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# Military Service in the United States of America: Issues of Conscience and Human Rights

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# Introduction

Although the United States does presently not enforce conscription, its present practice of recruitment for the Armed Forces and of keeping personnel within the forces once recruited gives reasons to concern from a human rights perspective. The focus lies on recruitment of the one hand, and on the difficulties to get out of the military once enlisted on the other hand. It will become obvious that a so-called "volunteer force" is not without human rights problems.

This report is a preliminary report, compiled by War Resisters' International, to highlight some of the human rights problems associated with the Armed Forces of the United States of America. This report is far from complete, and we also refer to the report submitted by *Conscience and Peace Tax International (CPTI)*, especially regarding registration for the draft according to the US Selective Service System.

This reports highlights human rights problems related to:

- the recruitment practice of the United States' Armed Forces
- the right to conscientious objection
- restriction on the right to leave the Armed Forces

The human rights situation within the Armed Forces, or human rights violations by the Armed Forces, are outside the scope of the document.

# Main concerns

- The procedure for recognising conscientious objectors of the present all-volunteer military is solely in the hands of the military, and therefore is not independent and impartial, as required by Commission on Human Rights resolution 1998/77;
- In practice, conscientious objectors who are denied the right to conscientious objection and who refuse orders to deploy are sentenced to prison;
- The denial of educational benefits and other forms of discrimination against those who fail to register for a potential draft under the Military Selective Service Act is a violation of the right the education, and also amounts to punishment without trial;
- The military has access to private data of high school students for recruitment purposes, which is a violation of the right to privacy;
- Counter-recruitment activists face intimidation and arrest from police, military, and university authorities, which amounts to a violation of the right to freedom of expression and freedom of assembly;
- The military's "stopp loss" orders to extend the length of military employment contracts without the consent of the soldier concerned are a violation of the Forced Labour Convention.

# Military Service in the United States

The United States Constitution does not address military conscription. Compulsory military service is addressed in the Military Selective Service Act, which requires all males between the ages of 18 and 26 to register for compulsory military service (50 App. U.S.C., par. 453). The US Congress has the right to introduce compulsory military service for those registered if they think the national security necessitates forces greater than the regular armed forces (par. 451(d)).<sup>1</sup>

The right of the government to raise and maintain an army, including the right to conscript, has been recognized and upheld by the courts. While military service presently is voluntary, all 18-year-old youth are required to register with the Selective Service System, the civilian agency charged with conducting a military draft when required by law. The Military Selective Service Act provides for military conscription.

Enlistment in the armed forces is allowed from the age of 17.

Although enlistment in the armed forces is voluntary, the number of people from the lower social-economic classes in the armed forces is disproportionately high. In the US peace movement this is referred to as 'the poverty draft'. Likewise, the number of coloured people in the armed forces is also disproportionately high. Recent reports indicate that this trend is changing. The number of young black men who consider a full-time career in the armed forces has declined with 59 percent since 1989. The number of young white men considering such a career has also dropped, but only by 19 percent<sup>2</sup>.

## ***The Selective Service System***

According to the Military Selective Service Act, all men born on or after 1<sup>st</sup> January 1963 are obliged to register "during the sixty days beginning thirty days before the eighteenth anniversary of their birth" and thereafter to notify the Selective Service authorities within ten days of any change of address up to the 26<sup>th</sup> birthday.

The Military Selective Service Act does not provide for registration as conscientious objector, or any special procedures for conscientious objectors. According to Conscience and Peace Tax International: "*The significance is that no one liable to register may legally refrain from doing so on grounds of conscientious objection. Nor under the reintroduced registration system is there any way to be officially classified as claiming conscientious objector status at the time of registration, which had in fact previously been the obligatory time for lodging such a claim. The result is that those whose consciences will not permit them to register have no choice but to break the law.*"<sup>3</sup>

Refusing to register for compulsory military service is punishable by up to 5 years' imprisonment and a USD 250,000 fine. Moreover, those who fail to register are denied federal financial aid for education and for job training<sup>4</sup>. There is a limitation of five years for the bringing of a prosecution, ie. until the age of 31. In fact, historically, prosecution has generally been treated as a last resort,

1 US Department of Defense, Office of General Counsel 1996. Response to CONCODOC questionnaire, 3 September 1996.

2 McHugh, Jane 1996. 'Young, gifted, black - but not in the army', in: Army Times, 20 May 1996.

3 Conscience and Peace Tax International: Military Recruitment and Conscientious Objection in the United States of America, Briefing for Human Rights Committee Task Force, October 2005

4 Mager, Andy 1988. United States Report to International Conscientious Objectors' Meeting (ICOM). War Resisters' League, New York.; NISBCO 1990. Who is a Conscientious Objector? leaflet, November 1990. NISBCO, Washington DC.

and has not been pursued once the legal obligation itself has been met, even belatedly. There have been no convictions for failure to register since 1985<sup>1</sup>.

In practice, registration is enforced by the denial of benefits which are available to other citizens. Those who have not registered are not eligible for federal loans or grants for higher education, for federally-funded job training, or for most federal employment. The federal government has also encouraged state and municipal legislatures to enact similar legislation. As of August 2004, at least 20 of the fifty states (23 according to the Selective Service Agency) required those eligible to be registered for the draft as a precondition of receiving state finance for higher education and 17 states would not employ unregistered persons in any capacity. Nine states debarred unregistered men from admission to state colleges or universities. States have also been encouraged to make registration a precondition for the issue of a driving licence, or a state sanctioned photographic ID; and, again as of August 2004, 21 and the Virgin Islands Territory had done so, and in Illinois the necessary legislation was awaiting the Governor's approval. Eleven further states, plus the District of Columbia and the Territory of Guam had linked the procedure for application for a driving licence to draft registration for those who were not already registered, but most did not make this mandatory. In all, only 11 of the 50 states made no linkage between draft registration and higher education, state employment or the issue of driving licences; in thirteen there was linkage in all three areas<sup>2</sup>.

### ***Military Recruitment Practices***

Besides military registration, the practice of military recruitment is a reason for concern. The *No Child Left Behind Act* was signed into law by President George Bush on January 8, 2002. It is an elaborate reauthorization of the *Elementary and Secondary Education Act of 1965* that, among other things, initially offered grants to low income school areas and established the federal lunch and milk programs. In spite of the new act's overwhelming support by Washington legislators and policy makers, it is starting to come under fire for a well-hidden section entitled Sec. 9528. Armed Forces Recruiter Access to Students and Student Recruiting Information.

The section grants military recruiters access to students' private information. With this access, recruiters can make unsolicited calls and send direct-mail recruitment literature to a young person's home. Parents, students, public education activists and those working to demilitarize the nation's schools are beginning to see the legislated "open door" policy for military recruiters as a clear violation of the Privacy Act of 1974.

The act's coercive language forces schools and institutions receiving assistance under the act to comply with its directive. Non-compliance means that schools could face the relinquishment of federal funding.

The act includes a so-called "opt out" clause, which states, "(2) *CONSENT – A secondary school student or the parent of the student may request that the student's name, address, and telephone listing described in paragraph (1) not be released without prior written parental consent, and the local educational agency or private school shall notify parents of the option to make a request and shall comply with any request.*"

This clause, however, is controversial due to its vagueness about how an educational institution must inform parents and students of the option. Many schools, however, are not complying with the privacy clause or are burying the privacy notice within start-of-school info packets without a

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1 Conscience and Peace Tax International: Military Recruitment and Conscientious Objection in the United States of America, Briefing for Human Rights Committee Task Force, October 2005

2 Conscience and Peace Tax International: Military Recruitment and Conscientious Objection in the United States of America, Briefing for Human Rights Committee Task Force, October 2005; Center on Conscience and War: State penalties for non-registrants, August 2004, [http://www.centeronconscience.org/statepen\\_chart.pdf](http://www.centeronconscience.org/statepen_chart.pdf)

thorough explanation to parents and students of the packet's contents. School districts around the country are not using a uniform system to let parents know about the act. As a result many parents may never find out that their information is being handed over to the military<sup>1</sup>.

In addition, the US military offers schools their ASVAB test, which in fact is the admissions and placement test for the US military. These tests are provided to schools free of charge. ASVAB is a three-hour test that consists of 10 sections: Word Knowledge; Paragraph Comprehension; Arithmetic Reasoning; Mathematics Knowledge; General Science; Auto and Shop Information; Mechanical Comprehension; Electronics Information; Numerical Operations; and Coding Speed. The ASVAB is supposed to look for talent and natural skills in subject areas that are considered important for different military jobs.

Scores from selected individual sections of the test are combined according to a certain formula to come up with a measure known as AFQT - Armed Forces Qualifying Test. Congress has established minimum AFQT scores for admission to the military. Standards vary according to whether a person has a high school diploma, a GED, or has not graduated from high school.

The military uses ASVAB to do targeted recruitment of young people. Recruiters give special attention to students in the 11th or 12th grade who meet minimum standards - what they refer to as "pre-qualified leads." They use test information (scores, name, address, etc.) to identify and reach young people they hope to sign up. Recruiters contact these young people by letters, phone calls, and visits to home and school. Students may receive calls from recruiters even if they say they are not interested in joining the military. One often-used tactic is to leave a message for a student telling him/her of an appointment with a recruiter, even if the student didn't ask for one.

While the military has encouraged schools to have all students take the ASVAB, students cannot be forced to give this kind of personal information to the military. Unfortunately some schools tell students that they must take the test or may try to coerce them (harassment, ridicule, counselors telling students they won't help them in other ways if they don't take the ASVAB). While schools may require their students to take an assessment test approved by the state, there is no legal requirement that students take the ASVAB<sup>2</sup>.

### **Harassment of counter-recruitment activists**

United States Federal statute 18 U.S.C §2388 deals with "*activities affecting armed forces during war: ... Whoever, when the United States is at war, willfully causes or attempts to cause insubordination, disloyalty, mutiny, or refusal of duty, in the military or naval forces of the United States, or willfully obstructs the recruiting or enlistment service of the United States, to the injury of the service or the United States, or attempts to do so – Shall be fined under this title or imprisoned not more than twenty years, or both*"<sup>3</sup>. A similar criminal statute exists in Florida – nothing is know about statutes in other states.

Although prosecution under these statutes did not happen since the 1940s, and the statutes can be considered unconstitutional according to present day standards<sup>4</sup>, the existence of these statutes might deter counter-recruitment activists.

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1 AFSC: No Child Left Behind Act Overview, <http://www.afsc.org/youthmil/militarism-in-schools/no-child-overview.htm>, accessed 12 March 2006

2 AFSC: ASVAB Testing. What Students and Educators Should Know about Military Testing in our High Schools, <http://www.afsc.org/youthmil/militarism-in-schools/ASVAB.htm>, accessed 12 March 2006

3 Kat Rakowsky: Counter-Recruitment: Legality of Statutes Proscribing Counter-Recruitment Efforts, [http://www.nlg.org/mltf/Legality\\_Counter\\_Recruitment.pdf](http://www.nlg.org/mltf/Legality_Counter_Recruitment.pdf), accessed 12 March 2006

4 Kat Rakowsky: Counter-Recruitment: Legality of Statutes Proscribing Counter-Recruitment Efforts, [http://www.nlg.org/mltf/Legality\\_Counter\\_Recruitment.pdf](http://www.nlg.org/mltf/Legality_Counter_Recruitment.pdf), accessed 12 March 2006

However, more worrying than statutes on the books that are not being used is existing harassment of counter-recruitment activists, who try to protest against or provide counter-information to the presence of US military recruiters in High Schools or on university campuses. A few examples are given below:

- Three City College of New York (CCNY) students and one staff member were arrested for taking part in a peaceful protest against military recruiters at a campus career fair in March 2005. The private security officials assaulted Justino Rodriguez and Nicholas Bergreen, and each suffered minor concussions and deep bruises. The university has also suspended a third student, Hadas Their, for simply taking photographs of the demonstration. Witnesses recall the guards pulling out Their's hair during the arrest.

All three were charged with misdemeanour counts of assaulting an officer, resisting arrest, and disturbing the peace. Two days later, CCNY staff member Carol Lang was arrested at work and charged with assault in connection with the protest<sup>1</sup>.

- In early March, more than 150 San Francisco State University (SFSU) students joined Students Against War and other groups to protest the presence of military recruiters at a school-sponsored career fair. The crowd flooded the fair, surrounding the recruitment tables. When Air Force recruiters tried to wait out the protest, students staged a peaceful anti-war sit-in and teach-in. The following day, recruiters returned to the SFSU career fair. As soon as two activists entered the career fair, eight police officers forcibly removed them from the student centre, pushing them and twisting one activist's arm. When the other activist asked why she was being forced to leave, she was pushed into a doorway, told she was causing a fire hazard by standing there, and then kicked out of the building.

In the weeks following the action, a number of members of Students Against War received official "notices of appointment" from the administration. The letters stated that complaints had been received and that each student must meet individually with Judicial Affairs. The letters specified that the meetings must be confidential and failed to inform the students of the nature of the offences against them<sup>2</sup>.

- At UW-Madison 25 students were threatened with arrest if they continued to peacefully protest military and CIA recruiters at their school's career fair, even though no police officer or administrator was able to show them a campus rule they were violating.
- On Thursday, September 29, 2005, 30 Holyoke Community College (HCC) students engaged in a peaceful picket of the Army National Guard recruiting table in the school's cafeteria, organized by the HCC Anti-War Coalition, a chapter of the Campus Antiwar Network.

The police assault began after Peter Mascaro, the head of campus security, snatched a homemade sign reading "Cops are hypocrites" from a student's hands, calling it "inappropriate." Officer Scott Landry then grabbed the student and, joined by three other officers, lifted him off the ground and assaulted him. When other students came to his defense, Landry then grabbed another student, Charles Peterson — who witnesses describe as playing a moderating role throughout the protest — put him in a headlock, and sprayed mace in his face. Around 20 state police armed in riot gear and gas masks then arrived in the cafeteria. When one student tried to leave, he found 10 to 15 police officers pointing their guns at him. Only with difficulty were the protesters able to peaceably disperse.

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1 Dani Barley: UNITED STATES: Students fight the military machine, From *Green Left Weekly*, April 13, 2005, <http://www.greenleft.org.au/back/2005/622/622p24.htm>

2 Dani Barley: UNITED STATES: Students fight the military machine, From *Green Left Weekly*, April 13, 2005, <http://www.greenleft.org.au/back/2005/622/622p24.htm>

The above mentioned harassment of counter-recruitment activists constitutes a violation of Articles 19 and 21 of the *International Covenant on Civil and Political Rights*:

- Article 19, paragraph 2: *"Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice."*
- Article 21: *"The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others."*

## Leaving the Military

Although US military personnel join the military voluntarily, once they started their military service, leaving the military is not always easy, especially before the end-date of the employment contract. Besides medial and other discharges – all of which are solely decided by the military authorities – there are very few ways a soldier can make an attempt to terminate a contract on its own.

In relation to human rights, mainly two aspects are of interest: the right to conscientious objection, and the extension of military employment contracts by the military without the consent of the soldier concerned ("stop loss").

### Conscientious Objection

There is no provision for conscientious objection to the compulsory military registration, but should Congress decide to call up conscripts for compulsory military service, they have the right conscientious objection as prescribed by Section 6(j) of the Military Selective Service Act, which states: *"nothing contained in this title shall be construed to require any person to be subject to combatant training and service in the Armed Forces of the United States who, by reason of religious training and belief, is conscientiously opposed to participation in war in any form."*<sup>1</sup>

However, this is presently hypothetical, as – for the time being – the United States military does not rely on conscription for recruitment.

In the present situation of an all-volunteer military, military personnel who develop a conscientious objection to military service may apply for reassignment to non-combatant duties or discharge from the Armed Forces under Department of Defense Directive 1300.6 from 21 November 2003<sup>2</sup>.

This Directive sets out the full procedure for achieving CO status. CO status is only granted to a CO *"who is conscientiously opposed to participation in war in any form; whose opposition is found on religious training and belief; and whose position is sincere and deeply held."* The Directive specifies religious belief as: *"Belief in an external power or being or deeply held moral or ethical belief, to which all else is subordinate or upon which all else is ultimately dependent, and which has the power or force to affect moral-well-being. The external power or being need not be of an orthodox deity, but may be a sincere and meaningful belief which occupies in the life of its*

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1 Mager, Andy 1988. United States Report to International Conscientious Objectors' Meeting (ICOM). War Resisters' League, New York; Toney, R.J. 1996. Military Service, Alternative Social Service, and Conscientious Objection in the Americas: A Brief Survey of Selected Countries. NISBCO, Washington DC, USA.

2 [http://www.dtic.mil/whs/directives/corres/pdf/d13006wch4\\_082071/d13006p.pdf](http://www.dtic.mil/whs/directives/corres/pdf/d13006wch4_082071/d13006p.pdf)

*possessor a place parallel to that filled by the God of another, or, in the case of deeply held moral or ethical beliefs, a belief held with the strength and devotion of traditional religious conviction. The term "religious training and belief" may include solely moral or ethical beliefs even though the applicant himself may not characterize these beliefs as "religious" in the traditional sense, or may expressly characterize them as not religious. The term "religious training and belief" does not include a belief which rests solely upon considerations of policy, pragmatism, expediency, or political views."*

The Directive does not introduce a right to discharge as a conscientious objector, but states: "However, insofar as may be consistent with the effectiveness and efficiency of the Military Services, a request for classification as a conscientious objector and relief from or restriction of military duties in consequence thereof will be approved to the extent practicable and equitable..." This means that effectively conscientious objection is subordinate to military effectiveness and efficiency.

An applicant for conscientious objector (CO) status must submit a written application and be interviewed by a chaplain, military psychiatrist, and investigating officer. The written application must describe:

- The nature of the applicant's beliefs about participation in war.
- How those beliefs changed or developed since entering the military.
- When and why the applicant's beliefs prevented him or her from continuing to serve in the military.
- How the applicant's daily lifestyle has changed as a result of his or her beliefs.<sup>1</sup>

The final decision on the application is taken by the headquarters of the military service concerned<sup>2</sup>.

The existing regulations for conscientious objectors who are presently serving in the United States military do not meet the standards set out by the United Nations Commission on Human Rights. The application procedure is not compatible the standard of "*independent and impartial decision-making bodies with the task of determining whether a conscientious objection is genuinely held in a specific case, taking account of the requirement not to discriminate between conscientious objectors on the basis of the nature of their particular beliefs*"<sup>3</sup>, as it is completely carried out by the military itself, which cannot be seen as "*independent and impartial*".

In addition, War Resisters' International is concerned about report on harassment of soldiers who applied for discharge as conscientious objectors:

- **Kent (name has been changed)**

He told a counsellor of the Military Counselling Network (MCN) in Germany, that not a day passes when somebody does not bring up the fact that he is a CO. During training drills, he is the only soldier not carrying a weapon. He is frequently ostracised by his commanders and fellow soldiers and is given jobs and tasks that nobody else in his unit want to do<sup>4</sup>.

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1 GI Rights Hotline: Fact Sheet: Conscientious Objection, <http://www.objector.org/girights/gettingout/conscientious-objection.html#38276>, accessed 12 March 2006

2 UN Commission on Human Rights 1994. Report of the Secretary-General prepared pursuant to Commission resolution 1993/84 (and Addendum). United Nations, Geneva.

3 Conscientious objection to military service, Commission on Human Rights resolution 1998/77, <http://www.unhcr.ch/Huridocda/Huridoca.nsf/TestFrame/5bc5759a53f36ab380256671004b643a?Opendocument>

4 Jared Diener: Voices. Sound Off, Newsletter of the Military Counselling Network, Volume 2, Issue 3, September 2005, <http://www.getting-out.de/Sound%20Off%20-%20Sept%202005.pdf>

- **Camilo Mejia, U.S. Army**

On Friday, 21 May 2004, US Army National Guard staff sergeant Camilo Mejia was sentenced to one year in prison, reduction in rank to E-1, forfeiture of 2/3 pay for one year, and a bad conduct discharge, by a special court martial at Fort Steward. Camilo Mejia had been charged with desertion, although he applied for conscientious objector status.

Camilo Mejia went into hiding after returning from duty in Iraq for rest and recreation, to prepare his conscientious objection application. This application has since been denied. Camilo was held at Fort Sill military prison, in Oklahoma, imprisoned for his conscientious objection to participating in war. He appealed his sentence. He was released from prison on February 15th, 2005<sup>1</sup>.

- **Kevin Benderman**

Kevin Benderman had served as an army mechanic for 10 years when he developed moral and religious objections to the war in Iraq, after serving there in 2003, and refused to deploy there again. After seeing scenes of devastation in Iraq, and through his readings of both the Bible and the Qu'ran, Kevin Benderman filed an application for conscientious objector status on 28 December 2004.

His application was turned down on 27 April, and he was sentenced to 15 months' imprisonment at the subsequent court martial. Amnesty International considers his objection to the war to be genuine and credible, and also that he took reasonable steps to secure release from his military obligations, and therefore considers him a prisoner of conscience<sup>2</sup>.

- **Army National Guard Specialist Katherine Jashinski**

Jashinski joined the US military in April 2002. She applied for conscientious objector status in June 2004. For 18 months, while a decision on her status was pending, she honored her commitment to the Army and did everything that was asked of her. On October 6, 2005, the Department of the Army Conscientious Objector Review Board denied her application for CO status. She filed suit in federal court requesting that the judge order her release from the military.

On November 10, 2005, U.S. District Court Judge Orlando Garcia in San Antonio denied her request for a temporary injunction, stating, "*The interests of one soldier do not outweigh the interests of an entire country.*"

On November 13, 2005, she was ordered to Ft. Benning to complete weapons training. There she has refused to train with weapons. She is presently awaiting her punishment by the US military.

## ***"Stop Loss" orders***

During a mobilization, the US President may "*suspend any provision of law relating to promotion, retirement, or separation applicable to any member of the armed forces?*" (10 USC §12305(a)). Members who reach the end of their enlistment can be involuntarily retained, and transfers to the Individual Ready Reserve, Standby Reserve, and all administrative discharges halted.

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<sup>1</sup> <http://www.tomjoad.org/WarHeroes.htm#listresisters>

<sup>2</sup>

Some examples:

- **Carl Webb**

Carl Webb, 38, is a member of the Texas Army National Guard and a U.S. army veteran. In 2001 following a 7-year break in service, he enlisted in the National Guard expecting to serve for only three years. His term of service ends August 22, however, less than two months shy of the end of his service completion he was informed that his term had been involuntarily extended and he would be sent to Fort Hood for training and deployed to Iraq in November.

Webb is one of many reservists who is being compelled to serve in the war in Iraq under the "stop-loss" program. "This policy is practically an unofficial draft," Webb said. "It is conscription against a person's will."

Webb's perspective is that "The war is unethical and illegal U.S. aggression," he said. "It's all about oil and profits."

Carl Webb expects to serve prison time for following his conscience<sup>1</sup>.

- **Emiliano Santiago**

Emiliano Santiago joined the Oregon Army National Guard on June 28, 1996, shortly after his high school graduation. He served honorably, became a sergeant, and was discharged in June 2004, after eight years in the Guard.

In October 2004, more than three months after his discharge, the government extended Santiago's termination date – to December 24, 2031 (!); Santiago's unit was ordered to report to Fort Sill, Oklahoma, on January 2, 2005.<sup>2</sup>

However, stop loss orders are problematic from a legal point of view:

1. Stop-loss violates statutes prohibiting involuntary extensions of enlistment without a declaration of war or national emergency by Congress;
2. The statute granting presidential authority to suspend laws on separation and retirement anytime reservists are serving on active duty unconstitutionally delegates congressional authority to "raise armies" by allowing an involuntary 'draft' of combat veterans at the whim of the executive (and military);
3. Stop-loss is arbitrary and capricious, because the asserted justification is based on false information (or information has been withheld), and therefore violates the due process rights of service-members and the Administrative Procedures Act;
4. Stop-loss breaches service-members' enlistment contracts.

The Committee of Experts on the Application of Conventions and Recommendations (CEACR) of the International Labour Organisation (ILO) dealt with the issue of the possibility of a resignation of professional soldiers in two cases, related to the Forced Labour Convention of 1930. The CEACR *"points out that career military servicemen who have voluntarily entered into an engagement cannot be deprived of the right to leave the service in peacetime within a reasonable period, either at specified intervals, or with previous notice, subject to the conditions which may normally be required to ensure the continuity of the service"*<sup>3</sup>.

1 <http://www.tomjoan.org/warheroes2.htm>

2 Bill Bigelow: The Recruitment Minefield, Spring 2005, <http://www.nlg.org/mltf/youth.html#LIES>

3 CEACR: Individual Observation concerning Convention No. 29, Forced Labour, 1930 Uganda (ratification: 1963) Published: 2002, Document No. (ilolex): 062002UGA029, <http://www.ilo.org/ilolex/cgi->

According to the Forced Labour Convention, only “*work or service exacted in virtue of compulsory military service laws for work of a purely military character*”<sup>1</sup> is not seen as forced compulsory labour – consequently those who sign up for military service voluntarily fall under the scope of the Convention.

While the CEACR restricts the right to leave the military “*within a reasonable period*” to times of peace, it has to be noted that the United States did not formally declare war, and are therefore legally not in a state of war.

In addition, “stop loss” is not only about the right to leave the military, but constitutes a one-sided extension of a (military) employment contract.

## Conclusions

This report only gives small glimpse on the human rights problems related to the United States Armed Forces – one which is limited to issues related to war and conscience. It does not cover other human rights related problems within the US military: discrimination against gays and lesbians under the “don't ask, don't tell” policy, sexual harassment, especially of women soldiers, and human rights violations committed by the US military during military operations: Afghanistan, Iraq, ...

However, this report shows that even without conscription – without compulsory military service – there still can be a lot of problems in relation to human rights, especially in relation to the right to conscientious objection, and to leaving the Armed Forces.

This shows that human rights problems are not linked to a specific form or “raising an army”, but are a problem inherent to any form of military.

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1 Convention concerning Forced or Compulsory Labour, 1930, <http://www.ilo.org/ilolex/english/convdisp1.htm>