INTERNATIONAL FELLOWSHIP OF RECONCILIATION (IFOR) and
CONSCIENCE AND PEACE TAX INTERNATIONAL (CPTI)

Submission to the 108th Session of the Human Rights Committee for the attention of the Country Report Task Force on NEPAL

(Military service, conscientious objection and related issues)

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Basic information

The Kingdom of Nepal with a capital in Katmandu was established in 1769. Although it became a British client state, it was never formally colonised. It became a UN Member State in 1955. The peace accords after a civil war from 1996 to 2006 included the transformation of the monarchy into a republic.

Population (November 2012, estimated)
29,891,000

Military service:
Has always been voluntary.

Conscientious objection:
No provisions (but see text)

Minimum recruitment age2:18 (but see text)

Manpower reaching “militarily significant age” in 20103:
380,172

Armed forces active strength, November 20124:
95,750
as a percentage of the number of men reaching “military age”:
25.2%

Military expenditure (US $ equivalent), 2015
Per capita $261m
As % of GDP $9
As % of GDP 1.2%

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1 Source: The Military Balance 2013 (International Institute of Strategic Studies, London), which bases its estimate on “demographic statistics taken from the US Census Bureau”.


3 Source: CIA World Factbook. https://www.cia.gov/library/publications/the-world-factbook/index.html. The male population reaching “militarily significant age” - defined by the source as 16 - is more meaningful than total population in assessing the comparative impact of military recruitment in different countries.

4 As quoted by the International Institute of Strategic Studies (London) in The Military Balance 2013

Nepal emerged in 2006 from an eleven-year armed conflict against a Maoist insurgency, the combined combatant and civilian death toll in which is estimated by the International Institute for Strategic Studies\(^8\) as in the region of 14,000. The Nepali Government quotes a higher figure of “approximately” 16,729\(^7\) which may result from including less direct casualties, or victims of clashes or “improvised explosive devices” which occurred after the formal cease-fire. These figures are equivalent to between seven and nine per thousand of the national population at the outset of the conflict; the estimated 78,689 persons displaced\(^8\) represents about 4% of the population. The peace accord envisaged the incorporation of some 23,500 members of the opposition People's Liberation Army into the national army\(^9\), the strength of which at the end of the conflict was quoted as approximately 65,000.\(^{10}\)

In the context of this dramatic increase in the size of the national army, it is rather surprising that in 2009 a concept paper on the future of national security and the Nepalese army produced by a sub-commission of the “National Interest Preservation Committee” of the Constituent Assembly suggested that all citizens – both men and women - who reached the age of 18 should perform two years’ obligatory military training, even though conscription had never previously been known in Nepal. This proposal would also have introduced alternative service for conscientious objectors.\(^{11}\) However it did not seem to take account of the binding declaration which had been made by Nepal on 3\(^{rd}\) January 2007, when it ratified the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (OPCAC):

“(1) The minimum age for recruitment in the Nepal Army and the Armed Police Force shall be 18 years.

(2) The recruitment in the Nepal Army and the Armed Police Force shall be voluntary and shall be conducted through open competition.”

No more has been heard of the proposed introduction of conscription, and in 2012, when Nepal submitted its initial report under the OPCAC, it stated unequivocally, “There is no compulsory recruitment into the national security forces in Nepal.”\(^{12}\)

**Juvenile involvement in the civil war**

Considerable numbers of juveniles, both boys and girls, took part in the civil war as combatants with the opposition forces. The lowest age reported was 8, but recruitment of persons in their mid-teens was more common; of 1,995 “children associated with parties to the conflict” documented by the “Monitoring and Reporting Mechanism Task Force” at the end of February 2007, 475 (ie. roughly a quarter) had been aged under 15 at the time of first recruitment.\(^{13}\) The government insisted that the security forces did not recruit under the age of 18; the Young Boys' Recruitment and Terms of Service Rules, drawn up in 1971, permitted recruitment for training purposes only between the ages of 15 and 18, but were struck down as unconstitutional by a Supreme Court ruling in 2005.\(^{14}\) Instances of the indirect use of juveniles by the security forces, as spies, messengers, or informants have however been

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\(^{6}\) “The 2013 Chart of Conflict” attached to The Military Balance 2013

\(^{7}\) CCPR/C/NPL/2, 21\(^{st}\) February 2012, para 2.

\(^{8}\) Ibid

\(^{9}\) The Military Balance 2013


\(^{12}\) CRC/C/OPAC/NPL/1, 22\(^{nd}\) April 2012, para 51.


\(^{14}\) Ibid “National recruitment legislation and practice”
reported.\textsuperscript{15} In all, the Government estimates that in the course of the decade some 11,000 children were involved in armed conflict or with armed groups. Of these, more than 230 died and 107 became permanently disabled.\textsuperscript{16}

A total of 2,973 members of the opposition forces (something under 10\% of the total) were subsequently found to have been still under 18 at the date of the formal cease-fire, 25\textsuperscript{th} May 2006. Of these 1,988 were male and 985 (i.e. about a third) female. A further 1,035 (804 males and 231 females), whose ages were not specified, were identified as “disqualified combatants” having been recruited between the cease-fire and the completion of the “verification process” in December 2007\textsuperscript{17} – it must be assumed that the majority of these were juveniles. It is however known or suspected that many other juveniles recruited both before and after the cease-fire were released or escaped before the verification process was completed.\textsuperscript{18} The demobilisation of the 4,088 “disqualified combatants” revealed by the verification process was completed at the end of February 2010.\textsuperscript{19} It might be noted that any who were then still minors must have been aged 14 or under at the time of the cease-fire, while the oldest were approaching their 22\textsuperscript{nd} birthday.

Transnational recruitment

Nepal is a substantial source of recruits for other armies. Shortly after the Anglo-Nepali war of 1814-16 Gurkhas (Gurkha was the home of the dynasty which founded the Kingdom of Nepal) began to enlist in the Army of the East India Company,\textsuperscript{20} and Nepal, although outside the Empire, became a major source of recruitment for the British Army after the 1857-9 Indian mutiny/rebellion.\textsuperscript{21} “With many Indian Regiments turning against the British, the Gurkhas [had] remained loyal to a man, holding a key position on the outskirts of Delhi for over three months whilst taking horrific casualties. As a result of their commitment, the 2\textsuperscript{nd} Goorkhas (as they were known)” were awarded the Queen's Truncheon by Queen Victoria. They were also restyled as a Rifle Regiment as a mark of respect by the 60\textsuperscript{th} Rifles alongside whom they had fought.”\textsuperscript{22} Gurkhas however became eligible for the Victoria Cross, the highest British military award, only in 1911. “During this time 26 have been awarded, 13 to British Officers and 13 to Gurkha Soldiers”. (Officers are still mainly recruited from Britain and elsewhere in the Commonwealth, and are required to attend a course in Nepal to learn the language.)\textsuperscript{23} It was only in 2007 that the possibility of Nepalese direct entry as officer recruits was introduced, as well as other measures to bring their terms and conditions of service, including such crucial issues as pay and pensions, in line with those applying in the rest of the Army.\textsuperscript{24} Only in 2009 did Gurkhas who had served four years since 1948 obtain the right to claim British citizenship and to settle in the UK;\textsuperscript{25} previously discharge in Nepal had been obligatory.

The headquarters of the Brigade of Gurkhas in the British Army were moved in 1997 from Hong Kong to the UK. Its headquarters were moved in 1997 from Hong Kong to the UK. It “still maintains a battalion in Brunei and plays a full part in the British Army's operational deployments

\textsuperscript{15} Ibid, “ Child recruitment and deployment”
\textsuperscript{16} CRC/C/OPAC/NPL/1, para 48.
\textsuperscript{17} Ibid, para 47 and footnote.
\textsuperscript{19} CRC/C/OPAC/NPL/1, para 47.
\textsuperscript{20} “The Royal Gurkha Rifles: History” at \url{www.army.mod.uk/infantry/regiments}, accessed 30\textsuperscript{th} April 2013.
\textsuperscript{21} Arielli, N. & Collins, B., Transnational Soldiers: Foreign military enlistment in the modern era, Palgrave Macmillan 2013, p.5
\textsuperscript{22} “The Royal Gurkha Rifles: History” op cit.
\textsuperscript{23} “The Royal Gurkha Rifles” at \url{www.army.mod.uk/infantry/regiments}
\textsuperscript{24} See “Gurkha Terms and conditions of service” at \url{www.army.mod.uk/gurkhas} and the website of the Gurkha Welfare Trust at \url{http://www.gwt.org.uk/about-gurkhas/timeline/}
\textsuperscript{25} Gurkha Welfare Trust, op cit
worldwide – currently in Afghanistan.”

Its strength in 2012 was some 3,500 personnel, who are responsible for the highly competitive recruitment process. Each year, following initial screenings conducted by retired Gurkha soldiers who tour the country, and further sifting at regional selection days, in December some 700 young men attend the fortnight’s “Central Selection” at the British Gurkha Camp at Pokhara in Western Nepal from which 186 are selected for recruitment. Approximately 126 of these go to the British Army, the other 60 to the Gurkha Contingent of the Singapore Police Force, which numbered 1,800 in 2012.

The Indian army is also reported to contain Gurkha units, recruited in Nepal, but details of the numbers and processes involved are not known.

At the time of commencing their training in the UK or Singapore Gurkha soldiers must be aged between 17 years 6 months, and 21 years, thus those currently being screened for the 2014 intake must have been born between 1st January 1993 and 1st July 1996. This contrasts with a minimum age of 16 (with applications lodged from the age of 15 years and 7 months) for the British Army as a whole, but is still lower than the minimum age of 18 for all military recruitment honoured by Nepal itself. The Indian Army also has 17 years and 6 months as the minimum recruitment age (raised from 16 in 2004), but it is not known whether this applies for recruitment in Nepal.

In its initial report under the OPCAC, on which the Committee on the Rights of the Child is due to draw up a List of Issues in October 2014, Nepal refers to its own military recruitment and to its efforts to prevent the recruitment of children by armed groups, but says nothing whatever about the recruitment by the armed forces of other States which goes on within its borders.

Suggestion for the List of Issues

It does not seem likely that proposals to institute conscription will be revived in the near future, given that they would create problems with Nepal's binding declaration under the OPCAC. The fact that the possibility of legal recognition of conscientious objection to military service disappeared with these proposals is of little practical effect; there is no record that a member of the all-professional security forces has ever developed conscientious objections, and the question is therefore perhaps too abstract for the List of Issues.

On the other hand, particularly in view of the length of time before Nepal's initial report under the OPCAC will be considered by the Committee on the Rights of the Child, a case could be made for asking under Article 24 of the ICCPR whether Nepal has made any attempt to persuade those other States whose armed forces recruit in its territory to raise the minimum age to 18 in line with Nepal's own domestic policy and international commitment.

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26 www.army.mod.uk/gurkhas
27 The Military Balance 2013, p187
28 Ibid p 191.
29 The decision that in principle recruitment to the Brigade of Gurkhas should be open to Nepali women was part of the 2007 reforms, but there is no obvious evidence that this has been implemented in practice.
30 “The Royal Gurkha Rifles: Soldier recruitment” at www.army.mod.uk/infantry/regiments
31 “British Gurkhas Recruiting” at www.army.mod.uk/gurkhas
32 The Military Balance 2013 p333
33 Ibid, p213.