Submission to the 92nd Session of the Human Rights Committee: March 2008
Conscientious Objection to Military Service:
Issues for the Country Report Task Forces

IRELAND

Ireland has always manned its armed forces by voluntary recruitment. However clarification might usefully be sought of the procedure which would be followed in the event that a serving member of the armed forces sought release having developed a conscientious objection to such service.

Ireland has never known obligatory military service. Although the entire island was still part of the United Kingdom during the First World War, the Military Service Act of 1916, which introduced conscription in Great Britain, did not apply to any part of Ireland. (It is noteworthy that in New Zealand, which introduced conscription in the same year, the Catholic church backed an ultimately successful campaign to permit Irishmen to be entitled to automatic recognition as conscientious objectors.) Since independence in 1922, the Irish armed forces have been manned entirely by voluntary recruitment.

As in other States which have always relied on voluntary recruitment, this has resulted in a gap in Irish legislation, which has never included provisions on conscientious objection. Hypothetically of importance in the unlikely event that a

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1 Horeman, B. & Stolwijk, M., Refusing to Bear Arms, War Resisters International, London, 1998. (http://wri-irg.org/co/rbta/archive/ireland.htm). The same source also reports that when conscription was reintroduced in the UK in 1939, after the establishment of the Irish Republic, it was not extended to Northern Ireland.

form of compulsory military service might be instituted in the future, this also means that the situation of any serving member of the armed forces who develops a conscientious objection is not covered.

As far as is known, there have been no instances where serving members of the Irish armed forces have developed a conscientious objection. However, Ireland reported to the Commission on Human Rights in 1994 that any person who objected to the role of the armed forces could seek discharge at any time. Some clarification of this assurance would be welcome; although the Military Service Act of 1954 (in Article 73) gives absolute discretion to the Minister of Defence or his agents to discharge an individual serviceman or servicewoman, the explicit possibilities for discharge on request are contained in three other articles, which together seem neither adequate to address a conscientious objection developed by a serving member of the armed forces might develop a conscientious objection, nor comprehensive enough to cover all situations. Article 63(1)(b)(i) permits early transfer to the reserve force; Article 75 the “discharge by purchase” of a recruit within three months of enlistment; neither of these apply during a state of emergency. The probably redundant Article 76 permits parents to seek the discharge of recruits aged under 18 who have enlisted without their consent.

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3 Some sources, most recently Stolwijk, M., The Right to Conscientious Objection in Europe: A Review of the Current Situation, Quaker Council on European Affairs, Brussels, 2005 (p39) claim that legislative provision already exists for the possible introduction of conscription in time of national emergency. However this is not made explicit in the specific Articles cited (Art.18 of the 1937 Constitution and Art.54 of the 1954 Military Service Act). By contrast, Article 59 of the Military Service Act, which requires each recruit to sign a declaration of willingness to fulfil the engagements set out in the attestation paper, might be interpreted as enshrining in legislation the voluntary nature of enlistment.

4 Addendum to Report of Secretary General prepared in response to Commission Resolution 1993/83, as quoted by Horeman & Stolwijk, op. cit.


6 The 1979 Defence (Amendment) (No2) Act extended the wording of the 1954 Act to cover female service personnel.

7 The Declaration made by Ireland in 2002 on ratifying the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict stated that all unmarried applicants for recruitment aged under 18 must have the written consent of a parent or guardian.