INTERNATIONAL FELLOWSHIP OF RECONCILIATION (IFOR)

and

CONSCIENCE AND PEACE TAX INTERNATIONAL (CPTI)

Submission to the 110th Session of the Human Rights Committee for the attention of the Country Report Task Force on ECUADOR

(Military service, conscientious objection and related issues)

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Basic Information

Population (November 2012, estimated\(^1\))  
15,224,000

Conscription was suspended in 2008.  
Conscientious objection provisions had been introduced in the 1994 Law on Military Service.

Minimum recruitment age\(^2\): 18  
(Ecuador itself, in its initial report under the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, had pointed out that there were no domestic legislation on the issue. The Committee on the Rights of the Child was however satisfied by the fact that it had declared a minimum age on ratifying the Optional Protocol.)

Manpower reaching “militarily significant age” in 2010\(^3\): 152,593

Armed forces active strength, November 2012:\(^4\)  
58,000  
as a percentage of the number of men reaching “military age”  
38.0%  

Military expenditure US $ equivalent, 2012\(^5\)  
$2,379m

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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”.

\(^2\) Source: Child Soldiers International (formerly Coalition to Stop the Use of Child Soldiers), Louder than words: an agenda for action to end state use of child soldiers, London, September 2012.

\(^3\) Source: CIA World Factbook.  
The CIA defines “militarily significant age” as 16. However its estimates have not been updated since 2010 and therefore relate to the cohort of the male population reaching 19 (a more common recruitment age in most countries) in 2013. This figure is more meaningful than total population in assessing the comparative impact of military recruitment in different countries.


\(^5\) Stockholm International Peace Research Institute (SIPRI), April 2013
Article 161 of the Constitution adopted in 1998 reads, “National / military service is voluntary. This service is implemented with respect to the diversity of rights and is accompanied by an alternative possibility in various occupational fields which contribute to individual development and the wellbeing of society. Those who participate in this service are not liable to posting to areas of military risk. All form of forced recruitment is prohibited.”

In its replies to the List of Issues on its Fifth Periodic Report, Ecuador indicated that the wording of this article was a direct response to a majority judgement by the Constitutional Court, published in the Official Gazette on 27 June 2007, that article 108, and hence also article 88, of the Military Service Law (Ley de Servicio Militar) of 1994 were unconstitutional.

Article 108 of the Military Service Law had stipulated that the decision of whether to accept a claim of conscientious objection rested with the Director of Mobilisation of the Armed Forces. The Constitutional Court ruled that he could not be considered an independent and impartial judge in this respect. Moreover, the Court found that the requirement that recognised conscientious objectors should perform military service in development units of the armed forces was not consistent with the wording of Article 188 of the 1997 Constitution, which had stated that they “will be assigned to a civilian community service”. Article 88 of the Military Service Law had stated that those who did not respond to call up were considered "remisos" (draft evaders) and were subject to a range of sanctions until they legalised their situation. In the absence of appropriate arrangements for conscientious objectors, the Constitutional Court ruled, the application of any sanction or punishment to conscientious objectors under this article amounts to discrimination, and is therefore also unconstitutional.

The libreta militar document had previously played a central part in the enforcement of the recruitment legislation, and a discriminatory scale of charges had applied (see the CPTI Submission to the Committee's 106th Session, dated 30th April, 2009).

In the light of this, the question posed in the list of issues by the Human Rights Committee had been:

“Please provide information on the system of charging for the military passbook (libreta militar) and indicate whether the system includes persons who are exempt from military service. In addition, please comment on whether the system of charging for the military passbook is consistent with article 18 of the Covenant and indicate how the State party guarantees that the rights under article 18 of persons who do not buy a military passbook are respected.”

On this point, the State's reply was:

“With effect from this ruling by the Constitutional Court, the restrictions placed on 'draft dodgers' were suspended, including those on holding public or private office, leaving the country, obtaining a driving licence, or matriculating at [ie being admitted to a course in] an educational institution.

“As a result, the libreta militar, which certified the completion of service in the Armed Forces, and without which no-one could exercise the aforementioned rights, is no longer a prerequisite for men to travel, study, drive etc. Moreover the libreta militar is in disuse and all the regulations concerning its issue and use have been repealed.”

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6 Unofficial translation:  the Spanish text reads “El servicio cívico-militar es voluntario. Este servicio se realizará en el marco del respeto a la diversidad y a los derechos, y estará acompañado de una capacitación alternativa en diversos campos ocupacionales que coadyuven al desarrollo individual y al bienestar de la sociedad. Quienes participen en este servicio no serán destinados a áreas de alto riesgo militar. Se prohíbe toda forma de reclutamiento forzoso.”

7 CCPR/C/ECU/Q/5, para 24, 25th August 2009.

8 CCPR/C/ECU/Q/5/Add.1, op cit. Unofficial translation; the original Spanish reads: “A partir de la sentencia del Tribunal Constitucional quedaron sin sustento las prohibiciones establecidas para los remisos, entre ellas, la prohibición para desempeñar cargos públicos o privados, viajar al exterior, obtener la licencia de conducir, o
These changes would seem to have removed the possibility of any continuing violation in case such as that of Alejandro Leon Vega, whose petition alleging that as a conscientious objector who had performed an alternative civic service in the community, as specified by the constitution, he had nevertheless been denied documentation equivalent to the *libreta militar*, and that “this omission has directly affected his freedom of conscience, the continuation of his education, his freedom to leave and enter Ecuador freely, as well as his right to work and engage in free enterprise.” was lodged with the Inter-American Commission of Human Rights in 2002, and found admissible in 2006.  

Although the retrospective elements of the complaint would not have been invalidated by the changes, no indication has been traced of what if anything has subsequently happened about the case.