INTERNATIONAL FELLOWSHIP OF RECONCILIATION  
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(CPTI)  

Submission to the 108th Session of the Human Rights Committee  

TAJIKISTAN  

(Military service, conscientious objection and related issues)  

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Paragraph 23 of the List of Issues reads:  
“Please provide information on the status of the implementation of the Committee’s previous concluding observations on the lack of recognition of conscientious objection to compulsory military service. Please respond to reports of forced recruitment and of incommunicado detention, for several days in “mobilisation facilities”, of persons seized for the purpose of enlistment. Please respond to information that minors may be recruited as military personnel under the 2010 amendments to the Law to Universal Military Obligation and Military Service. Please respond to allegations of irregular forced recruitment of young men under the age of 18.”  

There is no evidence that any action has been taken to implement the concluding observation referred to 1, and it is not addressed at all in Tajikistan’s Second Periodic Report.  

As well as the issues raised in Paragraph 23, this submission also addresses the broader issues of freedom of religion raised in Paragraphs 20 to 22 and one of the freedom of association cases referred to Paragraph 28 of the List of Issues.  

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1 CCPR/CO/84/TJK, 18 July 2005, para 20.
TAJIKISTAN: Basic information

Population (November 2011, estimated\(^2\)) 7,627,000

Conscription retained on independence from Soviet Union in 1991. All male citizens liable from the age of 18 to 27.


Duration of service: 24 months (18 months for graduates)

Call-ups in Spring and Autumn of each year.

NO provisions for conscientious objectors.

Minimum recruitment age\(^3\): 18 (but students in military schools, for which the admission age is no higher than 15, are classified as “voluntary military personnel”)

Manpower reaching “militarily significant age” in 20104: 76,430

Armed forces (including paramilitary) active strength, November 20115: 16,300

as a percentage of the number of men reaching “military age”: 21.3%

Defence budget US $ equivalent, 20116

Per capita (2011 population) $9.40

As % of GDP 1.0%

\(^2\) Source: The Military Balance 2012 (International Institute of Strategic Studies, London), which bases its estimate on “demographic statistics taken from the US Census Bureau”.

\(^3\) Source: Child Soldiers International (formerly Coalition to Stop the Use of Child Soldiers), Louder than words: an agenda for action to end state use of child soldiers, London, September 2012.

\(^4\) Source: CIA World Factbook. https://www.cia.gov/library/publications/the-world-factbook/index.html. The male population reaching “militarily significant age” - defined by the source as 16 - is more meaningful than total population in assessing the comparative impact of military recruitment in different countries.

\(^5\) As quoted by to the International Institute of Strategic Studies (London) in The Military Balance 2012.

\(^6\) The Military Balance, 2012. The 2013 edition (p.237) quotes $146m, rising in 2012 to $164m, for “defence and law enforcement expenses”.

**Background: Military Service in Tajikistan**

Tajikistan maintains a system of obligatory military service. Article 9 of the 1997 “Law On Universal Military Responsibility and Military Service” requires males aged between 18 and 27 to perform compulsory military service of 24 months. Those who are the only child in their family, who are the parent of two children, who have criminal convictions, who hold a doctorate degree, or who have lost a brother in military service, are also exempt. Students, shepherds and sole breadwinners for the family may postpone the liability. It was estimated in 2012 that 150,000 of some 600,000 citizens who were nominally liable for military service benefitted from an exemption or deferment, while a further 100,000 were working abroad. Following the Soviet precedent, there are two call-ups each year, in April/May and October/November. Early in 2003 the Minister of Defence was reported as saying that the process of professionalising the armed forces would start in five years time, but in fact nothing has been heard of such plans in recent years.

The Presidential Decree, dated 22nd September 2012, which announced the latest Autumn call-up, stipulated: “Taking into consideration the specific character of service in the border troops, the Ministry of Defence is to select conscripts for serving in the border troops in cooperation with the security and interior bodies immediately.” A large proportion of conscripts are posted to the border service, which until 2005 remained under Russian command, and with Russian officers. In 1997 the President estimated that 93% of 16,000 Russian border guards stationed in the country were Tajik conscripts. (This also implied the converse, that a majority of conscripts were serving in the border guards, not the army.) The border service has continued to be independent of the Ministry of Defence, now being run by the State Committee for National Security (GKNB), the successor of the Soviet KGB.

Military service is not popular in Tajikistan “because of its reputation for underfeeding, bullying and postings to remote locations”. Avoidance of military service is reportedly an important reason why so many young men leave to seek work in Russia or Kazakhstan, while it has been reported that others bribe officials “up to $100” to produce falsified certificates of the completion of military service. (In 2010 a recruitment officer and a doctor in the Soughd region were convicted of extorting bribes and forging certificates.) Yet other potential conscripts seek to evade military service by moving within the country, relying on poor national record keeping and lack of co-operation between local authorities.

In the circumstances it is not surprising that there have been many reports over the years of failures to reach recruitment targets. Such reports have also persistently indicated a resort to forced recruitment in an attempt to make up the shortfall. Conscription is in practice largely enforced by local draft commission officials, supported by “militia” (paramilitary police) officers, detaining young men in the street or even seizing them from private residences and taking them to the nearest military commissariat for purposes of enlistment. It has been reported that recruiters who do not meet their targets are at risk of losing their jobs “which may account in part for over-zealousness in

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9 Yudolshev, op cit (footnote 7)
14 Radio Free Europe/Radio Liberty, op cit
15 Rasulzoda, op cit
16 Horeman & Stolwijk, op cit
17 eg. Horeman & Stolwijk, op cit: Coalition to Stop the Use of Child Soldiers, op cit.
identifying potential candidates for conscription.\footnote{Child Soldiers International, (2012) op cit, p61.}

Over a five-year period, working primarily in the northern province of Sughd, the Young Lawyers Association “Amparo” has documented abuses in this system. A survey by Amparo of 922 young men conscripted in 2009 found that 325 of these – over a third of the sample - claimed not to have been enlisted through the correct procedures. During the Spring recruitment of 2010, over 200 allegations of irregular recruitment methods, mainly relating to “rounding up” and illegal detention, were made to the association.\footnote{Rasulzoda, op cit.}

In their contribution to a Joint NGO Submission for the Universal Periodic Review of Tajikistan, Amparo reported that, in violation of the law, persons were held incommunicado for several days in “mobilisation facilities”\footnote{“Joint Submission 1” to the Universal Periodic Review of Tajikistan, 2011, prepared by Public Associations of the Republic of Tajikistan, accessible from \url{http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRTJStakeholdersInfoS12.aspx} ; paragraph 49.} (It will be recalled that the Working Group on Arbitrary Detention had no hesitation in declaring that similar recruitment practices in Colombia constituted arbitrary detention.\footnote{Working Group on Arbitrary Detention, Opinion No. 8/2008, May 2008 (in A/HRC/10/21/Add. 3).}.) Amparo reported furthermore that sleeping and sanitary facilities at the “mobilisation facilities” were far from adequate.\footnote{“Joint Submission 1”, op cit, para 49}

The Draft Commissioners themselves are civilians, but appeals against their actions are heard by military courts.\footnote{Ibid, para 50.} (In a number of recent cases concerning Turkey,\footnote{Ercep v Turkey (Application n° 43965/04), Chamber judgement of 22\textsuperscript{nd} November 2011; Feti Demirtas v Turkey (Application n° 5260/07), Chamber judgement of 17\textsuperscript{th} January 2012; Savda v Turkey (Application n° 42730/05), Chamber judgement of 12\textsuperscript{th} June 2012.} the European Court of Human Rights has found that in the case of civilians who are contesting their initial recruitment into the armed forces, military courts do not constitute an impartial tribunal.) Appeal, furthermore, do not have a suspensory effect – the appellants are meanwhile incorporated in military units.\footnote{“Joint Submission 1”, op cit, para 50.}

Although only “deviators” who have not responded to the call-up may lawfully be detained by the recruitment authorities, it was reported that in practice those who were detained included persons who have not received call-up papers, persons who were entitled to (and in some cases had already supposedly been granted) exemption or deferment, and others who were under recruitment age, or were not even Tajik citizens. In particular, Amparo complains that many persons who should have qualified for exemption on medical grounds are cursorily passed fit for military service.\footnote{Eurasianet.org op cit (note 11).} The burden of proof regarding eligibility for medical exemption is placed firmly on the potential conscript.\footnote{“Joint Submission 1”, op cit, paras 52, 53 and 54.}

In its 2012 report, the organisation found that “the main factors contributing to violations of the rights of citizens during the conscription are extremely poor awareness of citizens about their rights and ways on protecting them, as well as unacceptable legal practice, non-observance of existing legal norms by officials.” A large part of their work therefore focused on making young people aware of their rights and giving free legal advice to victims of abuses in military recruitment and during military service.\footnote{Eurasianet.org op cit (note 12).} Among other complaints frequently considered by the organisation were:

- a pattern within the armed forces of dedovshina (bullying or “hazing” of new recruits), leading to desertions, suicides, disappearances and deaths;
- failure to pay the relevant compensation, social benefits and pensions to the families of conscripts who die on duty; and
- the illicit use of conscripts for non-military work.\footnote{“Joint that 1”, op cit, paras 52, 53 and 54.}
Reprisals against “Amparo” (Item 28 of the List of Issues)

As a result of a series of proceedings initiated by the authorities in June 2012, the dissolution of Amparo was finally completed on 13th February 2013.\(^{30}\) In paragraph 28 of the “List of Issues”, the Committee asks the State Party for information on the proceedings against Amparo.

According to Human Rights Watch, on 28 June 2012 officials of the Ministry of Justice “visited the group’s Khujand [Kokhand] office to conduct an unannounced, wide-ranging audit.”\(^{31}\) The following day the Ministry, in conjunction with the Department of Justice of Sughd Province, filed a suit to dissolve the organisation on the grounds of violations of the Law on Public Associations and the association's own charter. Amparo was notified of the case on 6th August, but was not presented with a copy of the audit report, as stipulated in article 17 of the Law on the Inspection of Economic Entities. Nor was it, as specified in Article 34 of the Law on Public Associations itself, notified in writing of the (alleged) irregularities which had been detected and given a month to rectify the situation.\(^{32}\)

Some of the allegations were technical and bureaucratic in nature: for instance that Amparo had changed its Charter and headquarters without going through the appropriate procedures of convening a General Assembly, appointing a Board of Directors and re-registering. Others, however, seemed to be a direct response to the effectiveness of their human rights activities. It was alleged that the organisation had without permission expanded its activities beyond the Sughd district where it was originally registered, that setting up a website in order to disseminate its reports was contrary to its own Charter and the applicable law, and also that it had conducted educational activities in secondary schools without applying for the appropriate licence.

Even if such reasons were considered legitimate grounds for closing an organisation down, members of the association denied the accuracy and/or the legal basis of all the allegations. In particular they argued that there was no basis for the claim that they might not legally operate a website, that all their activities in schools had been in conformity with the applicable laws and an agreement with the education ministry, and that a formal application for country-wide registration was at the time in question pending with the Ministry of Justice itself.\(^{33}\) Nevertheless, on 24th October 2012 the petition was upheld by the Court in Khokand, which ordered the winding-up of the association.

Human Rights Watch puts the action in the context of Amparo's most recent activities: “The [audit] visit came just weeks after a representative of Amparo spoke publicly about the need to monitor reports of torture and severe forms of hazing in Tajikistan’s army at a civil society seminar on torture organized by the European Union in Dushanbe. One month earlier, Amparo representatives provided a briefing about the abuse and hazing of military recruits in military facilities to the UN special rapporteur on torture, Juan Mendez, during his visit to Tajikistan.”\(^{34}\) It has also been reported that the audit followed the refusal of permission to hold a planned human rights education event.\(^{35}\)

Other observers claim that the organisation's real “offence” had been to attempt to expand its programmes to all parts of the country and in particular to look at conscription into the Border Service.\(^{36}\)

\(^{30}\) Private communication from former member, May 2013.


\(^{33}\) Human Rights Watch, op cit

\(^{34}\) Ibid

\(^{35}\) Front Line Defenders, op cit

\(^{36}\) Eurasianet.org op cit (note 12)
Juvenile recruitment

On 5th August 2002, Tajikistan ratified the Optional Protocol to the Convention to the Rights of the Child on the involvement of children in armed conflict (OPAC), and made a declaration that “the voluntarily [sic] recruitment of those under age of 18 to the armed forces of the Republic of Tajikistan shall be prohibited..” (All compulsory recruitment of that age group is prohibited under the optional protocol).

Nevertheless, there have been repeated allegations that as a result of the repeated resort to irregular forced recruitment documented above, young men aged under 18 have in practice been conscripted into the armed forces.

In its Second Periodic Report under the Convention on the Rights of the Child itself, the Government of Tajikistan played down the likelihood of juvenile recruitment, but confessed: “In 2002, the Ministry of Defence introduced a procedure for examining anonymous complaints in every recruiting office because of the complaints generated by the procedure for recruitment into the armed forces.”

As a result, “In 2004 nine senior military officials were sacked for enlistment offences and one senior officer was convicted of abuse of power by an army court. At least some of these cases reportedly involved under-age boys.” Further allegations of the same nature were made in 2006.

In 2010, an amendment to the Law on Universal Military Obligation and Military Service seemed to be in direct contravention of Tajikistan’s declaration under OPAC. Cadets and students enrolled in “military schools” were henceforth classified as “voluntary military personnel”, even though the admission age to military schools is no greater than 15. Moreover all men eligible to perform military service are subject to compulsory military training from the age of 16.

It is to be greatly regretted in view of these issues that although over ten years have passed since ratification, Tajikistan has yet to submit its initial report under the Optional Protocol to the Convention to the Rights of the Child on the involvement of children in armed conflict, and it should be encouraged to do so without further delay.

Conscientious objection to military service (Item 23 of the list of issues)

The Law On Universal Military Responsibility and Military Service states that alternative service may be carried out in accordance with legislation. There is apparently no specific mention of conscientious objection, and the legislation referred to has never existed. According to information provided to the Coalition to Stop the Use of Child Soldiers by UN TOP (the UN Tajikistan Office of Peacebuilding) in March 2004, an Alternative Service Law had been drafted, but had not been put before parliament. Nothing has subsequently been heard of this initiative.

In its concluding observations on Tajikistan's initial report under the International Covenant on Civil and Political Rights, the Human Rights Committee stated: “The Committee is concerned that the State party does not recognize the right to conscientious objection to compulsory military service (art. 18). The State party should take all necessary measures to recognize the right of conscientious objectors to be exempted from military service.”

The Committee's recommendation was echoed by the then Special Rapporteur on the Freedom of Religion or Belief, Asma Jahangir, in the conclusions of her report on her visit to Tajikistan in 2007, and she further emphasised that “in line with the Human Rights Committee’s

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37 CRC/C/TJK/2, 2oth April 2009, para 552.
40 Ibid
41 Coalition to Stop the Use of Child Soldiers, op cit.
general comment No. 22 (1993), [there should] be no differentiation among conscientious objectors on the basis of the nature of their particular beliefs; likewise, [...] no discrimination against conscientious objectors because they have failed to perform military service.” She also encouraged the Tajik Government “to ensure that no legislation is adopted which overstates the permissible limitations on the freedom to manifest one’s religion or belief, especially with regard to the issue of conscientious objection to compulsory military service.”

In the body of her report, the Special Rapporteur had observed:

“Neither the Constitution nor any other domestic legislation recognize the right to conscientious objection to compulsory military service. The draft law on freedom of conscience and religious association would even go further in prescribing that nobody be allowed to deviate from implementing obligations established by law on the grounds of personal religious beliefs. This would imply that conscientious religious practices must ultimately give way to general duties imposed by legislation. However, international human rights standards provide that freedom to manifest one’s religion or belief may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others.”

In that year a campaign led by the non-governmental organisation “Centre for Protection and Co-operation” prepared a draft Law on Alternative Service, which it proposed to place before Parliament, but there was no indication of any positive response from the Government to the Special Rapporteur's comments. On the contrary, it was reported that the Defence Ministry was contemplating striking the enabling clause from the Law On Universal Military Responsibility and Military Service.

In Tajikistan's Second Periodic Report, dated September 2011, this issue seems to go entirely unaddressed, despite the mention in the previous Concluding Observations.

Persecution of Religious Minorities (Items 20 to 22 of the List of Issues)

No reports have been received of the sentencing of individual conscientious objectors for their refusal to perform military service. This perhaps reflects the “chaotic” nature of the recruitment system. However it is reported that in October 2007 the activities of the Jehovah’s Witnesses and two evangelical Christian groups were suspended for three months as collective punishment for their members' refusal to perform military service. In fact, only one of the three – the Ehyo Church was eventually – in late 2008 – able to resume its activities. The “Abundant Life Christian Centre” closed down. Repeated applications from the Jehovah's Witnesses for the ban to be lifted and for registration under the new Freedom of Conscience and Religious Associations Act (see below) have been rebuffed. Furthermore, following a raid on a gathering of Jehovah's Witnesses in a private residence in June 2009, criminal charges were brought against seventeen persons, were supposedly dismissed that Autumn, after the issue was raised at the Human Dimension Implementation Meeting of the Organisation for Security and Co-operation in Europe, but were then reinstated the following May.

As the Special Rapporteur on Freedom of Religion or Belief had eloquently indicated in 2007, the failure to make any allowance for conscientious objection to military service is however

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43 A/HRC para 56.
44 Ibid, para 45.
46 Coalition to Stop the Use of Child Soldiers, op cit.
just one symptom of a widespread repression in all matters of religion and conscience.

As noted in Tajikistan's Second Periodic Report, the Freedom of Conscience and Religious Associations Act referred to by the Special Rapporteur was passed on 26th March 2009 and came into force the following month. In paragraphs 20 to 22 of the list of Issues, the Committee asks for more information on the compatibility with Article 18 of the Act, the associated changes to the Code of Administrative Offences, and the role of the new State Committee on Religious Affairs.

Among limitations which the Act places upon religious freedom are the stipulation in Article 8.4 that Tajik citizens may receive religious education only from State-licensed religious educational institutions. It is hard to reconcile this with the principle of the non-interference of the State in the operations of religious associations.” Moreover, the stipulation “With the written consent of parents or legal guardians, children between 7 and 18 years of age may, in their free time outside of school activities, be given religious instruction that does not follow the State education syllabus.” seems to deny the freedom of parents to obtain any religious instruction at all for younger children.

The Act is also reported to ban travel abroad for purposes of receiving religious education without State permission, and without having first pursued such studies in a licensed institution in Tajikistan. In the period 2004 -2007 there had been some much-publicised accusations that boys were being recruited or abducted in Tajikistan and taken to madrasa religious schools in Pakistan where they received military training from Islamist armed groups. It may be surmised that with such a conflation in their minds of religious study with illegal armed activity, the drafters of the Act failed adequately to distinguish the two – this would also explain the incongruous statement, in the section of the State Report dealing with “safeguarding the right to the freedom of thought, conscience and religion,” that “the establishment and operation of voluntary associations that (...) call for the violent overthrow of the constitutional system and the formation of armed groups are prohibited.”

No thought would appear to have been given to the likely efficacy of such a ban, and it seems to have been wilfully overlooked that this restriction would in fact bear most heavily on minority religious communities which have no licensed educational institutions in Tajikistan. A literal reading of the Act would imply that members of such communities were debarred altogether from receiving religious instruction.

The Act restricts the use of private residences for religious purposes. Whereas Article 20.3 states that religious rites and rituals can be conducted in residential buildings or private homes, Article 23.3 states that no teaching or preaching can take place in homes of citizens. The official interpretation elicited by “Forum18” is that Article 20 refers to specific festivals, but that all regular religious worship is covered by Article 23.

The Act further places extremely tight restrictions on the ability of religious believers in Tajikistan to join with their co-believers elsewhere. Article 10 distinguishes between “registered religious organisations” and “religious communities” which have been “approved” by local religious affairs officials. “Registered religious organisations” may apply for State permission to establish international links; “religious communities” are prohibited from doing so. Where does this leave any faith or belief system current elsewhere in the world which has not yet gained an official foothold in Tajikistan? Is the intention to shield the Tajik population from all religious ideas from outside the country?

In January 2011, a new Article 474-1 to the Administrative Code set penalties for

48 CCPR/C/TJK/2, 22nd September 2011, Pars 207.
49 Outlined in CCPR/C/TJK/2, Para 209.
50 Ibid, Para 212.
53 CCPR/C/TJK/2, Para 206.
54 Bayram (2012) op cit.
violations of the law on the production, import, export, sale and distribution of religious literature as well as of other objects and materials of religious significance" and established heavy fines. Amendments to the Law, imposing new controls on religious education came into effect in July 2011. The following month, a “Parental Responsibility Law” banned almost all young people from entering places of worship.\footnote{Bayram (2012) op cit}

In July 2012, three new Articles were added to the Code of Administrative Offences and the State Committee for Religious Affairs\footnote{See CCPR/C/TJK/2, Para 210} was given direct responsibility for handing down fines under these provisions. Article 474-4 set penalties for "Carrying out of educational and preaching activity by religious communities in institutions of pre-school, secondary school, primary professional, secondary professional and higher professional education, as well as in residential buildings or homes of citizens" – in other words it prohibited all religious activity outside officially-approved places of worship.

The most recent reports of religious repression\footnote{See Bayram, M. “Tajikistan: Religious political party members fined for religious activity” Forum 18 News Service, (www.f18.org), 22nd March, 2013.} have concerned members of the Islamic Renaissance Party. On 10\textsuperscript{th} February, it is believed that five women (only one name is known) in Kulyab in Khatlon Region in the south of the country were fined for bringing their children, aged between 6 and 13 into a celebration of the birthday of the prophet Muhammad in violation of the Parental Responsibility Law. The organiser of the event was referred to the State Committee for Religious Affairs for having organised an unauthorised religious meeting. Ten days later, in a village in the Sugd Region in the north of the country a woman member of the party was fined for having read from the Koran and led prayers at the start of a meeting for women members held in her house – the “offence” was compounded by not only taking place in domestic premises but on a Wednesday, whereas the organisation is permitted to worship only on a Saturday.