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NAGORNO-KARABAKH: Conscientious objector jailed for 30 months

By Felix Corley, Forum 18 (<https://www.forum18.org/>)

Jehovah's Witness Karen Harutyunyan has been sentenced in the unrecognised entity of Nagorno-Karabakh to 30 months' imprisonment, for refusing compulsory military service. Even before his trial, he had been transferred to the prison in the hilltop town of Shusha where he will serve his sentence, Forum 18 News Service has learned. The entity's latest prisoner of conscience, who refused military service because of his religious beliefs, is intending to appeal against the sentence. However, the entity's Human Rights Ombudsperson Yuri Hairapetyan insisted Harutyunyan broke the law, and doubted that anyone could refuse the entity's compulsory military service. He asked Forum 18: "How can this be justified? Maybe he's not even a Jehovah's Witness." Ashot Sargsyan, Head of the government's Department for Ethnic Minority and Religious Affairs, described the jail sentence as "absurd" because he claimed it is too mild. He has called for the Criminal Code to be changed to make anyone refusing military service pay a massive fine and do some form of alternative service. Harutyunyan's imprisonment comes as revisions to the Religion Law are being prepared, which could make the restrictive Law even harsher.

Jehovah's Witness Karen Harutyunyan was sentenced on 30 December 2011 to 30 months' imprisonment for refusing compulsory call-up to military service in Nagorno-Karabakh, an internationally unrecognised entity in the south Caucasus. Even before his trial, he had been transferred to the prison in the hilltop town of Shusha near Nagorno-Karabakh's capital Stepanakert, where he will serve his sentence, Jehovah's Witnesses told Forum 18 News Service. The entity's latest prisoner of conscience, who refused military service because of his religious beliefs, is intending to appeal against the sentence. Harutyunyan's imprisonment comes as the Council of Religions – a body under the jurisdiction of the Prime Minister made up of about 20 officials and members of registered religious organisations – is preparing revisions to the Religion Law which could make the restrictive Law even harsher.

Nagorno-Karabakh's Human Rights Ombudsperson Yuri Hairapetyan insisted Harutyunyan broke the law, and questioned why he rejected military service. "How can someone refuse military service when Nagorno-Karabakh is still in a military situation?" Hairapetyan told Forum 18 from Stepanakert on 17 January. "How can this be justified? Maybe he's not even a Jehovah's Witness."

Ombudsperson Hairapetyan also stated that Harutyunyan had not appealed to him for help. "I can only defend those who appeal to me. I respond to every appeal."

No civilian alternative service in Nagorno-Karabakh

The 1994 ceasefire that ended the fighting between ethnic Armenian and Azerbaijani forces left Nagorno-Karabakh's status unresolved. This makes military service a sensitive issue for Karabakh's ethnic Armenian authorities. Nagorno-Karabakh allows young men no alternative to the compulsory two-year military service, and has imprisoned previous conscientious objectors.

The unrecognised entity's Constitution – adopted by referendum in December 2006 – requires all citizens to take part in defence and made no provision for an alternative non-military service (see F18News 9 November 2006 http://www.forum18.org/Archive.php?article_id=866).

One of the options to prosecute those who refuse military service is Criminal Code Article 327, Part 1. This reads: "Evasion from regular military or alternative service call-up, training exercise or mobilisation, without any order defined by Legislation as grounds for exemption, is punished with arrest for a maximum term of two months, or imprisonment for a maximum term of three years." (Nagorno-Karabakh has adopted Armenia's Criminal Code.)

Fellow Jehovah's Witness prisoner of conscience Areg Hovhanesyan was freed from prison in Shusha in February 2009 after completing a four-year prison term (see F18News 4 May 2009 http://www.forum18.org/Archive.php?article_id=1290). He had been sentenced under Article 327, Part 3, which punishes evasion of military service "in conditions of martial law, in war conditions or during military actions" with a sentence of between four and eight years (see F18News 22 February 2005 http://www.forum18.org/Archive.php?article_id=517). In March 2008 he was also sentenced to "re-education" (see F18News 27 March 2008 http://www.forum18.org/Archive.php?article_id=1105).

On 30 June 2010, Baptist conscientious objector Armen Mirzoyan was sentenced to one year's imprisonment under Article 364, Part 1 of the Criminal Code. This punishes "refusal to perform one's military duties" with detention of up to 3 months, service in a punishment battalion of up to 2 years or imprisonment of up to 2 years (see F18News 1 July 2010 http://www.forum18.org/Archive.php?article_id=1463). He has now been freed, and threats to re-imprison him have stopped (see below).

No civilian alternative service in Armenia or Azerbaijan either

Similarly, neither Armenia nor Azerbaijan have a civilian alternative to military service outside military structures. This is despite both countries' commitments on joining the Council of Europe to introduce civilian alternative service by January 2004.

In Armenia, 58 young conscientious objectors (all Jehovah's Witnesses) are serving prison sentences, with a further 11 currently on trial, Jehovah's Witnesses told Forum 18 on 17 January from the Armenian capital Yerevan. At several points in 2009 and 2010 the number of convicted prisoners reached at least 76. In July 2011, the European Court of Human Rights (ECtHR) in Strasbourg ruled that the imprisonment of Jehovah's Witness conscientious objector Vahan Bayatyan violated his right to freedom of thought, conscience and religion and awarded him compensation (see F18News 7 July 2011 http://www.forum18.org/Archive.php?article_id=1591).

On 10 January the ECtHR ruled in favour of two further Armenian Jehovah's Witnesses who had been imprisoned for refusing military service on grounds of religious conscience (see F18News 1 February 2012 http://www.forum18.org/Archive.php?article_id=1661).

In Azerbaijan, a small number of conscientious objectors have been sentenced in recent years, including to prison terms. The most recent prisoner, Jehovah's Witness Farid Mammedov, was freed on 8 June 2011 after serving his nine-month sentence, Jehovah's Witnesses told Forum 18 (see F18News 15 September 2010 http://www.forum18.org/Archive.php?article_id=1488).

"Three minutes to finish our submissions"

The 18-year-old prisoner of conscience Harutyunyan – who is from the town of Askeran in central Karabakh – was called up in late 2011. But after failing to report for military service at the Askeran District Recruitment Office on 28 November 2011, he was arrested two days later and placed in police custody. On 2 December 2011, a Stepanakert court remanded him in pre-trial detention and he was transferred to Shusha prison. Prosecutors brought charges against him under Criminal Code Article 327, Part 1.

Harutyunyan's trial took place on 26 and 27 December 2011 at Askeran District Court. Judge Karen Beglaryan found him guilty on 30 December and sentenced him to 30 months' imprisonment.

One of Harutyunyan's lawyers complained of the way the trial was conducted. "The trial judge repeatedly cut me and another lawyer off, refusing to let us complete our arguments," the lawyer told Forum 18 on 16 January from the Armenian capital Yerevan. "He told us we have three minutes to finish our submissions. During the closing argument he would not even let me refer to the Nagorno-Karabakh Constitution."

The written verdict was issued on 16 January. Harutyunyan's lawyers told Forum 18 he will appeal against the sentence to the Criminal Division of the Appeal Court.

Norair Pogosyan, Askeran District Prosecutor, refused to discuss the case with Forum 18 on 16 January.

"You can't call the court decision anything other than absurd"

Ashot Sargsyan, Head of the government's Department for Ethnic Minority and Religious Affairs, condemned the 30-month jail sentence as too mild. "You can't call the court decision anything other than absurd," he told the Armregions.am website on 13 January. "What does two and a half years' imprisonment mean, when a person does not fulfil their constitutional obligation? During a military situation this is equivalent to desertion. It is equally absurd that for two and a half years this deserter will live at the taxpayers' expense."

Sargsyan wants Criminal Code Article 327, Part 1 to be amended to allow for a four year sentence as well as a fine of 20 million Drams (310,000 Norwegian Kroner, 40,380 Euros, or 51,440 US Dollars – Karabakh uses Armenian currency). He told Armregions.am that if alternative service is offered it should be three years of working in a hospital, old people's home or similar institution, plus a fine of 20 million Drams.

Forum 18 reached Sargsyan at his office in Stepanakert on 17 January, but he claimed not to be able to hear anything and put the phone down each time. Forum 18 was therefore unable to find out whether Sargsyan wanted an alternative service to be introduced or not and, if so, whether this should be alternative service under military control, as in Armenia.

At a press conference after the sentence, Karabakh's Defence Minister Movses Hakopyan said Harutyunyan's case was one of very few religious objectors to military service. "In Karabakh's defence army, it occasionally happens that young men at the start of their service speak about their religious convictions," the Caucasian Knot website quoted him as stating. "In such cases we conduct explanatory conversations with them and the problem is resolved. These lads take the oath and conduct their service conscientiously."

Minister Hakopyan also stated that a Law on Alternative Service will not be introduced in the next few years.

Imprisonment "is not right"

Albert Voskanyan of the Stepanakert-based Centre for Civilian Initiatives, who has long worked for the right to alternative service and for religious freedom, condemns Harutyunyan's prison sentence. "Imprisoning those who cannot do military service on religious grounds is not right," he told Forum 18 from Stepanakert on 17 January.

He points out though that it is Parliament, not the Defence Minister, who decides whether or not a new Alternative Service Law is introduced. "But I see no readiness to introduce one in Parliament either."

Local human rights defender Karen Ohanjanyan of Helsinki Initiative 92 also supports the introduction of an alternative service for those who cannot perform military service on grounds of conscience. "They shouldn't be arrested," he told Alvard Grigoryan, Caucasian Knot's local correspondent, after Harutyunyan's arrest. "They should be allowed to do an alternative to military service – work that does not require them to handle weapons."

Voskanyan – who had visited the earlier imprisoned conscientious objectors in prison in Shusha – lamented that the government had cut off his access to the prison in 2007. "I would like to be able to visit Karen Harutyunyan there to offer him support," he told Forum 18. "I used to support the prisoners, help them with rehabilitation and give lectures to the staff about European standards for prisoners. But that is no longer possible."

Threats to re-imprison Baptist abandoned

Meanwhile, Armen Mirzoyan, a 22-year-old Baptist prisoner of conscience who was freed from Shusha prison on 30 June 2011 after serving a one-year sentence, is now serving in a military unit without weapons, fellow members of his independent Baptist congregation told Forum 18. He is serving in a medical unit in Zangelan in south-western Azerbaijan outside the Soviet-era boundaries of Nagorno-Karabakh, which has been occupied by Nagorno-Karabakh's forces since 1993. Mirzoyan does not object to service in the army, but on religious grounds refuses to handle weapons and refuses to swear the military oath. Hadrut District Court sentenced Mirzoyan to one year's imprisonment on 30 June 2010 under Criminal Code Article 364, Part 1 (see F18News 1 July 2010 http://www.forum18.org/Archive.php?article_id=1463).

On 23 August 2011 Mirzoyan was summoned again to the Conscription Office and sent to a military unit. However, three days later he was transferred to the military police in Stepanakert, where he was questioned many times. Church members say Major General Nelson Sogomonyan threatened Mirzoyan that if he did not swear the military oath he would be sentenced as an "enemy of the people" to between four and eight years' imprisonment.

On 14 September 2011 he was sent from Stepanakert to carry out his service in a construction unit. But the same day he was questioned again and told a further criminal case had been opened against him. However, prosecutors appear to have abandoned the case.

Brother also jailed for conscientious objection

Armen Mirzoyan's older brother Gagik was forcibly taken to a military unit in December 2004 and beaten after refusing to swear the oath and bear arms. In July 2005 he was given a suspended sentence under Criminal Code Article 364, Part 1 (see F18News 13 July 2005 http://www.forum18.org/Archive.php?article_id=605). But in September 2005 he was jailed in Shusha Prison (see F18News 5 September 2005 http://www.forum18.org/Archive.php?article_id=642). He was freed in September 2006 and transferred to a military unit, where he was - eventually - able to serve without swearing the oath and without bearing arms (see F18News 18 September 2006 http://www.forum18.org/Archive.php?article_id=841). He was released from service in January 2008 (see F18News 27 March 2008 http://www.forum18.org/Archive.php?article_id=1105).

Harsher Religion Law planned?

At an October 2011 roundtable organised by Karabakh's Journalists' Union to discuss "spiritual security", Sargsyan of the Department for Ethnic Minority and Religious Affairs warned of the alleged "dangers" of "sectarians", adding that Baptists have recently been trying to "worm their way" into Karabakh, according to a 13 October 2011 report in Azat Artsakh newspaper. He noted that registration had been denied to religious organisations "whose aims are counter to the interests of our country", which he

did not identify.

Sargsyan complained that while the Religion Law that came into force in 2009 bans "soul-hunting", a derogatory term for sharing one's faith, Administrative Code punishments are restricted to fines of 1,000 Drams (16 Norwegian Kroner, 2 Euros, or 3 US Dollars). He insisted that punishments for sharing one's faith should be more precise and higher. He also insisted that parents should be prevented from forcing their children to take part in religious activity.

Sargsyan told the meeting of amendments to the Religion Law then being prepared, which he said would be presented "within days" to Prime Minister Araik Harutyunyan before being presented to Parliament. He also said he was working on a "Concept on Spiritual Security" to be approved by the prime ministerial Council of Religions, a body founded in 2008.

Serpuhi Arzumanyan, the Prime Minister's secretary, says the Council of Religions is preparing the proposed amendments to the Religion Law and is likely to present its draft soon. "It will then be up to the government, not the Prime Minister, to approve the draft and send it to Parliament, or not," she told Forum 18 from Stepanakert on 17 January.

No new raids or fines, but public meetings discouraged

Members of several religious communities which have been unable or unwilling to gain registration told Forum 18 that raids and fines in 2010 have not been repeated. Confiscations of religious literature have also stopped. However, such communities remain restricted over public events.

"Although we were warned we cannot meet, we do meet for worship in private homes and the situation is comparatively quiet," the leader of one unregistered community told Forum 18 on 16 January. "But we can't rent large halls for meetings and invite people publicly."

Raids began on unregistered communities in February 2010. First to be raided was Stepanakert's Seventh-day Adventist congregation, then the Jehovah's Witnesses and Revival Fire Church. Several Jehovah's Witnesses and Revival Fire members were given small fines, some of whom were also fingerprinted (see F18News 1 July 2010 http://www.forum18.org/Archive.php?article_id=1463).

Ombudsperson Hairapetyan defended the fines to Forum 18 in 2010, claiming that "the fining of them is lawful" (see F18News 1 July 2010 http://www.forum18.org/Archive.php?article_id=1463). He dismisses the communities' complaints about warnings to them not to meet. "They want to turn themselves into martyrs," he claimed to Forum 18 on 17 January 2011. He also defended restrictions on non-Armenian Apostolic communities. "Such communities obstruct us from living. They're businesspeople who exploit the population. I defend the rights of the majority."

The possibility of registration was introduced in Karabakh's restrictive Religion Law, which entered into force in January 2009. The Law appears to require registration of religious communities and ban unregistered religious activity.

The Law also imposes: state censorship of religious literature; the requirement for 100 adult citizens to register a religious community; an undefined "monopoly" given to the Armenian Apostolic Church over preaching and spreading its faith while restricting other faiths to similarly undefined "rallying their own faithful"; and the vague formulation of restrictions, making the intended implementation of many articles uncertain (see F18News 3 November 2009 http://www.forum18.org/Archive.php?article_id=1371).

The community leader told Forum 18 that religious affairs official Sargsyan frequently attacks "religious sects" in comments broadcast by the local media. (END)

Further coverage of freedom of thought, conscience and belief in the unrecognised entity of Nagorno-Karabakh is at <http://www.forum18.org/Archive.php?query=&religion=all&country=22>.

A personal commentary, by Derek Brett of Conscience and Peace Tax International, on conscientious objection to military service and international law in the light of the European Court of Human Rights' July 2011 Bayatyan judgment is at http://www.forum18.org/Archive.php?article_id=1597.

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