

# **CONSCIENCE AND PEACE TAX INTERNATIONAL (CPTI)**

**Submission to the 143<sup>rd</sup> Session of the Human Rights Committee**

## **ZIMBABWE**

**(Military service, conscientious objection and related issues)**

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CPTI aims to supply information on all States with armed forces which report under the International Covenant on Civil and Political Rights (ICCPR) with regard to their military recruitment legislation and their recognition of the right of conscientious objection, even when there appear to be no urgent questions arising.

In association with the Child Rights International Network, CPTI also reports to the Committee on the Rights of the Child on States where there appear to be issues under the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, and although these issues do not necessarily have implications for the ICCPR, such concerns are also reported in these submissions.

### Summary

Zimbabwe's Second Report under the ICCPR comes an appalling twenty-eight years after its Initial Report, which on the subject of military recruitment referred back to the National Service Act of 1979. It would therefore be appropriate to ask the State Party to confirm that the provisions in that Act remain valid which govern exemption of conscientious objectors to military service in the event that conscription should ever be imposed. Clarification might also be sought as to whether all grounds for objection would be recognised, and also as to whether these provisions would be considered to apply in the event that a serving member of the armed forces were to develop conscientious objections.

In its formal military recruitment legislation, Zimbabwe establishes a firm minimum age of 18. When the Committee on the Rights of the Child examines Zimbabwe's Report, submitted in 2023, under the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict it is however likely to face questioning on the nature and activities of the ZANU-PF Youth Militia first established under the "National Youth Service" in 2001.

### Latest statistics<sup>1</sup>

POPULATION (November 2023, estimated)	16,820,000
proportion of males aged 15-19	4.7%
thus annually reaching recruitment age (approx):	158,108
ARMED FORCES:      Active strength, November 2023	29,000
compared to the male population reaching recruitment age	18.3%
MILITARY EXPENDITURE: US \$ equivalent, estimated 2023	\$870m
Per capita	\$52
As % of GDP	0.3%

### Historical Background

Conscription was imposed on white male residents of the former Southern Rhodesia under the Defence Act of December 1926, which provided for the exemption of conscientious objectors on religious grounds.<sup>2</sup> Such provisions remained in force until Zimbabwean independence in 1979. The post-independence Zimbabwean Army was created through uniting with the previous Rhodesian army the two guerrilla forces against which it had fought in the fifteen-year war of national liberation – the 20,000-strong ZANLA, allied to the Zimbabwe African National Union of the new President, Robert Mugabe and the 15,000-strong ZIPRU of the rival Zimbabwe African People's Union.

Although the post-independence National Service Act stipulated that all men were liable for a six-month period of military training followed by six months' non-military training (a pattern of combining military and development service liability which is common in African legislation), and implied that the national service requirement extended beyond this training period, there was no shortage of personnel, and it does not appear that conscription has ever been implemented since independence. There were reports in 1989 that registration for military service had begun,<sup>3</sup> and in 2009 of a mass recruitment drive to counteract large scale desertions by middle-ranking personnel over low pay<sup>4</sup> but no indication that either actually resulted in conscription.

Post-independence Zimbabwe has not been free of armed conflict. Between 1982 and 1987 it is reported that the armed forces massacred tens of thousands of civilians in Matabeleland who opposed the Shona-dominated ZANU-PF government. More recently, in 2017 it was a largely bloodless military coup which led to the replacement of President Mugabe by President Manangagwa.

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1 Sources: For military expenditure, Stockholm International Peace Research Institute – SIPRI, April 2024. Otherwise, The Military Balance 2024 (International Institute of Strategic Studies, London), which bases its estimate on “demographic statistics taken from the US Census Bureau”.

2 Prasad D. & Smythe, T. (1968), Conscription -a world survey: compulsory military service and resistance to it, War Resisters International, London, p113.

3 Horeman, B. & Stolwijk, M. (1998) Refusing to Bear Arms, War Resisters International, London

4 War Resisters' International, “Zimbabwe an army starts recruitment drive among rural youth after one-third of soldiers deserted (<https://wri-irg.org/en/story/2009/zimbabwean-army-starts-recruitment-drive-among-rural-youths-after-one-third-soldiers>) 24<sup>th</sup> February, 2009.

## Conscientious objection to military service

The replies of Zimbabwe to the questionnaire for the OHCHR's Report to the Commission on Human Rights in 1997 indicated that Zimbabwe did not currently have obligatory military service, but confirmed that the 1979 Act would be relevant in the event of its introduction, and that "Section 24 of the Act provides for exemption from military service on the grounds that a person is a conscientious objector to military service. A person is entitled to apply at the Exception Board for exemption from military service if "his *bona fide* religious beliefs inhibit his rendering National Service". This was confirmed the same year in Zimbabwe's Initial Report under the ICCPR, which, with regard to Article 8 (forced labour) states "The National Service Act provides for compulsory national service. Persons who are considered medically unfit or whose bona fide religious beliefs inhibit their enrolment may be considered for exemption. However there has been no notice of call-up since the passing of this enactment."<sup>5</sup> It might be noted that this makes no mention of exemption on the grounds of objections of a non-religious nature, nor is there any mention of a requirement that exempted conscientious objectors perform an alternative civilian service, although the next sub-paragraph details the circumstances in which, following the announcement by the President of a disaster, civil protection officers may direct any person to undertake appropriate mitigating work.

There is no reference to this provision – indeed to any aspect of military recruitment or service - in Zimbabwe's current Report, but it is stated that in accordance with Article 60.1 of the Constitution, conscientious objection is legally recognised in "that no person may be compelled to take an oath that is contrary to their religion or belief or to take an oath in a manner that is contrary to their religion or belief, which includes objection to vaccination."<sup>6</sup>

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## Juvenile Recruitment

Zimbabwe's Initial Report under the Convention on the Rights of the Child in 1998 quoted the absolute prohibition on recruitment of children under the age of 15 in Additional protocol I to the Geneva Conventions, adding "Direct recruitment of children under the age of 16 years into the army is prohibited by the National Service Act of 1979. The Act provides for 16 years as the lower age limit for recruitment into regular armed service and 18 years for emergency national service." (The latter presumably referring to conscription, which has however, as noted above, never in fact been imposed.)

By the time Zimbabwe ratified Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict in 2013, it was however able to report in its Declaration:

"In terms of the Zimbabwe Defence Forces Standing Orders, recruitment of members into the Defence Forces is voluntary but restricted to the ages of between 18 and 22 years. However, Zimbabwe contemplates to include this provision in its statutory law for certainty and consistency despite the fact that no problems have been encountered.

"To ensure that every recruit is 18 years of age, every potential recruit must be in possession of his/her National Identity Card, Birth Certificate and school and professional certificates before he is recruited into the Defence Forces.

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5 CCPR/C/74/Add.3, 29<sup>th</sup> September, 1997. para 87(c)

6 CCPR/C/ZIM/2, 5<sup>th</sup> September, 2023, paras 190,191.

“He/she also undergoes thorough medical and physical examinations in order to ascertain his/her fitness and age.

“Recruitment commences at District Centres to ensure that there is equal representation of all members who join the Defence Forces, throughout the country.

“In fact, all recruitments into the Zimbabwe Defence Forces are voluntary and is strictly for those who are of the age of 18 years.”

This information is confirmed in Zimbabwe’s 2013 Report under the Convention on the Rights of the Child, “In terms of the National Service Act, persons can volunteer to join the army only at the age of 18 years. Where an emergency arises, the law obliges the government to recruit persons of 18 years and above for national service. The minimum age of participation in hostilities is therefore 18 years. Furthermore, by acceding to the Geneva Convention, Zimbabwe protects her children from early recruitment, as she is also required by her international obligations.”<sup>7</sup>

In the List of Issues, the Committee on the Rights of the Child raised the use of schools as bases by militia groups, including the ZANU PF youth militia, “particularly in Masvingo province and other rural areas” and asked for information “about the measures taken to deter military use of schools, and mechanisms established to ensure that attacks on the education are monitored and properly investigated.” The Government reply simply quoted that “The Ministry of Primary and Secondary Education has an administrative policy that prohibits the use of schools for political purposes other than as voting stations.”<sup>8</sup>

Zimbabwe submitted its Report under OPAC in 2023. This repeats in many paragraphs that the minimum age for military recruitment is set by the Constitution at 18, including Article 81g which “prohibits the recruitment of children into a militia force or to take part in hostilities”.<sup>9</sup> When the Committee on the Rights of the Child examines the Report, Zimbabwe is likely to be challenged regarding how it reconciles this provision with the existence of “ZANU-PF Youth Militias”, first introduced as a “National Youth Service” in 2001. Questions may be raised regarding the role of military training in the militias, their reported activities at various times of harrassing and persecuted perceived government opponents, and the mechanisms whereby Youth Militia personnel have periodically been incorporated in the national security services.

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7 CRC/C/ZWE/2, 27<sup>th</sup> May, 2013 (published 13<sup>th</sup> April 2015) para 374.

8 CRC/C/ZWE/Q/2/Add.1, 16<sup>th</sup> November 2015, paras 20, 21.

9 CRC/OPAC/ZWE, 26<sup>th</sup> July, 2023, para 5.

### **Suggested Questions**

According to the latest information available to the Committee, all military recruitment in Zimbabwe since independence has been voluntary in nature, but the provisions which would apply in the event of the introduction of conscription, including with regard to conscientious objection, remain those in the 1979 National Service Act. Does this remain the case? In the event of the introduction of conscription, would the possibility of exemption be available to all conscientious objectors, irrespective of the nature of the objection? Would these provisions also be applicable in the event that a professional member of the armed forces were to apply for release, having developed conscientious objections; have any such cases in practice occurred?