WORLD HEADQUARTERS OF
JEHOVAH'S WITNESSES
OFFICE OF THE GENERAL COUNSEL

INFORMATION ON CONSCIENTIOUS OBJECTION TO MILITARY SERVICE INVOLVING JEHOVAH'S WITNESSES

Jehovah's Witnesses are not against national service. Their conscience simply does not allow them to participate in one form of national service—military service. As a group, Jehovah's Witnesses are willing to perform alternative civilian service. In the light of worldwide experience, even in countries at war, there is ample room to conciliate the government's wishes for public welfare and national security with the willingness of Jehovah's Witnesses to perform national service solely of a civilian nature.

The situation in Taiwan is an excellent example. Jehovah's Witnesses have been taking part in an alternative service program and have been making a meaningful contribution for more than 15 years[1]. Taiwanese authorities have expressed their appreciation over the years for the effective cooperation of Jehovah's Witnesses.

Commendably, and more recently, Armenia, Belarus, the Kyrgyz Republic, and the Transnistria region have amended their laws to provide an alternative civilian service option for conscientious objectors, joining the majority of member States in recognizing the right to conscientious objection. Georgia and Greece have also extended this provision to those on reservist duty. Ukraine recently recognized that conscientious objection to military service is a fundamental human right that merits protection even during military mobilization. It is neither a selfish evasion of duty nor a threat to national interests and security.

Despite the above-mentioned developments, the issue raised by conscientious objection to military service remains acute in some places as illustrated by the following information, which is organized by countries. This document submitted on February 13, 2017, summarizes the current situation of conscientious objectors who are Jehovah's Witnesses as well as pending cases before the European Court of Human Rights (ECHR) and the UN Human Rights Committee (CCPR), including final rulings and remaining challenges.

Jehovah's Witnesses maintain a list of their members worldwide who are prisoners of conscience.

[1] In Taiwan, the Alternative Service Law and the revised Military Service Law were enacted on January 15, 2000.

A Bible-based Viewpoint

Jehovah's Witnesses respect the authority of the governments under which they live. In obeying the Scriptural injunction to "be in subjection to the superior authorities," the Witnesses are law-abiding citizens who pay their taxes and cooperate with governmental efforts to provide for the public welfare. (Romans 13:1)

Like first-century Christians, the Witnesses today do their best "to beat their swords into plowshares" and not to "learn war anymore." (Isaiah 2:2-4) Thus, during the Second World War, the Witnesses in all nations remained neutral, and for this they paid a high price. As several historians have documented at length, Jehovah's Witnesses as an organization were made the object of an extermination order by the Nazi regime because of a peaceful refusal to support Hitler's war effort. Moreover, in all the conflicts seen in recent decades—from Bosnia to Rwanda, and from Vietnam to the Middle East—no Witness of Jehovah has taken up arms.

Jehovah's Witnesses are grateful when governments exempt them from military service altogether or allow conscientious young men and women to perform nonmilitary civilian national service. (Romans 12:18; 14:19; 2 Corinthians 10:4; Hebrews 12:14) Furthermore, the Witnesses' neutral stand means that they do not interfere with those who choose to serve in the armed forces. Application of this simple principle makes Jehovah's Witnesses exemplary, peace-loving citizens from whom governmental authorities have nothing to fear.

I. ARMENIA

a) Current situation

On June 8, 2013, Armenia adopted amendments that brought Armenia's law on alternative service into harmony with European standards and adopted enabling regulations on July 25, 2013. Since the implementation of the amendments and the subsequent release of imprisoned conscientious objectors, there are no longer any prisoners of conscience in Armenia.

Although very reluctant to accept such a change for several decades, after only two years of experience and cooperation with Jehovah's Witnesses, members of the Republican Committee have acknowledged that the Witnesses are providing a valuable service to the Armenian government and are diligently performing their duties. In December 2016, the mayor of the city of Ejmiadzin and Yerevan Shengavit municipality awarded "Certificates of Appreciation" to six alternative civilian servants in recognition of their contribution to maintaining and improving the beauty of their city.

The Republican Committee responsible for coordinating and reviewing applications for alternative civilian service has been very cooperative in smoothing the implementation of the program.

As of February 7, 2017, 251 young men who are Jehovah's Witnesses have served in alternative service. All parties, including the directors of the alternative civilian service locations, are highly satisfied with the outcome of this positive change.

b) Case(s) decided by the ECHR

- *Bayatyan v. Armenia* [GC], no. 23459/03, July 7, 2011
- *Bukharatyan v. Armenia*, no. 37819/03, January 10, 2012
- *Tsaturyan v. Armenia*, no. 37821/03, January 10, 2012

II. AZERBAIJAN

a) Current situation

Although being a signatory to the European Convention on Human Rights (since 2001), Azerbaijan has failed to implement the judgment of the Grand Chamber of the ECHR in *Bayatyan v. Armenia* and the subsequent ECHR judgments in the cases of other conscientious objectors in *Erçep v. Turkey; Buldu and Others v. Turkey; Feti Demirtaş v. Turkey; Bukharatyan v. Armenia;* and *Tsaturyan v. Armenia*, all of which recognized the right of conscientious objection to military service as fully protected under Article 9 of the European Convention. Despite having informed the CCPR on July 14, 2016, that "alternative service is an option provided by the law,"[2] Azerbaijan has no provision for alternative civilian service.

b) Case(s) pending before the ECHR or CCPR

The following cases involving Jehovah's Witnesses are pending before the ECHR. There are no cases before the CCPR.

- *Mammadov v. Azerbaijan,* no. 45823/11, July 18, 2011
- *Mammadov & Huseynov v. Azerbaijan*, no. 14604/08, March 7, 2008
- *Mirzayev v. Azerbaijan*, no. 76127/13, December 3, 2013
- *Kamran Mirzayev v. Azerbaijan*, no. 41792/15, August 21, 2015

c) Case(s) decided by the ECHR

There are no judgments at present decided against Azerbaijan regarding Jehovah's Witnesses on this issue.

d) Remaining challenges

Although at present there are no Jehovah's Witnesses imprisoned in Azerbaijan as conscientious objectors, young Witnesses are in constant fear of being prosecuted and imprisoned because, despite its commitments to the Council of Europe, Azerbaijan has no provision for alternative civilian service.

III. BELARUS

a) Current situation

On June 4, 2015, a new law was adopted which permits persons with a religious objection to compulsory military service to perform alternative civilian service. The

[2] CCPR/C/AZE/Q/4/Add.1 § 155

Federal Law on Alternative Service No. 276-Z entered into force on July 1, 2016. Under that law, conscientious objectors will be assigned to perform community service in the fields of health care, social services, housing, agriculture, forestry, landscaping, construction, repair of roads and railways, and emergency services. All agencies involved in alternative service are under the jurisdiction of the Ministry of Labor and Social Protection of the Republic of Belarus.

b) Remaining challenges

The term of alternative service for citizens who do not have higher education is 36 months, and for those with higher education, 24 months. For ordinary soldiers, these terms are 18 and 12 months respectively. Thus, applying European and international standards, the term for alternative civilian service is "punitive" because it is double the length of that for compulsory military service. According to European standards, the length of alternative service should be no more than one and a half times longer.

In the meantime, between the law's adoption and its becoming effective, criminal charges against conscientious objectors were dropped and administrative cases for failure to report for military service were terminated. One notable exception is the case of Viktor Kalina. On February 10, 2016, the General Prosecutor's Office contested the court decisions acquitting Viktor Kalina, who had asked for alternative civilian service in lieu of military service. On March 18, 2016, the Belarus Supreme Court overturned the favorable lower court decisions and remanded the case for new proceedings. On May 18, 2016, the Court of Moskowskii (District of Brest) found Mr. Kalina guilty and fined him BYR 21,000,000 (USD 1,044). On June 24, 2016, the Brest Regional Court dismissed Mr. Kalina's appeal. He has appealed to the Chairman of the Brest Regional Court and to the Prosecutor of the Brest Region. Both dismissed the case on August 26, 2016. A further appeal to the Deputy Chairman of the Supreme Court was dismissed on January 26, 2017.

IV. ERITREA

a) Current situation

The Eritrean government has repeatedly imprisoned, tortured, harassed, and intimidated Jehovah's Witnesses since it became an independent country in 1993. In a Presidential Decree dated October 25, 1994, President Afewerki declared that Jehovah's Witnesses who are Eritrean by birth have revoked their citizenship "by their refusal to take part in the referendum, and have reconfirmed their position by refusing to take part in the National Service, thus deciding to revoke their citizenship."

There are 53 Witnesses currently imprisoned in Eritrea. Of these, 16 are known to be imprisoned for their conscientious objection to military service. The government has imprisoned Paulos Eyassu, Isaac Mogos, and Negede Teklemariam in the Sawa prison since September 24, 1994, because of their conscientious objection to military service. In the intervening 22 years, authorities have neither filed charges against them nor given them a hearing in court. Other male Witnesses have been imprisoned under the same circumstances for many years for their conscientious objection to military service. Aron Abraha has been in prison since 2001; Mussie Fessehaye, since 2003; Ambakom Tsegezab, since 2004; and three others, since 2005.

b) Case(s) decided or pending

There are no legal remedies to be pursued because Eritrea has not signed any international agreements for the protection of human rights.

c) Remaining challenges

The national military service requirement has no regulations or provisions for conscientious objection. To avoid being arrested by the military police that patrol the streets, most Witnesses between the ages of 18 and 40 are in hiding. The police arrest those whom they find and take them to a military camp. Once they express their conscientious objection to military service, the men are detained and usually tortured. Some of those of military age have fled the country to avoid persecution; others have been caught while fleeing.

The situation of Jehovah's Witnesses who are prisoners of conscience in Eritrea is described in an online report.

V. GEORGIA

a) Current situation

Alternative civilian service was available to those conscientious objectors who were called up for military service, but not to those called up for reservist duty. However, on September 20, 2012, the Supreme Court of Georgia handed down a decision that made alternative civilian service available to those called up for reservist duty.

Commendably, Georgia has implemented the September 20, 2012, decision of the Supreme Court of Georgia. Jehovah's Witnesses who are called up for reservist duty may opt to perform alternative civilian service.

VI. GREECE

a) Current situation

Legislation allows conscientious objectors to perform alternative civilian service in lieu of military service. The Law No. 3883/2010 amended the already existing law on alternative civilian service. It entered into force on September 22, 2010, and solved the remaining issue for reservist duty. Paragraphs 3 and 4 were added to Article 65 as follows:

> "3. Those who have served their draft military obligation in arms and refuse to fulfill their reserve obligations for reasons of conscience, shall, to the extent that they have been recognized as conscientious objectors, be exempted from call-ups for enlistment and shall be deleted from the reserve list of the Armed Forces by virtue of the decision stipulated in paragraph 1 of Article 62 of the present law.
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> 4. With regard to the procedure and requirements for recognition in the case of the persons mentioned in the previous paragraph, the provisions of Articles 59 to 64 of this law shall proportionally apply."

b) Case(s) pending before the ECHR or CCPR

There are no pending cases regarding Jehovah's Witnesses on this issue.

c) Case(s) decided by the ECHR

- *Georgiadis v. Greece*, May 29, 1997, *Reports of Judgments and Decisions* 1997-III
- *Tsirlis and Kouloumpas v. Greece*, May 29, 1997, *Reports of Judgments and Decisions* 1997-III
- *Thlimmenos v. Greece*, April 6, 2000, *Reports of Judgment and Decisions* 2000-IV.

VII. REPUBLIC OF KOREA

a) Current situation

Since 1950, 19,060 of Jehovah's Witnesses in the Republic of Korea have been sentenced to a combined total of 36,389 years in prison. As of December, 2016, there are 389 young Witnesses in Korean prisons. This is the largest number of conscientious objectors imprisoned in any country worldwide.

The standard sentence given is 18 months, but the effect of their imprisonment as conscientious objectors greatly exceeds the prison term. After these individuals are released from prison, their criminal record follows them for five years, significantly curtailing employment and educational possibilities. They carry the stigma of their criminal conviction their entire lives.

Examination of the right to conscientious objection to military service is currently pending with the Constitutional Court and has received more thoughtful attention from the country's judiciary. Since May 2015, courts have rendered 19 "not-guilty" decisions, including acquittals of three conscientious objectors by an appellate court.

Reservist duty

Conscientious objectors who are called up as reservists face multiple prosecutions and repeated punishments over an eight-year period. A reservist is not exempt from being repeatedly called up for the very training that he failed to perform. Even after paying fines or serving a prison term, he is then summoned for supplementary training in addition to basic training. If he refuses the basic and supplemental training, he is criminally prosecuted. He will continue to be prosecuted each time he refuses either training and is thus subject to "multiple jeopardy."

Dong-hyuk Shin, who served in the military before becoming one of Jehovah's Witnesses, was first summoned for reserve-forces military training in 2006. As a conscientious objector, he refused to serve, and through 2011, he was summoned at least 118 times and prosecuted and convicted 49 times. Mr. Shin was compelled to appear in court 69 times, received a total of 35 court verdicts, and was fined over USD 13,000. During this period, he had to change employment five times because of frequent absences from work.

Over 40 Witnesses are currently caught in the cycle of repeated prosecutions, fines, and possible prison terms. The fines vary according to jurisdiction and timing, but they are

generally 200,000 won (approximately USD 180) for the first conviction, 300,000 won (approximately USD 270) for the second conviction, 500,000 won (approximately USD 450) for the third conviction, and so on. Fines have been issued for as much as 3,000,000 won (approximately USD 2,700). In October 2014, the maximum fine was increased to 10,000,000 won (approximately USD 8,715) for a violation.

The burden of many prosecutions for an ever-increasing number of summonses means that many conscientious objectors are unable to pay the fines, which could amount to thousands of dollars each year. As a result, some are now registered as "wanted" criminals. Others have chosen to undertake labor in a "workhouse" (lock-up facilities inside a prison) instead of paying the fines. The length of such labor arrangements varies from one day to three years, depending on the amount of the unpaid fine [usually calculated at one day's labor for 50,000 won (approximately USD 50)]. Those who can pay their fine often jeopardize their employment because of the repeated time away from work to attend court proceedings.

b) Case(s) pending before the CCPR

There are 32 complaints pending before the CCPR from Jehovah's Witnesses who are conscientious objectors. These complaints are identified as:

- *Dong Hyuk Shin v. Republic of Korea*, filed on 22 June 2016, communication not yet registered
- *Jong-bum Bae et al. v. Republic of Korea*, Communication no. 2846/2016

c) Case(s) decided by the CCPR *(not implemented)*

- *Yeo-Bum and Mr. Myung-Jin Choi v. Republic of Korea*, Communications nos. 1321/2004 and 1322/2004, UN Doc. CCPR/C/88/D/1321-1322/2004
- *Min-Kyu Jeong et al. v. Republic of Korea,* Communications nos. 1642-1741/2007, UN Doc. CCPR/C/101/D/1642-1741/2007*Jong-nam Kim et al. v. Republic of Korea,* Communication no. 1786/2008, and UN Doc. CCPR/C/106/D/1786/2008
- *Young-kwan Kim et al. v. Republic of Korea, Communication no. 2179/2012*, UN Doc. CCPR/C/112/D/2179/2012

Note: The above four cases represent a total of 490 conscientious objectors.

d) Remaining challenges

The Republic of Korea's continuing policy is to prosecute and imprison young Witnesses as criminals for their conscientious objection to military service. Despite its international obligation to accept the decisions of the CCPR, the Republic of Korea has yet to implement CCPR rulings and concluding observations to take necessary measures to respect the rights of conscientious objectors.

On December 20, 2016, the Military Manpower Administration Office (MMAO) posted the personal information of conscientious objectors on its official website. The information includes name, age, address, and information on the alleged "evasion" of military service. This disclosure ignores the explicit recommendation of the CCPR "Concluding

Observations" (CCPR/C/KOR/CO/4 of December 3, 2015, para. 45) that the State party should ensure that conscientious objectors' personal information is not publicly disclosed.

The situation of Jehovah's Witnesses who are prisoners of conscience in Korea is described in an online report.

VIII. KYRGYZSTAN

a) Current situation

Kyrgyzstan's Law on the Universal Duty of Citizens of the Republic of Kyrgyzstan on Military and Alternative Service required those who choose alternative service to make payments to the Ministry of Defense for support of the military. This requirement violated the consciences of Jehovah's Witnesses who are conscientious objectors, making it an unacceptable alternative to military service.

On November 19, 2013, the Constitutional Chamber of the Supreme Court of the Kyrgyz Republic held that Kyrgyzstan's program of alternative service was unconstitutional. Kyrgyzstan courts have applied the decision of the Constitutional Chamber and acquitted 12 Witnesses who were convicted under the former law.

b) Case(s) pending before the CCPR

There are no pending cases before the CCPR.

IX. SINGAPORE

a) Current situation

The government of Singapore enforces compulsory military service and does not recognize the right of conscientious objection. Young men among Jehovah's Witnesses who conscientiously object to military service are subjected to two consecutive prison terms for a total of 39 months of imprisonment.

When a young man turns 18 years of age, he is required to enter Singapore's military. If he refuses for reasons of conscience, he is detained for 15 months in a military camp. At the expiration of his term, he is released and then immediately ordered to don a military uniform and participate in military training. If he again declines to do so, he is subject to a second court martial with a term of 24 months.

b) Case(s) decided or pending

There are no legal remedies to be pursued because Singapore has not signed any international agreements for the protection of human rights.

c) Remaining challenges

They are currently nine Witnesses imprisoned in Singapore. Singapore needs to take necessary measures in order to respect the rights of conscientious objectors.

The situation of Jehovah's Witnesses who are prisoners of conscience in Singapore is described in an online report.

X. TURKEY

a) Current situation

Despite the judgment by the Grand Chamber of the ECHR in *Bayatyan v. Armenia* on July 7, 2011, Turkey continues to prosecute and imprison Jehovah's Witnesses who are conscientious objectors. Three subsequent decisions by the ECHR (*Erçep v. Turkey*, *Buldu and Others v. Turkey*, and *Feti Demirtaş v. Turkey*) also confirm that Turkey violated Article 9 of the European Convention in this regard.

Young Witness males are subjected to repeated criminal prosecution for refusing military service. The Turkish military issued a mandate directing employers to dismiss Witnesses who refuse to perform military service. As a result of this mandate, several Witnesses have been dismissed from their jobs in recent months. Since they cannot find a new job for the same reason, this situation leads to civil death. As of February 2017, there were 59 young men facing prosecution as conscientious objectors.

b) Case(s) pending before the ECHR

There are no applications pending before the ECHR or the CCPR.

c) Case(s) decided by the ECHR or CCPR *(not implemented)*

- *Erçep v. Turkey*, no. 43965/04, November 22, 2011
- *Buldu & Others v. Turkey*, no. 14017/08, June 3, 2014
- *Feti Demirtaş v. Turkey*, no. 5260/07, January 17, 2012
- *Cenk Atasoy and Arda Sarkut v. Turkey*, Communications nos. 1853/2008 and 1854/2008, UN Doc CCPR/C/104/D/1853-1854/2008

d) Remaining challenges

There are no Witnesses currently in prison. However, Turkey has ignored ECHR and CCPR decisions and continues to subject Witness conscientious objectors to unending call-ups for military duty, repeated fines, and threats of imprisonment.

XI. TURKMENISTAN

a) Current situation

Turkmenistan does not recognize the right of conscientious objectors to military service. There is no law allowing for alternative civilian service. Until recently, Turkmenistan has prosecuted, imprisoned, and physically mistreated conscientious objectors to military service. In ruling on the CCPR complaint of *Zafar Abdullayev v. Turkmenistan*, the CCPR held that Mr. Abdullayev had been tortured by prison officials.

The CCPR concluded that the deplorable conditions of his imprisonment violated his right to be "treated with humanity and with respect for the inherent dignity of the human person." The CCPR directed that Turkmenistan expunge Mr. Abdullayev's criminal record to prevent similar violations in the future and that they adopt legislation "guaranteeing the right to conscientious objection."

b) Case(s) pending before the CCPR

There are 3 complaints pending before the CCPR from Jehovah's Witnesses:

- *Danatar Durdyyev v. Turkmenistan,* Communication no. 2268/2013
- *Juma Nazarov et al. v. Turkmenistan,* Communication no. 2302/2013
- *Arslan Dawletow v. Turkmenistan,* Communication no. 2316/2013

c) Case(s) decided by the CCPR *(not implemented)*

- *Zafar Abdullayev v. Turkmenistan,* Communications no. 2218/2012, UN Doc. CCPR/C/113/D/2218/2012
- *Navruz Nasyrlayev v. Turkmenistan,* Communications no. 2219/2012, UN Doc. CCPR/C/117/D/2219/2012
- *Mamatkarim Aminov v. Turkmenistan,* Communications no. 2220/2012, UN Doc. CCPR/C/117/D/2220/2012
- *Mahmud Hudaybergenov v. Turkmenistan,* Communications no. 2221/2012, UN Doc. CCPR/C/115/D/2221/2012
- *Ahmet Hudaybergenov v. Turkmenistan,* Communications no. 2222/2012, UN Doc. CCPR/C/115/D/2222/2012
- *Sunnet Japparow v. Turkmenistan,* Communications no. 2223/2012, UN Doc. CCPR/C/115/D/2223/2012
- *Dovran Matyakubov v. Turkmenistan,* Communications no. 2224/2012, UN Doc. CCPR/C/117/D/2224/2012
- *Akmurad Nurjanov v. Turkmenistan,* Communications no. 2225/2012, UN Doc. CCPR/C/117/D/2225/2012
- *Shandurdy Uchetov v. Turkmenistan,* Communications no. 2226/2012, UN Doc. CCPR/C/117/D/2226/2012
- *Akmurat Yegendurdyyev v. Turkmenistan,* Communications no. 2227/2012, UN Doc. CCPR/C/117/D/2227/2012

d) Remaining challenges

Turkmenistan has not adopted legislation to guarantee the right to conscientious objection. Since the above-noted decisions by the CCPR, Turkmenistan continues to prosecute and convict conscientious objectors, but no longer imprisons them. Instead, as a criminal sanction, since late 2013, the Turkmen courts have ordered conscientious objectors to pay 20 percent of their monthly salary to the State budget.

XII. UKRAINE

a) Current situation

The issue of conscientious objection during mobilization was recently resolved in Ukraine in the case of Vitaliy Shalaiko, one of Jehovah's Witnesses. Mr. Shalaiko had been accused of evading military service during mobilization because he requested alternative service when summoned for conscription.

The lower courts ruled in favor of Mr. Shalaiko and upheld the right to conscientious objection to military service. The prosecutor's office appealed the case to Ukraine's High Specialized Court for Civil and Criminal Cases.

In a judgment dated June 23, 2015, the High Specialized Court affirmed that "the trial court was fully justified in referring to the corresponding provisions of the European Convention on Human Rights and the judgments of the European Court of Human Rights." The High Court also agreed with the trial court that the judgment of the Grand Chamber of the ECHR in *Bayatyan v. Armenia* must be applied. In the case of Vitaliy Shalaiko, Ukraine's High Specialized Court made clear that the rights of conscientious objectors are protected even if a country mobilizes for armed conflict and not just when there are routine call-ups for military service. That decision is final, with no further appeal available.

XIII. OTHER REGIONS

1. Nagorno-Karabakh

a) Current situation

Nagorno-Karabakh does not have a law allowing for alternative civilian service. Therefore, young Witnesses of military age are imprisoned when they refuse to perform military service.

On December 28, 2011, Karen Harutyunyan was convicted and imprisoned for 30 months.

On September 30, 2014, Artur Avanesyan was convicted and sentenced to 30 months in prison for conscientious objection to military service. Mr. Avanesyan, who had lived in Nagorno-Karabakh and was also a citizen of Armenia, was detained by Armenian police in Yerevan and handed over to police from Nagorno-Karabakh, where he was subsequently charged, convicted, and imprisoned. Due to the involvement of the Armenian authorities, an application was filed with the ECHR. He was released on September 6, 2016.

b) Case(s) pending before the ECHR or CCPR

- *Avanesyan v. Armenia (Nagorno-Karabakh)*, no. 12999/15, March 12, 2015

c) Case(s) decided by the ECHR or CCPR

There are no cases from the ECHR or the CCPR against this region.

d) Remaining challenges

Nagorno-Karabakh's continuing policy is to prosecute and imprison young Witnesses as criminals for their conscientious objection to military service.

2. Transnistria

a) Current situation

On February 12, 2014, a new law concerning alternative civilian service went into effect. This law allows Jehovah's Witnesses to refuse military service.

b) Case(s) pending before the ECHR

- *Aslonian v. Moldova and Russia*, no. 74433/11, November 28, 2011

c) Case(s) decided by the ECHR or CCPR

There are no cases at present decided from the ECHR or the CCPR against this region.