

CONSCIENCE AND PEACE TAX INTERNATIONAL (CPTI)

Submission to the 90th Session of the Committee on the Rights of the Child

CUBA

(Juvenile recruitment)

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Basic Information

POPULATION (November 2021, estimated ¹)	11,032,000
Males annually reaching recruitment age (estimate)²:	63,986

MILITARY SERVICE: currently regulated by the National Defence Act No. 75 of 21 December 1994, with recruitment procedures set out in Decree Law 224/2001.

Obligatory for males, voluntary for females

Duration: Two years; one year for those accepted for university; and for women

Recruitment age: From the beginning of the year of the 17th birthday, but no compulsory recruitment before the 18th birthday.

Conscientious objection: Not recognised

ARMED FORCES: Active strength, November 2021 ³ :	48,000
compared to the male population annually reaching recruitment age	76.6%

¹ Source: The Military Balance 2022 (International Institute of Strategic Studies, London), which bases its estimate on “demographic statistics taken from the US Census Bureau”.

² Ibid: - calculated from the quoted proportion of the 2021 population which were males between the ages of 15 and 19.

³ Ibid

Background

Military service (*servicio militar general*) in Cuba is obligatory for all male citizens and, since 1983 open on a voluntary basis to “revolutionary” female citizens – ie. those who support the governing system. The 1995 Military Service Act reduced the duration for males from three to two years (one year in the case of those who have been offered a university place), and for female volunteers from a minimum of fourteen months to one year. Men who are adjudged to be physically or mentally unfit to serve may be exempted, but it is claimed that in many cases they are required to serve in a less exacting capacity; there is anecdotal evidence of potential recruits resorting to self-harm or bribery in order to receive a medical exemption, even though under the Military Offences Act, "Any person who commits an act or omission that is obviously unseemly or that seriously undermines military honour is punishable by deprivation of liberty from three months to three years".⁴ Although it is not specified in the legislation, those who come forward as homosexual or bisexual are, following investigation by the local “Committee for the Defence of the Revolution”, in practice excluded from military service. Deferment is possible because of household responsibilities, particularly when the potential recruit is the sole breadwinner – it is not clear whether, or to what extent, there is any remuneration during military service.⁵ A man who reaches the maximum age of 27 without having performed military service is given basic military training and then assigned to the reserves.

Military service for persons aged less than 18 years

All male citizens are required to register with the military authorities during the year of the sixteenth birthday; in at least some cases this must mean at the age of 15. Obligatory call-up does not take place before the age of 18, but both males and females may “volunteer” at any time from the beginning of the year of the 17th birthday, ie. from the age of 16-. Whereas in most countries, military service is usually postponed until after the completion of education, in Cuba, as in Israel, the expectation is that it will be performed at the end of secondary education, *before* admission to University; Cuba argues that the possibility of performing military service early allows young men to proceed to University sooner. In Israel there is a deliberate social reason for ensuring that military service is almost always the first experience of adult life; could a similar motivation apply in Cuba?

Cuba’s initial report under the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (OPAC) reveals that in the three years from 2007 to 2009 some 27,400 men and over 400 women took advantage of this “opportunity”.⁶ In the following four years, as reported in the replies to the List of Issues, the numbers were just under 20,800 males and more than 300 females⁷ - less than 10% of all recruits, as opposed to about 15% in the earlier period. It is interesting that numbers should have declined so sharply - what has caused this?

If “demand” is indeed falling this is a good opportunity to review the system. Why should Cuba do this? First, because it is arguably a direct violation of Article 2 of OPAC: “States Parties shall ensure that persons who have not attained the age of 18 years are not compulsorily recruited into their armed forces.” The fact that there is an option regarding the timing of enlistment does not

⁴ War Resisters’ International (www.wri-irg.org), World Survey of Conscription and Conscientious Objection: Cuba, updated 14th December, 2017.

⁵ Ibid

⁶ CRC/C/OPAC/CUB/1, 1st March, 2013, para 113.

⁷ CRC/C/OPAC/CUB/Q/1/Add.1, 13th July 2015, para 23.

make the service itself any less compulsory. This is still conscription rather than voluntary recruitment – it is by no means clear that, except for officers, there are any voluntary “professional” military personnel in Cuba. The requirement to register and begin the process of preparation for recruitment chips in at the unusually young age of 15, at a very early stage in the adolescent’s mental and emotional development. The preparation for recruitment is heavily loaded with militarist indoctrination; it may also include preliminary firearms training, which ought never take place before the age of eighteen. Nor is there any requirement of parental consent for early recruitment; the State reports simply that “the recruit’s close relatives are invited to participate” in the preparation for recruitment,⁸ which is no sort of safeguard.

Furthermore, no clear mechanisms have been reported which would prevent such juvenile recruits from being actively involved in the event of armed hostilities.

Having enlisted, male recruits are committed to serve for at least a year before there is any possibility of applying for early release (women can apply for release at any time).. Such a time limit is much more significant when imposed on persons of immature years “Early discharge from military service may be granted on grounds of illness or family problems, in recognition of exceptional service or as a means of allowing people to go on to serve their country in civilian posts.”⁹ But of course conscientious objection is not considered a valid ground, any more than it is accepted as a reason for exemption. As the jurisprudence of the Human Rights Committee abundantly demonstrates, this is in violation of Article 18.1 (freedom of thought, conscience, or religion) of the International Covenant on Civil and Political Rights. Enabling military enrolment at an age before conscientious objections may have developed may be considered to compound this violation. Those who develop conscientious objections or otherwise change their minds after volunteering and seek to escape by “desertion” face imprisonment for between two and five years. in time of war, the Military Offences Law stipulates imprisonment for between ten and twenty years, or even death .- again very heavy penalties for juveniles; in particular one hopes that the death penalty would never be applied in a case of “desertion” before the age of eighteen.

Article 1 (a) and (d) of the National Defence Act stipulate that fines shall be imposed on persons who:

- Fail to appear when summoned by the Military Committee;
- Do not register for military service;
- Do not inform the competent authority of any changes in their identity, address, place of work or study, or provide any other information needed to keep their situation and status up to date in the military register;
- Following their discharge from military service, fail to appear at a specified location within 30 days with a view to being formally re-enrolled in the military register;¹⁰

. Those who fail to register or comply with the recruitment procedures are liable to imprisonment for between three months and one year or to a fine; in notoriously brutal military prison .

As the right of conscientious objection to military service is not recognised and the concept little

⁸ CRC/C/OPAC/CUB/1, para 118.

⁹ Ibid, para 122

¹⁰ CRC/C/OPAC/C/Add.1, para 16

publicised it is not surprising that very few potential recruits have come forward in Cuba as conscientious objectors. It is believed that in past decades a number of Jehovah's Witnesses were imprisoned for refusing military service, but the Jehovah's Witnesses have not reported any instances in recent years. However in 2020 Osmel Adrián Rubio Santos from Havana publicly declared himself a conscientious objector and announced that he would refuse to perform military service. The case is a complicated one; he was arrested on 15th December 2020, but for breaching the terms of a house arrest for his part in the protest against the imprisonment of the musicians Denis Solis Gonzales and Didier Almagro for alleged public order offences, rather than in connection with military service, and was released four days later. As he is gay, it is probable (see above) that he will be excluded from military service for that reason, so he is unlikely to face charges relating to his conscientious objection.

Military schools

Cuba maintains an extensive network of military schools. “The Camilo Cienfuegos military schools — pre-university establishments that prepare adolescents aged between 14 and 17 for careers in the military” feed into the seven institutions “where officers are training to take up command, technical, legal and medical duties. These courses of study are from four to six years in length.” How many feeder schools, or their pupils, may be is not reported, but their curriculum almost certainly includes military training.

Committee on the Rights of the Child

In its concluding observations on Cuba's first report under OPAC, the Committee expressed concern “that national legislation does not explicitly state that the minimum age for participating in hostilities is 18 in times of national emergency.”, and recommended **“that the State party define 18 as the minimum age for participation in hostilities, including in times of national emergency”**, and furthermore “that the conditions regulating voluntary recruitment, which may occur for individuals under the age of 18, including shorter military service periods, beneficial access to higher education and employment opportunities, may influence how genuine the voluntary character of this recruitment is.” The Committee recommended **“that the State party ensure that consent to voluntary recruitment is genuine.”**¹¹

¹¹ CRC/C/OPAC/CUB/CO/1, 30th October 2015

Suggestions

It is suggested that Cuba be reminded of the Concluding Observations on its initial report under the OPAC and be asked what measures, if any, it has taken towards implementing the Committee's recommendations.

In order to ensure full and unambiguous compliance with the OPAC it is suggested that on this occasion the recommendation be made that all forms of recruitment of persons aged under eighteen years cease, and likewise that no person under the age of eighteen years should receive weapons training. In the absence of such changes, recommendations are suggested

a) that no application for enlistment before the eighteenth birthday be accepted unless accompanied by explicit parental consent

b) that it should be stated categorically that the death penalty for desertion in times of war envisaged in the Military Offences Act cannot be imposed if the desertion took place below the age of eighteen.