

SUBMISSION

TO THE 38th SESSION OF THE UNIVERSAL PERIODIC REVIEW

SINGAPORE

1. This submission, together with the annex, was prepared in October 2020, including the latest information available. It focusses on the right to conscientious objection to military service, the right of the child and underage recruitment, restrictions on civil society (freedom of opinion and expression, right to peaceful assembly, freedom of association).

CONSCIENTIOUS OBJECTION TO MILITARY SERVICE

(Article 18 of the Universal declaration of human rights and Article 18 of the International Covenant on civil and political rights)

Duration and age for compulsory service

2. Singapore maintains a system of compulsory military service. Under the Enlistment Act¹ all citizens and permanent residents aged not less than 18 years and not more than 40 years (50 years in the case of those with specific skills or expertise) may be required under the authority of the Armed Forces Council to report for enlistment for national (military) service.

Those enlisted are liable to full-time service of two years; the liability is extended by six months in the case of those who attain the equivalent of a certain rank, even if subsequently demoted. Outside the period of full-time service there is a requirement of “operationally ready”, or reserve, service which “will not in the aggregate exceed 40 days annually”².

Not recognition of the right to conscientious objection

3. Singapore does not recognise the right to conscientious objection on any grounds (religious, pacifist, political and so on).

In a series of resolutions that were adopted without a vote, both the Human Rights Council and the previous Commission on Human Rights recognised the right of everyone to have conscientious objections to military service as a legitimate exercise of the right to freedom of thought, conscience and religion as laid down in article 18 of the Universal Declaration of Human Rights and article 18 of the International Covenant on Civil and Political Rights.

In its contribution to the Analytical report of the Office of the United Nations High Commissioner for Human Rights on Conscientious objection to military service (2017)³, Singapore stated that

¹ Act 25 of 21st May 1970, amended on numerous occasions, most recently by Act 53 of 2018 (Date of commencement 1 February 2019). Text available on “Singapore Statutes” at <https://sso.agc.gov.sg/Act/EA1970>.

² Singapore Enlistment Act, Para 14 (ii).

³ Office of the United Nations High Commissioner for Human Rights, report on Conscientious objection to military service A/HRC/35/4 (2017), country contribution available at <https://www.ohchr.org/Documents/Issues/RuleOfLaw/ConscientiousObjection/Singapore.pdf>

“where individual beliefs or actions run counter [to the right of national defence], the right of a state to preserve national security must prevail.”

Fine and conviction for refusing enlistment or avoiding military service

4. Under Para 4(2) of the Enlistment Act, any person failing without lawful excuse to present himself for registration when summoned is liable on conviction to a fine of up to S\$10,000 (approximately US\$ 7.370 at 2020 exchange rates) or a term of imprisonment of up to three years, or both.

Moreover, the court may order him to present himself for registration on or before a specific date, whereafter he may incur a further fine increasing at the rate of S\$50 (US\$ 36.8) per day (Para 4 (3)). Para 33 specifies similar penalties for any person who fails to report for actual enlistment when summoned – even if abroad -, or otherwise attempts to evade military service, and for any person found guilty of aiding or abetting such action.

5. Under para. 26 of the Enlistment Act, “Any person required [...]to report for enlistment [...] shall, from such date and time as may be specified, be subject to military law. [Acts] relating to the armed forces shall apply to the person [...] notwithstanding that he has not complied with the order.” This means that in practice conscientious objectors who refuse enlistment are tried by military tribunals and are subsequently incarcerated in the Singapore Armed Forces Detention Barracks. As they have by definition not enlisted, they remain civilians and it is not appropriate that they should be subjected to military justice or detained in military prison.

Data about conscientious objectors

6. There is not official information available about how many conscientious objectors there have been and there are and how many of them are imprisoned.

All recorded conscientious objectors in Singapore have been Jehovah's Witnesses and this religious minority is the only available source of information.

It is believed that the unwillingness of their members to perform military service was the principal reason for the government decision in 1972 that “the group's existence was prejudicial to public welfare and public order”, leading to the deregistration of the church.⁴ Individual Jehovah's Witnesses have however subsequently continued to refuse military service.

7. Currently, eleven young men (between 19 and 25 years old) who are Jehovah's Witnesses are imprisoned in Singapore for their conscientious objection to military service. Three of them are serving a second sentence because they refused to change their stance after serving their first prison term.⁵

Violation of the *Ne bis in idem* principle

8. Indeed, the serving of a sentence for refusing enlistment does not discharge the obligation to enlist. In 2014, It has been reported that Jehovah's Witnesses who “declined” military service were typically sentenced to 15 months of military camp in the first instance, and on again refusing were sentenced to a further 24 months of prison.⁶

About the *ne bis in idem* principle, the Human Rights Committee stated: “Repeated punishment of conscientious objectors for not having obeyed a renewed order to serve in the military may amount to punishment for the same crime if such subsequent refusal is based on the same constant resolve grounded in reasons of conscience.”⁷

9. In the last cycle of the UPR, there have been 15 recommendations regarding the ratification or to

⁴ Order No. 179 of the Minister for Home Affairs pursuant to section 24.1 of the Societies Act.

⁵ Information available on the official Jehovah's Witnesses website (www.jw.org) available at <https://www.jw.org/en/news/legal/by-region/singapore/jehovahs-witnesses-in-prison/>

⁶ Human Rights Without Frontiers International, Freedom of Religion or Belief Annual Report 2014, p. 67.

⁷ CCPR/C/GC.32, 23 August 2007, Section IX “NE BIS IN IDEM”, para. 55.

facilitate acceding to the International Covenant on Civil and Political Rights.⁸ Singapore noted them.

Even if the country stated that it may not be party to a particular human rights treaty yet, it does not mean that our outcomes are not already fully or largely in compliance with its objectives;⁹ this is not the case of the right to freedom of thought, conscience and religion (Article 18 of the International Covenant on civil and political rights).

The recognition of the human right to conscientious objection to military service has never been raised during the two past cycles of UPR of Singapore.

THE RIGHTS OF THE CHILD AND UNDERAGE RECRUITMENT

(Article 38 of the Convention on the Rights of the Child, Article 3.3 of CRC Optional protocol on Children and armed conflict)

10. Under the Voluntary Early Enlistment Scheme (“VEES”), children who have reached the age of 16 years and 6 months may be voluntarily recruited into the Singapore Armed Forces. Such voluntary recruitment is subject to documentary proof of age, the written consent of a parent or legal guardian, and the fully informed consent of the recruit.

11. In its Concluding observations of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (2014),¹⁰ the Child Rights Committee regretted that:

(a) A volunteer having entered the Singapore Armed Forces under the Voluntary Early Enlistment Scheme is able to request release from volunteer services only by giving three months’ notice in writing;

(b) Underage volunteers are subject to military law, and, accordingly, subject to trial by the Subordinate Military Court.

The Committee recommended that Singapore considers discontinuing voluntary recruitment under the age of 18, and that it takes all necessary measures to:

(a) Significantly reduce the notice required to be given by underage volunteers to request release;

(b) Ensure that no underage volunteer is subject to military law or to trial by the Subordinate Military Court and that, if charges are brought against underage volunteers, trials are held in civilian courts and are consistent with the standards on juvenile justice set out in the Convention.¹¹

12. More recently, in its *concluding observations* on the combined fourth and fifth periodic reports of Singapore (2019), the Child Rights Committee recommended that the State party, inter alia:

(a) Consider reviewing its position and raise the minimum age for voluntary recruitment into the armed forces to 18 years in order to promote the protection of children through an overall higher legal standard;

(b) Expeditiously establish an independent complaints mechanism outside the Ministry of Defence for members of the armed forces;

(c) Urgently reduce the current release period of three months for underage volunteers.

13. During the last cycle of UPR, two recommendations called on Singapore to stop the recruitment

⁸ Recommendations: 166.3 (Costa Rica, Japan, Mauritius), 166.4 (Israel), 166.9 (Latvia), 166.11 (Sweden), 166.12 (Republic of Korea, Thailand), 166.13 (Ghana), 166.14 (France), 166.15 (Montenegro, South Africa), 166.16 (Slovenia), 166.17 (Finland), 166.18 (Portugal), 166.19 (Kazakhstan), 166.24 (Namibia), 166.32 (Czech Republic), 166.44 (Sierra Leone).

⁹ Report of the Working Group on the Universal Periodic Review*Singapore Addendum, Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review (A/HRC/32/17/Add.1), para. 5.

¹⁰ CRC/C/OPAC/SGP/CO/1.

¹¹ CRC/C/OPAC/SGP/CO/1 paras 11-12.

of underage.¹²

Singapore noted the recommendations, and its legislation remains not in line with the Convention on the rights of the child and its Optional Protocol on the involvement of children in armed conflict.

RESTRICTIONS ON CIVIL SOCIETY

(Article 18 (freedom of opinion and expression), Article 21 (right to peaceful assembly), Article 22 (Freedom of association) of the International Covenant on civil and political rights)

14. In Singapore, there is no organisation that support conscientious objectors and their rights. This is not because conscientious objection is not an issue, rather this lack is related to the restrictions on the freedom of opinion and expression, right to peaceful assembly and freedom of association.

Last in order of time, in 2019, Human rights groups strongly criticized the Protection from Online Falsehoods and Manipulation Act (POFMA), meant to regulate “fake news”. Introduced by the government to “protect society” from online falsehoods created by “malicious actors,” the law gave the authorities excessive and overly broad powers to clamp down on dissenting views. The law provided for severe criminal penalties of up to 10 years’ imprisonment, and required social media companies, such as Facebook, to remove content or display prominent corrections on their platforms at the government’s direction.¹³

15. UN Human rights experts urged, as well, the Government of Singapore to ensure fundamental freedoms of expression and assembly after the conviction of human rights defender Jolovan Wham for organizing an assembly without a permit.¹⁴

“Singapore should act to amend the Public Order Act with a view to ensuring that it is consistent with international human rights law and standards, particularly as they relate to the exercise of the rights to freedoms of expression and assembly,” the experts added.¹⁵

16. Although, during the Second cycle, Singapore supported 4 recommendations regarding the realization of peaceful demonstrations and to ensure that freedom of opinion and expression are encouraged and protected;¹⁶ there is still strong concern in the exercise of those freedoms and rights.

Also, as underlined before, Singapore noted all recommendations that asked for the ratification of the International Covenant on Civil and Political rights (see para. 3).

SUGGESTED RECOMMENDATIONS

17. Acceptance of international norms

¹² Report of the Working Group on the Universal Periodic Review (A/HRC/32/17), second cycle, Recommendation 166.176 (Raise the minimum age to 18 of young people eager to join the army (Haiti)) and Recommendation 166.177 (Harmonize the definition of the child in domestic law and put an end to the voluntary recruitment of minors into the army (Belgium)).

¹³ Amnesty international, Human Rights in Asia- Pacific, Review of 2019 available at <https://www.amnesty.org/download/Documents/ASA0113542020ENGLISH.PDF> . See also Asian Forum for Human Rights and Development (FORUM-ASIA), CIVICUS: World Alliance for Citizen Participation and The International Commission of Jurists (ICJ) Singapore: Open letter to parliamentary candidates and political party leaders to prioritise fundamental freedoms, 03 July 2020, available at <https://www.forum-asia.org/?p=32256> .

¹⁴ The UN experts: Mr. David Kaye (USA), Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Mr. Michel Forst (France), Special Rapporteur on the situation of human rights defenders; Mr. Clément Nyaletsossi Voule (Togo), Special Rapporteur on the rights to freedom of peaceful assembly and of association. Press release of 29 January 2019, available at <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=24126&LangID=E>.

¹⁵ Ibid.

¹⁶ Report of the Working Group on the Universal Periodic Review (A/HRC/32/17), Second Cycle, Recommendations n. 166.89 (Costa Rica), 166.91 (Mexico), 166.201 (France), 166.202 (New Zealand).

- Ratify the International Covenant on Civil and Political Rights and its Optional Protocols.

Freedom of thought, conscience and religion

- Recognise and fully implement by means of a dedicated legislation the right to conscientious objection on any ground to conscripts, regular servicemen, reservists, also during mobilisation.

Freedom of opinion and expression

- Ensure that freedom of opinion and expression are encouraged and protected, including conscientious objectors and individuals that support them.

Right to peaceful assembly

- Review the legislation on peaceful demonstrations in order to keep it in line with international standards, and ensure its exercise also for conscientious objectors and for individuals that support them.

18. Children: definition; general principles; protection

- Raise the minimum age for voluntary recruitment into the armed forces to 18 years in order to promote the protection of children through an overall higher legal standard; meanwhile reduce the current release period of three months for underage volunteers.

Children: Juvenile justice

- Establish an independent complaints mechanism under civilian courts for underage members of the armed forces that are consistent with the standards on juvenile justice.