

CONSCIENCE AND PEACE TAX INTERNATIONAL (CPTI)

Submission to the 144th Session of the Human Rights Committee

VIET NAM

(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

Viet Nam has always had obligatory military service, but has never recognised the right of conscientious objection. The Committee raised the issue during the consideration of the Second Periodic Report in 2002, and recommended in the Concluding Observations that it introduce an alternative civilian service for conscientious objectors, but did not follow up on this specific aspect of the freedom of religion or belief in the Concluding Observations on Viet Nam's Third Periodic Report, nor in the List of Issues on the current Report.

It is suggested that the Committee return to the issue during th consideration of theFourth Periodic Report.

Latest statistics¹

POPULATION (November 2024, estimated)	105,759,000
proportion of males aged 15-19	2.8%
thus average annually reaching recruitment age :	264,768
ARMED FORCES: Active strength, November 2024	450,000
compared to the male population reaching recruitment age	54.6%
MILITARY EXPENDITURE: US \$ equivalent, estimated 2023	\$287m
Per capita	\$87
As % of GDP	1.4%

Historical background

At the end of the 1955-1975 Vietnam War, which may have caused the deaths of anything up to three million Vietnamese, as well as hundreds of thousands of other nationalities, including over 58,000 USA service personnel, the country was reunified as the Socialist Republic of Vietnam, and was admitted as a member state of the United Nations in 1977. In 1978, Vietnam invaded Cambodia and retained military involvement in that country, supporting the government of the “People’s Republic of Kampuchea” until 1990. This led to a Chinese incursion which was fended off in 1979. Since 1990, Viet Nam has generally enjoyed peace; in recent years tensions with China have grown over competing claims in the South China Sea, but without hitherto

Military service²

Military service has been obligatory in Viet Nam since unification in 1976; previously in the wartime situation it had applied separately in both North and South Vietnam. It has been enshrined in Article 44:: "It is the duty of the entire people to defend the socialist Vietnamese fatherland and firmly maintain national security," and Article 77: "Defending the fatherland is the citizens' sacred duty and noble right. Citizens are dutybound to perform their military service and participate in building the all-people national defence." of the 1992 Constitution.

The legislative basis is provided by the 1981 Law on Military Service, as amended by the 1990 Law on Amendments and Supplement to the Law on Military Service, and subsequently on 22nd June 1994. A further Law on National Defence was enacted on 19th June, 2015; we do not know to what extent this changed the process described below.

All men between the ages of 18 and 27 are liable for two years’ service – three years in the case of officers and those with special skills. The duration of service was reduced from three years in 1990 to match the reduction of the armed forces following the end of the war with Cambodia and in an attempt to make military service more popular.

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- 1 Sources: For military expenditure, CIA World Factbook (<https://www.cia.gov/the-world-factbook/countries/vietnam/>) [no SIPRI figures available since 2019 ; the CIA figures seem to show a substantial increase] Otherwise, The Military Balance 2025 (International Institute of Strategic Studies, London), which bases its population estimate on “demographic statistics taken from the US Census Bureau”.
 - 2 Source, except where otherwise quoted: Horeman, B. & Stolwijk, M., Refusing to Bear Arms, War Resisters International, London, 1998 (https://wri-irg.org/en/programmes/world_survey/country_report/en/Vietnam), the information in which, although rather dated, believed to remain generally valid.

Viet Nam's 2005 Report under the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, quoted extensively from the 1994 Law in describing the recruitment process.

Registration for military service is governed by Government Decree No. 83/2001/ND-CP dated 9 November 2001. Article 2 stipulates that "Military service registration consists of completing a curriculum vitae and other necessary information stipulated by the Law for persons old enough to register, so as to enable the local military office to manage and implement law regulations on military service for persons within the age range for military service". Under Article 3, registration "must be undertaken by the eligible persons themselves according to the correct policies and procedures". Under Article 7: "Male citizens between the age of seventeen and forty-five have to register for military service, except for those deprived of their service rights in the military armed forces; those under criminal prosecution; persons who are sentenced or under no-detention reclamation; national defense officials; those serving in People's Public Security sections and agencies; the handicapped and those who are mentally ill or suffer chronic diseases listed by the Minister of Health and the National Defense. These persons are exempt from military service". Under Articles 17 and 18: "Annually, as ordered by the Commander in Chief of the Military Command Service at the district level, male citizens turning seventeen years of age are obliged to register for military service. In order to register they must go to the District Military Command Service in their area and show identity card as well as fill out the curriculum vitae forms required for registering for the first time that are found in the registration book of persons ready to join armed forces. The District Military Command Service is responsible for:

1. Providing military service registration certificates for persons ready to join the armed forces;
2. Creating files of military service curriculum vitae for persons ready and qualified to join the armed forces;
3. Sending military service curriculum vitae to soldier-receiving units where citizens are recruited to serve in the armed forces."³

Article 28, of the 1981 Law, supplemented by Circular 13/TT-LB of the Inter-ministry of Health and National Defense dated 13 October 1992 on Health examination, qualification and verification for fulfilling military service covers health examination. Under that Article, "The Health Examination Council of the district, small town or city under provincial authority is responsible for examining the health of those recruited to join the armed forces. The results must be widely publicized. Citizens whose health is to be examined must show the health examination invitation paper issued by district military commander in chief along with their identity card. Health examination includes: Physical examination; detecting and noting diseases in each person's health form to aid in health management; classifying each citizen's health condition (of those ready to join the armed forces as well as those on standby); creating a military service health check form for male citizens seventeen years of age and citizens being checked for the first time. The military service health check form is the fundamental medical document showing the overall health condition of citizens who are conforming to the Law on Military Service."⁴

Under Article 1 of the Law "the [annual] appeal for citizens to join the armed forces take place once or twice; the government decides the time of the appeal and the number of citizens recruited for the year." Under the unchanged Article 21 of the 1981 Law: "The recruitment of citizens into the armed forces is carried out under the orders of the Minister of National Defense. People's Committees of all levels are accountable for the recruitment in each locality. According to the resolution of the People's Committee, the military commander in chief of the district, small town or

3 CRC/C/OPAC/VNM/1, 8th November 2005, para 20

4 Ibid, para 21

city under provincial authority recruits citizen one by one into the armed forces. The call-up paper must be sent at least fifteen days prior to the date of enlistment. In the case of localities stricken by severe natural disasters, the Minister of National Defense has the right to adjust the time of recruitment.”⁵

The provisions regarding postponement of or exemption from military service were updated under the 2015 Law.⁶ Under Article 41.1, conscription will be postponed in the case of:

- “- Any citizen whose health is unsatisfactory for active duty military service according to the conclusion of the pre-enlistment check-up board;
- Any citizen being the sole earner who directly takes care of his/her relative who lost working capacity or under working age; any citizen being the sole earner in a family suffering serious damage to humans and properties due to dangerous accidents, disasters, epidemics certified by People’s Committees of communes;
- Any citizen who is a child of sick soldiers, people infected with dioxin and suffering labor capacity reduction from 61% to 80%;
- Any citizen whose full brother/sister is a non-commissioned officer/active duty enlisted soldier or a non-commissioned officer/enlisted soldier performing service in the People’s Army;
- Any citizen who is subject to emigration or evacuation in 03 first years to extremely disadvantaged communes according to the socio-economic development project of the State that is decided by People’s Committees of provinces or higher levels;
- Any citizen who is official or youth volunteer assigned to an extremely disadvantaged socio-economic area according to the law provisions;
- Any citizen who is studying at compulsory education institutions or receiving training of university level at higher education institutions or training of college level at vocational education institutions for a training course of a level.
- Standing militia.”

Those entitled to postpone may nevertheless choose to perform military service on a voluntary basis.

Presumably the stipulation in Article 1(d)(1) of the 1981 Law still applies that these cases must be re-examined every year; if there are no longer any reasons for temporary exemption from military service, and if the person is [no?] older than twenty-seven, if the person is still not recruited then his name will be put on the standby list.⁷

Article 41.2 of the 2015 Law exempts from conscription:

- Any citizen who is a child of revolutionary martyrs or grade 1 wounded soldiers;
- Any citizen who is a brother of revolutionary martyrs;
- Any citizen who is a child of grade 2 wounded soldiers; a child of sick soldiers suffering labor capacity reduction of 81% or above; a child of people infected with 2015 Law dioxin and suffering labor capacity reduction of 81% or above;
- Any citizen carrying out essential tasks who is not a soldier or a People’s Army;
- Any citizen who is an official or youth volunteer assigned to an extremely disadvantaged socio-economic area according to the law provisions for 24 months or more..⁸

The recruitment process, as stipulated under Articles 19 *et seq* of the Military Service Law, as amended in 1994 is as follows:

5 Ibid, para 22

6 <https://lawnet.vn/en/laws/vietnam-in-2024-what-is-the-duration-of-military-service-what-are-the-cases-of-postponement-and-exe-114551.html>, 5th September 2023

7 CRC/C/OPAC/VNM/1, para 25

8 Lawnet, op cit..

“The People’s Committees of the district, small town or city under the authority of the province are responsible for the preparation of citizens serving in the army and for enlisting citizens in army service. According to the regulations of the Minister for Defense, in January, the Chairmen of the People’s Committees of the village, quarter or small town; principals of vocational schools and secondary schools; heads of offices; persons in charge of economic or social organizations and other local units must provide a list of male citizens turning seventeen that year [and also of those aged 18 to 27 who have not previously been called up] to the Military Command Board of the district, small town or city under the authority of the province.” Under Article 20, “Every year, male citizens turning seventeen enlisted by the Military Commander in Chief of the district, small town or city under the authority of the province have to register for military service at the military office.”⁹ Under Article 24, “The People’s Committees at all levels establish the Council of Military Service at its level to assist the People’s Committee in implementing military services at localities. The Council of Military Service consists of the Chairman of the People’s Committee as President, Military Commander in Chief as Vice President and Commissioners from branches including Labor, Public Security, Health, Culture and Information, Planning, The National Front Committee, the Labor League, the Ho Chi Minh Communist Youth Union, The Women Union, The Farmer Associations The Veterans Association. The Council of Military Service operates under the principle of collective decision-making; the Council’s resolutions have to receive approval from over half of its members.”¹⁰

As described in 1985, the Ministry of Defence sets annual quotas for each province; the provincial authorities set draft targets for districts; the local Councils of Military Service are responsible for fulfilling these targets. The military council and the local people's committee decide who is liable for call-up and who, including after medical examination, is entitled to exemption or deferment, and publish a list, which goes in turn to the district council, which then sets quotas for each village. People’s Liberation Army 'troop receiving units' proceed to each village and make the final selection of recruits.

Currently, only about half of those liable are required; according to social media conscripts come overwhelmingly from the poorer sections of society, a “going rate” equivalent to \$100 or \$200 for bribes in order to be overlooked is discussed. It is hinted that a formal exemption fee proposed at one stage, but fortunately this did not move forward – CPTI fundamentally opposes such schemes on principle.¹¹ The certificate of military service, the equivalent of a document which in many States is essential for public sector employment or official documentation is widely seen as a useless confirmation of time lost from career progress.

In 2025, in accordance with Prime Ministerial Decision No 102/QĐ-TTg issued on September 20, 2024 regarding the conscription of citizens for military service in 2025, and Ministry of Defence's Directive No 4705/HD-BQP issued on October 31, 2024 on the recruitment process for 2025, enlistment took place in a single phase over three days between 13th and 15th February. In contrast to the rumours quoted above, official sources claim that recruitment targets were exceeded and that half of those who enlisted had in fact volunteered, including a very small number of women. Those with degrees from higher education were prioritised for selection. Guidance was issued to local authorities in order to ensure “that only qualified candidates are chosen and avoiding any oversights in selection.”¹² In particular, it is reported that under Circular 105 from the Ministry of Defence, dated 6th December 2023, updated criteria for medical exemptions were introduced and advanced

9 CRC/C/OPAC/VNM/1, para 18

10 Ibid, para 19

11 See: https://www.reddit.com/r/VietNam/comments/j6rruj/mandatory_military_service_in_vietnam/, consulted on 24th May, 2025

12 Vietnam News, “Viet Nam’s 2025 military enlistment begins”, 13th February 2025, <https://vietnamnews.vn/politics-laws/1692162/viet-nam-s-2025-national-military-enlistment-begins.html>

medical tests added to clinical tests in the medical examination; this was because in recent years secondary tests after recruitment had revealed a number of hidden conditions, necessitating costly replacements.¹³

Women with special qualifications and skills, while not liable to conscription, must register with the reserve forces and may be called up for training. They can register for military service only if they belong to the Ho Chi Minh Youth League .

Paramilitary reserve forces have become a more important element in Vietnam's defence strategy as it has adapted towards low level and border conflicts. Importantly, expanding paramilitary forces is significantly cheaper than maintaining a large standing army. In the form of the urban People's Self-Defence Force and the rural People's Militias they now have a total manpower of some five million.

Reservist obligations, particularly in these paramilitary forces, apply until the age of 45 in the case of men, and until the age of 40 in the case of women.

The organization and operation of the self-defense militia force are provided by the Ordinance on Self-defense militia issued on 9th January 1996; the minimum recruitment age of 18 for the armed forces applies also to the militia; strict checks on the age and health of volunteers are carried out. The task of the self-defense militia force is described as "to be ready to fight and defend the locality; when needed, they supplement the army or co-ordinate with the army to safeguard national sovereignty and integrity, fight against invasion and prevent natural disasters from damaging their localities." Unofficial organising of similar armed groups is prohibited by law.¹⁴

Draft evasion and desertion are punishable under Article 69 of the 1981 Law , as amended in 1990 by disciplinary and administrative measures. Article 206 of the 1986 Criminal Code stipulates:

"1. The penalty for anyone who is of military age but fails to fully comply with regulations on registering for the military draft, fails to comply with an induction order or fails to comply with an order to report for training, and has been the subject of administrative action but continues to commit the same violation, is from three months' to two years' imprisonment.

2. The penalty for this crime in one of the following cases is from a year to five years' imprisonment:

a) If it involves self-inflicted injury or self-inflicted harm to one's health b) If it is committed during time of war c) If another person is drawn into committing the same crime."

In aggravating circumstances the penalty is increased under Articles 259 and 260 to imprisonment of between five and ten years. Surrender to the enemy and "unwarranted" (sic) desertion from a unit during combat situation is punishable by death. (art. 256)

In 1990, at the end of the war with Cambodia, up to 34% of troops reportedly deserted before the end of military service; the desertion rate fell in 1992 to some 10%; in 1995 it was 3 – 5%. Poor conditions in the armed forces were a major cause of desertions; with economic progress, an army career ceased to be seen as a means of upward social mobility, particularly by people in the South.. Cases of imprisonment of between four and twelve months for draft evasion have been recorded in recent years.¹⁵

13 Vietnamnet, "Vietnam to launch national military conscription from February 13 -15", 10th February 2025 <https://vietnamnet.vn/en/vietnam-to-launch-nationwide-military-conscription-from-february-13-15-370035.html>

14 CRC/C/OPAC/VNM/1, paras 33-36.

15 Reddit, op cit.

Conscientious objection

Viet Nam has never recognised the right of conscientious objection to military service, and has never had provisions allowing the exemption of conscientious objectors, although it has not been reported that any individual cases have actually arisen.

The Human Rights Committee asked about this issue during its consideration of Viet Nam's Second periodic Report in 2002, and in its Concluding Observations took note "of the fact that the law makes no provision for the status of conscientious objector to military service, which may legitimately be claimed under article 18 of the Covenant." and recommended: "The State party should ensure that persons liable for military service may claim the status of conscientious objector and perform alternative service without discrimination."¹⁶

In its following report, Viet Nam stated: "Vietnamese law stipulates that participation in military service is a citizen's obligation (Constitution, Article 45) and that act of escaping military service is prohibited by law (Law on Obligatory Military Services, Article 10). Therefore, in Viet Nam no one refuses military service on the ground of conscientiousness, religion or belief."¹⁷ In the List of issues, the Committee asked "(...) With reference to paragraph 169 of the report, please provide information on any plans for adopting legislation recognizing the right to conscientious objection to military service and introducing an alternative civilian service for conscientious objectors."¹⁸ However, although the Concluding Observations mentioned multiple restrictions on the freedom of religion or belief, the specific issue of conscientious objection to military service was not raised.

Juvenile recruitment

Viet Nam ratified the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (OPAC) on 20th January 2001; its Declaration reads: "only male citizens at the age of 18 and over shall be recruited in the military service. Those who are under the age of 18 shall not be directly involved in military battles unless there is an urgent need for safeguarding national independence, sovereignty, unity and territorial integrity. Male citizens up to the age of 17 who wish to make a long-term service in the army may be admitted to military schools."

It might be noted that this falls short of the absolute prohibition on use in hostilities required by OPAC, and was predictably questioned by the Committee on the Rights of the Child when Viet Nam reported under OPAC, the State justifying it by reference to the historic wars of national liberation against France and the USA, and what it claimed was the legitimacy of juveniles taking up arms in the national defence in such a conflict.¹⁹ In response, "the Committee, while fully respecting the right of a State to self-defence in accordance with the Charter of the United Nations, recommends that the State party set a minimum age for voluntary recruitment of children in accordance with article 3, paragraph 2, of the Optional Protocol and prevent the active participation of children in hostilities even in the presence of the exceptional situations mentioned."²⁰

In fact, the prohibition of recruitment below the age of 18 should ensure that this situation cannot in practice arise. There have been no reports of any recruitment of juveniles into the armed forces.

16 CCPR/CO/75/VNM, 19th July 2002, para 17.

17 CCPR/C/VN/3, 30th January 2018, para 169.

18 CCPR/C/VN/Q/3, 16th August 2018, para 17.

19 CRC/COPAC/VNM/Q/1/Add.1, 28th August 2006, Replies to Question 3

20 CRC/C/OPAC/CO/1, 29th September 2006, para 13.

The legislation governing conscription ages is scrupulous in ensuring that age is counted to the day, not the year: “the recruitment age is counted by the year and a year must include all twelve months in order to eliminate cases of persons old enough by year but not by month; or by year and month but not by day. For example: if a person born on 1 January 1984 then his day for being eligible for recruitment is 2 January 2002.”²¹ Such wording might usefully be adopted in many other States in order to eliminate borderline (if the birthday is in December not-so-borderline!) cases of juvenile recruitment.

Viet Nam reported under OPAC that “before the age of recruitment and before enlisting, male citizens will undergo military training classes in high school. This training includes political education, military training, organizational skills and discipline training as well as physical training.”²²

21 CRC/C/OPAC/VNM/1 , para 27

22 Ibid, para 31

Suggested question

The Committee notes that in neither its Third nor Fourth Periodic Report has the State party provided information regarding the implementation of the recommendation in the Concluding Observations to the Second Periodic Report that it provide a non-discriminatory alternative civilian service for conscientious objectors to military service. What action is being taken in this regard?