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TURKMENISTAN: Seven conscientious objectors sentenced in 2016

By Felix Corley, Forum 18

Courts sentenced five Jehovah's Witness conscientious objectors in 2016 to two-year suspended prison terms for refusing compulsory military service on grounds of conscience. A sixth received an 18-month suspended sentence and a seventh a one-year corrective labour sentence. Turkmenistan ignored OSCE calls for the new Constitution to recognise conscientious objection.

Seven conscientious objectors – all of them Jehovah's Witnesses – are now known to have been convicted and sentenced in Turkmenistan so far in 2016 to punish them for refusing to perform compulsory military service on religious grounds. Five received two-year suspended sentences and the sixth an 18-month suspended sentence. The seventh received a one-year corrective labour sentence, where he lives at home under restrictions and a fifth of his wages are seized.

All seven young men were sentenced under Criminal Code Article 219, Part 1. This punishes refusal to serve in the armed forces in peacetime with a maximum penalty of two years' imprisonment or two years' corrective labour.

No conscientious objectors to military service are known currently to be imprisoned. Over many years, Jehovah's Witness young men have routinely been convicted for refusing compulsory military service on religious grounds. Although in earlier years some were given non-custodial sentences, most were imprisoned. The last known imprisoned conscientious objector, Ruslan Narkuliyev, was freed under amnesty in February 2015 (see F18News 18 February 2015 http://www.forum18.org/archive.php?article_id=2039).

Five young Jehovah's Witnesses are known to have been convicted for refusing compulsory military service and given corrective labour sentences in 2014 and 2015 (see F18News 5 July 2016 http://www.forum18.org/archive.php?article_id=2196).

Also, the United Nations (UN) Human Rights Committee in July found that Turkmenistan violated the rights of six further Jehovah's Witness conscientious objectors under the International Covenant on Civil and Political Rights (ICCPR). The latest decisions bring to 10 the number of such findings by the Committee against Turkmenistan in conscientious objection-related cases. The Committee also adopted a list of issues for consideration of Turkmenistan's record under the ICCPR (CCPR/C/TKM/Q/2). The full review is due to take place in Geneva in March 2017 (see below).

The new Constitution does not allow the right to conscientious objection, despite the recommendations of a legal review by the Organisation for Security and Co-operation in Europe (see below).

No conscientious objection, no alternative service

Turkmenistan offers no alternative to its compulsory military service. Article 58 of the new Constitution describes defence as a "sacred duty" of everyone and states that military service is compulsory for men. Military service for men between the ages of 18 and 27 is generally two years. A proposed Alternative Service Law was reportedly drafted in 2013, but officials have been unable to tell Forum 18 if and when it might be adopted (see F18News 29 September 2014 http://www.forum18.org/archive.php?article_id=2002).

President Gurbanguly Berdymukhamedov signed the new Constitution into law on 14 September. It ignored recommendations in a July 2016 legal review of the proposed Constitution by the Organisation for Security and Co-operation in Europe (OSCE). Among other human rights and freedom of religion and belief concerns, the review recommended that the Constitution should make explicit mention of the right to opt for an alternative to military service (see below).

The April 2016 Religion Law also repeated the ban on conscientious objection to military service. Members of several religious communities complained that "no religion" is allowed during military service (see F18News 18 April 2016 http://www.forum18.org/archive.php?article_id=2169). The latest revision of the Religion Law totally ignores a 2010 legal review of the then Religion Law, which criticised many of its provisions for violating international human rights standards. The Review called for many changes, including to allow conscientious objection to compulsory military service, as well as an end to the ban on the

exercise of freedom of religion and belief without state permission, and the ban on private teaching of beliefs (see F18News 20 December 2010 http://www.forum18.org/archive.php?article_id=1523).

No comment

No official was prepared to discuss with Forum 18 why young men continue to be convicted for refusing military service on religious grounds and why Turkmenistan has ignored calls by the United Nations (UN) and OSCE for a civilian alternative to compulsory military service to be introduced.

Following his usual response, Pirnazar Hudainazarov, Chair of the Mejlis (Parliament) Legislative Committee, refused absolutely to discuss anything. "Don't call here," he told Forum 18 from the capital Ashgabat [Ashgabat] on 3 October. "Ring the Foreign Ministry." He then put the phone down.

Telephones at the Foreign Ministry went unanswered on 3 October. Forum 18 was unable to reach Shemshat Atajanova, a department head at the government's Turkmen National Institute for Democracy and Human Rights in Ashgabat. A colleague refused to put Forum 18 through to her on 3 October and also refused to answer any questions himself.

Dashoguz: two-year suspended sentence

Jehovah's Witness Sanjarbek Saburov, from the northern city of Dashoguz, refused military service during the spring call-up. On 17 July he was placed in preventive detention while awaiting trial, Jehovah's Witnesses told Forum 18. A complaint regarding the detention was filed with the Presidential Administration, the General Prosecutor's Office, the Interior Ministry and the Turkmen National Institute for Democracy and Human Rights.

On 10 August, Dashoguz Regional Prosecutor's Office responded to Saburov, stating that they would readdress his complaint to Dashoguz City Prosecutor's Office. The response from Dashoguz City Prosecutor's Office is still pending.

Saburov was tried under Criminal Code Article 219, Part 1. On 9 August, a Judge handed him a two-year suspended sentence. He was released in the courtroom after more than three weeks' detention.

Seydi: two-year suspended sentence

Jehovah's Witness Artur Yangibayev, from Seydi in the eastern Lebap Region, refused military service during the spring call-up. On 2 and 11 May, he sent a written petition to the Military Conscription Office, explaining his conscientious objection to military service.

On 16 June, two representatives of the Conscription Office, along with the local police officer, went to his home and took him to the Prosecutor's Office, where he was threatened with 15 years' imprisonment. "The officers applied severe psychological pressure and forced him to write a letter retracting his earlier written petition for alternative service as a conscientious objector," Jehovah's Witnesses complained to Forum 18.

A complaint about the coercion to which Yangibayev was subjected was filed with the Presidential Administration and the General Prosecutor's Office.

Yangibayev was charged under Criminal Code Article 219, Part 1. On 8 August, he was placed in pre-trial preventive detention. On 30 August, a Judge handed Yangibayev a two-year suspended sentence. He was released in the courtroom after more than three weeks' detention.

Ashgabat: Five sentences in 2016

Five Jehovah's Witness young men from Ashgabat are known to have been convicted in 2016 under Criminal Code Article 219, Part 1 for refusing military service on grounds of religious faith.

The first was Dayanch Jumayev, sentenced in Ashgabat in February to one year of corrective labour. He was ordered to live at home under restrictions, with one fifth of his wages being seized by the state (see F18News 5 July 2016 http://www.forum18.org/archive.php?article_id=2196).

Four others were subsequently sentenced on the same charges between February and August. Merdan Ochanov, Konstantin Sivkov and Ruslan Rahmetulov each received two-year suspended sentences, Jehovah's Witnesses told Forum 18. Pavel Paymov received an 18-month suspended sentence.

An official of the chancellery of Ashgabat City Court refused to say if any of the five appealed against their sentences. "We don't give any information by telephone," she told Forum 18 before putting the phone down.

Further United Nations findings against Turkmenistan

The UN Human Rights Committee has found that Turkmenistan violated the rights of six further Jehovah's Witness conscientious objectors under the International Covenant on Civil and Political Rights (ICCPR). The six latest decisions – issued between 14 and 16 July – bring to 10 the number of such findings by the Committee against Turkmenistan in conscientious objection-related cases.

In the July decisions, the Committee found violations in the cases of Akmurat Egendurdiev, Navruz Nasyrlyayev, Matkarim Aminov, Dovran Matyakubov and Shadurdy Uchetov (all of whom had served prison terms), as well as Akmurad Nurjanov (who had received a suspended prison term). All six had lodged their appeals to the UN Human Rights Committee in September 2012.

In March and October 2015 the UN Human Rights Committee found that Turkmenistan had violated the rights of four further Jehovah's Witness young men by imprisoning them for refusing compulsory military service on religious grounds. The Committee also ruled that beatings and other maltreatment (such as a head being repeatedly bashed against a wall) of Zafar Abdullayev, Mahmud Hudaybergenov, Ahmet Hudaybergenov and Sunnet Japparov is torture and the government needs to provide reparations (see F18News 5 April 2016 http://www.forum18.org/archive.php?article_id=2164).

In all ten decisions, the Committee found the convictions and sentences for refusal of compulsory military service to be an infringement of freedom of thought, conscience, and religion, in breach of ICCPR Article 18, Part 1. In each case, the Committee also determined that the authorities' treatment of the men violated the ICCPR Article 7 guarantee that "no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment".

In addition, the Committee concluded that what Jehovah's Witnesses describe as the "deplorable living conditions" violated the right of detainees to be treated "with humanity and with respect for the inherent dignity of the human person," under ICCPR Article 10.

Turkmenistan has not yet implemented the Committee's views, Jehovah's Witnesses lamented to Forum 18.

The UN Human Rights Committee is still considering the appeals by four more Jehovah's Witness former imprisoned conscientious objectors: Arslan Dovletov, Juma Nazarov, Yadgarbek Sharipov and Atamurat Suvkhanov. Also awaiting a decision is Jehovah's Witness conscientious objector Danatar Durdyjev, who was fined. These appeals were lodged in 2012 and 2013 (see F18News 5 July 2016 http://www.forum18.org/archive.php?article_id=2196).

UN Human Rights Committee questions

At its July session in Geneva, the UN Human Rights Committee adopted a list of issues for the consideration of Turkmenistan's record under the ICCPR (CCPR/C/TKM/Q/2). The full review is due to take place in Geneva in March 2017.

In its list of issues, the Committee reminded Turkmenistan's government that it had already called on it in 2012 to introduce a civilian alternative service (CCPR/C/TKM/CO/1). It told the government "please indicate what steps have been taken to: (a) amend the relevant legislation to recognize the right to conscientious objection to compulsory military service and introduce alternative civilian service for conscientious objectors; and (b) halt all prosecutions of individuals who refuse to perform military service on grounds of conscience and release those individuals who are currently serving prison sentences for such a refusal".

The UN Human Rights Committee also asked Turkmenistan's government to "explain how the restrictions imposed on the exercise of freedom of religion, particularly by the Freedom of Religion and Religious Organizations Act, including mandatory registration of religious organizations and prohibition of activities of unregistered religious organizations, prohibition of worship in private homes, restrictions on religious education and the importing, publication and distribution of religious literature, and the administrative penalties for violations of the legislation in question are compatible with the State party's obligations under article 18 of the Covenant [ICCPR]".

New Constitution ignores OSCE legal review

President Berdymukhamedov signed into law a new Constitution on 14 September. It ignored recommendations in a July 2016 legal review of the proposed Constitution by the Organisation for Security and Co-operation in Europe (OSCE). Among other human rights and freedom of religion and belief concerns, the review recommended that the Constitution should make explicit mention of the right to opt for an alternative to military service

Article 58 of the new Constitution declares: "The defence of Turkmenistan is the sacred duty of every citizen. For male citizens of Turkmenistan, universal military obligation has been established." The wording of this Article was identical to the wording of Article 38 of the previous Constitution.

The OSCE comments on the then draft Constitution were completed on 21 July and published on 1 September (http://legislationline.org/download/action/download/id/6321/file/288_CONST-TKM_21Jul2016_en.pdf). The OSCE recommended

Turkmenistan "to include in Article 58 of the Draft Constitution an exception to the compulsory character of military service where such service cannot be reconciled with an individual's religion or beliefs (and to include references to possible alternatives of a non-combatant or civilian nature)".

Other OSCE concerns on new Constitution ignored

In its review the OSCE also recommended that the new Constitution make explicit reference "to the right of each individual to give and receive religious education in the language of their choice, and to the right to cultural expression in the field of religion, with specific reference to the rights of members of registered and unregistered religious groups to freely exercise their religion and culture, while ensuring that religious organizations are not precluded from taking part in public affairs". Turkmenistan ignored these recommendations.

"Under international human rights law," the OSCE review noted, "religious or belief communities should not be obliged to acquire legal personality if they do not wish to do so; the enjoyment of the right to freedom of religion or belief must not depend on whether a group has sought and acquired legal personality status."

In Article 18, which bans religious organisations from interfering in the affairs of state, the OSCE recommended that this be "re-considered or clarified", otherwise it could "misinterpreted" to prevent religious organisations from getting involved in public affairs. The OSCE also questioned why a similar ban on the interference by the state in the affairs of religious organisations was not included. These recommendations were ignored.

Similarly ignored was the OSCE recommendation for the ban on religious-based political parties to be removed from Article 44 of the new Constitution. (END)

For a personal commentary by a Protestant within Turkmenistan, on the fiction - despite government claims - of religious freedom in the country, and how religious communities and the international community should respond to this, see http://www.forum18.org/Archive.php?article_id=728.

For a personal commentary by another Turkmen Protestant, arguing that "without freedom to meet for worship it is impossible to claim that we have freedom of religion or belief," see http://www.forum18.org/Archive.php?article_id=1128.

More reports on freedom of thought, conscience and belief in Turkmenistan can be found at <http://www.forum18.org/Archive.php?query=&religion=all&country=32>.

For more background information see Forum 18's religious freedom survey of Turkmenistan at http://www.forum18.org/Archive.php?article_id=1676.

A compilation of Organisation for Security and Co-operation in Europe (OSCE) freedom of religion or belief commitments can be found at http://www.forum18.org/Archive.php?article_id=1351.

A printer-friendly map of Turkmenistan is available at <http://nationalgeographic.org/education/mapping/outline-map/?map=Turkmenistan>.

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