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

Submission to the 107th Session of the Human Rights Committee for the attention of the Country Report Task Force on TAJIKISTAN 

(Military service, conscientious objection and related issues) 

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Summary 

In its concluding observations on Tajikistan's initial report under the International Covenant on Civil and Political Rights, the 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.”\(^1\) There is no evidence that any action has been taken to implement this concluding observation, and it is not addressed at all in the Second Periodic Report. 

It is therefore recommended that the List of Issues ask above all what action the State Party has taken to implement this recommendation. 

Other issues which the Committee may wish to explore are:

persistent accounts of irregular forced recruitment into the armed forces. Such recruitment constitutes arbitrary detention. 

the reported ban since 2007 on all religious activity by the Jehovahs' Witness community in Tajikistan. 

and more generally the compatibility with Article 18 of the Covenant of the Freedom of Conscience and Religious Associations Act introduced in 2009, which severely limits the freedom of action of minority religious groups. 

The Committee may furthermore wish to note that at least one human rights defenders' organisation has been subjected to harassment which may be in reprisal for its investigations and publicising of abuses in the military recruitment system. 

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

Population (November 2011, estimated) 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: 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 $m equivalent, 20116 72
Per capita $9.40
As % of GDP 1.0%

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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
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 have 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 cooperation 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

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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.
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 identifying potential candidates for conscription.”

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.

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” (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. Amparo reported furthermore that sleeping and sanitary facilities at the “mobilisation facilities” were far from adequate.

The Draft Commissioners themselves are civilians, however appeals against their actions are heard by military courts. (In a number of recent cases concerning Turkey, 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.) Appeals, furthermore, do not have a suspensory effect – the appellants are meanwhile incorporated in military units.

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. The burden of proof regarding eligibility for medical exemption is placed firmly on the potential conscript.

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 focussed on making young people aware of their rights and giving free legal advice to victims of abuses in military recruitment and during military service. Among other complaints frequently considered by the organisation were

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19 Rasulzoda, op cit.
22 “Joint Submission1”, op cit, para 49
23 Ibid, para 50.
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25 “Joint Submission 1”, op cit, para 50.
26 Eurasianet.org op cit (note 11)
27 “Joint Submission 1”, op cit, para 51.
28 Eurasianet.org op cit (note 11)
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.29

In October 2012 “Amparo” was closed down by the authorities, ostensibly for moving its office without notification and for “publishing its findings on a website”. As grounds for banning of an organisation, these would in themselves seem to raise severe doubts with regard to the freedoms of association and expression. Nevertheless, local observers vehemently allege that these were just pretexts, and that the organisation's real “offence” had been to attempt to expand its programmes to other parts of the country and in particular to look at conscription into the Border Service.

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 resorting to irregular forced recruitment (see paras 15 – 17, 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,30 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.”31 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 15.32 Moreover all men eligible to perform military service are subject to compulsory military training from the age of 16.33

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.

29 “Joint Submission 1”, op cit, paras 52, 53 and 54.
30 CRC/C/TJK/2, 2nd April 2009, para 552.
33 Ibid
Conscientious objection to military service

The Law On Universal Military Responsibility and Military Service states that alternative service may be carried out in accordance with legislation.\textsuperscript{34} 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 UNTOP (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.”\textsuperscript{35}

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 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.”\textsuperscript{36}

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.”\textsuperscript{37}

Although 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, there was no indication of any positive response on the part of the Government. 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.\textsuperscript{38}

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

\textsuperscript{34} Coalition to Stop the Use of Child Soldiers, \textit{op cit.}
\textsuperscript{35} CCPR/CO/84/TJK, 18 July 2005, para 20.
\textsuperscript{36} A/HRC para 56.
\textsuperscript{37} Ibid, para 45.
Persecution of Religious Minorities

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.39 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 to the authorities for the ban to be lifted and 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 May40

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 just one symptom of a widespread repression in all matters of religion and conscience.

As noted in the Periodic Report,41 the Freedom of Conscience and Religious Associations Act referred to by the Special Rapporteur was passed on 26th March 2009. It came into force the following month. 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 principle42 “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.”43 seems to deny the freedom of parents to obtain any religious instruction 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.44 In the period 2004-2007 there had been some much-publicised accusations that boys were being recruited or abducted in Tajikistan and taken to madrassa religious schools in Pakistan where they received military training from Islamist armed groups45. It may be surmised that with such a conflation of religious study with illegal armed activity in their minds, 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

39 Coalition to Stop the Use of Child Soldiers, op cit.
42 Outlined in CCPR/C/TJK/2, 22nd September 2011, Pars 207.
43 Ibid, Para 212.
prohibited.” 46 If this is the case, no thought would appear to have been given to the likely efficacy of the provision in dealing with the problem identified, and the fact would seem to have been wilfully overlooked that this restriction would in fact bear most heavily on minority religious communities without any 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. 47

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 "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. 48

In July 2012, three new Articles were added to the Code of Administrative Offences and the State Committee for Religious Affairs 49 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.

46 CCPR/C/TJK/2, Para 206.
47 Bayram (2012) op cit
48 Bayram (2012) op cit
49 See CCPR/C/TJK/2, Para 210