



Conscientious objection and compulsory military service

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Implementation of recommendations from the previous period

Croatia welcomed the progress achieved up to 2018 and encouraged the government to take further steps on conscientious objection to military service, recommending that Colombia “establish an independent and impartial enforcement and decision-making procedure to ensure the right to conscientious objection to military service.”

Although 2017 saw the inclusion of conscientious objection in the grounds for exemption from compulsory military service through Law 1861 of 2017, implementation of this law in Colombia has not taken into account recommendations from previous periods to guarantee the right to conscientious objection. There is a power imbalance in the procedures faced by youth when defining their military status and a lack of compliance with due process rules, as well as bias in the procedures used by the decision-making body created to rule on conscientious objectors' requests.

As long as compulsory military service (CMS) exists, the State will continue demanding high recruitment quotas. This makes it very difficult to apply an independent and impartial procedure for decision-making regarding the right to conscientious objection, resulting in arbitrary detentions and negative impacts for adolescents and youth to exercise their rights and freedoms.

Current status

Conscientious objection is not recognized as a fundamental right. Even though there has been an increase in youth requesting to resolve their military status as conscientious objectors since the approval of Law 1861 of 2017, military entities continue to limit this right for those who object on the grounds of political or ethical reasons. An excessive burden of proof is required to access this right while negative responses are issued without the support of a legal argument.

Inadequate procedures for conscientious objectors
The interdisciplinary commission that technically and legally evaluates conscientious objectors' requests, consisting of four members of the Ministry of Defense and a representative of the Public Ministry, does not meet international standards for impartiality and independence.

The Public Ministry representative only fulfills the role of guarantor of due process within the Interdisciplinary Commission. The actual decision is made by members of the Ministry of Defense, who do not apply serious technical or legal criteria to accept or reject the conscientious objector's request. The recognition of this right is left to the discretion of the military authority.

In addition to a lack of impartiality, the committees violate the principle of good faith that must guide any evaluation of the young person's reasons for objecting. “The applied criteria must be reasonable and all requested information must be relevant to the issue. (...).

Rights that depend on obtaining the military service card. Military status is defined by whether an individual holds a military service card. This violates civil and political rights, as well as invalidating guarantees of economic, social, and cultural rights that facilitate a young person's access to work and basic subsistence. Consequently, conscientious objectors are often: i) unable to access a formal recognition of their military status due to delays and obstacles; ii) forced to accept their classification as unfit for military service based on psychological-physical concepts; iii) unable to access formal employment; or iv) forced to buy their military service card, which is illegal. In all cases, the military service card continues to be an instrument that militarizes the lives of millions of men from vulnerable socioeconomic sectors.

Arbitrary detentions for recruitment purposes and a lack of guarantees for due process and conscientious objection. Youth between the ages of 18 and 24 are constantly recruited to meet the high conscription quotas established by the Colombian military. In order to meet these quotas, the Army holds normal and special recruitment sessions and omits procedures established by law to define a military status. This constitutes Arbitrary Detention for the Purpose of Recruitment (DAFR for its initials in Spanish), which is a practice that primarily affects sectors discriminated against due to their appearance, ethnicity, and social class.

Social Service for Peace and the relationship with military affairs. The current Social Service for Peace regulation, as an alternative to military service, is worrisome as it could grant further power to the Ministry of Defense. This would lead to reduced guarantees of impartiality and independence for conscientious objectors. A civilian entity should oversee this alternative to military services and thus guarantee rights for Colombian youth.

Recommendations

1. Guarantee the implementation of existing measures and promote the reforms required to exercise the right to conscientious objection to military service, in line with international standards to: i) avoid the limitation and violation of this right; ii) guarantee the Interdisciplinary Commission's impartiality and independence and its use of technical and legal criteria to respond to requests; iii) guarantee the rights and juvenile liberties of conscientious objectors through validating the resolution issued by the Interdisciplinary Commission, which will allow them to access their rights without having to request and carry a military service card.
2. Demand the implementation of measures for the prevention, prohibition, and definitive cessation of arbitrary detention for recruitment purposes, establishing criteria and procedures that contribute to the investigation and disciplinary punishment of public officials who engage in these practices.
3. Guarantee the adequate implementation of Social Service for Peace, which will avoid the overreach and involvement of Military Forces in civilian life, make progress towards the gradual dismantling of compulsory military service, reduce the defense budget, and instead contribute to the implementation of the Final Peace Agreement.