



# **Conscience and Peace Tax International**

**Internacional de Conciencia e Impuestos para la Paz**

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

International non-profit organization (Belgium 15.075/96)

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**Submission to the 102nd Session of the Human Rights Committee: July 2011  
for the attention of the Country Report Task Force on  
TURKMENISTAN  
Conscientious objection to military service and related issues**

prepared April 2011

**The particular concerns of CPTI (Conscience and Peace Tax International) are:**

- i) the non-recognition of conscientious objection to military service**
- ii) imprisonment and repeated imprisonment of conscientious objectors**
- iii) pressure to change religion or belief**
- iv) conditions of imprisonment for, and mistreatment of, conscientious objectors**
- v) the age of military recruitment**
- vi) the use of military conscripts to provide forced labour in the civilian economy**

## Non-recognition of conscientious objection to military service

Under Article 38 of the Constitution, all men are obliged to perform “general military service”. This principle has been given practical effect in Acts on Conscription and Military Service, with intermittent modification by presidential decree. The Conscription and Military Service Act of 1993 stipulated that men aged between 18 and 30 were liable to conscription, and reduced the duration of obligatory military service from the 24 months which had applied in Soviet times to 18 months. It also introduced a category of voluntary “contractual” military service, which was however reportedly abolished by presidential decree in 2001. The 1993 Act was amended in 1998, then replaced by a new Act on 25th March 2002. The 2002 Act, the provisions of which are detailed in Turkmenistan's initial report under the ICCPR<sup>1</sup> re-established the 24 months period of service.

The only reference to conscientious objection in the Report is an oblique one:

“No one may fail to fulfil his/her legal obligation on the grounds of his/her religious persuasion. Replacing fulfilment of an obligation with the fulfilment of another on the grounds of religious persuasion is permitted only in the cases provided for by the law.”<sup>2</sup>

As is made clear in the account of the Military Obligations and Service Act, which appears in the section dealing with forced labour (Article 8), there is in fact no legal provision for conscientious objection to military service, and indeed even unarmed service within the military is unavailable..

It is reported that a new Law on Military Obligation and Military Service was adopted by the Mejlis (Parliament) on 25 September 2010, but that this continues to make no provision for alternative service for conscientious objectors.<sup>3</sup>

## Imprisonment and repeated imprisonment of conscientious objectors

In Turkmenistan, those who express a conscientious objection and refuse to perform military service are liable to prosecution for “evading” such service under Article 219(1) of the Criminal Code, under which the penalty is up to two years of either corrective labour or imprisonment. Those who have served such a penalty remain subject to call-up and if they persist in their refusal may be sentenced for a second time; as this is seen as a repeat offence, such persons may be subject to a stricter prison or work-camp regime. Article 16(3) of the Conscription and Military Service Act stipulates that those who have served two sentences for evasion are thereafter exempt from military service.

At least 27 conscientious objectors have been sentenced under Article 219(1) since 1999. Details are given in the appended table, to which reference should be made for the background on any named cases. All those listed have been from the Jehovah's Witnesses community. (One, Nasyrlaev, is recorded as being “the son of a baptised Jehovah's Witness who has not yet himself been baptised”.)

CPTI is not aware of any instance where a conscientious objector has been sentenced for a third time, in breach of Article 16.3. The fact that convictions do eventually discharge the obligation to perform military service must be acknowledged as a positive feature, but with the reservation that *no* imprisonment and *no* repeated conviction of conscientious objectors can be considered

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1 CCPR/C/TKM/1, 19<sup>th</sup> February 2010, paras 334 – 337.

2 Ibid, para 568.

3 Corley, F. “TURKMENISTAN: AMID NEW SENTENCES, NEW LAW FAILS TO INTRODUCE ALTERNATIVE CIVILIAN SERVICE” Forum 18 News Service <<http://www.forum18.org>>, 4<sup>th</sup> October 2010

acceptable.

It may also be noted that although thousands of prisoners in Turkmenistan are released in presidential amnesties marking various national and religious festivals, the last conscientious objector to benefited from such an amnesty was released from a suspended sentence in February 2008.

### Pressure to change religion or belief

There have been disturbing reports that prisoners detained in Turkmenistan come under pressure to swear on the Koran an oath of allegiance to President and State. As far as Jehovah's Witnesses are concerned, this is a double violation of their freedom of thought, conscience and religion; they do not accept the Koran as a sacred text; but in any event they have a conscientious objection, based on biblical authority, to the taking of oaths in any form and under any circumstances.

Zakirov was allegedly not been released at the end of his first sentence in 2000 when he refused to take such an oath. An earlier offer of a pardon had been subject to the same condition. Nasyrov and Matveyev were allegedly beaten on April 14<sup>th</sup> 2004 for refusing to take an oath of allegiance.

Some of the prisoners released in an October 2007 amnesty were shown on television swearing an oath of allegiance on the Koran. However, it does not appear that on this occasion any Jehovah's Witnesses were asked to do so.

Relatives reported that the judge told Ashirgeldiev after his 2007 trial that he would be called up again in two years time and if he repeated his refusal would face imprisonment of between three and five years. The maximum imprisonment reportedly threatened would not appear to be consistent with any provision of Article 219.1. Ashirgeldiev is also in the situation of requiring a stamp from the Military Commissariat on a permit to apply for work. This is repeatedly being refused.

The Annamamedov brothers from the western town of Serdar (formerly Gyzylarbat) were initially in 2008 given suspended sentences. When – in front of the same judge and prosecutor - they refused to change their position when faced with a repeated call-up the following year, this was treated as grounds for enforcing the sentence of imprisonment.

### Imprisonment conditions and mistreatment of conscientious objectors

Most conscientious objectors are imprisoned in the general regime labour camp some six kms from Seydi in the desert. One former inmate reported that although it was designed to hold 2,100 prisoners, “. in 2007, when he was imprisoned [...] there were then some 3,500 prisoners in six or seven barracks. He said the temperature in the summer is close to being unbearably hot. He said prisoners under 50 year of age work ten hour days (with a lunch break) in the camp's industrial zone, in the brick factory, metalworking plant or clothing factory. He said food and water is adequate "though not wonderful"<sup>4</sup>

Most notorious was the treatment of Zakirov. As already reported he was not released at the end of his sentence when he refused to take an oath. Following an incident on that occasion, he was

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4 Corley, F., "TURKMENISTAN: SENTENCES ON CONSCIENTIOUS OBJECTORS A "STATE SECRET"?", Forum 18 News Service <<http://www.forum18.org>>, 3<sup>rd</sup> February 2010.

charged with assaulting a member of the security services, and was sentenced to eight years in the high-security corrective labour colony (ITKSR) at Chärjew. Zakirov maintains that the evidence of the alleged assault was concocted by one officer tearing the shoulder straps off his own uniform in the presence of the supposed witnesses.

At a later date, he was transferred to the maximum-security prison in Turkmenbashi. This, to quote the Jehovah's Witnesses "is known as a place from which prisoners rarely are released in good health. Many die. The cells are plain concrete rooms with one window—without glass or any cover—that is open all year long. In the wintertime the cells are freezing, and in summertime they are extremely hot. The food consists of some kind of slime made of sprat (herring) and macaroni."<sup>5</sup>

In the maximum-security prison. Zakirov was entitled to one visitor every six months. When the time came for the visit, however, his visitor was refused access, being told that he was subject to a "special note". "In January 2003", the Jehovah's Witnesses report, "Zakirov was badly beaten by the prison guards and then confined with known homosexual rapists (in the prison-language called *harem*). Once a prisoner is confined there and labeled as belonging to the *harem*, it is impossible to change his status in the prison community. Those labeled this way are regarded as the very lowest class among the prisoners and are commonly treated like animals and as having a loathsome disease. Those who knew Zakirov before prison say that this, together with other "treatment," has had a tremendous impact, ruining his mental and emotional balance."<sup>6</sup> Subsequently, a portrait of Zakirov was displayed in the prison, labelling him an "enemy of the people", in a clear incitement to mistreatment by the other prisoners. When he was eventually released Zakirov's arms were covered in needle marks, and his behaviour was such as to suggest that in prison he had been injected with psychotropic drugs. He initially had to be confined in a mental hospital.

It is reported that in November or early December 2009 the four then imprisoned conscientious objectors (Ushotov, Egendurdiev and the Annamamedov brothers) were visited and questioned in Seydi labour camp by officials "who did not identify themselves or say which government agency they represented [...] Immediately afterwards [they] were sent to punishment cells for three days, on what Jehovah's Witnesses insist were fabricated accusations. Parents of the four prisoners then lodged complaints to local Prosecutor's Offices and the General Prosecutor's Office in Ashgabad, and sent telegrams to the President. Replies to their complaints insisted that the treatment of the prisoners in labour camp was fair and in accordance with the law. However, soon afterwards an official commission visited the labour camp and the accusations against the four were reportedly withdrawn. [but] after the commission left the labour camp [...] Ushotov, Egendurdiev, Nasyrlaev and Sakhetmurad Annamamedov were each punished again, by being sentenced to one month's detention in the camp isolation punishment cells."<sup>7</sup> The Jehovah's Witnesses believe that the purpose of the punishments was to ensure that the imprisoned conscientious objectors were not eligible for the general amnesties proclaimed in December 2009 and May 2010, respectively.

In August 2010, when the parents of Byashimov, were able to have a brief meeting with him in prison, they allegedly "saw that he had been beaten black and blue,"<sup>8</sup>

5 General Counsel of Jehovah's Witnesses. Evidence submitted to the OHCHR in response to the questionnaire on "best practices concerning the right of everyone to have conscientious objections to military service", March 2005. The text is reprinted in the chapter by Shipina, W. "Problems associated with religious freedom in the Commonwealth of Independent States as shown by the example of Jehovah's Witnesses" 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, pp.181-227, at p216.

6 Ibid

7 Corley, F., "TURKMENISTAN: JAILED CONSCIENTIOUS OBJECTORS PUNISHED AGAIN", Forum 18 News Service <<http://www.forum18.org>>, 24<sup>th</sup> May 2010

8 Corley, F. "TURKMENISTAN: AMID NEW SENTENCES, NEW LAW FAILS TO INTRODUCE ALTERNATIVE CIVILIAN SERVICE" Forum 18 News Service <<http://www.forum18.org>>, 4<sup>th</sup> October 2010

### The age of military recruitment

The Conscription and Military Service Act of 2002 (in Para 15) reduced the recruitment age to 17, for those who applied in writing. A Presidential Decree of March 2003 reportedly lowered the minimum age for obligatory recruitment to 17.<sup>9</sup> There have been no explicit reports of the repeal of this decree, but the initial report of Turkmenistan to the Committee on the Rights of the Child<sup>10</sup> mentioned only voluntary recruitment at the age of 17, although from the ambiguous language it appears that this relates to the early admission to obligatory military service, rather than to any completely voluntary service. This is also the impression given in

The lowering of the recruitment age had been connected with the reduction of the length of schooling from ten years to nine, and was justified in terms of reducing youth unemployment. It is believed that there was considerable family pressure on otherwise unemployed seventeen-year-olds to “volunteer”. A Presidential Decree issued by President Berdymuhammedov in March 2007, the month after he took office, restored the ten year period of education, but it is reported that as of the Autumn call-up of 2007, seventeen-year-old “volunteers” were still accepted.<sup>11</sup>

It is reported that under the Law on Military Obligation and Military Service adopted in September 2010, the age for conscription will be from 18 to 27.<sup>12</sup> It is not however explicitly stated that the provision allowing early voluntary recruitment has been removed.

### The use of military conscripts to provide forced labour in the civilian economy

Although often seen by the families of recruits as a welcome alternative to probable involvement in drugs and/or crime, the armed forces are reportedly themselves heavily tainted by both, and conditions for recruits are very poor.

There had long been reports of conscripts being hired out as labour to private employers. During the final years of the Niyazov era large numbers of civilian workers were dismissed and their places taken by conscripts. Payment was left to the agencies employing them, health service, traffic police etc. In practice, conscripts frequently went unpaid, and were reduced to crime or begging on the streets.<sup>13</sup>

### Universal Periodic Review and Special Procedures of the Human Rights Council

The reference in the State Report to the to the visit of the Special Rapporteur on Freedom of Religion or Belief (Ms Asma Jahangir) in October 2008 does not mention that one of her principal conclusions concerned the question of conscientious objection to military service:

“During her mission, the Special Rapporteur was very encouraged by the political will expressed by certain of her official interlocutors to address the issue of conscientious objection and to find a suitable solution. She is aware that the authorities have attempted to accommodate conscientious objectors by offering them military positions which do not involve the use of weapons. Although this demonstrates the willingness on the part of the authorities to offer an alternative to these persons, the Special Rapporteur would like to draw the Government’s attention to resolution 1998/77 of the Commission on Human Rights. Accordingly, conscientious objectors should be

9 Coalition to Stop the Use of Child Soldiers, Child Soldiers Global Report 2004 pp 182-3.

10 CRC/C/TKM/1, para 189.

11 Coalition to Stop the Use of Child Soldiers, Child Soldiers Global Report 2008 p 344.

12 Corley, F. “TURKMENISTAN: AMID NEW SENTENCES, NEW LAW FAILS TO INTRODUCE ALTERNATIVE CIVILIAN SERVICE” Forum 18 News Service <<http://www.forum18.org>>, 4<sup>th</sup> October 2010

13 Coalition to Stop the Use of Child Soldiers, Child Soldiers Global Report 2008 p 344

provided with various forms of alternative service compatible with the reasons for conscientious objection, of a non-combatant or civilian character, in the public interest and not of a punitive nature.”<sup>14</sup>

Moreover, the Special Rapporteur recommended:

“the Government should ensure that conscientious objectors in Turkmenistan, in particular Jehovah’s Witnesses who refuse to serve in the army due to their religious beliefs, be offered an alternative civilian service which is compatible with the reasons for conscientious objection. As such, the Government should also revise the Conscription and Military Service Act which refers to the possibility of being sanctioned twice for the same offence. The Special Rapporteur would like to recall that according to the principle of “ne bis in idem”, as enshrined in article 14 (7) of the International Covenant on Civil and Political Rights, no one shall be liable to be tried or punished again for an offence for which he or she has already been convicted or acquitted in accordance with the law and penal procedure of each country.”<sup>15</sup>

When in December 2008 Turkmenistan reported to the third Session of the Universal Periodic Review Working Group, Slovenia “commended the visit by the Special Rapporteur on freedom of religion or belief, but was concerned about a large number of pending visit requests by special procedures [... and] “enquired about the Government’s recognition of conscientious objection to military service. It recommended that Turkmenistan recognize this and stop prosecuting, imprisoning and repeatedly punishing conscientious objectors.”<sup>16</sup>

In the report of the Working Group, Turkmenistan undertook to provide its response to this recommendation in time to be included in the Outcome Report<sup>17</sup> but in the event no response to that particular recommendation was given. (Later in the cycle the Human Rights Council was to become stricter in requiring a clear response from the State Under Review to every recommendation made). However, at the same Tenth Session of the Human Rights Council, there was an indication from Turkmenistan’s intervention in the interactive dialogue with the Special Rapporteur on Freedom of Religion or Belief that it was preparing legislation to allow conscientious objectors to perform unarmed military service in, for example the medical or engineering branches of the Ministry of Defence.. Nothing further has been heard of this suggestion.

The lack of arrangements for conscientious objectors has been a continuing concern of the mandate on Freedom of Religion or Belief in its follow-up to the state visit. Moreover, on 12th February 2010 the Special Rapporteur, jointly with the Chair-Rapporteur of the Working Group on Arbitrary Detention, made an Urgent Appeal to Turkmenistan regarding the cases of Nasyrlaev, the Annamamedov brothers, Ushotov and Egendurdiev. As of 5th February 2011, no reply had been received. In his first report to the Human Rights Council as Special Rapporteur on Freedom of Religion or Belief, Mr. Heiner Bielefeldt reiterated the recommendations of his predecessor, and particularly drew Turkmenistan’s attention to Opinion No. 16/2008 of the Working Group on Arbitrary Detention<sup>18</sup>, in which “the Working Group declared arbitrary the imprisonment – including the first term in case of repeated convictions – of a conscientious objector as being in violation of the rights guaranteed by article 18 of the International Covenant on Civil and Political Rights.”<sup>19</sup>

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14 A/HRC/10/8/Add.4, 12<sup>th</sup> January 2009, para 61.

15 Ibid, para 68.

16 A/HRC/10/79, 6<sup>th</sup> January 2009, Para 30.

17 Ibid, Para 70.12

18 A/HRC/10/21/Add.1, pp. 139 - 147

19 A/HRC/16/53/Add.1, 5<sup>th</sup> February 2011, para 390.

**Suggestions for the list of issues:**

**With regard to paragraphs 334 to 337 of the State Party's report, which make no reference to the situation of persons who have conscientious objections to military service, could the State Party please indicate what action it is taking to implement its obligation under Article 18 to accommodate such objections, and to end all persecution of conscientious objectors?**

**Can the State Party confirm whether the Law on Military Obligation and Military Service adopted in September 2010 ends the possibility that young men could voluntarily embark on military service before the age of 18?**

**Is the State Party taking steps to end the practice reported in the past of using conscripts as forced labour in the civilian economy?**





## Appendix: Imprisonment of Conscientious Objectors in Turkmenistan

Name	Date	Sentence (months)	Place of detention	Date of release & total time served
Kurban Bagdatovitch Zakirov (sentenced) (resentenced) (transferred)	23.04.1999 25.05.1999 May 2000 not known		pre-trial ITKOR ITKSR Charjew Turkmenbashi HSP	12.06.2004 61
Nuryagdy Gairov (repeated call-up) (sentenced)	1999 14.06.2007 18.07.2007	12 18	pre-trial (incommunicado)	? 09.10.2007 14
Aleksandr Zuev (repeated call-up)	June 2000 28.06.2007	18 24	(suspended)	? 09.10.2007 18
Nikolai Shelekhov (repeated call-up)	2001(?) 2002	12 18		02.01.2004 30
Rinat Babadzhanov	May 2003	18	IKTOR, Seydi	11.06.2004 13
Shohrat Mitogorov	May 2003	18	IKTOR, Seydi	11.06.2004 13
Ruslan Nasyrov	May 2003	18	IKTOR, Seydi	11.06.2004 13
Rozymamed Satlykov	May 2003	18	IKTOR, Seydi	11.06.2004 13
Aleksandr Matveyev	04.12.2003	24	IKTOR, Seydi	11.06.2004 6
Mansur Masharipov	28.05.2004	18	IKTOR, Seydi	16.04.2005 10
Vepa Tuvakov	03.06.2004	18	IKTOR, Seydi	16.04.2005 10
Atamurat Dadebayevich Suvkhanov	17.12.2004	18		16.04.2005 4
Begench Muratgeldiyevich Shakhmuradov	Feb. 2005	12		16.04.2005 2
Bayram Ashirgeldiev	20.07.2007	24	(suspended)	
Suleiman Udaev	07.08.2007	18		09.10.2007 2
Ashirgeldy Taganov	18.12.2007	18	(suspended) – amnestied Feb 2008	0
Vladimir Golosenko,	Feb. 2008	24	(non-custodial forced labour, with 20% of his salary going to the state)	
Sakhnetmurad Annamamedov (suspension revoked) (transferred) (transferred)	Nov. 2008 21.05.2009 24.05.2009 not known	24	(suspended) “the bullpen in Serdar” Turkmenbashi HSP IKTOR, Seydi	

Mukhammedmurad Annamamedov	Nov. 2008	24	(suspended)
(suspension revoked)	21.05.2009		“the bullpen in Serdar”
(transferred)	24.05.2009		Turkmenbashi HSP
(transferred)	not known		IKTOR, Seydi
Zafar Abdullaev	Apr. 2009	24	(suspended)
Dovran Kushmanov	Apr. 2009	24	suspended- subject to weekly reporting
Shaduri Ushotov	13.07.2009	24	IKTOR, Seydi
Akmurat Egendurdiev	29.07.2009	18	IKTOR, Seydi
Navruz Nasyrlaev	07.12.2009	24	IKTOR, Seydi
Aziz Roziyev	04.08.2010	18	Turkmenabad (formerly Charjew)
Dovleyet Byashimov	12.08.2010		pre-trial
(sentenced)	30.08.2010	18	
Ahmet Hudaybergenov	(arrested)07.09.2010	18	IKTOR, Seydi

HSP High Security Prison  
ITKOR Minimum Security Corrective Labour Colony  
ITKSR High Security Corrective Labour Colony

The information used to compile the above table was derived from the evidence submitted to the OHCHR in March 2005 by the General Counsel of Jehovah’s Witnesses. in response to the questionnaire on “best practices concerning the right of everyone to have conscientious objections to military service”, and from reports published by Forum 18 News Service <<http://www.forum18.org>>.