



# Conscience and Peace Tax International

*For the right to pay taxes for peace, not for war*

NGO in Special Consultative Status with the Economic and Social Council of the UN

International non-profit organization (ivzw Belgium) • KBO 458 226 911 • [www.cpti.ws](http://www.cpti.ws)  
Bruineveld 11 • B-3010 Leuven • Belgium • Ph.: +32.16.254011 • e-✉: [cpti@cpti.ws](mailto:cpti@cpti.ws)  
Bank van De Post (Belgium): IBAN: BE12 0001 7098 1492 • BIC: BPOTBEB1

**Contact:**

Derek Brett

Geneva Representative

Email: [dubrett@talk21.com](mailto:dubrett@talk21.com)

## **Submission to the 102nd Session of the Human Rights Committee: July 2011**

### **KAZAKHSTAN**

#### **Conscientious objection to military service and related issues**

updated May 2011

#### **In the List of Issues, Kazakhstan was asked:**

Please provide information on (1) the arrangements in place for conscientious objectors to military service to perform alternative services; (2) the number of persons that have used these arrangements; and (3) the duration of alternative service, as compared with military service.<sup>1</sup>

#### **In its reply Kazakhstan stated:**

The Military Duty and Military Service Act (art. 27) provides for citizens to be excused from service if they have taken holy orders or are permanently employed in a registered religious association for the period of religious activities, but the institution of alternative service is not enshrined in legislation. In this regard, the competent State body is planning to study the experiences of other countries that have alternative civilian service. For example, the Russian Federation adopted the Federal Alternative Civilian Service Act in 2002; it gives citizens the right to replace military service with alternative civilian service if the former goes against their convictions or beliefs.<sup>2</sup>

CPTI believes that Kazakhstan should be commended for its active consideration of civilian alternative service systems but pressed to move rapidly to the adoption of such a system in practice. As the Committee found when considering the Sixth Periodic Report of the Russian Federation in October 2009, the Russian model referred to is far from satisfactory,<sup>3</sup> and Kazakhstan should be urged to consult the international standards regarding arrangements for conscientious objectors to military service, particularly as encapsulated in Commission on Human Rights Resolution 1998/77. That said, the Government of Kazakhstan should nevertheless be encouraged to continue its engagement in the regional dialogue on civilian alternative service in which some of the

<sup>1</sup> CCPR/C/KAZ/Q/1, 27<sup>th</sup> August 2010, para 23.

<sup>2</sup> CCPR/C/KAZ/Q/1/Add.1, 4<sup>th</sup> November 2010, para 75.

<sup>3</sup> See CCPR/C/RUS/CO/6, 24<sup>th</sup> November 2009, para 23.

**NGOs which reported on the Russian Federation are deeply involved, especially through the network “The Citizen and the Army”.**

**It should be noted that the exemption from military service of ministers of religion or equivalent under Article 27 of The Military Duty and Military Service Act does not relate in any way to conscientious objection to military service, even though, by including all active members of the Jehovah's Witness community, it has had the indirect effect that no recorded conscientious objectors have come forward in recent years.**

**CPTI is also concerned about the level of militarisation in the secondary school system in general, and in particular that from the age of 15 pupils at the national military boarding schools, although explicitly protected from being deployed in hostilities, become in other respects effectively members of the armed forces.**

Background: Military Service in Kazakhstan

Under the Military Duty and Military Service Act of 8<sup>th</sup> July 2005 “citizens aged between 18 and 27 years of age who do not have the right to deferment or exemption are liable for conscription to the Kazakh army in the numbers required to staff the armed forces, other forces and military units.”<sup>4</sup> That Act reduced the duration of obligatory military service in Kazakhstan, which had on independence been set at twenty-four months, to 12 months<sup>5</sup>.

In practice, these conscription provisions are permissive. The number of males annually reaching “militarily significant age” is currently estimated as 125,322<sup>6</sup>. But the entire active strength of the Kazakh armed forces is currently quoted as 49,000.<sup>7</sup> Moreover, Kazakhstan is moving to convert its armed forces to a professional footing, and by January 2007 only between 15% and 20% of the total were conscripts.<sup>8</sup> Only a very small proportion of those eligible are ever called up.

Despite this, CPTI is disturbed at the evidence of militarisation in the secondary education system which emerged in 2006 when Kazakhstan reported to the Committee on the Rights of the Child under the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict:

“In accordance with compulsory State requirements, the subject “Basic military training” is taught in the senior classes of all educational establishments. During their basic military training classes, pupils are taught respect for human rights, they learn to develop feelings of patriotism, they cover the rudiments of military training and they study legal and regulatory texts, including the laws of the Republic of Kazakhstan dealing with the armed forces and the provisions of the Optional Protocol on Involvement of Children in Armed Conflict.”<sup>9</sup>

“The provisions of the Optional Protocol are currently taught in schools as part of a subject called 'Basics of everyday living and safety', and there are special topics on the prevention of

<sup>4</sup> CRC/C/OPAC/KAZ/1 (21st November 2005), para 7

<sup>5</sup> Coalition to Stop the Use of Child Soldiers, Child Soldiers Global Report 2008 (London, 2008), pp. 194 – 195.

<sup>6</sup> CIA World Factbook ([www.cia.gov](http://www.cia.gov)), accessed 21<sup>st</sup> May 2011

<sup>7</sup> The Military Balance 2011 (International Institute for Security Studies, London), p248

<sup>8</sup> Coalition to Stop the Use of Child Soldiers, Child Soldiers Global Report 2008 (London, 2008), p. 194

<sup>9</sup> CRC/C/OPAC/KAZ/Q/1/Add.1, (23<sup>rd</sup> August 2006), p2.

emergencies and the action to take should they occur and on the prevention of terrorism and religious extremism, such as 'Terrorism as a contemporary world problem', 'Religious and extremist organizations and their links to terrorism' and 'What to do in an emergency'.”<sup>10</sup>

“In accordance with Presidential decree No. 3049 of 1 July 1996 “On the formation of a Ministry of Defence Cadet Corps and Government decision No. 309 of 27 March 1999 on “Matters regarding the establishment of the ‘Zhas Ulan’ national school named after General S.K. Nurmagambetov as a State institution”, educational institutions for children aged 11 years and over operate under the control of the armed forces. The main tasks of these institutions are: to provide free compulsory general secondary education, and intensive military training; to instil respect for human rights and fundamental freedoms; to develop children’s personalities, talents, skills and physical capacities; and to prepare them for a conscientious life in the spirit of understanding of the world, tolerance and equality.”<sup>11</sup>

and

“According to official figures provided by the education authorities, at the beginning of the 2005/06 school year, some 4,000 children, or 0.01 per cent [*this is nonsensical - presumably 1% is the correct figure*] of the country’s total school-going population, were attending military schools at different levels and of the various types and profiles. According to recent data, some 65 per cent of the pupils finishing these schools opt for the career of regular officers in the military.

“In compliance with the laws and regulations in force in Kazakhstan, the Jas Ulan national military school enrolls children from the ages of 12 or 13, and the national military boarding schools take boys from the ages of 15 or 16. The decision to enrol children at these schools and for them to learn the rudiments of military service is voluntary and taken by parents and the children themselves. The military boarding schools are general education schools and, under Kazakh law, pupils at the schools may not be involved in armed conflicts or other activities of a military nature.

“Following the basic military training syllabus and the military school curricula, pupils start learning to handle and use firearms (airguns, rifles from the Tula Armoury and Kalashnikov assault rifles) from the ages of 16 or 17. Currently, in all educational establishments (schools and colleges of various types) shooting skills and techniques are taught with the use of air rifles.”<sup>12</sup>

It is also disturbing that, despite having declared on ratifying the Optional Protocol that the minimum age for voluntary recruitment was 19 years, Kazakhstan should, in replying to a question on the subject of voluntary recruitment in the list of issues presented by the Committee on the Rights of the Child, have limited itself to quoting the absolute provision in the Convention on the Rights of the Child itself on the recruitment of children under 15.<sup>13</sup> This perhaps represented sensitivity regarding the fact that pupils at the national military boarding schools become members of the Cadet Corps, and if at the age of 18 they do not sign up to five years military service on graduation they become liable to repay the cost of their education.<sup>14</sup>

#### Conscientious objection to military service

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<sup>10</sup> CRC/C/OPAC/KAZ/1 (21<sup>st</sup> November 2005), para 18

<sup>11</sup> Ibid, para 13.

<sup>12</sup> CRC/C/OPAC/KAZ/Q/1/Add.1, p3

<sup>13</sup> Ibid, p 2-3.

<sup>14</sup> Coalition to Stop the Use of Child Soldiers, Child Soldiers Global Report 2008 (London, 2008), p. 195.

The Military Duty and Military Service Act contains no provisions recognising conscientious objections to such service. With the very small numbers actually conscripted, there have been no reports in recent years of any conscientious objectors coming forward. In the mid 1990's, however, a number of Jehovah's Witnesses were imprisoned for refusal to perform military service.<sup>15</sup> In 1997, however, the Jehovah's Witness community in Kazakhstan came to an agreement with the Government that all its members would be treated as religious ministers, who would benefit from exemption from military service under Article 16 of the 1992 Military Service Act;<sup>16</sup> this became Article 27 of the 2005 Act. Since that date there have been no reported cases of the imprisonment of conscientious objectors in Kazakhstan. Of course the agreement itself, which seems to have held even though Jehovah's Witnesses suffer from the generally repressive approach towards minority religious groups,<sup>17</sup> does not constitute a recognition of conscientious objection, and to the extent that it has the effect of exempting from military service people who might otherwise be conscientious objectors would discriminate against any conscientious objector other than a Jehovah's Witness or a person similarly recognised as the equivalent of a minister of religion.

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<sup>15</sup> Horeman, B. & Stolwijk, M., Refusing to Bear Arms, War Resisters International, London, 1998

<sup>16</sup> Makowski, S., "An unrecognised human right: Conscientious objection in the Caucasus and Central Asia.", in The Broken Rifle No. 56 (War Resisters' International, London, November 2002.).

<sup>17</sup> See for example Shipina, W. "Problems associated with religious freedom in the Commonwealth of Independent States as shown by the example of Jehovah's Witnesses: 5. Republic of Kazakhstan" (pp.196-9) and Artemyev, A. "The religious situation in today's Kazakhstan"(pp 267-80) in Besier, G. & Seiwert, H (Eds), On religious liberty in a democratic society: Aspects of law, religion and philosophy in constitutional theory and reality, LIT Verlag, Berlin (Religion-Staat-Gesellschaft: Journal for the Study of Beliefs and Worldviews, 10 Jahrgang (2009), Heft 2), 2010.