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International Standards on Conscientious Objection to Military Service

Revised Edition: 2024

by Rachel Brett with Laurel Townhead



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Introduction

The issue of conscientious objection to military service has been addressed within the United Nations (UN) human rights system in a number of ways. Most notable is the Human Rights Committee¹ in both individual cases and when considering State reports under the International Covenant on Civil and Political Rights, as well as in its General Comments No. 22 on Article 18 and No. 32 on Article 14 of the Covenant.² The UN Human Rights Council and (former) UN Commission on Human Rights have adopted resolutions on the subject. The Special Procedures of the Human Rights Council have taken up the issue, and it has also arisen in the Universal Periodic Review (UPR) system. The Office of the UN High Commissioner for Refugees has issued Guidelines on Claims to Refugee Status related to Military Service.³ At the request of the Human Rights Council the Office of the UN High Commissioner for Human Rights (OHCHR) has issued a series of reports on conscientious objection to military service including, most recently in 2024 on legal and policy frameworks to uphold the right to conscientious objection,⁴ and in 2019, one on human rights compliant application procedures for conscientious objector status.⁵ Furthermore, the European Court of Human Rights Grand Chamber has ruled that conscientious objection to military service is protected under the European Convention of Human Rights.⁶

¹ The Human Rights Committee is the body of independent experts which oversees the implementation of the International Covenant on Civil and Political Rights. All States parties to the Covenant are required to report to the Committee on a regular basis. The Committee examines the report in a public dialogue with representatives of the State and adopts Concluding Observations highlighting improvements needed as well as progress made. The Committee also produces General Comments clarifying and interpreting the Covenant's provisions. In those States which are also parties to the First Optional Protocol, individuals can send the Committee complaints alleging violations of the Covenant.

² Human Rights Committee General Comment No. 22 (CCPR/C/21/Rev.1/Add.4), 1993, 'The right to freedom of thought, conscience and religion (Article 18)' and General Comment No. 32 (CCPR/C/GC/32), 2007, 'Right to Equality before Courts and Tribunals and to Fair Trial' (Article 14).

³ United Nations High Commissioner for Human Rights: Guidelines on International Protection No. 10: Claims to Refugee Status related to Military Service within the context of Article 1A (2) of the 1951 Convention and/or the 1967 Protocol relating to the Status of Refugees (HCR/GIP/13/10, 3 December 2013. In 1978, UN General Assembly resolution 33/165 had called for international protection for those required to leave their country because of their refusal to serve in military or police forces used to enforce apartheid.

⁴ OHCHR: Conscientious objection to military service (A/HRC/56/30).

⁵ OHCHR: Approaches and challenges with regard to application procedures for obtaining the status of conscientious objector to military service in accordance with human rights standards (A/HRC/41/23).

⁶ European Court of Human Rights Grand Chamber, *Bayatyan v Armenia* (application no. 23459/03) of 20 July 2011.

The UN Standards

Both the Human Rights Committee and the UN Human Rights Council have recognised the right of conscientious objection to military service as part of the right to freedom of thought, conscience and religion enshrined in Article 18 of both the Universal Declaration on Human Rights and the International Covenant on Civil and Political Rights.

The Human Rights Committee considers that “the right to conscientious objection to military service is inherent to the right to freedom of thought, conscience and religion. It entitles any individual to exemption from compulsory military service if the latter cannot be reconciled with the individual’s religion or beliefs. The right must not be impaired by coercion.”⁷ In its case law on the subject the Committee has repeatedly found that States have violated Article 18 by failing to provide for conscientious objection to military service.⁸ Furthermore, requiring a punitive or discriminatory alternative service of conscientious objectors is also a violation of Article 18.⁹

Under the Covenant, Article 18(1), which covers both the right to freedom of thought, conscience and religion and the right to manifest one’s religion or belief, is non-derogable even during times of national emergency threatening the life of the nation.¹⁰ Some restrictions on the right to manifest one’s religion or belief are permitted by Article 18(3) of the Covenant, but these are not relevant to the question of conscientious objection to military service because of the Committee’s position that this is *inherent* in the right rather than a manifestation of it. In any case, these restrictions are only those which are “prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others” and any “such restriction must not impair the very essence of the right in question”.¹¹ Thus these possible limitations cannot be used to justify or excuse making no provision for conscientious objection. Notably national security is not included as a possible ground for limitation,¹² reinforcing the fact that the right of

⁷ Jeong et al. v. Republic of Korea (CCPR/C/101/D/1642-1741/2007), para. 7.3.

⁸ Most recently in Arslan Begenchovich Begenchov v Turkmenistan (CCPR/C/134/D/3272/2018).

⁹ Lazaros Petromelidis v Greece (CCPR/C/132/D/3065/2017).

¹⁰ International Covenant on Civil and Political Rights, Article 4.

¹¹ Yoon and Choi v Republic of Korea (CCPR/C/88/D/1321-1322/2004).

¹² In its General Comment 22, the Human Rights Committee observed that “national security” is not one of the permitted grounds of limitation listed in Article 18, unlike in relation to some other Articles of the Covenant.

conscientious objection applies at all times including during war/armed conflict or mobilisation.¹³

In 2013, the UN Human Rights Council adopted (without a vote), resolution 24/17 which “Recognizes that the right to conscientious objection to military service can be derived from the right to freedom of thought, conscience and religion”, and re-stated and developed the provisions of the former UN Commission on Human Rights resolutions going back to 1989.¹⁴ This has been reaffirmed by consensus in subsequent Council resolutions.¹⁵

Reporting in 2019 on its position on conscientious objection to military service the Working Group on Arbitrary Detention¹⁶ drew on the cases it had decided to state that: “the right to conscientious objection to military service is part of the absolutely protected right to hold a belief under article 18 (1) of the Covenant, which cannot be restricted by States”.¹⁷

Scope/extent of the right of conscientious objection

The identification of conscientious objection to military service as inherent in the right to freedom of thought, conscience and religion makes clear that it can be based on a religious or other belief, or on conscience. The Human Rights Committee in General Comment 22 gives a broad scope to the terms religion and belief, stating:

Article 18 protects theistic, non-theistic and atheistic beliefs, ... Article 18 is not limited in its applications to traditional religions or to religions and beliefs with institutional characteristics or practices analogous to those of traditional religions.¹⁸

¹³ OHCHR: Conscientious objection to military service (A/HRC/56/30), para.54(c).

¹⁴ Human Rights Council resolution 24/17 (A/HRC/24/17) of 27 September 2013.

¹⁵ Human Rights Council resolutions 36/18 (A/HRC/RES/36/18) of 3 October 2017 and 51/6 (A/HRC/RES/51/6) of 12 October 2022.

¹⁶ The Working Group on Arbitrary Detention is a Special Procedure of the UN Human Rights Council.

¹⁷ Report of the Working Group on Arbitrary Detention (A/HRC/42/39), para. 60(b).

¹⁸ Human Rights Committee General Comment 22, para. 2.

The Committee has specifically addressed this issue in Concluding Observations on State reports under the Covenant, for example:

The Committee therefore expresses its concern that no measures appear to have been taken to extend the right of conscientious objection against mandatory military service to persons who hold non-religious beliefs grounded in conscience, as well as beliefs grounded in all religions (art. 18). The Committee reiterates its previous recommendation (CCPR/C/UKR/CO/6, para. 12) and stresses that alternative service arrangements should be accessible to all conscientious objectors without discrimination as to the nature of the beliefs (religious or non-religious beliefs grounded in conscience) justifying the objection.¹⁹

Similarly, in the case of *Eu-min Jung et al v Republic of Korea*, the Committee specifically identified that “the authors’ subsequent conviction and sentence amounted to an infringement of their freedom of conscience” in addition to being a violation of their freedom of religion or belief.²⁰

This broad definition aligns with Human Rights Council resolution 24/17 which recognises “that conscientious objection to military service derives from principles and reasons of conscience, including profound convictions, arising from religious, ethical, humanitarian or similar motives”.²¹

In other words, it is clear that although conscientious objection may be based on a formal religious position, this is not required. Indeed, both the Committee and the Council have made clear that no discrimination is permitted between the religion or belief on which the objection is based.²² This is echoed clearly by the Office of the UN High Commissioner for Human Rights:

The reasons for an individual’s conscientious objection are varied and may not be limited to religious beliefs; conscientious objector status must therefore be available for all regardless of the basis of their conscientiously held objection. For exam-

¹⁹ Human Rights Committee, Concluding Observations on Ukraine (CCPR/C/UKR/CO/7), para.19. See also Human Rights Committee Concluding Observations on Kyrgyzstan (CCPR/C/KGZ/CO/2), para. 23 recommending that provisions for conscientious objectors be brought in “bearing in mind that article 18 also protects freedom of conscience of non-believers.”

²⁰ *Eu-min Jung et al v Republic of Korea* (CCPR/C/98/D/1593-1603/2007), para. 7.4.

²¹ Human Rights Council resolution 24/17 (A/HRC/24/17) of 27 September 2013, reaffirmed in subsequent resolutions.

²² Human Rights Committee General Comment 22, para 11; Human Rights Council Resolution 24/17.

ple, it must not be limited to specifically named religions, nor limited to religious objection.²³

Equally, a person may become a conscientious objector after joining the armed forces, whether as a conscript or as a volunteer. Such a situation may arise in the context of a change of religion or belief in general, or in relation to the specific issue or act of military service. The general freedom to change one's religion or belief is recognized in Article 18(1) of the Covenant and Article 18(2) prohibits "coercion which would impair" the individual's freedom to have or adopt a religion. The Human Rights Committee has specifically applied the possibility of changes in religion or belief in this context, for example, when recommending the adoption of legislation on conscientious objection to military service to a reporting State, "recognizing that conscientious objection can occur at any time, even when a person's military service has already begun".²⁴ This is also explicitly recognized in UN Human Rights Council resolution 24/17 which states "persons performing military service may develop conscientious objections".²⁵ In 2024, the European Court of Human Rights found a violation where a reservist who had previously performed both military and reserve service had no possibility of having his conscientious objection claim considered.²⁶ Thus, any arrangements for conscientious objectors must allow for applications after joining the armed forces, or even after completion of military service, for example by those listed as reservists or subject to further call-up or training.

The UN General Assembly²⁷ implicitly recognized selective objection (i.e. conscientious objection to a particular conflict or weapon use) and cases of non-recognition of selective objectors have been addressed by both the Special Rapporteur on Freedom of Religion and Belief and the Working Group on Arbitrary Detention. OHCHR includes recognition of selective objectors in the minimum criteria for human rights compliant application procedures.²⁸

Equally, any payment in lieu of military service is not the same as, nor a substitute for, recognition of conscientious objection.²⁹

²³ Office the UN High Commissioner for Human Rights: Approaches and challenges with regard to application procedures for obtaining the status of conscientious objector to military service in accordance with human rights standards (A/HRC/41/23), 2019.

²⁴ Human Rights Committee, Concluding Observations on Chile (CCPR/C/CHL/CO/5), para. 13. Followed in subsequent reviews.

²⁵ Human Rights Council resolution 24/17 (A/HRC/24/17) preambular paragraph 8, reaffirmed in subsequent resolutions.

²⁶ European Court of Human Rights, *Kanatli c. Türkiye* (Requête no 18382/15) of 12 March 2024.

²⁷ UN General Assembly resolution 33/165.

²⁸ Office the UN High Commissioner for Human Rights: Approaches and challenges with regard to application procedures for obtaining the status of conscientious objector to military service in accordance with human rights standards (A/HRC/41/23), para. 60(d).

²⁹ Human Rights Committee, Concluding Observations on Syria (CCPR/CO/84/SYR), para. 11.

Legislative framework

The Human Rights Committee has consistently stated in its decisions that in addition to reparations for individual conscientious objectors whose rights have been violated “the State party is under an obligation to avoid similar violations of the Covenant in the future, including the adoption of legislative measures guaranteeing the right to conscientious objection.”³⁰ Similarly, the Working Group on Arbitrary Detention has said: “All States should adopt appropriate legislative or other measures to ensure that conscientious objector status is recognized and attributed.”³¹ This was echoed in the subsequent Human Rights Council resolution on arbitrary detention which “encourages all States: To consider reviewing laws and practices that may give rise to arbitrary detention, in accordance with the recommendations of the Working Group”³²

The European Court of Human Rights has also found that legislative reforms recognising conscientious objection to military service are part of an appropriate means of redress to end the violations found by the Court.³³ It has stated that legislation on conscientious objection is necessary, in line with commitments made by the State in acceding to the Council of Europe.³⁴

³⁰ Zafar Abdullayev v Turkmenistan (CCPR/C/113/D/2218/2012); this line is followed in other cases including: Mahmud Hudaybergenov v Turkmenistan (CCPR/C/115/D/2221/2012); Sunnet Japparow v Turkmenistan (CCPR/C/115/D/2223/2012); Ahmet Hudaybergenov v Turkmenistan (CCPR/C/115/D/2222/2012); Anatoly Poplavny v Belarus (CCPR/C/115/D/2019/2010); Dovran Bahramovich v Turkmenistan (CCPR/C/117/D/2224/2012); Matkarim Aminov v Turkmenistan (CCPR/C/117/D/2220/2012); Akmurad Nurjanov v Turkmenistan (CCPR/C/117/D/2225/2012); Shadurdy Uchetov v Turkmenistan (CCPR/C/117/D/2226/2012). See also OHCHR: Conscientious objection to military service (A/HRC/56/30), para.54.

³¹ Report of the Working Group on Arbitrary Detention (A/HRC/42/39), para. 60(d).

³² Human Rights Council Resolution 42/22 (A/HRC/RES/42/22) of 8 October 2019, para. 5(i).

³³ European Court of Human Rights, Erçep v Turkey (Application no. 43965/04) of 22 November 2011.

³⁴ European Court of Human Rights, Mushfig Mammadov and Others v. Azerbaijan (Application no. 14604/08) of 17 January 2020.

Decision-making process

Trying to judge another person's conscience or the sincerity of their belief is an inherently difficult task. The UN Human Rights Council has welcomed "the fact that some States accept claims of conscientious objection as valid without inquiry" (Resolution 24/17), but if there is to be an inquiry then it must be undertaken by an "independent and impartial decision-making" body. The Human Rights Committee has expressed concern about "determinations ... by military judicial officers in individual cases of conscientious objection"³⁵ and has recommended that such bodies should be "fully independent and impartial".³⁶ The European Court of Human Rights found in *Erçep v Turkey* that as a civilian a conscientious objector being tried by an entirely military tribunal called into question the independence and impartiality of the proceedings and was a violation of Article 6 (right to fair trial) of the European Convention of Human Rights.

As previously mentioned, whatever the assessment process no discrimination is permitted "among conscientious objectors on the basis of the nature of their particular beliefs".³⁷ In *Papavasiliakis v. Greece* the European Court of Human Rights found that the necessary procedural safeguards were not in place. In this case the applicant was interviewed by a board consisting of military personnel and the final decision, based on the recommendations of this board, was made by the Ministry of Justice. The Court held that this did not meet safeguards of impartiality and independence.³⁸

These and other developments in standards and State practice are the basis for the 2019 Office of the High Commissioner for Human Rights' report on application procedures. This report concludes with a 13-point checklist of minimum criteria for human rights compliant application procedures reflecting the current international standards, covering accessibility, transparency, and independence.³⁹

³⁵ Human Rights Committee, Concluding Observations on Israel (CCPR/ISR/CO/5), para. 47.

³⁶ Human Rights Committee, Concluding Observations on Greece (CCPR/CO/83/GRC), para. 15.

³⁷ Human Rights Committee General Comment 22, para. 11.

³⁸ European Court of Human Rights, *Papavasiliakis v. Greece*, Application 66899/14, of 15 December 2016.

³⁹ Report on approaches and challenges for obtaining the status of conscientious objector to military service (A/HRC/41/23).

Alternative Service

Alternative Service in lieu of compulsory military service is not required⁴⁰ but is not prohibited, provided that it is compatible with the reasons for the conscientious objection, of a civilian character, in the public interest and not of a punitive nature. In addition to civilian alternative service, unarmed military service may be provided for those whose objection is only to personally bearing arms.⁴¹ The Human Rights Committee has consistently stated that it must be a civilian alternative to military service “outside of the military sphere and not under military command. The alternative service must not be of a punitive nature but must rather be of real service to the community and compatible with respect for human rights.”⁴² The term “punitive” covers not only the duration of alternative service but also the type of service and the conditions under which it is served. For example, the Human Rights Committee has concluded that service outside of the home area, that is paid below subsistence level and includes restrictions on freedom of movement is punitive.⁴³

In *Adyan and Others v. Armenia* the European Court of Human Rights stated that where alternative service is available for conscientious objectors to military service “that fact alone is not sufficient to conclude that the authorities have discharged their obligations under Article 9 of the Convention.” The Court must also assess if the allowances made are “appropriate for the exigencies of an individual’s conscience and beliefs”. The Court held that even though alternative service was provided for there was nonetheless a violation of Article 9 because the service was not sufficiently separated from the military and was of a punitive length.⁴⁴

⁴⁰ Jeong et al. v. Republic of Korea (CCPR/C/101/D/1642-1741/2007), para. 7.3.

⁴¹ UN Human Rights Council resolution 24/17.

⁴² Atasoy and Sarkut v Turkey (CCPR/C/104/D/1853-1854/2008), para. 10.4, Jong-nam Kim et al v Republic of Korea (CCPR/C/101/D/1786/2008), para. 7.4, Jeong et al. v. Republic of Korea (CCPR/C/101/D/1642-1741/2007), para. 7.3.

⁴³ Human Rights Committee, Concluding Observations on the Russian Federation (CCPR/C/RUS/CO/6), para. 23.

⁴⁴ European Court of Human Rights, *Adyan and Others v. Armenia* (Application no. 75604/11) of 12 January 2018; followed in *European Court of Human Rights, Aghanyan and Others v. Armenia* (Applications nos. 58070/12 and 21 others) of 5 December 2019.

Duration of alternative service

The question of the length of alternative service in comparison to the length of military service has been the subject of several cases considered by the Human Rights Committee. However, in 1999 the Committee settled on the test which it has subsequently applied. This starts from the requirement that the alternative service must not be discriminatory. This does not preclude a different duration to that of military service but any difference in length in a particular case must be “based on reasonable and objective criteria, such as the nature of the specific service concerned, or the need for a special training in order to accomplish that service.”⁴⁵

Non-discrimination

As already mentioned, no discrimination is permitted “among conscientious objectors on the basis of the nature of their particular beliefs”⁴⁶ The UN Human Rights Committee has also expressed concern regarding differences in length of alternative service depending on the person’s level of education.⁴⁷

Equally no discrimination as to the terms or conditions of service is permitted in law or practice between those who do military service and those who do alternative service. Nor may conscientious objectors subsequently be subjected to discrimination in relation to any economic, social, cultural, civil or political rights because they have not done military service.⁴⁸

⁴⁵ Foin v France (CCPR/C/D/666/1995).

⁴⁶ Human Rights Committee General Comment 22, para. 11; UN Human Rights Council resolution 24/17.

⁴⁷ Human Rights Committee Concluding Observations on Belarus (CCPR/C/BLR/CO/5), para. 47

⁴⁸ Human Rights Committee General Comment 22, para. 11; UN Human Rights Council resolution 24/17, para. 12.

Access to information about conscientious objection

The importance of making information available to all affected by military service (not only to first time conscripts) is stressed by UN Human Rights Council resolution 24/17, and has also been taken up by the Human Rights Committee in Concluding Observations, to ensure that people know about the right of conscientious objection and also how to acquire conscientious objector status.⁴⁹ It is included as the first point on the OHCHR checklist for human rights compliant application procedures: “All persons affected by military service should have access to information about the right to conscientious objection and the means of acquiring objector status.”

The European Court of Human Rights found a violation of the Article 10 protection of freedom of expression in *Savda v Turkey* where the applicant was convicted of inciting the population to evade military service through a public statement.⁵⁰ OHCHR states: “The right to freedom of expression and of access to information requires States not to prohibit the dissemination of information on the right to conscientious objection to military service.”⁵¹

Punishment of unrecognised conscientious objectors

Unrecognised conscientious objectors may not be punished for their refusal to undertake, or continue in, military service on grounds of conscience.

For several years the Human Rights Committee found violations of the principle of *ne bis in idem* for conscientious objectors who were punished more than once

⁴⁹ Human Rights Committee Concluding Observations on Paraguay (CCPR/C/PRY/CO/2), para 18.

⁵⁰ European Court of Human Rights, *Savda v Turkey* (no.2) (Application no. 458/12) of 15 February 2017.

⁵¹ OHCHR: Approaches and challenges with regard to application procedures for obtaining the status of conscientious objector to military service in accordance with human rights standards (A/HRC/41/23), para. 17.

for refusal to undertake military service. However, in 2015, it recognised that any imprisonment, and not just repeated imprisonment, of conscientious objectors was a violation of article 9 of the Covenant stating: “Just as detention as punishment for the legitimate exercise of the right to freedom of expression, as guaranteed by article 19 of the Covenant is arbitrary,⁵² so is detention as punishment for legitimate exercise of freedom of religion and conscience, as guaranteed by article 18 of the Covenant.”⁵³ The Human Rights Committee has also found that prohibiting an unrecognised conscientious objector from leaving his country was a violation of his freedom of movement under Article 12(2) of the Covenant,⁵⁴ and has called for the expunging of criminal records of those prosecuted.⁵⁵

Similarly, the UN Working Group on Arbitrary Detention’s position has evolved from finding repeated imprisonment of conscientious objectors to be arbitrary detention⁵⁶ to recognising that detention of a conscientious objector is a violation of article 18(1) of the Covenant *per se*. The Working Group set out its key principles and understanding in a decision in 2018⁵⁷ and further clarified its position in its 2019 report to the UN Human Rights Council:

While each case depends on its own facts, the Working Group considers that the detention of conscientious objectors is a *per se* violation of article 18 (1) of the Covenant and such a detention will therefore usually lack a legal basis according to category I [no legal basis to justify the deprivation of liberty]. Moreover, given that the detention of conscientious objectors results from the exercise of the right to freedom of thought, conscience and religion under article 18 of the Covenant, it will also often fall within category II [deprivation of liberty for exercise of a protected right]. Finally, when the detention of conscientious objectors to military service involves discrimination on the basis of religion or belief, it will amount to a category V violation [deprivation of liberty on discriminatory grounds].⁵⁸

⁵² *Zelaya Blanco v. Nicaragua* (CCPR/C/51/D/328/1988), para. 10.3.

⁵³ *Young-kwan Kim et al. v Rep. of Korea* (CCPR/C/112/D/2179/2012), para. 7.5.

⁵⁴ *Lazaros Petromelidis v Greece* (CCPR/C/132/D/3065/2017).

⁵⁵ *Human Rights Committee Zafar Abdullayev v Turkmenistan* (CCPR/C/113/D/2218/2012).

⁵⁶ *Opinion No. 36/1999 (TURKEY): United Nations: Working Group on Arbitrary Detention* (E/CN.4/2001/14/Add.1); *Working Group on Arbitrary Detention Recommendation No. 2* (E/CN.4/2001/14); and *Opinion No. 24/2003 (ISRAEL) E/CN.4/2005/6/Add. 1*.

⁵⁷ *Opinion No. 40/2018 (Republic of Korea): United Nations Working Group on Arbitrary Detention* (A/HRC/WGAD/2018/40) of 17 September 2018.

⁵⁸ *Report of the Working Group on Arbitrary Detention* (A/HRC/42/39) 16 July 2019, paras. 59-64.

Conclusion

Conscientious objection to military service is recognised in international law as inherent in the right to freedom of thought, conscience and religion enshrined in Article 18 of the Universal Declaration of Human Rights as well as Article 18 of the International Covenant on Civil and Political Rights. States are, therefore, under an obligation to make provision for conscientious objection to military service in their domestic law and implement it in practice, including times of war/armed conflict or mobilisation. Implementation in practice also requires that information about conscientious objector status and how to apply for it is available to (potential) conscripts, those already in the armed forces, whether as conscripts or volunteers/professionals, and to reservists, and that recruitment methods⁵⁹ and decision-making processes permit such applications to be made and acted on.

⁵⁹ The Inter-American Commission on Human Rights (*Piché Cuca v Guatemala*, Report No. 36/93, Case 10.975, and Fourth Report on the Situation of Human Rights in Guatemala, QEA, Ser.L/V/II,83; Doc. 16 rev.; June 1, 1993, chapter III) has found that forced recruitment is a violation of the rights of personal liberty, human dignity and freedom of movement under the American Convention on Human Rights, and has noted that the conscription process must enable the individual to challenge the legality of their recruitment. See also the UN Working Group on Arbitrary Detention (above).



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