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THE ROLE OF YOUTH IN THE PROMOTION AND PROTECTION OF
HUMAN RIGHTS, INCLUDING THE QUESTION OF CONSCIENTIOUS
OBJECTION TO MILITARY SERVICE

Report of the Secretary-General

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*/ E/1981/25, chapter XXVI

INTRODUCTION

1. In resolution 11 B (XXVII) of 19 March 1971, the Commission on Human Rights requested the Secretary-General to make available to the Commission the information on conscientious objection to military service included in the country monographs which were prepared in connection with the Study of Discrimination in the Matter of Religious Rights and Practices, and to seek from Member States up-to-date information on national legislation and other measures and practices relating to conscientious objection to military service and alternative service. A report was prepared in accordance with the resolution.
2. At its thirty-sixth session, the Commission, in resolution 38 (XXXVI) requested the Secretary-General to seek once again from Member States up-to-date information on national legislation and other measures and practices relating to conscientious objection to military service and alternative service. The replies from Governments received in response to that resolution before 31 January 1981 were considered at the thirty-seventh session and are contained in document E/CN.4/1419 and Add. 1-4.
3. The present document contains the replies received after 13 March 1981; any additional replies will be circulated as addenda.

REPLIES OF GOVERNMENTS

GHANA

[Original: English]
[23 March 1981]

Full time military service in the Ghana Armed Forces is on voluntary basis and every citizen entering into such service accepts to do so after being acquainted with the full terms and conditions of service applicable. Indeed our laws know of no conscription or draft. In these circumstances therefore, the question of conscientious objection to military service does not arise.

Besides, Article 22 of our Constitution protects any person from forced labour. But Article 22(5) goes on to specify situations which will not be considered to be forced labour and conscientious objection. Military service is cited to be one of such exceptions when pleaded by a person who is a member of the Armed Forces.

However, it does not mean that anyone who is not a member of the Armed Forces can use conscientious objection to military service as an excuse when there is the need to take up arms to defend the nation. This is made clear by Article 27(6)(a). For even though Article 27(i) guarantees freedom of conscience, the said Article 27(6)(a) states that despite Article 27, laws which are inconsistent with Article 27 can be made if the purpose is inter alia "in the interest of defence".

Thus despite the voluntary nature of our military service, there may be occasions when conscientious objection to military service may be raised on grounds of freedom of conscience but this will not be countenanced, due to the exception made in Article 27(6)(a) of the Constitution.

PAKISTAN

[Original: English]
[10 July 1981]

Pakistan has not enacted any legislation relating to conscientious objection to military or alternative service because the military service and other alternative services in Pakistan are entirely voluntary, and there is no compulsion on any one to join any particular service. In view of the above it is not considered necessary to enact legislations in future on this subject. Furthermore, the Constitution of the Islamic Republic of Pakistan already guarantees the basic human rights laid down in articles 3 and 18 of the Universal Declaration of Human Rights.

PORTUGAL

[Original: English]
[8 July 1981]

The Constitution of the Portuguese Republic foresees the right to conscientious objection in its Article 41, number 5. This Article reads as follows: "The right to conscientious objection is recognized nevertheless the objectors will have to render non-armed service for a period of time as long as the compulsory military service".

This provision is applicable directly and the public entities will also have to submit to it, which includes obviously the military institution (Articles 17 and 18 of the Constitution). This means that even when there will be no special rules on the right to conscientious objection, the objectors may refuse to render armed military service by appealing to what is provided by the text of the Constitution.

Article 276 of the Constitution also deals with this matter, determining the following:

"2nd - The military service is compulsory in accordance with the terms and during the time prescribed by the law".

"3rd - Those who may be considered unfit for the armed military service, as well the conscientious objectors will render a non-armed military service or a civil service suitable with their situation".

"4th - The civil service may be established as a substitute or as a complement of the military service and made compulsory by law for the citizens not submitted to military duties".

Conscientious objection was not yet ruled, in spite of the determination of the Article 293, number 3 of the Constitution which states:

"The adaptation of the previous rules concerning the practice of the rights, liberties and guaranties referred in the Constitution will be concluded up to the end of the first legislative session".

It must also be referred that the Second Constitutional Government prepared a proposal of law (164/I) and, according to the Article 167, sub-paragraph (c) of the Constitution, presented it to the Assembly of the Republic in March of 1978, but there was no debate about it.

That was the reason why the Commander-in-Chief of the Armed Forces tried to make some temporary regulations on the matter. The decision of 8 June 1976 is one of them and, according to it, the objectors are entitled to put off the date of joining the army until the entry into force of the new legislation. The decision of 4 December 1976 foresees the same proceeding with those who may have already joined the army.

Thus, the present situation is the following: the objectors must wait for the publication of the laws on the matter in order to infer the proceeding referred in the Article 3 of the above-mentioned proposal, even when the necessary medical examination for their incorporation has been postponed, or even if it has already taken place but not followed by the subsequent incorporation.

The number of persons who have already used the right of conscientious objection is the following one, according to the statistics:

<u>1976</u>	26 (all of them before the incorporation)
	22 - Army
	3 - Navy
	1 - Air Force
<u>1977</u>	148
	a) - at the moment of the enlistment - 105
	b) - after the incorporation - 43 (Army only)
<u>1978</u>	206
	a) - at the moment of the enlistment - 152
	b) - after the incorporation - 54 (Army only)
<u>1979</u>	324
	a) - at the moment of the enlistment - 245
	b) - after the incorporation - 79 (68 - Army; 10 - Navy; 1 - Air Force)

The total number is 704.

- a) - 502
- b) - 202 (187 - Army; 13 - Navy; 2 - Air Force)