

1. This submission was prepared in June 2015 on the basis of the latest information available.

Executive summary:

2. This submission focusses on the situation regarding military service and conscientious objection to military service in Singapore. Among the human rights concerns it identifies are:

3. Conscientious objection to military service is not recognised in law or practice. Singapore has not ratified the International Covenant on Civil and Political Rights (ICCPR), under which this situation would be a clear breach of Article 18. It is however also contrary to Article 18 of the Universal Declaration on Human Rights (UDHR), which Singapore has endorsed.

4. Conscientious objectors who refuse to perform military service, although civilians, have been treated as though they had been enlisted in the armed forces and are put on trial before military courts under military law. They are routinely sentenced to detention in military penal facilities; this detention is arbitrary, as it results from the exercise of the right to freedom of thought, conscience and religion guaranteed under Article 18 of the UDHR.

5. On release from detention, conscientious objectors are subject to repeated call-up to perform military service. Continued refusal frequently results in repeated periods of detention. This is tantamount to repeated punishment for the same “offence”, in clear breach of the “*ne bis in idem*” principle. Moreover, in so far as the practice has the obvious purpose of persuading the objector to abandon his position of conscience and agree to perform military service, it constitutes coercion to change his religion or belief, a further violation of Article 18.

6. Persons may embark upon their obligatory military service from the age of sixteen-and-a-half. This is contrary to Article 2 of the Optional Protocol to the Convention on the Rights of the Child on Children in Armed Conflict, which Singapore has ratified. Moreover, there does not seem to be any minimum age in law for voluntary recruitment into the armed forces.

7. All male citizens and permanent residents aged between 13 years and 40 years (50 years in certain cases) require an exit permit issued by the Armed Forces Council to leave or remain outside Singapore. This is a severe interference with the freedom of movement guaranteed in Article 13 of the UDHR. It is reported that after ten years of unauthorised absence they may be deprived of their citizenship, which is contrary to Article 15 of the UDHR,.

Background

8 Conscientious objection to military service was not the subject of any statements or recommendations during the review of Singapore in the first cycle of the UPR on 6th May 2011. This was hardly surprising, as at the time the issue was not mentioned in any of the three documents on which the review was based. A submission on the subject by Conscience and Peace Tax International, although duly acknowledged, had been unaccountably mislaid, and was not reflected in the original Summary of Stakeholder Information. This oversight was put right by the circulation of a corrected edition¹ dated 9th May 2011, three days *after* the review had taken place.

9 Singapore maintains a system of obligatory military service. Under the Enlistment Act² all citizens and permanent residents aged not less than 18 years and not more than 40 years (50 years in the case of those with specific skills or expertise) may be required under the authority of the Armed Forces Council to report for enlistment for national (ie. military) service.³ Those enlisted are liable to full-time service of two years; the liability is extended by six months in the case of those who attain the equivalent of a certain rank, even if subsequently demoted.⁴ Outside the period of full-time service there is a requirement of “operationally ready”, or reserve, service which (on the simpler of the alternative calculations) “will not in the aggregate exceed 40 days annually”.⁵ In practice the national service obligation applies only to males, although the only hint of this in the legislation is that the male pronoun alone is used throughout.

10 The obligation to perform military service is in fact imposed more systematically in Singapore than in most other states. According to the latest information available⁶ the armed forces of Singapore include 39,000 conscripts, and a further 3,500 conscripts are serving in the the Singapore Police Force, including the Coast Guard. An unspecified number of conscripts also serve in the 5,600 strong paramilitary Civil Defence Force; the 2010 edition of the Military Balance indicated that this included 1,600 “regulars” and 3,200 conscripts. The total of over 45,000, serving conscripts approaches 1.7 times the CIA's estimate of 27,098 males “reaching militarily significant age annually”⁷ Such a ratio indeed implies that all males except some 12% deemed medically unfit (an unusually low proportion) perform the statutory two years military service. It is by far the highest recorded – only for one other country (Cyprus) does the “Military Balance” quote a number of serving conscripts which exceeds the number of persons becoming newly liable to conscription each year. Singapore also has over 30,000 “regular” (non-conscript) members of the armed forces and the various paramilitary forces. In total over 5% of the male population of military age⁸ is at any one time performing military or paramilitary service, a proportion which is clearly exceeded only in the Democratic People's Republic of Korea and in the Russian Federation..

¹ A/HRC/WG.6/11/SGP/3/Corr.1, 9th May 2011.

² Act 25 of 21st May 1970, amended on numerous occasions, most recently by Act 16 of 19th April 2001. (Text available on http://statutes.agc.gov.sg/non_version/cgi-bin/cgi_retrieve.pl?actno=REVED-93)

³ Enlistment Act (see note 1). Para 10 read in conjunction with para 2.

⁴ *Ibid*, para 12.

⁵ *Ibid*, para 14.

⁶ International Institute for Strategic Studies, London, *The Military Balance 2015*, pp82-59

⁷ CIA World Factbook at <https://www.cia.gov/library/publications/the-world-factbook/geos/sn.html>. The figure given is in fact for 2010; as the CIA defines “militarily-significant age as 16, this in fact represents the cohort of males born in 1994.

⁸ “Male population aged 16-49” as estimated in *CIA World Factbook*, op.cit.

Recruitment Ages

11 Persons liable to military service may be summoned to register and to undergo fitness examination from the age of sixteen-and-a-half. Under the Voluntary Early Enlistment Scheme (“VEES”), and with parental consent, they may apply to commence their national service at any time at any time after registration.⁹ *Compulsory* enlistment under the Enlistment Act may not however take place before the eighteenth birthday,¹⁰ It is questionable whether such an *option* regarding the *timing* of enlistment for obligatory military service is consistent with Article 3.3 of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (OPAC), (ratified by Singapore on 11th December 2008) which begins:

“States Parties that permit voluntary recruitment into their national armed forces under the age of 18 years shall maintain safeguards to ensure, as a minimum,

- a) Such recruitment is genuinely voluntary;
- b)...

12 *Voluntary* recruitment into the armed forces is provided for in Para 19.1 of the Enlistment Act, which simply states, without any age restriction. “Any person may apply (...) to be enlisted for regular service in the Singapore Armed Forces.” Such recruitment must be distinguished from recruitment under the VEES, as it is not governed by the time limits and conditions of national service. In its declaration on ratification of the OPAC, Singapore however indicated that the same minimum age limit applies to both forms of recruitment, stating that “The minimum age at which persons may be voluntarily recruited or enlisted into the Singapore Armed Forces is 16 years and 6 months”. There is no reason to suspect that this is not true in practice, but it would be reassuring to see a firm legal prohibition on any recruitment at a younger age.

13 As of 2011, Singapore was one of only eighteen States which legally permitted military recruitment below the age of seventeen years, three of which were actively reconsidering this policy, either in law or in practice¹¹. Singapore, too, should be encouraged to move towards the position that no recruitment in any circumstances should take place before the eighteenth birthday.

Treatment of conscientious objectors to military service

14 There is no provision in Singapore's recruitment legislation for conscientious objection to military service, nor have the military authorities been prepared to entertain applications on grounds of conscience for transfer between various branches of national service – even though it would appear that in the past some conscientious objectors have been offered postings which were in fact compatible with their objections.¹² In general, however, persons who have on grounds of conscience not

⁹ Coalition to Stop the Use of Child Soldiers, Child Soldiers Global Report 2008 (London, 2008), p302

¹⁰ Enlistment Act, op.cit. Para 10.

¹¹ Child Soldiers International (formerly Coalition to Stop the Use of Child Soldiers), Louder than words: an agenda for action to end state use of child soldiers, London, September 2012, p53.

¹² General Counsel of Jehovah's Witnesses. Evidence submitted to the OHCHR in response to the questionnaire on “best practices concerning the right of everyone to have conscientious objections to military service”, August 2003, replies to questions 1,4 and 5.

been prepared to perform military service have been subject to prosecution under the terms of the Enlistment Act.

15 Under Para 4(2) of the Act, any person failing without lawful excuse to present himself for registration when summoned is liable on conviction to a fine of up to S\$10,000 (approximately US\$8,000 at 2014 exchange rates) or a term of imprisonment of up to three years, or both. Moreover, the court may order him to present himself for registration on or before a specific date, whereafter he may incur a further fine increasing at the rate of S\$50 (US\$40) per day. Para 33 specifies similar penalties for any person who fails to report for actual enlistment when summoned, or otherwise attempts to evade military service, and for any person found guilty of aiding or abetting such action.

16 Under Para. 26 of the Enlistment Act, “Any person required (...) to report for enlistment (...) shall, from such date and time as may be specified, be subject to military law. (Acts) relating to the armed forces shall apply to the person (...) notwithstanding that he has not complied with the order.” This means that in practice conscientious objectors who refuse enlistment are tried by military tribunals, and are subsequently incarcerated in the Singapore Armed Forces Detention Barracks.¹³ As they have by definition not enlisted, they remain civilians and it is not appropriate that they should be subjected to military justice or detained in military prison. – a principle stated in the study on “The issue of the administration of justice through military tribunals”, prepared for the UN Sub-Commission on the Promotion and Protection of Human Rights by Emmanuel Decaux,¹⁴ and subsequently reaffirmed in a number of cases,¹⁵ by the European Court of Human Rights, the decisions of which are of course not binding on Singapore but nevertheless contribute to the development of customary international law.

17 All recorded conscientious objectors in Singapore have been Jehovah's Witnesses. It is believed that the unwillingness of their members to perform military service was the principal reason for the government decision in 1972 that “the group's existence was prejudicial to public welfare and public order”,¹⁶ leading to the deregistration of the church¹⁷ and the subsequent banning of all their publications.¹⁸ Individual Jehovah's Witnesses have however subsequently continued to refuse military service.

18 As of 1997, it was reported that over 100 conscientious objectors had been imprisoned since 1972; 30 remained in detention of whom half were serving a second sentence.¹⁹ In December 2002, 26 conscientious objectors were in military

¹³ Ibid, reply to question 6.

¹⁴ E/CN.4/Sub.2/2005/9, para 19.

¹⁵ European Court of Human Rights, Deuxième Section, *Affaire Ercep v Turquie (Requête n° 43965/04)*, Arrêt, 22 novembre 2011 (full text available in French only); European Court of Human Rights, Case of *Feti Demirtas v Turkey*, Application No. 5260/07, Chamber Judgment of 17 January, 2012; European Court of Human Rights, Case of *Savda v Turkey (application no. 42730/05)*, Chamber Judgment of 12th June, 2012; European Court of Human Rights, Deuxième Section, *Affaire Buldu et autres v Turquie (Requête n° 14017/08)*, Arrêt, 3 juin 2014 (text available in French only).

¹⁶ Human Rights Without Frontiers International, Freedom of Religion or Belief Annual Report 2014 op.cit., p67.

¹⁷ Order No. 179 of the Minister for Home Affairs pursuant to section 24.1 of the Societies Act.

¹⁸ Order No. 123 of the Minister of Culture, pursuant to Section 3 of the Undesirable Publications Act.

¹⁹ Horeman, B. & Stolwijk, M., Refusing to Bear Arms, War Resisters International, London, 1998, available at http://wri-irg.org/programmes/world_survey/country_report/en/Singapore

detention.²⁰ In December 2004 the number held in detention was 20.²¹ In 2006, at least eight conscientious objectors were imprisoned for the first time, and a further 12 continued to perform their sentences.²² A report from December 2007²³ indicated that during that year five conscientious objectors were released, having completed a second term of detention, but a further eight commenced fifteen-month sentences, and expected to face renewed charges on their release. The total number of conscientious objectors incarcerated at the end of 2007 was given as 22.

19 The serving of a sentence for refusing enlistment does not discharge the obligation to enlist. The Jehovah's Witnesses reported in 2003 that their members who "declined" military service were typically sentenced to 15 months in the first instance, and on again refusing were sentenced to a further 24 months. This remained the situation at the beginning of 2014, after a gap of seven years in the information which has been traced.²⁴ Failure to report for annual reserve service is usually punished by a 40-day sentence, but after three such convictions a 12 month sentence was normal.²⁵

20 At the beginning of 2014 seven named Jehovah's Witnesses aged between 20 and 22 were serving the first (15 month sentence), and a further seven, aged between 22 and 24, were serving the second (24 month) sentence. Two 19-year-olds were in the Armed Forces Detention Barracks awaiting Court Martial.²⁶ In the absence of a change of policy, it is to be assumed that twelve of the sixteen are still imprisoned at the time of writing, and that ten will remain in prison at the time of the Working Group in January/February 2016, by when it is probable that further convictions will have added to this number.

21 With regard to all repeated sentences, it should be noted that, in the part of General Comment 32 concerning the principle *ne bis in idem*, the Human Rights Committee stated: "Repeated punishment of conscientious objectors for not having obeyed a renewed order to serve in the military may amount to punishment for the same crime if such subsequent refusal is based on the same constant resolve grounded in reasons of conscience."²⁷ In its most recent decision regarding conscientious objection to military service,²⁸ the Human Rights Committee (with one dissenter) found that repeated convictions for refusal to perform military service therefore constituted a breach of Article 14.7 of the International Covenant on Civil and Political Rights (which Singapore however has yet to ratify).

²⁰ General Counsel of Jehovah's Witnesses, *op cit*, reply to question 6.

²¹ General Counsel of Jehovah's Witnesses, Supplementary information provided in response to OHCHR questionnaire, February 2005.

²² Amnesty International, Annual Report 2007, available at <http://www.amnesty.org/en/region/singapore/report-2007>

²³ <http://singabloodypore.rsfblog.org/archive/2007/12/10/singapore-jehovah-s-witnesses-imprisoned-for-conscientious-o.html>, consulted October 2010. This reproduced what appeared to be an Amnesty International press release, which could not however be traced on the AI website.

²⁴ Human Rights Without Frontiers International, Freedom of Religion or Belief Annual Report 2014 *op.cit.*, p67.

²⁵ General Counsel of the Jehovah's Witnesses, *op. cit.*, reply to question 6.

²⁶ Information derived from Human Rights Without Frontiers International, Freedom of Religion or Belief and Blasphemy Prisoners List 2014 (Brussels, December 2014), pp108-10.

²⁷ CCPR/C/GC.32, 23 August 2007, Section IX "NE BIS IN IDEM", para. 55.

²⁸ Views adopted by the Human Rights Committee at its 113th session (16 March–2 April 2015), Communication No.2218/2012, *Zafar Abdullayev v Turkmenistan* (CCPR/C/113/D/2218/2012) published on 19th May 2015.

Restrictions on freedom of movement and other rights

22 Under Para 32 of the Enlistment Act, no (male) person between the ages of 13 and 40 (or 50 in certain cases) may leave Singapore or remain outside Singapore without an exit permit issued by the Armed Forces Council. Those who do not comply, or who remain abroad beyond the validity of the permit, become liable to a fine of S\$2000 (US\$1600). In the case of those below the registration age of sixteen-and-a-half, each parent, whether or not in Singapore, is in addition liable to a fine of the same amount. In fact, it is reported that a number of potential conscripts attempt for various reasons to avoid conscription by leaving the country, but that after ten years' absence they risk being stripped of their citizenship²⁹

²⁹ General Counsel of Jehovah's Witnesses, op cit, reply to question 8.