INTERNATIONAL FELLOWSHIP OF RECONCILIATION (IFOR) and CONSCIENCE AND PEACE TAX INTERNATIONAL (CPTI)

Submission to the 110th Session of the Human Rights Committee

KYRGYZSTAN

(Military service, conscientious objection and related issues)

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Basic information

Population (November 2012, estimated\(^1\)) 5,497,000

Military service: Obligatory for males aged 18 to 27 under the 1992 Law On Compulsory Military Service. Normal duration reduced in 1994 from 24 months (as inherited from the Soviet Union) to 18 months and again in 2005 to 12 months. Graduates serve for a shorter period, current duration not confirmed but probably 9 months.

Conscientious objection: Limited provisions introduced in the 1994 Law On Alternative (Non-military) Service. A “member of a registered religious organisation whose dogma forbids the use of arms and service in the Armed Forces” “may enlist for alternative service” whose duration is twice that of military service.\(^2\)

Minimum recruitment age\(^3\): 18, but cadets at the Higher Military Academy, for which the age of admission is 16, are classed as members of the armed forces.

Manpower reaching “militarily significant age” in 20104: 56,606
Armed forces active strength, November 20125: 10,900
as a percentage of the number of men reaching “military age”: 19.3%

Military expenditure (US $ equivalent), 20116 $232m
Per capita $42
As % of GDP 3.9%

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\(^1\) Source: The Military Balance 2013 (International Institute of Strategic Studies, London), which bases its estimate on “demographic statistics taken from the US Census Bureau”.

\(^2\) CCPR/C/113/Add.1, 3rd December 1999, Para 247.

\(^3\) 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](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 the International Institute of Strategic Studies (London) in The Military Balance 2013.

\(^6\) Stockholm International Peace Research Institute (SIPRI), April 2013.
In paragraphs 24 and 25 of the List of Issues, the Committee addresses the 2008 “Law on Freedom of Worship and Religious Organisations” and the 2009 Military Service Law:

24. Please provide information on efforts to bring the 2008 Law on Freedom of Religion and Religious Organization in line with Covenant provisions. Please provide data disaggregated by religion on the religious organizations which have been registered since the above law came into force.

25. Please explain how the 2009 Military Service Law complies with the Committee’s previous recommendation on conscientious objection. Please provide information on the arrest and detention of more than a dozen Jehovah’s Witnesses who were imprisoned owing to their refusal to enlist in the military and participate in alternative service.

We have no information about the amendments to the Law on Freedom of Religion and Religious Organization which the written replies indicate are currently under consideration, and cannot therefore judge to what extent they address the concerns outlined on page 5 below.

Regarding the Military Service Law, the decision of the Constitutional Chamber of the Supreme Court on November 19th 2013, which is referred to in the written replies, has also been reported through Jehovah's Witness sources. As the European Association of Jehovah’s Christian Witnesses indicated in their April 2013 submission to the Human Rights Committee, the Supreme Court had agreed to suspend proceedings against ten Jehovah's Witnesses who were refusing to perform either military service or the alternative service offered, in order to obtain a ruling on the constitutionality of the Military Service Law.

As reported by the Jehovah's Witnesses, their complaint was that the Law did not offer a truly civilian alternative service, as guaranteed by article 56.2 of the Constitution, especially in that under article 32.4 of the Law “alternative service includes making monetary contributions by those in alternative service to a special account of the Ministry of Defence...” They also complained that alternative service was supervised by military personnel, and that those who performed it were automatically entered in the military reserves. The Jehovah's Witnesses reveal that three of their members who were convicted in 2012 over their refusal to perform either military service or the existing alternative service had addressed individual communications to the Human Rights Committee in this respect.

The Court was unanimous in declaring that article 32.4 and various other articles were in conflict with the Constitution, and it directed the government to amend the law so as to make available a genuinely civilian alternative service. The Jehovah’s Witnesses are confident that...
pending the legislative amendments no further proceedings will be taken against their members for refusal of alternative service and that the past convictions will be reviewed.16

The Government reports17 that a draft law making the necessary amendments has already been submitted by the Ministry of Defence. However, it has not been possible to discover details of the draft. The Jehovah's Witnesses' report of their complaint does not indicate any overlap with the shortcomings identified in the Committee's previous concluding observations (see page 4 below) - recognition only of conscientious objectors from registered religions which explicitly prohibit the use of arms, discriminatory length of alternative service, and discrimination between citizens with regard to their military service obligations on the grounds of their educational qualifications. The amendments suggested to remedy the aspects of the Law which were found to be unconstitutional will not therefore necessarily address these shortcomings. It is suggested that the Committee carefully question the State party delegation in this respect.

Finally, on page 6, the present submission draws attention also to the disturbing evidence of militarisation of the secondary education system which emerged when Kyrgyzstan delivered its Initial Report under the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.

### Conscientious objection to military service

In its concluding observations on the initial report of Kyrgyzstan [“The Kyrgyz Republic”], which it examined in July 2000,18 the Committee noted “that conscientious objection to military service is allowed only to members of a registered religious organisation whose teachings prohibit the use of arms.” Citing Articles 18 and 26, the Committee also regretted “that the State party has not sought to justify why the provision on alternative service entails a period of service twice as long as that required of military conscripts, and why persons of higher education serve for a considerably lesser period in the military and in alternative service.” and recommended “Conscientious objection should be provided for in law, in a manner that is consistent with articles 18 and 26 of the Covenant, bearing in mind that article 18 also protects freedom of conscience of non-believers. The State party should fix the periods of military service and alternative service on a non-discriminatory basis.”

The Alternative Service which was introduced in Kyrgyzstan in 1994, and which was made available to those who were “a member of a registered religious organisation whose dogma forbids the use of arms and service in the Armed Forces”19 was not primarily intended for any form of conscientious objector. It was required of those exempted from military service on grounds of family circumstances (eg. fathers of children), or because a brother died while performing military service,20 and also apparently of some of those excused military service on health grounds.21 The legislation followed a pattern developed in some other former Soviet republics, notably Moldova. Instead of dedicated placements, those performing “alternative service” “work in the national economy of the Kyrgyz Republic regardless of the [organisation’s] departmental affiliation, form of

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16 Human Rights Without Frontiers, op cit
17 CCPR/KGZ/Q/2/Add.1, op cit, para 164.
19 CCPR/C/113/Add.1, 3rd December 1999, Para 247.
ownership and management structure and, as a rule, in the citizen's permanent place of residence.”

Seemingly, all that a person who is accepted for alternative service has to do is (under the supervision of the Ministry of Defence) find employment – perhaps even retain his previous employment. The only condition is that while he is performing alternative service 20% of his salary is diverted to the Ministry of Defence – thus a substantial military tax replaces uniformed service. By 1997, it appears that as many persons annually were embarking on alternative service as were serving as conscripts in the army, although it would seem that an equally large group were either completely exempted or successfully evaded conscription. It is not however known how many have at any stage applied, successfully or unsuccessfully, for recognition as conscientious objects. One isolated case was reported from In November 2001 when Dmitri Shukhov, a Baptist, was sent for a psychiatric investigation after his refusal to swear the military oath, having previously been told that he was ineligible for alternative service because of his church's failure to register.

An amended version of the Law on Alternative (Non-Military) Service was promulgated in June 2002. The duration of alternative service was reduced to 24 months (or 18 months for those with higher education). There is no indication, however, of whether the criteria on which “religious” applications could be accepted had been revised, and it is clear that conscientious objection on any wider grounds remained unrecognised. The reduction in the ratio between the lengths of military and alternative service was probably accidental; a Bill to reduce military service to 12 months (and to introduce a direct buying-out option) was approved by the Parliament in the same year, but ultimately rejected by the Government.

In July 2005 an amendment to the Law On Compulsory Military Service (No.1068-XII of 16th December 1992) finally brought the long-anticipated reduction to 12 months in the duration of military service, but there was no accompanying change in the duration of alternative service, which thus once again became twice as long. The possibility of “buying out” of all except a one-month training resurfaced in a law of 2009; a fee of 12,000 soma (approximately $250) was set. This part of the law was reportedly repealed the next year after a change of Government, and a Law of 15th June 2012 abolished the “recruiting mobilisation reserve” to which those who had taken advantage of the buying-out provision had been allocated, the authorities having come to the conclusion that a reserve force whose members had undergone only one month's military training was not useful.

There have however been no indications of any reform of the features which the Human Rights Committee singled out in its Concluding Observations on the Initial Report - recognition only of conscientious objectors from registered religions which explicitly prohibit the use of arms, discriminatory length of alternative service, and discrimination between citizens with regard to their military service obligations on the grounds of their educational qualifications. This last is a very common feature of military service legislation, but the Committee was quite right to question the objective validity of such discrimination, which would indeed seem to favour those who are already...

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22 CCPR/C/113/Add.1, 3rd December 1999, Para 247.
23 See statistics quoted by Horeman & Stolwijk, op cit
26 Referred to in the Initial Report under the ICCPR as “the Law On the Universal Military Obligation of Citizens of the Kyrgyz Republic” - the shorter title is used in Kyrgyzstan's Initial Report under the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (CRC/C/OPAC/KGZ/1, 16th May, 2006.)
28 Rogers, S. “Kyrgyzstan resumes conscription gets new defence minister” CentralAsiaOnline.com, 22nd July 2010.
in a more advantaged position. In this case, however, the answer may lie in the fact that “in higher educational establishments, male students attend classes in military faculties.”

“Law on Freedom of Worship and Religious Organisations”

The impact of this Law, which was approved by Parliament on 6th November 2008 and came into force in January 2009 may well, in combination with the wording of the Law on Alternative (Non-military) Service, lead to a worsening of the situation of conscientious objectors in coming years. Remarkably, the section of the Second Periodic Report dealing with Article 18 of the Covenant mentions this Law, but gives no details of its contents.

Although a formal registration requirement for all religious groups functioning in Kyrgyzstan was introduced by presidential decree in 1996, for many years registered and unregistered denominations of all faiths worshipped with very little interference by the authorities, in stark contrast to the situation elsewhere in Central Asia. The 2008 Law, however, requires all worshipping communities or congregations to re-register, showing that they contain at least 200 adult citizens. All gatherings for worship by unregistered groups are banned, as are also any form of proselytism, the distribution of religious literature or audio-visual materials anywhere other than in a property owned by the religious organisation concerned. Implementation has been even more repressive – Ahmadis and all Christian denominations except Russian Orthodox have been denied re-registration, or had their applications blocked. Forum 18 reveals that two individual communications from different Jehovah's Witness groups on this subject have been addressed to the Human Rights Committee. The Jehovah's Witness community in Kyrgyzstan grew steadily over the decade 1998 – 2008 from approximately 3,500 to approximately 4,500 adherents. If recognition were denied and they were effectively outlawed it would be very hard under the existing legislation for their members to be excused military service, to which they are implacably opposed. It must however be said that the recent negotiations with the Government over the alternative service law seem to indicate a rather more tolerant climate in which this outcome appears less likely.

30 CRC/C/OPAC/KGZ/Q/1/Add.1, 11th January 2007, p3
31 CCPR/C/KGZ/2, 3rd April 2012, paras 484 – 492.
33 Corley, F. “Kyrgyzstan: Eight raids, two official warnings in three months”
Militarisation in schools and juvenile recruitment

According to the Initial Report of Kyrgyzstan under the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, “male citizens desiring to pursue their studies at a military academy may be admitted to such an institution at the age of 17 or if they turn 17 in the year they enter the academy.” In other words, students aged 16 may be admitted. “Citizens admitted to military academies are deemed to be national servicemen and shall be called cadets. They shall be subject to the same obligations as those prescribed for national servicemen.”

It seems clear that this wording at present applies to just one institution “The Lieutenant-General Kalyinur Usenbekov Higher Military Academy”, in Bishkek, where, at the beginning of the 2005/2006 academic year, 26 of 104 cadets were aged 17.35 “First year cadets are not allowed to take part in military operations.”36 Written replies to supplementary questions by the Committee on the Rights of the Child revealed that entrants to the College must produce written authorisation from a parent or guardian, and that “all graduates continue their military service at officer rank (…), except for those discharged from military service for reasons of health or family circumstances.”37

When delivering its report, Kyrgyzstan was embarrassed by the fact that another institution, the Dair Asanov Kyrgyz State Military High School had recently come under the direct administration of the Ministry of Defence. From the discussion it appears that this had happened against a background of severe bullying.38 Statistics provided to the Committee on the Rights of the Child showed that the 212 15-year-olds at the start of the 2004/5 academic year, dwindled to a cohort of only 59 sixteen-year-olds at the start of the following year, as against something between 160 and 175 who might have been expected based on the figures from other years.39 Mass fighting between second and third year students at this school was again reported in April 2007.40 Whatever the problems of the Dair Asanov school, however, it is clear that pupils at this school, who generally enrol at the age of 14 or 15, are not considered to be serving members of the armed forces.

It also emerged when Kyrgyzstan reported under the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict that:

“Schoolchildren attend classes in military preparation and patriotism as part of their pre-recruitment preparatory course, for which two hours per week are assigned in the curriculums of general education schools for students in grades 10 and 11 (ages 15 and 16).” This includes “training and field exercises (…) over a period of three days (18 hours) in April and May, conducted together with the Ministry of Defence (…), during which pupils in the 11th grade learn to handle weapons and are taught how to shoot. Girls undergo practical training in (…) medical and nursing duties.”41

35 CRC/C/OPAC/KGZ/Q/1/Add.1, 11th January 2007, table included in para 2.
36 CRC/C/OPAC/KGZ/1, 16th May, 2006
37 CRC/C/OPAC/KGZ/Q/1/Add.1, p3.
38 CRC/C/SR.1220 (29th January 2007), paras 14, 17, 22, 24, 25.
39 CRC/C/OPAC/KGZ/Q/1/Add.1, table included in para 2.
41 CRC/C/OPAC/KGZ/Q/1/Add.1, p3