

CONSCIENCE AND PEACE TAX INTERNATIONAL (CPTI)

SUBMISSION TO THE 94TH SESSION (PRESSESSIONAL WORKING GROUP)

ISRAEL

MATTERS RELATING TO THE OPTIONAL PROTOCOL ON INVOLVEMENT OF CHILDREN IN ARMED CONFLICT (OPAC)

The concerns alluded to in this submission are:

That in some instances persons may be accepted into obligatory military service before the age of 18, in breach of Article 2 of OPAC.

That volunteers are accepted into the armed forces at, and sometimes before, the age of 17.

That the preparation for conscription begins before the age of 18, with the particular consequence that the decision to declare oneself a conscientious objector must be taken well before that age – this affecting the freedom of religion or belief of minors, especially the ability for fundamental beliefs to evolve at a crucial part in the growing-up process. This also makes relevant to children the shortcomings of the system for the exemption of conscientious objectors from military service.

The pervasive militarisation and military indoctrination within the educational system.

The use by the IDF of Palestinian children as informants and human shields.

Most of these issues were covered in the Concluding Observations on Israel's Initial Report under OPAC; however only the continued use of children as human shields,¹ was followed up in the concluding observations on Israel's combined 2nd to 4th Periodic Report under the Covenant itself, and Israel's latest Periodic Report contains no response to the recommendations made in those Concluding Observations.

¹ .CRC/C/ISR/CO/2-4, 4th July 2013 paras 71, 72.

Juvenile recruitment into obligatory military service

In its Initial Report under OPAC, Israel stated “There are a few isolated instances where a person under 18 may be recruited to a combat unit. It occurs only where recruits are to join a special unit, generally elite units, which require long-term training which begins only once a year. However, these units, and their commanders, are given clear instructions, prohibiting any person below the age of 18 to take direct part in combat duty prior to them becoming of age.

“Furthermore, note that according to the aforementioned units training programmes, the length of the training required to directly take part in combat duty is such that virtually all recruits will be over 18 before they are required to participate in combat duty.”²

In its concluding observations, the Committee is in no doubt that in such recruitment, “the State party fails to fully comply with article 2 of the Optional Protocol by designating persons below 18 years for compulsory recruitment.” and **“recommends that the State party revise its laws and ensure that its policy on compulsory recruitment is consistent with the provisions of the Optional Protocol.”**³

Voluntary recruitment of under-18s

Israel’s declaration under OPAC states that “The minimum age in which the State of Israel permits voluntary recruitment into its armed forces is 17 years of age according to article 14 of the defense service law (consolidated version) 5746-1986;”. In its Concluding Observations⁴ on Israel’s Initial Report under the Protocol, this Committee encouraged Israel to raise the minimum recruitment age to eighteen in all circumstances. Short of such a move, however, there are a number of issues which might be addressed.

The Initial Report under the Protocol makes clear,⁵ that under the law the calculation of age is done by reference to the Jewish calendar, and is reckoned to be achieved at the *beginning* of the six-month period in which the actual birthday lies. Therefore in every case, eligibility for voluntary recruitment begins before the seventeenth birthday, and is possible at the extreme from the age of sixteen-and-a-half.

In order to comply in this respect with Article 1 of OPAC, an amendment was passed in 2004, which made it clear that compulsory recruitment could not take place before the eighteenth birthday, but leaving the regulations regarding the age for voluntary recruitment unchanged. The narrative is somewhat confused by reference to the Jewish and to the Gregorian Calendar; in fact at issue is whether age is calculated by reference to any calendar or to the actual anniversary of birth. CPTI advocates that in all cases legal provisions on recruitment ages should reflect the latter, thus if it is desired to define age on a calendar basis, the relevant ages should be set one year higher.

The question also arises of the extent to which those who have been enlisted before the age of eighteen are protected from direct participation in hostilities, in accordance with Article 1 of OPAC. Israel’s declaration under OPAC states that “persons under 18 years of age (...) may in no circumstances be posted to combat duty”, but it is doubtful whether this term is broad enough to cover all forms of direct participation in hostilities.

² CRC/C/OPAC/ISR/1, 15th April 2009, paras 8,9

³ CRC/C/OPAC/ISR/CO/1, 10th March 2010, paras 18,19.

⁴ Ibid, Para 21

⁵ CRC/C/OPAC/ISR/1, 15th April 2009, Para 15

There does not for example seem to be any prohibition on the posting of juvenile recruits or members of the “Civil Guard” to the Occupied Territories, although in view of the role of the IDF in the Territories this would seem unambiguously to qualify as “active service” – in particular by such posting they are put in direct danger of targeting by hostile action. Moreover, Child Soldiers International reports that as part of their basic training IDF recruits may be required to man checkpoints or to patrol or guard military bases. It is not clear whether they bear arms (which would be normal) in such functions, but in any case such support qualifies as “direct participation”.

The latest Periodic Report⁶ reveals that between 2014 and 2018, 1,092 “volunteers” aged under 18 were recruited, most of them only for a one-day administrative induction programme (this presumably represents the *hesder yeshiva* which the Committee had previously expressly criticised⁷ as contrary to Article 29 of the Convention, or their successor; only 50 were recruited into “combat units”).

Given the essentially conscript nature of the IDF, however, it is not at all clear that the terms of service of those who “volunteer” at the age of 17 differ from those conscripted at the age of 18. This also applies to recruitment into the Border Police for which the age limit is also 17, as 36 months service in the border police is considered to be the equivalent of the 30 months in the IDF. Moreover juvenile recruits who leave the Border Police before the age of 18 are immediately reassigned to IDF units.. It is arguable that almost all seventeen-year-old volunteers are in fact (like the recruits into elite units discussed in the previous section) “volunteers” only in that they are opting to embark early on their obligatory military service.

Conscription and conscientious objection to military service

With the sole exception of Eritrea, Israel is unique in conscripting both men and women into obligatory military service. (“Arab-Israelis” are exempt but all Jewish Israelis, and men from the Druze community, are liable). Israel is also unusual in that military service (30 months for men; 24 months for women) is not postponed until the completion of full-time education but takes place immediately after the completion of secondary school education at the age of 18. This is deliberate; that military service should be the first experience of adult life is part and parcel of the pervasive militarisation of society, and indeed as will be discussed below preparation for military service will have already been encountered as part of the school curriculum.

There is no legally-enshrined right; the committee which adjudges on objections reports exclusively to the military, with the ultimate authority for decisions lying with the Minister of Defence, and is overwhelmingly comprised of military personnel, including a psychiatrist, with a “representative of academia” as the sole civilian member. It furthermore adheres to very restrictive criteria in its definition of conscientious objection and even within that context its decisions in individual cases are sometimes idiosyncratic. Anyone hoping to persuade the Committee of the genuineness of his or her conscientious objection must be able to demonstrate a clear and consistent position over a long period; in other words the preparation to make out a case as a conscientious objector must begin while still a child. Those whose objections are not recognised by the Committee as valid – including all those who specifically declare their unwillingness to serve in the occupied territories – face, if they persist, being sentenced to detention in military prison, following which they are faced with a renewed call up. The cycle of repeated sentences has been known to extend to ten successive convictions, and is usually broken by discharge as unsuitable on mental health grounds, with lasting

⁶ CRC/C/ISR/ 5-6, 2019 Para 226

⁷ CRC/C/OPAC/ISR/CO/1, 10th March 2010, ,Para 22

effects on their career prospects. Since 2004, over 50 conscientious objectors have served such repeated imprisonments, the latest case occurring in September 2022.

Ever since Israel's Second Periodic Report under the International Covenant on Civil and Political Rights (ICCPR), considered in 2003, the issue of conscientious objection to military service has repeatedly featured in the Human Rights Committee's Concluding Observations on Israel. Most recently, following its consideration of Israel's Fifth Periodic Report in March 2022,

"The Committee reiterates its concern about the predominantly military nature of the membership of the special military committee that decides on requests for conscientious objection to compulsory military service. It is further concerned that conscientious objectors continue to be subjected to repeated punishment and imprisonment for their refusal to serve in the army (...)

"The Committee reiterates its recommendations that the State party take concrete measures to diversify the membership of the special military committee that handles requests for conscientious objection, with a view to making it fully independent and impartial. The State party should also put an end to the practice of repeated punishment and imprisonment of conscientious objectors, which may amount to a violation of the right not to be tried or punished again for the same offence ⁸

It may furthermore be observed that the UN Working Group on Arbitrary Detention has characterised such repeated imprisonments as tantamount to compelling a person to change his/her mind for fear of being deprived of liberty if not for life, then at least until the age at which citizens cease to be liable for military service."⁹ This would be equivalent to coercion to change religion or belief, contrary to Article 18.2 of the International Covenant on Civil and Political Rights.

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Military schools

It is unclear exactly how many schools in Israel are directly run by the IDF, or how many pupils are involved. Israel's initial report under OPAC indicated the presence of six such schools, accepting pupils from the age of thirteen-and-a-half, some day, some boarding. The latest Periodic Report¹⁰ refers to an annexe which however simply refers back to the OPAC Report, but also states that pupils are free to leave whenever they choose. The annexe also states (emphasis added) "*Except for specific military style training, and during their basic training, pupils in the school do not receive or carry arms and they do not take part in combat.*"¹¹ This would seem to carry an admission that pupils do receive weapons training.

However, Child Soldiers International reported in 2013 on the existence of no fewer than 14 schools, one located in the West Bank, which are linked to the Air Force Technical College. IDF personnel are involved in training at these schools; while students are not formally considered part of the IDF they are obliged to commit to three additional years of service following the obligatory conscription period. They wear military uniforms, but do not carry arms; it is unclear whether firearms training forms part of the curriculum.

CSI also reports on the Amal High School in the Ramot David air force base, where students are employed by the military as part of their vocational training and are obliged to serve in the military on graduation, and the Mevo'ot Yom High School, linked to the navy.

It is clear that CSI believed that research would uncover further such examples, where the catchment area is not geographical but linked (perhaps formally) to a future military career. If this

⁸ CCPR/C/ISR/CO/5, 5th May 2022, paras 46,47.

⁹ Opinion No. 24/2003 (Israel), 28th November 2003, reported in E/CN.4/2005/6/Add.1

¹⁰ CRC/C/ISR/ 5-6, 2019, Para 227

¹¹ Ibid, Annex, para 173.

is indeed the case, it seems that persons while still children are being asked to make irreversible career commitments for their future lives.

Pervasive militarisation

It is reported that on the birth of a son¹², Israeli Jewish families are traditionally congratulated with the words “*Mazal Tov*” – a new soldier is born.¹³ From kindergarten on the new child will participate in ceremonies honouring military victories and fallen soldiers.¹⁴ Exposure to the military continues throughout education - “Most schools had uniformed teacher-soldiers and youth guides on their staff, who provided a link between the educational system and the military establishment”¹⁵ At secondary school, he or she will become accustomed to receiving some teaching from uniformed current members of the IDF; in the 10th 11th and 12th grades a compulsory part of the curriculum is a programme entitled “Willingness to serve and readiness for the IDF”. Not only is this course, in which members of the IDF actively participate, designed to instill militaristic attitudes, in direct contradiction of Article 29 of the Covenant.; it is also possible that it may include an element of military – including weapons – training. Furthermore, almost all Israeli schools have opted in to the *GADNA* “Youth Battalions”, making attendance at week-long camps run by the IDF compulsory for pupils between 15 and 17. These involve living on military bases, wearing uniform, and handling firearms, including semi-automatic weapons.

In its Concluding Observations on the Initial Report under OPAC, the Committee stated that it was *concerned at the contrasts in the values promoted in education and, in particular, the extensive militarization of the educational system in Israel and the inclusion of mandatory military components as part of the school curricula.” and recommended “that the State party ensure that the education curricula is consistent with article 29 of the Convention ¹⁶

¹² But not, seemingly, a daughter, despite the pervasive militarisation of women.

¹³ Kantor, R. and Dotlev, D., “Invisible Militarism in Israel”, in Everitt, O. (ed) Sowing Seeds: the militarisation of youth and how to prevent it War Resisters’ International, London, 2013, p. 40.

¹⁴ Ibid

¹⁵ Child Soldiers Global Report 2008 (Coalition to Stop the Use of Child Soldiers, London), p184.

¹⁶ CRC/C/OPAC/ISR/CO/1, 10th March 2010, Paras 26, 27.

Suggestions for the List of Issues

What actions has the State Party taken in response to the recommendations of this Committee following its Initial Report under the Optional Protocol on the involvement of children in armed conflict (CRC/C/OPAC/ISR/CO Paras 18-27) and the recommendation in Paras 71 and 72 of the Concluding Observations on its 2nd to 4th Reports under the Covenant?

Please give updated figures for the numbers of persons recruited into the IDF or the Border Police below the age of 18. Is the minimum age for such recruitment still considered as the age to be reached within the next six-month period? What does the training received before the age of 18 comprise? Does it include the use of firearms? Where is it carried out? Can persons under the age of 18 be posted in the occupied territories in the course of their training? As part of the training do persons aged under 18 patrol or guard camps or man checkpoints? Have there been any instances where, despite the safeguards in place, recruits aged under eighteen have while on duty been killed or injured by hostile action?

In view of the fact that enlistment into obligatory military service takes place immediately after the eighteenth birthday, so that anyone wishing to declare a conscientious objection must have prepared for this while still a child, what action is the State party taking in response to the repeated recommendations by the UN Human Rights Committee that it make the committee which assesses applications by conscientious objectors completely independent and impartial, and that it cease repeated imprisonments of persons whose objections are not accepted?

The Committee has received information that in addition to the six schools run by the IDF which were mentioned in the Initial Report under OPAC there are a number of others linked to different branches of the armed forces, such as the air force or the navy. In total, how many educational establishments for persons under eighteen have direct links with the armed forces, and how many pupils are enrolled in these establishments? Under what circumstances may pupils be released from any undertaking made on admission that they will subsequently pursue a military career?

To what extent is it possible that persons aged under eighteen might receive firearms training in the course of the element of the school curriculum entitled “Willingness to serve and readiness for the IDF” or the *GADNA* Youth Battalions programme?

It is reported that uniformed members of the IDF are frequently involved in teaching non-military as well as military subjects in the school system. How many such persons are employed in the education system at any one time, and what is the justification for their wearing uniform when performing these roles?

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