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CONSCIENCE AND PEACE TAX INTERNATIONAL (CPTI)

Submission to the 141st Session of the Human Rights Committee

INDIA

(Military service, conscientious objection and related issues)

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Contact:

Derek BRETT

Main Representative to the UN, Geneva

derekubrett@gmail.com

Tel: (41) 77 444 4420

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:

Consistently with its population, India fields the largest all-volunteer armed forces in the world, currently well over a million strong. Conscription has never existed in independent India; the obligatory military training schemes which operated for some years in the 1960's and early 1970's do not seem to have directly resulted in people being conscripted into active service.

The biggest concern is the continued use of juvenile recruitment. Also, India has never had provision for conscientious objection to military service, and although instances are likely to be rare in a context of voluntary recruitment, given the very large numbers involved, the possibility that an actual case might arise cannot be overlooked; therefore it might well be worth asking what approach the State would take in such a circumstance.

Historical Background

Indian independence was marked by a war with secessionist Pakistan and a massive population displacement. Further full-scale international conflicts with Pakistan have taken place in 1965, 1971 (when India supported the secession of Bangladesh from Pakistan) and 1999; tension between the two in the context of the armed insurgency in Kashmir, which Pakistan claims has been a constant feature of their independent history. Border wars with China in 1962 and 1967 have been followed by a history of isolated clashes. With its large size and ethnic diversity, India has also suffered from a number of struggles with armed insurgent groups, not only in Kashmir but including an estimated nineteen such groups in various of the North-Eastern States, Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim and Tripura, and a large Maoist Naxalite insurgency, mainly in nine States in the east. In 2023 the level of deaths in each of Kashmir, the North-Eastern States and the Naxalite insurgency was a few hundred, meaning that each would be classified as a “minor conflict”.

During both World Wars, British and other European citizens resident in India were liable to conscription, and provisions for conscientious objection were introduced in 1940, however conscription never applied to the native population and since independence military service has generally been voluntary.

An exception was the introduction in 1963 of a compulsory training scheme for 900,000 undergraduates within the National Cadet Corps (NCC), in the context of the conflict with China. This came in the context of several years’ discussion of the possibility of introducing conscription, seen not as a military necessity but as a useful way of inculcating discipline in young citizens. During the 1965 conflict with Pakistan the compulsory training scheme was extended to high school students¹. The compulsory nature of the scheme was abolished in the mid-1970’s,² but the NCC, first set up under the National Cadet Corps Act No. XXXI of 1948, continues to train young persons of both sexes – girls with a view to the possible necessity of their taking over unarmed functions from men in the event of a national emergency - divided into junior (from 13 years old) and senior divisions and into wings relating to the three branches of the armed forces; its total membership was reported in 2001 as 1,160,000; in 1997 just under 500,000 had attended the annual training camps. Members of the NCC are not members of the armed forces, and are not subject to military deployment, however some aged between 18 and 22 were used on election duty “at non-sensitive booths” in 1999,³ and cadets were also involved in relief operations following the 2004 tsunami. There is no obligation on cadets to pursue a military career, however they receive preferential treatment when applying to join the armed or auxiliary forces.⁴

Juvenile recruitment

India’s Declaration on ratifying OPAC on 30th November, 2005 stated:

“(i) The minimum age for recruitment of prospective recruits into Armed Forces of India (Army, Air Force and Navy) is 16 years. After enrollment and requisite training period, the attested Armed Forces personnel is sent to the operational area only after he attains 18 years of age;

1 Prasad, D. and Smythe, T., Conscription: A World Survey, War Resisters’ International, London, 1968, pp. 72-75.

2 Horeman, B. and Stolwijk, M., Refusing to bear arms: a world survey of conscription and conscientious objection to military service, War Resisters’ International, London, 1998.

3 Coalition to Stop the Use of Child Soldiers, Child Soldiers Global Report 2001, p195.

4 Coalition to Stop the Use of Child Soldiers, Child Soldiers Global Report 2008, p170.

(ii) The recruitment into the Armed Forces of India is purely voluntary and conducted through open rally system/open competitive examinations. There is no forced or coerced recruitment into the Armed Forces."

It was reported⁵ that the minimum age had in fact been raised to seventeen-and-a-half in mid 2004. However this change has still to be reflected by an amendment to the Declaration. Minimum ages for recruitment to the reserve Territorial Army and the various auxiliary forces (the Central Reservist Police Force, the Border Security Forces, and the Assam Rifles) are all set at eighteen. In all cases, however, the lack of systematic birth registration, particularly in the rural areas, makes the age of recruits difficult to verify.

In its Concluding Observations on India's Report under OPAC, the Committee on the Rights of the Child urged the State Party "to ensure consistent and effective verification of the age of individual recruits to effectively prevent the recruitment of children into the armed forces. Furthermore, the State party should take all necessary measures to ensure that all children are registered at birth." (para 21). Without noting reports that recruitment ages in practice might have moved on from that stipulated in the Declaration, the Committee urged the State Party to "to consider withdrawing its declaration and establish the minimum age for recruitment into the armed forces at 18 years." (para 9). It furthermore expressed concern that children as young as 13 years of age are enrolled in military colleges and schools and that they participate in basic military training involving firearms. The Committee is also concerned that no concrete information on their military status in case of mobilization or clashes with armed opposition groups or other emergency situations, minimum service time and conditions for early discharge has been provided. (para 24) There are currently 33 Sanjik Military Schools, with plans to expand the network by up to a hundred more. Total enrolment figures are not known, but they are believed to provide between a quarter and a third of officer cadets to the National Defence Academy and the Indian Naval Academy.

A considerable amount of recruitment, training, and use of juveniles by various armed opposition groups has been alleged. This includes Maoist insurgents in Andhra Pradesh, Chattisgarh and Jharkhand, mainly of illiterate youths from tribal communities aged from fourteen, sometimes abducted from schools. A similar pattern, and similar ages, are reported of various armed opposition groups in Kashmir, who are alleged furthermore to have used children as young as ten as messengers and couriers, and some might have been used to plant improvised explosive devices. A number of groups of children have been fired upon by government forces who suspected them of being combatants; a boy as young as eight was among the victims. Evidence of the use of children by armed opposition groups in the North East is rather more sketchy, but anecdotal evidence speaks of youths in tribal areas being radicalised and keen to join the armed conflict.

From 2010 until 2022, India was included in the annual list of situations where children were recruited and used in armed conflict presented by the UN Secretary-General to the Security Council, specifically with respect to the situation in Kashmir where the recruitment and use of 18 boys by armed opposition groups in 2021 had been verified. For some reason, the other situations within India never quite reached the threshold for inclusion. In 2023, following measures taken by the Government to "better protect children", it was removed from the list.⁶

Although no formal deployment of juveniles as part of the Government armed forces has taken place, there have been reports that Government-sponsored self-defence village militias, particularly in Chattisgarh, have not imposed age limits, and that from as young as thirteen boys and girls were recruited as Special Police Officers, whose duties were mainly as informers, but who received military training from regular armed force units.

⁵ Ibid

⁶ S/2023/363, 5th June 2023, para 348.

Latest statistics⁷

POPULATION (November 2023, estimated)	1,399,180,000
proportion of males aged 15-19	4.6%
thus annually reaching recruitment age (approx):	12,872,456
ARMED FORCES: Active strength, November 2023	1,475,750
compared to the male population reaching recruitment age	11.5%
MILITARY EXPENDITURE: US \$ equivalent, estimated 2023	\$83,575m
Per capita	\$59
As % of GDP	2.4%

Suggested Questions and Recommendations

The Committee notes that all military recruitment is voluntary. However in view of the large numbers of personnel, the possibility cannot be excluded that subsequent to enlisting some might develop conscientious objections and seek early release on such grounds. What procedures would be followed in the event of such a request, and would a conscientious objector be permitted to leave the armed forces without penalty?

Has the State party taken any action in response to the recommendation by the Committee on the Rights of the Child that it establish the minimum age for military recruitment a eighteen years in all circumstances?

⁷ 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”.