violates Article 18 of the International Covenant on Civil and Political Rights².
- In addition, conscientious objectors are at permanent risk of being recruited during a 'batida', which then constitutes a violation of Article 9 of the Covenant³.
- Furthermore, because conscientious objectors do not have a so-called *libreta militar*, they face discrimination: they cannot graduate from university, nor can they seek public employment. In practice, they are unable to enter into any formal working relationship. They are also not able to stand for public office. This is a violation of Article 26 of the Covenant, and in the case of not being able to stand for public office, a violation of Article 25.
- In total, the risks and discrimination conscientious objectors face can amount to what the European Court of Human Rights has called "civil death"⁴, which amounts to inhuman or degrading treatment in violation of Article 7 of the Covenant.
- War Resisters' International is especially concerned about death threats from paramilitary groups against conscientious objection activists, and the failure of the Colombian authorities to prevent the re-emergence of paramilitary organisations such as the *Aguilas Negras*.

1 Working Group on Arbitrary Detention: Opinion 8/2008, 8 May 2009, <http://wri-irg.org/news/2008/colombia-opinion-es.htm>, accessed 10 August 2009

2 See Yeo-Bum Yoon and Myung-Jin Choi vs. Republic of Korea, CCPR/C/88/D/1321-1322/2004, 23 January 2007, <http://wri-irg.org/node/6221>, accessed 10 August 2009

3 Working Group on Arbitrary Detention: Opinion 8/2008, 8 May 2009, <http://wri-irg.org/news/2008/colombia-opinion-es.htm>, accessed 10 August 2009

4 European Court of Human Rights: Chamber judgement Ülke v. Turkey (Application no. 39437/98), 24 January 2006, <http://wri-irg.org/node/615>, accessed 10 August 2009

1. Introduction

Colombia is a country with a wide range of human rights problems, many of them the result of more than 50 years of armed conflict. This report, produced by War Resisters' International, does not aim to give a comprehensive overview on human rights in Colombia, but focuses on one particular aspect: human rights in relation to recruitment for the Armed Forces (regular and irregular), and the right to object to being recruited (conscientious objection to military service). This is for two reasons:

1. War Resisters' International is an international network committed to nonviolent action against war, and for the removal of all causes of war. We believe that conscientious objection to military service, the refusal to take part in the armed conflict in Colombia on any side, is one important contribution to ending this decades old conflict. However, the human rights of conscientious objectors to military service in Colombia are routinely violated.
2. Often, recruitment for the Armed Forces is seen as legitimate, as normal – unless this recruitment involves the recruitment of minors, of children. However, the facts highlighted in this report show that the practice of recruitment in Colombia contributes to the violation of the human rights of those recruited not only in the cases of conscientious objectors to military service. In fact, the widespread practice of *batidas* to recruit for the Armed Forces leads to the violation of human rights of tens of thousands of young men every year.

The issue of conscientious objection to military service in Colombia has come up before several UN bodies before. In 2004, the Human Rights Committee recommended that “[t]he State party should guarantee that conscientious objectors are able to opt for alternative service whose duration would not have punitive effects (arts. 18 and 26)⁵.

During the Universal Periodic Review of Colombia in December 2008, Slovenia put forward a recommendation that Colombia recognises the right to conscientious objection in law and practice, and ensures that recruitment methods allow this⁶. However, Colombia did not accept this recommendation. The Colombian delegation pointed out that “[t]he Colombian Constitution and the legal framework establish that all citizens have the obligation to enrol in the military service when the circumstances so require to defend the National sovereignty and the public institutions and to provide security conditions for all citizens. This obligation has been upheld on several occasions by the jurisprudence of the Constitutional Court⁷.

In May 2009, *Gina Cabarcas, Antonio Barreto and Daniél Bonilla* submitted a claim of unconstitutionality on article 27 of law 48/1993 to the Constitutional Court of Colombia, in which they argue that not to provide for the right to conscientious objection is a violation of the Colombian constitution⁸. Interestingly, this view has now been supported by the *Procuraduria General de la Nacion* (Attorney General's Office) in a submission to the Court⁹. At present, the case is still pending.

5 Human Rights Committee, Eightieth session: Consideration of report submitted by States Parties under article 40 of the Covenant: Concluding observations of the Human Rights Committee: COLOMBIA, CCPR/CO/80/COL, 26 May 2004, <http://daccessdds.un.org/doc/UNDOC/GEN/G04/419/12/PDF/G0441912.pdf?OpenElement>, accessed 6 August 2009

6 Human Rights Council: Universal Periodic Review: Report of the Working Group on the Universal Periodic Review: Colombia, A/HRC/10/82, 9 January 2009, http://lib.ohchr.org/HRBodies/UPR/Documents/Session3/CO/A_HRC_10_82_Colombia_E.pdf, accessed 6 August 2009

7 Human Rights Council: Universal Periodic Review: Report of the Working Group on the Universal Periodic Review: Colombia; Addendum: Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review, A/HRC/10/82/Add.1, 13 January 2009, http://lib.ohchr.org/HRBodies/UPR/Documents/Session3/CO/A_HRC_10_82_Add1_Colombia_E.pdf, accessed 6 August 2009

8 Demanda de inconstitucionalidad Expediente No. D-7685, Gina Cabarcas, Antonio Barreto, Daniél Bonilla.

9 Procuraduria General de la Nacion: Concepto 4787: Demanda de inconstitucionalidad contra el artículo 27 de la Ley 48 de 1993, por la cual se reglamenta el servicio de reclutamiento y movilización, 2 June 2009, http://www.procuraduria.gov.co/descargas/conceptos/conceptos_2009/junio/D-7685_C4787.doc, accessed 10 August 2009

2. Conscription and military service in Colombia

2.1 Legal basis

Colombia maintains a conscription system. Article 216 of the 1991 Constitution provides for compulsory military service. It states: "*All Colombian citizens are obliged to take up arms when there is a public need for this in order to defend national independence and the public institutions. The law will determine the conditions which at all times qualify an individual for exemption from military service and the benefits for service in them.*"¹⁰ Compulsory military service is regulated by Law No. 48¹¹ and Presidential Decree No. 2048¹², both passed in 1993.

According to article 10 of Law 48/1993, "*all Colombian men are obliged to resolve their military situation at the date when they reach adulthood, with the exception for undergraduate students, who resolve their military status upon completion of studies for the BA degree. The military obligations of Colombians end on the day they reach the age of 50.*" For women military service is voluntary. Military service for women is only obligatory "*when the situation in the country demands it, and the National Government declares this.*"¹³

According to article 11, military service lasts between 12 and 24 months. Article 13 specifies that the military service of regular conscripts lasts 18-24 months, while for university graduates, who, after their initial training, can be posted to serve for the "general welfare" of the community, especially in relation to environment and ecology, the service lasts 12 months. The service of rural soldiers (soldados campesinos), who are supposed to serve in the geographical area where they live, lasts 12-18 months.

2.2 The recruitment process

Law 48/1993 and Decree 2048/1993 describe the recruitment procedure. Article 14 describes the process of registration to resolve the military situation. This is then followed by several medical examinations, which determine whether a person is fit (and therefore liable) for military service or not (articles 15-17). The enlistment itself is dealt with in article 20. It normally happens at a mass recruitment rally, on dates announced by the recruitment authorities. Those who for some reason do not have to serve will have to pay a "compensation quota", according to article 21. Articles 27 to 29 deal with reasons for exemption from military service or postponement of service.

According to article 41 and 42, failure to register for military service, to appear for medical examination, for classification, or for recruitment can be punished with a fine. Those who fail to show up at a recruitment rally (according to article 20) will be classified as *remisos*. Once someone is declared *remiso*, he will have to resolve his military situation by performing military service (article 43). However, if he has reasons for exemption, he can also be exempted by the *Junta para Remisos* (article 43)¹⁴.

According to article 50 (a) of decree 2048/1993, the military can carry out patrols to find *remisos*. However, this does not include other persons who have not resolved their military situation.

According to several reports, recruitment by the Armed Forces has increased in recent years. In February 2008, the largest ever recruitment campaign took place, with a recruitment of 30,606 new conscripts in all of Colombia. The target for 2008 was to recruit a total of 113,512 new recruits¹⁵.

10 Political Constitution of Colombia, 1991, with amendments until 2005,

http://201.245.176.98/prontus_senado/site/artic/20050708/asocfile/reformas_constitucion_politica_de_colombia_1.pdf, accessed 03 July 2009

11 Ley 48 de 1993 por la cual se reglamenta el servicio de Reclutamiento y Movilización, 3 March 1993,
<http://www.lexbasecolombia.com/lexbase/normas/leyes/1993/L0048de1993.htm>, accessed 5 August 2009

12 Decreto 2048/1993, http://www.fac.mil.co/index.php?idcategoria=37542&facmil_2008_2009=8cb05693e0dfd57bbb35fc6f1bcfc611#, accessed 3 July 2009

13 Ley 48 de 1993 por la cual se reglamenta el servicio de Reclutamiento y Movilización, 3 March 1993,
<http://www.lexbasecolombia.com/lexbase/normas/leyes/1993/L0048de1993.htm>, accessed 5 August 2009

14 Ejercito Nacional, Direccion de Reclutamiento: Infraactores y Sanciones, 19 April 2009, <http://www.ejercito.mil.co/?idcategoria=221624>, accessed 6 July 2009

15 Radio Santa Fe Bogota: CONCLUYE LA MÁS GRANDE JORNADA DE RECLUTAMIENTO EN EL PAÍS, 14 February 2009,

In April 2009, the Colombian army was comprised of 103,616 regular conscripts (including university graduates), 25,202 rural soldiers (*soldados campesinos*), and 85,056 professional soldiers¹⁶.

2.3 Recruitment practice

The recruitment practice differs from what is outlined in the law. *Batidas* – the practice of rounding up groups of young people in public places, e.g. at bus stations, to check if they have resolved their military situation according to the law, and then to bring all those who cannot show the relevant papers to the military barracks for incorporation into the Armed Forces – are widespread, though illegal.

The Armed Forces themselves are aware that this practice is improper. In an interview with a Medellin based newspaper, Coronel Bohórquez of the IV Brigade in Medellin replied to the question of what to do in the case of a *batida*: “*The truth is that 'redadas', as we call them, should not happen. It is fine that we verify the documents and call people before the military district, that is what we should be aiming for. But the fact that they are being detained is improper*”¹⁷.

Examples:

- On 5 August 2009, more than 200 young people were recruited on the streets of *Medellin*, according to information provided by *Red Juvenil de Medellin*. Members of *Red Juvenil* observed the military checking young people's papers in the Calle primera de mayo, near the hotel Nutibara. Those who could not show the *libreta militar* were ordered to board a truck standing there. The *batida* was carried out from 11am to 3pm by the *Distrito Militar 24*. According to other young people who passed by, at the same time military personnel at the metro station at the Terminal de Transporte were recruiting there, as well as in other parts of the city which were not named¹⁸.
- On 4 August 2009, *batidas* took place in the town of Barrancabermeja¹⁹.
- Also on 4 August 2009, a member of *Accion Colectiva de Objetores y Objadoras de Conciencia Bogota* (ACOOC) witnessed a *batida* in Bogota at a commercial centre often frequented by young people. He witnessed at least 40 young people on the truck parked at a street corner, and attempted to talk to the military. He also attempted to talk to the young people on the truck, but was not allowed to do so. After he had talked to three different military officials, the military seems to have decided to end the *batida*, as this was an unwelcome intervention²⁰.
- In Bogota on 2 August 2009 various military personnel were stationed at the corner of Carrera décima with calle 10 and at the entrance to the Transmilenio station Jiménez. There they asked young men for their papers to verify if they had a *libreta militar*, and some who did not have it were on two trucks, one with the number UZB 315 and the other one with the number CND 023. We don't have information which military district was carrying out this *correría*. Andrés²¹, a young person who lives in the locality of Ciudad Bolívar, an area classified as belonging to socio-economic stratification level 1 (the lowest level) and who is at his fifth year in university, was caught in a *batida* by the military district on 2 August on his way to work. He was then transferred to the battalion where he was detained for the whole night and was given a summons for the recruitment rally; he then again went to work and on the following Saturday was again detained in a *batida* in the commercial centre “el Tunal”, but this time by the Military District No 52 – *Escuela de Artillería*, headed by commander Salinas. At the moment he is in the process of documenting his reasons for exemption as he lives in a

<http://www.radiosantafe.com/2008/02/14/concluye-la-mas-grande-jornada-de-reclutamiento-en-el-pais/>, accessed 03 July 2009

16 El Tiempo: 52 % de la fuerza quedará fuera de combate tras fallo de Consejo de Estado: comandante de FF.MM., 1 May 2009, http://www.eltiempo.com/colombia/justicia/el-52-por-ciento-de-la-fuerza-qued-a-por-fuera-de-combate-afirma-comandante-de-las-fuerzas-militares_5099183-1, accessed 03 July 2009

17 Coronel Bohórquez: Interview, Published 21 October 2005

18 Red Juvenil de Medellin: Denuncia publica, 6 August 2009

19 Information provided by Adriana Castano, Chat, 6 August 2009

20 Acción Colectiva De Objetores Y Objadoras De Conciencia: Informe Proceso de Reclutamiento en Colombia: Irregularidades, Objecion de Conciencia, August 2009

21 Name changed to preserve anonymity.

- de-facto marriage and has a daughter. He hopes that the military respects his rights²².
- On 7 March 2009, young people from Puerto Rico in Caquetá were recruited during a *batida*. A group of young men was detained at a military checkpoint at the bridge of Guayas, to check their identity card and the *libreta militar*. “*The latter we did not have, and the former they seized because, according to them, they were setting our military status as recruits. Faced with this, we argued our conscientious objection to belonging to an army, that we do not want to take up arms and much less have to kill someone in fulfilment of the obligation to be 'heroes of the fatherland'. Repeatedly we reiterated our legal right for exemption from military service. The second sergeant in charge of the checkpoint did not listen to our arguments, and with insults they forced us onto the truck, which constituted a deprivation of liberty and arbitrary detention. The case of Jimi Laverde, who was detained on Saturday, 7 March, and who did not receive back his identity card is a worrying outcome*”²³.
 - WRI's Colombian affiliate *Red Juvenil* reported on a round of arbitrary recruitment in Medellin in October and November 2008. *Batidas*, the recruitment of young people on streets or in public places if they cannot show the right military papers, had been observed in various places in Medellin, e.g. at the main transport terminal in the north of Medellin, in several metro stations, at the Medellin football stadium and in several poorer neighbourhoods of the city (Comunas 2, 5, 6, 13). In several cases, the military kept people's identity cards and demanded that they reclaim them back from the military barracks.

Red Juvenil also reported on similar recruitment actions in several parts of Antioquia, especially in Yarumal, Amalfi, Oriente Antioqueno, Urrao, Canas Gordas, Dabeiba and Apartado²⁴.

- In May 2008, War Resisters' International observed *batidas* in Bogota during a visit of one of our Staff members to Colombia. On one day, two trucks were parked close to the office of Mennonite peace and human rights organisation *Justapaz*, and soldiers checked the papers of young people. Several young people were then ordered onto the trucks. On another day, soldiers entered local buses at a busy place close to where a recruitment rally was being held, and checked the papers of young people. Those without proper documentation were ordered off the bus, and brought to the recruitment rally²⁵.
- **Diego Yesid Bosa Rico** was recruited in a *batida* on 23 February 2008, and initially brought to the Battalion Simon Bolivar in Tunja, about three hours from Bogota. He was then transferred to the Special Energy and Road Battalion No 6 'Jose Maria Carbonell', where he is supposed to serve his military service as a regular soldier. Once recruited, Diego Yesid Bosa Rico maintained his position that he does not want to be part of any military, based on his conscientious objection and his belief in nonviolence.

After the recruitment of Diego Yesid Bosa Rico in the *batida*, his mother, Alba Luz Rico, petitioned the National Recruitment Directorate, asking for the release of her son from military service on several grounds, including his right to conscientious objection and the illegal recruitment procedure. The military turned down the petition, stating that the recruitment was legal and that there are no reasons for exemption. The military even claims that Diego Yesid Bosa Rico signed documents stating that none of the reasons for exemption mentioned in article 28 of the law 48 of 1993 apply to him. However, Diego Yesid Bosa Rico in fact refused to sign any papers, although he was under pressure to do so.

On 23 March 2008, Diego Yesid Bosa Rico refused to take a rifle. He also noted, e.g. from the response to the petition of his mother, that documents he refused to sign appeared with his signature. In his response to this, he decided to go on hunger strike²⁶.

Diego Yesid Bosa Rico was released several months later, after interventions from *Accion Colectiva*

22 Acción Colectiva De Objetores Y Objadoras De Conciencia: Informe Proceso de Reclutamiento en Colombia: Irregularidades, Objecion de Conciencia, August 2009

23 Jóvenes Caquetenses: “Objetamos participar de las guerras y a reproducir las prácticas de una sociedad militarista”, 10 March 2009, Email Andres Orozco, also at <http://www.nodo50.org/tortuga/Jovenes-de-Caqueta-Colombia>, accessed 10 August 2009

24 War Resisters' International: CO-Update No 43, December 2008, <http://wri-irg.org/node/6126>, accessed 6 July 2009; Red Juvenil de Medellin: El reclutamiento en Medellin..., November 2008, <http://www2.redjuvenil.org/content/view/606/40/>, accessed 6 July 2009

25 War Resisters' International: CO-Update No 36, May/June 2008, <http://wri-irg.org/node/1372>, accessed 12 August 2009

26 War Resisters' International: COLOMBIA: Conscientious objector Diego Yesid Bosa Rico on hunger strike, 27 March 2008, <http://wri-irg.org/news/alerts/msg00106.html>, accessed 6 July 2009

*de Objetores y Objadoras de Conciencia Bogota (ACOOC), War Resisters' International, and other organisations*²⁷.

- On 3 February 2008, soldiers carried out a *batida* in the town of Barrancabermeja. A witness reported that soldiers checked the papers of young people in town. The witness also reported that soldiers beat up a young man who tried to escape from the truck that was used to detain the young people, and to bring them to the barracks²⁸.
- In the early weeks of 2008, Colombia experienced a wave of *batidas* in order to recruit draft evaders or anyone without the appropriate military papers to the military. While this is the common form of recruitment in Colombia, there are indications that the extent to which *batidas* were used in the province of Antioquia was unusual.

The Colombian WRI affiliate *Red Juvenil de Medellin* (Youth Network of Medellin) reported several *batidas* in January and February. An eye witness reported:

"On 5 January at 5.30pm a squadron of the fourth brigade was present in the neighbourhood of Raizal, at the corner of calle 77 and calle 31.

*They began to stop motorbikes, bicycles, and any young man who happened to be walking on the street ... they did not arrive as they did in the past on lorries, and taking men off buses, but this time they arrived on foot, without calling attention to themselves ... they went in small groups, walking through the streets of the neighbourhood. They then put the young people on the sandy ground, youths between 16 and 20 years of age who they said had to resolve their military situation. [...]"*²⁹

- **Diego Alexander Pulgarín** was recruited on 5 January 2008 in the northern bus terminal of Medellin by the Batallón de Infantería No. 10 Atanasio Girardot. Afterwards he was transferred to the Batallón Juan del Corral in the Municipio de Rionegro (Antioquia), a battalion that belongs to the same Military District No 10. In this battalion he was incorporated into the army as *soldado campesino* (rural soldier). He declared himself conscientious objector immediately from the moment of his recruitment, and refused all orders. He was released several months later, after interventions by *Red Juvenil de Medellin*, *War Resisters' International*, and several other organisations³⁰.

These examples are only a few snapshots, which are certainly only the tip of the iceberg. The practice of *batidas* is so widespread that it has to be seen as the main, or certainly a very important, recruitment method of the Colombian Armed Forces.

War Resisters' International has presented three cases of recruitment to the Working Group on Arbitrary Detention. In its opinion on these three cases, the Working Group said that "*The Working Group considers that although law 48 of 1993 with which recruitment and mobilisation are regulated establishes in its article 42 sanctions for those who ignore registration, the drawing of lots, or the call-up, and generally for those who deliberately when summoned to register for military service do not present themselves, those sanctions are exclusively of pecuniary character or a fine. Under no circumstances do they authorise arrest, detention or the incorporation into the Armed Forces against the expressly declared will.*" And: "*Nor is there any legal basis or juridical support for the practice of batidas, redadas or levas for the purpose of detaining young men who cannot produce documentation of their military situation on streets and in public places.*"

Consequently, the Working Group came to the conclusion that "*The deprivation of liberty, of which Messrs Estrada Marín, Giraldo Hincapié and González Duque were victims, was arbitrary, being in contravention of article 9 of the International Covenant on Civil and Political Rights*"³¹.

27 War Resisters' International: CO-Update No 39, May/June 2008, <http://wri-irg.org/node/1372>, accessed 6 July 2009

28 Red Juvenil de Medellin: Relato de un joven que se niega a participar del ejercito, reclutado ilegalmente en Barrancabermeja, February 2008, <http://www2.redjuvenil.org/content/view/484/40/>, accessed 6 July 2009

29 Red Juvenil de Medellin: Desde los primeros días de enero el ejercito obliga a jóvenes a ir a la guerra, enero de 2008, January 2008, <http://www2.redjuvenil.org/content/view/482/40/>, accessed 6 July 2009; Red Juvenil de Medellin: Reclutamiento de las fuerzas militares en los barrios populares de Medellín, January 2008, <http://www2.redjuvenil.org/content/view/486/40/>, accessed 6 July 2009; Red Juvenil de Medellin: Reclutamiento forzado en el polideportivo de un barrio en Cimitarra, Magdalena Medio...., February 2008, <http://www2.redjuvenil.org/content/view/492/40/>, accessed 6 July 2009

30 War Resisters' International: CO-Update No 39, May/June 2008, <http://wri-irg.org/node/1372>, accessed 6 July 2009

31 Working Group on Arbitrary Detention: Opinion 8/2008, 8 May 2009, <http://wri-irg.org/news/2008/colombia-opinion-es.htm>, accessed 6 July 2009

More generally, the *UN Working Group on Arbitrary Detention* expressed its concerns about the practice of *batidas* following its visit to Colombia in October 2008:

“On occasions the military relies on detention orders for a few persons but detain many more. One variant are the levas, the massive detention of young people with the purpose of verifying their military status. Some that are considered having ignored registration to call-up or to military service are driven to the barracks for their forced recruitment. The Vice-Minister of Defence informed us that every young men is obliged to carry his libreta militar or the document that proves the postponement of his military service, because military service is not only a right, but a duty for a citizen. Generally it is not the army but the armed groups on the margin of the law that recruit minors into their ranks by force. The Working Group considered claims of conscientious objectors who complained that their objections had not been taken into account. The Working Group considered that the non-recognition of the right to conscientious objection stands in contradiction to the development of international law and human rights”³².

3. Conscientious objection to military service

Article 18 of the Colombian constitution guarantees freedom of conscience. It states: “*Freedom of conscience is guaranteed. No one will be importuned on account of his/her convictions or beliefs or compelled to reveal them or obliged to act against his/her conscience*”³³. However, this clashes with article 216 of the constitution, which requires all Colombian males to perform military service.

Article 93 of the Colombian Constitution introduces ratified international human rights standards into Colombian law. Article 93 says:

“International treaties and agreements ratified by the Congress that recognise human rights and that prohibit their limitation in states of emergency have priority domestically.

The rights and duties mentioned in this Charter will be interpreted in accordance with international treaties on human rights ratified by Colombia.”³⁴

This creates what is called a “constitutional block” – a situation where two provisions of the constitution conflict with each other.

The Constitutional Court of Colombia has dealt with the question of the right to conscientious objection to military service in three sentences in the 1990s.

In its decision T-409/92 the Court concluded:

“The guarantee of freedom of conscience does not necessarily include the positive consecration of conscientious objection to military service. This concept, which in other systems allows the individual to refuse to comply with an obligation such as the one mentioned when the corresponding activity involves the realisation of behaviour that competes with his intimate convictions, has not been accepted by the Colombian constitution as an exonerating recourse to the indicated obligation.”³⁵

Two years later, in its decision C-511-94 the court came to a similar conclusion:

³² Informe del Grupo de Trabajo sobre la Detención Arbitraria, Adición: MISIÓN A COLOMBIA (1º a 10 de octubre de 2008), 16 February 2009, <http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/10/21/Add.3&Lang=S>, accessed 03 July 2009 (translation by WRI)

³³ Political Constitution of Colombia, 1991, with amendments until 2005, unofficial English translation, http://confinder.richmond.edu/admin/docs/colombia_const2.pdf, accessed 11 August 2009

³⁴ Political Constitution of Colombia, 1991, with amendments until 2005,unofficial English translation, http://confinder.richmond.edu/admin/docs/colombia_const2.pdf, accessed 11 August 2009

³⁵ Sentencia T-409 de junio 8 de 1992. M.P. Dr. José Gregorio Hernández Galindo

“Neither is the challenged norm a violation because of the infringement on freedom of conscience, consecrated in article 18 of the charter. This body has had the opportunity to indicate that in our system the concept of ‘conscientious objection’ does not exist in relation to military service, because the proper jurisdiction of the demands of military service does not allow citizens not to attend to this essential duty, which base can be found not only in the stipulation of the law, but precisely in the consciousness of the social compromise.”³⁶

However, this decision already included an important minority opinion. Magistrados Eduardo Cifuentes Muñoz, Carlos Gaviria Díaz y Alejandro Martínez Caballero pointed out that to grant exemption from military service to conscientious objectors can be based on article 216 of the Constitution, which delegates it to a law to regulate military service, and on article 18. In conclusion, they wrote:

“Our difference with the decision of the Court is that they consider that the legislator has the discretion whether or not to enable conscientious objection, while we, for reasons pointed out above, consider it to be a duty of the legislator to have done so. But in any case, the debate in Colombian society about this issue remains open.”

One year later, the Court again dealt with the question of conscientious objection to military service. In its decision T-363/95 the Court wrote:

“Effectively, the military service is not per se something that implies violence, causing harm to others, blind use of force or violation of fundamental rights. It is an abstract duty, the concrete contents are subject to the Constitution and the law.”

(...)

“The Court emphatically rejects the claims of the claimants, because admitting their viability in light of the Constitution would enthronize the wishes of each and everyone as a rule and measure for complying with a duty, which by its very nature is imposed regardless of the wishes and desires of those who comply with it.”

“And it is so that the duties, which are established as a counterpart to the rights, while being reasonable and not neglecting the legal order, are necessary without room for preferences nor discriminations and do not violate freedom of conscience, nor any other freedom”³⁷

As Colombian law does not recognise the right to conscientious objection to military service, conscientious objectors are at risk of being recruited or arrested. In recent years, War Resisters' International has dealt with several cases:

- **Gustavo Monroy** declared himself a conscientious objector in 2005. On 8 August 2005, he was detained by the military with the aim to recruit him. He managed to leave military custody on 9 August 2005, after 37 hours of captivity, insults, psychological maltreatment and death threats by First Corporal Tellez³⁸. On 25 and 26 April 2006, he reported at the barracks at Saravena Arauca, accompanied by several activists and his lawyer, to settle a disciplinary case following his conscientious objection. He and his accompaniers were told to be at the barracks at 8am, but once there, were not allowed to enter, and told to return at 2pm. However, only Gustavo and his lawyer H.V. Greisy were allowed to enter, accompanied by a soldier. Once inside, the military put a lot of pressure on Gustavo Monroy, and avoided any formal taking of notes, claiming that the computer did not work. At 6pm, Gustavo was told that the procedure could not be finished on that day, and he was ordered to present himself again on the next day at 8am. However, in consultation with his lawyer and supporters, Gustavo decided not to follow this order, and did not present himself³⁹.
- **Cristian Camilo Henao Suazo** was recruited on 7 October 2008, and declared himself a conscientious objector. *Red Juvenil de Medellin*, an organisation affiliated to WRI, received his declaration on 15

³⁶ Sentencia C-511 de 16 de noviembre de 1994, <http://www.lexbasecolombia.com/lexbase/jurisprudencia/corte%20constitucional/constitucionalidad/C0511de1994.htm>, accessed 12 August 2009.

³⁷ Sentencia T-363 de 14 de agosto de 1995

³⁸ Gustavo Monroy: If you open your mind life teaches you. Testimony from Gustavo Monroy (2006), <http://wri-irg.org/co/cases/monroy-en.htm>, accessed 10 August 2009

³⁹ War Resisters' International: CO-Update No 20, May 2006, <http://wri-irg.org/node/876>, accessed 10 August 2009

January 2009. Cristian Camilo Henao Suaza presented an application for discharge to protect his fundamental rights, especially the right to conscientious objection, on 25 April 2009. In its reply the battalion did not refer to the right to conscientious objection, but only referred to law 48/1993 on military recruitment. At the moment he is detained at the Batallón Pedro Justo Barria del Ejercito Nacional de Colombia in Medellin⁴⁰.

- **Yeferson Sneider Hernandez Mazo** was immediately recruited with pressure from soldiers during a *batida* at the Terminal de transporte del norte of the city of Medellin on 14 October 2008, and was transferred to the Batallón del Pedro Nel Ospina, where he was made to sign several documents without being allowed to read them. He was then finally transferred to the Batallón De Calibio in Puerto Berrio, where he started to serve his military service.

Yeferson Sneider Hernandez Mazo declared himself a conscientious objector to military service based on his personal convictions⁴¹.

- **Alvaro Alfonso Pena Leguizamo**⁴² had to present himself to the recruitment department of Bogota on 12 February 2008. Pena had previously declared himself a conscientious objector, and had communicated this to the recruitment department. Although he had declared himself a conscientious objector, the Colombian military maintained in its response to Pena's petition that there is no right to conscientious objection in Colombia, and that Pena would need to present himself on 12 February in order to resolve his military situation.

On that day, Alvaro Pena presented himself. The Bogota CO group reported on the events: "*Álvaro Peña, colombian conscientious objector, was today February 12th at 9 am in the Villa de los Alpes' Coliseum, to resolve his military situation. During the whole day, as part of millions of young men summoned by the military forces, Álvaro, tried to explain his case as a conscientious objector to the Major Dueñas, who was in charge of incorporation. Alvaró was rejected several times, and never listened to.*

Finally, Álvaro was taken with 200 other young men, who had not resolved their military situation, into a closed room, where they remained until 9:30 p.m. when they were told that they must be there tomorrow again at 7:00 a.m."

On the next day, Pena again presented himself. After several hours, the military postponed his service, and ordered him to return on 20 May to "resolve his military situation"⁴³.

On 20 May 2008, Alvaro Pena again presented himself. His case had turned more complicated, as the military had meanwhile declared him a 'remiso' (draft evader), based on the fact that his name was in the list of those who did not present themselves in February 2008. Only that in Alvaro Pena's case he had been asked by the military to sign his name into this book, so that his entry also includes his signature - a clear proof that he must have been there in February.

While Alvaro Pena was again not recruited on 20 May, he again spent a full day in the military, and was only allowed to leave at the end of the day, this time without having to sign anything, which also means he does not have any proof that he presented himself. He was asked to present himself to the *Junta de remisos* on 4 June, to sort out his status of *remiso* - but on that day again it was not possible to clear Alvaro Pena of this status. He then decided to leave and to pursue the matter in a different way⁴⁴.

- On the morning of 5 May 2007, **Frank Yair Estrada Marin** was taken by soldiers from the Batallón Pedro Justo Berrio to the battalion, under the pretext that they needed to perform a medical examination to verify his ability to perform military service. However, because Frank Yair Estrada Marin did not have a military card (*libreta militar*), he was immediately recruited, under protest. Frank Yair Estrada Marin declared that he did not support any of the armed groups in Colombia, because he is a conscientious objector. However, he was forced to take part in basic military training⁴⁵.

⁴⁰ Email Red Juvenil de Medellin to War Resisters' International, 28 May 2009

⁴¹ Email Red Juvenil de Medellin to War Resisters' International, 19 November 2009

⁴² <http://wri-irg.org/node/2887>, accessed 6 July 2009

⁴³ War Resisters' International: CO-Update No 37, March 2008, <http://wri-irg.org/node/1343>, accessed 6 July 2009

⁴⁴ War Resisters' International: CO-Update No 39, May/June 2008, <http://wri-irg.org/node/1372>, accessed 6 July 2009; Acción Colectiva De Objetores Y Objadoras De Conciencia: INFORME PROCESO DE RECLUTAMIENTO EN COLOMBIA: IRREGULARIDADES, OBJECIÓN DE CONCIENCIA, August 2009

⁴⁵ War Resisters' International: COLOMBIA: Update on Carlos Andrés Giraldo Hincapié and Frank Yair Estrada Marin, 18 July 2007,

War Resisters' International presented the case of Frank Yair Estrada Marin to the Working Group on Arbitrary Detention (see Opinion No 8/2008).

- **Carlos Andrés Giraldo Hincapié** was recruited by force on 4 August 2006. Carlos Andrés Giraldo Hincapié explains the way he was recruited: *"I was conscripted by the military of Casabe on 4 August by soldier Anderson Andrés Anturi Ruiz. That day in the morning hours I was heading to the garage in town, to find a motorbike that I had in repair to head back to the path La Soledad where I live. I was in town because I was buying some tools for doing my agricultural work. At that moment I was detained by the army and they took me against my will to the military. They said that I had to serve my military service. I explained to them that I could not serve because my family depends economically on me, that my father is incapable of working, that my brother suffers from epilepsy. And also that I have never supported any of the armed actors, I am against arms, and against having to kill someone else. They told me that those were no reasons for not serving and from that moment I was already a soldier"*⁴⁶. Carlos Andrés Giraldo Hincapié was forced to sign three documents without being given the chance to read them. One of the documents was a paper stating that he joined the military voluntarily. However, as this paper was signed under pressure, the signature has to be considered invalid. Carlos Andres Giraldo Hincapie was only released from the military after serving 18 months of military service. His case too was presented by War Resisters' International to the Working Group on Arbitrary Detention (Opinion No 8/2008).
- **Pedro Manuel Sanchez Calix** was illegally seized in the south of Bolívar in November 2006, to serve his military service. He was then transferred to a battalion from where he, after having been subjected to military instructions for seven months, was sent to the front. He was recruited to the battalion until his religious conscience and health did no longer allow him to continue with this illegitimate situation that had been justified by the discriminatory Colombian judicial system. After witnessing arbitrary violence and living in the ranks of the Colombian army in conditions that threatened his physical and psychological health, he decided to escape from the ranks of the Batallón Nueva Granada in Barrancabermeja in May 2007.

Since May 2007, Pedro Manuel Sanchez Calix is a declared conscientious objector.

The military prosecutor charged Pedro Manuel Sanchez Calix with desertion. Only in July 2009 did a military judge drop the charge and acquitted him⁴⁷.

These are only very few cases, which show the permanent danger of recruitment conscientious objectors face. Together with the *Asamblea Nacional de Objectores y Objadoras de Conciencia* (ANOOC), the national network of Colombian conscientious objector organisations, War Resisters' International maintains a database of Colombian conscientious objectors who publicly declared their conscientious objection. This database now includes more than 100 declared conscientious objectors.

In its Opinion No 8/2008, the Working Group on Arbitrary Detention stated: *"The detention of those who have expressly declared as conscientious objectors does not have juridical support nor a legal basis and their incorporation into the army against their will is a clear violation of their postulates of conscience, which can violate article 18 of the International Covenant on Civil and Political Rights. Not to provide space for the right to conscientious objection can be a violation of said article"*⁴⁸.

4. The *Libreta militar* (Military Card)

Articles 30 and 31 of law 48/1993 establish the *Tarjeta reservista* (Reservist Card) and the *Tarjeta provisional militar* (Provisional Military Card). According to article 30, the "*The reservist card is the document which*

<http://wri-irg.org/news/alerts/msg00096.html>, accessed 10 August 2009

46 War Resisters' International: COLOMBIA: Conscientious objector Carlos Andrés Giraldo Hincapié in the hands of the military, 24 November 2006, <http://wri-irg.org/news/alerts/msg00072.html>, accessed 10 August 2009

47 Corporacion Paz Caribe, Sincelejo: Information provided in various emails, 2008 and 2009.

48 Working Group on Arbitrary Detention: Opinion No 8/2008, 8 May 2008, <http://wri-irg.org/news/2008/colombia-opinion-es.htm>, accessed 10 August 2009

*can prove that one's military situation has been resolved*⁴⁹.

According to article 36 of law 48/1993 (amended by Decree 2150/1995), all male Colombians need to prove that they fulfilled their obligation to resolve their military situation when they:

- a) enter into contracts with any public entity;*
- b) enter into an administrative career;*
- c) assume public office, and*
- d) obtain a professional degree from any school of higher education*⁵⁰.

This article had been changed with Decree 2150/1995. Originally, the *libreta militar* was necessary in many more cases. The term *libreta militar* was not originally part of law 48/1993 – it was only introduced by Decree 2150/1995, and is not defined. The term *libreta militar* is commonly understood to mean the *tarjeta reservista* and *tarjeta provisional militar*, or any other document replacing those.

However, while article 36 had been changed in 1995, article 37 remains unchanged and states: “*No national or foreign company, official or private, established or hereafter established in Colombia, may have employment relations with adult persons who have not resolved their military situation. Contravention of this provision is punishable in the manner determined below.*”

This in fact means that those who did not resolve their military situation cannot legally be employed in Colombia, nor can they graduate from university, or assume any public office (stand as candidate in elections, etc).

According to article 41, the following are defined as offenders: “*h) Public organisations, companies, private individuals, schools or institutes of higher learning or technology who employ or receive persons who did not resolve their military situation (...)*”. They can be fined with up to five monthly minimum salaries for each person who did not resolve his military situation, according to article 42⁵¹.

In fact, the law is contradictory. While article 36 has been changed in 1995, and no longer requires proof that one has resolved ones military situation when one enters a university, but only on graduation, article 41 declares universities or institutions for higher education as offenders when they receive a person who did not resolve his military situation.

This obviously can lead to confusion. *Accion Colectiva de Objetores y Objetoas de Conciencia* (ACOOC) describes that practice sometimes even goes further than the law⁵²: “*Since May 2006 the centres of higher education demand the presentation of the libreta militar in order to register for the first time or to continue studying in the institution. Furthermore, they require to sign a voluntary and spontaneous agreement in which those who do not have a libreta militar undertake to resolve their military situation in the course of the semester. These illegal and unconstitutional requirements were demanded from universities by the National Recruitment Directorate by official letter 006 DISCOR Z4 DIM 27 S1 155, dated 19 May 2006, by which article 84 of the constitution⁵³ and article 111 of decree 2150 from 1995 are violated*⁵⁴.

Examples

- **Elias Stucky Byler**, member of the Mennonite church and conscientious objector, received the

49 Ley 48 de 1993 por la cual se reglamenta el servicio de Reclutamiento y Movilización, 3 March 1993, <http://www.lexbasecolombia.com/lexbase/normas/leyes/1993/L0048de1993.htm>, accessed 5 August 2009

50 Ley 48 de 1993 por la cual se reglamenta el servicio de Reclutamiento y Movilización, 3 March 1993, <http://www.lexbasecolombia.com/lexbase/normas/leyes/1993/L0048de1993.htm>, accessed 5 August 2009

51 Ley 48 de 1993 por la cual se reglamenta el servicio de Reclutamiento y Movilización, 3 March 1993, <http://www.lexbasecolombia.com/lexbase/normas/leyes/1993/L0048de1993.htm>, accessed 5 August 2009

52 See: Accion Colectiva de Objetores y Objetoas de Conciencia: Irregularidades en la definicion de la situacion militar de los Colombianos, marzo 2008

53 Artículo 84 de la CN: "Cuando un derecho o una actividad hayan sido reglamentados de manera general, las autoridades públicas no podrán establecer ni exigir permisos, licencias o requisitos adicionales para su ejercicio".

54 En este decreto se prohíbe la exigencia de presentar la libreta militar para matricularse por primera vez a la universidad o para y sólo prescribe algunas situaciones de la vida civil en que será solicitada, entre las cuales no aparece matricularse en la universidad o firmar actas de compromiso para seguir estudiando en los centros de educación superior.

following from the Registrar's Office of the Universidad Nacional in Bogotá because he did not present his *libreta militar* when registering to the university for his studies:

"The Registrar's Office requires the presentation of a military card from all those who have been admitted as undergraduates, as stipulated by Article 41, Law 48 of 1993 'Public organisations, companies, private individuals, schools or institutes of higher learning or technology who employ or receive persons who did not resolve their military situation [will be] subjected to sanctions.'

*Consequently, in compliance with the legal opinion issued by the Oficina Jurídica de Sede on 23 August 2004, the Registrar's Office requires from all those admitted the libreta militar for registration for undergraduate degrees. Nevertheless, taking into account the high number of those admitted who did not resolve this situation, we decided to supplement this with the signing of an agreement in which the applicant commits to resolve his military situation during the first semester of his course. However, taking into account your submission, you are granted a period of one (1) year in which to present the respective document"*⁵⁵.

- In Medellín, **Martín Rodríguez** initiated a writ for protection of fundamental rights (*tutela*) against the requirement of the *libreta militar* for entering the Universidad Nacional, arguing his conscientious objection and article 111 of decree 2150 of 1995. Martín Rodríguez's approach as conscientious objector is based on his condition as victim, as his brothers were assassinated because of the armed conflict.

The writ was decided in favour of Martín Rodríguez to comply with article 111 of decree 2150 of 1995. The judgement of *Tribunal Superior de Medellín* says⁵⁶: "As the previous rule establishes, the requirement of the presentation of the libreta militar, and clearly this means to resolve the military situation, is not given for entering or continuing university studies, but only for obtaining a professional degree at any centre of higher education; and this is not what is alleged by the corresponding complainant, he only wants to begin his university studies, the respondent (the Universidad Nacional in Medellín) cannot introduce obligations not foreseen in the law, under violation of the right to due administrative process, in conjunction with the right to access to education"⁵⁷.

Martin Rodriguez is presently studying at the university in Medellin, but will encounter the same problem again when he wants to graduate.

- **Julián Andrés Ovalle**⁵⁸ from Bogota is a member of *Accion Colectiva de Objetores y Objetoras de Conciencia* (ACOOC) and a declared conscientious objector. As a conscientious objector, he did not resolve his military situation, and did not pay the military compensation quota. In the first months of 2009, he applied for a job as research assistant at the *Instituto Colombiano de Antropología e Historia* (ICANH) for research on "*Ciudad, Fuerza pública y Juventud*" (City, public forces, and youth). He could provide all required documents for this employment but two:
 - his university diploma
 - his *libreta militar*

Although he finished his studies in psychology, he has so far been unable to graduate, for lack of the *libreta militar*. He thus has been unable to obtain his university diploma in psychology.

He concludes in a statement: "This had some strong implications on my civilian life as a subject of rights: I have had to avoid recruitment schemes daily in the cities and roads of the country, I could not obtain my professional title in psychology, and I could not have access to formal employment where I could put my acquired knowledge to the service of the community"⁵⁹.

Accion Colectiva de Objetores y Objetoras de Conciencia (ACOOC) concludes about the *Libreta Militar*: "Although the initial provisions about the libreta militar were made more flexible by article 111 of decree

⁵⁵ Acción Colectiva De Objetores Y Objetoras De Conciencia: INFORME PROCESO DE RECLUTAMIENTO EN COLOMBIA: IRREGULARIDADES, OBJECIÓN DE CONCIENCIA, August 2009

⁵⁶ Tribunal superior Medellín, sala de decisión penal. Acción de tutela de segunda instancia -0683-2006 (013) 2007. Febrero 26 de 2007.

⁵⁷ Accion Colectiva de Objetores y Objetoras de Conciencia: Irregularidades en la definicion de la situacion militar de los Colombianos, marzo 2008

⁵⁸ <http://wri-irg.org/node/1418>

⁵⁹ Acción Colectiva De Objetores Y Objetoras De Conciencia: INFORME PROCESO DE RECLUTAMIENTO EN COLOMBIA: IRREGULARIDADES, OBJECIÓN DE CONCIENCIA, August 2009

2150 of 1995 and this brought as a positive consequence that the libreta militar was not a requirement for entering university education or for employment in the private sector, in practice this document continues to be in an arbitrary and illegal way an element of social control instigated by the military authorities. Presently, both educational institutions and the private industrial and commercial sector continue to require the presentation of the libreta militar from young men to accept a position for study or work, a situation that is evidently unconstitutional. This practice continues under the premise of economic and legal sanctions against those institutions that receive youth without a military document”⁶⁰.

In conclusion, the system of the *libreta militar* in Colombia leads to grave violations of the human rights of conscientious objectors: the inability to obtain a university degree and to obtain any form of legal employment, plus the inability to stand for public office.

The Cuota de Compensación Militar

Article 22 of law 48/1993 establishes the *cuota de compensación militar* (military compensation quota), which has to be paid by those not performing military service because they have been exempted for health reasons or for lack of places in the Armed Forces. Article 22 reads: “The registered who does not enrol into the ranks and who is qualified has to pay a pecuniary contribution to the Treasury, called *cuota de compensación militar*”⁶¹. Originally, the quota was set by the Colombian government, but this part of article 22 was declared unconstitutional by the Constitutional Court of Colombia in August 2007⁶². The Court ruled that the quota has to be seen as a tax, and that only Congress is empowered to decide on the level of tax, and not the government.

Following the decision of the Constitutional Court, Law 1140/2008 was passed to regulate the military compensation quota (or tax). According to article 1 para 1 of the same law, the income from the military compensation quota goes directly to the Ministry of Defence “and is earmarked for the development of the objectives and functions of the public forces in fulfilment of their constitutional mission”⁶³.

Article 6 of the same law exempts certain groups from payment of the quota:

“The following are exempted from payment of the cuota de compensación militar:

1. Those who can prove with a certificate or card issued by a competent authority to belong to level 1, 2, and 3 of the Sistema de Identificación y Selección de Beneficiarios - Sisbén.
2. Those with physical, mental or neurosensory disorders with permanent conditions which, according to the medical authority for recruitment, present a clinical condition sufficiently severe and disabling and not subject to recovery by any means.
3. Indigenous people who reside in their territory and conserve their cultural, social and economic integrity.
4. Military personnel discharged following their third medical examination”⁶⁴.

However, they will still have to pay the costs of the *libreta militar*, which are not supposed to be higher than 15% of the monthly legal minimum salary⁶⁵.

In light of the recent judgement by the European Court of Human Rights in relation to the military exemption tax in Switzerland⁶⁶, the regulations for the military exemption quota in Colombia are likely to amount to

60 Acción Colectiva de Objetores y Objetoas de Conciencia: Irregularidades en la definición de la situación militar de los Colombianos, marzo 2008

61 Ley 48 de 1993 por la cual se reglamenta el servicio de Reclutamiento y Movilización, 3 March 1993, <http://www.lexbasecolombia.com/lexbase/normas/leyes/1993/L0048de1993.htm>, accessed 5 August 2009

62 Sentencia C-621/07, Referencia: expediente D-6598, 14 August 2007, <http://www.lexbasecolombia.com/lexbase/jurisprudencia/corte%20constitucional/constitucionalidad/C0621de2007.htm>, accessed 11 August 2009

63 Ley 1184 de 2008 Por la cual se regula la cuota de compensación militar y se dictan otras disposiciones, 29 February 2008, http://www.secretariosenado.gov.co/senado/basedoc/ley/2008/ley_1184_2008.html, accessed 11 August 2009

64 Ley 1184 de 2008 Por la cual se regula la cuota de compensación militar y se dictan otras disposiciones, 29 February 2008, http://www.secretariosenado.gov.co/senado/basedoc/ley/2008/ley_1184_2008.html, accessed 11 August 2009

65 Presidencia de la Repùblica: Personas de estratos 1, 2 y 3, beneficiadas con cuota de compensación militar, March 2008, <http://web.presidencia.gov.co/sp/2008/marzo/06/07062008.html>, accessed 11 August 2009

66 European Court of Human Rights: AFFAIRE GLOR c. SUISSE, 30 April 2009, <http://cmiskp.echr.coe.int/tkp197/view.asp?>

discrimination. In the Swiss case, the ECtHR declared the Swiss exemption tax a violation of article 14 in conjunction with article 8 of the European Convention of Human Rights, “*finding that the applicant had been the victim of discriminatory treatment as there had been no reasonable justification for the distinction made by the Swiss authorities between, in particular, persons who were unfit for service and not liable to the tax in question and those who were unfit for service but were nevertheless obliged to pay the tax*”⁶⁷.

There is reasonable concern that the Colombian regulations for the *cuota de compensación militar* also lead to similar discrimination.

5. Death threats against conscientious objection activists

On Thursday, 29 May and Friday, 30 May 2008, *Red Juvenil de Medellín* received the following message from redesnegras@hotmail.com: “*Death to anarchists disguised as pacifists. No more concerts of drugs and communists. No further notice.*” The threats were directed at eight named members and close friends of *Red Juvenil*, and signed “Aguilas Negras”. War Resisters’ International is concerned about the negligence of the authorities of Medellin in permitting the re-emergence of groups such as the *Aguilas Negras*, apparently formed by former paramilitaries, and the threat they pose to human rights in Medellín and to youth groups such as the *Red Juvenil*⁶⁸.

In August 2008, the conscientious objection group “Quinto Mandamiento” from Barrancabermeja received a similar death threat from a group calling themselves “Aguilas Negras”, signed by a Mauricio Rojas, Cmdt. Magdalena Medio⁶⁹.

While these death threats do not originate from the public forces of Colombia, it has to be pointed out that the government has a duty to protect its citizens from death threats.

Luckily, in those two cases, none of the death threats has, up to date, been carried through.

6. Conclusions

This report shows that generally young men in Colombia face widespread and serious violations of their human rights in relation to military recruitment: *batidas* that lead to forced recruitment which amounts to arbitrary detention are a widespread method of recruitment for the Armed Forces of Colombia.

Conscientious objectors face further risks, and further violations of their human rights. Not only is their right to conscientious objection not recognised, they also face discrimination as a consequence of their conscientious objection and their refusal to “resolve their military situation” to obtain the *libreta militar* needed for graduation from university or almost any form of formal employment.

In addition, War Resisters’ International is concerned about reported cases of death threats against conscientious objection activists.

[action=html&documentId=850043&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649](http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=850043&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649), accessed 11 August 2009

⁶⁷ Press release issued by the Registrar: CHAMBER JUDGMENT GLOR v. SWITZERLAND, 30 April 2009, [http://cmiskp.echr.coe.int/tkp197/view.asp?](http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=850037&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649)

[action=html&documentId=850037&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649](http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=850037&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649), accessed 11 August 2009

⁶⁸ War Resisters’ International: Death threats against Colombian WRI affiliate Red Juvenil de Medellín, 9 June 2008

⁶⁹ Email Andres Orozco, Quinto Mandamiento, to War Resisters’ International, 29 August 2008